

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2016-022 PA/PI-CIR

RE: COURT-APPOINTED ATTORNEY STANDARDS & DUE PROCESS COSTS

Section 27.40, Florida Statutes, requires the Chief Judge to compile and maintain a registry of attorneys available for appointment in specific cases when a conflict of interest arises. The registry is to include qualified and experienced attorneys compiled by county and by category of cases. The registry is provided to the Clerk of the Circuit Court who must maintain the registry and provide to the Court the name of the next attorney for appointment.

In order to provide for the orderly appointment of private counsel and to facilitate the orderly handling of indigent cases, and pursuant to the authority of the Chief Judge in accordance with Article V, section 2, Florida Constitution, Rule of Judicial Administration 2.215, sections 27.40 and 43.26, Florida Statutes, it is

ORDERED:

I. ATTORNEYS

A. APPOINTMENT TO THE REGISTRY: An attorney must be on the Sixth Judicial Circuit Registry to receive a court appointment to represent a litigant who is entitled to court-appointed counsel.¹ To be included on the Registry, an attorney must apply during an open or special solicitation. Open solicitations occur periodically; special solicitations occur when the Chief Judge determines that there is a need for additional attorneys on one or more specific Registry lists. To apply, the attorney must certify that he or she meets the qualifications and standards set by law and in this Administrative Order, and must fully complete the applicable Sixth Judicial Circuit application form. In the event there are insufficient Registry attorneys under contract or other exigent circumstances exist as determined by the Chief Judge, the Chief Judge may add an attorney whom he or she determines is qualified to serve.

B. REGISTRY STANDARDS: All Registry attorneys must:

1. Be a member in good standing with The Florida Bar.
2. Have and maintain competence to provide representation in the types of cases on the Registry list to which the attorney is assigned.
3. Maintain continuing legal education requirements and any other qualifications specified in Attachment A for his or her assigned Registry list(s).
4. Maintain competency with the utilization of expert witnesses and evidence, including but not limited to, psychiatric and forensic evidence.
5. Enter into and maintain a contract for court-appointed attorney services with the Justice Administrative Commission (JAC).

¹ The Sixth Judicial Circuit Registry does not include attorneys for appointment pursuant to section 27.710, Florida Statutes, (representation in postconviction capital collateral proceedings); or section 940.031, Florida Statutes, (representation in executive clemency proceedings). Attorneys serving on one of those registries must meet any standards or other requirements established by the entity that creates the registry. See paragraph I.H., below.

6. Comply with the JAC requirements for billing.
7. Refrain from soliciting compensation from any person for service on a court-appointed case.
8. Maintain a principal office in Pasco, Pinellas, or Hillsborough County, or a location in Pasco or Pinellas County to meet with clients.
9. Notify the Chief Judge of any formal complaint filed by The Florida Bar; any non-confidential consent agreements entered with The Florida Bar; any finding of ineffective assistance of counsel by a judge or magistrate; any suspension or prohibition on the practice of law; and any suspension or prohibition on accepting court appointments.
10. Refrain from contracting with the Public Defender and Regional Counsel to provide counsel.
11. Notify the Clerk of the Circuit Court and the JAC of any change in his or her status or contact information. An attorney who resigns from the Registry must also notify the Chief Judge.
12. Accept appointments within their Registry list(s) without regard to the type of crime or other proceeding involved.

C. LIST-SPECIFIC STANDARDS: In addition to the qualifications stated in Attachment A, the following list-specific standards apply:

1. Guardianship Attorneys: An attorney appointed for a proceeding under Chapter 744, Florida Statutes, may not petition the State for fees if the Court determines that the client is solvent. Instead, the attorney may accept compensation that the Court orders the client to pay. The rate of compensation may be up to \$175.00 per hour.
2. Dependency Attorney for Parent: Attorneys serving on a Dependency Attorney for Parent list must appear at any shelter hearings that he or she is scheduled to attend by the Court or the Clerk of the Circuit Court. An attorney who does not appear for a shelter or other hearing as scheduled may not receive appointments or may be removed from the list.
3. Pinellas Attorneys: Each attorney serving in Pinellas County must agree to accept up to three cases in Pasco County per contract period if the attorneys serving in Pasco County are unable to handle a case due to ethical or workload conflict.
4. West Pasco Attorneys: Each attorney serving in West Pasco County must agree to accept up to three cases in East Pasco County per contract period if the attorneys serving in East Pasco County are unable to handle the case due to ethical or workload conflict.

D. REGISTRY LIST QUALIFICATIONS: Attachment A specifies the names of the Registry lists; their geographic service areas; the types of cases handled by attorneys on each list; and the experience, training, and other qualifications required of attorneys serving on those lists. The Chief Judge may amend the qualifications, geographic service areas, and registry requirements specified in Attachment A without further amendment to this Administrative Order. Attorneys on the Registry have a continuing duty to comply with the qualifications specified in Attachment A and any other standards and qualifications contained in this Administrative Order

or established in law. Failure to comply with the standards and qualifications may result in removal of the attorney from all court-appointed lists for three years.

E. SERVICE: By accepting an appointment or by continuing to provide representation pursuant to a prior court appointment, an attorney agrees to provide services in accordance with this Administrative Order, any other applicable law or administrative order, and the JAC form contract in effect at the time of appointment. Unless specified otherwise in the attorney's contract with the JAC or prohibited by law, a court-appointed attorney's continued representation of a client after the expiration of the attorney's contract constitutes agreement by the attorney to serve, subject to the fees of his or her prior contract.

F. COMPENSATION: Compensation for Registry attorneys representing indigent clients is set at the rates provided in section 27.5304, Florida Statutes, and the General Appropriations Act. Attorneys may also receive reasonable and necessary expenses as provided by statute or under the attorney's contract with the JAC. An attorney whose billing is denied by the JAC, including an attorney seeking additional compensation in an unusual and extraordinary circumstance, must follow the procedures in section 27.5304(12), Florida Statutes, and his or her contract with the JAC; file the appropriate motion; and set the matter for hearing before the Chief Judge or the Chief Judge's designee.

G. REMOVAL OR SUSPENSION: An attorney's failure to comply with the requirements of this Administrative Order may result in removal of the attorney from all court-appointed lists. The Chief Judge may remove or suspend an attorney from the Registry with or without notice when there is an indication that the attorney cannot provide competent representation, or there is any apparent failure to comply with this Administrative Order. After notice, such an attorney may respond in writing to the Chief Judge explaining why he or she should not be removed or suspended from the Registry.

An attorney who, after notice of a problem(s) or concern(s) with his or her performance, was removed from a specific list or the entire Registry or who voluntarily removed himself or herself, may reapply for appointment to the Registry as permitted in subparagraph I.A., above, provided that: (1) the attorney applies during a solicitation period that is three years after the effective date of the attorney's removal from the Registry, or after a lesser time specified by the Chief Judge in writing; and (2) the attorney provides satisfactory evidence of remediation.

An attorney removed from the Registry for failure to maintain compliance with his or her CLE requirements, to maintain a contract with the JAC, or to maintain active membership in The Florida Bar may be reinstated if the deficiency is corrected within the time frame allowed by the Chief Judge.

H. OTHER REGISTRIES: The Sixth Judicial Circuit Registry does not include attorneys appointed pursuant to section 27.710, Florida Statutes, as an attorney for postconviction capital collateral proceedings.

The Sixth Judicial Circuit Registry also does not include attorneys appointed to represent persons sentenced to death who seek relief through executive clemency. In accordance with section 940.031, Florida Statutes, the Board of Executive Clemency appoints those attorneys from a registry it creates and maintains.

Further, there is no Registry of attorneys for appointment pursuant to 50 U.S.C. section 3931(b)(2) (Servicemembers' Civil Relief Act). The Chief Judge will analyze the type of case involved and use exigent circumstance authority to appoint an appropriately qualified member of The Florida Bar.

II. CLERKS OF THE CIRCUIT COURT

The Pinellas Clerk of the Circuit Court and the Pasco Clerk of the Circuit Court (Clerks) will serve as the points of contact for Registry attorneys and maintain the Registry lists provided by the Chief Judge. Until the Clerks establish one database of Registry attorneys, the Clerk of the Circuit Court for Pinellas County will maintain the Registry for all circuit-wide categories.

The Clerks must publish on their website the name and phone number of a point of contact for attorneys to notify them of changes in their phone number, availability, or status.

When requested by the Court, the Public Defender, the Regional Counsel, or a court-appointed attorney, the Clerks must provide the name of the next registry attorney.

As part of maintaining the Registry, the Clerks must report by category and geographic service area the numbers of attorneys on the Registry, the numbers of appointments in each category, and the name of any attorney who notified the Clerk of his or her withdrawal or temporary removal from a Registry list. The Clerks also must report each month to the Chief Judge any issues of concern.

III. DUE PROCESS COSTS

Due process service rates are set in accordance with section 27.425, Florida Statutes. The JAC maintains the schedule of approved rates for the Sixth Judicial Circuit and posts the schedule on its website at www.justiceadmin.org. Expenditures for due process costs must be pre-approved by the Court. Due process costs not specified on the posted schedule will not be paid unless prior approval is received from the Court or unless the JAC does not object to the expense.

This Administrative Order will be effective July 1, 2016, at which point Administrative Order Nos. 2014-036 PA/PI-CIR and 2015-033 PA/PI-CIR are hereby rescinded.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida, this _____ day of April 2016.

ORIGINAL SIGNED ON APRIL 27, 2016
BY ANTHONY RONDOLINO, CHIEF JUDGE

Attachment: (A) Sixth Judicial Circuit Registry Lists - Standards and Qualifications

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Paula O'Neil, Clerk of the Circuit Court, Pasco County
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
Gay Inskip, Trial Courts Administrator
Ngozi Acholonu, Assistant Regional Counsel
Lillian Simon, Director of Administrative Services for Pasco County
Court-Appointed Attorneys
Bar Associations, Pasco and Pinellas
Law Libraries, Pasco and Pinellas

SIXTH JUDICIAL CIRCUIT REGISTRY LISTS - STANDARDS AND QUALIFICATIONS

Registry List	Attorney Qualifications (All Continuing Legal Education must have been approved by The Florida Bar)	Service Areas
<p>Non-Capital Felony And Misdemeanor Trials</p> <p>PBL, Life, Capital Sexual Battery, 1st, 2nd, and 3rd degree felony</p> <p>Misdemeanor & Criminal Traffic</p> <p>Criminal Contempt</p> <p>Involuntary Commitment due to NGRI adjudication</p> <p>Criminal postconviction (including 3.170(f), (l), and 3.853)</p> <p>Interstate Extradition</p> <p>Parole/Probation Violation</p> <p>Other proceeding not listed herein that may result in incarceration</p>	<ol style="list-style-type: none"> 1. The attorney has been a member in good standing with The Florida Bar for the previous 3 years. 2. The attorney is familiar with the practice and procedure of the criminal courts in the Sixth Judicial Circuit. 3. In the 12 months prior to the effective date of the contract to provide court-appointed attorney services, the attorney has completed a minimum of 10 hours of CLE devoted to criminal law. 4. Prior to the effective date of the contract to provide court-appointed attorney services, the attorney has completed the CLE requirements described in Florida Rule of Criminal Procedure 3.113. 5. The attorney is an experienced and active trial practitioner with no fewer than 10 state or federal jury trials tried to completion. These 10 jury trials may be civil, felony, or misdemeanor cases. 6. The attorney has served as lead counsel or co-counsel in 10 felony cases, 5 of which must have been felony jury trials that were tried to completion. 	<p>East Pasco, West Pasco, Pinellas</p>
<p>Capital Death Penalty Trials (Lead Counsel and Co-Counsel)</p> <p>A “capital case” is any offense for which the potential sentence is death and the state has not waived seeking the death penalty.</p> <p>Attorneys on the Lead Counsel list may also be appointed as “independent, special counsel” in accordance with <i>Marquardt v State</i>, 156 So. 3d 464 (Fla. 2015).</p>	<ol style="list-style-type: none"> 1. The attorney has been a member in good standing with The Florida Bar for the previous 5 years. 2. The attorney is familiar with the practice and procedure of the criminal courts in the Sixth Judicial Circuit. 3. In the 12 months prior to the effective date of the contract to provide court-appointed attorney services, the attorney has completed a minimum of 10 hours of CLE devoted to criminal law. 4. In addition to any CLE requirement under Florida Rule of Criminal Procedure 3.112 and 3.113, during any year that an attorney does not attend at least 12 hours of CLE devoted to the defense of capital cases, the attorney must obtain and review the case law update materials from the Public Defender’s Office or the Florida Public Defender Association, Inc. 5. The attorney has not provided constitutionally deficient representation, as determined by courts in two capital proceedings (trial, appellate, or postconviction), with the latest determination being made in a final order entered within the previous five years. 6. <u>To be appointed as lead counsel</u>, the attorney must meet the requirements of Florida Rule of Criminal Procedure 3.112(f) during the entire contract period. 7. <u>To be appointed as co-counsel</u>, the attorney must meet the requirements of Florida Rule of Criminal Procedure 3.112(f) or the requirements of Florida Rule of Criminal Procedure 3.112(g) during the entire contract period. 	<p>Circuit-wide</p>

Capital Death Penalty Appeals	<ol style="list-style-type: none"> 1. The attorney must meet requirements 1-5 of the Capital Death Penalty Trials Registry List 2. The attorney must meet the requirements of Florida Rule of Criminal Procedure 3.112(h) during the entire contract period. 	Circuit-wide
Juvenile Delinquency Trials	<ol style="list-style-type: none"> 1. The attorney has been a member in good standing with The Florida Bar for the previous 12 months. 2. The attorney is familiar with the practice and procedure of the criminal courts in the Sixth Judicial Circuit. 3. In the 12 months prior to the effective date of the contract to provide court-appointed attorney services, the attorney has completed a minimum of 10 hours of CLE devoted to criminal law AND has either 1) completed at least 3 hours of CLE devoted to delinquency law, which may be part of the required 10 hours of CLE devoted to criminal law, OR 2) completed at least 3 hours of CLE devoted to legal advocacy for children, which may not be a part of the required 10 hours of CLE devoted to criminal law. 4. The attorney is an experienced trial practitioner with no fewer than 3 delinquency dispositions or 3 state or federal jury or non-jury trials tried to completion. 5. The attorney is competent to continue representation of a delinquency defendant who is subsequently tried as an adult in Circuit felony court. 	East Pasco, West Pasco, Pinellas
Jimmy Ryce Involuntary Civil Commitment Trials	<ol style="list-style-type: none"> 1. The attorney has been a member in good standing with The Florida Bar for the previous 3 years. 2. The attorney is familiar with the practice and procedure of the criminal and civil courts in the Sixth Judicial Circuit. 3. In the 12 months prior to the effective date of the contract to provide court-appointed attorney services, the attorney has completed a minimum of 10 hours of CLE devoted to criminal law. 4. The attorney is an experienced and active trial practitioner with no fewer than 10 state or federal jury trials tried to completion. These 10 jury trials may be civil, felony, or misdemeanor cases. 5. The attorney has served as lead counsel or co-counsel in 10 felony cases, 5 of which were felony jury trials that were tried to completion. 	East Pasco, West Pasco, Pinellas
Appeals of Criminal (non-capital), Juvenile Delinquency, and Jimmy Ryce Civil Commitments	<ol style="list-style-type: none"> 1. The attorney has been a member in good standing with The Florida Bar for the previous 3 years. 2. The attorney is familiar with the practice and procedure of the criminal courts in the Sixth Judicial Circuit. 3. In the 12 months prior to the effective date of the contract to provide court-appointed attorney services, the attorney has completed 1) a minimum of 10 hours of CLE devoted to criminal law AND 2) a minimum of 10 hours of CLE devoted to appellate law. 4. The attorney is an experienced and active practitioner in the field of appellate criminal law or has experience in the appeal of at least 5 criminal cases. 	Circuit-wide

<p>Dependency: Atty for Parent Dependency Shelter Hearings Dependency Adjudication Judicial Review Children/Families in Need of Servs. Term. of Parental Rights (Chapters 39 and 63)</p>	<ol style="list-style-type: none"> 1. The attorney has been a member in good standing with The Florida Bar for the previous 3 years. 2. The attorney is familiar with the practice and procedure of dependency proceedings in the Sixth Judicial Circuit, including the application of the Juvenile Rules of Procedure and the Family Law Rules of Procedure. 3. In the 12 months prior to the effective date of the contract to provide court-appointed attorney services, attorney has completed a minimum of 3 hours of CLE devoted to dependency law. 4. The attorney has observed at least 30 hours of hearings, including 6 shelter hearings, 3 dependency hearings, and 1 termination of parental rights (TPR) hearing. 5. The attorney must appear at all shelter hearings at which they are scheduled to appear by the Court or the Clerk of the Circuit Court. 	<p>East Pasco, West Pasco, Pinellas</p>
<p>Dependency: Atty for Child Children/Families in Need of Servs. Dependency w/ mental health (residential treatment) Emancipation Attorney Ad Litem for child Parental Notice of Abortion Act Other proceeding not included herein where a child is entitled to counsel</p>	<ol style="list-style-type: none"> 1. The attorney must meet the requirements for the Attorney for Parent listed above. 2. The attorney has completed a 3-hour training course offered by Guardian Ad Litem program. 	<p>East Pasco, West Pasco, Pinellas</p>
<p>Dependency: Dependent Children with Special Needs, including appeals, in accordance with section 39.01305, Fla. Stat.</p>	<ol style="list-style-type: none"> 1. The attorney has been a member in good standing with The Florida Bar for the previous 3 years. 2. The attorney is familiar with the practice and procedure of dependency proceedings in the Sixth Judicial Circuit, including the application of the Juvenile Rules of Procedure and the Family Law Rules of Procedure. 3. The attorney is familiar with the Florida Guidelines of Practice for Lawyers who Represent Children in Abuse and Neglect cases. 4. In the two years prior to the effective date of the contract to provide court-appointed services, the attorney has completed at least 10 hours of CLE devoted to the legal needs of children, at least 5 hours of which addressed the representation of children with special needs or disabilities, and 1 hour of which addressed ethics related to the representation of children. 5. The attorney is an experienced trial practitioner who has at least 1 year of experience representing children in dependency cases within the last 5 years; OR is currently supervised by an attorney who has at least 1 year of experience representing children in dependency cases; OR has observed at least 30 hours of dependency hearings, including 1 shelter hearing, 1 dependency adjudicatory hearing, 1 judicial review hearing, 1 Rule 8.350 or 8.355 Florida Rule of Juvenile Procedure hearing, and 1 TPR trial. 	<p>Circuit-wide</p>

<p>Dependency Appeals</p>	<ol style="list-style-type: none"> 1. The attorney has been a member in good standing with The Florida Bar for the previous 3 years. 2. The attorney is familiar with the practice and procedure of dependency proceedings in the Sixth Judicial Circuit. 3. In the 12 months prior to the effective date of the contract to provide court-appointed attorney services, the attorney has completed at least 3 hours of CLE devoted to dependency law. 4. The attorney is an experienced and active practitioner in the field of appellate law or has experience in the appeal of at least 5 cases, which are not limited to dependency or TPR cases. 5. The attorney is an experienced appellate practitioner and has at least 3 years of experience in dependency or appellate law. 	<p>Circuit-wide</p>
<p>Standard Guardianship Developmental Disabilities Guardianship Proceedings under Ch. 744, Fla. Stat. Attorney Ad Litem for Estate</p>	<ol style="list-style-type: none"> 1. The attorney has been a member in good standing with The Florida Bar for the previous 3 years. 2. The attorney is familiar with the practice and procedure of guardianship proceedings in the Sixth Judicial Circuit. 3. The attorney is an experienced trial practitioner who has represented clients in no fewer than 15 guardianship proceedings. 4. In the 12 months prior to the effective date of the contract to provide court-appointed attorney services, the attorney has completed a minimum of 3 hours CLE devoted to guardianship. 5. The attorney has completed 8 hours of CLE devoted to guardianship law or has served as an attorney of record for guardians for 3 or more years. 	<p>East Pasco, West Pasco, Pinellas</p>
<p>Emergency Guardianship Adult Protective Services Substance abuse assessment (Marchman Act) Mental Health (Baker Act) Tuberculosis Victims Healthcare Adv. Directives STD Victims</p>	<ol style="list-style-type: none"> 1. The attorney must meet the requirements for standard guardianship proceedings. 2. The attorney is familiar with statutory and case law for the following proceedings and is competent to provide representation in the following proceedings: Chapter 415 for Adult Protective Services; the Marchman Act; the Baker Act; Chapter 392 for victims of tuberculosis; Chapter 744 & 765 and Fla. R. Prob. 5.900 Health Care Advance Directives; and Chapter 384 for victims of sexually transmitted diseases. 	<p>East Pasco, West Pasco, Pinellas</p>
<p>Guardianship Appeals</p>	<ol style="list-style-type: none"> 1. The attorney has been a member in good standing with The Florida Bar for the previous 3 years. 2. The attorney is familiar with the practice and procedure of guardianship proceedings in the Sixth Judicial Circuit. 3. The attorney must be an experienced appellate practitioner who has represented clients in no fewer than 5 appeals. 4. In the 12 months prior to the effective date of the contract to provide court-appointed attorney services, the attorney has completed a minimum of 3 hours of CLE devoted to guardianship. 5. The attorney has completed 8 hours of CLE devoted to guardianship law or has served as an attorney of record for guardians for 3 or more years. 	<p>Circuit-wide</p>