

DIVISION 10-A RULES OF PRACTICE

These rules of practice apply to proceedings in Felony Division 10-A of the Ninth Judicial Circuit Court in Osceola County, Florida. They are supplementary and do not alter any constitutional law or any law or rule adopted by the Florida Legislature or the Florida Supreme Court.

Three rules of judicial administration guided the development of these divisional rules of practice:

Fla. R. Jud. Admin. 2.250(a)(1). This rule establishes that the presumptively reasonable time period for completing most felony cases is 180 days from arrest to final disposition;

Fla. R. Jud. Admin. 2.256. This rule directs trial courts to use the services of prospective jurors optimally, "with a minimum of inconvenience to jurors"; and

Fla. R. Jud. Admin. 2.545(b). This rule mandates that trial judges "shall take charge of all cases at an early stage in the litigation and shall control the progress of the case thereafter until the case is determined." The rule also requires that trial judges "take specific steps to monitor and control the pace of litigation" by, among other things: assuming early and continuous control of the court calendar; implementing such docket control policies as may be necessary to advance priority cases to ensure prompt resolution; developing trial setting policies; and advancing the setting of priority cases, older cases, and cases of greater urgency.

To promote the objectives these rules of judicial administration were designed to achieve, the Court adopts the following divisional practice rules.

1. **Conduct.** In addition to conforming to the Oath of Admission to The Florida Bar and the Rules of Professional Conduct, Ch. 4, R. Reg. Fla. Bar, Counsel must abide by the Professionalism Expectations promulgated by The Florida Bar Standing Committee on Professionalism. The oath, rules, and professionalism expectations are available online and on Judge Young's Ninth Circuit webpage.
2. **Attorneys.** Attorneys are expected to read and adhere to Florida Rule of Judicial Administration 2.505, which specifies the methods by which attorneys may become counsel of record. Merely filing a notice of appearance is not sufficient where the defendant is already represented by counsel. Also, clients must sign a written consent to substitution of counsel. Failure to adhere to Rule 2.505 may cause problems affecting both counsel and their client.

3. **Motions.** (A) Required content. With the exception of 33-day motions, first-time bond motions, dispositive motions, motions to suppress, and true emergencies, all motions must state that moving counsel has conferred with opposing counsel and must indicate opposing counsel's position on the motion. Counsel should make good-faith attempts to reach agreed recommendations about first-time bond motions in advance of the hearing. In all circumstances, opposing counsel must promptly respond to inquiries by moving counsel. If moving counsel is unable to reach opposing counsel after three (3) good faith attempts, moving counsel may file a motion without stating opposing counsel's position but must include the dates on which efforts to contact opposing counsel were made. *Cf.* Ninth Jud. Cir. Admin. Order 2012-03-01. The Court will not consider or set for hearing any motion that does not reflect opposing counsel's position or the dates on which moving counsel attempted to confer with opposing counsel.
- (B) Emergency. Motions styled or based on an emergency must specifically describe the nature of the emergency and when counsel became aware of the emergency.
- (C) Continuance. Parties requesting a continuance must file a written motion to continue. See Fla. R. Jud. Admin. 2.545(e) ("All judges shall apply a firm continuance policy. Continuances should be few, good cause should be required, and all requests should be heard and resolved by a judge.").
- (D) Deadlines. Counsel must comply with the deadlines set forth in the Notice Setting Pretrial Hearing and Trial Date and Unified Pretrial Order.
4. **Hearings.** (A) Requesting Hearings. Parties may request hearing time after the motion is filed through the Florida Courts E-Filing Portal and the motion has been evented by the Clerk. Hearing requests must be directed to the Judicial Assistant for Division 10-A at ctjavc1@ocnjcc.org and should include a copy of the filed motion reflecting the electronic filing stamp.
- (B) Confirmation of Hearing. The Judicial Assistant will coordinate a hearing date with counsel. A hearing will not be confirmed until after counsel have verified their availability on a date provided by the Judicial Assistant; thus, delays in responding to the Judicial Assistant may result in the loss of available hearing time. Hearing time will be confirmed via email from the Judicial Assistant containing actual confirmation.
- (C) Notice of Hearing. After receiving confirmation of the hearing date and time, Counsel must file a notice of hearing and must serve the notice to opposing counsel and *pro se* individuals. Failure to file a notice of hearing will result in cancellation of the hearing.
5. **Memoranda and Case Law.** At least five (5) business days before substantive hearings, counsel should deliver to the Court electronic copies of any memoranda and case law that counsel intends to argue or rely on at the hearing. Applicable passages in the case law should be highlighted, and

opposing counsel must receive identical highlighted copies. All controlling adverse authority must be disclosed to the Court, and where conflict between Florida District Courts of Appeal exists, counsel should disclose all conflicting decisions to the Court.

6. **Motions to Compel/Status Conferences.** Counsel must promptly bring to the Court's attention all circumstances that affect timely progression of a case toward resolution or trial. Such circumstances include, but are not limited to: untimely provision of discovery, uncooperative or lackadaisical witnesses, and unresponsive or uncooperative recipients of subpoenas.
7. **Plea Offers.** (A) The parties are encouraged to participate in plea negotiations at the earliest opportunity.

(B) If the State intends to extend a plea offer, it should do so no later than five (5) days before the Pretrial Conference.

(C) Defense counsel shall immediately communicate all plea offers received from the State to their client.
8. **Pretrial Conferences.** (A) Appearance. The Court conducts pretrial conferences in-person and virtually. However, **under Florida Rule of Criminal Procedure 3.116(c) (effective Oct. 1, 2022), counsel may not appear virtually unless they have filed a motion to appear virtually** at least 24 hours before the pretrial conference. Counsel who have not both timely filed a written motion to appear virtually and provided to chambers a copy of the motion bearing the electronic filing stamp must attend the pretrial conference in person. Counsel who do not file and provide a stamped copy of the required motion 24 hours in advance of the pretrial conference will not be admitted into the virtual courtroom for the pretrial conference.

(B) Excused Appearances. Counsel will be excused from appearing for pretrial conference if:
 - (i) the case has been confirmed for a date-certain plea before commencement of the trial period;
 - (ii) a motion to continue has been filed at least three (3) business days in advance of the pretrial conference;
 - (iii) a motion to remove the case from the trial docket in conjunction with referral to a problem-solving court has been filed at least three (3) days in advance of the pretrial conference; or
 - (iv) a motion to remove the case from the trial docket in conjunction with referral to the level three pretrial diversion program has been filed at least three (3) business days in advance of the pretrial conference.
(C) Issues Addressed. Counsel must be prepared at Pretrial Conference to discuss: (i) the status of plea negotiations, (ii) anticipated length of the trial,

(iii) whether an interpreter will be required for the defendant, a witness, or both, and the anticipated order in which witnesses who require the assistance of an interpreter will testify, (iv) pending motions, and (v) trial exhibits, including necessary redactions to electronic evidence or voluminous documentary exhibits. Note: Under the Unified Pretrial Order, only motions directed to the conduct of the trial may be filed after the pretrial conference.

9. **Trial Period.** (A) After conclusion of pretrial conferences, the Court will prepare a trial list for the ensuing trial period. Counsel must read and abide by all requirements prescribed in the trial list.

(B) Cases will be prioritized for trial based on a variety of considerations including, but not limited to: stint on the trial list, age of the case, necessity of interpreters, severity of the charges, travel requirements, and unique circumstances specific to the case.

(C) Cases set for trial will not be removed from the trial list except in extraordinary circumstances. Cases that are not called for trial within the trial period will automatically roll to the next scheduled trial period. Counsel are responsible for reissuing subpoenas when a case rolls to a new trial period.

(D) Counsel, parties, and witnesses must be ready and available for trial throughout the trial period. At least two hours' notice will be provided. The Court will notify counsel by electronic mail or telephone when their case is called for trial. Counsel have a duty to regularly check their email accounts, including spam filters, and to ensure that their telephone systems are fully operational. See *Emerald Coast Utilities Auth. v. Bear Marcus Pointe, LLC*, 227 So. 3d 752 (Fla. 1st DCA 2017). When one case concludes, another case will be called. Counsel may direct questions about the position of a case on the trial list to Vikki Cooper at ctjavc1@ocnjcc.org.

(E) Cases scheduled for plea during the trial period will be resolved by plea during the trial period except in extraordinary circumstances. Requests to reschedule a plea outside the trial period must be made by written motion and must specifically describe the extraordinary circumstances supporting the request.