



THE HONORABLE MARC L. LUBET Felony Division 22 Procedures

PLEASE NOTE: These procedures apply to Judge Lubet ONLY. It is recommended that you refer to the procedures for each Judge or contact the Judicial Assistant in that Division for instructions. For all other matters not specifically included herein, please feel free to contact the Judicial Assistant for additional information.

YOU MUST BE THE ATTORNEY OF RECORD FOR THE ENTIRE CASE. NO LIMITED NOTICES OF APPEARANCE ARE ACCEPTED.

Contact Information

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Courtroom: 12-A (12th Floor)

UNLESS OTHERWISE STATED, ALL POLICIES AND PROCEDURES APPLY TO VOP/VOCC CASES AS WELL AS TO NEW LAW VIOLATIONS.

*****FOR ALL MOTIONS*****

The original motion must be e-filed with the Clerk of Court. A courtesy copy of the motion must be mailed or hand delivered to chambers. In addition to the courtesy copy of the motion, a proposed order, copies of the order for conforming, and Self Addressed Stamped Envelopes (SASE's) must be included. Further, either the body of the motion, or a cover letter must state that you've contacted opposing counsel and what his or her position is on the motion. If opposing counsel did not respond to your inquiry timely, you may include that information in lieu of their position.

All motions must be filed with the Clerk's Office in accordance with Rule 2.520 Fla.R.Jud.Admin and submitted to chambers as outlined above prior to securing hearing time. **NO ORIGINAL MOTIONS WILL BE ACCEPTED IN CHAMBERS.** If an original motion is sent to Chambers, it will be returned to your office and no further action will be taken until such time as it is filed with the Clerk of the Court in accordance with Rule 2.520 Fla.R.Jud.Admin. and a courtesy copy is mailed to chambers as outlined above. (If no copies, or not enough copies of the order for conforming are provided, OR SASE's are not included, the original order will be signed by Judge

Lubet and sent down to the Clerk's Office for filing. It will then be the moving parties' responsibility to obtain a copy from the Clerk and distribute to the interested parties.)

*****All motions must be filed AND scheduled seven (7) days prior to Pre Trials. No motions will be set for hearing after Pre Trial or just before Trial. Further, once it is announced at Pre Trial that counsel is ready for Trial, no further continuances will be granted except in extraordinary circumstances.*****

Cancellation Policy: Please contact the JA immediately if a hearing is to be cancelled or has been stipulated to by opposing counsel.

BOND

(Motions to Set, Modify, Reduce, etc.)

A courtesy copy of all bond motions must be filed with the Clerk of Court and then a courtesy copy mailed or hand delivered to chambers in accordance with paragraphs 1 and 2 on page 1 of these procedures. Upon receipt of the above mentioned items, Judge Lubet will then review the Motion, Order, opposing counsel's Response, and the Court File in Chambers. If a hearing is necessary Judge Lubet will have his Judicial Assistant contact the moving party to set a hearing; otherwise, conformed copies of the order will be mailed to all interested parties. When asking for a hearing date, please have the Defendant's name, a/k/a (if any), all case numbers, any interpreter needs, the amount of time requested, and the number of witnesses expected to be called ready for the JA.

OUTSTANDING WARRANT OR CAPIAS

All Defendants with an active warrant or capias for a VOP, VOCC, and/or a new law violation must turn themselves into the jail and be processed. You may attempt to contact the ASA assigned to the case in advance to secure a bond agreement. In the absence of an agreement from the ASA, all Defendant's must be processed through the jail first before filing a Bond Motion in accordance with the procedures outlined in paragraphs 1 and 2 on page 1 of these procedures.

Do not call the JA for bond hearing time in advance of the Defendant being processed. No dates will be given until the Defendant has been processed and the above policy has been followed with respect to the filing of motions.

If your case has unusual circumstances, please call the JA for procedure.

ARRAIGNMENTS

Regular arraignments are typically heard each Thursday. Out of Jail Defendants are notified to be in Court at 9:00 am for their Arraignment. The Out of Jail Defendants must arrive early as they have paperwork that must be filled out prior Judge Lubet taking the bench. If an Out of Jail Defendant has hired an attorney prior to the Arraignment date being set, the Clerk of Court will set the case for a "Written Plea of Not Guilty Arraignment" with Notice of Hearing being sent to the Attorney of Record. On the Arraignment date, the Trial Clerk will announce the Case

Management (if applicable), Pre Trial, and Trial dates OR VOP Status and VOP Hearing dates and Notice of these dates will be sent to the Attorney of Record.

CASE MANAGEMENT CONFERENCES, PRE TRIALS, & TRIALS

Case Management Conferences are scheduled on qualifying cases for 9:00 am and are conducted in Courtroom 12-A. All attorneys and their clients must be present. **NO WAIVERS OF APPEARANCE WILL BE ACCEPTED FOR CASE MANAGEMENT CONFERENCES.**

Pre Trial Conferences are scheduled at 9:00am and are conducted in the Jury Room behind courtroom 12-A. All attorneys and Defendants are required to be present unless a Notice of Conflict has been filed on behalf of the attorney or a Waiver of Appearance at Pre Trial has been filed on behalf of the Defendant. A copy of the Notice of Conflict and/or Waiver of Appearance at Pre Trial must be furnished to the Court 48 hours prior to Pre Trials AND must be approved by Judge Lubet. (No faxed or emailed copies will be accepted.)

At Pre Trials, attorneys may schedule a plea or plea conference with the JA and leave. If the attorney is requesting the case be set for Trial OR is moving for a Continuance, he or she must wait to see the Judge for approval.

Pleas may also be scheduled in advance of Pre Trials thereby eliminating the need for Counsel and the Defendant to appear. In many cases, pleas will be taken at 1:30pm on the afternoon of Pre Trials for out of jail Defendants ONLY. If the Defense attorney wishes to come at 1:30pm and enter a plea, the JA must be notified prior to, or during Pre Trials. *In Jail Defendants must be scheduled for another date with the JA.*

If a Continuance is requested, the Motion for Continuance and Order on Motion for Continuance must be completed on the proper carbon copy multi-part forms. These forms can be found in any courtroom. The Motion and Order must be presented to Judge Lubet for approval at Pre Trial. **You must appear at Pre Trial if you are requesting a continuance. IF YOU DO NOT APPEAR AT PRE TRIALS, NO CONTINUANCE WILL BE GRANTED.**

Trial Periods are two weeks in length, with a third week of specially set Time Certain Trials to follow. The only notice of the Trial date will be provided to the Defense Counsel via email AFTER Pre Trials. The JA will contact the attorneys to alert them of the Trial Date. No other written notification will be given to the Defendant or Defense Counsel. It is the responsibility of the attorney to know the Trial date, Pre Trial date, etc. and to provide that information to the Defendant.

Any case that is set for trial will also be set for a trial management conference. Trial Management Conferences (a/k/a Mini Pre Trials) are set at 1:30 pm on the Thursday before the start of the first week of the Trial Period. All cases set on the upcoming trial period will be called on this date. All attorneys who have set their case for trial are expected to be present – the Defendants' presence is not required.

MOTION HEARINGS (i.e. Suppress, Dismiss, Limine, etc.)

All motion hearings are set by the JA. All motions must be submitted in accordance with the requirements set forth in paragraphs 1 and 2 on page 1 of these procedures. Once a date is given for the hearing, it is the moving parties' responsibility to coordinate with the opposing party and confirm back with the JA to secure the slot. Hearings that are not confirmed with the JA and/or coordinated with the other side will NOT be calendared. Once a date has been coordinated and secured with the JA, the original Notice of Hearing must be filed with the Clerk's Office and a courtesy copy provided to the opposing counsel's office. A copy is not required for the Judge. Please have the Defendant's name, a/k/a (if any), all case numbers, interpreter needs, the amount of time requested, and the number of witnesses expected to be called ready for the JA.

SCORE SHEETS, PLEA OFFERS, DEMAND FOR SPEEDY TRIAL, NOTICE OF EXPIRATION, AND JURY INSTRUCTIONS

Score sheets will be required on every case at the Case Management Conference, Pre Trial, and VOP/VOCC Plea / Status date. The Court will take pleas on VOP's, VOCC's, new law violation F3's and some F2's at Arraignment. Score sheets will be needed for F3's and F2's that don't score at Arraignment.

Offers or Notice of No Offer must be sent out by the State on all cases seven (7) days prior to the Case Management, Pre Trial, or VOP/VOCC Plea/Status date. Defense Counsel must speak to their client prior to the Case Management, Pre Trial, or VOP/VOCC Plea/Status date regarding submitted offers. The Court will always be open to being invited into plea negotiations. *The Court expects that if the State has failed to comply with the requirements of offers being made timely, that the Defense Attorney will contact the State seeking an offer.*

Except in extremely unusual circumstances, and then only at the Judge's discretion, when a Demand for Speedy Trial or a Notice of Expiration is filed, the case will be expeditiously set for trial. There will be no negotiated pleas accepted. The case will either go to trial, plea straight up to the bench, be NP'd by the State, or disposed of by motion.

The State will be required to prepare the Jury Instructions for every Jury Trial and will forward a copy to Defense Counsel, the Court, and the Court's Judicial Assistant via email prior to the State resting. The instructions should be **one document** that *includes* the cover page with the case style, the instructions, and the verdict forms. The State should **NOT** send multiple documents. If Defense Counsel has special instructions that they would like given during the final charge to the Jury, they should send them in one document to the State, the Court, and the Court's Judicial Assistant via email.

PLEAS AND PLEA CONFERENCES

All paperwork must be signed and ready no later than fifteen (15) minutes prior to the scheduled hearing time. For example, if your plea OR plea conference is set for 9:30am, all paperwork must be signed and ready by 9:15am. If your plea OR plea conference is set for 1:30pm, all paperwork must be signed and ready by 1:15pm. Inmates are transported and

arrive at the courthouse typically by 7:30am. You shall visit with your clients downstairs and have your paperwork ready as indicated above. Any case that is not ready to proceed will be rescheduled and taken at the end of the day *after all other hearings have concluded*. For Plea Conferences, the plea forms should be filled out, initialed, and signed to the fullest extent possible leaving only the charge and sentence areas blank.

EARLY TERMINATION / MODIFICATION OF PROBATION MOTIONS

Defense counsel shall contact both the ASA and the Probation Officer in advance of filing their motions. The motion must contain the specific name and response of the ASA and the Probation Officer. Further, proof of completion of all terms and conditions of probation must be attached to the motion. This includes receipts for payments of court costs, fines, etc., proof of completion of community service, etc. The original motion must be filed with the Clerk of Court in accordance with the requirements outlined in paragraphs 1 and 2 of page 1 of these procedures. No hearing is required on this type of motion unless requested by the Judge. When a hearing is required, please have the Defendant's name, a/k/a (if any), all case numbers, any interpreter needs, the amount of time requested, and the number of witnesses expected to be called ready for the JA.