

**IN THE THIRTEENTH JUDICIAL CIRCUIT
HILLSBOROUGH COUNTY, FLORIDA**

**ADMINISTRATIVE ORDER S-2023-061
(Supersedes Administrative Order S-2023-002)**

**GENERAL MAGISTRATES AND CHILD SUPPORT
ENFORCEMENT HEARING OFFICERS
IN THE FAMILY LAW DIVISION**

Many post-judgment matters are brought before the judges in the Family Law Division. The interests of the public and of the litigants require a flexible and speedy resolution of these matters. Florida Family Law Rule of Procedure 12.490 provides for the appointment of general magistrates. Florida Family Law Rule of Procedure 12.491 provides for the usage of child support enforcement hearing officers in non-Title IV-D cases upon administrative order of the chief justice. By administrative order dated February 27, 1998, the chief justice of the Supreme Court of Florida ordered that hearing officers may be utilized in this circuit to consider proceedings for the establishment, enforcement and modification of support in non-Title IV-D cases.

On March 24, 2022, in *In Re: Amendments to Florida Family Law Rules of Procedure 12.490 and 12.491, and Forms 12.920 (A)-(C)*, the Supreme Court of Florida amended several provisions of Rule 12.490 to align the process for hearings in front of general magistrates under Rule 12.490 with the process for hearings in front of child support enforcement hearing officers under Rule 12.491.

Based on some reallocation of general magistrate resources, it is necessary for the proper and efficient administration of justice to update the assignment provisions governing the general magistrates and child support enforcement hearing officers in the Family Law Division.

By the power vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rule of General Practice and Judicial Administration

2.215(b)(2), it is ORDERED:

1. Appointments

Cheryl L. Mason, Joan Ellen Montagno, Jennifer Ann-Gill Sarmiento, and Philip S. Wartenberg are appointed as general magistrates and as child support enforcement hearing officers in the Family Law Division and East Circuit Divisions “R” and “T” (Plant City). These general magistrates and child support enforcement hearing officers are also appointed in East Circuit Division “P” effective March 1, 2024.

2. General Magistrate / Child Support Enforcement Hearing Officer Divisions

Divisions “GM-1,” “GM-3,” “GM-4,” and “GM-5” are re-established as General Magistrate / Child Support Enforcement Hearing Officer Divisions in the Family Law Division and East Circuit Divisions “R,” “T,” and “P” (effective March 1, 2024) (Plant City). Division “GM-2” is abolished on January 1, 2024. The general magistrates / child support enforcement hearing officers are assigned to the general magistrate / child support enforcement hearing officer divisions as follows:

<u>General Magistrate / Child Support Enforcement Hearing Officer Division</u>	<u>General Magistrate / Child Support Enforcement Hearing Officer</u>
“GM – 1”	Philip S. Wartenberg
“GM – 3”	Joan Ellen Montagno
“GM – 4”	Jennifer Ann-Gill Sarmiento
“GM – 5”	Cheryl L. Mason

3. Case Assignments

On and after December 15, 2023, any post-judgment family law matter referred by the court to the general magistrates or hearing officers will be assigned via the Judicial Automated Workflow System (JAWS) to either General Magistrate / Hearing Officer Division “GM-1,” “GM-3,” “GM-4,” or “GM-5.” The

assignment of a referred matter will be determined by the last two digits of the case number according to the following table:

GM-1 PHILIP WARTENBERG	GM-3 JOAN MONTAGNO	GM-4 JENNIFER SARMIENTO	GM-5 CHERYL MASON
00	01	03	09
04	02	07	17
08	05	11	25
12	06	15	33
16	10	19	41
20	13	23	49
24	14	27	50
28	18	31	54
32	21	35	57
36	22	39	58
40	26	43	62
44	29	47	65
48	30	51	66
52	34	55	70
56	37	59	73
60	38	63	74
64	42	67	78
68	45	71	81
72	46	75	82
76	53	79	86
80	61	83	89
84	69	87	90
88	77	91	94
92	85	95	97
96	93	99	98

4. General Magistrate Powers

General magistrates may hear and make recommendations on

post-judgment family law matters, excluding Title IV-D cases.

5. Referral to General Magistrate

A. General Procedures

All post-judgment family law matters, excluding Title IV-D child support issues, will be referred by the court to a general magistrate. Contemporaneous with the filing of any post-judgment family law matter, the party filing the matter must file and serve on all parties either (1) a Motion for Referral to General Magistrate, or (2) an Objection to Referral to General Magistrate.

No pre-judgment matters will be referred to the general magistrates.

When motions concerning discovery, continuances, or withdrawal of counsel relate to a matter referred to and pending before the general magistrate, such motions must be set before and heard by the general magistrate without further order of referral by the court. A separate order of referral is required for all contempt matters. See *Young v. Young*, 816 So. 2d 1267 (Fla. 3d DCA 2002).

B. Referral Orders

i. JAWS – All Parties Represented by Counsel

In the absence of an Objection to Referral to General Magistrate, if all parties are represented by attorneys, none of whom has been excused from e-mail service under Florida Rule of General Practice and Judicial Administration 2.516, the judge will enter an appropriate order of referral generated by using the JAWS.

ii. Hard Copies and Envelopes – Self-Represented Party or Party’s Attorney Excused from E-Service

In the absence of an Objection to Referral to General Magistrate, if any party is self-represented or represented by an attorney who has been excused from e-mail service by the court under Rule 2.516, the self-represented party or attorney who filed the post-judgment family law matter must submit to the presiding judge stamped, addressed envelopes for conformed copies of an

order of referral to be mailed.

C. Objection to Referral

Any objection to a referral, in accordance with Florida Family Law Rule of Procedure 12.490(b), must be in writing and filed within 10 days of the date of service of the order of referral. In accordance with section 5A of this administrative order, a party filing a post-judgment matter may file an objection to referral contemporaneous with the filing of the post-judgment matter which obviates the need for an order of referral being entered. If an objection is filed, the matter will remain to be heard by the presiding judge in the respective division, except that, when the magistrate is acting as a child support enforcement hearing officer under section 7 of this administrative order, the court will not entertain any objection to the referral of post-judgment child support matters. When a case is referred to a general magistrate, and there is no objection to the referral, the action must be set for hearing before the assigned magistrate in the manner prescribed in the referral order.

D. Hearings

Hearings on any matters referred to a general magistrate will be conducted in accordance with Florida Family Law Rule of Procedure 12.490(d).

E. Recommended Order

The general magistrate must submit a recommended order to the court that includes findings of fact and conclusions of law in accordance with Florida Family Law Rule of Procedure 12.490(e).

F. Motion to Vacate

Any party affected by a recommended order adopted and entered by the court may move to vacate the recommended order by filing a motion to vacate in accordance with Florida Family Law Rule of Procedure 12.490(e).

6. Child Support Enforcement Hearing Officer Powers

The persons appointed as general magistrates by this

administrative order are also appointed as child support enforcement hearing officers, under Florida Family Law Rule of Procedure 12.491, solely for conducting proceedings involving the enforcement and modification of non-Title IV-D child support issues. When acting as child support enforcement hearing officers under this administrative order, the hearing officers will have all the powers and duties as provided in Rule 12.491. Unlike referral of matters to a general magistrate which requires the consent of all parties, referral of matters to the child support enforcement hearing officers under Rule 12.491 does not require the consent of any party and therefore a party may not lodge any objection to the referral.

7. Automatic Assignment to Child Support Enforcement Hearing Officer

Upon the filing of any post-judgment action where the sole issue is the enforcement or modification of non-Title IV-D child support, the action is automatically assigned to a child support enforcement hearing officer without order of court being required. The child support enforcement hearing officer will proceed with the hearing and the preparation of a recommended order as provided in Florida Family Law Rule of Procedure 12.491. No objections to the assignment to a child support enforcement hearing officer under this section will be entertained by the court. Either party may set the action for hearing before the assigned child support enforcement hearing officer.

8. Contempt Hearings

In all contempt hearings in which the general magistrate or hearing officer recommends immediate incarceration, a recommended order will be promptly prepared and then reviewed by the judge assigned to the division in which the matter is pending. If the assigned judge is absent from the courthouse, the contempt matter will be reviewed by the family law judge present in the courthouse whose division next follows in alphabetical sequence the division in which the case is pending. Recognizing the need for expediency, if the court is attending to other judicial matters the court must recess as soon as is practicable and immediately review

the magistrate's or hearing officer's recommended order. If the court ratifies the magistrate's or hearing officer's recommended order, the general magistrate or hearing officer will recall the case and the bailiff will take the contemnor into custody. If the court determines that a hearing before the court is necessary, the matter will be scheduled on an emergency basis and must be heard immediately.

9. Disqualification of General Magistrate or Child Support Enforcement Hearing Officer

A. Notice of Recusal

If a general magistrate or child support enforcement hearing officer determines it is necessary to disqualify himself or herself from a proceeding, the general magistrate or hearing officer will serve a Notice of Recusal on all parties, have the Notice filed with the clerk, and arrange to have the Notice brought to the attention of the presiding judge. The matter will be rescheduled with the reassigned general magistrate or child support enforcement hearing officer as follows: If the general magistrate or hearing officer assigned to Division "GM-1" serves a Notice of Recusal, the case is automatically reassigned to and must be rescheduled with Division "GM-3." If the general magistrate or hearing officer assigned to Division "GM-3" serves a Notice of Recusal, the case is automatically reassigned to and must be rescheduled with Division "GM-4." If the general magistrate or hearing officer assigned to Division "GM-4" serves a Notice of Recusal, the case is automatically reassigned to and must be rescheduled with Division "GM-5." If the general magistrate or hearing officer assigned to Division "GM-5" serves a Notice of Recusal, the case is automatically reassigned to and must be rescheduled with Division "GM-1."

B. Motion for Disqualification

i. Judicial Determination of Motion's Legal Sufficiency

If a party files with the clerk and serves on the other party and on the presiding general magistrate or child support enforcement hearing officer a motion to disqualify the general magistrate or hearing officer, the general magistrate or hearing officer must

immediately arrange for the motion to be brought to the attention of the presiding judge. The presiding judge will then rule on the legal sufficiency of the motion.

ii. Motion Determined to be Legally Insufficient

If the presiding judge determines the motion is legally insufficient, the judge will enter an order denying the motion to disqualify the general magistrate or child support enforcement hearing officer and the general magistrate or child support enforcement hearing officer will remain as the presiding officer of the case. If the movant seeks to challenge the order denying the motion to disqualify the general magistrate or child support enforcement hearing officer by filing a petition for writ of prohibition in the Second District Court of Appeal, the matter referred will proceed before the general magistrate or hearing officer unless the appellate court issues an order to show cause under Florida Rule of Appellate Procedure 9.100(h).

iii. Motion Determined to be Legally Sufficient

If the presiding judge determines the motion is legally sufficient, the judge will enter an order granting the motion to disqualify the general magistrate or child support enforcement hearing officer and the case will be randomly reassigned by the presiding judge to another general magistrate or child support enforcement hearing officer by using a true random number generator (see www.random.org). Once the reassigned general magistrate or child support enforcement hearing officer division is determined, the judge will enter an amended order of referral identifying the successor general magistrate or hearing officer.

9. Time Standards

General magistrates will submit a recommended order to the assigned judge within 60 days from the date of the hearing. Child support enforcement hearing officers will submit a recommended order to the assigned judge within 60 days from the date of the hearing. Each general magistrate and child support enforcement hearing officer will maintain a log of cases under advisement and must submit a bi-monthly memorandum to the associate

administrative judge of the Family Law Division detailing any and all cases that have been held under advisement for more than 60 days. General magistrates and child support enforcement hearing officers must not maintain a case under advisement for more than 90 days from the date of the hearing.

10. Previous Administrative Order Superseded

This administrative order supersedes Administrative Order S-2023-002 (*General Magistrates and Child Support Enforcement Hearing Officers in the Family Law Division*).

11. Effective Date

This administrative order is effective January 1, 2024 except as provided in sections 1, 2, and 3.

ENTERED on December 15, 2023.



Christopher C. Sabella, Chief Judge

Attachments: Oaths of General Magistrates

Original: Cindy Stuart, Clerk of the Circuit Court

Copies: All Family Law Division Judges
All Family Law General Magistrates and Child Support
Enforcement Hearing Officers
Hillsborough County Bar Association

OATH OF PHILIP S. WARTENBERG - GENERAL MAGISTRATE

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

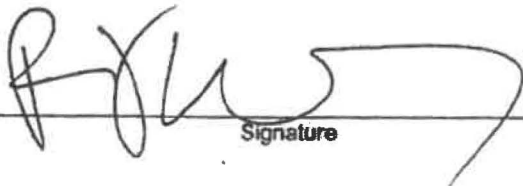
I do solemnly swear (or affirm):

That I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida;

That I am duly qualified to hold office under the Constitution of the state; and

That I will well and faithfully perform the duties of General Magistrate on which I am now about to enter.

So help me God.



Signature

The foregoing instrument was sworn to and subscribed before me this second day of March, 2020, by Philip S. Wartenberg who is personally known to me and who did take an oath.



Signature and Seal of Official Administering Oath

Ronald N. Ficarrota
Name of Official Typed, Printed or Stamped

Chief Judge of the Thirteenth Judicial Circuit
Title

OATH OF GENERAL MASTER

**STATE OF FLORIDA
COUNTY OF HILLSBOROUGH**

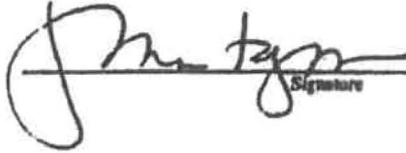
I do solemnly swear (or affirm):

I will support, protect and defend the Constitution and Government of the United States and of the State of Florida.

I am duly qualified to hold office under the Constitution of the state.

I will well and faithfully perform the duties of General Master on which I am now about to enter.

So help me God.


Signature

The foregoing instrument was sworn and subscribed to me this 17th day of January,

2002, by Joan Montegno who is personally known to me or who has produced
Name of General Master

_____ as identification and who did take an oath.
Type of identification


Signature and Seal of Official Administering Oath

Manuel Menendez, Jr.
Name of Official Typed, Printed or Stamped

Chief Judge
Title

OATH OF JENNIFER ANN-GILL SARMIENTO - GENERAL MAGISTRATE

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

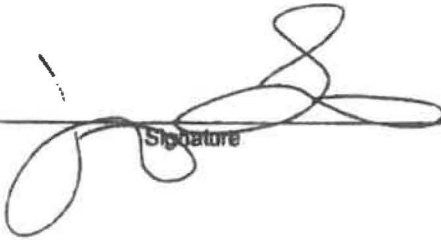
I do solemnly swear (or affirm):

That I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida;

That I am duly qualified to hold office under the Constitution of the state; and

That I will well and faithfully perform the duties of General Magistrate on which I am now about to enter.

So help me God.



Signature

The foregoing instrument was sworn to and subscribed before me this 18
day of June, 2018, by Jennifer Ann-Gill Sarmiento who is personally known to me and
who did take an oath.



Signature and Seal of Official Administering Oath

Ronald N. Ficarrota
Name of Official Typed, Printed or Stamped

Chief Judge of the Thirteenth Judicial Circuit
Title

OATH OF CHERYL L. MASON - GENERAL MAGISTRATE

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I do solemnly swear (or affirm):

That I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida;

That I am duly qualified to hold office under the Constitution of the state; and

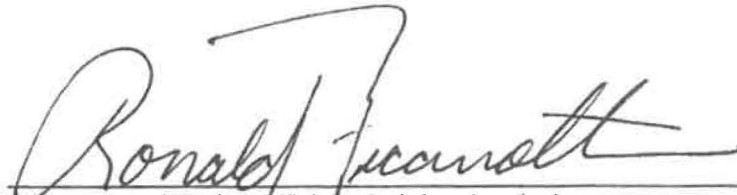
That I will well and faithfully perform the duties of General Magistrate on which I am now about to enter.

So help me God.



Signature

The foregoing instrument was sworn to and subscribed before me on October 4, 2022, by Cheryl L. Mason who is personally known to me and who did take an oath.



Signature and Seal of Official Administering Oath

Ronald N. Ficarrota
Name of Official Typed, Printed or Stamped

Chief Judge
Title