

**JUDGE LARRY SCHACK'S PROCEDURES FOR THE  
CIRCUIT COURT, CRIMINAL DIVISION**

The following information is provided for the assistance of the Bar and pro se litigants, and to minimize the need for telephone calls to my Judicial Assistant.

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**Submitted Paperwork**

As you can imagine, a large amount of paperwork is processed by my office. To help me speed the handling of that paperwork for you, I ask that you comply with the following:

1. Please submit proposed orders with sufficient copies for each recipient, and a stamped, self-addressed envelope for each recipient (other than the State Attorney, Public Defender, and Sheriff). The return address on the envelopes you provide *should list this office address and not yours*. Please bring proposed orders to all hearings. When you submit orders to my office for signature, *please save my Judicial Assistant some time and do not staple the return envelopes to the copies of the orders*.
2. I do not entertain any correspondence unless the letter clearly reflects that a copy has been sent to all counsel of record, or if any party is pro se, all parties. Further, (except for those matters outlined in Paragraph 5 below) it is my practice not to sign orders, or adopt stipulations without a brief transmittal letter reflecting that a copy was provided to all counsel of record, or if any party is pro se, all parties. This procedure is utilized so that the record is clear that all participants are aware of a proposed order before it is entered. I file the cover letter in the court file. Please keep in mind that I cannot possibly recall all rulings made in all cases. If your order contains a ruling made in open court, please remind me in your cover letter.
3. The same procedure applies to "agreed orders". It is my practice not to sign those orders (except for those matters outlined in Paragraph 5 below) without a brief transmittal letter reflecting either: (a) that a copy was provided to all counsel of record and that they specifically confirmed agreement, or (b) submission of a signed stipulation, or (c) the presence of initials by all attorneys/parties on the order itself. This procedure is utilized so that the record is clear that all participants in fact agreed with the proposed order before it is entered. I file the cover letter in the court file. Remember: *a lack of objection is not equivalent to an agreed order*.
4. I do not sign any pleading styled as "Order". See Fla.R.Cr.P. 3.090. For those of you who have had the experience of trying to locate a particular order in a thick file full of many "orders", you understand the wisdom of this rule of procedure.

5. I do not entertain motions or matters *ex parte* unless specifically authorized by statute or the rules of procedure, and Canon (3)(B)(7) of the Code of Judicial Conduct. (Exceptions by agreement of the Office of the State Attorney and Office of the Public Defender: The following do not require stipulations or cover letters: motions to transcribe; indigency forms; motions for indigency for appeal (where the Defendant has already been declared indigent and, in private counsel cases, where private counsel has already filed the necessary paperwork to perfect the appeal); warrants; motions by the State to recall warrants; motions by the Public Defender to withdraw based on conflict; motions to appoint confidential mental health experts (where there has not been a prior appointment, where the expert's office is within this circuit, and where the case does not involve first-degree or second-degree murder); motions to revoke bond based on new criminal activity, VOP/VOCC warrants, and motions to transport).
6. Please do not file original pleadings or stipulations with my office unless an original order for my signature is contained within the stipulation or pleading.
7. Please do NOT send letters to this office in which a secretary or another attorney signs *your name* for you or stamps your signature on the letter. If someone wishes to sign and transmit a letter on your behalf, have them list their name under their own signature rather than yours.
8. Please be sure all court filings, including motions and stipulations, comply with the requirements of Fla. R. Jud. Admin. 2.515 (a), including the name, address, Bar number, and telephone number for each attorney who signs the pleading.
9. Please do not expect that by filing pleadings and proposed orders with the clerk that this office will take some action on it. If you wish action taken by this office, you must file the original with the clerk and transmit a copy of it to this office in full compliance with the procedures outlined in this memorandum. If you do not do so, your submission will not be acted on.
10. When submitting orders for signature, please allow **a minimum** of one week after receipt by this office for them to be signed. This office receives a tremendous volume of mail and it would not be reasonable to expect your submission to be processed in a shorter time frame.
11. When submitting materials, such as copies of motions and memoranda to be read in advance of a hearing, please include in the transmittal letter the date the hearing is set to enable my judicial assistant to match the materials to the correct date. If you do not, I may not see them before the hearing. *Please do not send materials the day prior to a hearing and expect they will*

*be processed in time. Please send any materials you expect me to see, far enough in advance so we receive them at least one week prior to the day of the hearing. We receive a tremendous volume of mail and it would not be reasonable to expect your submission to be processed in a shorter time frame.*

I do read all motions, memoranda and sentencing materials if they are submitted in advance. Please be sure to serve a copy of all materials on all parties. I prefer to not enter a hearing cold, so please do send the copies in advance.

Paperwork that does not comply will be returned.

### **Facsimile Transmissions**

Do not send my office materials by facsimile if they can be sent by U.S. Mail, courier, overnight express, etc. Further, do not send any item longer than 5 pages without authorization by my Judicial Assistant. If you plan ahead, the only things you will need to send us by facsimile are true emergencies and those matters we request.

### **Attire**

\_\_\_\_\_ I believe in running a formal courtroom consistent with Canon 3(B) of the Code of Judicial Conduct. The judicial system is one of the three co-equal branches of government. Some of the attire we routinely see in the courtroom would not be tolerated on the floors of the Legislature, in legislative hearing rooms, or within the Executive Branch. There is no reason to believe it is any more acceptable in the courtroom. I do not feel it is appropriate for individuals to appear in court in shorts, tank tops, T-shirts, sandals, or with any type of men's shirt that is not tucked in. I think it is reasonable for all of us to expect at least that level of attire. *Be sure to advise your clients and witnesses of this requirement.* I do recognize that due to financial circumstances there may be individuals unable to comply with this requirement.

### **Vacations and Seminars**

Please advise me of your vacation and seminar plans at docket call, or earlier by motion to continue. It is only under rare circumstances that your plans will not be honored and then, only if I cannot honor them.

### **Continuances**

Stipulations for continuance will only be entertained in chambers if the case has not been continued previously and the stipulation articulates why the continuance is needed. A request to specially set a trial will be entertained if set for a hearing. The changing of attorneys by the State or Defense with insufficient time for the new attorneys to become

prepared is unlikely to be grounds for a continuance. The failure to coordinate schedules between co-counsel is unlikely to be grounds for a continuance. The court recognizes that some attorneys have active practices. An attorney's busy practice is unlikely to be grounds for a continuance. Cases will not be continued off a trial docket for the purposes of discussing pleas.

### **Please Be On Time**

I do believe in starting on time. I do not believe that is it the bailiffs' responsibility to collect the parties before court is called. It is the attorneys' and litigants' responsibility to be in court on time. If you are running late, or if you have a conflict in multiple courtrooms in the same courthouse, please let my bailiff or Judicial Assistant know and they will advise me.

### **Scheduling And Trial Conflicts**

Please become familiar with Florida Rule of Judicial Administration 2.550. You must comply with the rule and provide each judge with the required notice as soon as a conflict is identified, unless you have arranged for other counsel to represent the clients' interests (meaning an attorney who will fully conduct the trial or hearing and who is acceptable to the client). This is particularly a problem with trials. Please fax the notice to my office. My experience is that if you provide the timely notice, I have always been able to work out the situation with the other judges for the attorneys. You do not need to file a notice with me of this nature if your conflict is nothing more than juggling short hearings between courtrooms in the same courthouse. If that later situation arises, please let my bailiff or Judicial Assistant know and they will advise me.

### **Court Schedules**

You can obtain my schedule on the Internet by viewing [www.judgeschack.org](http://www.judgeschack.org).

### **Hearing Time**

When you make a request for a hearing other than a change of plea or motion to continue, please be certain that you *include the total amount of time needed by all parties for the hearing*. Please call all other counsel in the case and ask them how much time they need as well, to permit you to give my office an accurate time request. Please do not send me a letter or fax asking for a hearing without including the time needed. If you do not include the time, it creates unnecessary additional work for my Judicial Assistant, and the request may not be acted on.

## **Hearings Set For One Hour Or More**

Hearings set for one hour or more may not be canceled by the setting party unless they first provide a letter stating: (1) that they are waiving the matter; or (2) that the relief is no longer needed; or (3) that a stipulation on the matter has been reached (along with a copy of the stipulation); or (4) that the case is closed.

## **Emergency Motions**

If you believe you have a true emergency, send the motion to my Judicial Assistant. I will review it to determine whether it is a true emergency. Please bear in mind that your motion may cause someone else's hearing to be canceled. Thus, please only request an emergency hearing for a true emergency.

## **Motions**

Due to jury management constraints, any motions, except very brief non-evidentiary motions in limine, will NOT be heard on the day of trial, absent extraordinary circumstances. All other motions must be filed and heard PRIOR to the date of trial. Failure to follow this requirement may be deemed a waiver of the motion, absent extraordinary circumstances.

## **Orders**

When providing proposed orders, please use plain English. There is no reason why lawyers and judges can't write using easily understood words and sentences. Please do not use "legalese," arcane or archaic language. That type of language is not impressive or necessary.

## ***Leon Schaffer Golnick Advertising***

Please examine *Leon Schaffer Golnick Advertising, Inc. v. Cedar*, 423 So.2d 1015 (Fla. 4<sup>th</sup> DCA 1982), and keep in mind that attorney's unsworn representations can not form the basis of factual findings absent a stipulation between the parties.

## **Multiple Defendant Cases**

All pleadings in cases involving multiple defendants must list all defendants in the style of the case. If a particular pleading relates to less than all the defendants, a notation reflecting which defendant or defendants the pleadings apply to must be listed below the case number. Please remember that pursuant to the Florida Rule of Criminal Procedure 3.030, all pleadings and notices must be served on counsel for all open pending defendants (and on pro se defendants).

## The Courtroom

I believe in running a formal courtroom. In order to assist me in that effort, please comply with the following:

Please note the section earlier in this memorandum concerning courtroom attire. Please be certain to ask your witnesses, clients, victims, etc. to comply with it.

Please do not stand around or conduct business in court unless you are before the court on the case actually being heard.

While you are waiting in court, please keep any conversation in the courtroom at a low enough level so that I cannot hear it, and it is not disruptive.

Please no gum chewing in court.

I do not permit magazines or newspapers to be read in court, however attorneys may read legal publications that are not in newspaper format.

Out of respect for the institution of the court, it is inappropriate for any talking to occur while court is being called or while court is being recessed until a judge is out of the room.

Please use the podium or attorneys' tables during hearings rather than congregating at the bench.

The courtroom is a solemn public arena for resolving serious disputes between citizens, and between the government and its citizens. It is no less a solemn venue when a judge is out of the room. Therefore please show appropriate decorum in the courtroom when I am not in it.

Thank you for your cooperation.