

Guidelines and Procedures

Judge Eric J. Netcher
Ninth Judicial Circuit – Orange County
Circuit Civil Division 40

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To assist counsel, litigants, and the Court, the following Guidelines and Procedures are adopted for Circuit Civil Division 40 in Orange County, Florida when practicing before Judge Eric J. Netcher.

1. SCHEDULING HEARINGS

All non-evidentiary hearings will be conducted remotely via Cisco WebEx. The link to be used for any remote proceedings in this division is the following:

<https://ninthcircuit.webex.com/meet/40orange>

Phone Number (audio only): 1-904-900-2303 or 408-418-9388
Access (for both numbers): 2339 961 4383

Evidentiary hearings will be conducted in person in Hearing Room 17A. If a party seeks to have a non-evidentiary hearing in person or an evidentiary hearing remote, they must request it from the JA at the time of scheduling the hearing.

- a. **Mandatory Meet and Confer:** Before scheduling a hearing, the mandatory meet and confer process in [Administrative Order 2012-03-01](#) must be followed. Counsel with full authority to resolve the matter must confer *before* scheduling the hearing on the motion to attempt to resolve or otherwise narrow the issues. A certificate of compliance must be included in the notice of hearing filed with the Court. Review Exhibit A to the Administrative Order.

The failure to comply with the “meet and confer” requirement will result in the Court cancelling the scheduled hearing or the JA not providing hearing time to the parties.

b. Short Matter Hearings

- i. Short matters hearings are for uncontested matters or contested matters that do not require more than ten minutes of the Court’s time.
- ii. These hearings are held Monday through Thursday from 8:30 a.m. until 9:30 a.m. If no matters remain pending at 9:00 a.m., *short matters* will close.
- iii. Examples of motions suitable for short matters are simple motions to dismiss, to strike affirmative defenses, for more definite statement, to amend pleadings, short discovery motions, and motions for summary judgment after default or of foreclosure. This is a non-exhaustive list.
- iv. **Scheduling:** These hearings are not scheduled with the JA. But they must be coordinated with the opposing side on a date that Judge Netcher is available.
- v. **Notice of Hearing:** Unless an emergency, the party noticing the hearing must file the notice at least five days before the scheduled hearing. The notice of hearing must include the Court’s WebEx link listed above.
- vi. **Courtesy Copies:** A courtesy copy of the motion, notice of hearing, and proposed order must be provided to the Court via email at 40orange@ninthcircuit.org at least two business days before the hearing. Unless the materials are provided to the JA, the Court will not be aware that the hearing is scheduled. The Court does not receive a copy of every filing made.

c. Contested Hearings Requiring More Than Ten Minutes

- i. Available hearing time is displayed in fifteen minute increments on [JACS \(Judicial Automated Calendaring System\)](#). On the JACS page, select DIVISION 40 on the drop-down menu at the bottom of the screen.

- ii. Dates the Court is *unavailable* for short matters are displayed on JACS.
- iii. Any hearing requests for longer than one hour must be approved by Judge Netcher either by appearing during short matters or by correspondence to the Judge detailing the reasons for the excessive time. The correspondence may be provided to 40orange@ninthcircuit.org.
- iv. Good faith cooperation is expected from counsel, their support staff, and pro se litigants. If after three attempts on separate days to coordinate a hearing, counsel does not cooperate or respond, the requesting party may unilaterally set a hearing, giving at least two weeks' notice to the opposing side who failed to cooperate or respond. Efforts to coordinate the hearing must be noted on the notice of hearing. *See* Admin. Order 2012-03-01 at ¶ 6.
- v. For a hearing to be added to the docket, the party scheduling the hearing must email the JA at 40orange@ninthcircuit.org, copying opposing parties, and provide the following information:

1. Date and time of the “meet and confer”
2. Date and time being requested for the hearing
3. Case number
4. Style of the case
5. Names of the lawyers (or pro se parties if applicable)
6. Title of the motion(s) to be heard
7. Amount of time requested for the hearing
8. Whether the matter is an evidentiary hearing

- vi. Hearing time is not confirmed until you receive a reply from the JA confirming the hearing time.

d. Miscellaneous Issues Regarding Hearings

- i. **Cross-noticed motions:** Parties are not permitted to cross-notice motions without prior approval from the opposing party and the JA. If permitted, the party cross-noticing must email the JA to confirm that the motion can be heard in the same time frame or that sufficient additional time is available for all matters to be heard.

- ii. **Cancelling a Hearing:** Only the party setting a hearing may cancel the hearing. To cancel a hearing, the cancelling party must: 1) email the JA to notify the Court of the cancelled hearing (simply filing a notice of cancellation is not sufficient as the Clerk does not notify the Court); and 2) file a notice of cancellation and email a copy of the notice to the JA.

If a hearing is cancelled less than four hours before the scheduled hearing and the cancelling party has been unable to confirm that the Judge has been informed, the party must appear to inform the Judge.

- iii. **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. The motion must e-mailed to the Court before a hearing will be set. The Court will review the motion and, if it is determined a sufficient basis for an expedited hearing exists, the JA will contact counsel to set the hearing.
- iv. **Motions to Withdraw as Counsel:** Withdrawal motions must be set during short matters with notice to all parties if the client's consent has not been obtained. If the client has provided written consent (attached to the motion), the lawyer may submit a copy of the motion along with a proposed order via email to chambers. The body of the proposed order and the certificate of service must include the name, address, telephone number, and email address of the client. If the client is a corporation or other legal entity, the proposed order must allow no more than 30 days to obtain substitute counsel.
- v. **Case Management Conferences:** The Court may schedule certain cases for a Case Management Conference ("CMC") and issue an order setting forth the matters to be covered at the conference. Cases involving medical malpractice, complex commercial litigation, multiple party litigation, voluminous records or exhibits, as well as other types of cases may be set by the Court, without request. Parties may set CMCs during the Court's short matter hearings. See procedures regarding short matters.

e. Evidentiary Hearings

- i. Notices of hearing for evidentiary matters must state that the

hearing is evidentiary.

- ii. No later than 7 days before the hearing, counsel or pro se parties must exchange any and all exhibits and a list of witnesses. Exhibits must be bates-stamped.
- iii. Counsel or pro se parties must have a substantive, good faith telephone conference to address stipulations and objections to the admissibility of any exhibits. If there are objections to the admissibility of any exhibits, the party raising the objection must identify the exhibit by bates-stamped numbers and identify the grounds for any objection.
- iv. The objections must be filed and any objections not noted are waived.
- v. After the substantive, good faith telephone conference and no later than three days before the hearing, the parties must: 1) pre-mark the bates-stamped exhibits that they intend to use; 2) provide a set of the exhibits to the other party and the witnesses; and 3) mail two hard copies of the exhibits and the filed objections (one for the Judge and one for the Clerk) to the Court for use at the hearing.

2. HEARING MATERIALS

- a. Motions, supporting memoranda, and case law must be received by email to 4Orange@ninthcircuit.org at least three business days before the hearing. Do NOT send hard copies of materials to chambers. If counsel wishes to submit a proposed order before a hearing, the order must be included with the email containing the hearing materials.
- b. Hearing materials sent to the Court must:
 - i. Be sent in pdf or Word format (not in a zip file or shared folder)
 - ii. Be indexed. Please ensure the index contains a hyperlink to the document/exhibit/case indexed. For technical assistance, please visit:
<https://helpx.adobe.com/acrobat/using/creating-pdf-indexes.html>
 - iii. Cases should be highlighted.

3. ORDERS AND RULINGS

- a. **Rulings.** The Court will issue orders and rulings in a timely manner. Every effort will be made to rule the day of the hearing or within a reasonable time thereafter.
- b. **Proposed Orders.** If counsel is asked to prepare an order, the order must be:
 - i. Drafted and circulated within two working days;
 - ii. Submitted to the Court within seven days of the hearing, with a copy to opposing counsel.
 - iii. All orders must describe (in the caption) the subject and ruling of the Court, i.e. “Order Granting Plaintiff’s Motion for Partial Summary Judgment.” *See* Fla. R. Civ. P. 1.100(c)(2).
 - iv. Counsel must advise the Court of any objection to, or agreement on, the form of the proposed order when the order is submitted.
 - v. If the parties are unable to agree to the form of the order, both sides must email their proposed order in Word to the Court for consideration within seven days of the hearing.
- c. **Submitting Orders to Chambers.** Proposed agreed orders must be emailed to 40orange@ninthcircuit.org in Word format along with an e-filed cover letter indicating whether opposing party agrees to the content and form of the order. Cover letters may state that there is agreement to the form of the order and an order may be designated as “Agreed” only if there is express agreement to the order. The “Agreed” designation must not be used when the opposing side simply has not timely responded to a proposed order. If there is not agreement to the form of the order, the cover letter must state the position of the opposing side, the lack of any response whatsoever, or the other circumstances surrounding the order. Inaccurately identifying an order as agreed, unopposed, or without objection may result in the imposition of sanctions.
- d. **Certificate of Service.** All proposed orders must contain a certificate of service that complies with the Florida Rule of Civil Procedure 1.080 and Florida Rule of General Practice and Judicial Administration 2.516. Additionally, all proposed orders must contain the following language: “Counsel for Plaintiff(s) must serve a copy of this Order via U.S. Mail to all parties not receiving service of court filings through the Florida Courts e-Filing Portal and must file a Certificate of Service within three

days from the date of this Order.” Counsel for Plaintiff(s) is responsible for promptly serving the order on all parties that are not registered for e-service through the Florida Courts e-Filing Portal.

4. MOTIONS

a. Motions for Rehearing, Reconsideration, or New Trial

- i. Upon filing a motion for rehearing, reconsideration, or for new trial, you must send a copy directly to chambers via email for the Court’s review.
- ii. The Court will either: 1) rule without a hearing; 2) direct that a written response be filed by the opposing side; or 3) direct the moving party to schedule a hearing.

b. Discovery Motions

- i. Discovery motions (motions to compel, motions for protective order, etc.) must be set for hearing to bring the matter to the Court’s attention. The mere filing of a motion is insufficient to obtain the requested relief.
- ii. All discovery motions must comply with the Florida Rules of Civil Procedure, including the requirement of certifying a good faith attempt to resolve the matter without court action.
- iii. If no timely response or objections to discovery requests have been served or filed and the lack of any response continues for seven days after the filing of a motion to compel, the moving party may send the motion to compel with a proposed order compelling a response within fourteen days and granting no other relief to 40orange@ninthcircuit.org. The Court may enter the order without the need for a hearing or may direct a hearing. If additional relief (such as fees, costs, sanctions, or waiver of objections) is requested, a hearing on the motion must be scheduled.

c. Motions in Limine: See the Standing Procedures for Motions in Limine available on Judge Netcher’s page.