

MICHAEL I. ROTHSCHILD  
CIRCUIT COURT JUDGE  
SEVENTEENTH JUDICIAL CIRCUIT OF FLORIDA  
KIM COX, JUDICIAL ASSISTANT  
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## DIVISION “FB” POLICIES AND PROCEDURES 2018

\*\*\*All policies and procedures become effective as of January 1, 2018 they may be modified as needed, so please refer to this page for updated information\*\*\*

### **SCHEDULING-**

This division will be a test division for on-line scheduling of routine hearings in criminal court. A list of the types of hearings that may be set on-line will be supplemented as soon as the on-line scheduling becomes available.

For scheduling prior to the on-line system availability or to schedule a hearing not accommodated by the on-line system, please call the J.A., Kim, at (954) 831-7888 or via email @ DIVFB@17th.flcourts.org. Please contact opposing counsel and be prepared to know how much time, in total for both sides, will be needed. Please also have some idea as to the schedules of witnesses that will need to be accommodated for the hearing.

Once a date has been set, the attorney setting the hearing **must** file a Notice of Hearing! Without a Notice of Hearing the Court may not hear the matter set unless the party opposing the motion agrees to waive the notice requirement.

### **TRIALS-**

Calendar calls are generally ten (10) days prior to the date of the trial. The only matters that will be addressed at calendar call is trial readiness. Negotiated pleas will also be taken at calendar call. No other substantive motions or requests will be heard on calendar call without specific permission from the Court.

If trial is set then the Court expects that the parties will be ready to begin jury selection on the first day of trial. No evidentiary motions will be heard on the day of trial. While the Court will hear legal motions, such as motions in limine, any motion that requires a factual determination (including any discovery issues) **must** be set and heard either prior to announcing ready for trial or during the week between calendar call and the first day of the trial period. If there is an announcement of ready for the second week of the trial period only, trial will still be set on the first day of the trial period; but the Court will make every effort to give deference to the scheduling.

Special Set trials may be requested by the filing of a motion requesting a special set date. At the hearing to set the special set trial the parties **must** be familiar with the schedule of the witnesses and parties. Special set trials will begin, subject to trial priority, on the date they are set.

Trials may be sent to other available judges. If the parties, jointly, find another division judge to hear a trial the Court will consider sending the trial to the agreed division. Trials within division will be prioritized based on age of case, custody status, speedy trial, special set; not necessarily in that order.

#### **WRITTEN REQUESTS FOR CONTINUANCE-**

All written requests for continuance must be filed and provided to the Court, with an attached order, on or before the Tuesday prior to the calendar call. Only emergency written motions will be addressed thereafter. This applies to both Defense counsel and State Attorney requests.

If a written continuance is granted, it is the attorney's responsibility to notice the Defendant. If a written continuance is denied, the parties **must** appear at calendar call.

#### **PLEAS-**

Negotiated pleas may be set on any available morning calendar or may be taken at calendar call. The Court expects that all terms of the negotiation will be complete prior to the setting of a change of plea or the entry of a negotiated plea. These terms include; but are not limited to, credit for time served, fines, restitution, costs, and conditions of probation.

Open pleas must be scheduled in accordance with the scheduling procedures. Any open plea on a violation of probation where the Defendant is a "violent felony of special concern," **must** also include appropriate scheduling considerations for the "danger" hearing that must be held prior to the imposition of sentence. All Defendants should be prepared to be remanded on the date of the change of plea if the Court determines incarceration is to be imposed.

Downward Departure motions require the presentation of evidence to support the basis for departure. The Court shall not grant a departure based upon a proffer. Hearings on downward departure motions shall only be set once all parties are fully ready to be heard. Bifurcated hearings will only be done on an emergency basis. If Defendant seeks a program, it is Defendant's burden to present a treatment plan to the Court. The Court may consider accepting an open plea and deferral of sentence if a downward departure motion has been filed but not set.

## **MOTIONS-**

Any motion which is not subject to on-line scheduling, or which is subject to an evaluation of legal sufficiency, including but not limited to, Motions to Suppress, Motions to Dismiss, Post-Conviction motions, etc... **must** be provided to the Court prior to the setting of a hearing (can be submitted via email). The Court may rule on the sufficiency of the motion prior to setting any hearing.

Motions to Withdraw **must** include a certificate of service to the Defendant and the Notice of Hearing must include same. The Court will not hear any Motion to Withdraw where the Defendant is not present and no proper notice has been provided.

Motions to Mitigate or Reduce Sentence should not be scheduled without Court approval. The Court will generally rule on the merits of the motion based on the information provided, in chambers.

Agreed Motions must contain a statement indicating the agreement. Orders submitted to said motions must contain the language, "Agreed Order," in the heading. Agreed motions should not be scheduled for hearing unless the Court determines it necessary.

Orders which do not require a specific finding of law or factual determinations **shall** be completed by the party seeking relief. Orders which require findings of fact or interpretations of the law will be prepared by the Court.

## **MOTION PRACTICE-**

Attorneys should be fully prepared for their scheduled motions. If the motion needs to be reset or cancelled, the setting attorney has an obligation to contact the Court to give as much advance notice as possible. If the case is to be pled rather than the motion is heard, the setting attorney should advise the Court as soon as practicable.

The Court makes great effort to review the pleadings and case law in advance of the motion. Please provide the Court with any case law and a courtesy copy of the pleading at least two (2) days prior to the scheduled date of the hearing.

## **STATE ATTORNEY OBLIGATIONS-**

The assigned State Attorneys **must** have the following available for each arraignment; a scoresheet, a plea offer. If the State is unable to make a plea offer at arraignment the Court will look for a good faith basis for the inability to make an offer. If the Court determines that no good faith basis

exists then the Court may entertain open pleas if the Defendant wishes to resolve their case.

#### **PRO SE OBLIGATIONS-**

While the Court recognizes the importance of self-representation, it is expected that Defendants acting as their own counsel will follow all rules and procedures set forth in Florida law, the Rules of Procedure, and these policies and procedures. The Court will make accommodations as necessary if a *pro se* litigant has a valid basis for being unable to comply.

#### **PROFESSIONALISM-**

The Florida Bar has emphasized professionalism in its Oath of Admission and in the Rules of Professional Conduct. The Court demands that counsel act in accord with each and every applicable rule. Furthermore, the Court has the highest expectations that matters which do not need court intervention will be addressed between the parties and will not require the Court's time to address matters which should be done outside of the courtroom. **FAILURES TO COMMUNICATE BETWEEN THE PARTIES WILL NOT BE TOLERATED!!!**

#### **QUESTIONS AND CONCERNS-**

Any question or concern about these policies or procedures should be sent in writing to the J.A. or may be addressed directly with the Court. The Court is open to suggestions and criticism and seeks to operate in an efficient manner but not in a way that prevents each party from having a full opportunity to have the cases properly heard. Please do not have any concern that meaningful suggestions or criticisms will be regarded in any way other than as helpful.

10/10/17  
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