

Guidelines & Procedures

Div. 70 County Civil

Judge Martha C. Adams

Orange County Judge

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In order to assist self-represented litigants (referred to as **pro se litigants**) and attorneys, the following guidelines and procedures are adopted for County Civil Division 70 in Orange County, Florida when practicing before Judge Martha C. Adams. **Please note** these are general guidelines/procedures. Each case is unique. The Court or applicable law may require different or additional procedures than referenced below.

Small Claims Action

If you file a **Small Claims** action (damages sought are \$5,000 or less), it will be set for a **Pre-Trial Conference/Mediation** (Clerk sets the date and time on Summons). Assuming service of process timely perfected, parties will report to Room 130.02 for Mediation at the Orange County Courthouse located at 425 N. Orange Ave., Orlando, FL 32801. **Make sure to check in.** Attorney can appear at Mediation without client in a Small Claims action if they have full settlement authority. If other side appears, a mediator will meet with parties to try to resolve. If unable to resolve the mediator will complete a **Trial Agreement Form**. (Parties need to list any conflict dates, the names of witnesses and estimated time to try case) **Form and parties will go to Room 370.** The parties will appear before a Judge to go over any Pre-Trial Motions and matters that need to be addressed prior to setting a trial date. Once the Judge is satisfied the action is ready to be set for Trial, the Trial Agreement Form will be given to the assigned division's Judicial Assistant. The Judicial Assistant will set date. The date is usually 60 to 90 days out, but can be set sooner. **A Pre-Trial Conference/Mediation may be cancelled/continued by Court Order only.**

If a party fails to appear at Pre-Trial Conference/Mediation, opposing side can request a Clerk's Default or Court Dismissal of Action. Attorneys wanting a Clerk's Default must submit the Order to the Clerk's office. Clerk will not provide a Default Order to an attorney. If default entered, submit Default Final Judgment packet to Judge, via the Clerk, so all pleadings/affidavits are properly filed.

Note: Administrative Order effective Nov. 1, 2009 (2009-12) regarding PIP claims. If counsel on both sides, file appropriate notice, may dispense with PreTrial/Mediation and invoke the Rules of Civil Procedure.

County Court Action

If you file a **County Court** claim (\$5,001 to \$15,000), no mediation date will be set. Defendant typically has 5 to 20 days to reply after service (see Summons for response date). If Defendant fails to respond, the Plaintiff can move for a Clerk's Default. If a written Response/Answer is timely filed, Court likely to refer to Mediation office at Courthouse (\$60 mediation fee each party; Mediation office asks that you kindly pay in advance!). Landlord Tenant actions are treated differently pursuant to Florida law.

Hearings

Pro Se Litigants – Written requests for relief or judicial action, known as a **Motion**, must be mailed to or filed with Clerk of Court. The Clerk will deliver the Motion to the Judge to review. If a hearing is necessary, the Judicial Assistant will schedule a hearing. Make sure the Motion has a proper caption, case number, date, your mailing address, phone number, email address (if any), printed name, signature and certificate of service to show that copies were mailed. Mail copies of the Motion to all other litigants, or their counsel, if represented.

Ex Parte – Ex Parte hearings are held Monday thru Thursday from 9:00 to 10:00am for **uncontested, non-evidentiary hearings** that are **no more than 5 minutes**. Do not call the Judicial Assistant to schedule. If Judge is hearing a contested matter between 9:00 and 10:00am, you will be brought in as soon as possible. There is a **drop box** for each division on the waiting room back wall bookshelf if you want to leave a proposed Order (with conforming copies and stamped addressed envelopes) for the Judge. Telephonic hearings are not permitted during Ex Parte.

Short Matters (ATTORNEYS ON BOTH SIDES ONLY) – Short matter hearings are held on **Wednesdays between 9 a.m. and 10 a.m.** These are not

scheduled with the Court but **MUST** be coordinated with opposing counsel. The hearings are limited to 10 minutes with no evidence or testimony being taken. Proposed Orders should be brought to the hearing. Telephonic hearings are not permitted during Short Matters.

How to Schedule a Hearing

For Contested Hearings – Do not email the Judicial Assistant to set a hearing until you do the following:

- (1) The Motion **must** be filed with the Court.
- (2) **Using the Judicial Automated Calendaring System (JACS), select an available hearing date and time.** Go to the Court website, www.ninthcircuit.org. Click the “Services” link. Click the “JACS” link, then the “Go to JACS now” link. This takes you to **JACS**. Select the calendar for the Division (70). Click the retrieve button and available hearing time for approximately the next 60 days is displayed. You can set hearings for less than 15 minutes, or combine times for longer hearings. If you have any questions, please contact the Judicial Assistant via email.
- (3) **Coordinate the date and time with opposing counsel/pro se party and**
- (4) **Then, and only then, email the Judicial Assistant at ctjalm2@ocnjcc.org, with a copy to all counsel/pro se litigants, for the hearing to be added to the docket.** Your hearing time **is not confirmed** until you receive a reply email from the Judicial Assistant.

Cancelling a Hearing

It is the responsibility of the party that set the hearing to notify the Judicial Assistant of all hearings that are cancelled. The Clerk of Court does not send copies of Notices filed to the Judge or Judicial Assistant. Notices of cancellation **MUST** be emailed to ctjalm2@ocnjcc.org The Court expects the cancellation to be timely, as this will allow the hearing time to be utilized by others.

Court Reporter - If you want a record of hearing/trial, you must arrange for a **Court Reporter**. Parties, Witnesses and/or Attorneys shall not record the proceeding except through a court reporting service present in the hearing room/courtroom.

Interpreters - Unlike criminal cases, **County Civil does not provide language interpreters for litigants. You must make your own arrangements.** **Caveat** – Under the ADA, Court Administration will provide a sign language interpreter in civil matters. Contact Court Administration no later than 2 working days in advance to arrange accommodation for hearing or voice impairment. See Administrative Order 07-97-32-04.

Pursuant to Florida Law, all Motions/Orders must be in English.

Emergency Hearings - If an emergency arises, counsel/pro se litigant may request that a hearing be set on short notice. The body of the motion must contain a detailed explanation of the circumstances constituting the emergency as well as the substance of the motion. **The motion must be delivered to the Court before a hearing will be set.** The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will set the hearing. In light of the short setting, opposing counsel/litigant may attend the hearing via telephone if their schedule will not allow them to appear in person.

Cooperation of Counsel – Hearing times must be cleared with opposing counsel or pro se parties. Good faith cooperation is expected from both counsel, their support staff and pro se litigants. Should counsel, their staff, or pro se litigants fail to respond within 3 business days, or refuse to cooperate in obtaining or in setting a hearing, the difficulty should be specifically set forth either in the motion or in the notice of hearing. If counsel/pro se litigant does not cooperate in scheduling a hearing, the requesting party may unilaterally set a hearing giving at least 14 days written notice (plus 5 days if mailed) to the opposing counsel/litigant who failed to cooperate. Notice of hearing must state that opposing counsel/litigant refused to coordinate hearing time and include Certificate of Compliance.

Cross Noticing – Additional motions shall not be “piggy-backed” by cross notice unless counsel first confirms with opposing counsel that there is no objection to the cross-notice. Then counsel must email the JA to confirm that it can be heard in the same period or that sufficient additional time is available for all matters to be heard. It is cross noticing counsel’s responsibility to make sure the matter is placed on the Judge’s court calendar or it may not be heard, even if cross-notice has been filed.

Filing of Pleadings – Mail or E-file to the Clerk’s Office. If you go to the Clerk’s Office, Room 310, to file a document/pleading in a case set for hearing within 48 hours, please tell the Clerk at the counter. He or she will make sure it makes it into the Court file/Odyssey.

Hearing Notebooks, Legal Memorandum and Citations, Flash Drives –

Notebooks on flash drives with copies of pertinent pleadings, case law and Proposed Order, are welcome. Make sure opposing counsel receives the same materials. If you want the Court to review the flash drive before the hearing, make sure to deliver at least three (3) business days before the hearing. Materials delivered after three days may not be reviewed by the Court as insufficient time will be available prior to the hearing for a thorough and thoughtful review.

Hearing notebooks with PRINTED materials will **NOT** be accepted.

Proposed Orders - Bring proposed Orders, with proper number of copies, and addressed envelopes with sufficient postage to all hearings. Same when you mail them in. If Court takes under advisement and you are tech savvy, bring a copy of Order on a CD (Word or Word Perfect format only).

Telephonic Appearance – Attorneys/pro se litigants may appear by phone if there is no testimony or evidence and the hearing is less than thirty (30) minutes. No motion or order for telephonic appearance is necessary; however, you must tell the Judicial Assistant when setting the hearing/trial that you will be appearing by phone and provide the toll-free/collect phone number where you can be reached. Notice of Hearing must disclose you will be appearing telephonically with your phone number. **No cell phones** (connection is often bad). If you are appearing long distance, you must provide the Judicial Assistant with a toll free number. If more than one attorney/litigant/witness will appear by phone, one of them must arrange to connect the others by conference call or no one will be allowed to appear telephonically.

All telephone calls will be made from the Judge’s hearing room. If we cannot reach you at the number you provided, we will either take no action or proceed without you. You appear by phone at your own risk!

Witnesses appearing by phone - Parties seeking to have a witness appear by phone **must** review for **CC cases** Rule 2.530 of the Florida Rules of Judicial Administration and for **SC cases** Rule 7.140 of the Florida Small Claims Rules. File Motion setting out reasons for the telephonic appearance of witness and good cause for request. The Court will issue an **Order on Motion for Telephonic Appearance of Witness**. Any witnesses appearing telephonically must be sworn in at their location by a notary or other person authorized to administer oaths in the witness’s jurisdiction. Please note that we have only one phone line, so only a witness or attorney may appear by phone, not both.

Please note that the Court has **complete discretion** when it comes to telephonic appearances of attorneys, parties and witnesses. There is no right to appear by use of the Court’s phone system. Likewise the Court may require personal attendance of attorneys, parties and witnesses at all hearings/trials.

Check In - A copy of the Division 70 Docket is located on the table as you enter Room 370. Check next to your name to indicate you are present. Have a seat and listen for the Trial Clerk to call your case. The Clerk will not go looking for a party. If you have a question talk to the Trial Clerk, Call the Judicial Assistant from the phone located right outside the hearing room, go to the Clerk's Office Room 310 or go on line to "myclerk" (see below).

Discovery Disputes

Discovery Disputes – Attempt to resolve all discovery disputes in good faith prior to scheduling a hearing. All County Civil Judges follow the guidelines set out in the Florida Handbook on Civil Discovery Practice.

Discovery Motion – The mere filing of a Discovery Motion, Motion to Compel or Motion for Protective Order is insufficient. Motion must be set for hearing to bring the matter to the Court's attention. Any motions filed but not set for hearing will be considered abandoned. If no response or objection has been filed to initial Supreme Court approved discovery requests (e.g. Fact Information Sheet, Interrogatories, etc.), the moving party may submit a proposed order (include stamped addressed envelopes) with the Motion. No hearing will be necessary.

Attorney Fees - **If you are seeking attorney fees you must, before filing a Motion to Compel** pursuant to Rule 1.380, Florida Rules of Civil Procedure, or a **Motion for a Protective Order**, as provided in Rule 1.280(c), Florida Rules of Civil Procedure, **confer with counsel** for the opposing party in a **good-faith effort** to resolve by agreement the issues raised, and **shall file** with the court at the time of filing of the motion a statement certifying that he/she has conferred with opposing counsel and that counsel have been unable to resolve the dispute.

As provided in Section (a) (4) of Rule 1.380, if the motion is granted, the court shall award expenses which may include attorney's fees. Review the Florida Handbook on Civil Discovery Practice.

County Court Trial

County Court actions will be set for trial when they are at issue.

Non-Jury Trial - All hearings and trials are held in Room 370, unless otherwise noted. In Division 70, for a **non-jury trial**, file a Notice for Trial (i.e. that the case is at issue) with the estimated time needed by all sides and Court will schedule a Status Conference Hearing, issue a Case Management Order/ Uniform Order Requiring Pre-Trial Matters to be Completed or coordinate with parties to set trial date. You can also review JACS docket for available times, clear with opposing counsel/pro se litigant and then contact Judicial Assistant with your request for a date, time and length of trial. The Court will ultimately decide the trial date and how much time will be allocated for trial.

Jury Trial - For a **jury trial** in Division 70, file a Notice for Trial and Court will set for Trial or Judicial Assistant will set a Scheduling Conference. Court will determine if case is at issue and if so, set on a Jury Trial Docket. The Court will issue a **Uniform Order Setting Case for Jury Trial and Pre-Trial Conference**. Mediation, all hearings, and discovery must be completed before the Pre-Trial Conference. Order of cases will be determined at Pre-Trial Conference, typically scheduled 14 days before start of trial period.

Settlement or Resolution – The Court must be notified immediately of any settlement or resolution of any matter on the trial docket. However, the trial will not be removed from the actual docket, is subject to trial call, and the attorneys must appear, until such time as the Court receives written notice of dismissal, Notice of Settlement or the Court has signed an Order that the matter has been resolved.

Have A Question About Your Case?

Please understand that the County Civil Judges and Judicial Assistants work very hard to handle the thousands of cases before them. With so many law firms and pro se litigants, the Judicial Assistants spend hours each day talking to individuals when most of their questions could be answered by using the internet to review the Court file or by simply filing an appropriate Motion.

When the Court signs an Order, it is electronically delivered to the Clerk for filing. Copies are e-filed and mailed to the parties. If you want to know if an Order has been entered, check with Clerk or wait for mailed copy. Court does not maintain copies of signed Orders.

Myclerk - As of March 2009 County Civil utilizes the **Odyssey electronic case management system**. Odyssey is maintained by the Clerk of Court. Odyssey

electronically displays court filings, including financial information. Non-court personnel can access the Odyssey docket listing by going to www.myorangeclerk.com. On the left side is the icon for “**myclerk**”. Click the icon, answer access question, click Civil Case Records link, search by case and type in your case number (remember “o” as in Orlando, is the typical court location). Click the case and you can see the list of pleadings and orders filed with the Clerk. You cannot open up a particular document (unless you go to Room 310 and use a computer in the Viewing Room); you essentially are looking at a docket index. It is the same one that the Judicial Assistant is looking at if you were to call with a question. Please use “myclerk” instead of calling the Judicial Assistant.

Electronic Filing - County Civil is part of the Electronic filing system used in Circuit Civil. You can electronically file County Civil pleadings. **Note:** the Judicial Assistants print mailing envelopes using the Odyssey system. If you know a name/address is erroneously listed in Odyssey, contact Clerk’s Office to modify. If address has changed, file Notice of Change of Address with Clerk’s Office. Clerk has complete authority over what goes into Odyssey. **Files** - Technically County Civil is “file less”. In other words, the Judges do not need files as they can access Odyssey. If you file something today, the Clerk’s policy is to have it displayed in Odyssey in 72 business hours. The reality is that it may be much longer.

Review File - If you want to review a file in person or see the pleadings listed in Odyssey? Go to the Clerk’s office to **Viewing Room** located in Room 310. Using available computers, type in password “public” and navigate to file. No charge to view; \$1 per page to print out.

Confirm Upcoming Hearing - Want to confirm a scheduled hearing in a division? Go to www.ninthcircuit.org. Click the “Attorney” link on right side and click the “Dockets” link toward the bottom of the Information column. Select the division and it will display two weeks of upcoming scheduled hearings/trials.

Contact Information

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