

# Judge Michael J. McNicholas

## **FELONY DIVISION PROCEDURES**

**Online Calendars/ Scheduling Hearings.** *All hearings must be coordinated with opposing counsel. Failure to do so will result in the motion being stricken from the court's docket.*

All motions must be filed with the Clerk prior to scheduling your motion for hearing. 9:00 AM Hearing Slots 'Bond/COP' is for only bond/COP hearings that require 10 minutes or less. Hearings must be scheduled at least 2 business days prior to the hearing date. The Court's calendars are posted online at [https://slccjis.stlucieco.gov/attorney\\_calendar](https://slccjis.stlucieco.gov/attorney_calendar). *Please do not contact the Judicial Assistant about scheduling unless you have reviewed these procedures and the online calendar/schedule.* All hearings scheduled online must be cancelled online by Noon the day before the hearing if not going forward. A notice of cancellation should also be e-filed (with a copy sent to [mortl@circuit19.org](mailto:mortl@circuit19.org)). If you have any questions regarding these procedures please do not hesitate to email: [mortl@circuit19.org](mailto:mortl@circuit19.org). *Any issues relating to your login and/or use of the online calendar should be directed to: [webmaster@circuit19.org](mailto:webmaster@circuit19.org).*

**Bond Motions/COP (10 minutes or less).** The motion must be e-filed with the Clerk prior to scheduling your motion. **E-file your notice of hearing.** Email the motion (.pdf is fine) and proposed order (.pdf format) to [mortl@circuit19.org](mailto:mortl@circuit19.org) at least two (2) business days prior to the hearing with the style of case and hearing date in the subject line/email. E-file your responsive memos or pleadings with the Clerk and send us a copy as well to [warev@circuit19.org](mailto:warev@circuit19.org). *All motions require scheduling and notice at least 2 business days prior to the hearing.*

**Bond hearings.** Bond hearings must be set at least 2 business days prior to the hearing. **\*\*NOTE\*\*:** Please do not set for rehearing any motion to set bond, reduce bond or otherwise establish pretrial release conditions for any defendant in any case in which those matters have already been heard and ruled upon; UNLESS there has been a change in circumstances. Judicial reassignment is NOT a change in circumstances. As with any hearing, please confer with opposing counsel to determine the length of time that will be needed before contacting my judicial assistant for hearing time.

**Change of Pleas (including VOP).** All plea offers if any shall be conveyed to defense prior to docket call. Defense counsel shall fully discuss the plea with the Defendant prior to announcing the plea to the Court. The plea form must be fully completed and executed **prior** to the COP hearing.

**Special Set Hearings 1-hour or less.** Any other motion that requires five to sixty (5-60) minutes can be scheduled through the Judicial Assistant. ***All hearings must be coordinated with opposing counsel.***

**Special Set Hearings over sixty (60) minutes.** Please email the motion to be scheduled to the judicial assistant @ [mortl@circuit19.org](mailto:mortl@circuit19.org) and include the case name/case number, motion(s) and amount of time needed in the subject line. Opposing counsel must be included when emailing the JA. Your email must state the parties have agreed to the time needed for the hearing and the amount of time each side believe is needed. And, you must also confirm that your motion has been e-filed and coordinated with opposing counsel. The Court will review the Motion to determine the appropriateness of the time requested and confirm the date and time of the requested hearing.

**Additional motions may not be “piggy-backed” by cross-notice unless counsel first confirms with opposing counsel, and the Judge’s Judicial Assistant, that sufficient additional time can be reserved to hear them.**

**All Hearings must be cleared with opposing counsel.** Good faith cooperation is expected from counsel and their support staff. Should counsel or their staff fail to respond within 3 business days, or refuse to cooperate in obtaining or in setting a hearing, the difficulty should be specifically set forth either in the motion or in the notice of hearing. After filing any motions or notices with the Clerk, a copy of any and all motions and notices of hearing must be immediately forwarded to the Judicial Assistant through the e-portal. Should a notice of hearing not immediately be forwarded to the Judicial Assistant after special set hearing time is obtained, such hearing will not be placed on the Court’s docket.

**Appearance by Zoom Teleconference/Telephone:** Telephone hearings are permitted as long as there is not testimony or evidence. No motion or order is necessary. All telephone appearances must be made through Zoom using the following <https://zoom.us/j/3895744716> Dial by your location +1 646 558 8656 US (New York) **If Counsel who filed the motion appears by Zoom Teleconference/Telephone, they must submit a proposed order at least five (5) business days prior to the hearing (generic orders granting/denying with at least five lines for additional provisions may be used).**

**Cooperation of counsel:** If counsel does not cooperate, the requesting party may unilaterally set a hearing giving at least two weeks’ notice to the opposing counsel who failed to cooperate, noting same in the Notice of Hearing.

**Docket Call.** Private Attorney & Public Defender docket call is in general usually held once per month. Counsel must appear in person. Private lawyers with one client will be called before lawyers having multiple clients. Plea negotiations and client discussions shall take place before

Court commences. Inmates will not be transported unless requested in advance and all defendants not in custody must appear unless excused prior to Docket Call. Changes of plea will be placed on a Change of Plea date or at the end of Docket Call, time permitting. Defendant's attendance at docket call is required unless specifically excused by the Court prior to docket call; ***defendant's appearance at docket call may be waived by e-filing a Waiver of Appearance with the Clerk's office at least three (3) business days prior to docket call. Counsel should have available a copy of the waiver to present to the Court at docket all, if needed.*** Failure to appear when the case is called or failure of counsel to appear with a copy of the Waiver of defendant's appearance at Docket Call will result in the issuance of a Bench Warrant without bond; unless counsel requests, and the Court agrees, to recall the case at the end of the docket (with counsel present). Defense counsel is responsible to have their clients in the courtroom when their case is called if a Waiver of Appearance has not been filed.

**Continuances.** An Unopposed Motion to Continue should be e-filed and an order (in .pdf format) forwarded to the Judicial Assistant ([mortl@circuit19.org](mailto:mortl@circuit19.org)) no later than Noon on Thursday the week prior to docket call (***NO EXCEPTIONS***). If a continuance is requested, the motion must state ***the reason for the continuance, the number of prior continuances, and if more than 2 and defendant is incarcerated, the number of days incarcerated.*** If there has already been 2 prior continuances, good cause must be shown.

**Pretrial/Suppress Motions.** All pretrial motions, motions to suppress and pretrial objections shall be made or filed at least 14 days prior to trial. The motion should be e-filed with the Clerk prior to scheduling your motion.

**Emergency hearings:** If an emergency situation arises, counsel may request that a hearing be set on short notice. The body of the motion must contain a detailed explanation of the circumstances constituting the emergency as well as the substance of the motion. The motion must be faxed to the Court before a hearing will be set. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact counsel to set the hearing.

**Inmates/Defendants.** It is the attorney's responsibility to advise the judicial assistant ([mortl@circuit19.org](mailto:mortl@circuit19.org)) if an inmate needs to be transported for a hearing or DC at least 24 hours prior to the hearing. It will be the responsibility of the defendant and attorney to ensure the defendant's presence.

**Ex Parte Communications.** All communications with the Court and Judge shall be in open court with all parties present, in writing or by email copied to opposing counsel and/or filed with the Clerk. No party or attorney shall otherwise communicate directly to the Court. All emails must include all parties and the style of the case, or they will be disregarded.

**Jury Instructions.** Proposed jury instructions and verdict form shall be emailed to [mortl@circuit19.org](mailto:mortl@circuit19.org) in Word format, at the commencement of Trial.

**To communicate with the Judge's office:**

[mortl@circuit19.org](mailto:mortl@circuit19.org) (questions/ requests, calendaring issues, etc.)

All motions/proposed orders, jury instructions/ verdict forms:

[mortl@circuit19.org](mailto:mortl@circuit19.org). ***Orders must be submitted in both .pdf and Word format.***