COMPLEX LITIGATION UNIT PROCEDURES
THE 17th JUDICIAL CIRCUIT COURT,
FOR BROWARD COUNTY, FLORIDA

SECTION 1 - PHILOSOPHY, SCOPE AND GOALS

1.1 - Citation to Procedures. These procedures shall be known and cited as the Complex Litigation Unit Procedures. They may also be referred to in abbreviated form as "CLP", "Complex Litigation Procedures," e.g., this section may be cited as "CLP 1.1."

1.2 - Purpose and Scope. The Complex Litigation Unit Procedures are designed to facilitate the disposition of cases assigned to the Unit. The Complex Litigation Unit Procedures shall apply to all actions assigned to the Complex Litigation Unit.

1.3 - Goals. The Complex Litigation Unit Procedures are intended to provide better access to court information for litigants, counsel and the public; increase the efficiency and understanding of court personnel, counsel and witnesses; decrease costs for litigants and others involved in the court system; and 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 Existing Rules. These procedures are a supplement to the rules of procedure adopted by the Florida Supreme Court. Any conflict between these procedures and the Florida rules of procedure shall be resolved as required by the Florida Supreme Court rules of procedure.

SECTION 2 - CASE FILING, ASSIGNMENT, TRACKING AND IDENTIFICATION

2.1 - Cases Subject to Complex Litigation Unit. This matter is governed by the Administrative Order Establishing Complex Litigation Unit.

2.2 - Case Identification Numbers. This matter is governed by the Administrative Order Establishing The Complex Litigation Unit.

SECTION 3 – VIDEOCONFERENCING

3.1 - By Agreement. By mutual agreement, counsel may arrange for any proceeding or conference to be held by videoconference*, by coordinating a schedule that is convenient with the litigants witnesses, and judge. All counsel and other participants shall be subject to the same procedures and decorum as if present in the courtroom.

3.2 - Responsibility for Videoconferencing Facilities. The parties are responsible for obtaining all communication facilities and arranging all details as may be required to connect and interface with the videoconferencing equipment available to the court. The court will endeavor to make reasonable technical assistance available to the parties, but all responsibility for planning and executing technical considerations required to successfully hold a videoconference shall remain solely with the parties.

3.3 - Allocation of Videoconferencing Costs. In the absence of a contrary agreement by the parties, or an order of the court, the party participating by videoconference shall bear his or her own cost of participating via this method.

3.4 - Court Reporter. Where any proceeding is held by videoconference, the court reporter transcribing such proceeding, if deemed necessary by a party, will be present in the same room as the judge presiding over the proceeding.

3.5 - Exchange of Exhibits and Evidence to be Used in Videoconference Hearing. Any exhibits or evidence to be used in a videoconference hearing must be provided to opposing counsel and the court at least seven (7) days prior to the hearing. All exhibits or

*When courthouse facilities are available.

evidence so provided shall be marked with the case name, case number, identity of the propounding party, and an identification number. Any objections to any exhibit or evidence must be provided to the court, in writing, at least four (4) days in advance of the hearing and reference the appropriate exhibit identification number.

SECTION 4 - CALENDERING, APPEARANCES AND SETTLEMENT

4.1 - Preparation of Calendar. The calendar for each Complex Litigation Subdivision shall be prepared under the supervision of the presiding judge and published on the Complex Litigation Unit web site @www.17th.flcourts.org.

4.2 - Appearances. An attorney who is notified to appear for any proceeding in the Complex Litigation Unit, must, consistent with ethical requirements, appear or have a partner, associate, or another attorney *familiar* with the case present.

4.3 - Notification of Settlement. When any cause pending in the Complex Litigation Unit is settled, all attorneys or pro se parties must notify the presiding judge within twenty-four (24) hours of the settlement and must advise the court of the party who will prepare and present the dispositional paper, and when such filings will be submitted to the court.

SECTION 5 - MOTION PRACTICE

5.1 - Form. All motions shall be made in writing, unless made orally during a hearing or trial, and be no more than three pages, and accompanied by a memorandum of law, except as provided in CLP 5.10. A memorandum of law shall be filed in support of one (1) motion only and shall not exceed twenty (20) pages in length without prior permission of the court.* Additional motions shall be filed separately and a memorandum of law filed in support of each. Motions that are inextricably intertwined, either substantively related or in the alternative, may be filed together.

5.2 - Content of motions. All motions shall state with particularity the pertinent grounds, shall cite any statute or rule relied upon, and shall set forth the relief sought. A movant may not raise issues at the hearing that were not stated in the motion and accompanying memoranda. The practice of offering previously undisclosed cases to the court at any hearing is specifically discouraged.

A Material Factual Statement relating to a motion for summary judgment is mandatory and shall be filed separately (and be less than five pages) and be supported by specific citations to any supporting documents.

5.3 - Certificate of Good Faith Conference. Before setting any motion for hearing, 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 notice of hearing a statement 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 more than five pages shall be devoted to a single subject or issue.

a. The term "confer," requires a substative conversation *in person or by telephone* in a good faith effort to resolve the motion, and does not envision an exchange of ultimatums by facsimile or letter.

b. Counsel who merely attempt to confer have *not* conferred. Counsel must respond promptly to inquiries and communications from opposing counsel. The court will sua sponte deny motions that fail to include an appropriate and complete Certificate under this section.

c. The Certificate shall set forth the date of the conference, the names of the participating attorneys, and the specific results achieved (except settlement discussions)*. It shall be the responsibility of counsel for the movant to arrange for the conference. Failure to comply may result in the court issuing sanctions to the offending party which may include court costs, attorneys fees, or other sanctions.

d. No conference, and therefore no Certificate, is required in motions for injunctive relief without notice, for judgment on the pleadings, summary judgment, or to permit maintenance of a class action.

e. A party alleging that a pleading fails to state a cause of action will confer with counsel for the opposing party before moving to dismiss, and, upon request of the other party, will stipulate to an agreed order permitting the filing of a curative amended pleading in lieu of filing a motion to dismiss.

*In the event the parties agree and specific matters are resolved, an agreed order on those motions shall be submitted forthwith.

5.4 - Motions Decided on Papers and Memoranda. Certain motions (except summary judgment) may be considered and ruled upon by the court on the pleadings, evidence, court file, and memoranda, *without* hearing or oral argument, unless otherwise ordered by the court. The court may set any motion for oral argument at its discretion. Any party seeking oral argument shall file a separate motion setting forth the reasons oral argument should be granted. If the court grants oral argument on any motion, it shall give the parties at least seven (7) business days notice of the date and place of oral argument. The court, for good cause shown, may shorten the seven (7) day notice period. Any filings relating to the issues to be argued at the hearing shall be delivered to opposing counsel and the court at least four (4) business days prior to the hearing. Service and receipt of the papers less than four days before the hearing is presumptively unreasonable.

5.5 - Response to Motion and Memoranda. The respondent, if opposing a motion, shall file a memorandum in opposition within twenty (20) days after service of the motion or within thirty (30) days of service if the motion is for summary judgment. Memoranda in opposition shall not exceed twenty (20) pages in length without prior permission of the court.* If supporting documents are not then available, the respondent may move for an extension of time. For good cause, a respondent may be required by the court to file any response and supporting documents, including a memorandum, within such shorter period of time as the court may specify.

*No more than five pages shall be devoted to a single subject or issue.

5.6 - Extension of Time for Filing Supporting Documents and Memoranda. Upon proper motion accompanied by a proposed order, the court may enter an ex parte order, specifying the time within which supporting documents and memoranda may be filed, if it is shown that such documents are not available or cannot be filed contemporaneously with the motion or response. The time allowed to an opposing party for filing a response shall not run during any such extension.

5.7- Reply Memorandum. The movant may file a reply memorandum within ten (10) days of service of the memorandum in opposition to the motion. A reply memorandum is limited to discussion of matters raised in the memorandum in opposition and shall not exceed ten (10) pages in length without prior permission of the court.*

5.8- Font and Spacing Requirements. All motions and memoranda shall be double-spaced and in Times New Roman 12-point font or its Courier New equivalent.

5.9 - 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.

5.10 - Motions Not Requiring Memoranda. Memoranda 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;

b. extensions of time for the performance of an act required or allowed to be done,

*No more than three pages shall be devoted to a single subject or issue.

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. to stay proceedings to enforce judgment;

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

j. relief from the page limitations imposed by these procedures*; and

k. request for oral argument.*

The above motions must state good cause and cite any applicable rule, statute, or other authority justifying the relief sought. These motions *must* be accompanied by proposed orders and envelopes.

5.11 - Failure to File and Serve Motion Materials. The failure to file a memorandum within the time specified in this section shall constitute a waiver of the right thereafter to file such memorandum, except upon a showing of excusable neglect. A motion unaccompanied by a required memorandum may, in the discretion of the court, be summarily denied. Failure to timely file a memorandum in opposition to a motion will result in the pending motion being considered and decided as an uncontested motion.

5.12 - Preparation of Orders. In matters in which the court does not prepare its own

* Detailed explanation is required in motion.

orders, the court will direct the prevailing party to prepare an order in accordance with the ruling. When a party submits an order to the court, multiple copies and addressed stamped envelopes sufficient for all parties shall be furnished. No order will be entered unless the proffering party represents that he or she has provided copies to the opposing parties in advance, and they have no objection to the form of the order. If there is an objection, the basis shall be provided to the court within three (3) days in a suitable pleading. A suggested order shall be included. Accordingly, if an agreement among the parties cannot be reached on a proposed order, the court may schedule a hearing to address objections to the proposed order. The court may also enter an order without further input from the contesting parties.

In proposing an order entering a final judgment of default, the party must contemporaneously provide the court with sufficient information establishing that the motion for entry of a final judgment by default should be granted.

5.13 - Determination of Motions Through Oral Argument Without Briefs. The parties may present motions and the court may resolve disputes regarding matters described in CLP 5.10 through the use of an expedited oral argument procedure. Any party seeking to compel discovery or to obtain a protective order with respect to discovery must identify the specific portion of the material that is directly relevant and ensure it is filed as an attachment to the application for relief. The dates and times of expedited oral argument will be posted on the Complex Litigation Unit web site at www.17th.flcourts.org**.**

5.14 - 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. The court will permit the parties to file documents under seal, if inconsistent with applicable statute and rules. A party seeking to file a document under seal must file a motion to file under seal requesting such court action. The motion, whether granted or denied, will remain in the public record.

5.15 - Emergency Motions. The court may consider and determine emergency motions at any time. Counsel should be aware the designation "emergency" may cause a judge to abandon other pending matters in order to immediately address the emergency. The court may sanction any counsel or party who designates a motion as an emergency under circumstances that are not true emergencies.

SECTION 6 - CASE MANAGEMENT NOTICE, MEETING,

REPORT, CONFERENCE AND ORDER

6.1 - Notice of Hearing and Order on Case Management Conference. Within sixty (60) days of filing or transfer of a case to the Complex Litigation Unit, the court will issue and serve on all parties a Notice of Hearing and Order on Case Management Conference (the "Notice"). Plaintiff's counsel shall thereafter serve a copy of the Notice on all parties who appear subsequently.

6.2 - Case Management Meeting. Regardless of the pendency of any undecided motions, lead trial counsel *shall* meet sufficiently in advance of, but no less than fourteen (14) days prior to, the Case Management Conference ("CMC") and address the following subjects, including those set forth in Florida Rule of Civil Procedure 1.200(a). Those subjects and topics will be incorporated into a Case Management Order prepared by the court:

a. Pleadings issues (for example, service of process, venue, joinder of additional parties, theories of liability, damages claimed and applicable defenses);

b. The identity and number of motions to dismiss or other preliminary or pre-discovery motions and the time period in which they shall be answered, briefed and argued;

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

d. Anticipated areas of expert testimony, timing for disclosure of experts,

responses to expert discovery, and exchange of expert reports;

e. An assessment of documents and electronically stored information likely to be the subject of discovery from parties and nonparties, including, but not limited to issues related to the presentation of discoverable information, the form and formats in which that information is to be received and/or produced, and whether there are technological means that may render document discovery more manageable at an acceptable cost;

f. The advisability of using special master(s) for fact finding, discovery disputes, or such other matters to which the parties may agree;

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 activities;

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 technological methods of presentation, or court-reporting and, to that extent, a determination of the following:

    i. 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;

    ii. Issues related to compatibility of court and party facilities and

equipment;

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

iv. The feasibility of sharing technology resources or platforms among all parties to minimize disruption at trial; and

v. 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 preliminary listing of the principal disputed legal and factual issues;

k. A preliminary listing of any legal principles and facts that are not in dispute;

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

m. Whether a demand for jury trial has been made;

n. The track to which the case will be assigned.

o. Such other matters as the court may direct the parties to consider.

6.3 - Joint Case Management Report. No less than four (4) 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, he/she shall timely notify the court by written motion or request for a status conference.

6.4 - Case Management Conference. The attendance by lead trial counsel for all parties 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.

6.5 - Case Management Order. *Following* the CMC, the court will issue a Case Management Order ("CMO"). The provisions of the CMO may not be changed without notice, an opportunity to be heard, a showing of good cause, and entry of an order by the court.

SECTION 7 – DISCOVERY

7.1 - Presumptive Limits On Discovery Procedures. Presumptively, subject to stipulation of the parties and order of the court for good cause shown, each party is limited to propounding thirty (30) interrogatories (including sub-parts) and thirty (30) requests for admission on any party. Depositions are presumptively limited to fifteen (15) depositions (not including depositions of testifying experts) taken by the plaintiffs, fifteen (15) depositions taken by the defendants, and fifteen (15) depositions taken by the third-party defendants, regardless of the number of separate parties designated as plaintiffs, defendants, and third-party defendants. The parties may agree by stipulation on matters regarding discovery within the deadlines established by the court's CMO, but the parties may not alter the limitations provided by these procedures without leave of court.

7.2 - Depositions. The court expects counsel to conduct discovery in good faith and to cooperate and conduct all pretrial discovery with professionalism and civility. Depositions shall be conducted in accordance with the following guidelines:

a. All parties or employees will, to the extent possible, be made available for deposition on thirty (30) days notice to counsel. If a witness is unavailable, three (3) alternate dates, within the following thirty (30) days shall be provided.

b. Counsel shall not direct or request that a witness not answer a question, unless counsel has objected that the answer is protected by privilege or a limitation on evidence directed by the court.

c. Counsel shall not make objections or statements that might suggest an answer

to a witness. Counsel's statements when making objections should be succinct, stating the basis of the objection and nothing more.

d. Counsel and their clients shall not engage in private, off-the-record conferences during the client's deposition, except for the purpose of deciding whether to assert a privilege.

e. Deposing counsel shall provide to the witness's counsel a copy of all documents shown to the witness during the deposition. The copies may be provided before the deposition begins. If not, copies shall be provided contemporaneously with the showing of each document to the witness. The witness and the witness's counsel, at the deposition, do not have the right to discuss documents privately before the witness answers questions about the documents.

f. When the deponent or any party demands that the deposition be read and signed, the failure of the deponent to read and sign the deposition within thirty (30) days from the date the transcript becomes available to the deponent, shall be deemed to be ratification of the entire deposition.

g. The court (or special master) may entertain telephonic hearings regarding issues raised during depositions then in progress.

h. Each deposition is presumptively limited to an eight (8) hour period (excluding breaks).

7.3 - Special Masters. The court *may*, at any time, on its own motion or on the motion of any party, appoint a special master in any given case pending in Complex Litigation Unit in

accordance with Florida Rule of Civil Procedure 1.490.* Unless otherwise ordered, the parties shall bear equally the cost of proceeding before a special master, and such fees may be taxed as costs.

7.4 - No Filing of Discovery Materials. Depositions, interrogatories and answers, and requests to produce responses shall not be filed unless the court so orders or unless the parties will rely on such documents in a pretrial proceeding. All discovery materials must be served on other counsel or parties. 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.

7.5 - Discovery with Respect to Expert Witnesses. Discovery with respect to experts must be conducted within the discovery period established by the CMO. In complying with the obligation to exchange reports relating to experts, the parties shall disclose *all opinions* to be expressed and the basis and reasons therefor; the data or other information considered by the expert forming the opinions, any exhibits to be used as a summary of or support for the opinions; the qualifications of the expert, including a list of publications authored within the preceding ten (10) years; the compensation to be paid for preparation and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition or affidavit, within the preceding three (3) years. Each party offering an expert witness shall provide three (3) alternative dates for the deposition of the expert.

7.6 - Completion of Discovery. The requirement that discovery be completed within a

*The parties will either consent, or object, in writing at the CMC to the appointment of a special master. **See also, p.2 Notice of Hearing and Order on Case Management Conference.**

specified time mandates that adequate provision is made for interrogatories and requests for admission to be answered, for documents to be produced, and for depositions to be held prior to the expiration of times as set forth in the CMO. The court does not anticipate entertaining motions relating to discovery conducted after the close of the discovery period as set forth in the CMO.

7.7 - Extension of the Discovery Period or Request for Additional Discovery. Motions seeking an extension of the discovery period or permission to take additional discovery than permitted under the CMO must be presented *prior* to the expiration of the time as set forth in the CMO for discovery, except for good cause shown. The motion must be set forth good cause justifying the additional time or additional discovery, and that the parties have diligently pursued discovery.

7.8 - Trial Preparation After the Close of Discovery. Ordinarily, the deposition of a material witness not subject to trial subpoena should be taken during discovery. However, the deposition of a material witness who agrees to appear for trial, but later becomes unavailable or refuses to attend, may be taken at any time prior to or during trial.

7.9 - Confidentiality Agreements. The parties may reach their own agreement regarding the designation of materials as confidential. There is no need for the court to endorse a confidentiality agreement. Each confidentiality agreement shall provide or shall be deemed to provide that no party shall file documents under seal (unless permitted by statute or rule) without having first obtained an order granting leave of court to file documents under seal based upon a showing of particularized need and compliance with the Rules of Judicial Administration.

SECTION 8 - ALTERNATIVE DISPUTE RESOLUTION

8.1 - Alternative Dispute Resolution Mandatory in All Cases. An appropriate mechanism for ADR shall be discussed by the court and counsel at the CMC. The CMO may order the parties to a specific ADR process, to be conducted either by a court-assigned or an agreed-upon individual, and shall establish a deadline for completion.

8.2 - Non-Binding Arbitration. The parties may agree to submit to non-binding arbitration, it may be also ordered by the court, sua sponte, or upon motion of any party. The arbitrator shall be selected by the parties, or if no agreement, the court may order the use of one (1) of the recognized entities or select the arbitrator.

8.3 Advisory Jury Trial. The parties may agree to submit to an advisory jury trial.

8.4 - Mediation.

a. Case Summaries - Not less than five (5) business days prior to the mediation conference, each party *shall* deliver to the mediator a 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 opposing party's last demand or the policy limits, whichever is less, without further consultation. The court will impose sanctions upon lead trial counsel and parties who do not attend or 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 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. Upon motion of the prevailing party, the party's share may be taxed as costs.

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 (or any part) settled or whether the mediator was forced to declare an impasse.

SECTION 9 - JOINT FINAL PRETRIAL STATEMENT

9.1 - Meeting and Preparation of Joint Final Pretrial Statement. On or before the date established in the CMO, lead trial counsel for all parties and any unrepresented parties shall meet in person for the purpose of preparing a Joint Final Pretrial Statement that strictly conforms to the requirements of this section. 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 will be stricken. Sanctions may be imposed for failure to comply with this section, including the striking of pleadings. At the conclusion of the final case management conference, all pleadings are deemed to merge into the Joint Final Pretrial Statement, which will control the course of the trial.

9.2 - Contents of Joint Final Pretrial Statement.

a. 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.

b. Exhibit List. An exhibit list containing a description of all exhibits to be introduced at trial and in compliance with the approved form located on the Complex Litigation Unit web site at www.17th.flcourts.org, must be filed with the Joint Final Pretrial Statement. 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 contain each party's exhibit lists 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 – or not made with specificity – are waived. Each party shall also 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.

c. Witness List. The parties and counsel shall prepare witness lists 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. 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 Unit 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. See Rule of Judicial Administration 2.350.

d. Depositions. The court permits the use of 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 case management 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.

e. 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 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.

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, 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, he/she shall timely notify the court by written motion or 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, and detailed, 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 CASE MANAGEMENT CONFERENCE

11.1 - Mandatory Attendance. Lead trial counsel and local counsel for each party, together with any unrepresented party, *must* attend the final case management conference in person unless previously excused by the court.

11.2 - Substance of Final Case Management Conference. At the final case management conference, all counsel 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 voir dire; opening statements; presenting evidence; and argument; and such other matters as may facilitate the just, speedy, and inexpensive disposition of the actions.

SECTION 12 - SANCTIONS

12.1 - Grounds. The court may impose sanctions on any party or attorney: 1) who fails to attend and to actively participate in the meeting to prepare the Joint Final Pretrial Statement or refuses to sign or file the Joint Final Pretrial Statement; 2) who fails to attend the final pretrial conference, who fails to attend calendar call, or who is substantially unprepared to participate; 3) who fails to attend the mediation or actively participate in good faith, or who attends the mediation without full authority to negotiate a settlement, or who is substantially unprepared to participate in the mediation; or 4) who otherwise fails to comply with the Complex Litigation Unit procedures. Sanctions may include, without limitation, any, some, or all of the following: an award of reasonable attorneys' fees and costs, the striking of pleadings, the entry of default, the dismissal of the case, or a finding of contempt of court.

SECTION 13 – TRIAL

13.1 - Examination of Witnesses. When several attorneys are employed by the same party, the examination or cross-examination of each witness for such party shall be conducted by one (1) attorney, but the examining attorney may change with each successive witness or, with leave of the court, during a prolonged examination of a single witness. The examination of witnesses is limited to direct, cross, and re-direct. Parties seeking further examination shall request a bench conference and only upon the articulation of good cause, be allowed further examination.

13.2 - Objections. Speaking objections are not permitted. A party interposing an objection shall state the legal basis for the objection only. No response from the interrogating party will be permitted unless requested by the court.

SECTION 14 - COURTROOM DECORUM

14.1 - Communications and Position. Counsel are at all times to conduct themselves with dignity and propriety. All statements and communications to the court shall be clearly and audibly made from a standing position behind the counsel table or the podium. Counsel shall not approach the bench except upon the permission or request of the court.

Abusive language, offensive personal references, colloquies between opposing counsel, and disrespectful references to opposing counsel are strictly prohibited. Witnesses and parties must be treated with fairness and due consideration.

The examination of witnesses and jurors shall be conducted from behind the podium, except as otherwise permitted by the court. Counsel may only approach a witness with the court's permission and for the purpose of presenting, inquiring about, or examining that witness with respect to an exhibit, document, or diagram.

Except in extraordinary circumstances, and then only with leave of court and permission of the witness, all witnesses shall be addressed by honorific and surname (*e.g.*, Mrs. Smith, Reverend Jones, Dr. Adams), rather than by first names.

14.2 - Professional Demeanor. The conduct of the lawyers before the court and with other lawyers should be characterized by consideration, candor, and fairness. Counsel shall not knowingly misrepresent the contents of documents or other exhibits, the testimony of a witness, the language or argument of opposing counsel, or the language of a decision or other authority; nor shall counsel offer evidence known to be inadmissible. In an argument addressed to the court, remarks or statements may not be interjected to improperly influence or mislead the jury.

SECTION 15 – JURIES

15.1 - Jury Instruction Conference. At the close of the evidence (or at such earlier time as the judge may direct) in every jury trial, the judge shall conduct a conference on instructions with the parties. Such conference shall be out of the presence of the jury and shall be held for the purpose of discussing the proposed instructions.

15.2 - Objections to Instructions. The parties shall have an opportunity to request any additional instructions or to object to any of those instructions proposed by the judge. Any such requests or objections to the court shall be placed on the record.

At the conclusion of the charge and before the jury begins its deliberations out of the presence of the jury, the parties shall be given an opportunity to object on the record to any portion of the charge as given, or omission therefrom, stating with particularity the objection and grounds therefor.

SECTION 16 - TRIAL DATES AND FINAL PRETRIAL PREPARATION

16.1 - Trial Date. Trial *shall* commence on the date established by the court. The court will consider a request to continue a trial date only if the request is signed by both the party and counsel for the party.

SECTION 17 - WEB SITE AND PUBLICATION

b. **17.1 - Web Site.** The Complex Litigation Unit shall maintain a site on the World Wide Web for ready access to members of the bar and public. The web site shall be located at the uniform resource locator www.17th.flcourts.org. The web site will store for ready retrieval basic information about the court, including but not limited to these procedures. In addition, the web site will store, in the sole discretion of the Complex Litigation Unit judges, the court's calendar.

Attachment to Administrative Order No.