

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR HARDEE, HIGHLANDS AND POLK COUNTIES, FLORIDA**

**ADMINISTRATIVE ORDER 1-57.3**

**IN RE: PHASE 2 COVID-19 EMERGENCY COURT OPERATIONS PROCEDURES**

WHEREAS, the World Health Organization (WHO) has declared COVID-19, a severe acute respiratory illness, to be a pandemic, and the Governor of the State of Florida and the State Surgeon General and State Health Officer have declared that a public health emergency exists in Florida; and

WHEREAS, the health, safety, and well-being of courthouse visitors, court employees, and judicial officers are a high priority and necessitates the Florida State Courts System's continued monitoring of the COVID-19 outbreak and its effects on court operations; and

WHEREAS, to protect health and safety, the Florida Supreme Court has issued numerous administrative orders to enable trial courts to continue to provide court operations and proceedings through the use of remote technology; and

WHEREAS, on March 26, 2021, the Florida Supreme Court issued Amendment 7 to AOSC20-32, *In Re: COVID-19 Public Health and Safety Precautions for Operational Phase Transitions* ("Seventh Amended AOSC20-32") which revised requirements for Phase 2; and

WHEREAS, on April 13, 2021, the Florida Supreme Court issued Amendment 12 to AOSC20-23, *In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts* ("Twelfth Amended AOSC20-23"); and

WHEREAS, on August 25, 2020, the undersigned determined that Hardee, Highlands, and Polk counties met the five benchmarks for transitioning from Phase 1 court operations to Phase 2 court operations, and established and implemented protective measures for entrance into court facilities as set forth herein and the Tenth Circuit's Phase 2 Operational Plan (COVID-19) (hereinafter "Operational Plan"); and

WHEREAS, it is necessary to update this Administrative Order to address active case management of civil cases which was first required in Amendment 10 to AOSC20-23, *In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts* (March 9, 2021) (recently modified in the Twelfth Amended AOSC20-23), and to otherwise comply with provisions in the Twelfth Amended AOSC20-23 and the Seventh Amended AOSC20-32; and

WHEREAS, in accordance with the authority vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rule of Judicial Administration 2.215(b)(2); and

NOW THEREFORE, IT IS ORDERED that:

1. Transition to Phase 2 Court Operations: On August 25, 2020, by entry of Administrative Order 1-57.0, the undersigned determined that Hardee, Highlands, and Polk counties had met the benchmarks to move to Phase 2 court operations which authorizes limited in-person contact for certain purposes and/or requires use of protective measures.

2. Jury Proceedings and Jury Trials:
  - a. Non-statewide grand jury selection and proceedings, civil jury selection and trial proceedings, and criminal jury selection and trial proceedings are no longer suspended and must be conducted in a manner that is consistent with this Administrative Order and the *Tenth Circuit Phase 2 Operational Plan (COVID-19)*, as amended.
  - b. Remote civil and criminal jury trials may be conducted as provided for in the Twelfth Amended AOSC20-23. “Within 30 days after the remote conduct of a jury trial for the first time in a judicial circuit, the circuit shall present the results of the trial and report its findings and recommendations to the Chief Justice through the state courts administrator.” Twelfth Amended AOSC20-23 at 9.
3. Juror Excusals and Postponements: By entry of a separate administrative order, the Court has created a process for juror excusals and postponements in order “to mitigate the spread of COVID-19 and . . . address[] hardships related to the pandemic,” as directed in Section III.C. of Twelfth Amended AOSC20-23.
4. Essential and Critical Proceedings: Essential and critical proceedings will continue to be conducted remotely unless the presiding judge deems it necessary to conduct the proceeding in-person.
  - a. Essential proceedings include, but are not limited to: “first appearance; criminal arraignments as necessary; hearings on motions to set or modify monetary bail for individuals who are in custody; juvenile dependency shelter hearings; juvenile delinquency detention hearings; hearings on petitions for temporary injunctions relating to safety of an individual; hearings on petitions for risk protection orders; hearings on petitions for the appointment of an emergency temporary guardian; hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act; and hearings on petitions for extraordinary writs as necessary to protect constitutional rights.” Twelfth Amended AOSC20-23 at 12.
  - b. Critical proceedings related to the state of emergency or the public health emergency, include, but are not limited to proceedings related to: “violation of quarantine or isolation; violation of orders to limit travel; violation of orders to close public or private buildings; and enforcement of curfew orders.” *Id.* at 13.
5. Other Trial Court Proceedings: The guiding principle shall be that judges shall facilitate the use of technology in conducting proceedings remotely, in whole or in part. “Participants who have the capability of participating by electronic means in remote court proceedings shall do so.” Seventh Amended AOSC20-23 at 3.
  - a. Instructions for Accessing Remote Proceedings: The Office of the Court Administrator for the Tenth Judicial Circuit Court (hereinafter “OCA”) is tasked with providing the parties and/or their attorneys, and any other necessary court participant with instructions regarding how to attend remotely. These instructions will continue be made available on the Tenth Circuit Court’s website ([www.jud10.flcourts.org](http://www.jud10.flcourts.org)).

- b. Non-jury criminal trials may be conducted remotely if the parties agree to conduct the trials remotely and the requirements in Section III.B.(1)b.i.,ii., and iii. of Twelfth Amended AOSC20-23 are met. Otherwise, the trials shall be conducted in person.
- c. Non-jury termination of parental rights and juvenile delinquency trials shall be conducted remotely if authorized by the presiding judge. Otherwise, those trials shall be conducted in person.
- d. All other non-essential and non-critical court proceedings shall be conducted remotely unless the presiding judge determine that one of the following exceptions applies:

Remote conduct of the proceeding is inconsistent with the United States or Federal Constitution, a statute, or a rule of court that has not been suspended by administrative order; or

Remote conduct of the proceeding would be infeasible because the court, the clerk, or other participant in the proceeding lacks the technological resources necessary to conduct the proceeding or, for reasons directly related to the state of emergency or public health emergency, lacks the staff resources necessary to conduct the proceeding.

Twelfth Amended AOSC20-23 at 15. If one of the exceptions is determined to apply, the proceeding shall be conducted in person.

- 6. Inmate Competency Evaluations: Inmate competency evaluations by Expert Witnesses shall occur pursuant to existing AO 1-50.2 (or as subsequently amended), except that Expert Witnesses may conduct evaluations remotely in the event that the Expert Witness has arranged for the remote video connection between the Expert Witness's office and the Hardee, Highlands, or Polk County jail. Instructions related to establishing a remote connection will be made available by the OCA. The Expert Witness shall schedule the evaluation based on the jail's availability and shall then notice the State Attorney's Office and defense counsel of the date and time of the remote evaluation. Either party or the Expert Witness may submit a request to the presiding judge to allow an evaluation to be conducted in-person.
- 7. Mandatory Procedures: To provide for the safety of those persons accessing the courthouses and court facilities, the following protective measures (outlined in Seventh Amended AOSC20-32 and the Tenth Circuit Phase II Operational Plan, as amended) are hereby adopted for the Court's continued response to the pandemic:
  - a. Social Distancing: In the event of an in-person hearing, the judge or the judicial officer shall take necessary steps to practice social distancing in order to minimize potential exposure to COVID-19. The presiding judge or judicial officer must ensure that all participants in the proceeding maintain a "social distance" as recommended by the Centers for Disease Control and Prevention ("CDC").
  - b. Judges, elected officials whose offices are in any courthouse or court facility, and employees working in any courthouse or court facility shall self-check for

symptoms of COVID-19. If they present any COVID-19 symptoms, they must remain home and should consult their doctor or other medical professional.

- c. Attorneys, jurors, vendors, and the public must undergo a health screening and a temperature check (hereinafter “health screening”). “A person who refuses the health screening, has a fever of 100.4 degrees [Fahrenheit] or greater, who answers affirmatively to any of the symptoms in Question 1, or who answers affirmatively to Question 2, 3, or 4 shall not be allowed to enter the facility.” Seventh Amended AOSC20-32, Report at 6.
  - i. Question 1: Do you have any of the following symptoms (excluding those due to a known medical reason other than COVID-19)? Cough, Shortness of breath or difficulty breathing, Fever or chills, Fatigue, Muscle or body aches, Headache, Sore throat, New loss of taste or smell, Congestion or runny nose, Nausea or vomiting, [or] Diarrhea.
  - ii. Question 2: Are you currently awaiting the results of a test to determine if you have COVID-19 based on symptoms or suspected exposure?
  - iii. Question 3: Are you under instructions to self-isolate or quarantine due to COVID-19?
  - iv. Question 4: Within the past 14 days, have you had close contact with someone with a COVID-19 diagnosis or who is awaiting test results for COVID-19 based on symptoms or suspected exposure? (Note: Close contact is defined as contact that is less than 6 feet for 15 minutes or more, irrespective of whether a cloth face covering or respiratory PPE was worn.)

Id. at 6-7. To facilitate the health screening and temperature check with the limited resources available to the Court, attorneys, jurors, vendors, and the public may only enter the Bartow courthouse through the Church Street/north entrance or the Juvenile/west entrance of the building. Attorneys, jurors, vendors, and the public entering the Hardee County Courthouse for a hearing will be directed to the specific site of the hearing. Attorneys, jurors, vendors, and the public may enter the courthouse in Highlands County on Commerce Avenue unless directed to an alternative entrance. To the extent that these provisions conflict with Administrative Order Numbers 1-12.13, 1-20.11, 1-33.2 or a subsequent amendment of the Administrative Orders, these provisions prevail.

- d. “Law enforcement personnel, working within the courthouse or acting in their official capacity visiting the courthouse, whose agency has a policy that requires self-checking for symptoms and remaining home if they present symptoms are not subject to the health screening described [above].” Id. at 6. In the event a law enforcement officer is entering the Polk County Courthouse (Bartow) to attend a jury trial, the officer may contact Lt. Kevin McGraw of the Polk County Sheriff’s Office for instructions regarding entering the courthouse using the West entrance so as to avoid using the same entrance as a juror.
- e. Additional Health and Safety Screening for Officials, Personnel Working Within a Courthouse, and Law Enforcement Personnel: Any person not subject to the health

screening described above must not enter the courthouse if currently awaiting the results of a COVID-19 test based on symptoms or exposure.

- f. Face masks will be provided at no cost to visitors who do not have one. See id. at 8. “Face masks covering the nose and mouth are required for everyone entering the courthouse building [or facility], with no exceptions.” Id. “Face masks shall be worn at all times throughout the public areas of the courthouse building [or facility], including inside the courtroom [or hearing room] if two or more individuals are in the courtroom [or hearing room].” Id. Judges and court staff that have a private office or have ample room to socially distance may remove their masks in their office, otherwise, they must wear a mask while at their desk.
  - g. The use of face masks that completely cover the nose and mouth and fit snugly around the nose, chin, and sides of the face is mandatory. In the event that a witness testifying in a court proceeding is not wearing a clear face mask or a cloth face mask that has a clear plastic panel (hereinafter “clear face mask”), and a clear face mask has been deemed necessary to afford due process, the witness may be permitted by the presiding judge to replace the opaque face mask with a clear face mask when in the witness chair for use during their testimony.
  - h. Court Bailiffs and local Sheriff Deputies are hereby granted the authority to screen and eject persons from courtrooms, hearing rooms, courthouses, or court facilities who refuse to follow health and safety requirements and guidelines, including, but not limited to, wearing face masks and socially distancing in accordance with this Administrative Order.
  - i. Any person who refuses to wear a facemask and/or who refuses to follow the social distancing requirements while in the courthouse or court facility will be denied access.
  - j. If a judge finds that an inmate or detainee’s presence is necessary for an in-person proceeding, “[a]t a minimum, if inmates and detainees do not undergo a health screening and temperature check prior to being transported to the courthouse, they are subject to the health screening and temperature check requirements that are applicable to members of the public for entry into the courthouse.” Id. at 7.
8. Presence of Children at Shelter Hearings: Unless directed otherwise by the assigned judge, the presence of children at shelter hearings is waived during the Court’s response to the pandemic or until further order.
9. Rescheduling canceled proceedings. For matters that are not rescheduled by the Clerk of Court, it is up to the parties to reschedule any proceedings that have been stayed, cancelled, or postponed. The Clerk of Court and the Judicial Assistant of the assigned judge is tasked with informing a party who inquires as to whether a matter is to be rescheduled by the Clerk or the parties with the assistance of the Judicial Assistant.
10. Direction to Maximize the Resolution of Cases: Section III.G. of the Twelfth Amended AOSC20-23 directs the chief judge of each circuit to maximize the resolution of cases by requiring active case management of certain civil cases and by directing all judges within their circuits and the local Bar to strictly comply with Florida Rule of General

Practice and Judicial Administration 2.545. Accordingly, all judges of the Tenth Judicial Circuit are hereby directed to strictly comply with Florida Rule of General Practice and Judicial Administration 2.545(a), (b), and (e), which respectively require judges to conclude litigation as soon as it is reasonably and justly possible to do so, to take charge of all cases at an early stage and to control the progress of the case thereafter until it is determined, and to apply a firm continuance policy allowing continuances only for good cause shown.

Also as directed by Section III.G. of the Twelfth Amended AOSC20-23, all attorneys practicing within the Tenth Judicial Circuit are directed to strictly comply with Florida Rule of General Practice and Judicial Administration 2.545(a), which requires lawyers to conclude litigation as soon as it is reasonably and justly possible to do so, and that the pandemic alone is not a basis for a lawyer's failure to prepare a case for trial or otherwise actively manage a case.

11. Case Management for Civil Cases: This section is effective April 30, 2021.
- a. **Applicability**: The case management procedures below apply to all cases in which the Florida Rules of Civil Procedure apply, including cases proceeding “under one or more of the Florida Rules of Civil Procedure pursuant to Florida Small Claims Rule 7.020(c) if the deadline for the trial date specified in Florida Small Claims Rule 7.090(d) no longer applies in the” case. Twelfth Amended AOSC20-23 fn.13 at 16-17. The case management procedures below do not apply to cases subject to section 51.011, Florida Statutes, post-judgment proceedings, and writs to which Florida Rule of Civil Procedure 1.630 applies.” Id.
  - b. **Determine Track**: Each judge assigned to an applicable civil division shall cause the civil cases in their division to be reviewed to determine whether it is complex, streamlined, or general. Complex, streamlined, and general are defined as:
    - i. **Complex Civil Cases** - actions that have been or may be designated by court order as complex under Florida Rule of Civil Procedure 1.201. Upon such designation, the action shall proceed as provided in the rule.
    - ii. **Streamlined Civil Cases** – unless otherwise determined by the presiding judge, streamlined civil cases are uncontested cases, cases not entitled to jury trial, or cases where a jury trial is not demanded.
    - iii. **General Civil Cases** - all other civil cases.
  - c. **Case Management Orders for Streamlined and General Cases**:
    - i. Case management orders must include the following at a minimum:
      - 1. Deadlines for service of complaints, service under extensions, and adding new parties;
      - 2. Deadlines to complete fact and expert discovery;
      - 3. Deadlines for all objections to pleadings and pretrial motions to be resolved;
      - 4. Deadline for mediation to have occurred;

5. Projected date of trial;
6. Indicate that deadlines will be strictly enforced by the court; and
7. Indicate that a firm trial date will be ordered by the presiding judge when the case is at issue pursuant to Florida Rule of Civil Procedure 1.440.

For cases filed before April 30, 2021, the case management order must include the projected trial date and the deadlines listed above if the event has not already occurred or has not already been specified by a separate court order.

- ii. Case management orders must be issued as follows:
  1. If the case is subject to dismissal for lack of prosecution pursuant to Florida Rule of Civil Procedure 1.420(e), then a case management order must be issued within 30 days after the Court determining that the case should remain pending.
  2. If the case is subject to a statutory stay or a moratorium that prevents prosecution of the case, then a case management order shall be issued:
    - a. Cases filed on or after April 30, 2021: Within 45 days after the stay or the moratorium ends or within 30 days after service of the complaint on the last of all named defendants (whichever date is later); or
    - b. Cases filed before April 30, 2021: By December 3, 2021, within 45 days after the stay or the moratorium ends or within 30 days after service of the complaint on the last of all named defendants (whichever date is later).
  3. If the case is not subject to a statutory stay or a moratorium, then a case management order shall be issued:
    - a. Cases filed on or after April 30, 2021: Within 30 days after service of complaint on the last of all named defendants; or
    - b. Cases filed before April 30, 2021: By December 3, 2021.
  4. The parties may stipulate and agree to a case management order, which must be submitted for final approval by the deadline stated by the presiding judge. The required form to be used for the parties' agreement is attached as Attachment A, entitled "Civil Case Management Plan." A sample case management order is provided in Attachment B.
- iii. Maximum Deadline Periods for Streamlined Cases (unless otherwise ordered based upon good cause):
  1. Deadlines for service of complaints, service under extensions, and adding new parties (**service within 120 days of filing of the complaint unless the Court grants an extension which shall not exceed 240 days from the date of filing of the complaint**);

2. Deadlines to complete fact and expert discovery (**within 270 days after the complaint is filed**);
  3. Deadlines for all objections to pleadings and pretrial motions to be resolved (**within 45 days after filing and prior to the pretrial conference**);
  4. Deadline for mediation to have occurred (**within 270 days after the complaint is filed**); and
  5. Projected date of trial - **within 12 months of filing**.
- iv. Maximum Deadline Periods for General Cases (unless otherwise ordered based upon good cause):
1. Deadlines for service of complaints, service under extensions, and adding new parties (**service within 120 days of filing of the complaint unless the Court grants an extension which shall not exceed 240 days from the date of filing of the complaint**);
  2. Deadlines to complete fact and expert discovery (**within 450 days after the complaint is filed**);
  3. Deadlines for all objections to pleadings and pretrial motions to be resolved (**within 45 days after filing and prior to the pretrial conference**);
  4. Deadline for mediation to have occurred (**within 450 days after the complaint is filed**); and
  5. Projected date of trial – **within 18 months of filing**.

12. Effective Date: Unless otherwise stated herein, this Administrative Order is effective upon signing and shall remain in effect until further order of this Court or the Florida Supreme Court. This Administrative Order VACATES and SUPERCEDES Administrative Order No. 1-57.2 entered on October 7, 2020.

DONE AND ORDERED in Bartow, Polk County, Florida this 16th day of April, 2021.

s/ELLEN S. MASTERS, CHIEF JUDGE

Original: Polk County Clerk of Court

Copies: All Judges  
 Hardee County Clerk of Court  
 Highlands County Clerk of Court  
 Polk County Clerk of Court  
 Nick Sudzina, Trial Court Administrator  
 Office of the State Attorney  
 Office of the Public Defender  
 Office of Criminal Conflict and Civil Regional Counsel, Second District  
 Department of Juvenile Justice  
 Hardee, Highlands, and Polk Law Enforcement Agencies  
 Electronic Bar Mailing

## ATTACHMENT A

IN THE COUNTY COURT IN AND FOR Choose an item. COUNTY, FLORIDA

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR Choose an item. COUNTY, FLORIDA

Case Number: Click or tap here to enter text.

Section: Click or tap here to enter text.

Click or tap here to enter text.

Plaintiff,

v.

Click or tap here to enter text.

Defendant.

\_\_\_\_\_ /

### CIVIL CASE MANAGEMENT PLAN

**I. Case Track Assignment** (check one): Case disposition times for all case tracks have been established in accordance with the Florida Rules of General Practice and Judicial Administration 2.250(a)(1)(B).

- Streamlined Track (Case resolved within 12 months without a jury trial).
- General Track (Case resolved within 18 months with or without a jury trial).
- Complex Track (Case resolved pursuant to Florida Rule of Civil Procedure 1.201, with or without a jury trial).

**II. Case Deadlines and Events:**

Deadline or Event	Party (if applicable)	Date
Deadlines for service of complaints, service under extensions, and adding new parties		Click or tap to enter a date.
Deadlines to complete fact and expert discovery	Plaintiff(s):	Click or tap to enter a date.
	Defendant(s):	Click or tap to enter a date.
Deadlines for all objections to pleadings and pretrial motions to be resolved		Click or tap to enter a date.
Deadline for mediation to have occurred		Click or tap to enter a date.
Projected date of trial (a firm trial date will be ordered by the presiding judge when the case is at issue pursuant to Florida Rule of Civil Procedure 1.440).		Click or tap to enter a date.

**III. Trial Information**

Estimated Length of Trial (specify the number of trial days):	Click or tap here to enter text.
Identification of Jury or Non-Jury Trial:	<input type="checkbox"/> Jury Trial <input type="checkbox"/> Non-Jury Trial

The schedule of deadlines herein will be strictly adhered to by the parties unless change is otherwise agreed to by the parties and approved by the Court. The Court will consider a request to approve changes to these deadlines upon a showing of good cause by either party based on matters arising from an emergency nature or unavailability. However, once the *Civil Case Management Plan* has been approved by the Court, procrastination in completing discovery or the unavailability of counsel will not constitute good cause for a change to these deadlines. The failure to abide by these deadlines may result in sanctions by the Court, including the award of attorney’s fees, the striking of pleadings and/or a dismissal of the action.

**IV. SIGNATURE OF COUNSEL/UNREPRESENTED PARTIES IF SUBMITTED AS AGREED UPON PLAN**

_____ Plaintiff’s Counsel Address: Click or tap here to enter text.  Phone: Click or tap here to enter text.  Fax: Click or tap here to enter text.  E-mail: Click or tap here to enter text.  Fla Bar #: Click or tap here to enter text.	_____ Defendant’s Counsel Address: Click or tap here to enter text.  Phone: Click or tap here to enter text.  Fax: Click or tap here to enter text.  E-mail: Click or tap here to enter text.  Fla Bar #: Click or tap here to enter text.
--	--

_____ Plaintiff (if unrepresented) Address: Click or tap here to enter text.  Phone: Click or tap here to enter text.	_____ Defendant (if unrepresented) Address: Click or tap here to enter text.  Phone: Click or tap here to enter text.
---	---

[Remainder of page left blank intentionally.]

**ATTACHMENT B**

IN THE COUNTY COURT IN AND FOR Choose an item. COUNTY, FLORIDA

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR Choose an item. COUNTY, FLORIDA

Case Number: Click or tap here to enter text.

Section: Click or tap here to enter text.

Click or tap here to enter text.

Plaintiff,

v.

Click or tap here to enter text.

Defendant.

\_\_\_\_\_ /

**CIVIL CASE MANAGEMENT ORDER**

**THE COURT** having reviewed the attached *Civil Case Management Plan*, incorporated herein, and finding it to be satisfactory, it is now

**ORDERED** that all parties shall abide by the terms of the attached *Civil Case Management Plan*.

**DONE** and **ORDERED** in Choose an item., Choose an item. County, Florida on Click or tap to enter a date..

\_\_\_\_\_  
County Judge/Circuit Judge

Copies:  
Attorneys of Record  
Unrepresented Parties