

UNIFORM PRETRIAL AND TRIAL PROCEDURES – DIVISION 56

BY ORDER OF THE COURT, each party and all counsel shall comply with the following Pretrial and Trial Procedures in Division 56 Criminal Cases:

1. **MINIMUM STANDARDS FOR COUNSEL.** All counsel appearing in court must meet the minimum standards for attorneys set forth in Fla. R. Crim. P. 3.113. Defense counsel on capital cases must also meet the requirements in Fla. R. Crim. P. 3.112

2. **WAIVERS OF APPEARANCE.** The Court will generally accept written waivers of a Defendant's appearance at pretrial proceedings unless specified by the Court. Waivers of appearance *are not permitted* for evidentiary hearings, docket sounding, trials, and violation of probation hearings.

3. **APPEARANCES BY COUNSEL.** Defense counsel may appear on a case by filing a Notice of Appearance, unless the Defendant is already represented by other counsel on that case, in which case, counsel will need to move for substitution of counsel, with the client's written consent, as provided in Fla. R. Jud. Admin. 2.505(e). Orders granting substitution of counsel shall be emailed to the Judicial Assistant at Division56@circuit7.org in MS Word format.

4. **PLEAS OF GUILTY/NO CONTEST AND ADMISSION TO VIOLATIONS OF PROBATION.** The Court requires an executed Plea Form or Admission of Violation of Probation Form before it will accept a plea or admission. The State shall provide a Criminal Punishment Code sentencing scoresheet to the defense prior to sentencing. Any objections to the scoresheet calculations shall be brought to the Court's attention prior to sentencing. The Court will not accept negotiated pleas on cases after the final docket sounding before trial.

5. **PRETRIAL MOTIONS.**

(a) **MOTIONS** filed within five (5) days of the trial date will not be considered if predicated on matters the movant knew or should have known with the exercise of reasonable diligence at least thirty (30) days prior to the trial date. Because of busy court calendars, hearing time may not be available to consider motions filed close to the deadline. The inability of a party to obtain hearing time will not constitute grounds for a continuance of the trial.

(b) **MOTIONS TO EXCLUDE EXPERT TESTIMONY:** Any challenge to the admissibility of evidence at trial based on a contention that anticipated expert testimony does not meet the requirements of §90.702, Florida Statutes, and seeking a court ruling in accordance with *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993), must be raised by a *motion in limine* filed at least thirty (30) days before the trial date. Failure to meet this deadline shall be deemed a waiver, absent good cause.

6. **TRIAL PROCEDURES.**

(a) **TRIAL OBJECTIONS.** Objections at trial shall only be made by the attorney examining or cross-examining the witness. Counsel shall stand when objecting and shall clearly

and succinctly state only the legal basis for the objection. (e.g., hearsay, leading, etc.) No other statements shall be made. The proponent of the testimony or evidence that is the subject of the objection shall not respond to the objection unless directed to do so by the Court.

(b) **STIPULATIONS.** Counsel shall not offer to stipulate to evidence in the presence of the jury, unless the parties have discussed the stipulation outside the presence of the jury and it has been agreed to by opposing counsel.

(c) **EXPERT TESTIMONY.** The proponent of expert testimony shall not ask the Court to accept the witness as an expert or tender the witness as an expert.

(d) During voir dire, opening statements, examination of witnesses or closing arguments, counsel shall remain at the podium unless the Court permits counsel to do otherwise.

(e) **TRIAL CONTINUANCES.** Motions to continue a trial shall be made in writing and filed prior to docket sounding. The motion shall specify the grounds for the motion and whether opposing counsel consents to the continuance.

(f) **JURY INSTRUCTIONS AND VERDICT FORMS.** No later than the day before trial, the State shall electronically submit to the Court proposed jury instructions and verdict forms. Counsel shall confer prior to the charge conference and attempt to agree on the jury instructions and verdict forms. This paragraph shall not foreclose the right of each party to modify proposed instructions up to and including at the charge conference. If the defense desires to add jury instructions, it shall electronically submit to the Court only those instructions it seeks to add.

(g) **MARKING EXHIBITS BEFORE TRIAL.** Before trial, the attorneys shall schedule and meet with the Court's trial clerk and assist the clerk in marking all evidentiary exhibits for identification in the manner directed by the clerk. Exhibits will be identified by letter prior to admission into evidence. Upon being admitted into evidence, exhibits will receive a number assigned by the clerk.

(h) **ELECTRONIC PRESENTATIONS.** Counsel intending to use the electronic presentation system in the courtroom, shall familiarize themselves with the system's functionality *before trial*. Counsel may schedule an appointment with the Court Administrator's office to become familiar with the system.

7. **STANDARDS OF CONDUCT.** Conduct that may be characterized as uncivil, abusive, hostile, or obstructive impedes the fundamental goal of resolving cases fairly and efficiently and will not be tolerated. Such conduct tends to delay and deny justice. Accordingly, in addition to the standards imposed on all attorneys by the Florida Rules of Professional Conduct, the following standards will apply to all attorneys and parties to this action:

(a) All attorneys, parties, and witnesses will be treated in a civil and courteous manner, not only in court, but at depositions and in all written, electronic and oral communications.

(b) No attorney or party will abuse or indulge in offensive conduct directed to other attorneys, parties or witnesses. Counsel and all parties shall abstain from disparaging personal

remarks or acrimony towards other attorneys, parties or witnesses. Adverse witnesses and parties will be treated with fair consideration.

(c) Absent good cause, no attorney or party shall attribute bad motives or improper conduct to opposing counsel or any adverse party or bring the legal profession into disrepute by unfounded accusations of impropriety.

(d) All attorneys and parties shall make good faith efforts to resolve by agreement any discovery disputes.

(e) No attorney or unrepresented party shall time the filing or service of motions or filings in any way that unfairly limits the other party's opportunity to respond and will consult with each other regarding scheduling matters in a good faith effort to avoid scheduling conflicts.

(f) All attorneys and parties shall make all reasonable efforts to expedite this litigation.

(g) Counsel shall strictly abide by Rule 4-3.6 of the Florida Rules of Professional Conduct, regarding trial publicity.

(h) Before hearings are scheduled, or if that is not feasible, immediately thereafter, counsel and all unrepresented parties will attempt to verify the availability of necessary participants and witnesses so that the Court can be notified of any foreseeable problems.

(i) Nothing in this Order supersedes or detracts from the Florida Rules of Professional Conduct or alters existing standards of conduct. Counsel and all parties shall comply with the Florida Bar's Guidelines for Professional Conduct and the Court Conduct Handbook on Gender Equality in the Courts.