

**THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA**

**CASE NO. 12-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 12-02**

**IN RE: ESTABLISHMENT OF
PROCEDURE FOR APPOINTMENT
OF COUNSEL IN CRIMINAL AND
CIVIL PROCEEDINGS**

WHEREAS, the Chief Judge of the Eleventh Judicial Circuit of Florida, pursuant to Rule 2.215 of Florida Rule of Judicial Administration, has the authority to adopt administrative orders necessary to ensure the operation of the Eleventh Judicial Circuit of Florida ("Court"); and

WHEREAS, Section 27.40, Florida Statutes, sets forth the duties and responsibilities of the Chief Judge in establishing a registry of attorneys for appointment to represent persons in those cases in which the Office of Criminal Conflict and Civil Regional Counsel is unable to provide representation due to a conflict of interest; and providing same to the Clerk of Courts; and

WHEREAS, Chapter 2012-123, Laws of Florida, effective July 1, 2012, amends Section 27.40(3)(a), Florida Statutes, and authorizes the Chief Judge to establish a limited registry to include only those attorneys willing to waive compensation in excess of the flat fee prescribed in Section 27.5304, Florida Statutes, notwithstanding the provisions of Section 27.5304(12), Florida Statutes; and

THEREFORE, in accordance with the authority vested in the Chief Judge of the Eleventh Judicial Circuit of Florida, it is hereby **ORDERED**:

1. ESTABLISHMENT OF THE LIMITED REGISTRY.

In accordance with Section 27.40 (3)(a), Florida Statutes, effective July 1, 2012, the Chief Judge is hereby establishing a limited registry for the criminal and juvenile delinquency registry and the probate and guardianship registry. The limited registry will be comprised of attorneys willing to accept as full payment the flat fees prescribed in Section 27.5304, Florida Statutes, notwithstanding the provisions of Section 27.5304(12), Florida Statutes, in non-capital felony and misdemeanor cases, and probate and guardianship cases. Therefore, the limited registry

excludes cases brought under the Racketeer Influenced and Corrupt Organizations Act, capital cases as defined in Section 27.5304(5)(a)4, Florida Statutes, first degree murder cases in which the State has waived the death penalty, capital sexual battery cases, capital felony cases in the juvenile delinquency division, and cases brought in the juvenile dependency division. The limited registry shall remain in effect for a period of one (1) year. Prior to its expiration, the Chief Judge will review its effect on the proper and efficient administration of justice to determine whether such policy should continue. The Chief Judge reserves the right to amend the policies and procedures of the limited registry and this Administrative Order as needed.

2. APPOINTMENT TO LIMITED REGISTRY OR GENERAL REGISTRY.

The selection, approval, and continuation of a private attorney on the limited registry or general registry is dependent upon qualifications, training, and other factors as determined by the Chief Judge by and through the Eleventh Judicial Circuit Court Screening Committees, as established pursuant to Administrative Order No. 1-12-03, for the criminal and juvenile delinquency registry, juvenile dependency and termination of parental rights registry, and probate and guardianship registry. The number of appointments an attorney receives is subject to the number of cases filed, the number of cases for which the Office of Public Defender (Public Defender) or Office of Criminal Conflict and Civil Regional Counsel (Regional Counsel) cannot provide representation, and the number of attorneys on the limited registry and general registry. Attorneys shall be responsible for entering into any and all Agreements required by the Justice Administrative Commission (JAC). The Chief Judge will advise the JAC and Clerk of Courts (Clerk) of the attorneys to be added to or removed for cause from the limited registry or general registry.

3. REGISTRY APPLICATIONS AND CERTIFICATION REQUIREMENT.

An attorney must complete an application for each of the respective division's registries. Additionally, effective July 1, 2012, Section 27.40(3)(a), Florida Statutes, requires an attorney to certify that they meet certain requirements and whether they are willing to accept as full payment the flat fees prescribed in Section 27.5304, Florida Statutes, for certain categories of cases, notwithstanding the provisions of Section 27.5304(12), Florida Statutes. Therefore, when applying to be on the limited registry or general registry, an attorney must complete an Attorney Certification form, along with the appropriate division's registry application, to be included on the limited registry or general registry. The Attorney Certification and respective division's registry applications with corresponding instructions and requirements may be found on the Eleventh Judicial Circuit Court website located at www.jud.11.flcourts.org

under the “Court Appointed Counsel” link.

4. SELECTION OF ATTORNEY FROM THE LIMITED REGISTRY OR GENERAL REGISTRY.

- (A) When requested by the Court, the Clerk of Circuit Court must provide the name of the next registry attorney and must advise whether the attorney is from the limited registry or general registry. When selecting the next registry attorney, the clerk shall first determine if there is a limited registry for a category of a case requiring the name of an attorney. If there is a limited registry, the Clerk shall select the name of the attorney from the limited registry. If there is no limited registry, the Clerk shall select the name of the attorney from the general registry.
- (B) If there is a limited registry for a category of a case requiring the name of an attorney but all attorneys are disqualified or unavailable for proceedings for Emergency Temporary Guardianship, the Clerk shall select the name of the attorney from the general registry.

5. REMOVAL FROM THE LIMITED REGISTRY OR GENERAL REGISTRY.

- (A) An attorney may be removed from active status from the limited registry or general registry if he or she:
 - i. resigns. Upon resignation, the attorney shall immediately send such notice as required by the JAC. The notice shall state if the attorney is resigning from all categories to which the attorney is entitled to receive appointments or only some categories to which the attorney is entitled to receive appointments. A copy of the notice of resignation shall be provided by the attorney to the Chief Judge, Screening Committee, and Clerk and shall be relied upon, at the time of receipt, that the attorney will be removed from the limited registry or general registry as set forth in the notice. If an attorney later decides that he or she wants to be reinstated to the limited registry or general registry, the attorney must file a new application to be considered by the respective Screening Committee and approved by the Chief Judge.
 - ii. fails to comply with terms of contract with JAC.
 - iii. fails to notify the Chief Judge, Screening Committee, Clerk, and JAC of any change in status. The removal may be temporary until such time as the attorney notifies the Chief Judge, Screening Committee, Clerk, and JAC, or may be

permanent, in the discretion of the Chief Judge, based upon the nature of the change of status.

- iv. fails to maintain a valid e-mail address for communication with the Chief Judge, Screening Committee, Clerk, and JAC.
- v. fails to enter into any and all agreement(s) and addendums to agreement(s) as required by JAC on or before the last weekday of August for each fiscal year the attorney is eligible for inclusion on the registry.
- vi. fails to enter into any and all other agreement(s) and addendums to agreement(s) as required by JAC within 30 days of a request by the JAC.
- vii. has his or her contract terminated by JAC.
- viii. terminates his or her contract with JAC.
- ix. reassigns or subcontracts a case to another attorney.
- x. has circumstances that have effected his or her quality of representation, as ultimately determined by the Chief Judge after the procedures set forth below in paragraph 5, "Complaints," have been followed. Such circumstances include, but are not limited to, matters set forth in Section 27.40(9).

(B) If an attorney is disbarred, suspended, has surrendered his or her license, or is not a member in good standing with The Florida Bar, the attorney must promptly notify the Chief Judge in writing. The Chief Judge has the authority to remove an attorney from the registry who is disbarred, suspended, surrendered his or her license, or not in good standing with The Florida Bar even if the attorney fails to provide notice. An attorney removed for any reason set forth in this paragraph, upon reinstatement to The Florida Bar, will be required to file a new application to be considered by the Screening Committee and approved by the Chief Judge for reinstatement to the limited registry or general registry.

(C) At any time an attorney is removed from the limited registry or general registry and later reinstated, the attorney will be placed at the bottom of the list for rotation for the category for which the attorney is eligible to receive appointments.

6. APPOINTMENT OF NON REGISTRY ATTORNEY.

- (A) A non Registry attorney may be appointed if:
- i. no attorneys are on the limited registry or general registry for a category of cases requiring appointment of counsel; or
 - ii. all attorneys on the limited registry or general registry for a category of cases have withdrawn or declined the appointment of the case; or
 - iii. all attorneys on the limited registry or general registry for a category are precluded by statute or rule of court from accepting any additional appointments.
- (B) When appointing a non-registry attorney, the presiding judge shall set forth in the order of appointment that the Public Defender and Regional Counsel are unable to represent the individual and one of the reasons from paragraph 4.(A).
- (C) The attorney appointed shall be ordered to execute any and all Agreements required by the JAC to be compensated and for payment of due process expenses.

7. COMPLAINTS.

Complaints by any interested party shall be in writing and addressed and delivered to the Chief Judge, with a copy to the respective division's Administrative Judge and Screening Committee Chair. Upon receipt of a complaint, the Screening Committee shall hold a public meeting where the subject attorney shall have the opportunity to be present and heard on the matter. After the meeting, the Screening Committee shall give written recommendations to the Chief Judge for his consideration. The Chief Judge shall make the final decision as to what action, if any, should be taken regarding the attorney's status on the registry. Written notification of any action taken by the Chief Judge shall be provided to the subject attorney, the respective division's Administrative Judge and Screening Committee, the Clerk of Court, and the Justice Administrative Commission.

8. REFERENCES.

Any and all references to the Chief Judge, Clerk, Administrative Judge, judge, general magistrate, Public Defender, or Regional Counsel shall be deemed to include his or her designee.

This Administrative Order shall become effective July 1, 2012 and shall remain in effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, this 29th day of June, 2012.

**JOEL H. BROWN, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**