

DIVISION 05 INFORMATION AND PROCEDURES

1. JUDGE'S NAME & EMAIL: Michelle A. Delancy
(mdelancy@jud11.flcourts.org)
(please copy the Judicial Assistant on any emails regarding court business)
2. JUDICIAL ASSISTANT'S NAME & EMAIL: Xenia Cotarelo (xcotarelo@jud11.flcourts.org)
 - If you write the Judge or the judicial assistant about a case, you **must** copy all counsel in the same email.
 - Do **NOT** put "SERVICE OF COURT DOCUMENTS" in the subject line of any email to the Court – if you do, our email system automatically rejects the email.
3. Division Email: F005@jud11.flcourts.org. Emails to this address are sent to both the Judge and the JA, so please do not send a separate copy to the Judge or JA.
4. BAILIFF'S NAME: Gary Gourdet
5. CHAMBER'S INFORMATION
 - a. Address: 1351 N.W. 12th Street, Room 217, Miami, FL 33125
 - b. Phone #: 305-548-5734
 - c. Fax #: 305-548-5208
6. PROCEDURES FOR PLACING MOTIONS ON CALENDAR: Send a copy of the motion to chambers by email, facsimile or hand-delivery. The JA will call the attorney's office with the date that the motion will be on calendar. The original motion must be filed with the clerk's office.
NOTE: The Clerk's Office does not provide Judge Delancy with copies of motions which Counsel submits through E-filing.
7. METHOD OF PROVIDING COURTESY COPIES: Courtesy copies may be provided by email or hand-delivery. **NOTE: The Clerk's Office does not provide Judge Delancy with copies of documents which Counsel submits through E-filing.**
8. POLICIES AND PROCEDURES FOR SPECIFIC MOTIONS
 - a. CONTINUANCES: Motions for Continuance may be made *ore tenus* at Sounding.
 - b. JAC MOTIONS: Submit the Motion to have Defendant Declared Indigent for Costs along with supporting documentation, JAC's response, and a proposed order, to Chambers. If JAC does not request a hearing, the Court may enter the proposed order without a hearing after reviewing the documents. If JAC requests a hearing, or if Judge Delancy has concerns after reviewing the Motion and supporting documentation, the judicial assistant will set the Motion on calendar for hearing.

- c. *NEBBIA* MOTIONS: Defense Counsel should first present the documentary proof to the State and inquire whether the State will stipulate the defendant has satisfied the *Nebbia* requirements. If there is no stipulation, submit the documents to chambers and the judicial assistant will call the attorney's office with the date for the *Nebbia* hearing. In most cases, the hearing will be set for the next business day if the documents are provided to Chambers before 3:00 pm.
- d. LIMINE MOTIONS: Motions in Limine must be filed in writing the Friday before trial. Failure to do so, absent good cause, is sufficient basis for the Court to deny the Motion.
- e. SEAL/EXPUNGE: File the original with the Clerk's office and send a copy to chambers. The JA will call the attorney's office with the date that the motion will be on calendar. Counsel does not have to be present at the hearing if all documents are in order.
- f. RETURN OF PROPERTY: File the original with the Clerk's office and send a copy to chambers. The judicial assistant will call the attorney's office with the date that the motion will be on calendar. The motion will be scheduled at least two weeks later to give the State sufficient time to determine if it, or the arresting agency, has an objection. It is the State's responsibility to determine whether the arresting agency has an objection to the granting of the motion.
- g. *ARTHUR* HEARINGS: Defense Counsel must first speak with the assigned ASA to verify that the State will not agree to any pretrial release conditions. If the parties cannot reach agreement, Defense Counsel may call the judicial assistant to request that the case be placed on calendar for status regarding bond. At the status hearing, the Court will consult with the State and the Defense to specially set an *Arthur* Hearing. Although neither party is required to file a motion, Judge Delancy **strongly** encourages both sides to provide any videos, transcripts, evidence, etc., upon which the parties will rely at the *Arthur* Hearing at least 24 hours prior to the Hearing. The more voluminous the materials, the earlier they should be provided to the Court.
- h. INCREASE/REDUCE BOND: File the original with the Clerk's office and email or hand-deliver a copy to chambers. Counsel should, at a minimum, attach a copy of the A-form and defendant's criminal history to the Motion, along with any other documents Counsel wants Judge Delancy to consider in increasing or reducing bond. The judicial assistant will call the attorney's office with the date that the motion will be on calendar.
- i. TERMINATE OR MODIFY PROBATION/CC: Judge Delancy does not automatically grant termination or modifications of Probation or Community Control at the midway point, unless such a condition was specifically agreed to at sentencing by all parties. A Motion to Modify or Terminate should include the Probation Officer's, the State Attorney's, and – if applicable – the victim's position on the motion. If there is an objection, please include a copy of the original A- form and the defendant's criminal

history. The Court will make a case-by-case determination. Depending on the severity of the original charges, a defendant is advised to demonstrate that he/she has done more to show rehabilitation than merely comply with the terms of probation; complying with the terms of probation is already a prerequisite to terminate probation upon its expiration. It will likely be sufficient to *early* terminate probation or modify community control.

- j. SUPPRESSION MOTIONS: File the original with the Clerk's office and send a copy to chambers. Judge Delancy's judicial assistant will place the case on calendar soon thereafter so the parties can select a special set date and time for the hearing.

9. SOUNDINGS

a. DOES JUDGE HAVE SOUNDINGS:

Judge Delancy holds Soundings on all cases, usually two Wednesdays prior to trial.

b. DO CLIENTS HAVE TO ATTEND:

Yes, unless Defense Counsel has complied with Rule of Criminal Procedure 3.180(a)(3), or Judge Delancy has waived the defendant's presence.

10. POLICIES REGARDING PLEAS:

- a. If the defendant is waiving *any* amount of credit for time served, Defense Counsel must fill out a waiver form (available from the Clerk) and have the defendant sign it.
- b. Judge Delancy will not rule on a motion for a downward departure sentence unless the defendant has entered a plea or been found guilty.

11. MISCELLANEOUS POLICIES AND PROCEDURES:

- a. Judge Delancy requires attorneys to adhere strictly to the **Eleventh Judicial Circuit Standards of Professionalism and Civility, the Standards of Professional Courtesy and Civility for South Florida, and the Florida Bar Ideals and Goals of Professionalism**, as adopted by Administrative Order 2-14-01-A1 (*available at* <http://goo.gl/QNc2j2>).
- b. If witnesses are not appearing for deposition, or the opposing party is not meeting its discovery obligations, it is Counsel's responsibility to bring the matter to the attention of the Court. The Court may deny continuances in these circumstances if counsel has not filed Motions to Compel.
- c. If you have case law, provide it *before* the hearing.
- d. Generally, Tuesdays are reserved for time-sensitive matters and Wednesdays are reserved for Soundings. However, the judicial assistant will schedule the following matters on calendar any day:
 - i. Any matter regarding pretrial release conditions.

- ii. Any plea which will result in an in-custody defendant being released.
- iii. Any time-sensitive matter that cannot wait until, Monday, Thursday or Friday.