

GENERAL PRACTICE GUIDELINES: Contested Foreclosures Docket

Judge Alicia Polk

Updated 1/20/2015

- Courtesy copies of the notice of hearing, motion, and proposed orders for hearings set before Judge Polk must be mailed to Judge Polk's chambers at the address below at **least twenty (20) days in advance of the hearing date** or else the hearing may be cancelled without notice. If a hearing is set less than ten days in advance, the moving attorney shall bring proposed orders including copies to conform and envelopes for distribution to the hearing.
 - Packets for Judge Polk's hearings must be mailed to:
 - Judge Alicia Polk
West Pasco Judicial Center
7530 Little Road – Rm. 317
New Port Richey, FL 34654
- When submitting a proposed order **after** a hearing has been held, the cover letter should state the date and time of the hearing. The cover letter must also state that the order was submitted to opposing counsel for review with instructions to respond to the preparing party if there are any objections within five days or the order will be submitted to the Court. The letter should represent whether or not any objections were received to the form of the order.
- Motions and proposed orders being submitted for possible consideration **without** hearing should be mailed to:
 - West Pasco Judicial Center
7530 Little Road – Rm. 201
New Port Richey, FL 34654
- Some part of the body of the Order shall accompany the Judge's signature on the final page of the order.
- Scheduling requests for hearing time with Judge Polk for contested foreclosures should be made to pascoforeclosure@jud6.org Requests for more than 30 minutes of hearing time must be approved by Judge Polk upon review of the relevant motion and any response.
- Block scheduling may be permitted by the Court
- Scheduling information for cases to be heard by a Senior Judge please visit:
<http://www.jud6.org/LegalCommunity/MortgageForeclosures/PASCOForeclosureInstructionsSept2014>.

COMMON MOTIONS THAT CAN BE SUBMITTED FOR CONSIDERATION WITHOUT SETTING HEARING FIRST:

- ✓ The Movant must provide copies of proposed orders for each individual on service list and envelopes with return postage for distribution of conformed copies of the orders.
- ✓ All motions and orders to be submitted for consideration without a hearing must be served on the other party, held for 10 days by the movant, and then submitted to the court with a cover letter indicating whether the opposing party agrees with or objects to the relief requested.
 - If the opposing party objects to the relief, please instruct them to submit their response in writing directly to Judge Polk's chambers within 10 days of the date they received the motion.
 - Upon receipt of a timely written response in opposition, the Court will consider whether a hearing is necessary.

1. MOTION FOR SUBSTITUTION OF PARTY PLAINTIFF

Movant must include copies of all exhibits along with the motion and order.

2. MOTION FOR LEAVE TO AMEND COMPLAINT

- a. If first amendment and no responsive pleading yet filed; or
- b. No trial date has been set and amendment only seeks to add additional parties; or
- c. No trial date has been set and amendment seeks to correct scrivener's error in legal description contained in complaint to conform to description in lis pendens. In this event the motion should contain the erroneous description, provide the correct description and designate the change by underlining/italicizing any added language or marking through portions to be deleted.
- d. Orders granting leave to amend the complaint should reflect that responding parties will have 30 days from the order to file a response, or their previous response will stand. The order should not indicate that any prior defaults entered by the Court or Clerk will remain.

3. MOTION TO COMPEL

ONLY IF movant has complied with Administrative Order 2013-005

4. PLAINTIFF'S MOTION TO CANCEL (AND/OR RESCHEDULE) SALE

- a. If it is the first, second or third cancellation and the motion provides all information contained within the example motion listed at:
<http://www.jud6.org/LegalCommunity/PracticeRequirements/Circuit/Polk/Polk.html>; or
- b. The sale must be cancelled because of failure to pay clerk's fees; or
- c. The sale must be cancelled because of failure to publish; or
- d. The sale must be cancelled because of a bankruptcy.
- e. If sale is to be cancelled because of trial loan modification period that is in progress, where the case is placed on inactive status. Order Placing Case on Inactive Status is attached.

5. MOTION TO PLACE CASE ON INACTIVE STATUS

- a. Bankruptcy
- b. Trial Modifications
- c. Servicemembers' Civil Relief Act (SCRA)
- d. The form for the order for inactive status is attached.

6. MOTION FOR RETURN OF LOAN DOCUMENTS

- a. Must represent and attach exhibits evidencing contemporaneous/prior dismissal of case
- b. Must include completed final disposition form

7. MOTION TO AMEND FINAL JUDGMENT

- a. *Only if* amendment seeks to correct scrivener's error in legal description contained in Final Judgment where correct description is in the complaint and lis pendens.
- b. In this event the motion should contain the erroneous description, provide the correct description and designate the change by underlining/italicizing any added language or marking through portions to be deleted.

8. MOTION FOR SUBSTITUTION OF COUNSEL

- a. Stipulations for substitution of counsel require written consent from the client.
- b. When submitting for approval, you must include a copy of the stipulation, copies of the order to be conformed, and pre-addressed /stamped envelopes for distribution of the orders.

9. MOTION TO AMEND ANSWER/AFFIRMATIVE DEFENSES

If no trial or summary judgment hearing has been set.

10. MOTION FOR EXTENSION/ENLARGEMENT OF TIME

- a. First extension only
- b. Extension of 30 days or less

11. MOTION FOR TELEPHONIC APPEARANCE

- a. Not permitted for evidentiary hearings
- b. Not permitted for pre-trials

12. MOTION TO WITHDRAW AS COUNSEL

- a. Written consent from clients must accompany motion
- b. Client must be copied on the motion
- c. Order must provide an address for service of future pleadings

COMMON MOTIONS THAT REQUIRE A HEARING UNLESS AGREED TO BY OPPOSING PARTY:

1. MOTION FOR JUDICIAL DEFAULT
2. MOTION FOR LEAVE TO AMEND
 - a. If a responsive pleading has been filed and amending complaint to alter allegations;
or
 - b. If a responsive pleading has been filed and amending to add a new count
3. MOTION FOR ISSUANCE OF CERTIFICATE OF TITLE
4. MOTION FOR ISSUANCE OF WRIT OF POSSESSION
5. MOTION AMEND/CORRECT FINAL JUDGMENT
 - a. If correcting any numerical figure
 - b. Altering the legal description/address will always require hearing, even for scrivener's error, UNLESS:
 - i. the lis pendens and complaint contained the correct description, and:
 - ii. the proposed change addressed in the motion contains the erroneous description, the correct description, and designates the change by underlining/italicizing any added language or marking through portions to be deleted.
6. MOTION FOR DEFICIENCY JUDGMENT
7. MOTION TO TAX FEES/COSTS
8. MOTION TO STRIKE
9. MOTION TO INTERVENE
10. MOTION TO ASSIGN RENTS/APPOINT A RECEIVER
11. MOTION FOR MEDIATION

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

Plaintiff

Case Number:
Section Number:

v

Defendants

**ORDER PLACING CASE ON INACTIVE STATUS FOR STATISTICAL REPORTING
PURPOSES**

1. This case came before the Court on its own motion.
2. The following event(s) has occurred in this case which requires it to be reported as INACTIVE for statistical purposes:
 - Resolution of this case requires resolution of, Case No. _____
 - There are on-going settlement negotiations or there is an agreement of the parties.
 - The Department of Justice or Attorney General is conducting a document review.
 - Other: _____
3. The following event(s) occurred in this case and the Clerk has not reported the case as INACTIVE for statistical reporting purposes:
 - A notice of pending federal bankruptcy proceeding was filed.
 - The Court has entered an order granting a motion to stay or abate.
 - A notice of appeal was filed.
 - The case was consolidated with Case No. _____

THEREFORE IT IS ORDERED:

The Clerk of the Circuit Court is directed to remove this case from **ACTIVE** status, and designate it as an **INACTIVE** case for statistical reporting purposes only. This Order does not preclude a party from reactivating the case by filing any pleading authorized by the Rules of Civil Procedure. This Order does not authorize the Clerk to charge an additional fee.

DONE AND ORDERED in Pasco County, Florida, this __ day of _____, 20__.

Circuit Court Judge

Copies forwarded to: