

MAGISTRATE SARA F. DAVIS

POLICIES AND PROCEDURES

Indian River County Courthouse
2000 16th Avenue, Suite 274
Vero Beach, Florida 32960

Zoom Meeting ID: 7722263367

Courtroom 4

Magistrate's Assistant: Lashamanek Jordan

jordanl@circuit19.org

Please review the 19th Circuit's Administrative Order 2022-23.

(<https://www.circuit19.org/sites/default/files/2022-06/2022-03.pdf>)

Family Court Information and Resources are available at:

<http://www.circuit19.org/familyForms.html>

FAMILY HEARINGS

All motions must be filed with the Clerk and have an Order of Referral to General Magistrate (without a timely objection) ***before*** requesting a hearing.

Non-evidentiary hearings less than 30 minutes will be REMOTE via Zoom.

Non-evidentiary hearings more than 30 minutes and pro se hearings will be REMOTE ***unless*** a party files a written objection pursuant to Rule 2.530 (below).

All evidentiary hearings and trials will be IN PERSON
unless all parties agree to a remote/hybrid hearing
and submit an Agreed Order Setting Remote Evidentiary Hearing.

OBJECTIONS TO COMMUNICATION TECHNOLOGY

Pursuant to Rule 2.530

A court official may authorize the use of communication technology for the presentation of testimony or for other participation in a proceeding upon the written motion of a party or at the discretion of the court official.

Reasonable advance notice of the specific form of communication technology to be used and directions for access to the communication technology must be provided in the written motion or in a written notice from the court official exercising discretion. The motion or notice must be served on all who are entitled to notice of the proceeding.

A party may file an objection in writing to the use of communication technology within 10 days after service of the motion or notice or within such other period as may be directed by the court official. A party waives objections to the use of communication technology by failing to timely object to the motion or notice unless, before the date of the proceeding, the party establishes good cause for the failure to timely object.

Pro Se/ Self-Represented: IF NEITHER PARTY IS REPRESENTED BY AN ATTORNEY:

Visit the 19th Judicial Circuit's website (www.circuit19.org) and click on "Family Court Info & Resource;" select the appropriate online form for Indian River County. **The Magistrate's assistant does NOT track the pro se docket; please do not contact the Magistrate's office for pro se matters.**

Attorneys: ALL hearing time requests must be directed to the Magistrate's assistant. When emailing the Magistrate's assistant, please include the case number and style (19DR9999, Smith v Smith), motion(s) and amount of time needed for the hearing. All parties must be included when emailing the Magistrate's assistant. The motion (with relevant case law if applicable) and proposed order in Word format must be emailed to ircmagistrate@circuit19.org and the opposing party at least five (5) business days prior to the hearing date. Failure to provide these documents may result in the Court striking the hearing. All Orders must include a complete service list with e-mail addresses.

Good Faith Requirement: All notices of hearing must contain a certificate of good faith that you have contacted the opposing party and coordinated the hearing date, time, and amount of time necessary for the hearing and that you have contacted the other party or counsel in an attempt to resolve the matter, but that the parties were unable to amicably resolve the matter without a hearing. If after five (5) business days you are unable to coordinate a hearing date and time with the opposing counsel or party, you may proceed to contact this office to unilaterally

schedule a hearing date and time setting forth your good faith attempts to coordinate the hearing. Required language for the notice of hearing is below:

I HEREBY CERTIFY that I have personally contacted opposing counsel or the opposing party in an effort to resolve the issue(s), however, the matter cannot be resolved and a hearing is necessary.

PLEADINGS

All original pleadings must be filed with the Clerk of Court. Online filing is available through for the Florida Courts E-Filing Portal (www.myflcourtagency.com). It is not this office's responsibility to file original pleadings.

Temporary Relief: Parties MUST attend mediation before a Temporary Relief Hearing may be set. If you schedule a hearing without first having been to mediation, the hearing will be stricken from the docket.

HEARING PREPARATION

Please pay careful attention to the following procedures, which relate both to the Magistrate's office as well as the Clerk's office. It is imperative that all of the procedures below are complied with in order to ensure that all parties receive proper notice of exhibits to be entered into evidence and ample opportunity to review said exhibits prior to the hearing, and so that the Clerk is able to efficiently process evidence. **PLEASE ALSO SEE 'EVIDENCE AND EXHIBIT POLICY' FOR FURTHER CLARIFICATION.** Failure to timely provide proposed exhibits to the other party, the Clerk, or the Court may result in the exclusion of exhibits at trial.

Attorney cases: At least 5 days prior to any hearing, all of the following procedures must be followed by all parties and counsel. Attorneys must submit a proposed recommended order in Word format to ircmagistrate@circuit19.org, copying the other party or counsel. An exhibit list must also be e-filed no less than 5 days prior to the scheduled hearing. Exhibits must also be emailed to the Magistrate's assistant at ircmagistrate@circuit19.org. Any case law which counsel intends to rely upon should also be emailed to the Magistrate's assistant at ircmagistrate@circuit19.org 5 days in advance, with copies to opposing counsel or the other party. Failure to provide these documents may result in the Court striking the hearing, continuing the hearing, or not permitting exhibits to be entered into evidence. All proposed Recommended Orders must include a complete service list with e-mail addresses.

For in person hearings, the Clerks office requests that attorneys bring paper copies of exhibits intended to be entered into evidence pre-marked for identification. Exhibits that are admitted as evidence must be filed through the e-portal within 24 hours.

For remote hearings, counsel should have exhibits identified and ready to present electronically in Court. Exhibits that are admitted as evidence must be filed through the e-portal within 24 hours.

Pro Se Cases: Any parties who wish to enter exhibits into evidence must, at least 5 days prior to any hearing, submit their proposed exhibits as directed by the family law pro se coordinator to the Magistrate's office, and also file their exhibit list no less than 5 days in advance.

For both in person and Zoom hearings, the parties must bring their exhibit lists and exhibits to the Clerk's office for marking no less than 5 days and no more than 7 days in advance of the hearing. The Clerk's office will retain only exhibits admitted into evidence, any unadmitted exhibits will be returned to the party at the end of the hearing for in person hearings. Please note that the Clerk's office cannot accept exhibits brought in more than seven days in advance of the hearing.

FAILURE TO APPEAR

If, after proper notice, a party or counsel fails to appear for a hearing, this will not prevent the opposing party or counsel from proceeding with the matter when the case is called. Please be advised that the Magistrate will call cases promptly at the time when the case is set, and that failure to appear may result in dismissal or default.

PRO SE HEARINGS

All pro se evidentiary hearings will be in person in courtroom 4 at the Indian River County Courthouse, unless otherwise approved by the Magistrate in advance in accordance with the policies set forth above. **If you wish to have any exhibits considered by the Court at your hearing, they must be provided to the clerk's office, the Magistrate's office, and opposing party at least five (5) business days prior to the hearing date.** The exhibit list must also be filed in the court file.

TRUANCY

All hearings will be in person. If you have any questions, please contact the school board representative.

DEPENDENCY

All hearings before the Magistrate will be IN PERSON, unless previously coordinated for an attorney or other party to attend via Zoom with the approval of the Magistrate. Requests for Zoom appearance for good cause should be made in advance via email to the Magistrate's assistant (ircmagistrate@circuit19.org).

All requests for the Magistrate to confer with a child in dependency outside of open court will be accommodated, but such requests should be made in advance whenever possible so that the Magistrate can arrange for sufficient time to meet with the child and make whatever accommodations may be necessary in the child's best interest. All counsel should be included on any such request, which should be emailed to ircmagistrate@circuit19.org.

All proposed Recommended Orders and Orders Accepting should be submitted to the Magistrate *within no more than one week* of the hearing date via email to the Magistrate's assistant (ircmagistrate@circuit19.org). As these proceedings often relate to urgent matters concerning children, it is of the utmost importance that they be timely submitted so they may be entered in order to effectuate the rulings of the Court.

MENTAL HEALTH

All hearings will be conducted in person by the Magistrate at the Cleveland Clinic Indian River Behavioral Health Center. Counsel and witnesses may appear via Zoom for the proceedings. For any questions, please email the Magistrate's assistant (ircmagistrate@circuit19.org)

FAMILY MEDIATION

Family mediation involves parties to a divorce, paternity, or similar family matter. Parties having a combined income of up to \$100,000.00 may utilize the 19th Judicial Circuit Mediation Program. The mediators assist parties in identifying issues, solutions and alternatives, always keeping in mind the best interests of their children when children are involved. The mediator's objective during the session is to help parties reach a mutually acceptable agreement on disputed issues: parenting arrangements, child support, property/debt division, and other issues.

Please see our Mediation Program Tab on the 19th Judicial Circuit website for more information.

Order of Referral to Mediation: When submitting an order of referral to Family Mediation, your cover letter must state the combined income for the parties and that **both parties have current financial affidavits of record.** Please use the form Order of Referral to Family Mediation.

NOTICE FOR TRIAL

When your case is ready for trial, please email ircmagistrate@circuit19.org with a Notice for Trial (with the anticipated full length of time necessary for the trial) so trial dates can be provided to be coordinated.

CONTINUANCES AND CANCELLATIONS

If a case is set for a motion hearing, case management conference, or trial, and you desire a continuance **(for good reason)**, you must first contact the other party/attorney and determine if they stipulate a continuance. If so, please submit a stipulated motion for continuance and proposed order (in Word format) to the Judge's office. If there is no stipulation, set the motion for hearing, just as with any other motion. Any such motion must be filed as soon as you are aware of the need for a continuance. If an emergency occurs, contact the other party and the Court as soon as possible to resolve such an issue.

If a case is set for trial and a settlement is reached less than 24 hours in advance of the scheduled hearing, please be advised that the parties and counsel need to appear for the hearing and present the stipulation to the court at that time for consideration.

PRO SE/ SELF-REPRESENTED

Petitioners and/or Respondents without an attorney are "pro se." If both parties are pro se/ self-represented, they will be referred to the Pro Se Coordinator. All hearings will be set by the Case Manager assigned to your case.

If you wish to inquire about the status of your case or you are looking to schedule a hearing, please visit <http://www.circuit19.org/familyForms.html> to complete the appropriate form.

LEGAL ADVICE

Should you contact the office with any legal questions and/or advice, please be advised that we cannot provide any legal advice. If you have a legal question, this office will advise you to contact an attorney of your choosing. If you have any questions about scheduling a hearing or a procedural question, please email the Magistrate's assistant ircmagistrate@circuit19.org.

CONTACTING MAGISTRATE DAVIS

The Code of Judicial Conduct forbids Judges/Magistrates from discussing court cases or legal issues with the parties out of the court. Judges/Magistrates are not permitted to consider any argument or material not properly filed in the case as authorized by law and the rules of court. Please do not contact the Magistrate's office expecting to communicate with Magistrate Davis.

Please do not ask the Magistrate's assistant or other court personnel to communicate any message to the Magistrate. This is prohibited ex-parte communication. The Court's staff is not permitted to relay ex-parte information to the Magistrate. All communication with the Court will be in open court with all parties present or in writing/e-mail with copies to the opposing party.

E-Mail: The preferred method of communication is via email through Magistrate Davis' assistant (ircmagistrate@circuit19.org). **Emails will receive immediate attention.** Copies of pleadings, notices of hearing, and proposed Orders (in Word format) should be emailed to ircmagistrate@circuit19.org. Hearing requests, correspondences and/or emergency motions should be emailed directly to ircmagistrate@circuit19.org. You must include the opposing party as a copy recipient on **ALL** e-mails to this office.

Phone: If you are unable to email the Magistrate's assistant, please do not leave more than one (1) voicemail. Messages are checked once per day and answered in order of priority.

Faxes: Please do not fax this office without prior approval. Our preferred method of receiving approved documentation is emailing of the scanned documents.