



STATE OF FLORIDA
NINTH JUDICIAL CIRCUIT OF FLORIDA

COUNTIES OF ORANGE AND OSCEOLA
OSCEOLA COUNTY COURTHOUSE
2 COURTHOUSE SQUARE, SUITE 6460
KISSIMMEE, FLORIDA 34741
(407) 742-2556
WWW.NINTHCIRCUIT.ORG

ELAINE A. BARBOUR
CIRCUIT JUDGE

PHYLLIS STEED
JUDICIAL ASSISTANT
CTJAPS1@OCNJCC.ORG

PROCEDURES FOR JUDGE ELAINE A. BARBOUR
FELONY DIVISION 201
A/K/A DIVISION 11-A IN OSCEOLA COUNTY
COURTROOM: 5A

The best way to reach the Judicial Assistant is by e-mail. For all attorney requests for hearing time, cancellation of hearing(s) and/or to obtain general information please email the Judicial Assistant (JA) at CTJAPS1@OCNJCC.ORG. For any communications to the JA, please include the defendant's name and all case numbers applicable.

CERTIFICATE OF SERVICE ON ORDERS:

Please include a proper Certificate of Service on all Orders. State either e-mail or interoffice mail for the State, Public Defender, and any other Court addressees. Unless an e-mail address other than the State and Public Defender's Division is stated on the Certificate, copies for the State and Public Defender will be placed in interoffice mail. Include e-mail or U.S. Mail for all other addressees. If sending by U.S. Mail, stamped self-addressed envelopes are required. Orders requiring U.S. Mail will not be sent unless stamped envelopes are provided.

ARRAIGNMENTS:

Are heard in the mornings. Do not send Notices of Appearance to the JA unless requested to do so. You must file your Notice of Appearance (NOA) with the Clerk via the portal. Osceola County is paperless. It takes 3 business days from the date of filing for your filed paperwork to appear in the electronic Court file. If you are not sure if the NOA has sufficient time to have appeared, you may call the Clerk of Court to determine this. It is the **sole** responsibility of the attorney to insure the NOA is timely and properly filed prior to arraignment. If the defendant or the attorney fails to appear and the NOA is not appearing as filed, the Court may be unaware of retention of counsel and a *capias* may issue. The attorney must file a Motion to Recall the *Capias* and deliver to chambers a courtesy copy of same, along with a proposed

order with valid e-mail addresses or stamped envelopes. If you are filing a Motion to Vacate and Set Aside Forfeiture and Reinstate Bond you must include a letter from the bondsman indicating he/she is willing to remain on the bond.

PRE-TRIAL CONFERENCES:

Private attorney pre-trial conferences are held on Tuesdays commencing at 8:30 a.m. A sign-up sheet and docket will be in the courtroom. Prior to beginning the docket, those who have signed up and are prepared will be taken first. Public Defender pre-trial conferences are held on Wednesdays commencing at 8:30 a.m. The trial period is 3 weeks. The Court's calendar is structured so that there is one pre-trial conference and one trial period per 30-day cycle. Any pleas not taken at pre-trial conference must be taken prior to or on the last day of the 2nd week of the trial period. Any attorney wishing to set a plea date certain and be released from pre-trial conference may do so by e-mailing the JA not later than 12:00 noon the day before pre-trial and scheduling the plea date. The attorney trying the case should be present at pre-trial conference. If coverage is needed, then it is the responsibility of the attorney trying the case to sufficiently brief the covering attorney so as to properly advise the court of the status, issues, length of trial and number of witnesses.

PRE-TRIAL RELEASE:

New Cases: Every attempt is made to hear motions within 3 business days. Please communicate with opposing counsel to ascertain their position prior to filing. Contact the JA to schedule hearing and provide by e-mail a copy of the motion. All bond motions will be set for no more than 15 minutes unless you advise the JA otherwise. Due to the need for victim/witness notification, major crimes, domestic violence and sex offenses will not be set the next day unless agreed to by the prosecutor assigned.

VOP, PTR revocations and other revocations: E-mail the JA a copy of the motion and proposed order. The Judge will review the motion in chambers and the JA will contact you if a hearing is required. *Note:* VOP outstanding warrant cases are not subject to hearing for pre-trial release. The warrant must first be executed.

33 day Motions: E-mail the JA a copy of the motion and proposed order. All 33 day Motions (3.134) filed before 12:00 noon will be placed on the following day's docket **unless** the State forwards to the JA a courtesy copy of the Information filed. The State is expected to notify the JA by e-mail before 2:00 p.m. on the day of notice of any unopposed motions so that the Order may be signed in chambers.

PLEAS:

Generally, pleas can be taken at time of pre-trial conference or on the Friday of the 2nd week of the trial period at 9:00 a.m. If you need to schedule a plea at any other time, please e-mail the JA. All defendants with a violation of probation warrant wishing to plea, must first turn themselves in on the warrant and be processed prior to scheduling a plea.

NOTICES OF EXPIRATION AND DEMANDS FOR SPEEDY:

Please do not assume these are provided by the Clerk to the Judge. It is the responsibility of the attorney filing the Notice or Demand to provide the JA a copy of same by e-mail. A hearing will be set upon same being provided to the JA.

MOTIONS TO CONTINUE:

Only unopposed motions to continue wherein no previous continuance has been had will be accepted in chambers. Please recite this in your motion. If it is not, no action will be taken. The motion must affirmatively waive speedy trial. Otherwise, all motions will be heard at time of pre-trial conference or at separate scheduled hearing. Please mail or deliver to chambers a copy of the motion and proposed order along with copies and envelopes or valid e-mail addresses for service.

MOTIONS FOR REHEARING, RECONSIDERATION OR NEW TRIAL:

Upon filing, please deliver a courtesy copy to the Judge for review. The Court will either rule without hearing, direct a written response or the JA will schedule hearing.

EARLY TERMINATION OF PROBATION:

Prior to setting the motion for hearing or ruling in chambers, the Court requires written documentation from the supervising probation officer indicating what conditions, if any, are outstanding. The Court requires that at least one-half (1/2) of the probationary term be completed and all monetary obligations satisfied before considering early termination. If that documentation is not provided, no action will be taken on your motion.

FILING MOTIONS AND REQUESTS FOR HEARING:

Motions: All original motions must be e-filed with the Clerk of the Court. Please place within the motion the position of the opposing party. If the motion is opposed, it requires hearing time. All unopposed Motions must so state and may be sent to the JA with proposed Orders for signing in chambers. Please do not include the JA when you e-file motions not requiring immediate hearing time as this usually results in duplicate copies being received. Please attach any evaluations to any Motions for competency. All motions and proposed orders must contain a proper certificate of service with valid e-mail addresses or mailing addresses if e-mail addresses are not available. After e-filing the motion with the Clerk, provide a copy of any motions to chambers which do not require a hearing along with appropriate number of proposed orders with valid e-mail addresses or pre-addressed, stamped envelopes for mailing if e-mail addresses are not available. If the opposed motion is for competency, please instead bring the proposed order to the hearing.

Hearings: When requesting hearing time, please e-mail the JA the defendant's name and all case numbers applicable. All pre-trial motions must be heard prior to pre-trial conference. Every effort will be made to set initial competency motions within 20 days. Once a date is given

by the JA, coordinate same with opposing party and again contact the JA for confirmation once the date has been agreed upon by both parties. Once the hearing is set, the original Notice of Hearing must be e-filed with the Clerk's office and a courtesy copy sent to the JA.

If the hearing on the motion will take 15 minutes or longer or involves a specialized interpreter which may make the proceeding take longer, available hearing time to set these motions can be obtained by accessing the division's Judicial Automated Calendaring System (JACS) page located on the circuit's website of www.ninthcircuit.org. Once on the JACS page, from the drop down menu that starts with Business Court, scroll down until you see Osceola Criminal Division 11. Clicking the retrieve button will pull all available dates/times for hearing. Follow the directions on the JACS header for scheduling. Attorneys are responsible for coordinating motion hearings with each other. Once the hearing date/time has been coordinated, e-mail the JA copying opposing counsel with the request and including a copy/copies of the motion(s). Please be prepared to advise the JA of the number of witnesses to be called at the hearing and anticipated time required. Advise also if a court interpreter is required. If the defendant is incarcerated outside of Osceola County, a Transport Order must be done. See Transportation of Inmates below.

Canceling hearings: If you need to cancel a hearing, please notify the JA as soon as possible. After notifying the JA, please file a Notice of Cancellation of the hearing.

Case law/Memorandums: Each party should be fully apprised of the other's legal position prior to the onset of any hearing. Therefore, Memorandums of Law must be filed not less than 3 business days with the Clerk of the court with a copy to opposing counsel. At time of filing, please provide a courtesy copy of same to the JA by e-mail. Any case law intended to be argued but not cited in any motion or memorandum, should be provided by case law citation via e-mail to opposing counsel with copy to the JA within 24 hours prior to the scheduled hearing. Counsel is expected to present applicable case law which both supports as well as opposes his/her legal position.

EMERGENCY MOTIONS:

Emergency motions may be e-mailed to the JA and attorneys must email a courtesy copy to all opposing counsel. Provide a detailed explanation as to the nature of the emergency. The motion will be reviewed by the Judge to determine whether it is an actual emergency and once the decision has been made, the JA will contact the moving party with the Judge's instruction.

REQUESTS FOR INTERPRETER:

If the Court will require an interpreter to speak to and understand your client, **please inform the JA of this at the time you schedule your hearing or at least two (2) business days prior to the scheduled time for Spanish interpreters and at least ten (10) business days for Creole, Portuguese and American Sign Language, and no less than thirty (30) days for all other languages (Languages of Lesser Diffusion)** Osceola County has three Spanish interpreters on staff but special arrangements need to be made for any other type of interpreter.

TRANSPORTATION OF INMATES:

If an inmate is incarcerated in the Osceola County Jail, they are automatically transported to the Courthouse for every felony hearing. If you do not need to have a defendant transported for the hearing (or you cancel a hearing the day before the scheduled hearing,) please advise the JA by email **no later than 2:00 pm the day before the hearing.**

All inmates that are incarcerated out of county **must** have a transportation order so that they can be brought for their court hearing. The Court **will not** prepare transport orders. It is the responsibility of the Assistant State Attorney assigned to prepare the Transport Order; however, it is the responsibility of the moving attorney to so advise the prosecutor assigned so they know to prepare same. A detailed Transport Order must be delivered to the Judge's office, stating the defendant's name, alias, inmate number, date of birth and correctional facility where he/she is currently incarcerated. You must specify a date when the defendant must be lodged in the Osceola County Jail and the date that the hearing is scheduled for in the order. Transportation needs 5 business days to transport from Orange and Polk Counties and **MUST** have 10-14 days to transport the Defendant from other Counties.

TELEPHONIC APPEARANCE:

All requests for telephonic or video appearance for a witness must have approval from the Judge. Witnesses are only given permission to appear telephonically or via video when they reside out of state; if an emergency situation necessitates it (as determined by the Court); or are incarcerated and counsel of record has made arrangement for their telephonic appearance with the correctional facility. Attorneys and all defendants are expected to physically appear for all hearings.

COURTROOM ETIQUETTE AND DECORUM:

Counsel shall admonish their clients as well as witnesses, family or friends coming into the courtroom that gestures, facial expressions or any manifestations of approval or disapproval of anything occurring in the courtroom is strictly prohibited. The Court Deputies are in the courtroom to keep order and assist the Court. The Court Deputies are to be treated with respect and civility. Their instructions are to be followed unless directed otherwise by the Court. All cell phones should be turned off or on silent mode. Any recording, video taping or photography during court proceedings is strictly prohibited and counsel shall instruct their client, witnesses, family and friends entering the courtroom in this regard. Counsel shall stand when addressing the Court or the jury. Counsel should seek permission to approach the Court, the Clerk, a witness or the jury. Counsel may address the Court from the podium or counsel table. Counsel shall address all arguments to the Court and not opposing counsel. Short legal grounds must be specified at time of an objection. If an objection is made, allow the Court to rule upon it before you proceed. Speaking objections are not allowed. You may ask to approach the bench to discuss any argument for your objection. Please see the *Ninth Judicial Circuit Courtroom Decorum Policy* available at <http://www.ninthcircuit.org>.

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