



STATE OF FLORIDA NINTH JUDICIAL CIRCUIT OF FLORIDA

HEATHER G. GUARCH
County Judge

ORANGE COUNTY COURT BUILDING
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AISSATA O. DIAKITE
Judicial Assistant

Guidelines and Procedures County Civil Division 73 Judge Heather G. Guarch Orange County Judge

In order to assist self-represented litigants (also referred to as “*pro se litigants*”) and attorneys, the following guidelines and procedures are adopted for County Civil Division 73 in Orange County, Florida when practicing before Judge Heather Guarch.

Please note these are general guidelines/procedures. Each case is unique. The Court or applicable law may require different or additional procedures than referenced below.

SMALL CLAIMS ACTION

If you file a **Small Claims** action (damages sought are \$8,000 or less) it will be set for a **Pre-Trial Conference/Mediation** (Clerk sets the date and time on Summons). Assuming service of process has been timely perfected, parties will conduct a telephonic or Zoom Pre-Trial Conference.

Parties are encouraged to resolve cases prior to the pre-trial date but they still must appear at the Pre-Trial Conference to meet with Judge and make sure the agreement has been approved by the Court. Attorney can appear at Mediation without client in a Small Claims action if they have full settlement authority. **Pre-Trial Conference may only be continued by Court Order.**

If a party fails to appear at Pre-Trial Conference/Mediation, opposing side can request a Clerk’s Default or Court Dismissal of Action. Attorneys wanting a Clerk’s Default must

submit the Order to the Clerk's office. The Clerk will not provide a Default Order to an attorney. If default is entered, submit a Default Final Judgment packet to the Judge via the Clerk so that all pleadings/affidavits are properly filed, with a copy to the Court in Word format at 73orange@ninthcircuit.org.

Note: Administrative Order effective October 7, 2021 ([2009-12-03](#)) regarding First Party Insurance Claims. While these cases maybe filed as Small Claims cases, the Rules of Civil Procedure are invoked upon filing of action.

COUNTY COURT ACTION

If you file a **County Court** action (damages sought are between \$8,001 to \$50,000), the Defendant will typically have between five (5) and twenty (20) days after being served, depending on case type, to respond (See Summons for applicable response date). If Defendant fails to respond, Plaintiff can move for a Clerk's Default. If Defendant is self-represented and files a response to Complaint, the Court will likely refer the case to Mediation to be conducted by the Ninth Circuit Court Alternative Dispute Resolution Department (at the Orange County Courthouse). A \$60 mediation fee (each party) will apply, and the Mediation office kindly requests payment be made in advance.

Note: Self-represented litigants and attorneys appearing before Judge Guarch are expected to familiarize themselves with and fully comply with the Florida Rules of Civil Procedure, as well as Ninth Judicial Circuit Administrative Order [2021-04-01](#), Order Governing Civil Case Management and Resolution. Please note, Landlord Tenant actions are treated differently pursuant to Florida law.

COMMUNICATIONS AND SUBMISSIONS TO THIS OFFICE

Ex-Parte – All communication with the Court must be in open court with all parties present, in writing or by e-mail copied to opposing counsel and/or the opposing party, and/or filed with the Clerk of Court. Please do not ask the Judicial Assistant or other Court personnel to communicate any message to the Judge, as the Judge is not permitted to read or consider ex-parte communications.

E-mail – The preferred method of communication is via e-mail, as emails will receive the quickest response. Correspondence and/or emergency motions should be e-mailed to 73Orange@NinthCircuit.org. In sending e-mails to the Court, opposing counsel and/or the opposing party (if self-represented) must be copied. E-mails sent to this office must also contain the following in the subject line:

- Case Style Name (short case style name is permitted – example: Smith v. Smith)
- Case Number (short case number is permitted – example: 24CA1234)
- Purpose of E-Mail (Order, Notice of Cancellation of Hearing, Request for Hearing Time, etc.)
- If an Emergency Hearing is being requested, you **MUST** indicate in the subject line “Request for EMERGENCY Hearing.” The body of the e-mail must also contain a brief description of the purpose of the email. If a

hearing date and time is being requested, then you must include a good faith estimate of the time needed for the hearing.

Telephone – The Judicial Assistant can be reached telephonically at (407) 836-2039. If you are unable to reach the Judicial Assistant, please leave a voicemail. Please refrain from leaving multiple voicemails concerning the same matter, as this will only delay response time.

Submission of Proposed Orders: All proposed orders must be e-mailed and submitted in WORD format via e-mail. Agreed orders should indicate “Agreed.” In submitting Proposed Orders, please attach a courtesy copy of the motion, if applicable, and any required supporting documentation or affidavits. **Please ensure any proposed orders submitted to the Court contain the following language in the Certificate of Service section:**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorney(s)/interested parties identified on the ePortal Electronic Service List, via transmission of Notices of Electronic Filing generated by the ePortal System. Movant is responsible for serving any party not participating in electronic filing and then filing a certificate of service within three (3) business days of this Order.

Drop Box – Courtesy copies of documents for the Court’s consideration may also be delivered to Division 73’s drop box, located on the 3rd floor, Room 370.

FILING OF PLEADINGS/MOTIONS:

Self-Represented Litigants – A written request for relief or judicial action, known as a Motion; motions must be mailed to or filed with the Clerk of Court and also supplied to all other litigants, or counsel (if represented). Motions are not to be faxed to the Clerk of Court. Please ensure submitted Motions include a proper caption, case number, date, your mailing address, phone number, **email address**, printed name, and signature. Upon receipt of the Motion, the Clerk will deliver the Motion to the Judge to review.

If a hearing is necessary, the Judicial Assistant will attempt to contact all parties to schedule a hearing. If the Judicial Assistant is unable to reach the parties, the Judicial Assistant may proceed with setting a hearing date and time.

Self-Represented Litigants are encouraged to sign up and utilize Florida Courts E Filing Portal. The Portal, which is available 24/7, allows registered users to electronically file case-related documents and receive them via e-mail. To sign up for the Portal, please utilize the following link:

<https://www.myflcourtaccess.com/common/ui/pages/register.aspx?rr=5>

The Court serves parties/counsel of record via Florida Courts E-Filing Portal. Movant is responsible for serving any party not participating in electronic filing and then filing a Certificate of Service within three (3) business days of the Order. Please ensure your proposed orders include this language.

Filing of Pleadings: Please understand if you e-file, it takes roughly 72 hours for that filing to appear in the clerk's system for the Judge to see. If you go to the Clerk's Office, Room 310, to file a document/pleading in a case set for hearing within 48 hours, please tell the Clerk at the counter. He or she will make sure it makes it into the Court file/Odyssey in an expedited manner

HEARINGS

Scheduling Hearings: All motions must be filed with the Clerk before you contact this office for hearing time. Further, Counsel of record must also comply with Florida Rule of Civil Procedure 1.202 (if applicable) and the 9th Circuit "Meet and Confer" Rule outlined in the Ninth Judicial Circuit Amended Administrative Order No. [2017-04-02](#) prior to requesting hearing time.

ALL NON-EVIDENTIARY HEARINGS ARE VIRTUAL UNLESS REQUESTED TO BE IN-PERSON.

ALL EVIDENTIARY HEARINGS INCLUDING NON-JURY TRIAL ARE IN-PERSON UNLESS OTHERWISE ORDERED

Instructions for Scheduling / Cancelling Hearings

- (1) **Using the aiCalendar, select an available hearing date and time.** To view Division 73's available hearing time, please follow the following steps:
- (2) Proceed to the Court's website: www.ninthcircuit.org. Once on the Home Page, navigate to the bottom of the page, where you will find "Available Hearing Times." This takes you to a separate page, click on aiCalendar. Scroll down to Civil Division 73. Click on Available Hearings. Dates must be searched one day at a time. There is not a selection that will allow you to see a week or month, only one date at a time.
- (3) **Coordinate the date and time with opposing counsel:** To set unilaterally, you **MUST** comply with the requirements of the Ninth Judicial Circuit Administrative Order No. [2017-04-02](#) and include a **completed Certificate of Compliance with your hearing request.**
- (4) **Email the Judicial Assistant at 73orange@ninthcircuit.org with a copy to all counsel/self-represented litigants, for the hearing to be added to the docket.** Your email must include the case number and style, title of the motion to be heard, date of the "meet and confer," date and time of the requested hearing, number of witnesses, and amount of time requested.

- (5) **Receive confirmation time for your hearing.** Your hearing time is not confirmed until you receive a reply email from the Judicial Assistant. Your confirmation will include the virtual link to attend the hearing, if applicable.
- (6) **File a Notice of Hearing with the clerk of court and properly notice all parties. Failure to do so will result in the hearing being cancelled.** Please note, cross-noticing of hearings is not permitted absent prior approval from the Court.
- (7) **To cancel a hearing,** the attorney must notify the Judicial Assistant. The Clerk of Court does not send copies of Notices filed to the Judge or Judicial Assistant. **Email Notice of Cancellations to 73orange@ninthcircuit.org.** *Hearings/Trials CANNOT be cancelled unilaterally.* You must email or speak directly with the Judicial Assistant, provide the reason for the cancellation request, and the Judicial Assistant will advise if the matter can be cancelled. Timely file with the Clerk's Office and email the Judicial Assistant a notice of cancellation. If you settle a case, file the dismissal with the Clerk's Office, email a copy to the Judicial Assistant, and ask if you can file a Notice of Cancellation to take the case off of the hearing/trial docket.

Hearing Times/Days: Hearings estimated to last **less than one (1) hour** are typically conducted Monday – Friday between 9:30 a.m. and 11:30 a.m. Hearing slots are available in fifteen (15) minutes slots and multiple slots can be combined so long as the total hearing time does not exceed one (1) hour.

Hearings estimated to take **one (1) hour or more** are typically conducted Monday, Tuesday, and Thursday afternoons beginning at 1:30 p.m.

- **Emergency Hearings:** If an emergency arises, counsel/self-represented litigants may request a hearing be set on short notice. The corresponding motion must contain a detailed explanation of the circumstances constituting the emergency. The motion must be delivered 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 attempt to contact counsel/litigants to set the hearing. In light of the short setting, opposing counsel/litigant may attend the hearing via WebEx if circumstances preclude them from appearing in person.
- **In-Person Hearings:** Typically, ALL EVIDENTIARY HEARINGS, including NON-JURY TRIALS, will be conducted in-person (unless otherwise ordered). The Court, in its discretion, will also determine other hearings to be conducted inperson. For in-person hearings, bring proposed Orders to ALL hearings, with proper number of copies, and self-addressed stamped envelopes
- **Virtual Hearings:** All virtual hearings (excluding Small Claims Pre-Trial Conferences) will be conducted via WebEx utilizing the log in instructions below:

Virtual Link: <https://ninthcircuit.webex.com/meet/73orange>

Join by video system: Dial 73orange@ninthcircuit.webex.com
You can also dial 173.243.2.68 and enter your meeting number.

- **Ex Parte:** Ex Parte hearings will be heard every Thursday from 9:30 to 10:00am in Room 370 (3rd Floor) for **uncontested non-evidentiary hearings** that are **no more than 5 minutes**. Do not call the Judicial Assistant to schedule but do check **aiCalendar** to ensure hearings are being held on the specific Thursday for which you are planning to appear.
- **Short Matters:** (ATTORNEYS ONLY ON BOTH SIDES) These are not scheduled with the Court but **MUST** be coordinated with opposing counsel. The hearings are limited to 10 minutes with no evidence or testimony being taken. Division 73 conducts short matter hearings every Tuesday from 9:30-10 am. Parties may appear virtually by logging into <https://ninthcircuit.webex.com/meet/Div.73>. 24 hours prior to hearing counsel shall email proposed Orders as well as the Notice of Hearing to the 73orange@ninthcircuit.org email with “SHORT MATTERS NOH” in subject line. If the Notice of Hearing is not emailed to the Court, the case will not be called up for hearing.

Good Faith Attempt to Resolve Dispute and Certification: Counsel and self-represented parties must in good faith attempt to resolve their dispute by telephone or in person (not email). All Notices of Hearing must contain a good faith certification in substantial compliance with the following:

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that I / or a lawyer in my firm with full authority to resolve this matter had a substantive conversation in person or by telephone with opposing party in a good faith effort to resolve this motion before the motion was noticed for hearing but the parties were unable to reach an agreement.

Self-Represented Litigants: Written requests for relief or judicial action, known as a **Motion**, must be mailed to or filed with Clerk of Court. Do not fax to Clerk. The Clerk will deliver the Motion to the Judge to review. If a hearing is necessary, the Judicial Assistant will attempt to contact all parties to schedule a hearing. If unable to reach or fail to return a message, Judicial Assistant will set hearing date and time. Make sure the Motion has a proper caption, case number, date, your mailing address, phone number, email address (if any), printed name and signature. Mail copies of the Motion to all other litigants or their counsel if represented.

Court Reporter: If you want a record of hearing/trial **you must make arrangements** for a **Court Reporter**. Parties, Witnesses and/or Attorneys shall not record the proceeding except through a court reporting service present in the hearing room/courtroom.

Interpreters: Unlike criminal cases, **County Civil does not provide language interpreters for litigants. You must make your own arrangements.** **Caveat** –Under the ADA, Court Administration will provide sign language interpreter in civil matters. Contact Court Administration no later than 2 working days in advance to arrange accommodation for hearing or voice impairment. See Administrative Order [2008-01-02](#).

Cooperation of Counsel: If counsel/pro se litigant does not cooperate in scheduling a hearing, the requesting party may unilaterally set a hearing giving at least 14 days written notice (plus 5 days if mailed) to the opposing counsel/litigant who failed to cooperate. Notice of Hearing must state that opposing counsel/litigant refused to coordinate a hearing time.

Counsel of record must comply with the 9th Circuit “Meet and Confer” Rule.

Hearing Materials (Caselaw, Exhibits, etc.): All hearing materials to be reviewed by Judge Guarch must be submitted on USB flash/jump drive or via email using the Division 73 email. Hearing Notebooks will not be accepted. All materials SHALL be provided or filed with the court 72 hours prior to the scheduled hearing.

Filing of Pleadings: E-File or Mail to Clerk’s Office. Please understand if you e-file, it takes roughly 72 hours for that filing to appear in the Clerk’s system for the Judge to see. If you go to the Clerk’s Office, Room 310, to file a document/pleading in a case set for hearing within 48 hours, please tell the Clerk at the counter. He or she will make sure it makes it into the Court file/Odyssey.

Proposed Orders and Final Judgments: Proposed Orders can be emailed to 73orange@ninthcircuit.org in WORD format. Agreed orders should indicate “Agreed.” Please attach a courtesy copy of the motion and any required supporting documentation or affidavits. The Court serves parties/counsel of record via the E-Portal. Plaintiff is responsible for serving any party not participating in electronic filing and then filing a Certificate of Service within three (3) business days of the Order. Please ensure your proposed orders include this language or it will be kicked back to you for modification. For in-person hearings, bring proposed Orders to ALL hearings, with proper number of 6 copies, and self-addressed stamped envelopes. Proposed Orders and requests for Default Final Judgments are often sent back to the attorney. Division 74 uses a “Kickback Order.” This is an Order from the Judge that advises the attorney/pro se litigant why a requested action cannot be acted on by the Court. You may want to review as it addresses the common deficiencies of Pleadings/Motions/Affidavits filed with the Court.

Preparation: A well prepared attorney/pro se litigant should do the following at all Court Appearances:

(A) **Show up on time.** If you fail to show up or to contact the Court to advise you are running late, the hearing or trial will start without you, even if your client is present. As a courtesy, the Court may provide a 5-minute grace period for hearings and a 10-minute grace period for trials.

(B) **Check In-** Check in with Receptionist or Deputy when you arrive for a hearing. The Deputy’s job is to provide security, not serve a receptionist. Questions should be directed to the Judicial Assistant, go to the Clerk’s Office Room 310 or go online to “www.myorangeclerk.com.”

(C) **Bring proposed Order** with copies/stamped addressed envelopes; copies of case law/Statutes for Judge and opposing counsel; and copies of Motion, in case missing from

Court File/Odyssey system. All materials for the Court to consider **MUST** be submitted 48 hours in advance and on a USB Flash Drive. The materials submitted to the Court must also be provided to the opposing party 48 hours prior to the Hearing.

(D) **Know proper Courtroom Decorum.** The Ninth Circuit has adopted the [Orange County Bar Association Standards of Professionalism](#). If you are not sure about appropriate courtroom protocol, please ask.

Telephonic/Virtual Appearance: Florida Rule of Judicial Administration 2.530 governs the use of communication equipment.

DISCOVERY DISPUTES

Discovery Disputes: Attempt to resolve discovery disputes in good faith prior to scheduling a hearing. All County Civil Judges follow the guidelines set out in the 2019 Handbook on Discovery Practice, available here: [2019 Florida Handbook on Civil Discovery Practice](#).

Discovery Motion: The mere filing of a Discovery Motion, Motion to Compel or Motion for Protective Order is insufficient. Motion must be set for hearing to bring the matter to the Court's attention. If no response or objection has been filed to initial Supreme Court approved discovery requests (e.g. Fact Information Sheet, Interrogatories, etc.), the moving party may submit proposed order with the Motion. No hearing will be necessary.

Attorney Fees: **If you are seeking attorney fees you must, before filing a Motion to Compel** pursuant to Rule 1.380, Florida Rules of Civil Procedure, or a **Motion for a Protective Order**, as provided in Rule 1.280(c), Florida Rules of Civil Procedure, **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 he/she has conferred with opposing counsel and that counsel have been unable to resolve the dispute.

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.

COUNTY COURT TRIALS

Once a case is at issue, either party may file a Motion for Trial, advising the Court the case is at issue. Once the Motion for Trial has been filed (or on the Court's own volition) a trial will be set.

Non-Jury Trials: If either party files a Motion for Trial (i.e. that the case is at issue), please include the estimated time needed by all sides and the Court will schedule a Status Conference Hearing / Case Management Hearing, issue a Case Management Order/ Uniform Order Requiring Pre-Trial Matters to be completed, or coordinate with parties to set trial date. If you are requesting a particular date /time for the non-jury trial, please: (1) review the Court's docket using **aiCalendar** for available times; (2) clear time(s) with opposing counsel/self-represented litigant; and (3) contact the Judicial Assistant with

your request for a date, time and length of trial. Thereafter, the Court will ultimately decide the trial date and how much time will be allocated for the trial. If you need more than an hour, please set out your reasons in writing to the Court. Please note, all nonjury trials are held in Hearing Room 370, unless otherwise noted.

Jury Trials: Once a case is determined to be at issue, a Uniform Trial Order will be issued, and the case will be set for Pre-Trial Conference and Trial. Pre-Trial Conferences are typically held 2-3 weeks prior to the Trial Period commencing. During the Pre-Trial Conference, the Court will advise the parties of the location / courtroom in which the Trial will be held. Two weeks prior to the Trial Period commencing, the Court will determine the Order in which the Trials will proceed. Mediation, all hearings, and discovery must be completed before the Pre-Trial Conference.

Have A Question About Your Case?

Please understand that the County Civil Judges and Judicial Assistants work very hard to handle the thousands of cases before them. With so many law firms and pro se litigants, the Judicial Assistants spend hours each day talking to individuals when most of their questions could be answered by using the internet to review the Court file or by simply filing an appropriate Motion.

When the Court signs an Order it is delivered to the Clerk for filing. Copies are mailed to the parties. If you want to know if an Order has been entered check with Clerk or wait for mailed copy. The Court does not maintain copies of signed Orders.

Myclerk.com- As of March 2009 County Civil utilizes the **Odyssey electronic case management system**. Odyssey is maintained by the Clerk of Court. Odyssey electronically displays court filings, including financial information. Non-court personnel can access the Odyssey docket listing by going to www.myorangeclerk.com. On the left side is the icon for “myclerk”. Click the icon, answer access question, click Civil Case Records link, search by case and type in your case number (remember “o” as in Orlando, is the typical court location). Click the case and you can see the list of pleadings and orders filed with the Clerk. You cannot open up a particular document (unless you go to Room 310 and use a computer in the Viewing Room); you essentially are looking at a docket index. It is the same one that the Judicial Assistant is looking at if you were to call with a question. Please use “myclerk” instead of calling the Judicial Assistant.

Electronic Filing - County Civil is part of the Electronic filing system used in Circuit Civil. You can electronically file County Civil pleadings. **Note:** the Judicial Assistants print mailing envelopes using the Odyssey system. If you know a name/address is erroneously listed in Odyssey, contact Clerk’s Office to modify. If address has changed, file Notice of Change of Address with Clerk’s Office. Clerk has complete authority over what goes into Odyssey. **Court Files** - Technically County Civil is “file less”. In other words the Judges do not need files as they can access Odyssey. If you file something today Clerk’s policy to have it displayed in Odyssey in 72 business hours. The reality is that it may be much longer.

E-mail Address Required: Effective October 1, 2022, **ALL** litigants are required to provide the Clerk of Courts a valid email address for service of Orders and Pleadings. If

a party does not have a valid email address they must fill out an Affidavit attesting to the fact they don't have email. These forms are available in Room 350, in the Civil Clerks Office.

Review File - If you want to review a file in person or see the pleadings listed in Odyssey go to **Viewing Room** located in Room 150. Using available computers, type in password "public" and navigate to file. No charge to view; \$1 per page to print out.

Legal Advice – The Judge and Judicial Assistant are prohibited from providing legal advice. Self-represented parties are encouraged to contact the Orange County Clerk of Courts Self Help Center located in Room 340 of the Orange County Courthouse. Appointments can be made by calling 407-836-6300. This service is available for all Small Claims and Residential Eviction Cases.

Confirm Upcoming Hearing - Want to confirm a scheduled hearing in a division? Go to www.ninthcircuit.org. Click the "Attorney" link on right side and click the "Dockets" link toward the bottom of the Information column. Select the division and it will display scheduled hearings/trials for approximately the next two weeks.

CONTACT INFORMATION

Judge Heather G. Guarch

Hearing Room: 370
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Aissata O. Diakite

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