



**State of Florida
Ninth Judicial Circuit of Florida**

ELAINE A. BARBOUR
CIRCUIT JUDGE

COUNTIES OF ORANGE AND OSCEOLA
ORANGE COUNTY COURTHOUSE
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ORLANDO, FLORIDA 32801
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CHRISTINE BRATEK-COHEN
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ORANGE COUNTY DOMESTIC RELATIONS DIVISION 29

IN ORDER TO ASSIST COUNSEL, THE LITIGANTS AND THE COURT, THE FOLLOWING GUIDELINES¹, PROCEDURES, PRACTICES AND EXPECTATIONS ARE HEREBY ADOPTED FOR THE CIRCUIT DOMESTIC DIVISION NUMBER 29 IN ORANGE COUNTY, FLORIDA WHEN PRACTICING BEFORE JUDGE ELAINE A. BARBOUR.²

GENERAL INFORMATION & LINKS

Courtroom: 10-B, tenth floor, Orange County Courthouse, 425 N. Orange Ave., Orlando, FL 32801.

Contact Information: Judicial Assistant's e-mail: ctjacb2@ocnjcc.org. Please limit contact to e-mail only. Never e-mail the JA without a cc to opposing counsel/party.

Judicial webpage: [Elaine A. Barbour | Ninth Judicial Circuit Court of Florida \(ninthcircuit.org\)](http://www.ninthcircuit.org) contains these procedures and other helpful links

Attorney Pick Up/Drop Off Boxes: 8th floor, South lobby.

Admin Orders referenced: [2004-14-02](#) **Mandatory Mediation &** [2014-19](#) **Mandatory Meet and Confer**

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. (See <http://www.ninthcircuit.org> For Attorneys/Information/Rules & Policies/Courtroom Decorum Policy.) Counsel must also be familiar with relevant Administrative Orders, e.g. *Administrative Order Establishing Ninth Judicial Circuit Court Domestic Guidelines* dated August 5, 2014, etc. all of which may be found at the above Circuit website.

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

PRO SE LITIGANTS: All pro se name changes and uncontested final hearings are scheduled through Family Court Services. Do not contact the JA about uncontested hearing time, legal questions, general complaints or case status. You will not be responded to. Contact Family Court Services via the following link: [Family Court Case Management Office](#) Family Law Forms can be found at [Florida Courts Family Forms website](#). The Family Law Rules of Procedure and the Rules of General Practice and Judicial Administration can be viewed by visiting the [Florida Bar website](#). Click on Chapter 12 or Chapter 2. You will be expected to be familiar with the dictates of Fla.R.Gen.P.&Jud.Admin. 2.515, 2.516, 2.520 and 2.525 as well as the Florida Family Law Rules of Procedure. Pursuant to Fla.R.Gen.P.and Jud. Admin. 2.516 (C) pro se litigants must file and serve a Designation of Primary E-mail Address. Instructions on how to electronically file documents can be found on this Court's [judicial webpage](#).

NOTICE: JULY 1, 2023 LEGISLATIVE CHANGES (F.S. 61.08; 61.13; 61.14)

Please be on notice that this Court interprets the effective date of the legislative changes to be July 1, 2023. This Court finds the legislative changes to be substantive in nature. Absent express legislative intent, this Court will apply the new law changes prospectively only, i.e. cases filed on or after July 1, 2023.³

DOMESTIC/FAMILY COURT PROCEDURES

Read AO 2004-14-02 and 2014-19 before proceeding. Non-adherence will subject the hearing to being cancelled by the Court or appropriate sanctions. Include in subject line of all e-mail communication: Case number and case style. Always copy opposing counsel/pro se party.

The following matters will be conducted virtually: pro se and attorney uncontested final hearings, ex parte/short matters, case management conferences and pre-trial conferences via Cisco Webex. All other matters will be in person Courtroom 10-B.

Ex Parte/Short Matters:

Conducted virtually on most Wednesdays from 9:00 a.m. to 10:00 a.m. and scheduled through the JA who will provide the link. Instruction for Cisco Webex may be found on the Court's judicial webpage. Moving party must coordinate, serve and file a Notice of Hearing containing the meeting link as provided by the JA. Do not cross notice without agreement. At least three (3) business days prior to the hearing, the moving party must provide the JA with a .pdf copy of the Notice of Hearing, Motion and any incorporated parenting plan/agreement/support guidelines/motion to deviate and provide

³ See, *Hahn v. Hahn*, 42 So. 3d 95 (Fla 4th DCA 2010) citing *Imperial Point Colonnades Condo., Inc. v. Freedom Props. Inc.*, 349 So.2d 1194, 1195 (Fla. 4th DCA 1977); *Horn v. Florida Dep't of Revenue ex rel. Abel*, 725 So.2d 687, 688 (Fla 3d DCA 2000), *State v. Lavazzoli*, 434 So.2d 321, 323 (Fla 1983); *Smiley v. State*, 966 So.2d 330, 336 (Fla. 2007)

in Word format a proposed order, Income Withholding Order (IWO) and/or final judgment.

Uncontested attorney final hearings may also be conducted in writing without appearance by filing proper Motion/Written Waiver of Final Hearing. Written checklist must be submitted to the Court by e-mail together with proposed Final Judgment and IWO **in Word format** and applicable .pdf parenting plans/agreements/support guidelines/agreed upon motions to deviate/qualified domestic relations orders (QDRO).

All other agreed upon Orders may be e-mailed to the JA or hand delivered to drop off box. Orders must be accompanied by a copy of the Motion and proof of opposing party's agreement. Any hand delivered orders must attach self-addressed, stamped envelopes for mailing.

Hearing time is limited to 5 minutes and is for uncontested matters, (motions to withdraw, uncontested final hearings, name changes, adoptions or to have agreed upon orders entered) and matters involving only legal argument of 5 minutes or less. Except in uncontested dissolutions, paternity and adoption matters, the Court does not take testimony. The Court will take adoption matters first. Those in the lobby will be let in after adoptions have been completed. Upon request, the Court will allow in person hearing time for adoptions.

If an uncontested final hearing is scheduled, a checklist must be completed for each uncontested matter. The checklist may be found on the Court's judicial webpage. If parenting classes are not completed and certificates of completion are not filed with the Clerk, the Court will not proceed with the final hearing.

Discovery Disputes: Copies of motions and responses must be provided to the judicial assistant at time of hearing request. Discovery motions must be very specific as to what is needed. Moving party must attach proof of having communicated specific requests to non-moving party and any responses. A written response from non-moving party must be filed within 5 days of motion service. Non-compliance may result in the court finding a waiver and admission. A detailed proposed Order should be sent with the Motion to the JA. Any discovery motion necessitating a hearing will likely result in fees being assessed.

Exhibits/Evidence:

Pursuant to Fla.Fam.L.R.P. 12.010(a)(2) the Florida Rules of Evidence apply to family law matters. Litigants are expected to have a meet and confer to go over all exhibits prior to any trial or contested hearing. An exhibit list should be prepared and exchanged with exhibits not later than 48 business hours prior to hearing. All objections must be stated on the Exhibit List 48 business hours prior to hearing or same will be deemed waived. Failure to follow these procedures will subject the offending party to exclusion of evidence.

Follow the Clerk of Court Exhibit Marking Instructions. For your convenience, a pdf link is on this Court's judicial webpage. All proposed exhibits must be tagged. **You must use the Clerk approved tags.** These tags may be obtained in Room 150, Records Management. Do not provide any exhibits, even stipulated ones, to the Court prior to trial or contested hearing.

Exhibits (whether stipulated or objected to) are to be introduced in open court as they are addressed by the evidence. Parties are not to duplicate exhibits. Stipulated exhibits are subject to approval by the Court. Litigants are reminded that the first test of admissibility is RELEVANCE. Do not provide the Court with irrelevant material. Be prepared to pinpoint to the Court the relevant portions of any evidence you wish to introduce. Any exhibits introduced and not specifically addressed through testimony or argument will not be considered by the Court. At time of hearing, please have an extra court copy of introduced exhibits.

Stipulations of Fact: Parties can save hearing time and reduce the generation of physical and testimonial evidence by simply entering into Written Stipulations of Fact. Written stipulations of fact must be accepted as proven. This tool is especially useful as to F.S. 61.30 determinations.

Evidentiary Hearings:

Hearing time will be not given without compliance with the Administrative Orders (AO) referenced on page 1. Hearings are in person. Do not cross notice without agreement.

Virtual hearings: Requests for virtual hearings must be accompanied by a motion and proposed order. The motion shall reference the motion to be heard, requested time, whether the request is opposed/unopposed, exhibits to be offered, hardship posed by in person hearing and a statement indicating any other grounds. The JA will not present the motion to the court without strict compliance. The JA will make contact if short matter hearing time is required on the motion.

Motions must have certifications and be e-filed prior to making hearing request. Do not telephone or otherwise contact the JA to find out what hearing times are available. Hearing times can be viewed on the court's judicial webpage. Do not involve the JA in coordination disputes. Follow the instructions contained in Paragraphs 6 & 7 of AO 2014-19 and those found on Division 29 JACS website. **All requests for hearing time of one hour or more must be pre-approved by the Judge.** To obtain approval, appear at virtual ex parte/short matters or e-mail a copy of the motion(s) with a detailed explanation of why you are requesting more than one hour of hearing time.

Canceling Hearings: Only the party setting the hearing may cancel. Follow the cancelation procedures set forth in paragraph 3 of AO 2014-19. Violation of these procedures may subject the movant to sanctions.

Proposed orders: Be prepared for the court to order you to prepare and submit within ten (10) days a full and complete order (to include certificates of service) accurately reflecting its findings/rulings. All orders must be submitted to opposing counsel/opposing pro se party for approval. Opposing counsel/party must respond within 3 business days of receipt. The parties are expected to work professionally and in good faith with the other. Do not involve the Court in any disputes. Any material disagreement may be resolved by the Court by submission via e-mail to the JA of a red lined proposed order **in Word format**. Communication to the JA should simply attach the red lined proposed order and state the parties cannot come to an agreement.

Emergency Hearings:

Are for extreme situations where irreparable harm has transpired and/or is imminent. Contentious contact and difficulties with timesharing are not emergencies. Emergencies do not generally include any complaint that may be remedied by having a hearing within the normal course of time. If a true emergency arises, counsel may request hearing be set short notice. The body of the emergency motion must contain a detailed explanation of the circumstances constituting the emergency and the relief sought. If notice is not given, a detailed explanation must be set forth. Absent good cause, all emergency motions must be verified by the party filing the motion. **The motion must be e-mailed or hand delivered to Chambers before a hearing will be set.** The Court will review the motion and, if it is determined to be an emergency, the Court will generate an Order and/or direct counsel to either submit a detailed order **in Word format** or set the hearing. In light of the short setting, opposing counsel may apply to the Court for permission to attend the hearing virtually, if their schedule will not allow them to appear in person.

Motions for Temporary Relief:

No hearing will be scheduled until such time as a mediation has been had on temporary matters and the mediator's report filed. Do not use alleged violations of any administrative order as a back door around this requirement.

Motions for Temporary Relocation:

Pursuant to F.S. 61.13001(10) the Court will make every effort to hold hearing on a motion for temporary relocation within 30 days of filing. It is the responsibility of counsel to secure the time on ai calendar and if no time shows available within the statutory period and the matter cannot wait, then counsel are to e-mail the JA for an expedited hearing. Please see trial procedure for guidelines on Notice for Trial on the Petition for permanent relocation.

Motions for Rule to Show Cause:

Upon filing of verified Motion, you may contact the JA by e-mail with a proposed

Rule to Show Cause in **Word format** to present to the Court for execution. You should have a blank evidentiary return hearing date and time space inserted. It is the attorney's responsibility to ensure that the Rule to Show Cause is properly and timely served upon the party.

Defaults:

Pursuant to Fla.Fam.L.R.P. 12.500 a default may be entered by the Clerk or the Court. It is the Court's preference that the Court enter the default in any case wherein the Respondent is or was not residing in the State of Florida at the time of initiation of the lawsuit. The Clerk may be requested to enter a default in all other matters. Any defaulted cases where issues of child custody, support, equitable distribution and/or attorney's fees are pled must be noticed for trial as set forth herein below. No mediation is required in cases wherein a default has been entered. Pursuant to Fla.Fam.L.R.P. 12.080 defaulted parties shall be served with all orders and final judgments.

Trial/Case Management Procedure:

The Court may set a Case Management Hearing or Conference prior to the hearing or trial, at which all counsel and parties must be present. The Court may also require pre-hearing memorandums, discovery limitations, or other means to streamline the proceedings.

1- **Notice for Trial:** You must provide a copy of the Notice for Trial and Form 51 to the JA. Prior to filing a Notice for Trial, the parties shall attend mediation (this is **in addition to** mediation on temporary matters). If mediation is not appropriate, counsel or pro se litigants shall file a Motion to Dispense with Mediation and set it for hearing at ex parte/short matters. Parenting class certificates must be filed with the Clerk's Office. Pursuant to Administrative Order 2004-14, counsel or pro se litigants shall attach Form 51 to their Notice of Trial. **No Notice of Trial is accepted without Form 51.** Form 51 is available from the Court's website. The case may be referred to the General Magistrate.

Petitions for Permanent Relocation: All Notices of Trial and Form 51 **must** designate that the matter being set for trial is a Petition for Relocation and Trial should be expedited. All Notices for Trial on Petitions for Relocation **must be** styled "**Notice for Trial – Expedited – Petition for Relocation**".

2- **Pre-trial/Scheduling Conference:** Counsel and pro se litigants must comply with all aspects of the Uniform Order Setting Pre-trial Conference and Non-jury Trial. **Strict adherence will be enforced.** Pursuant to paragraph 8j, equitable distribution worksheets are required. A .pdf copy of the Uniform Order is available for viewing on the Court's judicial webpage. Non-compliance may result in sanctions to include the case being stricken from the pre-trial docket. 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 any pro se litigant is familiar with the requirements of the Uniform Order provided. Compliance and time limits are not optional, nor extendable by stipulation.

Pre-trial conferences will be held virtually via Webex. The link will be provided in the Uniform Order. **The attorney trying the case must appear at pre-trial conference.** If counsel or a pro se litigant is unable to attend the scheduling conference, a motion for continuance must be submitted to the Court and an Order entered by the Court, or your case will be removed from the trial docket. If there are any unusual or complex issues to be tried, attorneys are to file a short memorandum citing case law and deliver a copy via e-mail of the memorandum and the case law to the Court at least one week prior to trial.

3- **Case Management Conference/Hearing:** All domestic trials are subject to having a case management hearing set prior thereto. All counsel and the parties must appear at the conference/hearing. Prior to the conference, the attorneys shall meet to discuss any stipulations, issues, outstanding discovery and general case status. Any additional provisions contained within a separate Order Setting Case Management shall be followed. All relevant evidence that is expected to be utilized at trial will be disclosed, marked and a list thereof provided to opposing counsel as well as the Court at the conference/hearing.

4- **Trial:** Prior to the onset of trial, all proposed exhibits must be tagged. **You must use the Clerk approved tags.** Please go to Room 150, Records Management to obtain them. Please have a court copy of all exhibits received into evidence. Follow the Clerk's Exhibit Marking Instructions.

5- **Final Judgments/Orders:** Per Fla.R.Jud.Admin. 2.516 the Court may ask a party to prepare final orders and parenting plans **in Word format** and e-mail it to the JA. All proposed orders shall be due within ten (10) days of the hearing unless otherwise set by the Court. The deadline may be extended only for good cause shown. E-mail the JA the request and reasons. All proposed final orders and parenting plans shall be submitted to the opposing party (to include pro se litigant) not later than three (3) business days prior to any deadline set by the Court. Any disagreements shall be red-lined and the proposed orders forwarded to the JA. If one or both parties are unrepresented, each shall e-mail to the JA a proposed order **in Word format**. If the opposing party is unresponsive and the deadline has lapsed, e-mail the JA the **Word** document with an explanation to include dates of contact.

Motions to Continue/Cancel Trial: Once set, trials are not likely to be continued without exceptional good cause. All motions must state specific grounds as well as the position of the opposing party. Please e-mail the judicial assistant immediately as to any request to continue or cancel trial. Contested Motions to continue/cancel must be set and noticed for ex parte/short matters or at a regularly scheduled hearing.

Motions for Re-hearing/Reconsideration:

The Court has no way of knowing of the filing of a Motion for Re-hearing or Reconsideration without a courtesy copy to chambers or the JA. Provide the Court with a proposed Order **in Word format**. The Court will either rule without a hearing or will advise the moving attorney to schedule a hearing on the motion.

Miscellaneous:

Exhibits: Any exhibits to be offered at any proceeding must have a Clerk approved exhibit tag attached and filled out prior to onset of the hearing or trial. Exhibit tags can be obtained from Records Management, room 150. Clerk's Exhibit Marking Instructions must be followed.

Cancellation Policy: Please immediately notify the Judicial Assistant via e-mail of all cancellations or settlements so that the calendar may be opened up for other matters. You must attach to the e-mail a copy of the Notice of Cancellation. It is the responsibility of the moving party to file a Notice of Cancellation in the court file and submit a courtesy copy to Chambers as well as the responsibility to contact the opposing party to notify them of the cancellation.

Interpreters: The Court does not provide interpreters. It is the responsibility of the parties to provide interpreters at time of the hearing or trial. Interpreters should be court certified.

Virtual hearings: Proper decorum, etiquette and attire are required for all attorneys and litigants. Witnesses (including litigants) must be alone, in a quiet place and may not use a virtual background. The Court may require the witness to share their surroundings to ensure that these procedures are followed. Only Official Court Reporters may record a proceeding.

Attorneys are responsible for instructing their clients on these matters as well as providing the proper link and instructions **prior to** onset of the hearing. Pro se litigants are responsible for communicating with the AV department and having any questions answered **prior to** the onset of the hearing.

Motions to Withdraw and Substitution of Counsel: All motions to withdraw or for Substitution of Counsel must have the client's signature and specific reason(s) for the withdraw/substitution. If you are unable to obtain client consent, motions to withdraw or to substitute counsel may be set and noticed for ex parte/short matters or at a regularly scheduled hearing.

Notices of Voluntary Dismissal: No hearing or Order required. The Notice of Voluntary Dismissal is of right. Please e-mail the Court a courtesy copy of all Notices of Voluntary Dismissal.

Referral to General Magistrate: Motions, Trials and post judgment matters may be referred to the General Magistrate, sue sponte or by request. Either party may file a written request that a matter be referred to the General Magistrate. A copy of the motion and the Order of Referral should be sent to the Court. If counsel or a pro se litigant objects to the referral, said objection must be filed in writing within ten (10) days of the referral.

Submitting Proposed Orders: After a hearing or trial and pursuant to Fla.Fam.L.R.P. 12.080, the Court may request a party to draft a proposed order **in Word format** within 10 days and provide same to opposing counsel/party for approval prior to submission. No order will be entered unless there is a representation by counsel that the opposing party has reviewed the order and has no objection to the Court entering same.

Counsel and pro se parties are expected to work with each other professionally and in good faith.

If there is a dispute as to wording or the Court's ruling, simply email a redlined Word version of the proposed Order to the JA stating that the parties after good faith attempts cannot agree. The Court will make the appropriate changes. The court minutes may not accurately or fully state the Court's ruling. The Court will review the proposed Order and make any deletions, corrections or additions needed. Please do not make the Court contact you for overdue orders.

IWO's and QDRO's are not e-served. Forward to the Court postage pre-paid envelopes for all proposed Income Withholding Orders and Qualified Domestic Relations Orders (QDRO). QDROs must be accompanied by the signature consent of each litigant. It is the obligee's or counsel for the obligee's responsibility to insure that a certified copy of the Income Withholding Order is properly served upon the employer.

Support or Income Withholding Orders: When submitting an order or Final Judgment directing a party to make payments to the State Disbursement Unit, please submit an Income Withholding Order to be entered simultaneously by the Court with sufficient copies and envelopes as stated above. Blank Income Withholding Orders can be found on the court's [judicial webpage](#).

Joint Parenting Plans: If there is no agreed upon Parenting Plan it is very likely that the Court will require the parties to produce a joint redline Parenting Plan in Microsoft Word. The instructions for creating a "redline" joint document can be found on the internet.

Audio/Visual Equipment in the Courtroom: The Court is not conversant in and does not operate audio/visual equipment. For questions, help or assistance call our AV Department/Help Desk Line at (407) 836-0522 and they will schedule a test/training time for you.

Please note: These procedures apply to Judge Elaine A. Barbour only. It is recommended that you refer to the procedure of each Judge or contact the Judicial Assistant in that division for instructions.