

CIRCUIT COURT JUDGE RUSSELL T. KIRSHY
DOMESTIC RELATIONS DOCKET
REQUIREMENTS AND PROCEDURES

1. PROFESSIONALISM AND CIVILITY REQUIRED IN ALL CASES

In accordance with the direction from the Florida Supreme Court, this Court shall require professionalism and civility from the litigants in all cases. Lawyers must adhere at all times to the Florida Rules of Professional Conduct and the Oath of Admission to practice law in the State of Florida. Self-Represented parties must follow the same rules, procedures and laws that lawyers must follow in court. Self-represented parties are not entitled to any special treatment merely because they are not represented by counsel. Everyone in the courtroom is expected to conduct themselves with civility as to everyone else. The Court shall not tolerate the failure to adhere to the standards and sanctions may be imposed as well as referral to appropriate disciplinary authorities if necessary.

2. COMMUNICATIONS WITH THE COURT

Telephone

Please review these *Requirements and Procedures* before contacting the Judicial Assistant (JA) at 239-252-8116 to avoid unnecessary questions. Self-Represented litigants should only email with the Court's or the JA's permission. Self-Represented litigants must follow the Twentieth Judicial Circuit's rules for Self-Represented/*Pro Se* parties, which are available at:

<https://www.ca.cjis20.org/Programs/Family-Court-Services/prose.aspx>

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 as soon as possible. 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.

Mail

The Court's mailing address is:
Circuit Judge Russell T. Kirshy
3315 Tamiami Trail East, Suite 304
Naples, FL 34112

Correspondence to the Judge from a party is considered ex-parte communication and cannot be read by the Judge. Do not mail letters to the Judge. Do not mail original documents to the Judge's office for filing. Proposed orders submitted to the Court, by mail or through the E-filing Portal, where there has not been a prior hearing must include: a stipulation or cover letter informing the Court that the proposed order has been reviewed and approved by opposing counsel; sufficient copies for conforming; and self-addressed, stamped envelopes. **If not submitted as required, the proposed order will be returned by mail or rejected by the E-Filing Portal.**

Inquiries About Cases

Before contacting the JA about the status of a case or pending order, attorneys and their staff and self-represented parties should first review the Clerk of Court's records for the case. Before contacting the JA about the scheduling of hearings or whether hearings shall be conducted remotely or in person, attorneys and their staff and self-represented parties should first follow the requirements set forth below for said hearings.

Unsolicited Communications from non-parties

Unsolicited communications from non-parties will not be read by the Court. However, they will be filed in the record and copies provided to the parties.

3. INFORMATION FOR SELF-REPRESENTED (PRO SE) PARTIES

Judges and the Judicial Assistant may not give legal advice, including any advice or direction regarding the preparation of court documents.

Judges may not have any one-sided communication with any party. Requests to speak privately with the Judge will be refused.

Do not send letters directly to the Judge.

Judges and the Judicial Assistant must remain neutral and impartial.

A party without a lawyer is not entitled to special treatment and must follow the same rules or procedures, rules of evidence and laws that govern lawyers.

Self-Represented/Pro Se Parties may visit the office of Lee County Family Court Services, 1700 Monroe Street, Ft. Myers, FL 33901 or call 239-533-2747 for assistance in family law matters. Individuals are advised that Family Court Services staff does not represent them in their case and legal advice cannot be given. Self-Represented litigants must follow the Twentieth Judicial Circuit's rules for Self-Represented/*Pro Se* parties, which are available at:

<https://www.ca.cjis20.org/Programs/Family-Court-Services/prose.aspx>

4. SCHEDULING HEARINGS

All evidentiary hearings and trials scheduled to be heard will be conducted as in-person proceedings. Requests for remote appearances will be addressed on a case by case basis by a timely motion being filed and hearing if necessary. Motions for remote appearances in trials shall be presented no later than the pretrial conference. Any such motions filed after pretrial conference shall only be heard and granted if agreed to or, if not agreed to, if they are based on unanticipated circumstances that could not have been foreseen despite the exercise of due diligence. For remote appearances in evidentiary hearings, said remote appearances must be addressed by motion filed prior to seeking hearing time from the Judicial Assistant.

For court proceedings that are one hour or longer, the party requesting the zoom appearance will need to contact court administration to discuss the necessary equipment that will be needed for witness testimony. The parties must utilize their own Zoom account for this connection. Also, you will be required to have a representative from your office that is in the courtroom operating the equipment throughout the hearing.

Filing Motions

All motions must be filed with the Clerk prior to requesting hearing time. The motion must be visible in

the Clerk's electronic file prior to requesting hearing time. Do not email the JA for hearing time until the motion has been scanned into the Clerk's file and appears in ShowCase with the Clerk of Court.

Length of Hearings

Length of hearing choices are 5, 15, 30 minutes and some one hour slots. Requests for hearing time in excess of one hour must be submitted in writing with an explanation as to the reasons for exceeding one hour. Attorneys are not permitted to schedule back to back hearings in order to acquire a longer block of hearing time. **Any hearings scheduled by the parties that do not comply with the requirements previously stated shall be cancelled.** It is recommended that 5-minute time slots be used for motions to withdraw as counsel or uncontested final hearings, or other brief matters. 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).

Notices of Hearings

A Notice of Hearing must be filed after reserving hearing time through the JA. Please reference the date the pending motion was filed with the Clerk. **The notice of hearing must include the confirmation number that was provided by the JA.**

Time Reserved

Hearings are limited to the time reserved. The opposing party is entitled to equal time. Accordingly, the party reserving and scheduling the hearing date and time shall confer with opposing counsel and attempt to agree to the actual total time needed and requested. If counsel cannot agree to the total time needed for the hearing, counsel shall: Mail or hand deliver the JA a hard copy cover letter explaining the time requested as well as a hard copy of the motion(s) involved in the hearing request. The Court shall then promptly make a decision as to the total hearing time to be afforded.

If the parties do not adhere to the time reserved for the hearing, the Court shall stop the hearing at the end of the allotted time. The parties' hearing will be rescheduled to a later date for completion of the hearing. The parties shall have the responsibility of coordinating the new date and time with the Court and between themselves. Such rescheduled hearings will not displace other scheduled hearings merely because the rescheduled date is to finish the hearing.

No Cross Notices, Substitutions or adding of motions

Once a motion has been set for hearing, additional motions may not be "crossed-noticed", substituted or added on during the time reserved for the original motion without express consent of opposing counsel and the Court. **The scheduling party should be contacted for consent before seeking the Court's approval to add additional motions.**

Canceling Hearings

Please notify the Court of cancelations as soon as possible to make that time available for other hearings. A Notice of Cancellation of Hearing must be filed with the Clerk and a courtesy copy of the Notice provided to the Judicial Assistant via email. Your hearing will not be canceled on the Judge's docket until the Judicial Assistant is in receipt of the courtesy copy.

5. SPECIFIC MOTIONS AND HEARINGS Emergency, Expedited or Urgent Motions

All Emergency, Expedited or Urgent motions must first be filed and viewable with the Clerk's ShowCase system. A copy of the motion and a cover letter must be provided to the Court and the opposing party

shall be copied with the documents (unless the motion is a lawfully authorized ex-parte motion). Please review the following scholarly article regarding emergency motions prior to filing said motions. [Family Law Emergency Article](#)

Motions for Relocation

Relocation hearing requests are time sensitive. When a Motion for Relocation is filed, counsel must simultaneously email a copy of the motion to the Court and contact the Judge's office for hearing time. Requests must be timely made if statutory hearing time is requested.

Motions to Continue

All motions must be in writing and must state the reasons for the continuance request.

6. 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 Kirshy'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 Kirshy shall state whether the opposing party consents to the magistrate hearing the matter.

The following matters may be heard by Magistrate Dente: Motions to Compel Discovery, Motions for Protective Order, Motions for Sanctions, Motions for Contempt (or Enforcement), Motions for Attorney's Fees, Motions for Temporary Relief, Motions to Amend Pleadings, Motions 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 Dente online instructions located at the Collier Magistrate's link for the 20th Judicial Circuit. (www.ca.cjis20.org). If a party files a written objection to the referral to a magistrate prior to the hearing, the hearing should be reset on Judge Kirshy's calendar.

7. Orders Presented After Hearings

The Court will not hold orders pending objections from opposing counsel. Your options are:

- a. Be prepared at the hearing with a proposed order and appropriate copies.
- 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. Submit a stipulated order through the portal after the hearing with a cover letter that opposing counsel has reviewed the order presented and has no objection. If the other side is self-represented, you must state in the cover letter if you have served the self-represented party with 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. (e.g., Order on Motion for Temporary Relief). Orders submitted that are not stipulated or agreed to by all counsel **will be returned or rejected** unexecuted to the party presenting the order. If you cannot reach opposing counsel, keep trying. This is not an acceptable reason for submitting

an order without prior review by opposing counsel. If opposing counsel refuses to be available or cooperate or does not agree or stipulate to the form or content of the order, please advise the Judge in writing. The Judge will then review all proposed orders and enter whatever order the Court deems appropriate; or, if necessary, schedule another hearing regarding the form or content of the order to be entered.

8. Judgments and Orders After the Completion of Trials

At the completion of a trial, the Court shall endeavor to make an oral ruling on the main points litigated before the case is adjourned. The Court will then direct the prevailing party to prepare a proposed order consistent with the oral ruling. The Court reserves the right to change or add to any of the terms of the oral ruling in the final written judgment/order. If the Court is not able to provide an oral ruling after the completion of the trial and before adjuring the case, the Court will take the matter under advisement and schedule a prompt future hearing date at which it will announce the Court's oral ruling. At that point, once again, the Court will direct the prevailing party to prepare a proposed order. All proposed judgments and orders must be provided to opposing counsel prior to submittal to the Court. If opposing counsel refuses to cooperate or does not agree or stipulate to the form or content of the judgment/order, please advise the Judge in writing.

9. 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; whether a motion for any remote appearances at trial has been filed; and a certificate of service with all parties/attorneys complete information, including their mailing addresses. **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 copy of the notice is sent from the Clerk's office to the Judge's office.
2. The case will be set for pretrial conference 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 conference 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 as to the progress and status of the case. The Court shall not contact the lawyers on a trial docket to check the status of each case prior to trial. **The Court hereby requires the parties/lawyers to immediately inform the Court's JA when a case is settled or otherwise to be disposed of without the need for the trial.** 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, the Court shall attempt to adhere to the published schedule. However, the Court always reserves the power to change the published schedule in order to address competing priorities for the Court's trial availability.