

# **APPENDIX**

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Pinellas County Administrative Order No. 2009-027 PA/PI-CIR.....Tab 1

**REPLY TAB 1**

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2009-027 PA/PI-CIR  
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**RE: NOTICE OF LACK OF PROSECUTION  
NOTICE OF INTENT TO DISMISS - REVISED**

Rule of Civil Procedure 1.420 on lack of prosecution was amended in 2005. *In re: Amendments to the Florida Rules of Civil Procedure (Two Year Cycle)*, 917 So.2d 176 (Fla. 2005). The Court adopted Administrative Order 2006-016 PA/PI-CIR in order to implement this rule amendment. Currently, the Clerk prepares a Notice of Lack of Prosecution in compliance with Rule of Civil Procedure Form 1.989 after no record activity for a period of ten (10) months and no stay has been entered or approved by the Court. The Clerk then sends a subsequent Notice of Intent to Dismiss pursuant to the Administrative Order. Rule of Civil Procedure 1.420(e) provides that if is no record activity occurs within sixty (60) days immediately following the service of the Notice of Lack of Prosecution and no stay has been entered or approved by the Court or good cause shown, the action shall be dismissed by the court on its own motion or on motion of any interested person. The Supreme Court approved Rule of Civil Procedure Form 1.989(b), an Order of Dismissal, to be used in such situations.

The Clerk of the Circuit Court has requested that the requirement for a second notice adopted in Administrative Order 2006-016 PA/PI-CIR be eliminated due to cost concerns. Accordingly,

**IT IS ORDERED:**

1. This Order applies to all cases governed by the Rules of Civil Procedure, Family Law Rules of Procedure, Small Claims Rules, and cases under Chapter 39, Florida Statutes. It does not apply to other cases governed by the Rules of Juvenile Procedure, Rules of Criminal Procedure, Probate Rules, Traffic Court Rules, or Rules of Appellate Procedure.

2. NOTICE OF LACK OF PROSECUTION

A. In all matters in which there is no record activity for a period of ten (10) months and no stay has been entered or approved by the Court, the Clerk of the Circuit Court in Pasco County and the Clerk of the Circuit Court in Pinellas County (Clerks of Court) shall automatically prepare a Notice of Lack of Prosecution which shall substantially comply with Rule of Civil Procedure Form 1.989, a copy of which is attached as Exhibit 1. The Clerks of Court shall serve the Notice of Lack of Prosecution on all parties in the case, as required by Rule of Civil Procedure 1.420(e), and shall place a copy of the Notice in the court file. The Notice shall contain a Certificate of Service and as set forth in Rule of Civil Procedure 1.080, such service may be accomplished by mailing a copy of the Notice to the parties' counsel of record, or if not represented by counsel, to the party individually.

B. When there is no record activity in a case for a period of sixty (60) days immediately following the service of a Notice of Lack of Prosecution and if no stay was issued or approved prior to the

expiration of the sixty (60) day period, the Clerks of Court shall automatically generate an Order of Dismissal and provide it along with the court file, if such file is requested, to the section judge. The Order of Dismissal shall substantially comply with Exhibit 2. This includes small claims cases where the Rules of Civil Procedure have been applied pursuant to Small Claims Rule 7.020.

### 3. NOTICE OF INTENT TO DISMISS

A. The Clerks of Court shall automatically prepare a Notice of Intent to Dismiss under the following circumstances:

i. When a case is filed and the plaintiff or petitioner has failed to provide proof of service on a defendant or respondent within 120 days after filing the initial pleading as required by Rule of Civil Procedure 1.070(j).

ii. When there is no record activity in a small claims case for a period of six (6) months as provided for in Small Claims Rule 7.110, excluding small claims cases where the Rules of Civil Procedure have been applied pursuant to Small Claims Rule 7.020.

The Clerks of Court shall send the Notice of Intent to Dismiss to the parties in the case, and place a copy of the Notice in the court file.

B. If a response to the Notice of Intent to Dismiss is received within 30 days of the Notice, the Clerks of Court shall provide the response and the court file to the section judge.

C. If no response is received within 30 days of the Notice of Intent to Dismiss, the Clerks of Court shall automatically generate an Order of Dismissal and provide it along with the court file, if such file is requested, to the section judge.

### 4. IMPLEMENTATION

The Clerks of Court, the Pasco County Data Processing Department, and the Pinellas County Business Technology Department, as appropriate, shall take immediate action to make changes necessary to implement this Order and take all actions necessary so that the Clerk of Court can perform the functions specified in this Order.

Administrative Order 2006-016 PA/PI-CIR is hereby rescinded.

**DONE AND ORDERED** in Chambers at Clearwater, Pinellas County, Florida, this \_\_\_\_\_ day of May, 2009.

\_\_\_\_\_  
Robert J. Morris, Jr. Chief Judge

cc: All Judges  
The Honorable Bernie McCabe, State Attorney  
The Honorable Bob Dillinger, Public Defender  
The Honorable Ken Burke, Clerk of Court, Pinellas County  
The Honorable Paula O'Neil, Clerk of Court, Pasco County

Jackson Flyte, Regional Counsel  
Suzanne M. Mucklow, Executive Director, Pinellas County Clerk's Office  
Debbie Gay, Assistant Court Services Director, Pasco County Clerk's Office  
Gay Inskip, Trial Courts Administrator  
Kerry L. Rice, Senior Deputy Courts Administrator, Pasco County  
Bar Associations, Pasco and Pinellas  
Law Libraries, Pasco and Pinellas

**IN THE CIRCUIT/COUNTY COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR \_\_\_\_\_ COUNTY, FLORIDA  
DIVISION  
CASE NO. \_\_\_\_\_**

\_\_\_\_\_  
**Plaintiff(s),**

**v.**

\_\_\_\_\_  
**Defendant(s).**  
\_\_\_\_\_ /

**NOTICE OF LACK OF PROSECUTION**

PLEASE TAKE NOTICE that it appears on the face of the record that no activity by filing of pleadings, order of court, or otherwise has occurred for a period of 10 months immediately preceding service of this notice, and no stay has been issued or approved by the court. Pursuant to rule 1.420(e), if no such record activity occurs within 60 days following the service of this notice, and if no stay is issued or approved during such 60-day period, this action may be dismissed by the court on its own motion without further notice or hearing or on the motion of any interested person, whether a party to the action or not, after reasonable notice to the parties, unless a party shows good cause in writing at least 5 days before the hearing on the motion why the action should remain pending.

**I CERTIFY THAT A COPY HEREOF has been furnished to [Name and Address of Parties Receiving Notice] by U.S. Mail on [date].**

\_\_\_\_\_  
**Deputy Clerk**

**EXHIBIT 1**

**IN THE CIRCUIT/COUNTY COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR \_\_\_\_\_ COUNTY, FLORIDA  
DIVISION**

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
**Plaintiff(s),**

**v.**

\_\_\_\_\_  
**Defendant(s).**

**MASTER ORDER DISMISAL**

**THIS CAUSE**, came on upon the Court’s own motion, pursuant to Rule of Civil Procedure 1.420(e). The Court finds that a Notice of Lack of Prosecution was provided, there was no record activity during the 10 months immediately preceding service of the foregoing notice; there was no record activity during the 60 days immediately following service of the foregoing notice; no stay has been issued or approved by the Court; and no party has shown good cause why the action should remain pending.

**ACCORDINGLY,**

**IT IS ORDERED** that the cases on the attached listing are dismissed for lack of prosecution.

**DONE AND ORDERED** in chambers in Clearwater / St. Petersburg / New Port Richey / Dade City, Pinellas / Pasco County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_ 20xx.

\_\_\_\_\_  
[Section judge]

**EXHIBIT 2**