



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 29, 2020

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**Please take time to carefully review the Order from the Chief Justice issued on April 22, 2020, RE: Operation of the Trial Courts During the Coronavirus Emergency. Please also review the Chief Justice's Memorandum issued Friday, April 24, 2020, and the Order and forms issued on April 28, 2020.**

These orders controls certain procedures in Family Court, and as a result, this memo supplements the prior memo issued on April 14, 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.

As a reminder, the Clerks of Court for the entire 11<sup>th</sup> 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 the Order of the Supreme Court of South Carolina dated April 22, 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 see the county website or contact the Clerk of Court for the county in which you are filing.

A few reminders from the prior memo issued are:

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 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.

The terms of court for the next 6 weeks are not canceled. They will, however, be reviewed on a week to week basis, and they, along with judicial assignments will be posted on the judicial website at <https://www.sccourts.org/calendar/scmapping.cfm>

Likewise, the dockets will be reviewed on a week to week basis. The docket will be posted online the Wednesday or Thursday prior to the week. Judges will be assigned each day of the week, and they will be identified on the posted docket. These judges will be the point of contact for any issues that arise, so any communication to the court should start with the assigned judges' administrative assistants. The scheduling clerk will not coordinate future hearings with counsel. The hearing will be set by the court, and notice will be provided with the returned documents. Any returned documents will continue to be available through the drive thru as previously indicated in the memorandum issued on March 18, 2020.

The fact that you have a hearing date and time set on the dockets over the next six weeks **DOES NOT** guarantee you that hearing. We are working diligently to move cases; however, we must balance that with social distancing and consideration of the health of all parties involved, including the litigants and their attorneys, while also recognizing the limitations inherent in the use of remote hearing technology. Therefore, if your previously scheduled hearing is not listed on the posted docket, it has been continued without prejudice to having the matter addressed following the procedure set forth in the April 22, 2020 Order of the Supreme Court. The CAJ will issue a form order of continuance. Some of those procedures are set forth below.

Consent Orders: If matters, such as Final Divorces and Approvals of Agreements, are subject to being addressed by consent order with affidavits/certification and other submissions, hearings will not occur unless the reviewing Judge has a concern and notifies you that a hearing will be set. Consent orders for Final Divorces and Approvals of Agreement are controlled by the April 22, 2020 order. Additionally, a checklist was provided in the April 14, 2020 memo for the 11<sup>th</sup> Circuit. Consent orders are accepted even if a party is pro-se, so long as the accompanying affidavit indicates 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. This section applies to any pending matter regardless of whether it was previously or is currently scheduled for a hearing. Therefore, if you resolve a matter and want to submit it for approval and final order, please do so. If a matter is scheduled for a hearing, and you do not wish to prepare the submissions, the matter will be rescheduled to occur once normal court operations resume.

Motion Hearings: The court will continue to review Motions under the analysis set forth in the April 22, 2020 Supreme Court order. A flow chart is included, so you can review the analysis that the court may use. Therefore, if you have a pending motion on the dockets in the upcoming six weeks, a motion which has been continued, or a newly filed motion, and the parties consent to a WebEx hearing, submit your remote hearing request to the clerk with the completed and executed consent form. A copy of the approved consent form is attached for your reference. **It is imperative that when requesting your hearing, you indicate on your motion coversheet an email address for all parties.** The motion will be presented to a presiding judge. If after review, the court determines the matter can be decided without hearing, the court will do so,



sending instructions for submissions to counsel/parties. If the matter cannot be decided without hearing, the court will schedule the requested WebEx hearing by consent of the parties. The court will continue to schedule all Emergency and Expedited Hearings as remote hearings. The court/scheduling clerk will set the hearing and provide a notice containing information to access the WebEx hearing to the requesting party for service upon all parties. 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.

Trials: If you have a trial set on the docket during the next six weeks, nothing prevents you from requesting a scheduling/pre-trial conference. If you submit such a request to the Clerk of Court, also copy it to the administrative assistant for the Chief Administrative judge.

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.scbare.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/>.

The Judicial Branch has worked diligently to ensure attorneys and litigants have access to court, even if in-person access is restricted by necessity. You are encouraged to use the procedures that have been implemented during this time so we can continue to move cases and prepare for the re-opening of the court system. Please do not hesitate to communicate with any presiding judge if you have any questions or concerns. As always, we appreciate your continued patience as we adjust.

Stay safe and well-

Huntley S. Crouch  
Chief Administrative Judge  
Family Court, 11<sup>th</sup> Judicial Circuit

## HEARING PROCEDURE

1. Is it a motion without merit?
2. Is it a motion that can be readily decided without further input from lawyers?
3. Is it an “emergency or circumstance warranting immediate determination”?
4. Can it be “conducted adequately using remote communications”?

If it is 1, deny the motion without response from opposing party and end the matter.

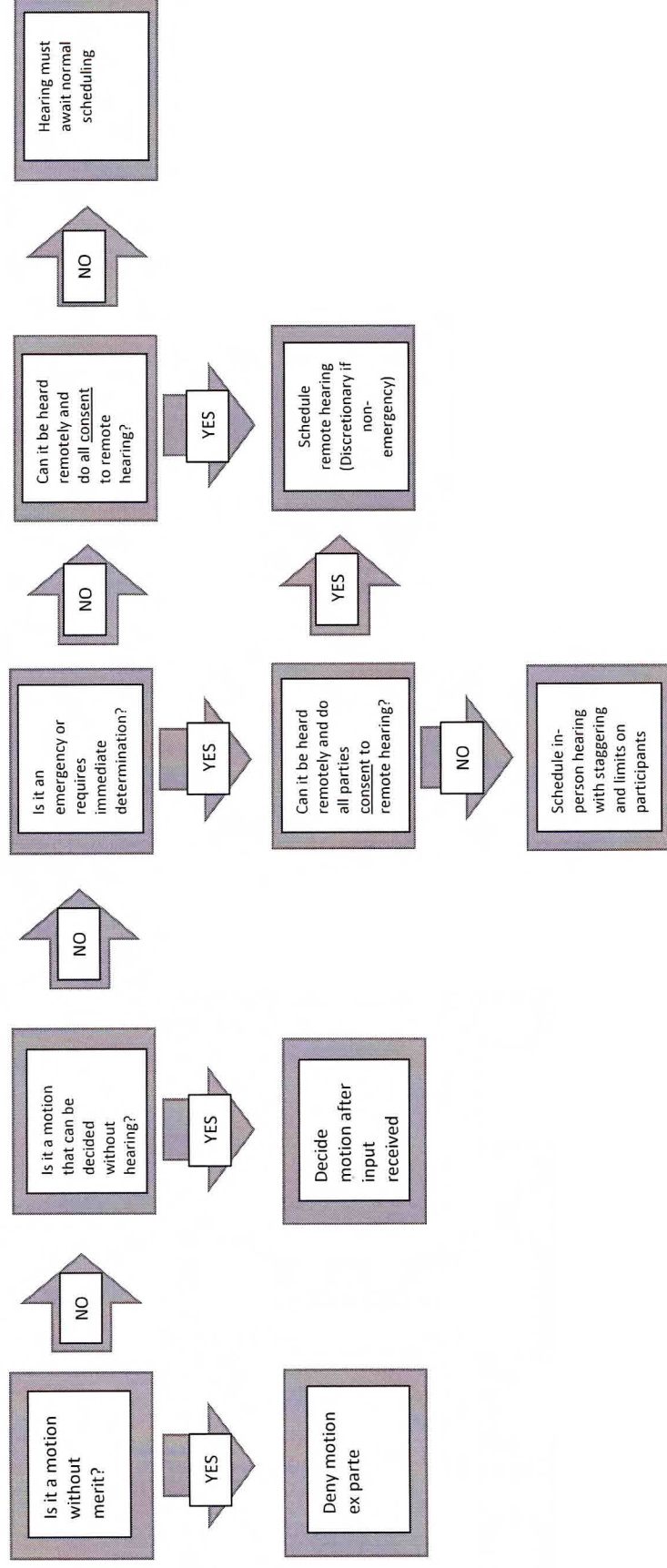
If it is 2, do not hold hearings, and decide the matter after allowing all parties to respond.

If it is 3 and 4, it MUST be heard remotely.

If it is 3 but not 4, it MUST be heard in the courtroom with appropriate staggering and limiting numbers of people/participants.

If it is 4 but not 3, it MAY be heard remotely.

If it is neither 3 nor 4, it MUST await normal scheduling.



STATE OF SOUTH CAROLINA )  
COUNTY OF \_\_\_\_\_ )  
 )  
 )  
\_\_\_\_\_  
 ) Plaintiff, )  
 )  
v. )  
 )  
\_\_\_\_\_  
 ) Defendant, )

IN THE FAMILY COURT  
FOR THE \_\_\_\_\_ JUDICIAL CIRCUIT

Case No. \_\_\_\_\_

**WAIVER OF IN-PERSON COURT  
APPEARANCE AND  
CONSENT TO VIDEO/AUDIOCONFERENCING**

I have been advised that I have the legal right to personally appear in the Family Court in \_\_\_\_\_ County, and I understand this right. I give up and waive this right to personally appear in court and consent to appear in court by use of video/audioconferencing.

I acknowledge that I want to handle the following matter by video/audioconferencing by initialing the type of hearing below:

- 1. \_\_\_\_\_ Bench Warrant
- 2. \_\_\_\_\_ Emergency Protective Custody Hearing
- 3. \_\_\_\_\_ Intervention Hearing
- 4. \_\_\_\_\_ Status Review Hearing
- 5. \_\_\_\_\_ Permanency Planning Hearing
- 6. \_\_\_\_\_ Petitions for Orders of Protection from Domestic Abuse
- 7. \_\_\_\_\_ Juvenile Detention: \_\_\_\_\_
- 8. \_\_\_\_\_ Other: \_\_\_\_\_

I also acknowledge that the outcome or consequence of this matter would be no different if I appeared in person. By my signature below, I consent to the use of video/audioconferencing in this proceeding. The court will maintain the audio or video recording of this proceeding for a period of not less than five (5) years from today's date in all proceedings, unless the proceedings were otherwise transcribed or recorded. I have been fully informed of my right to be personally present before the court and, with that knowledge, I freely, knowingly and voluntarily waive that right. I further acknowledge, if I have an attorney, that I have been given an adequate opportunity to confer privately with my attorney on this decision.

Party Consenting to Video/audioconferencing:

Witness:

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)

Attorney:

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)

\_\_\_\_\_, 20\_\_\_\_\_  
\_\_\_\_\_, South Carolina