

THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA

CASE NO. 04-1
(Court Administration)

IN RE: THE APPOINTMENT AND)
COMPENSATION FOR COURT)
APPOINTED ATTORNEYS IN)
DEPENDENCY AND TERMINATION OF)
PARENTAL RIGHTS CASES FOR THE)
INTERIM PERIOD OF JULY 1, 2004)
THROUGH SEPTEMBER 30, 2004)
_____)

ADMINISTRATIVE ORDER
NO. 04-10

WHEREAS, pursuant to Rule of Judicial Administration 2.050, the Chief Judge has the authority to adopt administrative orders necessary to ensure the operation of the court system; and

WHEREAS, Revision 7 to Article V of the Florida Constitution and the statutes implemented in conjunction therewith, have changed the source of funding for court appointed attorneys from the counties to the State effective July 1, 2004; and

WHEREAS, pursuant to the recently enacted legislation under Senate Bill 2962 from the 2004 Legislative Session which addresses the revised procedures for the appointment and compensation for court appointed attorneys in indigent cases, including circuit and county criminal cases, juvenile delinquency, and dependency cases, mental cases, and other civil cases, effective July 1, 2004, it is necessary that procedures and approved fees and costs be implemented for the interim period of July 1, 2004 through September 30, 2004 to provide adequate time for these procedures and rates applicable to the Eleventh Judicial Circuit to be carefully reviewed and revised, if necessary, by October 1, 2004; and

WHEREAS, pursuant to Senate Bill 2962, effective July 1, 2004, the Justice Administrative Commission ("JAC") for the State of Florida will assume the payment of court appointed attorney fees and costs for services incurred on or after July 1, 2004; and

WHEREAS, the JAC has informed the judicial circuits state-wide that during the interim period from July 1, 2004 to September 30, 2004, the JAC will honor payment of court appointed attorney fees and costs based upon the approved procedures and rates of compensation established either by administrative order in each circuit or approved by each judicial circuit's Article V Indigent Services Committee ("Committee"); and

WHEREAS, Section 27.42, Florida Statutes, effective July 1, 2004, provides for the establishment of an Article V Indigent Services Committee ("Committee") and establishes the functions of that Committee; and

WHEREAS, the Court has established the Eleventh Judicial Circuit Article V Indigent Services Committee and appointed its members, but the Committee has not had the opportunity to meet and will not meet prior to July 1, 2004; and

WHEREAS, the JAC has approved an Interim Agreement for Court Appointed Attorney Services ("interim contract") for the interim period; and

WHEREAS, the Chief Financial Officer for the State of Florida issued Chief Financial Officer Memorandum No. 04 (2003-04) on June 18, 2004 ("CFO Memorandum") (Attachment 1) regarding disbursements by the JAC for private court appointed attorneys pursuant to Section 27.5304, Florida Statutes; and

WHEREAS, this order expresses the court's intent to continue the status quo regarding the procedures for the appointment of and the fees and costs for court appointed attorneys in dependency and termination of parental rights cases; and

WHEREAS, it is necessary to implement procedures and approved fees and costs for court appointed attorneys in dependency and termination of parental rights for the interim period of July 1, 2004 through September 30, 2004; and

WHEREAS, to bridge the transition from July 1, 2004 to such time as the Committee adopts procedures and rates of pay for court appointed conflict attorneys, the Court shall continue the present procedures, fees and costs in effect on June 30, 2004 by incorporating and adopting herein Administrative Orders No. 99-8, 95-11, 94-27, 89-29 and 89-29-A1 (Composite Attachment 2), as may be amended herein, the contract maintained by the Administrative Office of the Court ("AOC") for vendor court reporters and court reporting services, and the currently established policies, procedures, and rates of compensation maintained by the AOC for interpreters, translators, and process servers; and

WHEREAS, the JAC's interim contract, the CFO Memorandum, and case law provide for an attorney's fee that exceeds the statutory maximum fee cap in certain cases found to be extraordinary and/or unusual by the court, whereupon in such instance the court appointed attorney may recover such a fee upon court order; and

WHEREAS, as of July 1, 2004, the JAC has standing to challenge any invoice for fees and/or costs submitted to it for payment, and to ensure that the JAC has adequate notice of and an opportunity to be heard on any motion for attorney's fees and/or costs, *ex parte*

motions for such attorney's fees and/or costs are prohibited; and

WHEREAS, to ensure that the court appointed attorney provides the JAC with adequate notice of any hearing on any motion for attorney's fees and/or costs, the JAC must have seven (7) business days notice of said hearing; and

WHEREAS, with the elimination of the Family Reunification Legal Office, the court needs qualified private attorneys present at shelter hearings to represent indigent parents; and

WHEREAS, with the elimination of the Family Reunification Legal Office, the Fee Review Committee needs an attorney to replace the appointed representative from the Family Reunification Legal Office;

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

1. This Circuit's Attorney Rotation Wheel ("wheel") for dependency and termination of parental rights cases shall hereinafter be referred to as the "main registry."
2. For the interim period of July 1, 2004 through September 30, 2004, the attorneys approved as of June 30, 2004 for court appointments in dependency or termination of parental rights cases from the approved "wheel" are approved for court appointments on or after July 1, 2004 from the "main registry."
3. As of July 1, 2004, each approved court appointed attorney shall be assigned to a specific Judicial Division by a random blind draw from the "main registry."
4. The attorneys assigned to each Judicial Division shall constitute the Division's "mini-registry" which the judge will use to appoint attorneys on a rotational basis for dependency and termination of parental rights cases in the trial and appellate courts on or after July 1, 2004.
5. Court appointed attorneys, experts, investigators, court reporters, court interpreters, and other persons shall be compensated for court appointed services at the fees and costs adopted and approved by this administrative order.
6. During this interim period, motions and invoices for fees and costs must be submitted pursuant to the Florida Statutes, the CFO Memorandum, the JAC's interim contract, and/or this administrative order.

7. From July 1, 2004 to such time as the Committee adopts procedures, fees and costs for court appointed attorneys, the procedures, fees, costs, and forms contained and defined in this Circuit's Administrative Orders No. 99-8, 95-11, 94-27, 89-29 and 89-29-A1, which are attached hereto and incorporated herein, the contract maintained by the Administrative Office of the Court ("AOC") for vendor court reporters and court reporting services, and the currently established policies, procedures, and rates of compensation maintained by the AOC for interpreters, translators, and process servers, which are in effect on June 30, 2004, shall remain in full force and effect.
8. As the JAC has standing to challenge any invoice for fees and costs submitted to it for payment, the JAC shall have at least seven (7) business days notice of any hearing on any motion for attorney's fees and/or costs for which it might be obligated.
9. As of July 1, 2004, the court shall not entertain any ex parte motions for attorney's fees and/or costs in cases where the JAC has standing to challenge such motion.
10. The representative on the Fee Review Committee from the Family Reunification Legal Office shall be replaced by an attorney from the Office of the General Counsel for the Administrative Office of the Court.
11. By accepting an appointment to a dependency or termination of parental rights case, the attorney agrees to be bound by the provisions of this administrative order.

This Order shall take effect on July 1, 2004 and shall remain in effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade, Florida, this _____ day of June, 2004.

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