

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

| | | |
|---------------------------|---|-------------------------|
| IN THE MATTER OF CRIMINAL |) | ADMINISTRATIVE ORDER |
| COMPLEX CASE DESIGNATION |) | NO. 2009-109 |
| AND MANAGEMENT |) | (Replaces No. 2007-023) |
| _____ |) | |

The Arizona Supreme Court has set time limits for complex criminal case processing under Rule 8.2, Arizona Rules of Criminal Procedure. Complex cases include (1) all first degree murder cases, (2) all cases that will require the court to consider evidence obtained as the result of an order permitting the interception of wire, electronic or oral communication, and (3) any case that the court, in a written factual finding, designates as complex.

All cases filed on and after December 1, 2005 that are determined to be complex shall be tried within 270 days from arraignment. See Rule 8.2(a)(3), Arizona Rules of Criminal Procedure.

The just and speedy processing of complex criminal cases requires a uniform and active case management policy. The following procedures shall be followed by the Superior Court in Maricopa County for the designation and management of non-capital complex criminal cases.

IT IS ORDERED:

1. All criminal cases filed on or after December 1, 2002 that are designated "complex" pursuant to Rule 8.2(a)(3) shall be managed pursuant to this Complex Case Management Plan.

2. Complex Case Designation:

All first degree murder cases will be automatically designated as complex by Court Administration at the time of arraignment, pursuant to Rule 8.2(a)(3).

Although capital cases are designated complex pursuant to Rule 8.2(a)(3), they are subject to the provisions set forth in Administrative Order No. 2009-108 rather than this Order.

In all other non-capital criminal cases that any party wishes to be designated as complex, a detailed written Motion for Complex Case Designation shall be filed with the Presiding Criminal Judge or his/her designee. The motion shall be accompanied by a proposed form of order setting forth the factual findings supporting designating the case as complex, as required by Rule 35.7.

Factors to be considered in determining if a case should be designated as complex include, but are not limited to, the following:

- a. Source of evidence from interception of wire, electronic or oral communication
- b. Number of defendants;
- c. Number of counts;
- d. Nature of charges;
- e. Number of witnesses/victims to be called;
- f. Expert witnesses -- number, nature of testimony, etc.;
- g. Out-of-town witnesses;
- h. Number of exhibits;
- i. Nature of exhibits;
- j. Defendant's pro se status;
- k. Complex legal issues;
- l. The timing of the motion to designate the case complex.

A minute entry similar to the attached Complex Case Designation & Case Management Order (attachment "A") shall be issued when a case is designated as complex.

A Scheduling Conference shall be set on either the Motions Judge's calendar or the assigned trial judge's calendar as soon as possible, but no later than 60 days after the case has been designated as complex.

3. Scheduling Conference:

At the Scheduling Conference, the judge will meet with the lawyers who will try the case. The defendant(s) shall also be present. The trial date shall be set within 270 days of arraignment. The judge shall schedule regular Case Management Conferences and a Settlement Conference, and schedule a Final Trial Management Conference within one week before trial. A minute entry similar to the attached Trial Date Setting & Complex Case Management Schedule (attachment "B") shall be issued at the first Scheduling Conference.

4. Case Management Conferences:

Upon designation of a case as complex, the Motions Judge (if the case is assigned to the master calendar) or the trial judge (if the case is assigned to an individual judge) shall schedule and conduct regular Case Management Conferences, every 30 to 45 days, and shall order counsel for the state and defendant(s) to file a Joint Case Management Report at least two (2) working days before each conference.

The court will set forth in writing at each Case Management Conference the activities to be completed before the next Case Management Conference.

5. Continuances:

Any request or motion to continue the trial date or extend the last day in a complex case must be in writing, pursuant to Rule 35.1.

- a. Cases assigned to the master calendar: A motion to continue the trial date within the current last day may be decided by the Motions Judge with whom the motion is filed. Any motion to continue the trial date beyond the current last day or to extend the last day shall be directed to the Assignment Judge for ruling.
- b. Cases assigned to an individual downtown criminal judge: A motion to continue the trial date within the current last day may be ruled on by the assigned judge. Any motion to continue the trial date beyond the current last day or to extend the last day shall be directed to the Criminal Department Presiding Judge or his/her designee for ruling.

If a continuance is granted, a minute entry shall contain the following:

- a. A statement of the specific extraordinary circumstances found by the judge to justify the continuance;
- b. The party who requested the continuance;
- c. A statement whether the opposing party opposed the continuance, stipulated to the continuance or took no position on the request for continuance;
- d. If the continuance is on the court's own motion, a statement whether any of the parties opposed the continuance, agreed to the continuance or took no position on the continuance.

6. Reporting and Compliance:

The Criminal Department Presiding Judge shall regularly review and report to the Presiding Judge and Bench the number and status of all pending complex cases, and take any action needed to insure timely and uniform compliance with this Administrative Order.

DATED this 3rd day of September, 2009.

Barbara Rodriguez Mundell
Presiding Judge

Original: Clerk of the Court

Copies: Hon. Gary Donahoe, Criminal Department Presiding Judge
All Criminal Court Judges and Commissioners
Marcus Reinkensmeyer, Judicial Branch Administrator
Phil Knox, Court Administrator, General Jurisdiction Courts
Bob James, Criminal Court Administrator
Maricopa County Sheriff's Office
Maricopa County Attorney's Office
Office of Public Defense Services
Office of the Public Defender
Office of the Legal Advocate
Office of the Legal Defender

(Attachment A)

**COMPLEX CASE DESIGNATION
& CASE MANAGEMENT ORDER
COMPLEX CASE:**

IT IS ORDERED granting the (state's/defendant's) Motion for Complex Case Designation for the following reason(s):

- ___ First Degree Murder (Capital/Non-capital)
- ___ Wiretap evidence to be used
- ___ Other (detail below):

SCHEDULING CONFERENCE & JOINT CASE MANAGEMENT PLAN:

IT IS FURTHER ORDERED setting a Scheduling Conference for _____, 200__ at ___ am/pm (___ minutes) before _____.

No less than two working days before the first Scheduling Conference, the state and defendant(s) shall file a Joint Case Management Plan expressly addressing the following issues:

1. Proposed trial date;
2. Length of trial and number of witnesses;
3. Final Trial Management Conference date;
4. Brief summary of alleged facts;
5. Discovery production schedule;
6. Witness interview schedule;
7. List of motions needing evidentiary hearing (length of hearing);
8. Schedule for filing motions, responses and replies;
9. Schedule for Motions in Limine;
10. Expert witness issues (dates for defense to disclose experts and opinions, if different date than called for in Rule 15);
11. Special investigative needs;
12. General status of plea negotiations;
13. Plea cut-off date;
14. Settlement conference date;
15. Interpreter needs;
16. Schedule of regular Case Management Conferences.

At the Scheduling Conference, the court will set a Trial Date and Case Management Conference schedule. Case Management Conferences will be set every 30 to 45 days.

The lawyers who will try the case and the defendant(s) shall attend each Case Management Conference. The purpose of the Case Management Conference will be to review pretrial preparation to date, resolve issues, and schedule activities to be accomplished before the next Case Management Conference.

JOINT CASE MANAGEMENT REPORTS:

No less than two working days before each Case Management Conference, the parties shall submit a Joint Case Management Report. This report will inform the court of:

1. The specific progress made since the last Case Management Conference in completing activities previously established by the court and the parties;
2. Specific case preparation to be completed before the next Case Management Conference;
3. Witnesses who have been interviewed in the preceding month;
4. Witnesses who will be interviewed in the upcoming month;
5. Pending issues to be resolved.

(ATTACHMENT B)

**TRIAL DATE SETTING & COMPLEX CASE MANAGEMENT SCHEDULE
(to be issued at the first Scheduling Conference)**

TRIAL DATE:

IT IS ORDERED setting the trial for _____, 200__ at _____ am/pm
(___ trial days).

[Time Limits: 270 days in a complex case]

**[ANY REQUEST FOR CONTINUANCE IN A COMPLEX CASE MUST BE
FORWARDED TO THE CRIMINAL DEPARTMENT PRESIDING JUDGE OR
HIS/HER DESIGNEE FOR RULING]**

CASE MANAGEMENT CONFERENCES:

IT IS FURTHER ORDERED setting regular Case Management
Conferences, every 30 to 45 days, as follows:

1. _____, 200__, at _____ am/pm (___ minutes)
2. _____, 200__, at _____ am/pm (___ minutes)
3. _____, 200__, at _____ am/pm (___ minutes)
4. _____, 200__, at _____ am/pm (___ minutes)
5. _____, 200__, at _____ am/pm (___ minutes)

The parties shall file a Joint Case Management Report, as described in
the Complex Case Designation & Case Management Order, at least 2 working
days before each Case Management Conference.

The following activities shall be completed before the next Case
Management Conference of _____, 200__:

1. _____.
2. _____.
3. _____.
4. _____.
5. _____.
6. _____.
7. _____.
8. _____.
9. _____.
10. _____.

SETTLEMENT CONFERENCE:

IT IS FURTHER ORDERED that the parties shall participate in a Settlement Conference before the Honorable _____, on _____, 200__, at ____ am/pm, or before a judge to be later selected by counsel or assigned by the court.

FINAL TRIAL MANAGEMENT CONFERENCE & JOINT PRETRIAL STATEMENT:

IT IS FURTHER ORDERED setting the Final Trial Management Conference (FTMC) for _____, 200__ at ____ am/pm. At least two working days before the FTMC, the parties shall file a Joint Pretrial Statement including the following information:

1. Charges, sentencing ranges (including any sentence enhancements alleged) and list of aggravating factors to be decided by the jury
2. Settlement status (to be discussed with trial judge)
3. Plea offer: _____
4. Settlement Conference occurred (Y/N): _____
5. Are Defendant and State willing to further discuss settlement? _____
6. Number of trial jurors and alternates: _____
7. List of witnesses to be called
8. Estimated trial days: _____
9. Brief statement of case to be read to jury (attach)
10. Special jury voir dire questions (attach)
11. List of Standard Jury Instructions, plus original and one copy of any special Jury Instructions (attach)
12. Other issues