

## MEMORANDUM

To: Fifth Judicial Clerk of Courts, Attorneys Practicing in the Fifth Judicial Family Court, South Carolina Department of Social Services, South Carolina Department of Juvenile Justice

From: Judge Gwendlyne Y. Jones

CC: Monet Pincus, Michelle Hurley, Rosalyn Frierson-Smith, M. Scott Rankin and C. Vance Stricklin, Jr.

Subject: Court Procedures COVID-19 and WebEx Remote Hearings

Date: April 10, 2020

We hope you all are well and staying safe, complying with all of the mandates issued by your local, state and national officials. The COVID-19 pandemic has drastically changed our lives and how our family courts operate and conduct business. We are currently living in a time of widespread caution and uncertainty. Beginning immediately, we will be complying with the South Carolina Supreme Court Order dated April 3, 2020 (Order). The Order is attached for your reference. At present, Richland County is under a mandate from the County Administrator directing that public access to the building is allowed only during the hours of 10:00 am until 1:00pm Monday through Friday of each week for filings, until further notice. The in-person hearings at the Courthouse are being reserved solely for those necessary matters that cannot be conducted remotely on Monday, Wednesday and Friday during the hours of 10:00 am until 1:00pm. A duty judge is being assigned for each of those days. In addition, a judge will be available to conduct remote hearings daily during normal business hours. Judge Rankin will be handling Kershaw County cases.

The judges in the 5<sup>th</sup> Circuit will hear the following cases by WebEx, **unless specifically noted otherwise:**

1. Uncontested divorces. The moving party shall attend. The non-moving party may appear by affidavit or certification by submission of Non-Appearance Affidavit or Certification. If financial conditions of the parties are before the Court, then in compliance with Rule 20 of the Family Court Rules, financial declarations shall be filed and submitted to the Court. **Please note for good cause shown, a party may comply with the provisions provided in the Supreme Court Order with respect to granting an uncontested divorce without holding a hearing.**
2. Approval of Agreements (including Mediated Agreements). Submit the agreement along with your hearing request so that the Court reviews same prior to the scheduled hearing. If financial conditions of the parties are before the Court, then in compliance with Rule 20 of the Family Court Rules, financial declarations shall be filed and submitted to the Court. Please note that the parties don't have liberty to waive compliance with this rule. It is the Court's responsibility to determine the reasonableness and fairness of the agreement based on the parties' financial condition. **Please note that a party may comply with the provisions provided in the Supreme Court Order with respect to Approval of Settlement Agreements and Consent Orders without a Hearing.**
3. Uncontested Adoptions.
4. Name Changes. The moving party shall comply with the provisions of South Carolina Code of Laws Title 15, Chapter 49.
5. Pendente Lite/Temporary Motions: The following guidelines apply;
  - a. The Motion may be filed and served as allowed by the South Carolina Rules of Family Court.
  - b. Submit your motion request to the scheduling clerk in **WORD** format. Please provide the email address for all attorneys and/or pro se litigants in the appropriate section. (See attached form) After your request is submitted, the scheduling clerk will set the motion date and time.
  - c. Once the Clerk has set your Motion date and time, file and serve a clocked copy of all affidavits (not to exceed 8 pages); financial declarations; temporary hearing background information; proposed parenting plan; and, any exhibits on the opposing party. (hereinafter referred to as "Temporary Hearing Packet") The same documents shall be provided simultaneously to the presiding judge via email pursuant to Rule 21 of the South Carolina Rules of Family Court. The Court requests that you submit the materials as soon as possible, preferably 2 business days prior to the scheduled hearing.

- If you have a complex case with multiple attachments and documents, please provide the temporary hearing packet to the Court through the Clerk of Court's office; preferably prior to the hearing (See above)
- d. The presiding judge will review all submissions and contact you if a hearing will be scheduled by WebEx prior to the ruling in the matter. The hearing date and time creates the deadline for submission of the Temporary Hearing Packet. If the parties agree to provide the materials 2 business days in advance, a WebEx hearing may occur during the scheduled time slot. If the Temporary Hearing Packet is provided at the time and date of the scheduled hearing, it may be necessary for the WebEx hearing to be rescheduled to a later time and/or date as deemed necessary by the judge to allow the court an opportunity to review the material.
  - e. The court may render a decision based on the submission alleviating the need for a WebEx hearing.

Please note that, with the exception of temporary hearings, only uncontested matters will be heard by video conference. Emergency matters will continue to be heard as requested and scheduled.

**IF YOU HAD A HEARING SCHEDULED BETWEEN MARCH 13, 2020 AND MAY 1, 2020, PLEASE NOTE YOUR ORIGINAL HEARING DATE AND YOUR REQUEST WILL RECEIVE PRIORITY.**

**PROCEDURES FOR REQUESTING WEBEX UNCONTESTED HEARINGS:**

Your hearing request shall be sent in **WORD** format. We will only schedule hearings where all parties (including self-represented litigants) and attorneys agree to participate in the hearing via WebEx. Please note that no consent is required for parties that appear by affidavit or certification waiving their appearance. This means that you should not send any request for a hearing to be scheduled via WebEx until you have discussed it with all attorneys of record and all pro se parties **AND RECEIVED THEIR CONSENT TO REQUEST THE HEARING.**

As Judges, we are the host and control the platform for the WebEx Remote Hearings. Each participant will receive an invitation from the Judge to attend the conference. We are willing to assist you in getting familiar with WebEx. **WebEx requires an email address for inclusion in the video conference.** So please note that your request includes the names and email addresses of all participants. If your client or your witness will be at a separate location from you, then their name and email address must be included in the request. There should be no more than 3 persons at any location at the same time. The Court will generate the invite to the hearing, and can only include those people that were listed on your request. This will require you to communicate with opposing counsel or the opposing pro se party **prior** to sending the request to ensure everyone is correctly listed.

**SCHEDULED HEARING TIME:**

Please be on time for your hearing or risk having to request a new hearing date and time, of which you will **NOT** receive priority. This process moves slower, so we can't allow one attorney or party to delay the schedule.

Prior to the hearing date, it will be necessary for participants to have access to WebEx on their electronic devices (computers, cell phones, laptops). A witness may use the same electronic device as a litigant. Go to <https://www.webex.com/>

We will consider scheduling emergency or expedited hearings via WebEx as well. These hearings are NOT automatically set as WebEx hearings, and keep in mind that all parties must agree before you can submit the request to schedule via WebEx (See emergency agreement form). Our current emergency docket days will remain in place; however, if you have an emergency or expedited hearing, you can submit a request, following the protocol outlined in the Order and request that it be conducted remotely, provided everyone agrees. If the matter has already been scheduled on an Emergency Docket, you must also include that information in your request.

**In Richland:** If you wish to request a motion or a hearing via WebEx, you need to email the request to the Scheduling Clerk, Vickie Vick [vick.vickie@richlandcountysc.gov](mailto:vick.vickie@richlandcountysc.gov) Please copy all attorneys of record and all pro se parties.

**In Kershaw:** If you wish to request a motion or a hearing via WebEx, you need to email the request to the Scheduling Clerk, Erika Anderson [erika.anderson@kershaw.sc.gov](mailto:erika.anderson@kershaw.sc.gov). Please copy all attorneys of record and all pro se parties.

Please continue to monitor the South Carolina Judicial Branch website to keep up to date on all information concerning the COVID-19 guidelines and orders.

We understand that this is a new process, and things will change as we put these procedures into practice. The protocol outlined in this memo will be followed throughout the Fifth Circuit in accordance with the Order. As the practice develops protocols may change, you will all be informed of updates and changes.

Please understand that we are all in this together, and we will work diligently to adapt to our new process where necessary to ensure that everyone has appropriate access to the Court; while taking all precaution to protect the safety of everyone.

**Thank you for your patience and flexibility during these uncertain times.**

**Sincerely yours,**

**Gwendlyne Y. Jones**  
**Chief Administrative Judge**

Attachments:

Supreme Court Order

Agreement to WebEx hearing form

Probable Cause form

PPH form

WebEx Hearing Request

Defendant Certification

Memo for Self-Represented Litigants