

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

Order Number 2007-41-Gen

**ADMINISTRATIVE ORDER ESTABLISHING PROCEDURE FOR APPOINTMENT
OF COUNSEL IN CRIMINAL AND CIVIL PROCEEDINGS
AND ESTABLISHMENT OF DUE PROCESS SERVICE PROVIDER RATES**

- (a) Chapter 2007-62, Laws of Florida, was signed by the Governor on May 24, 2007 and abolishes the Indigent Services Committee as of September 30, 2007.
- (b) Chapter 2007-62, Law of Florida, also requires the Chief Judge to establish due process service provider rates.
- (c) In accordance with the authority vested in the Chief Judge by Florida Rule of Judicial Administration 2.215, it is ordered effective October 1, 2007 as follows:
 - (1) **APPOINTMENT TO REGISTRY.** The selection, approval, and continuation of a private attorney on the Registry is a privilege, not a right and is dependent upon qualifications, training, and evaluation of performance as determined by the Chief Judge. 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) ¹ cannot provide representation, and the number of attorneys on the Registry. Attorneys will be added to the Registry on a quarterly basis and shall be responsible for entering into any and all Agreements required by the Justice Administrative Commission (JAC). The Chief Judge will advise JAC and Clerk of Courts (Clerk) of the attorneys to be added to or removed from the Registry.
 - (2) **GENERAL REQUIREMENTS.**
 - (A) The attorney must be a member of The Florida Bar in good standing.
 - (B) The attorney must have either a principle office in Broward County, Florida or location in Broward County, Florida to meet with clients.
 - (C) The attorney must have either a telephone number with an area code for Broward County, Florida or a toll free number for the receipt of telephone calls from clients.

¹ Regional Counsel should not be appointed until such time as the Chief Judge and Clerk is advised the Office of Regional Counsel is operational between October 1, 2007 and December 31, 2007. Regional Counsel shall be appointed as of January 1, 2008 to cases where the Public Defender cannot represent an individual pursuant to law or has withdrawn from the case.

- (D) The attorney must provide notice to the Chief Judge, Clerk, and JAC of any change in address, telephone number or e-mail address and also if the attorney is unavailable to accept appointments for any period of time due to vacations, illness, or for any other reason. Notice to the Chief Judge shall be sent to isc@17th.flcourts.org. Notice to the Clerk shall be sent to [CACs@browardclerk.org](mailto:CACS@browardclerk.org). Notice to the JAC shall be in the manner required by the JAC. Attorneys eligible to receive probate appointments shall provide a copy of the notice to guardian@17th.flcourts.org.
- (E) If the attorney is appointed to a case which is confidential or exempt from public access pursuant to rule of court or statute, the attorney shall advise the JAC in writing that the name of the client, pleadings/papers, and progress docket is confidential or exempt from public access and must be redacted prior to any public dissemination.
- (3) **ADDITIONAL PROBATE DIVISION REQUIREMENTS.** In addition to the general requirements set forth in paragraph 2, the Probate Division Registry categories have additional requirements as set forth herein.
- (A) All private attorneys on any Probate Division Registry category are required to:
- (i) maintain in full force and effect malpractice insurance during any period of time the attorney is on the Registry. The attorney must submit proof of legal malpractice insurance being in full force and effect within 10 days of the expiration of any policy during the fiscal year of the contract with the JAC to the Administrative Judge for the Probate Division. Failure to provide proof will result in an immediate removal from the Registry until proof of insurance is provided. If the attorney fails to provide proof within 60 days of the policy expiration the attorney will be required to reapply if he or she seeks reinstatement to the Registry.
 - (ii) notify the Chief Judge and Administrative Judge for the Probate Division if the private attorney is under investigation by The Florida Bar, under a criminal investigation, or has pending criminal charges. Upon delivery of the notice the attorney will be immediately suspended from the Registry for Probate Division appointments pending the outcome of The Florida Bar investigation, criminal investigation or criminal charges and review by the Chief Judge of the outcome. The Chief Judge will be the sole decision maker if the attorney is reinstated to the Registry or is removed.
- (B) The initial Continuing Legal Education (CLE) for private attorneys seeking appointments for Adult Protective Services, Developmentally Disabled Adults, Emergency Temporary Guardianships, and Incapacity is 10 hours of guardianship, mental health, or elder law topics in 12 months preceding application and appointment to the Registry. Acceptable CLE courses shall include advance directives, legislative updates, mental health, capacity and

courses of other similar nature but shall not include estate planning, mediation training, family law matters, or arbitration training.

(C) Private attorneys receiving appointments on an fiscal year basis, which is defined as July 1 to June 30, for Adult Protective Services, Developmentally Disabled Adults, Emergency Temporary Guardianships, and Incapacity are required to complete 6 hours in the areas of elder law, guardianship, or mental health. Acceptable CLE courses shall include advance directives, legislative updates, mental health, capacity and courses of other similar nature but shall not include estate planning, mediation training, family law matters, or arbitration training. The private attorney must provide proof no later than June 15, 2008 and the 15th of each June thereafter that the attorney remains on the Registry that he or she has met the annual CLE requirement to the Administrative Judge of the Probate Division. Failure to provide proof will result in an immediate removal from the Registry until proof of CLE is provided. If the attorney fails to provide proof by September 1, 2008 and the 1st of September thereafter the attorney will be removed from the Registry and required to reapply if he or she seeks reinstatement to the Registry.

(D) Private attorneys receiving appointments for Baker Act, Marchman Act, or Admission of Inmate to Mental Health Facility cases are required to attend any course presented by the Department of Children and Families with regard to these areas. The attorney must provide proof within 90 days of the course that he or she did attend. Failure to provide proof will result in an immediate removal from the Registry until proof of attendance is provided. If the attorney fails to provide proof within 6 months the attorney will be required to reapply if he or she seeks reinstatement to the Registry. The attorney is only required 1 presentation of a program presented by the Department of Children and Families.

(4) **REMOVAL FROM REGISTRY**

(A) An attorney may be removed from the Registry if, he or she:

(i) resigns. The attorney shall immediately send notice to JAC by certified mail/return receipt requested if he or she decides not to accept appointments and 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 shall be provided by the attorney to the Chief Judge and Clerk and shall be relied upon, at the time of receipt, that the attorney may be removed from the Registry as set forth in the notice. The copy to the Chief Judge should be delivered to Court Administration, Room 880A, Broward County Courthouse, 201 S.E. Sixth Street, Fort Lauderdale, Florida 33301. The copy to the Clerk should be delivered to CACS, Room 760, Broward County Courthouse, 201 S.E. Sixth Street, Fort Lauderdale, Florida 33301. If an attorney later decides that he or she wants to be

reinstated to the Registry, the attorney must file a new application to be considered by the Chief Judge.

- (ii) fails to comply with terms of contract with JAC. The Chief Judge may provide notice to an attorney of any failure to comply with the terms of the contract with the JAC and provide the attorney with an opportunity to respond prior to removal from the Registry.
 - (iii) fails to notify the Chief Judge, Clerk, and JAC of any change in status. The removal may be temporary until such time as the attorney notifies the Chief Judge, Clerk, and JAC or may be permanent, in the discretion of the Chief Judge, based upon the nature of the change of status. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.
 - (iv) fails to attend hearings, except for good cause as determined by the presiding judge or general magistrate. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.
 - (v) fails to maintain a valid e-mail address for communication with the Chief Judge, Clerk and JAC. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.
 - (vi) fails to enter into any and all agreements(s) and addendums to agreements(s) as required by JAC within 30 days of a request by the JAC. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.
 - (vii) has his or her contract terminated by JAC.
 - (viii) terminates his or her contract with JAC.
 - (ix) reassigns or subcontracts the case to another attorney.
 - (x) allows another attorney to appear at a critical stage of the case who is not on the Registry.
- (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 does have 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 Chief Judge for reinstatement to the Registry.
- (C) Where removal is determined to be necessary for the protection of the interests of the client or the administration of justice, the Chief Judge may take any appropriate action. The Chief Judge shall provide notice to an attorney of any allegation of extreme misconduct and provide the attorney with an opportunity to respond prior to removal from the Registry. The Chief Judge can take immediate action, without notice to the private attorney, in emergency situations as determined solely by the Chief Judge.

(D) At any time an attorney is removed from the Registry and later reinstated to the Registry, 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.

(5) **NOTICES.**

(A) Notices between the Chief Judge and the Clerk shall be in an electronic format.

(B) The e-mail address of the judges, general magistrates, and court administration employees are exempt from public access and shall not be disclosed by the Clerk to any individual not employed by him.

(6) **SELECTION OF ATTORNEY FROM REGISTRY.**

(A) The judge or general magistrate shall advise the Clerk that a name of an attorney from the Registry is required on a case. The judge shall provide the Clerk with the name of the individual for whom counsel is being appointed, the case number, and type of case.

(B) The Clerk for probate cases shall provide the name of the private attorney from the Registry to the judge at the time the proceedings are filed and until such time as Regional Counsel is able to accept appointment of cases.

(C) A private attorney from the Registry shall be selected for the respondent in all Chapter 744 proceedings unless the judge advises the Clerk the Respondent is indigent.

(D) The attorney appointed to the case shall also have an obligation in non Chapter 744 proceedings to ensure that:

(i) the Public Defender cannot accept the case pursuant to law; or

(ii) the Public Defender has filed a motion to withdraw and an order of withdrawal has been entered by the presiding judge; **and**

(iii) Regional Counsel cannot accept the case pursuant to law; or

(iv) Regional Counsel has filed a motion to withdraw and an order of withdrawal has been entered by the presiding judge.

If the attorney cannot ascertain the above requirements the attorney shall set the matter for a status conference before the presiding judge with notice to the Public Defender and/or Regional Counsel, as applicable.

(E) It shall be the responsibility of the judge in non-probate proceedings to determine if an attorney is eligible for appointments in a Registry category prior to notifying the Clerk of an order of appointment not in rotating order. By way of example, it shall be the responsibility of the judge to determine if the attorney representing the parent in the dependency proceedings is eligible to represent the parent in termination of parental rights proceedings.

(E) The Clerk shall within 1 business day of entry of the order of appointment mail to the Public Defender, Regional Counsel, or private attorney the order. If time is of the essence it shall be the responsibility of the judge to notify the

attorney of his or her appointment to represent a defendant, parent, or respondent.

(7) **LIST OF ATTORNEYS ON REGISTRY.** The Clerk shall provide to the Chief Judge a copy of the Registry on the first day of each month in an electronic format(s) as determined by the Chief Judge.

(8) **SCHEDULING OF ATTORNEYS FOR DEPENDENCY SHELTER HEARINGS.**

(A) The Clerk shall schedule attorneys on a quarterly basis to attend the scheduled hearings for dependency shelter hearings. The quarters are based on the State of Florida's fiscal year which is July to September, October to December, January to March, and April to June. The Clerk's responsibility to schedule attorneys shall commence as of November 1, 2007.

(B) The Administrative Judge for Unified Family Court will notify the Clerk as to the dates, times, and locations of the shelter hearings at least 30 days prior to the start of each quarter.

(C) The Clerk shall select 4 names of private attorneys from the Registry who are approved for shelter hearings, assign a dummy case number for the purpose of selecting names from the Registry and otherwise schedule private attorneys to appear on weekdays which are not court holidays or the court is otherwise closed. The Clerk shall provide an electronic copy of the schedule to the judges presiding at the shelter hearings, the judicial assistants for the judges presiding at the shelter hearings, the private attorneys, and Regional Counsel.

(D) If a private attorney scheduled to appear at shelter hearings is unable to attend, the attorney shall be responsible for securing another attorney to appear on his or her behalf at the shelter hearings. The private attorney who actually appears at the date and time of the shelter hearings shall receive the appointment to represent the parent.

(E) If a private attorney is appointed for a parent, the Clerk shall update the Registry to reflect the attorney's appointment for a dependency case and place the attorney at the bottom of the Registry for dependency appointments.

(F) The procedures as outlined for shelter hearings is to provide parents and children with an expedited process to determine if a child should remain out of his or her home.

(9) **SCHEDULING OF ATTORNEYS FOR EMERGENCY TEMPORARY GUARDIANSHIP HEARINGS**

(A) The Clerk shall schedule private attorneys on a quarterly basis to attend the scheduled hearings for emergency temporary guardianship hearings. The quarters are based on the State of Florida's fiscal year which is July to

- September, October to December, January to March, and April to June. The Clerks responsibility to schedule attorneys shall commence as of January 1, 2008.
- (B) The general magistrates for the probate division shall advise the Clerk at least 30 days prior to the commencement of each quarter the dates, times, and locations of the emergency temporary hearings.
 - (C) Upon securing the information as to the dates, times, and locations of the emergency temporary guardianship hearings the Clerk shall schedule private attorneys to appear at the date, time, and location of the emergency temporary guardianship hearings. The Clerk shall select 1 name of a private attorney from the Registry who is approved for emergency temporary guardianship hearings, assign a dummy case number for the purpose of selecting names from the Registry and otherwise schedule private attorneys to appear at the emergency temporary guardianship hearings.
 - (D) The Clerk shall provide an electronic copy of the proposed schedule to the private attorneys who shall have 5 business days to accept the date and time to appear for emergency temporary guardianship hearings. If the private attorney fails to accept the date and time, he or she shall not be scheduled for that date and the Clerk shall select another private attorney from the Registry.
 - (E) If an attorney, after accepting, is unable to appear at the scheduled date and time, the attorney shall notify the Clerk who shall select another attorney from the Registry.
 - (F) At the time of finalizing the emergency temporary guardianship hearing schedule, or upon changes to the schedule, the Clerk shall provide an electronic copy to the probate division judges, the judicial assistants for the probate division judges, the general magistrates for the probate division, the secretaries for the general magistrates for the probate division, and the private attorneys. The Clerk shall also post a copy of the schedule in his office for the probate division.
 - (G) Upon the filing of the emergency petition and incapacity petition, the Clerk shall update the Registry to reflect the attorney's appointment and drop the attorney to the bottom of the Registry categories for emergency temporary guardianship proceedings and incapacity proceedings.

(10) **FEES.**

- (A) Fees for private attorneys shall be those as established by statute or the General Appropriations Act, which ever shall apply at the time of appointment.
- (B) It is the responsibility of the attorney to maintain any and all records required by JAC to receive compensation at the conclusion of the case to which the attorney is appointed.
- (C) The private attorneys scheduled for or appearing at dependency shelter hearings are not entitled to receive fees unless an order of appointment is

- entered by the judge appointing the attorney to the dependency case at the time of the shelter hearings.
- (D) The private attorneys scheduled for emergency temporary guardianship hearings are not entitled to receive a fee unless a case is filed with the Clerk which seeks a determination of capacity and appointment of an emergency temporary guardian.
 - (E) If an attorney seeks fees in excess of those established by statute or the General Appropriations Act, which ever shall apply at the time of appointment, the attorney shall:
 - (i) serve JAC with any and all documentation it requires prior to filing any motion or exhibits with the Clerk and receive from JAC notice of its intent to object or not object to the motion for excess fees; and
 - (ii) file the motion seeking excess fees with the Clerk which shall include the notice from JAC; and
 - (iii) provide a copy of the motion to the Chief Judge with addressed stamped envelopes to the attorney and JAC.
 - (F) The Chief Judge upon receipt of the copy of the motion for excess fees shall enter an order setting the date and time of the hearing or enter an order designating the Administrative Judge of the Circuit division in which the case arose to hear the matter. It shall be in the sole discretion of the Chief Judge if he or she shall hold the hearing or designate an Administrative Judge to hear the motion. If the Chief Judge designates the Administrative Judge to hear the motion, the Administrative Judge shall enter an order setting the date and time of the hearing on the motion. JAC shall be served with any order setting the date and time of the hearing on the motion for excess fees at least 5 business days prior to the hearing by the Clerk upon entry of the order by the judge.
 - (G) If an attorney withdraws from the case and intends to seek a portion of the flat fee for representation of the defendant, parent, or respondent the attorney shall file a motion in the case with service upon JAC and the subsequently appointed attorney. The attorney subsequently appointed shall, at the conclusion of the case, provide notice to the prior attorney that the case is concluded so that:
 - (i) both attorneys can file any and all appropriate request for fees from JAC; and
 - (ii) both attorneys can file a motion before the presiding judge for an allocation of the flat fee.
 - (H) It shall be the responsibility of the withdrawn attorney to set the motion for hearing before the presiding judge with notice to JAC and the subsequently appointed attorney.
 - (I) If the withdrawn attorney fails to file and serve a notice of hearing within 30 days of filing the motion to apportion fees, the motion shall be deemed

abandoned and the subsequently appointed attorney shall be entitled to the entire fee.

(11) **GOOD CAUSE**

(A) The following shall be considered good cause for selecting an attorney not in strict rotation of the Registry to represent a client:

(i) The attorney was previously appointed to represent the client in another case. This shall include cases which are simultaneously pending or filed after the initial representation and the Public Defender and Regional Counsel cannot provide representation.

(ii) Statutes or rules of court require an immediate court hearing and the attorney next in rotation fails to respond to telephone calls or pages. The judicial assistant shall allow a minimum of 1 hour to contact the attorney as provided by the Clerk. If the attorney does not return the telephone call or declines the case, the judicial assistant shall contact the Clerk and request the next attorney name on the Registry for that category of cases. This procedure shall continue until such time as an attorney accepts the appointment. The cases for which this provision applies are only Emergency Temporary Guardianships and Parental Notification Waiver proceedings.

(iii) Statutes or rules of court require the appointment of the previously appointed attorney.

(B) If the Clerk is advised an attorney is out of order, the Clerk shall update the Registry so that the attorney is placed at the bottom of the Registry category in which the case was assigned.

(C) The presiding judge shall state one of the reasons listed above in the order of appointment for a private attorney.

(D) The fact that a private attorney was appointed for an individual prior to October 1, 2007 is not good cause to appoint the attorney out of order unless Regional Counsel does not have an office operational on or after October 1, 2007 through and including December 31, 2007.

(12) **APPOINTMENT OF NON REGISTRY ATTORNEY**

(A) A non Registry attorney may be appointed if:

(i) no attorneys are on the Registry for a category of cases requiring appointment of counsel; or

(ii) all attorneys on the Registry for a category of cases have withdrawn or declined the appointment of the case; or

(iii) all attorneys on the Registry for a category of case are precluded by statute or rule of court from accepting any additional appointments.

(B) 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 (12)(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.
- (D) The Clerk shall within 1 business day of entry of the order of appointment send a copy of the order to the Public Defender or Regional Counsel or private attorney. If expedited notice of the appointment is required, the judicial assistant or general magistrate attorney shall provide verbal notice of the appointment to the Public Defender or Regional Counsel or private attorney.
- (13) **COMPLAINTS.** An interested person may advise, the presiding judge, in writing of any matter set forth in §27.40(9), Fla. Stat. (2007) as in effect as of October 1, 2007 or as may be amended from time to time. Upon receipt of the written document with regard to any matter set forth in §27.40(9), Fla. Stat. (2007), as in effect as of October 1, 2007, or as may be amended from time to time, the presiding judge shall set the matter for hearing with notice to the attorney, individual for whom the attorney was appointed to represent, the individual who wrote the court, and any other attorney who has made an appearance in the case. At the conclusion of the hearing the presiding judge shall enter an order which includes a recitation of facts as well as whether the attorney should be suspended or removed from the Registry for a specific period of time. A copy of the written document and order shall be provided to the Chief Judge at the conclusion of the hearing. The Chief Judge shall make the final decision as to whether a private attorney is temporarily or permanently removed from the Registry.
- (14) **APPELLATE CASE REGISTRY REQUIREMENTS**
- (A) *Criminal Division.* The Clerk and judge shall confer to determine if the attorney selected has the qualifications to represent the defendant on appeal. The judge can require the attorney selected by the Clerk to provide proof of meeting the requirements prior to entering the order of appointment. If the determination is made the attorney is not qualified to represent the defendant on appeal, the attorney should not be appointed with the reason not by the judge and an indication why, so that the attorney remains at the top of the Registry category for the next appointment. The necessity of the judge and Clerk conferring as to the appointment of an attorney is required as the Appropriation categories, Registry categories, and qualifications may differ and it is the responsibility of the judge to ensure that a qualified attorney is appointed.

(i) *Misdemeanor*

Registry Category: Appellate

FY 07-08 Appropriations Category: Misdemeanor Appeals

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of CLE in appellate law OR 5 hours of CLE in appellate law and 5 hours of CLE in criminal law in the 12 months preceding the date of application and appointment to the Registry

Experience: 3 criminal appeals OR 5 criminal trials

(ii) *Second and Third Degree Felony*

Registry Category: Appellate

FY 07-08 Appropriations Category: Felony - Appeals

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of CLE in appellate law OR 5 hours of CLE in appellate law and 5 hours of CLE in criminal law in the 12 months preceding the date of application and appointment to the Registry

Experience: 3 criminal appeals OR 5 criminal trials

(iii) *Non-Capital Appeals*

Registry Category: Appellate

FY 07-08 Appropriations Category: Felony - Appeals

Length of Bar Membership: 3 years

CLE Requirement: 10 hours of CLE in appellate law in the 12 months preceding the date of application and appointment to the Registry

Experience: 5 criminal appeals OR 10 criminal trials (The 10 criminal trials shall be defined as at least 5 felony trials and 3 criminal appeals.)

(iv) *Death Penalty Appeals*

Registry Category: Appellate - Capital

FY 07-08 Appropriations Category: Capital Appeals

Length of Bar Membership: 5 years

CLE Requirement: 10 hours of CLE in defense of capital cases in the 24 months preceding the date of application and appointment to the Registry

Appellate or Criminal Practice Percentage: 33%

Experience: A. 5 years of experience in criminal law AND prepared a brief for an appeal for at least 1 case which had a sentence of death imposed AND experience as lead counsel in the appeal of at least 3 felony convictions, in federal or state court, of which at least 1 was an appeal of a murder conviction OR B. Lead counsel in the appeal of at least 6 felony convictions in federal or state court, of which at least 2 were appeals of a murder conviction

(v) *Involuntary Commitment of Sexually Violent Predators and Complex Appeals*

Registry Category: Appellate

FY 07-08 Appropriations Category: Civil Appeal

Length of Bar Membership: 4 years

CLE Requirement: 10 hours of CLE in appellate criminal law in the 12 months preceding the date of application and appointment to the Registry

Appellate Experience: 5 criminal appeals, at least 3 of which are non-capital appeals

Appellate or Criminal Practice Percentage: 33%

(B) *Dependency Division.* The Clerk and judge shall confer to determine if the attorney selected has the qualifications to represent the party appealing. The judge can require the attorney selected by the Clerk to provide proof of meeting the requirements prior to entering the order of appointment. If the determination is made the attorney is not qualified to represent the party appealing, the attorney should not be appointed with the reason not by the judge and an indication why, so that the attorney remains at the top of the Registry category for the next appointment. The necessity of the judge and Clerk conferring as to the appointment of an attorney is required as the Appropriation categories, Registry categories, and qualifications may differ and it is the responsibility of the judge to ensure that a qualified attorney is appointed.

(i) *Dependency and Termination of Parental Rights*

Registry Category: Appellate-Dependency

FY 07-08 Appropriations Category: Dependency Appeals; Termination of Parental Rights Appeals

The Appropriations category used will depend on the type of appeal.

Length of Bar Membership: 2 years

CLE Requirement: 3 hours of dependency CLE at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

Appellate, Dependency or Family Practice Percentage: 25%

Appellate Experience: A. 3 years of experience in dependency or appellate law AND lead counsel in at least 3 contested dependency trials AND 3 contested termination of parental rights trials OR B. Demonstrate knowledge through the practice of family law

(ii) *Parental Notification Waiver*

Registry Category: Appellate-Dependency

FY 07-08 Appropriations Category: Civil Appeal

Length of Bar Membership: 5 years

CLE Requirement: 2.5 hours of Judicial Bypass of Parental Notice of Abortion Act CLE in the 12 months preceding the date of application and appointment to the Registry

Experience: A minimum of 5 constitutional law appeals. In addition, attorneys shall be familiar with the youth, privacy and constitutional issues relating to reproductive rights.

(iii) *Children/Families in Need of Services*

Registry Category: Appellate-Dependency

FY 07-08 Appropriations Category: Civil Appeal

Length of Bar Membership: 2 years

CLE Requirement: 3 hours of dependency CLE at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

Appellate, Dependency or Family Practice Percentage: 25%

Appellate Experience: A. 3 years of experience in dependency or appellate law AND lead counsel in at least 3 contested dependency trials AND 3 contested termination of parental rights trials OR B. Demonstrate knowledge through the practice of family law

(C) *Juvenile Delinquency Appeals.* The Clerk and judge shall confer to determine if the attorney selected has the qualifications to represent the minor child on appeal. The judge can require the attorney selected by the Clerk to provide proof of meeting the requirements prior to entering the order of appointment. If the determination is made the attorney is not qualified to represent the minor on appeal, the attorney should not be appointed with the reason not by the judge and an indication why, so that the attorney remains at the top of the registry category for the next appointment. The necessity of the judge and Clerk conferring as to the appointment of an attorney is required as the Appropriation categories, Registry categories, and qualifications may differ and it is the responsibility of the judge to ensure that a qualified attorney is appointed.

(i) *Misdemeanor*

Registry Category: Appellate

FY 07-08 Appropriations Category: Juvenile Delinquency Appeals

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of CLE in appellate law OR 5 hours of CLE in appellate law and 5 hours of CLE in criminal law in the 12 months preceding the date of application and appointment to the Registry

Experience: 3 criminal appeals OR 5 criminal trials

(ii) *Second and Third Degree Felony*

Registry Category: Appellate

FY 07-08 Appropriations Category: Juvenile Delinquency Appeals

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of CLE in appellate law OR 5 hours of CLE in appellate law and 5 hours of CLE in criminal law in the 12 months preceding the date of application and appointment to the Registry

Experience: 3 criminal appeals OR 5 criminal trials

(iii) *First Degree and Life Felony Appeals*

Registry Category: Appellate

FY 07-08 Appropriations Category: Juvenile Delinquency Appeals

Length of Bar Membership: 3 years

CLE Requirement: 10 hours of CLE in appellate law in the 12 months preceding the date of application and appointment to the Registry

Experience: 5 criminal appeals OR 10 criminal trials (The 10 criminal trials shall be defined as at least 5 felony trials and 3 criminal appeals)

(15) **CRIMINAL DIVISION REGISTRY REQUIREMENTS**

(A) Each of the following Criminal Division Registry categories shall also be used for the appointment of counsel, based upon the charge for which the appointment is required:

Violation of probation and/or violation of community control (FY 07-08 Appropriations Category: Violation of Probation-Misdemeanor (includes VOCC);

contempt proceedings (FY 07-08 Appropriations Category: Contempt Proceedings);

extradition (FY 07-08 Appropriations Category: Extradition);

sections 3.850 and 3.800, F.S.² (FY 07-08 Appropriations Category: Postconviction - Sections 3.850 and 3.800, F.S.)

² This is the reference is the General Appropriations Act for Fiscal Year 2007-2008, however it is believed the correct reference is to Criminal Rule of Procedure proceedings pursuant to Rule 3.800 and Rule 3.850.

(B) *Misdemeanor and Criminal Traffic*

Registry Category: Misdemeanor

FY 07-08 Appropriations Category: Misdemeanor; Criminal Traffic

Length of Bar Membership: 1 year

CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to Registry

Trial Experience: 3 state or federal jury or nonjury trials

(C) *Third Degree Felony*

Registry Category: Third Degree Felony

FY 07-08 Appropriations Category: Felony - 3rd Degree

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to the Registry

Trial Experience: Minimum of 5 criminal jury trials

(D) *Second Degree Felony*

Registry Category: Second Degree Felony

FY 07-08 Appropriations Category: Felony - 2nd Degree

Length of Bar Membership: 2 years

CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to the Registry

Trial Experience: Minimum of 7 criminal jury trials, 2 of which must be felony trials

(E) *First Degree Felony*

Registry Category: First Degree/Life Felony

FY 07-08 Appropriations Category: Felony - 1st Degree

Length of Bar Membership: 5 years

CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to the Registry

Trial Experience: 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

Criminal Practice Percentage: 50%

(F) *Life Felony*

Registry Category: First Degree/Life Felony

FY 07-08 Appropriations Category: Felony - Life; Felony -PBL

Length of Bar Membership: 5 years

CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to the Registry

Trial Experience: 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases
Criminal Practice Percentage: 50%

(G) *Capital Sexual Battery*

Registry Category: Capital Sexual Battery
FY 07-08 Appropriations Category: Capital Sexual Battery
Length of Bar Membership: 5 years
CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to the Registry
Trial Experience: 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases
Criminal Practice Percentage: 50%

(H) *First Degree Murder (Death Penalty waived at time of appointment)*

Registry Category: First Degree/Life Felony
FY 07-08 Appropriations Category: Felony - Life
Length of Bar Membership: 5 years
CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to the Registry
Trial Experience: 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases
Criminal Practice Percentage: 50%

(I) *Capital (Death Penalty not waived at the time of appointment)*

Lead Counsel

Registry Category: Capital
FY 07-08 Appropriations Category: Capital - 1st Degree Murder (Lead Counsel)
Length of Bar Membership: 5 years
CLE Requirement: 12 hours CLE specifically devoted to defense of capital cases in the 24 months preceding the date of application and appointment to the Registry
Additional Requirements: Fla. R. Crim. P. 3.112
Trial Experience: Lead trial counsel in no fewer than 9 state or federal jury trials of serious and complex cases which were tried to completion, as well as prior experience as lead defense counsel or co-counsel in at least 2 state or federal cases tried to completion in which the death penalty was sought. In addition, of the 9 jury trials which were tried to completion, the attorney should have been lead counsel in at least 3 cases in which the charge was murder; or alternatively, of the 9 jury trials, at least 1 was a murder trial and an additional 5 were felony jury trials.
Criminal Practice Percentage: 50%

Co-Counsel

Registry Category: Capital Co-Counsel

FY 07-08 Appropriations Category: Capital - 1st Degree Murder (Co Counsel)

Length of Bar Membership: 3 years

CLE Requirement: 10 hours CLE specifically devoted to defense of capital cases in the 24 months preceding the date of application and appointment to the Registry

Additional Requirements: Fla. R. Crim. P. 3.112

Trial Experience: Lead counsel or co-counsel in no fewer than 3 state or federal jury trials of serious and complex cases which were tried to completion, at least 2 of which were trials in which the charge was murder; or alternatively, of the 3 jury trials, at least 1 was a murder trial and 1 was a felony jury trial

Criminal Practice Percentage: 50%

(J) *Involuntary Civil Commitment of Sexually Violent Predator Cases (Chapter 394, Part V)*

Registry Category: Jimmy Ryce

FY 07-08 Appropriations Category: Baker Act/Mental Health-Ch. 394, F.S.

Length of Bar Membership: 5 years

CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to the Registry

Trial Experience: 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

Criminal Practice Percentage: 50%

(16) **DEPENDENCY DIVISION REGISTRY REQUIREMENTS**

(A) *Dependency*

Registry Category: Dependency; Dependency-Shelter Hearing

FY 07-08 Appropriations Category: Dependency

Dependency-Shelter Hearing Registry category shall be used by the Clerk when scheduling attorneys to appear at Shelter Hearings

Length of Bar Membership: 1 year

CLE Requirement: 3 hours of dependency CLE at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

Family or Dependency Practice Percentage: 25%

Trial Experience: 30 hours of hearing time representing a parent or child. The hearing hours shall be consist of at least 6 shelter hearings, 3 dependency hearings, and 1 termination of parental rights hearing

(B) *Termination of Parental Rights Cases (Chapter 39 and 63 Proceedings)*

Registry Category: Termination of Parental Rights

FY 07-08 Appropriations Category: Termination of Parental Rights - Ch. 39, F.S.; Termination of Parental Rights - Ch. 63, F.S.

The selection of an appropriations category is dependent on the chapter under which the action is filed.

Length of Bar Membership: 2 years

CLE Requirement: 3 hours of dependency CLE at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

Family or Dependency Practice Percentage: 25%

Trial Experience: 10 dependency trials OR 1 year of dependency experience

(C) *Parental Notification Waiver Cases*

Registry Category: Judicial Waiver

FY 07-08 Appropriations Category: Parental Notification of Abortion Act

Length of Bar Membership: 5 years

CLE Requirement: 2.5 hours of Judicial Bypass of Parental Notice of Abortion Act CLE in the 12 months preceding the date of application and appointment the Registry

Trial Experience: Minimum of 5 criminal or civil trials OR 5 adjudicatory/evidentiary hearings - In addition, attorneys shall be familiar with the youth, privacy and constitutional issues relating to reproductive rights. The attorney should also have an interest in working with teens.

(D) *Children/Families in Need of Services Cases*

Registry Category: Dependency

FY 07-08 Appropriations Category: CINS/FINS - Ch. 984, F.S.

Length of Bar Membership: 1 year

CLE Requirement: 3 hours of dependency CLE at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

Family or Dependency Practice Percentage: 25%

Trial Experience: 30 hours of hearing time representing a parent or child. The hearing hours shall consist of at least 6 shelter hearings, 3 dependency hearings, and 1 termination of parental rights hearing

(E) *Emancipation*

Registry Category: Dependency

FY 07-08 Appropriations Category: Emancipation

Length of Bar Membership: 1 year

CLE Requirement: 3 hours of dependency CLE at the Family Court Conference or 3 hours of dependency CLE in the 12 months preceding the date of application and appointment to the Registry

Family or Dependency Practice Percentage: 25%

Trial Experience: 30 hours of hearing time representing a parent or child. The hearing hours shall consist of at least 6 shelter hearings, 3 dependency hearings, and 1 termination of parental rights hearing

(17) **JUVENILE DELINQUENCY REGISTRY REQUIREMENTS**

Each of the following Juvenile Delinquency Division Registry categories shall also be used for the appointment of counsel, based upon the charge for which the appointment is required: violation of probation and/or violation of community control (FY 07-08 Appropriations Category: Violation of Probation [VOCC] Juvenile Delinquency).

(A) *Misdemeanor*

Registry Category: Juvenile-Misdemeanors

FY 07-08 Appropriations Category: Juvenile Delinquency - Misdemeanor

Length of Bar Membership: 1 year

CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to the Registry

Trial Experience: 5 adjudicatory hearings or 3 criminal jury trials one of which is a second degree felony or higher

(B) *Third Degree Felony*

Registry Category: Juvenile -Third Degree Felony

FY 07-08 Appropriations Category: Juvenile Delinquency - 3d Degree

Length of Bar Membership: 3 years

CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to the Registry

Trial Experience: 5 adjudicatory hearings OR 3 criminal jury trials with at least 1 a second degree felony or higher

(C) *Second Degree Felony*

Registry Category: Juvenile-Second Degree Felony

FY 07-08 Appropriations Category: Juvenile Delinquency - 2nd Degree

Length of Bar Membership: 3 years

CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to the Registry

Trial Experience: 5 adjudicatory hearings OR 3 criminal jury trials with at least 1 a second degree felony or higher

(D) *First Degree or Life Felony*

Registry Category: Juvenile-First Degree and Life Felony
FY 07-08 Appropriations Category: Juvenile Delinquency - 1st Degree Felony; Juvenile Delinquency - Felony Life

The selection of an appropriations category is determined by the charge for which the minor is tried or pleads.

Length of Bar Membership: 3 years

CLE Requirement: 10 hours of criminal law CLE in the 12 months preceding the date of application and appointment to the Registry

Criminal Practice Percentage: 50%

Trial Experience: 5 adjudicatory hearings OR 3 criminal jury trials with at least 1 a second degree felony or higher

(18) **PROBATE DIVISION REGISTRY REQUIREMENTS**

(A) *Adult Protective Services*

Registry Category: Probate-Adult Protective Services

FY 07-08 Appropriations Category: Adult Protective Services- Ch. 415, F.S.

Trial Experience: Minimum of 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity proceedings

(B) *Developmentally Disabled Adults*

Registry Category: Probate-Developmentally Disabled Adults

FY 07-08 Appropriations Category: Developmentally Disabled Adult

Trial Experience: 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity proceedings

(C) *Emergency Temporary Guardianships*

Registry Category: Probate - Emergency Temporary Guardianship

FY 07-08 Appropriations Category: Guardianship-Emergency-Ch. 744, F.S.

Probate - Emergency Temporary Guardianship Registry category shall be used by the Clerk when scheduling attorneys to appear at emergency hearings before the general magistrates or if there is a Petition for Emergency Temporary Guardianship to be heard at a time other than established for emergency temporary guardianship hearings.

Trial Experience: Minimum of 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity and/or emergency temporary guardianship proceedings

(D) ***Guardianship Incapacity, Extraordinary Proceedings, and Restoration***

Registry Category: Incapacity

FY 07-08 Appropriations Category: Guardianship - Ch. 744, F.S.

Trial Experience: 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity and/or emergency temporary guardianship proceedings

(E) ***Medical Procedures***

Registry Category: Probate-Baker Act

FY 07-08 Appropriations Category: Medical Procedures-Section 394.459(3), F.S.

Experience: Education or training with regard to mental health issues

(F) ***Mental Health***

Registry Category: Probate-Baker Act

FY 07-08 Appropriations Category: Baker Act/Mental Health-Ch. 394, F.S.

Experience: Education or training with regard to mental health issues

(G) ***Substance Abuse***

Registry Category: Probate - Marchman Act

FY 07-08 Appropriations Category: Marchman Act/Substance Abuse - Ch. 397, F.S.

Experience: Education or training with regard to substance abuse issues

(H) ***Tuberculosis***

Registry Category: Probate-Tuberculosis

FY 07-08 Appropriations Category: Tuberculosis - Ch. 392, F.S.

Experience: Education or training with regard to tuberculosis

(I) ***Admission of Inmate to Mental Health Facility***

Registry Category: Department of Corrections Mental Health

FY 07-08 Appropriations Category: Admission of Inmate to Mental Health Facility

Experience: Education or training with regard to mental health issues

(19) **DUE PROCESS SERVER PROVIDER RATES**

(A) ***Expert Witness Fees***

<u>Category</u>	<u>Fee Rate</u>
Downward Departure Examination	\$400.00 per examination and report
Expert Witness	\$150.00 per hour
Expert Witness - Out of Court	\$110.00 per hour
Expert Witness - Waiting to Testify at Court Proceeding or Deposition	\$70.00 per hour

<u>Category</u>	<u>Fee Rate</u>
Expert Witness – Travel	\$60.00 per hour
Expert Witness ³	\$1,580.00 per case
Insanity Evaluations	\$150.00 per hour
Investigators	\$38.00 per hour
Investigators ⁴	\$840.00 per case
Medical Doctors – Deposition and In Court	\$150.00 per hour
Medical Doctors – Out of Court	\$130.00 per hour
Other Pre-Trial Expert – In Court	\$100.00 per hour
Other Pre-Trial Expert – Out of Court	\$77.00 per hour
Psychological (Competency) Examination	\$250.00 per examination
Psychologist – In Court	\$140.00 per hour
Psychologist – Out of Court	\$130.00 per hour
Psychologist – Waiting to Testify at Court Proceeding or Deposition	\$85.00 per hour

(B) *Interpreters*

Creole	\$35.00 per hour, one (1) hour minimum and \$8.75 for each quarter hour thereafter
French	\$50.00 per hour, one (1) hour minimum and \$12.50 for each quarter hour thereafter.
Portuguese	\$50.00 per hour, one (1) hour minimum and \$12.50 for each quarter hour thereafter.
Sign	\$50.00 to 75.00 per hour, two (2) hour minimum and travel expenses, and \$18.75 for each quarter hour thereafter
Spanish	\$35.00 per hour, one (1) hour minimum and \$8.75 for each quarter hour thereafter
Other	\$50.00 per hour, two (2) hour minimum and \$12.50 for each quarter hour thereafter

In the event the private attorney can not secure the services of an interpreter at the rates as set forth herein, the private attorney shall receive an order from the judge authorizing the higher hourly rate.

³ The total compensation for the expert witness shall not exceed the amount without court order.

⁴ The total compensation for the investigator shall not exceed the amount without court order. The investigator shall not be entitled to be compensated for mileage.

(C) *Court Reporters*

(i) Appearance Fees

<u>Time Period</u>	<u>Fee</u>
Transcription of recorded investigative statements, discovery, or reports	1 to 5 recorded items \$25.00 Each additional recorded item \$5.00
8:30 a.m. until noon	\$100.00
1:30 p.m. until 5:00 p.m.	\$100.00
Not scheduled for 8:30 a.m. to noon or 1:30 p.m. until 5:00 p.m.	\$30.00 per hour with a 2 hour minimum
Real time from 8:30 a.m. until noon	\$150.00
Real time from 1:30 p.m. until 5:00 p.m.	\$150.00
Real time not scheduled for 8:30 a.m. to noon or 1:30 p.m. until 5:00 p.m.	\$45.00 per hour with a 2 hour minimum

(ii) Transcripts and ASCII Disk of Transcript

<u>Delivery Time</u>	<u>Number</u>	<u>Cost per page</u>
24 hours (overnight)	Original and 2	\$ 7.50
	Each additional copy	\$ 1.10
3 business days	Original and 2	\$ 6.50
	Each additional copy	\$ 1.10
6 business days	Original and 2	\$ 5.50
	Each additional copy	\$ 1.10
10 business days	Original and 2	\$ 5.00
	Each additional copy	\$ 1.10
Appeals	Original and 2 and disks	\$5.00
Non certified (a transcript prepared by an individual other than the court reporter taking the proceeding)	Original and 2	\$4.00
Recorded investigative statements, discovery, or reports - same day	Original and 1	\$7.85
Recorded investigative statements, discovery, or reports - 24 hours (overnight)	Original and 1	\$5.10
Recorded investigative statements, discovery, or reports - 3 business days	Original and 1	\$4.15
Recorded investigative statements, discovery, or reports - 10 business days	Original and 1	\$2.75
	Each additional copy	\$1.00

(D) All costs incurred or to be incurred by the private attorney for providing legal services to an individual or if the individual is declared indigent for costs,

- will require advance approval from the presiding judge, if:
- (i) any single costs exceeds \$500.00 (Five Hundred Dollars); or
 - (ii) seeking to retain the services of an investigator; or
 - (iii) ordering a transcript of any deposition or court proceeding; or
 - (iv) if seeking to retain an expert as a witness or consultant; or
 - (v) there will be travel outside of Broward County, Florida; or
 - (vi) the Clerk seeks to charge for copies of court records.
- (E) If a private attorney seeks costs in excess of the amounts contained in this Administrative Order, the attorney shall file a written motion with the Court and serve a copy upon the JAC. The JAC shall have the opportunity to appear at any hearing where the motion is considered.
- (F) The private attorney, for service of summons or subpoenas or other documents, shall use the Broward County Sheriff's Office. The telephone number is (954) 831-8787.
- (G) Travel expenses for the private attorney, expert witnesses, consultants, and interpreters shall be compensated as determined by JAC. The private attorney is responsible for determining any and all requirements for reimbursement of travel by JAC and the Circuit will not reimburse any travel expenses incurred by the private attorney.
- (H) Depositions will be scheduled by the private attorney and conducted in the Broward County Main Courthouse unless otherwise ordered by the presiding judge.
- (I) The private attorney shall use only those court reporters and/or court reporting firm(s) for video depositions and/or videos to preserve testimony which charge \$150.00 for the first (1st) hour and \$75.00 for each hour thereafter.
- (20) **REFERENCES.** Any and all references to the Chief Judge, Clerk, Administrative Judge, judge, general magistrate, Public Defender, or Regional Counsel shall include his or her designee.
- (21) The following Administrative Orders are hereby vacated: III-04-D-2 and III-99-D-5.

DONE AND ORDERED in chambers in Fort Lauderdale, Broward County, Florida this 29th day of September, 2007.

/s Victor Tobin
Victor Tobin, Chief Judge