



State of South Carolina
The Family Court of the Eleventh Judicial Circuit

Huntley S. Crouch
Judge

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MEMORANDUM

To: 11th Circuit Family Court Bar
From: Huntley S. Crouch, Chief Administrative Judge, 11th Judicial Circuit
Subject: COVID-19 Family Court Guidance-Updates
Date: April 14, 2020

Please take time to carefully review the Order from the Chief Justice issued on April 14, 2020, RE: Operation of the Trial Courts During the Coronavirus Emergency. This order controls certain procedures in Family Court, and as a result, this memo replaces the prior memo issued on March 25, 2020.

On Tuesday, March 17, 2020, Lexington County closed the courthouse and all county buildings to the public. The courthouse remains closed at this time.

The Clerks of Court for the entire 11th Judicial Circuit, pursuant to the April 14, 2020 order referenced above, have agreed to permit documents to be filed by e-mail. They will not accept filings by fax. They each have requested that attorneys include in their documents containing electronic signatures a statement such as "Electronic signature and filing authorized pursuant to of the Order of the Supreme Court of South Carolina dated April 14, 2020." They believe this will assist them in the future as originals are added to the files or to identify those documents which are authorized to have the e-filing/signature. If you have questions about their particular procedures or requirements, please contact the Clerk of Court for the county in which you are filing.

A few reminders from the prior memo issued are:

Orders of Continuance in private and agency cases for hearings set from March 23, 2020 to May 1, 2020 need not be submitted.

The fact that court is canceled until May 1, 2020, is not, in and of itself, an emergency. Please be mindful of Rule 407, 3.3, SCACR when requesting an emergency hearing, and in your duty of candor toward the court, there is an expectation that you will be specific in your assertions of facts supporting the need for an emergency.

If you are retained on a matter that is scheduled for any hearing, please comply with Rule 8, SCRFC, and **immediately upon being retained** notify opposing counsel and the presiding judge's administrative assistant. **Immediate notice of representation is critical to the Court's ability to coordinate hearings and, therefore, a failure to comply may result in the imposition of sanctions by the Court. In light of the email filing addressed above, there should be no excuse for failing to immediately comply with Rule 8, SCRFC.** Attorneys should make a genuine, good faith effort to resolve the all issues in an attempt to avoid a hearing that will risk exposure of all involved.

If an in-person hearing is authorized, only essential people are allowed to appear such as attorneys, clients, and necessary witnesses.

For now through May 1st, we will be holding hearings for matters in the 11th Circuit on Monday, Wednesday and Friday of each week. After May 1, 2020, we will re-visit our schedule and update if necessary. The docket will be posted online the Wednesday or Thursday prior to the week. A duty judge will be assigned each day of the week, and that judge will be identified on the posted docket. This is the judge who will be a point of contact for any issues that arise, so any communication to the court should start with the assigned duty judge's administrative assistant. The scheduling clerk will not coordinate the hearings with counsel. The hearing will be set by the court, and notice will be provided with the returned documents. Any return documents will continue to be available through the drive thru as previously indicated in the memorandum issued on March 18, 2020.

Consent Orders: Consent orders are controlled by the April 14, 2020 order. If a party is pro-se, the accompanying affidavit must indicate that the self-represented litigant has had the opportunity to obtain counsel and has voluntarily chosen not to do so. Upon reviewing the proposed order, agreement, submissions and court file, the reviewing judge will contact counsel if there are any concerns. Attached is a checklist for your consideration in submitting consent orders or orders for uncontested divorces.

Remote Hearings: Holding a hearing remotely via Webex is the starting point for scheduling of all hearings in the 11th Circuit. If the court determines that the hearing may not be held remotely, then the court will address whether an in-person hearing is warranted or if the matter must wait until normal court operations resume. **It is imperative that when requesting your hearing, you indicate on your motion coversheet an email address for all parties.** The court/scheduling clerk will set the hearing and provide notice of the remote hearing information for access to the Webex hearing which will be provided to the requesting party for service upon all parties.

Mediation: Pursuant to the March 19, 2020 Order from the Chief Justice, upon issuance of an order from the Chief Administrative Judge, a person may attend mediation by video conferencing. All parties are encouraged to consider mediation as to temporary issues as well.

365-day benchmark: By email issued on March 17, 2020, the Chief Justice has directed that all family court matters shall not be stricken pursuant to the 365-day benchmark until a 90 day extension has run. Therefore, it is not necessary to send in orders addressing the 365-day benchmark in light of the automatic 90 day extension unless your case has or is at risk for exceeding the automatic 90 day extension.

Chief Administrative Judge: Pursuant to the June 28, 2019 Order from the Chief Justice, there are only two types of orders that are reserved for the Chief Administrative Judge, orders of continuance prior to term and orders relieving counsel or Guardians ad litem for indigents. I

have addressed the orders of continuance above. Therefore, when submitting orders to the court, please address them to the clerk or presiding judge, and they will be disseminated among the judges.

Emailing Orders: Temporarily, the court will accept proposed outstanding orders by email and will provide a copy for pick up at the drive thru window if you request the same. Counsel shall continue to comply with Rule 5(b), SCRCP, and shall avoid ex parte communication when submitting the proposed order via email to the judge's administrative assistant.

Please check for updates on the SC Bar website at <https://www.scbar.org/bar-news/covid-19-information-and-resources/>, the Lexington County Coronavirus information page at <https://lex-co.sc.gov/coronavirus-covid-19-information>, and the SC Judicial Branch coronavirus information page at <https://www.sccourts.org/coronavirus/covid-19/>. As indicated previously, we appreciate your patience as we adjust to new protocols, so we can provide services while maintaining the safety of the court system and the public.

Stay safe and well-

Huntley S. Crouch
Chief Administrative Judge
Family Court, 11th Judicial Circuit

ELEVENTH JUDICIAL CIRCUIT – UNCONTESTED DIVORCE CHECKLIST

_____ Plaintiff’s written testimony, via Affidavit, that addresses jurisdiction and venue questions, date of marriage, date of separation, the impossibility of reconciliation and the alleged divorce grounds, there are no martial assets/debts for the court to divide, waiver of alimony, and no children’s issues for the Court to decide.

_____ Copy of Plaintiff’s Driver’s License

_____ Defendant’s written testimony, via Affidavit, that addresses jurisdiction and venue questions, date of marriage, date of separation, the impossibility of reconciliation and the alleged divorce grounds, there are no martial assets/debts for the court to divide, waiver of alimony, and no children’s issues for the Court to decide.

_____ Copy of Defendant’s Driver’s License

_____ Corroborating witness’s testimony, via Affidavit

_____ Copy of Corroborating witness’s drivers license

_____ Proposed Decree and certification - *any decree submitted by any attorney shall be accompanied by a statement, as an officer of the court, that all counsel approve the decree and that all waiting periods have been satisfied.*

_____ Name Change Affidavit – if a party requests a name change in connection with a request for divorce agreement approval, that party shall submit an affidavit addressing the appropriate questions for name change and the name which he or she wishes to resume. This relief shall be included in any proposed Order submitted to the Court for approval at the time of the submission of the documents related to the relief requested.

_____ Updated signed Financial Declaration of Plaintiff

_____ Updated signed Financial Declaration of Defendant

Approval of Settlement Agreements without a Hearing - Checklist

_____ The Final Agreement (must be signed by the attorneys and the parties).

_____ Updated signed Financial Declaration for the Plaintiff

_____ Updated signed Financial Declaration for the Defendant

_____ Guardian Ad Litem affidavit, addressing the best interests of the child(ren).

_____ Affidavit of Plaintiff answering all questions the Family Court would normally ask the parties on the record (see below):

_____ Affidavit of Defendant answering all questions the Family Court would normally ask the parties on the record (see below):

Requirements of Party Affidavit:

- a.** The party has entered into the Agreement freely and voluntarily, understands the Agreement, and desires for the Agreement to be approved by the Court, without the necessity of a hearing.
- b.** Setting forth the education level obtained by the party, the employment status of the party and the health of the party.
- c.** There are no additional agreements, and neither party has been promised anything further than that set out in the Agreement.
- d.** The party fully understands the financial situation of each of the parties, the underlying facts, terms and effect of the Agreement.
- e.** The party has given and received full financial disclosure.
- f.** The party has had the benefit of an experienced family law attorney; or in the alternative, has had the opportunity to obtain counsel and has voluntarily chosen not to do so.
- g.** The party has had the opportunity to ask any questions relating to procedures and the effect of the Agreement.
- h.** The party is not acting under coercion or duress, and the party is not under the influence of any alcohol or drug.
- i.** That the Agreement is fair and equitable, it was reached by the parties through arms-length negotiations and the agreement represents some sacrifices and compromises by each party.
- j.** The Agreement is in the best interests of the children, if there are any.
- k.** That the parties have entered into a marital settlement agreement in full and final settlement of all issues arising from the marriage which have been raised or which could have been raised in the proceeding, other than issues relating to grounds for divorce.
- l.** The party is aware of the applicable contempt sanctions associated with non-compliance.