



**J. MICHAEL HUNTER**  
JUDGE OF THE CIRCUIT COURT  
STATE OF FLORIDA, COUNTY OF POLK  
[WWW.JUD10.ORG](http://WWW.JUD10.ORG)

Polk County Courthouse  
255 North Broadway  
Bartow, FL 33830

Nicki Offermann  
Judicial Assistant  
(863) 534-4670 - Office  
(863) 534-5824 – Fax  
E-Mail Address  
[NOFFERMANN@JUD10.FLCOURTS.ORG](mailto:NOFFERMANN@JUD10.FLCOURTS.ORG)

**CIRCUIT CIVIL DIVISION 04 PROCEDURES AND GENERAL INFORMATION**

- Term of Assignment:** July 2005 – July 2007
- Hearing Room:** 7C-1, Seventh Floor, East Tower, Blue Elevators  
Motion Hearings and Non-Jury Trials
- Courtroom:** 7D, Seventh Floor, East Tower, Blue Elevators  
Jury Trials
- Administrative Orders:** Copies of all Administrative Orders for the Circuit are available on our website at [WWW.JUD10.ORG](http://WWW.JUD10.ORG).
- Docket Schedule:** Three weeks of motions and two weeks of jury trials. Non-Jury Trials are scheduled during motion weeks.

**SCHEDULING HEARINGS**

You may call or e-mail our office to obtain hearing times for a motion hearing. You will need to have the following information readily available:

1. Your attorney's estimate of time needed for the hearing. (Very important!)
2. The style of the case, the case number, and the names of the attorneys involved.
3. We cannot hold time open while you clear it with the other offices. Sometimes people never call us back - the need for a hearing may have gone away in the meantime.
4. If you take several times, the hearing is not on the book. You must call back and reserve a particular time.
5. Please send a copy of the Motion that is being heard with the Notice of Hearing. As a majority of the motions are scheduled several weeks out, copies should be sent via regular U.S. Mail. **Do not** fax the information to our office without approval.

6. Please be sure to include the location of the hearing on your Notice of Hearing. All motion hearings are held in hearing room 7C-1, 7<sup>th</sup> Floor, East Tower, Blue Elevators.
7. **Emergency Hearings:** You should first fax a copy of the Motion to the Judge, who will then decide if it is a true emergency and whether the hearing should be advanced on the docket.
8. **Uniform Motion Calendar:** Judge Hunter **does not** have a UMC Calendar. If a matter is uncontested, you may submit the motion and proposed order to the judge for review. The motion should reflect that the matter is, in fact, uncontested.

### **TELEPHONIC HEARINGS**

Judge Hunter permits phone hearings for both local and non-local attorneys for any matters that are scheduled for 15 minutes or less. Please advise the Judicial Assistant of this request at such time as you are confirming your hearing time. If more than one counsel will be appearing by phone, it is the responsibility of the attorneys to arrange a conference call. All counsel must be on the line before calling our conference line at (863) 534-4499.

### **CANCELLATION OF HEARINGS**

1. Please call as soon as you learn that the hearing is to be canceled. This enables the judge's office to perhaps use that time slot for someone who may need an emergency hearing.
2. Only the party who set the hearing may cancel it, and it is that party's responsibility to notify everyone of the cancellation.
3. Do not assume that if a case has been settled or canceled (and even if the judge has signed an order dismissing the case), the judicial assistant knows it has been canceled. Please **always** call the judge's office to make sure that the hearing or trial has been taken off the book.
4. If the length of a hearing changes in any way (for example, a case settles and you know that a long hearing will only take a few minutes rather than an hour) please let the judge's office know as soon as possible. The remainder of that time may be needed for an emergency hearing.

### **FAXES**

The **only** documents that should be faxed to our office are emergency motions. All other documents should be mailed. Also, faxes are often sent to incorrect numbers. If something is urgent enough to be faxed, you should call and make sure it was received. Also, be sure you indicate the name of the person to whom the fax is being sent, as we share a fax machine with other offices.

### **VOICE MAIL**

Our office only has one line for incoming calls. If you call our office during normal business hours and get our voice mail, it means that we are unable to answer incoming calls (i.e., I am assisting my Judge, retrieving my mail, or taking a lunch break). Accordingly, if you leave a voice mail, you should expect to receive a return phone call in a timely fashion. **Unlike other judges' offices, our telephone lines are not set up to roll over to voice mail when on another call, thus you will get a busy signal when the Judicial Assistant is on another call.**

### **AVAILABILITY OF JUDGES, BACK-UP AND DAILY "DUTY" JUDGE**

Certain questions of procedure arise when you have an Emergency or priority need. The following is an outline of the correct procedure to follow when you need an emergency hearing or ex parte order signed.

1. You must, of course, first contact the office of the judge assigned to a particular case -- even if you know that judge is on vacation or otherwise unavailable. The Judicial Assistant will then either find another judge for you, or refer you to another judge's office.

2. Each judge has designated “back-up” judges. Generally the rule is that the judges in each Division will substitute for each other when necessary. The judicial assistant will know who her judge’s back up judges are.
3. On rare occasions when there is no one else available and something needs to be heard immediately, you will be referred to the Duty Judge for that day. The Duty Judge will, however, have his/her own regular docket set for that day, and does not have any special time set aside for this duty.
4. For Emergency hearings, you should first fax a copy of the Motion to the Judge. The Judge will then decide if it is a true emergency and whether the hearing should be advanced on the docket.

### **PREPARING COURT ORDERS FOLLOWING A HEARING OR TRIAL**

1. The order should have a full title containing the subject matter of the motion or pleading ruled upon (e.g., Order Granting Motion for Summary Judgment, **not just “Order”**).
2. All orders submitted for the courts’ signature should be on plain white paper (i.e., not on the firm’s printed paper).
3. Envelopes should contain the name and address of the judge as the return address.
4. Do not put "Honorable" or "The Honorable" under the signature line. The correct form is simply to type the judge’s name in capitals, followed by a comma, and then his title.

Correct form:

\_\_\_\_\_  
J. MICHAEL HUNTER, Circuit Judge

5. Confusion sometimes arises as to which judge should actually sign an order. For instance, a hearing may be scheduled before Judge A, but because of that judge’s unavailability at the last moment, another judge may sit in for him or her. The order should be signed by the judge who actually held the hearing. Frequently your attorney may forget to tell you that another judge was substituting for the assigned judge, so you send in the paperwork for Judge A to sign, and it comes back with the judge’s name crossed through and another judge’s signature. On the other hand, Judge A may hold the hearing but then go on vacation. You submit an order and the other attorney agrees to your order, so the JA may get a different judge to sign the order "For and in the absence of Judge A to avoid delay." In that case you want to have Judge A’s name on the order, with the other judge signing for him.

Don’t worry about this – it’s not a big deal. It is mentioned here simply to try to explain to you why orders sometimes come back with other judges’ signatures on them. In either case, any future hearings should be set before the assigned judge - presumably Judge A, unless there’s been a rotation of judges!

6. Do not type only the ‘DONE AND ORDERED’ part or only the signature line on a subsequent page by itself. In other words, you should include some text from the order on the subsequent page before you start with the DONE AND ORDERED, etc. (While it is true that some judges don’t particularly care about this, others really do, so it’s best to avoid doing it.)
7. Don’t leave any more blanks in an order than you absolutely have to. If you can find out the information by placing a telephone call, you should do so, and then type it in the order before submitting it to the judge’s office. That gives opposing counsel an opportunity to react to the figures or dates, and saves problems arising after entry of the order. It also prevents incorrect information being filled in, and then the order having to be redone.

8. Always show at the bottom of the order (and the transmittal letter) the people to whom copies are being mailed. If someone is being ordered to do something (submit a report to the court, etc.), they will need a copy, even if they do not normally get copies of all pleadings. Please submit a stamped, addressed envelope for everybody who needs a copy of the order, except those who are covered by internal mail. (See below).

### **SUBMISSION OF PROPOSED ORDERS**

When sending in proposed orders, please be sure to send a transmittal letter showing that a copy of the letter and proposed order has been sent to opposing party. All orders will be held for a minimum of 5 days in order to give opposing counsel time to object. If there are no objections to the proposed order, the Judge may sign the order upon submission to the Court.

1. If your attorney tells you he/she is going to object to the order, please call and inform the judge's office. If you rely on the mail getting there within 5 days you may be too late with the objection. Note that objections made by phone must be followed up by a written explanation within 5 days, with copy to opposing counsel.
2. All proposed orders should be bound together by either a paperclip or binder clip. **PLEASE DO NOT STAPLE the cover letter, original proposed order, and copies to be conformed together as one large packet.** Also, please do not staple the envelopes to the copies to be conformed. It is quite difficult and time consuming to remove all those staples!
3. Stamped, addressed envelopes: Please send a stamped addressed envelope for all parties to whom a copy of the order should be sent. The return address on the envelope should be that of the judge.
4. All original motions should be filed with the Clerk of Courts. If you are filing a motion that requires a reopen fee, please submit the information directly to the clerk for initial processing.

### **MOTION(S) FOR REHEARING**

Florida Rule of Civil Procedure 1.530(b) provides that a Motion for New Trial or Motion for Rehearing should be served within 10 days of the jury verdict or 10 days from the filing of a judgment in a non-jury action. You should file the original with the Clerk and send a courtesy copy to the judge. Usually the judge will rule without a hearing on whether a new trial or rehearing should be granted. If a rehearing is to be held, the judicial assistant will call you to set the hearing.

### **SUMMARY JUDGMENT IN FORECLOSURE HEARINGS**

1. Counsel may appear by telephone for summary judgment hearings. In most cases, the Defendant(s) choose not to appear at said hearings. In this instant, the Judge will review the proposed order and, provided all necessary documents have been submitted, he will sign the final order without conducting a formal hearing. Should the Defendant choose to appear at hearing and contest the matter, the Judicial Assistant will contact counsel of record.
2. Summary Judgment packages should be forwarded to our office a minimum of 10 days prior to the hearing. All information readily available (i.e. attorneys fees and costs) should be completed. The Clerk of Courts is responsible for scheduling and implementing the sale date upon receipt of the executed order.
3. Our circuit requires the filing of an **Affidavit of Compliance** in accordance with Administrative Order No. 3-29.0. A copy of said affidavit should be included in the packet.
4. All original documents should be filed with the Clerk of Courts. Do not send original documents with the packet.

### **MOTION(S) FOR APPOINTMENT OF ATTORNEY AD LITEM**

If a case calls for the appointment of an Attorney Ad Litem, you may choose an attorney that accepts regular appointments in civil matters. At such time as you are ready to submit the motion and proposed order to our office, please be sure to implement the attorney information (i.e. name, address, phone number) in the order.

### **TRIALS**

To have your case set for trial, you are to file a Notice for Trial with the Clerk of Court and provide a courtesy copy to the Judge. Do not rely on the clerk to provide our office with the information. If you do not receive a trial order within a reasonable time, you should inquire with the Judicial Assistant. Jury trials are scheduled during a two-week trial period. Non-Jury trials are scheduled during the three-week motion block. **Appearance at the pre-trial conference by telephone is not permitted.**

### **JURY INSTRUCTIONS**

In accordance with the uniform Order Setting Pretrial Conference and Jury Trial and Directing Mediation, Plaintiff shall provide a complete set of proposed jury instructions. Defendant shall provide only special instructions not included in Plaintiff's submission. The proposed instructions should be submitted via email to the Judicial Assistant no later than the Friday before the trial. Said instructions should be in Word format.

### **JOINT MOTION(S) TO CONTINUE TRIAL**

Judge Hunter *normally* does not require hearings on Joint Motion(s) to Continue Trial. Counsel for the moving party should contact the Judicial Assistant to advise that a joint motion is forthcoming, so the Pretrial and/or trial date can be flagged for removal from the docket upon execution of the Order of Continuance. In order to avoid a delay in prosecution of the case, Judge Hunter prefers that that a new pretrial and trial date be scheduled at the time the joint motion is filed, with said dates being implemented in the Order of Continuance. The Judicial Assistant will be happy to coordinate the new dates with counsel.