



STATE OF FLORIDA

Ninth Judicial Circuit of Florida

Margaret H. Schreiber
Circuit Judge

Michelle "Shelly" Mears
Judicial Assistant

Counties of Orange and Osceola
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Orlando, Florida 32801
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DIVISION 35 PROCEDURES

The following Procedures¹ are hereby adopted for
Circuit Civil Division 35 in Orange County, Florida before Judge Margaret H. Schreiber

Please periodically review the Procedures for updates

(REVISED AND EFFECTIVE July 1, 2025)

¹ These Procedures are minimum standards. All counsel must be familiar with and 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>).

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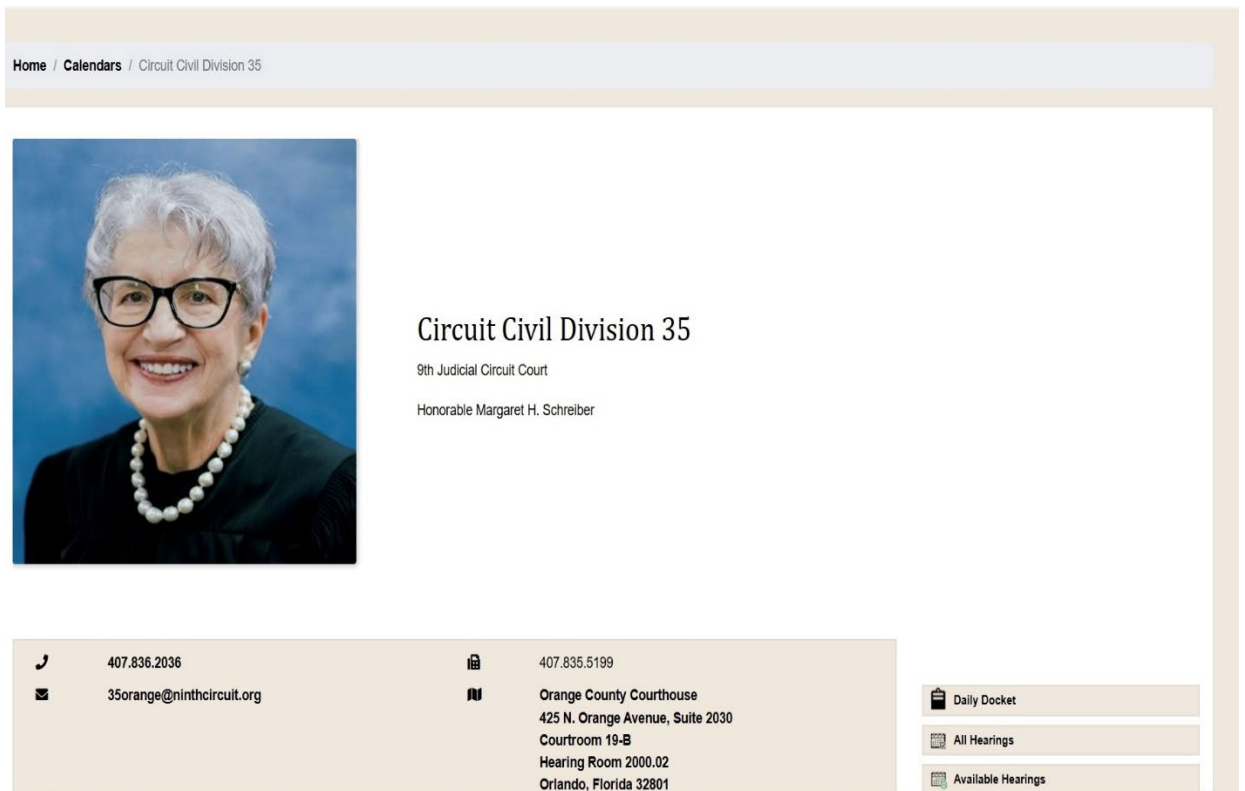
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A. HEARINGS

1. Setting of Hearings

- a. Determine which type of hearing you need: (i) Ex Parte: defined as a purely uncontested matter and/or non-evidentiary matter which is very brief (5 minutes); (ii) Short Matter: defined as a non-evidentiary contested matter that requires less than 10 minutes to hear; or (iii) Contested: defined as a contested matter that will require more than 10 minutes, or which is an evidentiary hearing.
- b. Ex Parte and Short Matter hearings are not scheduled with the Judicial Assistant, but must be coordinated with opposing counsel. You must email the NOH to the JA at 35orange@ninthcircuit.org to be added to the schedule and receive confirmation that your case has been added to the list.
- c. Contested hearing times may be obtained by using the aiCalendar system: [Circuit Civil Division 35 - 9th Judicial Circuit Court Calendar](#). Detailed instructions regarding the setting of hearings appear on the aiCalendar page:



Home / Calendars / Circuit Civil Division 35



Circuit Civil Division 35
9th Judicial Circuit Court
Honorable Margaret H. Schreiber

407.836.2036
35orange@ninthcircuit.org

407.835.5199
Orange County Courthouse
425 N. Orange Avenue, Suite 2030
Courtroom 19-B
Hearing Room 2000.02
Orlando, Florida 32801

Daily Docket
All Hearings
Available Hearings

- d. Prior to scheduling a hearing, the motion(s) must be filed and visible on the docket. True Ex Parte motions (*e.g.*, motions for injunctive relief without notice, or for execution on a judgment) still must be filed and visible on the docket to be acted on by the Court.

- e. All counsel must comply with Admin. Order 2012-03's mandatory "meet and confer" requirements before securing hearing time. *The Certificate of Compliance for the setting of a hearing is in addition to the Certificate of Conferral required by Rule 1.202(b), Florida Rules of Civil Procedure, which must be contained in the motion.*
- f. Matters requiring more than fifteen (15) minutes should request consecutive available time slots for the total duration of time needed.
- g. To secure a hearing time, coordinate with opposing counsel, then email 35orange@ninthcircuit.org with the following in the body of the email:

Case No.:

Full Case Style:

Name of the attorneys or *pro se* litigants:

Motion(s) to be heard and date filed:

Date/Time Coordinated/Requested:

Length of hearing requested:

Remote or in-person:

Date and manner the "meet & confer" was completed:

Does the motion require/include the certificate of conferral? (*See Rule 1.202, Fla.R.Civ.Pro.*):

Pretrial Date:

Is the hearing evidentiary (requires testimony and/or submission of exhibits):

If your request is missing any of the above information, it will not be confirmed. Judge Schreiber approves ALL hearing requests prior to confirmation of your hearing. The need for any hearing requests for 1 hour or longer (if not initially approved) may be addressed at ex parte. Regularly set hearings must be confirmed by the JA before parties may file a notice of hearing. Hearings set by notice of hearing but not confirmed with the JA may not be heard.

- h. Hearing materials shall be emailed to 35orange@ninthcircuit.org and to opposing counsel not less than five (5) days prior to the hearing in the form required by paragraph A.9 below.
- i. CASE LAW: Any cases being relied on by the parties at a hearing or trial should be provided to opposing counsel and the Court no later than five (5) days before the hearing; however, the Court will always consider any law applicable to the matters being litigated whether or not provided. Litigants should highlight the parts of a law or case that they believe are the most relevant to the issues at hand.
- j. For evidentiary hearings, the hearing request must indicate that an evidentiary hearing is being requested, and the notice of hearing must expressly state that the hearing will be evidentiary (e.g., "Notice of Evidentiary Hearing"). The following additional procedures apply:
 - (i) If any party believes that an evidentiary hearing is required, the request for an evidentiary hearing must be made during the meet and confer process and when the hearing date and time are being coordinated amongst counsel.
 - (ii) If the parties dispute whether an evidentiary hearing is required or the amount of time necessary to complete the evidentiary hearing, they shall confer in good faith to attempt to resolve the dispute. If the parties are unable to resolve the dispute, they shall appear at short matters to obtain a resolution of the issue before the hearing is scheduled.

- (iii) Failure to promptly request an evidentiary hearing or to address any dispute over whether an evidentiary hearing is required may result in the hearing proceeding on a non-evidentiary basis. The Court specifically discourages waiting until a scheduled hearing or shortly before a scheduled hearing to make requests for evidentiary hearings.
 - (iv) All evidentiary hearings shall be conducted IN-PERSON absent an order or other communication from the Court.
 - (v) Failure to properly notice evidentiary hearings in compliance with these procedures may result in delay, sanctions, or denial of the Motion.
 - (vi) Copies of all exhibits must be provided to Opposing Counsel five (5) business days prior to the hearing in hard copy or electronically. If the hearing is in person, all exhibits must be tagged with the yellow tags utilized by the clerk.
 - (vii) If the hearing is virtual, exhibits must also be delivered to the Clerk five (5) days prior to the hearing. If the hearing is in person, the parties may bring their exhibits and give them to the clerk the day of the hearing.
 - (viii) All Exhibits shall be marked utilizing LETTERS and shall be moved in as numbers. For example, what is marked for identification purposes only as Petitioner's A, will be moved into evidence as Petitioner's Exhibit 1. If all letters are utilized, exhibits should be marked with two letters, such as AA.
- k. Additional motions may not be "piggy-backed" by cross-notice unless counsel first confirms with opposing counsel and the Judicial Assistant that sufficient additional time can be reserved in which to hear them. If an adverse party believes a motion or motions have been improperly "piggy-backed" by cross-notice, such adverse party must bring the matter before the Court via motion to strike the cross-notice in advance of the scheduled hearing; otherwise, the Court will hear the cross-noticed motion(s) if time permits. *It is cross-noticing counsel's responsibility to make sure the matter is placed on the Court's calendar, or it may not be heard despite the filing of the cross-notice.*
- l. Cancellations: Only the party setting the hearing may cancel the hearing. A Notice of Cancellation must be filed and a copy of the notice of cancellation sent to the Judicial Assistant. *Filing the Notice of Cancellation with the Clerk is not sufficient as the Clerk does not notify the Court.*
- m. Ruling in Chambers: There are many matters that the Court will rule on without a hearing. Minor discovery and stipulated matters are among those issues. If you are requesting the Court rule on the motion in chambers, please indicate as such in your email to the Judicial Assistant and submit a proposed order. Copies of all hearings coordinated for short matters should be provided the Court expeditiously so that an order may be entered if appropriate. Providing proposed Orders in Microsoft Word is also advised.

You must indicate the position of the other party in a cover letter submitted with your motion before submitting an order for a ruling in chambers. If you are unable to obtain the opposing party's position after three attempts, then indicate the efforts to obtain the other party's position in your motion.

2. Videoconference Appearance

- a. Videoconference appearances at hearings will be permitted as set forth in this Section.
- b. All parties shall be responsible for making sure they are technologically capable to attend virtual hearings PRIOR to making a virtual hearing request.
- c. At the time of coordinating the hearing, any party wishing to appear by videoconference must indicate that appearance by videoconference is desired. The hearing notice must expressly state that the hearing will be by videoconference and contain the log-in information set forth in this Section. “Hybrid” videoconference hearings where one party is in-person and one party is remote are not permitted absent leave of Court.
- d. Pretrial conferences are typically conducted remotely by videoconference, but may be in-person at the option of the parties; however, “hybrid” pretrial conferences where one party is in-person and one party is remote are not permitted absent leave of Court.
- e. Non-evidentiary videoconference hearings are conducted via WebEx. For all videoconference hearings, the notice of hearing shall contain the following information:

<https://ninthcircuit.webex.com/meet/division35>

- f. Videoconference appearances are not permitted for evidentiary hearings or trials without approval of the Court. For evidentiary proceedings conducted by videoconference *with leave of Court*, including non-jury trials, the following procedures shall apply:
 - (i) Witnesses must have government-issued identification in their possession and readily available to provide to the person administering the oath.
 - (ii) The party testifying must be alone in the room from where they are testifying.
 - (iii) All exhibits upon which a party intends to rely at the evidentiary hearing must be delivered to the Clerk five (5) days prior to the hearing if the hearing is virtual. If the hearing is in person, the parties may bring their exhibits and give them to the clerk the day of the hearing.
- g. Telephonic appearances are discouraged the given widespread availability of videoconferencing technology.

3. Cooperation of Counsel/Unilateral Setting of Hearings

- a. Hearing times must be cleared with opposing counsel and *pro se* parties, and good faith cooperation is expected of all counsel, their staff, and *pro se* parties. All counsel, their staff, and *pro se* parties have an obligation to respond promptly to scheduling inquiries.
- b. Coordination of hearings must include any request that a hearing be evidentiary and any request for attendance by telephone or videoconference.
- c. Should counsel, their staff, or *pro se* litigants fail to respond to a request to coordinate hearing time within three (3) business days, or refuse to cooperate in setting a hearing, the requesting party may

unilaterally set a hearing giving at least two weeks' notice of the hearing to opposing parties. The notice must state that the opposing party refused to coordinate a hearing time in the Certificate of Compliance.

- d. If a party desiring a hearing is unable to coordinate hearing time with opposing counsel (or other party if *pro se*) after three (3) good faith attempts, the party requesting the hearing shall submit the request for hearing time to the judicial assistant with all documentation (including emails) demonstrating that party's efforts to coordinate a hearing date. The notice of hearing must state that the opposing party refused to coordinate a hearing time in the Certificate of Compliance.
- e. Motions to compel coordination of a hearing are not permitted given the availability of unilateral setting of hearings under the foregoing circumstances.

4. Emergency and Time-Sensitive Hearings

- a. Counsel may contact the Judicial Assistant for an emergency hearing where the circumstances warrant, and the following will apply:
 - (i) The body of the motion must contain a detailed explanation of the circumstances constituting the emergency.
 - (ii) The motion must contain a "Certificate of Emergency" wherein counsel of record certifies that he or she believes the facts and circumstances to constitute an emergency for which immediate hearing time is required and understands that designating a matter as an emergency may result in the Court cancelling or rescheduling other matters both professional and personal so as to accommodate the parties.
 - (iii) The motion must be emailed to 35orange@ninthcircuit.org before a hearing will be set. The Judicial Assistant will contact counsel to set a hearing if the Court determines that an emergency hearing is warranted based on the description and certification contained in the motion.
- b. Failure to include a Certificate of Emergency or certification of a matter as an emergency without a good faith basis may result in the imposition of sanctions and/or denial of the motion.

5. Ex Parte and Short Matters

- a. Ex Parte and Short Matters hearings are held Monday through Thursday at 8:30 a.m.
- b. Ex Parte and Short Matters hearings are for uncontested matters that can be heard in five (5) minutes or less, or contested matters than can be heard in ten (10) minutes or less. If it is apparent the matter set for hearing does not comport with the time constraints of Ex Parte and Short Matters hearings, the Court will decline to hear the matter so as to ensure that regularly-scheduled hearings and jury trials are not delayed.
- c. Matters to be heard at Ex Parte and Short Matters are not scheduled with the Judicial Assistant but must be coordinated with opposing counsel or *pro se* parties. Before setting a hearing at Ex Parte and Short Matters, the parties must satisfy the "meet and confer" requirement set forth in Admin. Order 2012-03-01 and include a Certificate of Compliance in the notice of hearing.

- d. Parties are encouraged to be present in the Ex Parte and Short Matters videoconference space promptly at 8:30 a.m. or earlier. Short Matters will conclude upon the completion of all short matters noticed by the parties present (if there is no one left, short matters will end).
- e. Case Management Conferences may be heard at Ex Parte and Short Matters without a formal request for a Case Management Conference, but to enable the Court to be prepared to address the particular case management issue, the parties must describe the case management issue and their respective positions in either the notice of hearing or a separately filed case management report. In the latter event, the report must be emailed to 35orange@ninthcircuit.org no later than five (5) days prior to the date of the hearing.
- f. A list of dates on which the Court is unavailable for Ex Parte and Short Matters hearings is located at [Circuit Civil Division 35 - 9th Judicial Circuit Court Calendar](#)
- g. Motions to be heard, along with the notice of hearing and any hearing materials, must be emailed to no later than two (2) days prior to the date of the hearing.

6. Foreclosure Cases

- a. Most foreclosure hearings can be scheduled for Ex Parte and Short Matters. Longer hearings should be set in accordance with the procedures set forth in Section A.1 above.
- b. The Court enters final summary judgments of foreclosure and cancels original notes contemporaneously at the hearing. Therefore, in advance of the hearing on a motion for summary judgment, Plaintiff's counsel shall file the original note and mortgage with the Clerk. Additionally, Plaintiff's counsel shall contact the Clerk in advance of the hearing to request the Clerk retrieve the original note and mortgage so that the original note is available for cancellation at the time of the hearing in the event the motion is granted. Failure to do so will result in a delay of entry of the final summary judgment and consequently a delay in the conduct of any foreclosure sale.
- c. Agreed upon motions to cancel foreclosure sales do not require a hearing and may be considered in chambers with a proposed order. However, all proposed orders canceling a foreclosure sale must also include a new date for sale, even if a borrower is in loan modification. The Court will entertain further sale cancellations as appropriate.
- d. Not later than five (5) days prior to the commencement of a non-jury foreclosure trial, the parties shall complete and file an Attorney Worksheet for Foreclosure Trial, the form for which is available on the Division 35 webpage: [Margaret H. Schreiber | Ninth Judicial Circuit Court of Florida](#).

7. Discovery Motions.

- a. Discovery motions (motions to compel, motions for protective order, etc.) must be set for hearing to bring the matter to the Court's attention. The mere filing of a motion is insufficient to obtain the requested relief.
- b. An application to a Court for an order "must be by motion." Fla. R. Civ. P. 1.100(b); *see also* Fla. R. Civ. P. 1.351(d) ("...the party desiring production may file a motion with the Court seeking a ruling on

the objection...”). Accordingly, noticing “objections” to discovery without an accompanying motion is prohibited.

- c. Discovery motions shall include with the motion or as an attachment the specific discovery request and the specific objection thereto along with argument regarding same.
- d. Any motions filed but not set for hearing within a reasonable time will be considered abandoned.
- e. All such 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) and Admin. R. 2012-03.
- f. The filing of a motion for protective order, without attempting to set it for immediate hearing, is insufficient to protect from any discovery requested.
- g. The Court may make itself available for telephonic hearings on *ore tenus* motions and objections made during the course of depositions so that depositions do not need to be terminated prior to their conclusions in order to obtain rulings.
- h. If no response or objection to discovery requests has been served or filed and the lack of any response continues for ten (10) days after the filing of a motion to compel, the moving party may send the motion to compel with a proposed order compelling a response within ten (10) days and granting no other relief to 35orange@ninthcircuit.org. The proposed order shall be accompanied by a cover letter (which letter has been efiled and is clearly noted as such) and both the letter and order shall be contemporaneously sent to all other parties. The Court may enter the order without the need for a hearing or may direct a hearing on the objections. If additional relief (such as fees, costs, sanctions, or waiver of objections) is requested, a hearing on the motion must be scheduled.
- i. As provided in Rule 1.380(a)(4), Florida Rules of Civil Procedure, the Court shall award expenses which may include attorneys’ fees if you prevail on a motion to compel. Please review the current version of the *Florida Handbook on Civil Discovery Practice*, a copy of which can be found on the Court’s website.
- j. For compulsory medical examinations, read and follow the Guidelines for Counsel Regarding Compulsory Medical Examinations found on the Court’s website.
- k. All hearings related to discovery or trial matters must be filed and heard prior to the pre-trial conference.

8. Motions in Limine (“MIL”)

- a. Form omnibus motions in limine requiring the parties to simply comply with well-established law and the rules of professional conduct are disfavored and may be summarily denied without prejudice to a timely trial objection.
- b. Before setting any MIL for hearing, counsel must meet either and confer on each and every requested Motion in Limine. *See* Admin Order 2012-03.
- c. Subsequent to the meeting referred to above, counsel filing the MIL shall prepare and file a stipulation

indicating in writing which of the items in the MIL is agreed to by the opposing party and signed by the opposing party. An agreed order may then be submitted for entry.

- d. Counsel filing the MIL shall submit to the Court a written memorandum of law, with supporting case law, (1) identifying each item in the MIL that has not been agreed to by opposing counsel at the meet and confer, and (2) setting forth any arguments and case law in support of the disputed items in the MIL.
- e. Opposing counsel will have five (5) business days to file a written response if they wish.
- f. Any legal basis or case that has not been set forth in the previously filed motion, memoranda, or responses shall be considered waived unless that case law was decided subsequent to the submittal of the memoranda or responses.
- g. Any MIL not timely filed and timely set for hearing will be considered denied without prejudice to a timely trial objection.
- h. The party filing the MIL will prepare the proposed order after any contested hearing reflecting the Court's rulings.
- i. All rulings on MIL are non-final orders subject to modification during trial as evidence is presented. *See Fla. Stat. § 90.104.*
- j. 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.
- k. All of the foregoing is designed to avoid the parties taking valuable hearing time only to stipulate at the hearing to the majority of the items for which rulings in limine have been sought. Hearing time on MIL is reserved for truly disputed evidentiary rulings.

9. Hearing Notebooks, Exhibits, Legal Memoranda, and Citations (collectively "Materials")

- a. All Materials that a party intends to rely on at a hearing must be filed at least five (5) business days before the hearing. Materials submitted electronically must be "electronically bookmarked."
- b. The following materials shall be submitted via email at least five (5) business days before the scheduled hearing: (a) any videos, photographs, or printed or scanned color documents; (b) materials filed ten (10) or fewer business days before the hearing; (c) filings that are more than 250 pages, inclusive of exhibits; (d) materials submitted for in camera review; and (e) legal authority that is unavailable on Westlaw or Lexis.
- c. Hearing materials must be electronically bookmarked and electronically submitted via email to 35orange@ninthcircuit.org unless the Court requests a paper submission. Voluminous submissions should be timely delivered to Chambers on a thumb drive, if necessary.
- d. Exhibits for evidentiary proceedings, including non-jury trials, must be submitted in BOTH hard copy (for the trial clerk) and electronic format (for the Judge) as provided in Section A(2)(h) above.

- e. All materials provided to the Court must be contemporaneously provided to all other parties in the same form provided to the Court, including any highlighting.
- f. Case law and memoranda provided to the Court and opposing parties for the first time during the hearing may not (in the Court's discretion) be considered.
- g. The Court, on occasion, may rule on motions without a hearing. Therefore, counsel are encouraged to timely file written argument supporting and opposing their positions with the Court.

10. Limitation on Hearings.

- a. All hearings related to discovery or trial matters must be filed and heard by the time specified in the Trial Order or prior to the pre-trial conference if the Trial Order does not specify a deadline.
- b. Joint stipulations to extend the discovery cut-off or the motions cut-off dates set forth in the Trial Order are subject to summary denial, in the Court's discretion.
- c. No motions directed towards matters involving the trial will be heard during the actual trial period absent extraordinary circumstances.
- d. Motions to modify a Case Management Order issued prior to January 1, 2025 will not be heard; instead, the parties may advise the Court of a proposed trial date for issuance of a Trial Order, which would have priority over any Case Management Order, and the Court will issue a Trial Order.

11. Orders and Rulings of the Court.

- a. Proposed orders must be submitted electronically in Word format by email to 35orange@ninthcircuit.org. The email submitting a proposed order must be copied to all parties to the case, and should specifically indicate whether the form and/or content of the order is agreed or not.
- b. Proposed orders submitted after a hearing or in connection with unopposed or agreed motions must be accompanied by an e-filed cover letter (the cover letter must have the filing stamp across the top) setting forth the date of the hearing, with a copy to all counsel and *pro se* parties. The cover letter must indicate whether all parties agree to the content of the order. The cover letter (but not the proposed order) must be e-filed.
- c. Proposed orders and cover letters submitted electronically to 35orange@ninthcircuit.org must be in Word format. The Word file name must: (a) include the case number [e.g., 20**-CA-*****], (b) abbreviated case style [e.g., Doe v. Jones], and (c) whether the file is a "Proposed Order" or "Cover Letter".
- d. All orders must describe, in the caption, the subject and ruling of the Court, e.g., "*Order Granting Plaintiff's Motion for Partial Summary Judgment on Liability.*" See Fla. R. Civ. P. 1.100(c)(1). If "agreed orders" are provided, the title must indicate the substance of the order in addition to the indication that it is an "agreed order."
- e. The proposed order must contain a complete certificate of service indicating service to all parties receiving service through the Florida Courts e-Filing Portal. If there are parties not receiving service through the Florida Courts e-Filing Portal, the proposed order must contain the following language: "Counsel for Movant(s) shall serve a copy of this Order via U.S. Mail to all parties not receiving

service of Court filings through the Florida Courts e-Filing Portal and shall file a Certificate of Service within three (3) days from the date of this Order.”

- f. If counsel are asked to prepare a proposed order during or after a hearing, the order shall be drafted and sent to opposing counsel or *pro se* parties for review and approval within three (3) business days and must be submitted to the Court within seven (7) days of the hearing with a copy to all other counsel and *pro se* parties, unless the Court specifies a different deadline. If the parties are unable to agree on the form of the order, both sides shall present their proposed orders to the Court for consideration within seven (7) days of the hearing with a cover letter so stating.
- g. If the parties are asked to submit competing proposed orders during or after a hearing, the orders shall be submitted within the timeframe established by the Court, with a copy to all other counsel and *pro se* parties.
- h. DEFAULT FINAL JUDGMENTS. Parties seeking default judgment should review applicable law regarding liquidated and unliquidated amounts and the associated procedural requirements. Among other things, attorneys’ fees and costs are generally unliquidated unless a statutory exception applies. *See, e.g., MacDonnell v. U.S. Bank N.A. as Tr. for Truman 2013 SC4 Title Tr.*, 293 So. 3d 585, 590 (Fla. 2d DCA 2020); *Williams v. Skylink Jets, Inc.*, 229 So. 3d 1275, 1279 (Fla. 4th DCA 2017).
- i. JUDGMENTS ON PAYMENT DEFAULTS. In accordance with uniform policies and procedures adopted in this Circuit, stipulations or settlement agreements providing for entry of a default or consent judgment upon a payment default must be scheduled for hearing with notice to the defaulting party, *even if the parties have agreed to entry of judgment without notice*. The hearing may be set at short matters, and if contested, the Court may direct further proceedings. *See* Uniform Admin. Policies & Procedures of the Civil Division of the Ninth Judicial Circuit Court (rev. May 2020), § 17(D).

12. Hearings on Motions for Rehearing, Reconsideration, or New Trial.

- a. Upon the filing of a motion for rehearing, reconsideration, or new trial, the party filing the motion must email a copy of the motion to 35orange@ninthcircuit.org for review by the Court.
- b. The Court will either (i) rule without a hearing, (ii) direct that a written response be filed by opposing counsel, or (iii) direct the Judicial Assistant to contact the moving counsel to schedule a hearing.
- c. No party may set a motion for rehearing, reconsideration, or a new trial for hearing without Court order. Any notice of hearing without an order authorizing the hearing on the motion for rehearing, reconsideration, or a new trial will be summarily stricken.

B. SETTING OF TRIALS

1. Setting Cases for Trial.

- a. For all cases filed on or after January 1, 2025, a Uniform Trial and Case Management Orders shall be issued within three (3) business days of the complaint being filed.

- b. In accordance with Rule 1.440, Fla. R. Civ. P., on motion of a party (or on the Court's own initiative) any case may be set for trial: that a case is still in the discovery stage does not prevent the filing of a motion for trial or prevent the Court from setting the case for pretrial and trial.
- c. **THE COURT EXPECTS STRICT COMPLIANCE WITH THE TRIAL ORDER ABSENT A TIMELY MOTION AND ORDER OF COURT MODIFYING THE CONDITIONS THEREIN.** Joint stipulations to extend times set forth in the Trial Order will not be enforced in the event of a dispute between the parties: the Court will enforce the Trial Order.
- d. If the Court issues a Trial Order pursuant to a notice/motion for trial and either party believes that the trial date will not allow sufficient time to complete discovery, counsel should immediately request a status hearing or case management conference to determine a potential alternate trial date. Delays in advising the Court about inadequate time, conflicts, or other issues may be considered a waiver of any objection to the trial date.

2. Continuances of Trials.

- a. Motions for continuance of a trial will not be considered unless accompanied by written consent of the client or unless the motion specifically states good cause as to why such consent could not be obtained.
- b. Any motion for continuance must specifically set forth good cause justifying the continuance. Rule 1.460, Fla. R. Civ. P. provides, in relevant part: **"Motions to continue trial are disfavored and should rarely be granted, and then only upon good cause shown. Successive continuances are highly disfavored. Lack of due diligence in preparing for trial is not grounds to continue the case."**
- c. If additional discovery is required, the motion should specifically describe the incomplete discovery that forms the basis for the requested continuance. Generalized statements that more time is needed, or mere agreement of the parties, will not support the granting of a continuance.
- d. Motions to continue should be set during Ex Parte and Short Matters before the date of the pretrial conference. The Court typically does not entertain motions for continuance at the pretrial conference

3. Pretrial Conferences.

- a. Pretrial conferences will be utilized to set the order of the trial docket², and to discuss witness problems, the size of the venire, audiovisual equipment needs, need for interpreters, time allotment for voir dire, opening and closing, responsibility for obtaining the Court reporter, and other trial related issues.
- b. There is no entitlement to a language interpreter for litigants in civil Court. Accordingly, no language interpreters will be provided. *Caveat – Under the ADA, Court Administration will provide a sign language interpreter for civil matters. Please contact Court Administration no later than five (5) business days in advance of the hearing (30 days prior to a trial) to arrange accommodation for hearing or voice impairment. See Administrative Order 07-97-32-04.*
- c. Motions, including motions to continue, will generally not be heard at the pretrial conference.

² The Court will attempt to provide a specific date for trial; however, 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) than may be given at pretrial.

- d. Discovery closes the day prior to the pretrial conference. Parties should be ready to try their cases by the time of the pretrial conference.
- e. Prior to the pretrial conference, parties shall email to 35orange@ninthcircuit.org a completed and signed Pretrial Check List and Order Controlling Trial. Blank forms are available on the website.
- f. Virtual attendance at the pretrial conference by the attorneys who will try the case (lead trial counsel) is mandatory. Substituted appearance by counsel other than trial counsel at the pretrial conference is not permitted absent leave of Court for good cause shown.

C. SETTLEMENT OR RESOLUTION

1. Notice of Settlement.

- a. Plaintiff's counsel has the duty to immediately notify the Court of any settlement or resolution as to any matter or as to any parties to any matter on the trial docket.
- b. The case will not be removed from the actual trial docket, is subject to trial call, and the attorneys must appear, until such time as the Court receives a file-stamped notice or stipulation of dismissal, enters an order that the matter has been fully resolved, or has expressly advised the parties that they are excused.
- c. A Notice of Settlement is not sufficient to close the case. A notice of voluntary dismissal, an order of dismissal based on a joint stipulation for stipulation, or a final judgment as to all parties and claims is required.

D. TRIALS

1. Location and Times

- a. Trials will take place in Courtroom 19-B unless otherwise indicated. Counsel and *pro se* parties should check with the Judicial Assistant the day before the trial to confirm the actual Courtroom that will be used.
- b. Counsel and their clients are to be in the Courtroom and ready for trial no later than 9:00 a.m. Depending on the number of Ex Parte and Short Matters hearings, trial will commence at 9:00 a.m. or as soon thereafter as possible.
- c. The Court will typically recess for the day at or near 5:00 p.m.

2. Courtroom Decorum

- a. Counsel are referred to and must be familiar with the (1) Oath of Admission to the Florida Bar, (2) The Florida Bar Creed of Professionalism, (3) The Florida Bar Ideals and Goals of Professionalism, (4) the Rules Regulating The Florida Bar, and (5) the decisions of the Florida Supreme Court. See for reference In Re: Code for Resolving Professionalism Complaints, SC13-688 (June 6, 2013).
- b. The [Amended Ninth Judicial Circuit Courtroom Decorum Policy](#) is incorporated herein in its entirety. The Policy may also be found on the Division 35 website.
- c. Water (and only water) is permitted at counsel's table in a covered bottle or mug.

3. Cell Phones, Communication Devices, and Cameras

- a. Cell phones must be turned off or in the silent mode when in the Courtroom. If it is necessary to make or take phone calls, please step out of the Courtroom.
- b. Witnesses will not be permitted to possess any type of communication device while on the witness stand or while testifying by videoconference.
- c. No photographs or recording (audio, video, or other), is permitted within the Courtroom unless specifically permitted by the Court after formal request is made.

4. Trial Briefs

- a. If a trial brief is to be filed with the Court it must be submitted via email to 35orange@ninthcircuit.org no later than five (5) business days before the trial is to commence. Pertinent sections of case authority shall be highlighted.

5. Voir Dire

- a. The Court will conduct a preliminary voir dire of the venire regarding qualifications, familiarity with participants in the proceedings, language barrier issues, changes to questionnaire answers, health or medical issues, hardships, and similar matters. Counsel may request that the Court initially explore certain areas of inquiry that may be important to the trial but sensitive in nature.
- b. Counsel are reminded to be considerate of the prospective jurors' personal lives during their inquiries as well as the prospective jurors' time constraints.
- c. While the Court will afford counsel latitude in questioning, the Court will limit repetitive questions.
- d. Counsel shall not attempt to explore the facts of their case, nor explain the law that may apply in the case, nor attempt to curry favor with the venire:

Prospective jurors are examined on their voir dire for the purpose of ascertaining if they are qualified to serve, and it is not proper to propound hypothetical questions purporting to embody testimony that is intended to be submitted, covering all or any aspects of the case, for the purpose of ascertaining from the juror how he will vote on such a state of testimony. Such questions are

improper, regardless of whether or not they correctly epitomize the testimony intended to be introduced.

Dicks v. State, 93 So. 137, 137 (Fla. 1922).

- e. Time limits agreed to by the parties during the pretrial will be enforced.

6. Opening Statements and Closing Arguments

- a. 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.
- b. Only demonstrative aids, or exhibits marked by the clerk, agreed to by all counsel, or approved by the Court prior to the first day of trial, may be used in either opening statements or closing arguments.
- c. If a Power Point presentation is to be used in opening statement, a hard copy must be filed with the Clerk to create an appellate record. Any such PowerPoint or similar presentation must be provided to opposing counsel a reasonable time before being displayed to the jury to allow an opportunity for objections to be raised and resolved. If a Power Point has not been shown to opposing counsel sufficiently in advance of its intended use to permit objections to be raised and resolved, its use may be prohibited.

7. Exhibits

- a. All exhibits are to be marked for identification by the Clerk with the yellow tags provided by the Clerk prior to the day of trial. Exhibits are marked for identification alphabetically ("Ex. A", "Ex. B", "Ex. C", etc.). Once admitted into evidence, they are marked numerically ("Plaintiff's Ex. 1", "Plaintiff's Ex. 2", "Plaintiff's Ex. 3", etc.). Multiple page exhibits should be consecutively numbered by Bates stamp. Counsel should ensure that adequate copies of exhibits are available for the witness, the Court, and opposing parties.
- b. 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.
- c. No exhibits are to be published to the jury until (i) admitted into evidence and (ii) given permission to publish by the Court.
- d. Audiovisual equipment questions should be addressed to the Ninth Circuit's Technology Support department at <http://ninthcircuit.org/services/technology-support>.

8. Demonstrative Aids

- a. 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.
- b. The Court will hear argument of any counsel opposing the use of the demonstrative aids prior to the trial week.

9. Objections

- a. The Court will not allow speaking objections in front of the jury; only the legal basis for the objection should be stated. The Court will request a response from the non-objecting party only if necessary. If elaboration is necessary the Court will call counsel to the Bench for a Bench Conference outside the presence of the jury.
- b. Once the Court has ruled, no further argument shall be permitted. Matters addressed at sidebar are not to be repeated in front of the jury.

10. Experts

- a. The Court will not accept or qualify a witness as an expert in front of the jury. Challenges to an expert's qualifications and the expert's ability to testify must be addressed prior to the start of the trial period and therefore outside of the presence of the jury. Experts shall be cautioned by counsel who calls the expert of the effect of "*in limine*" rulings, as well as the effect of the Rule of Sequestration.
- b. Any issues or motions as to the expert's qualifications, opinions or ability to testify must be addressed well in advance of the pre-trial conference. Hearing time is limited: failure to have filed and heard challenges as to experts and their opinions in a timely manner may result in the challenge not being addressed, the trial continued, sanctions being imposed or other action by the Court.

11. Jury Instructions

- a. Joint Proposed Jury Instructions and Verdict Form must be emailed to the Judicial Assistant at 35orange@ninthcircuit.org in Word format no later than 24 business hours before the trial. The parties shall designate which instructions are agreed and which instructions, if any, are in dispute.
- b. Jury instructions must include a cover page with the case style and be formatted with 1" margins at the top and bottom, and not less than 1.25" margins at the left and right, in 12-Point New Roman font, single-spaced. The parties' names must be filled in where appropriate. "Notes for Use" must be deleted. Any blanks or bracketed terms contained in the standard jury instructions must be filled in or deleted if inapplicable. Failure to comply with the foregoing results in substantial trial delays.

12. Jury Deliberations

- a. Counsel are advised that jury deliberations past 8:00 p.m. require the consent of the Chief Judge and such consent is often denied out of consideration for the time of both the jurors and Courtroom staff. Counsel are advised to tailor the presentation of their cases to avoid sending jurors into deliberations at the end of the day, particularly on Fridays.