

State of Florida
Ninth Judicial Circuit of Florida

John E. Jordan
Circuit Judge

Orange County Courthouse
425 North Orange Ave., Ste. 1430
Orlando, Florida 32801
407-836-0443
www.ninthcircuit.org

Cathy Stephens
Judicial Assistant

Email: 43Orange@ninthcircuit.org

DIVISION 23 GUIDELINES – OSCEOLA BUSINESS COURT

Osceola County Business Court location:

JURY TRIAL: Osceola County Historical Courthouse, 3 Courthouse Square,
Court Room 307, 3rd Floor, Kissimmee, Florida 34741

HEARINGS: Chambers: 1430 - (14th floor – Orange County Courthouse)
Hearing Room: 1400.02 - (14th floor – Orange County Courthouse)
Court Room: 9A – (9th floor - Orange County Courthouse)

BUSINESS COURT PROCEDURES:

The Court expects all parties appearing in Division 23 to be familiar with and to comply with the Business Court Procedures. Parties may find these Procedures on the Business Court website: www.ninthcircuit.org/about/divisions/business-court. Division 23 Guidelines supplement or modify Business Court Procedures.

Ex parte / Short Matters (no video):

(1) In Person or (2) Telephonic

Hearing Line: 1-904-900-2303 with access code: 173 997 6050##

ALL OTHER Hearings and Trials are In Person.

If Order entered pursuant to Rule 2.530 of *Florida Rules of General Practice and Judicial Administration* allowing for remote appearance, **Webex Video:**
<http://ninthcircuit.webex.com/meet/ctjujj1> with meeting code: 173 997 6050
or join by phone: 1-904-900-2303 with access code: 173 997 6050##

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1. MOTION PRACTICE:

All pleadings must be filed with the Osceola County Clerk’s Office. Please read Section 5 of Business Court Procedures (BCP). Majority of motions will be decided without hearing. Unless otherwise indicated in Business Court Procedures, **once the underlying motion is Fully Briefed**, any party can move for oral argument. All requests for oral argument must be made by motion. Motions for Oral Argument, opposed or unopposed, shall indicate the reasons why oral argument should be granted, the length of the hearing requested, whether evidentiary, if it is unopposed and must include a separate Certificate of Good Faith Conference under BCP 5.3. The Court will enter an order either granting or denying oral argument and setting forth the amount of time permitted for the hearing, if granted. If oral argument is granted, the movant shall coordinate the hearing time with opposing counsel without delay. Failure to timely schedule hearing may result in the vacating of Order for Oral Argument.

a. NOTICE OF FULLY BRIEFED

1. When a Motion is fully briefed, parties **shall submit via (43Orange@ninthcircuit.org) email, including all parties on said email**, (hard copy pursuant to BCP 5.14, is not required):

- a. The Notice of Fully Briefed Motion. Court will not accept compressed email documents (i.e. Dropbox, etc.).
- b. Fully Briefed Motion Checklist
- c. Proposed Orders. Orders must be in the current version of Microsoft Word.
- d. If the parties **fail to timely comply with the above**, the Court may enter an Order Denying the Motion as Abandoned. Likewise, if a response/reply is not timely filed (see BCP 5.13) the Court may consider and decide as an uncontested motion.

2. ORDERS:

a. CONTENT OF ORDERS

1. Orders shall be in 14 pt. type Times New Roman, in Word; Proposed

Order must be in the current version of Microsoft Word (**No PDF**) format when emailed to 43Orange@ninthcircuit.org. The title of the Order shall have a full description of the motion and relief granted. The body of the Order shall state the date motion was filed and include page numbers.

2. The Order shall not include the word “Proposed”. Order must be specific as to the relief sought (i.e. “Grant” or “Denied” is not sufficient).
3. Certificate of Service must include service methods to include those parties not participating in the E-Portal. **Counsel shall submit to the Clerk a Notice of Filing which states a copy of the signed order served to any parties not participating in the E-portal.**
4. The Judge’s signature line shall **not start a new page**. “Done and Ordered” should also not begin the signature page. All or a portion of the Order must appear above the Judge’s signature.

b. AGREED ORDERS

If the parties have filed a Motion and an agreement has been reached on a proposed Order, the Moving Party, may email to 43Orange@ninthcircuit.org:

1. A cover letter that reflects the agreement of the parties.
2. A Proposed Agreed Order for the Court’s consideration. **See Content of Orders above.**

c. ORDERS WITHOUT AGREEMENT AFTER HEARING

Pursuant to BCP 5.14, if the Court directed that a Party prepare a proposed order following a hearing, and the content of the proposed order is not agreed upon, a short matter hearing is required. The Court will not accept “dueling orders” unless specifically requested by the Court.

To check the status of a specific proposed order to see if a ruling has been made by the Judge, Parties shall first review the Osceola Clerk’s system to see if it has been docketed. If the order in question has not been filed with the Clerk, then an email to the JA at 43Orange@ninthcircuit.org may be sent (including all parties on the email), allowing a minimum of five (5) business days for agreed orders and 14 days for all other orders. The following

information shall be included in the email: When and how the Order was presented to the Court (email, U.S. Mail/Fed Ex/USPS/etc.) and the date the hearing was held (if applicable).

3. NOTICE OF HEARINGS:

Osceola County Business Court is located at the Orange County Courthouse, 425 N. Orange Ave., Orlando, FL 32801. Chambers 1430, Hearing Room 1400.02 and Court Room 9A. **Notice of Hearings are to be notice for Hearing Room 1400.02, 425 N. Orange Ave., Orlando, FL 32801** unless otherwise instructed by the Court. Jury Trials are conducted at the Osceola Historical Courthouse, Court Room 307, 3 Courthouse Square, Court Room 307, 3rd Floor, Kissimmee, Florida 34741.

Court Reporters must be present in same room as Judge, unless Order entered allowing remote appearance. Court Reporters must announce their presence prior to the beginning of any hearing. Attorneys are responsible to notify Court Reporters of the requirements.

Court does not print hearing documents. Hearing documents in excess of 15 pages, the Court requires courtesy copies **via USB preferred (no Notebooks)**. On all matters set for hearing, hearing documents are to be delivered at least five (5) business days prior to hearing. Marked and tagged evidence should be hard copy and brought to the hearing. **USB Drive must be indexed and/or bookmarked/hyperlinked**. A sample electronic courtesy copy is located on the Business Court website. **Do not assign a password to USB**, unless materials confidential.

a. EX PARTE and SHORT MATTER HEARINGS

Unless otherwise ordered by the Court, motions must state good cause therefore and cite any applicable rule, statute or other authority justifying the relief sought. If the motion is contested and can be heard in 20 minutes or less without the taking of evidence, then the moving party may set the motion for hearing at the court's short matter hearing time. The following matters may be brought during short matters (see BCP 5.12, 5.15 & 5.16):

- a. discovery motions (must be fully briefed);

Continuation – Osceola County Division 23 Guidelines

- b. extensions of time for the performance of an act required or allowed to be done, provided that the request is made before the expiration of the period originally prescribed or extended by previous orders;
- c. to continue a pretrial conference, hearing or the trial of an action;
- d. to add or substitute parties;
- e. to amend the pleadings;
- f. to file supplemental pleadings;
- g. to appoint a next friend or guardian ad litem;
- h. to stay proceedings to enforce judgment;
- i. for *pro hac vice* admission of counsel who are not members of The Florida Bar;
- j. relief from the page limitations imposed by the Business Court Procedures.

Requests for Oral Argument must be by motion and the motion emailed to 43Orange@ninthcircuit.org. Ex parte / short matters hearings are not permitted without Court Order.

Pursuant to BCP 5.12, 5.15 and 5.16, Monday through Thursday at 8:30 a.m. in Hearing Room 1400.02 (unless otherwise specified on JACS), short matter non-evidentiary hearings are 20 minutes or less. Motions will be heard on a first come, first served basis with Telephonic hearings (**NO VIDEO DURING EX PARTE / SHORT MATTERS**) heard first and deemed closed at 9:30 am (9:00 am on trial days). Counsel is limited to one (1) motion at a time. These hearings are not coordinated with the JA but must be coordinated with opposing counsel on a date that Judge Jordan is available. **Please check JACS for Judge Jordan’s unavailability before scheduling ex parte or short matters hearings.** The Court does not arrange for alternate Judges to cover during his absence.

The Court requires courtesy copies of the Notice of Hearing and the Motion

to be heard for all short matter hearings at least two (2) calendar days before the hearing occurs via email or hand delivery. Failure to provide courtesy copies before a short matter hearing may result in a delayed ruling or Court Order to reschedule the hearing.

Attorneys/Parties may appear at ex parte/short matter hearing by telephonic without motion and order (**NO VIDEO DURING EX PARTE / SHORT MATTERS**). Please note that Telephonic hearing line is a virtual “room” with other participants. Please mute (do not put on hold) all computers/telephones until the judge calls for the case. If there are any issues, contact the Judicial Assistant, Cathy Stephens at 407-836-0443.

b. EVIDENTIARY HEARINGS

No less than thirty (30) days before a scheduled evidentiary hearing, parties **must disclose** to all other parties, all documents/photos/videos/evidence and the name, address and phone number/email address of each potential hearing witness and the expected subjects they will testify on, with copies provided. Parties must disclose if an interpreter will be used, including language to be interpreted. Moving party shall bear any costs or expense for the interpreter. Parties must cooperate in the deposition of any witness prior to the evidentiary hearing and for any witness not previously disclosed/deposed during discovery.

Reminder – Notice of Hearing must reflect that it is an Evidentiary Hearing.

c. ALL OTHER HEARINGS

Notice of Hearings must specify: 1) Length of hearing; 2) date and time of hearing; 3) title of Motion scheduled; 4) date the Motion was filed with the Clerk; 5) hearing room (including courthouse address) and 6) if applicable - instructions for parties to appear in person, **Webex (include meeting number and Webex call-in numbers)** or a combination (hybrid of both in person and Webex).

Parties must comply with Rule 2.530, *Fla. R. Gen. Prac. & Jud. Admin.* Florida Supreme Court has vacated the COVID Administrative Orders that

provide for liberal use of remote appearance by parties, attorneys and witnesses. Pursuant to Rule 2.530(b) *Fla. R. Gen. Prac. & Jud. Admin.*, Court may Order remote appearances by counsel and parties.

Please note: Once filed, 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 *Florida Rules of Civil Procedures* 1.510.

Compliance with BCP on briefing does not excuse compliance with the requirements of Rule 1.510 *Fla. R. Civ. P.* Failure to comply may result in sanctions, including attorney’s fees, costs and striking of pleadings.

When requesting hearing time, please refer to the “Available Hearing Times” link of the Business Court page on the Court’s website (JACS). All Motions **must** be filed with the Clerk prior to scheduling for hearing. Once hearing time is coordinated, **email** the JA at 43Orange@ninthcircuit.org to secure and confirm the time. **All parties must be included when emailing the Judicial Assistant to avoid ex parte communications.** Information required on the email to the JA should be: (1) Date / time coordinated (2) Motion for the Court to hear (3) date the Motion was filed with the Clerk. The JA does not set hearing time over the phone. Your hearing time is not confirmed until you receive an email from the JA. Please notify the JA immediately of any cancellations. Last-minute cancellations prevent use of the hearing time by other parties. Parties may not cross-notice (piggy back) other motions without prior approval of opposing counsel and the JA.

d. COMMUNICATION TECHNOLOGY – REMOTE APPEARANCE

If Order entered allowing remote appearance, be aware of the following:

Five minutes before the hearing, all remote participants should connect to Webex. At the time of the hearing, the judge will connect to the Webex hearing. *Please Note: You will be entering a virtual “room” with other participants. There will be others on the line. Please mute your*

computer/telephone until your case is called.

Attorneys should be prepared to electronically share, via Webex, document(s) in evidence with witness(es) appearing remotely. It is the responsibility of counsel to confirm witnesses have Webex capable equipment and valid identification. Pursuant BCP 3.5, any exhibits or evidence to be used in video conference hearing must be provided to opposing counsel and Court three (3) business days prior to the hearing.

e. CASE MANAGEMENT CONFERENCE HEARINGS

Case Management Conference Hearings are heard via Webex. The Court Ordered **Joint Case Management Report** (see **BCP 6.3**) is to be emailed to the Court (43Orange@ninthcircuit.org) **and** filed with the Clerk no later than 14 days prior to the Case Management Conference date. If one or more parties refuse to cooperate or no agreement made, the remaining party or parties shall file their own Case Management Report.

Samples of the Case Management Order and Complex Construction Case Management Order are available on the Business Court website at <https://ninthcircuit.org/about/divisions/business-court>. Parties are encouraged to email the Court a Proposed Case Management Order with agreed upon additions/deletions. Future Trial dates are available from the Judicial Assistant upon request. Agreed deadlines are subject to change by Court.

4. EVIDENCE:

Evidence received in previous hearings that parties intend to use at subsequent hearing must be ordered by Counsel from the Osceola Clerk of the Court no later than ten (10) days prior to the noticed hearing. Counsel to advise Osceola Clerk it is for Division 23, Business Court hearing and must be forwarded to the Orange County Clerk of the Court. Scheduled evidentiary hearings and trial documents that parties intended to admit into evidence shall be pre-marked and/or Bates stamped. The Court should be provided an indexed and hyperlinked USB Drive. Only official Osceola County Clerk evidence cards are accepted.

5. MOTIONS FOR RECONSIDERATION/REHEARING:

A copy of the filed motion must be provided to the Court via email (43Orange@ninthcircuit.org), at which time the Motion will be reviewed. The Court may rule in chambers on the Motion. If the Court deems a hearing is needed, the JA will then contact counsel by telephone or email to direct them to JACS to schedule the hearing.

6. EMERGENCY MOTIONS:

A copy of the filed Motion must be provided to the Court via email (43Orange@ninthcircuit.org), at which time the Motion will be reviewed. If the Motion includes a Request for Emergency Hearing the Court will review the Motion. If the Court grants the request for hearing, the JA will then contact counsel by telephone or email to either provide emergency hearing time or, if the Court determines that the matter is not an emergency, to instruct the parties to schedule a hearing on the first available time on the regular calendar. The Court may rule in chambers on the Motion.

7. DISCOVERY MOTIONS:

Sections 5 and 7 of the Business Court Procedures outline the rules for the submission, preparation and filing of discovery motions. Please review BCP 7.5 regarding filing of discovery materials.

8. JOINT FINAL PRE-TRIAL STATEMENT:

Court expects parties to meet, prepare and file a **Joint Final Pre-Trial Statement**. **Dueling Pre-Trial Statements will not be accepted.** BCP 9 is modified as follows: If one or more party(ies) fail to meet/participate/sign for purpose of preparing a Joint Final Pre-Trial Statement, the complying parties shall file a unilateral Pre-Trial Statement. Non-Complying parties are subject to sanctions, including attorney's fees, costs, expenses, and striking pleadings/witnesses/exhibits.

Joint Pre-Trial Statement **must** be filed, and a courtesy copy **emailed** to the Judicial Assistant at (43Orange@ninthcircuit.org), no later than **(fourteen) 14 days** prior to the Pre-Trial Conference.

9. PRE-TRIAL AND TRIAL:

Trials are heard within a three-week trial period. The Court's Pre-Trial Conference Checklist and Order Controlling Trial can be found on the Business Court Website at www.ninthcircuit.org/about/divisions/business-court. **Parties shall complete Pre-Trial Conference Checklist and email to the Judicial Assistant (43Orange@ninthcircuit.org) in addition to a courtesy copy of the Pre-Trial Statement (see above) no later than five (5) days prior to the Pre-Trial Conference.** Do not file the Pre-Trial Checklist and Order Controlling Trial with the Clerk. **Lead attorneys must appear in person at the Pre-Trial Conference and trial unless excused by Court Order.** Motions are not heard during Pre-Trial Conference. All motions must be properly filed and brought before the Court no later than seven (7) days prior to the Pre-Trial Conference.

Parties shall consult with each other to get the best estimate of length of trial. For example, jury trial expect day 1 to pick jury and last day for charging jury, closing arguments and deliberations. To account for breaks and lunch, average time before jury is at best six (6) hours per day. Parties will indicate on Checklist and Court will discuss with Counsel at Pre-Trial Conference. Court will divide trial time between parties. Failure to reasonably comply with designated time may result in a mistrial and subject counsel and party to sanctions, including attorney's fees, costs and expenses.

Prior to Pre-Trial Conference, trial exhibits are to be exchanged and initialed, either personally or electronically, with all objections noted separately. **Trial exhibit objections** that have not been heard by the Court prior to Pre-Trial Conference will be scheduled at the Court's convenience. Parties are not required to Fully Brief said objections. All exhibit objections must be heard before the first day of the trial docket.

Motions that arise during trial, must be brought before the Court between 8:30 am – 9:00 am during ex parte / short matters. Counsel responsible to advise Court Reporters they are needed at 8:30 am.

9. MOTION FOR CONTINUANCE:

The Court does not automatically grant unopposed motions or stipulations for continuance. After following the Business Court Procedures, including BCP 5.12(c) and 13.4, the parties should submit courtesy copy to the Judicial Assistant via email (43Orange@ninthcircuit.org) of the filed Motion with a proposed Agreed Order for the Courts' consideration. **See Content of Orders above.**

10. MOTIONS TO WITHDRAW AS COUNSEL:

Unopposed Motions to Withdraw as Counsel **with signed client consent** should be filed with the Clerk. A copy of the filed Unopposed Motion (with signed client consent) and a proposed order may be emailed to the Court.

The proposed order should include the name, address, phone number and email 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, the proposed order must include the requirement to obtain substitute counsel within 30 days. Certificate of Service must include service methods for those parties not participating in the E-Portal. **Counsel shall submit to the Clerk a Notice of Filing which reflects copy of the signed order served to any parties not participating in the E-portal.**

Should the Motion to Withdraw as Counsel be opposed **or if signed client consent cannot be obtained**, the moving party shall coordinate a short matter hearing with notice to all parties and **must** include the client.

11. VOICE MAIL:

If you reach the voice mail during the work day, the JA has been called away from her desk to assist the Judge or a litigant, make copies, attend a pre-trial conference, or any one of her many other duties. Please leave a brief message with your name, phone number and case number. Your call will be returned. **The JA responds to emails before voice mails.** If you receive a busy signal, the JA is on the line helping someone else, so please call again or email at 43Orange@ninthcircuit.org.

FREQUENTLY ASKED QUESTIONS

Where do I send my hearing documents?

Answer: Direct all Osceola County Division 23 Business Court hearing documents to the Orange County Courthouse, chambers 1430, 425 N Orange Ave., Orlando, FL 32801. **Notice of Hearings are to be noticed for Hearing Room 1400.02, 425 N. Orange Ave., Orlando, FL 32801** unless otherwise instructed by the Court.

Where do I file my documents?

Answer: All filings must be made with the Osceola County Clerk’s Office. Make sure the style of the case reflects it is an Osceola County case with the Osceola County case number. Contact the Osceola County Clerk’s Office for further instruction.

Will the Court consider Oral Motions over the phone to the JA?

Answer: No, all Motions must be in writing and comply with Division 23 Guidelines and Business Court Procedures.

What is the trial line-up for a future trial docket?

Answer: Trial Order is set after the Pre-Trial Conferences.

Can Hearing Time be “reserved” while coordinating with the parties?

Answer: No, the Court does not “reserve” hearing time. Motion must be filed before coordinating a hearing time. Hearing Time is first come, first served.

When can we set our Summary Judgment Hearings?

Answer: Once the Summary Judgment Motion(s) is/are filed.

Does the Court consider competing orders?

Answer: Yes, after a hearing where the Court directs the parties to email competing orders.

My case was previously continued. Do we have to submit a new Pre-Trial Conference Checklist?

Answer: **Yes.** You can rely on a previously filed Pre-Trial Statement, but you must email a **new** Pre-Trial Conference Checklist signed by all trial counsel.

Can the Parties get future PTC and Trial dates?

Answer: The JA will provide future PTC and Trial dates upon emailed request.

Can the JA remove a PTC or Trial where the parties are talking about settlement agreement?

Answer: No, but if the Parties can provide the Court with a signed stipulation that the Case has settled (as to all parties/counts/claims), the JA can remove the PTC and Trial and set a Status Hearing to allow time to get the closing documents filed.

Can I appear remotely for a hearing?

Fla. R. Gen. Prac. & Jud. Admin. Rule 2.530 addresses remote appearances.

Division 23 Guidelines provide three (3) exceptions whereby a Motion/Order is not required. (1) Case Management Conference are via Webex only. (2) Ex parte / short matter hearings in person or telephonic. (3) By Court as stated in Notice of Hearing (e.g. Status Hearings).