



Court Procedures for Judge Robert J. Branning

FELONY DIVISION D - LEE COUNTY

This document outlines the procedural requirements for all counsel and pro se (unrepresented) parties appearing in this division. Strict compliance with all local rules and professional standards governing motions is required. Failure to comply may result in the cancellation of a hearing, termination of remote appearance privileges, or the imposition of other sanctions. Proper and thorough case and witness preparation is a fundamental professional obligation.

Definitions

Term	Definition
Business Day	Between 8:00 a.m. and 5:00 p.m. Eastern Standard Time, Monday through Friday, excluding holidays.

DCM	Differentiated Case Management: a system that categorizes cases (e.g., Expedited, Standard, Complex) to assign different timelines and streamline the litigation process.
CMC	A case management conference, as defined by the DCM.
PTC	A pre-trial conference as defined by the DCM.

Scheduling Hearings

- The Notice of Hearing must state whether the date and time were coordinated with opposing counsel. If coordination was unsuccessful, the Notice must describe the good-faith efforts made.
- The Notice of Hearing must state the scheduled time. The Court will strictly end the hearing at the allotted time, even if the presentation or argument is incomplete.
- Do not add ('piggyback') additional motions to previously allocated hearing time.
- Attorneys must not schedule back-to-back hearings in a single block to obtain longer hearing time. Motions and adequate hearing time must be scheduled with the Judicial Assistant.
- **Post-Conviction Motions:** No hearings will be scheduled without the Court's permission. Any non-compliant Notice of Hearing will be summarily canceled without notice.
- **Motion for Early Termination of Probation:** Motions for Early Termination of Probation will be denied if the Defendant has an outstanding financial balance or if the original sentence did not permit early termination.

Key Evidentiary Requirements

Child Hearsay

Requests to admit child hearsay under Florida Statute §90.803(23) must be made by motion and scheduled for hearing before a PTC or no later than 14 days before trial.

The proponent must file and serve a Notice of Intent to Rely on the Hearsay Statement. The notice must comply with §90.803(23) and include:

1. The content of the child's statement.
2. The date, time, and place at which the statement was made.
3. The circumstances indicate the reliability of the statement.
4. Any other particulars necessary for full disclosure of the statement.

Any motion to admit child hearsay that is not scheduled, heard, and ruled on before the final PTC is automatically deemed denied.

Williams Rule Evidence

The State must furnish the accused a written statement of the acts or offenses it intends to offer at trial, no fewer than **10 days before trial**. This notice is typically entitled "Notice of intent to offer similar fact evidence" or "Notice of intent to offer Williams Rule evidence".

- The notice must describe the acts with the particularity required of an indictment or information.
- Non-compliance with the notice requirement will result in a Richardson Hearing.
- The **10-day** deadline is the threshold; any request for a Williams Rule hearing filed beyond this point will be denied.

Remote Hearings (Communication Technology)

A motion requesting the use of remote technology must be filed, heard, and granted at least five (5) business days before the court date. The corresponding Order must also be submitted to and executed by the Judge at least five (5) business days before the court date.

- **Pretrial (including Case Management) Conferences:** Parties using communication technology must provide notice to all parties to confirm their consent. Even with consent, notice must be provided to the Court at least five (5) business days in advance.
- **Courtroom Decorum:** The remote meeting is a formal court hearing, and the rules of courtroom decorum, including appropriate attire, strictly apply.
- **Log-In Name:** Participants must adjust their Zoom profile settings to reflect their **legal name**. Failure to log in using the proper legal name may prevent the Court from recognizing and acknowledging the participant for the official court record..

- **In-Custody Defendants:** In-custody defendants will be transported to the courtroom for all pretrial proceedings, as the Court cannot accommodate remote attendance for these defendants at this time.
- **Testimony:** Presenting testimony through communication technology requires a separate motion, as specified in Fla. R. Crim. P. 3.116(d). The motion must be filed and heard before the hearing or trial.
- **Technical Preparation:** Participants must use a device with a camera and microphone, ensure video and sound are turned on , and attempt to provide adequate lighting and sound. The Court **will not** provide technical support.

Submitting Documents, Cancellations, and Continuances

Documents

- Proposed Orders must not be submitted by email or facsimile without prior Court permission.
- The Court does not accept service of process by email or facsimile..
- Parties must provide copies of **all documents** submitted to the Court to opposing counsel. The Court will not read or consider documents not served on the other party.

Cancellations

- File a notice of cancellation with notice to opposing counsel and the Judicial Assistant.
- Contact the Judicial Assistant to cancel a hearing within seven (7) days of the hearing date.

Continuances

- Continuances are rarely granted and will only be considered upon a showing of an unanticipated event and good cause.
- A Motion to Continue must be submitted in writing unless an exceptional reason exists for making it *ore tenus*.
- Trials are not automatically continued by stipulation. A stipulation must be signed by all counsel and the Defendant, detailing the reasons for the continuance.
- All parties must continue preparing for trial until the Court enters an Order granting the continuance..

Indigence (Defendants with Retained Counsel)

Defendants with retained counsel seeking to be found indigent for costs must comply with the following procedures:

1. **Separate Motions:** Motions to be found indigent for costs must be filed separately and **not** combined with motions for transcripts or appointment of experts. These subsequent motions must be filed only after an order finding the Defendant indigent for costs has been entered..
2. **Required Attachments:** A motion to be found indigent for costs must attach:
 - An affidavit of attorney's fees indicating the amount of fees and the source of payment.
 - An application for criminal indigent status with the clerk's determination.
 - A response from the Justice Administrative Commission (JAC)..
3. **Required Content:** The motion must indicate:
 - The provider of any income claimed.
 - A list of specific debts and liabilities claimed.
 - A certification by the attorney (or pro se litigant) that the Defendant does not own or have an interest in any property, vehicles, bank account, trust, or other source of funds exceeding \$2,500
4. **Motions for Transcripts:**
 - The motion must list the dates of the hearing or deposition, the name of the person deposed, and attach JAC's response.
 - A proposed order must state that the transcript is to be produced at regular rates.
 - A proposed order for a hearing transcript must not specify a court reporter or specific rates.
5. **Motions for Expert Appointment:**
 - The motion must specify the name of the expert, who must currently be under a JAC contract, and attach JAC's response.
 - The Court will not appoint an out-of-state expert if one is available in Florida.
 - The motion must state generally (without citing work product or trial strategy) why the expert is reasonable and necessary for the defense.
6. **Motions for Additional Funding:** The motion must indicate how the expert spent the initial funding and what remaining work only the expert can perform. Funding will not be allowed for work that an attorney or paralegal could perform.

7. **Expert Access to Jail:** An expert may visit a Defendant in jail upon counsel's request, provided counsel has contacted the jail to schedule an appointment. The Court will not order unscheduled visits that violate jail security rules.
8. **Testing of Evidence:**
 - The Court will not permit a defense expert to remove evidence from FDLE custody.
 - FDLE is generally amenable to allowing a defense expert to observe testing at the FDLE facility. In exceptional circumstances, FDLE may enable a defense expert to conduct testing at the FDLE facility.
 - The Court may consider a motion to ship evidence to a separate defense chosen laboratory, provided assurances are given that the laboratory is a nationally recognized, accredited, and professional facility.