

**GUIDELINES AND PROCEDURES**  
**Judge Donald A. Myers, Jr.**  
**Orange County Circuit Civil Court Division 36**

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Hearing Room: 17B  
Courtroom: 10A

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 Donald A. Myers, Jr.

**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 Myers is available. Please refer to JACS online for available/unavailable dates. The attorney noticing the hearing must provide at least five (5) days notice, unless all parties agree to a shorter notice.

Counsel and parties may appear for ex parte and short matters virtually (via WebEx – instructions below) or in-person in Hearing Room 17B. Virtual hearings will be addressed first, followed by in-person hearings.

**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. Judge Myers uses a WebEx static link for his ex parte and short matters virtual hearings scheduled in the hearing room. **CLICK TO JOIN:**  
<https://ninthcircuit.webex.com/meet/ctjudm1>

*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.*

**Courtesy Copies Required:** An electronic courtesy copy of the motion and notice of hearing (with the video link or in-person information) must be provided to the judge at least three (3) business days before the hearing. **Failure to do so may result in the hearing not being held.** Courtesy copies in .pdf or Word of the motion, notice of hearing and the proposed order in Word shall be provided by email to [36orange@ninthcircuit.org](mailto:36orange@ninthcircuit.org). If sent by email the body of the email shall 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 JACS in real-time. The Judicial Assistant does not have hearing time that is not listed on JACS.

- Click on [Judicial Automated Calendaring System \(ninthcircuit.org\)](http://www.ninthcircuit.org) or Go to the court website at <http://www.ninthcircuit.org>. Click the “Services” link or click on the box that says JACS. Click on the Judicial Automated Calendaring System (JACS) link.
- Select the calendar for Civil Division 36 and hit “Retrieve.” All instructions for scheduling in Division 36 and available hearing times will be displayed. For requests exceeding 15 minutes, please combine consecutive timeslots.
- Any hearing requests for longer than 1 hour must be approved by Judge Myers 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](mailto: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.

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](mailto:36orange@ninthcircuit.org), **copying opposing counsel/pro se litigants**, for the hearing to be added to the docket. The emailed hearing request must include:

- Date and time being requested for the hearing
- Case number
- Style of the case
- Names of the attorneys (or pro se if applicable)
- Title of the motion(s) to be heard
- Amount of time being requested for the hearing

Your hearing time is not confirmed until you receive a reply from the Judicial Assistant. At the time of the emailed hearing confirmation, the JA will provide a unique video link for the hearing, including a phone connection should a party not be able to participate by video. The video hearing information **must** be included in the Notice of Hearing.

**Video Conference Instructions:** Five minutes before the hearing, all participants should connect to the video conference via the unique link provided at the time of confirmation. At the time of the hearing, the judge will connect to the video conference.

**Good faith cooperation is expected** both from counsel, their support staff and pro se litigants. If after 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 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 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.

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**:

1. Call or email the Judicial Assistant to notify the Court of the cancelled hearing (filing the Notice of Cancellation with the Clerk is not sufficient as the Clerk does not notify the Court), and
2. File a **Notice of Cancellation** and email a copy of the notice of cancellation to the Judicial Assistant

If the hearing is cancelled less than 4 hours beforehand, and counsel cancelling the hearing has not been able to confirm the Judge 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 **must** be copied on any correspondence to the Court.

**Motions to Withdraw as counsel.** Motions should be set during ex-parte with notice to all parties if client consent cannot be obtained.

If you have written client consent (attached to the motion) you may submit a copy of the motion along with a proposed order to chambers via email to [36orange@ninthcircuit.org](mailto:36orange@ninthcircuit.org). Addressed, stamped envelopes must be provided for all parties not receiving service through the ePortal.

The body of the proposed order and certificate of service must include the name, address, telephone number and e-mail address of the party to whom the pleadings will be sent. If the party is a corporation or other legal entity, no more than thirty (30) days will be allowed for the party to obtain substitute counsel.

### 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 three (3) business days prior** to the hearing to ensure an opportunity for the Court to review. Copy opposing counsel 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 should be provided electronically on a flash drive or via email to the JA.
- C. If provided electronically, counsel must index the materials and ensure the index contains a hyper-link to the document/exhibit/case indexed. For technical assistance, please visit: <https://helpx.adobe.com/acrobat/using/creating-pdf-indexes.html>
- D. Cases should be highlighted.

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 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 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](mailto: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.

<b>MOTIONS</b>
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### **1. MOTIONS FOR REHEARING, RECONSIDERATION OR NEW TRIAL**

- A. Upon filing said Motion, you must send a copy 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 (iii) direct the JA to contact the moving counsel 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 that 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.

**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](mailto: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.

Effective: July 1, 2021