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

Administrative Order 2020-89-Gen

PROCEDURES FOR CIRCUIT COURT APPEALS

(a) Pursuant to Article V, section 2(d) of the Florida Constitution and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and power to do everything necessary to promote the prompt and efficient administration of justice.

(b) Florida Rule of Judicial Administration 2.215(b)(3) states the chief judge "shall, considering available resources, ensure the efficient and proper administration of all courts within [this] circuit."

(c) As a result of the enactment of Senate Bill 1392, the Circuit Court's appellate jurisdiction is slated to change effective January 1, 2021. Pursuant to this legislation, the Circuit Court is charged with the responsibility of hearing and ruling on appeals from final administrative orders of local government code enforcement boards and of reviews and appeals as otherwise expressly provided by law, including appeals from civil traffic infraction proceedings and petitions for writs of certiorari from license suspension decisions issued by the Department of Highway Safety and Motor Vehicles. To ensure the proper use of judicial resources and efficient disposition of such cases, it is necessary to update the Circuit's appellate procedures.

(d) In accordance with the authority vested in the chief judge by Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, and Florida Rule of Judicial Administration 2.215, it is hereby **ORDERED, effective January 1, 2021**:

(1) Assignment of Appeals and Petitions for Extraordinary Writs

(a) All appeals from final administrative orders of local code enforcement boards and of reviews and appeals as otherwise expressly provided by law shall be assigned by the Clerk of the Court ("Clerk") to Divisions AP, AW, and AC as set forth herein.

(b) Appeals from local code enforcement boards shall be assigned to Division AP.

(c) Petitions for extraordinary writs from final decisions of local administrative agencies, including from the Department of Highway Safety and Motor Vehicles, shall be assigned to Division AW.

(d) All appeals arising from civil traffic infraction proceedings shall be assigned to Division AC.

(2) **General Procedures for Appeals**

(a) There shall be a three-judge panel of circuit court judges to consider all appellate matters.

(b) Circuit Court Judge John B. Bowman shall act as the permanent presiding judge of the appellate panel. The additional members of the panel will be selected by the chief judge. The term of the appointment shall be for six (6) months, unless extended by the Administrative Judge of the Circuit Civil Division or the Chief Judge. Assignments will be made by memorandum.

(c) If a judge assigned to a panel recuses himself or herself, the Administrative Judges of the Circuit Civil and Criminal Divisions or the Chief Judge shall assign a judge to be the third member of the panel. Assignments will be made by a memorandum.

(d) The presiding judge shall:

i. Discharge the administrative duties of the panel, including scheduling conferences at least once a month, and oral argument sessions, when necessary;
ii. Preside at all sessions;
iii. Set a schedule for duty assignments among the panel members to determine all non-dispositive motions and other issues raised by the parties or the Court *sua sponte*;
iv. Assign the writing of opinions among the panel members when the presiding judge is in the majority; however, when the presiding judge is in the minority, the most senior judge on the panel shall discharge this responsibility for the majority.

(e) If the presiding judge is unavailable, then one of the two other panel members may discharge his or her responsibilities. If all members of a panel are unavailable, then the Administrative Judge of the Circuit Civil or Criminal Division may discharge the presiding judge's responsibilities. If the administrative judges are unavailable, then the circuit civil duty judge may discharge the presiding judge's responsibilities.

(f) **Oral Arguments.**

i. Requests for oral argument made by a party will be granted only in those cases where a majority of the appellate panel genuinely believes it is necessary for disposition of the cause.

ii. Oral arguments shall be scheduled on any case when requested by two members of the appellate panel, even if not requested by the parties.

(g) After oral argument, or after the discussion of a case in conference, the panel shall take a preliminary vote. Cases shall be decided by majority vote.

(h) All motions for rehearing must comply with Florida Rule of Appellate Procedure 9.300.

(3) **Clerk of the Court Duties**.

(a) The Clerk shall perform all functions, and discharge all duties, traditionally fulfilled by the clerk of the Fourth District Court of Appeal, as appropriate.

(b) The Clerk shall accept electronically filed notices of appeal from final administrative orders of local government code enforcement boards and civil traffic infraction proceedings, and petitions for extraordinary writs seeking review of decisions from local municipal and governmental agencies, including reviews of license suspension decisions issued by the Department of Highway Safety and Motor Vehicles, and notices of appeal as otherwise prescribed by law.

(c) If the Clerk assigns a case to a division not in compliance with this Administrative Order, the Administrative Judge of the Circuit Civil Division or the presiding judge of the appellate panel may enter an order directing the Clerk to transfer the case to the appropriate division or court. The Clerk shall

forthwith change the division coding to reflect the proper division on its case maintenance software.

(d) The Clerk shall prepare the index to the record on appeal and transmit the record on appeal for county to circuit court appeals as required by the Florida Rules of Appellate Procedure. If the Clerk is not able to comply with the times set forth in Florida Rule of Appellate Procedure 9.200 for the preparation of the index and transmission of the record on appeal, the Clerk shall file a notice indicating the additional time required to prepare the index and transmit the record on appeal. Such additional time shall not exceed fifty (50) days. If the Clerk requires in excess of fifty (50) days, a motion shall be filed with the Court.

(e) It is the obligation of the appellant or petitioner to ensure the Clerk complies with the duties as established by Florida Rule of Appellate Procedure 9.200.

(f) The Clerk shall issue a mandate as required by Florida Rule of Appellate Procedure 9.340. Upon issuance of a mandate, the Clerk shall provide a copy of the mandate and opinion or order disposing of said case to Florida Law Weekly Supplement and the Broward County Law Library.

(g) The Clerk shall return the record on appeal to the county court no later than ten (10) court business days after the issuance of the mandate or dismissal of the appeal.

(4) **Extensions of Time.**

(a) In lieu of a motion pursuant to Florida Rule of Appellate Procedure 9.300(a), parties or counsel may agree to no more than two (2) extensions of time to file an initial brief that, in the aggregate, shall not exceed a combined total of 120 days. Parties or counsel may agree to no more than two (2) extensions of time for the filing of the answer brief that, in the aggregate, shall not exceed a combined total of sixty (60) days. Any notice or motion for extension of time must be filed before the expiration date of the time period. Any motion for additional time must be for a period of sixty (60) days or less. The nonmoving party shall have ten (10) days to file an opposition, if any.

(b) No order shall issue from the Court on any agreed extension.

(c) The notice as set forth in Attachment "A" shall be filed with the Clerk by the parties to the appeal. Any notice of agreement of extension of time to file a brief that is in excess of the times authorized by this Administrative Order may be stricken by the Court.

(d) **This provision for extension of time for briefs does not apply to expedited appeals or emergency appeals, or petitions for extraordinary writs.** If the parties do not agree to an extension, or a party seeks an extension of time in excess of the times authorized herein, the party seeking the extension shall file a motion, pursuant to Florida Rule of Appellate Procedure 9.300(a), that sets forth the total time granted by agreement or by order of this Court. If a party has filed a motion seeking an extension and the Court's ruling on the pending motion is still outstanding, the party should not file a subsequent motion seeking an extension.

(5) **Mandatory Electronic Courtesy Copies.**

(a) The appellant or petitioner shall add the Court to the service list at the time of creating the appellate case in the Florida Courts E-Filing Portal using the following email address: appeals@17th.flcourts.org. Service via this email address is to provide a courtesy copy to the Court.

(b) Any self-represented party may register with the Florida Courts E-Filing Portal to send and receive filings. If a self-represented party does not provide electronic copies, then the party shall provide a paper courtesy copy to the Court. The paper courtesy copies for the Court must be timely delivered to Appellate Division c/o Office of the General Counsel at the Office of the Trial Court Administrator, 201 S.E. 6th Street, Suite 20170, Fort Lauderdale, Florida 33301. This address should only be used for providing courtesy copies of documents already filed with the Clerk and not for providing original documents that are to be filed with the Clerk.

(c) It is the responsibility of the attorney or self-represented litigant submitting an electronic copy to remove any metadata prior to transmission. All electronic copies shall comply with applicable Florida Rules of Judicial Administration, including rules 2.420, 2.425, and 2.526.

(6) **Proposed Orders**.

(a) Proposed orders shall not be submitted to the chambers of a panel member.

(b) Any proposed order(s) shall be submitted to the Court at appeals@17th.flcourts.org in either a Word or Rich Text Format. All other electronic copies of documents submitted to the court shall be submitted in PDF format.

(7) **Requests for Emergency Treatment**

(a) Pleadings and motions filed as emergencies disrupt court procedures and interrupt work on cases that are currently pending. Consequently, an attorney or party who seeks "emergency" review or treatment of a motion or appellate matter loses credibility when the court determines there is no true emergency. *See USAA Cas. Ins. Co. v. Pembroke Pines MRI, Inc.*, 24 So. 3d 588 (Fla. 4th DCA 2009).

(b) For purposes of this Administrative Order, an "emergency" is a matter that will cause irreparable harm, death or result in a manifest injury if immediate relief is not afforded. Matters that do not meet this definition shall not be submitted to the Court as an "emergency." An exigency that is caused by the lack of diligence of the moving party shall not constitute an "emergency."

(c) A party requesting emergency treatment for any motion, appeal, or petition shall file a separate document entitled "Request for Emergency Treatment." The separate "Request for Emergency Treatment" (herein "Request") shall be filed simultaneously with the motion, appeal, or petition for which emergency treatment is sought. The Request shall not exceed two (2) pages in length and shall state succinctly:

i. The nature of the emergency;
ii. The date the order at issue was entered; and
iii. The date of the event that constitutes the basis for request emergency treatment, *i.e.,* the deadline.

Both the Request and matter sought to be treated as an emergency shall be filed with the Florida Courts E-filing Portal, with a copy served on the Court at appeals@17th.flcourts.org.

(d) Self-represented parties may register with the Florida Courts E-filing Portal and file the Request with the Florida Courts E-filing Portal. The party shall bring the receipt of the filing to the Clerk of Court. The Clerk of Court shall

locate the Request in the pending queue and, if appropriate, immediately accept the document or advise the filing party of deficiencies to be corrected for acceptance. If a self-represented party does not file the Request and corresponding motion with the Florida Courts E-filing Portal then the party shall bring the original motion and Request to the Clerk of Court for filing. Upon acceptance of the filing, the Clerk of Court shall hand deliver a hard copy to the Office of the General Counsel in the Office of the Trial Court Administrator to be forwarded to the appellate division for appropriate action.

(e) If the party seeks a stay, the Request and corresponding motion shall indicate whether it has applied for relief in the trial court and the date and outcome of any ruling on such motion(s). The attorney or self-represented party requesting emergency treatment shall certify that the request for emergency treatment is made in good faith.

(f) No matter shall be afforded emergency treatment unless the Court determines that an emergency exists.

(e) Any party or attorney who requests emergency treatment without an objectively reasonable basis for doing so is subject to sanctions pursuant to section 57.105, Florida Statutes, or any other sanction as authorized by law, rule of procedure, or case law.

(9) **Opinions**. The court will provide electronic copies of orders and opinions to the attorneys of record and registered self-represented litigants via the E-Filing Portal. A self-represented litigant will receive a copy of an order or opinion by regular U.S. mail if the individual has not provided an email address to the Court.

(10) **Communications with the Appellate Division**. All parties must review and comply with the Guidelines for Communications with the Appellate Division, attached hereto as Attachment "B".

(11) **Self-Represented Parties.**

(a) All self-represented parties are referred to The Self-Represented (Pro Se) Appellate Handbook.[1]

[1] https://prose.flabarappellate.org/

(b) A hard copy of The Self-Represented (Pro Se) Appellate Handbook may be viewed in the Appeals Division of the Clerk of Court, Room 4140 of the Broward County Courthouse-West Wing, 201 S.E. 6th Street, Fort Lauderdale, Florida 33301.

(12) This Administrative Order vacates and supersedes Administrative Order 2019-6-Gen on January 1, 2021.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida this 3rd day of November, 2020.

/s/ Jack Tuter
Jack Tuter, Chief Judge

Attachment "A"

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

Case No.:
L.T. Case No.

[Appellant or Petitioner],

v.

[Appellee or Respondent].

NOTICE OF AGREEMENT FOR EXTENSION OF TIME TO FILE [TYPE OF BRIEF] BRIEF

The undersigned as counsel for [Appellant or Petitioner or Appellee or Respondent] has agreed with [Name of Attorney], attorney for [Appellant or Petitioner or Appellee or Respondent], the [initial or answer or reply] brief shall be filed and served on or before [date]. This notice does not exceed the times authorized by Administrative Order 2019-6-Gen.

[Attorney Signature Block]

Attachment "B"

SEVENTEENTH JUDICIAL CIRCUIT
OF FLORIDA

BROWARD COUNTY COURTHOUSE
201 S.E. 6TH STREET
FORT LAUDERDALE, FL 33301

GUIDELINES FOR COMMUNICATIONS WITH APPELLATE DIVISION

Before commencing an appeal, please read the Florida Rules of Appellate Procedure and Administrative Order 2020-89-Gen. The Clerk of the Court assigns cases to the Circuit Court Appellate Division pursuant to the directives of Administrative Order 2020-89-Gen. Once assigned, the cases are actively managed by staff counsel, who coordinate the disposition of procedural matters and monitor for fully brief cases. There are no hearings for appellate matters unless ordered by the Court. All motions are decided on the papers. When the case has been fully briefed, it is assigned for consideration by the Circuit Court Appellate Panel.

Parties SHALL NOT:

- Call or e-mail judges, judicial assistants, or staff counsel to request a status report regarding a pending appellate proceeding.
- Call or e-mail judges, judicial assistants, or staff counsel with requests to schedule hearings on motions, status conferences or oral arguments regarding a pending appellate proceeding.
- Call or e-mail judges, judicial assistants, or staff counsel to respond to a court order (*e.g.*, Order to Show Cause, Order to Supplement Record/Appendix).
- Send e-mails to appeals@17th.flcourts.org to communicate with staff counsel. This e-mail address is for the parties to provide electronic courtesy copies and for the Court to serve orders and opinions.
- Utilize the online scheduling system to schedule hearings on motions, status conferences or oral arguments regarding a pending appellate proceeding.

Parties SHALL:

- Bring matters to the Court's attention by filing an appropriate motion and providing electronic courtesy copies by e-mail to appeals@17th.flcourts.org.
- Follow the procedures set forth in Administrative Order 2020-89-Gen.

Self-Represented Parties

- All self-represented parties are referred to the Florida Rules of Appellate Procedure, Administrative Order 2020-89-Gen, and The Self-Represented (Pro Se) Appellate Handbook.[1]
- A hard copy of The Self-Represented (Pro Se) Appellate Handbook may be viewed in the Appeals Division of the Court of the Court, Room 4140 of the Broward County Courthouse-West Wing, 201 S.E. 6th Street, Fort Lauderdale, Florida 33301.

[1] https://prose.flabarappellate.org/