

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: 2015-CF-10160
DIVISION: CR-A

STATE OF FLORIDA

vs.

HOWARD SHELDON SCHNEIDER

MOTION FOR PROTECTIVE ORDER

Comes now the Defendant, Howard Sheldon Schneider, by and through undersigned counsel, and hereby moves this Honorable Court for a protective order. In support thereof, the Defendant states:

1. Defendant is charged with eleven counts of medicaid provider fraud in violation of §409.920(2)(A)2, Fla. Stat. (2015) and one count of schemes to defraud in violation of §817.034(4)(A)3, Fla. Stat. (2015).
2. His arraignment is set for February 8, 2016 at 9:00 a.m.
3. Defendant has heretofore filed a Written Plea of Not Guilty.
4. The necessity for a personal appearance at the arraignment is required by this Court per an oral order entered at the last Court appearance.
5. Since the entry of the oral order requiring the Defendant's presence, a substantial amount of adverse publicity including television broadcasts and newspaper reports have generated a great deal of hostility among the citizens of Jacksonville directed against Defendant.
6. Defendant is fearful for his physical well being by having to personally appear at arraignment after such negative adverse publicity.

7. Furthermore, it would appear that the large media presence in the courtroom is present merely to capture images of Defendant to be circulated with the aforementioned negative publicity. Such widespread negative media coverage could impair Defendant's ability to secure a fair and impartial trial, necessitating a change of venue. *See Fla.R.Crim.P. 3.240(a)*. Thus, this Court should not require Defendant to personally appear at arraignment as the prejudice to be suffered by the Defendant outweighs the interest of this Court's normal operating procedures, in this particular matter.

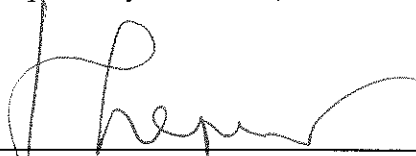
8. Furthermore, Defendant has filed a Written Plea of Not Guilty, Waiver of Arraignment and Pretrial Conference and Reservation of Rights, thereby invoking his rights under Fla.R.Crim.P. 3.160(a) to waive arraignment entirely. Although the trial court still retains discretion to require a Defendant to personally appear, such discretion is subject to limitations:

The trial judge may inherently provide such reasonable predicates and procedures in the use of the not guilty plea in writing by counsel, as may be reasonable and proper to facilitate the administration of the court so long as they are consistently applied and do not arbitrarily deny to a Defendant the privilege afforded by the rule of filing a written not guilty plea by his duly authorized counsel.

State ex rel. Evans v. Chappel, 308 So.2d 1,3 (Fla. 1975). *See also Albritton v. White*, 948 So.2d 852, 854 (Fla. 2nd DCA 2007) ("It does not appear that there were any circumstances particular to *Albritton* that would justify ordering her to appear at the arraignment after counsel filed a written plea of not guilty pursuant to Rule 3.160"); *Tellis v State*, 779 So.2d 352, 354 (Fla. 2d DCA 2000) ("Refusal to honor a written plea of not guilty would never be approved as a standard procedure by a trial court and an exception to the right to enter a written plea of not guilty should be employed only under the most unusual circumstances").

WHEREFORE, Defendant moves this Honorable Court for an entry of an order forgiving him from personal appearance at arraignment in light of his Written Plea of Not Guilty.

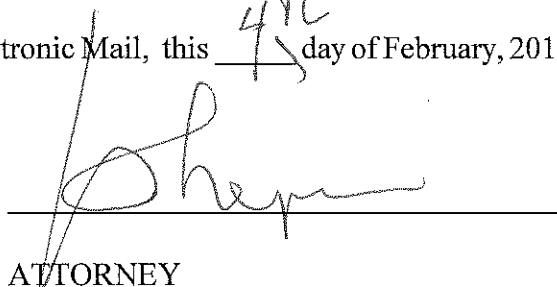
Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to **Emmanuela Charles, Esquire**, Assistant Attorney General, Medicaid Fraud Control Unit, 1300 Riverplace Boulevard, Suite 405, Jacksonville, Florida 32207 <SAO4DuvalCriminal@coj.net> and <emmanuela.charles@myfloridalegal.com> by Electronic Mail, this 4th day of February, 2016.



ATTORNEY