

Orange County Circuit Civil Division 48
Judge Vincent S. Chiu
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Chambers: 1140, 11th floor
Hearing Room: 800.02
Courtroom (for jury trials unless otherwise directed): 10A

In Order to assist counsel, the litigants and the Court, the following guidelines¹, procedures, practices and expectations are hereby adopted for Circuit Civil Division 48 in Orange County, Florida when practicing before Judge Chiu.²

Zoom Instructions: Fully remote hearings will be conducted via Zoom. Five minutes before the hearing, all participants should connect to the video conference. At the time of the hearing, the Judge will connect to the video conference. Zoom static link for all hearings, including ex parte and short matters virtual hearings scheduled.

Zoom invite:

Join Zoom Meeting

<https://us06web.zoom.us/j/9338884966>

Meeting ID: 933 888 4966

One tap mobile

+16468769923,,9338884966# US (New York)

+13017158592,,9338884966# US (Washington DC)

Video Conference Note: You will be entering a virtual waiting room before the hearing. Your name must appear on screen. The Judge will admit you to the hearing with the hearing begins.

WebEx Instructions: For in-person hearings, remote testimony or remote appearances will be facilitated through WebEx. Five minutes before the hearing, all participants should connect to the video conference. At the time of the hearing, the Judge will connect to the video conference.

¹The above standards, procedures, practices and guidelines are minimum standards. All counsel are presumed to be familiar with and are expected to abide by the *Rules Regulating The Florida Bar*, and the *Guidelines for Professional Conduct* promulgated by the Trial Lawyers Section of The Florida Bar and adopted by the Conference of Circuit Judges. Copies of each of these documents may be obtained from The Florida Bar and/or are available on-line on its website <http://www.floridabar.org>. In addition, counsel must be aware of the *Ninth Judicial Circuit Courtroom Decorum Policy* promulgated on February 11, 2003 and Amended September 2014. (See <http://www.ninthcircuit.org> for Attorneys/Information/Rules & Policies/Courtroom Decorum Policy) as well as the local administrative rules.

²This Court is held to the additional standards set forth in *Code of Judicial Conduct* and the *Principles of Professionalism for Judges*.

Judge Chiu uses a WebEx static link for all hearings, including ex parte and short matters virtual hearings scheduled in the hearing room.

WebEx Link

CLICK TO JOIN <https://ninthcircuit.webex.com/meet/division48>

Join by phone

+1-904-900-2303 United States Toll (Jacksonville)

+1-408-418-9388 United States Toll

Access code: 179-660-5097

I. *HEARINGS*

The following rules apply to the setting and handling of hearings. **Please refer to Administrative Order 2012-03 prior to scheduling any hearings.**

A. Setting of Hearings:

All available hearing time is listed on JACS in real-time. The Judicial Assistant does not have hearing time that is not listed on JACS. After counsel have completed the mandatory meet and confer pursuant to Admin. Order 2012-03 ¶6, hearing time may be obtained by using the Judicial Automated Calendaring System (JACS).

- Go to the court website at <http://www.ninthcircuit.org>
- Click the “Services” link or click on the box that says JACS
- Click on the Judicial Automated Calendaring System (JACS) link. Select the calendar for Civil Division 48 and hit “Retrieve.” All instructions for scheduling in Division 48 and available hearing times will be displayed. For requests exceeding 15 minutes, please combine consecutive timeslots.
- Any hearing requests for longer than 1 hour must be approved by Judge Chiu either by appearing during ex parte or by letter to the Judge detailing the need for the extended time.
- Hearings that are 10 minutes or less and non-evidentiary should be heard at short matters.

The party/counsel seeking to set a hearing must coordinate the date and time with opposing counsel/pro se party. Hearings times must be cleared with opposing counsel and/or pro se parties. Good faith cooperation is expected both from counsel, their support staff and pro se litigants. If after 3 attempts to coordinate counsel does not cooperate the requesting party may unilaterally set a hearing giving at least two weeks’ notice to the opposing counsel who failed to cooperate or respond. Efforts to coordinate the hearing should be noted on the Notice of Hearing. See, Admin. Order 2012-03 ¶6. Because others are also concurrently coordinating hearing time, you should coordinate up to 3 alternate times in case the time requested is booked.

After completing the first two steps, you may contact the Judicial Assistant by e-mail at 48orange@ninthcircuit.org with opposing counsel/pro se litigants on copy for the hearing to be added to the docket. The hearing request must include:

➔ **Copy the checklist below into the email requesting a hearing**

- ✓ Date and time being requested for the hearing
- ✓ Amount of time being requested for the hearing
- ✓ Case number
- ✓ Style of the case
- ✓ Names of the attorneys (or pro se if applicable)
- ✓ Title of the motion(s) to be heard
- ✓ Date(s) motion(s) were e-filed
- ✓ Date of the meet and confer pursuant to Admin. Order 2012-03 (if applicable)
- ✓ Whether the matter is an evidentiary hearing

Your hearing time is not confirmed until you receive a reply from the Judicial Assistant. **You must comply with the various requirements of Admin. Order 2012-03 ¶6 known colloquially as the “meet and confer” requirement.**

By default, all non-evidentiary hearings scheduled for 30 minutes or less shall be held virtually by Zoom. By default, all evidentiary hearings, trial, or hearings scheduled for longer than 30 minutes shall be conducted in person. Any party may contact chambers to request to appear in person for a virtual hearing or to appear remotely for an in-person hearing.

B. Ex Parte/Short Matters:

Ex Parte and Short Matters are uncontested or very brief (10 minute) hearings held Monday through Thursday at 8:30 a.m. This is not a “motion calendar.” Agreed upon and uncontested matters will be handled first, followed by short contested matters. The Court will not hear evidentiary hearings at short matters. If no matters remain pending at 9:00 a.m., ex parte/short matters will close.

Scheduling: These hearings are **not scheduled** with the Judicial Assistant but must be coordinated with opposing counsel on a date that Judge Chiu is available. A list of dates that the Court is unavailable for *ex parte*/short matters is located in the instruction on JACS. The Court does not arrange for coverage by other judges on dates that the Court is unavailable. Any hearings scheduled on a posted unavailability date will not be heard and will need to be rescheduled.

- **Notice of Hearing:** Once a date has been agreed upon, the moving party may file a Notice of Hearing. As soon as the Notice is filed, the moving party must forward an email copy to the Judicial Assistant. The Court’s virtual link shall be included in the Notice of Hearing. Barring extraordinary circumstances, the attorney noticing the hearing must provide at least a five (5) day notice of the hearing to all parties, including

pro se litigants.

- **Courtesy copy:** A courtesy copy of the motion, notice of hearing (with the virtual link), and proposed order (with addressed, stamped envelopes for non-e-filing parties) must be provided to the Court at least **3 business days** prior to the hearing.
- Any copies delivered after this deadline may not be reviewed and may cause the hearing to be cancelled. Courtesy copies must be provided for ex parte and short matters.
- If all parties **participate in e-filing**, courtesy copies in pdf/word along with the proposed orders may be provided by email to 48orange@ninthcircuit.org.
- If **all parties are not on e-filing**, the hearing packet must be received by the Court with copies and envelopes at least 3 business days prior to the hearing.
- Parties and counsel are not required to activate their video during short matters/ex parte.

Types of motions suitable for hearing at short matters are simple motions to dismiss, to strike affirmative defenses, for more definite statement, to amend pleadings, short discovery motions, protective orders, objections to CMEs, Motions for Summary Judgment after default; Motions for Summary Judgment of Foreclosure, etc.

C. Notice of Hearing:

Once confirmation is received from the JA (or after the parties have coordinated a date for short matters), a Notice of Hearing should be e-filed with copies provided to all parties on record. Every notice of hearing must state how the parties will appear at the hearing (virtual, telephonic and/or in-person).

- Notices of in-person hearings must include the address of the Orange County Courthouse, as well as the hearing room number.
- Fully virtual hearings will be conducted using the Court's static Zoom link.
- Video appearances for in person hearings will be facilitated using the Court's static Cisco WebEx link.
- The link and call-in number should be included in the Notice of Hearing.

In addition to filing the Notice of Hearing with the Clerk of Court, pursuant to Admin. Order 2012-03 ¶7, a copy of the Notice of Hearing, Motion(s), supporting memoranda and/or case law to be heard must be furnished by Dropbox, Google Drive, OneDrive, or similar online sharing platforms, if over 50 pages, to the Judicial Assistant via email at 48orange@ninthcircuit.org three (3) business days prior to the hearing to ensure an opportunity for the Court to review. Cases should be highlighted. Any copies delivered after this deadline may not be reviewed and may cause the hearing to be cancelled. **Courtesy copies must be provided for ex parte/short matters as well.**

If provided electronically, counsel must insure that the electronic copy is indexed and that the index contains a hyper-link to the document/exhibit/case indexed.

D. Case Management Conference:

The Court may schedule certain cases for a formal Case Management Conference (“CMC”) and issue an order setting forth the matters to be covered at the conference. Cases involving medical malpractice, complex commercial litigation, multiple party litigation, voluminous records or exhibits, as well as other types of cases may be set by the Court, without request.

A party may request any case be submitted for a CMC by filing a written request to the JA. Once submitted, the action will be controlled, not only by the Pre-Trial Order, but also by the Case Management Order.

E. Cross Notice of Hearing:

- A Cross-Notice of Hearing should **not** be filed without prior approval of opposing counsel **and** the Judicial Assistant. If permitted, counsel must email the JA to confirm it can be heard in the same time frame 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 Court’s calendar.
- Please note the matter may not be heard despite the filing of the cross-notice.

F. Canceling a Hearing:

Please note that only the party setting the hearing may cancel the hearing.

The party cancelling the hearing **must**:

- ✓ Call or email the Judicial Assistant to notify the Court of the cancelled hearing.
- ✓ File a Notice of Cancellation and email a copy of the notice of cancellation to the Judicial Assistant (only filing the Notice of Cancellation with the Clerk is not sufficient as the Clerk does not notify the Court).

If the hearing is cancelled less than 4 hours beforehand, and counsel cancelling the hearing has not been able to confirm the Judge has been informed, counsel shall appear or have someone appear on counsel’s behalf to so inform the Judge.

G. Emergency Hearings:

If an emergency situation arises, counsel 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 hand delivered or e-mailed 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 contact counsel to set the hearing. **Opposing counsel must be copied on any email to the Court.**

H. Foreclosure Cases:

Most foreclosure hearings can be scheduled for *ex parte*/short matters. Timeshare hearings are limited to five (5) per attorney per day. Longer hearings should be set in accordance with the procedures set forth in paragraph 1, above.

II. MOTIONS

A. Motions to Withdraw as Counsel:

Motions to Withdraw as counsel should be set during short matters with notice to all parties if client consent cannot be obtained.

- If you have client consent (attached to the motion) you may submit a copy of the motion along with a proposed order and addressed, stamped envelopes must be provided for all parties not receiving service through the ePortal.
- In the proposed order, please include the name, address, telephone number and e-mail address of the client to whom the pleadings will be sent in the body of the order as well as in the certificate of service. If the client is a corporation or other legal entity, allow no more than thirty (30) days to obtain substitute counsel.

B. Discovery Motions and Motions to Compel:

The mere filing of a Discovery Motion, Motion to Compel or Motion for Protective Order is insufficient to bring the matter before the Court. A Motion must be filed and set for hearing to bring the matter to the Court's attention. Motions to compel, as well as all discovery motions must comply with the Florida Rules of Civil Procedure including, but not limited to, a certification of a good faith attempt to resolve that matter without court action. See Fla. R. Civ. P. 1.380(a)(2).

If no timely 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 (including stamped addressed envelopes) with the Motion. Unless there is a written objection by the opposing party, no hearing will be necessary and the Court will rule in chambers.

C. Motions for Protective Orders:

The filing of a Motion for Protective Order, without attempting to set it for immediate hearing, is insufficient to protect from any discovery requested. The Court will attempt to make itself available for immediate hearings on said motions where the motion could not have been filed and heard in the due course of discovery. Where necessary, and when possible, the Court will hear and, if possible, rule by telephone on motions or substantive objections that occur during depositions where a failure to do so would require the stopping of a deposition and the resetting of same depending on the Court's ruling.

D. Motions in Limine (MIL):

MIL may not be scheduled for a hearing unless they contain a certification of a good faith attempt as to each item to resolve the matter without court action. Notices of hearing on MIL must specifically identify the specific issues which remain in controversy after counsel has conferred. MIL will not be heard during the week of trial or at trial. MILs must be filed prior to the pre-trial conference, but may be heard between the pre-trial conference and the trial (time permitting) unless another order directs otherwise. **Counsel shall comply with Division 48's Standing Procedures for Motions in Limine prior to setting a MIL for hearing.**

E. Hearings on Motions for Rehearing, Reconsideration or New Trial:

Upon filing of a Motion for Rehearing, Reconsideration or New Trial, the moving party must send an email copy directly to the Judge for review as the Clerk does not provide them to the Court. The Court will either (i) rule without a hearing, (ii) direct that a written response be filed by opposing counsel, or (iii) direct the JA to contact the moving counsel to schedule a hearing.

F. Motion for Summary Judgment

Summary Judgment Motions shall be scheduled for oral argument unless all parties waive oral argument. BCP 5.5 is modified. Motion for Oral Argument is not required. For scheduling purposes, allow for 40 day briefing. Notice of Hearings on Summary Judgment motions **must** schedule the hearing no earlier than 40 days from service of the Notice to allow responding party to comply with Fla. R. Civ. P. 1.510.

III. EVIDENCE

A. Preparing evidence for Evidentiary Hearing and/or Trial:

No later than 5 business days before the hearing, counsel and/or pro se parties shall exchange any and all exhibits, which must be Bates-stamped.

The parties must have a substantive, good faith telephone conference to address stipulations and objections to the admissibility of any exhibits. If there are objections to the admissibility of any exhibits, the party raising the objection shall identify the exhibit by Bates-stamped numbers and identify the ground(s) for any objection.

The objections shall be filed with the Clerk and any objections not noted are waived.

Evidentiary hearings should be noticed as such and indicated on the Notice of Hearing.

After the substantive, good faith telephone conference and **no later than 5 business days before the hearing**, the parties must

- ✓ pre-mark the Bates-stamped exhibits that they intend to use during the hearing,
- ✓ provide a set of the exhibits to the other party and the witness(es), and
- ✓ mail 2 hard copies of the exhibits and the filed objections (one for the Judge and one for the Clerk) to the Court for use at the hearing.

The Court, on occasion, may rule on motions without a hearing. Therefore, counsel are encouraged to timely file written argument supporting and opposing their positions with the Court.

IV. ORDERS

A. Orders and Rulings of the Court:

The Court will strive to issue orders and rulings in a timely manner. Every effort will be made to rule the day of the hearing. If it is necessary to take an issue under advisement, the Court will attempt to set a date by which the Court will issue its ruling.

If counsel are asked to prepare an order, the order should be drafted and circulated within three (3) working days and must be submitted to the Court within seven (7) days of the hearing, with a copy to opposing counsel. **Counsel must advise the Court of any objection to, or agreement on, the form of the proposed order when the order is submitted.**

If the parties bring proposed orders to the hearing, please make certain that (1) a copy is provided to opposing counsel; (2) the party has stamped, addressed envelopes for parties not on the ePortal; and (3) the caption contains more than the word “Order.” All Orders must describe, in the caption, the subject and ruling of the court, *i.e.* “*Order Granting Plaintiff’s Motion for Partial Summary Judgment on Liability.*” See Fla.R.Civ.P. 1.100(c)(1)

If the parties are unable to agree on the form of the order, both sides shall present their proposed Order to the Court for consideration within the seven (7) days.

Proposed Agreed Orders Should Be;

- ✓ emailed to 48orange@ninthcircuit.org **Word** along with an
- ✓ **e-filed cover letter** indicating whether:
 - Opposing counsel agrees to the content and form of the order.
 - The cover letter (but not the proposed order) must be e-filed by the attorney with the Clerk and must have the filing stamp across the top.
 - Must indicate that opposing counsel has reviewed and approved the form of the order when submitting to the Court for review.
- ✓ Certificate of Service: Please be sure that the certificate of service on the proposed Order complies with the Rules of Civil Procedure.
- ✓ Other useful information: The Court does not hold orders waiting for approval or objection. Please do not send proposed Orders to the Court until you have approval as to the form by opposing counsel.

Proposed Orders where some parties receive service by U.S. Mail:

If any party receives service by U.S. Mail, then the proposed Orders and e-filed cover letter must be delivered in hard copy by U.S. Mail, overnight delivery, or hand delivery to chambers on the 11th floor.

The Judicial Assistant will e-file the Order but if there is a party on the case that is not on the ePortal then the packet must be sent to chambers and must be accompanied by sufficient copies and stamped, addressed envelopes for all parties not receiving the order by e-service.

Orders are processed as the Judge has time out of Court. If the Judge is out of the office, the Order(s) will be processed upon return in the order they were received. Additionally, there may be a delay if the JA is out of the office.

If you want to know if a specific Order has been signed by the Judge, you should first check

your e-service email as the Order may have been e-served. If not received by email, then check the Clerk's system to see if it has been docketed before contacting the Judicial Assistant as she may not be able to track the signing of a specific Order due to the volume of Orders received by the Court.

V. *SETTING OF TRIALS*

The Court issues a *Uniform Order Setting Case for Trial; Pre-Trial Conference and Requiring Pre-trial Matters to be Completed* in every case when setting the trial and pretrial conference pursuant to *Fla. R. Civ. P* 1.440. Please remember that the fact that a case is still in the discovery stage does not prevent the filing of a Notice for Trial or prevent the Court from setting the pre-trial and trial as long as the case is at issue. *See, Rolle v. Gary A. Birken, M.D.*, 994 So. 2d 1129 (Fla. 3rd DCA 2008)

In the event the Court issues an Order Setting Case for Trial pursuant to a Notice for Trial without agreement of the parties, and either party believes that the trial date will not allow sufficient time to complete discovery, counsel should immediately motion the Court for a status hearing and/or case management conference and should schedule said motion for hearing during short matters. Delays in advising the Court that there is not sufficient time to complete discovery, or that a conflict exists, may be considered a waiver of any objection to the setting of the trial date.

VI. *PRIOR TO PRE-TRIAL*

A *Uniform Order Setting Case for Trial; Pre-Trial Conference and Requiring Pre-trial Matters to be Completed (Uniform Order)* will be issued when the dates are set for pre-trial and trial. The Uniform Order should be reviewed in detail and the dates for completion of various items calendared. The Court will presume that each attorney and each party is familiar with the requirements of that order(s). **The Court expects strict compliance with the Order absent a timely motion and Order of Court modifying the conditions therein.** Joint stipulations to extend times set forth therein are not permitted without the Court's approval.

PLEASE READ THE UNIFORM ORDER SETTING CASE FOR TRIAL TO BE SURE YOU ARE IN COMPLIANCE WITH ALL PROVISIONS.

Motions to Continue:

If counsel believes the trial date is not workable, an immediate request for continuance should be made. All Motions to Continue must (1) be in writing; (2) be signed by the attorney and the parties requesting same; (3) identify the position of opposing counsel on the motion; (4)

indicate any other continuances that have been sought and or granted or denied; (5) set forth when the parties will be ready for trial, if granted; and, (6) comply with *Fla. R. Civ. P.* 1.460 and *Fla. R. Jud. Admin* 2.545(e). Stipulated Motions to Continue will not result in the trial being continued unless and until the Court reviews the motion and enters an order on same. The Court may require a hearing on the Motion or conduct a Case Management Conference. The attorneys must comply with the requirements in the trial order until the Court grants a continuance of trial.

VII. *PRE-TRIALS*

Pre-trials will be utilized to set the order of the trial docket,³ discuss witness problems, jury instructions issues, audiovisual equipment needs, need for interpreters, time allotment for *voir dire*, opening and closing, responsibility for obtaining the court reporter and other trial related issues.

Pre-trial is NOT the time to handle discovery issues as these matters must have been raised and heard well before the pre-trial conference. Pursuant to both the Uniform Order and most case management orders, discovery closes the day prior to the pretrial conference. **PARTIES SHOULD ESSENTIALLY BE READY TO TRY THEIR CASES AS OF THE PRETRIAL CONFERENCE. Parties shall bring to the Pre-Trial Conference a completed copy of the Pre-Trial Check List and Order Controlling Trial. If the Pre-Trial Conference is being held virtually parties shall email the completed copy to the Judicial Assistant PRIOR to the start of the Pre-Trial Conference.**

ATTENDANCE AT THE PRETRIAL CONFERENCE BY THE ATTORNEYS WHO WILL TRY THE CASE IS MANDATORY. Substituted appearance by counsel other than trial counsel at the pre-trial conference is not permitted. The pretrial will usually last 20 to 30 minutes.

VIII. *SETTLEMENT OR RESOLUTION*

The Court must be notified immediately at 48orange@nintheircuit.org of any settlement or resolution of any matter or of any parties to 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 that the matter has been fully resolved and all documents necessary to close the case have been filed with the Clerk. A Notice of Settlement is

³While the Court will attempt to provide a specific date for trial, all cases are presumed to be ready on the first day of the trial docket and are subject to advancement on the docket to an earlier date (within that trial period) than given at pretrial.

not sufficient to close the case. A dismissal or judgment as to all defendants/claims is required.

IX. TRIALS

Trials will take place in Courtroom 10-A unless otherwise indicated. Attorneys should check with the Judicial Assistant the day before the trial to confirm the actual courtroom that will be used. Counsel and their clients are to be in the courtroom and ready for trial no later than 9:30 a.m. unless otherwise notified. Depending on other emergency matters, the Court will start at 9:30 a.m. or as soon thereafter as possible.

A. Courtroom Etiquette and Decorum:

Counsel shall stand when addressing the Court or the jury. Counsel should seek permission of the Court to approach the bench, the clerk, the witness or the jury. All parties and attorneys shall avoid contact with the venire and jury and counsel shall so instruct their clients and witnesses. Counsel shall address all arguments to the Court and not opposing counsel. Counsel shall admonish their clients that gestures, facial expressions or any manifestations of approval or disapproval of anything occurring in the courtroom is absolutely prohibited. Please see *Amended Ninth Judicial Circuit Courtroom Decorum Policy* available at <http://www.ninthcircuit.org>. Professionalism will be expected of each attorney and representative of their offices and any retained witnesses.⁴ The Court is under a professional obligation to make referrals of unprofessional conduct to the local Bar or The Florida Bar. See, *In Re: Code For Resolving Professionalism Complaints* No. SC13-688 (June 6, 2013).

B. Cell Phones, PDA, Communication Devices, Cameras or other photographic equipment:

Cell phones must be turned off or in the silent mode when possessed in the courtroom. If it is necessary to make or take phone calls, please step out of the Courtroom. Witnesses are not permitted to possess any type of communication device while on the witness stand. **No photography, video or audio recording otherwise is permitted within the courtroom unless specifically permitted by the Court after formal request is made.**

C. Trial Briefs:

If a trial brief is to be filed with the Court it must be submitted by to the Court by email no later than three (3) working days before the trial is to commence. Please submit copies of case law

⁴ Counsel are referred to and must be familiar with the (1) Oath of Admission to the Florida Bar, (2) The Florida Bar Creed of Professionalism, (3) The Florida Bar Ideals and Goals of Professionalism, (4) the Rules Regulating The Florida Bar, and (5) the decisions of the Florida Supreme Court. See for reference *In Re: Code For Resolving Professionalism Complaints*, SC13-688 (June 6, 2013).

cited in the trial brief with appropriate highlighting of the pertinent sections.

D. Court Reporter:

The same Court Reporter should report the entire trial to enable jury read-backs. At the pretrial conference, the parties will advise the Court who will retain the Court Reporter.

E. Voir Dire:

The Court will conduct a preliminary voir dire of the jury. Counsel are welcome to request that the Court initially explore certain areas of inquiry that may be important to the trial but sensitive in nature. Counsel are reminded to be considerate of the jurors' personal lives during their inquiries as well as the jurors' time constraints. While the Court will afford counsel significant latitude in questioning, the Court will limit repetitive questions. Counsel shall not attempt to explore the facts of their case nor explain the law that may apply in the case, nor attempt to curry favor with the venire. Time limits provided during pretrial will be enforced.

F. Remote Testimony

A party intending to call a witness to testify by video shall be responsible for ensuring the following: (1) the witness is familiar with the Cisco Webex platform, (2) the witness is testifying from appropriate equipment (i.e. a computer with a camera, speaker and microphone), (3) the witness has access to a strong internet connection, (4) the witness is testifying from an appropriately quiet and distraction-free location, and (5) the witness is complying with all evidentiary restrictions applicable to any witness providing live testimony. Witnesses will not be permitted to provide remote testimony without video or from a mobile telephone. Failure to comply with these procedures may result in the striking of the witness.

G. Opening and Closings:

Only demonstrative aids or exhibits marked by the clerk, agreed to by all counsel or approved by the Court may be used in either opening or closing. Counsel may move away from the podium, but shall remain mindful of the jury's space. Counsel should stay at least three feet back from the jury rail at all times. The Court will discuss with counsel the time requirements for both opening and closing at the pretrial conference and will expect that a reasonable estimate be provided by counsel. Counsel are expected to adhere to these time constraints. If Power Point presentations are to be used, a hard copy must be filed with the Court to create an appellate record. Further, unless the Power Point content is simply verbiage that could otherwise have been written on a large pad, the content must have been exhibited to opposing counsel prior to its presentation to the jury so any objections may be dealt with in advance of its use.

H. Exhibits:

All exhibits are to be **pre-marked** for identification by the attorneys with tags provided by the clerk of court **prior to the day of trial**. Arrangements must be made directly with the trial clerk. Exhibits which will be stipulated into evidence, or which are not objected to, may be marked into evidence as exhibits.

Once exhibits are marked in evidence or are offered but not admitted, they become the property of the Clerk of Court and may not be altered or removed from the courtroom without order of the Court. No exhibits are to be published or exhibited to the jury until admitted into evidence and/or authorized by the Court. Audiovisual and/or equipment questions should be addressed to the Ninth Circuit's Technology Support department at <http://ninthcircuit.org/services/technology-support>.

I. Demonstrative Aids:

Any demonstrative aid that is to be used at trial must be marked by the clerk and exhibited to opposing counsel and the Court prior to the week of trial. The Court will hear argument of any counsel opposing the use of the demonstrative aids prior to the trial week. No aids are to be shown to the jury without prior approval of the Court. All demonstrative aids should be initialed on the back to verify that they have been presented to opposing counsel prior to the trial. If an issue arises, the Court will look to see if the demonstrative aid in question has been initialed.

J. Use of Depositions:

If depositions are to be used at trial in any manner (impeachment, as video testimony, etc.) make certain a copy is available both for the Court and for the witness being questioned.⁵

If depositions or portions thereof, are to be published during trial either as substantive testimony or for impeachment, any objections must be addressed to the Court in advance of pretrial. Designations of the offering party must be filed, and responsive cross-designations filed within five (5) business days thereafter, and then any objections contained within those designations, which need to be addressed by the Court, must be noticed and heard before pretrial. It is the responsibility of the party attempting to utilize the deposition to timely commence the process. **The Court may, at its discretion, rule on the objections without a hearing. Therefore, counsel must provide a hard copy of the deposition to the Court and may wish to provide written argument on the designations and cross-designations in a timely manner.**

K. Objections:

The Court will not allow speaking objections in front of the jury. When counsel rises to

⁵In Orange County some documents electronically filed with the Court are imaged and may not be readily available to the Court.

object, only the legal basis for the objection should be stated. If elaboration is necessary, the Court will call counsel to the Bench for a Bench Conference out of the presence of the jury. Counsel shall not interrupt opposing counsel or witness's questions or answers with an objection without a good faith basis for the objection. Once the Court has ruled, no further argument shall be permitted. Matters addressed at sidebar are not to be repeated in front of the jury and are considered confidential unless advised otherwise by the Court.

L. Jurors:

The Court generally will allow jurors to take notes and to ask questions where necessary. Section 40.50, *Florida Statutes*. If any counsel objects to these procedures such objection should be addressed to the Court prior to the day of the pretrial.

M. Jury Instructions and Verdict Forms:

Joint jury instructions and verdict forms are to be prepared and submitted to the Court at least 5 business days prior to the beginning of the trial period. The agreed set of jury instructions must be provided to the Court by hard copy as well as via e-mail no less than 5 business days prior to the beginning of the trial. Disputed instructions should be noted within the joint jury instructions. The Court will provide each juror with a written copy of all jury instructions when the jury retires to deliberate. In addition, the final instructions should not contain any citations or information as to who requested the instruction. The Court typically will read some substantive law instructions to the jury during preliminary instructions; however, the Court may omit this reading if counsel have not timely provided an agreed set of instructions to the Court

X. INFORMATION NOT COVERED

If any matters concerning the conduct of the pre-trial or trial procedures of Orange Civil Division 48 are not covered herein, counsel is free to contact the Court. A status hearing can be set during short matters at which time the Court will attempt to answer any inquiries. The Court appreciates counsels' efforts to understand and comply with this Court's procedures.

Effective: April 15, 2022.