JUDICIAL PRACTICE PREFERENCES COUNTY CRIMINAL SECTION E
THE HONORABLE DIANE M. CROFF

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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 should be scheduled either in open court with opposing counsel present or with the Court's Judicial Assistant (JA) and prior agreement of opposing counsel.

PRETRIAL CONFERENCES

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 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.

Defendant's Presence: The Defendant's presence at a pretrial conference may be waived pursuant to Florida Rules of Criminal Procedure 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 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.

Continuances: Attorneys may file a written motion and proposed order to continue a pretrial conference no later than noon on the Friday of the week prior to any pretrial conference. A courtesy copy should also be provided to the Court's JA and opposing counsel. Motions must fully set forth grounds necessitating the continuance, contain a waiver of speedy trial, and must be with the consent of opposing counsel. A reset form is also available to request a continuance of the first pretrial conference by contacting the Court's JA.

Remote Appearance (via Zoom): Requests to use communication technology for an appearance must be made in compliance with Florida Rule of General Practice and Judicial Administration 2.530. Requests must be submitted to the Court's JA no later than noon on the Friday of the week prior to the hearing. Persons appearing by Zoom must have their video turned on, be appropriately dressed for court and conduct themselves as if present in the courtroom. Absent prior court approval, remote appearances are not permitted for a final pretrial conference.

PRETRIAL MOTIONS

Filing/Scheduling Motions: Attorneys must provide the Court's JA and opposing counsel with a courtesy copy of any motion filed through the E-Portal. Motions will not be set for hearing until the motion is filed and reflected in the E-Portal.

- Non-evidentiary motions (e.g. motion to modify pretrial release conditions, CAM, travel, etc.) must be filed by noon at least two (2) days prior to a pretrial conference to be heard, and may be scheduled by contacting the Court's JA and opposing counsel.

- Substantive motions (e.g. motions to suppress/dismiss, etc.) must be filed at least two (2) days prior to a pretrial conference and will be scheduled during the pretrial conference, or by contacting the Court's JA and opposing counsel. Absent good cause, all substantive motions must be filed and heard before the case is scheduled for 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 also be set for pretrial conference on the date of a substantive motion hearing. If a ruling is made at 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.

TRIALS

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

Final Trial Conference: At the time a trial is scheduled, a final trial conference will also be scheduled for 1:30 p.m. on the Friday before the week of trial. If court is closed that Friday, the trial conference will be held on the preceding Friday. The Defendant must appear at the trial conference. The trial conference will be the final opportunity for a Defendant to enter a plea that has been negotiated with the State. A change of plea entered on the day of trial will be an open plea to the Court. Absent unforeseen circumstances, no pretrial motions will be considered after the trial conference. Motions in Limine and Jury instructions will also be addressed at the final trial conference as set forth below.

- **Motions in Limine:** All motions in limine must be filed no later than two (2) days before the trial conference – this deadline will typically fall on a Wednesday. When filed, a copy of the parties' motions in limine shall be provided via email to opposing counsel and the Court's JA. Any motions in limine not timely filed will not be heard prior to the trial, but contemporaneous objections may be made during trial.

- **Jury Instructions:** Jury instructions will be addressed so that only slight edits are necessary at trial. The State must provide the Court and defense counsel with a proposed jury instruction for the charged offense(s). Any special jury instructions requested by either party must be provided to the Court and opposing counsel no later than two (2) days prior to the trial conference.

- **Exhibit exchange:** If the State or Defendant intend on using edited and/or enhanced exhibits (e.g. recording, images, etc.) at trial, copies of those edited exhibits must be provided to

opposing counsel prior to the trial conference. If the outcome of a particular motion in limine requires further editing, a copy of the further edited exhibit(s) must be provided to opposing counsel no later than the day before trial.

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, there may be occasions where cause challenges are appropriate to make at the bench. Any member of the venire released for cause generally 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 standing 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 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: Defendants will be sentenced at the time of their plea or upon a guilty verdict at the conclusion of the trial.

OTHER DIVISION PROCEDURES

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.

Emergency and Other Urgent Matters: If a party believes there is a factual matters…

ADA Accommodations: If you need an ADA accommodation, please contact the Human Rights Office, 400 S. Ft. Harrison Ave., Suite 300, Clearwater, FL 33756, 727-464-4062 (VTDD) at least 7 days before your scheduled court appearance.