

Rule 12.492. Special Magistrates

(a) Special Magistrates. The court may appoint members of The Florida Bar as special magistrates for any particular service required by the court in a family law matter other than those involving injunctions for protection against domestic, repeat, dating, and sexual violence, and stalking. The special magistrates shall be governed by all the provisions of law and rules relating to general magistrates except as otherwise provided by this rule. Additionally, they shall not be required to make oath or give bond unless specifically required by the order appointing them. Upon a showing that the appointment is advisable, a person other than a member of The Florida Bar may be appointed.

(b) Reference. No reference shall be to a special magistrate without the express prior consent of the parties, except that the court upon good cause shown and without consent of the parties may appoint an attorney as a special magistrate to preside over depositions and rule upon objections.

(c) General Powers and Duties. Every special magistrate shall perform all of the duties that pertain to the office according to the practice in chancery and rules of court and under the direction of the court. Hearings before any special magistrate shall be held in the county where the action is pending, but hearings may be held at any place by order of the court within or without the state to meet the convenience of the witnesses or the parties. All grounds for disqualification of a judge shall apply to special magistrates.

(d) Bond. When not otherwise provided by law, the court may require special magistrates who are appointed to dispose of real or personal property to give bond and surety conditioned for the proper payment of all moneys that may come into their hands and for the due performance of their duties as the court may direct. The bond shall be made payable to the State of Florida and shall be for the benefit of all persons aggrieved by any act of the special magistrate.

(e) Hearings. When a reference is made to a special magistrate, any party or the special magistrate may set the action for hearing. The special magistrate shall assign a time and place for proceedings as soon as reasonably possible after the reference is made and give notice to each of the parties either directly or by requiring counsel to file and serve a notice of hearing. If any party fails to appear, the special magistrate may proceed ex parte or may adjourn the proceeding to a future day, giving notice to the absent party of the adjournment. The special magistrate shall proceed with reasonable diligence in every reference and with the least delay practicable. Any party may apply to the court for an order to the special magistrate to speed the proceedings and to make the report and to certify to the court the reason for any delay. Unless otherwise ordered by the court, or agreed to by all parties, all parties shall equally share the cost of the presence of a court reporter at a special magistrate's proceedings. If all parties

waive the presence of a court reporter, they must do so in writing. The special magistrate shall have authority to examine the parties and all witnesses under oath upon all matters contained in the reference and to require production of all books, papers, writings, vouchers, and other documents applicable to it. The special magistrate shall admit evidence by deposition or that is otherwise admissible in court. The special magistrate may take all actions concerning evidence that can be taken by the court and in the same manner. All parties accounting before a special magistrate shall bring in their accounts in the form of accounts payable and receivable, and any other parties who are not satisfied with the account may examine the accounting party orally or by interrogatories or deposition as the special magistrate directs. All depositions and documents that have been taken or used previously in the action may be used before the special magistrate.

(f) Special Magistrate's Report. The special magistrate shall file a report that includes findings of fact and conclusions of law, together with recommendations. In the report made by the special magistrate no part of any statement of facts, account, charge, deposition, examination, or answer used before the special magistrate need be recited. The matters shall be identified to inform the court what items were used. The report shall include the name and address of the court reporter present, if any.

(g) Filing Report; Notice; Exceptions. The special magistrate shall file the report and recommendations and serve copies on the parties. The parties may file exceptions to the report within 10 days from the time it is served on them. If no exceptions are filed within that period, the court shall take appropriate action on the report. Any party may file cross-exceptions within 5 days from the filing of the exceptions, provided, however, that the filing of cross-exceptions shall not delay the hearing on the exceptions unless good cause is shown. If exceptions are filed, they shall be heard on reasonable notice by either party. The party seeking to have exceptions heard shall be responsible for the preparation of the transcript of proceedings before the special magistrate.

(h) Expenses of Special Magistrate. The costs of a special magistrate may be assessed as any other suit money in family proceedings and all or part of it may be ordered prepaid by order of the court.