

**CIRCUIT COURT JUDGE CAROLYN D. SWIFT
DOMESTIC RELATIONS DOCKET
REQUIREMENTS AND PROCEDURES**

**Lee County Justice Center
1700 Monroe Street
4th Floor, Room 4213
Fort Myers, FL 33901**

TELEPHONE: (239) 533-9140 | FAX (239) 485-2588

ZOOM: 791 861 920

COURTROOM: 4-L

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 239-533-9140 to avoid unnecessary questions. Self-Represented litigants must follow the Twentieth Judicial Circuit's rules for Self-Represented/Pro Se parties, which are available at: <https://www.ca.cjjs20.org/Programs/Family-Court-Services/prose.aspx>

Telephone hours are from 8:30 a.m. to 4:30 p.m. Due to the high volume of phone calls the family division receives, you may not 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 Carolyn D. Swift
Lee County Justice Center
1700 Monroe Street
4th Floor, Room 4213
Fort Myers, FL 33901

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 Assistants 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 as required by the ethical canons. Do not send letters directly to the Judge. Judges and the Judicial Assistants 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, 3rd Floor, Fort 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. NOTICE OF RELATED CASES FOR FAMILY LAW DIVISION

Petitioners in any family case are required to file a **Notice of Related Cases pursuant to Rule 2.545(d), Rules of Judicial Administration**. Related cases should be assigned to one judge or will otherwise be coordinated in order to conserve judicial resources and to promote an efficient

determination of the actions. Family cases include dissolution of marriage, dependency, delinquency, injunctions and all other cases identified in Rule 2.545(d)(2). All parties have a continuing duty to disclose any related proceeding in this state or any other jurisdiction.

5. 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 Swift'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 Swift shall state whether the opposing party consents to the magistrate hearing the matter.

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 Judge Swift's matters to Magistrate King. A form of the Order of Referral is available on this webpage. If a party files a written objection to the referral to a magistrate prior to the hearing, the hearing should be reset on Judge Swift's calendar.

6. IN-PERSON AND REMOTE PROCEEDINGS

Non-Evidentiary Hearings

All non-evidentiary hearings scheduled to be heard for less than thirty minutes will be conducted as remote proceedings. Pursuant to Rule 2.530 of the Florida Rules of Civil Procedure and the Florida Supreme Court acting in Case No. SC22-1, remote proceedings shall be used for a non-evidentiary proceeding scheduled for thirty minutes or less unless the court official determines that good cause exists to deny the motion.

Evidentiary Hearings and Trials

All evidentiary hearings and trials scheduled to be heard for more than fifteen minutes 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 pursuant to the requirements of Fla. R. Civ. P. 2.530. Motions for remote appearances in trials shall be presented no later than the Docket Sounding. Any such motions filed after Docket Sounding 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 a motion filed prior to seeking hearing time from the Judicial Assistant.

Mediation

Further, mediations shall be held in person unless counsel stipulate or schedule a hearing on a motion for remote participation pursuant to Fla. R. Fam. P. 12.740.

7. ADMINISTRATIVE ORDER 2.40 AND MANAGEMENT OF EVIDENCE IN REMOTE HEARINGS

For any remote hearings, the parties shall file the requirements of Administrative Order No. 2.40, a copy of which is available on this website. If the documents to be utilized at the remote hearing are timely filed with the Clerk, then counsel and self-represented parties can just provide electronic copies to the Judge's office via email to the Judicial Assistant.

8. CHILD TESTIMONY

Testimony from children is not permitted unless the Court grants permission after a hearing on a Motion to Allow Child Testimony. The Court will not automatically honor stipulations for a child to testify in Court. DO NOT bring children to the Courthouse without prior approval by the Court or allow them to be present during any remote appearances. See Fla R. Fam P. 12.407.

9. MEMORANDA OF LAW/TRIAL OR HEARING BRIEFS AND TRIAL NOTEBOOKS

Any Memorandum of Law, Trial Brief, or Hearing Brief shall be submitted to the Judge or Judge's chambers at least two (2) working days prior to the date of the hearing or the first day of the trial period for which your case has been scheduled. Full copies of all citations/cases shall be provided to the Court. Such a Memorandum or Brief should not be longer than ten (10) pages and should contain any disputed legal issues for consideration by the Court.

Do not submit lengthy notebooks with case law and exhibits to the judge prior to hearing or the trial. They will not be accepted. **Specifically, for Judge Swift, you only need one set of Exhibits or one Trial Notebook for the Clerk. The Judge does not need her own copy.**

10. SCHEDULING HEARINGS

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 the electronic file with the Clerk of Court.

Email for Hearing Requests

Please email Judge Swift's Judicial Assistant at imiller@ca.cjis20.org. The email should contain the case number, parties' names, the pending motion/motions, date the motion was filed, and the length of hearing time requested. **Please be advised you need to include the other party/counsel in your emails to this office.**

Length of Hearings and Time Reserved

Please be considerate when making a request for a hearing as to the amount of time needed. For example, it is recommended that 5-minute time slots be used for motions to withdraw as counsel or other brief matters. **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: email, mail or hand deliver the JA a cover letter explaining the time requested as well as a 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. Requests for hearing time in excess of two hours must be submitted in writing with an explanation as to the reasons for exceeding two hours. Any hearings scheduled by the parties that do not comply with the requirements previously stated shall be canceled. .

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.**

Temporary Relief

A Motion for Temporary Relief regarding financial and or parenting issues MUST be discussed at an extended case management conference or mediated prior to a hearing being held.

Notices of Hearings

A Notice of Hearing must be timely filed after reserving hearing time through the JA. Please reference the date the pending motion was filed with the Clerk.

Canceling Hearings

Please notify the Court of cancellations 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.

11. 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 online filing 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). The Judge will review the motion to determine if there is an emergency. If so, the Judge will decide how to address the emergency with an order to show cause, expedited hearing time, or other appropriate relief. If there is no emergency, hearing time

in the ordinary course will be given. All emergency motions must be sworn to and signed by the party. If emergency motion relates to a children's issue, a UCCJEA affidavit must accompany the motion. **Please review the scholarly article regarding emergency motions available on this website prior to filing said motions.**

Ex Parte Orders

An ex parte order is one that is entered without notice to the opposing party and without an opportunity for the opposing party to be heard before the order is entered. In most cases, an ex parte order may violate due process of law and orders that violate due process are void, unenforceable and a nullity. Nevertheless, the law does allow ex parte orders in some situations, e.g. , F.S. §741.30(5)(a), which allows an ex parte injunction to be entered for protection against domestic violence. Motions for an ex parte order must contain specific citations to the legal authority that gives the judge the authority to enter an ex parte order in the situation alleged in the motion. Without such legal citations, ex parte relief may be denied.

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 filed in accordance with the rules and must state the reasons for the continuance request. Except for good cause shown, the motions to continue must be signed by the party requesting the continuance.

12. 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. You may return the agreed order to the JA, 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.

13. NOTICES FOR TRIAL

Upon receipt of a Notice for Trial, the Court will schedule and set this matter for Docket Sounding 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.

When a Notice for Trial is filed, the following occurs:

1. A copy of the notice shall be sent to the Judge's office and to the Case Manager's office.
2. The case will be set for Docket Sounding and trial in the order that the Notices for Trial are filed. **IN ALL CASES MEDIATION MUST BE COMPLETED PRIOR TO THE DOCKET SOUNDING AND WITHIN SIX MONTHS OF SUCH DATE.**
3. The Docket Sounding will generally be set on the next available docket. Once your case is scheduled for trial, it is the responsibility of the lawyers and any pro se litigants to keep the Judge's office informed as to the progress and status of the case. 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 in the trial order. However, the Court always reserves the power to change the published schedule in order to address competing priorities for the Court's trial availability. Counsel should have their calendar available at the time of the Docket Sounding.

14. 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 may direct the lawyers to submit their desired proposed judgment to the JA in word format. 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.

15. **E-PORTAL FILING**

To ensure a quick response to your proposed Orders/Judgments in the E-Portal, make sure that in each case, you have included all parties with their email addresses in the e-portal list. When submitting Orders or Final Judgments through the e-portal, ALWAYS submit a cover letter (with any attachments, i.e. stipulations and/or motions concerning the order/judgment) and separately send the Order/Judgment.

For each submission, use the Case Style and Case No. as well as indicating whether it is a cover letter, order or judgment.

Submit all Orders and Judgments with a complete Certificate of Service. It is recommended that you use all email addresses, however, if you do not have an email address, include the full physical address including zip code in the Certificate of Service.

If a hearing or trial has been held regarding the Order/Judgment, please include that fact and the hearing/trial date in the cover letter.

Make sure each cover letter and order/judgment has a case number.

16. **MOTIONS FOR REHEARING/NEW TRIAL**

Motions for Rehearing/New Trial must be submitted in writing. Judge Swift will then decide whether a hearing or new trial will be granted. Please send a courtesy copy of the motion directly to the Judge's chambers with a transmittal letter. The Clerk does not routinely forward Motions to the Judge's office. Motions filed with the Clerk may not be seen by the Court.