

ADMINISTRATIVE ORDER
NO. 2014-25

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

**ADMINISTRATIVE ORDER IMPLEMENTING UNIFORM POLICIES AND
PROCEDURES OF THE DOMESTIC DIVISION OF THE CIRCUIT COURT
ORANGE COUNTY, FLORIDA**

WHEREAS, pursuant to Article V, section 2(d) of the Florida Constitution and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice; and

WHEREAS, pursuant to the chief judge's constitutional and statutory responsibility for administrative supervision of the courts within the circuit and to create and maintain an organization capable of effecting the efficient, prompt, and proper administration of justice for the citizens of this State, the chief judge is required to exercise direction, *see* Fla. R. Jud. Admin. 2.215(b)(2), (b)(3); and

WHEREAS, the implementation of uniform policies and procedures is necessary to provide for efficient and effective processing of all actions in the Domestic Division of the Circuit Court in Orange County; and

WHEREAS, the uniform policies and procedures are intended to provide better access to court information for litigants, counsel, and the public; increase the efficiency and understanding of court personnel, counsel, and witnesses; decrease costs for litigants and others involved in the court system; and facilitate the efficient and effective presentation of evidence in the courtroom; and

WHEREAS, the uniform process and procedures shall be construed and enforced to avoid technical delay, encourage civility, permit just and prompt determination of all proceedings, and promote the efficient administration of justice;

NOW, THEREFORE, I, Frederick J. Lauten, in order to facilitate the efficient operation of the administration of justice, and pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215, hereby order that, **effective immediately**, and to continue until further order, the uniform process and procedures attached hereto shall be adhered to by all litigants, counsel, and other applicable persons/entities involved in actions in the Domestic Division of the Circuit Court in Orange County, Florida.

DONE AND ORDERED at Orlando, Florida, this 9th day of October, 2014.

_____/s/_____
Frederick J. Lauten
Chief Judge

Copies provided to:

Clerk of Court, Orange County
Clerk of Court, Osceola County
General E-Mail Distribution List
<http://www.ninthcircuit.org>

**UNIFORM POLICIES AND PROCEDURES OF THE
DOMESTIC DIVISION OF THE CIRCUIT COURT
ORANGE COUNTY, FLORIDA**

SECTION 1. EFFECTIVE DATE; SCOPE; PURPOSE.

(A) As a matter of policy, the Domestic Division Judges shall enforce the policies and procedures contained herein, as adopted on the 1st day of November, 2014.

(B) These policies and procedures are effective upon adoption and apply to all cases filed in the Domestic Division.

(C) The purpose of these policies and procedures is to supplement the Florida Rules of Civil Procedure, the Family Laws of Procedure, and the Rules of Judicial Administration, as well as the applicable statutory and case law. In some instances, they track existing administrative orders and statutes. They are intended to furnish all system users with a guide to the administrative policies and procedures of the Domestic Division of the Circuit Court of Orange County, Florida.

SECTION 2. ADMINISTRATIVE JUDGE; ALTERNATE JUDGES; DUTY JUDGE.

(A) **Administrative Judge.** One of the presiding Judges of the division is appointed Administrative Judge by the Chief Judge to serve at his or her pleasure. The Administrative Judge shall be responsible for generally overseeing the operation and functioning of the Domestic Division.

(B) **Alternate Judge.** Each Judge of the Domestic Division has an assigned alternate Judge. This list may be obtained on the Court's website under Administrator's Orders, at <http://www.ninthcircuit.org/research/admin-orders>. In the event the assigned Judge is absent or otherwise unable to take action in the case, time-sensitive and emergency matters will be handled during business hours by his or her alternate, or, if the alternate is not available, by a Judge designated by the Administrative Judge or the Chief Judge. The alternate Judge may, but is not required, hear routine matters not of a true time-sensitive or emergency nature.

SECTION 3. APPEARANCE, SUBSTITUTION AND WITHDRAWAL OF ATTORNEYS.

(A) Appearance of attorneys from other states (pro hac vice), appearance of additional counsel, substitution and withdrawal of attorneys are governed by the Florida Rules of Judicial Administration 2.505 and 2.510 and strict adherence to those procedures is required.

(B) Every Order of Withdrawal as counsel of record must contain an address for service of papers upon, and telephone number for, the client.

SECTION 4. UNREPRESENTED (PRO SE) PARTIES.

(A) Every party to a legal proceeding has the right to appear and prosecute a claim or maintain a defense without being represented by an attorney. There are three exceptions where a party must be represented by an attorney:

(1) Corporations and limited liability companies must be represented by an attorney and may not represent themselves through non-lawyer employees, officers, directors or shareholders, even where such non-lawyer person is the sole shareholder. The only exception is that a corporate landlord may bring an action through its non-lawyer managing agent to evict a tenant for nonpayment of rent.

(2) A guardian of a minor or incompetent must be represented by an attorney unless the guardian is an attorney.

(3) A personal representative of a decedent's estate must be represented by an attorney, unless the personal representative is an attorney or unless the personal representative is the sole person to receive assets from the estate.

(B) The court strongly urges that every party retain an attorney to represent them. However, if a party entitled to represent himself or herself chooses not to retain an attorney, he or she is hereby advised:

(1) Neither the Judge nor his or her Judicial Assistant nor employees of the Clerk's office will give an unrepresented party legal advice.

(2) The unrepresented party will be governed by the same rules of law, procedure, and evidence that attorneys are required to follow.

(3) There is a court resource center available to unrepresented parties at no cost located in Room 365, of the Orange County Courthouse.

(4) No party may communicate privately with the Judge either by letter, telephone, e-mail, in person or otherwise. Copies of legal papers or other written materials should not be sent to the Judge unless specifically requested by the Judge or required by these administrative procedures. Any unrequested or non-required papers or materials sent to a Judge may not be read but may be returned to the sender or placed unread into the court file.

(5) An unrepresented party must file his or her papers with the Clerk and send copies to other attorneys or unrepresented parties. All such papers must be on Florida Supreme Court Approved Forms; available on the Florida Courts' website at www.flcourts.org and at the

following specific link <http://www.flcourts.org/resources-and-services/family-courts/family-law-self-help-information/family-law-forms.stml>, with the name of the case and case number at the top and the party's mailing address, telephone number, fax number, if any, and e-mail address, if any, below his or her signature at the end of the paper. Such unrepresented party must immediately notify the Clerk and all other counsel or parties of record in writing or any change in mailing address or telephone or FAX number. Failure to promptly notify of a change of address could result in a dismissal or default entered against such party.

SECTION 5. INDIGENT PARTIES

(A) Original Proceedings in Circuit Court. A party claiming financial inability who desires to have certain Clerk's and Sheriff's fees and cost waived will complete and file an affidavit on a form provided by the Clerk. If the affidavit is sufficient, the Clerk will issue and file written certificate and provide copies of the certificate to the insolvent party. If the Clerk deems the affidavit insufficient, the party may file a motion to have the assigned Judge determine whether the affidavit is sufficient for a waiver of costs and fees. Only a party to a legal action which is presently pending and undisposed of is entitled to a certificate waiving costs and fees. If a party is represented by an attorney the attorney shall make a written certificate as required by Florida Statute 57.018(1).

(B) Appeal from Circuit Court to District Court of Appeal. A party claiming financial inability who desires to have Clerk's fees and costs waived in connection with an appeal from the Domestic Division to an appellate court must file a motion accompanied by affidavit and serve copies on the opposing parties. If no written objection is filed by an opposing party within five (5) days of the filing and service of the motion and affidavit, the movant must then promptly present a proposed order to the presiding Judge either at ex parte or by mail. If a written objection is to be filed, the objecting party must obtain hearing time within not less than four (4) nor more than seven (7) working days and file and serve notice of hearing simultaneously with the objection.

SECTION 6. ASSISTANCE FOR DISABLED PERSONS.

If you are a person with a disability who needs any accommodation in order to participate in a proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator, Human Resources, Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, Florida, (407) 836-2303, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

SECTION 7. HEARINGS.

(A) Regularly Scheduled Hearings.

(1) Moving counsel must present a proposed order with space for ruling left blank

at the conclusion of the hearing and must serve conformed copies on all other counsel and unrepresented parties.

(B) Ex Parte Matters. Ex parte and short matters are heard by all Domestic Subdivisions. Time and availability can be located at <http://www.ninthcircuit.org/> under Judicial Automated Calendaring System. Contested matters requiring evidence generally will not be heard during this time unless the Judge's approval has been obtained in advance through his or her Judicial Assistant. Counsel should check out the court file from the Clerk's office and return it after the matter has been heard unless the Judge wishes to retain the file. An order should be brought to the hearing for the Judge to sign.

(C) Short Matters.

(1) Contact the Judge's office to ascertain whether short matters are heard by the specific division.

(2) There is no testimony permitted at short matters. Contested matters are permitted only if the issue can be heard in five (5) minutes or less.

(D) Other Motion Hearings. All other motions should be specially set through the Judge's Judicial Assistant for a date and time certain. Requests for hearing time in excess of one (1) hour will require special permission of the Judge obtained through the Judicial Assistant or by personal appearance of counsel at ex parte time.

(E) Hearings on Motions for Rehearing, Reconsideration or New Trial. Motions for rehearing, reconsideration or new trial will not be set for hearing unless the Judge so directs. Counsel filing such a motion should simultaneously send a chambers copy directly to the Judge with a cover letter requesting a hearing if one is desired. The Judge will then either rule upon the motion without a hearing and serve copies of his or her order on all parties or have his or her Judicial Assistant contact moving counsel and to obtain hearing time to be noticed by moving counsel.

SECTION 8. MOTION PRACTICE GENERALLY.

(A) Form of Motions. Every written motion shall cite the particular rule or statute and/or leading case upon which the motion is based.

(B) Copies of Memorandums, Etc. Legal memorandums in support of or opposition to motions are optional. If filed, counsel must furnish the Judge and opposing counsel with copies of the memorandum and highlighted copies of primary legal authorities cited therein. As an alternative to a memorandum, a list of primary legal authorities with highlighted copies attached may be submitted. Chambers copies and authority lists must be under cover letter referencing the case style and number and stating the date and time of the hearing. Counsel who serves a memorandum or authority list first should also include a copy of the motion, any papers

to which it is addressed, and the response, if any. In order for the Judge to properly review a submission in advance, it must be received in the Judge's office at least three (3) working days before the hearing.

(C) Obtaining Hearing Times. Counsel shall comply with Administrative Order No. 2014-19, Paragraph 6.

(D) Notices of Hearing.

(1) Every notice must specify the motions to be heard. A notice calling up "all pending motions" is insufficient.

(2) Additional motions should not be "piggy-backed" by cross-notice unless counsel first confirms with opposing counsel and the Judge's Judicial Assistant that there can be sufficient additional time reserved in which to hear them.

(E) Canceling Hearings. Only the attorney who noticed a hearing may cancel it.

If a hearing becomes unnecessary after it has been noticed, the Judge's Judicial Assistant and all other counsel must be notified immediately and effectively that the hearing is canceled.

SECTION 9. ORDERS AND JUDGMENTS.

(A) Who Is To Prepare.

(1) Proposed orders and judgments will be prepared by the prevailing attorney unless the Judge designates some other attorney or states that he or she will prepare the order or judgment.

(2) When submitting proposed orders or judgments, counsel shall also include sufficient copies and self-addressed stamped envelopes for all parties and their counsel.

(B) Requirements for Orders.

(1) All orders will be on 8 1/2 x 11 plain white paper (not lined paper or letterhead paper) and be double spaced.

(2) The order must contain a title indicating what matter the order pertains to, e.g., "Order On Wife's Motion To Dismiss."

(3) The preamble of the order should include the date of the hearing and what motions were heard.

(4) The adjudication portion of the order should state what relief is ordered. Simply stating that “the motion is granted” without more is insufficient.

(5) The order should indicate the specific time period of any act ordered to be done and should state whether the time period runs from the date of the hearing or the date the order is signed or some other specified date.

(6) The order should contain a full certificate of service with the complete names and addresses of the attorneys and unrepresented parties to be served. Merely showing “copies to” is insufficient.

(7) When submitting stipulations, orders shall be by separate order, not attached to the stipulation.

C. Requirements for Judgments

(1) Every judgment will indicate whether it is a “Final Judgment” (i.e., the judgment disposes of the entire case) or “Partial Final Judgment,” and if the latter, it should specify in a separate paragraph what other counts or claims against other parties remain pending.

(2) All judgments must contain a certificate of service showing the names and addresses of all attorneys and unrepresented parties to be served.

(3) Copies of default judgments must be mailed by the Judge’s Judicial Assistant to the parties against whom the judgment is entered if the address is known.

SECTION 10. GENERAL DISCOVERY GUIDELINES.

(A) General Principles. Counsel should be guided by courtesy, candor and commonsense and conform to the Family and Florida Rules of Civil Procedure and any applicable orders. In particular, counsel should have in mind the broad scope of discovery allowed by the Rules of Procedure. **Direct and informal communication between counsel is encouraged to facilitate discovery and resolve disputes.**

(B) Timeliness. The time limit specified in the rules and applicable orders must be observed. If additional time is needed, an extension must be sought before the time limit expires by stipulation, or failing that, by motion and order.

(C) Filing of Motions. Interrogatories and answers thereto, copies of documents produced in response to a request, and depositions are not to be filed with the Clerk unless they are needed for a hearing or trial.

SECTION 11. DEPOSITION GUIDELINES.

(A) **Scheduling.** If the time for taking a deposition cannot be coordinated with other counsel in advance, at least thirty (30) days' notice should be given. Note that it is often less expensive to bring the witness to the deposition (and for the parties to share the expense) than for the lawyers to travel. Likewise, a telephone deposition of a secondary witness will save expense.

(B) **Questioning.** Questions should be brief, clear and simple. Each question should deal with only a single point. Argumentative or unnecessary embarrassing questions are out of order. The purpose of a deposition is not to harass or intimidate, but simply to make a clear and unambiguous record of what the witness' testimony would be at trial or to locate other witnesses or admissible evidence.

(C) **Documents and Exhibits.** Normally, a witness should be shown a document or exhibit and given a reasonable opportunity to examine it before being questioned about it.

(D) **Objections.** Objections to the conduct of counsel or other persons present should be noted on the record. Objection to the form of a question should state the specific grounds, i.e., leading, compound, etc., but the question should be answered unless the examiner rephrases the question. In the absence of a good faith claim of privilege, violation of a protective order, or other appropriate ground, instruction not to answer are rarely justified and may lead to sanctions. Speaking objections and frequent recesses or other tactics to coach a deponent are improper and may also be cause for sanctions. If counsel believes that a motion to terminate or limit the examination would be warranted, the deposition should be recessed and counsel should promptly initiate a telephone conference call to the presiding Judge to attempt to resolve the problem or obtain a ruling, or, if the assigned Judge is unavailable, promptly file a motion and set a hearing.

SECTION 12. ALTERNATE DISPUTE RESOLUTION, MEDIATION.

Mediation will be ordered in all cases. Counsel may only dispense with mediation by court order.

SECTION 13. SETTING CASES FOR TRIAL.

Counsel shall send a copy of the Notice for Trial to the Judicial Assistant, along with self-addressed stamped envelopes for all unrepresented parties and counsel and a completed Form 50. The notice must indicate an estimate the total number of days or hours needed for the trial.

SECTION 14. SETTLEMENTS.

Counsel will **immediately** notify the Judge's Judicial Assistant by telephone and/or e-mail of the settlement of any case scheduled for trial or hearing so it can be removed from the docket.