

IN THE SUPERIOR COURT OF FULTON COUNTY  
ATLANTA JUDICIAL CIRCUIT  
STATE OF GEORGIA



<b>In Re: Non-Complex Division Criminal Case Management</b>	2020EX <u>001091</u>
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**I. General Procedure**

Cases to be assigned to the Non-Complex Division are those felony offenses set forth in Order 2020EX001090. The transfer of cases between the Non-Complex Division and the Complex Division is also governed by Order 2020EX001090.

Once a Non-Complex case is accused or indicted, it shall be randomly assigned to a judge within the Non-Complex Division. The anticipated life cycle of a case from arraignment to final disposition is as follows:

Week 1: Arraignment	<ul style="list-style-type: none"> <li>- Defendant informed of charges</li> <li>- Defense attorney entry of appearance</li> <li>- Scheduling Order issued</li> <li>- Early pleas taken</li> </ul>
Week 2: Preparation	<ul style="list-style-type: none"> <li>- Discovery finalized</li> </ul>
Week 3: Case Management	<ul style="list-style-type: none"> <li>- Parties are prepared to discuss discovery issues, expected motions practice</li> </ul>
Week 4: Preparation	<ul style="list-style-type: none"> <li>- Pre-trial disposition terms finalized</li> <li>- Motions and notices filed by due date</li> </ul>
Week 5: Preparation	<ul style="list-style-type: none"> <li>- Prepare for motions hearing</li> </ul>
Week 6: Motions	<ul style="list-style-type: none"> <li>- Evidentiary motions heard</li> </ul>
Week 7: Preparation	<ul style="list-style-type: none"> <li>- Trial preparation</li> </ul>
Weeks 8-10: Final Plea/Trial	<ul style="list-style-type: none"> <li>- Last opportunity for Defendant to withdraw guilty plea if dissatisfied with sentence at call of Final Plea/Trial Calendar</li> </ul>

Each defendant shall receive and acknowledge in open court written notice of his/her next court date before being excused by the Court. This written notice will be filed with the Clerk's office.

**All attorneys are required to appear** at all published calendars unless a leave of absence in accordance with Uniform Superior Court Rule (USCR) 16.1 or 16.2 or a conflict letter in accordance with USCR 17.1 is timely filed or the attorney is otherwise excused by the Court. Any leave of absence not filed pursuant to USCR 16.1 or 16.2 or filed *prior to entry of appearance of counsel in the case at issue* stands denied under USCR 16.4. Unless USCR 17.1 is followed in all its subsections, then the attorney shall not be deemed to have a conflict pursuant to USCR 17.1(A).

Unless excused by the Court, **all defendants must appear** at all calendar calls and hearing dates even if the defendant's attorney has a properly filed conflict letter, leave of absence, or other excused absence. Failure to appear shall result in forfeiture of any bond and issuance of a bench warrant for the defendant.

## **II. Arraignment (Week 1)**

Upon accusation or indictment, cases will be promptly scheduled for arraignment. Waivers of appearance shall be permitted at the discretion of the Court but must be in writing and filed with the Clerk of Court.

## **III. Discovery**

All defendants are presumed to have opted into statutory discovery unless a notice of opting out of discovery is filed and served on the State within three (3) business days of Arraignment. The parties shall promptly and completely comply with the requirements of O.C.G.A. § 17-16-4. A deadline for completing discovery will be provided in a Scheduling Order issued at or immediately following arraignment. Any supplemental discovery must be produced as soon as practicable, but in any event no later than three business days after receipt. The Court may shorten or lengthen the discovery period as necessary.

## **IV. Motions/Notices**

A deadline for filing motions will be set forth in the Scheduling Order for each case. Motions filed after that date are untimely and generally will not be considered, absent a showing of just cause for the late filing. *Dyal v. State*, 297 Ga. 184, 186

(2015); *Copeland v. State*, 272 Ga. 816, 817 (2000); *Van Huynh v. State*, 258 Ga. 663 (1988); USCR. 31.1. All motions must be e-filed with the Clerk of Court and served upon opposing counsel via e-mail.

The motion filing requirements and deadlines apply to all motions, including demurrers and pleas in bar, as well as the following notices: (a) State's notice pursuant O.C.G.A. § 24-4-404(b); (b) Defendant's notice of intent to raise issues of incompetency, insanity, or mental illness; and (c) Defendant's notice of intent to raise an alibi defense. These deadlines do not apply to motions *in limine* involving discrete evidentiary issues the significance of which is not readily apparent until focused trial preparation.

Motions must be particularized and case-specific. Generalized motions and omnibus motions should not be filed and will be denied as vague and dilatory. Each motion shall be filed separately and limited to a single issue (*e.g.*, suppression of statement, suppression of fruits of search warrant, etc.). Multi-issue motions seeking to suppress, for example, both physical evidence *and* statements are not proper and are denied upon filing. Motions must specify, *with particularity*, the item(s) or statement(s) or event(s) at issue. A motion seeking to suppress "any and all statements" is insufficient; it instead must identify the specific statement(s) the movant seeks to suppress, as well as provide a theory of suppression.

#### **V. Case Management Conference (Week 3)**

At the Case Management Conference the parties shall discuss with the Court the status of discovery and the general progress of the case to date. Absent good cause, notice of discovery violations and requests to exclude evidence based on same must be raised at the Case Management Conference or they are waived; such notices and requests can be raised orally at the Conference. The Court will set deadlines for outstanding discovery and rule on the requests to exclude. The Court has discretion to exclude evidence not timely disclosed upon a sufficient showing of prejudice and bad faith and it will do so if it finds the failure to be deliberate, persistent, and harmful. *See State v. Bryant*, --- Ga. ---, 838 S.E.2d 855 (2020)

#### **VI. Motions (Week 6)**

Timely filed motions will be heard.

## VII. Final Plea/Trial and Pre-Trial Procedure (Weeks 8-10)

Upon completion of discovery and motions being heard, the defendant shall be placed on a Final Plea/Trial Calendar. The Trial Calendar call shall serve as the defendant's final plea opportunity. The Final Plea is the last opportunity for a defendant to freely withdraw a guilty plea if the judge sentences the defendant more severely than the defendant sought during the plea colloquy. After this calendar, unless the Court announces otherwise, the defendant remains free to enter a plea, but may not withdraw that plea if dissatisfied with the sentence imposed.

Cases not resolved at the Final Plea calendar will be called for trial.

Final Plea/Trial Calendar call. Trials will be called in the order decided by the Court, which may not be in the order the cases appear on the Trial Calendar. All cases will be on **two-hour call** for the duration of the Trial Calendar. It is the duty of counsel to stay informed as to when the case will be called for trial.

Continuances. Continuances from the trial calendar are discouraged and should be granted only in extraordinary circumstances and only upon written motion from the party seeking the continuance. Any continuance granted must state the reason(s) therefore and must be entered on the record. Should the basis for the continuance be the failure to provide complete discovery, the Court should carefully consider (1) dismissing the case without prejudice if the Court finds that the failure was not willful or (2) dismissing the case with prejudice if the Court finds that the failure was deliberate, persistent, and harmful. *See State v. Bryant*, --- Ga. ---, 838 S.E.2d 855 (2020); *State v. Bachan*, 321 Ga. App. 712, 714 (2013); *State v. Grimes*, 194 Ga. App. 736, 736-37 (1990).

Pre-trial filings. Once a case is called in for trial for a specific date and time (as opposed to the general date of the trial calendar), the following are due: (1) proposed general *voir dire* questions, (2) a witness list, (3) an exhibit list, (4) motions *in limine*, and (5) proposed jury charges. Copies of all these items should be provided electronically to the Court prior to *voir dire* commencing.

Motions in limine. All motions *in limine* shall state clearly the relief sought and the legal basis therefor. Such motions should be limited to discrete evidentiary or procedural matters, such as the propriety of using a defendant's purported moniker

of “Psycho.” It is not proper to raise, via motions *in limine*, matters such as the admissibility of a confession that should have been filed by the Scheduling Order’s motions due date and resolved during the pre-trial motions phase of proceedings. Absent compelling justification, such substantive motions masquerading as motions *in limine* will be denied as untimely. All motions *in limine* must be filed with the Clerk of Court along with a courtesy copy provided to the Court.

Jury charges. The parties must e-file (and submit a courtesy copy to the Court) all proposed jury charges. For the State this includes charges for all offenses alleged in the indictment. For pattern charges, each party is to submit ONLY the pattern charge NUMBER and not the text of the charge itself. For all non-pattern or modified pattern charges, the parties must submit the full text of the requested charge and citations to the legal authority supporting such charge.

### **VIII. Pre-Trial Intervention and Probation**

Pre-Trial Intervention. Defendants must complete pre-trial intervention (PTI) by the deadline specified on the PTI and Dead Docket Order. Cases will be automatically dismissed for want of prosecution (*i.e.*, without prejudice) if they have not been *nolle prossed* or re-opened within 90 days of the expiration of the PTI period.

POM. All pleas involving a term of probation shall be subject to the provisions of the Probation Options Management Act (POM). Unless otherwise noted on the Final Disposition for a case, the sanction ceiling under POM is: “Probation Detention Center, Residential Substance Abuse Treatment Center, or Accountability Court.”

Revocation. Probation revocation hearings for Non-Complex cases shall be scheduled as soon as practicable upon arrest of the defendant or upon request for a hearing by any party or the Department of Community Supervision.

**IX. Repeal and Replace**

This Order repeals and replaces all preceding Non-Complex Division Case Management Orders, including but not limited to 2007EX05369.

SO ORDERED this 22nd day of September 2020.

A handwritten signature in black ink, appearing to read 'C. Brasher', written over a horizontal line.

Chief Judge Christopher Brasher  
Superior Court of Fulton County  
Atlanta Judicial Circuit