

1 **LR2-308. Case management pilot program for criminal cases.**

2           A.     **Scope; application.** This is a special pilot rule governing time limits for criminal  
3 proceedings in the Second Judicial District Court. This rule applies in all criminal proceedings in  
4 the Second Judicial District Court but does not apply to probation violations, which are heard as  
5 expedited matters separately from cases awaiting a determination of guilt, nor to any other special  
6 proceedings in Article 8 of the Rules of Criminal Procedure for the District Courts. The Rules of  
7 Criminal Procedure for the District Courts and existing case law on criminal procedure continue  
8 to apply to cases filed in the Second Judicial District Court, but only to the extent they do not  
9 conflict with this pilot rule. The Second Judicial District Court may adopt forms to facilitate  
10 compliance with this rule, including the data tracking requirements in Paragraph M.

11           B.     **Arraignment.**

12                 (1)     ***Deadline for arraignment.*** The defendant shall be arraigned on the  
13 information or indictment within fifteen (15) days after the date of the filing of the bind-over order,  
14 indictment, or the date of the arrest, whichever is later, except that the arraignment of a defendant  
15 in custody at the Bernalillo County Metropolitan Detention Center on the case to be arraigned shall  
16 be held not later than seven (7) days after the filing of the bind-over order, indictment, or date of  
17 arrest, whichever is later.

18                 (2)     ***Certification by prosecution required; matters certified.*** At or before  
19 arraignment or waiver of arraignment, or upon the filing of a bind-over order, the state shall certify  
20 that before obtaining an indictment or filing an information the case has been investigated  
21 sufficiently to be reasonably certain that

22                         (a)     the case will reach a timely disposition by plea or trial within the  
23 case processing time limits set forth in this rule;

1 (b) the court will have sufficient information upon which to rely in  
2 assigning a case to an appropriate track at the scheduling conference [~~status hearing~~] provided for  
3 in Paragraph G;

4 (c) all discovery in the possession of the state or relied upon in the  
5 investigation leading to the bind-over order, indictment or information will be provided in  
6 accordance with Subparagraph (C)(2) of this rule; and

7 (d) the state understands that, absent extraordinary circumstances, the  
8 state's failure to comply with the case processing time lines set forth in this rule will result in  
9 sanctions as set forth in Paragraph I.

10 (3) ***Certification form.*** The court may adopt a form and require use of the form  
11 to fulfill the certification and acknowledgment required by this paragraph.

12 C. **Disclosure by the state; requirement to provide contact information;  
13 continuing duty; failure to comply.**

14 (1) ***Scope of disclosure by the state.*** The scope of the state's discovery  
15 disclosure obligation shall be governed by Rule 5-501(A)(1)-(6) NMRA. In addition to producing  
16 a "speed letter" authorizing the defendant to examine physical evidence in possession of the state,  
17 the state shall provide the defendant with physical copies of any documentary evidence and audio,  
18 video, and audio-video recordings made by law enforcement officers or otherwise in possession  
19 of the state at the time of the disclosure. As part of its production obligation under Rule 5-  
20 501(A)(5) [NMRA], the state shall provide contact information for its witnesses that is current as  
21 of the date of disclosure, including, to the extent available, witness addresses, phone numbers, and  
22 email addresses.

1           (2)     ***Deadline for disclosure by the state.*** If the case is a ten (10)-day case as  
2 described by Rule 5-302(A)(1) NMRA, the state shall make its discovery disclosures to the  
3 defendant within five (5) days after arraignment or the filing of a waiver of arraignment under  
4 Rule 5-303(J) NMRA. If the case is a sixty (60)-day case as described by Rule 5-302(A)(1)  
5 [~~NMRA~~], the state shall make its initial discovery disclosures to the defendant at arraignment or  
6 within five (5) days of when a written waiver of arraignment is filed under Rule 5-303(J) [~~NMRA~~].

7           (3)     ***Motion to withhold contact information for safety reasons.*** A party may  
8 seek relief from the court by motion, for good cause shown, to withhold specific contact  
9 information if necessary to protect a victim or a witness. If the address of a witness is not disclosed  
10 pursuant to court order, the party seeking the order shall arrange for a witness interview or accept  
11 at its business offices a subpoena for purposes of deposition under Rule 5-503 NMRA.

12           (4)     ***Continuing duty.*** The state shall have a continuing duty to disclose  
13 additional information to the defendant, including the names and contact information for newly-  
14 discovered witnesses and updated contact information for witnesses already disclosed, within  
15 seven (7) days of receipt of such information, including current contact information for witnesses.

16           (5)     ***Evidence deemed in the possession of the state.*** Evidence is deemed to be  
17 in possession of the state for purposes of this rule and Rule 5-501(A) [~~NMRA~~] if such evidence is  
18 in the possession or control of any person or entity who has participated in the investigation or  
19 evaluation of the case.

20           (6)     ***Providing copies; electronic or paper; e-mail addresses for district***  
21 ***attorney and public defender required.*** Notwithstanding Rule 5-501(B) [~~NMRA~~] or any other  
22 rule, the state shall provide to the defendant electronic or printed copies of electronic or printed  
23 information subject to disclosure by the state. The Second Judicial District Attorney's Office and

1 the Law Offices of the Public Defender shall provide to each other a single e-mail address for  
2 delivery of discovery electronically. In addition to delivering discovery to the given general  
3 address for the Law Offices of the Public Defender, the state shall copy such delivery to any  
4 attorney for the Law Offices of the Public Defender who has entered an appearance in the case at  
5 the time discovery is sent electronically.

6 (7) ***Service of subsequent pleadings.*** Service of pleadings and papers between  
7 the parties shall be made to the attorney, or to the party if not represented by counsel, by emailing  
8 an electronic scan of the file-endorsed pleading or paper, attachments included, to the attorney or  
9 party. If the attachments are too voluminous for emailing, or otherwise cannot be sent by email,  
10 the email to the attorney or party will recite this circumstance and certify that the attachments have  
11 been mailed or delivered to the attorney's or party's last known address. Service by email is  
12 complete upon transmission and, in case of attachments that cannot be emailed, upon mailing or  
13 delivery.

14 D. **Disclosure by defendant; notice of alibi; entrapment defense; failure to**  
15 **comply.**

16 (1) ***Initial disclosures; deadline; witness contact information.*** Not less than  
17 five (5) days before the scheduled date of the scheduling conference [~~status hearing~~] described in  
18 Paragraph G, the defendant shall disclose or make available to the state all information described  
19 in Rule 5-502(A)(1)-(3) NMRA. At the same time, the defendant shall provide addresses, and also  
20 phone numbers and email addresses if available, for its witnesses that are current as of the date of  
21 disclosure.

22 (2) ***Deadline for notice of alibi and entrapment defense.*** Notwithstanding Rule  
23 5-508 NMRA or any other rule, not less than ninety (90) days before the date scheduled for

1 commencement of trial as provided in Paragraph G, the defendant shall serve upon the state a  
2 notice in writing of the defendant's intention to offer evidence of an alibi or entrapment as a  
3 defense.

4 (3) ***Continuing duty.*** The defendant shall have a continuing duty to disclose  
5 additional information to the state, including the names and contact information for newly-  
6 discovered witnesses and updated contact information for witnesses already disclosed, within  
7 seven (7) days of receipt of such information.

8 (4) ***Providing copies required; electronic or paper.*** Notwithstanding Rule 5-  
9 502(B) [~~NMRA~~] or any other rule, the defendant shall provide to the state electronic or printed  
10 copies of electronic or printed information subject to disclosure by the defendant. The Second  
11 Judicial District Attorney's Office and the Law Offices of the Public Defender shall provide to  
12 each other a single e-mail address for delivery of discovery electronically. In addition to delivering  
13 discovery to the given general address for the Second Judicial District Attorney's Office, the  
14 defendant shall copy such delivery to any attorney for the Second Judicial District Attorney's  
15 Office who has entered an appearance in the case at the time discovery is sent electronically.

16 (5) ***Service of subsequent pleadings.*** Service of pleadings and papers between  
17 the parties shall be made to the attorney, or to the party if not represented by counsel, by emailing  
18 an electronic scan of the file-endorsed pleading or paper, attachments included, to the attorney or  
19 party. If the attachments are too voluminous for emailing, or otherwise cannot be sent by email,  
20 the email to the attorney or party will recite this circumstance and certify that the attachments have  
21 been mailed or delivered to the attorney's or party's last known address. Service by email is  
22 complete upon transmission and, in case of attachments that cannot be emailed, upon mailing or  
23 delivery.

1           E.       **Remote Audio-Visual Pretrial Interviews.** Pretrial interviews shall be completed  
2 remotely via court-approved audio-visual technology unless the parties otherwise agree to in-  
3 person interviews or a party files a Notice of In-Person Interview and the court orders in-person  
4 interviews. Absent extraordinary circumstances, each witness in a given case shall be interviewed  
5 only once, and each witness interview shall be recorded by interviewing counsel.

6           F.       **Peremptory excusal of a district judge; limits on excusals; time limits;  
7 reassignment.** A party on either side may file one (1) peremptory excusal of any judge in the  
8 Second Judicial District Court, regardless of which judge is currently assigned to the case, within  
9 ten (10) days of the arraignment or the filing of a waiver of arraignment. If necessary, the case  
10 may later be reassigned by the chief judge to any judge in the Second Judicial District Court, so  
11 long as that judge has not been previously excused on the case. The chief judge may also reassign  
12 the case to a judge pro tempore previously approved to preside over such matters by order of the  
13 Chief Justice, who shall not be subject to peremptory excusal.

14           G.       ~~[Status hearing]~~ **Scheduling conference; witness disclosure; case track  
15 determination; scheduling order.**

16                   (1)       ***Witness list disclosure requirements.*** Within twenty-five (25) days after  
17 arraignment or waiver of arraignment each party shall, subject to Rule 5-501(F) [~~NMRA~~] and Rule  
18 5-502(C) [~~NMRA~~], file a list of names and contact information for known witnesses the party  
19 intends to call at trial and that the party has verified is current as of the date of disclosure required  
20 under this subparagraph, including a brief statement of the expected testimony for each witness,  
21 to assist the court in assigning the case to a track as provided in this rule. The continuing duty to  
22 make such disclosure to the other party continues at all times prior to trial, requiring such

1 disclosure within five (5) days of when a party determines or should reasonably have determined  
2 the witness will be expected to testify at trial.

3 (2) [~~Status hearing~~] **Scheduling conference; factors for case track**  
4 **assignment.** A scheduling conference [~~status hearing~~], at which the defendant shall be present,  
5 shall be commenced within thirty (30) days of arraignment or the filing of a waiver of arraignment.  
6 In track 1 and 2 cases only, the court may, in its discretion, accept the parties' stipulation to a track  
7 assignment and scheduling order in lieu of conducting a scheduling conference. A scheduling  
8 conference is mandatory in track 3 cases.

9 (3) ***Case track assignment required; factors.*** At the [~~status hearing~~] scheduling  
10 conference, the court shall determine the appropriate assignment of the case to one of three tracks.  
11 Written findings are required to place a case on track 3 and such findings shall be entered by the  
12 court within five (5) days of assignment to track 3. Any track assignment under this rule only shall  
13 be made after considering the following factors:

14 (a) the complexity of the case, starting with the assumption that most  
15 cases will qualify for assignment to track 1; and

16 (b) the number of witnesses, time needed reasonably to address any  
17 evidence issues, and other factors the court finds appropriate to distinguish track 1, track 2, and  
18 track 3 cases.

19 (4) ***Defendants detained pending trial.*** When the defendant is detained  
20 pending trial, the case shall be given the highest priority for trial scheduling.

21 (5) ***Scheduling order required.*** After hearing argument and weighing the above  
22 factors, the court shall, before the conclusion of the [~~status hearing~~] scheduling conference, issue

1 a scheduling order that assigns the case to one of three tracks and identifies the dates when events  
2 required by that track shall be scheduled, which are as follows for tracks 1, 2, and 3:

3 (a) *Track 1; deadlines for commencement of trial and other events.* For  
4 track 1 cases, the scheduling order shall have trial commence within two hundred ten (210) days  
5 of arraignment, the filing of a waiver of arraignment, or other applicable triggering event identified  
6 in Paragraph H, whichever is the latest to occur. The scheduling order shall also set dates for other  
7 events according to the following requirements for track 1 cases:

8 (i) Track 1 - deadline for plea agreement. A plea agreement  
9 entered into between the defendant and the state shall be submitted to the court substantially in the  
10 form approved by the Supreme Court not later than ten (10) days before the trial date. A request  
11 for the court to approve a plea agreement less than ten (10) days before the trial date shall not be  
12 accepted by the court except upon a written finding by the assigned district judge of extraordinary  
13 circumstances. A defendant may plead guilty, the state may dismiss charges, and the parties may  
14 recommend a sentence but the court shall not agree to comply with a plea agreement in this  
15 circumstance absent a written finding of extraordinary circumstances;

16 (ii) Track 1 - deadline for pretrial conference. The final pretrial  
17 conference, including any hearing on any remaining pretrial motions if needed, shall be scheduled  
18 fifteen (15) days before the trial date. Each party shall file its final trial witness list on or before  
19 this date. The defendant shall be present for the final pretrial conference;

20 (iii) Track 1 - deadline for notice of need for court interpreter.  
21 All parties shall identify by filing notice with the court any requirement for language access  
22 services at trial by a party or witness fifteen (15) days before the trial date;

1 (iv) Track 1 - deadline for pretrial motions hearing. A hearing for  
2 resolution of pretrial motions shall be set not less than thirty-five (35) days before the trial date;

3 (v) Track 1 - deadline for pretrial motions. Pretrial motions shall  
4 be filed not less than fifty (50) days before the trial date;

5 (vi) Track 1 - deadline for responses to pretrial motions. Written  
6 responses to any pretrial motions shall be filed within ten (10) days of the filing of any pretrial  
7 motions and in any case not less than forty (40) days before the trial date. Failure to file a written  
8 response shall be deemed, for purposes of deciding the motion, an admission of the facts stated in  
9 the motion;

10 (vii) Track 1 - deadlines for requesting and completing witness  
11 interviews. Witness interviews shall be completed not less than sixty (60) days before the trial  
12 date. Absent agreement by the parties or order of the court the state shall be responsible for  
13 scheduling pretrial witness interviews of the state's witnesses, and the defendant shall be  
14 responsible for scheduling pretrial witness interviews of the defendant's witnesses. A party  
15 wishing to interview witnesses of the other party's initial witness list shall request those interviews  
16 no later than fourteen (14) days after the issuance of the scheduling order. The requesting party  
17 shall give dates of availability for witness interviews during the thirty (30) days following the  
18 request and the party receiving the request shall make reasonable efforts to schedule the requested  
19 interviews during that thirty (30)-day period. If a party files a new witness list adding new  
20 witnesses, any requests to interview those new witnesses shall be made no later than seven (7)  
21 days after the new witness list is served upon the requesting party. At all times the parties shall act  
22 diligently and in good faith in requesting, scheduling, and, as necessary, rescheduling witness  
23 interviews. The court shall not consider failure to conduct pretrial interviews of witnesses as the

1 basis of any sanction unless the party moving for sanctions followed the requirements of this  
2 subparagraph in requesting those interviews; and

3 (viii) Track 1 - deadline for disclosure of scientific evidence. All  
4 parties shall produce the results of any scientific evidence, if not already produced, not less than  
5 one hundred twenty (120) days before the trial date. The court may provide for production of  
6 scientific evidence less than one hundred twenty (120) days before the trial date as long as the  
7 modification does not result in a delay of the date scheduled for trial;

8 (b) *Track 2; deadlines for commencement of trial and other events.* For  
9 track 2 cases, the scheduling order shall have trial commence within three hundred (300) days of  
10 arraignment, the filing of a waiver of arraignment, or other applicable triggering event identified  
11 in Paragraph H, whichever is the latest to occur. The scheduling order shall also set dates for other  
12 events according to the following requirements for track 2 cases:

13 (i) Track 2 - deadline for plea agreement. A plea agreement  
14 entered into between the defendant and the state shall be submitted to the court substantially in the  
15 form approved by the Supreme Court not later than ten (10) days before the trial date. A request  
16 for the court to approve a plea agreement less than ten (10) days before the trial date shall not be  
17 accepted by the court except upon a written finding by the assigned district judge of extraordinary  
18 circumstances. A defendant may plead guilty, the state may dismiss charges, and the parties may  
19 recommend a sentence but the court shall not agree to comply with a plea agreement in this  
20 circumstance absent a written finding of extraordinary circumstances;

21 (ii) Track 2 - deadline for pretrial conference. The final pretrial  
22 conference, including any hearing on any remaining pretrial motions if needed, shall be scheduled

1 fifteen (15) days before the trial date. Each party shall file its final trial witness list on or before  
2 this date. The defendant shall be present for the final pretrial conference;

3 (iii) Track 2 - deadline for notice of need for court interpreter.

4 All parties shall identify by filing notice with the court any requirement for language access  
5 services at trial by a party or witness fifteen (15) days before the trial date;

6 (iv) Track 2 - deadline for pretrial motions hearing. A hearing for  
7 resolution of pretrial motions shall be set not less than thirty-five (35) days before the trial date;

8 (v) Track 2 - deadline for pretrial motions. Pretrial motions shall  
9 be filed not less than sixty (60) days before the trial date;

10 (vi) Track 2 - deadline for responses to pretrial motions. Written  
11 responses to any pretrial motions shall be filed within ten (10) days of the filing of any pretrial  
12 motions and in any case not less than forty-five (45) days before the trial date. Failure to file a  
13 written response shall be deemed, for purposes of deciding the motion, an admission of the facts  
14 stated in the motion;

15 (vii) Track 2 - deadlines for requesting and completing witness  
16 interviews. Witness interviews shall be completed not less than seventy-five (75) days before the  
17 trial date. Absent agreement by the parties or order of the court, the state shall be responsible for  
18 scheduling pretrial witness interviews of the state's witnesses, and the defendant shall be  
19 responsible for scheduling pretrial witness interviews of the defendant's witnesses. A party  
20 wishing to interview witnesses of the other party's initial witness list shall request those interviews  
21 no later than twenty-one (21) days after the issuance of the scheduling order. The requesting party  
22 shall give dates of availability for witness interviews during the forty-five (45) days following the  
23 request and the party receiving the request shall make reasonable efforts to schedule the requested

1 interviews during that forty-five (45)-day period. If a party files a new witness list adding new  
2 witnesses, any requests to interview those new witnesses shall be made no later than seven (7)  
3 days after the new witness list is served upon the requesting party. At all times the parties shall act  
4 diligently and in good faith in requesting, scheduling, and, as necessary, rescheduling witness  
5 interviews. The court shall not consider failure to conduct pretrial interviews of witnesses as the  
6 basis of any sanction unless the party moving for sanctions followed the requirements of this  
7 subparagraph in requesting those interviews; and

8 (viii) Track 2 - deadline for disclosure of scientific evidence. All  
9 parties shall produce the results of any scientific evidence, if not already produced, not less than  
10 one hundred twenty (120) days before the trial date. The court may provide for production of  
11 scientific evidence less than one hundred twenty (120) days before the trial date as long as the  
12 modification does not result in a delay of the date scheduled for trial; and

13 (c) *Track 3; deadlines for commencement of trial and other events.* For  
14 track 3 cases, the scheduling order shall have trial commence within four hundred fifty-five (455)  
15 days of arraignment, the filing of a waiver of arraignment, or other applicable triggering event  
16 identified in Paragraph H, whichever is the latest to occur, except that no case may be set past three  
17 hundred sixty-five (365) days where the defendant is detained pending trial except upon consent  
18 by defense counsel or upon a finding of exceptional circumstances beyond the control of the  
19 parties. The scheduling order shall also set dates for other events according to the following  
20 requirements for track 3 cases:

21 (i) Track 3 - deadline for plea agreement. A plea agreement  
22 entered into between the defendant and the state shall be submitted to the court substantially in the  
23 form approved by the Supreme Court not later than ten (10) days before the trial date. A request

1 for the court to approve a plea agreement less than ten (10) days before the trial date shall not be  
2 accepted by the court except upon a written finding by the assigned district judge of extraordinary  
3 circumstances. A defendant may plead guilty, the state may dismiss charges, and the parties may  
4 recommend a sentence but the court shall not agree to comply with a plea agreement in this  
5 circumstance absent a written finding of extraordinary circumstances;

6 (ii) Track 3 - deadline for pretrial conference. The final pretrial  
7 conference, including any hearing on any remaining pretrial motions if needed, shall be scheduled  
8 twenty (20) days before the trial date. Each party shall file its final trial witness list on or before  
9 this date. The defendant shall be present for the final pretrial conference;

10 (iii) Track 3 - deadline for notice of need for court interpreter.  
11 All parties shall identify by filing notice with the court any requirement for language access  
12 services at trial by a party or witness fifteen (15) days before the trial date;

13 (iv) Track 3 - deadline for pretrial motions hearing. A hearing for  
14 resolution of pretrial motions shall be set not less than forty-five (45) days before the trial date;

15 (v) Track 3 - deadline for pretrial motions. Pretrial motions shall  
16 be filed not less than seventy (70) days before the trial date;

17 (vi) Track 3 - deadline for responses to pretrial motions. Written  
18 responses to any pretrial motions shall be filed within ten (10) days of the filing of any pretrial  
19 motions and in any case not less than fifty-five (55) days before the trial date. Failure to file a  
20 written response shall be deemed, for purposes of deciding the motion, an admission of the facts  
21 stated in the motion;

22 (vii) Track 3 - deadlines for requesting and completing witness  
23 interviews. Witness interviews shall be completed not less than one hundred (100) days before the

1 trial date. Absent agreement by the parties or order of the court the state shall be responsible for  
2 scheduling pretrial witness interviews of the state’s witnesses, and the defendant shall be  
3 responsible for scheduling pretrial witness interviews of the defendant’s witnesses. A party  
4 wishing to interview witnesses of the other party’s initial witness list shall request those interviews  
5 no later than twenty (21) days after the issuance of the scheduling order. The requesting party shall  
6 give dates of availability for witness interviews during the sixty (60) days following the request  
7 and the party receiving the request shall make reasonable efforts to schedule the requested  
8 interviews during that sixty (60)-day period. If a party files a new witness list adding new  
9 witnesses, any requests to interview those new witnesses shall be made no later than seven (7)  
10 days after the new witness list is served upon the requesting party. At all times the parties shall act  
11 diligently and in good faith in requesting, scheduling, and, as necessary, rescheduling witness  
12 interviews. The court shall not consider failure to conduct pretrial interviews of witnesses as the  
13 basis of any sanction unless the party moving for sanctions followed the requirements of this  
14 subparagraph in requesting those interviews; and

15 (viii) Track 3 - deadline for disclosure of scientific evidence. All  
16 parties shall produce the results of any scientific evidence, if not already produced, not less than  
17 one hundred fifty (150) days before the trial date. The court may provide for production of  
18 scientific evidence less than one hundred fifty (150) days before the trial date as long as the  
19 modification does not result in a delay of the date scheduled for trial.

20 (6) ***Form of scheduling order; additional requirements and shorter deadlines***  
21 ***allowed.*** The court may adopt upon order of the chief judge of the district court a form to be used  
22 to implement the time requirements of this rule. Additional requirements may be included in the

1 scheduling order at the discretion of the assigned judge and the judge may alter any of the deadlines  
2 described in Subparagraph (G)(5) of this rule to allow for the case to come to trial sooner.

3 (7) *Extensions of time; cumulative limit.* The court may shorten or extend  
4 deadlines in the scheduling order provided any extensions of time shall not result in delay of the  
5 plea deadline or the date scheduled for commencement of trial.

6 H. **Time limits for commencement of trial.** As deemed necessary, the court may  
7 enter an amended scheduling order to extend the time limits for commencement of trial consistent  
8 with the deadlines in Paragraph G whenever one of the following triggering events occurs:

9 (1) the date of arraignment or the filing of a waiver of arraignment of the  
10 defendant;

11 (2) if an evaluation of competency has been ordered, the date an order is filed  
12 in the court finding the defendant competent to stand trial;

13 (3) if a mistrial is declared by the trial court, the date such order is filed in the  
14 court;

15 (4) in the event of a remand from an appeal, the date the mandate or order is  
16 filed in the court disposing of the appeal;

17 (5) if the defendant is arrested on any valid warrant in the case or surrenders in  
18 this state on any valid warrant in the case, the date of the arrest or surrender of the defendant;

19 (6) if the defendant is arrested or surrenders in another state or country, the date  
20 the defendant is returned to this state;

21 (7) if the defendant has been referred to a preprosecution or court diversion  
22 program, the date a notice is filed in the court that the defendant has been deemed not eligible for,  
23 is terminated from, or is otherwise removed from the preprosecution or court diversion program;

1                   (8)     if the defendant’s case is severed from a case to which it was previously  
2 joined, the date from which the cases are severed, except that the nonmoving defendant or at least  
3 one of the nonmoving defendants shall continue on the same basis as previously established under  
4 these rules for track assignment and otherwise;

5                   (9)     if a defendant’s case is severed into multiple trials, the date from which the  
6 case is severed into multiple trials, except that the court shall continue at least one of the  
7 previously-joined defendants or counts on the original track assignment, which defendant or counts  
8 shall be determined by the court upon consideration of the complexity of the now-severed cases  
9 or counts;

10                  (10)    if a judge enters a recusal and the newly-assigned judge determines the  
11 change in judge assignment reasonably requires additional time to bring the case to trial, the date  
12 the recusal is entered;

13                  (11)    if the court grants a change of venue and the court determines the change in  
14 venue reasonably requires additional time to bring the case to trial, the date of the court’s order; or

15                  (12)    if the court grants a motion to withdraw defendant’s plea, the date of the  
16 court’s order.

17                  I.     **Failure to comply.**

18                  (1)     If a party fails to comply with any provision of this rule or the time limits  
19 imposed by a scheduling order entered under this rule, the court shall impose sanctions as the court  
20 may deem appropriate in the circumstances and taking into consideration the reasons for the failure  
21 to comply.

22                  (2)     In considering the sanction to be applied the court shall not accept  
23 negligence or the usual press of business as sufficient excuse for failure to comply. If the case has

1 been refiled following an earlier dismissal, dismissal with prejudice is the presumptive outcome  
2 for a repeated failure to comply with this rule, subject to the provisions in Subparagraph (I)(6).

3 (3) A motion for sanctions for failure to comply with this rule or any of the  
4 Rules of Criminal Procedure must be made in writing, except that an oral motion may be made  
5 during a setting scheduled for another purpose if the basis of the motion was not and reasonably  
6 could not have been known prior to that setting.

7 (4) The sanctions the court may impose under this paragraph include, but are  
8 not limited to, the following:

9 (a) a reprimand by the judge;

10 (b) prohibiting a party from calling a witness or introducing evidence;

11 (c) a monetary fine imposed upon a party's attorney or that attorney's  
12 employing office with appropriate notice to the office and an opportunity to be heard;

13 (d) civil or criminal contempt; and

14 (e) dismissal of the case with or without prejudice, subject to the  
15 provisions in Subparagraph (I)(6).

16 (5) The court shall not impose any sanction against the State for violation of  
17 this rule if an in-custody defendant was not at a court setting as a result of a failure to transport,  
18 except that the court may impose a sanction if the failure to transport was attributable to the  
19 prosecutor's failure to properly prepare and serve a transportation order if so required.

20 (6) The sanction of dismissal, with or without prejudice, shall not be imposed  
21 if the failure to comply with this rule is caused by extraordinary circumstances beyond the control  
22 of the parties. Any court order of dismissal with or without prejudice or prohibiting a party from

1 calling a witness or introducing evidence shall be in writing and include findings of fact regarding  
2 the moving party's proof of and the court's consideration of the above factors.

3 **J. Extension of time for trial; reassignment; dismissal with prejudice; sanctions.**

4 (1) *Extending date for trial; good cause or exceptional circumstances;*  
5 *reassignment to available judge for trial permitted; sanctions.* The court may extend the trial date  
6 for a total of up to thirty (30) days for a track 1 case, forty-five (45) days for a track 2 case, and  
7 sixty (60) days for a track 3 case, upon showing of good cause which is beyond the control of the  
8 parties or the court. To grant such an extension the court shall enter written findings of good cause.  
9 If on the date the case is set or reset for trial the court is unable to hear a case for any reason,  
10 including a trailing docket, the case may be reassigned for immediate trial to any available judge  
11 or judge pro tempore, in the manner provided in Paragraph K of this rule. If the court is unable to  
12 proceed to trial and must grant an extension for reasons the court does not find meet the  
13 requirement of good cause, the court shall impose sanctions as provided in Paragraph I of this rule,  
14 which may include dismissal of the case with prejudice subject to the provisions in Subparagraph  
15 (I)(6). Without regard to which party requests any extension of the trial date, the court shall not  
16 extend the trial date more than sixty (60) days beyond the original date scheduled for  
17 commencement of trial without a written finding of exceptional circumstances approved in writing  
18 by the chief judge or a judge, including a judge pro tempore previously approved to preside over  
19 such matters by order of the Chief Justice, that the chief judge designates.

20 (2) *Requirements for extension of trial date for exceptional circumstances.*

21 When the chief judge or the chief judge's designee accepts the finding by the trial judge of  
22 exceptional circumstances, the chief judge shall approve rescheduling of the trial to a date certain.

23 The order granting an extension to a date certain for extraordinary circumstances may reassign the

1 case to a different judge for trial or include any other relief necessary to bring the case to prompt  
2 resolution.

3 (3) ***Requirements for multiple requests.*** Any extension sought beyond the date  
4 certain in a previously granted extension will again require a finding by the trial judge of  
5 exceptional circumstances approved in writing by the chief judge or designee with an extension to  
6 a date certain.

7 (4) ***Rejecting extension request for exceptional circumstances; dismissal***  
8 ***required.*** In the event the chief judge or designee rejects the trial judge's request for an extension  
9 based on exceptional circumstances, the case shall be tried within the previously ordered time limit  
10 or shall be dismissed with prejudice if it is not, subject to the provisions in Subparagraph (I)(6).

11 K. **Assignment calendar for cases.**

12 (1) ***Scheduling by event categories; trailing docket; functional overlap among***  
13 ***judges.*** The presiding judge of the criminal division shall establish an assignment calendar for all  
14 judges. The assignment calendar shall identify the weeks or other time periods when each judge  
15 will schedule events in the following categories: trials; motions and sentencing; arraignments,  
16 pleas and miscellaneous matters. Each judge may schedule an event in the week or other time  
17 period set aside for that event category, on a trailing docket. The assignment calendar shall include  
18 functional overlap so that more than one judge is always scheduled to hear matters in each event  
19 category on any given day. In the scheduled weeks or other time periods, the judges shall schedule  
20 events within the time requirements of Paragraph G of this rule.

21 (2) ***Reassignments permitted.*** If on or before the date of a scheduled event, the  
22 assigned judge is or will be unable to preside over the scheduled event for any reason, including a

1 trailing docket, vacation, or illness, the case may be reassigned by order of the presiding judge of  
2 the criminal division to another judge on the assignment calendar so long as the other judge

3 (a) is scheduled that day to hear that category of scheduled event; and

4 (b) was not subject to a previously-exercised peremptory excusal.

5 This subparagraph does not apply to sentencing hearings following a trial. The judge who presided  
6 at trial shall conduct the sentencing. The court may adopt a form of order to expedite permitted  
7 reassignments.

8 (3) *Reassignment for scheduled event; case returns to original judge.* If  
9 another judge scheduled on the assignment calendar for the type of scheduled event is not available  
10 to immediately preside over the scheduled event, the assigned judge may designate any other new  
11 calendar judge, or a judge pro tempore previously approved by order of the Chief Justice and  
12 designated by the chief judge for this purpose, to preside over the scheduled hearing, trial, or other  
13 scheduled event. A judge designated for this purpose shall not have been previously excused from  
14 the case. Upon conclusion of the hearing, trial, or other scheduled event, the case shall again be  
15 assigned to the original judge without requirement of further order, except when the reassignment  
16 was for trial in which case the judge who presided over the trial shall also preside over sentencing.

17 L. **A new probable cause determination is not required for recently refiled**  
18 **charges.** If a probable cause determination has been made by preliminary hearing or grand jury  
19 and the court dismisses the case without prejudice, the same charges may be refiled under the same  
20 case number by information within six (6) months of the dismissal without requiring a new  
21 probable cause determination.

22 M. **Data reporting to the Supreme Court required.** The chief judge, district  
23 attorney, and public defender shall provide statistical reports to the Supreme Court as directed.

1  
2 [Adopted by Supreme Court Order No. 14-8300-025, effective for all cases pending or filed on or  
3 after February 2, 2015; as amended by Supreme Court Order No. 16-8300-001, effective for new  
4 cases filed and for pending cases in which a track assignment is made on or after February 2, 2016;  
5 LR2-400 recompiled and amended as LR2-308 by Supreme Court Order No. 16-8300-015,  
6 effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme  
7 Court Order Nos. 17-8300-031 and 18-8300-001, effective for all cases pending or filed on or after  
8 January 15, 2018; as amended by Supreme Court Order Nos. 22-8300-012 and 22-8300-014,  
9 effective September 12, 2022, as directed in Supreme Court Order No. 22-8500-031; as amended  
10 by Supreme Court Order No. S-1-RCR-2024-00120, effective for all cases filed on or after  
11 December 31, 2025.]