

Courtroom Guidelines, Policies and Procedures for Orange County Circuit Civil Division 37 Judge Jeffrey L Ashton

****NOTE: REVISED AND EFFECTIVE 01/23/23****

IN ORDER TO ASSIST COUNSEL AND THE LITIGANTS, THE FOLLOWING GUIDELINES¹, POLICIES AND PROCEDURES ARE HEREBY ADOPTED FOR THE CIRCUIT CIVIL DIVISION NUMBER 37 IN ORANGE COUNTY, FLORIDA WHEN PRACTICING BEFORE JUDGE JEFFREY L. ASHTON²

Please be informed that our office operates primarily through emails at 37orange@ninthcircuit.org. The following information must be in the subject line of all emails to the Judicial Assistant: CASE NAME AND COURT'S CASE NUMBER and a brief description such as: *Request for Hearing, Proposed Order, Notice for Trial, etc...*

PLEASE USE THE CISCO WEBEX VIDEO CONFERENCING LINK FOR ALL VIRTUAL HEARINGS (non-evidentiary), **including Ex-Parte/Short Matters and Pretrial Conferences.**

EVIDENTIARY hearings are held IN-PERSON in Hearing Room 1100.01 (11th floor).

The dedicated link for all virtual hearings is: <https://ninthcircuit.webex.com/meet/ctjuja4>

The program can be accessed by copying/pasting the link using your web browser (chrome, edge, firefox, etc). **DEVICE NEEDED.** A desktop computer, laptop computer, tablet, or smartphone can be used for the hearing. A camera and a microphone IS REQUIRED for a videoconference. Please note, most devices have a built-in microphone and camera, and additional equipment will NOT be needed to participate in hearings. If you do not have any of this equipment available to you, please contact the judicial assistant at 37orange@ninthcircuit.org immediately.

HEARINGS

The Court is transitioning online judicial calendaring from JACs to aiCalendar. The complete transition will take several months. Until all of the Divisions are on aiCalendar, please check both online systems for the selected Division for available hearing time.

It is also imperative that counsel comply with the various requirements of Administrative Order 2012-03 known colloquially as the "Meet and Confer" requirement before requesting a hearing.

¹ The 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](#)) as well as the [local administrative rules](#).

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

REGULAR DOCKETED HEARINGS (requiring 15 minutes or more): ALL MOTIONS must be docketed with the Clerk and parties must have complied with the "Meet and Confer" Admin. Order 2012-03 BEFORE securing a hearing time.

For the convenience of everyone, the following rules apply to the setting and handling of hearings:

- 1- Setting of hearings: Hearings times must be cleared with opposing counsel or *pro se* parties. Good faith cooperation is expected both from counsel, their support staff and *pro se* litigants. Should counsel, their staff, or *pro se* litigants fail to respond within 3 business days, or refuse to cooperate in obtaining or in setting a hearing, the difficulty should be specifically set forth either in the motion or in the notice of hearing. See, *Admin. Order 2012-03 ¶6*.

To secure a hearing time, EMAIL the JA at 37orange@ninthcircuit.org (copy opposing counsel or pro se litigant) with 3 to 5 dates and times you have coordinated. Please include ALL case information in the below scheduling format:

3 to 5 Coordinated dates and times:

Court's Case No.:

Style (full name of parties):

Motion(s) to be heard and date filed:

Amount of time being requested:

Attorney names, email addresses and who they represent:

Mediation date:

Date of completed meet and confer:

Videoconference (non-evidentiary) or In-Person (evidentiary).

Once you receive your confirmation email from the Judicial Assistant, you should send out your Notice of Hearing promptly. In addition to filing the Notice of Hearing with the Clerk of Court, a copy of the Notice of Hearing and Motion(s) to be heard must be furnished to the Judicial Assistant via U.S. Mail, FedEx, UPS or hand delivery no later than five (5) business days prior to the hearing (electronic submissions are not accepted).

Requests for hearing times that exceed 1 hour require the approval by the Judge. Submit request either by letter to chambers or schedule an ex-parte/short matters to discuss with the judge.

- 2- Cross-Notices: Additional motions must not be "piggy-backed" by cross-notice unless counsel first confirms with opposing counsel, and the Judge's Judicial Assistant, that enough additional time can be reserved in which to hear them. Please note that only the party setting the hearing may cancel the hearing.
- 3- Cooperation of counsel: If counsel does not cooperate, the requesting party may unilaterally set a hearing giving at least two weeks' notice to the opposing counsel/party who failed to cooperate/respond or the parties may notice the matter for an ex-parte/short matters hearing.
- 4- 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 e-mailed to the Court at 37orange@ninthcircuit.org before a hearing will be set. The following information must be in the subject line of the email: EMERGENCY FOR DIVISION 37, CASE NAME AND COURT'S CASE NUMBER. The Court will review the

motion and, if it is determined an emergency exists, the Judicial Assistant will contact the parties to set the matter for a virtual hearing,

- 5- Ex-parte/Short Matters: - Ex-parte/Short Matters are held Monday through Thursday at 8:30 a.m. – 9:30 a.m. via Cisco Webex Video Conferencing for any matter requiring 10 minutes or less, without witness testimony. These hearings are not scheduled with the Judicial Assistant. Choose your date, coordinate with opposing counsel or *pro se* parties and send notice to all parties (make sure it's not a date that Judge Ashton is not available, which are listed on JACS). **The Judicial Assistant must prepare an internal docket so please file the Notice of Hearing with the Clerk with a courtesy copy of the Notice of Hearing, along with the Motion(s), to chambers via email at 37orange@ninthcircuit.org at least five (5) business days before the hearing so the Court can prepare for the hearing.**
- 6- Foreclosure Cases: – All hearings in Residential Foreclosures (non-complex) are set during Short Matters Monday – Thursday at 8:30 a.m.
- 7- Discovery Motions, Protective Orders and Motions to Compel: **The mere filing of a Motion is insufficient and does not toll any action or compel any action.** Any motions filed, but not immediately set for hearing will be considered abandoned. The motions must be 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) and Admin. R. 2012-03. **The Court requires the parties to meet and confer as to any discovery issues. The Court will address only those matters truly in controversy.** If no response or objection has been filed to initial Supreme Court approved discovery requests, the moving party may submit proposed order with the Motion. No hearing will be necessary.

If you are seeking attorney's fees you must, before filing a Motion to Compel pursuant to Fla.R.Civ.P 1.380, 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 or attempted to confer 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 2016 Florida Handbook on Civil Discovery Practice, which is available on the Ninth Judicial Circuit website at www.ninthcircuit.org.
- 8- 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.
- 9- Legal Memorandum and Citations: Any legal memorandums or briefs, **must be provided to the Court at least five (5) business days before the hearing, do not submit hard copies of cited cases.** The Court will attempt to review the motion and the memorandums, and read the cases cited therein, prior to the hearing so that an immediate ruling may be rendered. **Brevity is appreciated.** Memorandums provided to the Court for the first time during the hearing may not be considered. If the citations are within the Motion, then counsel will not need to provide copies for the judge. **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.

- 10- Limitation on Hearings: All hearings related to discovery or trial matters must be **filed and heard prior to the pre-trial conference**. See paragraph 8 above regarding Motions in Limine. NO HEARINGS DIRECTED TOWARDS MATTERS INVOLVING THE TRIAL WILL BE HEARD DURING THE ACTUAL TRIAL PERIOD absent unanticipated events occurring.
- 11- 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 of the request and must be submitted to the Court within seven (7) days of the hearing, with a copy to opposing counsel/party. Counsel must advise the Court of any objection to, or agreement on, the form of the proposed order by opposing counsel when the order is submitted. The Court requires an e-filed cover letter along with an electronic copy (in Word format) of any proposed orders sent to 37orange@ninthcircuit.org so necessary changes can be made by the Court, if necessary. The caption must contain more than the word "Order." All Orders must describe, in the caption, the subject and ruling of the court, i.e. "Order Granting Plaintiff Motion for Partial Summary Judgment on Liability." See *Fla.R.Civ.P.* 1.100(c)(1) If 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.

Please note that "e-portal" does not provide for the uploading of proposed orders to the Court for filing. If "Agreed Orders" are provided, the title must indicate the substance of the order in addition to the indication that it is an "agreed order." All proposed orders of any type should be accompanied with an e-filed cover letter indicating (1) whether or not the form of the submitted order is agreed to by all opposing counsel and (2) should state counsel submitting the proposed Order(s) will serve a copy of the order via U.S. mail to the non-e-file parties and file a certificate of service in the court file no later than three days from the date of the order (self-addressed stamped envelopes are no longer necessary due to electronic submissions of proposed orders).

- 12- Hearings on Motions for Rehearing, Reconsideration or New Trial. Upon filing said Motion, please send a copy directly to the Judge for review to 37orange@ninthcircuit.org. The Court will either rule without a hearing, direct a written response be filed by opposing counsel, or the Judicial Assistant will contact the moving counsel to schedule a hearing.
- 13- Withdrawal of Counsel: Motions to Withdraw as counsel should be set during ex-parte/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 (in Word format), then send documents to 37orange@ninthcircuit.org. 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.
- 14- Notice of Cancellation: The Court must be notified immediately of any hearing cancellations. The e-filed Notice of Cancellation must e-mailed to the Court at 37orange@ninthcircuit.org. Please note that only the party setting the hearing may cancel the hearing.

SETTING OF TRIALS

The Judicial Assistant can advise counsel, upon inquiry, as to future trial dockets (these dates are not posted on the website). Counsel should request in their Notice for Trial, after consultation with their client and opposing counsel, a trial period that will allow sufficient time to complete discovery, trial preparation, motion practice and facilitate out of court resolution. If no trial period is requested in the Notice, the Court will contact the moving counsel to schedule a *Status Hearing to Determine Date of Trial and/or Need for Case Management Conference*. The parties may agree to a trial docket and notify the Court in writing and the status hearing will be cancelled and a trial order will be issued. If no agreement can be reached amongst the attorneys, attendance at the hearing by the lawyers trying the case is mandatory.

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, trial management conference and trial. See, Rolle v. Gary A. Birken, M.D., 994 So.2d 1129 (Fla. 3rd DCA 2008).

In those rare cases wherein the Court issues an order setting a matter for trial pursuant to a Notice for Trial without agreement of the parties, and opposing 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. 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.

While the Court acknowledges that unexpected events may occur between the setting of the trial date and the trial date itself, the Court encourages all counsel to account for these eventualities in choosing the trial date. Continuances will be granted only in rare and exceptional circumstances.

CASE MANAGEMENT CONFERENCE/COMPLEX LITIGATION

The Court will schedule certain cases for a formal Case Management Conference (CMC) or an Abbreviated Case Management Conference (ACMC) and issue an order setting forth the matters to be covered at the conference. Cases such as medical malpractice cases, complex commercial litigation cases, multiple party litigation cases, cases with voluminous records or exhibits, as well as certain other types of cases will be set by the Court, without request, for certain types of case management conference. Certain cases may be deemed “Complex Litigation” pursuant to Fla. R. Civ. P. 1.201. Where so designated the procedures set forth under Rule 1.201 will apply.

Any case can be considered for a Case Management Conference by counsel filing a written request with the Judicial Assistant. Once “case managed,” the action will be controlled, not solely by the Pre-Trial Order, but also by any resulting Case Management Order(s). Generally, cases that are subject to case management will require periodic status conferences.

PRIOR TO PRE-TRIAL

As noted above, a *Uniform Order Setting Case for Trial; Pre-Trial Conference and Requiring Pre-trial Matters to be Completed (Uniform Trial Order)* will be issued when the dates are set for pre-trial, trial management conference and trial. The Uniform Order must 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. *Please review the Pre-trial Order.*

1- Mediation: Mediation **MUST BE COMPLETED** prior to pre-trial. The Plaintiff is charged with timely submitting the draft mediation order.

2- Witnesses, Exhibits and Experts: The pre-trial order requires disclosure of witnesses, exhibits and experts with specificity in a timely manner. Exhibits must be presented for review, and annotation of objections noted lest said objections be deemed waived. Retained experts must be disclosed and must be made available for discovery by the retaining party without the necessity of a subpoena for the retained expert.

3- Joint Meeting of Counsel: Plaintiff is charged with arranging a meeting of all counsel at least ten (10) days prior to pre-trial. Attendance is mandatory by the attorneys who will actually be trying the case. *Please review the Pre-trial Order.*

4- Joint Pretrial Statement: Following the joint meeting, Plaintiff is charged with preparing the joint pre-trial statement. If disagreements exist among the attorneys, the statement **must** set forth all versions. *Please review the Pre-trial Order.*

5- Motions to Continue: Trials are set with the agreement of all parties, but no earlier than 120 days from the original trial order. If counsel believes the trial date is not workable, an immediate request for continuance should be made. All Motions to Continue must be:

(A) in writing;

(B) be signed by the attorney and the parties requesting same;

(C) identify the position of opposing counsel on the motion;

(D) indicate any other continuances that have been sought and or granted or denied;

(E) set forth when the parties will be ready for trial, if granted; and

(F) 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.

PRE-TRIALS

Pre-trials are held virtually by using the Cisco Webex Videoconference dedicated link above. At the Pretrial, the parties are expected to announce the trial posture. Pretrial is NOT the time to handle Motions to Continue or 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.** All cases which remain on the pre-trial docket after Pre-trials will be set for a Trial Management Conference (see below).

ATTENDANCE AT THE PRETRIAL CONFERENCE BY THE ATTORNEYS WHO HAS FULL AUTHORITY TO ENTER INTO BINDING AGREEMENTS AND STIPULATIONS IS MANDATORY. Substituted appearance by counsel other than counsel described above at the pre-trial conference is not permitted without prior approval. The pretrial will usually last 5 minutes.

TRIAL MANAGEMENT CONFERENCE

Trial Management Conferences are held **in-person** one (1) week prior to the 1st day of the trial period and will be utilized to set the order of the trial docket,³ compliance with the pre-trial order, 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. The trial management conference will usually last 30 minutes to 1 hour. The trial management conference will take place in Courtroom 18C, unless otherwise indicated by the Judicial Assistant via email to the parties. Attorneys should check with the Judicial Assistant the day before the conference to confirm the actual courtroom that will be used. ATTENDANCE AT THE TRIAL MANAGEMENT CONFERENCE BY THE ATTORNEY WHO HAS FULL AUTHORITY TO ENTER INTO BINDING AGREEMENTS AND STIPULATIONS IS MANDATORY. ATTENDANCE BY ALL COUNSEL WHO WILL PARTICIPATE IN TRIAL IS STRONGLY ENCOURAGED.

SETTLEMENT OR RESOLUTION

The Court must be notified immediately 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 Parties file finalized documents fully resolving the lawsuit or a status hearing is scheduled 60 days out from the filing of the Notice of Settlement.

TRIALS

Trials will take place in Courtroom 18C unless otherwise indicated by an email from the Judicial Assistant. Counsel and their clients are to be in the courtroom and ready for trial no later than 9:00 a.m. Depending on other emergency matters, the Court will start at 9:30 a.m. or as soon thereafter as possible.

ALL COUNSEL WHO PARTICIPATE IN THE TRIAL MUST CERTIFY THEIR FULL FAMILIARITY WITH ALL PRE-TRIAL ORDERS CONCERNING TRIAL PROCEEDINGS OR EVIDENCE AND THE PRE-TRIAL STATEMENT.

1- 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

³ While 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.

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).

2- 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 necessary to make or take phone calls, please step out of the Courtroom. Witnesses while testifying will not be permitted to possess any type of communication device while on the witness stand. No photographs or recording, video or otherwise, is permitted within the courtroom unless specifically authorized by the Court after formal request is made.

3- Trial Briefs: If a trial brief is to be filed with the Court it must be submitted to the Judge's Chambers in hard copy no later than five (5) working days before the trial is to commence. The Court appreciates hard copies of case law cited in the trial brief with appropriate highlighting of the pertinent sections. 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. *Please review the Pre-trial Order.*

4- Court Reporter - The same Court Reporter should report the entire trial to enable jury readbacks, or alternate arranges must be approved by the court prior to the start of the trial. At the trial management conference, the parties will advise the Court who will retain the Court Reporter.

5- Voir Dire: The Court will conduct a brief 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.

6- Jury Selection Process: After voir dire, the Court will first ask each side for any cause strikes, first on behalf of the Plaintiff and then on behalf of the Defendant(s). Upon completion of challenges for cause, the Court will move to pre-emptory challenges. The Court will start with the first remaining juror and move sequentially as they are seated in the venire, alternating between (among) counsel until a panel is chosen. Back striking during jury selection is always permitted. The number of alternates will be determined by the Court by the type and length of the trial. Each party will have one additional strike as to each alternate. If a "backstrike" of an underlying juror is offered after the alternate(s) are selected, the replacement juror will not be the alternate but will be the next juror available after the alternates that have already been chosen.

7- 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

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).

requirements for both opening and closing at the trial management 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.

8- Exhibits: All exhibits are to be pre-marked for identification prior to trial and presented to the trial clerk on the first day of trial in-person. Arrangements must be made directly with the clerk to secure the evidence tags in Room 150 (Records Management). 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 with <https://ninthcircuit.org/services/technology-support>

9- 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.

10- Experts: The Court will not accept or qualify a witness as an expert in front of the jury. Challenges to an expert's qualifications and his ability to testify must be addressed prior to the start of the trial period and therefore outside the presence of the jury. Experts are to be cautioned by the attorney who calls the expert of "in limine" rulings, and the effect of the invocation of the Rule of Sequestration.

Daubert Issues: If any issues or motions arise as to the expert's ability (qualifications, opinions or ability) to testify arise, those matters must be addressed well in advance of the pretrial conference. Daubert challenges must be filed, scheduled and heard well in advance of trial. Hearing time is limited; failure to have filed and have heard challenges as to experts and their opinions in a timely manner may result in the challenge not being addresses, the trial continued, sanctions being imposed or other actions by the Court.

11- Use of Depositions: If depositions are to be used at trial in any manner (impeachment, as video testimony, etc.) make certain a hard 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.

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

12- **Objections:** The Court will not allow speaking objections in front of the jury. As a general rule of thumb the Court considers any objection exceeding five words is likely a speaking objection. When counsel rises to object, the **legal basis for the objection only should be stated**. The Court will then request an equally brief response from the opposing party. 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 unless the answer or question is patently objectionable. 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.

13- **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.

14- **Jury Instructions:** Jury instructions are to be prepared by both sides and exchanged at least one week prior to beginning of the trial period. A copy in Word format must be provided to the Court no less than seven (7) days prior to the beginning of the trial at 37orange@ninthcircuit.org. The Court intends to provide the jury with a written copy of all jury instructions when the jury retires to deliberate. In certain cases, the Court may provide some substantive law instructions orally to the jury during preliminary instructions and/or before closing arguments. Should any counsel wish to consider this option, this matter should be addressed with the Court at the trial management conference.

CIVIL CASE MANAGEMENT

In response to the directive of the [Florida Supreme Court Administrative Order 20-23, \(Amendment 12\)](#), the Ninth Judicial Circuit established the Court's active, differentiated Case Management program effective April 30, 2021. The Case Management program, Ninth Judicial Circuit [Administrative Order No. 2021-04-01](#), outlines the process for determining whether a case requires a Case Management Plan and Order and, if so, the timeline and form of order required. Please review the Civil Case Management tab on the Court's website for additional information.

INFORMATION NOT COVERED

If any matters concerning the conduct of the pre-trial or trial procedures of Orange Civil Division 37 are not covered herein, counsel is free to contact the Court. A status hearing can be set 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.

Revised and Effective January 23, 2023

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