

**IN THE THIRTEENTH JUDICIAL CIRCUIT COURT
HILLSBOROUGH COUNTY, FLORIDA**

ADMINISTRATIVE ORDER A-2013-006

(Amends Administrative Orders A-1994-123, A-2000-039, A-2001-079, A-2004-011, A-2004-036, A-2004-039, A-2004-040, A-2005-193, A-2008-060, A-2008-103, A-2009-028, A-2010-036, A-2010-081, A-2011-037, A-2011-057, A-2012-002, A-2012-025, A-2012-057, A-2013-004 and A-2013-005)

**STANDING RECUSAL ORDERS & STANDING
RECUSAL ADMINISTRATIVE ORDERS**

When a judge makes a professional decision to be administratively disqualified in cases in which a particular attorney is involved, the judge either issues his or her own standing recusal order or requests that the chief judge enter an administrative order to accomplish the same result. Until recent times, standing recusal orders and standing recusal administrative orders simply directed the Clerk of the Circuit Court (clerk) to automatically reassign a case upon a subject attorney appearing as counsel in the case.

The standing recusal orders and standing recusal administrative orders are intended to enable the clerk to reassign a case from a judge's division as soon as a subject attorney files and serves a party's first pleading or paper. Under the specific language used in most standing recusal orders and standing recusal administrative orders, the clerk automatically reassigns a case – even a case which may have been pending before a judge for years – anytime a subject attorney files a notice of appearance.

This procedure could result in unnecessary delay, allow for judge shopping, and create the appearance of impropriety. Accordingly this administrative order is entered to amend all standing recusal orders and all standing recusal administrative orders. A party bringing into a case an attorney who is the subject of a standing recusal order or standing recusal administrative order will initially be deemed to have waived the judge's disqualification. *See Sume v. State*, 773 So. 2d 600 (Fla. 1st DCA 2000) quoting *Town Centre of Islamorada, Inc. v. Overby*, 592 So. 2d 774, 776 (Fla. 3d DCA 1992) (explaining that "a party may not bring an attorney into a case after it has been assigned to a judge, and then move to disqualify the judge on grounds that the judge has a bias against the attorney.")

The entry of this administrative order is not intended to suggest that any attorney who is the subject of a standing recusal order or standing recusal administrative order has acted inappropriately. The entry of this administrative order is merely intended to avoid the appearance of impropriety and to standardize the process by which the clerk assigns and reassigns cases based on standing recusal orders and standing recusal administrative orders.

By the power vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rule of Judicial Administration 2.215 (b)(2), it is therefore **ORDERED**:

1. **Definitions**

For purposes of this administrative order, the following terms have the following meanings:

- A. **“Standing recusal administrative order”** means any administrative order entered by the chief judge directing the clerk to reassign a pending case from a division in which a subject judge is presiding to another division because the subject judge has made a professional decision to be disqualified in cases in which a subject attorney is an attorney of record.
- B. **“Standing recusal order”** means any order entered by a subject judge directing the clerk to reassign a pending case from a division in which the subject judge is presiding to another division because the subject judge has made a professional decision to be disqualified in cases in which a subject attorney is an attorney of record.
- C. **“Subject attorney”** means any attorney who is the subject of a standing recusal order or standing recusal administrative order.
- D. **“Subject judge”** means any judge who has made a professional decision to be disqualified in cases in which a subject attorney is an attorney of record.

2. **Duty of Attorney to Advise Client of Judicial Conflict**

Rule 4-1.4(b) of the Rules Regulating The Florida Bar imposes upon a lawyer the duty to explain a matter to the extent reasonably necessary to permit a client to make informed decisions regarding the representation. If a proceeding is already pending before a subject judge, this professional duty obligates an attorney to disclose to a client the existence of a standing recusal order or a standing recusal administrative order between the subject attorney and the subject judge. *See Sume v. State*, 773 So. 2d 600, 602 (Fla. 1st DCA 2000).

3. **Conditions on Standing Recusal Orders and Standing Recusal Administrative Orders**

Whenever a subject judge is presiding in any subject matter division and there is a standing recusal order or standing recusal administrative order in effect, the clerk will reassign all cases of a subject attorney to another division only if the subject attorney files and serves a party’s first pleading or paper in the proceeding.

Because a subject attorney is professionally obligated to notify a client of the existence of a standing recusal order or a standing recusal administrative order between the subject attorney and the subject judge and may not interject conflict into a case, if a subject attorney appears in a proceeding pending before a subject judge after the party’s first pleading or paper is filed and served, the clerk is directed to not automatically reassign the proceeding to another division.

Nothing in this provision precludes any party from filing a motion for judicial disqualification under Florida Rule of Judicial Administration 2.330.

4. Standing Recusal Orders Amended

This administrative order amends all standing recusal orders entered prior to the effective date of this administrative order and all future standing recusal orders. The clerk is directed to provide the chief judge a copy of all standing recusal orders entered by any judge of this circuit and to provide to the chief judge a copy of any standing recusal order entered by a judge after the effective date of this administrative order.

5. Previous Standing Recusal Administrative Orders Amended

This administrative order amends all standing recusal administrative orders entered prior to the effective date of this administrative order. According to the records in the custody of the court’s general counsel office, the following standing recusal administrative orders were entered prior to the effective date of this administrative order and are therefore amended:

NUMBER	TITLE
A-1994-123	<i>Automatic Reassignment of Certain Cases of the Judge Ronald Ficarrotta (Joseph Ficarrotta)</i>
A-2000-039	<i>Automatic Reassignment of Certain Cases of Judge Chet Tharpe (Norman Cannella, Sr.)</i>
A-2001-079	<i>Automatic Reassignment of Certain Cases of Judge Chet A. Tharpe (Taryn X. Temmer)</i>
A-2004-011	<i>Automatic Reassignment of Certain Cases of the Honorable D. Michelle Sisco (Lyann Goudie, William Hanlon, Bill Jung, and Paul Sisco)</i>
A-2004-036	<i>Automatic Reassignment of Certain Cases of the Honorable D. Michelle Sisco (Any attorney from the law firm of Trombley & Hanes)</i>
A-2004-039	<i>Automatic Reassignment of Certain Cases of the Honorable E. Lamar Battles (Any attorney from the law firm of de la Parte & Gilbert, P.A.)</i>
A-2004-040	<i>Automatic Reassignment of Certain Cases of the Honorable Charles Ed Bergmann (Beth G. Reineke)</i>
A-2005-193	<i>Automatic Reassignment of Certain Cases of the Honorable Chet A. Tharpe (Eric J. Kuske)</i>
A-2008-060	<i>Automatic Reassignment of Certain Cases of the Honorable Kimberly Fernandez (Curry Law Group, P.A.)</i>
A-2008-103	<i>Automatic Reassignment of Certain Cases of the Honorable Denise A. Pomponio (Dominic Fariello and Darrigo and Diaz, P.A.)</i>
A-2009-028	<i>Automatic Reassignment of Certain Cases of the Honorable Catherine M. Catlin (Elizabeth “Betsy” Hapner and any attorneys associated with the law firm of Carey and Millison P.A.)</i>
A-2010-036	<i>Automatic Reassignment of Certain Cases of the Honorable Matthew C. Lucas (Richard M. Rocha, Michael R. Rocha, and any attorneys associated with the law firm of Bricklemeyer, Smolker & Bolves, P.A.)</i>

A-2010-081	<i>Automatic Reassignment of Certain Cases of the Honorable Paul L. Huey (Catherine W. Real)</i>
A-2011-037	<i>Automatic Reassignment of Certain Cases of the Honorable Bernard C. Silver (Michael C. Addison, William J. Terry, Alan Von Spiegelfeld, Edward Waller, Joryn Jenkins, and any attorney associated with the law firm of Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis P.A. or the law firm of Shutts & Bowen, LLP)</i>
A-2011-057	<i>Automatic Reassignment of Certain Cases of the Honorable Christopher C. Sabella (Any attorney associated with the law firm of Banker Lopez Gassler, P.A. and any attorney associated with The Yerrid Law Firm, P.A.)</i>
A-2012-002	<i>Automatic Reassignment of Certain Cases of the Honorable Lisa D. Campbell (Carl Roland Hayes)</i>
A-2012-025	<i>Automatic Reassignment of Certain Cases of the Honorable Richard A. Nielsen (Martha Irene Weed)</i>
A-2012-057	<i>Automatic Reassignment of Certain Cases of the Honorable Paul L. Huey (Patricia Palma)</i>
A-2013-004	<i>Automatic Reassignment of Certain Cases of the Honorable Margaret Courtney (Patrick B. Courtney)</i>
A-2013-005	<i>Automatic Reassignment of Certain Cases of the Honorable Elizabeth G. Rice (Barry Cohen, Lyann Goudie, Zilia C. Vasquez, and any attorney associated with the law firm of Sterns Weaver Miller Weissler Alhadeff & Sitterson, P.A. or the law firm of Glenn Rasmussen, P.A.)</i>

6. Effective Date

This administrative order is effective immediately.

It is ORDERED in Tampa, Hillsborough County, Florida, on this 23RD day of January, 2013.



Manuel Menendez, Jr., Chief Judge

Original to: Pat Frank, Clerk of Court
Copy to: All Judges
Kathy Regan, Chief Deputy Court Operations, Clerk of the Court
Barry A. Cohen
Lyann Goudie
Zilia Vasquez
Sterns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
Glenn Rasmussen, P.A.
Patrick B. Courtney
Olga Patricia Palma
Martha Irene Weed

Carl Roland Hayes
C. Steven Yerrid
Joseph K. Lopez
Michael C. Addison
Joryn Jenkins
William J. Terry
Allen Von Spiegelfeld
Edward Waller
Trenam, Kemker, Scharf, Barkin, Frye O'Neill & Mullins, P.A.
Shutts & Bowen, LLP
Catherine W. Real
Richard M. Rocha
Michael R. Rocha
Brickleymyer, Smolker & Bolves, P.A.
Elizabeth Lynn Hapner
J. Kevin Carey, P.A. (formerly Carey & Millison, P.A.)
Curry Law Group, P.A.
Dominic Fariello
Darrigo and Diaz, P.A.
Eric J. Kuske a/k/a Leanza
William Hanlon
William "Bill" Jung
Paul Sisco
de la Parte & Gilbert, P.A.
Trombley & Hanes, P.A.
Elizabeth G. Reineke
Taryn X. Temmer
Norman Cannella, Sr.
Joseph H. Ficarrota