

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

**CASE NO. 12-2
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 12-21
(Rescinding AO No. 08-13)**

**IN RE: DESIGNATING JUDICIAL
OFFICERS AND ESTABLISHING
PROCEDURES FOR MOTIONS TO
EXCEED FEE LIMITS**

WHEREAS, Rule 2.215, Florida Rules of Judicial Administration, grants the Chief Judge authority to adopt administrative orders necessary to ensure the operation of the court system; and

WHEREAS, section 27.5304(12)(a), Florida Statutes, requires court appointed counsel, seeking compensation in excess of the statutory limits prescribed by law, to file a motion to exceed the fee limits with the Chief Judge; and

WHEREAS, Chapter 2012-123, Laws of Florida, effective July 1, 2012, amends section 27. 5304(12)(b), Florida Statutes, to require the Chief Judge or his designees to hold an evidentiary hearing upon receipt of the motion to exceed the fee limits, and to hear and determine said motions; and

WHEREAS, in order to ensure the prompt and efficient payment of excess compensation to court appointed counsel, the Chief Judge finds it necessary to establish a rotation schedule on a quarterly basis that utilizes two designees to hear and determine said motions and to hold an evidentiary hearing on behalf of the Chief Judge;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, it is hereby **ORDERED** that the following judges are hereby designated to hear and determine said motions to exceed fee limits filed in their respective divisions, rotating on a quarterly basis, commencing with the first quarter of the 2012 State of Florida fiscal year:

1. For motions to exceed the fee limits filed in the Circuit and County Court, Criminal and Juvenile Delinquency Division, and Probate and Guardianship Division:

- The Honorable Leon Firtel will hear and determine said motions for the first fiscal year quarter beginning on or about July 1, 2012 through September 30, 2012, and the Honorable Marisa Tinkler Mendez will hear and determine said motions for the second fiscal year quarter beginning on or about October 1, 2012 through December 31, 2012, with said quarterly rotation by the designees continuing until further order of the Court.
2. For motions to exceed the fee limits filed in the Circuit Court Juvenile Dependency, Termination of Parental Rights, and Judicial Bypass Division:
 - The Honorable Michael Hanzman will hear and determine said motions for the first fiscal year quarter beginning on or about July 1, 2012 through September 30, 2012, and the Honorable Angelica Zayas will hear and determine said motions for the second fiscal year quarter beginning on or about October 1, 2012 through December 31, 2012, with said quarterly rotation by these designees continuing until further order of the Court.
 3. Additionally, if a designated judge is unable to physically perform his/her duties, then the Chief Judge will designate a substitute judge to replace the herein designated judge to hear and determine said motions to exceed the fee limits until further order of the court. In any event, there will be no more than two (2) designees to hear said motions in the respective divisions.

It is further **ORDERED** that the following procedures are to be followed regarding said motions:

1. The clerk of court shall receive the original motions to exceed the fee limits and shall provide copies of said motions to the Chief Judge and the above designated judges for their respective divisions.
2. Following the receipt of a motion to exceed the fee limits, the designated judge shall hold an evidentiary hearing, and shall consider the criteria set forth in §27.5304(12)(b)(1) when determining whether relief should be granted under this section.
3. If the designated judge finds competent and substantial evidence that the case required extraordinary and unusual efforts, the designated judge shall order compensation at a percentage above the flat fee rate to the extent of the unusual and extraordinary effort required. The percentage must be only at a rate necessary to ensure that the fees paid are not confiscatory under common law, and may not exceed two hundred percent (200%) of the established flat fee, absent a specific finding that two hundred percent (200%) of the flat fee would be confiscatory.
4. If the designated judge determines that two hundred percent (200%) of the flat fee is confiscatory, the designated judge shall order the amount of compensation using an hourly rate not to exceed Seventy-five Dollars (\$75.00) per hour for a non-capital case and One Hundred Dollars (\$100.00) per hour for a capital case. Compensation calculated

by using an hourly rate shall be only that amount necessary to ensure that the total fees paid are not confiscatory.

5. In cases that warrant exceeding the flat fee, the designated judge shall enter a written order with detailed findings and identifying the extraordinary nature of counsel's time and efforts.
6. In proceedings brought pursuant to Chapter 744, Florida Statutes, the court shall consider the factors set forth in §744.108(2), Florida Statutes. These factors may also be considered in proceedings brought pursuant to Chapter 415, Florida Statutes.

Administrative Order No. 08-13, entered in Case No. 08-01, is hereby rescinded, effective as of June 30, 2012 in its entirety and held for naught. This Administrative Order shall become effective on 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 26th day of June, 2012.

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