

**JUDICIAL PRACTICE PREFERENCES
CRIMINAL TRAFFIC SECTION
The Honorable Brett Szematowicz
14250 49th St North
Clearwater, FL 33762**

CASES HEARD IN THE CRIMINAL TRAFFIC DIVISION

Pursuant to Administrative Order, any criminal traffic case may be heard in the Traffic Division, unless the case is associated with a non-traffic related criminal offense. If the case is a companion to a non-traffic related offense, the case will be heard in the division the non-traffic related offense was assigned. Defendants seeking to transfer cases back to the South County Traffic II (temporarily also Division O) must submit a written motion to the Traffic Division Judge. By remaining in the Traffic Division, defendants waive their right to a jury trial.

DISCOVERY ISSUES

Opposing counsel must confer and make a good faith attempt to resolve discovery matters without a hearing. If a hearing is necessary, it should be scheduled either in open court, with opposing counsel present, or with the Judicial Assistant and prior agreement of opposing counsel.

PRETRIAL CONFERENCE

Sign-Up List: As a courtesy to attorneys who appear in multiple divisions, attorneys may sign up *in court*, prior to the start of the court session. E-mailed or telephonic submissions asking to be placed on a sign-up list will not be accepted. If an attorney is not present when their case is called, the Court will continue down the sign-up list and call that attorney's case when the attorney returns to the courtroom.

Defendant's Presence: The defendant's presence at a pretrial conference may be waived pursuant to Florida Rules of Criminal Procedure 3.180. The defendant must be present if required by the Court, regardless of any previous waiver. The defendant's presence should not be waived if counsel has not had an opportunity to discuss the case with them. The defendant's presence is required in any case that speedy trial will not be waived, as those cases will be set for a trial or transferred to another division. The defendant must be present for a change of plea for any criminal charge unless a plea in absentia has been submitted. While Sixth Judicial Circuit Administrative Order 2020-031 and 2020-027, as well as Florida Supreme Court Administrative Order AOSC20-32

Plea Negotiations: Plea negotiations may be made between the defendant and the State in advance of or at the pretrial conference. A defendant may make offers to the Court but the Court will not engage in plea negotiations unless specifically invited to do so by the defendant. Any plea offers should be placed on the record.

Continuances: Attorneys may:

- 1) Submit a “Request for New Traffic Court Date” form as drafted by SCTC II / Division O only. No more than two (2) pretrial conferences are allowed with this form. This form will not be accepted for a third or subsequent Pre-Trial hearing date;
- 2) File a written motion *and order* to continue a pretrial conference no later than close of business on the Friday of the week prior to any pretrial conference. Motions must fully set forth the grounds necessitating the continuance, contain a waiver of speedy trial, and must be with the consent of opposing counsel. Absent unforeseen circumstances, motions submitted after close of business on the Friday before the pretrial conference, or those submitted timely but without orders, will be considered on the record in open court on the day of the pretrial conference; and
- 3) Argue oral motions to continue made during the pretrial conference and the Court will consider those motions on the record in open court. Attorneys may appear telephonically or via Zoom at the discretion of the Court and on a case-by-case basis.

Off-Calendar Matters: Due to the amount of cases assigned to the Traffic Division, off-calendar matters, including off-calendar motions to continue, will be addressed on a case-by-case basis, depending upon the size of the court calendar and the availability of the parties.

Coverage Attorneys: If an attorney is unable to attend a pretrial conference, the attorney may enlist the assistance of a coverage attorney. It is the primary attorney’s responsibility to find coverage for their cases. DO NOT contact the Judge’s office to find attorneys who are scheduled to appear before the Court. All coverage attorneys should be prepared to discuss the reason for the primary attorney’s unavailability, the primary attorney’s need for a continuance, the primary attorney’s availability for rescheduling, and/or resolve the case.

Miscellaneous Issues: The Court will not discuss any aspect of a case, except scheduling matters, unless counsel for both the State and defendant are present.

PRETRIAL MOTIONS

Filing of Motions: Attorneys must provide the Court with a courtesy copy of any motion that has been filed through the E-Portal. Courtesy copies may be provided by fax, e-mail, submission through JAWS or in open court. Absent good cause, all pretrial motions (motions to dismiss, motions to suppress, pretrial evidentiary matters, etc.) must be filed at least fifteen days before the trial. Absent good cause, motions filed on the day of trial will not be considered timely.

Motions in Limine: Motions in limine must be filed no later than 48 hours before the beginning trial date and time (e.g. 8:30 a.m.). The Court’s preference is for motions in limine to be heard the Friday before the week of trial, but non-lengthy motions in limine may be heard on the morning of trial. If a motion in limine requires caselaw and extensive argument, said motions in limine will not be heard on the morning of trial. Absent good cause, motions filed on the day of trial will not be considered timely.

Scheduling of Hearings: *Ore tenus* motions will be considered, when appropriate, with consent of opposing counsel. Hearings for substantive motions will not be scheduled without a written motion being filed and copies provided to the Court and the State. Absent good cause, no substantive motions will be heard on the day of trial.

Continuances: Motions to continue a motion hearing must be made as soon as practicable after an attorney becomes aware of the need for a continuance.

Defendant's Presence: Absent prior Court approval and good cause, the defendant must be present for all substantive motion hearings. If the Court makes a ruling at the time of the motion hearing, attorneys should be prepared to discuss the case and the defendant should be prepared to resolve the case or set it for trial, if appropriate.

IN-CUSTODY DEFENDANTS

Due to the amount of cases assigned to the Traffic Divisions, in-custody defendants will have their cases transferred to another division.

TRIAL

Amendments Prior to Trial: Any amended charging document, witness list, or evidence list filed within fifteen (15) days of the date of trial shall require prior authorization of the Court, subject to Florida Statutes and applicable Rules of Procedure.

Motion to Continue: Absent good cause, motions to continue a trial must be filed in writing, at least two weeks prior to the trial date. A motion to continue a trial will be heard as soon as practicable.

CIVIL INFRACTION HEARINGS

Transfer to County Court Judge: Motions to transfer civil traffic infractions from a traffic hearing officer to a County Court Judge must be filed at least fourteen (14) days prior to any infraction hearing that is scheduled.

Motions for Dispositional Offer: If a defendant wishes to seek a dispositional offer from the Court, they may submit a written motion at least fifteen (15) days prior to any scheduled infraction hearing. The motion should set forth the disposition the defendant seeks as well as any factors that may be relevant to the Court in making a sentence determination. The Court will review the motion, the citation, the worksheet, and the defendant's Florida driver record to determine if an offer is appropriate and, if so, what offer to extend. Dispositional offers made by the Court will expire fourteen (14) days after issuance of the offer and the Court is not bound by any dispositional offer after the expiration date.

Continuances: Attorneys may file a written motion *and order* to continue an infraction hearing set before Judge Szematowicz no later than noon on the Friday of the week prior to an infraction hearing. Motions must fully set forth the grounds necessitating the continuance and whether or not there is a waiver of speedy trial. Absent unforeseen circumstances, motions submitted after noon on the Friday before the infraction hearing, or those submitted timely but without orders, will

be considered on the record in open court on the day of the infraction hearing. Oral motions to continue made during the infraction hearing are acceptable and the Court will consider those motions on the record in open court.

Sign-Up List: As a courtesy to attorneys who appear in multiple divisions, attorneys may sign up in court, prior to the start of the court session. E-mailed or telephonic submissions asking to be placed on a sign-up list will not be accepted. If an attorney is not present when their case is called, the Court will continue down the sign-in list and call that attorney's case when they return to the courtroom.

Coverage Attorneys: If an attorney is unable to attend an infraction hearing conference, the attorney may enlist the assistance of a coverage attorney. It is the primary attorney's responsibility to find coverage for their cases. DO NOT contact the Judge's office to find attorneys who are scheduled to appear before the Court. All coverage attorneys should be prepared to resolve or litigate the case, or explain the need for the continuance and be aware of the primary attorney's availability to schedule the new hearing date.

Subpoena Costs:

Defendants should be prepared to pay the costs of subpoenas for any witnesses in attendance at an infraction hearing, even if entering a plea in lieu of having a hearing.

COURT CALENDARS- 14250 49th St North

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
9:00 AM	N/A	N/A	Pretrial Hearings Motion (w/state)	Civil Traffic Arraignments	Pretrial Hearings Motion (w/State)
9:30 AM	Arraignment Hearings Motions (Capias from Arraignment)	Arraignment Hearings Motions (Capias from Arraignment)	N/A	N/A	
10:00AM	Arraignment Hearings	Arraignment Hearings	N/A	N/A	N/A
10:30 AM	Arraignment Hearings	Arraignment Hearings	Pretrial Hearings (Pro Se) Status Checks (w/state)	Arraignment Hearings	Pretrial Hearings (Pro Se)
11:00AM	Arraignment Hearings	Arraignment Hearings		Arraignment hearings	N/A
1:30 PM	Civil Traffic Arraignment Hearings	Civil Traffic Arraignment Hearings	N/A	N/A	Fatal/Serious Bodily Injury Infraction Hearings Long Trials Long Motions
2:30PM	Civil Traffic Infraction Hearings	Civil Traffic Infraction Hearings	N/A	N/A	N/A

