


Florida Rules of Judicial Administration (2004)

to section 9, has certified its determination of need to the legislature based upon factors and criteria set forth in our certification decisions. This rule is intended to set forth criteria and workload factors previously developed, adopted, and used in this certification process, as summarized and specifically set forth in *In re Certificate of Judicial Manpower*, 428 So. 2d 229 (Fla. 1983); *In re Certificate of Judicial Manpower*, 396 So. 2d 172 (Fla. 1981); and *In re Certification*, 370 So. 2d 365 (Fla. 1979).

RULE 2.040. DISTRICT COURTS OF APPEAL

(a) Internal Government.

 (1) **Exercise of Powers and Jurisdiction.** Three judges shall constitute a panel for and shall consider each case, and the concurrence of a majority of the panel shall be necessary to a decision.

(2) **Chief Judge.** The chief judge shall be chosen by the judges of the court for a term commencing on July 1 of each odd-numbered year, and shall serve for a term of 2 years. In the event of a vacancy, a successor shall be chosen promptly to serve the balance of the unexpired term. The selection of a chief judge should be based on managerial, administrative, and leadership abilities. The chief judge may be removed by a two-thirds vote of the active judges. The chief judge shall be the administrative officer of the court, responsible for the dispatch of its business, shall have the power to order consolidation of cases, and shall assign cases to the judges for the preparation of opinions, orders, or judgments. If the chief judge is unable to discharge these duties, the judge longest in continuous service or, as between judges with equal continuous service, the one having the longest unexpired term and able to do so, shall perform the duties of chief judge pending the chief judge's return to duty. Judges shall notify the chief judge of any contemplated absence from the court and the reasons therefor.

(b) Clerk.

(1) **Appointment.** The court shall appoint a clerk who shall hold office at the pleasure of the court and perform such duties as the court directs. The clerk's compensation shall be fixed by law. The clerk's office shall be in the headquarters of the court. The clerk's time shall be devoted to the duties of the office and the clerk shall not engage in the private practice of law while serving as clerk. All court records and the seal of the court shall be kept in the office and the custody of the clerk. The clerk shall not allow any court record to be taken from the clerk's office or the courtroom, except by a judge of the court or upon order of the court.

(2) **Records of Proceedings.** The clerk shall keep such records as the court may from time to time order or direct. The clerk shall keep a docket or equivalent electronic record of all cases that are brought for review to, or that originate in, the court. Each case shall be numbered in the order that the notice, petition, or other initial pleading originating the proceeding is filed in the court.

(3) **Filing Fee.** In all cases filed in the court, the clerk shall require the payment of a fee as provided by law at the time the notice, petition, or other initial pleading is filed. The payment shall not be exacted in advance in appeals in which a party has been adjudicated insolvent for the purpose of an appeal or in appeals in which the state is the real party in interest as the moving party. The payment of the fee shall not be required in habeas corpus proceedings or appeals therefrom.

(4) **Issuance of Mandate; Recordation and Notification.** The clerk shall issue such mandates or process as may be directed by the court. If the court directs that a mandate record shall be maintained, then upon the issuance of any mandate the clerk shall record the issuance in a book or equivalent electronic record kept for that purpose, in which shall be noted the date of issuance and the manner of transmittal of the process. In proceedings in which no mandate is issued, upon final adjudication of the pending cause the clerk shall transmit to the party affected thereby a copy of the court's order or judgment. The clerk shall notify the attorneys of record of the issuance of any mandate or the rendition of any final judgment. The clerk shall furnish without charge to all attorneys of record in any cause a copy of any order or written opinion rendered in such action.

(5) **Return of Original Papers.** The clerk shall retain all original papers, files, and exhibits

transmitted to the court for a period of not less than 30 days after rendition of the opinion or order denying any motion pursuant to Florida Rule of Appellate Procedure 9.330, whichever is later. If no discretionary review proceeding or appeal has been timely commenced in the supreme court to review the court's decision within 30 days, the clerk shall transmit to the clerk of the trial court the original papers, files, and exhibits. If a discretionary review proceeding or appeal has been timely commenced in the supreme court to review the court's decision, the original papers, files, and exhibits shall be retained by the clerk until transmitted to the supreme court or, if not so transmitted, until final disposition by the supreme court and final disposition by the court pursuant to the mandate issued by the supreme court.

(c) **Marshal.**

(1) **Appointment.** The court shall appoint a marshal who shall hold office at the pleasure of the court and perform such duties as the court directs. The marshal's compensation shall be fixed by law.

(2) **Duties.** The marshal shall have power to execute process of the court throughout the district, and in any county therein may deputize the sheriff or a deputy sheriff for such purpose. The marshal shall perform such clerical or ministerial duties as the court may direct or as are required by law. The marshal shall be custodian of the headquarters occupied by the court, whether the headquarters is an entire building or a part of a building.

(d) **Open Sessions.** All sessions of the court shall be open to the public, except conference sessions held for the discussion and consideration of pending cases, for the formulation of opinions by the court, and for the discussion or resolution of other matters related to the administration of the court.

(e) **Designation of Assigned Judges.** When any justice or judge of another court is assigned for temporary service on a district court of appeal, that justice or judge shall be designated, as author or participant, by name and initials followed by the words "Associate Judge."

RULE 2.050. TRIAL COURT ADMINISTRATION

(a) **Purpose.** The purpose of this rule is to fix administrative responsibility in the chief judges of the circuit courts and the other judges that the chief judges may designate. When these rules refer to the court, they shall be construed to apply to a judge of the court when the context requires or permits.

(b) **Chief Judge.**

(1) The chief judge shall be a circuit judge who possesses administrative ability.

(2) The chief judge shall exercise administrative supervision over all courts within the judicial circuit in the exercise of judicial powers and over the judges and officers of the courts. The chief judge shall be responsible to the chief justice of the supreme court. The chief judge may enter and sign administrative orders, except as otherwise provided by this rule.

(3) The chief judge shall be the chief judicial officer of the circuit, shall maintain liaison in all judicial administrative matters with the chief justice of the supreme court, and shall develop an administrative plan for the efficient and proper administration of all courts within that circuit. The plan shall include an administrative organization capable of effecting the prompt disposition of cases; assignment of judges, other court officers, and executive assistants; control of dockets; regulation and use of courtrooms; and mandatory periodic review of the status of the inmates of the county jail. The plan shall be compatible with the development of the capabilities of the judges in such a manner that each judge will be qualified to serve in any division, thereby creating a judicial pool from which judges may be assigned to various courts throughout the state. The administrative plan shall include a consideration of the statistical data developed by the case reporting system. Questions concerning the administration or management of the courts of the circuit shall be directed to the chief