# COMPLEX BUSINESS LITIGATION SECTION PROCEDURES FOR THE ELEVENTH JUDICIAL CIRCUIT COURT, IN AND FOR MIAMI-DADE COUNTY, FLORIDA

## SECTION 1 - TITLE, SCOPE AND PURPOSE

**1.1 – Title:** These Procedures shall be known and cited as the Complex Business Litigation Section Procedures. They may also be referred to in abbreviated form as "CLP".

**1.2 - Scope:** The Complex Litigation Procedures shall apply to all actions in the Complex Business Litigation Section of the Civil Division of the Eleventh Judicial Circuit Court of Florida (also referred to herein as the "Complex Business Litigation Section"), except to the extent that, in any particular action, they are superseded by an order of the presiding Circuit Judge.

**1.3 – Purpose:** The Complex Litigation Procedures are designed to facilitate the proceedings of cases by the Eleventh Judicial Circuit Complex Business Litigation Section; to promote the transmission and access to case information by the Court, litigants, counsel, and the public; and to facilitate the efficient and effective presentation of evidence in the courtroom. These Procedures shall be construed and enforced to avoid technical delay, encourage civility, permit just and prompt determination of all proceedings, and promote the efficient administration of justice.

**1.4 - Integration with Other Rules:** These Procedures are intended to supplement, not supplant, the rules adopted by the Supreme Court of Florida. If any conflict exists between the Complex Litigation Procedures and the rules, then the rules shall control.

## SECTION 2 - CASE FILING, ASSIGNMENT, TRACKING, AND IDENTIFICATION

**2.1 - Cases Subject to Complex Business Litigation Section:** The principles set out in Amended Administrative Order 2006-40 shall govern the assignment of cases to the Complex Business Litigation Section.

**2.2 - Case Identification Numbers:** On assignment of any matter to the Complex Business Litigation Section, the action shall retain the civil action number assigned to it by the Clerk of Courts.

## SECTION 3- CALENDARING, APPEARANCES, AND SETTLEMENT

**3.1 - Preparation of Calendar:** The calendar for the Complex Business Litigation Section shall be prepared under the supervision of the Complex Business Litigation Section Judge and published in accordance with the administrative orders of the Court.

**3.2 – Appearances**: An attorney who is notified to appear for any proceeding before the Court, must, consistent with ethical requirements, appear or have a partner, associate, or another attorney familiar with the case present.

**3.3 - Notification of Settlement:** When any cause pending in the Complex Business Litigation Section is settled, all attorneys or unrepresented parties of record shall notify the Complex Business Litigation Section Judge within two (2) business days of the settlement and shall advise the Court of the party who will prepare and present the judgment, dismissal, or stipulation of dismissal and the date when such filings will be delivered to the Court.

## SECTION 4 - MOTION PRACTICE

**4.1 - Form of Motions, Responses, Replies:** All motions, unless made orally during a hearing or a trial, shall be accompanied by a memorandum of law, except for the motions listed in CLP § 4.8. The memorandum of law shall not exceed twenty (20) pages in length. Each party opposing a motion shall serve an opposing memorandum of law not later than ten (10) days after service of the motion as computed in the Fla. R. Civ. P. 1.090. The opposing memorandum shall not exceed twenty (20) pages in length. Failure to comply with this rule may be deemed sufficient cause for granting the motion by default. The moving party may, within five (5) days after service of an opposing memorandum of law, serve a reply memorandum in support of the motion, which shall be strictly limited to rebuttal of matters raised in the memorandum in opposition without re-argument of matters covered in the moving party's initial memorandum of law. The reply memorandum shall not exceed ten (10) pages in length. These page limitations shall not be exceeded without permission of this Court.

**4.2 - Content of Motions:** All motions shall state with particularity the grounds therefore, cite any statute or rule of procedure relied and shall set forth the relief sought. Factual statements in a motion for summary judgment shall be supported by specific citations to the supporting documents. The parties shall not raise issues at the hearing on the motion that were not addressed in the motion and memoranda in support of and in opposition to the motion. The practice of offering previously undisclosed cases to the Court at the hearing is specifically discouraged. Newly decided authority may be considered in compliance with CLP § 4.7.

**4.3 - Certificate of Good Faith Conference:** Before filing any discovery motion or any

other motion identified in CLP § 4.8, the moving party **shall** confer with counsel for the opposing party in a good faith effort to resolve the issues raised by the motion and **shall** file with the motion a statement consistent with subparagraph b certifying that the moving party has conferred with opposing counsel and that counsel have been unable to agree on the resolution of the motion (the "Certificate"). No conference and therefore no certificate is required in motions for injunctive relief without notice.

a. The term "confer," as used herein, requires a substantive conversation in person or by telephone in a good faith effort to resolve the motion without court action and does not envision a written exchange of ultimatums. Counsel who merely attempt to confer have not conferred. Counsel **shall** respond promptly to inquiries and communications from opposing counsel. The Court may sua sponte deny motions that fail to include an appropriate and complete Certificate under this section.

b. The Certificate shall set forth the date of the conference, the names of the participating attorneys, and the specific results achieved. It shall be the responsibility of counsel for the moving party to arrange for the conference.

c. Before filing a motion to dismiss, the moving party shall confer with the opposing party, explaining the bases for the prospective motion. If the opposing party agrees with the prospective motion to dismiss and requests to file a curative pleading, the moving party shall stipulate to the filing of a curative pleading in lieu of filing a motion to dismiss.

**4.4 - Motions May Be Decided on Papers and Memoranda:** Unless otherwise ordered by

the Court, non-dispositive motions and those found in CLP § 4.8 shall be considered and decided by the Court on the pleadings, admissible evidence, the court file, and memoranda, without hearing or oral argument. Any party seeking oral argument shall file a request setting forth the reasons oral argument would be of assistance to the Court. If the Court grants oral argument on any motion, it shall give the parties at least five (5) business days' notice of the date and place of oral argument. The Court, for good cause shown, may shorten the five (5) day notice period. All papers relating to the issues to be argued at the hearing set with ten (10) day or more prior notice shall be delivered to opposing counsel and the Court at least five (5) business days before the hearing. Service and receipt of the papers less than five (5) business days before the hearing is presumptively unreasonable.

**4.5 - Motions for Summary Judgment:** Motions for summary judgment shall comply with CLP § 4.1 and attach a concise statement of the material facts which the moving party contends are undisputed. The summary judgment motion shall reference pleadings, depositions, answers to interrogatories, answers to admissions, and affidavits, all of which shall be filed with the Court simultaneously with the filing of the motion for summary judgment, unless previously filed with the Court for another purpose. The papers opposing a motion for summary judgment shall comply with CLP § 4.1 and attach a single concise statement of the disputed material facts as to which it is contended that there exists a genuine issue to be tried, which shall reference pleadings, depositions, answers to interrogatories, answers to admissions, and affidavits on file with the Court. No statement of facts shall exceed ten (10) pages in length, absent permission of the Court.

**4.6 - Font and Spacing Requirements:** All motions and memoranda shall be double-spaced on 8.5" x 11" paper with a 1" margin and in Times New Roman or Arial with a minimum 12-point font.

**4.7 - Suggestion of Subsequently Decided Authority:** A suggestion of controlling or persuasive authority that was decided after the filing of the last memorandum may be filed at any time prior to the Court's ruling and shall contain only the citation to the authority relied upon, if published, or a copy of the authority if it is unpublished, and shall not contain argument.

**4.8 - Motions Not Requiring Memoranda:** Memoranda of law are not required by either the movant or the opposing party, unless otherwise directed by the Court, with respect to the following motions:

a. discovery motions (except as provided in CLP § 4.12);

b. extensions of time for the performance of an act required or allowed to be done, provided that the request is made before the expiration of the period originally prescribed or extended by previous orders;

c. to continue a pre-trial conference, hearing, or the trial of an action;

d. to add or substitute parties;

e. to amend the pleadings;

f. to file supplemental pleadings;

g. to appoint a next friend or guardian ad litem;

h. for pro hac vice admission of counsel who are not members of The Florida Bar;

i. relief from the page limitations imposed by these Procedures; and

j. request for oral argument.

The above motions shall state good cause therefor and cite any applicable rule, statute or

other authority justifying the relief sought. These motions shall be accompanied by proposed orders.

**4.9 - Failure to File and Serve Motion Materials:** Except upon a showing a good cause, the failure to file a memorandum within the time specified in CLP § 4.1 shall constitute a waiver of the right thereafter to file such memorandum. A motion unaccompanied by a required memorandum may, in the discretion of the Court, be summarily rejected or denied. Failure to timely file a memorandum in opposition to a motion may result in the pending motion being considered and decided as an uncontested motion.

**4.10 - Preparation and Submission of Proposed Orders:** All motions identified in CLP §§ 4.8 and 4.12 shall be accompanied by a proposed order. The Court may direct parties to submit proposed orders in electronic and/or paper format. Each motion shall be accompanied by postage pre-paid envelopes addressed to all counsel or record and pro se parties. If, after ruling, the Court directs a party to submit an order, the Court will not enter the order submitted unless the submitting party represents that he or she has provided the order to each opposing party and there are no objections to the form of the order. If an agreement cannot be reached, the objecting party shall submit a brief statement of the objections without rearguing the Court's ruling and if available, a transcript of the proceeding may be submitted in conjunction with any proposed order or objection.

**4.11 - Determination of Motions On Oral Argument Without Briefs:** The parties may present motions and the Court may resolve disputes regarding the matters described in CLP § 4.8 through the use of an expedited limited hearing. Applicable motions are those that are limited to matters which can be argued and determined in ten (10) minutes or less, and may be heard on the Court's Motion Calendar docket.

**4.12 - Motions to Compel and for Protective Order:** All motions to compel compliance with discovery or for protective order from discovery shall comply with the following:

a. Except for motions grounded upon complete failure to respond to the discovery sought to be compelled or upon assertion of general or blanket objections to discovery, motions to compel discovery in accordance with Fla. R. Civ. P. 1.310, 1.320, 1.340, 1.350, 1.351, and 1.370 shall set forth each separate interrogatory question, request for production, request for admission, subpoena request, or deposition question, followed by: (i) the specific item to be compelled; (ii) the specific objections; (iii) the grounds assigned for the objection (if not apparent from the objection); and (iv) the reasons assigned as supporting the motion as it relates that specific item. The party shall write this information in immediate succession (e.g., specific request for production, objection, grounds for the objection, reasons to support motion; next request for production, objection, grounds for the objection, reasons to support motion; and so on) to enable the Court to rule separately on each individual item in the motion.

b. Except for motions for an order to protect a party or other person from whom discovery is sought from having to respond to an entire set of written discovery, from having to appear at a deposition, or from having to comply with an entire subpoena for production or inspection, motions for protective order under Florida Rule of Civil Procedure 1.280(c) shall, for each separate interrogatory question, request for production, request for admission, subpoena request, or deposition question, followed by: (i) the specific item of discovery; (ii) the type of protection the party requests; and (iii) the reasons supporting the protection. The party shall write this information in immediate succession (e.g., specific request for protection, protection sought for that request for production, reasons to support protection, next request for production, protection sought for that request for production, reasons to support protection, and so on) to enable the Court to rule separately on each individual item in the motion.

**4.13 - Motions to File Under Seal:** Whether documents filed in a case may be filed under

seal is a separate issue from whether the parties may agree that produced documents are confidential. Motions to file under seal are disfavored particularly when the portions of the document which the Court should consider may be submitted in redacted form in lieu of a sealed filing. A party seeking to file a document under seal must first file a motion to file under seal. The motion will be addressed in the same manner as a motion to file under seal in any other proceeding in the Civil Division of the Eleventh Judicial Circuit Court of Florida and consistent with A.O. 06-36. The motion, whether granted or denied, will remain in the public record.

**4.14 - Emergency Motions, Injunctions, Motions to Appoint Receiver:** The Court may consider and determine emergency motions, including motions seeking injunctive relief or the appointment of a receiver at any time. Counsel should be aware that the designation of a motion as an "emergency" requires that counsel be immediately available for setting of an expedited hearing at the earliest available time on the Court's calendar. The Court may sanction any counsel or party who designates a motion as an emergency under circumstances that are not true emergencies, or who designates a motion as an emergency and then, due to a scheduling conflict, fails to appear for the hearing on the motion at the earliest available time the judge has to address the emergency motion.

## SECTION 5 – MANDATORY CASE MANAGEMENT CONFERENCE

**5.1 - Notice of Hearing and Order on Case Management Conference:** Within thirty (30) days of filing or transfer of an action to the Complex Business Litigation Section, the Court will issue and serve a Notice of Hearing and Order on Case Management Conference (the "Notice"). Plaintiff's counsel shall immediately thereafter serve a copy of the Notice on all Defendants. Defendants shall immediately serve a copy of the Notice on all Third Party Defendants.

**5.2 - Case Management Meeting:** Regardless of the pendency of any undecided motions, thirty (30) days prior to the Case Management Conference ("CMC"), lead trial counsel shall meet to discuss the following subjects,

a. Issues related to the pleading, whether a demand for jury trial has been made, service of process, venue, joinder of additional parties, theories of liability, damages claimed and applicable defenses;

b. The identity and number of any motions to dismiss or other preliminary or pre-discovery motions that have been filed or the time period within which such motions shall be filed, briefed and argued;

c. A discovery plan and schedule including the length of the discovery period, the number of fact witnesses and witnesses' depositions to be permitted and, as appropriate, the length and sequence of such depositions;

d. Anticipated areas of expert witness testimony, timing for identification of experts witnesses, responses to expert witnesses discovery and exchange of expert witness reports;

e. An estimate of the volume of documents and computerized information likely

to be the subject of discovery from parties and nonparties and whether there are technological means that may render document discovery more manageable at an acceptable cost;

f. The advisability of using the general magistrate or a special magistrate for fact finding, mediation, discovery disputes or such other matters as the parties may agree upon;

g. The time period after the close of discovery within which post-discovery dispositive motions shall be filed, briefed and argued and a tentative schedule for such motions;

h. The possibility of settlement and the timing of Alternative Dispute Resolution, including the selection of a mediator or arbitrator(s);

i. Whether or not a party desires to use technologically advanced methods of presentation or court reporting and, to the extent this is the case, a determination of the following:

1. Fairness issues, including but not necessarily limited to use of such capabilities by some but not all parties and by parties whose resources permit or require variations in the use of such capabilities;

2. Issues related to compatibility of court and party facilities and equipment;

3. Issues related to the use of demonstrative exhibits and any balancing of relevance and potential prejudice that may need to occur in connection with such exhibits;

4. The feasibility of sharing the technology resources or platforms

among all parties so as to minimize disruption at trial; and

5. Such other issues related to the use of the Court's and parties' special technological facilities as may be raised by any party, the Court or the Court's technological advisor, given the nature of the case and the resources of the parties.

j. A good faith estimate by each party based upon consultation among the parties of the costs each party is likely to incur in pursuing the litigation through trial court adjudication;

k. A preliminary listing of the disputed legal principles and material facts at issue;

l. A preliminary listing of any legal principle and facts that are not in dispute;

m. A good faith estimate by each party of the length of time to try the case; and

n. Such other matters as the Court may assign to the parties for their consideration.

**5.3 - Joint Case Management Report:** No less than ten (10) days in advance of the CMC, the Parties shall file the Joint Case Management Report addressing the matters described above and shall provide the Court, but not file with the clerk, a diskette, CD or e-mail attachment containing the Joint Case Management Report. All counsel and parties are responsible for filing a Joint Case Management Report in full compliance with these Procedures. Plaintiff's counsel shall have the primary responsibility to coordinate the meeting between the parties and the filing of the Joint Case Management Report. If a non-lawyer plaintiff is proceeding pro se, defense counsel shall coordinate compliance. If counsel is unable to coordinate such compliance, counsel shall timely notify the Court by written motion and request for a status conference.

**5.4 - Case Management Conference:** The attendance by lead trial counsel and a party representative for each party is mandatory. The Court will hear the views of counsel on such issues listed in CLP § 6.2 above as are pertinent to the case or on which there are material differences of opinion.

**5.5 - Case Management Order.** Following the CMC, the Court will issue a Case Management Order. The provisions of the Case Management Order may not be deviated from without notice, an opportunity to be heard, a showing of good cause and entry of an order by the Court.

The Case Management Order may also specify a schedule of status conferences, when necessary, to assess the functioning of the Case Management Order, assess the progress of the case, and enter such further revisions to the Case Management Order as the Court may deem necessary or appropriate.

## SECTION 6 – DISCOVERY

**6.1 - No Filing of Discovery Materials.** Depositions and deposition notices, notices of serving interrogatories, interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless the Court so orders or unless the parties will rely on such discovery documents for a pending matter before the Court. Absent an order permitting the filing of the discovery material, at the time of filing any discovery material counsel shall file a separate written certification that counsel believes in good faith that it is necessary for the Court to consider the discovery material for a pending matter, which shall identify the pending matter with particularity. All discovery materials relating to a motion for summary judgment (i.e., summary judgment evidence) shall be filed simultaneously with the motion for summary judgment and not beforehand, unless previously filed for another purpose. The party taking a deposition or obtaining any material through discovery (including through third party discovery) is responsible for the preservation and delivery of such material to the Court when needed or ordered in the form specified by the Court.

**6.2 - Discovery with Respect to Expert Witnesses:** Discovery with respect to experts must be conducted within the discovery period established by the Case Management Order. In complying with the obligation to exchange reports relating to experts, the parties shall disclose the information identified in Florida Rule of Civil Procedure 1.280(a)(4)(A). Each party offering an expert witness shall provide three alternative dates for the deposition of the expert.

**6.3 - Completion of Discovery:** The requirement that discovery be completed within a specified time mandates that adequate provisions must be made for interrogatories and requests for admission to be answered, for documents to be produced, and for depositions to be held within the discovery period.

**6.4 - Extension of the Discovery Period or Request for Additional Discovery:** Motions seeking an extension of the discovery period or permission to take more discovery than is permitted under the Case Management Order shall be presented prior to the expiration of the time within which discovery is required to be completed. Such motions must set forth good cause justifying the additional time or additional discovery and will only be granted upon such a showing of good cause and that the parties have diligently pursued discovery.

**6.5 - Confidentiality Agreements:** The parties may reach their own agreement regarding the designation of materials as confidential. There is no requirement that the Court endorse the confidentiality agreement in advance. The parties may submit an agreed confidentiality order. On the motion of any party, the Court will enforce the parties' signed confidentiality agreement against any other signing party, and may exercise its contempt powers against the signing party or the signing party's counsel, provided that the Court makes a specific finding that the confidentiality agreement is reasonable and consistent with the public interest. Each confidentiality agreement shall provide or shall be deemed to provide that no party shall file documents under seal without having first obtained an order granting leave of Court to file documents under seal based upon a showing of particularized need.

**6.6 – General Magistrate and Special Magistrates:** The Court may, at any time, on its own motion or on the motion of any party, refer a pending matter or matters to a general magistrate or may appoint a special magistrate in any given case pending in the Business Litigation Section Court in accordance with Fla. R. Civ. P. 1.490. Unless otherwise directed, the parties shall equally share the cost of proceeding before a special magistrate, although such fees may ultimately be taxed as costs.

## SECTION 7 – VIDEOCONFERENCING

**7.1 - By Agreement.** By mutual agreement of all parties, counsel may arrange for any proceeding or conference may be held by videoconference. All counsel and other participants shall be subject to the same rules of procedure and decorum as if participants were present in the courtroom.

**7.2 - Responsibility for Videoconferencing:** The parties are responsible for obtaining all communications facilities and arranging all details as may be required to connect and interface with the videoconferencing equipment, if any, already available to the Complex Business Litigation Section. The Court will endeavor to make reasonable technical assistance available to the parties, but all responsibility for planning and executing all technical considerations required to successfully hold a videoconference shall remain solely with the parties.

**7.3 - Allocation of Videoconferencing Costs:** In the absence of a contrary directive of the Court or agreement among the parties, the parties participating by videoconference shall bear their own costs of participating via this method.

**7.4 - Court Reporter:** The court reporter transcribing any videoconference proceeding shall be present in the same room as the presiding judge.

**7.5 - Exchange of Exhibits and Evidence to Be Used in Videoconference Hearing.** Absent good cause shown, any evidence to be offered at a videoconference hearing shall be provided to opposing counsel and to the Court five (5) business days prior to the date of the hearing, and shall bear an exhibit label and identification number. Objections to any evidence which is provided five (5) business days before the hearing shall be submitted to the Court at least two (2) business days before the hearing and reference the appropriate exhibit tags.

## SECTION 8 - ALTERNATIVE DISPUTE RESOLUTION

**8.1 - Alternative Dispute Resolution Mandatory in All Cases:** Alternative Dispute Resolution ("ADR") is a valued tool in the resolution of litigated matters. An appropriate mechanism for ADR shall be discussed by the Court and counsel at the Case Management Conference. The Case Management Order shall order the parties to a specific ADR process, to be conducted either by a Court-assigned or an agreed-upon facilitator and shall establish a deadline for its completion.

**8.2 – Mediation:**

a. Confidential Case Summaries. Not less than five (5) business days prior to the mediation conference, each party shall deliver to the mediator a confidential written summary of the facts and issues of the case.

b. Identification of Business Representative. As part of the written summary, counsel for each corporate party shall state the name and general job description of the employee or agent who will attend and participate with full authority to settle on behalf of the business entity.

c. Attendance Requirements and Sanctions. Lead trial counsel and each party (including, in the case of a business party, a business representative, and in the case of an insurance company, the insurance company representative as set forth in Florida Rule of Civil Procedure 1.720(b)(3)) with full authority to settle **shall** attend and participate in the mediation conference. In the case of an insurance company, the term "full authority to settle" means authority to settle up to the amount of the party's last demand or the policy limits, whichever is less, without further consultation. The Court may impose sanctions upon lead trial counsel and parties who do not attend and participate in good faith in the

mediation conference.

d. Authority to Declare Impasse. Participants shall be prepared to spend as much time as may be reasonably necessary to settle the case. No participant may force the early conclusion of mediation because of travel plans or other engagements. Only the mediator may declare an impasse or end the mediation.

e. Rate of Compensation. The mediator shall be compensated at an hourly rate stipulated by the parties in advance of mediation.

f. Settlement and Report of Mediator. A settlement agreement reached between the parties shall be reduced to writing and signed by the parties and their attorneys in the presence of the mediator. Within five (5) business days of the conclusion of the mediation conference, the mediator shall file and serve a written mediation report stating whether all required parties were present, whether the case settled, and whether the mediator was forced to declare an impasse.

**8.3 - Non-Binding Arbitration:** The parties may agree or the Court may order non-binding arbitration or it may be ordered upon motion of any party. Non-binding arbitration shall be pursuant to Florida Rule of Civil Procedure 1.820. The rules governing the arbitration shall be selected by the parties or failing agreement, the Court will order use of all or a part of the arbitration rules common to the Eleventh Judicial Circuit, the American Arbitration Association, or other available rules.

## SECTION 9 - JOINT FINAL PRETRIAL STATEMENT

**9.1 - Meeting and Preparation of Joint Final Pretrial Statement:** The case must be fully ready for trial when the Joint Final Pretrial Statement is filed. Lead trial counsel for all parties, or the parties themselves if unrepresented, shall sign the Joint Final Pretrial Statement. The Court may strike pretrial statements that are unilateral, incompletely executed, or otherwise incomplete. Inadequate stipulations of fact and law may be stricken. Sanctions may be imposed for failure to comply with this section, including attorneys fees and/or the striking of pleadings.

**9.2 - Contents of Joint Final Pretrial Statement:**

a. Jury Selection.

1. Preemptory Strikes. Subject to the limitations imposed by Florida Rule of Civil Procedure 1.431(d), in cases involving multiple parties, the parties shall stipulate to the number of peremptory challenges to be exercised by each side.

2. Proposed Voir Dire Questionnaire. If a party wants to use a special written questionnaire for jurors to complete prior to voir dire, the proposed questionnaire shall be attached to the Joint Final Pretrial Statement and included in the discussions leading to the preparation of the Final Joint Pretrial Statement. The questionnaire shall not exceed three (3) pages, including space for the juror responses, and shall comply with the requirements of CLP § 5.12.

b. Stipulated Facts. The Parties shall stipulate to as many facts and issues as possible. To assist the Court, the parties shall make an active and substantial effort to stipulate at length and in detail as to agreed facts and law, and to limit, narrow and simplify the issues of fact and law that remain contested.

c. Exhibit List. An exhibit list containing a description of all exhibits to be

introduced at trial and in compliance with the approved form approved by the Court shall be filed with the Joint Final Pretrial Statement. Each party shall maintain a list of exhibits on disk or CD to allow a final list of exhibits to be provided to the Clerk of Court at the close of the evidence. Unlisted exhibits will not be received into evidence at trial, except by order of the Court in the furtherance of justice. The Joint Final Pretrial Statement must attach each party's exhibit list on the approved form listing each specific objection ("all objections reserved" does not suffice) to each numbered exhibit that remains after full discussion and stipulation. Objections not made, including objections not made with specificity are waived. Counsel for each party shall prepare an exhibit notebook for the Court and one for each other party.

d. Witness List. The parties and counsel shall prepare a witness list designating in good faith which witnesses will likely be called and which witnesses may be called if necessary. Absent good cause, the Court will not permit testimony from unlisted witnesses at trial over objection. This restriction does not apply to rebuttal witnesses. Records custodians may be listed, but will not likely be called at trial, except in the event that authenticity or foundation is contested. Notwithstanding the Complex Litigation Procedures regarding videoconferencing, for good cause shown in compelling circumstances the Court may permit presentation of testimony in open court by contemporaneous transmission from a different location.

e. Depositions. The Court encourages stipulations of fact to avoid calling unnecessary witnesses. Where a stipulation will not suffice, the Court permits the use of reading deposition transcripts as well as videotaped depositions at trial. At the required meeting, counsel and unrepresented parties **shall** agree upon and specify in writing in the

Joint Final Pretrial Statement the pages and lines of each deposition (except where used solely for impeachment) to be published to the trier of fact. The parties shall include in the Joint Final Pretrial Statement a page-and-line description of any testimony that remains in dispute after an active and substantial effort at resolution, together with argument and authority for each party's position. The parties **shall** prepare for submission and consideration at the final pretrial conference or trial edited and marked copies of any depositions or deposition excerpts which are to be offered into evidence, including edited videotaped depositions. Designation of an entire deposition will not be permitted except on a showing of necessity.

f. Joint Jury Instructions, Verdict Form. In cases to be tried before a jury, counsel shall attach to the Joint Final Pretrial Statement a copy and an original set of jointly-proposed jury instructions, together with a single jointly-proposed jury verdict form. The parties should be considerate of their juries, and therefore should submit short, concise verdict forms. The Court prefers pattern jury instructions approved by the Supreme Court of Florida. A party may include at the appropriate place in the single set of jointly-proposed jury instructions a contested charge, so designated with the name of the requesting party and bearing at the bottom a citation of authority for its inclusion, together with a summary of the opposing party's objection. The parties shall submit a computer diskette or CD containing the single set of jury instructions and verdict form with the Joint Final Pretrial Statement.

g. Juror Notebooks. If the parties agree, the jury may have notebooks to aid them in the hearing and deliberation of the case. The parties shall stipulate to the notebook contents and one notebook for each juror (including alternates), the judge, and each opposing

party shall be prepared and brought to trial. The notebooks shall be identical in every respect and shall contain only those exhibits that the parties intend to use at trial. The proposed contents to be placed in the notebooks **shall** be provided to all other parties prior to the Final Pretrial Conference. Any disagreements about the content of a notebook shall be resolved at the Final Pretrial Conference.

**9.3 - Coordination of Joint Final Pretrial Statement:** All counsel and parties are responsible for filing a Joint Final Pretrial Statement in full compliance with these Procedures. Plaintiff's counsel shall have the **primary** responsibility to coordinate the meeting of lead trial counsel and unrepresented parties and the filing of a Joint Final Pretrial Statement and related material. If a non-lawyer plaintiff is proceeding pro se, then defense counsel shall coordinate compliance. If counsel is unable to coordinate such compliance, counsel shall timely notify the Court by written motion and request for a status conference.

## SECTION 10 - TRIAL MEMORANDA AND OTHER MATERIALS

**10.1 - Trial Memoranda:** In the case of a non-jury trial, no later than ten (10) days before the first day of the trial period for which the trial is scheduled, the parties shall file and serve Trial Memoranda with proposed findings of fact and conclusions of law, together with a computer diskette or CD. In the case of a jury trial, no later than ten (10) days before the first day of the trial period for which the trial is scheduled, the parties may file and serve Trial Memoranda, together with a computer diskette or CD.

## SECTION 11 - FINAL PRETRIAL CONFERENCE

**11.1 - Mandatory Attendance:** Lead trial counsel and local counsel for each party, together with any unrepresented party, **shall** attend the final pretrial conference in person unless previously excused by the Court.

**11.2 - Substance of Final Pretrial Conference.** At the final pretrial conference, all counsel and parties must be prepared and authorized to address the following matters: the formulation and simplification of the issues; the elimination of frivolous claims or defenses; admitting facts and documents to avoid unnecessary proof; stipulating to the authenticity of documents; obtaining advance rulings from the Court on the admissibility of evidence; settlement and the use of special procedures to assist in resolving the dispute; disposing of pending motions; establishing a reasonable limit on the time allowed for presenting evidence and argument; and such other matters as may facilitate the just, speedy, and inexpensive disposition of the actions.