

State of Florida
Ninth Judicial Circuit of Florida

Andrew A. Bain
County Judge

ORANGE COUNTY COURT BUILDING
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Guidelines and Procedures County Civil Division 75

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 75 in Orange County, Florida when practicing before Judge Andrew A. Bain. **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.

Cases being transferred from a prior division with HEARINGS SET TO OCCUR ON OR AFTER January 22, 2022: All hearings set in this case on or after January 22, 2022 will be addressed by the Division 75 Judge. The party that scheduled the hearing must verify with the Judicial Assistant the date/time and the virtual link and re-notice the hearing as necessary.

Note: Administrative Order effective April 30, 2021 (2021-04) regarding Governing Civil Case Management and Resolution. All cases are required to meet the deadlines in this order and the subsequent case management order.

Small Claims Action

If you file a **Small Claims** action (damages sought are \$8,000 or less) it will be set for a **Pre-Trial Conference**. Clerk sets the date and time on Summons and will be conducted virtually, <https://us06web.zoom.us/my/orangesmallclaimsptc>. Assuming service of process timely perfected, parties will appear virtually on the link provided in the notice. Mediation dates will be available at the hearing. Attorneys can appear at Mediation without client in a Small Claims action if they have full settlement authority. If the in person mediation are suspended because of the continued spread of COVID-19 your mediation maybe conducted virtually. If unable to resolve the matter at mediation, the mediator will file a report with court. The court will set the parties for a case management or trial date. The Judicial Assistant will coordinate with Judge to set date and length of trial. Usually 30 to 60 days out but can be set sooner. **Mediations may only be continued by Court Order.**

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, with a copy to the court in Word format.

Note: Administrative Order effective October 1, 2021 (2009-12-3) regarding First Party Insurance Claims.

County Court Action

If you file a **County Court** claim (\$8,001 to \$30,000) 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 Defendant is pro se and files a response to complaint, Court likely to refer to Mediation office at Courthouse (\$60 mediation fee each party; Mediation office asks that you kindly pay in advance!).

Residential Landlord Tenant actions are treated differently pursuant to Chapter 83 of the Florida Statutes. Corporations or Limited Liability Companies **MUST** be represented by a licensed Florida bar attorney. Richter v. Higdon Homes, Inc., 544 So. 2d 300, 300 (Fla. 1st DCA 1989)(A corporation may not represent itself through non-lawyer employees, officers, or shareholders.).

Hearings

Motion for Summary Judgement – 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.

Pro Se Litigants – Written requests for relief or judicial action, known as a **Motion**, must be mailed to or filed with Clerk of Court. Do not fax to Clerk. The Clerk will deliver the Motion to the Judge to review. If a hearing is necessary, the Judicial Assistant will attempt to contact all parties to schedule a hearing. If unable to reach or fail to return a message, Judicial Assistant will set hearing date and time. Make sure the Motion has a proper caption, case number, date, your mailing address, phone number, email address (if any), printed name and signature. Mail copies of the Motion to all other litigants or their counsel if represented. Clerks Self Help Center is open from 7:30am to 4:00pm in room 340 to assist Pro Se litigants.

You should sign up for the e-portal to file your documents and receive them on your email, saving time and money by clicking this link

<https://www.myflcourtaccess.com/common/ui/pages/register.aspx?rr=5>.

Ex Parte: Ex Parte hearings are every Wednesday at 9:00 – 10:00 a.m. for **uncontested non-evidentiary hearings** that are **no more than 5 minutes**. Do not call Judicial Assistant to schedule. Give opposing side reasonable written notice of hearing. File

Notice of Hearing with Clerk and serve a copy on opposing side. There is a **drop box in room 370** for each division outside the waiting room if a pro se litigant wants to leave a proposed Order for the Judge or simply email your order to 75orange@ninthcircuit.org. These hearings are conducted on the division ZOOM link.

Short Matters: (ATTORNEYS ONLY ON BOTH SIDES) These are not to be 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. Short matters are available on JACS on every Wednesday 10:00-11:30 am. Counsel shall submit proposed Orders to the court one day prior to the hearing. These hearings are conducted on the division ZOOM link.

How to Schedule/Cancel a Hearing

Cancellation of Hearings:

It is the responsibility of the attorney 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. Notice of cancellations can be emailed to: 75orange@ninthcircuit.org.

Hearings/Trials cannot be cancelled unilaterally. You must email with the Judicial Assistant, provide the reason for the cancellation and the Judicial Assistant will advise if the matter can be cancelled. Timely file with Clerk's Office and fax/email to Judicial Assistant a notice of cancellation. If you settle a case, file dismissal with Clerk's Office, fax/email copy to Judicial Assistant and advise Judicial Assistant to take case off hearing/trial docket.

For Contested Hearings:

1. **Complete the mandatory meet and confer process** outlined in the Ninth Judicial Circuit Administrative Order No. 2012-03-01. Counsel with full authority to resolve the matter shall confer before scheduling the hearing on the motion to attempt to resolve or otherwise narrow the issues raised in the motion, and include a Certificate of Compliance in the Notice of Hearing filed with the Court. Review Exhibit A in the Administrative Order. The court prefers these meetings to be face to face, in person or virtually.
2. **Using the Judicial Automated Calendaring System (JACS), select an available hearing date and time.** Go to www.ninthcircuit.org, Click on JACS located on the bottom of the page next to the handicap logo, Then click on "Go to JACS now", In the pull down menu click on "County Civil Division 75" and , Click on the "Retrieve" button.
 - a. Available hearing time for approximately the next 60 days is displayed in fifteen minute increments.
 - b. Any hearing requests for longer than 1 hour must be approved by Judge Weiss either by appearing during ex parte or by letter to the Judge

detailing the reasons for the excessive time. The letter may be emailed to 75orange@ninthcircuit.org. After review, you will receive a response to the request.

- c. Coordinate the date and time with opposing counsel/pro se party. Hearing times must be cleared with opposing counsel and pro se party.
 - d. Good faith cooperation is expected both from counsel, their support staff and pro se litigants. If after 3 attempts on separate days to coordinate a hearing, counsel does not cooperate or respond, 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.
3. **Email the Judicial Assistant at 75orange@ninthcircuit.org, with a copy to all counsel/ProSe litigants, for the hearing to be added to the docket.**
 - a. The emailed hearing request to the JA must include all of the following:
 - i. Date and time of the “meet and confer” conference
 - ii. Date and time being requested for the hearing
 - iii. Case number
 - iv. Style of the case
 - v. Names of the attorneys (or pro se if applicable)
 - vi. Title of the motion(s) to be heard
 - vii. Amount of time being requested for the hearing
 - viii. Number of Witnesses
 4. **Receive confirmation time for your hearing.** Your hearing time is not confirmed until you receive a reply from the Judicial Assistant. At the time of the emailed hearing confirmation, the JA will provide telephonic or video hearing information (ZOOM LINK). The video hearing information must be included in the Notice of Hearing.
 5. If you need more than 15 minutes for a hearing you must explain in your email to the Judicial Assistant. Division 75 expects that you will file Motion before setting a hearing.

Motions to Withdraw as counsel. Motions should be set during ex-parte with notice to all parties if client consent cannot be obtained.

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

Virtual Hearings:

1. The court will use a static Zoom link to conduct is virtual hearings.

<https://us06web.zoom.us/my/div75orange>



2. **You must use your full name and must be display for the hearing.**
3. **Camera on.**
4. **If any participate in the hearing is operating a motor vehicle or vessel during the hearing, the hearing will be immediately canceled. The court reserves the right to award cost to the opposing party.**

Court Reporter: If you want a record of hearing/trial **you must make arrangements** 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 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.

Emergency Hearings: If an emergency situation 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 attempt to contact counsel/litigants to 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.

Hearing Materials: All hearing materials to be reviewed by Judge Andrew A. Bain must be submitted on USB flash/jump drive. Hearing Notebooks will not be accepted.

All materials **SHALL** be provided 72 hours prior to the scheduled hearing. (Keep in mind FL ST BAR Rule 4-3.3 when preparing your materials.)

Filing of Pleadings: Mail to Clerk's Office. If you go to the Clerk's Office, Room 350, 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. If the pleading is filed within 2 Court days of the scheduled hearing, a copy of Motion should be emailed or hand delivered to the Court.

Proposed Orders and Final Judgements: Send proposed orders, final judgements, and supporting affidavits to the Court in Word format on an email or USB flash drive. The prevailing party will be required to file a certificate of service within 5 day of the signing of the order certifying service on all parties not served through the e-portal.

Proposed Orders and requests for Default Final Judgments are often sent back to the attorney. This advises the attorney/pro se litigant why a requested action cannot be acted on by the Court. You may want to review as it addresses the common deficiencies of Pleadings/Motions/Affidavits filed with the Court.

Preparation: A well prepared attorney/pro se litigant should do all, but not limited to the following at all Court Appearances:

(A) **Show up on time.** Division 75 has a 5 minute rule for Hearings and 10 minute rule for Trials. Should an attorney or party fail to show up or fail to contact the Court that you are running late, the hearing or trial will start without you, even if an attorney's client is present.

(B) **Check In for in person hearings/trials-** Check in with Receptionist or Deputy when you arrive for a hearing. The Deputy is not a receptionist. His/Her job is to provide security. If you have a question talk to the Judicial Assistant, go to the Clerk's Office Room 310 or go on line to "myclerk". (see below).

(C) **Draft a proposed Order**

(D) **Know proper Courtroom Decorum.** The Ninth Circuit has adopted the Orange County Bar Association Standards of Professionalism. If you are not sure about appropriate courtroom protocol, please ask. Understand ALL HEARING including VIRTUAL HEARINGS are governed by Administrative Order effective date September 11, 2014 (2003-07-02) regarding Ninth Judicial Circuit Courtroom Decorum Policy.

Discovery Disputes

Discovery Disputes: Attempt to resolve discovery disputes in good faith prior to scheduling a hearing. All County Civil Judges follow the guidelines set out in the 2021 Handbook on 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. 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 proposed order 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 2021 Handbook on Discovery Practice, which is available on the Ninth Judicial Circuit website, www.ninthcircuit.org.

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 75, 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 may 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. Court will ultimately decide trial date and how much time will be allocated for trial. If you need more than an hour suggest you set out reasons in writing to Judge.

Jury Trial: For a **jury trial** in Division 75, file a Notice for Trial and Judicial Assistant may schedule a Case Management Conference Hearing. Court will determine at hearing if case is at issue and if so, set on a Jury Trial Docket. Order of cases will be determined at Pre-Trial Conference, usually 10 days before start of trial period. After Case Management Conference 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.

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 delivered to the Clerk for filing. 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. **Court 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 Clerk’s policy 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 **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 scheduled hearings/trials for approximately the next two weeks.

Legal Advise: The Judge and Judicial Assistant are prohibited from giving legal advice. ProSe parties are encouraged to contact the Orange County Clerk of Courts Lydia Gardner Self Help Center located in Room 340 of the Orange County Courthouse. Appointments can be made by calling 407-836-6300. This service is available for all

Small Claims and Residential Eviction Cases.

Clerk of the Court Phone Number: 407-836-2000
425 N. Orange Ave. Ste. 310
PO Box 4994, Orlando, FL 32801
Website: www.myorangeclerk.com

These procedures for County Civil Division 75 are for Judge Andrew A. Bain only.

If you have a question regarding procedures for any other Judge or Division, please check with the Judicial Assistant for that Division or check in the JA Manual available on line at NinthCircuit.org.

All referenced Administrative Orders are available on the Ninth Circuit Website at <https://ninthcircuit.org/resources/admin-orders>.

Effective May 1, 2022.