

IN THE CIRCUIT COURT OF THE SECOND
JUDICIAL CIRCUIT IN AND FOR LEON
COUNTY, FLORIDA

CASE NO. 09-CA-2639

CITY OF WESTON, FLORIDA; VILLAGE
OF KEY BISCAZYNE, FLORIDA; TOWN OF
CUTLER BAY, FLORIDA; LEE COUNTY,
FLORIDA; CITY OF DEERFIELD BEACH,
FLORIDA; CITY OF MIAMI GARDENS,
FLORIDA; CITY OF FRUITLAND PARK,
FLORIDA, and CITY OF PARKLAND,
FLORIDA,

Plaintiffs,

vs.

THE HONORABLE CHARLIE CRIST,
Governor of the State of Florida;
HONORABLE KURT S. BROWNING,
Secretary of State, State of Florida; THE
HONORABLE JEFF ATWATER, President of
the Senate, State of Florida; THE
HONORABLE LARRY CRETUL, Speaker of
the House, State of Florida,

Defendants.

LOCAL GOVERNMENTS' VERIFIED MOTION TO DISQUALIFY

Plaintiffs, City of Weston, Florida; Village of Key Biscayne, Florida; Town of Cutler Bay, Florida; Lee County, Florida; City of Deerfield Beach, Florida; City of Miami Gardens, Florida; City of Fruitland Park, Florida, and City of Parkland, Florida (collectively, the "Local Governments"), by and through their undersigned counsel, and pursuant to Florida Rule of Judicial Administration 2.330 ("Rule 2.330"), hereby move to disqualify the Honorable Jackie Lee Fulford, Leon County Second Judicial Circuit Court Judge, from proceeding further in this action, on the following grounds:

Overview

This motion presents the situation where, through a highly unique set of circumstances, one of the parties (defendant, Governor Crist) was able to choose the person who would serve as his judge. This has resulted in a situation where the plaintiffs have a well-founded fear of prejudice or bias against them and there is an appearance of impropriety. Accordingly, pursuant to applicable rules and prevailing law, the judge should immediately disqualify herself.

Underlying Lawsuit

1. This is a high profile lawsuit challenging the recent enactment of a bill (“SB 360”), which was passed in the waning hours of the legislative session and signed into law by Governor Crist, a named defendant in this lawsuit, over significant public opposition from local governments throughout the state.

2. The Local Governments allege that the enactment of SB 360 violates the Florida Constitution because it contains more than “one subject and matters properly connected therewith” and because it constitutes an unlawful “unfunded mandate” on local governments.

Factual Timeline

3. On June 24, 2009, Administrative Order 2009-1 (“AO 2009-1”) was issued, which declared that a circuit judge to be appointed by Governor Crist would “assum[e] the civil case load previously assigned to Circuit Judge Frank E. Sheffield.” *See* AO 2009-1 at p. 3, § 1(B)(4), attached hereto as Exhibit “A.”

4. On July 8, 2009, the Local Governments filed this lawsuit naming Governor Crist as a defendant. The case was assigned to the Honorable Frank E. Sheffield. Shortly thereafter, this lawsuit was declared a “high profile case” by the Second Judicial Circuit.

5. On or about July 15, 2009, Governor Crist appointed the Honorable Jackie Lee Fulford to fill a vacancy on the Second Judicial Circuit.

6. On or about July 28, 2009, in accordance with AO 2009-01, this case was transferred to the Honorable Jackie Lee Fulford.¹

Fear Of Prejudice Or Bias

7. For the reasons discussed herein, the Local Governments fear that they will not receive a fair hearing and trial in this case because of specific prejudice and/or bias of the judge.

8. The Local Governments' fear is reasonable and well-founded.

9. By way of example, if a hypothetical defendant made a private arrangement with the clerk of the court to ensure that a personally selected judge was assigned to his or her case, there would be little question that the judge would have to disqualify herself from the defendant's case upon motion of the plaintiff. While in this case Judge Fulford was appointed by virtue of a combination of the Governor's appointment authority and an administrative order of the Chief Judge, the *timing* of these two factors – where the Governor made the appointment with specific public knowledge that he would selecting the judge to decide the case against him – at a minimum creates an appearance that necessitates that Judge Fulford remove herself from the case.

Argument

10. Rule 2.330, which governs the disqualification procedure, provides that the grounds for a disqualification motion may be based on the rule, statute or the Code of Judicial Conduct (the "Code"). *See Fla. R. Jud. Admin. 2.330(b).*

¹ / Upon information and belief, this transfer occurred pursuant to Administrative Order 2009-2, however, this Order has not yet been recorded by the Clerk of the Court. As a result, the Local Governments are unable to attach a copy of AO 2009-2 to this Motion at this time.

11. Further, Rule 2.330(d)(1) provides that proper grounds for disqualification exist if the movant “fears that he or she will not receive a fair trial or hearing because of specifically described prejudice or bias of the judge”

12. In addition to the grounds set forth in Rule 2.330, the Code provides independent grounds for disqualification in this case.

13. Canon 2 (“A Judge Shall Avoid . . . the Appearance of Impropriety . . .”) provides that “[a] judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” Fla. Code of Jud. Conduct, Canon 2.A (emphasis added).

14. The Commentary to Canon 2.A observes that:

The test for appearance of impropriety is whether the conduct would create in reasonable minds, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, a perception that the judge’s ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.

15. Moreover, Canon 3.E(1) (“Disqualification”) states that “[a] judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned” The Commentary to Canon 3.E(1) observes that “[u]nder this rule, a judge is disqualified whether the judge’s impartiality might be reasonably be questioned, regardless of whether any of the specific rules in Section 3.E(1) apply.”

16. In situations such as this, the appearance of impartiality is as important as actual impartiality. In fact, prevailing law and Canon 3.E(1) specify that the appearance of partiality is as detrimental to legal proceedings as a judge’s actual partiality. *See Livingstone v. State*, 441 So. 2d 1083, 1086 (Fla. 1983) (finding that the neutrality of judges is a grave concern even as to perception); *Aetna Life & Cas. Co. v. Thorn*, 319 So. 2d 82, 84 (Fla. 3d DCA 1975) (“A judge

occupies such a particular position in the affairs of other men that not only must he be free of evil intent but he must also avoid the appearance of evil.”); *Anderson v. State*, 287 So. 2d 322, 324-25 (Fla. 1st DCA 1973) (“A judge must not only be impartial, but he should leave the impression of his impartiality upon all who attend court The appearance of and absolute impartiality [are] essential. There must be no taint of any lack of objectiveness in all acts of a judge.”); see also *Fuster-Escalona v. Wisotsky*, 781 So. 2d 1063, 1065-66 (Fla. 2000) (opining that “[u]nder no circumstances may a judge sit in the trial of an action when her or his neutrality is shadowed or questioned.”)

17. The Court’s power to review this Verified Motion is narrow. Rule 2.330, provides that once a party has filed a legally-sufficient motion that “specifically allege[s] the facts and reasons relied on to show the grounds for disqualification” sworn to through verification or by separate affidavit, and containing a good faith certification of counsel, the Court “. . . shall determine only the legal sufficiency of the motion and shall not pass on the truth of the facts alleged” See Fla. R. Jud. Admin. 2.330(c) and (f).

18. Thus, the Court must accept as true all of the facts alleged in this Verified Motion, and determine only if these assumed true facts would “prompt a reasonably prudent person to fear that he could not get a fair and impartial” proceeding. *Hayslip v. Douglas*, 400 So. 2d 553, 556 (Fla. 4th DCA 1981). The *Hayslip* court reiterated that:

The test of sufficiency of the affidavit is whether or not its content shows that the party making it has a well-grounded fear that he will not receive a fair [proceeding] at the hands of the judge. It is not a question of how the judge feels; it is a question of what feeling resides in the [movant’s] mind, and the basis for such feeling . . . (The trial judge)] cannot pass on the truth of the allegations of fact.

Id. (quoting *State ex rel. Brown v. Dewell*, 179 So. 2d 695, 697-98 (Fla. 1938)).

19. Rule 2.330(f), also provides in pertinent part that “[i]f the motion is legally sufficient, the judge *shall immediately enter an order granting disqualification and proceed no further in the action.*” (emphasis added); *see also Airborne Cable Television Inc. v. Storer Cable TV of Fla., Inc.*, 596 So. 2d 117, 117-18 (Fla. 2d DCA 1992) (holding that the trial court should not have ruled on pending motions after defendant filed motion for disqualification).

20. Accordingly, as set forth in this Verified Motion, the unique circumstances of this case which allow defendant, Governor Crist, the opportunity to appoint and select the judge presiding over his case, give rise to the Local Governments’ justifiable fear they will not receive a fair trial. These circumstances compel disqualification. *See Brown v. St. George Island, Ltd.*, 561 So. 2d 253 (Fla. 1990); *Hayslip*, 400 So. 2d at 556; *St. George Island, Ltd. v. Rudd*, 547 So. 2d 958 (Fla. 1st DCA 1989).

Good Faith Certification Pursuant To Fla. R. Jud. Admin. 2.330(c)

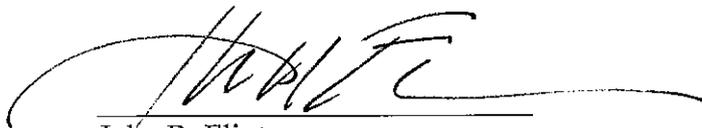
The undersigned counsel hereby certifies, pursuant to Rule 2.330(c), that the Verified Motion is made in good faith.

WHEREFORE, the City of Weston, Florida; Village of Key Biscayne, Florida; Town of Cutler Bay, Florida; Lee County, Florida; City of Deerfield Beach, Florida; City of Miami Gardens, Florida; City of Fruitland Park, Florida, and City of Parkland, Florida respectfully move for an immediate order of the Court disqualifying the Honorable Judge Jackie Lee Fulford from presiding over this matter.

VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing Verified Motion to Disqualify, and that the facts stated in it are true.

Dated this 6th day of August, 2009.



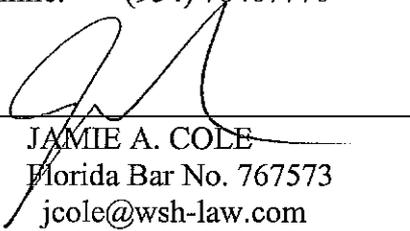
John R. Flint
City Manager, City of Weston

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true copy of the foregoing was sent via U.S. Mail to **Jonathan A. Glogau, Esq.**, Office of the Attorney General, *Attorney for the Defendants*, 400 South Monroe Street, # PL-01, Tallahassee, Florida 32399-6536, this 6th day of August, 2009.

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EXHIBIT "A"

IN THE SECOND JUDICIAL CIRCUIT OF
FLORIDA

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2009-01

IN RE: CIRCUIT JUDGE AND COUNTY JUDGE ASSIGNMENTS, SECOND
JUDICIAL CIRCUIT

WHEREAS, Administrative Order 2008-15, In Re: Circuit Judge and County Judge Assignments, Second Judicial Circuit, as amended, currently sets forth the assignments for the judges of the Second Judicial Circuit; and

WHEREAS, Rule 2.215(b)(4), Florida Rules of Judicial Administration, provides that the chief judge shall assign judges to the courts and divisions and shall determine the length of each assignment, it is therefore

ORDERED that the following are the judicial assignments for the Second Judicial Circuit which shall take effect on July 1, 2009, and shall remain in effect through June 30, 2010, unless modified by subsequent order.

I. LEON COUNTY.

A. **Circuit Court Criminal Division.**

Circuit Judges Angela C. Dempsey, Charles A. Francis, James C. Hankinson, Terry P. Lewis, and Mark E. Walker shall be assigned to the Criminal Division and assigned all felony cases as follows:

1. **Circuit Judge Terry P. Lewis, Division A.**

Division A shall be assigned one-third of all Criminal Division cases not assigned to Divisions D and E.

2. **Circuit Judge Mark E. Walker, Division B.**

Division B shall be assigned one-third of all Criminal Division cases not assigned to Divisions D and E.

3. **Circuit Judge Angela C. Dempsey, Division C.**

Division C shall be assigned one-third of all Criminal Division cases not assigned to Divisions D and E.

4. Circuit Judge James C. Hankinson, Division D.

Division D shall be assigned all felony intake cases and such violation of probation and other proceedings as may be determined by the Administrative Judge of the Criminal Division. Circuit Judge James C. Hankinson shall be assigned the primary responsibility for Division D, but all circuit judges assigned to the Criminal Division are designated as backup to Judge Hankinson when he is absent to handle his Franklin County assignment on a rotation or other basis as may be determined by the Administrative Judge of the Criminal Division. Circuit Judge Hankinson shall be assigned all statewide prosecution proceedings and all motions for extraordinary and unusual fee determinations.

5. Special Jury Trial Backup Assignment.

Circuit Judge James C. Hankinson shall be assigned as primary backup for Criminal Division jury selections and trials to the extent allowed by his Franklin County assignment. Appropriate coverage of his Franklin County assignment will be his first priority.

6. Chief Judge Charles A. Francis, Misdemeanor Appeals.

All misdemeanor appeals from county court shall be assigned to Chief Judge Charles A. Francis.

7. Special Assignments.

- a. **Division E.** County Judges James O. Shelfer and Ronald W. Flury shall be assigned all felony drug intervention cases.
- b. **Division E.** All felony worthless check cases shall be assigned equally to each of the five Leon County judges.
- c. **Division B.** Circuit Judge Jonathan Sjostrom shall be assigned all felony mental health cases.

B. Circuit Court Civil Division.

Circuit Judges John C. Cooper, P. Kevin Davey, and Charles A. Francis shall be assigned to the Civil Division and assigned all civil cases, prisoner civil petitions, and civil appeals from county court, excluding probate and family law division cases, as follows:

1. Circuit Judge John C. Cooper.

29.17% of all civil cases and 29.17% of all prisoner petitions, including all pending and previously scheduled hearing and trial dates, and times associated therewith.

2. Circuit Judge P. Kevin Davey.

29.16% of all civil cases and 29.16% of all prisoner petitions, including all pending and previously scheduled hearing and trial dates, and times associated therewith.

3. Chief Judge Charles A. Francis.

12.5% of all civil cases and 12.5% of all prisoner petitions, including all pending and previously scheduled hearing and trial dates, and times associated therewith.

4. Circuit Judge to be Appointed.

The Circuit Judge appointed to the Circuit 2, Group 5 seat shall be assigned 29.17% of all civil cases and 29.17% of all prisoner petitions by assuming the civil case load previously assigned to Circuit Judge Frank E. Sheffield, including all pending and previously scheduled hearing and trial dates, and times associated therewith.

C. Family Division.

Circuit Judges Dawn Caloca-Johnson, Charles W. Dodson, George S. Reynolds III, and Jonathan Sjostrom, shall be assigned to the Family Division and assigned all family law cases. The Family Division shall include the following category of cases: dissolution of marriage, division and distribution of property arising out of dissolution of marriage, annulment, support unconnected to dissolution of marriage, paternity, child support, URESA/UIFSA, custodial care of and access to children, adoption, name change, declaratory judgment actions related to pre-marital, marital and post-marital agreements, civil domestic violence and repeat violence injunctions, juvenile dependency and delinquency, and termination of parental rights. These cases, together with all pending and previously scheduled hearings, trial dates and times associated therewith, shall be assigned as follows:

1. Circuit Judge Dawn Caloca-Johnson.

Forty three percent (43%) of all Family Division cases, excepting juvenile dependency, juvenile delinquency, domestic violence, and repeat violence cases; twenty-five percent (25%) or an equal rotation of domestic and repeat violence cases; and an equal rotation as Family Division duty judge. Circuit Judge Dawn

Caloca-Johnson shall continue to hear all currently assigned Family Division cases.

2. Circuit Judge Charles W. Dodson.

All juvenile delinquency cases; twenty five percent (25%) or an equal rotation of domestic and repeat violence cases; and an equal rotation as Family Division duty judge by assuming the family caseload previously assigned to Circuit Judge Janet E. Ferris, including all previously scheduled hearing and trial dates and times associated therewith. Circuit Judge Charles W. Dodson shall also be assigned fourteen percent (14%) of all Family Division cases, excepting juvenile dependency, domestic violence, and repeat violence cases.

3. Circuit Judge George S. Reynolds III.

Forty three percent (43%) of all Family Division cases, excepting juvenile dependency, juvenile delinquency, domestic violence, and repeat violence cases; twenty-five percent (25%) or an equal rotation of domestic and repeat violence cases; and an equal rotation as Family Division duty judge by assuming the Family Division caseload previously assigned to Circuit Judge Charles W. Dodson, including all previously scheduled hearing and trial dates and times associated therewith.

4. Circuit Judge Jonathan Sjostrom.

All Unified Family Court Section cases as defined and identified pursuant to Administrative Order No. 2006-3; all juvenile dependency cases; twenty-five percent (25%) or an equal rotation of domestic violence and repeat violence cases; and an equal rotation as Family Division duty judge.

5. Special Assignments.

All Simplified Dissolution of Marriage cases are assigned equally to each of the five Leon County judges.

6. Family Division Assignment of the Administrative General Magistrate.

Administrative General Magistrate Thomas W. Lager shall be assigned to assist Circuit Judges Dawn Caloca-Johnson, Charles W. Dodson, and George S. Reynolds III by hearing all pro se Family Division cases, excepting juvenile dependency, juvenile delinquency, domestic violence, and repeat violence cases. Circuit judges shall not individually re-assign cases with representation provided by a lawyer or lawyers to the administrative general magistrate. The administrative general magistrate, at his discretion, may have cases where representation is subsequently provided by a lawyer or lawyers reassigned back to a circuit judge.

7. Administrative Order 2004-01, In Re: Unified Family Court and Administrative Order 2004-08, In Re: Appointment of Thomas W. Lager as General Master of the Second Judicial Circuit of Florida, shall remain in full force and effect excepting any provision concerning the assignment of cases to judges and general magistrates which may be inconsistent with this order. Administrative Order 2006-3, In Re: Establishment of Unified Family Court Section, shall remain in full force and effect except paragraph 7, which is specifically superseded by this order.

D. Probate Division.

1. Circuit Judge L. Ralph Smith, Jr. shall be assigned to the Probate Division and assigned all probate cases.
2. Circuit Judge George S. Reynolds III is hereby assigned as primary backup to the Probate Division.
3. County Judge Augustus D. Aikens, Jr. is hereby assigned all Baker Act and Marchman Act proceedings in the Probate Division.

E. Leon County Court Criminal Division.

County Judges Augustus D. Aikens, Jr., Nina Ashenafi Richardson, Ronald W. Flury, Judith Hawkins, and James O. Shelfer shall be assigned to the County Court Criminal Division which shall include all pending and previously scheduled hearing and trial dates and times associated therewith, as follows:

1. County Judge Augustus D. Aikens, Jr.

Twenty percent (20%) of all criminal cases.

2. County Judge Nina Ashenafi Richardson.

Twenty percent (20%) of all criminal cases.

3. County Judge Ronald W. Flury.

Twenty percent (20%) of all criminal cases and one hundred percent (100%) of all misdemeanor mental health court cases.

4. County Judge Judith Hawkins.

Twenty percent (20%) of all criminal cases and one hundred percent (100%) of all misdemeanor drug court cases.

5. County Judge James O. Shelfer.

Twenty percent (20%) of all criminal cases and back-up to County Judge Ronald W. Flury for misdemeanor mental health court cases.

F. Leon County First Appearances.

All First Appearances, except otherwise assigned weekend and holiday duty, shall be assigned on a rotating basis as determined and assigned by the Administrative Judge of the Leon County Court.

G. Leon County Court Civil Division.

County Judges Augustus D. Aikens, Jr., Nina Ashenafi Richardson, Ronald W. Flury, Judith Hawkins, and James O. Shelfer shall be assigned to the County Court Civil Division which shall include all pending and previously scheduled hearing and trial dates and times associated therewith, as follows:

1. County Judge Augustus D. Aikens, Jr.

Twenty percent (20%) of all civil cases.

2. County Judge Nina Ashenafi Richardson.

Twenty percent (20%) of all civil cases.

3. County Judge Ronald W. Flury.

Twenty percent (20%) of all civil cases.

4. County Judge Judith Hawkins.

Twenty percent (20%) of all civil cases.

5. County Judge James O. Shelfer.

Twenty percent (20%) of all civil cases.

H. Leon County Collections Court.

All five Leon County Judges shall be equally assigned all Leon County collections cases.

II. GADSDEN COUNTY.

- A.** Circuit Judge Kathleen F. Dekker shall be assigned all circuit criminal cases, juvenile delinquency, and criminal appeals from county court.
- B.** Circuit Judge Frank E. Sheffield shall be assigned all circuit civil cases, family cases, probate cases, juvenile dependency cases, and civil appeals from county court, by assuming the caseload previously assigned to Circuit Judge George S. Reynolds III, including all previously scheduled hearing and trial dates and times associated therewith.
- C.** County Judge Stewart Parsons shall be assigned all county court cases and shall be primary backup to assist with juvenile delinquency cases.
- D.** Administrative General Magistrate Thomas W. Lager shall be assigned to assist Circuit Judge Frank E. Sheffield with the juvenile dependency cases, but only to the extent authorized by law and court rules.

III. WAKULLA COUNTY.

- A.** Circuit Judge N. Sanders Sauls shall be assigned all circuit criminal cases, civil cases, family cases, including juvenile delinquency and dependency cases, probate cases, and all appeals from county court.
- B.** County Judge Jill C. Walker is hereby assigned all county court cases and shall be primary backup to handle dependency and delinquency cases.

IV. JEFFERSON COUNTY.

- A.** Circuit Judge L. Ralph Smith, Jr. shall be assigned all circuit criminal cases, civil cases, family cases, including juvenile delinquency and dependency cases, probate cases, and all appeals from county court.
- B.** County Judge Robert R. Plaines is hereby assigned all county court cases.

V. FRANKLIN COUNTY.

- A.** Circuit Judge James C. Hankinson shall be assigned all circuit criminal cases, civil cases, family cases, including juvenile delinquency and dependency cases, probate cases, and all appeals from county court.
- B.** County Judge Van Russell is hereby assigned all county court cases.

VI. LIBERTY COUNTY.

- A. Circuit Judge Frank E. Sheffield shall be assigned all circuit civil cases, family cases, including juvenile dependency cases, probate cases, and civil appeals from county court.
- B. Circuit Judge L. Ralph Smith, Jr. shall be assigned all circuit criminal cases, juvenile delinquency cases, and criminal appeals from county court.
- C. County Judge Kenneth L. Hosford is hereby assigned all county court cases.

VII. MISCELLANEOUS ASSIGNMENTS.

A. Administrative Judges.

The following judges are appointed and shall serve as administrative judges in the following divisions:

1. Leon County - Circuit Court.

- a. Circuit Judge James C. Hankinson - Criminal Division.
- b. Circuit Judge P. Kevin Davey - Civil Division.
- c. Circuit Judge George S. Reynolds III - Family Division.

2. Leon County Court.

- a. County Judge Augustus D. Aikens, Jr. is appointed and shall serve as administrative judge for the County Court.
- b. This order shall not supercede other orders assigning county judges on a temporary basis or any order assigning a county judge as a temporary backup to a circuit judge.

3. Gadsden, Jefferson, Liberty, Franklin, and Wakulla Counties.

- a. Chief Judge Charles A. Francis shall retain all administrative judge responsibilities for Gadsden, Jefferson, Liberty, Franklin, and Wakulla Counties, except as to Family Division cases.
- b. Circuit Judge Frank E. Sheffield is hereby designated administrative judge in Gadsden County and Liberty County for the purpose of coordinating Family Division case matters in those counties.

- c. Circuit Judge James C. Hankinson is hereby designated administrative judge in Franklin County for the purpose of coordinating Family Division case matters in that county.
- d. Circuit Judge L. Ralph Smith, Jr. is hereby designated administrative judge in Jefferson County for the purpose of coordinating Family Division case matters in that county.
- e. Circuit Judge N. Sanders Sauls is hereby designated administrative judge in Wakulla County for the purpose of coordinating Family Division case matters in that county.

4. Duties of Administrative Judges.

Those judges designated administrative judges hereunder are expressly given the authority, consistent with this order and other applicable administrative orders, to assist with the administrative supervision of the designated court or division, to provide for duty coverage within the assigned division or court, and to assign emergency coverage when requested by the chief judge. No administrative judge is delegated the authority to enter any administrative order as that authority is reserved to the chief judge.

B. Weekend and Holiday Duty.

The trial court administrator shall prepare a rotation list designating a particular circuit or county judge to serve as the duty judge on holidays and weekends. The duty judge shall handle all first appearance proceedings in Franklin, Gadsden, Leon, Liberty, Jefferson, and Wakulla Counties. The duty judge shall also handle any arrest warrants, search warrants, petitions for injunctions, emergency hearings or other emergency matters brought to the duty judge's attention. For the purposes of this order, the weekend shall commence at 5:00 p.m. on Friday and terminate at 8:00 a.m. on Monday. Holiday duty other than those falling during weekend duty, shall commence at 5:00 p.m. the day before the holiday and terminate at 8:00 a.m. the day after the holiday. The duty judge shall be available by telephone to address emergency calls at all times during their rotations, and shall be responsible for providing telephone numbers (including cell phone) to the trial court administrator so that the duty judge may be reached at all times during the duty rotation.

VIII. EMERGENCY MATTERS.

A. Cross-Assignments.

All circuit judges and county judges in Leon, Gadsden, Jefferson, Liberty, Franklin and Wakulla Counties are hereby cross-assigned to preside over any emergency within their individual counties or assignments in the circuit or county court.

B. Emergency Hearings.

The following procedures shall apply when requests to schedule emergency hearings are made in the circuit criminal, civil, family or probate divisions and county courts of the Second Judicial Circuit:

1. For the purpose of this order, emergency circuit criminal, civil, family or probate and county court matters shall be defined as non-routine matters which, by their nature, require the immediate action by a judge to prevent physical harm, irreparable property damage or a hardship of such a critical nature that the swift intervention of the court is deemed necessary.
2. A request for an emergency hearing shall be presented in writing to the judge assigned to the case.
3. In the event the judge assigned to the case is unavailable, and a duty judge has not been designated to address such emergency request, the request for an emergency hearing shall be brought to the chief judge or acting-chief judge, to determine whether an emergency hearing is needed. For the purpose of this order, the unavailability of the judge shall mean that the judge is physically not present in the courthouse in which the emergency must be heard and will remain so for such a period that necessity requires the matter to be submitted to the chief judge.
4. If the chief judge determines that there is an emergency that requires the immediate attention of a judge, the Office of Court Administration shall be notified and a judge shall be identified to handle the emergency.
5. Only the judge identified to handle the emergency shall be permitted to resolve the emergency. If the judge assigned to the emergency is unable to rule on the emergency matter due to a conflict, the Office of Court Administration shall again be contacted and another judge shall be identified to resolve the emergency.

IX. BACK-UP AND SUPPLEMENTAL ASSIGNMENTS.

A. Circuit Judges.

Each circuit judge of the Second Judicial Circuit is assigned to supplement and aid the county court in the county to which the circuit judge is assigned. Each circuit judge is also authorized to supplement and aid any other circuit or county judge in the circuit when the circuit judge or county judge is unavailable or otherwise request assistance, or is assigned by the chief judge.

B. County Judges.

Each county judge of the Second Judicial Circuit is temporarily assigned in their respective counties to supplement and aid the circuit court. However, county judges

shall not be assigned to handle contested family law cases, or child support and/or enforcement cases, in their respective counties, except in an emergency or when expressly assigned by the chief judge. Each county judge of the Second Judicial Circuit is authorized to supplement and aid any other circuit or county judge in the circuit when the circuit judge or county judge is unavailable or otherwise requests assistance, or is assigned by the chief judge.

C. Simplified Dissolution of Marriage Cases.

1. County judges in each of the counties of the Second Judicial Circuit shall have jurisdiction over all simplified dissolution of marriage cases.
2. For the purposes of public convenience and administrative efficiency, simplified dissolution of marriage cases may be filed in the Circuit Civil Division of the clerk's office in each of the counties of the Second Judicial Circuit, and shall be processed accordingly.

D. Jury Qualification.

1. All five Leon County Judges shall be assigned to qualify the Leon County jurors on a rotating basis as determined and assigned by the Administrative Judge of the Leon County Court.
2. The circuit judges assigned to Gadsden, Franklin, Jefferson, Liberty and Wakulla Counties shall be responsible for qualifying the jury venire during their respective trial weeks.

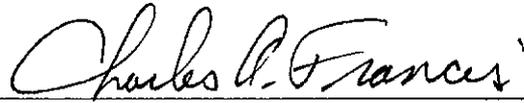
X. SCHEDULING OF COURTROOMS AND HEARING ROOMS.

Courtroom and hearing room assignment and scheduling in Leon County shall be made by the Office of Court Administration under the supervision of the chief judge.

XI. EFFECTIVE DATE AND PREVIOUS ASSIGNMENT ORDERS.

This order shall be effective July 1, 2009, whereupon Administrative Order 2008-15, as amended, shall be superseded and terminated, and this order shall remain in effect through June 30, 2010, unless modified by subsequent order.

DONE and ORDERED in Chambers in Tallahassee, Leon County, Florida, this 24th
day of June, 2009.



CHARLES A. FRANCIS

Chief Judge

cc: All Circuit and County Judges, Second Judicial Circuit
All Clerks of Court, Second Judicial Circuit
All Sheriffs, Second Judicial Circuit
Public Defender, Second Judicial Circuit
State Attorney, Second Judicial Circuit