

TWELFTH JUDICIAL DISTRICT
SUPERIOR COURT DIVISION
CASE MANAGEMENT PLAN

SUPERIOR CRIMINAL CASES

Adopted March 24th, 1995

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Criminal Superior Court Rules

RULE 1. GENERAL PROVISIONS

1.1 The purpose of these rules is to institute a Case Management System that will provide for the orderly, prompt, and just disposition of criminal matters.

1.2 The calendar for the disposition of criminal cases in the Twelfth Judicial District, Superior Court Division, shall be prepared and maintained by the District Attorney in accordance with these rules. The District Attorney shall establish and maintain a case tracking system to monitor the number, age, type and procedural status of all pending cases, and to provide for printed calendars of same. (As used in these rules, the term "*District Attorney*" shall include the elected District Attorney for the Twelfth Prosecutorial District and his designees.)

1.3 These rules shall, at all times, be construed in such a manner as to avoid technical delay. It is recognized that these rules are not complete in every detail and will not cover every situation that may arise. In the event that these rules do not cover a specific matter, the District Attorney is authorized to act in his discretion, subject to consultation with the Senior Resident Superior Court Judge or the Presiding Judge.

1.4 These rules shall be filed in the office of the Clerk of Superior Court for the Twelfth Judicial District and may be cited accordingly.

1.5 The District Attorney's office for the Twelfth Judicial District shall distribute a copy of these rules to each member of the Cumberland County Bar and the office of the Public Defender for the Twelfth Judicial District. The District Attorney shall maintain a supply of printed rules to be provided to attorneys upon request.

1.6 The Clerk of Superior Court shall provide a file number for each case at the time of indictment. All subsequent pleadings and papers filed with the Clerk and all subsequent communication to opposing counsel, parties or court personnel shall contain the file number.

1.7 The provisions of these rules shall apply to all Superior Court cases with indictment dates beginning as of October 24, 1994. Such cases shall be termed "*case management system cases*". Superior Court filings pending prior to October 24, 1994, "*pre case management system cases*", may be integrated into the Case Management System in the discretion of the District Attorney upon consultation with the Senior Resident Superior Court Judge or the Presiding Judge.

RULE 2. TIME STANDARD GOALS

2.1 Absent exigent circumstances, all non-exceptional cases should be tried or disposed of no more than eighteen (18) months after the date of indictment. It is the goal of this Case Management System that eighty (80%) percent of the non-exceptional cases reach disposition within twelve (12) months of the date of indictment.

2.2 The District Attorney, upon consultation with the Senior Resident Superior Court Judge or Presiding Judge, may designate a case exceptional based upon criteria such as the type of charge(s) or number of co-defendants. Such cases as may be designated exceptional shall receive specialized scheduling orders for the purpose of facilitating timely disposition.

RULE 3. DISCOVERY

3.1 No later than four weeks after indictment, the District Attorney shall provide photocopies of discovery in each file, as indicated on the Discovery Certificate, to the attorney of record entering a general appearance in that case. Said photocopies shall be provided one time to the current attorney of record. Should a change in defense counsel occur, it is the joint responsibility of both new and previous counsel to ensure that the photocopied discovery material is transferred from previous counsel of record to new counsel of record. Photocopies shall not be distributed to defense counsel entering only a limited appearance.

3.2 The Assistant District Attorney assigned to each case shall be responsible for completing a Disclosure Certificate for that case. A sample Disclosure Certificate is attached hereto as Exhibit "A". A completed and signed *Disclosure Certificate* shall accompany the photocopied discovery and shall be served upon the defense attorney of record in one of the following ways:

- Personal delivery,
- US Mail, delivery to the office of the defense attorney of record, or
- Attorney mailbox located in the office of the Clerk of Superior Court.

A completed and signed Disclosure Certificate shall also be filed with the Clerk of Superior Court for placement in the court file.

3.3 Any discovery motions filed by defense counsel shall contain one of the following certification provisions and shall be signed by the movant:

I, the undersigned attorney of record, do hereby certify to the Court that prior to the filing of this motion I have thoroughly reviewed the discovery material supplied to me in this case by the office of the District Attorney.

Signature of Movant

Date

O R

I, the undersigned attorney of record, do hereby certify to the Court that as of this date more than four weeks have passed from the date of indictment and the District Attorney has provided me with no discovery material in this case.

Signature of Movant

Date

RULE 4. CALENDARING PRIOR TO TRIAL

4.1 Every four weeks, the District Attorney shall schedule a non-jury criminal session devoted to administration of the criminal calendar. This session shall be known as the "*Administrative Week*". The remaining criminal sessions will be reserved, to the extent reasonably possible, for the trial of cases.

4.2 Each case shall be calendared for three specific Administrative Week settings following the date of indictment. The defendant and defense counsel shall be present at each such setting of court.

4.3 The first administrative calendar setting ("*First Setting*") shall occur four weeks after indictment. The following matters shall be accomplished at the First Setting:

- Determination of counsel;
- Existence of conflicts;
- Status inquiry; including possible disposition by guilty plea;
- Confirmation of filing of Disclosure Certificate; and
- Pre-trial discussions between counsel.

4.4 The second administrative calendar setting ("*Second Setting*") shall occur eight weeks after indictment. The following matters shall be accomplished at the Second Setting:

- Hearing of pre-arraignment motions;
- Pre-trial discussions between counsel; and
- Pre-trial conference with Presiding Judge (if requested); and,
- Status inquiry, including possible disposition by guilty plea.

4.5 The third administrative calendar setting ("*Third Setting*") shall occur twelve weeks after indictment. The following matters shall be accomplished at the Third Setting:

- Pre-trial conference (if not held at Second Setting);
- Possible disposition by guilty plea , OR, Arraignment and entry of not guilty plea;
- Scheduling of deadline for filing pre-trial motions;
- Scheduling pre-trial motion hearing date; and

- Calendaring of trial date (non-exceptional cases), or,
- Entry of a scheduling order (exceptional cases).

RULE 5. MOTIONS

5.1 All pre-arraignment motions, as defined by statute, shall be filed no later than seven (7) days prior to the Second Setting and will be heard at the Second Setting.

5.2 All pre-trial motions shall be filed by and heard on dates established at the Third Setting. Motion hearing dates are firm hearing dates. Each attorney should bring his/her personal calendar to the Third Setting so that existing conflicts may be considered. Barring unusual circumstances, pre-trial motions shall be heard during the Administrative Week immediately preceding the established trial date.

5.3 Except for extreme circumstances, which could not have been reasonably foreseen, all motions, whether pre-arraignment or pre-trial, filed outside the established deadlines shall be subject to summary dismissal by the Presiding Judge. This provision does not apply to motions which are appropriately directed to the judge presiding at trial.

RULE 6. PLEA OFFERS

6.1 In every case, the Assistant District Attorney responsible for such case shall extend a written plea offer to defense counsel of record no later than six (6) weeks after the date of indictment.

6.2 Prior to extending any such plea offer, each Assistant District Attorney shall completely review the case file and make a plea offer based upon a full case evaluation.

6.3 Defense counsel of record has a responsibility to convey all plea offers to the defendant.

RULE 7. SCHEDULING OF PLEAS

7.1 During each Administrative Week, the Presiding Judge shall schedule the hearing of guilty pleas upon request as time allows. Pleas will primarily be scheduled on Monday afternoons, Thursdays and Fridays. Priority will be given to the scheduling of pleas in case management system cases.

7.2 A time certain schedule for plea hearings shall be produced and distributed by the District Attorney.

RULE 8. PRE-TRIAL CONFERENCES

8.1 During each Administrative Week, the Presiding Judge shall schedule pre-trial conferences upon request of the parties (Second Setting) or upon the Court's motion (Third Setting, if no request). Pre-trial conferences shall be scheduled as time allows, but will primarily be held on Tuesday and Wednesday afternoons.

8.2 A time certain schedule of pre-trial conferences shall be produced and distributed by the District Attorney.

RULE 9. TRIAL SETTINGS

9.1 The Presiding Judge shall establish trial dates in conference with both counsel at the Third Setting. The District Attorney shall produce and maintain a six-month schedule of the weeks during which Assistant District Attorneys are scheduled for jury sessions of Superior Court. Defense counsel are responsible for having personal calendars available at the Third Setting in order to inform the Court of any personal or professional scheduling conflicts.

9.2 The established trial date shall be a firm date. Continuances will not be granted, even if all parties agree, unless for a crucial cause that could not have been reasonably foreseen.

9.3 At the Third Setting, the Court shall enter a Scheduling Order in each non-exceptional case setting forth the deadline for the filing of pre-trial motions, the date for the hearing of pre-trial motions and the trial date. A sample Scheduling Order is attached to these Rules as Exhibit "B". Scheduling orders for exceptional cases may contain deadlines for additional case events as necessary and appropriate.

9.4 Any requests for a priority or peremptory setting based upon out of town witnesses, expert witnesses or other scheduling concerns should be addressed to the Presiding Judge at the time the trial is scheduled.

9.5 Any case which is not reached for trial during the scheduled session of court, shall be rescheduled for trial by the Senior Resident Superior Court Judge, or Presiding Judge, upon conferring with counsel.

RULE 10. PRINTED CALENDARS

10.1 Not less than ten (10) days prior to each non-jury administrative session of court, the District Attorney shall prepare and publish a calendar of case settings as described in [Rule 4](#) above. The non-jury administrative calendar shall be separated into:

- First Settings, which shall be calendared for the first day of the court week;
- Second Settings, which shall be calendared for the second day of the court week;
- Third Settings, which shall be calendared for the third day of the court week; and
- Pre-Trial Motions, which shall be calendared during the administrative court week.

10.2 The order of cases within each administrative calendar section shall be based upon the defense counsel of record. Private bar representation cases shall appear first within each calendar section followed by those cases represented by the office of the Public Defender. Cases shall be grouped alphabetically by the defense counsel's last name.

10.3 Not less than ten (10) days prior to every jury session of court, the District Attorney shall prepare and publish a calendar of cases for trial. The District Attorney may list the order of cases for trial in his discretion, giving consideration to factors such as pre-trial jail detention of the defendant and case age.

10.4 Once published and distributed the order of cases listed on the calendar shall be the order in which cases are to be called for trial. In the discretion of the presiding judge, the order of cases for trial may be varied to accommodate such factors as available court time and witness schedules.

RULE 11. MOTIONS FOR CONTINUANCE

11.1 All motions for continuance must be in writing, filed and delivered to the office of the Senior Resident Superior Court Judge and opposing counsel not later than noon on Wednesday preceding the session in which the trial is calendared. Oral motions or motions filed out of time must show good cause for the failure to file a timely written motion.

11.2 Every continuance motion must state:

- The age of the case;
- Whether the defendant is in jail;
- Whether the defendant has co-defendants and the names of any such co-defendants;
- The number of times the case has previously appeared on a trial calendar;
- That opposing counsel has been consulted regarding the continuance;

- Whether opposing counsel consents; and
- The moving party's position on when the trial should be rescheduled if a continuance is granted.

11.3 The Senior Resident Superior Court Judge will issue a ruling on the motion after consideration of:

- The reason for the continuance request,
- The age of the case,
- The pre-trial detention status of the defendant, and
- The number and type of other trial matters present on the trial calendar for that session.

In the event that the Senior Resident Superior Court Judge is unavailable due to rotation travel, he may designate a resident or presiding judge to rule on continuance motions.

11.4 No case shall be continued without rescheduling the trial to a date certain except in a case of extreme and unusual circumstances.

RULE 12. SANCTIONS

12.1 Failure to comply with any section of these rules shall subject counsel to all sanctions allowed by law and deemed appropriate in the discretion of the Presiding Judge.