

GUIDELINES AND PROCEDURES

Judge Kevin B. Weiss
Orange County Circuit Civil Court Division 36

Judicial Assistant: Jonathan Rosado
Phone: (407) 836-2354
Email: 36orange@ninthcircuit.org
Address: Orange County Courthouse
425 North Orange Ave., Orlando, FL 32801
Chambers: 2020
Hearing Room: 20A
Courtroom: 10A

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In order to assist counsel, the litigants and the Court, the following guidelines, procedures, and practices are hereby adopted for Circuit Civil Division 36 in Orange County, Florida when practicing before Judge Kevin B. Weiss.

- EX-PARTE /SHORT MATTERS AS WELL AS ALL OTHER HEARINGS WILL BE HELD VIRTUAL VIA WEBEX AND/ OR IN PERSON IN HEARING ROOM 20-A.

WEBEX: <https://ninthcircuit.webex.com/meet/36orange>

Meeting code : 2338 820 0950

Or join by phone: +1-904-900-2303

Access code: 2338 820 0950

WebEx Video Instructions: Five minutes before the hearing, all participants should connect to the video conference. At the time of the hearing, the judge will connect to the video conference.

Video Conference Note: You will be entering a virtual waiting room before the hearing. Your name must appear on screen. The judge will admit you to the hearing when the hearing begins. Please keep your microphone on mute until it is your turn to speak.

MANDATORY MEET AND CONFER PROCESS: Please review and comply with Ninth Judicial Circuit Administrative Order No. [2012-03-01](#) before scheduling a hearing on a motion, in order to attempt to resolve or otherwise narrow the issues raised in the motion. Any Notice of Hearing filed with the Court must include a Certificate of Compliance as set forth in Exhibit A of the

Administrative Order. The Judicial Assistant will not schedule hearings where the movant has failed to comply with the “meet and confer” requirement. Failure to include the requisite Certificate of Compliance in the notice of hearing will result in cancellation of the scheduled hearing.

EX PARTE AND SHORT MATTERS: The Court will hold ex parte and short matters hearings Monday through Thursday from 8:30 to 9:30 a.m. Ex parte hearings are uncontested or agreed matters, typically five (5) minutes or less. Short matters are non-evidentiary contested matters requiring ten (10) minutes or less and include simple motions to dismiss, strike affirmative defenses, for more definite statement, to amend pleadings, short discovery motions, protective orders, objections to CMEs, summary judgment after default, foreclosure summary judgments, scheduling issues, etc. The Court will not hear evidentiary hearings at short matters.

These hearings are not scheduled with the Judicial Assistant, but must be coordinated with opposing counsel on a date that Judge Weiss is available. Please refer to the DIVISION CALENDAR, online for available/unavailable dates. The attorney noticing the hearing must provide at least five (5) days’ notice to the opposing party.

Counsel and parties shall appear for ex parte and short matters via Webex or in-person in Hearing Room 20A at the Orange County Courthouse.

Courtesy Copies Required: An electronic courtesy copy of the motion and notice of hearing (with the WEBEX LINK or in-person information) must be provided to the judge at least two (2) business days before the hearing. Failure to do so may result in the hearing not being held. Courtesy copies (in .pdf or Word format) of the motion and notice of hearing shall be provided by email to 36orange@ninthcircuit.org. The email is to include the case number, style and date/time of the hearing.

HEARINGS OTHER THAN EX PARTE/SHORT MATTERS: All available hearing time is listed on the division calendar.

- Please utilize the website : <http://www.ninthcircuit.org> Click the “Resources & Tools” then click Division Calendars
- Select the calendar for Civil Division 36 and review “Available Hearings”. For requests exceeding 15 minutes, please combine consecutive timeslots.
- Any hearing requests for longer than 1 hour must be approved by Judge Weiss either by appearing during short matters or by letter to the Judge detailing the reasons for the additional time. The letter may be emailed to 36orange@ninthcircuit.org. After review, you will receive a response to the request.
- Hearings that are 10 minutes or less and non-evidentiary should be heard at ex parte/short matters. See above for instructions.

Please coordinate the date and time with opposing counsel/pro se party. Hearing times must be cleared with opposing counsel and/or pro se parties. Because others are also coordinating hearing time, you should coordinate up to 3 alternate times in the event the time requested is booked.

After coordinating the date and time with all counsel/parties, you must contact the Judicial Assistant by e-mail at 36orange@ninthcircuit.org, copying opposing counsel/pro se litigants, for the hearing to be added to the docket. The emailed hearing request must include:

Coord Case #:

Coordinated date & time:

Case Style:

Motion to be heard/Date filed:

Amount of time being requested:

Attorney names & who they represent:

Date of completed "Meet & Confer":

Whether the hearing is in person or virtual.

Your hearing time is not confirmed until you receive a reply from the Judicial Assistant.

Good faith cooperation is expected both from counsel, their support staff and pro se litigants. If after three (3) attempts on separate days to coordinate a hearing, counsel does not cooperate or respond, the requesting party may unilaterally set a hearing giving at least two weeks' notice to the opposing counsel or pro se litigant who failed to cooperate or respond. Efforts to coordinate the hearing must be noted on the Notice of Hearing. See, Admin. Order [2012-03-01 ¶6](#).

MISCELLANEOUS ISSUES RE: HEARINGS:

Cross-notice of Motions. Please do not cross-notice motions without prior approval of opposing counsel and the Judicial Assistant. If permitted, counsel must email the JA to confirm it can be heard in the same time frame or that sufficient additional time is available for all matters to be heard. Any matter cross-noticed must comply with the meet and confer requirement.

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.

Canceling a Hearing. Please note that only the party setting the hearing may cancel the hearing.

The party cancelling the hearing must:

Email the Judicial Assistant with a copy of the Notice of Cancellation that has been filed with the Clerk (filing the Notice of Cancellation with the Clerk is not sufficient as the Clerk does not notify the Court). If the hearing is cancelled less than 4 hours beforehand, and counsel cancelling the hearing has not been able to confirm the Judge's office has been informed, counsel shall appear or have someone appear on counsel's behalf to so inform the Judge.

Emergency Hearings. If an emergency situation arises, counsel may request that a hearing be set on short notice. The body of the motion must contain a detailed explanation of the circumstances constituting the emergency as well as the substance of the motion. The motion must be hand delivered or e-mailed to the Court before a hearing will be set. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact counsel to set the hearing. Opposing counsel or pro se party must be copied on any correspondence to the Court.

Motions to Withdraw as counsel. Motions should be set during short matters with notice to all parties if client consent cannot be obtained. If the client consents to the motion and the opposing party does not have an objection, the withdrawing party may submit the motion and proposed order to the Court.

COURTESY COPIES REQUIRED

Motion(s), supporting memoranda and/or case law to be heard must be received, by email or hard copy to chambers at least five (5) business days prior to the hearing to ensure an opportunity for the Court to review. Please copy opposing counsel or pro se party with the same information provided to the Court.

Copies sent to the Court should:

- A. Be sent in .pdf or Word (not in a zip file or shared folder);
- B. Copies over 50 pages are required to be provided via U.S Mail or hand delivered to the JA. The parties are encouraged to use a USB/flash drive.

Failure to provide courtesy copies may result in the hearing being cancelled.

ORDERS AND RULINGS

Rulings. The Court will issue orders and rulings in a timely manner. Every effort will be

made to rule on the day of the hearing. If it is necessary to take an issue under advisement, the Court will attempt to set a date by which the Court will issue its ruling.

Proposed Orders. If counsel are asked to prepare an order, the order should be:

- A. Drafted and circulated within three (3) working days, and
- B. Submitted to the Court within seven (7) days of the hearing, with a copy to opposing counsel.
- C. All Orders must describe, in the caption, the subject and ruling of the court, *i.e.* “*Order Granting Plaintiff’s Motion for Partial Summary Judgment on Liability.*” *See* Fla.R.Civ.P. 1.100(c)(2).
- D. Counsel must advise the Court of any objection to, or agreement on, the form of the proposed order when the order is submitted.
- E. If the parties are unable to agree on the form of the order, both sides shall email their proposed Order in Word format to the Court for consideration within the seven (7) days. All parties must be copied on all email submissions.

Submitting Orders to Chambers:

Proposed agreed orders must be emailed to 36orange@ninthcircuit.org in Word format together with an e-filed cover letter signed by counsel confirming that opposing counsel agrees to the content and form of the order.

Certificate of Service: Please be sure that the certificate of service on the proposed Order complies with the Rules of Civil Procedure.

To check the status of a specific proposed order to see if a ruling has been issued by the Judge, you should first check the clerk’s online system to check if one has been docketed. If the order is not found, counsel or pro se party may send an email inquiry to the JA at 36orange@ninthcircuit.org.

MOTIONS

1. MOTIONS FOR REHEARING, RECONSIDERATION OR NEW TRIAL

- A. Upon filing said motion, you are required to send a copy of the motion with a proposed order, directly to chambers for review, as the Clerk does not provide them to the Court.
- B. The Court will either: (i) rule without a hearing, (ii) direct that a written response be filed by opposing counsel or pro se party, or (iii) direct the JA to contact the moving party to schedule a hearing.

2. DISCOVERY MOTIONS AND MOTIONS TO COMPEL

- A. The mere filing of an Objection, Motion to Compel or Motion for Protective Order is insufficient. A Motion must be filed and set for hearing to bring the matter to the Court's attention. Motions to compel, as well as all discovery motions, must comply with the Florida Rules of Civil Procedure including, but not limited to, a certification of a good faith attempt to resolve the matter without court action. *See Fla. R. Civ. P. 1.380(a)(2)*
- B. If no timely response or objection has been filed to initial discovery requests (e.g. Fact Information Sheet, Interrogatories, etc.) the moving party may submit a proposed order (including stamped addressed envelopes where necessary) with the Motion. Unless there is a written objection by the opposing party, no hearing will be necessary and the Court will rule in chambers.

3. ATTORNEY'S FEES IN DISCOVERY DISPUTES

- A. If you are seeking attorney's fees, you must, before filing a Motion to Compel pursuant to Fla. R. Civ. P 1.380, confer with counsel for the opposing party in a good-faith effort to resolve by agreement the issues raised, and shall file with the court at the time of filing of the motion, a statement certifying that counsel has conferred or attempted to confer with opposing counsel and that counsel have been unable to resolve the dispute.
- B. As provided in Section (a)(4) of Rule 1.380, if the motion is granted, the Court shall award expenses which may include attorney's fees.

4. MOTIONS TO CONTINUE

All Motions to Continue must (1) be in writing; (2) be signed by the attorney and the parties requesting same; (3) identify the position of opposing counsel on the motion; (4) indicate any other continuances that have been sought and or granted or denied; (5) set forth when the parties will be ready for trial, if granted; (6) comply with Fla. R. Civ. P. 1.460 and Fla. R. Jud. Admin 2.545(e) and (7) MUST contain facts upon which the Court can grant the motion.

Stipulated Motions to Continue will not result in the trial being continued unless and until the Court reviews the motion and enters an order on same. The Court may require a hearing on the Motion or conduct a Case Management Conference. The attorneys or pro se parties must comply with the requirements in the trial order until the Court grants a continuance of the trial.

5. SETTLEMENT / MOTION TO REMOVE FROM TRIAL DOCKET

The Court must be notified immediately at 36orange@ninthcircuit.org of any settlement or resolution of any matter or of any parties to any matter, on the trial docket. However, the trial will not be removed from the actual docket, is subject to trial call, and the attorneys must appear, until such time as the Court receives written notice that the matter has been fully resolved and all documents necessary to close the case have been filed with the Clerk. **A Notice of Settlement is not sufficient to close the case.** A dismissal or judgment as to all defendants/claims is required. Parties who have filed a notice of settlement are still required to attend a pre-trial conference hearing if a voluntary dismissal is not filed or they have not received an order excusing them.

TRIALS

Trials will take place in Courtroom 10-A unless otherwise indicated. Attorneys should check with the Judicial Assistant the day before the trial to confirm the actual courtroom that will be used. Counsel and their clients are to be in the courtroom and ready for trial no later than 9:00 a.m. unless otherwise notified. Depending on other emergency matters, the Court will start at 9:00 a.m. or as soon thereafter as possible.

A. Courtroom Etiquette and Decorum:

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

Professionalism will be expected of each attorney and representative of their offices and any retained witnesses. The Court is under a professional obligation to make referrals of unprofessional conduct to the local Bar or The Florida Bar.

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.

INFORMATION NOT COVERED: If any matters concerning the conduct of the division's hearing procedures are not covered herein, counsel may contact the Court by email at 36orange@ninthcircuit.org, with a copy to opposing counsel and unrepresented parties. The Court appreciates counsels' efforts to understand and comply with this Court's procedures.