



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

DIANA M. TENNIS
CIRCUIT JUDGE
Admin Judge For Family
Divisions

COUNTIES OF ORANGE AND OSCEOLA
ORANGE COUNTY COURTHOUSE
SUITE 1130

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**PROCEDURES FOR JUDGE DIANA M. TENNIS
ORANGE COUNTY DOMESTIC DIVISION 38**

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 38 WHEN PRACTICING BEFORE JUDGE DIANA M. TENNIS.²

GENERAL INFORMATION

Hearings and trials in 2023 will be held primarily in Courtroom 10-C of the Orange County Courthouse. Tuesday hearings will be held virtually using the WebEx link: <https://ninthcircuit.webex.com/meet/ctjudt2>. Other hearings may be held virtually or hybrid (some persons appearing virtually) as authorized by the Court. Please

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*. She acknowledges that in the face of the daily grind of this division, those expectation are, at times, sorely tested.

ensure that all notices have the correct location for the hearing being scheduled. Agreement to have virtual hearings other than Tuesday may be emailed to the division email. Opposed Motions for virtual or hybrid hearings, or Motions to for in person hearings on Tuesdays, should be made at the time the hearing time is selected and sent to 38Orange@ninthcircuit.org. The Motion should state the good cause basis, include all attorneys/pro se litigants and include the opposing party's position on the request.

Contact Information: The e-mail address to be used for all matters is 38Orange@Ninthcircuit.org DO NOT SEND ANYTHING TO THE JA EMAIL³ that is not specifically requested.

DOMESTIC/FAMILY COURT PROCEDURES

Hearing Procedure:

Domestic hearing time may be obtained by first checking on the website at <http://www.ninthcircuit.org> From the home page, click the icon labeled Judicial Automated Calendaring System (JACS) and look for available times which are listed under **Family Divisions 38**. Coordinate your hearing time with opposing counsel. Next, please contact the Judicial Assistant by e-mail at 38Orange@Ninthcircuit.org. Hearings must be confirmed by the Judicial Assistant to appear on the docket, including short matters hearings. In addition to filing the Notice of Hearing with the Clerk of Court, via copy of the Notice of Hearing and motion(s) must be furnished to the Judicial Assistant via email. Include all pertinent facts in your motion as all requests for hearing time will be reviewed by the Judge, and an order may be entered without hearing. Please note, there is simply not sufficient hearing time available for all requests for hearing time to be honored. If you receive an Order instead of authorization to set a hearing, you may file a timely and informative Motion for Reconsideration. Also, no hearing will be set without the "meet and confer" date being provided.⁴

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

- 1. Setting of Hearings: Pursuant to Administrative Order, parties are expected to attempt to work out issues prior to setting motions for hearing. A certification that counsel have recently meaningfully conferred and attempted to resolve the**

³ And while on this topic, please explain to all staff members that rudeness will not be tolerated. Assume the judge reads every email, in other words. If you are a pro se litigant, zero requests for relief may be requested through email, a motion must be filed. Also, all emails must include the opposing lawyer and if none, the opposing party.

⁴ And no, that meet and confer that took place umpteen months ago over the last dispute does not count. Nice try. More harping in the next footnote.

issue(s) will be required prior to any hearing being scheduled.⁵ Any violation of this Order may be met with sanctions, including attorney's fees and taxable costs. Hearing 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 to the Judicial Assistant at the time of the hearing request and must be included either in the motion or in the notice of hearing.⁶ After filing any motions or notices with the Clerk, a copy of any and all motions and notices of hearing must be immediately forwarded to the Judicial Assistant via email.

Hearings scheduled on Tuesdays will generally be via Webex. Virtual, or Hybrid (partially in person) hearings can include telephonic participation and are permitted by agreement, so long as the hearing is thirty (30) minutes or less in length and minimal testimony or evidence is involved. In this situation, no motion or order for virtual appearance is necessary, but the request must be made when asking for hearing time.⁷ When setting the hearing, please inform the JA of the request for virtual/hybrid appearance so it may be noted on the docket and the WebEx link and courtroom number included on the notice. If there is no agreement, a motion setting out good cause must be filed timely.

Motions should never be sent to the Court without the filing stamp.

2. **Emergency Hearings:** Parties are reminded that difficulties with timesharing or other problems that are not *objectively* extremely serious and imminent are NOT emergencies. Very rarely will the Court take ex parte action, as it does not afford due process to all parties. Non-emergency issues should not be the subject of an emergency motion. If a true 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.⁸ The Court will not take ex parte action on a motion that is not verified. The motion must be filed and emailed to the division email for consideration. The Court will review the motion and, if it is determined an emergency exists, the Court will generate an Order and/or direct

⁵ *In the immortal words of Archie Bell, you all need to Tighten Up. Far too much time judge time is wasted in Court watching lawyers have conversations that should have taken place somewhere else. Like a lawyer's office, for example, or a Starbucks, or literally ANYWHERE ELSE.*

⁶ If you are a pro se litigant and are uncooperative about scheduling hearings, you will find the Court devoid of sympathy when it is scheduled without your input. If you are a lawyer, you may find yourself in hearings over lunch.

⁷ So, hey. We are three years in now, and the virtual world has been a vital part of gettin' it done. The expectation at this point is that you have figured this stuff out. If you cannot get yourself and your client timely to a virtual hearing, a small but meaningful note will go in the file. And you won't be receiving a virtual hearing in that case again.

⁸ Generally, this is where things go awry. Emergency does not mean any dispute between parents no matter how dramatic. The request is by-its-nature a due process violation and that means should include allegations that include an airport or severe and immediate endangerment. If not, and this is typically the case, try an "expedited" motion instead.

counsel to either submit a detailed order, or set the hearing. Expedited hearing time may be requested with notice to the opposing counsel or party, and is often more appropriate than an emergency motion. The Court often has hearing time available in the near future and lawyers are expected to cooperate in setting hearings quickly when the circumstances call for expediency.

3. **Ex Parte/Short Matters:** Will be heard at 9:30am on most Tuesdays and Thursdays, virtually via Webex. This will include uncontested matters, (motions to withdraw, uncontested final hearings, name changes, or to have agreed upon Orders entered) and matters involving only legal argument of 5 minutes or less. These are not scheduled through JACS so counsel should coordinate a date with opposing counsel or pro se litigants and file a notice of hearing, and provide a copy to the Court.

Please check the JACS hearing calendar for our division to ascertain ex parte/short matters dates. Ex parte/short matters are held on the dates and times listed. Furnish your motion and notice of hearing to the Court 48 hours prior to the hearing so that the Court can prepare for the hearing.

NOTE: There are many matters that the Court will rule on without a hearing. Minor discovery matters are among those issues. Copies of all hearing notices coordinated for short matters should be provided the Court expeditiously so that an order may be entered if appropriate. Providing proposed Orders in Word is also advised.

Case Management Conference/ Pre-Trial Hearing Procedures/Trial:

1. **Case Management Conference:** The Court may set a Case Management Conference at any time and will do so frequently upon the filing of a Notice for Trial. All counsel and parties must be present for any Case Management Conference. The Court may also require pre-hearing memorandums, discovery limitations, or other means to streamline the proceedings. Include in any CMC notice that the hearing is being held pursuant to Florida Family Rule of Procedure 12.200, and be familiar with that rule and all that may be dealt with at the CMC. This includes possible disposition of ANY outstanding motions. A sample of the Court's Order Setting Case Management, tracking 12.200 can be found on the Ninth Circuit Website.

2. **Notice for Trial:** Prior to filing a Notice for Trial, the parties shall attend mediation within the last 120 days. 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. Additionally if the case is a dissolution of marriage with children or a paternity case, parenting class certificates must be filed with the Clerk's Office pursuant to state law and the circuit's administrative order. Pursuant to Administrative Order 2004-14 entered on June 29, 2004, 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.⁹

3. Pre-trial Conference: Counsel and pro se litigants must comply with all aspects of the Uniform Pre-trial Order “UPTO”. Non-compliance may result in cancellation of the Pre-trial Conference and/or other sanctions. The UPTO should be reviewed in detail and the dates for completion of various items calendared. The Court will presume that each attorney and each party is familiar with the requirements of that order. Compliance and time limits are not optional, nor extendable by stipulation. **THE COURT EXPECTS STRICT COMPLIANCE WITH THE ORDER ABSENT A TIMELY MOTION AND ORDER OF COURT MODIFYING THE CONDITIONS THEREIN.** See further guidance about UPTO requirements in the “Miscellaneous” section below.

If the case is fully prepared for trial at the Pretrial Conference, the Court will schedule the trial. The Court will select trial dates with the full involvement and agreement of all parties. Do not allow a trial to be scheduled if you cannot be ready by that date. Trials and hearings scheduled by agreement of the parties will very rarely be continued and only upon extraordinary circumstances. Agreement of the parties to continue the action will not suffice. **The attorney trying the case must appear at Pretrial conference.**¹⁰ If counsel or a pro se litigant is unable to attend the Pretrial conference, a motion for continuance must be submitted to the Court and an Order entered by the Court. Per the UPTO and this Court’s procedures, all exhibits to be used at trial shall be exchanged prior to Pretrial Conference and pre-marked **prior to** the trial date. Per the UPTO, if you allow the trial to be scheduled without making clear you have authentication objections related to business records, that objection will be deemed waived.

4. Trial: Copies of all exhibits in virtual hearings ONLY must be provided in tagged, hard copy to the Clerk’s office three business days prior to hearing or as provided in any specific pretrial Orders WITH ONLY IDENTIFICATION LETTERS. Tagged exhibits should be provided in Court available at start of in person hearing, AND a copy for the Court. **You must use the Clerk approved tags, if you do not have them, please schedule an appointment with the Court’s Trial Clerk prior to the trial date for the marking of all exhibits.** If there are any unusual or complex issues to be tried, attorneys may be asked to file a short memorandum citing case law and deliver a copy of the memorandum and the case law to the Court at least one week prior to trial

Miscellaneous:

Orders: . Generally, the Court will draft its own Orders after hearing. If you have a short

⁹ A word. Please do not file a Notice for Trial the day after mediation when there are three outstanding motions related to discovery and the last Financial Affidavit was filed two years ago. Just don’t.

¹⁰ The Court does not, yet, require parties to appear at Pretrial Hearings. But think of how much easier to explain the process and challenges as identified by the fact finder when they are there to hear it themselves.

matter, uncontested matter or default final trial, or are requested by the Judge, please provide a proposed Order in Word to the Court five days prior to the hearing to 38Orange@Ninthcircuit.org. The Court will also accept proposed findings of fact in Word format ahead of trial.

Submitting Proposed Orders: If requested by the Court to prepare an order, counsel doing so must send opposing counsel a proposed order **prior to** submitting it to the Court. Typically, the Court will issue their own orders. After a lengthy or complex hearing, the Court may request a party to draft the Order and submit it to opposing counsel. If counsel cannot agree on the proposed order they should complete a joint redline version and provide to the Court in Word. If further input is needed, the Court will request that counsel schedule the matter for ex parte/short matters. Additionally, all orders must contain the following information: title of the order includes the motion(s) that was/were heard; date of filing of pleading, date of the hearing; and a complete certificate of service including names and addresses/emails of counsel and pro se litigants. Orders will be accepted via email and will be distributed once entered via email.

Those Letters Emailed with Orders:

For the love of all that is holy, please don't attach letters to the judge with proposed Div 38 orders. We ain't got time for that. If it is agreed upon, put it in the email. If it is not agreed upon, put it in the email.¹¹

Discovery Disputes: Motions related to discovery should be very specific as to what is needed, particularly if it is a Paternity case with limited data points needed. Discovery Motions should be detailed and sent directly to the Court, as rarely will a hearing be provided. A detailed proposed Order should be sent with the Motion to 38orange@ninthcircuit.org. If a discovery motion is filed against you or your client, a response is recommended and may be ordered. Any discovery motion necessitating a hearing will likely result in fees being assessed.

Virtual Hearings: Being afforded virtual hearings is a privilege that can be lost. The Court expects that the lawyers involved practice logging on with their clients prior to the hearing so that there are no delays. Logging in "on time" will generally mean the hearing starts late, such is technology. Sending exhibits to the Court is not the same as providing marked copies to the Clerk's office for entry of exhibits into evidence. Both Court and Clerk need an Evidence Control Sheet.

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. The instructions for creating a "redline" joint document are contained in a video on the Judge's page of the Ninth Circuit website at <https://ninthcircuit.org/judges/circuit/diana-m-tennis>. IF the parties

¹¹ And. And. And. If the Order is not agreed to, make that really really clear. First sentence clear.

do not agree on another method, the Petitioner should produce a Word version of their proposed Parenting Plan and send to Respondent, who should “redline” that version. This should go back to the Petitioner, who may want to agree to some of those changes or additions. Then it should be sent by email to 38Orange@ninthcircuit.org IN WORD.¹²

Joint Pre-trial Memorandum and Stipulations: The Uniform Pretrial Order requires a Joint Pretrial Memorandum and sets out the areas that must be included. There is a form sample of a Joint Pretrial Memorandum on the Judge’s page of the Ninth Circuit website at <https://ninthcircuit.org/judges/circuit/diana-m-tennis> You are welcome to use this, PLEASE delete the portions that do not apply to your case before filing and submission to the Court. The Court does not have resources to litigate know-able facts. The Uniform Pretrial Order requires stipulations in the Joint Pretrial Memorandum as to know-able facts and numbers. Trial will not be provided without same. This includes agreement as to W-2 incomes, credit for temporary awards, health insurance breakdowns, all facts that are not in controversy. These stipulations should be set out specifically as stipulations in the Joint Pretrial Memorandum. If there is no agreement as to stipulations, “proposed stipulations” may be set out in the Joint Pretrial Memorandum. These should be brought to the Court’s attention at trial, and fees may be assessed if the Court finds the stipulations were not reasonably agreed to and unnecessary litigation ensued.¹³

Equitable Distribution Spreadsheet: The Uniform Pretrial Order requires the Parties to produce a Joint Equitable Distribution Spreadsheet. The Parties are not required to use the sample EDS in Excel on the Judge’s page of the Ninth Circuit website at <https://ninthcircuit.org/judges/circuit/diana-m-tennis> But, if they choose to use something else, it should have both parties’ proposed valuation and valuation date, and both parties’ proposed distribution. The joint EDS should be sent to 38Orange@ninthcircuit.org in Excel format and prior to the Pretrial Conference.

Cancellation Policy: If the hearing being cancelled is more than 30 minutes in length, the Court must approve that cancellation.¹⁴ Otherwise, the Court will expect the Parties to show up, discuss the issues, and if nothing else – have a case management. Please immediately notify the Judicial Assistant via e-mail of all cancellations, and whether this is due to settlement, 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. Any cancellation filed less than 3 business days prior to a hearing will not be seen by the Court and a courtesy copy must be provided. Long story short, the Court does not have sufficient hearing time for parties to use hearings as a tool for “putting feet to fire.”

¹² A PDF version is not helpful. See that?

¹³ Number #1 reason you get FJs later than you would like? UPTO not being followed.

¹⁴ Cancelling any hearing with less than 14 days notice means the Court CANNOT, in most circumstances, fill that time. So the Court may well decide everyone showing up and doing some case management is better than losing the time altogether.

Motions to Continue: Pursuant to Florida Rules of Civil Procedure, all motions to continue must have the client's signature and specific reason(s) for the continuance. Motions to continue may be set and noticed for ex parte/short matters or at a regularly scheduled hearing. **Motions to Continue filed after the case has been set for trial will not normally be granted.**

Motions to Withdraw and Substitution of Counsel: Pursuant to Florida Rules of Civil Procedure, all motions to withdraw or for Substitution of Counsel must have the client's signature and specific reason(s) for the withdraw/substitution.¹⁵ 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. Motions to Withdraw filed after the case has been set for trial, may not be granted, and all such Orders need to include notice to the now pro se litigant of the date and time of the previously scheduled hearing or trial. Motions to Withdraw, even with consent, may require a hearing if filed prior to an already scheduled hearing or trial.

Referral to General Magistrate: Motions and Trials may be referred to the General Magistrate. 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 via email to the division email. Also, the Court may *sua sponte* refer a matter to the General Magistrate.

Support or Income Deduction Orders: When submitting an order or Final Judgment directing a party to make payments to the State Disbursement Unit, please submit an Income Deduction Order (with attached Income Withholding Order if there is child support) to be entered simultaneously by the Court. Sufficient copies and self-addressed, stamped envelopes for the parties must be provided. **It is the responsibility of the receiving party to ensure the Obligor's employer receives a copy of the Withholding Order pursuant to Statute.** Sample forms for IDO and IWO attachment may be found on the Court's page of the Ninth Circuit's Website at <https://ninthcircuit.org/judges/circuit/diana-m-tennis>.

Motions for Rehearing/Reconsideration: Upon filing said motion, please send a copy to the Court for review. The Court will either rule without a hearing or will advise the moving attorney to schedule a hearing. While an email may suffice in the correction of scrivener's errors, please remember that emails pointing out errors do NOT toll the time for rehearing under the Rules of Procedure. Lawyers should confer about problems with orders *prior* to emailing the Court.

Audio/Visual Equipment in the Courtroom: The procedure for help and assistance is to call our IT Department/Help Desk Line at (407) 836-0522 and they will schedule a test/training time for you. All courtrooms have AV equipment that may be different than that last used in family Courtrooms in Orange county. The Court will make the courtroom

¹⁵ Again, a request for hearing or order should include IN THE EMAIL the small, but critical, piece of information that there is a consent filed somewhere.

available before the equipment is to be used. It is the moving party's responsibility to ensure any digital media works.

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