Lowndes

Insights

# Navigating Florida's New Rules of Civil Procedure in Fiduciary Litigation Matters

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Florida's overhaul of its civil rules reshapes fiduciary litigation. Probate, trust, and guardianship matters generally avoid case management tracks and initial disclosures, but modern discovery and motion practice now govern the way these cases are litigated.

## Case Management and Initial Disclosures: Key Exemptions and Triggers

Florida courts now require mandatory case tracks and strict case management orders, but proceedings under the Florida Probate Code, Florida Trust Code, Guardianship (Chapter 744), the Florida Fiduciary Principal and Income Act, Adult Protective Services, and injunctions for protection of vulnerable adults are excepted from both case management and initial disclosures. By contrast, non-exempt civil claims – for example, tortious interference – remain subject to case management and initial disclosure requirements.

## Probate, Trust, and Guardianship: Civil Tools, Targeted Carve-Outs

Even if a probate matter is not declared adversarial, probate discovery incorporates core civil discovery tools, and the new proportionality, specificity of objections, and meet-and-confer obligations apply. When a proceeding becomes adversarial – whether automatically (e.g., removal of a personal representative or guardian, revocation of probate, determination of beneficiaries, probate of a lost or destroyed will, or certain vulnerable adult injunctions) or declared adversary – the Florida Rules of Civil Procedure govern the litigation "as nearly as practicable," except for case management and initial disclosures. In incapacity and guardianship matters, the case is not automatically adversarial, but the civil discovery rules apply – again, without case management or initial disclosures.

### Related Attorneys

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### Related Expertise

Guardianship

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## Discovery and Motion Practice: What Now Matters Most

Discovery statewide follows the federal-style proportionality standard. Parties must tailor requests to what is relevant to claims or defenses and proportional to the needs of the case, considering the importance of the issues, amount in controversy, parties' resources, and whether the burden outweighs the benefit. Objections must be stated with specificity, including the reasons, and parties have a continuing duty to supplement disclosures and responses if they learn the originals are materially incomplete or correct. Motion practice adds good-faith conferral before filing non-dispositive motions and refines summary judgment timing: responses due 40 days after service and hearings no sooner than 10 days after the response deadline.

## Practical Takeaways

Many probate, trust, and guardianship matters avoid the rigidity of case management and initial disclosures, while the discipline of modern discovery – proportionality, specificity of objections, and meet-and-confer – now governs these proceedings. Be alert to non-exempt claims that trigger case management and disclosure duties. Across the board, tighten discovery practices, calendar the summary judgment response and hearing timelines, and document conferrals to avoid sanctions.