



Criminal Division 13: Policies & Procedures

I. Arraignments

- Starting March 30, 2026, Division 13 operates on a *phase two* arraignment style along with the Clerk of the Court and Comptroller's Office.
 - a. **For in-custody defendants:**
 - i. Arraignment to be scheduled on 33rd day following arrest.
 - ii. If no good cause, ROR defendant and take the case off calendar until an information is filed.
 - iii. If good cause, reset to the 40th day.
 - b. **For out-of-custody defendants:**
 - i. No arraignment unless and until the State files an information.
 - ii. Exception: if homeless, give date-certain on 60th day.

IT IS THE RESPONSIBILITY OF THE STATE ATTORNEY'S OFFICE TO CONTACT CHAMBERS TO ADD THE CASE TO THE CALENDAR ONCE THE INFORMATION IS FILED AND TO PROVIDE A COPY OF THE FILED INFORMATION TO THE JA.

II. Motion Procedures

- Prior to filing your motion, please add the division email to the e-service email list to ensure that chambers receive a copy.
- The original motion must be filed with the clerk's office.

III. Courtesy Copy Procedures

- **Please be advised:** the clerk's office does not provide chambers with courtesy copies of motions.
- Preferably, copies of motions should be submitted via email. However, copies of motions may also be submitted via hand-delivery.

NOTE: If you do not include the division email on the e-service email or send a separate copy,

Judge Hersch will not see your motion until your case is called during calendar.

IV. Specific Motion Procedures

- **SPECIAL SET HEARINGS – IN GENERAL:** Please be advised that the JA, does not set any special set hearings. Judge Hersch will set the hearings in open court on record.
- **MOTION FOR CONTINUANCES:** Motion for Continuances may be done *ore tenus* or in writing at the sounding. Motions *for ore tenus* cases may not be heard on the day of trial unless emergent conditions are required.
- **JAC MOTIONS:** The motions are to be submitted with supporting documentation attached (JAC's Response and Proposed Order) to chambers. If the JAC does not require a hearing, the Court may execute the proposed order without a hearing after review of the documents. If the JAC requests a hearing or if the Judge requires it to be set, the JA will set the Motion for a hearing.
- **NEBBIA MOTIONS:** Defense Counsel should first present the documentary proof to the State and inquire whether the State will stipulate that the Defendant has satisfied the Nebbia requirements. If there is no stipulation, the documents are to be submitted to chambers (originals filed with the clerk's office) and the JA will communicate via email with the date for the Nebbia hearing.
- **LIMINE MOTIONS:** **Motions** in Limine must be filed at least one week prior to the start of trial/ Voir Dire.
- **SEAL/EXPUNGE CASES:** Original motion is filed with the clerk's office, and a courtesy copy is sent to the Judge's chambers. Upon receipt, the JA will email Counsel with the court date. This applies to Pro Se litigants ¹as well.

¹ The term *Pro Se* refers to the act of representing yourself in court without an attorney.

- **RETURN OF PROPERTY:** Original is filed with the clerk's office and a courtesy copy is sent to the Judge's chambers. Please be advised the motions will be set two weeks later to ensure sufficient time for notice. Defense Counsel/ Pro Se Litigants must present proof that the motion was submitted to the law enforcement agency holding the property.
 - a. **ATTORNEYS AND PRO SE LITIGANTS:** Please have your *Order for Return of Property* ready as well for the clerk's office to file upon the order being granted. Not having one ready will delay the process.
- **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 an agreement cannot be met, the Defense Counsel may email chambers 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, it is strongly encouraged for both sides to provide any videos, transcripts, evidence, etc., upon which the parties will rely at the Arthur hearing at least two business days prior to the hearing for the Court to review. The more voluminous the materials, the earlier they should be provided to the Court.
- **INCREASE/REDUCE BOND:** Original motion is to be filed with the clerk's office and a courtesy copy sent to the Judge's chambers. Please make sure to include a copy of the A-form and Defendant's prior criminal history, along with any additional supporting documentation with the motion.

V. **Soundings**

- Judge Hersch holds soundings for "A," "B" and "C" cases on Thursdays.
- Defendants must be present for soundings unless waived by the Court or Defense Counsel has complied with the Florida Rule of Criminal Procedures.

VI. Policies Regarding Pleas

- If the defendant is entering into a lengthy written plea agreement, please provide a copy in advance so Judge Hersch may review it in advance of the plea date.

VII. Miscellaneous Policies & Procedures

- Judge Richard Hersch 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.
- 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.
- If you write it, the Court will read it. If you have case law, provide it before the hearing.
- If you write to chambers regarding a case, you must include all counsel of record in the email to prevent ex-parte communication.
- Do not put "Service of Court Documents" in the subject line of any email to the Court, as our email system will automatically reject the email.

VIII. Use of Artificial Intelligence in Legal Pleadings

- In accordance with Administrative Order No. 26-04² of the Eleventh Judicial Circuit of Florida, any attorney or self-representing litigant using AI tools (such as Chat GPT or similar platforms) to help in preparing court filing **must** disclose using the AI tool in the filing.
- All AI-generated content **must** be independently reviewed and verified for accuracy- this applies to factual statements, legal citations, and legal authority.
- The individual submitting such filings remains fully responsible for the content and compliance with all applicable court rules and ethical obligations.

² [Administrative Order No. 26-04 — Disclosure of Use of Generative AI by Attorneys and Self-Represented Litigants](#)