

**STANDING PRE-TRIAL ORDER
FOR MISDEMEANOR AND CRIMINAL
TRAFFIC CASES IN COURTROOM 4-10**

A. COURT SCHEDULE

The Court runs on the following weekly schedule:

	<u>Criminal Traffic Trials</u>	<u>Misdemeanor Trials</u>	<u>Motions</u>	<u>Arraignments</u>
Monday:	X			
Tuesday:		X	X	X
Wednesday:	Soundings	Special Sets		X
Thursday:			X	X
Friday:				X

All attorneys with cases in this division should understand the following:

1. When set in ordinary course by the clerk of courts, trials in Courtroom 4-10 are typically scheduled on Mondays and Tuesdays at 9:00 a.m., 10:00 a.m. and 11:00 a.m. (all times Eastern).
2. Special set trials may be scheduled on any weekday prior to 12:00 p.m. by the court.
3. Defendants and essential witnesses may check-in online on trial days, but must be prepared to appear in-person for competency determinations in accordance with the procedures set forth below.
4. **Pretrial Motion and Conference Practices:**
 - a. A pretrial conference will be held in each case, *but only upon the written request of either party*, at 12:30 p.m. in Courtroom 4-10 on the last business day preceding the scheduled trial date. An earlier pre-trial conference may be requested of the court if reasonably necessary to adequately prepare the case for trial.
 - b. All pretrial conference requests shall be made individually to the Court in writing with specific reference to the case name and case number (email to DLabrador@jud11.flcourts.org shall suffice).
 - c. Pretrial motions (including, without limitation, motions to exclude, motions to suppress, and *Daubert* motions) in all cases are due not later than **seven (7) business days prior to the scheduled trial date** (at 5:00 p.m.); with responses to such motions due not later

than three (3) business days prior to the scheduled trial date (at 5:00 p.m.). Replies shall require leave of court.

- d. Courtesy copies of motions, responses, and any other relevant documents shall be emailed to DLabrador@jud11.flcourts.org not later than 24 hours before the scheduled pretrial conference.
 - e. Any case may be calendared to resolve any pre-trial issue by contacting the Judge's judicial assistant, Dayana Labrador (ph: 305-548-5397), who will schedule a prompt hearing on the request. Such hearings must be noticed to all other parties by the party bringing the matter to the court's attention. Phone or email communications are acceptable to provide such notice to the other parties.
5. Attorneys and litigants with matters on the 9:00 a.m. calendar are expected to be in the courtroom or online by 8:45 a.m.
 6. Plea offers should be made available to the defense by that time, and offers should be conveyed to defendants by the trial's scheduled start time.
 7. Witnesses are also noticed for that time so that they can speak with the lawyers prior to the call of calendar. There should be a real effort to begin the trial witness interviews as witnesses check-in. Once a witness has spoken to both the State and defense attorney, they will be allowed to be placed on a 2-hour Zoom (or telephone) standby.
 8. Witnesses to be called at trial must appear in-person in Courtroom 4-10 **not later than two hours (2) after applicable the trial's scheduled start time for determinations of competency.**¹ Failure to timely appear may result in the exclusion of the non-appearing witnesses at trial.
 9. Defendants proceeding to trial who have not opted to be tried in absentia must appear in-person in Courtroom 4-10 **not later than two hours (2) after applicable the trial's scheduled start time** for determinations of competency. Failure to timely appear may result in issuance of a bench warrant or a capias.
 10. Public defenders and state attorneys assigned to Courtroom 4-10 must ensure that an attorney from each office is present in the courtroom at all times during criminal traffic and misdemeanor arraignment and trial calendars.
 11. Attorneys with cases in the division are asked to make all reasonable efforts to prepare and ensure the appearance of available co-counsel to cover matters for which they may be absent or otherwise unavailable.

B. TRIAL CALENDARS

¹ *Hammond v. State*, 660 So.2d 1152 (2nd DCA 1995) (discussing witness competency generally and noting that the "test of competency of a witness is his intelligence and ability to understand, not his age").

1. Counsel should be ready as the trial calendar is called to advise the court of any relevant case-related information, including, without limitation, following:
 - a. Whether they are ready for trial;
 - b. Whether the services of an interpreter are required for a party and/or witness;
 - c. If seeking a continuance, the factual and legal basis for the continuance request;
 - d. Whether discovery, including body-worn camera (BwC) footage, has been provided and is complete;
 - e. If discovery remains pending after the issuance of an order to compel, or if any other discovery violation is alleged to have occurred, which witnesses will testify at a pre-trial *Richardson* hearing;
 - f. What pre-trial motions, if any, exist that have not yet been heard;
 - g. Whether jury instructions have been agreed-to; and
 - h. The number of witnesses anticipated to be called.
2. If counsel has another standing in, that attorney should have the same information delineated above.
3. Only attorneys who announce and appear on the record at the commencement of trial or hearing itself will be allowed to participate. The Court will not allow attorneys who do not appear on the record to participate.

C. MOTIONS

1. **Motions Must Be In Writing.** Every pretrial motion and filing in response to a motion shall be in writing and signed/filed by the attorney of record, *filed with enough time to allow the opposing party at least two (2) business days to respond*, unless applicable law provides otherwise. Each filing shall state the ground or grounds on which it is based. A copy shall be served on the adverse party. The requirement of a written motion may be waived for good cause shown.
2. **Genuine Meet-and-Confers.** Attorneys are expected to conduct themselves professionally at all times. This includes communicating with each other regarding procedural and discovery issues that arise and *genuinely* attempting in good faith to resolve them before asking the court to intervene.
3. **Immunity Motions.** Any and all motions to dismiss based on grounds of immunity, including, without limitation, stand your ground motions, shall be filed not later than *one (1) week prior to the scheduled trial date* to allow for: (a) a response to be filed by the opposing party; and (b) the court to schedule an evidentiary hearing regarding same.
4. **Motions to Suppress/Exclude.** See Section A.4(c), above.
5. **Motions to Compel.** Motions to compel and/or to compel more complete discovery) should be filed within ten (10) business days after the discovery (or more complete discovery, as the case may be), should have been produced.

6. **Motions to Continue.** Any motion to continue a case prior to trial should be made as soon as possible following discovery of the grounds. All reasonable efforts should be made to avoid unnecessary inconvenience to witnesses and defendants by contacting the other side to alert them of any such request and seeking acquiescence to it as soon as practicable.
7. **Motions to Take Depositions.** Motions to take depositions shall be in writing and contain specific facts and circumstances in support thereof. "Boilerplate" motions or motions without sufficient factual support will not be considered.

D. PLEAS

Negotiated plea should be conveyed to, and fully discussed with, the defendant prior to announcing the plea to the court. Such discussions should include the maximum and minimum penalties and the issues covered in Fla. R. Crim. P. 3.172. If counsel wishes to address the court on any issue regarding the plea (e.g., early termination of probation, vehicle immobilization, length of stay to pay fines, etc.), this should be done at the time the plea is first announced, not after the colloquy has been conducted.

E. PROFESSIONALISM

1. Zoom is provided as a courtesy to parties and counsel for arraignments and certain pre-trial proceedings. **Zoom is not a substitute for appearing in-person on scheduled trial dates.** Notwithstanding any waivers that may be filed, the court reserves the right to require, upon notice, personal appearances at pretrial hearings by defendants, witnesses and/or counsel if and as necessary (e.g., public defender discharge hearings).
2. Parties and attorneys appearing via Zoom must present professionally and appropriately (e.g., in proper attire, minimal background noise, no visual distractions, no smoking/vaping, etc.) as though they were appearing in the courtroom.
3. The court reminds the parties of the importance of professionalism, civility, good faith, and candor before the tribunal. Zealous advocacy is encouraged and can/should co-exist with the professionalism required by Florida Bar rules and expected of counsel by the court.
4. Punctuality and common courtesy are simple but essential ingredients to maintaining and enhancing professionalism. The court is aware that attorneys often have many different cases within and without the courtroom. It is expected that counsel will communicate such delays and scheduling conflicts to the court (by note, phone call or through co-counsel or opposing counsel) when such situations occur. This demonstrated respect not only to the court, but also to clients, witnesses, and opposing counsel, as well. If a conflict or unforeseen circumstance arises, it is incumbent that counsel advise the Court so that the matter can be rescheduled promptly.
5. The court acknowledges that the pace and circumstances of working in divisions with high caseloads can be hectic and difficult. Frustration and miscommunication can and do occur. The court solicits input and feedback from attorneys to ensure an efficiently run courtroom and an open dialogue with those who work in it. You are in a unique position to provide comment and insight

on courtroom procedures and how they can be improved. If there are procedures you would like to see implemented, or if you have an opinion regarding existing procedures, please share those opinions with us by contacting the court directly (in Chambers at REG, Room 508; by phone at 305-548-5397; or by email at MBachArmas@jud11.flcourts.org).

6. Mothers requiring a private room for breastfeeding/pumping may utilize the jury room in Courtroom 4-10, however, please notify the Court of any such need in order to give the Court an adequate opportunity to clear/prepare the jury room.

DONE and ORDERED this 24th day of July, 2023.



HON. MARCUS R. BACH ARMAS