

EXHIBIT “A” – for FORECLOSURE NON-JURY TRIALS

Guidelines for Division 37 Controlling Trial and Exhibit Testimony Judge John Marshall Kest

This matter shall control all Non-Jury Foreclosure trials unless in conflict with a Case Management Order entered on the specific case.

The ATTORNEY/*PRO SE* WORKSHEET (attached) shall be completed in full by each side, be signed and dated by each, and returned to the Court and filed with the clerk of court within ten (10) days of receipt of same. A copy should be provided to opposing counsel or party.

A. REFERRAL TO MEDIATION; DEADLINE.

- (1) If this matter has not been previously mediated, the matter must be mediated no later than two weeks prior to the trial date. Plaintiff shall have the responsibility for setting the mediation. If costs are incurred they shall be shared equally between the plaintiff and defendant.
- (2) Any party may move to defer or dispense with mediation upon good cause shown. However, mediation shall proceed unless a Court order specifically dispenses with mediation.
- (3) All parties and their counsel or authorized representative, with the authority to resolve this matter must appear in person. Telephone or video appearances are not permitted.

B. DISCOVERY PROVISIONS:

- (1) All discovery must be completed no later than one week prior to the trial in this matter.
- (2) Sanctions will be imposed for failure to comply with the *Florida Rules of Civil Procedure* and the *Administrative Rules of the Ninth Judicial Circuit*.
- (3) The filing of motions that are not set for immediate hearing and heard prior to trial will not toll the compliance with a requirement.
- (4) “Compliance” with discovery and with the “Rules” means complete compliance. Failure to comply fully will constitute non-compliance.

C. EXCHANGE OF WITNESS LISTS AND EVIDENCE SCHEDULES.

No later than twenty (20) days before the trial, attorneys and *pro se* parties shall serve upon each other (but not file) the following:

(1) **LIST OF ALL WITNESSES** (including known impeachment and rebuttal witnesses) which the party might call at trial. The list shall contain the name, address and telephone number of the witness and whether the witness is a liability or damage witness. Additionally, expert witnesses shall be designated as such.

(2) **SCHEDULE OF ALL EXHIBITS** which a party may offer at trial numbered sequentially. The schedules will include all depositions to be offered in evidence at trial, with page designations and cross designations.

D. REQUIREMENTS PRIOR TO TRIAL.

(a) **MEETING OF ATTORNEYS, AND PRO SE PARTIES.** No later than ten (10) working days prior to the trial, counsel who will try the case, and *pro se* parties, if any, shall meet. Attendance at this meeting is mandatory. Plaintiff's attorney (or if plaintiff is *pro se*, defendant's attorney) shall arrange a mutually agreeable time, date and place for this meeting.

At the meeting the attorneys, and *pro se* parties shall:

1. Discuss and attempt to settle the case.
2. Produce, examine, and INITIAL on the back every evidentiary exhibit intended to be offered at trial; agree upon those which can be admitted as joint exhibits, those which can be admitted without objection, and identify those to which objection will be made and the grounds of each objection, and note this on a separate copy of each party's exhibit schedule. Objections not reserved or grounds not noted on such separate schedule will be deemed waived at trial. Agreements and objections will be filed with the Court no later than one week before the trial.
3. Review the witness lists and in good faith note on a separate copy which witnesses and depositions will actually be used at trial.
4. Discuss and stipulate in writing as to those facts which will require no proof at trial.
5. Discuss, clarify and frame all factual issues of fact to be tried.
6. Identify all issues of law, procedure or evidence to be decided by the Court prior to or during trial.
7. Discuss and attempt to agree upon any other matters which will lead to a more orderly and expeditious trial, e.g., copies in lieu of originals, witnesses out of turn, which portions and how depositions will be presented, etc.

E. The following documents: *Division 37 Guidelines and Procedures*; and *the Ninth Judicial Circuit Courtroom Decorum Policy* are located at <https://www.ninthcircuit.org/about/judges/circuit/john-marshall-kest>. It is further ordered that all counsel are charged with reading and being familiar with the contents thereof and complying therewith.

F. EXPECTATIONS: All counsel and *pro se* litigants are expected to be prepared and ready for trial when the matter is called for trial. Witnesses must be present and under subpoena. Failure of a party to appear at trial and to be prepared for trial may result in either a dismissal of the action or a default being entered by the Court.

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO.
CIVIL DIVISION 37

Plaintiff,

vs.

Defendant.

_____ /

Attorney Worksheet for Foreclosure Trial Division 37
Plaintiff/Defendant/HOA Worksheet (Circle one)

| | | |
|---------------------|------------------------------|-------------|
| Plaintiff's counsel | Defendant or Defense counsel | HOA Counsel |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Estimated number of minutes to try case: Pltf ____ Deft ____ HOA _____

Names of witnesses to be called and interest in case:

| | | |
|-----------|-----------|-------|
| Plaintiff | Defendant | HOA |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Original Mortgage is: Filed Lost _____

Original Note is: Filed Lost _____

Assignments/_____ Filed Lost _____

_____ All exhibits must be marked before the day of trial and exchanged with opposing counsel or *pro se* litigant and initialed on back by opposing counsel. Exhibit tags may be obtained from the Trial Clerk.

Court Reporter will be ordered by: Plaintiff Defense HOA None

Chain of Holder of Mortgage/Note:

1- _____ Date of transfer _____
2- _____ Date of Transfer _____
3- _____ Date of Transfer _____

4- _____ Date of Transfer _____

Trial should not be set before _____ Reason: _____

Date Completed

Name of Party (please print)

Signature of Party

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court this ____ day of _____, 2020 by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorney(s)/interested parties identified on the ePortal Electronic Service List, via transmission of Notices of Electronic Filing generated by the ePortal System to:

I HERBY CERTIFY that a copy of the foregoing was furnished on this ____ day of _____, 2020 by U.S. Mail to:

Signature of Party