



**STATE OF FLORIDA
NINTH JUDICIAL CIRCUIT OF FLORIDA**

COUNTIES OF ORANGE AND OSCEOLA
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STEFANIA C. JANCEWICZ
County Judge

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**Courtroom Guidelines, Procedures and Expectations
For Osceola County Civil Division 60-G, Courtroom 4E
Judge Stefania C. Jancewicz**

IN ORDER TO ASSIST COUNSEL, THE LITIGANTS AND THE COURT, THE FOLLOWING GUIDELINES¹, PROCEDURES, PRACTICES AND EXPECTATIONS ARE HEREBY ADOPTED FOR THE COUNTY CIVIL DIVISION NUMBER 60-G, IN OSCEOLA COUNTY, FLORIDA WHEN PRACTICING BEFORE JUDGE STEFANIA C. JANCEWICZ.²

HEARINGS

Hearing time may be obtained by first checking on the website at <http://www.ninthcircuit.org>. Please go to the Attorney Page and access the Judicial Automated Calendaring System (JACS) and look for available times for Osceola County Division 60-G. Next, (after coordinating hearing time(s) with opposing counsel) please contact the Judicial Assistant by EMAIL at CTJALKI@OCNJCC.ORG. In addition to filing the Notice of Hearing with the Clerk of Court, a copy of the Notice of Hearing and Motion(s) to be heard must be furnished to the Judicial Assistant via U. S. Mail or hand delivery no later than two weeks prior to the hearing.

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.](#))

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

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

- 1- Setting of hearings: Hearings 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 setting a hearing, the difficulty should be specifically set forth either in the motion or in the notice of hearing. 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 either by U.S. Mail or hand delivery. Counsel should take into consideration the added time necessary to access the courthouse through security especially in the morning hours.

Additional motions shall not be “piggy-backed” by cross-notice unless counsel first confirms with opposing counsel, **and the Judge’s Judicial Assistant**, that sufficient additional time can be reserved in which to hear them. **Please note that only the party setting a hearing may cancel the hearing.**

Telephone hearings will be considered on a case by case basis, but will not be permitted for evidentiary hearings longer the 15 minutes or unless otherwise prohibited herein. **A motion and order to appear by phone is necessary.** There will be no conference calling; it will be first motion and order signed.

- 2- Cooperation of counsel: If counsel does not cooperate, the requesting party may unilaterally set a hearing giving at least two weeks notice to the opposing counsel who failed to cooperate or respond. (As detailed fully in paragraph 1 above).
- 3- 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 as well as the substance of the motion. The motion must be faxed or e-mailed to the Court before a hearing will be set. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact counsel to set the hearing. In light of the short setting, the Court will consider allowing opposing counsel to attend the hearing via telephone if their schedule will not allow them to appear in person.
- 4- Discovery Motions and Motions to Compel: The mere filing of a Motion is insufficient. The motion must be set for hearing to bring the matter to the Court’s attention. Motions to Compel, as well as all discovery motions, must comply with the Florida Rules of Civil Procedure including, but not limited to, a certification of a good faith attempt to resolve that matter without court action. *See Fla.R.Civ.P* 1.380(a)(2). If no response or objection has been filed to initial Supreme Court approved discovery requests, the moving party may submit a proposed order with the Motion. No hearing will be necessary.
- 5- Motions for Protective Orders: The filing of a Motion for Protective Order, without presenting it before the Court, is insufficient. The Court will make itself available for hearings on said motions as soon as possible where the motion could not have been filed and heard in the due course of discovery.
- 6- Motions in Limine (MIL) - MIL may not be scheduled for a hearing unless they contain a certification of a good faith attempt as to each item to resolve the matter without court action. Notices of hearing on MIL must specifically identify the specific issues which remain in controversy after counsel has conferred. **MIL will not be heard at trial. MILs must be filed prior to the trial, but may be heard between the pretrial and trial, time permitting unless another order directs otherwise.**

- 7- Legal Memorandum and Citations: Any legal memorandums or briefs, along with hard copies of the significant cited authorities, **must be provided to the Court at least 3 business days before the hearing**. The Court will attempt to review the motion and the memorandums, and read the cases cited therein, prior to the hearing so that an immediate ruling may be rendered. Highlighting pertinent sections of case law is appreciated. Brevity is **also** appreciated. Case law and Memorandums provided to the Court during the hearing may not be considered. **The Court, on occasion, may rule on motions without a hearing.**
- 8- Limitation on Hearings: All hearings related to discovery or trial matters must be filed and heard prior to the trial date. Motions in Limine must be filed prior to trial, but may be set to be heard after the pre-trial conference, however no later than **3** days prior to the first day of the trial docket. **NO HEARINGS DIRECTED TOWARDS MATTERS INVOLVING THE TRIAL WILL BE HEARD DURING THE ACTUAL TRIAL PERIOD absent unanticipated events occurring.**
- 9- Orders and Rulings of the Court: The Court will strive to issue orders and rulings in a timely manner. If it is necessary to take an issue under advisement, the Court will attempt to set a date by which the Court will issue its ruling. If counsel are asked to prepare an order, the order **should be** drafted and circulated within 2 working days and must be submitted **to the Court** within 7 days of the hearing, with a copy to opposing counsel. Opposing counsel must advise the Court of any objection to, or agreement on, the form of the proposed order within 3 days thereafter. The Court would appreciate a copy of any proposed order via e-mail in addition to hard copy so necessary changes can be made by the Court. If the parties bring proposed orders to the hearing, please make certain that (1) a copy is provided to opposing counsel; (2) the party has stamped, addressed envelopes; (3) a copy is provided to the Court via e-mail in either Word or Word Perfect; and, (4) the caption contains more than the word "Order." All Orders must describe, in the caption, the subject and ruling of the court, *i.e.* "Order Granting Plaintiff Motion for Partial Summary Judgment on Liability." *See* Fla.R.Civ.P. 1.100(c)(1) If parties are unable to agree on the form of the order, both sides shall present their proposed Order to the Court for consideration.
- 10- Hearings on Motions for Rehearing, Reconsideration or New Trial. **Upon filing said Motion, please send a copy directly to the Judge for review. The Court will either rule without a hearing, direct a written response be filed by opposing counsel or the JA will contact the moving counsel to schedule a hearing.**

SETTING OF TRIALS

The Judicial Assistant can advise counsel, upon inquiry, as to future trial dockets. Counsel should request in their Notice for Trial, after consultation with opposing counsel, a trial period that will allow sufficient time to complete discovery and facilitate out of court resolution. If no trial period is requested in the Notice, the Court may issue an *Order Setting Status Hearing to Determine Date of Trial and/or Need for Case Management Conference*, setting a status hearing and providing upcoming available trial dockets. The parties may agree to a trial docket and notify the Court in writing and the hearing may be cancelled. If no agreement can be reached among the attorneys, attendance at the hearing by the lawyer trying the case is mandatory.

In those rare cases wherein the Court issues an order setting a matter for trial pursuant to a Notice for Trial without agreement of the parties, and opposing party believes that the trial date will not allow sufficient time to complete discovery, counsel should immediately motion the Court for a status hearing and/or case management conference. Delays in advising the Court that there is not sufficient time to complete discovery, or that a conflict exists, may be considered a waiver of any objection to the setting of the trial date.

PRIOR TO TRIAL

A *Pre-Trial Order* will be issued when the dates are set for pre-trial and trial. The Uniform Order 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. **THE COURT EXPECTS STRICT COMPLIANCE WITH THE ORDER ABSENT A TIMELY MOTION AND ORDER OF COURT MODIFYING THE CONDITIONS THEREIN.** Joint stipulations to extend times set forth therein are not permitted.

Mediation: Mediation **MUST BE COMPLETED** substantially prior to trial. The Plaintiff is charged with timely submitting the mediation order. The parties must make certain that the mediator files a final report with the Court.

Witnesses, Exhibits and Experts: The pre-trial order requires disclosure of witnesses, exhibits and experts with specificity in a timely manner. Exhibits must be presented for review, initialed by opposing party, and annotation of objections lest said objections be deemed waived. Experts must be disclosed and must be made available for discovery by the retaining party without the necessity of a subpoena for the retained expert. Opinions rendered at trial will be limited to those disclosed to opposing counsel in either a written report prior to the depositions or in response to deposition or written discovery questions prior to the close of Discovery.

Joint Meeting of Counsel: Plaintiff is charged with arranging a meeting of all counsel at least 30 days prior to trial. Attendance is mandatory by the attorneys who will actually be trying the case.

Motions to Continue: Trials are set with the agreement of all parties. If counsel believes the trial date is not workable, an immediate request for continuance should be made. All Motions to Continue must be (1) in writing; (2) be signed by the attorney and the parties requesting same; (3) identify the position of opposing counsel on the motion; (4) set forth when the parties will be ready for trial, if granted; and, (5) comply with Fla.R.Civ.P. 1.460. Stipulated Motions to Continue will not result in the trial being continued unless and until the Court reviews the motion and enters an order on same. The Court may require a hearing on the Motion.

PRE-TRIALS

(When needed, as set by the Court)

Pre-trials will be utilized to discuss witness problems, jury instructions issues, audiovisual equipment needs, need for interpreters, time allotment for voir dire, opening and closing, responsibility for obtaining the court reporter and other trial related issues³. Pre-trial is NOT the time to handle Motions to Continue or discovery issues as these matters must have been raised and heard well before the pre-trial conference. **PARTIES SHOULD ESSENTIALLY BE READY TO TRY THEIR CASES AS OF THE PRETRIAL CONFERENCE.**

SETTLEMENT OR RESOLUTION

The Court must be notified immediately of any settlement or resolution of any matter on the trial docket. However, the trial will not be removed from the actual docket, is subject to trial call, and the attorneys must appear, until such time as the Court receives written notice that the matter has been fully resolved.

³While the Court will attempt to provide a specific date for trial, all cases are presumed to be ready on the first day of the trial docket and are subject to advancement on the docket to an earlier date (within that trial period).

TRIALS

Trials will take place in Courtroom 4E unless otherwise indicated. Attorneys should check with the Judicial Assistant the day before the trial to confirm the actual courtroom that will be used. Counsel and their clients are to be in the courtroom and ready for trial no later than 15 minutes prior to scheduled time. Depending on other emergency matters, the Court will start as soon thereafter as possible.

Courtroom Etiquette and Decorum: Counsel shall stand when addressing the Court or the jury. Counsel should seek permission of the Court to approach the bench, the clerk, the witness or the jury. All parties and attorneys shall avoid contact with the venire and jury and counsel shall so instruct their clients and witnesses. Counsel shall address all arguments to the Court and not opposing counsel. Counsel shall admonish their clients that gestures, facial expressions or any manifestations of approval or disapproval of anything occurring in the courtroom is absolutely prohibited. Please see *Ninth Judicial Circuit Courtroom Decorum Policy* available at <http://www.ninthcircuit.org>.

Cell Phones, PDA, Communication Devices: Cell phones must be turned off when possessed in the courtroom. If necessary to make or take phone calls, please step out of the Courtroom. Witnesses while testifying will not be permitted to possess any type of communication device while on the witness stand.

Court Reporter - The same Court Reporter must report the entire trial to enable jury readbacks. In the Joint Pre-Trial Statement, the parties will advise the Court who will retain the Court Reporter.

Voir Dire: The Court will conduct a preliminary voir dire of the jury. Counsel are welcome to request that the Court explore certain areas of inquiry that may be important to the trial but sensitive in nature. Counsel are reminded to be considerate of the jurors' personal lives during their inquiries as well as the jurors' time constraints. While the Court will afford counsel significant latitude in questioning, the Court will limit repetitive questions. Counsel shall not attempt to either explore the facts of their case nor explain the law that may apply in the case, **nor attempt to curry favor with the venire.**

Jury Selection Process: After voir dire, the Court will first ask each side for any cause strikes. Upon completion of challenges for cause, the Court will move to pre-emptory challenges. The Court will start with the first juror and move sequentially as they are seated in the venire, alternating between counsel until a panel is chosen. Back striking during jury selection is always permitted. The number of alternates will be determined by the type and length of the trial. Each party will have one additional strike as to each alternate.

Opening and Closing: Only demonstrative aids or exhibits marked by the clerk, agreed to by all counsel or approved by the Court may be used in either opening or closing. Counsel may move away from the podium, but shall remain mindful of the jury's space. Counsel should stay at least three feet back from the jury rail at all times. The Court will discuss with counsel the time requirements for both opening and closing at the pretrial conference and will expect that a reasonable estimate be provided by counsel. Counsel are expected to adhere to these time constraints.

Exhibits: All exhibits are to be marked for identification by the clerk **prior to the day of trial.** Exhibits which will be stipulated into evidence may be marked into evidence as exhibits. Once exhibits are marked in evidence or are offered but not admitted, they become the property of the Clerk of Court and may not be altered or removed from the courtroom without order of the Court. No exhibits are to be published or exhibited to the jury until admitted into evidence and/or authorized by the Court. **Audiovisual and/or equipment questions should be addressed with** <http://www.ninthcircuit.org/programs-services/audio-visual>.

Demonstrative Aids: Any demonstrative aid that is to be used at trial must be marked by the clerk and exhibited to opposing counsel and the Court prior to the week of trial. The Court will hear argument of any counsel opposing the use of the demonstrative aids prior to the trial week. No aids are to be shown to the jury without prior approval of the Court.

Experts: The Court will not accept or qualify a witness as an expert in front of the jury. Challenges to an expert's qualifications and his ability to testify must be addressed prior to the start of the trial period and therefore outside the presence of the jury. Experts are to be cautioned by the attorney who calls the expert of "in limine" rulings, and the effect of the invocation of the Rule of Sequestration.

Use of Depositions: If depositions are to be used at trial in any manner (impeachment, as video testimony, etc.) make certain a hard copy is available both for the Court and for the witness being questioned.⁴

Objections: The Court will not allow speaking objections in front of the jury. When counsel rises to object, the legal basis for the objection only should be stated. If elaboration is necessary the Court will call counsel to the Bench for a Bench Conference out of the presence of the jury. Counsel shall not interrupt opposing counsel or witness's questions or answers with an objection unless the answer or question is patently objectionable. Once the Court has ruled, no further argument shall be permitted.

Jurors: The Court generally will allow jurors to take notes and to ask questions where necessary. Section 40.50, Florida Statutes. If any counsel objects to these procedures such objection should be addressed to the Court prior to the day of trial.

Jury Instructions: Jury instructions are to be prepared by both sides and exchanged at the beginning of the trial. A hard copy must be provided to the Court as well as a copy via e-mail no less than seven (7) days prior to the beginning of the trial. The Court intends to provide the jury with a written copy of all jury instructions when the jury retires to deliberate. In addition, the final instructions should not contain any citations, jury instruction titles or information as to who requested the instruction. In certain cases, the Court may provide some substantive law instructions to the jury during preliminary instructions and/or before closing arguments. Should any counsel wish to consider this option, this matter should be addressed with the Court prior to the day of the start of trial.

INFORMATION NOT COVERED

If any matters concerning the conduct of the pre-trial or trial procedures of Osceola Civil Division 60-G are not covered herein, counsel is free to contact the Court. A status hearing can be set at which time the Court will attempt to answer any inquiries. The Court appreciates counsels' efforts to understand and comply with this Court's procedures.

⁴In Osceola County some documents electronically filed with the Court are imaged and may not be readily available in hard copy to the Court.