

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,
IN AND FOR ORANGE COUNTY, FLORIDA

**ORDER ESTABLISHING UNIFORM POLICIES, PRACTICES,
AND PROCEDURES FOR CIRCUIT CRIMINAL DIVISION 17**

Pursuant to the authority of Florida Rule of Judicial Administration 2.120(a),¹ and so as to promote the efficient and timely disposition of judicial business before Judge Alan S. Apte in Division 17 of the Ninth Judicial Circuit of Florida, the following policies, practices, and procedures are hereby established, **effective January 31, 2017**, and shall continue until further order of this Court:

Courtroom:

All attorneys shall be in the courtroom (9-A) promptly for the 8:30 a.m. and 1:30 p.m. court sessions. All paperwork shall be completed prior to the Judge taking the bench.

All counsel are presumed to be familiar with and are expected to abide by the Amended Administrative Order Establishing the Ninth Judicial Circuit Courtroom Decorum Policy, No. 2003-07-02, which is available online at <http://www.ninthcircuit.org/research/admin-orders>.

¹ The Court's authority is pursuant to *State v. Covington*, 131 So. 3d 10 (Fla. 1st DCA 2012) (citing *Owen v. State*, 773 So. 2d 510 (Fla. 2000), and *Green v. State*, 951 So. 2d 962 (Fla. 1st DCA 2007)).

Dockets, Arraignments:

Daily dockets will be available on Thursdays for the following week. An add-on docket will be sent out every afternoon, and the cut-off to make the add-on docket is 1:00 p.m. - **no exceptions.**

Arraignments will be at 8:30 a.m. on Tuesdays (except on Pre-Trial Conference days), Wednesdays, and Thursdays.

Felony and Trial Case Management Conferences:

All attorneys and their clients shall be present for Felony Case Management and Trial Case Management conferences. *See Cruz v. State*, 822 So. 2d 595 (Fla. 3d DCA 2002) (noting that a trial court can require the personal presence of the defendant in court so long as defense counsel and the defendant are clearly advised that the defendant's personal presence is required).

Plea offers shall be made by the State to the defendant at least seventy-two (72) business hours prior to the scheduled hearing (Felony Case Management and Trial Case Management).

Pre-Trial Conferences:

All attorneys and their clients shall be present for Pre-Trial Conferences unless the client has executed a written waiver.

Plea offers shall be made by the State to the defendant at least seventy-two (72) business hours prior to the scheduled Pre-Trial Conference.

All accepted plea offers at the Pre-Trial Conference shall be set utilizing the "Notice of Hearing Setting Plea Date" that will be provided in open court. In-jail pleas will be set for the Thursday after the Pre-Trial Conference at 8:30 a.m. Out-of-jail pleas will be set for the Tuesday after the Pre-Trial Conference at 8:30 a.m.

All accepted plea offers after the Pre-Trial Conference shall be communicated to the Judicial Assistant via e-mail no later than 12:00 noon of the Plea Cut-Off date. Failure to do so will result in a plea to the bench or trial.

Discovery:

The State and defendant shall strictly comply with *Fla.R.Crim.Pro 3.220 et seq.* All discovery shall be completed by the close of business on the Friday before the scheduled Pre-Trial Conference. The State or defendant may move the Court for an extension of the discovery completion date by a showing of good cause.

Violations of Probation and Community Control:

All violations of probation and community control will be set for a Plea Date within five weeks of arrest and VOP/VOCC Hearing within ten weeks after arrest.

Motions and Hearing Times:

All motions will be reviewed by the Court prior to the Judicial Assistant setting them for hearing. However, the Court will not review, rule on, or set for hearing any motion that is not viewable in Odyssey. **No pleadings of any sort will be accepted via e-mail or fax.**

For distribution of orders, you must either hand deliver or interoffice mail the following to chambers: a cover letter, courtesy copy of your motion, proposed order, copies of the order for conforming, and self-addressed envelopes for mailing of the conformed orders to anyone other than the State and Public Defender's Office. If no copies, or not enough copies, of the order for conforming are provided, or self-addressed envelopes are not included, the original order will be signed and sent to the clerk's office for filing. It will then be the moving party's responsibility to obtain a copy from the clerk and distribute it to the interested parties.

All motions must contain a **Certificate of Good Faith** that the moving party has either contacted or attempted to contact the non-moving party in an attempt to resolve the matter. The statement shall also indicate what the non-moving party's position on the motion is, or that the non-moving party did not respond in a timely manner. If the moving party did not attempt to obtain the non-moving party's response, there must be a statement as to why no response was sought. This information **must** be included within the body of the motion **prior** to the Court reviewing the matter in chambers and the moving party receiving a hearing time.

For efficiency purposes, **it is required** that all hearing requests go through your assistant. There are no exceptions to this rule. This avoids double booking the same motion/matter, the need for multiple e-mails to get a hearing set due to missing information, etc. Once the Court has reviewed the hard copy of your

motion and has determined a hearing is necessary, the Judicial Assistant will e-mail your assistant directly to inquire as to how much time will be needed for the hearing and how many witnesses will be called. Upon receipt of this information, the Judicial Assistant will provide your assistant with a date and time to coordinate the hearing. It will then be your assistant's responsibility to contact the non-moving party to coordinate the proposed dates and contact the Judicial Assistant to secure the time slot. Hearing times are not secured until the Judicial Assistant has confirmation that all interested parties are available **and** the assistant has received confirmation that the slot has been secured. This is because hearing times are reserved on a first-come, first-served basis.

For plea hearings, the assistant should send one e-mail per case with the defendant's name and case number in the subject line, and include the defendant's name and a/k/a (if any), date of birth, inmate number, hearing type, time requested, and how many witnesses (if any) will be called.

All motions requiring an evidentiary hearing (*i.e.*, motions to dismiss, motions to suppress) shall be filed **and** heard **prior** to Pre-Trials. No motions will be set for hearing after Pre-Trial or just before trial.

All *Daubert* Hearings shall be filed and heard three weeks prior to the scheduled Pre-Trial Conference.

Late filing of a motion that requires an evidentiary hearing is subject to being denied without a hearing. *See State v. Powell, 717 So.2d 1050 (Fla. 5th DCA 1998).*

Jury Instructions:

The Court will generate a draft of all jury instructions with Category I lesser-included offenses. All special jury instructions shall be filed and served prior to the commencement of jury selection.

Inmates:

All inmates are ordered automatically as long as the inmate is listed on the docket the same way he was booked into the Orange County Jail. If there is an a/k/a or alternate spelling of the defendant's name, it is the attorney's responsibility to inform the Judicial Assistant accordingly prior to the add-on cut-off time.

For all Department of Corrections inmates, please notify the Judicial Assistant as soon as possible with their location.

Interpreters:

Please notify the Judicial Assistant as soon as possible that an interpreter is needed for an upcoming hearing. While the interpreter's office tries to make every effort to ensure an interpreter is available, this becomes more difficult for languages other than Spanish. For all languages other than Spanish, the interpreter's office requires two weeks advance notice.

Miscellaneous:

All defendants shall provide within three (3) days to the Clerk of Court and the entity/person who posted bond/bail an updated address each and every time they move. Failure of a defendant to update timely their address will not constitute excusable neglect.

Amendments:

The Court from time to time at its discretion may amend this Administrative Order.

Please note: This Administrative Order supersedes the Ninth Judicial Circuit Court Uniform Pretrial Order.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida, this ____ day of January, 2017.

Original Order Signed

JAN 31 2017

ALAN APTE

Circuit Court Judge

ALAN S. APTE
Circuit Court Judge