

## **JUDICIAL PRACTICE PREFERENCES CRIMINAL SECTIONS PASCO DIVISION 3**

**THE HONORABLE MARY HANDSEL**

### **DISCOVERY ISSUES**

Opposing counsel must confer and make a good faith attempt to resolve discovery matters without a hearing. If a hearing is necessary, it should be scheduled either in open court with opposing counsel present or with the Judicial Assistant and prior agreement of opposing counsel.

### **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. E-mailed submissions asking to be placed on a sign-up list will not be accepted. If an attorney is not present when their case is called, the Court will continue down the sign-in list and call that attorney's case when they return to the courtroom. Attorneys assigned to the division should be prepared to discuss their cases at the beginning of the court session and will be allowed to call their cases if there are no other attorneys ready.

**Defendant's Presence:** The Defendant's presence can only be waived with prior Court approval. Requested for waivers should be made through the Court's JA at least 2 days in advance of the hearing date, unless for emergencies. 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 them. 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.

**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.

**Continuances:** All continuances must go through the Court's JA even if agreed on by both parties. The State can not stipulate to a continuance. Oral motions will also be accepted in open court prior to the pretrial conference as long as opposing counsel present and the clerk is made aware in advance.

**Zoom:** Attorneys wishing to appear by Zoom, or have witnesses appear by Zoom must contact the Court at least 2 days ahead of any hearing. The Court only allows Zoom appearances in limited bases and only on specific reasons.

**Phone Conferences:** All request to appear via phone conferences line, must be made in advance of the hearing and only with approval of the Court. The Court has a conference line number that can be given out for those approved hearings for counsel and/or defendant's or witnesses.

**Miscellaneous Issues:** The Court will not discuss any aspect of a case, except scheduling matters, unless counsel for both the State and Defendant are present.

## **PRETRIAL MOTIONS**

**Filing of Motions:** Attorneys must provide the Court 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. Absent good cause, all pretrial motions (motions to modify conditions of pretrial release (removal of CAM)), motions to dismiss, motions to suppress, motions in limine, pretrial evidentiary matters, etc. must be filed at least two (2) days before the trial. Absent good cause, motions filed on the day of trial will not be considered timely, and may be denied.

**Scheduling of Hearings:** Ore tenus motions will be considered, when appropriate, with consent of opposing counsel. Hearings for motions to suppress will not be scheduled without a written motion being filed and copies provided to the Court and the State.

**Continuances:** Motions to continue a motion hearing or Trial 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 also be set for a pretrial conference at the same time as substantive motion hearings. If a ruling is made at the time of the motion hearing, attorneys should be prepared to discuss the case and the Defendant should be prepared to resolve the case or set it for trial.

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

## **TRIALS**

**Motions to Continue:** Absent good cause, motions to continue a trial must be filed in writing, at least one (1) week prior to the trial. A motion to continue a trial will be heard as soon as practicable.

**Motions in Limine:** Motions in limine will be argued before trial begins. They must be filed pursuant to the Court's Pretrial Order. If no Pretrial Order, motions in limine must be filed with the court no later than two (2) days before the trial date. When filed, a copy of the parties' motions in limine shall be provided via email to opposing counsel and the Judicial Assistant.

**Day of Trial:** Defendants will be sentenced at the time of their plea or after a guilty verdict at the conclusion of the trial. If sentencing can occur because of a PSI, or additional time is needed to be prepared by either side, Defendant will be remanded until the sentencing date.

**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. Attorneys will not attempt to taint a venire. If the parties consent, challenges for cause may be made at the bench during voir dire. Any member of the venire released for cause will not be excused until the end of voir dire or at an appropriate break in the proceedings. Attorneys shall not ask those members of the venire excused for cause any further questions during voir dire.

**Jury:** Attorneys and the Defendant should remain seated when the jury enters/exits courtroom.

**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. Attorneys should at all times address arguments and comments to the Court, not to each other.

**Conduct of Trial:** Attorneys shall have the clerk pre-mark any exhibits to be introduced at trial. All exhibits are marked Numbers to Numbers. Attorneys will show exhibits to opposing counsel before approaching a witness. Attorneys should request permission to approach the bench, witnesses, or the clerk. All exhibits shall be marked in numerical order and introduced in numerical order. With both parties doing their best to mark and introduce on the same number.