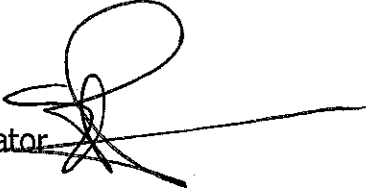




**ADMINISTRATIVE OFFICE OF THE COURTS
INTER-OFFICE**

MEMO 2013-19

TO: Honorable Carolyn Timmann
Honorable Sharon Robertson
Honorable Joseph E. Smith
Honorable J.R. Smith

FROM: Thomas A. Genung, Trial Court Administrator 

DATE: July 2, 2013

RE: **Administrative Order 2013-02 Magistrates and Hearing Officers**

Attached please find an original **Administrative Order 2013-02** for filing with the Court.

If you have any questions regarding the above, please do not hesitate to contact me.

TAG/js
Attachment

cc w/attach: All Judges in the Nineteenth Judicial Circuit
All Magistrates and Hearing Officers in the Nineteenth Judicial Circuit
All Staff Attorneys in the Nineteenth Judicial Circuit
Honorable Bruce Colton, State Attorney's Office
Honorable Diamond Litty, Public Defender's Office
All County Attorneys in the Nineteenth Judicial Circuit
All Local Law Libraries
All Local Bar Presidents
IT

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR INDIAN RIVER, MARTIN, OKEECHOBEE AND
ST. LUCIE COUNTIES, STATE OF FLORIDA.

ADMINISTRATIVE ORDER 2013 - 02

In Re: Magistrates and Hearing Officers

WHEREAS, many Family, Dependency, Baker Act, and Marchman Act cases are brought before the Circuit Court; and

WHEREAS, the interests of the public and of the litigants require a flexible and speedy resolution of such matters; and

WHEREAS, Rule 12.490, Fla. Fam. L. R. P. and Rule 8.257, Fla. R. Juv. P., provide for the appointment of General Magistrates in Family and Dependency proceedings; and

WHEREAS, Section 394.467(a), Florida Statutes (2012) also known as the **Baker Act** and Section 397.681, Florida Statutes (2012) also known as the **Marchman Act**, provide for the appointment of General Magistrates to hear these proceedings; and

WHEREAS, by Administrative Order dated November 16, 1994, the Supreme Court of Florida has ordered that, pursuant to Rule 1.491, Fla. R. Civ. P. (now known as Rule 12.491, Fla. R. Fam. P.), Child Support Hearing officers may be utilized in this circuit to hear proceedings for the establishment, enforcement and modification of support in both Title IV-D and Non-Title IV-D cases; and

WHEREAS, it is necessary for the proper administration of justice to appoint General Magistrates to hear and make recommendations in family law matters, certain dependency matters, Baker Act and Marchman Act proceedings; and to appoint Child Support Hearing Officers to hear and make recommendations in proceedings for the establishment, enforcement and modification of support in both Title IV-D and Non-Title IV-D cases; and

WHEREAS, it is necessary to establish procedures for the efficient and speedy resolution of all of these matters, it is therefore;

ORDERED as follows:

1. General Magistrate Powers:

General Magistrates will be appointed by the Chief Judge and shall serve at the

pleasure of the Chief Judge and a majority of the Circuit Judges in the Circuit. General Magistrates shall hear and make recommendations on all post-judgment family law matters and specific pre-judgment family law matters as designated by the judge assigned to the case. They shall also be appointed pursuant to Rule 8.257, Fla. R. Juv. P., to hear dependency matters, *except those prohibited by law*, and to hear Baker Act and Marchman Act proceedings. General Magistrates shall not be referred nor shall they hear Petitions for Termination of Parental Rights Pending Adoption and/or Petitions For Adoption, Petitions for Injunctions for Protection Against Domestic, Repeat, Sexual, Stalking, or Dating Violence. Separate orders of appointment shall be entered in each case.

2. Child Support Enforcement Hearing Officers Powers:

Child Support Enforcement hearing officers will be appointed by the Chief Judge and serve at the pleasure of the Chief Judge and a majority of the Circuit Judges in the circuit. Child Support Enforcement Hearing Officers shall hear and make recommendations involving the establishment, enforcement and modification of child support in all Title IV-D and Non-Title IV-D proceedings initially filed by the Department of Revenue or in which they have intervened.

Persons appointed as General Magistrates shall also appointed as Child Support Enforcement Hearing Officers for the purpose of conducting proceedings involving the establishment, enforcement and/or modification of child support in cases in which the Department of Revenue is not a party. When acting as a Child Support Enforcement Hearing Officer pursuant to this administrative order, the General Magistrate will have all powers and duties as provided in Rule 12.491, Fla. R. Fam. P..

3. Procedures for Referral to General Magistrate

a. Upon the filing of any post-judgment family action (excluding cases where the Florida Department of Revenue is a party), the action shall be automatically referred to the appropriate General Magistrate and the Court will enter an Order of Referral to General Magistrate. The party filing the action shall submit one original and two copies of the Order of Referral, along with self-addressed, stamped envelopes for each party. The Order of Referral shall be in substantial conformity with Form 12.920(b), Fla. Fam. L. R. P. and shall be submitted, even if an objection is intended.

b. Upon the filing of any Baker Act or Marchman Act proceeding, the Court will enter an Order of Referral to General Magistrate.

c. At appropriate stages in any dependency proceeding, the judge

assigned to the case may enter an Order of Referral for hearings on matters not otherwise prohibited by law.

d. At appropriate stages in any family case, the judge assigned to the case may enter an Order of Referral for a specific hearing or hearings to a General Magistrate.

e. Any objection to a Referral to General Magistrate must be in compliance with Rule 12.490, Fla. Fam. L. R. P. or Rule 8.257, Fla. R. Juv. P..

f. If an objection is filed, the matter will remain with the original judge assigned to the case.

g. When a case is referred to a General Magistrate, either party may set the action for hearing before the assigned General Magistrate.

h. The General Magistrate will proceed with hearings and preparation and filing of reports in the manner set forth in Rule 12.490, Fla. Fam. L. R. P. or Rule 8.257, Fla. R. Juv. P..

i. The Magistrate will retain authority to correct errors or omissions in the original report and recommendation by filing a corrected or amended report and recommendation. If the Magistrate intends to correct or amend the report and recommendation, the Magistrate will notify the parties or their attorneys within fifteen (15) days of receipt of a copy of any exceptions filed. Such reservation of authority by the Magistrate will not restrict the jurisdiction of the circuit court to proceed on the exceptions previously filed, nor will the reservation of authority by the Magistrate prevent a party from filing exceptions to the corrected or amended report and recommendations.

j. Exceptions shall be governed by Rule 12.490(f), Fla. Fam. L. R. P. or Rule 8.257(f), Fla. R. Juv. P.. Should the moving party fail to provide the record or transcript for the Court's review within 60 days after making the objection or exception, without requesting an extension of time, the objection may be deemed abandoned.

4. Automatic Referral to Child Support Enforcement Hearing Officer

a. Upon the filing of any action where the Florida Department of Revenue is a party and the sole issue is the establishment, enforcement or modification of child support, the action shall be automatically referred to the appropriate Child Support Enforcement Hearing Officer.

b. No objections to a referral to a Child Support Enforcement Hearing Officer pursuant to this section will be entertained by the Court.

c. Either party may set the action for hearing before the assigned child support enforcement hearing officer.

d. The Child Support Enforcement Hearing Officer will proceed with the hearings and preparation and filing of an recommended order as by Rule 12.491, Fla. Fam. L. R. P..

5. Recommendation of Immediate Incarceration

On any recommendation for a finding of contempt by a General Magistrate or Hearing Officer, in which a recommendation of immediate incarceration is made, the matter should be transferred *instanter* to the appropriate Circuit Judge.

6. Time Standards

General Magistrates will file and serve copies of the report and recommendation on all parties within sixty (60) days from the date of the hearing. Child Support Enforcement Hearing Officers will submit a recommended order to the assigned judge within sixty (60) days from the date of the hearing. Each General Magistrate and Child Support Hearing Officer will maintain a log of cases under advisement and shall submit a report of each case that has been held under advisement for more than sixty (60) days to the Chief Judge on a bi-monthly basis. In no event will General Magistrates or Child Support Enforcement Hearing Officers maintain a case under advisement more than ninety (90) days from the date of the hearing.

7. Electronic Reporting

All proceedings before a General Magistrate or Child Support Enforcement Hearing Officer shall be electronically reported. Any party may provide a stenographic reporter at that party's expense for any Child Support Enforcement Hearing Officer/General Magistrate's proceedings as provided in Rule of Judicial Administration 2.070(d)(2). In the event a stenographic reporter is provided by either party, that reporter then shall be subject to orders of the court and directions from both parties to transcribe the record at the requesting party's initial expense subject to appropriate assessment of suit monies.

**8. Effective Date and Vacation Amended Administrative Order
2004-17**

This administrative order is effective April 7, 2013. Amended Administrative order 2004-17 is hereby vacated.

DONE AND ORDERED in quadruplicate at Ft. Pierce, St. Lucie County, Florida this 25th day of June 2013, *nunc pro tunc* April 7, 2013.



Steven J. Levin, **Chief Judge**

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR ST. LUCIE/INDIAN RIVER/MARTIN/OKEECHOBEE COUNTY, FLORIDA

FORMER HUSBAND/FATHER,

and

CASE NO.

FORMER WIFE/MOTHER,

ORDER OF REFERRAL TO MAGISTRATE

THIS CASE IS REFERRED TO THE MAGISTRATE on the following issues:

____ Petitioner's ____ Respondent's ____ Other's Specify _____

1. ____ Contempt
2. ____ Modification of Final Judgment: Custody-Visitation-Support-Alimony-Other _____
(Circle all that apply)
3. ____ Temporary Relief: Custody-Visitation-Support-Alimony-Attorney's Fees- Other _____
(Circle all that apply)
4. ____ Pretrial Conference (Provisions of Trial Order shall be complied with)
5. ____ Other _____

AND ANY OTHER MATTER RELATED THERETO.

IT IS HEREBY FURTHER ORDERED that the above issues are referred to MAGISTRATE [NAME] for further proceedings, pursuant to Florida Family Law Rule of Procedure 12.490 and current administrative orders. Financial affidavits, Florida Family Law Rule of Procedure 12.902(b) or (c), shall be filed in accordance with Florida Family Law Rule of Procedure 12.285. The Magistrate is authorized to administer oaths and conduct hearings which may include taking of evidence and shall file a report and recommendations that contain findings of fact, conclusions of law, and the name of the court reporter, if any.

The Magistrate shall assign a time for the proceedings as soon as reasonably possible after this referral is made and shall give notice to each of the parties either directly or by directing counsel or a party to file and serve a notice of hearing.

A REFERRAL TO A MAGISTRATE REQUIRES THE CONSENT OF ALL PARTIES. YOU ARE ENTITLED TO HAVE THIS MATTER HEARD BEFORE A JUDGE. IF YOU DO NOT WANT TO HAVE THIS MATTER HEARD BEFORE THE MAGISTRATE, YOU MUST FILE A WRITTEN OBJECTION TO THE REFERRAL WITHIN 10 DAYS OF THE TIME OF SERVICE OF THIS ORDER. IF THE TIME SET FOR THE HEARING IS LESS THAN 10 DAYS AFTER SERVICE OF THIS ORDER, THE OBJECTION MUST BE MADE BEFORE THE HEARING. IF THIS ORDER IS SERVED WITHIN THE FIRST 20 DAYS AFTER SERVICE OF PROCESS, THE TIME TO FILE AN OBJECTION IS EXTENDED TO THE TIME WITHIN WHICH A RESPONSIVE PLEADING IS DUE. FAILURE TO FILE A WRITTEN OBJECTION WITHIN THE APPLICABLE TIME PERIOD IS DEEMED TO BE CONSENT TO THE REFERRAL.

If either party files a timely objection, this matter shall be returned to the undersigned judge with a notice stating the amount of time needed for the hearing.

REVIEW OF THE REPORT AND RECOMMENDATIONS MADE BY THE MAGISTRATE SHALL BE BY EXCEPTIONS AS PROVIDED IN RULE 12.490(F), FLA. FAM. L.R.P. A TRANSCRIPT OF PROCEEDINGS, SHALL BE REQUIRED TO SUPPORT THE EXCEPTIONS.

YOU ARE ADVISED THAT IN THIS CIRCUIT, electronic recording is provided by the Court, EXCEPT FOR TRIALS. At all trials, the Petitioner is required to provide a Court Reporter. Any party may provide a court reporter at the party's expense at any time.

SHOULD YOU WISH TO SEEK REVIEW OF THE REPORT AND RECOMMENDATION MADE BY THE MAGISTRATE, YOU MUST FILE EXCEPTIONS IN ACCORDANCE WITH RULE 12.490(f), FLORIDA FAMILY RULES OF PROCEDURE. YOU WILL BE REQUIRED TO PROVIDE THE COURT WITH A RECORD SUFFICIENT TO SUPPORT YOUR EXCEPTIONS OR YOUR EXCEPTIONS WILL BE DENIED. A RECORD ORDINARILY INCLUDES A WRITTEN TRANSCRIPT OF ALL RELEVANT PROCEEDINGS. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED IF NECESSARY FOR THE COURT'S REVIEW.

DONE AND ORDERED on this _____ day of _____ 2013, in _____
County, Florida.

[NAME]
CIRCUIT JUDGE

cc: Magistrate