20040084235 RECORDED IN PUBLIC RECORDS LEON COUNTY FL BK: 3157 PG: 662,
09/08/2004 at 02:34 PM, BOB INZER, CLERK OF COURTS

IN THE COUNTY COURT, IN AND
FOR LEON COUNTY, FLORIDA

FILED
MAR 27 2 45 PM '75
PAUL F. HARTSFIELD
CLERK CIRCUIT COURT
LEON COUNTY, FLORIDA

RE: LOCAL RULES

ADMINISTRATIVE ORDER 75-1

Subject to the approval of the Chief Judge and the Supreme Court of Florida, the attached local rules are hereby adopted for the County Court of Leon County, Florida.

DONE AND ORDERED this 27th day of February, A.D., 1975, to become effective immediately upon adoption.

CHARLES D. McCLURE
Administrative Judge

CC: State Attorney
Public Defender
Clerk of the County Court
Sheriff, Leon County
Chief, Tallahassee Police Department
Tallahassee Bar Association
Judge Evelyn Flack
Judge Eldon McLeod
George Riles

UNOFFICIAL DOCUMENT
CLERK OF THE CIRCUIT COURT & COMPTROLLER
LEON COUNTY
GWEN MARSHALL
UNOFFICIAL DOCUMENT

LOCAL RULES OF THE COUNTY COURT IN AND FOR
LEON COUNTY, FLORIDA

RULE 1. DIVISIONS

For the purpose of practice, in issuing, serving and returning process, and for the trial and disposition of all cases, this Court is hereby divided into four divisions.

A. CRIMINAL DIVISION

The criminal division will handle all criminal matters filed in this Court including first appearances on all criminal matters, misdemeanors, preliminary hearings in felony cases, and violations of municipal ordinances, county ordinances, functions of the coroner and rules of the Game and Fresh Water Fish Commission.

B. TRAFFIC DIVISION

The traffic division will handle all traffic matters coming before the Court, both criminal offenses and civil infractions.

C. CIVIL DIVISION

The civil division will handle all civil cases filed including small claims (up to $1500) procedurally governed by Rules of Summary Procedure, and other claims ($1500 to $2500) procedurally governed by Rules of Civil Procedure.

D. ADMINISTRATIVE DIVISION

The administrative division shall handle all issuances of marriage licenses and other non-civil or criminal matters and Court functions not specifically assigned herein to other divisions.

RULE 2. PLACE OF DOCKETING AND TRIAL OF CASES

Plea day shall be held on Wednesday of each week commencing at 9:00 A.M. Docket Sounding shall be held each Wednesday afternoon commencing at 2:00 P.M. At the Docket Sounding the presiding Judge may also accept pleas of guilty or nollo contendere and pronounce sentence or otherwise dispose of a specific case. The Judge presiding at Plea Day shall also preside at the afternoon Docket Sounding.

One day each month shall be set aside for the trial of non-jury criminal cases. The trial of all criminal jury trials shall commence on the second Thursday of each month for nine days. The nine days are designated as follows: The second Thursday, Friday, the following Monday and Tuesday. The trials shall again commence on Thursday, Friday, Monday, Tuesday and Thursday. All jury trials shall be set for 9:00 A.M. and continue through the day until the calendar is completed. Criminal traffic and misdemeanor jury trials may be set on the same day. All non-jury criminal traffic trials shall be held at 234 East 7th Avenue or such other location as the Court designates. All non-jury misdemeanor criminal trials shall be set at Court Room number four, Leon County Courthouse. All non-jury traffic trials and infraction hearings shall be set on Thursday at 2:00 P.M. each week unless otherwise Ordered by the Court.

All traffic infraction hearings not requiring a mandatory appearance before the Court shall be set by the Clerk at the Traffic Bureau desk upon request by the Defendant for an infraction hearing. The Clerk shall deliver to the Defendant a notice on designating the time, and place of the infraction hearing. On all traffic infractions requiring a mandatory appearance before the Court the Defendant shall appear before the Court within ten

UNOFFICIAL DOCUMENT

working days from receiving the citation at 9:30 A.M. Tuesday, Wednesday or Thursday.

On all traffic citations containing multiple charges of criminal and infraction violations the Clerk is directed to transmit to the Court the multiple violations for final disposition. A Defendant charged with a criminal traffic violation who enters a plea of not guilty and requests a jury or non-jury trial shall appear before the Court with all charges consolidated and disposed of at the same time. The jury or trial Judge in a non-jury case shall hear the criminal violation and the Judge shall try the infraction. Infraction violations shall not be presented or considered by a jury and the jury shall be instructed by the trial Judge not to consider any testimony involving traffic non-criminal infraction violations.

On traffic infractions requiring a mandatory appearance by the Defendant the Defendant shall be required to appear before the Court and enter a plea to the Court. Any Defendant charged with a traffic infraction not requiring a mandatory appearance shall make his election to pay the civil penalty prescribed, attend traffic school, or request an administrative hearing directly with the Clerk and shall not be required to make said election before the Court.. Once the Defendant pleads guilty and makes his election to the clerk in a non-mandatory infraction to attend traffic school or pay the civil penalty the Defendant may not later change his election. All traffic violators charged with non-mandatory appearance traffic infractions under the age of 18 shall upon election by the Defendant to attend traffic school be assigned Emergency Room Duty at Tallahassee Memorial Hospital in lieu of the Defensive Driving Course. In the event the Defendant enters a plea of guilty to the non-mandatory appearance traffic infraction and elects to pay the civil penalty said Defendant shall not have a right to appear in Court to explain the factual situation to the Court. In the event a Defendant demands to make an explanation to the Court the Clerk shall then allow the Defendant to withdraw his plea of guilty and enter a plea of not guilty and the matter shall be set before the Court for an infraction hearing. All Defendants shall be advised as to the maximum penalty prescribed by law resulting in a conviction before the Court at an infraction hearing.

All out of county residents charged with a traffic infraction requiring a mandatory hearing may write the Clerk for an affidavit of defense in lieu of coming into Court. Upon receipt of the affidavit of defense by the Clerk from the out of county Defendant said Clerk shall schedule the matter at an infraction hearing and notify the Defendant as to the time and place of said infraction hearing. On all out of county Defendants charged with a traffic infraction not requiring a mandatory appearance the Clerk shall instruct the out of county resident that he has a right to mail in the civil penalty to the Clerk's office, elect to attend a traffic school or have the matter set before the Court for an infraction hearing.

All costs shall be included in the civil penalty imposed by the Court unless otherwise directed by the Court. The Clerk shall deduct said costs from the civil penalty after said penalty is paid to the clerk by the Defendant.

On all criminal traffic violations the Defendant shall be required to appear before the Court for arraignment. If the Defendant is represented by an attorney for the criminal traffic violation the Defendant's attorney may enter a plea of not guilty in writing. Said plea of not guilty shall be filed with the clerk in the traffic division. All traffic criminal offenses or infractions requiring a mandatory appearance shall be set before the Court at 9:30 A.M., Tuesday, Wednesday or Thursday by the Court.

UNOFFICIAL DOCUMENT

All non-jury criminal traffic trials and infraction hearings shall be set for Thursday afternoon at 2:00 P.M. of each week at 234 East 7th Avenue, unless otherwise ordered by the Court.

All pre-trial and post-trial Motions concerning the criminal traffic violations and traffic infractions shall be in writing and be set by the Clerk for hearing on Tuesday afternoons at the Leon County Courthouse beginning at 2:00 P.M. unless otherwise prescribed by the Court.

All fines and civil penalties resulting from criminal traffic violations or traffic infractions shall be payable to the Clerk of the Circuit Court, in and for the Second Judicial Circuit and distributed by said Clerk in accordance with the law.

No taking of television pictures or other photographs in or of the Courtroom during the progress of an infraction hearing or criminal traffic trial or radio broadcasting of said proceedings from the Courtroom will be permitted.

All Defendants charged with multiple infractions who elect to go to traffic school on each infraction shall complete a separate traffic school for each violation within one month of said violation or enter a plea of guilty and pay the civil penalty for each infraction or enter a plea of not guilty and request an infraction hearing before the Court for each separate traffic infraction. All multiple infractions violations shall be set before the Court for hearing and disposition at the same time.

RULE 3. TRIAL SESSION

CIVIL DIVISION

All civil and Small Claims cases shall be set for 9:00 A. M. and 2:00 P.M. on any day other than those days set aside for criminal trials or plea day. All civil and Small Claims cases shall be held in the Leon County Courthouse in Courtroom number four unless otherwise prescribed and approved by the Court.

The Clerk shall transmit a copy of the Final Judgement to each party of record in a civil or Small Claims cause of action. In the event a party is represented by an attorney in a civil or Small Claims matter the Clerk shall mail to the attorney of record a copy of the Final Judgement.

RULE 4. TRIAL SETTING

Non-jury misdemeanor and non-jury criminal traffic offenses where the Defendant is not represented by an attorney shall be set for trial at the time of arraignment. The State Attorney shall determine the trial docket in both misdemeanor and criminal traffic cases both jury and non-jury. Jury trial misdemeanor or criminal traffic offenses where the Defendant is represented by counsel shall be set at the Docket Sounding. Jury trials of misdemeanor and criminal traffic offenses where the Defendant represents himself shall be assigned a trial date at the traffic arraignment. Non-jury criminal traffic and criminal traffic jury cases where a Defendant will be representing himself may be set for trial at the time of the Defendant's appearance and arraignment at traffic court.

All traffic non-criminal infraction hearings shall be set as prescribed herein before.

All civil cases shall be set for trial as provided in Rule 1.440 Florida Rules of Civil Procedure. Small Claims cases shall be set for trial as provided in Rule 7.090 S.C.P.R.

UNOFFICIAL DOCUMENT

RULE 5. CONTINUANCES

Continuances may be granted by the proper Clerk in either civil or criminal matters only when both parties agree to said continuance in writing. Other continuances or pleas must be with the approval of the Court. All continuances at arraignment or plea day on misdemeanor or criminal traffic offenses shall be continued to a date on which the same Judge is presiding at the arraignment or plea day. All trials shall be assigned a trial date by the State Attorney at Docket Sounding.

RULE 6. MOTIONS

Motions in all matters shall be held at 2:00 P.M. on Tuesday of each week unless otherwise directed by the Court. Notice shall be given by the proper Clerk at least one week prior to the hearing and hearings on motions shall be conducted at least one week prior to trial. All Motions shall be in writing bearing a certificate of service to the opposing party. All Orders entered pursuant to a Motion, unless otherwise directed shall be prepared by the parties with sufficient copies to each party with self addressed envelopes bearing the appropriate postage.

RULE 7. SETTLEMENTS

Where possible in civil or criminal matters a settlement or disposition of cases has been reached by the parties, settlement shall be communicated by the parties to the Clerk and each party shall be responsible for notifying their own witnesses that said witnesses attendance at a particular case will not be required.

RULE 8. OFFICE HOURS

Office hours shall generally conform with other office hours of the Courthouse. Each Judge shall be responsible for setting his own chamber calendar.

RULE 9. CRIMINAL AND TRAFFIC SENTENCING

Sentencing in criminal and traffic infraction cases may be performed immediately after a plea of guilty or nolo contendere, a verdict reached by the jury, a verdict reached by the Judge in a non-jury trial or a verdict by the Court in an infraction hearing. The Court may require further study or order a pre-sentence investigation prior to sentencing or ultimate disposition. Such deferred dispositions will normally be handled upon notice by the Clerk to the Defendant and Counsel of the setting of the case for final disposition.

RULE 10. CRIMINAL AND TRAFFIC-APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS

Counsel may be appointed for indigent Defendants that qualify under the guideline set forth in Section 27.52, Florida Statutes. Appointed counsel may be available to all indigent Defendants in misdemeanor and criminal traffic offenses where the Court advises the Defendant of the possibility of incarceration should the Defendant plead guilty or be convicted and where the Defendant otherwise qualifies under the guidelines set forth in Section 27.52, Florida Statutes. In the event the Public Defender's office has a conflict in the representation of an indigent defendant the Court, upon Motion by the Public Defender, may allow the Public Defender to withdraw from the case and the Court shall thereafter appoint private counsel from those attorneys submitting their names on a voluntary basis to represent indigent clients.

The Court shall not appoint counsel to any indigent defendant in a non-criminal traffic infraction violation.

UNOFFICIAL DOCUMENT

The Court accepts the concept that to a certain degree counsel to indigents is a public service rendered by the Bar and the fees to be allowed are not to be measured by the same standard that would govern private employment. Since the standard of fees is not comparable to that enjoyed in ordinary private employment, the Court prefers to appoint counsel who have indicated their willingness to accept cases. The Court appoints such attorneys from a list on a rotating basis.

RULE 11. CIVIL RULES OF PROCEDURE

The Florida Rules of Civil Procedure as amended from time to time shall apply to all cases filed within the civil division of the Court. The summary claims procedures rules adopted by the Supreme Court of Florida as amended from time to time shall govern all cases filed within the Small Claims division of the Court unless otherwise provided by law or a rule of this Court.

RULE 12. TRAFFIC RULES OF PROCEDURE

All proceedings before the Court on a traffic infraction hearing shall be governed by the Florida Rules of Practice and Procedure for Traffic Courts covering traffic infractions.

RULE 13. CRIMINAL RULES OF PROCEDURE

The Florida Rules of Criminal Procedure shall apply to all cases filed in the Criminal Division and the criminal traffic offenses. Pursuant to Rule 6.100, Florida Rules of Practice and Procedure before Traffic Courts, there is hereby established a Traffic Violations Bureau at 234 East 7th Avenue, Tallahassee, Florida, which said Bureau shall accept appearances, waivers of trial, pleas of not guilty, guilty, or nollo contendere and elections by the Defendant pursuant to Chapter 318, Florida Statutes. Actual payments of fines and costs in accordance with Chapter 318, Florida Statutes shall be made immediately upon appearance and entering of a plea at the Bureau. All criminal traffic citations and traffic infractions shall be returnable to the Violations Bureau unless otherwise provided in Chapter 318, Florida Statutes.

RULE 14. ASSIGNMENT OF JUDGES

When a matter is filed in any division of this Court all appointments, conferences, telephone calls, motions and other matters effecting the disposition of a case, either civil or criminal, or intended to influences judicial action including the trial of the case, shall be before the Judge assigned to that specific case unless upon Order of said Judge or in an emergency. However, nothing in these rules shall abridge the jurisdiction of the Judge of this Court to dispose of any matter properly before him under the Constitution and Laws of Florida or the rules of the Supreme Court of Florida.

Any continuance in a criminal matter, misdemeanor or criminal traffic violation, for the purposes of entering a plea shall be continued and reset before the Judge in which the case was originally scheduled.

No person shall attempt to have any matter, civil, criminal or traffic disposed of in an ex parte hearing unless said hearing is authorized by law. All matters shall be disposed of in open Court with notice to both sides unless the party seeking an ex parte disposition has the written authorization from the opposing side. Any person attempting to dispose of a matter in violation of this rule is subject to prosecution for criminal contempt.

RULE 15. FILES AND EXHIBITS

No original documents or exhibits may be removed from the

UNOFFICIAL DOCUMENT

Court in any cases filed within the Criminal or Traffic Division without approval of the Court.

Cases filed and exhibits in those cases filed within the Civil or Small Claims Divisions may be removed only by members of The Florida Bar in good standing upon approval of the Clerk and the execution of an appropriate receipt for the delivery of the file. Any file shall be returned immediately to the Court upon demand by the Clerk.

RULE 16. FURTHER RULES

It is anticipated that as the Court gains additional experience with its new functions additional local rules will be issued. Copies of these rules and any additions thereto will be furnished to each member of the Tallahassee Bar Association. In addition, current copies of the rules and any addition thereto will be furnished to any member of the Florida Bar upon written request. This rule is in no way to be construed as limiting practice before this Court to those members of the Bar who request copies of the rule.

RULE 17. ASSIGNMENT OF JUDGES

Each Judge shall be available for general assignment by the Administrative Judge. Assignments shall be made so that each Judge will serve in all divisions of the Court equally with the other Judges. Judges shall be available for assignments of other Judges in cases of disqualification and emergency. The Administrative Judge should be notified of such changes so far as it effects the trial calendar.

RULE 18. CRIMINAL FIRST APPEARANCES

First appearance of all persons not previously released in a lawful manner shall be held in Courtroom no. 4, Leon County Courthouse at 9:00 A.M. each day, Monday through Friday of each week, except those weeks which have holidays. First appearance on holidays and weekends shall be held at the Leon County Jail. All Judges from Franklin, Leon and Wakulla Counties shall rotate first appearance on weekends upon assignment of the Administrative Judge. Judges may exchange weekends with another Judge, however, the assigned Judge shall be responsible for a substitute when changes are made.

Representatives from the office of the Public Defender shall be required to be present for first appearances Monday through Friday and on weekends.

RULE 19. ADMINISTRATIVE JUDGE

The Administrative Judge shall serve for a period of one year, commencing the first Tuesday after the first Monday of January. The office shall rotate among the Judges of the Court according to seniority with Judge with the longest service on the Court serving first.

DONE AND ORDERED this 27th day of February, 1975, at Tallahassee, Florida.

CHARLES D. McCLURE

Approved this 27th day of February, 1975.

BEN C. WILLIS
CHIEF JUDGE

UNOFFICIAL DOCUMENT