

Rule 5.095. General and Special Magistrates

(a) General Magistrates. The court may appoint general magistrates as the court finds necessary. General magistrates shall be members of The Florida Bar and shall continue in office until removed by the court. The order making an appointment shall be recorded. Each general magistrate shall take the oath required of officers by the Florida Constitution. The oath shall be recorded before the magistrate begins to act.

(b) Special Magistrates. The court may appoint members of The Florida Bar as special magistrates for any particular service required by the court. Special magistrates shall be governed by all laws and rules relating to general magistrates, except special magistrates shall not be required to make oath unless specifically required by the court. For good cause shown, the court may appoint a person other than a member of The Florida Bar as a special magistrate.

(c) Reference. No referral shall be made to a magistrate without the consent of the parties. When a referral is made to a magistrate, either party may set the action for hearing before the magistrate.

(d) General Powers and Duties. Every magistrate shall act under the direction of the court. Process issued by a magistrate shall be directed as provided by law. All grounds for disqualification of a judge shall apply to magistrates.

(e) Bond. When not otherwise provided by law, the court may require magistrates who are appointed to dispose of real or personal property to give bond and surety conditioned for the proper payment of all money that may come into their hands and for the due performance of their duties. 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 magistrate.

(f) Hearings. Hearings before any magistrate may be held in the county where the action is pending or at any other place by order of the court for the convenience of the witnesses or the parties. The magistrate shall assign a time and place for proceedings as soon as reasonably possible after a referral is made and give notice to all parties. If any party fails to appear, the magistrate may proceed ex parte or may continue the hearing to a future day, with notice to the absent party. The magistrate shall proceed with reasonable diligence and the least practicable delay. Any party may apply to the court for an order directing the magistrate to accelerate the proceedings and to make a report promptly. Evidence shall be taken in writing or by electronic recording by the magistrate or by some other person under the magistrate's authority in the magistrate's presence and shall be filed with the magistrate's report. The magistrate may

examine and take testimony from the parties and their witnesses under oath on all matters contained in the referral and may require production of all books, papers, writings, vouchers, and other documents applicable to those matters. The magistrate shall admit only evidence that would be admissible in court. The magistrate may take all actions concerning evidence that may be taken by the court. All parties accounting before a 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 magistrate directs. All depositions and documents that have been taken or used previously in the action may be used before the magistrate.

(g) Magistrate's Report. The magistrate's report shall contain a description of the matters considered and the magistrate's conclusion and any recommendations. No part of any statement of facts, account, charge, deposition, examination, or answer used before the magistrate shall be recited.

(h) Filing Report; Notice; Exceptions. The magistrate shall file the report and serve copies on the parties. The parties may serve 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. All timely filed exceptions shall be heard on reasonable notice by either party.

(i) Application of Rule. This rule shall not apply to the appointment of magistrates for the specific purpose of reviewing guardianship inventories, accountings, and plans as otherwise governed by law and these rules.