

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

**CASE NO. 09-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 09-04
(Rescinds AO No. 97-05)**

**IN RE: FEES – COSTS OF DEFENSE;
APPLICATION FEE FOR COURT
APPOINTED COUNSEL**

WHEREAS, Section 938.29, Fla. Stat., effective July 1, 2008, mandates that a defendant convicted of a criminal act or in violation of probation or community control, and who has received the assistance of the public defender's office, a special assistant public defender, the office of criminal conflict and civil regional counsel, a private conflict attorney, or who has received due process services after being found indigent for costs under Section 27.52, Fla. Stat., shall be liable for payment of the assessed application fee under Section 27.52 and attorney's fees and costs; and

WHEREAS, an amendment to Section 938.29, Fla. Stat., mandates that attorney's fees and costs shall be set in all cases at no less than \$50.00 per case when a misdemeanor or criminal traffic offense is charged and no less than \$100.00 per case when a felony offense is charged, including a proceeding in which the underlying offense is a violation of probation or community control; and

WHEREAS, Section 938.29, Fla. Stat., requires that the court shall impose the attorney's fees and costs notwithstanding the defendant's present ability to pay; and

WHEREAS, Section 938.29, Fla. Stat., mandates that the clerk of court enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debt or lien imposed under this section; and

WHEREAS, Section 27.52(1)(b), Fla. Stat., requires an applicant to pay a \$50.00 fee to the clerk for each application for court-appointed counsel filed, and that the application fee be paid within 7 days of submitting the application; and

WHEREAS, Section 27.52(1)(b), Fla. Stat., mandates that the clerk of court notify the court if the application fee has not been paid prior to the disposition of the case;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, under Rule 2.215 of the Florida Rules of Judicial Administration, it is hereby **ORDERED**:

1. The court shall include in each judgment in which the convicted person received the assistance of the Eleventh Judicial Circuit's Office of the Public Defender, a special assistant public defender, the office of criminal conflict and civil regional counsel, or a private conflict attorney, or who has received due process services after being found indigent for costs under Section 27.52, Fla. Stat., an assessment of no less than \$50.00 in misdemeanor cases and \$100.00 in felony cases, including original actions and violations of probation or community control.
2. The Clerk of the Courts shall notify the court prior to the disposition of the case if the defendant has not paid the \$50.00 application fee, and, if not paid, the court shall assess the application fee as part of the sentence or as a condition of probation; or assess the application fee pursuant to Section 938.29, Fla. Stat.
3. The first \$50.00 of any fees and costs collected on a case by the Clerk of Courts will go toward satisfaction of the application fee, and said fee must be collected and transferred to the Indigent Criminal Defense Trust Fund administered by the Florida Justice Administrative Commission ("Commission") for the benefit of this Circuit's Office of the Public Defender in accordance with Section 27.525, Fla. Stat.

Administrative Order No. 97-05, entered in Case No. 97-01, is hereby rescinded in its entirety and held for naught.

This Order shall take effect immediately upon execution and shall remain in full force and effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade, Florida, this 19th day of February, 2009.

**JOSEPH P. FARINA, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**