



STATE OF FLORIDA
NINTH JUDICIAL CIRCUIT OF FLORIDA

Gabrielle N. Sanders-Morency
County Judge

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JUDGE GABRIELLE N. SANDERS-MORENCY
Courtroom Guidelines, Procedures and Expectations
For Osceola County Criminal Division 71-H, Courtroom 3E

IN ORDER TO ASSIST COUNSEL, THE LITIGANTS AND THE COURT, THE FOLLOWING GUIDELINES¹, PROCEDURES, PRACTICES AND EXPECTATIONS ARE HEREBY ADOPTED FOR THE COUNTY CRIMINAL DIVISION NUMBER 71-H, IN OSCEOLA COUNTY, FLORIDA WHEN PRACTICING BEFORE JUDGE GABRIELLE N. SANDERS-MORENCY²

- 1. County Criminal Court Division Assignments:** This division covers half of the Osceola County Criminal docket (including Misdemeanor Domestic cases). Cases are assigned by last name with this division handling last names beginning with “A-L”. Prior to April 1, 2024, cases with odd numbers were assigned to this division, regardless of the last name. The only exceptions to the number assignments would be for “consolidation” orders entered or for cases where another judge has been “conflicted” or recused. Please always check with the Clerk of Court to ensure you are filing in the correct division, you are aware of the correct court dates, and you are contacting the correct office, and email address for all correspondences.
- 2. Contact Information:** The Judicial Assistant’s name is Olga Melendez. The Division e-mail is 71OSCEOLA@NINTHCIRCUIT.ORG. Please use this e-mail when requesting hearing time (motion must already be e-filed), cancelling a hearing, to obtain general information and to forward a copy of a motion and/or a proposed order in **WORD** Format. If you email the Judicial Assistant directly to any other email about the specifics of a case, the email will be rejected.

¹The above standards, procedures, practices and guidelines are minimum standards. All counsel are presumed to be familiar with and are expected to abide by the *Rules Regulating The Florida Bar*, and the *Guidelines for Professional Conduct* promulgated by the Trial Lawyers Section of The Florida Bar and adopted by the Conference of Circuit Judges. Copies of each of these documents may be obtained from The Florida Bar and/or are available on-line on its website <http://www.floridabar.org>. In addition, counsel must be aware of the *Ninth Judicial Circuit Courtroom Decorum Policy* promulgated on August 7, 2014. (See <http://www.ninthcircuit.org> [Research/Rules & Policies/Courtroom Decorum Policy](#).)

²This Court is held to the additional standards set forth in *Code of Judicial Conduct* and the *Principles of Professionalism for Judges*.

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

***NOTE: If the Public Defender was already appointed, counsel may file a Notice of Appearance. The Court will consider the Public Defender's Office as Defendant's Counsel until the Public Defender's Office files a Motion to Withdraw.**

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

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

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

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

CASE LAW: If Counsel intends to provide any additional case law to what is cited in the Motion, that Case law MUST be provided to the JA no later than 72hours prior to the set hearing. If Opposing Counsel plans to provide any additional case law, that MUST also be provided no later than 48 hours prior to the set hearing.

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

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

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

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

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

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

6. PRE-TRIAL MOTIONS:

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

7. Pre-Trial Conference:

- a. **Private Attorney cases:** Defendants represented by private counsel will be scheduled for Private Pretrial Conference. If Defense Counsel completes the Pretrial Conference Form, then counsel and their clients are not required to attend Pretrial Conference. If Defense Counsel does not complete a Pretrial Conference Form and send a copy to Chambers by the Wednesday before the Pretrial Conference date, Defense counsel is required to attend Pre-trial Conference (in person).
- b. **ProSe (self-represented) Defendants:** all Defendants choosing to proceed unrepresented must attend Pretrial Conference (in person).
- c. **Public Defendant cases:** Defendants represented by the Office of the Public Defender will be set for a specific Pre-Trial date but will have the option of “waiving” attendance upon the proper submissions of a completed Pre-trial Conference form, e-filed by the Assistant Public Defendant no later than the Friday prior to the schedule PTC date. The option of waiving is at the discretion of the attorney, no the Defendant, and is conditioned upon the attorney certifying to the Court that he/she has been in regular contact with the Defendant, has had meaningful conversation with the Defendant about the case and the purpose of PTC, and has a reliable method of reaching the Defendant (email, phone number, etc.). The Assistant Public Defenders assigned to Division 71-H will be present for the scheduled PTC, regardless of any waivers filed, to “check-in” with the Judge about the status of each case. Defendants who are not waived must also appear at the set date/time.

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

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

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

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

***NOTE: Counsel/Pro se Defendant shall fill out the Pre-Trial Status Sheet in its entirety and this form SHALL be electronically filed by counsel (or by all pro-se defendants) by 4:00pm on the Wednesday before the scheduled Pre-Trial Conference date and a copy emailed to the Division 71-H email address.

***The Paper PTC form can be obtained from going to Ninth Circuit Website: <https://ninthcircuit.org>. Do not create your own form and do not change the form to add or delete any required information. Doing so may result in your form being stricken and the Court finding you out of compliance with these procedures.

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

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

1. The fully executed PTC sheet, signed also by the Defendant.
2. The State's position in writing
3. A written acknowledgement of waiver of the Defendant's right to a speedy trial

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

Trial Procedures:

- a. Voir Dire:** The Court will conduct a preliminary voir dire of the jury. Counsels are welcome to request that the Court explore certain areas of inquiry that may be important to the trial but sensitive in nature. Counsels are reminded to be considerate of the jurors' personal lives during their inquiries as well as the jurors' time constraints. While the Court will afford counsel significant latitude in questioning, the Court will limit repetitive questions. Counsel shall not attempt to either explore the facts of their case nor explain the law that may apply in the case, nor attempt to carry favor with the venire.
- b. Jury Selection Process:** After voir dire, the Court will first ask each side for any cause strikes. Upon completion of challenges for cause, the Court will move to pre-emptory challenges. The Court will start with the first juror and move sequentially as they are seated in the venire, alternating between counsel until a panel is chosen. Back striking during jury selection is permitted. The number of alternates will be determined by the type and length of the trial. Each party will have one additional strike as to each alternate.
- c. Opening and Closing:** Only demonstrative aids or exhibits marked by the clerk, agreed to by all counsel or approved by the Court may be used in either opening or closing. Counsel may move away from the podium (where the microphones are located) , but shall remain mindful of the jury's space. Counsel should stay at least three feet back from the jury rail at all times. The Court will discuss with counsel the time requirements for both opening and closing at the pretrial conference and will expect that a reasonable estimate be provided by counsel. Counsels are expected to adhere to these time constraints.
- d. Exhibits:** All exhibits are to be marked for identification by the clerk **prior to the start of trial.** Exhibits which will be stipulated into evidence may be marked into evidence as exhibits. Once exhibits are marked in evidence or are offered but not admitted, they become the property of the Clerk of Court and may not be altered or removed from the courtroom without order of the Court. No exhibits are to be published or exhibited to the jury until admitted into evidence and/or authorized by the Court. **Audiovisual and/or equipment questions should be addressed with Court Administration:** <http://www.ninthcircuit.org/programs-services/audio-visual>
- e. Demonstrative Aids:** Any demonstrative aid that is to be used at trial must be marked by the clerk and shown to opposing counsel and the Court prior to the start of trial. The Court will hear argument of any counsel opposing the use of the demonstrative aids prior to the start of the trial. No aids are to be shown to the jury without prior approval of the Court.
- f. Experts:** The Court will not accept or qualify a witness as an expert in front of the jury. Challenges to an expert's qualifications and his ability to testify must be addressed prior to the start of the trial period and therefore outside the presence of the jury. Experts are to be cautioned by the attorney who calls the expert of "in limine" rulings, and the effect of the invocation of the Rule of Sequestration.

g. Use of Depositions: If depositions are to be used at trial in any manner (impeachment, as video testimony, etc.) make certain a hard copy is available both for the Court and for the witness being questioned.³

h. Objections: The Court will not allow speaking objections in front of the jury. When counsel rises to object, only the legal basis for the objection should be stated. If elaboration is necessary, the Court will call counsel to the Bench for a Bench Conference or out of the presence of the jury. Counsel shall not interrupt opposing counsel or witness's questions or answers with an objection unless the answer or question is patently objectionable. Once the Court has ruled, no further argument shall be permitted.

i. Jurors: The Court generally will allow jurors to take notes and to ask questions where necessary. Section 40.50, Florida Statutes. If any counsel objects to these procedures such objection should be addressed to the Court prior to the day of trial.

j. Jury Instructions: Jury Instructions are to be prepared by both sides and exchanged at the beginning of the trial. **A hard copy must be provided to the Court as well as a copy via e-mail on the Friday before the actual start of the trial.** The Court intends to provide the jury with a written copy of all jury instructions when the jury retires to deliberate. In addition, the final instructions should not contain any citations, jury instruction titles, or information as to who requested the instruction. In certain cases, the Court may provide some substantive law instructions to the jury during preliminary instructions and/or before closing arguments. Should any counsel wish to consider this option, this matter should be addressed with the Court prior to the day of the start of trial.

9. Cancellation Policy: Please immediately notify the Judicial Assistant via e-mail of all cancellations or settlements so that the calendar may be opened up for other matters. You must attach to the e-mail a copy of the Notice of Cancellation. It is the responsibility of the moving party to file a Notice of Cancellation in the court file and submit a courtesy copy to Chambers as well as the responsibility to contact the opposing party to notify them of the cancellation.

10. Requests for Court Interpreter: If the Court will require an interpreter to speak to and understand your client, please email the Judicial Assistant through Division 71-H email address with an 'Interpreter Request' at the very least two (2) business days prior to the scheduled hearing for *Spanish* and at least ten (10) business days for any language *other than Spanish*.

11. 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 and witnesses that gestures, facial expressions or any manifestations of approval or disapproval of anything occurring in the courtroom is absolutely prohibited.

³In Osceola County some documents electronically filed with the Court are imaged and may not be readily available in hard copy to the Court.

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

12. All Electronic Devices (other than hearing aids or visual aids): Cell phones and other electronic devices must be turned off when possessed in the courtroom. If necessary to make or take phone calls, please step out of the Courtroom. Witnesses will not be permitted to possess any type of communication device while on the witness stand.

13. INFORMATION NOT COVERED IN THIS DOCUMENT: If any matters concerning the conduct of the pre-trial or trial procedures of Osceola County Criminal Division 71-H are not covered herein, counsel is free to contact the Court for clarification or instruction via the Division 71-H email address. A status hearing can be set at which time the Court will attempt to answer any inquiries. The Court appreciates counsels' efforts to understand and comply with this Court's procedures.