

IN THE CIRCUIT COURT OF THE 16<sup>TH</sup>  
JUDICIAL CIRCUIT OF THE STATE OF  
FLORIDA IN AND FOR MONROE COUNTY

ADMINISTRATIVE ORDER 8.005/06-1

IN RE:

COUNTY COURT APPEALS  
AND RELATED PROCEDURES

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WHEREAS, Rule 9.030(c)(1) of the Florida Rules of Appellate Procedures requires the circuit courts to review by appeal final orders of lower tribunals as provided by general law; non-final orders of lower tribunals as prescribed by rule 9.130; and administrative action if provided by general law; and

WHEREAS, Rule 9.030(c)(2) of the Florida Rules of Appellate Procedures states that the certiorari jurisdiction of circuit courts may be sought to review non-final order of lower tribunals other than as prescribed by rule 9.130; and

WHEREAS, Rule 9.030(c)(3) of the Florida Rules of Appellate Prodecures authorizes circuit courts to issue writs of mandamus, prohibition, quo warranto, common law certiorari, and habeas corpus, and all writs necessary to the complete exercise of the courts' jurisdiction; and

WHEREAS, there is a need to set forth a procedure that specifies how these rules shall be processed; and

WHEREAS, the Sixteenth Judicial Circuit has a division of responsibilities that is partially determined by the geographic nature of Monroe County; and

WHEREAS, there is a need to set forth a procedure that insures the timely disposition of petitions and appeals; and

WHEREAS, the timely disposition of said filings requires a system for tracking those cases by the court, it is, therefore:

ORDERED that the following process governing circuit court responsibilities under the Florida Rules of Appellate Procedure are hereby established:

**1. Assignments**

1. All new petitions filed in the Upper Keys Division and all new civil and criminal appeals originating from the Upper Keys Division of the County Court shall be assigned to the Honorable Luis M. Garcia.

2. All new petitions filed in the Middle and Lower Keys Division and all new civil and criminal appeals originating from the Middle and Lower Keys Divisions of the County Court shall be assigned to the Honorable David Audlin.
3. All pending petitions and civil and criminal appeals shall remain with the previously assigned judge until final disposition of the appeal.
4. Upon the filing of a notice to appeal a county court case, the Clerk of the Court shall send the notice and the case file to the circuit judge to whom the case is assigned. The case file will remain thereafter in the assigned judge's office until such time as the disposition of the case.
5. Thereafter, all documents filed in the appellate case including court orders shall be clocked in by the Clerk when received and forwarded to the judge's office having the case for filing.
6. Upon issuance of Mandate the file shall be returned to the Clerk.
7. When a party requests oral argument, and the appeal "matures", the assigned judge "screens" the case to determine whether the oral argument request should be granted. If the judge decides to grant oral argument, that office notifies the parties. If oral argument is not granted, the assigned judge's office sends the parties a form letter informing them that the request for oral argument has been denied.
8. A. At his or her discretion, any appellate judge may request upon the court's own motion a three judge panel to be assigned by the Chief Judge for the purpose of hearing oral argument in any case covered by this order. Any appellate judge may also request a three judge panel as the result of a party's motion where the appellate judge so orders.  
B. The assigned appellate judge will be the primary judge for the panel. The primary judge is responsible for docketing the case and the primary judge shall be the presiding judge of the panel. The primary judge shall:
  - (a) discharge the administrative duties of the panel, including scheduling oral argument sessions and/or oral-argument waived conferences which shall be held at least once a month,
  - (b) mailing of notices of oral argument sessions,
  - (c) rule on all non-dispositive motions,
  - (d) preside at all sessions,
  - (e) assign the writing of opinions among the panel members when the presiding judge is in the majority. (When the presiding judge is in the minority, this responsibility shall be discharged by the most senior judge in the majority.)
- C. Every application for an order in connection with appellate proceedings shall be made to the presiding judge of the panel. He or she shall have full charge of the proceedings; provided, that upon the absence, failure or inability of the presiding judge to act, any other judge of the panel

may be substituted. The presiding judge will be responsible for seeing that the majority opinion in each case is prepared.

- D. In any case where a judge finds it necessary in the interest of justice to recuse him or herself, the judge shall enter an order and refer the matter to the Chief Judge. The judge obtaining a substitute shall immediately deliver any files and briefs in his or her possession to the substitute judge who will be responsible for any cases considered during his or her appointment.
- E. After oral argument, or after the discussion of a case in an oral-argument-waived conference, the panel shall take a preliminary vote. (Oral argument cases should generally be conferenced immediately after all oral arguments for the day have been heard.) Cases shall be decided by majority vote. The panel member assigned to draft a written opinion shall circulate the proposed opinion together with a face sheet on which the remaining panel members shall indicate their concurrence or dissent. (See attached Form A.) The court's opinion shall be typed, double spaced, and shall follow the format utilized by the district courts of appeal. The face sheet together with the majority opinion and any concurring dissenting opinions shall be filed with the clerk for placement in the case file.
- F. The decision of a majority of the judges on a panel shall rule. No order or judgment of the County Court of Monroe County shall be reversed without the concurrence of at least two judges on a panel.

## **II. Processing Cases**

**Duties of the Clerk of Court:** Upon receipt of the Notice of Appeal or Petition, the Clerk's Office shall establish a file for the case. The Clerk's Office shall be charged with the following responsibilities:

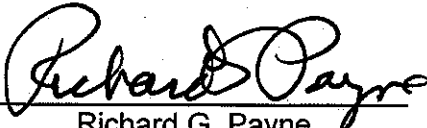
1. receiving the original notice of appeal and the proper appellate filing fee;
2. mailing copies of the "Important Notice to Attorneys and Parties" (see Attachment B) to all parties after receipt of the notice of appeal (if the notice to appeal fails to disclose the name and address of the appellee[s], the clerk shall obtain this information from the county court file);
3. immediately forwarding the petition for extraordinary writ or notice of appeal with the file to the assigned judge where it will remain thereafter in the assigned judge's office until such time as the case is disposed of;
4. immediately forwarding a copy of the notice of appeal to the county judge in the division from which the appeal originated;
5. placing a copy of the notice of appeal in the file of the case being appealed;
6. forwarding all documents filed in the case, after they have been clocked in, including court orders, to the assigned judge's office;
7. issuing mandates in accordance with Rule 9.340, Fla.R.App.P.;
8. preparing the record on appeal; and
9. upon receipt of the appellate ruling in the case, immediately forwarding a copy of the ruling to the county judge in the division from which the appeal originated.

**II. Return of Case File & Evidence to Clerk:** If there is no undisposed of post-mandate motions filed, then thirty (30) days after the rendition of the mandate, the assigned judge's office shall transmit the appellate case file, together with all briefs, exhibits and evidence, back to the Clerk's Office. If the case file contains a post-mandate motion which has been disposed of by order of the court, then the assigned judge's office shall, on the 31<sup>st</sup> day following rendition of the post-mandate motion, transmit the appellate case file, together with all briefs, exhibits and evidence, back to the lower tribunal clerk. Any appellate file containing a post-mandate motion which has not been disposed of by court order shall remain in the custody and control of the assigned judge's office until such time as a disposition occurs.

Administrative Orders 8.004 04-1; 8.004 04-2, *In re: County Court Appeals and Related Procedures* are hereby rescinded and 8.005 *In re: County Court Appeals and Related Procedures* is amended in its entirety.

This Order shall take effect January 1, 2007.

DONE and ORDERED at Key West, Monroe County, Florida, this 15<sup>th</sup> day of November, 2006.

  
Richard G. Payne  
Chief Judge

**IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT  
IN AND FOR MONROE COUNTY, FLORIDA**

----- CASE NO. \_\_\_\_\_

)

) Opinion/Decision filed

\_\_\_\_\_

)

) Appeal from the County Court

) in and for Monroe County,

)

) \_\_\_\_\_ Judge

) \_\_\_\_\_

) Appeal from the (name of agency)

\_\_\_\_\_

\_\_\_\_\_

)

)

) APPEALED: \_\_\_\_\_

) \_\_\_\_\_

)

)

) Rendered: \_\_\_\_\_

)

DATE OF: \_\_\_\_\_

PANEL: \_\_\_\_\_

AFFIRMED/REVERSED/OTHER: \_\_\_\_\_

PER CURIAM OPINION/DECISION BY: \_\_\_\_\_

DATE CONCURRING:	) DISSENTING	) CONCURRING SPECIALLY
	) with/without Opinion	) With/Without Opinion
	)	)
_____	)	)
	J.)	J.)
	)	)
	J.) Noted	J.) Noted
_____	)	)
	J.) Noted	J.) Noted

## ATTACHMENT B

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT  
IN AND FOR MONROE COUNTY, FLORIDA

APPELLATE DIVISION OF THE CIRCUIT OF THE COURT

### IMPORTANT NOTICE TO ATTORNEYS AND PARTIES

To assist the Court in the prompt and orderly disposition of matters under review, compliance with the following is requested:

1. **MOTIONS:** Although motions in some instances are appropriate under the rules, excessive and unnecessary motion practice is discouraged and may result in the imposition of sanctions under Fla.R.App.P. 9.410. See *Debowitz v. Century Village East, Inc.*, 381 So.2d.252 (FLA 4<sup>th</sup> DCA 1979). Any record material necessary for resolution of a motion should be attached thereto as an appendix. Please enclose addressed stamped envelopes with all motions, one for the party filing the motion and one for each of the parties listed on the certificate of service. Motions should also contain an express representation, except on motions where clearly inappropriate, that opposing counsel has been contacted and will or will not stipulate to the relief requested. Responses to motions shall be promptly filed. (Original – no copies) Also, compliance with Fla.R.App.P. 9.300(a) is mandatory.
2. **EXTENSIONS OF TIME:** Attorneys are responsible for seeing the time schedule set out in the Appellate Rules is followed and that the record and briefs are filed on time. Requests for extension of time should be filed in compliance with Fla.R.App.P. 9.300(a). No extensions of time will be granted in expedited cases.
3. **ORAL ARGUMENT:** Oral argument will be limited to twenty minutes per side in civil and criminal matters with exceptions only by motion and order of the Court. Requests should be filed in conformity with Fla.R.App.P. 9.320.
4. **RELATED CASES:** Please advise the Court, in writing, as soon as possible, of any other cases pending before this Court involving related issues.
5. **BINDING OF BRIEFS:** The original and four copies of all briefs should be securely stapled with one staple in the upper left-hand corner and without brief covers. No onion skin or similar quality copies will be accepted.

6. CERTIFICATE OF SERVICE: All motions, notices, briefs and appendices are required to have a certificate of service. See Fla.R.App.P. 9420(c)(2).
7. STATUS INQUIRIES: Requests for the status of a matter before the Court should be directed to the Clerk's Office.
8. EXHIBITS: When providing directions for inclusion of exhibits in the record on appeal, please do not designate any tangible evidence without prior permission of the Court. This applies especially to drugs, firearms, explosives, x-rays, and heavy bulky items such as large maps, photographs and graphs.
9. NOTICE OF APPEAL: The full name of the trial court judge who entered the order or judgment should be indicated on the Notice of Appeal as well as the names of all parties and whether final or non-final appeal. See Fla.R.App.P. 9.990. See also Fla.R.App.P. 9.110(d) [except that the names of all parties is requested rather than "at least 1 party on each side"].
10. CONFORMED COPIES: Within ten days after the filing Notice of Appeal, the Appellant shall file a copy of the order-judgment(s) appealed together with a copy of any motion for rehearing and a copy of any order entered thereon.
11. SUPPLEMENTAL AUTHORITY: A party's brief should contain all relevant authority prior to submission of the brief. A Notice of Supplemental Authority should cite to newly discovered cases (copy of opinion to be attached to Notice) with a clear designation of the point of appeal to which the authority is pertinent. (Original and four copies.)
12. RIGHTS OF CHILDREN: The Court has adopted a policy of being favorably disposed to grant Motions to Expedite where a genuine issue on appeal involves custody of children, visitation privileges or other interests of children.