



19th Judicial Circuit Court
Chief Judge Charles A. Schwab
Guidelines and Procedures

Probate Division

(Updated: July 2021)

PLEASE REVIEW ALL PROCEDURES PRIOR TO CONTACTING THE JUDGE'S OFFICE

Table of Contents

19th Judicial Circuit Court Chief Judge Charles A. Schwab	1
Guidelines and Procedures.....	1
Probate Division	1
E-MAILS:	3
PHONE CALLS:	3
INCAPACITY PROCEEDINGS:	5
EXAMINING COMMITTEE FEES:	5
HEARING / ONLINE CALENDAR:	5

I. COMMUNICATIONS WITH JUDGE'S OFFICE

Please do not ask the Judicial Assistant or other Court personnel to communicate any message to the Judge. This is prohibited ex-parte communication. The Court's staff is not permitted to relay ex-parte information to the Judge.

E-MAILS:

We can best respond to all communications to this office via e-mail rather than telephone calls. **Please send all e-mails to Judge Schwab's Judicial Assistant at: knowlesg@circuit19.org.** E-mails must contain the case name, case number, subject matter and relevant date(s). Please ensure that any and all e-mails are also copied to all opposing counsel and/or *pro se parties* and indicate same in the body of your e-mail to prevent ex-parte communication to the Court. ***It is not necessary to send multiple e-mails regarding the same subject matter. This creates confusion and takes up valuable time. A response to your e-mail will be forthcoming at our earliest opportunity.**

PHONE CALLS:

As referenced above, e-mail is the most effective method of contact with this office. If you call and receive a voicemail, please do not leave more than one (1) message for the Judicial Assistant. Please do not leave a voicemail message and send an e-mail. ***Please do not call the Judicial Assistant to ask if Orders have been entered, as this information is available online at the Clerk's office website at [Martin County Clerk | Official Website \(martinclerk.com\)](http://MartinCountyClerk.com).**

***PROBATE DIVISION IS COMPLETELY PAPERLESS - This office issues Orders via e-filing only. It is the responsibility of the moving party to provide Orders to any parties without e-mail service addresses. *You are required to provide the Judge's office with the Notice of Hearing and Hearing Packet, if any, via e-mail.**

II. PROBATE DIVISION PROCEDURES:

Checklists are required for both Opening and Closing Estates. The checklists are posted on Judge Schwab's web page under "Forms" on www.circuit19.org:

- 1) Opening a Formal Estate;
- 2) Closing a Formal Estate (Discharge);
- 3) Summary Administration; and
- 4) Disposition of Personal Property without Administration.

Attorneys must verify completion and correctness of the Checklists by personal signature. No signature stamps are allowed. Once the checklist is complete, the attorney's office shall submit via email only to knowmesg@circuit19.org:

- 1) Completed checklist;
- 2) Proposed Order(s) in Word format and;
- 3) A description of the documents being provided, as well as the action you wish to be taken.

Original documents and monies are not to be sent to the Judge's office, and the Judge's office takes no responsibility for such items.

III. CONTESTED PROBATE / CIVIL

REQUIREMENTS FOR COURT REPORTERS:

All evidentiary matters (both trials and hearings) must be recorded by a court reporter. It is the moving party's responsibility to arrange to have a court reporter present.

SETTLEMENT OF CASES:

If your case settles **immediately notify the Court's Judicial Assistant** via e-mail, transmittal confirmation to all parties, ATTACHING AN ALREADY E-FILED NOTICE OF SETTLEMENT, DISMISSAL DOCUMENTS AND FINAL DISPOSITION FORM.

i. [HEARING SCHEDULING / HEARING CANCELLATION / APPEARANCE BY TELEPHONE:](#)

***All Motions must be e-filed PRIOR to setting a hearing, however, the mere filing of a Motion is insufficient to set a motion for hearing.** The motion must be set for hearing to bring the matter to the Court's attention. You are required to provide the Judge's office with the Notice of Hearing and Hearing Packet via e-mail.

All Uniform Motion Calendar must be scheduled online by counsel. Please refer to Judge Schwab's calendar posted at <https://slccjis.stlucieco.gov/attorneycalendar> to confirm and schedule available dates. You must register to obtain your User ID and Password on the site. When registering on the site, please include your e-mail address. Parties will be restricted to the time allotted for the hearing. The Court reserves the discretion to reject any scheduling. Attorneys who repeatedly abuse the online scheduling may be denied further privileges of self-scheduling. Any hearings other than those set on a Uniform Motion Calendar must be scheduled by contacting Judge Schwab's Judicial Assistant via e-mail. The e-mail shall include a copy of the Motion already e-filed with the Clerk.

Cancellation of any hearing must be done 1) through the online Court scheduling calendar, 2) by e-filing a Notice of Cancellation of Hearing in advance of the hearing date and 3) a courtesy copy of your Notice of Cancellation of Hearing to the Judicial Assistants via email, once you have e-filed same.

Telephone hearings are permitted as long as there is no testimony or evidence to be presented. No Motion or Order is necessary. ***All telephone appearances must be made through Courtcall.** Courtcall is an independent service provider. By using Courtcall, individuals are knowingly entering into a service agreement and are subject to follow any additional terms and conditions imposed by Courtcall and shall be solely responsible for any costs or other expenses incurred for those services provided. Courtcall charges each participant a fee for each Courtcall appearance. There are no subscription fees. Telephonic appearances must be arranged by contacting Courtcall by telephone at 888-882-6878 or online at www.courtcall.com. Courtcall will provide participants with a written confirmation of their telephonic appearance and a number to call to make said telephonic appearance. Persons electing to make a telephonic appearance must notify all parties in writing no less than five (5) business days prior to the scheduled hearing date.

ii. UNIFORM MOTION CALENDAR:

Uniform Motion Calendar Hearings are for 5 to 15 minute, non-evidentiary Motions only. Uniform Motion Calendar Hearings must be scheduled online. Please refer to Judge Schwab's calendar posted at <https://slccjis.stlucieco.gov/attorneycalendar> to confirm and schedule available dates. Uniform Motion Calendar Hearings will normally be held Tuesdays from 9:00 a.m. to 12:00 a.m. All Uniform Motion Calendar Hearings must be noticed for 9:00 a.m. and the Notice of Hearing must include the date that the motion was filed.

Hearings on UMC are limited to fifteen (15) minutes per case (not per Motion). Additional Motions should not be "piggy-backed" by cross-notice unless counsel first confirms with opposing parties and the online calendar, that sufficient additional time is available and can be reserved for same. UMC is heard on a "first come, first serve" basis. After proper notice, failure of any party to appear at the hearing shall not prevent a party from proceeding with the matter when the case is called. If the party noticing the matter for hearing chooses to wait for the absent party, the matter may be passed over until the end of the calendar. If the Judge runs out of time on UMC, any remaining hearings will need to be rescheduled.

Contested summary judgment and evidentiary motions will not be heard at UMC. The types of Motions suitable for hearing on the Uniform Motion Calendar include simple motions, such as motions to strike affirmative defenses, amend pleadings, discovery motions, objections to CME, etc. UMC is available to pursue a summary final judgment for liquidated damages, including attorney's fees and costs after a default based upon a proper motion with supporting documentation, unless a party appears to contest it. In that instance, the parties must reset per the online calendar for an evidentiary hearing/trial on such matters. Any Memorandums or Supplemental Articles must be filed seven (7) days prior to the hearing.

All matters other than those set on the Uniform Motion Calendar must be scheduled through Judge Schwab's Judicial Assistant by email at knowlesg@circuit19.org or by phone at 772/742-9213.

iii. COOPERATION OF COUNSEL AND NOTICES OF HEARING:

Hearings must be cleared with opposing counsel and/or *pro se parties*. Good faith cooperation is expected from counsel, their support staff, and *pro se litigants*. Should counsel, their staff, or *pro se litigants* fail to respond within 3 business days, or refuse to cooperate in obtaining or in setting a hearing, the difficulty should be set forth either in the Motion or in the Notice of Hearing. After 3 days, the requesting party may

unilaterally set a hearing. Notice of the hearing must be provided at least five (5) working days prior to the hearing. All motions must comply with the Florida Rules of Civil Procedure, including, but not limited to, a certification that the movant, in good faith, has conferred or attempted to confer with the person or party failing to make discovery in an effort to secure the information without Court action. See, Fla.R.Civ.P., Rule 1.380(a)(2). All Notices of Hearing shall contain a certification signed by the scheduling attorney in substantially the following form:

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

Please note that certifications containing language to the effect that an effort will be made to resolve the issue in the future is NOT sufficient. Failure to comply with this requirement may result in cancellation of the hearing by the Court. If it is determined that the certification is not true, other sanctions may be imposed, including a referral to the Florida Bar.

iv. EMERGENCY HEARINGS:

If an emergency situation arises, counsel may request that a hearing be set on short notice. The body of the motion must contain a detailed explanation of the circumstances constituting the emergency as well as the substance of the motion. The motion must be e-mailed to the Court before a hearing will be set. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact counsel to set the hearing. In light of the short setting, opposing counsel may attend the hearing via Courtcall telephonic appearance if their schedule will not allow them to appear in person.

v. DISCOVERY MOTIONS AND MOTIONS TO COMPEL:

Motions to Compel, as well as all discovery motions must comply with the Florida Rules of Civil Procedure, including, but not limited to, a **certification that the movant, in good faith, has conferred or attempted to confer with the person or party failing to make discovery in an effort to secure the information without court action.** See Fla.R.Civ.P. 1.380(a)(2).

When a motion to compel discovery alleges a complete failure to respond or object to discovery, and the time for complying with the discovery request has lapsed and there has been no request for an extension of time, an Ex Parte order may be entered requiring compliance with the original discovery demand. The movant shall submit a copy of the motion and proposed order(s) shall be emailed to the Judicial Assistant (copies to other side) in WORD Format. All proposed orders and motions MUST contain proper address certification – i.e. the FULL, address or email address where the motion was served (or order will be served.) “I certify that a copy of the

foregoing was emailed to all parties through the e-service portal” is NOT sufficient. Likewise, listing a party on the order “cc”: without listing the address is insufficient. The order will reflect that counsel will be required to mail copies of any order that require US mail.

vi. LEGAL MEMORANDUM AND CITATIONS:

Any legal memoranda or briefs for special set hearings, ***along with copies of significant cited authorities (highlighting the pertinent sections is appreciated by the Court)***. Should be provided to the Court *and opposing counsel at least ten (10) business days prior to the hearing*. A list of any exhibits and witnesses to be called and any responsive memoranda should be provided to the Court *and to opposing counsel at least five (5) days prior to the hearing*. The Court will attempt to review the motion and memorandum, and read the cases cited therein, prior to the hearing so that an immediate ruling may be rendered. BREVITY IS APPRECIATED AND ENCOURAGED and memorandums should be kept to no more than five (5) pages in length. Case law and Memorandums provided to the Court during the hearing may not be considered. **The Court, on occasion and when permitted, may rule on motions without a hearing. Therefore, both counsel filing the motion and opposing parties are encouraged to timely file written argument with the Court.**