

UNIFIED FAMILY COURT POLICIES & PROCEDURES
HONORABLE SCOTT CUPP
(effective December 5, 2018)

NOTICE OF RELATED CASES IN UNIFIED FAMILY COURT: Petitioners in any family case are **required to file a Notice of Related Cases pursuant to Rule 2.545(d), Rules of Judicial Administration.** Related cases shall be assigned to one judge or will otherwise be coordinated in order to conserve judicial resources and to promote an efficient determination of the actions. Family cases include dissolution of marriage, dependency, delinquency, injunctions and all other cases identified in Rule 2.545(d)(2). All parties have a continuing duty to disclose any related proceeding in this state or any other jurisdiction.

MAGISTRATES: In the Family Division, **parties are encouraged to schedule hearings before a Magistrate.** Generally, evidentiary hearings can be heard by the magistrate at an earlier date than if the matter is heard by the judge. Before submitting an Order of Referral to Judge Cupp's office, the moving party should confirm that the opposing party will consent to the use of a magistrate for that motion or hearing. When submitting the proposed Order of Referral, the cover letter to Judge Cupp shall state whether the opposing party consents to the magistrate hearing the matter.

The following matters may be heard by **Magistrate Ellis:** Motion to Compel Discovery, Motion for Protective Order, Motion for Sanctions, Motion for Contempt (or Enforcement), Motion for Attorney's Fees, Motion for Temporary Relief, Motion to Amend Pleadings, Motion to Withdraw, Petitions to Relocate, and Petitions to Modify Final Judgment and Final Hearings. In cases where there is a self-represented party or parties, the magistrate may also hear Status/Case Management Conference, Pretrial Conference and Trial (Final Hearing).

DO NOT SET A HEARING WITH THE MAGISTRATE UNTIL THE ORDER OF REFERRAL HAS BEEN ENTERED BY THE COURT.

For any matter referred to a magistrate please refer to the Magistrate Ellis online instructions located at the Collier Magistrate's link for the [20th Judicial Circuit JACS page](#).

If a party files a written objection to the referral to a magistrate prior to the hearing, the hearing should be reset on Judge Cupp's calendar.

[SEE JUDGE CUPP'S REQUIREMENTS FOR SETTING A HEARING](#)

MOTION AND HEARING TIME: All hearings less than one hour are to be scheduled through the Judicial Automated Calendaring System (JACS). JACS can be accessed online at <https://www.ca.cjis20.org/home/main/jacs.asp> . All motions shall be filed **prior** to reserving hearing time. Once a hearing is scheduled, no additional motions are to be added absent approval of **opposing counsel and the Court.**

LENGTH OF HEARING: Length of hearing choices are 5, 15, 30 minutes and some one hour slots. Attorneys are not permitted to schedule back to back hearings in order to acquire a longer block of hearing time. **Any hearing scheduled in this matter will be canceled.** It is

recommended that 5-minute time slots be used for motions to withdraw or uncontested final hearings. A Motion for Temporary Relief regarding children issues **MUST** be mediated prior to a hearing being held (See Standing Order for Domestic Relations with Children –paragraph 2).

UNCONTESTED DISSOLUTION OF MARRIAGE: Uncontested dissolutions include only those cases where the parties have entered into a written settlement agreement resolving all issues, a default has been entered or an answer and waiver has been filed and minimal testimony taking five minutes or less to present the matter to the Court is required relative to parental responsibility, timesharing, child support or alimony.

Final Hearings on uncontested dissolutions of marriage may be heard by scheduling through JACS on a 5-minute slot. It is the responsibility of the party noticing the matter for final hearing to send a copy of the Notice of Final Hearing to opposing party. [Checklist/Requirements for Uncontested Dissolution of Marriage.](#)

Any default, answer and waiver being relied upon must be docketed in the court file when presented to the judge at final hearing.

The following shall be submitted to the Court at the conclusion of the Final Hearing:

- Final Judgment (original and sufficient number of copies for the parties)
- Income Deduction Order (original and sufficient number of copies for the parties)
- Final Disposition Form

UNCONTESTED ADOPTIONS & NAME CHANGES: Uncontested adoptions and name changes **MUST** be scheduled with judicial assistant

HEARINGS MORE THAN 60 MINUTES must be requested in writing or email ([**IMiller@ca.cjis20.org**](mailto:IMiller@ca.cjis20.org)) along with a copy of the motion(s) with specific details **and** copying the other side. It is not necessary that you send the judge exhibits you have attached to your motion-only submit the body of the motion. The judicial assistant will call the attorney or self-represented party to schedule these hearings. **Hearings are limited to the time reserved.**

A party/attorney scheduling a hearing must **concurrently notice** the matter in conformance with the Florida Rules of Civil Procedure and ensure timely notice is served on all pro-se parties and counsel of record in advance of the hearing. The original notice must be timely e-filed with the clerk of court. A hearing notice for all hearings that will be evidentiary in nature and involving presentation of evidence (affidavits, testimony, exhibits, etc.) shall clearly indicate it is an evidentiary hearing.

Except for cancellations, there can be no changes, additions, swapping, or other alterations of the motion calendar. Attempts to accommodate such requests in the past have resulted in unnecessary confusion and inadequate notice to opposing counsel.

TELEPHONIC APPEARANCE: Hearings via telephone are permitted if the hearing is scheduled for 15 minutes or less and is a **non-evidentiary** hearing. See: Fla. R. Jud. Admin.

2.530(c). If the hearing is scheduled for more than 15 minutes, no telephone appearances are permitted. All phone hearings must be set up through CourtCall at **least three (3) business days in advance of the hearing**. CourtCall can be contacted at 888-882-6878 or www.courtcall.com. Telephonic appearances must be approved by the Court by e-filing a Motion to Appear Telephonically and submitting an Order Granting Telephonic Appearance via CourtCall directly to the Judge's office. Telephonic appearances should be noted on the Notice of Hearing along with the JACS confirmation number provided.

CANCELLATION POLICY FOR MOTIONS: All requests for cancellations of motions set on Judge Cupp's calendar must be submitted by the attorney or party who set the hearing and the cancellation must be agreed upon by all parties, regardless of who set the hearing. If the cancellation request for a hearing is on a hearing that is set seven (7) days or less from the date of cancellation request, Judge Cupp will not allow cancellation of the hearing unless the issues set on the motion calendar have been completely resolved. To obtain Court approval of a last minute cancellation request (7 days or less) you **MUST** submit a written request to Judge Cupp on your letterhead. The letter must state you have copied all parties and they are in full agreement of the settlement and the cancellation, and that the settlement papers will be forthcoming.

If the hearing cancellation request is on a hearing set at least 8 days from date of hearing cancellation request, you may cancel the hearing if you have obtained approval by all parties.

EMERGENCY HEARINGS: All matters considered to be an emergency by a party or counsel must be stated in a written motion that is filed with the clerk and served on the opposing party or counsel, if any. A copy of the motion must be delivered to the judge's office after the original has been filed and served. The judge will review the motion to determine if there is an emergency. If so, the judge will decide how to address the emergency with an order to show cause, expedited hearing time, or other appropriate relief. If there is no emergency, hearing time in the ordinary course will be given. **All emergency motions must be sworn to and signed by the party.** If emergency motion relates to a children's issue, a UCCJEA affidavit must accompany the motion.

EX PARTE ORDERS: An *ex parte* order is one that is entered without notice to the opposing party and without an opportunity for the opposing party to be heard before the order is entered. In most cases, an *ex parte* order may violate due process of law and orders that violate due process are void, unenforceable and a nullity. Nevertheless, the law does allow *ex parte* orders in some situations, e.g., F.S. §741.30(5)(a), which allows an *ex parte* injunction to be entered for protection against domestic violence. **Motions for an *ex parte* order must contain specific citations to the legal authority that gives the judge the authority to enter an *ex parte* order in the situation alleged in the motion. Without such legal citations, *ex parte* relief may be denied. Strict compliance with Rule 1.610, Rules of Civil Procedure, is required.**

CASE MANAGEMENT: In most family cases, the Court will enter an Order Scheduling Judicial Case Management Conference to be held within 90 days after the filing of a petition. **The personal appearance of counsel of record and the parties at the case management conference is MANDATORY.** Bring your calendar to the conference as dates will be set for future court appearances.

Additional case management conferences will NOT be set by the Court unless requested in writing by a party or upon the Court's own motion if complex issues arise.

MOTIONS FOR REHEARING/NEW TRIAL/TO ADVANCE CASE. Motions for Rehearing, New Trial and to Advance Case must be submitted in writing. Judge Cupp will then decide whether a hearing or new trial will be granted. Please send a courtesy copy of the motion directly to the Judge's chambers with a transmittal letter. The Clerk does not routinely forward Motions to the Judge's office. **Motions filed with the Clerk may not be seen by the Court.**

Also, Motions to Advance on Trial Docket are reviewed by the judge without hearing. Please submit your copy of the motion with a cover letter and you will receive notice of the judge's decision.

CHILD TESTIMONY: Testimony from children is not permitted unless the Court grants permission after a hearing on a Motion to Allow Child Testimony. The Court will not automatically honor stipulations for a child to testify in Court. DO NOT bring children to the Courthouse without prior approval by the Court. See Fla R. Fam P. 12.407

ORDERS PRESENTED AFTER HEARINGS

We do not hold orders pending objections from opposing counsel. Your options are:

- a. Be prepared at the hearing with a proposed order, appropriate copies and pre-addressed stamped envelopes.
- b. If you cannot agree on the language in the order at the time of hearing, you should:
 1. Consult with opposing counsel and work out an acceptable order on blank forms provided by the Court. You may return the agreed order to the Clerk, and it will be executed the same day.
 2. Email a stipulated order (NOT BOTH) (in WORD Format) after the hearing with a cover letter that opposing counsel has reviewed the order presented and has no objection thereto. You must include opposing counsel in the email. If the other side is self-represented, you must state in the body of your email if you have served the self-represented a copy.

All orders must reflect the date on which the matter was heard. The title of the order must reflect and identify the matter heard. (i.e. Order on Husbands' Motion for Temporary Relief) Orders tendered that are not stipulated or agreed to by all counsel **will be returned** unexecuted to the party presenting the order. If you can't reach opposing counsel, keep trying. This is not an acceptable reason for submitting an order without prior review by opposing counsel. If opposing counsel does not agree or stipulate to the form of the order, please advise the judge in writing. The judge will then review all proposed orders, and if necessary, will schedule another hearing.

NOTICES FOR TRIAL: Upon receipt of a Notice for Trial, the Court will schedule and hear the pretrial conference in accordance with the Court's standard pre-trial order. Please include all pertinent information which includes: number of days estimated for your trial; certificate of service with all parties/attorneys complete information, including their mailing address. **DO NOT FILE YOUR NOTICE FOR TRIAL UNTIL YOUR CASE IS READY FOR TRIAL.**

TRIAL DOCKETS: When a Notice for Trial is filed, the following occurs:

1. A photocopy of the notice is sent from the Clerk's office to the Judge's office.
2. The case will be set for pretrial and trial in the order that the Notices for Trial are filed. **IN ALL CASES MEDIATION MUST BE COMPLETED PRIOR TO THE PRETRIAL CONFERENCE.**
3. The pretrial will generally be set on the next available docket. Once your case is scheduled for trial, it is the responsibility of the lawyers to keep the judge's office informed. Our office cannot possibly call all the lawyers on a trial docket to check the status of each case prior to trial. **Please let us know when you have settled or otherwise disposed of your case.** In general, the sooner you prepare your case for trial, the sooner you will be assigned a trial date.

Once placed on a trial docket, occasionally, cases may need to be taken out of order so we can dispose of as many cases as possible in a trial period. The Court does not give preference to certain lawyers, parties or cases. The Court will set your trial where it will fit on the Court's calendar.

MOTIONS TO CONTINUE: Pursuant to Rule of Judicial Administration 2.545(e), Motions to Continue shall be heard by the judge and not referred to the Magistrate. Except for good cause shown, the motions to continue must be signed by the **party** requesting the continuance.

TELEPHONE: Telephone hours are from 9:00 a.m. to 4:30 p.m. Due to the high volume of phone calls the family division receives, you will unlikely reach the judicial assistant in person. Therefore, when calling and leaving a voice mail, please state your name, case number, telephone number (including extension number) and a brief message. Your phone call will be returned. It is not necessary for the Judicial Assistant to call back to confirm that your message was received. Calls of that nature are not returned.

MEMORANDA OF LAW/TRIAL OR HEARING BRIEFS: Any Memorandum of Law, Trial Brief, or Hearing Brief shall be submitted to the Judge or Judge's Chambers at least two (2) working days prior to the date of the hearing or the first day of the trial period for which your case has been scheduled. Full copies of all citations/cases shall be provided to the Court. Such a Memorandum or Brief should not be longer than ten (10) pages and should contain any disputed legal issues for consideration by the Court. Do not submit lengthy notebooks with case law and exhibits to the judge prior to hearing or the trial. They will not be accepted. However, notebooks which contain case law and exhibits may be presented to the judge for reference during the hearing or the trial.

MISCELLANEOUS: Please include a cover letter explaining your request with all pleadings or orders sent to our office. You know what you want - we can only guess when an unexplained pleading or order comes in a month or so after the proceeding to which it relates. In most cases, the unexplained pleading will receive no action or be discarded.

Thanks for your cooperation!

Other people who can help:

Ivelisse, Judicial Assistant (239) 252-8110
Court Administration (239) 252-8800