

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Administrative Order 2019-31-Civ / 2019-32-UFC

**ADMINISTRATIVE ORDER AUTHORIZING VOLUNTEER
PROFESSIONALISM AND CIVILITY MAGISTRATE PILOT PROGRAM**

(a) Pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice.

(b) In order to promote professionalism and civility among lawyers appearing in the Seventeenth Judicial Circuit, and in accordance with the authority vested in the chief judge by Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, and Florida Rule of Judicial Administration 2.215, it is hereby **ORDERED**:

(1) A Professionalism and Civility Magistrate Pilot Program (the “Program”) is hereby created for Circuit Civil and Unified Family Court matters, as set forth in this Administrative Order.

(2) **Purpose.** The purpose of the Program is to promote and better enforce the appropriate level of professionalism and civility among the lawyers practicing in the Circuit Civil and Unified Family Court divisions of the Seventeenth Judicial Circuit.

(3) The Large Law Firm Committee of the Broward County Bar Association (the “Committee”) will annually create a list of attorneys willing to volunteer their time to serve as Magistrates (the “List”), and shall provide the List to the Administrative Judge of the Circuit Civil Division (the “Administrator”). The List shall include the name of the attorney, and his or her address, telephone number, and email address. Attorneys will be invited to participate as a Magistrate by the Committee through direct invitation by the Committee or advertisement in the Broward County Bar Association Barrister. Magistrates will serve on a volunteer basis and will receive no compensation for their service. The Administrator shall maintain the List and select Magistrates in strict rotation, unless a Magistrate declines an appointment, in which case, the Administrator shall follow the procedure set forth in paragraph (6) below.

(4) The Committee shall ensure that each attorney that is approved to serve as a Magistrate satisfies the requirements set forth herein and is otherwise qualified to serve as a Magistrate. Each Magistrate must have a minimum of twenty (20) years of civil litigation or family law experience, as applicable, and have his or her primary office location in Broward County, Florida.

(5) A Magistrate may be appointed by a Circuit Court Judge presiding in a civil or family division participating in the Program in appropriate cases where the parties' dispute arises from a lack of civility in the courtroom, discovery or other interaction with counsel that undermines the integrity or professionalism of the legal profession, including:

- a. Non-routine discovery disputes involving conduct that has occurred on more than one occasion;
- b. Non-routine discovery disputes where one party and/or counsel's conduct is the subject of multiple motions by the opposing party;
- c. Conduct that is the subject of a motion for sanctions that the court determines may have prima facie merit based on the parties' written submissions; and
- d. Repetitive disregard for scheduling protocols consistent with the presiding judge's practices and procedures, and applicable local rules and Florida Rules of Civil Procedure.

(6) The required order of appointment is attached hereto as Attachment "A" (the "Order"). Prior to the entry of an Order, the judicial assistant of the referring judge shall contact the Administrator to request the name of the next available Magistrate from the List. The Administrator shall contact the next individual on the List, who shall within two (2) business days conduct a conflict check and notify the Administrator whether he or she accepts the appointment. Upon acceptance of an appointment, the Administrator shall notify the judicial assistant for the referring judge of the name of the Magistrate to be appointed, whose name shall be included in the Order, and shall move the individual to end of the List. If a Magistrate does not accept an appointment, the Administrator shall go to the next name on the List, and shall continue to do so until the appointment is accepted. The name of a Magistrate who declines an appointment shall not be moved to the end of the List. Each party shall have three (3) business days from the date of the order of appointment to file an objection. Any objection to the order of appointment shall be resolved by the assigned division judge. If neither party files an objection to the order of appointment, the parties are deemed to have consented to the appointment.

(7) Within five (5) business days after the order is sent to the Magistrate, the Magistrate shall provide the parties, via email, with a schedule for written submissions and a hearing date. Within five (5) business days of the Magistrate's initial email, each party shall electronically file with the Clerk of the Court and serve their initial position paper, with a courtesy copy provided to the Magistrate via email. Within five (5) business days of submission of the initial position papers, each party shall electronically file with the Clerk of the Court and serve a response brief, with courtesy copies provided to the Magistrate via email. The time for filing initial and response briefs may be modified by the Magistrate as appropriate.

(8) A hearing shall be held before the Magistrate within ten (10) business days of the filing of the parties' response briefs. The hearing will be held at the Magistrate's office and shall be limited to one (1) hour in duration, unless otherwise ordered by the Magistrate. The parties may present oral argument and submit affidavits or live testimony, as needed and permitted by the Magistrate. The Magistrate shall retain any documents or evidence submitted that is not otherwise electronically filed and part of the court record. The attendance at the hearing by an attorney's client is permitted, but is not mandatory, unless otherwise ordered by the Magistrate. The plaintiff shall be responsible for securing the services of a court reporter, with the eventual cost of such services to be taxed as determined by the Magistrate.

(9) The Magistrate shall issue and file with the Clerk of the Court a Report and Recommendation ("R&R") within ten (10) business days of the hearing, with courtesy copies to the parties and the referring judge. The R&R may include a suggested award of attorney's fees and costs or other relief, including:

- a. The appointment of a special master for ruling on discovery issues or presiding over depositions;
- b. The implementation of special procedures for communication between counsel;
- c. Other relief as appropriate under the circumstances.

(10) Any objection(s) to the R&R shall be filed within ten (10) days of the date of the R&R. Upon timely filed objections to the R&R, the referring judge may set the matter for a hearing in his or her discretion. If objections to the R&R are not timely filed, the referring judge may take appropriate action and issue any order(s) pertaining to the R&R.

(11) The Chief Judge will determine which Circuit Civil and Unified Family Court Divisions shall participate in the Program.

(12) This Administrative Order supersedes and vacates Administrative Orders 2018-76-Civ and 2018-76-UFC.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, Broward County, Florida, this 17th day of May, 2019.

/s/Jack Tuter
Jack Tuter, Chief Judge

Attachment "A"

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT, IN AND FOR BROWARD COUNTY, FLORIDA

Plaintiff(s)/Petitioner(s),

CASE NO.: _____
JUDGE:

v.

Defendant(s)/Respondent(s).

ORDER OF REFERRAL TO PROFESSIONALISM AND CIVILITY MAGISTRATE

THIS CAUSE having come before the Court [*sua sponte*] OR [pursuant to Plaintiff's/Defendant's Motion _____]. The Court, having reviewed the file in this matter, and having considered [conduct to be described as appropriate], it is hereby **ORDERED** as follows:

1. The Court hereby refers this matter to _____, to serve as Professionalism and Civility Magistrate to conduct a hearing in this matter and to file a Report and Recommendation of whether and what manner of sanctions should be imposed by this Court. The parties shall file their initial and response briefs with copies to the Magistrate in compliance with the time frames provided by local administrative order or as otherwise directed by the Magistrate. The Magistrate shall schedule a hearing to be held within ten (10) business days of the submission of the parties' response briefs. Plaintiff shall order a court reporter for the hearing, the cost of which to be taxed at the conclusion of this matter. Any objection to the Magistrate's Report and Recommendation must be filed within ten (10) days of the date of the Report and Recommendation. The objecting party shall order and pay the cost of a transcript of the hearing.

DONE AND ORDERED in Chambers, at Broward County, Florida, this ____ day of _____, 20____.

CIRCUIT COURT JUDGE