**FAMILY LAW PROCEDURES – Judge Krier**

**December 2017**

**Judge Krier’s 20th Circuit webpage**: <http://www.ca.cjis20.org>; then click on “Collier”, then on “Circuit Judges”, then on Judge Krier.

**Application of These Procedures**: These procedures govern attorneys and their clients as well as parties who are not represented by attorneys, who appear before Judge Krier.

**Contacting the Judge’s Office**: Neither attorneys nor parties may contact Judges directly. Attorneys should never tell their clients to contact a Judge’s office. ONLY Judicial Assistants (JA) may be contacted and then only regarding scheduling and related procedural issues. The JA can NOT give legal advice. Nor will the JA relay substantive communications *(any information other than scheduling)* to the Judge. If a party is represented by an attorney, the party should NOT contact the Judge’s office. **Self-represented-parties and attorneys or their offices may contact the Judge’s JA by phone at 239-252-2783, though email is preferred at TAlexander@ca.cjis20.org**.

**Electronic Access to Clerk’s Court Files and Notice of Filings**: It is possible for attorneys to have access to the Collier County Clerk’s court files via internet. Go to www.collierclerk.com.

**Forms Available for Download:** Some of the forms referred to in these procedures are available for down-loading on the Judge Krier’s 20th Circuit web-pages ([www.ca.cjis20.org](http://www.ca.cjis20.org), See Tab titled “Downloads”)

**Court’s Calendar and Dockets**

* The Judges’ calendars and dockets can be accessed at their 20th Circuit web-pages.

**Forwarding Documents to the Judge’s Office**

* Please forward orders and judgments for the Court’s execution to the Judge’s office, rather than the Clerk’s Office. You may forward such to the Judge’s JA via email.
* When sending anything to the Judge’s Office, please enclose it in a few-sentence letter, e.g. ‘…enclose please find a final judgment for the Court’s execution… .’
* Do NOT use letter or email correspondence to set forth any substantive matters. Anything other than “Enclosed please find…” should be set forth in a motion, notice, etc. (See also procedures regarding obtaining emergency or long hearing time).

**Case Captions**

* Section 61.043 requires that in commencing a dissolution of marriage proceeding, the parties should be designated as “Husband” and “Wife” rather than “Petitioner” and “Respondent” as follows: “In re the marriage of \_\_\_, Husband, and \_\_\_ Wife.”

**Filing Documents in Court Files**

* Petitions and Counter-Petitions should indicate whether they are: “With Children” or “Without Children.” Example: “Petition for Dissolution of Marriage With Children”
* Every document filed with the Clerk’s Office should be correctly titled, including orders. Order titles should reflect the motions that they refer to, e.g. “Order on Husband’s Motion for Temporary Support.”
* Every title of a document filed with the Clerk’s Office should include the party for whom it is filed e.g. “Wife’s Financial Affidavit.”
* Other than what is required by the Rules or Statutes, do not file discovery documents in the court file, e.g. banking records, tax returns, etc.
* Do not file deposition transcripts in the court file until you need them in a court proceeding and then do so at the time of that court proceeding.
* With the exception of orders and judgments that require the Judge’s signature, all documents that are required to be filed in the court file, should be forwarded to the Collier County Clerk’s Office for such purpose. Judges’ offices are not responsible for filing documents with the Clerk’s Office. If a request is being made of a Judge’s office to schedule a proceeding or for a purpose as set forth below, forward COPIES of the relevant notices, requests, and/or motions with an enclosure letter to the Judge’s Office.
* Motions for Rehearing should be filed with the Clerk’s Office and a copy forwarded to the Judge’s Office for review.

**Parenting Plans:**

* **Form**: The Supreme Court approved form may be used or a form in substantial compliance with same.
* **Temporary Parenting Plan Required within 60 Days**: The Standing Order in dissolution of marriage cases involving children and paternity cases requires that the parties file an agreed temporary parenting plan within 60 days of the filing of the initial Petition OR a hearing on such issues MUST be held shortly thereafter.

**Parenting Courses:**  The parties may fulfill their parenting-course requirement by completing any such course that has been approved by the Department of Children and Families, including on-line courses. The current approved courses are: listed on the following website: [**http://www.dcf.state.fl.us/programs/childwelfare/stabilization**](http://www.dcf.state.fl.us/programs/childwelfare/stabilization). The Court may excuse a party from attending the parenting course only for good cause as determined by the Court.

**Case Management**

* The purpose of case management conferences is to comply with Rule of Judicial Administration 2.250(a)(1)(C) that establishes “presumptively reasonable” time standards for dissolution of marriage cases. This will be accomplished by scheduling cases for trial within a reasonable time period, based on their nature and how far along they are in the process.
* All **parties** AND the **attorneys** representing them are REQUIRED to be present at case management conferences, UNLESS they filed an agreed Case Management Plan 3 business days prior to their scheduled case management conference AND forward a copy via email to Judge Krier’s office at Talexander@ca.cjis20.org. Said Case Management Plan must also attach a Trial Checklist (See Judge Krier’s downloads on her 20th Circuit webpage) that reflects that ALL requirements are completed except possibly discovery, mediation and parenting courses. (Such may be completed as the Case gets closer to trial.) REMEMBER, attorneys or Parties if they are self-represented are not required to agree on every aspect of the Case Management Plan in order to file it and avoid a case management conference. Attorneys or self-represented-Parties may simply set forth disagreements, e.g. in their statement of the case or in the amount of time each believes is necessary for trial. **Parties and their attorneys MUST appear at case management conference if they haven’t filed a Case Management Plan or if they haven’t complete all requirements on the Trial Checklist, except discovery, parenting courses and mediation**.

* Any Motions or Stipulations/agreements to continue case managements, must be received by Judge Krier’s office no later than **noon on the Friday prior to the scheduled case management conference**. NO continuances will be granted if these motions and/or agreements are filed after this deadline.

* Case management conferences will be conducted by Judge Krier and the assigned Magistrate in conjunction with Case Managers.
* Unless otherwise specified by a Case Management Order, the Family Law Division Judges will conduct case management conferences of cases in which both parties are represented by attorneys. A Magistrate will conduct those involving self-represented-parties. Cases will be scheduled for such conferences as follows:
* **By a Judge’s office**. The Judges’ offices in conjunction with the family law Case Managers will schedule cases for case management conferences via the appropriate Orders. Such Orders will set forth the time and date for the Conference and requirements for said Conference. OR
* **Upon request** by either of the parties and/or one or both of their attorneys. If a Conference is requested, such should be scheduled with the office of the Judge or Magistrate by filing a Motion for Judicial Case Management Conference and forwarding a copy to the family law case manager or the Collier County Case Management Office at:

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| Carol Shepelrich |
| Cshepelrich@ca.cjis20.org or |
| 3315 Tamiami Trial East, Suite 509 |
| Naples, FL 34112 |

**Hearings**

* All hearings before Judge Krier must be scheduled via Judge Krier’s JA, Tammy Alexander at Talexander@ca.cjis20.org or (239) 252-2783.
* A motion MUST be filed prior to a hearing for it to be scheduled.
* Hearing scheduling process:
1. Request possible hearing times from Judge’s JA;
2. Communicate with opposing party or attorney regarding agreeable dates and times;
3. Communicate agreed upon hearing time to the Judge’s JA and receive **confirmation number** for such;

**NOTE: you may want to consider conferencing both attorney’s offices on a call to arrange for a hearing time with the Judge’s JA. This is more efficient for you and the Judge’s office.** You can also check the Judge’s calendar for available hearing time which can be accessed on the Judge’s 20th Circuit webpage.

1. File a Notice of Hearing with the Clerk’s Office and forward a copy to the opposing party or attorney. The **confirmation number** must be set forth in the Notice of Hearing. DON’T send Notices to the Court.
* Hearings of up to 3 hours may be scheduled on Judge Krier’s motion docket, a time obtained as directed above. Any hearings of more than 3 hours, may be scheduled before Judge Krier via the filing of a Request for Long-Hearing (form available on Judge Krier’s 20th Circuit webpage) that sets forth the reasons that period of time is requested.
* Parties or their attorneys are advised to request adequate hearing time – you will be held to it. Each party will be allotted one-half of the total reserved hearing time. Each party’s time will include cross-examination of the other party’s witnesses.
* In Judge Krier’s cases, hearings MAY always be cancelled by the party or attorney who noticed the hearing. If a motion has been cross-noticed, cancellation requires two Notices of Cancellation – one for each Notice and/or from each attorney who noticed the motion. The cancelling party or attorney:
* **Must notify the Judge’s office by phone of the cancellation.**
* Must file a Notice of Cancellation of Hearing and forward it to opposing party/attorney on a timely basis.
* May be responsible for the fees of opposing counsel or other expenses incurred in preparing for the cancelled hearing, if said opposing party or attorney was not given reasonable notice of the cancellation. The Court would determine such at a subsequent hearing or at trial.
* Parties/attorneys may NOT include additional motions in already scheduled hearing time without clearing it with the Judge’s JA, obtaining an additional confirmation number from the JA, and noticing said additional motion with the additional confirmation number set forth in the Notice.
* **Motions for Rehearing (or Reconsideration)**
* These Motions must be reviewed by the Judge before they may be scheduled for a rehearing. Please forward a copy to the Judge’s office when you file such a Motion.
* **Emergency Hearings**
* Use a “***Request for Emergency Hearing***” (form available on Judge Krier’s 20th Circuit webpage) to request such a hearing along with the Motion setting forth the relief requested, the basis and the reasons that the Motion should be heard on an emergency basis. Do NOT set forth the request for such in a letter.
* All Emergency Motions must be signed by the proponent party under oath.
* File the Request and Motion with the Clerk’s Office and forward copies of these to the Judge’s Office for consideration.
* The Judge’s JA will contact the proponent/attorney of the Motion with either emergency hearing time or hearing time on the Judge’s regular motion-docket.
* **Phone Appearances**
* Florida Family Law Rule 12.451 provides that the Court may permit a witness to testify at a hearing or trial by contemporaneous communication equipment, by agreement of the parties or for good cause shown upon written request. Such “request” must be in the form of a Motion. Please review the Rule for requirements of said Motion. Said Motion should be forwarded to the Court for its review. In most cases, the Court will rule on said Motion without a hearing. Please be advised that such Motion must give the opposing party or his/her attorney “reasonable notice” which is usually NOT the day before a scheduled hearing. Judge Krier’s courtrooms have only audio capabilities. It is not possible for a witness to identify documents presented in Court to the Judge without being present before the Court to do so. If a witness is to testify by phone, a notary must be present at the location of the witness to swear in the witness.

**Referrals to Magistrates**

* In cases in which a party that is not represented by an attorney is requesting that a Magistrate hear a court proceeding, the Magistrates’ Office will print and send the Order of Referral to the Magistrate.
* In cases in which an attorney is or attorneys are requesting that a Magistrate hear a court proceeding, that attorney should print the “***Order of Referral to the Magistrate***” and send it to the Judge’s JA with copies and stamped addressed envelopes, if needed.

* If one or both of the parties/attorneys object to using a Magistrate, they are NOT required to submit an Order of Referral to said Magistrate and then file Objections prior to obtaining hearing time with the Judge. Please inform the Judge’s JA regarding objections to using the Magistrate at the time you call to obtain hearing time.

**Trials**

* **Scheduling a case for trial**
* Parties/attorneys can schedule their cases for trial by filing a Notice for Trial when their cases are at issue as defined by procedural rules. However, the Court will also be scheduling cases for trial from case management conferences or on its own motion.
* **Trial and Pre-Trial Order:** A case will be scheduled for trial via a Trial and Pre-Trial Order which the parties/attorney will receive from the Judge’s office.
* The Order will:
	+ Schedule your case for a **pre-trial conference** usually during the family-law-motion-week preceding your scheduled trial week.
	+ Schedule your case for **trial** on a designated trial-period.
	+ Set forth the time allotted for the trial.
	+ Set forth pre-trial requirements including: the filing of Pre-Trial Statements[[1]](#footnote-1) and exchanges of witness lists.
* Pre-trial conferences: **BOTH the parties and their attorneys are required to be present for pre-trial conferences**.
* After the pre-trial conference, attorneys and pro se parties will receive a Trial Scheduling Order that will establish the sequence of trials. Attorneys will be expected to contact the attorneys in the cases listed ahead of their own to determine when their own case will be reached for trial. The docket will proceed numerically. BE READY TO GO TO TRIAL on the first day of the trial period as wells as throughout the trial period! The Court will endeavor to give attorneys and self represented parties approximately 2 hours notice from the time you are contacted to when your trial begins. Be advised that you may be called just before 5PM for a trial to begin the next business day at 9AM. You may be called for trial in the morning for a trial to begin at 1:30 PM the afternoon of the same day.
* First priority will be given to any cases that involve the relocation of children and parties who are over the age of 65, as required by law and then those that were involuntarily continued from the previous trial docket.
* At pre-trial conferences, the Judge will review Parties preparedness for trial and address any last minute issues. The Court may address Motions to Continue the Trial as long as the rules and procedures governing such Motions have been followed and such Motions have been set through the Judge’s JA and properly noticed.
* The Trial and Pre-Trial Order requires the filing of Pre-Trial Statements
* Failure to comply with the Trial and Pre-Trial Order may result in:
	+ Exclusion of witnesses and/or exhibits for failure to comply with the instructions regarding exchange or use of such information;
	+ Attorney’s fees and costs; and/or
	+ Fines and/or sanctions

**Orders and Judgments**

* **“Standing Order”**
* There are three (3) different “Standing Orders,” one for: Paternity, Dissolution of Marriage involving Children, and Dissolution of Marriage Without Children.
* The purpose of these Orders is to:
	+ Maintain the status quo until cases can be resolved by agreement or trial;
	+ Require the parties to resolve their parenting issues as soon as possible, including establishing a temporary parenting schedule; AND
	+ Put the parties and attorneys on notice of the consequences if this Order is violated.

* The applicable “***Standing Order”*** will be generated by the Clerk’s Office complete with electronic signature and filed simultaneously with the initial Petition. This Order will be filed in the court file and then be served on the Respondent with the Petition. The Petitioner will be deemed to be governed by the Order when the Petitioner or his/her attorney receives it via electronic file system.
* **Orders (See also Judge Krier’s Guidelines for preparing Orders and Judgments on her 20th Circuit webpage)**
* Best practice is to bring a proposed order to court at the time of the related hearing. If attorneys fail to do so, be advised that the Judge may require that they prepare an order in the courtroom immediately subsequent to their hearing.
* The Judge may alternatively designate that one attorney prepare an order at his/her office. If this occurs. (See Judge Krier’s Guidelines for preparing Orders and Judgments on her 20th Circuit webpage)
* **Final Judgments** **(See also Judge Krier’s Guidelines for preparing Orders and Judgments on her 20th Circuit webpage)**
* The Court will designate one attorney to prepare a Final Judgment.
* The designated attorney should electronically forward the prepared Final Judgment to the opposing attorney.
* This opposing attorney should make comments electronically so they are reflected in one copy of the document.
* The composite judgment (including both attorneys’ proposed language) should then be forwarded to the Judge’s Office by email to TAlexander@ca.cjis20.org.
* Attorneys are should format their Judgments using the criteria required by Statute for the relief awarded.
* If these instructions are not followed including the Court’s Guidelines available on her webpage, your Final Judgment will be returned to you for correction.
* A final disposition form should be submitted with the final judgment, per Florida Rule of Civil Procedure 1.998

**Uncontested Dissolution of Marriage Hearings** –The Collier County Family Law Division Judges have adopted this procedure as of November 2017. *(See Judge Krier’s 20th Circuit web-page for downloadable forms)*

* Attorneys will forward all required documents to the Collier County Clerk’s Office for filing, EXCEPT the Final Judgment to be executed by the Judge. Said Judgment should be forwarded to the Judge’s office in paper or electronic form to TAlexander@ca.cjis20.org.
* REMINDER: all “jurats” (the notarization paragraph) must use the legally required form. *(See Fla.Stat. §117.05(3)(a))* If this is not used, you will be requested to correct this and re-file whatever documents contain the incorrect form.
* IF all required documents have been filed and the Judge approves the Marital Settlement Agreement and Parenting Plan (the latter only if there are children), the Judge execute the Final Judgment at a hearing that will not be noticed and at which no parties or attorneys are required to be present IF the parties have waived notice and a hearing. This will simply be a hearing to satisfy the statutory requirement of a hearing at which the Court will call the case and grant the Final Judgment if all paper work has been filed and the Marital Settlement Agreement and Parenting Plan meet the statutory requirements. These hearings will occur approximately once per week.
* **A final disposition form should be submitted with the final judgment.** (As required by Florida Rule of Civil Procedure 1.998)
1. **Attorneys may choose to file a joint pre-trial Stipulation or separate pre-trial Statements.** [↑](#footnote-ref-1)