

IN THE PALM BEACH COUNTY COURT IN AND FOR PALM BEACH COUNTY,
FLORIDA
COUNTY CIVIL DIVISION “RJ”

IN RE: STANDING ORDER FOR
CASES ASSIGNED TO COUNTY
CIVIL DIVISION “RJ”

To facilitate the speedy and just resolution of cases, to formalize a consistent method for the administration of small claims matters, to assist litigants with case management, to ensure the due process rights of all parties, to better comply with the Differentiated Case Management Administrative Orders provided by both the Florida Supreme Court and the Chief Judge of the 15th Judicial Circuit, and to enhance uniformity of action for all cases in the division, the Court enters the following standing order with respect to handling of small claims and county civil matters handled before Judge John J. Parnofiello presiding over Palm Beach County Court – Civil Division “RJ.” This order shall control in every case assigned to Division RJ, subject to modification upon motion by any of the parties or by the Court upon its own motion.

DIFFERENTIATED CASE MANAGEMENT

1. Differentiated Case Management Plans and Orders are located on the 15th Judicial Circuit’s website. To be compliant with the Differentiated Case Management Order, the parties must **both** (1) file an agreed Differentiated Case Management Plan **AND** (2) provide an order to the Court accepting and ratifying the plan. Doing one without the other is **not** compliance.
2. Absent extraordinary circumstances, County Civil matters fall under either the “expedited” or “streamlined” Differentiated Case Management tracks. This Court will reject attempts

to select either the standard or complex tracks, subject to the parties setting the matter for a hearing to explain what extraordinary circumstances exist to justify the selection of other case tracks.

3. All parties are placed on notice that **pending matters, at issue but non-compliant with the Differentiated Case Management plan, are subject to being set for trial by the Court, sua sponte, at a time and date convenient for the Court upon periodic review of the Court's files.**

EVICTION AND UNLAWFUL DETAINER MATTERS

1. If a party is seeking a hearing on an unlawful detainer action, the Court is required to advance that request on the Court's calendar and afford the litigants summary procedure pursuant to Chapter 51, *Florida Statutes*, **HOWEVER; it is the duty of the Plaintiff, be they pro-se or represented by counsel, to request a hearing from the Court's Judicial Assistant.** The Court will not *sua sponte* set unlawful detainer matters for hearing as the Court does not know how many witnesses and how much evidence the parties intend to introduce. Given the expedited time frames available under summary procedure, **all litigants are hereby put on notice if an Unlawful Detainer matter remains open and pending for ninety (90) days or more, it will be considered abandoned, dismissed without prejudice, and the Court file closed.** Litigants will have to address the order of dismissal before continuing with this action.
2. Because the Court is unaware of what the status is between the Defendant and the Landlord and property management company during eviction proceedings, Landlords represented by Counsel **must** provide the Court with a proposed default final judgment

of eviction to notify the Court that the landlord still wishes to move forward with eviction proceedings.

3. Eviction proceedings proceed according to the summary procedure outlined in Chapter 51 *Fla. Stat.* Given the expedited time frames available under summary procedure, **all litigants are hereby put on notice if an Eviction matter remains open and pending for ninety (90) days or more without any action, it will be considered abandoned, dismissed without prejudice, and the Court file closed.** Litigants will have to address the order of dismissal before continuing with this action.

GENERAL MOTION PRACTICE PROCEDURES

1. The Office of the Clerk of Court and Division RJ are two separate entities. Generally, the Court is not aware when parties make filings in a case unless the Court is performing a review of its open files. If a party makes a filing in the case, and wants to bring that filing to the Court’s attention, ***it is the responsibility of that party*** to provide a courtesy copy to the Court for the Court’s review. A party can provide the Court a courtesy copy by mailing or by attaching the document to an email directed to CAD-DIVISIONRJ@PBCGOV.ORG. All documents provided to the Court must also be provided to the opposing party at the same time. Please only provide courtesy copies of documents and motions that you intend on scheduling for hearing within the next twenty (20) days or else the documents will be discarded.
2. There is no due process requirement that the Court hear oral arguments of counsel prior to ruling upon non-evidentiary motions, other than motions for summary judgment, when the motion contains a memorandum of law. *See Gaspar, Inc. v. Naples Federal Sav. and Loan Ass’n*, 546 So. 2d 764 (Fla. 5th DCA 1989); *See also Nudel v. Flagstar Bank*, 52 So. 3d 692

n. 3 (Fla. 4th DCA 2010)(“We are aware of no rule or law that requires a trial court to hear oral argument on a pre-trial, non-evidentiary motion.”) Any party filing a motion that is non-evidentiary in nature shall set the matter for hearing within twenty (20) days of the date of the filing of the motion. Failure to request a hearing within that time period may result in the Court determining a waiver of oral argument and the Court determining the motion upon the filed memoranda. **All parties are hereby noticed that pretrial non-evidentiary motions may be subject to review and ruling by the Court based only upon the motion along with written argument and any authority timely filed in the action.**

3. The party setting a motion for hearing, **including Uniform Motion Calendar Hearings**, shall provide the Court with a written order memorializing the Court’s ruling within **forty-eight (48)** hours of the hearing. Failure to do so may result in the Court vacating the oral ruling and requiring the parties to re-argue the motion if the Parties and the Court are unable to come to an agreement as to the specific ruling.
4. For small claims or county civil non-jury matters, if the prevailing party in a motion for summary disposition or non-jury trial is represented by counsel, the prevailing party’s counsel **shall** provide a proposed final judgment to the Court within **twenty-four (24)** hours of the date of the hearing. **Failure to do so shall result in either the Court entering its own order based solely upon the affidavits contained in the court file, or dismissal of the action without prejudice for failure to advance the cause.**
5. Please upload all proposed orders to the Court’s Online Scheduling System. The Court respectfully requests that the parties not provide hard copies of proposed orders.

SMALL CLAIMS PRETRIAL PROCEDURES

1. In all cases where the Defendant has been served with the summons to appear at the small claims pretrial conference and proof of service is reflected in the court file, the Plaintiff may indicate to the Clerk or the Court’s Judicial Assistant that they are moving for a default against any Defendant that has not appeared within fifteen (15) minutes of the time fixed for the hearing on the summons.
 - a. The Court shall take all motions for default judgment so noticed by the Plaintiff under advisement until the conclusion of the calendar. The Plaintiff, or Plaintiff’s counsel may leave the pretrial conference after moving for default.
 - b. If the Defendant appears at Court prior to the conclusion of the entire pretrial docket, but after the Plaintiff has left court, the Court shall reset the matter for a pretrial conference in approximately thirty (30) days. The Court shall employ this “courtesy reset” procedure one (1) time only, absent a showing of extraordinary circumstances.
 - c. If the Defendant fails to appear at the conclusion of the pretrial docket, the Court shall grant the Plaintiff’s motion for default. Small Claims matters should be resolved within ninety-five (95) days from filing to final disposition. *See Fla. R. Gen. Prac. & Jud. Admin. 2.250(a)(1)(B)*. Accordingly, upon the granting of the Plaintiff’s motion for default:
 - i. *If Damages are liquidated*: the Plaintiff is **ordered** to file all necessary proofs and affidavits in the Court file **and upload a proposed default final judgment** to the Court’s online scheduling system within **forty-five (45)**

days of the pretrial conference. **Failure to file affidavits and provide a proposed default final judgment shall result in the matter being dismissed without prejudice for failure to advance the cause in conformity with this order.**

- ii. *If Damages are not liquidated:* The Plaintiff is **ordered** to schedule the matter for a hearing on damages within **thirty (30)** days of the date of the pretrial conference to be heard within **sixty (60)** days of the date of the pretrial conference. **Failure to do so shall result in the matter being dismissed without prejudice for failure to advance the cause in conformity with this order.**
- iii. *If the Plaintiff is seeking Attorney's Fees as part of a default judgment –* Attorney's Fees are unliquidated damages and as such, a Defendant needs to be given notice and an opportunity to be heard with respect to the amount of reasonable attorney's fees, even if they have previously defaulted. *Minkoff v. Caterpillar Financial Services, Inc.*, 103 So. 3d 1049 (Fla. 4th DCA 2013). The party seeking an award of attorney's fees *must* set the motion for hearing and provide notice to the defaulting party before the Court will enter a default judgment containing attorney's fees. **Failure to do this may result in the matter being dismissed for failure to advance the cause if the matter remains open and pending more than forty-five (45) days after a default at a pretrial conference.**
- iv. *If the matter has been dismissed pursuant to subsections i-iii:* If there is an order of dismissal for failure to advance the cause under subsections i-iii the

Court **will not** sign a default final judgment until the order of dismissal has been first addressed.

2. If the Defendant has not been served with the summons for the pretrial conference, the matter will be “continued pending proper service.” **It is the Plaintiff’s obligation** to obtain a new subpoena and effectuate service. The Court will not effectuate service for the Plaintiff. *Fla. R. Civ. P. 1.070(j)* requires the Plaintiff to effectuate service within one hundred and twenty (120) days from the filing of the complaint or statement of claim. Continuing the matter pending proper service does not operate to toll this time period or as good cause to extend the time frame.

- i. In every instance where a matter is “continued pending proper service,” **the Court now places the Plaintiff on notice that they must serve the Defendant within 120 days from the date of the filing of the complaint or statement of claim or else show good cause within that same time period why service has not been effectuated or else the matter shall be dismissed without prejudice for lack of service without further notice or hearing by this Court.**

3. Parties intending to waive appearance at the pretrial conference **must** provide a proposed order granting the request to the Court **at least two (2) days prior** to the date of the pretrial conference. Failure to do so may result in the Court entering a default judgment or dismissing the matter for lack of prosecution if the waiver is not reflected in the Court file.
4. The parties may not waive their appearance at the pretrial conference by filing a joint stipulation to waive the pretrial conference in the court file without first notifying the Court in writing, by email directed to CAD-DIVISIONRJ@PBCGOV.ORG, or by seeking an

order to grant the request to waive pretrial and set the matter forthwith for trial. Failure to appear at a pretrial conference without compliance with this subsection **shall** result in the matter being dismissed for lack of prosecution.

5. Division RJ's pretrial conferences are live and in person. If a party has a true medical emergency, they must contact the Division, in writing, with notice to the other side, of their request for accommodation and the Court will address each request individually. Writing can be either by letter addressed to the Court and the opposing party, or via email to CAD-DIVISIONRJ@PBCGOV.ORG with a copy to the opposing party's email.

DONE AND ORDERED in Chambers in West Palm Beach, Palm Beach County, Florida on this 9th day of November, 2021.



Hon. John J. Parnofiello
Palm Beach County Court Judge