



STATE OF FLORIDA
NINTH JUDICIAL CIRCUIT OF FLORIDA

STEFANIA C. JANCEWICZ
County Judge

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JUDGE STEFANIA C. JANCEWICZ
Courtroom Guidelines, Procedures and Expectations
For Osceola County Criminal Division 71-H, Courtroom 4B
(updated 6/01/2025)

IN ORDER TO ASSIST COUNSEL, THE LITIGANTS AND THE COURT, THE FOLLOWING GUIDELINES¹, PROCEDURES, PRACTICES AND EXPECTATIONS ARE HEREBY ADOPTED FOR THE COUNTY CRIMINAL DIVISION NUMBER 71-H, IN OSCEOLA COUNTY, FLORIDA WHEN PRACTICING BEFORE JUDGE STEFANIA C. JANCEWICZ.²

- I.** **Court Division/Assignments:** This division covers half of the Osceola County Criminal docket (including Misdemeanor Domestic Violence). As of 04/01/2024, cases are normally assigned alphabetically and this Division covers Defendants whose last names start with letters A through M. Please always check with the Clerk of Court to ensure you are filing in the correct division, you are aware of the correct court dates and you are contacting the correct office and email address for all correspondences.
- II.** **Contact Information:** The Judicial Assistant is Lisa Kuchinskaskas. The Division e-mail address is: 71Osceola@ninthcircuit.org. All written communication with the Judicial Assistant should be through the DIVISION email. Please use this e-mail when requesting hearing time (motion must already be e-filed, keeping in mind the Clerk has a total of 24-business hours (which is 3 work days) from time of filing to image same into Benchmark—

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.](#))

²All appearing before this Court are held to the additional standards set forth in *Code of Judicial Conduct* and the *Principles of Professionalism for Judges*.

if your filing is not imaged, the Judge and JA cannot see it in Benchmark), cancelling a hearing, to obtain general information and to forward a copy of motion and/or proposed order. If you email the Judicial Assistant directly to any other email about the specifics of a case, the email will be rejected.

III. Arraignments: Arraignments are scheduled Monday through Friday weekly. Please **DO NOT** email or otherwise send your Notice of Appearance to the J.A. You must e-file your Notice of Appearance with the Clerk's Office at least three (3) business days PRIOR to the scheduled arraignment date or make arrangements to appear in Court with a copy of the Defendant's waiver in hand. Failure to timely file the waiver or appear in court may result in a capias for Failure to Appear to be issued based on what the Clerk's record reflects/does not reflect.

***NOTE: If the Public Defender is already appointed, a later-filed Notice of Appearance is improper. Please REVIEW BENCHMARK BEFORE filing an NOA. A Joint Motion for Substitution of Counsel, *signed also by the Defendant*, must be e-filed (first) and then submitted via the Division 71-H email (second) with a proposed order; otherwise, the Public Defender may choose to file a Motion to Withdraw and if signed by the Defendant, submit a proposed order. If not signed by the Defendant, the Motion must be set for hearing with notice to the Defendant. Not complying with this procedure may result in a capias for Failure to Appear against the Defendant (because appearance can only be waived by counsel of record).**

IV. Discovery Matters: All parties are directed to Florida Rule of Criminal Procedure 3.220 and are ordered to comply with the deadlines and terms set forth in the rule. If a discovery dispute arises, the parties should first attempt to resolve the matter between themselves. If a resolution is not possible, please e-file a Motion to Compel (or other appropriate motion) with the Clerk and send a copy of same to the Division 71-H email. After review by Judge Jancewicz, the Judicial Assistant will advise if a hearing will be scheduled.

V. Motion Hearing Requests: All Motions must be e-filed **and visible** on Benchmark prior to requesting hearing time (keeping in mind the Clerk has a total of 24-business hours from time of filing to image same into Benchmark). When emailing the Division 71-H to schedule a hearing, please have the following information clearly notated on the email:

Case Number, Defendant's name, type of motion, amount of time needed and the date the case is set for pre-trial conference date and/or Trial. Your communication must also include the State Attorney's position, in writing (email ok) so that the Court may consider same in chambers if appropriate.

Hearings are secured on a first come/first served basis and are not secured until the JA has confirmed same. *Notices of Hearing may NOT be filed with the Clerk's Office until the moving party has received written confirmation from the JA that the date and time requested has been secured. Thereafter, the movant SHALL file the appropriate Notice of Hearing promptly and send a copy to opposing counsel as soon as possible so subpoenas may be issued timely, if applicable. There should be a minimum of ten (10) days' notice prior to a hearing in order to have subpoenas issued and served in a timely manner.*

- a. **Motions to Quash Capias:** Follow the same procedure as outlined above, including forwarding the written response/position from the State Attorney's Office (email is okay). If the motion is scheduled for a hearing, the defendant **MUST** be present.
- b. **Motions to Continue (other than MTC pre-trial conference—see below for PTC):** Follow the same procedure as outlined above. If you have contacted opposing counsel and he/she has no objection to your motion, please state this in your Motion and e-mail a copy of the Motion to the Division 71-H email address for the Judge's review AFTER the motion has been filed, along with the Opposing Counsel's Position in writing (copy of email ok) with a proposed Order (in Word format).

The Parties are advised that all Motions to Continue must clearly state the reason why the continuance is needed. Each party will generally be "allowed" one continuance but additional continuances are unlikely absent valid and/or urgently extenuating circumstances, regardless if the other Party is in agreement or has "no objection."

- c. **Bond Estreature Motions:** When filing this type of Motion, you must also send a copy to the State Attorney's Office and The Clerk of Court Attorney. A response from their offices is required for all motions concerning bond estreatures. Hearing time is NOT required unless there is an objection from the State Attorney's Office and/or the Clerk of Court.
- d. **Requests to set or reduce Bond Hearings for "new" charges:** Bond hearing requests will be handled in accordance with the timeframes set by law and all Ninth Circuit Administrative Orders. Please email the Division 71-H email to schedule. The motion must be e-filed and visible on Benchmark before attempting to schedule. You must include the written response/position from the State Attorney's Office (email is okay). The Judge will review the motion in chambers. The Judicial Assistant will contact the Defense attorney if the motion will need to be scheduled for a hearing.
- e. **Requests to set Bond Hearing in a Violation of Probation Case** - The motion must be e-filed and visible on Benchmark before submitting a request to the Division 71-H email address to schedule. You must include the written response/position from the State Attorney's Office (email is okay). The Judge will review the motion in chambers. The Judicial Assistant will contact the Defense attorney if the motion will be scheduled for a hearing.
- f. **Early Termination of Probation:** Motions for "early" termination **MUST** contain the positions of the State Attorney and the Probation Officer (P.O.), who will inform the Court of what conditions, if any, are outstanding. Generally, the Court will not consider early termination if there are any outstanding obligations.

Note: The Probation department is not a Party to the case and the Probation officer should not be filing Motions in the case. If Probation is recommending termination, revocation, withdrawal of a filed violation affidavit, etc., then the Probation officer should submit an affidavit/sworn statement to the State Attorney and the State Attorney should file the appropriate motion seeking relief, attaching the Probation officer's affidavit/statement.

****NOTE:** All motions which have no response from the opposing party will be rejected as incomplete.

**ALL MOTIONS MUST BE FILED, HEARD AND DISPOSED OF
PRIOR TO PRE-TRIAL OR DEEMED WAIVED.**

VI. Pre-Trial Motions:

- a. Motions for Continuance: (1) absent extraordinary circumstances, motions to continue must be in writing and filed before or at the time of Pre-Trial. (2) any such motions must set forth good cause and must be accompanied by a form Order. (3) if, after the case is scheduled for Trial, a continuance is requested due to witness unavailability, the motion must be filed prior to the Trial date. (4) a request for continuance of Trial due to scheduling conflict will not be granted absent extraordinary circumstances and with documentation as to the conflict (to include date, time, location of conflict court and name of Judge).
- b. Motions to Suppress: (1) shall be filed at least 10 days prior to the PTC and scheduled for hearing prior to PTC, unless good cause is shown for the delay. (2) Shall clearly set forth the evidence sought to be suppressed or excluded, the specific reasons for the suppression and a general statement of facts supporting the motion. (3) Attorneys, Defendants and witnesses shall be on time for the hearing. (4) a conflicting Trial or hearing date does not automatically constitute an extraordinary circumstance warranting rescheduling. Attorneys shall make best efforts to have “back-up” counsel ready to handle the MTS. **(5) late filings of MTS may result in denial without hearing. See State v. Powell, 717 So.2nd 1050 (5th DCA 1998).**

VII. Pre-Trial Conference:

- a. **Timing:** All “Private Attorney” PTC hearings will typically be set for 8:30 am (but always double-check for changes that may be needed due to scheduling conflicts) and counsel shall sign in on the sheets as provided by the Courtroom staff. The Court will call the cases in the order on the sign in sheets to the extent possible. While Court is in session and the Judge is on the bench, the State Attorneys shall give their undivided attention to the Court and follow along with the cases at bar. Defense counsel shall not interrupt the State Attorney nor cause the State Attorney any distraction.

- b. **Waiver:** All attorneys of record for the case(s) will have the following options:

Option one: If counsel so chooses, a written PTC sheet may be submitted in lieu of personal appearance. The PTC sheet SHALL be fully completed, signed by counsel and the Defendant, and e-filed no later than five (5) business days prior to the scheduled PTC date (so that the Clerk has time to image the sheet for the Court to view it properly). The e-file confirmation must show that the filing was submitted no later than 11:59pm on the deadline date to be accepted. If not timely filed or if incomplete in any material way, the Court may set the matter for Trial or require counsel to file an amended sheet.

Option two: If counsel so chooses (or has missed the Paper PTC filing deadline as detailed above), counsel or coverage counsel as okayed by the Defendant shall be present, in person,

unless excused in writing by the Court. All coverage counsel must have counsel of record's full authorization to make decisions in the matter at hand and authority to waive speedy trial if appropriate.

- c. **Court Appointed cases:** Defendants represented by the Office of the Public Defender or Office of Regional Conflict Counsel will be set for a specific Pre-Trial date and time. The cases will typically called in alphabetical order, notwithstanding incarcerated defendants who may be called out of order for efficiency sake.

The option of waiving the Defendant's appearance (see below paragraph) is at the discretion of the attorney, not the Defendant, and is conditioned upon the attorney certifying to the Court that he/she has been in regular contact with the Defendant, has had meaningful conversation with the Defendant about the case and the purpose of PTC, and has a reliable method of reaching the Defendant (email, phone number, etc.). The Assistant Public Defenders assigned to Division 71-H will be present for the scheduled PTC, regardless of any waivers filed, to "check-in" with the Judge about the status of each case unless he/she has filed PTC sheets for all his/her cases. Defendants who are not waived must also appear at the set date/time.

- d. **Pro-Se (self-represented) Defendants:** all self-representing Defendants shall appear in person for the scheduled PTC and sign in on the sheet designated. If the Defendant may need appointed counsel, he/she shall request the Affidavit of Indigent status prior to addressing the Court about his/her case (these are available in the Courtroom or through the Clerk of Court's office) so that an attorney may be appointed provisionally if requested.

- e. **Waiver of Defendant's Appearance:**

Rule 3.180(a) "*Presence of Defendant. In all prosecutions for crime the defendant must be present: (3) at any pretrial conference, unless the defendant's presence is waived in writing or on the record by the defendant or by the defendant's counsel with the defendant's consent.*"

Waivers SHALL be filed prior to PTC or hand-delivered to the Court at PTC and SHALL be signed by the Defendant or counsel shall announce on the record that he/she has the Defendant's consent to waive same.

*if a PTC sheet has been filed that is signed by the Defendant, a separate waiver is **not** required.

All cases where waivers are filed, all future dates are imputed to the absent Defendant through Counsel.

- f. **Motions to Continue PTC filed prior (with the intent to remove the scheduled date from the Court's docket):**

All Motions to Continue PTC shall be filed no later than five (5) days prior to the scheduled PTC (so the Clerk has time to image the Motion so the Court can view it timely) and shall include:

1. the fully executed PTC sheet, signed also by the Defendant;
2. the State's position in writing;

3. a written acknowledgement of waiver of the Defendant's right to a speedy trial.

Requests for continuance are not guaranteed and if an Order granting is not received by counsel prior to the PTC date, counsel of record shall timely complete and e-file the required PTC sheet or be personally present at PTC as detailed above.

VIII. Trials: Every effort will be made to set Trials for a date and time certain, typically during a 3 (three) week trial period and the Court will consider your noted and filed conflicts, if any. If you would like to move your case to a different trial day (during the same trial period), you must contact the opposing party to get their position prior to contacting the Judicial Assistant. The Court will consider all timely requests and will try to accommodate the dates and times sought, however, moving the Trial date is not guaranteed and the attorneys are reminded that TRIAL takes priority over all other court "conflicts."

Trial Procedures:

- a. 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.
- b. Jury Selection Process:** After voir dire, the Court will first inquire as to "Cause" strikes. Counsel will be prepared to succinctly state a valid "strike for cause" basis. Next, the Court will move to pre-emptory challenges, starting with the first juror on the seating chart and moving sequentially through the list, 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.
- c. 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 should avoid moving away from the podium (where the microphones are located) but may be permitted to move within a short distance of same, remaining 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 after the panel has been sworn and will expect that a reasonable estimate be provided by counsel. Counsel are expected to adhere to these time constraints.
- d. Exhibits:** All exhibits are to be marked for identification by the clerk the day prior to trial and shall make arrangements with the Clerk's office for this purpose. Exhibits which will be stipulated into evidence may be marked into evidence. 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 Court Administration:** <http://www.ninthcircuit.org/programs-services/audio-visual>.

- e. Demonstrative Aids:** Any demonstrative aid that is to be used at trial must be marked by the clerk and disclosed to opposing counsel to the start of trial (preferably at least a week or more prior or at a hearing set prior to trial if there are any objections). No aids are to be shown to the jury without prior approval of the Court.
- f. Experts:** The Court will not accept or qualify a witness as an expert in the presence of the jury. Challenges to an expert's qualifications and his or her 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.
- g. Use of Depositions:** If depositions are to be used at trial in any manner (impeachment, as video testimony, etc.) the questioning/moving Attorney shall make a hard copy available both for the Court and for the witness being questioned.³
- h. Objections:** The Court will not allow speaking objections in the presence of the jury. When counsel rises to object, the legal basis for the objection only should be stated. If the Court requires or requests elaboration, the Court will call counsel to the bench for a Bench Conference or 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. The Attorneys shall not "object" and then ask to approach without having first stated the legal basis for the objection.
- i. Jurors:** The Court generally will allow jurors to take notes and to ask questions where necessary (see 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.
- j. Jury Instructions:** Jury instructions are to be prepared by both sides and exchanged at the beginning of the trial. An emailed copy must be provided to the Court through the Division 71-H email address prior to the start of Trial. The instructions should not contain any citations, jury instruction titles or information as to who requested the instruction. The Court intends to provide the jury with a written copy of all jury instructions when the jury retires to deliberate. In certain cases, the Court may provide some substantive law instructions to the jury during preliminary instructions

³In Osceola County some documents electronically filed with the Court are imaged and may not be readily available in hard copy to the Court. Additionally, when documents are filed "recently" in time to the court event, they may not be imaged yet in Benchmark, which means the Judge cannot view the filing. Counsel

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.

IX. Cancellation Policy: Please immediately notify the Division 71-H e-mail of all hearing cancellations or settlements so that the calendar may be opened up for other matters. You must attach to the e-mail a copy of the Notice of Cancellation. It is the responsibility of the moving party to file a Notice of Cancellation in the court file and to contact the opposing party to notify them of the cancellation.

X. Requests for Court Interpreter: If a Defendant or Witness will require an interpreter to speak/testify or to understand what is said during a Court proceeding, please email the Judicial Assistant through the Division 71-H email address with an “Interpreter Request” at the very least two (2) business days prior to the scheduled hearing for *Spanish and at least ten (10) business days for any language other than Spanish*.

XI. Courtroom Etiquette and Decorum: Counsel shall stand when addressing the Court or the jury. Counsel will be dressed appropriately for Court and be respectful to all present. Counsel will 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 advise their clients and witnesses that gestures, facial expressions or any manifestations of approval or disapproval of anything occurring in the courtroom is absolutely prohibited.

Please see the *Ninth Judicial Circuit Courtroom Decorum Policy* available at <http://www.ninthcircuit.org>.

XII. All Electronic Devices (other than hearing aids or visual aids): Cell phones, tablets, laptops, “blue-tooth” devices and all other types of electronics **MUST** be turned off when in the courtroom. If necessary to make or take phone calls, please step out of the Courtroom. Witnesses will not be permitted to possess any type of communication device while on the witness stand and should have nothing in their hands when taking the witness stand.

XIII. INFORMATION NOT COVERED IN THIS DOCUMENT

If any matters concerning the conduct of the pre-trial or trial procedures of Osceola County Criminal Division 71-H are not covered herein, counsel is free to contact the Court for clarification or instruction via the Division 71-H email address. 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.