

THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA

CASE NO. 06-1
(Court Administration)

ADMINISTRATIVE ORDER

NO. 06-09

IN RE: EX PARTE MOTIONS TO
COMPEL DISCOVERY IN CIVIL
ACTIONS

WHEREAS, Rule 1.380 of the Florida Rules of Civil Procedure prescribes the method for applying for an order compelling discovery; and

WHEREAS, pursuant to Waters v. American General Corporation, 770 So. 2d 1275 (Fla. 4th DCA 2000), an ex parte order compelling discovery may be entered only when the motion to compel alleges a complete failure to respond or object to discovery, and there has been no request for extension of time;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida under Rule 2.050 of the Florida Rules of Judicial Administration, in light of the ever-increasing case load, in order to efficiently and expeditiously conduct the court's business, the following procedures governing ex parte motions to compel discovery in civil actions are hereby promulgated:

1. A motion to compel discovery ex parte in a civil action may be submitted to the Court if the moving party has complied with the following procedures:
 - a. The moving party must serve the motion on the opposing party at least seven (7) days prior to the submission of the order to the Court.
 - b. The motion must include the following:
 - i. the nature of the discovery and the date upon which the discovery was propounded and due;

- ii. that there has been a complete failure to respond or object to discovery, and the non-moving party has failed to request an extension of time to respond to discovery; and
 - iii. that the moving party has otherwise complied with Fla. R. Civ. P. 1.380(a)(2), certifying that he has conferred, or attempted to confer, with the person or party failing to make the discovery in an effort to secure the information or material without court action.
2. In the event that the non-moving party fails to provide the requested discovery, fails to object to discovery, or fails to request an extension of time to respond to the discovery within seven (7) days of service of the motion, the moving party may submit an ex parte order to the court.
 3. In entering the ex parte order, the court may direct that the non-moving party comply with the outstanding discovery request within ten (10) days or such other time, within the discretion of the Court. The court may also, in its discretion, order that the non-moving party pay costs and/or attorney's fees, if appropriate.

This Order shall take effect immediately upon execution and shall remain in effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade, Florida, this _____ day of June, 2006.

**JOSEPH P. FARINA, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**