

IN THE COUNTY COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY,

MIAMI, FLORIDA

In re:

Procedures

\_\_\_\_\_/

**GENERAL ORDER SETTING FORTH JUDGE DIANA GONZALEZ-WHYTE'S**  
**PROCEDURES,**  
**DATED FEBRUARY 4, 2020**

This order supersedes all previous General Orders Setting Forth Judge Diana Gonzalez-Whyte's procedures.

To establish an orderly and efficient procedure for management of lawsuits in the division assigned to Judge Diana Gonzalez-Whyte, it is ORDERED that the parties shall adhere to the following procedures unless and until superseded by another order. Parties are to check the Court's website to be sure that they are using the correct forms and following the most recent procedures.

The Court's address is Dade County Courthouse 73 West Flagler Street, Room 1104 Miami, FL 33130. Court's phone number is (305)349-7113. The Court's fax number is (305)349-7627.

It is counsel's responsibility to confer with their respective clients to determine the client's position with respect to settlement, pleadings, admissions, and other matters that require the consent of the client. Parties should check the Court's website at [www.jud11.flcourts.org](http://www.jud11.flcourts.org) for procedures and updates.

**Be aware that eFiling is utilized to submit documents to The Clerk of the Courts and provides electronic notifications and eService to the parties that have a listed email address. The Clerk of the Courts does not mail copies to litigants. You must mail a copy to the opposing side. The Clerk of the Courts will not bring copies of your filings to the Judge. If you want the judge to know that you have filed something you must send a courtesy copy to the Court either through CourtMap, US Mail, or by dropping it off to chambers. You must set your motions for hearing either through CourtMap or by directly contacting the Court.**

**You should proactively inform the Court of any requests. This is a very large jurisdiction where each division has thousands of cases, as such there is truly no way for the Court to know of a filing or a request unless it is brought to our direct attention by either giving us a courtesy copy or calling and requesting a hearing**

**STIPULATION WAIVER OF PRE-TRIAL HEARING AND ORDER INVOKING THE RULES OF CIVIL PROCEDURE (O.I.R.):** To waive presence at the pre-trial hearing the parties must file a paper copy of the Stipulation/Waiver of Pre-Trial Hearing, Order invoking the Rules of Civil Procedure, and if applicable the Scheduling Order, **and** a certification that the Undersigned Attorney(s) has read and is aware of this order *i.e.* **“The above listed parties stipulate that they have read the GENERAL ORDER SETTING FORTH JUDGE DIANA GONZALEZ-WHYTE’S PROCEDURES.”**

Stipulation and proposed order filed through CourtMap, must be filed at least five (5) business days prior to the hearing or the attorneys must appear in Court with paper copies.

Paper copies of the stipulation and proposed orders maybe also brought to the Court’s office located at the Dade County Courthouse 73 West Flagler Street Room 1104 Miami, FL 33130, at least (2) business days prior to the hearing or the attorneys must appear in Court with paper copies.

Parties must use the Court’s forms which are available on the website or by contacting the J.A. The Court’s website is <https://www.jud11.flCourts.org/Judge-Details?judgeid=1056&sectionid=59>

#### **REQUIREMENTS FOR SETTING HEARINGS:**

**Parties must be sure to reserve a realistic amount of time for the hearing. If hearings exceed the amount of time reserved the Court may have to continue them for another date and time.**

- Scheduling a hearing to be heard on motion calendar must be done electronically using **CourtMAP** which can be found at <https://www.jud11.flCourts.org/Programs-and-Services/Online-Services/CourtMAP/CourtMAP-User-Rules>
- Each motion must be separately scheduled and noticed.
- A Notice of Hearing must be prepared and e-Filed through the State **e-Filing Portal** for each motion scheduled.
- If you are unable to schedule your matter on a specific date, it is likely because the docket is full. Please schedule on an alternate date.
- All persons scheduling cases on motion calendar shall review the practices and procedures on the assigned judge’s webpage at <https://www.jud11.flCourts.org/Judge-Details?judgeid=1056&sectionid=59>

- If you have any questions on how to use **CourtMAP** you may visit the **CourtMAP Video Tutorials** at <https://www.jud11.flCourts.org/Programs-and-Services/Online-Services/CourtMAP/CourtMAP-Video-Tutorials>

### **Meet and Confer**

- The parties must use good faith efforts to resolve the issues set forth in the motion prior to the setting of a motion, coordinate the date and time of the hearing; and confirm that the hearing shall require no more than five minutes.
- To comply with the above good faith certification, every party scheduling a motion for a uniform motion calendar hearing shall execute the following certification must be included in the body of the notice of hearing:

#### **I hereby certify that:**

1. the movant has conferred regarding scheduling the date of the motion with all parties;
2. the movant has already/will confer with opposing party regarding the relief request;  
and
3. the issues can be resolved on the Court's motion calendar.

### **SETTING SPECIAL SET HEARINGS:**

**Attorneys** must set a hearing through CourtMap at a time that is agreed to.

If your hearing requires more than two (2) hours you can only set it by contacting the judicial assistant.

**Self-represented litigants** may contact the judicial assistant to set hearings. The judicial assistant will have the party conference in opposing counsel on the phone. The parties will coordinate a date with the judicial assistant while on the phone.

**Unilaterally Setting** is permitted if after two attempts on separate days within one work week (Monday through Friday of the same calendar week not less than 48 hours apart) opposing counsel cannot be reached or is unwilling to set a hearing date. The moving party must send the other party a notice of hearing specifying that it is a unilateral setting and should bring proof to Court that they made good faith attempts to coordinate the hearing prior to unilaterally setting it.

### **FIVE MINUTE MOTIONS:**

**Self-represented litigants** may contact the judicial assistant to set hearings. The judicial assistant will have the party conference in opposing counsel on the phone. The parties will coordinate a date with the judicial assistant while on the phone.

**Attorneys** must set a hearing through CourtMap at a time that is agreed to.

Motion calendars dates are a listed on the website. If you do not see a date that you want it is because it is not available; choose a different date. Parties must coordinate among themselves. Once the parties agree on a date, reserve it and submit the notice of hearing through CourtMap.

Each motion scheduled by the party shall be no more than five- minutes, per motion, per case, so as not to encroach on the time the Court is allotting for other litigants/attorneys. The Court will not allow add-ons; each motion must be set for an additional 5 minutes. Should the motion require more than 5 minutes, it should be specially set.

- **The following are NOT 5-minute motions:**
  - **motions to dismiss, fee hearings, motions for sanctions, motions for summary judgment, motion for protective order, motion to strike affirmative defenses, motions to strike pleadings, or any motions that are not real five (5) minute motions.**
  - **If in doubt call the judicial assistant to verify that your motion is appropriate for the five-minute motion calendar. Motions that are not five minutes are subject to cancellation.**

**Unilaterally Setting** is permitted if after two attempts on separate days within one work week (Monday through Friday of the same calendar week not less than 48 hours apart) opposing counsel cannot be reached or is unwilling to set a hearing date. The moving party must send the other party a notice of hearing specifying that it is a unilateral setting and should bring proof to Court that they made good faith attempts to coordinate the hearing prior to unilaterally setting it.

#### **MOTION TO COMPEL DEPOSITIONS:**

Judge D.G.W., will not authorize hearings to be set for “motions to compel deposition dates.” If the opposing party does not provide reasonable dates within five business days of the request and two attempts (not less than 48 hours apart) to coordinate, you may unilaterally set the deposition. The burden will then be on the opposing party to move for protective order and explain why no dates were provided.

#### **FAILURE TO UTILIZE GOOD FAITH AND REASONABLE EFFORTS TO COORDINATE A HEARING/MOTION/DEPOSITION MAY BE CONSIDERED A DISCOVERY VIOLATION WARRANTING SANCTIONS.**

**COURTMAP FILINGS:** The party filing orders for the Court’s consideration through CourtMap must file in the correct folder, (Proposed Orders, Agreed Orders, or Emergencies). Title the pleadings appropriately. The Court should be able to easily identify the case number and parties. List the full case number.

All documents upload to CourtMAP must be properly formatted, must include with the Court case number and the name/type of documents using the following format:

- Four-digit year followed by a hyphen with the sequential case number (e.g., 2009-01; 1991-12; 2008-123; 2007-1234; or 2009-12345)
- Motion Title with Party Name. Note: It is important to include the party name in order to easily locate the document digitally.

When submitting a proposed order, the e-Filed motion with supporting documents (e.g., pleadings, affidavits, exhibits, submitted case law), and other hearing specific documents must also be submitted. For purposes of efficiency the Court prefers that the supporting documentation be submitted in the same document as the motion so that the Court does not have to open multiple attachments and go back and forth through the motion.

It is the filing party's responsibility to follow up on any unsigned orders. If an order has been submitted for the Court's consideration and has not been ruled on, the submitting party should first check to see if the order was rejected or submitted in the wrong folder. If the order was properly submitted and has not been rejected, then be sure to bring it to the Court's attention by either emailing the judicial assistant or calling.

The Court may reject orders for any number of errors. Judge D.G.W. writes notes as to why orders are rejected, it is the party's responsibility to read the notes, correct errors and re-submit. **Motions and any required affidavits must be submitted; filing an order without a motion in most cases will result in a rejection.** Submit orders separate and apart from any other material including motions. Orders must be in Word. Follow the CourtMap user rules.

You must timely file all orders, motions, and stipulations. **Filing through CourtMap the day/night before a hearing is not acceptable; you must attend the hearing.**

**CANCELLATION OF HEARINGS:** Hearings must be cancelled no less than two (2) business days in advance of the hearing or the parties must come to Court.

**EX-PARTE MOTIONS TO COMPEL:** Ex-parte Motions to Compel must comply with the *Florida Rule of Civil Procedure*, Rules 1.380(a) and 1.090(d), as well as the Eleventh Circuit Administrative Order No. 06-09.

**REQUESTS FOR SUBSTITUTION OF COUNSEL:** Judge D.G.W. will not grant a substitution of counsel unless the client's written consent is obtained, and new counsel certifies: "I certify as new counsel of record that I have reviewed the Court docket in this file and have spoken with previous counsel of record. I am aware of all pending hearings, depositions and other deadlines that are set in this case." The certification should be in the motion in the order.

**MOTIONS FOR EXTENSION OF TIME:** Motions for Extension of Time must be filed before the time expires and must be placed on calendar promptly. The filing of a Motion for Extension of Time in and of itself does not extend time, it must be set for hearing.

**MOTIONS FOR SUMMARY JUDGMENT:** Should be set for hearing in a reasonable time. Failing to set a Motion for Summary Judgment after it has been filed may cause the Court to deem it waived. Waiting until the case is set for trial is not acceptable. Parties must diligently move their cases towards resolution.

**SETTLEMENT:** Counsel shall immediately notify this Court in the event of settlement and submit a Stipulation of Settlement and Order of Dismissal. Counsel shall also notify the Court of any pending hearings that will be cancelled because of the settlement. **The prevailing party shall file its motion for Entitlement to Attorney's Fees and Costs within 30 days of the settlement if entitlement has not been stipulated to.** (Stipulating to entitlement does not mean that a party is stipulating to the amount in fees requested). The prevailing party shall request a hearing date from the Court on a Motion as to Entitlement of Attorney's fees and Costs within thirty (30) days of the order dismissing the case. Neglecting to request a hearing date in a timely fashion may constitute a waiver as to attorney's fees.

Attorney's fees and costs are only granted by statute or by contract. The party moving for attorney's fees must state the basis for their entitlement in the motion and attach any supporting documentation.

**SETTING HEARINGS ON MOTIONS FOR ATTORNEY'S FEES:** To set a hearing on a motion for attorney's fees the moving party must have a signed Judgment, Order of Dismissal of All Issues Based on Confession of Judgment Reserving the Right to Enforcement of Confession and to Seek Attorney's Fees and Costs, Stipulation of Settlement and the Order of Dismissal Reserving the Right to Enforcement of Settlement and to Seek Attorney Fees and Costs, and/or Order Granting Entitlement to Attorney's Fees and Costs as well as a signed **PRELIMINARY ORDER REGARDING HEARING ON MOTION TO TAX COSTS AND AWARD ATTORNEY'S FEES, (PRE-FEE ORDER).**

**PRE-FEE ORDER:** the PRE-FEE ORDER is a standing order and is available on the Court's website; **a sample spreadsheet and the Court's order of final judgment awarding fees and costs** is available upon request from the judicial assistant. The moving party must bring a prepared copy of the Court's order of final judgment awarding fees and costs (see order online). Any fee hearing that does not comply with the PRE-FEE ORDER may be cancelled.

DONE and ORDERED in Chambers, Miami, Miami-Dade County Florida this 4<sup>th</sup> day of February 2020.



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DIANA GONZALEZ-WHYTE  
COUNTY COURT JUDGE