

JUDGE SHERWOOD BAUER

FELONY PROCEDURES

Standing Order in each Criminal Case

In each case filed by the State, by either Information or Indictment, there will be a standing order issued by the Court requiring the State to file with clerk of court and the attorney of record within 10 days after the filing of the notice of appearance, a complete Criminal Punishment Code Scoresheet. The Order will also require the Defense, unless the Defendant is proceeding Pro-Se, to file with the clerk of court any objections or corrections to the Criminal Punishment Code Scoresheet within 30 days of the State filing the proposed Criminal Punishment Code Scoresheet. The attorneys representing the State and the Defendant are required to bring their file to court at anytime the case is to be called before the Court. Failure to file either may result in the Court commencing contempt proceedings against the attorney who filed the case or the attorney of record for the Defense.

Plea Negotiations

The Office of the State Attorney is under no obligation to extend a plea offer in any case. If the State Attorney chooses to extend a plea offer to the Defense, that offer must be presented to the Defendant by the attorney for the Defendant as soon as possible, but in no circumstance beyond 30 days after it is extended. This provision is included in the standing order. Failure to comply with the order may result in the Court commencing contempt proceedings against the attorney of record for the Defense. If no offer is extended by the State or if the Defendant rejects the offer, however the Defendant would like to resolve the case without the need of a trial, the Defense is reminded that the Defendant may enter an open plea to the Court, leaving the sentence decision up to the Judge.

Continuances

If a case is set for a Motion, Docket Call/Case Management Conference, or Trial and you desire a continuance (for good reason), you must first contact the other party (attorney) and determine if they will stipulate to a continuance. If there is a stipulation, please submit a stipulated motion for continuance and proposed order. If stipulated, the Court will often agree. If there is no stipulation, file the motion and contact the Court for a hearing date and time, just as with any other motion. Any such motion must be filed as soon as you are aware of the need for a continuance. If an emergency occurs, contact the other party and the Court as soon as possible to resolve such an issue. The Court will regulate continuances, if the case is being unreasonably delayed. Any party may request a continuance of the case in open court, if necessary.

Trials

If a case needs to be set for a trial, then a trial date will, of course, be provided. If a case is set for trial, it will be assumed that the case is fully ready for trial. Continuances, at that point, will be rare - regardless of which party makes the request or for whom previous continuances were granted. Historically/locally, the Office of the State Attorney has volunteered to provide a proposed set of jury instructions. If they choose to continue to do so, it will be greatly appreciated. If they choose not to, the Court asks the prosecutor in the case to notify the Court before the start of the trial. If there are any special requested jury instructions,

they should be provided to the Court as soon as possible. The Court's procedure for jury selection and the trial will be consistent and if any party has any questions about the procedure, please ask.

Scheduling Hearings

DO NOT use the online calendar system to schedule any Motions for hearing – you must get hearing time from the Judicial Assistant or directly from the Judge in court.

ATTORNEYS: All hearings must be scheduled in court or by contacting Judicial Assistant: Wendy DiTroia at **772-228-5575** or by e-mail contact with her at Ditroiaw@circuit19.org

PRO-SE/SELF REPRESENTED: All hearings must be scheduled in court or by filing a request for a hearing on any motion which has already been filed with the clerk of court and where a copy of the motion was provided to the Office of the State Attorney (the Prosecutor). The request may be mailed or emailed to the Judicial Assistant, Wendy DiTroia at 100 East Ocean Blvd., Stuart, FL 34994 or at Ditroiaw@circuit19.org. **Do not call the Judicial Assistant.**

Motion hearing (including Evidentiary hearings, Bond hearings and Change of Plea hearings) date and time must be cleared with opposing counsel and a certificate that the date and time was coordinated with the opposing counsel/party must be clearly reflected on your Notice of Hearing. You may obtain *possible* hearing dates and times by contacting the Judicial Assistant. Once that hearing time is agreed to by both parties (within 5 days of obtaining the possible date/time), YOU MUST provide via e-mail a copy of the motion, any proposed Orders, and Notice of Hearing in **Word Format** to Ditroiaw@circuit19.org, within 5 (five) working days of obtaining the possible date/time – failure to do so will result in the Court striking that possible date/time and providing that time to another. Please provide all e-mail addresses if available so that any Orders/Final Judgments can be provided to all parties. Should you not have an e-mail address, please provide self-addressed stamped envelopes to the Court on the day of your hearing.

You may also send/email any case law with the motion which you think may be helpful to the Court. I have no opposition to you highlighting the relevant portions of any text. Please make available to the opposing party.

All motions must have been filed with the Clerk of Court BEFORE you contact this office for hearing time.

Telephonic Attendance at Court Hearings

Telephonic attendance at Hearings when permitted (see below for specifics) shall be with the use of the CourtCall system. Please note there is a charge for using this system. Call or visit CourtCall for details at 888-882-6878 or www.courtcall.com.

Specific permitted telephonic appearances: All non-evidentiary hearings of ½ hour or less, excluding arraignment, bond hearings, docket call, plea hearings, and sentencings.

Pleadings

Please note, all original pleadings must be filed with the Clerk of Court. It is not this office's responsibility to file original pleadings. The Court will only file the orders of the Court with the Clerk of Court, and possibly documents received by the Court relating to a case, but that require no action.

Legal Advice

Should you contact this office with any legal questions and/or advice, please be advised we are not at liberty to provide any legal advice but do advise that you contact an attorney of your choosing. Should you have questions about scheduling or any of the office procedures please feel free to contact Wendy DiTroia at [772-462-1474](tel:772-462-1474) or by e-mail Ditroiaw@circuit19.org

E-Mail/ Faxes

You may e-mail correspondence or copies of any pleading, notice of hearing, or proposed order (in Word only) to Ditroiaw@circuit19.org You must include the opposing counsel or party (if pro-se) as a copy recipient on all e-mail correspondence and CLEARLY indicate that you have done so in the e-mail.

Please do not fax to this office without prior approval. Faxes received by this office without prior approval will not be considered by the court.

Depositions

If either party desires to conduct a deposition of a listed witness, it shall be done in accordance with the applicable procedural rules. If a witness fails to appear, after proper notice, the party seeking the deposition should submit a motion to compel attendance of the witness at a second scheduled deposition. The motion must give the details of the original notice and failure to appear. The proposed order must provide the new date and time for deposition. The Court will issue the order ex parte. If the witness fails to appear at the second scheduled deposition, the party may file a motion to strike the witness from the witness list. The Court will issue the order ex parte. If the party seeking the deposition does not file the motion, it waives the deposition. If the party whose witness has been stricken believes there is valid basis to excuse the failure to appear, after the entry of the order striking the witness, that party may file a motion to set aside the order. The motion, if filed, will be set for hearing and the witness must be present at the hearing.