

**JUDICIAL PRACTICE PREFERENCES
CRIMINAL SECTION G**

THE HONORABLE KATHLEEN T. HESSINGER

GENERAL RULES

Communication with Court: All communication with the Court regarding substantive matters relating to a case will be made in court, with all counsel/parties present, and on the record. All non-ex parte communications to the Court (scheduling, procedural questions, etc.) shall be made by contacting the Court's judicial assistant, Tracy, by telephone, email (with copy to opposing counsel or pro se litigant) or other written communication (with copy to opposing counsel or pro se litigant.)

No Off-Calendar matters – The Court, opposing counsel and the Clerk are not prepared to address cases that have not been previously scheduled on the Court's calendar. Moreover, off calendar matters unfairly delay calendared Defendants and their cases.

Please do not distract the ASA from a hearing - The Defendant at the podium is the most important person in the courtroom; it is distracting for the Defendant, his/her attorney, and the Court when the State is speaking with another attorney on another case. Moreover, the ASA needs to be paying attention to the hearing being conducted at the podium.

Quiet courtroom please – While the Court is conducting a hearing at the podium, all other conversation between attorneys and Defendants, victims, and/or witnesses should take place in the hall outside the courtroom.

Written motions – Unless the Florida Rules of Criminal Procedure state otherwise, all motions must be in written form, filed with the Clerk and set for hearing with the judicial assistant. This Court recognizes that *periodically* an ore tenus motion may be necessary due to an issue that unexpectedly arises in court. **Proposed orders** should be emailed to the judicial assistant prior to the hearing except on motions to suppress or any other larger substantive motion.

Case law: If either party wants this Court to review case law before a hearing, especially an evidentiary hearing, please provide the case law to the Court within three (3) business days before the hearing. The case law can be delivered to judicial reception with a call to the Court's judicial assistant to retrieve the case law or hand delivered to the Court in the courtroom.

Plea forms – Defendants shall NOT sign a plea form or be conversing with his/her attorney while the Court is speaking with the Defendant, announcing the sentence or otherwise engaging in the plea colloquy. The Defendant's attention should be on this important information. If the Defendant needs to speak with his/her attorney while at the podium, then this Court will give the Defendant time to speak with his/her attorney.

DISCOVERY ISSUES

Opposing counsel must confer and make a good faith attempt to resolve discovery matters without a hearing. If a hearing is necessary, a written motion shall be filed and scheduled either in open court with opposing counsel present or with the Judicial Assistant on a date agreed upon by both parties.

PRETRIAL CONFERENCE

Sign-Up List: As a courtesy to attorneys who appear in multiple divisions, attorneys not assigned to the division may sign up in court, prior to the start of the court session. If an attorney is not present when his or her case is called, the Court will continue down the sign-in list and call that attorney's case when he or she returns to the courtroom.

Defendant's Presence: The Defendant's presence at a pretrial conference may be waived pursuant to Fla. R. Crim. P. 3.180. The Defendant must be present if required by Court, regardless of any previous waiver. The Defendant's presence should not be waived if counsel has not had an opportunity to discuss the case with him or her. The Defendant's presence may not be waived if speedy trial has not or will not be waived and the case will be set for a trial. The Defendant's presence cannot be waived for violation of probation hearings (VOP).

Plea Negotiations: Plea negotiations may be made between the Defendant and the State in advance of or at the pretrial conference. A Defendant may make offers to the Court but the Court will not engage in plea negotiations unless specifically invited to do so by the Defendant. Any plea offers should be placed on the record. Please do not ask to approach the bench with a plea form on a negotiated plea until the terms of the negotiation have been shared with the Court and the Court has agreed to accept the negotiated plea.

Continuances: Attorneys must file a written motion and order to continue a pretrial conference no later than noon on the Friday of the week prior to any pretrial conference. Motions must fully set forth grounds necessitating the continuance, contain a waiver of speedy trial, and must be with the consent of opposing counsel.

Zoom: Effective July 1, 2024, pursuant to Fla. R. Crim. P. 3.116 (c)(1), a request may be made to appear for a non-evidentiary pretrial hearing scheduled for 30 minutes or less, and will be granted unless the Court has good cause to deny it. Attorneys must file a written request to appear by Zoom no later than noon on the Friday of the week prior to any pretrial conference. All persons appearing on Zoom, including attorneys, must be appropriately dressed for court and behave as if present in court...i.e., no appearances on Zoom while driving, at a doctor's appointment, at the grocery store, at the beach or anything of the like. Future Zoom appearances will not be permitted for anyone violating these guidelines.

Pleas in Absentia: Prior to Defendant signing a plea in absentia (PIA), the Defense attorney must obtain permission from the Court for Defendant to enter a PIA. The Court must approve all agreements as to the conditions of the PIA made with the State. Unless the Court states otherwise, PIAs shall be provided with a notarized signature and fingerprints. Generally, the Court requires the presence of the Defendant in court for pleas to charges of driving under the influence and/or reckless driving reduced from a DUI.

PRETRIAL MOTIONS

Filing and scheduling of motions for hearing: Attorneys must provide the Court and opposing counsel with a courtesy copy of any motion filed through the E-Portal. Courtesy copies may be provided by fax, e-mail, or in open court. Motions will not be set for hearing until the written motion is reflected on Odyssey. **All small or non-evidentiary type motions** (motions to modify conditions of pretrial release, removal of CAM, request to travel etc.), will be set as soon as practicable. If counsel wants the motion heard at an upcoming pretrial conference then the motion must be filed, and reflected on Odyssey, at least two (2) days before the pretrial conference with a copy to opposing counsel and the Court. A **proposed order** must be emailed to the Court's judicial assistant before the hearing or counsel must bring three (3) copies to the hearing. **All evidentiary hearing motions** (motions to suppress, motions to dismiss, Hunter hearings, etc.) must be filed at least two (2) days before an upcoming pretrial conference and the Court will set the motion on an evidentiary hearing calendar in open court at the pretrial conference. All motions to dismiss and motions to suppress must be filed and heard before the Court sets a matter on the trial docket. This Court does not hear motions to suppress on the day of trial or during trial.

Continuances: Motions to continue a motion hearing must be made as soon as practicable after an attorney becomes aware of the need for a continuance.

Defendant's Presence: Absent prior Court approval and good cause, the Defendant must be present for all motion hearings. Cases will be set for a pretrial conference at the same time as evidentiary motion hearings.

Change of Plea/Sentencing Hearings: Hearings for a change of plea should only be set if the attorney has spoken with his or her client in advance and has a good-faith basis to believe that the Defendant wishes to change his or her plea.

TRIALS

Information: If the State has not filed an Information (usually criminal traffic charges) by the time the case is set for trial or is filing an Amended Information, the Information/Amended Information must be filed by 8:30 a.m. the Wednesday before the motion in limine/trial conference. Ideally, the information/amended information should be filed within seven (7) days of this Court setting the matter for trial.

Discovery cut-off: All witnesses and evidence (police reports/videos or other tangible evidence) must be disclosed by both the State and the Defendant within seven (7) days of this Court setting the matter for trial. If the State or Defendant inadvertently failed to list a witness or provide evidence within those seven (7) days, the cut-off date for witness and evidence disclosure is the Monday before the Friday motion in limine/trial conference. The parties risk this Court striking the witness or evidence if listed or provided after the Monday cut-off disclosure date. If the State or Defendant are using edited video recordings then the parties must provide a copy of the video being used at trial by the Monday before the Friday motion in limine/trial conference. If the parties agree, the State or Defendant can provide the time stamped sections of the video recordings by such date and provide the actual video no later than the Thursday before the Friday trial conference.

Motions in Limine/Trial Conferences: At the time the Court sets a trial, the Court will also set a Motion in Limine/Trial Conference. Said conference will be scheduled for 10:30 a.m., on the Friday before the trial, unless court is closed. If court is closed then the trial conference will be scheduled two Fridays before the trial. The Defendant's appearance at the motion in limine/trial conference is mandatory unless the Defendant shows good cause and receives prior approval from the Court.

- a. All motions in limine must be in writing.
- b. All motions in limine must be filed and reflected on Odyssey by 8:30 a.m. on the Wednesday before the motion in limine/trial conference with a copy emailed to the Court's judicial assistant and to opposing counsel.
- c. Motions in limine not filed by the Wednesday deadline will be waived, but contemporaneous objections may be made at trial.
- d. Any motions in limine that will need testimony, must be filed based on the motion to suppress guidelines so the matter can be set on an evidentiary hearing calendar.
- e. The Court and counsel will address the jury instructions at the trial conference so only small changes need to be made on trial day.
- f. Proposed special jury instructions must be provided, in writing and with supporting case law, to the Court and opposing counsel on the Wednesday before the trial conference.
- g. Any change of plea or negotiated pleas must be made by the trial conference. Any change of plea on the trial date will be an open plea. If defense counsel is aware Defendant is going to change his/her plea in advance of the trial conference date, then counsel can set the change of plea before the trial conference date. This will save the parties unnecessary preparation time.

Motions to Continue: Motions to continue a trial must be filed in writing as soon as the Defendant or attorney becomes aware of the need for the continuance. A motion to continue a trial will be heard as soon as practicable.

Voir Dire: The Court will initiate voir dire. Attorneys for the State and Defendant will be given a reasonable amount of time to inquire of the venire. The Court may place reasonable time constraints on voir dire, depending upon the complexity of the case. Attorneys will not attempt to taint a venire. Generally, cause challenges will be made after voir dire; however, occasionally a venireman will be excused for cause during the voir dire as a result of medical issues or something

of the like. When it becomes evident that a venireman will be challenged for cause, please stop asking that person questions.

Objections: No speaking objections should be made at trial. An attorney making an objection should stand and state the legal basis of an objection only. The Court will determine if it is necessary for further discussion or argument at the bench, however the attorneys may ask to approach if necessary. Attorneys should at all times address arguments and comments to the Court, not to each other.

Exhibits: Attorneys shall have the clerk pre-mark any exhibits to be introduced at trial. Attorneys will show exhibits to opposing counsel before approaching a witness. Attorneys should request permission to approach the bench, witnesses, or the clerk.

Sentencing: A Defendant will be sentenced at the time of his/her plea of guilty or no contest or after a guilty verdict at the conclusion of the trial.

VIOLATIONS OF PROBATION (VOP)

Defendant's Presence: The Defendant's presence cannot be waived at arraignment or pretrial conference for violation of probation cases. Generally, violations of probation are resolved at arraignment. If the matter cannot be resolved at arraignment, this Court will generally set the matter for an evidentiary hearing. If necessary, the Court may set a violation of probation for a pretrial conference.

DISCLAIMER

If any judicial preference set forth herein conflicts with any applicable Florida Rule of Procedure, then the rule of procedure prevails.

Section G Weekly Calendar

	MORNING	AFTERNOON
M	8:30 Arraignments 9:30 Arraignments / Pretrials 10:30 In-Custody Hrgs.	1:30 Pretrials 2:30 Pretrials 3:30 Pretrials
T	8:30 Pretrials / Short Motions / Jury Trials	
W	8:30 Violation of Probation / Related VOP Motions / Jury Trials	
T	8:30 Pretrials / Short Motions / Jury Trials Primarily Private Counsel	
F	8:30 Pretrials / Short Motions / Status Checks 10:30 Motions in Limine / Trial Conferences	1:30 Long Motions / Evidentiary Hrgs. Non-Jury Trials