

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

**ADMINISTRATIVE ORDER S-2019-037
(Supersedes Administrative Order S-2019-015)**

ATTORNEY'S FEES IN EXTRAORDINARY AND UNUSUAL CASES

The United States Constitution and Florida Constitution and laws require the provision of certain due process services to indigent persons in enforcing their rights under such authorities. The Florida Supreme Court in *Makemson v. Martin County*, 491 So. 2d 1109 (Fla. 1986), held that it is within the inherent power of Florida's trial courts to allow, in extraordinary and unusual cases, departure from the attorney's fees statute when necessary to ensure that an attorney who has served the public by representing a client is not compensated in an amount which is confiscatory of the attorney's time, energy and talents.

Section 27.5304(12), Florida Statutes, provides for an evidentiary hearing by the chief judge or a single chief judge designee when private court-appointed counsel seeks attorney's fees in an extraordinary and unusual case where the flat fee may be insufficient. It is necessary for the proper and efficient administration of the courts to appoint a chief judge designee to handle the evidentiary hearings when private court-appointed counsel seeks attorney's fees in an extraordinary and unusual case where the flat fee may be insufficient and to provide procedures for the processing of motions for attorney fees in extraordinary and unusual cases.

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

1. Chief Judge Designee

All motions for an order approving payment of court-appointed attorney's fees in excess of the limits prescribed in section 27.5304, Florida Statutes, and the General Appropriations Act must be scheduled for an evidentiary hearing with Administrative Judge of the Circuit Criminal Division Samantha L. Ward. All motions for an order approving payment of court-appointed attorney's fees in excess of the limits prescribed in section 27.5304, Florida Statutes, and the General Appropriations Act must be heard only by Judge Samantha Ward. If Judge Samantha Ward becomes unavailable to consider a motion, such matter will be re-set on Judge Ward's docket. Judge Samantha Ward is the single chief judge

designee for the Thirteenth Judicial Circuit and will hear all motions in all cases under section 27.5304(12), Florida Statutes, including criminal, dependency, delinquency, guardianship, and mental health cases.

2. Contents of Motion

All motions for an order approving payment of court-appointed attorney's fees in excess of the limits prescribed in section 27.5304, Florida Statutes, and the General Appropriations Act must include a copy of the intended billing, together with supporting affidavits and all other necessary documentation that was supplied to the Justice Administrative Commission along with the commission's letter stating its objection. The motion must also specify the number of witnesses interviewed or deposed or both, describe the complexity of the factual and legal issues, and specify the length of trial.

3. Previous Administrative Order Superseded

This administrative order supersedes Administrative Order S-2019-015 (*Attorney's Fees in Extraordinary & Unusual Cases*).

4. Effective Date

This administrative order is effective immediately.

ENTERED in Tampa, Hillsborough County, Florida, on October 10, 2019.


Ronald N. Ficarrota, Chief Judge

Original to: Pat Frank, Clerk of Circuit Court

Copy to: All Judges

Gina Justice, Court Administrator

Julianne Holt, Public Defender

Andrew H. Warren, State Attorney

Ita M. Neymotin, Regional Counsel, Second District

Justice Administrative Commission

Hillsborough County Bar Association