

DIVISION P PROCEDURES

STANDING PRETRIAL ORDER FOR CASES IN COUNTY CRIMINAL DIVISION P

Due to the disparity of practices amid procedures in the various courtrooms within the Criminal Division of the County Court, and in an effort to promote uniformity, consistency and professionalism within the division, the Court hereby enters this Pretrial Order, which shall, consistent with the Florida Rules of Criminal Procedure, govern the manner and methods by which attorneys shall practice in this Court. For good cause shown, this Court may modify or waive these procedures on an individual basis.

MOTIONS

MOTIONS ARE HEARD IN PERSON EVERY MONDAY AT 2:00 PM. MOTIONS THAT COUNSEL WOULD LIKE TO HAVE HEARD ON THIS DOCKET MUST BE FILED FIRST, ONCE FILED, COUNSEL HAS UNTIL THE THURSDAY PRIOR AT NOON TO EMAIL THE JUDICIAL ASSISTANT REQUESTING THAT THE MOTION BE ADDED TO MONDAY'S DOCKET. NO MOTIONS WILL BE ADDED TO MONDAY'S DOCKET ON THE PREVIOUS FRIDAY.

ALL MOTIONS MUST BE HEARD PRIOR TO THE PRE TRIAL CONFERENCE. Any motion not timely filed and set for hearing is waived absent a showing of good cause as to why the motion was not timely filed and heard prior to pre-trial conference.

MOTION TO CONTINUE: Any Motion for Continuance SHALL state whether any prior motion for continuance has been filed and shall, as with any other motion, be in WRITING and be set and heard prior to the trial date.

DISCOVERY MOTIONS AND MOTIONS IN LIMINE: All Motions in Limine and all motions pertaining to Discovery disputes SHALL contain a statement by the moving party that good faith attempt to resolve the matter without Court involvement has been made and SHALL describe the manner in which the attempt was made. Motions to Compel Discovery should be filed within 10 days after the date the Discovery is due. Motions to Compel More Adequate Responses to Discovery should be filed within 10 days of receipt of the alleged incomplete

Discovery. Lack of diligence in pursuing remedies for discovery will be considered in determining whether to grant a continuance or to which party a continuance should be charged.

MOTION TO WITHDRAW CAPIAS: Will be set for an IN PERSON hearing.

MOTION FILING PROCEDURE: No motion, other than a legitimate emergency motion, will be set for a hearing unless the motion is electronically filed with the clerk prior to contacting the Judicial Assistant for a hearing date and time. The Judicial Assistant will check the court file when a request is made to set a hearing to determine whether the motion is in the file. If the motion is not in the court file, the motion will not be calendared absent a representation by counsel that the motion has in fact been filed, but has not yet appeared for viewing. This process is facilitated if the attorney filing the motion includes the JA's email address on the e-filing. Counsel will still need to contact the JA to get a hearing date.

Boiler plate motions (including motions which fail to include a factual basis or which simply provide "facts to be presented or argued at hearing") are NOT permitted and will be stricken as legally insufficient. Such motions will not satisfy this Court's requirement of a written motion. All motions and notices of hearing requiring witness testimony MUST be filed a sufficient length of time in advance of the hearing date for the opposing party to comply with Section 48.031 (4)(a) Florida Statutes. It is the responsibility of the party affected by late filing to raise this issue. All motions SHALL contain the facts and law, which form the basis for the relief sought.

CASE LAW/STATUTORY AUTHORITY: All cases, statutes, rules or other citations of authority a party wishes the Court to consider SHALL be provided to the Court at least 2 business days prior to the hearing on the motion. Cases and other citations will be cited in the motion. The Court will NOT consider cases provided for the first time at the hearing absent a showing of good cause.

CANCELING MOTIONS/HEARINGS: A party MUST notify the Judicial Assistant as soon as possible via email that the hearing is to be cancelled and CC opposing counsel.

ARRAIGNMENT

If a written plea of not guilty is filed with a request for a disposition date, a Waiver of Speedy Trial **MUST** be filed otherwise the case will be set for pretrial and trial.

DISPOSITION HEARINGS

Attorneys and their client(s) are expected to attend disposition hearings. If an attorney has a conflict, the attorney should arrange coverage by another attorney or may submit a request for a trial date or another disposition date. A failure to appear or to request a new court date will result in the case being set for trial and may result in a warrant being issued for the arrest of the defendant.

Absent good cause shown, **NO MORE THAN 3 DISPOSITION HEARINGS ARE ALLOWED**. This number includes any hearings missed due to a conflict and as to any dispositions which took place prior to counsel's Notice of Appearance.

PRETRIAL CONFERENCE

The defendant is **REQUIRED** to appear at all pretrial conference hearings.

PLEAS

NEGOTIATED PLEAS: should be conveyed to, and fully discussed with, the defendant prior to announcing the plea in Court. Such discussion should include the minimum and maximum penalties and the issues covered by Rule 3.172. If counsel wishes to address the Court on any issue regarding the plea, this should be done at the time the plea is first announced, not after the plea colloquy has been concluded.

PLEAS OF GUILTY OR NO CONTEST IN ABSENTIA: If a defendant wishes to enter a plea of guilty or no contest and wishes to be excused from court attendance at the time of the entry of the plea, then a written plea in absentia **MUST** be presented to the court that comports with the requirements of Florida Rule of Criminal Procedure 3.172. If the plea being entered is for an enhanceable offense, the written

colloquy must include an acknowledgement that the defendant has been advised of the enhancement ramifications for said offense should the defendant reoffend in the future for that offense. Pleas in absentia for enhance able offenses as well as DUI and Reckless Driving MUST include fingerprints. **A plea of guilty or no contest to a criminal offense will not be accepted based strictly on counsel stating that they have their client's authority to enter the plea when the defendant is not present and counsel does not have a written plea in absentia to present to the court.**

TRIAL

This court expects all parties to be prepared and ready for trial on the morning of the trial date. Defendants who are late to court on trial morning should expect a warrant to be issued.

All objections made during trial or any other evidentiary proceeding shall be supported by specific statutory authority or case law that shall be provided, if requested by the Court, at the time of the objection.

All exhibits that an attorney intends to introduce as evidence during any trial or other proceeding shall be pre-marked by the Clerk prior to the time the trial or proceeding is scheduled to begin.

No hearing or trial shall be delayed or continued beyond the scheduled starting time because an attorney needs to confer with a witness or review evidence with a witness.

MAINTAINING AND ENHANCING PROFESSIONALISM

Attorneys, at all times, shall conduct themselves consistent with the [Guidelines for Professional Conduct](#) and abide by the requirements of Administrative Order 2012-008.

This Court is aware that attorneys often have more than one case set for hearing or trial, requiring them to be in different courts at the same time. If a scheduling conflict arises, it is expected that the attorney will communicate this to their client, and that the attorney will advise the Court (by note, phone call, or through opposing counsel) if they are in another courtroom and when they expect to return. This demonstrates

respect not only to the Court, but to the client, witnesses, and opposing counsel as well. Such common courtesy is not only encouraged, but required.

The court attempts to provide timely access to the parties, especially for the purposes of pretrial motions and discovery matters. However, only a limited number of cases can be placed on each calendar. Therefore, if you set a motion for a hearing, please make sure that you appear for the hearing. If you are unable to appear due to unforeseen circumstances, it is incumbent upon you to call the Court to advise us of those circumstances.

This Court solicits input and feedback from attorneys. You are in a unique position to provide comment and insight into courtroom procedures and how they can be improved. If there were procedures, you would like to see implemented in Court, or if you have an opinion regarding the existing procedures, please share these opinions with us.