

**Orange County Probate Division 09**  
**Judge Alicia L Latimore**

Judicial Assistant: Rosa Ferrer

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Courtroom 2

**Email communication is the most effective way to communicate with the Judicial Assistant. Emails can be accessed remotely by the Judicial Assistant, and emails greatly reduce misunderstandings and miscommunications that sometimes occur on phone conversations. Additionally, emails reduce improper ex parte communications with the court.**

**\*\*\* As guardianship/mental health cases are mixed on the docket and are confidential, you will not see an On-line Docket for this division. \*\*\***

In order to assist Counsel, the Litigants and the Court, the following guidelines<sup>1</sup>, procedures, practices and expectations are adopted for Probate Division 09 in Orange County, Florida when practicing before Judge Higbee.<sup>2</sup>

**ROUTINE PLEADINGS IN PROBATE CASES:**

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<sup>1</sup> 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 and Amended September 2014. (See <http://www.ninthcircuit.org> for Attorneys/Information/Rules & Policies/Courtroom Decorum Policy) as well as the local administrative rules.

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

Routine petitions and proposed orders must be sent to the Court, via email, for the Court to review and sign in chambers. These include, but are not limited to, the following:

- Petition to Appoint Personal Representative and Letters of Administration
- Order to Admit Will (original and ancillary) including the admission of authenticated copies of foreign wills
- Orders to Appoint Commissioners and Issue Commissions
- Preliminary Order to Inventory Safety Deposit Box
- Petition to Determine Homestead (uncontested)
- Petition to Determine Exempt Property (uncontested)
- Disposition of Personal Property without Administration
- Petitions to Sell Real Estate
- Petition for Opening Subsequent Administration
- Establishment and Probate of Lost or Destroyed Will (uncontested)
- Order of Summary Administration
- Order of Discharge
- Any agreed or uncontested Petitions or Motions that are non-evidentiary and any other Petition or Motion that does not require giving notice to interested parties pursuant to the requirements of due process.

Attorneys must submit the Petition or Motion, together with an appropriate cover letter (see below) and a proposed Order in Word format (see below) and any required checklist (see below), to [9Orange@ninthcircuit.org](mailto:9Orange@ninthcircuit.org).

Please note that the Clerk of Court is charged with auditing Homestead, Summary Administration, and Discharge orders before the Court reviews them.

Additionally, the Clerk of the Court performs this function for all routine pro se filings. This may cause a delay and should be taken into account when submitting orders. Once audited, the Court will read and consider your matter and enter the proposed order or will issue further instructions on how to proceed if there is an issue.

**SUBMITTING ORDERS TO CHAMBERS:**

- Proposed agreed and unopposed orders should be emailed to [9Orange@ninthcircuit.org](mailto:9Orange@ninthcircuit.org). Orders must be in Word.doc format only (not rtf, pdf or any other version).
- Please ensure the correct case number and decedent's name are on the order, as well as in the subject line of the email.
- Along with the proposed order, an e-filed cover letter must be attached to the email. Please include any appropriate information in the cover letter that will assist that court in understanding why the order is ready for entry.
- Be sure that documents necessary to review the submission, including motion, can be viewed on the Clerk's system before submitting.
- A copy of the required e-filed checklist, which includes the e-filing information across the top, must be attached to your email, along with your e-filed cover letter and proposed orders in Word. Please be sure you are using the most current version of the checklist, which may be found on the Court's Probate page at <https://ninthcircuit.org/divisions/probate-court>
- All parties must be copied on all email submissions. If there are parties not receiving service through the Florida Courts e-filing Portal, the proposed order must state that counsel will serve a copy of the order via U.S. mail to the non-efiling parties and file a certificate of service in the court file no later than three days from the date of entry the order.
- Please allow at least 14 days before following up on submissions.

**EMERGENCY CONSIDERATION:**

If you have a matter that you believe needs emergency consideration by the Judge, please email the [9Orange](mailto:9Orange@ninthcircuit.org) email address above, to alert the Court that

there is a Petition or Motion for emergency consideration. A telephone call may not be received if the Judicial Assistant is unavailable by phone.

**EX-PARTE/SHORT MATTERS HEARINGS:**

Ex-Parte/Short Matters are held each Tuesday, Wednesday and Thursday 9:30 – 10:30 am. During Ex-Parte/Short Matters time, the Court will hear:

- Ex-parte hearings, defined as uncontested matters not listed as routine pleadings above
- Short matters defined as contested hearings requiring no evidence and that can be concluded in 10 minutes or less

Ex Parte and Short Matters hearings must be confirmed by the Judicial Assistant. A courtesy copy of the motion, notice of hearing with the video link, and proposed order must be provided to the Judicial Assistant, via email, at least seven (7) business days before the hearing. Failure to do so may result in the hearing not being held. Courtesy copies of the Notice of Hearing, Petition/Motion being addressed in .pdf or Word, and the proposed order in Word.doc format, must be provided by email to [2Orange@ninthcircuit.org](mailto:2Orange@ninthcircuit.org) . The subject line of the email must include the case number, style, and date/time of the hearing. Courtesy copies should not be sent any sooner than seven (7) days prior to the hearing.

Any hearings scheduled and not confirmed by the judicial assistant will not be heard and will need to be rescheduled by counsel.

The Party noticing the hearing must provide notice of the hearing to all parties, including self-represented litigants.

**SETTING OF CONTESTED HEARINGS, OTHER THAN SHORT MATTERS:**

1. To request hearing time, email the judicial assistant (copying opposing counsel/self-represented litigants), at [2orange@ninthcircuit.org](mailto:2orange@ninthcircuit.org) with the following information:

1-Date and time being requested for the hearing

- 2-Case number and style of the case
- 3-Names of the attorneys (or self-represented if applicable)
- 4-Title of the petition(s)/motion(s) to be heard
- 5-Amount of time requested for the hearing
- 6-Evidentiary or Non-Evidentiary
- 7-Virtual or In Person

The judicial assistant will provide a list of potential dates/times for hearing. It is requesting party's responsibility to coordinate hearing time with opposing counsel/self-represented litigants. **Do not include the judicial assistant on coordination emails.**

2. Once a date/time has been selected and coordinated, email [9Orange@ninthcircuit.org](mailto:9Orange@ninthcircuit.org) copying opposing counsel with the date/time selected. A confirmation email will be sent. **Hearings are not set on the docket unless a confirmation email has been sent.** Hearings are only coordinated via email.
3. Any hearing requests for longer than one (1) hour must be approved by Judge Latimore, by email to the [9Orange](mailto:9Orange@ninthcircuit.org) email, detailing the reasons for the excessive time. After the Court reviews your request, you will receive a response. After requesting dates/times from the judicial assistant, coordinate the date and time with opposing counsel/self-represented party, as required by the Ninth Circuit's Administration Meet-and-Confer Order. Hearing times must be cleared with opposing counsel and/or self-represented parties. Be aware other attorneys are also coordinating hearing time, so you should coordinate up to three (3) alternate times, in case the time you request is booked.

If any of the above information is not included in your email, the Judicial Assistant will email you back to inquire, which may result in delays and your hearing time being taken by another case, so please be sure to include all information in order to assist in getting your requested hearing time.

If set in person, the courtroom or hearing room location must be included in the Notice of Hearing. If set virtually, the video hearing information **must** be included in the Notice of Hearing. Hearing time is assigned on a first-come, first-served basis. Page 4 of 9 Please include the filing date of each motion to be heard on your Notice of Hearing. **Your notice of hearing must be filed within three (3) business days of the Judicial Assistant confirming your hearing time. The failure to file a timely notice of hearing may result in your hearing being removed from the docket.**

#### **VIRTUAL APPEARANCE INSTRUCTIONS:**

Five minutes before the hearing, all participants should connect to the video conference. At the time the case is called, the Judge will connect to the video conference.

**Judge Latimore's video link: This link used for all virtual hearings:**

<https://ninthcircuit.webex.com/meet/9orange>

**Permitted Virtual Hearings:** Telephone hearings are not permitted. The parties must appear virtually, through the Webex link, turn on their cameras, and use a full name so that the Court can fully identify the participant. All participants should be connected five minutes before the hearing so that the Court can timely admit them from the lobby. Late joiners run the risk that they will miss portions of the hearing.

1. Short Matters/Ex Parte: Matters that are uncontested for 10 minutes or less
2. Uncontested Hearings longer in length
3. Contested Non-Evidentiary Hearings where there is only argument
4. Contested Hearings where all parties agree the matter can be virtual and no physical evidence will be submitted but virtual testimony may be presented

**Behavior in Virtual Hearings:**

1. All participants must be able to properly log in, manage the virtual process and be in a quiet physical space consistent with the formality of a court hearing.
2. Participants must sign in using their full name so that the Court knows what hearing they belong to and can properly admit them.
3. Individuals with a first name, nickname, phone number, or other unidentified presence will not be admitted and will be removed from the lobby.
4. Participants must also have a good connection and be familiar with the technology.

#### **CHECKLISTS:**

A checklist must be filed with the following:

- Opening a Formal Administration
- Closing a Formal Administration
- Filing a Summary Administration
- Filing a Petition for Determining Homestead Status of Real Property in Formal and Summary Administration cases

The forms for the checklists are established in Administrative Order 2021-09-04, effective on August 1, 2021, and can be found here:

<https://ninthcircuit.org/divisions/probate-court>. All checklists were revised on July 25, 2022. Please only use the most recent version. The applicable checklist must be fully completed, or it will not be considered.

#### **ORDERS AND RULINGS:**

1. If counsel is asked to prepare an order, without opposing counsel or parties, the order must be submitted to the court within three (3) working days of the hearing. If counsel, are asked to prepare an order, where there are opposing counsel or other parties, the order should be drafted and circulated within three (3) working days and must be submitted to the court within seven (7) days of the hearing, with a copy to opposing counsel or to the other parties. Failure to object within seven (7) days is deemed approval of the order.

2. All Orders must describe, in the caption, the subject and ruling of the Court, (i.e. "Order Granting Motion to Strike Claim of Creditor Truist Bank.")
3. If there are any objections to the order counsel may submit either competing orders or a red-lined copy clearly noted the objection and basis.
4. All proposed orders must be accompanied by an e-filed cover letter (the cover letter must have the filing stamp across the top), and must indicate that opposing counsel, if applicable, has reviewed and approved the form of the order, or that there is no opposing counsel, when submitting to the court for review. The cover letter must be e-filed.
5. The Court does not hold orders waiting for approval or objection. Please do not send proposed orders to the Court until you have approval as to the form by opposing counsel, if applicable

**ORDERS ON MOTIONS TO WITHDRAW:**

On motions to withdraw as counsel, please make sure that your order is in compliance with the Rules of Administration and that the **last known address, phone number and email address are in the order**. The Court highly recommends that if there is an upcoming hearing on any matter that the motion and order include that information so there is no confusion on the part of the litigants. If formal administration, the proposed order must clearly state, in bold, that the PR has 30 days to obtain new counsel, or the case will be dismissed. If the client is a corporation or other legal entity, allow no more than 30 days to obtain substitute counsel.

**REQUESTS FOR AMENDED ORDERS:**

If an error is made on an order, and an amended order is needed to correct a scrivener's error, please send a cover letter, with a copy to the court file, specifically indicating what needs to be corrected so there is documentation in the court file why the amended order is being signed. Please do not use the same cover letter as when the order was originally submitted.

## **HEARINGS AND NON-JURY TRIALS:**

All evidentiary hearings must be noticed as such and are in person hearings unless all parties agree that a virtual hearing is appropriate, and no physical evidence is being admitted. Any request for a remote appearance at an evidentiary hearing must be approved by the Court prior to the hearing.

All trials will take place in person. If you wish to set a case for trial, email the Judicial Assistant and request a trial case management hearing. This hearing may take place either virtually (if agreed), or in person. At this time the Court will assess the posture of the trial, conduct a case management hearing, and set the case for a pretrial hearing. At the pretrial hearing the Court will set a trial schedule and address any remaining matters that must be addressed prior to trial.

## **PROCEDURES FOR HEARINGS:**

**Notice of Hearing:** You must include, in the Notice of Hearing:

1. The exact title of each matter,
2. The date the motion was received by the Clerk of the Court
3. The name of the party that filed the motion. (For example, Personal Representative's Motion to Strike filed on March 1, 2023); and
4. Whether or not the hearing is evidentiary or not.
5. Failure to indicate the hearing is evidentiary means the hearing is not evidentiary subject to consent by the other party.
6. If the party filing a notice of hearing indicates the hearing is non-evidentiary, the other party can file, within 24 hours of receipt of the original notice, a notice of intent to produce evidence to make the matter evidentiary on both sides.

**Materials to be provided to the Court prior to hearing:**

1. Unless exhibits are joint and/or stipulated for the Court to review prior to the hearing, the Court will not review exhibits until they are admitted into evidence.

2. If you have memoranda and/or case law for the Court to consider, courtesy copies must be provided to all opposing parties or interested parties at the same time they are provided to the Court.
3. Submission to the Court should be through the 9Orange email and received by the Court at least five but no more than ten business days prior to the hearing.
4. Do not send a zip folder or share folder as the Court cannot properly review/open same. If the materials are too big to email contact the Judicial Assistant to arrange a physical delivery.

#### **MISCELLANEOUS INFORMATION:**

##### **CROSS-NOTICING:**

You may cross-notice a matter, with the opposing parties' consent, with the understanding that the Court will address what was originally noticed first and will address what has been cross-noticed, only if time permits. If there is not sufficient time for the cross-noticed matter to be heard, counsel must go through the normal scheduling procedure to schedule it with the Judicial Assistant.

##### **CANCELLATIONS:**

Only the party setting the hearing may cancel the hearing. The party cancelling the hearing must file a Notice of Cancellation and email a copy of the notice of cancellation to [9orange@ninthcircuit.org](mailto:9orange@ninthcircuit.org) (filing the Notice of Cancellation with the Clerk is not sufficient as the Clerk does not notify the Court). If the hearing is cancelled less than four (4) hours beforehand, and counsel cancelling the hearing has not been able to confirm the Judge has been informed, counsel must appear or have someone appear on counsel's behalf to so inform the Judge.

##### **MOTIONS FOR REHEARING, RECONSIDERATION OR NEW TRIAL:**

Upon filing the Motion, you must send a copy directly to chambers, via email, for review. The Clerk does not provide the motion to the Court. The Court will either: (i) rule without a hearing; (ii) direct that a written response be filed by opposing

counsel; (iii) direct the Judicial Assistant to contact the moving counsel to schedule a hearing.

**FOR ANY INFORMATION NOT COVERED ABOVE:**

If any matters concerning the conduct of the procedures of Orange Probate Division 09 are not covered herein, counsel is free to contact the Court by email at [9Orange@ninthcircuit.org](mailto:9Orange@ninthcircuit.org). In addition, a status hearing can be set during short matters at which time the Court will attempt to answer any questions.

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