

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR LEE  
COUNTY, FLORIDA FAMILY LAW DIVISION

IN RE THE MATTER OF:

Petitioner,

and

Case No.  
Division N/Judge Schreiber

Respondent.

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**PRETRIAL/PREHEARING ORDER**  
**FOR EVIDENTIARY HEARINGS/TRIALS**

(Revised July 1, 2020)

THIS CAUSE having come before the Court on the Court's own Motion and the Court being otherwise fully advised in the premises, it is hereby

**ORDERED AND ADJUDGED:**

In connection with the Florida State Court System's efforts to monitor and proactively address the effects of COVID-19 on court operations. Pursuant to instructions from Florida Supreme Court Chief Justice Charles Canady and 20<sup>th</sup> Judicial Circuit Chief Judge Michael McHugh, the following policies and procedures have been implemented in the 20<sup>th</sup> Judicial Circuit as of this date, **YOU ARE HEREBY NOTIFIED THAT EFFECTIVE June 1, 2020:**

**Trials:** All family law trials will be **conducted on-line by Zoom conferencing.** (See below regarding Zoom conferencing).

**Evidentiary hearings:** All family law evidentiary hearings will be **conducted on-line by Zoom conferencing.** (See below regarding Zoom conferencing).

**Non-Evidentiary hearings:** All family law non-evidentiary hearings, (i.e., legal arguments only) will be **conducted on-line by Zoom conferencing and/or telephonically.** (See below regarding Zoom conferencing).

**Judicial Case Management Conferences and Case Status Conferences** will be **conducted on-line by Zoom conferencing and/or telephonically.** (See below regarding Zoom conferencing).

**Emergency matters** will be handled on a case by case basis. Please forward a copy of any emergency motion to the Judicial Assistant. Only matters of extreme urgency, such as matters of life and death or instances of irreparable harm will be considered on an emergency basis. Please review the 20<sup>th</sup> Judicial Circuit Administrative Order No. 2.17 and *Loudermilk v. Loudermilk*, 693 So.2d 666 (Fla. 2d DCA 197) with regards to matters that may be considered an emergency. **Any matter deemed an emergency will be scheduled by Zoom conferencing.**

## ZOOM CONFERENCING

Zoom is a video teleconferencing application (app) available via smartphone, tablet or desktop device. Zoom has video/audio and audio only capabilities. The Zoom app is advertised as free of charge to those who select the app. In order to participate in a hearing, Zoom requires a **meeting code**. All parties, counsel, and other persons who wish to participate in a Zoom hearing must obtain the Zoom app.

It is the intention of the Court to handle any matters scheduled as indicated above through the Zoom teleconferencing app. Only in cases where a hearing participant is absolutely unable to participate through Zoom will the Court allow telephonic appearance by that participant. Telephonic only appearance will not be allowed for evidentiary hearings or trials unless otherwise as indicated herein. Persons unable to participate through the Zoom teleconferencing app must inform the Court in writing electronically (via email) no later than 72 hours prior to the Zoom hearing.

All attorneys and pro se litigants must contact the Judge's office by e-mail no later than 2 weeks prior to their hearing to notify the Court's Judicial Assistant of their e-mail address or telephone number. If a matter is scheduled for an appearance in less than 2 weeks' time, contact with the Judge's office must be made immediately upon receipt of notice of the hearing. The Court will use this information to provide the meeting code for the Zoom teleconferenced hearing. Attorneys and pro se litigants will be responsible to provide the meeting code to clients, court reporters, witnesses, interpreters and all other individuals they wish to participate in the Zoom hearing. The Court will attempt to send Zoom hearing invitations to attorneys and pro se litigants no later than 24 hours prior to the hearing. If you do not receive a Zoom invitation at least 24 hours prior to the hearing, please contact the Court's Judicial Assistant.

If a participant is unable to download the Zoom app or does not have access to one of the required devices, he/she can use a telephone to call into the conference using one of the telephone numbers provided by Zoom, using the Meeting ID and Password. Any participant requesting to appear by phone shall call in at the hearing time and for all time thereafter until admitted to the Zoom conference to allow for multiple hearings on the same meeting. In light of the limitation of available phone lines, Zoom appearances are preferred and encouraged.

It is incumbent on counsel and other persons participating in a hearing to download and sign up with the Zoom app **IN ADVANCE** of the scheduled hearing. If there are any issues with the Zoom app, you must notify the Court in advance of the hearing.

The Court requests counsel to assist unrepresented parties in facilitating compliance with this procedure by explaining the requirements of the Zoom app or directing them to the division website where this standing Pretrial/Prehearing Order is available on the 20<sup>th</sup> Judicial Circuit Court Administration website found at [www.ca.cjis20.org](http://www.ca.cjis20.org) as a download on Judge Schreiber's page.

In estimating the amount of time needed for your trial or hearing, err on the side of overestimating and keep in mind that the time requested is allocated equally between each side. Further, unavoidable technical difficulties can sometimes arise which create delays in the Zoom hearings/trials as participants enter the conference &/or move in and out of the virtual waiting room or breakout (private) rooms, so bear this in mind as well when estimating the time needed to conclude the proceedings.

In addition, all parties, attorneys, pro se litigants, witnesses and other court personnel must comply with the following procedures. These procedures are intended to supplement any Administrative Order issued by the

Florida Supreme Court or the Chief Judge of the Twentieth Judicial Circuit. Specifically, please review the Twentieth Judicial Circuit Administrative Order 2.40.

**General Requirements:**

1. **Exhibits:** All attorneys and pro se litigants are required to exchange exhibits with the opposing party no later than 10 days prior to the hearing/trial. In addition, no later than 10 days prior to the hearing/trial, the parties are required to confer remotely for the purpose of stipulating, as much as practicable, to the authenticity and admissibility of any exhibit. If a party intends to present physical exhibits which are incapable of being provided electronically, that party must provide a picture of the exhibit to the opposing party within the above time frame.

Any party who objects to any exhibit being presented by an opposing party must file a written objection within 24 hours of the evidentiary conference as indicated above. If the Court determines that the objection cannot be addressed at the hearing/trial, the matter may be continued to resolve the issue.

Attorneys and pro se litigants are responsible to ensure that any witness who will lay the predicate for the evidence to be admitted has a copy of the evidence prior to the hearing/trial.

2. **Witnesses:** All attorneys and pro se litigants are required to exchange witness lists that include the witnesses' names, email addresses, and telephone numbers no later than 10 days prior to the hearing/trial.

Attorneys and pro se litigants are responsible to ensure that their witnesses have the necessary technology to participate in the remote hearing. If the witness lacks the necessary technology, the presenting attorney/pro se litigant must file an affidavit from the witness explaining and attesting to the inability of the witness to access such technology.

3. **Administration of Oath:** Evidentiary hearings and non-jury trials require sworn testimony. The parties and witnesses who are **not** able to appear **visually** must arrange in advance to have a Notary Public present to identify them and administer the oath (Notary must personally know or have been showed identification) to the Affiant. For all other Zoom hearings and trials, either the Clerk or Judge will administer the oath. The party calling a witness for virtual testimony is responsible for ensuring the witness either has a Notary Public available or having a photo ID ready to present.

4. **Interpreters:** Attorneys and pro se litigants are responsible to provide for necessary interpreters for either a party or a witness. All interpreters must be qualified in accordance with the Florida Rules for Regulation of Spoken Language Court Interpreters except as provided for in Fla. R. Jud. Admin. 2.565. In addition, all parties must comply with F.S. 90.606, Fla. R. Jud. Admin. 2.560 and 2.565, Twentieth Judicial Circuit Administrative Order No. 2.36 as well as all other applicable rules and regulations. Parties are responsible for supplying the interpreter with the Zoom meeting code.

Parties may request a court interpreter by contacting the Twentieth Judicial Circuit Administrative Offices of the Court at <http://www.ca.cjis20.org/home/interpreterrequest/>.

More information regarding court interpreters may be found at <https://www.ca.cjis20.org/home/main/interpreters.asp>.

By their nature, hearings or trials involving interpreters take more time than those without interpreters, so estimate the time needed for your hearing or trial accordingly.

5. **Court Reporters:** Parties are encouraged to confer prior to the hearing regarding the use of a court reporter. Unless otherwise advised, **Zoom hearings** will not be recorded by the Court and **shall not be recorded by any participant**. Parties who wish to have a court reporter present must provide the court reporter with the Zoom meeting code.
6. **Parties:** Parties must ensure that no other persons are present with them during the hearing. This is especially important with regards to children. **CHILDREN SHALL NOT BE ALLOWED TO SEE OR HEAR THE HEARING/TRIAL.** Parents must take all steps to ensure that children are excluded from the hearing/trial and that children do not interrupt the proceedings. The Court may require the party to show that they are alone with the use of their device camera. If the Court is not convinced that children or other persons are excluded from the hearing/trial, the matter may be continued.  
  
In addition, parties shall not use virtual backgrounds during the proceedings.
7. **Other Interested Persons:** Other interested persons who wish to observe but will not testify during the hearing/trial may be provided with the Zoom meeting code. They will be required to wait in the virtual Zoom waiting room until admitted. In addition, they are required to mute their audio at all times during the hearing. If any such person becomes disruptive, they will be excluded from the hearing/trial.
8. **Rules:** All rules of evidence, rules regarding discovery and rules of procedure still apply unless suspended or amended by the Florida Supreme Court. All parties are entitled to their due process rights in all court proceedings. Parties are encouraged to use flexibility during the public health emergency for the equitable resolution of cases.
9. **Technical issues:** If an attorney, party, witness or other participant experiences technical issues prior to or during the hearing/trial, they must immediately contact the Judge's office at (239) 533-2500. If technological issues prevent the meaningful review of evidence and the parties have complied in good faith with these procedures, the hearing/trial may be rescheduled.
10. **Decorum:** All virtual hearings/trials are official court proceedings. All attorneys, parties, witnesses and other persons attending the hearing/trial are expected to dress appropriately and conduct themselves as if they were present in the courtroom. Please review Twentieth Judicial Circuit Administrative Order 2.13 found at [www.cjis20.org](http://www.cjis20.org).

**Witnesses:**

1. Parties are to provide a witness list to opposing parties as indicated above. Failure to comply with the above requirements may result in the exclusion of witness testimony.
2. Attorneys and pro se litigants are responsible to ensure that their witnesses are aware of the witness testimony protocol required herein.
3. Witnesses will remain in the virtual waiting room of the Zoom hearing/trial. Witnesses may not be present with any other attorney, party or other person during the hearing and the attorney/pro se litigant may not have contact with a witness during the hearing. The witness will be removed from the hearing immediately after their testimony is complete.
4. Witnesses must be alone and in a quiet room during their testimony. They must ensure that no other persons are allowed to see or hear the proceedings. Witnesses must ensure that there are no interruptions to the proceedings during their testimony. The Court may require that the witness confirm that they are alone by requiring him or her to use their camera to scan the room before and after testimony.

5. Witnesses shall not use virtual backgrounds during the hearing.
6. Witnesses may not communicate with other persons, including the attorneys and parties involved in the case while the hearing/trial is in progress.

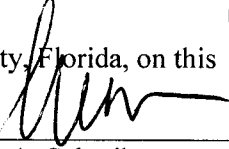
**Documentary Evidence:**

1. Parties are to exchange and discuss all documentary evidence as indicated above. Failure to comply with the above requirements may result in the exclusion of evidence.
2. At least 5 business days before a hearing/trial, each counsel/party shall file with the clerk all demonstrative aids and evidence sought to be introduced. All exhibits must be pre-marked for identification and shall include an index listing all proposed exhibits with the exhibit numbers or letters **and all pages shall be numbered for easy reference**. Where possible, counsel should seek to file jointly. The index shall include an indication as to whether the parties have stipulated to the admissibility of the document. **In addition to filing documentary exhibits with the clerk, Judge Schreiber requires that copies of all demonstrative aids and evidence sought to be introduced shall be provided in hard copy format to Judge Schreiber's office (via U.S. Mail, which is preferred or via runner/courier to the Judicial Assistant) at least 5 business days before a hearing or trial. DO NOT EMAIL YOUR EXHIBITS TO JUDGE SCHREIBER'S OFFICE as we are not able to reproduce them in paper format.**
3. Documents or other items which must be reviewed by the judge but which will not be admitted into evidence (e.g., a driver's license to verify identity or residence) need not be provided in advance and may be presented during the hearing using the camera.
4. If a witness is required to identify and/or authenticate a document that a party is attempting to have entered into evidence, the proponent of the document must use the share screen feature of the Zoom application to share the document with the witness, the Court and all other participants.

**Physical Exhibits:**

1. In the event that an attorney or pro se litigant intends to present any physical exhibit which is incapable of being provided electronically, that attorney or pro se litigant must contact the Judge's office no later than 1 week prior to the evidentiary hearing/trial in order to receive instructions on how such evidence will be presented at the hearing/trial and provided to the clerk.
2. If a party intends to present physical exhibits which are incapable of being provided electronically, that party must provide a picture of the exhibit to the opposing party no later than 10 days prior to the hearing/trial.

**DONE AND ORDERED** in Chambers at Lee County, Florida, on this 1<sup>st</sup> day of July, 2020.

  
\_\_\_\_\_  
Lee A. Schreiber  
Circuit Court Judge

**CERTIFICATE OF SERVICE**

I CERTIFY a copy of this Order was furnished by electronic mail this \_\_\_ day of \_\_\_\_\_, 2020 to:

BY: \_\_\_\_\_  
Judicial Assistant

**If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Brooke Dean, Operations Division Manager, whose office is located at Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida 33901 and whose telephone number is (239) 533-1771 at least 7 days before your scheduled court appearance or immediately upon receiving this notification if the time before the Court appearance is less than 7 days; if you are hearing or voice impaired, call 711.**