

Judge Kelly J. McKibben’s Criminal Division O Procedures  
(last modified 3/6/2026)

**Circuit Judge Kelly J. McKibben (Div. O)**

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All attorneys, self-represented litigants, witnesses, and court visitors are expected to be familiar with and abide by the Eighteenth Judicial Circuit Administrative Order 09-06 In Re: Courtroom Decorum and Procedure, and any other Administrative Order currently in effect. All attorneys shall be familiar with and are expected to abide by the Rules Regulating the Florida Bar and the Guidelines for Professional Conduct.

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## **A. Communications with the Judicial Office**

### **• Methods of Communication:**

- Judicial E-mail
  - E-MAIL IS THE PREFERRED METHOD OF COMMUNICATION WITH THE COURT. All communications to the judicial office may be submitted by e-mail to the judicial assistant.
  - The subject line of any e-mail to the judicial office must contain the case number, case name, type of hearing, and time requested.
- Telephone
  - Attorneys and unrepresented parties may contact the judicial assistant by telephone in the event of an emergency. The judicial office does not accept text messages.

### **• Ex parte Communications:**

- All communications to the judicial office must comply with Canon 3 of the Code of Judicial Conduct, which prohibits a judge from initiating, permitting, or considering ex parte communications and from considering other communications outside the presence of the parties concerning a pending or impending proceeding, unless authorized by law. All parties must be copied on any e-mail directed to the judicial office, unless an ex parte communication is authorized by law.
- The judicial assistant may sequester, delete or publicly file any ex parte or non-party communications received. Defendants with counsel *must* communicate to the Court *through counsel only*. Do not email the judicial assistant directly if you are represented by counsel.

### **• E-Filing Portal Contact Information:**

- All attorneys and self-represented litigants must make and receive service by e-mail, which is generally through the Florida Courts' E-Filing Portal, unless excused.
- It is the responsibility of attorneys and self-represented litigants to update their contact information using Form 2.603 any time there is a change in the e-mail account and/or mailing address registered for service.

- **Unsolicited Communications:**

- Parties may only contact the judicial office in accordance with these practices and procedures. Unsolicited communications from non-parties will not be considered by the Court.

- **Response to Inquiries:**

- The judicial assistant is not authorized to provide legal advice.
- The judicial assistant strives to respond to all inquiries within one business day. If the judicial assistant is unable to respond within one business day, your message will be acknowledged as received with an indication of when to expect a response or with an alternate contact for assistance.

- **Other Communication Procedures:**

- Any e-mail sent to or from the judicial office may be a public record subject to disclosure.

## **B. Scheduling Procedures**

- **Court Schedule:**

- The Criminal Trial Division operates on a rotating 6-week schedule, including 3 weeks of hearing time followed by 3 weeks of jury trials. Hearings are scheduled by contacting the judicial assistant via email.

- **Scheduling Hearings:**

- All hearings are held in person. The Court does not conduct any entirely remote hearings. However, the Court may allow attorneys, witnesses, and, if approved, Defendants, to appear virtually in accordance with the Remote Appearance procedures described below.
- A party may NOT obtain hearing time through the judicial assistant without having first filed the motion needing to be set. Due to the delay in motions showing up on the clerk's website, and the fact that the judicial office is not notified when a filing is submitted, a copy of the filed motion needs to be attached to any email to the judicial assistant when discussing the setting of a motion for hearing.
- **Fully negotiated pleas** must be scheduled through the judicial assistant and both the State and Defense need to appear in person to proceed on the plea, including having the scoresheet or plea paperwork signed and turned into the court clerk, or the plea may get unilaterally reset by the Court.

- Before requesting hearing time you must: (1) inquire of the other party if the matter can be stipulated to as this would conserve judicial resources; and (2) if a stipulation cannot be reached, find out how much time the opposing party needs for the hearing in addition to the amount of time required by the moving party.
- To obtain hearing time, please email the following to the judicial assistant:
  - A copy of the filed motion.
  - The total amount of time requested by all parties.
- As soon as all parties confirm availability for an offered time and date, the moving party may immediately file a notice of hearing and email a copy to the judicial assistant as soon as it has been filed.
- **Notice of Hearing:**
  - A notice of hearing must be filed immediately after reserving hearing time with a copy emailed to the judicial assistant. Any failure to comply with this procedure may result in the Court unilaterally cancelling the hearing.
  - A notice of hearing involving any remote appearance must list the judge's *Virtual Courtroom* credentials. Please note that all hearings are held in person, even though persons may be allowed to appear remotely pursuant to the Remote Appearance procedures described below.
  - A notice of hearing must include the **full name of the motion, the docket number of the motion or the date of filing of the motion, and the length of time reserved** for the motion.
  - All notices of hearing must contain the Americans with Disabilities Act (ADA) notification required by Florida Rule of General Practice and Judicial Administration 2.540.
- **Continuance Procedure for Events Set by the Court:**
  - Counsel may request a continuance through these options:
    - Ore tenus motion presented in court; or,
    - Via written motion, filed at least two (2) days before the event and emailed to the judicial assistant. Include the reason and whether it is stipulated to or not by the opposing party.

- The Court will respond by either:
  - Entering an order granting the continuance in advance; or,
  - Addressing the request for continuance at the scheduled event.
- No proposed order is needed as the judicial assistant will prepare the order of continuance, which will set forth the date the matter has been continued to. For continuances before Docket Sounding, a written motion is not required if stipulated—just email the judicial assistant at least two (2) days in advance.
- **Cancelling Hearings Set by Counsel:**
  - **Preferred Method.** The preferred method for removing a case from the calendar once it has been set is to do so at least two (2) days in advance. You must notify the judicial assistant immediately via email to confirm that the time can be released before filing your notice of cancellation.
  - **Emergency Requests.** The Court considers requests for removing a case within twenty-four (24) hours of the scheduled court date as an emergency request. If the request is an emergency request, a correspondence with the judicial assistant shall clearly state that it is an “Emergency Request.” All requests to add or remove a case from the Court’s calendar must be submitted by 2:00 p.m.
  - If a case gets resolved (i.e. the Defendant enters a plea or the State enters a nolle prosequere) and future hearing time is still calendared, the party who initially set the hearing time shall notify the judicial assistant immediately via email to confirm that time can be released. Then a notice of cancellation shall be filed.

### **C. Remote Appearance**

- **Remote Appearance Procedure:**
  - The Court maintains a hybrid virtual courtroom, allowing parties when appropriate to appear either in person or remotely, as provided by Florida Rule of General Practice and Judicial Administration 2.530. Opposed requests to use communication technology for an appearance must be made by motion.
  - If there is an objection to the use of communication technology for a hearing or trial, the objection must be filed in advance of the hearing or trial.

- Out-of-county attorneys may appear remotely for Docket Sounding or Calendar Call without the necessity of filing a motion. However, attorneys appearing remotely will ordinarily be addressed last. Please request the virtual link from the judicial assistant via e-mail for your remote appearance in advance of each Docket Sounding or Calendar Call.
- For any other hearings, attorneys must request permission to appear remotely from the Court via email to the judicial assistant at least forty-eight (48) hours prior to the hearing and must provide a phone number for the Court to directly reach the attorney if problems arise with the use of the communication technology. Please advise in your email whether there is any objection to the remote appearance request.
- **Requirements for Virtual (Remote) Appearances:**
  - Any person appearing remotely must be in a private location that is quiet and free from distractions. Under no circumstances will a participant be permitted to appear remotely from a moving vehicle.
  - Any person appearing remotely must dress and behave professionally in the same manner as if physically present in the courtroom.
  - If a witness appears remotely, the party calling the witness must ensure the witness has video and audio capability and has tested the internet connection before the hearing. The oath will be administered in accordance with Florida Rule of General Practice and Judicial Administration 2.530.
- **Virtual Courtroom Link via Microsoft TEAMS:**
  - <https://fl18.org/judgemckibben>



## **D. Submission of Orders and Judgments**

### **• Format and Submission Method:**

- All proposed orders must be either submitted in Word format by email to the judicial assistant or uploaded in Word format to the e-portal **with e-portal codes** (unopposed orders only). Proposed JAC cost orders may only be submitted via the e-portal.

### **• JAC Cost Motions & Orders:**

- If you have filed a cost motion and received the JAC's response, you must then **file the JAC's response to the record**.
- All proposed JAC-related orders must be uploaded in Word format directly to the e-portal **with e-portal codes**. Please attach copies of: (1) your **filed** cost motion; (2) the **filed** JAC's response to same; (3) the application for indigency; and (4) an affidavit regarding who is paying the attorney's fees. Please attach these documents to your .pdf cover letter required for portal submissions. These documents must have the e-filing time-stamps at the top, or the proposed order will be rejected.
- If the JAC objects to a cost motion, a hearing must be set. Do not send a proposed order via the e-portal if the JAC objects.
- If a Defendant is adjudicated guilty or entered a plea of nolo contendere and received due process services after being found indigent for costs, an order for accounting must be submitted to the Court within ninety (90) days of disposition pursuant to Section 27.52(5)(i), Florida Statutes.

### **• Deadline for Submissions:**

- Proposed orders after hearings must be submitted no later than seven (7) days after the hearing, unless otherwise ordered by the Court.

## **E. Docket Sounding and Inmate Transport**

### **• Docket Sounding:**

- Out-of-county attorneys may appear remotely for Docket Sounding without the necessity of filing a motion. However, out-of-county attorneys appearing remotely will ordinarily be addressed last. Please notify the judicial assistant via e-mail of your remote appearance in advance of each Docket Sounding and ensure you are following the Remote Appearance procedures.

- Attorneys covering for other attorneys should know that attorney's schedule and be prepared to provide information regarding any reasons for a continuance request, as well as pertinent dates related to the case (*i.e.*, when depositions have been set).
  - The Court will not require written motions to continue any Docket Sounding. However, attorneys will still need to provide good cause for the continuance request.
  - The Court permits the use of a paper docket for cases from 2024 or younger. The paper docket must be signed by both parties. Any cases from 2023 or older will be set for Calendar Call absent a showing of good cause. The paper docket may not be utilized for any cases from 2023 or older.
- **Inmate Transport:**
    - For the following court events, inmates will be transported from the Brevard County Jail to the court without the necessity of a request.
      - The first day of the trial period when the case has been scheduled for trial and each successive day of trial.
      - Violation of Probation Arraignments and Hearings.
      - Hearings on Motions to Set/Reduce/Modify Revoke Bond/ROR.
      - Hearings on Motions for Fingerprints or DNA buccal swabs.
      - Motions to Withdraw by Attorney/Nelson & Faretta Hearings.
      - Evidentiary Hearings.
      - Plea and Sentencing.
      - Mental Health Status/Competency Hearings.
    - For all other court dates, it is counsel's responsibility to request that the inmate be transported for the requested date.
      - Up to twenty (20) inmates may be transported from the Brevard County Jail to the court for Calendar Call. Such inmates will be transported on request on a first-come-first-served basis.
      - The deadline to request inmate transport is 2:00 p.m. the day prior to the Calendar Call.

## **F. Calendar Call and Trial Periods**

- **Calendar Call:**

- Defendants are required to attend Calendar Call in person, unless prior permission is given by the Court to allow a waiver of appearance or remote appearance. Attorneys of record are required to attend Calendar Call in person, unless prior approval is given by the Court to attend virtually. Written motions to continue trial need to be filed at least two (2) days prior to Calendar Call and will be addressed on the day of Calendar Call, unless the Court allows an exception.
- All Motions to Suppress, Motions to Dismiss, or other substantive motions must be filed seven (7) days prior to Calendar Call, unless otherwise ordered by the Court. Motions requiring more than two (2) hours of hearing time should be set at least seven (7) days prior to Trial. Hearings with a duration of less than two (2) hours may be heard immediately before trial with permission of the Court.

- **Trial Periods:**

- Attorneys, self-represented litigants, parties, and witnesses are expected to be available during the entire three-week trial period. From the Calendar Call date, trials will be set for the next available three-week trial period. Generally, trials are not set for time-certain. Cases may be placed on a two-hour call (where both parties and attorneys are expected to be ready for trial with two (2) hours' notice), or set for the first day of trial, or another date as directed by the Court.
- **Meet and Confer.** The Court expects the assigned attorneys for the State and Defense to meet and confer prior to Calendar Call about each case set on the Calendar Call docket. This requirement is waived if the Defendant is self-represented. The term "*confer*" requires a substantive conversation in person, by telephone, or video conference in a good faith effort to resolve the matter; or to narrow the issues and be ready prior to trial.
- **Meet and Confer Requirements.** Counsel must discuss the following issues during the meet and confer: plea offers, outstanding motions, motions *in limine*, redaction requests, witness issues, discovery, and jury instructions. In particular, a meet and confer is not completed until each party can confirm to the Court that they have received and reviewed all of the discovery disclosed in the Court file by the opposing party. Counsel who merely attempt to confer have not conferred. If not completed prior to Calendar Call, parties will be ordered to meet and confer prior to the Jury Trial date. The Court will not begin jury selection in a case until the parties can confirm they have completed the required meet and confer.

- **Order of Trials:**

- Cases called up for trial and the order in which they are tried are solely up to the Court. Attorneys, self-represented litigants, parties, and witnesses are expected to be available during the entire three-week trial period, unless otherwise excused by the Court.
- The Court will enter an order setting cases on the two-hour call list for Jury Trial. The judicial assistant will typically also email an “*Upcoming Trials*” list to the attorneys who have trials set for Jury Trial. All attorneys who have trials on the two-hour call list are directed to check their email routinely to monitor when their trial is called.

## **G. Violations of Probation and Motions for Early Termination**

- **Violation of Probation (VOP):**

- **VOP Arraignments.** Unless a Defendant is in custody, the Defendant must be present at the VOP Arraignment, unless the VOP Arraignment is waived by counsel in writing. Counsel must appear at the VOP Arraignment (in person or virtually) to set the case for the next court date – the Court will not automatically schedule the case for a VOP Hearing. If an attorney does not appear for the VOP Arraignment, the case may be set for the next available VOP Arraignment date or VOP Hearing date, per the discretion of the Court.
- **VOP Hearings.** Continuances are discouraged. The Court will review all requests for continuances, including agreed-upon continuances. All requests for continuances should be filed at least two (2) days prior to the VOP hearing date. Cases should not be set for a VOP hearing unless each side can certify to the Court that they have all the evidence required for the hearing and are ready for the hearing.

- **Motions for Early Termination of Probation:**

- All Motions for Early Termination of Probation must first be provided to the Office of the State Attorney to obtain the position of the State and Probation. A hearing on the motion will not be set until this has been done.
- If the Motion for Early Termination is unopposed, the Court may enter an Order terminating supervision. If the Motion for Early Termination is opposed, the motion may be set for a hearing.

## H. Plea Forms

- **Required Plea Forms:**

- Written plea forms are required for all pleas and may be found at the following link. [Standard Plea Agreement Form](#).
- **Drug Offender Conditions.** If a Defendant's sentence after a plea will include drug offender conditions, or the Defendant will be placed on drug offender probation, the Defendant must read, initial and sign a "Drug Conditions" form and attach that form to the plea agreement. [Standard Drug Conditions Form](#).
- **Community Control Conditions.** If a Defendant's sentence after a plea will include community control conditions, the Defendant must read, initial and sign a "Community Control Conditions" form and attach that form to the plea agreement. [Standard Community Control Conditions Form](#).
- **Lesser Included Crimes.** If a Defendant will be entering a plea to a lesser included or amended offense, the name and statutory reference of the lesser included or amended offense must be on the plea form.
- **Plea Form Copies.** Defense attorneys should provide an additional copy of the plea form to the clerk at the same time the original plea form is given to the clerk, prior to the Court addressing the plea.
- **Credit for Time Served.** If a Defendant's sentence includes an amount of incarceration (past or future), the plea form shall state with specificity the number of days of incarceration and the number of days of credit for time served that the State and Defense agree upon.

## I. Other Division Procedures

- **Courtesy Copies of Case Law and Other Documents:**

- The Court prefers to receive courtesy copies of case law and other documents, including copies for opposing counsel. If citing to a certain case, be prepared to provide the case cite. ¶§

- **Motions/Notices/Filings:**

- Any filing with the Clerk does not automatically go to the Court. The only way the Court becomes aware of a filing is when counsel notifies the Court for action on the filing. All motions filed shall be timely set for hearing. Counsel shall meet and confer on all motions prior to setting them for hearings. Any motion filed and not set or attempted to be set within six (6) months of the filing date shall be considered abandoned, waived and deemed denied.

- **Competency Issues:**

- If competency issues are suspected, attorneys should forward a copy of the Motion to Determine Competency to the judicial assistant and include a proposed order appointing a competency expert.
- The current list of competency providers is available at the following link <https://flcourts18.org/competency-evaluation-contracted-providers/>. The proposed order should also include a cover letter or email indicating whether the State does or does not have any objection to the requested expert being appointed.
- If attorneys suspect autism or intellectual disability as the reason for incompetency, the Agency for Persons with Disabilities should be appointed first.
- Competency finding. If it appears that the parties will be stipulating to an expert report finding the Defendant competent or incompetent, the Defendant must be present at the competency status hearing.

- **Motions to Withdraw:**

- A Defendant must be present for a Motion to Withdraw hearing. If the Court grants the attorney's Motion to Withdraw, the Court will address the issue of new counsel with the Defendant.
- The Court will allow the Office of the Public Defender, Regional Conflict Counsel, or Registry Counsel to submit a motion with a proposed order to the judicial assistant if the basis of the motion is a certified conflict based on prior or current representation of co-defendants or witnesses. However, if there is another reason for the withdrawal (such as irreconcilable differences), a hearing must be set and held in person.

- **Interpreter Requests:**

- If an interpreter is needed for a hearing or trial, it is the responsibility of the attorney representing the Defendant or the attorney calling the witness who needs interpreter services to contact Court Administration to have the interpreter present for the hearing.
- Information on interpreters' services can be found on the circuit's website at the following link: <https://flcourts18.org/interpreters>.

- **Inmate Transport Requests:**

- All requests to transport a Defendant from the jail must be submitted by 2:00 p.m. the day before the hearing.