

Elaine A. Barbour
Circuit Judge

Orange County Courthouse
425 North Orange Avenue
Orlando, FL 32801



Christine Cohen
Judicial Assistant

(407) 836-2342
45Orange@ninthcircuit.org

State of Florida Ninth Judicial Circuit of Florida

DIVISION 45 POLICIES AND PROCEDURES

PLEASE NOTE: These procedures apply to Judge Elaine A. Barbour in Division 45 only. These procedures have several helpful links to resources referenced. Just hover your cursor over the link and hit “Ctl+Click” (hit the Ctrl button, a hand will appear and then right click with your mouse) and you will be taken to the linked resource.

Where a [Ninth Circuit Administrative Order](#) or the [Florida Family Law Rules](#) conflict with these Policies and Procedures, the Order or Rule will control. Please read these rules in their entirety. If you have questions, read this document thoroughly. If not answered below, only then inquire via email at the [Division 45 email](#)

CONTACT: The division email should be used for all hearing requests or other matters. You must copy opposing counsel and pro se litigants on all correspondence to the Judicial Assistant (JA) at the division email; otherwise, the email may not be responded to. The division email is: 45Orange@ninthcircuit.org

PRO SE LITIGANTS: Please review [Administrative Order 2017-08-01](#), which establishes procedures for self-represented litigants in the Domestic Relations Division. The Judge and the JA cannot provide legal advice to you regarding your case. If you need additional assistance and cannot afford to hire an attorney, please contact [Family Court Case Management](#), [the Self Help Center](#), or [Legal Aid](#). The [Family Court Case Management Office](#) has an [online form](#) for pro se litigants to request assistance.

INTERPRETERS: The Court can only provide interpreters for DV¹ cases and not DR² cases. You must inform Judicial Assistant a minimum of 5 business days in advance that an interpreter is needed for your DV case. If you need an interpreter for a DR case, you must bring YOUR OWN INTERPRETER for DR cases. The interpreter does not have to be a court-certified interpreter but must be someone who understands English and your preferred language fluently.

¹ “DV” refers to Domestic Violence, e.g. Injunctions

² “DR” refers to Domestic Relations cases, e.g. divorces and paternity cases

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ADDITIONAL RESOURCES: Additional information, resources, and forms can be found at the following link

[Judge Elaine A. Barbour's Ninth Circuit Page](#)
[Ninth Circuit Administrative Orders](#)
[Family Law Forms](#)
[Ninth Circuit Family Court Case Management Services](#)
[Domestic Violence Resources](#)
[Injunction Hearing Instructions](#)
[File Your Documents On Line - Instructions](#)
[Address & Email Form](#)

DV AND RELATED DR COURTROOM ASSIGNMENTS:

There are four judges currently assigned to Domestic Violence Injunctions (DV) and their related Domestic Relations (DR) cases. The judges rotate through the courtrooms on a four-week rotation. A description of what is heard in each courtroom is detailed below.

COURTROOM 16-A INJUNCTION COMPLIANCE HEARINGS

Monday – Friday 9:00 a.m. - 11:00 a.m.

All Injunction Compliance Hearings are set by the Court. They may be held virtually or in person, so check your Order Setting Compliance Hearing for information on how to appear. These hearings are not coordinated with counsel or the parties. Rather, they are set following the entry of an Injunction or at a prior Compliance Hearing. Cases requiring a Spanish interpreter are heard Wednesdays between 11 am and noon. For all languages, please notify the JA by sending an email to the [division email](#) if an interpreter is needed.

If you are scheduled for a Compliance Hearing, and have proof of compliance to submit to the court, please email it to InjunctionsOrange@ocnjcc.org prior to the hearing date.

COURTROOM 16-B INJUNCTION RETURN HEARINGS

Monday – Thursday 8:30 am, 10:00 am, 1:00 pm, and 2:00 pm
Fridays 8:30 am, 10:00 am (as needed)

All Return Hearings are held in person. You may request permission for a witness to appear virtually via Motion. The e-filed Motion and proposed Order must be sent to the [division email](#) at least one business day prior to the hearing. Cases requiring a Spanish interpreter are heard on Thursdays. If your case requires a Spanish interpreter and is not currently set for a Thursday, please notify the JA via the [division email](#). For all languages, please notify the JA by sending an email to the [division email](#) if an interpreter is needed.

COURTROOM 16-C RELATED DOMESTIC RELATIONS CASES (NO DV)

Hearing availability viewable on [aiCalendar](#); request by emailing the [division email](#). Hearing time availability can be viewed on the [ai On Line Docket](#). However, due to the four-week rotation and the complexity of the calendar, the better practice is to request hearing time by sending an email to the [division email](#). To search availability on [aiCalendar](#), is suggested that you click on "[Available Hearings](#)" and then toggle to view the "[Weekly Docket](#)". Parties and attorneys may appear virtually for non-evidentiary hearings that are less than 30 minutes by agreement or Motion/Order. Please see the Virtual Appearances section below for more guidance on appearing virtually. Interpreters are not provided by the Court for DR cases. If an interpreter is needed, you must bring your own.

COURTROOM 16-D MISC DV HEARINGS

Hearing availability viewable on [aiCalendar](#); request by emailing the [division email](#). Hearing time availability can be viewed on the [ai On Line Docket](#). However, due to the four-week rotation and the complexity of the calendar, the better practice is to request hearing time by sending an email to the [division email](#). It is suggested that you click on "[Available Hearings](#)" and then toggle to view the "[Weekly Docket](#)". Parties and attorneys may appear virtually for non-evidentiary hearings that are less than 30 minutes by agreement or Motion/Order. Please see the Virtual Appearances section below for more information on appearing virtually. Cases requiring a Spanish interpreter are heard on Wednesday afternoons. For all languages, please notify the JA by sending an email to the [division email](#) if an interpreter is needed.

EVIDENCE REQUIREMENTS: For all evidentiary hearings set for one hour or more, and all non-jury trials, the litigants are required to file a Witness and Exhibit List and exchange all exhibits no later than three (3) days prior to the hearing, or as otherwise Ordered by the Court. You must comply with any time constraints or other requirements set by these Policies and Procedures and any Orders relating to the hearing or trial where you wish to offer the evidence. Failure to comply may result in the denial of your request to enter the item into evidence.

Exhibits that will be offered into evidence should be pre-marked using the court-approved tags. You may obtain tags from the trial clerk or the clerk's office. You must follow the [evidence pre-marking instructions](#). It is your responsibility to provide a copy of all exhibits to opposing counsel or pro se litigant. Please do not email the exhibits. You must still bring a copy of all exhibits to court for the trial or hearing. The Court cannot print your exhibits. Uploading them or filing them in the court file is insufficient.

Please note: the Court does not have the ability to play a CD or DVD, and you should provide a USB drive with any video, audio, or photos (unless printed) or make your own arrangements for the CD or DVD to be played. (Bring your own device or contact the [AV Department](#) for further assistance.)

SPECIFIC MOTIONS AND SETTING HEARINGS

PREREQUISITE TO SETTING HEARINGS: Before coordinating a hearing, Counsel shall comply with [Administrative Order 2014-19](#). Specifically, the hearing coordination and “meet and confer” portions of the Order must be met prior to scheduling a hearing. Additionally, mediation is required before seeking temporary relief or setting a case for trial in a DR case. Please see the Mediation and Trial Procedure sections below for additional information.

Requests for hearing time will be reviewed by the judge, and an Order may be entered without a hearing. If either side receives an Order contrary to their position, you may file a timely Motion for Reconsideration.

Please note that DV hearings are recorded by the court reporting system, but DR hearings are not. If you require a recording of a DR hearing, you must hire your own official court reporter. Private pro se recordings of DR proceedings are strictly prohibited.

SETTING HEARINGS: Once you have satisfied the “meet and confer” requirement, obtain hearing time availability. Hearing time availability can be viewed on the [ai On Line Docket](#). However, due to the four-week rotation and the complexity of the calendar, the better practice is to request hearing time by sending an email to the [division email](#).

Next, coordinate your hearing with opposing counsel or pro se litigants. Please refer to [Administrative Order 2014-19](#) for guidance where the opposing counsel or pro se litigant fails to “meet and confer,” does not respond, or refuses to coordinate the hearing.

Finally, email the [division email](#) to reserve the hearing time. Please attach an e-filed copy of the relevant Motion to your request. You must copy opposing counsel or pro se litigant on all correspondence to the division email. If any party or attorney wishes to appear virtually, please refer to the instructions on virtual appearances before scheduling your hearing. Please include the following information in your request:

1. Case Number
2. Both Petitioner’s and Respondent’s Name and Attorneys’ Name(s)
3. Title of Motion and Date Filed
4. Date, Time, and Length of Time Being Requested
5. Whether the Hearing is Evidentiary in Nature (Testimony or Evidence Expected)
6. Certificate of Compliance with “Meet and Confer” and Hearing Coordination Requirements in [Administrative Order 2014-19](#)
7. Requests or Agreements to Appear Virtually
8. If DV, Whether an Interpreter is Needed, and Language Requested
9. Whether any Party is in Jail and Needs to be Transported to Court

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All hearings, including ex/parte short matters, must be confirmed by the JA to appear on the docket. Once the hearing is confirmed, the Judicial Assistant will contact you with further instructions. Cross-Notices are not permitted without agreement of the opposing side and approval from the Court.

EX PARTE/SHORT MATTERS:

Ex parte and short matters are typically held virtually via [WebEx](#) on an as needed basis. Please contact the judicial assistant at the [division email](#). This may be used for uncontested matters such as Motions to Withdraw, Uncontested Final Hearings, Agreed Orders, Motions to Continue, and matters involving legal argument of 15 minutes or less. Hearings requiring testimony, evidence, or more lengthy argument are not appropriate. If you intend to hire a court reporter or want to appear in person, the matter is not appropriate to be heard on the ex parte docket.

Please email the [division email](#) to confirm available ex parte dates and coordinate a date with opposing counsel or pro se litigants. Include an e-filed copy of the Motion, and a Word copy of the proposed Order. Once you have coordinated a date, confirm the date and time by emailing the [division email](#). If unable to coordinate the date with opposing counsel or pro se litigants, detail your efforts to coordinate the hearing when you confirm the hearing time.

Note: Many issues can be ruled upon in Chambers without a hearing. You may inquire by email to the [division email](#) as to whether a hearing is required before setting the hearing.

VIRTUAL APPEARANCES: Where virtual appearances are permitted, parties and attorneys may appear virtually for non-evidentiary hearings that are 30 minutes or less by using the [WebEx link](#).

“Non-evidentiary” means there will be little to no testimony, and nothing will be entered into evidence. Where there is agreement, please notify the JA while scheduling the hearing. If there is no agreement, the party or attorney requesting a virtual appearance should file a Motion and send a copy of the e-filed Motion and proposed Order in Word format to the division email while scheduling the hearing, or no later than two business days before the hearing. The Motion should state the good cause basis for a virtual appearance and include the opposing party’s position on the request.

If the hearing is set for over 30 minutes in length or is evidentiary in nature, the hearing shall be held in person unless prior approval is granted via Motion and Order. You may request permission for a witness, party, or attorney to appear virtually as detailed above.

If any witness, party, or attorney will appear by [WebEx](#), please ensure you are familiar with the technology, know how to mute/unmute yourself and turn your camera on/off, and are logged in at the start time for the hearing. If you are not comfortable with the technology, please email the [division email](#) to set up a time to practice when Court is not in session.

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EMERGENCY MOTIONS: All Emergency Motions must include “EMERGENCY MOTION” in their title. The Motion should also be verified. Please email the e-filed copy of the Motion to the [division email](#) and indicate in the subject line of the email that it is an Emergency Motion. An Emergency Motion is only appropriate in “an emergency situation, such as where a child is threatened with harm, or where the opposing party plans to improperly remove the child from the state. [Loudermilk v. Loudermilk](#), 693 So. 2d 666, 668 (Fla. 2d DCA 1997). If it is expedited relief that you are requesting, title your Motion “EXPEDITED” rather than “EMERGENCY,” and proceed accordingly.

Once an Emergency or Expedited Motion is received via the [division email](#), the Court will review the Motion and either (1) enter a ruling on the Motion without a hearing; (2) set a hearing for the Motion to be heard on an emergency basis; or (3) deny the Motion as to being an emergency, and direct the parties to coordinate a hearing for the Motion to be heard on an expedited or non-emergency basis.

MOTIONS TO CONTINUE: Pursuant to [Florida Rule of Judicial Administration 2.545\(e\)](#), continuances should be rare, and good cause for the continuance should be shown. All Motions to Continue must be signed by the party requesting the continuance except where good cause as to why a signature can’t be obtained is shown. Please include either the opposing party’s position or detail attempts to obtain their position.

If the opposing side objects to the continuance or you are unable to obtain their position, the Motion should be set for hearing prior to the time the hearing or trial is scheduled where feasible. Motions to Continue may be set on the ex parte/short matters docket. If the continuance is granted, a new hearing or trial time will be set. If the continuance is denied, the scheduled hearing or trial will proceed.

MOTIONS TO WITHDRAW AND SUBSTITUTION OF COUNSEL: Please review [Florida Family Law Rules of Procedure 12.040](#) and [Florida Rules of Judicial Administration](#), as it relates to Motions to Withdraw. All Motions to Withdraw or for Substitution of Counsel should include the client’s signature and must contain their last known address and an email address if available. The Motion must be served on the client. If you are unable to obtain written consent to withdraw from the client, the Motion must be set for hearing with notice to the client ensuring that your certificate of service so indicates.

Motions to Withdraw or to Substitute Counsel may be set on ex parte/short matters or at a regularly scheduled hearing. Please allow sufficient time for the client to be notified, and direct them to appear at the hearing. The Court considers a minimum of seven days’ notice sufficient time.

UNCONTESTED FINAL JUDGMENTS: Attorney Uncontested Dissolution of Marriage are set in front of the Judge assigned to the case.

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Uncontested Final Hearings may be conducted in writing without the need for attorneys or parties to appear by filing a Motion and Waiver for Written Final Hearing. The [Required Checklist for Entry of Final Judgment without Personal Appearance](#) must be submitted to the [division email](#) along with all applicable agreements and the proposed Final Judgment in Word format.

Uncontested Paternity Final Judgments and Supplemental Final Judgments may be emailed to the [division email](#) for review by the Judge without a hearing if all required documents have been filed. Please indicate whether the Final Judgment is agreed upon.

If a hearing is requested, complete the [Uncontested Dissolution Checklist](#) and email it to the [division email](#), along with the proposed Final Judgment and all agreements. The Parenting Plan and any Marital Settlement Agreement must be incorporated into the Final Judgment and attached as exhibits. Any Final Judgment in a case with children must include full names and dates of birth of the child and all child support details. Send all documents to the [division email](#) when requesting hearing time. Send the Final Judgment in Word format.

These may be set during regular hearing time, or on the ex parte docket if the parties are confident it can be handled in fifteen minutes or less. Remember the ex parte docket is virtual, and the proposed Final Judgment must be sent to the Court prior to the hearing.

MEDIATION AND TRIAL PROCEDURE FOR DR CASES

MEDIATION REQUIREMENT: Pursuant to [Administrative Order 2004-14-02](#), parties must attend mediation prior to seeking temporary relief or setting a case for Non-Jury Trial. More information on this process is below. After attending mediation, parties may seek temporary relief or file a Notice of Non-Jury Trial. Motions to Dispense with Mediation can be sought for those parties with a history of domestic violence pursuant to [Florida Statute 44.102\(2\)\(c\)](#).

TEMPORARY MATTERS (FORM 50): Parties should attend Mediation before requesting hearing time for temporary relief in DR cases. File [Form 50](#) with Dispute Resolution to schedule the Mediation. [Form 50](#) may be faxed to 407-836-2367. If, after Mediation, the parties are unable to reach agreement, a hearing on temporary matters may be scheduled with the Court.

NOTICE OF NON-JURY TRIAL, FORM 50 AND FORM 51: Prior to trial, the parties must attend Mediation within the last 180 days before filing a Notice for Non-Jury Trial to attempt a resolution of all matters in the case or obtain approval from the Court to dispense with mediation. [Form 50](#) should be prepared and faxed to Dispute Resolution at 407-836-2367 to schedule Mediation.

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After Mediation is concluded, if any or all issues are unresolved, a Notice for Non-Jury Trial should be filed with the Clerk's office. Pursuant to [Administrative Order 2004-14-02](#), counsel or pro se litigants must attach a [Form 51](#) to their Notice of Trial. If the case is a Dissolution of Marriage with Children or a paternity case, parenting class certificates must be filed with the Clerk's Office pursuant to [Florida Statute 61.21](#) and [Administrative Order 07-98-37-01](#).

Email a copy of the e-filed Notice and [Form 51](#) to the [division email](#) in order for the trial procedure process to begin.

CASE MANAGEMENT CONFERENCE: After the Notice for Non-Jury Trial and [Form 51](#) are received by the Court, the Court will issue an Order setting a Case Management Conference (CMC). The Court may also set a CMC on its own accord or upon motion of any kind. Please note that where a CMC is set by the Court, it is held pursuant to [Florida Family Rule of Procedure 12.200](#), which may include the setting or disposition of any outstanding Motions, and place other requirements on the parties. Prior to the CMC, counsel and pro se litigants must comply with all aspects of the Order setting the CMC.

All counsel and parties must be present for CMC unless previously excused by the Court. CMCs will generally be held virtually using the [WebEx link](#). If any party or attorney wishes to appear in person, please send a request to the [division email](#). At the CMC, a Pre-Trial Conference (PTC) will be set if the case is ready for trial, and the Court will enter a Uniform Pre-trial Order (UPTO). If the case is not ready for trial, another CMC will be set.

UNIFORM PRE-TRIAL ORDER REQUIREMENTS: Prior to the PTC, counsel and pro se litigants must comply with all aspects of the UPTO. Noncompliance may result in cancellation of the PTC and other sanctions. If modifications or extensions of time are needed, a timely Motion to Modify the UPTO is required.

To streamline the issues that will be addressed at trial, parties and attorneys will be required to prepare documents in advance of the PTC to assist the Court. The UPTO will detail these requirements. Sample forms and instructions are available at the websites listed under Additional Resources on the first page of these policies and procedures. If the parties are unable to cooperate to complete the following, the Court may decline to set the case for non-jury trial until completed, and fees may be assessed accordingly. Examples include the following:

Parenting Plan: Where the parties do not have agreement on a Parenting Plan, the court may require the parties to produce a joint redline Parenting Plan. [Instructions](#) for how to create a redline word document on how to create one is available online. You may also refer to the Parenting Plan in [Family Law Form 12.995](#).

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Pre-Trial Memorandum: The UPTO requires a Joint Pre-Trial Memorandum with stipulations or proposed stipulations. A [sample form](#) is available online for your use.

Equitable Distribution Spreadsheet: The UPTO requires a Joint Equitable Distribution Spreadsheet. An [Excel spreadsheet](#) is available online for your use.

You will also be required to provide a copy of all exhibits to opposing counsel or pro se litigant pursuant to the UPTO, even if the items were previously disclosed through the Discovery process.

PRE-TRIAL CONFERENCE: All parties and their attorneys must appear at PTC. If all parties have complied with the Uniform Pretrial Order, the non jury trial will be scheduled at PTC. The trial date will be set at the Court's first availability. PTCs will be held virtually using the [WebEx link](#). If any party or attorney wishes to appear in person, please send a request to the [division email](#). After PTC, the Court will issue an Order setting the Trial.

NON-JURY TRIAL: Non-Jury Trials will be held in person. Please read the Order Governing Trial and comply with all requirements in a timely fashion. Both sides will be required to provide an updated Final Judgment, Parenting Plan, and Child Support Guidelines to the Court and opposing counsel or pro se litigant at least three business days prior to trial or as detailed in the Order Setting Trial. Please send the proposed Final Judgment and proposed Parenting Plan to the [division email](#) in Word format. All parties and attorneys are expected to appear in person for trial. See the Virtual Appearances section for more information to request that a witness appear virtually.

MISCELLANEOUS

CANCELLATIONS: To request a cancellation of a hearing that will be cancelled for any reason, email your request to the [division email](#) prior to the hearing date (whenever possible). If no confirmation of the cancellation is received from the JA, the parties are expected to appear at the date and time the hearing is scheduled. The parties may not unilaterally cancel a hearing or trial, but must obtain approval from the Court, or appear as scheduled.

REQUESTS FOR REHEARING OR RECONSIDERATION: Where parties or attorneys wish for the Court to rehear a Motion or reconsider a Motion, you must first timely file the Motion for Rehearing or Reconsideration pursuant to the [Florida Law Rules](#). Email the e-filed copy of the Motion to the [division email](#) for review. The Court will either (1) enter a ruling on the Motion without a hearing, or (2) direct the parties to coordinate a hearing for the Motion for Rehearing or Reconsideration to be heard. If a Motion for Rehearing or Reconsideration is granted, a separate hearing will then be set on the underlying issue.

AUDIO/VISUAL EQUIPMENT IN THE COURTROOM: If assistance with audio/visual equipment is needed, contact the IT Department/Help Desk Line at (407) 836-0522 or by

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[online request](#). Additional information can be found on the [Ninth Circuit's Technology Support](#) page. Please note that audio/video equipment may have changed since last time you used it, so plan accordingly. The Court will make the courtroom available for advance preparation. It is the requesting party's responsibility to ensure any digital media works and make arrangements for its use in court.

REASSIGNMENTS: Reassignments among divisions are done by Order of the Family Court Division Administrative Judge pursuant to [Administrative Order 2017-10-04](#). DV and DR cases may not be consolidated, but related cases will be heard by the same judge, if the requirements under the Administrative Order are met. Please read paragraph 1.C. & D. before contacting the Judicial Assistant regarding any request for reassignment.

SUPPORT OR INCOME DEDUCTION ORDERS: When submitting an Order or Final Judgment directing a party to make payments to the State Disbursement Unit, please submit an Income Deduction Order (IDO) (with attached Income Withholding Order (IWO) if there is child support) to be entered by the Court. Please use [Form 12.996 \(IDO\)](#) and the [OMB approved form \(IWO\)](#) that are available online. It is the responsibility of the receiving party to ensure the Obligor's employer receives a copy of the Withholding Order.

WEBEX LINK AND QR CODE: Division 45 WEBEX link -

<https://ninthcircuit.webex.com/meet/45orange>

or scan the QR code below:



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