
FOURTH DISTRICT COURT OF APPEAL

Location
1525 Palm Beach Lakes Blvd.
West Palm Beach, Florida 33401

Mailing Address:
P.O. Box 3315
West Palm Beach, Florida 33402

(Comprising the 15th, 17th, and 19th Circuits)

Chief Judge Mark E. Polan
Phone 561/242-2043
Jordan Cohen and Rachel Turner,
Staff Attorneys
Judge Bobby W. Gunther
..... 561/242-2033
Michael Sheetz and Molly Felmet,
Staff Attorneys
Judge Barry J. Stone 561/242-2038
Lisa Jama and James Ramsey,
Law Clerks
Judge Martha C. Warner
..... 561/242-2023
Daniel Rogers and Stefanie Shelly-
Garcia,
Staff Attorneys
Judge Gary M. Farmer
..... 561/242-2048
Allison Oasis and Rachel Glasser,
Staff Attorneys
Judge Larry A. Klein 561/242-2053
Judith Kolich and Mary Dawson,
Law Clerks

Judge W. Matthew Stevenson
..... 561/242-2058
Mishannock Arzt
Staff Attorney
Judge George A. Shahood
..... 561/242-2063
Misti Zaruches Barnett and Donna
Krusbe,
Staff Attorneys
Judge Robert M. Gross
..... 561/242-2068
Sanjay Kurian and Adam Weisholtz,
Staff Attorneys
Judge Carole Y. Taylor
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Gladys Perez and Stacy Scaldo,
Staff Attorneys
Judge Fred A. Hazouri
..... 561/242-2078
Barbara Kelley and Glory Ross,
Staff Attorneys

Judge Melanie G. May
..... 561/242-2028
Silvie Perez-Posner and Scott Adams,
Staff Attorneys

Central Staff Attorneys:
Lauren Liebman, Lori Weiss, Marcia
Adler, Jeffrey Clyman, Annette
Szorosy, Melinda Plummer, Sophia
Letts, Jennifer Brooks

Marilyn N. Beuttenmuller, Clerk
... 561/242-2000
Glen G. Rubin, Marshal
... 561/242-2109

Regular Terms: (At Headquarters)
Second Tuesday in January; second
Tuesday in July.
Special Terms: At least one each year in
each judicial circuit within the district.
Motion Days: As noticed.
Oral Arguments: As scheduled and
noticed.

Filings

Night Drop Box:

None, but filings made between 8:00 a.m. and 9:00 a.m. will be stamped as filed the preceding work day.

Filing by Facsimile:

Not permitted unless ordered by the Court in advance.

Motions

Number:

File original.

Envelopes:

The party filing the motion shall enclose stamped, addressed envelopes for all persons entitled to notice of the Court's action, including those persons listed on the certificate of service in the motion, as well as the person filing it.

Briefs

Number:

File original and three copies.

NONFINAL APPEALS: Original and one copy of brief and only an original appendix (no copies).

The Court requests an additional copy of the brief on disk. See Attached Notice to Attorneys and Parties.

All briefs shall be securely stapled with one staple in the upper left corner. NO COVERS.

Required (original only).

Docketing Statement:

Not required in brief (included in docketing statement).

Certificate of Interested Persons:

Mediators' Request for Information:

Required for all final, civil appeals (original only).

Rehearing:

Motion for Rehearing:

File original only.

Motion for Rehearing En Banc
and Response:

File original and twelve copies.

**NOTICE OF FOURTH DISTRICT COURT OF APPEAL REQUIREMENTS OF
CERTIFICATE OF INTERESTED PERSONS, ETC.**

FOR PURPOSES OF RECUSAL

A certificate shall be furnished by appellants, appellees, intervenors, and amicus curiae that contains a complete list of all of the judges, attorneys, persons, associations of persons, firms, partnerships or corporations that have an interest in the outcome of the particular case. The certificate shall be included within the petition or answer to petition filed by any party. The certificate shall list persons and entities in alphabetical order, have only one column, and be double-spaced. At the top right of each page it shall contain a short style of the case and this court's case number. **The certificate is no longer required in appellate briefs; instead it is an entry in the docketing statement.**

A sample follows:

SAMPLE CERTIFICATE OF INTERESTED PERSONS, ETC.

No. 91-7529 Booker v. Hutcherson Air Service

Counsel for defendant/appellant Hutcherson Air Service certifies that the following persons and entities have or may have an interest in the outcome of this case.

1. Danny Booker
(plaintiff/appellee)
2. David B. Byrne, Jr.
(counsel for defendant Piper Aircraft Corporation)
3. Henry A. Callaway, III
(counsel for defendant/appellant)
4. Hand, Arendall, Bedsole, Greaves & Johnston
(counsel for plaintiffs/appellees)
5. Hare, Wynne, Newell & Newton
(counsel for plaintiffs/appellees)
6. Dawn Wiggins Hare
(counsel for plaintiffs/appellees)
7. Hutcherson Air Service
(defendant/appellant)
8. Phoenix Aviation Underwriters
9. Piper Aircraft Corporation
(defendant)
10. The Honorable Richard W. Vollmer
United States District Court Judge
Southern District of Alabama
(trial judge)

**FOURTH DISTRICT COURT OF APPEAL
REVISED Notice to Attorneys and Parties
(Rev. 2/15/05)**

Unless there are exigent and unusual circumstances, the court will strictly enforce the following policies:

- 1. Notice of Appeal.** The full name of the trial court judge who entered the order(s) sought to be reviewed shall be on the notice of appeal. The date of rendition, see Fla. R. App. P. 9.020(h), of the order(s) sought to be reviewed shall also be stated in the notice. The notice shall contain the names of all parties to the appeal, and shall designate whether the appeal is final or non-final. See Fla. R. App. P. 9.110(d) and 9.130(c).
- 2. Criminal Appeals.** In the notice of appeal, or by separately filed notice, the appellant shall state whether the appellant is in custody or has been granted bond on appeal. In addition, appellant shall state the length of the sentence imposed.

3. Conformed Copies. The party filing the notice of appeal shall attach a conformed copy of the order(s) sought to be reviewed along with a conformed copy of any order(s) on motion for new trial, rehearing, reconsideration, to alter or amend, or the like. This copy must contain a file stamp showing the date and time the order or judgment was filed in the lower tribunal.

4. Exhibits. If a party desires to include one or more articles of physical evidence, excluding documents, in the record on appeal, the party shall first seek permission from this court.

5. Rights of Children. This court has a policy of automatically expediting all cases involving adoption and termination of parental rights. In cases involving significant issues relating to child custody, visitation privileges, or other substantial interests of children, the court has a policy of expediting those cases upon proper motion. The parties should be prepared to comply with an expedited briefing schedule. At appellant's option the court will accept an appendix instead of the record and the appellant shall file the appendix with the initial brief. If the case is expedited no motions for extension shall be allowed. Motions by either party shall not toll the running of the briefing schedule. The court, upon its own motion, may also waive Oral Argument, even when requested, in the interest of expediting a decision in the case.

6. Related Cases. All parties have an obligation to bring to the court's attention promptly the pendency in this court of any related case, or any case involving related issues. In criminal cases where multiple defendants participated in a joint trial, the parties shall notify the court of any other appeals, whether pending or already concluded, from the same trial.

7. Briefs. The original and three copies of briefs in final and non-final appeals shall be securely stapled with one staple in the upper left corner, without any brief covers. No onion skin or similar quality copies will be accepted. See Fla. R. App. P. 9.210. On non-final appeals, each party shall submit only one copy of the appendix. Parties should refrain from filing voluminous appendices in final appeals; the full record is available to the judges.

8. Certificates of Service. All original papers—e.g., motions, petitions, notices, briefs, appendices, etc.—shall contain a certificate of service as required by Fla. R. App. P. 9.420(c).

9. Oral Argument. A request for oral argument shall be made on a separate paper or document, which shall be clearly designated as such and shall contain no other subject. It shall not be made as a part of a brief or appendix. The request must contain a specific but brief reason as to why oral argument is necessary. It may contain a designation of 10, 15, or 20 minutes as the amount of time requested for oral argument. Oral argument is limited to not more than 20 minutes for each side. If a case is set for oral argument, at any time prior to oral argument, the court in its discretion may dispense with, limit or expand the time for oral argument as it deems appropriate to the issues raised. See Fla. R. App. P. 9.320.

10. Supplemental Authority. A copy of the newly discovered authority should be attached to the notice. An original and three copies of the notice of supplemental authority must be filed. The notice should also designate clearly the issue to which the supplemental authority is pertinent. Absolutely no argument or comment on the authority will be accepted. See Fla. R. App. P. 9.210(g). (continued on reverse)

11. Motions. We are not a court of original jurisdiction, and strongly discourage motion practice in this court. See *Dubowitz v. Century Village East, Inc.*, 381 So. 2d 252 (Fla. 4th DCA 1979). All record material supporting a motion shall be contained in an appendix with the motion. Motions that pertain to preparation of the record or briefs, or to reschedule oral argument, shall contain a certificate that opposing counsel has been consulted and state whether there is an objection to the motion. Attempts to contact opposing counsel are not sufficient. The party filing the motion shall also enclose a stamped, addressed, envelope for each person entitled to notice of the court's action, including those persons listed on the certificate of service in the motion, as well as the person filing it. When using metered postage, you must omit the date. See Fla. R. App. P. 9.300.

12. Responses to Motions. Any response to a motion by another party shall be promptly filed and, in any case, not later than 10 days after service. Motions for an extension of time or to supplement the record may be ruled on without waiting for a response. No reply to the response will be considered unless specifically authorized by this court. Any unauthorized reply will be stricken without consideration. See Fla. R. App. P. 9.300(a)

13. Extensions of Time. In final appeals, a first request of up to 30 days will be granted by the clerk, unless the motion certifies that another party opposes the motion. Subsequent motions will be similarly granted so long as the aggregate time for all extensions does not exceed 60 days. Extensions for reply briefs shall be limited to 15 days. No motion will be granted that does not contain a certificate that opposing counsel has been contacted and stating whether the motion is opposed. Attempts to contact opposing counsel are not sufficient. Extensions of time for preparation of the transcript or the record on appeal automatically extend the time for service of the initial brief, except that a motion to supplement the record filed by a party who has received an extension for a brief shall not toll the time for the brief. A motion for extension of time served after the time for serving a brief has expired will not be granted in the absence of good cause shown. Failure to comply with these standards may result in dismissal or in striking an untimely brief or in other sanctions.

14. Status Inquiries. Any request for the current status of a pending case must be made solely to the clerk's office. No such request shall be made to a judge of the court or to the personal staff of any judge.

15. Rehearing. Although motions for rehearing are permitted by Fla. R. App. P. 9.330, they should be rare. See *Lawyers Title Insurance Corporation v. Reitzes*, 631 So.2d 1100 (Fla. 4th DCA 1993) and 631 So.2d 1101 (Fla.4th DCA 1994). The court strongly discourages the practice of routinely filing such motions or those which merely re-argue the merits or question the court's decision. Where there has been an award of attorney's fees on appeal in connection with our decision on the merits, additional fees will be awarded upon a denial of a motion for rehearing.

16. Service of Emergency Papers. Any paper filed in this court designated as an "Emergency" shall be served in the same manner used for the filing itself; e.g. if the paper was filed by hand delivery, then the paper shall be served by hand delivery, etc.

17. Court's Policy on "Briefs on Disk". VOLUNTARY: In addition to the usual number of hard copies, please send to the court a new 3 2 inch diskette of the briefs on the merits. Unless your word processor is Word(or one that can save in Word format), please check with our Clerk as to formats that can be read by the court's system. THIS PROCEDURE IS VOLUNTARY, but compliance if feasible will be greatly appreciated. Please label new diskette and envelope containing diskette to avoid erasure. If return of disk (brief) is requested, party must, at time of filing, furnish a self-addressed, postage-paid disk-mailer or similar envelope. In the event of subsequent name or address change, party is responsible for providing a new (substitute) mailer. We will not make such changes (name, address, etc.) to a mailer internally. When case is closed, or earlier at option of court, disk will be mailed. Note that we will not be responsible for the condition of returned disks nor accountable for missing ones.*

18. Americans With Disabilities Act. In accordance with the Americans with Disabilities Act, persons needing special accommodations should contact the Clerk's Office not later than seven (7) days prior to service needed. Telephone: (561)242-2000; 1-800-955-8771 (TDD); or 1-800-955-8770 (V), via Florida Relay Service.

*Please check the court's website for updates on this section.

IN THE DISTRICT COURT OF APPEAL IN AND FOR THE STATE OF FLORIDA
FOURTH DISTRICT

IMPORTANT NOTICE

Your appeal in your unemployment case has been received, as indicated in the attached document. Please note that in order to prosecute the appeal as the appellant **YOU MUST REQUEST THE UNEMPLOYMENT APPEALS COMMISSION TO PREPARE THE RECORD ON APPEAL** (including the transcript).

After the record has been prepared and furnished to you, **YOU MUST THEN FILE AN APPELLANT'S BRIEF WITH THIS COURT.** Generally the brief contains a statement of the case and facts (with references to the record on appeal) and your argument as to why the decision was in error. An original and three (3) copies of the brief should be sent to this court and one (1) copy to the Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida 32399-0681, and any other parties. **YOUR BRIEF MUST CONTAIN A CERTIFICATE THAT YOU HAVE SERVED THE UNEMPLOYMENT APPEALS COMMISSION WITH A COPY.**

After your brief is filed, appellees have an opportunity to file a brief in response which they must serve on you. You have the option of filing a reply in rebuttal to their brief.

After the optional reply brief has been filed or the time to do so has expired, the appeal will be submitted to a panel of judges of this court. You will be notified, in writing, when a decision has been reached.

If the Unemployment Appeals Commission files a "Motion to Dismiss" your appeal, you may serve a response at this court and upon the Commission within ten (10) days explaining why the Commission's asserted reason for dismissal is incorrect. The judges will then decide whether your appeal will be dismissed.

FOR FURTHER DETAILS AS TO THE CONTENTS OF A BRIEF AND THE TIME LIMITS FOR FILING OF THE RECORD AND BRIEFS, PLEASE CONSULT THE FLORIDA RULES OF APPELLATE PROCEDURE, WHICH YOU CAN FIND IN YOUR LOCAL LAW LIBRARY.

Modified: 2/14/94

**DISTRICT COURT OF APPEAL
FOURTH DISTRICT**

**MANUAL OF INTERNAL
OPERATING PROCEDURES**

SEPTEMBER 10, 2001

**MANUAL OF INTERNAL OPERATING PROCEDURES
of the
FOURTH DISTRICT COURT OF APPEAL
of the
STATE OF FLORIDA**

Rev. 9/10/01

FOURTH DISTRICT COURT OF APPEAL

Created in 1965, by section 35.042, Florida Statutes (1965), which provided:

The fourth appellate district is composed of Brevard, Broward, Indian River, Martin, Okeechobee, Orange, Osceola, Palm Beach, St. Lucie and Seminole Counties.

This section required approval of the electorate, by constitutional amendment, which occurred on November 2, 1965.

Subsequently, the jurisdiction of the court was reconstructed to comprise Broward, Indian River, Martin, Okeechobee, Palm Beach and St. Lucie Counties.

Rev. 9/10/01

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Rev. 9/10/01

1. GENERAL PROCEDURES

1.1 Scope and Purpose

The Florida Rules of Appellate Procedure and Rule 2.040, Florida Rules of Judicial Administration, govern the operation of the Fourth District Court of Appeal. The internal operating procedures set out herein are intended as a supplement to those rules and as an aid to those who come before the court and desire information as to the internal operation of the court. Copies of this manual are available from the Clerk and will be furnished by mail upon receipt of a postage-paid addressed envelope.

1.2 General Information

The headquarters of the Fourth District Court of Appeal is located at 1525 Palm Beach Lakes Boulevard, West Palm Beach, Florida. The mailing address is Post Office Box 3315, West Palm Beach, FL 33402-3315. The telephone number is (561) 242-2000. The court is comprised of twelve judges who serve different terms of six years each. The official office of each judge is at the headquarters of the court. The court hears criminal and civil appeals and other applications for relief for a six-county area including Indian River, St. Lucie, Martin, Okeechobee, Palm Beach and Broward Counties.

1.3 Court Open to Public

The court is open to the public at all times it is in session and court personnel are available to respond to any inquiries by the public as to the operation and function of the court. Tours of the court facilities may be arranged with the Marshal.

Law Library

The Law Library contains primary and secondary legal materials, including Federal and State laws, reporters, slip opinions, legal reference materials, and Reporter publications for all areas of the nation. There are about 4500 books and periodicals available. Westlaw is in-house for staff use only. Services include limited reference and document reproduction. Hours are 8:00 A.M. to 5:00 P.M.

Compliance with the Americans with Disabilities Act (ADA)

The court is in compliance with the ADA regarding facilities, services, and programs. The Marshal's Office can provide special accommodations to all people including people with disabilities. Special accommodations may require up to 7 days advance notice.

1.4 Terms of Court and Holidays

The court is open continuously from 8:00 a.m. to 5:00 p.m. on weekdays during the year. The court holds two terms each year commencing on the second Tuesday in January and July. No oral argument sessions are scheduled in the month of August. The court closes in observance of the holidays established by the Florida Supreme Court and on the Friday following Thanksgiving.

1.5 Judges' Meetings

Unless dispensed with by the Chief Judge, there shall be a meeting of the judges on the first Monday of every month. Other meetings may be scheduled after due notice by the Chief Judge or upon the request of two or more judges. The presence of seven judges shall constitute a quorum. Minutes shall be recorded in brief and summary form by the Chief Judge or the Chief Judge's designee and circulated to all judges, Clerk and Marshal.

1.6 Recusal of Judge

Any judge recusing from a case shall notify the Chief Judge, Clerk, and other panel members, in writing. Upon a recusal, the Clerk shall assign another judge to the panel based upon a blind system which assures equality in

distribution of cases. The Clerk shall maintain statistics as to recusing judges and judges sitting for recused judges, and shall furnish a recapitulation of such statistics at year's end to the Chief Judge, who shall then institute a procedure for equalization of sittings.

1.7 Disclosure of Assigned Judge

It shall be the policy of the court that the identity of the "assigned judge" on any case be disclosed to no one other than personnel of the court. The term "assigned judge" refers to that judge on a three-judge panel who has the initial responsibility for the disposition of a case.

1.8 Absence of Judges

Each judge shall maintain his or her official office at the headquarters of the court. Judges shall notify the Clerk of any contemplated absence from the court. When possible the Clerk will be furnished an address and telephone number where the absent judge may be reached.

1.9 Court Property

All court property is inventoried by number and recorded in the Marshal's office. No books, furniture, or equipment shall be removed from the court building without the permission of the Chief Judge.

1.10 Conventions and Conferences

Prior approval of the Chief Judge must be secured before any judge or other court personnel may attend any convention or conference where such attendance involves the expenditure of court funds. The Chief Judge shall be notified in advance of the attendance by a judge or other court personnel at any convention requiring the judge or other personnel to be away from the court for more than one day. Such attendance shall not be scheduled so as to interfere with the orderly disposition of the court's business.

1.11 Administrative Orders

All original administrative orders from the Chief Justice and the Chief Judge shall be in the custody of the Clerk.

1.12 Enactment of Amendments and New Procedures

An affirmative vote of seven judges personally present at a meeting called for that purpose shall be necessary to amend these procedures or enact a new procedure. There shall be no voting by proxy. It shall be the duty of the Clerk to provide all of the judges with the contents of any new procedures or amendments so that the procedures may be kept current.

1.13 Personal Staff of Judges

Each judge has personal staff consisting of two staff attorneys and one judicial assistant.

2. CHIEF JUDGE

2.1 General

The term of service for a Chief Judge shall be two years, commencing July 1 of the odd calendar year. A Chief Judge may be removed by a two-thirds vote of the active judges. The election of a Chief Judge shall be conducted on the first Monday in May of the odd calendar year. Balloting shall be secret with majority vote of the judges of the court controlling. The selection of a Chief Judge shall not be by rotation or seniority, but shall be based upon managerial, administrative and leadership ability. Nominations shall be made from the floor at the meeting called for the election of a Chief Judge. The judges recognize that campaigning for the office of Chief Judge can have a negative impact on the court. Therefore, it is the desire and view of the judges that the office of Chief Judge shall seek the judge rather than vice versa.

2.2 Powers and Duties

The Chief Judge shall be the administrative officer of the court and responsible for the dispatch of its business. The Chief Judge shall have the power to assign cases to the judges for the preparation of opinions or orders and shall also be responsible for the scheduling of all oral argument sessions and decision conferences in cases where oral argument has been dispensed with or waived. Generally the assignment of cases and the scheduling of arguments and conferences may be delegated to the Clerk who shall employ a blind but equal system of assignment.

2.3 Central Staff

Central staff, when available, shall work for the entire court and operate under the direction and supervision of the Chief Judge. However, the judges shall determine the requirements for Central Staff, adopt procedures for their selection, make the selection and determine their duties. Central Staff shall do no work for individual judges of the court without permission of the judges.

2.4 Reduction in Caseload

In consideration of the administrative responsibilities connected with the office, the Chief Judge shall be entitled to be excused from two oral argument sessions per year in addition to the number of occasions when all judges are

permitted to secure associate judges to sit for them. Such extra entitlement shall be made possible by the use of associate judges.

3. CLERK

3.1 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 at the headquarters of the court. The Clerk shall devote full time to the duties of the office and shall not engage in the practice of law or any other business while occupying the office of Clerk.

3.2 Emergency Requests and Habeas Corpus

Any request for emergency action shall be marked urgent and delivered by the Clerk at once to the motion or merits panel of judges assigned to the case. Petitions for Writ of Habeas Corpus shall be treated as emergency matters except when the request for relief therein is solely for delayed appellate review.

3.3 Nonacceptance of Pleadings by Fax Machine

The court does not accept pleadings by fax machine, unless specifically ordered by the court.

3.4 Assignment of Cases to Conference and Oral Argument Panels

Assignment of cases is to be done by the Clerk under the supervision of the Chief Judge. The assignment of cases to the judges on a conference or oral argument panel shall be done by blind draw in such manner that neither the judges, lawyers, nor the litigants have any influence in the selection of any judge or panel to consider any particular case.

3.5 Maintenance of Records

The Clerk shall be responsible for the maintenance of all official records of the court and such other records as the court may direct, including keeping a docket of all cases that are appealed to, or originate in, the court. Each case shall be docketed and numbered in the order that the certified copy of the notice of appeal or other document originating the proceeding is filed. All books, papers, files and the seal of the court shall be kept in the office and custody of the Clerk. The Clerk shall provide photographic copies of public records at the statutory charge of \$1.00 per page. Section 28.24, Florida Statutes. The Clerk shall not allow any book, paper, record, or file to be taken from the office except by a judge of the court or upon order of the court. Each case orally argued shall be recorded by video. Any individual wishing to obtain a CD ROM copy in Mpeg format shall pay \$10.00 per copy. No employee of the court is in a position to nor authorized to certify the contents of a tape or its authenticity in any regard. Recording of oral argument sessions is a convenience to the judges, only, and may be dispensed with by vote of the judges at any time and from time to time.

3.6 Filing Fees

In all appeals and cases originating in the court, at the time the certified copy of the notice of appeal, petition, or other initial pleading is filed, the Clerk shall require the payment of a fee as required by law. Failure to pay such fee, after notice from the court, may result in the dismissal of the case. The payment shall not be exacted in advance in criminal appeals in which the defendant 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 or any costs shall not be required in habeas corpus proceedings or appeals therefrom, arising out of or in connection with criminal actions.

3.7 Issuance of Mandate or Decision of Court

The Clerk shall issue such mandates, process, or orders as may be directed by the court. Upon the issuance of any mandate the Clerk shall record the issuance in a book kept for that purpose, noting therein the date of issuance and the manner of transmittal of the process. The Clerk shall immediately notify the parties or the attorneys of record of the issuance of any mandate or the rendition of any decision of the court. The Clerk shall furnish without charge to all parties or attorneys of record a copy of any order or written opinion rendered in such action. The Court does not issue a mandate when it dismisses or denies a petition for extraordinary relief.

3.8 Return of Original Papers

The Clerk shall retain all records on appeal for a period of not less than thirty days after issuance of the opinion or order denying petition for rehearing, whichever is later. If no petition for review or appeal to the Supreme Court has been filed within thirty days of rendition, the Clerk shall transmit to the Clerk of the trial court the records on appeal. If a petition for review or appeal has been filed, the records on appeal shall be retained by the Clerk until disposition by the Supreme Court and final disposition by the court pursuant to any mandate issued by the Supreme Court.

3.9 Maintenance of Procedures Book

It shall be the duty of the Clerk, under supervision of the Chief Judge, to maintain in book form, as an up to date official court record, an original copy of these procedures. Such record shall be available for inspection during regular office hours. As these procedures may be amended, supplemented, or annulled, it shall be the duty of the Clerk to see that such changes are immediately and properly incorporated in such procedures book so that same may be always

annotated and in current form. Copies of such changes shall be furnished to each judge and the Marshal contemporaneously.

3.10 Exhibits

The Clerk shall maintain an inventory and index for all exhibits received. Such exhibits may be checked out from the Clerk's office for use in court but are not allowed to be removed from the court premises.

3.11 Voluntary Dismissals and Waiver of Oral Argument

Cases scheduled for oral argument and assigned to a panel which are voluntarily dismissed by the parties will be treated as follows:

(a) If the notice of dismissal is filed less than three weeks prior to the Monday of the oral argument session, no substitute case need be placed on the oral argument calendar, nor will another case be assigned to that panel in lieu thereof. If the notice of dismissal is filed three weeks or more prior to the Monday of the oral argument session, a substitute case will be placed on the oral argument calendar and assigned to the same panel. Cases scheduled for oral argument and assigned to a panel where the parties subsequently file waiver of oral argument will be treated as follows:

(b) If the waiver is filed less than three weeks prior to the Monday of the oral argument session, no substitute case will be placed on the oral argument calendar and the panel assigned will retain the case. If such waiver is filed at least three weeks prior to the Monday of the oral argument session, a substitute case will be placed on the calendar and assigned to that panel and the panel will retain the prior case as an OAW with proper credit for same.

4. MARSHAL

4.1 Appointment and Compensation

The court shall appoint a Marshal who shall serve at the pleasure of the court and perform such duties as the court directs. The Marshal's compensation shall be fixed by law. The Marshal's office shall be in the headquarters of the court and shall devote full time to the duties of the office and shall not engage in the practice of law or any other business while occupying the office of Marshal.

4.2 Power to Execute Process

The Marshal shall have the power to execute process of the court throughout the state, and in any county may deputize the sheriff or a deputy sheriff for such purpose.

4.3 Duties

The Marshal is responsible for preparing and managing the budget and accounting procedures of the court, making or authorizing any necessary purchases, maintaining a sufficient supply of materials needed by judges and the court personnel, supervising the personnel procedures of the court, supervising the court's office automation system, and maintaining complete records of these activities in accordance with the requirements of the state auditor and good accounting procedures.

The Marshal shall be custodian of any premises occupied by the court, whether an entire building or part thereof. The Marshal shall keep a current written inventory of all court property and mark each item of property in accordance therewith.

4.4 Employment or Change of Job Classification

Agency heads shall employ or change job classification of any personnel only after clearance with the Marshal and approval by the Chief Judge.

5. DECISIONS

5.1. Decision Making Process

Three judges shall constitute the merits panel for, and shall consider, each case. All appeals are assigned to a motion panel initially and, upon perfection, to the merits panel. The concurrence of a majority of the panel shall be necessary to a decision. The decision making procedure may be basically divided into three (3) categories: (a) Argument Cases: Final appeals in which oral argument has been requested shall be assigned to a merits panel of three judges after the filing of the answer brief. The panel will review the briefs and decide if the case warrants oral argument, and if so, how much time will be allotted. Thereafter the assigned judge on the panel shall be provided the entire appellate file and trial court record and the other two panel members furnished with copies of all briefs. Prior to oral argument, the assigned judge is responsible for the preparation and distribution to the other panel members of a detailed written preliminary analysis of the case. Prior to oral argument, each judge shall read the briefs and the preliminary analysis and conduct such further research as the judge deems necessary. Immediately after oral argument, a preliminary decision conference shall be held in which each of the judges shall express his or her views on the case. The assigned judge shall be responsible for the preparation and circulation of the initial opinion if he or she is in the majority; otherwise the junior judge of the panel shall have said responsibility. Cases in which the panel has determined that there will be no oral argument will be considered at a conference of the panel. (b) Oral Argument Waived Cases: A panel of judges shall meet each Thursday for a decision conference on criminal and civil appeals in which oral

argument has been denied or waived. Prior to the conference, the procedure and preparation by the judges shall be the same as that involved in oral argument cases. Procedure at the conference and thereafter shall be the same as that followed in oral argument cases. (c) All other cases: In all other cases, upon assignment the file shall be delivered to the assigned judge who shall read the briefs, review the record as necessary, be responsible for the preparation of a preliminary analysis of the case, and forward the file with the written opinion to the two other judges on the panel. Those judges shall follow the same procedure as the assigned judge except that the extent of the legal research and record investigation may be alleviated by that done by the assigned judge. A decision conference in such cases shall be held when requested by one of the panel members. In all cases there may be oral or written communications between the judges during the decision making process. Oral argument shall be scheduled in any case where a majority of the panel so directs.

5.2 Opinions

Opinions shall be issued each Wednesday. Copies of all opinions shall be circulated by the Clerk to all judges and staff attorneys for critical review and examination two weeks prior to issuance. An en banc opinion shall circulate for one week prior to issuance. Upon authorization of the Chief Judge, the Clerk may issue opinions in expedited or emergency cases after circulation to all of the judges for a period of time less than one week, which period is to be cited in the above authorization. In order to withdraw an opinion prior to issuance, any member of the panel or the Chief Judge shall timely initiate a written memorandum to the Clerk and circulate a copy of the memorandum to all judges. Withdrawal of a PCA prior to issuance shall require circulation of a memorandum only to members of the panel.

5.3 Facing Sheets

All appeal files shall contain a facing sheet setting forth the case number, style of the case, the trial court or administrative body involved, the lower tribunal case number, the name of the attorneys of record, the document on appeal, the panel assigned, the date of assignment, the disposition of the case, and the signatures of all judges indicating their ruling on the case and their acknowledgment of any special concurrence or dissent. Where a substantial change of opinion requires new endorsements by panel members, a new facing sheet, or its equivalent, shall be prepared. No facing sheet will be required on a writ which is denied without opinion unless one of the panel members disagrees with the assigned judge's recommended disposition. In such event, the panel member will return the wallet to the assigned judge for preparation and recirculation of a facing sheet. This will afford an opportunity to the assigned judge to consider the panel members' views as to either the disposition on the merits or as to an order to show cause. Upon completion of the facing sheet, the assigned judge will sign off accordingly and recirculate the writ to the other panel members in the usual manner.

5.4 Monthly Reports

Each judge shall be responsible for submitting to the Chief Judge, at the end of every month, a report showing each of the outstanding cases assigned to the judge, the date of assignment, and the date of the first circulation of the file. The report shall also indicate the number of circulating cases under consideration from other judges. The Central Staff's report is due the 5th working day, the Clerk's report due the 7th working day and the J.A.'s report due the 10th working day of each month.

6. ORAL ARGUMENT

6.1 Procedure

It is expected that oral argument will be requested (and will be granted by the court) only in those cases where it is genuinely believed to be necessary for disposition of the cause. Unless a panel requests it, there will be no oral argument on motions, original proceedings and appeals from non-final orders. The assignment of judges to oral argument sessions shall be the responsibility of the Chief Judge. The court may employ an internal screening procedure to determine the necessity for oral argument in selected cases. Oral argument shall be scheduled on any case when requested by two members of the panel of assigned judges, though not requested by the parties. The Clerk shall schedule cases for oral argument with a minimum of 30 days' notice to the parties except when it is necessary to schedule a substitute case for a session after a dismissal or continuance and in such cases a minimum of 21 days' notice will be given.

6.2 Time Allotted

The amount of time allotted each side for oral argument will generally be from 10 to 20 minutes and will be reflected on the notice of oral argument. No additional time per side shall be allowed in consolidated cases or cases involving multiple parties unless specifically authorized by the court prior to oral argument. The court may shorten the allotted time at oral argument.

7. PANEL ASSIGNMENT AND CIRCULATION

7.1 Motion Panel

Any matter not initially assigned to a merits panel shall be immediately assigned to a motion panel which shall act on all motions prior to assignment on the merits. One judge may dispose of most motions, except that a ruling constituting final disposition of an appeal requires action by three judges and concurrence by two. Whenever a judge of this court

shall be absent from court for a period of three or more days, he or she shall notify his or her alternate, and the alternate of such absent judge shall serve in the place and stead of the absent judge on all emergency matters and all appropriate motion panels of which the absent judge is a member. An alternate judge may, in his or her discretion, decline to act on any nonemergency motion.

7.2 Merits Panel

Every appeal from a final or non-final order shall be assigned to a merits panel of judges as soon as reasonably possible after the final brief is scheduled to be filed. Appeals from orders denying motion for post-conviction relief, filed pursuant to Rule 9.140(g), Florida Rule of Appellate Procedure, are assigned to a merits panel as soon as central staff has completed its memorandum on the merits. In original proceedings the case is assigned to a merits panel of judges as soon as central staff has completed its memorandum on the merits.

8. ORAL ARGUMENT WAIVED CASES

8.1 Procedures

(a) Except in cases to which Section 6 or paragraph (b) of this section applies, all cases shall be considered by panels of three judges who shall conduct conferences on Thursday of each week for the purpose of considering the disposition recommended by the assigned judge as to each case and exchanging views on all cases assigned to the panel for that week. (b) Original proceedings, appeals from summary denials of motions for post-conviction relief and any other appeal not scheduled for conference shall first be considered by the assigned judge who shall then forward his or her recommended disposition, together with a memorandum of the facts and law where appropriate, to the other panel members. During the circulation process, decision conferences may be conducted or judges may exchange their views orally or in writing.

9. MOTIONS

9.1 Procedure

Except for certain procedural motions decided by the Chief Judge, motions shall be decided without oral argument by a panel of judges assigned to a case when the case is filed as the motion panel for that case. Oral argument on a motion shall be scheduled only upon the concurrence of a majority of the judges on the panel considering the motion. Motions for consolidation shall be determined by the panel assigned to the case involved bearing the lowest case number.

9.2 Motion to Advance the Cause

The court may alter the usual procedure for the disposition of a case and such action may include: acceleration of the time for the filing of briefs, other memoranda, or the record; the early scheduling of oral argument; the dispensing with oral argument; or such other measures as may be calculated to insure advanced disposition of the cause. Advancement shall only occur in extraordinary circumstances.

9.3 Consolidation

Cases on appeal may be consolidated for all purposes or for use of a common record only or to some other limited extent to be established by the order effecting consolidation. Consideration of cases for consolidation may be initiated by any party by motion filed at any time, in which event any party affected may file a response within ten days or consolidation may be initiated by the court sua sponte. Except in cases consolidated as to common record only or upon order of the court for good cause shown, appellants' briefs shall be consolidated, appellees' briefs shall be consolidated and the briefs of any cross-parties (with the same or similar interests) shall be consolidated.

9.4 Alternates

The court shall adopt, from time to time, an informal policy providing for judge alternates to sit on motion panels for judges who are temporarily absent from the courthouse.

10. AVOIDING CONFLICTS

(a) The assigned judge shall, and any other judge may, call to the attention of the court a proposed opinion or decision of this court that specifically or by necessary implication recedes from or otherwise conflicts with a prior holding of this court. In such event the procedure shall be the same as hereinafter provided for a hearing en banc or rehearing en banc, as may be appropriate. It is declared to be the policy of this court that no panel of judges shall be authorized to recede from, overrule or otherwise cause conflict with a prior ruling of this court and that such a result may only be achieved by the en banc procedure (which may result in a majority vote that no conflict is created). (b) If a merits panel decides unanimously to recede from a prior opinion of this court, the panel may circulate a proposed "En Banc Opinion" to all of the judges. Unless there is objection, the opinion shall issue. If any judge objects to the opinion by memorandum to the panel with copies to the other judges, the Chief Judge shall promptly schedule an en banc meeting of the judges as provided in section 11.4.

11. PROCEEDINGS EN BANC

11.1 Hearing or Consideration En Banc

(a) At any time after circulation of an opinion, any judge may poll the judges to determine whether a hearing en banc (or consideration en banc if no oral argument is granted) is desired by a majority of the judges. In the event that one-third of the judges vote to consider the matter en banc, the Chief Judge shall promptly schedule an en banc meeting of the judges as provided in section 11.4. The circulating opinion will not be released or published until the poll is complete. (b) When two panels of the court have concurrently reached conflicting written opinions in two separate cases, which have not been issued, the cases shall be set for en banc conference wherein the judges, en banc, shall decide which conclusion shall be adopted by the court. (c) If a merits panel unanimously decides that the court should recede from a prior opinion of this court, the panel may circulate a proposed "En Banc Opinion" to all of the judges. Unless there is objection, the opinion shall issue in due course. If any judge objects to the opinion by memorandum to the panel with copies to the other judges, the Chief Judge shall promptly schedule an en banc meeting of the judges as provided in section 11.4.

11.2 Rehearing En Banc

(a) Upon the filing by a party of a motion for rehearing en banc, the Clerk shall forward the motion and the wallet to the assigned judge of the merits panel and shall furnish a copy of the motion to all judges. Judges not on the panel are under no obligation to consider the motion. If any non-panel judge does consider the motion and decides that action be taken or needs more time to consider the motion, notice thereof shall be given to the assigned judge, the Chief Judge, and the Clerk's office within 14 working days from receipt of a copy of the en banc motion. If a judge on the panel votes to grant the motion or if any other judge requests en banc consideration, the Clerk shall recirculate the wallet with the en banc voting form attached. In the event that one-third of the judges votes to consider the case en banc, the Chief Judge shall promptly schedule an en banc meeting of the judges as provided in section 11.4. (b) In the absence of a motion for rehearing en banc by a party any judge may instruct the Clerk to circulate the EN BANC FORM. In the event that one-third of the judges vote to consider the matter en banc, the Chief Judge shall promptly schedule an en banc meeting of the judges as provided in section 11.4

11.3 General

The judge who initially requests to en banc consideration of an opinion is required to complete a standard form and set forth the reason(s) why a conference should be held. The completed form shall accompany the polling sheet. A copy of the poll showing the results of the voting shall be furnished to each judge. Any judge opposed to en banc consideration is encouraged to circulate a memorandum stating the reasons for opposition. Each judge shall attempt to expedite the consideration of any en banc request. Circulation of the polling sheet shall begin with the requesting judge, then to the assigned judge of the panel and to the remaining panel members, and then to the remaining members of the court in reverse order of seniority.

11.4 Meeting for En Banc Consideration

Upon the affirmative vote of one-third of the judges participating, the Chief Judge shall cause notice to be given and shall schedule a meeting of the judges for hearing or rehearing of the matter en banc. Proponents and opponents of en banc consideration are encouraged to circulate memoranda in support of their views to the other judges in advance of the meeting. A judge who opposes an en banc consideration shall be designated by the Chief Judge to express that point of view. The requesting judge shall express the en banc position. The first order of business at such a meeting shall be to discuss whether the case is of such exceptional importance or that such consideration is necessary to maintain uniformity in the court's decision. Fla.R.App. P. 9.331(a). In due course a vote shall be taken on that question. If a majority finds such a basis, then the matter shall be determined en banc. In the event the court determines that en banc consideration is appropriate then, after discussion, the court en banc may at that time, or at a later meeting to be scheduled for that purpose, determine whether a prior opinion is to be followed or overruled or receded from or explained or whether prior conflicting opinions may be reconciled or may take any other appropriate action by majority vote. The en banc discussion shall be formalized. Each judge will be allotted a specified amount of time to express his or her view. The requesting judge will speak first. The designated judge will speak next. The panel members will then speak, followed by the non-panel members in reverse order of seniority. The requesting and designated judges will be allowed rebuttal. A vote shall then be taken. Thereafter, the Chief Judge is responsible to see that the case is moved along. It is suggested that the majority opinion shall be drafted and circulated in no more than 30 days. Copies of the majority opinion and any dissents or concurrences shall be distributed to all judges at the time such opinions are drafted. Oral argument may be scheduled at any time, whether on hearing en banc or on rehearing en banc and either before or after a vote is taken by the court en banc as to whether conflict in fact exists or would be created by a proposed opinion or that some other basis for en banc consideration is present. The Chief Judge shall assign the writing of an en banc ruling or opinion to any judge who voted for the majority view. The Chief Judge shall monitor the progress of en banc cases in order to assure that they are expedited.

11.5 Policy

A majority of the participating judges shall be necessary for the issuance of any en banc decision. In the absence of such a majority, the case shall revert to the originally assigned panel of three judges, the order granting en banc consideration shall be vacated and the case finally disposed of by the original three judge panel. In accordance with

Florida Rule of Appellate Procedure 9.331(a), en banc consideration shall not be ordered unless the case is of exceptional importance or unless necessary to maintain uniformity in the court's decisions.

11.6 Miscellaneous

(a) After the court has voted to en banc a case, the Clerk shall forthwith issue an order advising the parties of that fact and notifying them whether oral argument and/or supplemental briefs are required.

(b) En banc consideration of a case may be terminated upon the majority vote of those judges participating; whereupon the order notifying counsel that the case has been en banc shall be vacated.

(c) All en banc opinions shall indicate the case is en banc by stating in capital letters in the middle of the first page, under the style and names of counsel, the words EN BANC. The author of the majority opinion has the option, as in any other case, of identifying himself or herself or submitting it per curiam.

(d) The author of all opinions, majority, special concurrence, or dissent, shall send a copy to all judges for consideration and comment to help expedite the ultimate disposition of the case. The assigned judge shall try to circulate his/her opinion within 30 days and all remaining judges shall try to sign off within 5 days of receipt of the file. Any judge writing a concurring or dissenting opinion shall try to circulate the concurring or dissenting opinion within 20 days of receipt of the assigned judge's opinion.

(e) En banc cases shall be shown on the monthly report of the judge in whose office the case is lodged on the last day of the month.

(f) The Chief Judge shall vote on all en banc cases as any other judge.

12. ATTORNEYS

The practice of attorneys before the court is governed by Rule 2.060, Florida Rules of Judicial Administration. The withdrawal of an attorney may be granted upon the filing of a motion containing the written authorization of the client and a statement as to whether future representation of the client will be pro se or by other counsel. If the client does not consent to withdrawal, the motion should so reflect and contain a concise statement of the factual basis upon which withdrawal is sought. Such motion shall reflect that a copy was served upon the client and other parties and reflect the address of the client. Thereafter, if the client objects, the court will provide the client with the opportunity to show cause why withdrawal should not be permitted before deciding the motion.

13. ASSOCIATE JUDGES

13.1 Entitlement

Every judge on the court shall be entitled to have an active appellate judge from another district court of appeal, or senior justice or judge, or active circuit judge from any circuit sit in their place for one oral argument session each year. The additional entitlement of the Chief Judge is provided in 2.4.

13.2 Notification

It shall be the responsibility of each judge to notify the two remaining members of the panel in sufficient time for them to select the associate and judge for the Chief Justice to issue an order of assignment after notification by the Chief Judge.

13.3 Responsibilities of Presiding Judge

No associate judge may be invited to sit if that judge has previously sat on this court within the 12 months preceding the invitation or if that judge has previously assigned cases as to which an opinion by that associate judge is due. It shall be the responsibility of the presiding judge on the panel to inform the new associate judge of the court's relevant procedures prior to oral argument, to monitor the completion of every associate judge's case obligations within a reasonable period and to request the assistance of the Chief Judge in the event of nonperformance. The term "monitor" means that, at a minimum, the presiding judge shall communicate with the associate judge not later than 6 months after the conference, and that the Chief Judge shall communicate with the presiding judge not later than 9 months after the conference. Both the presiding judge and the Chief Judge have the discretion of conducting any communications through a volunteering judge of this court.

13.4 Responsibilities of Staff

It shall be the responsibility of the staff of the judge whom the associate judge has replaced to process the associate judge's proposed opinions, with the knowledge and consent of the associate judge.

14. PERSONNEL REGULATIONS

All personnel practices of the court are governed by the Personnel Regulations Manual of the Florida State Court System effective September 1, 1978, as adopted by the Florida Supreme Court. The Marshal shall be responsible for maintaining a current copy of these regulations available for inspection at all times.

15. FASTRACK PROCEDURE:

Where there are not more than two issues involved in an appeal from a final judgment in a civil case, the parties are permitted to request the court to permit an abbreviated time schedule and shorter briefs. Rather than a lengthy record of the trial court proceedings, the parties file an agreed statement of the case with an optional appendix. The statement includes the essential facts. Details of the procedure are contained in the forms which the parties complete and file with the court. This pleading is entitled, "Election of Fastrack," and forms are available from the Clerk's Office.

The Fourth District Court of Appeal is an appellate Court which takes pride in its emphasis on professionalism and collegiality.

When the Florida Legislature created the Fourth District Court of Appeal in 1965 it was in Vero Beach. The Court originally encompassed Orange and Brevard counties in the north, south through Broward County. In 1967, the Legislature moved the Fourth District to West Palm Beach. In 1970 the Court moved to its current building at 1525 Palm Beach Lakes Boulevard in West Palm Beach. Then, in 1979, the Legislature divided parts of the First, Second, and Fourth Districts to organize the Fifth District Court of Appeal in Daytona Beach. The jurisdiction of the Fourth District was reduced to its current composition of the Fifteenth, Seventeenth, and Nineteenth Judicial Circuits. These circuits are composed of Palm Beach, Broward, St. Lucie, Martin, Indian River, and Okeechobee Counties.

Only three appellate judges comprised the Fourth District in 1965. Now there are twelve. The workload of the court has also increased from 480 cases at its inception, to 4984 cases filed in 2004.

Inside the Fourth District Court of Appeal

The Fourth DCA¹

The telephone number is (561) 242-2000. The Court is open from eight a.m. to five p.m. There is no night filing box, but the Clerk accepts and stamps briefs and motions filed between eight and nine a.m. as filed the previous day. Its web address is: <http://www.4dca.org>.

As you enter through security you will meet a Deputy Sheriff. Marshal Glen Rubin is responsible for court security, building and grounds and handles the Court's operational budget.

Marilyn N. Beuttenmuller is the Fourth District's Clerk. Beuttenmuller received her M.B.A. from the University of Florida in 1972 and her J.D. from the University of Miami School of Law in 1977. She was a Fourth District Court of Appeal Staff Attorney for Judge Gavin Letts for thirteen years before being appointed Clerk of the Fourth District Court of Appeal on July 1, 1991. Debbie Picklesimer is Chief Deputy Clerk.

The Fourth District's library is open to the public and may be used by attorneys wishing to view videotapes in their record or to prepare for arguments. Librarian Ann Kaklamanos is extremely helpful to those requesting assistance.

The Court will strike briefs that are single spaced and for other rule violations, such as exceeding the page limitations. The Court frowns on extensive appendices in final appeals. Attaching a photocopy of the entire transcript of a trial as an appendix for each judge is viewed as a waste, and on a few occasions the Court has even ordered counsel cannot charge the client for an extensive and unnecessary appendix. There were 4,984 cases filed in the Fourth DCA in 2004. Forty-two percent were civil and fifty-eight percent were criminal. The Court issued 2,909 opinions and 2,025 orders of dismissal. The Court still handles more motions than the judges think are necessary.²

The Court's pilot e-filing is under development. In the meantime, in addition to the usual number of hard copies, send the Court a new CD with the merits brief. The Court prefers Word format, but will accept Wordperfect. This procedure is voluntary. Some parties even file the brief and record on CD. Any disks should be labeled. After the mandate, the clerk will return CDs if you furnish

a self-addressed, postage-paid disk-mailer.

Citations should follow Rule 9.800. Hard copies of briefs should not be bound, but stapled with one staple in the upper left hand corner.

The Fourth District screens its newly filed cases for jurisdictional defects requiring dismissal. It screens all civil appeals to determine such issues as whether the order appealed is final. See *Dobrick v. Discovery Cruises, Inc.*, 581 So.2d 645 (Fla. 4th DCA 1991). New cases are also screened to determine whether a proper designation of final, non-final, or petition for certiorari is made; for appeals of partial final judgments; and whether other pending issues in the trial court prevent immediate review. Appellants must attach a date stamped conformed copy of the order on appeal that reflects when it was rendered within the meaning of Rule 9.020(h). A notice of appeal should also include the full name of the trial court judge who entered the order appealed.

Once the notice of appeal has been filed and the case screened, the Clerk sends a Notice to Attorneys and Parties to both sides which informs them to direct the Clerk of the lower tribunal to include any physical evidence in the record without prior permission of the Fourth. The notice also advises that all "[m]otions that pertain to preparation of the record . . . shall contain a certificate that opposing counsel has been consulted and state whether there is an objection to the motion."

The Court requires the appellant to file a docketing statement. If you represent an appellant in a criminal case, you should also file a docketing statement, which should list the Court reporter and whether the appellant is in custody or not and for how long. The Court tries not to delay or grant significant extensions of time on a case where the appellant is in custody for a short sentence. Among other things, this docketing statement must contain a Certificate of Interested Persons, which is required for recusal purposes. (The Certificate is no longer required in appellate briefs filed with the Court, but is still required to be included in petitions or answers to petitions filed by any party.) In the docketing statement, the appellant must list all cases which are or have been pending before the Court involving issues arising from the same lower tribunal

case. The appellant must also include information about arrangements for preparation of the Court transcript, and provide a short recitation of the issues anticipated to be raised on appeal.

Where motions must be filed, the requirements of the Fourth District should be followed. In addition to requiring counsel's certificate that opposing counsel has been contacted on motions for enlargement of time (as required by Rule 9.300) and on "[m]otions that pertain to preparation of the record or briefs," as discussed above, the Notice to Attorneys requires a certificate on motions to reschedule oral argument. The certificate must reflect the other side's position, not just that efforts were made to discern it: "[a]ttempts to contact opposing counsel are not sufficient." No reply to a response to a motion is authorized and any such reply "will be stricken without consideration." Motions to supplement the record on appeal should include the Clerk of the lower Court, and Court reporter if any, on the certificate of service. Counsel is required to monitor the preparation of the record, and to ensure that the Court reporters timely prepare any transcripts. A problem with a court reporter's failure to file a transcript should be brought to the Court's attention via a motion to compel. The Fourth still has problems with timely preparation of transcripts and records in criminal appeals.

On a motion to supplement record or other motion that requires attachment of exhibits or supporting papers, do not merely staple the documents to the motion. Instead, follow the Court's requirement that "[a]ll record material supporting a motion shall be contained in an appendix with the motion." An appendix must contain an index of its contents, and motions have been denied for failure to follow the foregoing filing requirement.

A first motion for extension of time to file an initial or answer brief, if unopposed by the other party, may be granted by the Clerk for up to thirty days. The Clerk may grant subsequent extensions not exceeding an aggregate of fifty days. Extensions for reply briefs are often handled by the panel to which the case is assigned, as the Court generally sets cases on dockets after the answer brief is filed. Because the case is already scheduled the Court will only grant a very short extension, if any, for reply briefs.

When a new final appeal is filed, the case is assigned to a motions panel, which remains on the case until the answer brief is filed, when the case is assigned to a merits panel and calendared for disposition. Most motions requiring judicial attention can be granted by a single judge. More substantive motions require two judges to concur, and case dispositive motions require the attention of three judges, two of whom must concur.

Counsel should proceed with caution in relying upon the automatic tolling provision of Rule 9.300 after filing of motions. While the Court recognizes that “[e]xtensions of time for preparation of the transcript or the record on appeal automatically extend the time for service of the initial brief,” the Court imposes a limitation upon the automatic tolling provision by providing “that a motion to supplement the record filed by a party who has received an extension for a brief shall not toll the time for the brief.”

Not only are too many motions filed in the Fourth District, far too many so-called “emergency” motions are filed, as well as so-called “emergency” petitions for certiorari and other writs. If you have a true emergency requiring immediate action, be sure to state so in the caption of the motion or petition. Serve a copy of your petition or motion to opposing counsel by hand delivery or facsimile so that it reaches your adversary as fast as it reaches the Court. Clerk Beutenmuller suggests most so-called emergencies could be appropriately conveyed to the Court – and the level of disruption kept to a minimum – if in such cases the petitioner or movant requested that the matter be handled on an expedited basis, rather than call the matter an “emergency,” when it is not an emergency.

Certain matters receive expedited handling as a matter of course. The Fourth District has a policy of expediting, upon proper motion, appeals which concern child custody, visitation privileges, or other substantial interests of children. The Court also has an automatic expedited procedure for adoption and termination proceedings.

All motions should be accompanied by self-stamped envelopes pre-addressed to all parties. If using a postage meter, do not date the postage.

The judges of the Fourth offer appellate counsel advice for successful brief writing. Chief Judge Farmer advises appellate attorneys to keep briefs short to hold the judges’

attention. Chief Judge Farmer prefers advocates focus their arguments on a few strong issues (usually no more than three) rather than to use the shotgun approach. Many Fourth DCA judges dislike the use of footnotes in briefs. Judge Klein states that “candor is the most important thing” in the presentation of an advocate’s position. “Admit your weak points” in the beginning, Judge Klein counsels, and you will gain the trust of the judges in advancing your strong points. More than one of the judges emphasized the need for absolute accuracy in stating the facts and other matters of record in briefs. A misstated factual representation will not succeed in the first place, and the attorney’s loss of credibility from such a misstatement (whether intentionally made or the result of carelessness) will remain beyond the case in which it occurs.

One of the three judges on the merits panel is designated as the “assigned judge.” Each judge has two staff attorneys who review the briefs and, where necessary, resolve conflicts in the statement of the facts by reviewing the record on appeal. Staff attorneys read all authorities cited by the parties in their briefs. A representation that a certain case stands for a certain proposition will not be accepted without verification by a staff attorney, who checks cited authorities every day. The staff attorney also researches important points of law in every case, and prepares a memorandum for the merits panel. The memorandum contains an introduction, statement of the issues, a statement of the facts, and an analysis section. In the analysis, the staff attorney makes a recommendation for the decision. The assigned judge on the merits panel is responsible for distributing a written preliminary analysis of the case to the other panel members. All panel members review the briefs, and determine whether more research is needed.

The Fourth screens all requests for oral argument in final appeals. The request must briefly state a specific reason why oral argument is necessary. The Court looks for novel legal questions and is less likely to grant oral argument if the issues are fact driven. The request for oral argument should state whether 10, 15, or 20 minutes is needed. The request must be made on a separate filing, clearly designated as such, and may not contain any other subject. Oral argument is not granted in a non-final appeal, extraordinary writ, or on a motion, except in exceptional

circumstances. If the Court does grant oral argument, it may not be for the time requested. All oral arguments are video recorded on CDs, which can be purchased from the Court. Attorneys should stand at the podium to be seen and heard on recordings. Because of the reduction in requests for oral argument, in most weeks the Court sits only on Tuesdays and Wednesdays for arguments. The rest of the docket is made up of cases in which oral arguments were waived.

When the Court has limited oral argument to ten or fifteen minutes, attorneys should not try to discuss every issue raised where they are numerous. The attorney should also be prepared to discuss a different issue than presented by the attorney at argument. Where time is limited, it is most important to answer the panel’s questions. How you handle questions is the most important part of the oral argument. Judge Gross suggests that if the question is complex, wait for the entire question before responding. Judge Gunther advises the advocate to spend his or her oral argument time on the stronger issues, rather than arguing points that the briefing process has revealed are comparatively insubstantial. Judge Stone advises attorneys presenting oral argument to view the matter as “your chance to get our attention as to the principal reason why your case has merit.” Judge Stone emphasizes that the key word in his advice is “attention.” Chief Judge Farmer advises the advocate to quit while he or she is ahead, recalling one argument in which an attorney for one side was seemingly on the verge of winning the panel over, “and then he talked himself out of it.” Here Judge Gross would advise counsel not to think out loud. When the panel has given your adversary a tough time you should consider limiting yourself to a few choice words, invite questions, and then sit down.

Immediately after oral argument, the panel has a preliminary decision conference at which the judges express their views. If in the majority, the assigned judge drafts and circulates the initial opinion. If the assigned judge is in the minority, the junior member of the majority prepares the initial opinion.

In addition to the two staff attorneys assigned to each judge, the Court also employs seven central staff attorneys, who screen and making recommendations on all extraordinary writ petitions, nonfinal appeals, final appeals in summary criminal proceedings (filed under Fla. R. Crim.

P. 3.800(a) and Fla. R. Crim. P. 3.850) and criminal appeals in which defense counsel has moved to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967). The central staff attorneys prepare memoranda for the benefit of the merits panels. They also do research requested by the judges.

Section 11 of the Court's Manual of Internal Operating Procedures contains the procedures for en banc determination of cases, both prior to circulation of an opinion and on rehearing. Rule 9.331 prohibits requests for initial en banc hearings, and insofar as the Internal Operating Procedure section pertains to such predecision en banc review, it is offered for informational purposes only.

The Judges of the Fourth District Court of Appeal:

Gary M. Farmer has been Chief Judge since July 1, 2003. His terms as Chief Judge will end July 1, 2005. Having served on the Fourth since 1991, he enjoys his position as an appellate judge so much that his wife says he would do the job for free. He refers to his position as "an intellectual banquet." Judge Farmer preceded his higher education with three years of service in the United States Marine Corp. He received an Associate of Arts degree with highest honors from Broward Junior College in 1968. Judge Farmer earned a Bachelor of Art at Florida Atlantic University in 1970, where he runner up to the Woodrow Wilson Fellow. While in law school he published "Conscientious Objection: In-Service Discharges and Procedural Due Process," 4 U. Tol. L. Rev. 58 (1972). Judge Farmer received Juris Doctor degree from the University of Toledo in 1973. In 2001 he earned an LLM in Judicial Process from the University of Virginia School of Law. From 2003-2004 Judge Farmer was President of the Florida Conference of District Court of Appeal Judges.

After graduation from law school, Judge Farmer joined the Ohio Bar in 1973 and was admitted to the Florida Bar in 1974. He clerked for United States District Court Judge Nicholas Walinski, Jr. in Ohio until 1975. From 1975 to 1991, he practiced law in Broward County, Florida and became active in Florida Bar activities including serving for several years on the Appellate Rules Committee, the Broward County Grievance Committee, and the Civil Rules Committee.

Robert M. Gross was born and raised in Washington, D.C. He is married and the father of two sons.

Judge Gross received his undergraduate degree from Williams College in 1973 (Phi Beta Kappa, *Magna Cum Laude*), and his law degree from Cornell Law School in 1976. It was in law school that Judge Gross met Professor Irving Younger who ignited his interest in evidence and trial practice.

He was appointed to the Fourth District Court of Appeal in November 1995 by Governor Lawton Chiles. Prior to his appointment, he served four years as a circuit judge in the civil and family divisions. Before his elevation to the circuit Court, he was a county Court judge for seven years, serving as the Administrative Judge from 1988 to 1990. Judge Gross began his legal career as an Assistant District Attorney under Robert Morgenthau in New York County. He served as an Assistant State Attorney in Palm Beach County and worked as an associate attorney with the West Palm Beach law firm of Moyle, Jones & Flanigan from 1981 through 1984.

Judge Gross served on Governor Lawton Chiles's Task Force on Criminal Justice and Corrections, which issued its final report in 1995. He has been a faculty member of the Florida Judicial College since 1990, teaching Evidence, Landlord & Tenant, and Building A Judicial Style. He has also taught at numerous continuing legal education seminars and made guest appearances at elementary and secondary schools.

Bobby W. Gunther Appointed to the Fourth DCA in 1986, Judge Gunther was Chief Judge from 1995 to 1997. She received her B.A. and J.D. degrees from the University of Florida in 1963 and 1965, respectively. A native Floridian, she was in private practice handling civil litigation until 1973, when she joined the Broward County Court. She served for four years as Administrative Judge of that Court. In 1981, Judge Gunther was elevated to the Circuit Court bench in the 17th Judicial Circuit. Throughout her tenure as a trial judge in both county and circuit courts, Judge Gunther was very active with Bar committees and programs, serving as Chair of the Legal Aid Committee in 1975, on the Judicial Poll Committee in 1977, on the Bench Bar Liaison Committee from 1978 to 1981, on the Courts Committee, and on the Judicial Selection and Tenure Committee. Her Florida Bar activities include service as Chair of the Summary Procedure Rules Committee, service as a member and Vice Chair of the Judicial Evaluation Committee (formerly Judicial Polls

Committee) and service on the Judicial Nominating Commission Committee.

Judge Gunther's civic activities include service as an instructor for Nova University's College Accelerated Program for Police Officers, service as Secretary and member of the Broward Commission on the Status of Women, membership on the Women's Detention Center Advisory Committee, Faculty Advisor for the general section of the National Judicial College, Instructor at the Florida College for New Judges, appointment by Chief Justice Sundberg as a member of the Judicial Coordinating Counsel, appointment by Governor Graham as a member of the Governor's Task Force on Criminal Justice System Reform, and appointment by Justice McDonald as a member of the Gender Bias Steering Committee and Gender Bias Commission. Judge Gunther served the ABA Council of Chief Judges of Courts of Appeal on the Education Committee from 1995 to 1996.

Frederick A. Hazouri, earned his J.D. from the University of Florida, *Cum Laude*, in 1967. He is the past President of the Academy of Florida Trial Lawyers and was a Board Certified Trial Lawyer certified by the Florida Bar and the National Board of Trial Advocacy. Judge Hazouri is a Diplomat of the American College of Trial Lawyers and was listed in the "Best Lawyers of America" until he took the bench. He served on the Fourth District Court of Appeal nominating committee while still in private practice. In August of 1995, Judge Hazouri was appointed to the Fifteenth Judicial Circuit in and for Palm Beach County by Governor Lawton Chiles.

While a circuit Court judge, Judge Hazouri presided over a general civil division. He participated as an instructor at the 1998 Florida College of Advanced Judicial Studies by teaching courses in "Civil: Becoming an Expert on Experts" and "Civil Trial Management/Trial Anatomy 501 Lab." On November 19, 1998, Governor Chiles appointed Judge Hazouri to the Fourth District Court of Appeal, where he joined two of his former law partners, Judge Klein and Judge Dell.

Judge Hazouri is married to Florida Supreme Court Chief Justice Barbara Pariente, who formerly served on the Fourth District Court of Appeal. He was born and raised in Jacksonville, Florida and moved to West Palm Beach in December of 1967. His first employment out of law school was as a law Clerk at the Fourth District Court of Appeal for the now retired Senior

Judge William C. Owen. Judge Hazouri says Judge Owen should be prepared to accept either the credit or the blame for Judge Hazouri's performance as an appellate Court judge.

Larry A. Klein took the bench at the Fourth District in 1993. Born in Cincinnati, Ohio in 1939, Judge Klein is married and the father of three children.

Prior to becoming a judge, he practiced appellate law as a solo practitioner and a partner with the appellate law firm of Klein and Walsh, following ten years as a partner with the Cone, Wagner, Nugent law firm in West Palm Beach.

Judge Klein received his B.A. degree from the University of Michigan in 1962. He attended law school at the University of Florida School of Law, where he received his J.D. in 1964. Upon graduation from law school, Judge Klein became a research aide with the Second District Court of Appeal. Judge Klein's many Bar activities include service of a three year term as Chair of the Florida Bar Appellate Rules Committee. He was a member of the Supreme Court Rules Advisory Committee from 1978 to 1982, and was member of a special committee appointed by the Florida Supreme Court to examine criminal appeals. Judge Klein served as Chair of a special committee appointed by the Florida Supreme Court to make recommendations on reducing appeals. In 1998 he earned a from the University of Virginia.

Judge Klein served as President of the Palm Beach Bar Association from 1975 to 1976. Judge Klein is a fellow of the American College of Trial Lawyers, the American Academy of Appellate Lawyers, and the American Bar Foundation. His many civic activities include service on the Board of Directors of the United Way of Palm Beach County, the Board of Directors of the Florida Rural Legal Services, and the Board of Directors of the Palm Beach County Legal Aid Society, where he was President in 1974. He has served as a member of the Fifteenth Circuit Judicial Nominating Commission, and he has been a member and Chair of the Fourth District Court of Appeal Judicial Nominating Commission.

Judge Klein's many publications include works on brief writing and other issues in appellate practice, as well as works on subjects as diverse as damages in injury to property cases to sovereign immunity. From 1967 to 1970, Judge Klein was the editor of the Academy of Florida Trial Lawyers

Journal.

Melanie May, the court's newest judge, earned her B.S. from Florida Atlantic University in 1973 and her J.D. from Nova Law Center in 1981.

Prior to serving at the Fourth, Judge May was a judge on the Seventeenth Judicial Circuit Court from 1991-2002. From 1982 to 1991 she was in private practice and before that served as law Clerk on the U.S. Court of Appeals for the Eleventh Circuit from 1981 to 1982.

Judge May serves on the Supreme Court Steering Committee on Treatment-Based Drug Courts, where she has been Chair since 1999. She also serves on the Children's Court Improvement Committee, the Trial Court Performance and Accountability Committee Criminal Work Group, and the Advisory Council to Office of Drug Control. Judge May also serves on the following Bar committees: Appellate Rules Committee, Grievance Committee, Unauthorized Practice of Law Committee, Admiralty Law Committee. She also serves as Board Chair of the National Association of Drug Court Professionals and Secretary to the Florida Association of Drug Court Professionals. She is a member of the Broward County Commission on Substance Abuse, the Alcohol, Drug Abuse & Mental Health Council, the Juvenile Justice Board, and the Juvenile Detention Center Advisory Board. From 1990 to 1991 she was a member of the Broward County Bar Association's Executive Committee and was President of the Stephen R. Booher Inn of Court from 1991 to 1993.

Judge May has also taught as an Instructor of Legal Research and Writing at the Nova Law Center and at the National Judicial College.

Judge May's service in the community includes: Kids in Distress, Susan B. Anthony Center, Junior League, CHARLEE program, PACE Center for Girls, and the Youth Automotive Training Center.

Mark E. Polen was Chief Judge from 2001 to 2003. Judge Polen is a married father of six children. He was born in 1945 in Aurora, Illinois. He received his Bachelor of Business Administration degree from the University of Iowa in 1966. Judge Polen left Iowa immediately after graduation to attend the University of Miami School of Law, where he received his Juris Doctor in 1969. Upon graduation from law school, Judge Polen worked as a staff attorney, and later Head Attorney, for the Economic Opportunity Legal Services Program,

Inc. in Miami. Thereafter, Judge Polen entered private practice, engaging in general civil practice with an emphasis on workers' compensation claimant's practice and appellate practice.

Governor Askew appointed Judge Polen to be a Judge of Industrial Claims for Broward County in March of 1977. He served as an Associate Commissioner of the Industrial Relations Commission in Tallahassee for a period during 1978, then returned to his seat as a Judge of Industrial Claims on the county level until being appointed to the circuit Court by Governor Graham in 1979. During his ten years as a circuit judge in Broward County, Judge Polen served in the Civil Division, Criminal Division, and Juvenile Division, where he also served as Administrative Judge. He gained experience as an appellate judge, serving two periods as an Associate Judge at the Fourth District in 1986 and 1988.

Judge Polen has been very active in Bar and community organizations and activities. He has served on the Rules of Civil Procedure Committee, the Family Court Rules of Procedure Committee, the Rules of Judicial Administration, Selection & Tenure Committee, and as a member of the Executive Council, chair-elect, and Chair of the Family Law Section. He is active with the Florida Conference of Appellate Judges, and has served on the Florida Conference of Circuit Court Judges. He is also a past President of the B'nai B'rith Justice Unit.

Judge Polen was awarded the Gavin K. Letts Memorial Jurist of the Year Award from the American Academy of Matrimonial Lawyers in 1994. He was appointed to the Fourth District by Governor Martinez in January 1989. In addition to his responsibilities on the Court, Judge Polen served as an adjunct professor at Nova Law School's Family Law Litigation Workshop from 1988 to 1996.

George A. Shahood, a native Floridian, married, and father of two sons, was appointed to the Court in 1994 by Governor Lawton Chiles to fill the vacancy left by the appointment of Justice Anstead to the Florida Supreme Court. Before taking the bench at the Fourth District, Judge Shahood sat as a county Court judge from 1978 through 1981, having been appointed by Governor Reubin O'D. Askew. That year, he was appointed to be a circuit Court judge at the Broward County Circuit Court by Governor Bob Graham. He was subsequently elected and reelected to that position.

Judge Shahood received his law degree from Mercer University's Walter F. George School of Law in 1968. He received his Bachelor of Arts degree in political science from Emory University in 1959. Between college and law school, Judge Shahood served in the United States Army for two years and worked for three years in the accounting department of a major manufacturing corporation. He has attended the National Judicial College in Reno, Nevada both as a student and as a discussion group leader.

Among his many bench and Bar activities, Judge Shahood has served as Chairman of the Code and Rules of Evidence Committee of The Florida Bar, as a member of the Judicial Nominating Procedure Committee, a member of the Rules of Judicial Administration Committee, a member of the Judicial Administration Selection and Tenure Committee, as State Delegate to the American Bar Association Convention from the Conference of County Court Judges, and as an active member of many other state, local, and national professional community organizations.

W. Matthew Stevenson will serve a two year term as Chief Judge beginning July 1, 2005. He was appointed to the Fourth District in November 1993 by Governor Lawton Chiles. He previously served for four years on the Palm Beach County Circuit Court bench where he was assigned to the civil and juvenile divisions.

Prior to his initial appointment to the bench, Judge Stevenson served as a Chapter 120 Administrative Hearing Officer with the Division of Administrative Hearings in Tallahassee, worked in private practice as a certified circuit Court mediator and was a trial attorney and commissioned officer in the United States Navy Judge Advocate General's (JAG) Corps. In addition, he has served as a law Clerk for the Honorable Joseph W. Hatchett on both the Florida Supreme Court and the United States Court of Appeals for the Fifth Circuit.

Frequently participating as a presenter at various seminars and CLE programs, Judge Stevenson served as an adjunct professor at Florida A&M University and has served for several years as an instructor with the University of Florida/Florida Bar Sponsored Prosecutor and Public Defender Trial Training Program. Having shown an active interest in the furtherance of the use of alternative dispute resolution measures within the Court system, Judge Stevenson was

appointed to serve as the Chairman of the Mediation Committee on the Fourth District Court of Appeal and recently, Chief Justice Wells appointed Judge Stevenson to serve on the Statewide Alternative Dispute Resolution Committee.

Among his many Bar activities, Judge Stevenson has served on the Juvenile Court Rules Committee and on the Professionalism Committee for the Fifteenth Judicial Circuit. Judge Stevenson is active in the community and serves on the Board of Trustees of Palm Beach Atlantic College and on the Advisory Board of the Palm Beach Lakes Community High School PreLaw Magnet Program.

Barry J. Stone, married and the father of three children, was born in Los Angeles in 1939. Judge Stone received his undergraduate degree from the University of Florida in 1960, and his law degree from the University of Florida in 1963. Judge Stone has served on the Fourth District since 1986, following appointment by Governor Bob Graham.

Prior to becoming an appellate judge, Judge Stone sat on the circuit Court bench in Broward County, having been appointed by Governor Graham in 1979 and reelected without opposition in 1980. He has served as President of the Conference of District Court of Appeal Judges (1999), and served as Chief Judge of the Fourth District from 1997 to 1999. On the circuit Court, Judge Stone served as Administrative Judge of the Criminal Division from 1985 to 1986. He has previously taught law students as an adjunct professor at Nova University.

Judge Stone's many past and present bench and Bar activities include membership on the Executive Committee of the Florida Conference of Circuit Court Judges, Presidency of the North Broward Bar Association, membership on the Executive Committee of the Broward County Bar Association, service on the BenchBar Commission and BenchBar Implementation Committee of the Supreme Court and Florida Bar, among other committees and groups too numerous to mention. His many civic and community activities have included service of several terms as Chair of the Pompano Beach Planning Board, several terms as Chair of the Pompano Beach Local Planning Agency, membership on the Broward County Criminal Justice Task Force, the Broward County Criminal Justice Planning Council, the Broward County Mental Health Board, the United States Selective Service Board, and civic

organizations including the Board of Trade, Chamber of Commerce, and Kiwanis. Judge Stone is formerly the President of the B'nai B'rith Justice Unit and the Stephen R. Boohar Chapter of the American Inns of Court. He has also served as a synagogue president.

Carole Y. Taylor, was born in Raleigh, North Carolina. She is married and the mother of two daughters. Judge Taylor received her undergraduate degree from the University of North Carolina at Chapel Hill in 1971, and her law degree from the University of North Carolina in 1974.

Upon graduating, Judge Taylor worked as a staff attorney for the Legal Aid Society of Durham County, North Carolina, and The New Hanover Legal Services, Inc. of Wilmington, North Carolina. Thereafter, Judge Taylor continued her career as an Associate University Attorney for the University of Florida, Assistant Public Defender for Broward County, and Assistant United States Attorney for the Southern District of Florida. She entered private practice with the firm of Sams, Ward, Newman, Beckham & Elser, P.A., and later formed Carole Yvonne Taylor, P.A. Judge Taylor served on the county and circuit benches for seven years. She was appointed to the Fourth District Court of Appeal in February 1998 by Governor Lawton Chiles. Among her many bench and Bar activities, Judge Taylor has served as Vice President of the Florida Chapter of the National Bar Association, member of the Association of Trial Lawyers of America, Florida Association of Women Lawyers, the Womens' Trial Lawyer Caucus, Broward County Criminal Defense Attorney Association, Vice President of the T.J. Reddick Bar Association, member of the Broward County Association of Women Lawyers, Florida Academy of Trial Lawyers, National Association of Women Judges and the F. Malcolm Cunningham Sr. Bar Association.

Judge Taylor has served on the Board of Directors of such civic and charitable organizations as Boys and Girls Clubs of Broward County, Jack and Jill Nursery, Inc., and the Urban League of Broward County. She also served on the Budget Committee of the United Way, and as a member of NAACP, National Conference of Christians and Jews, Leadership Broward IV, Gwen Cherry Women's Political Caucus, and the Junior League. Judge Taylor was recently inducted into the Broward County Women's Hall of Fame.

Martha C. Warner has served as a judge on the Fourth District Court of Appeal since 1989 and was the Chief Judge from 1999 to 2001. From 1986 to 1988, Judge Warner sat on the Circuit Court bench of the 19th Judicial Circuit. She was engaged in the private practice of law from 1974 to 1985.

Born in Saint Louis, Missouri, Judge Warner is married and the mother of three children. She graduated in 1971, *Magna Cum Laude*, from Colorado College in Colorado Springs, Colorado where she received her Bachelor of Arts degree, and was awarded Phi Beta Kappa.

Judge Warner commenced her legal education at the University of Chicago Law School, which she attended from 1971 to 1972. Thereafter, Judge Warner transferred to the University of Florida School of Law, where she received her J.D. degree with high honors in 1974. Judge Warner was a member of the Phi Kappa Phi Honorary Social Science Fraternity and was elected to the Order of the Coif while at law school. She was a member of the editorial board of the University of Florida Law Review. Judge Warner has continued her legal studies while on the bench, participating in the University of Virginia's Masters of the Judicial

Process Program, from which she received her LL.M. in 1995.

Judge Warner's Bar and bench activities include membership on the Florida Supreme Court's Standard Jury Instruction Committee from 1987 to 1998, the Faculty of the Florida College of Advanced Judicial Studies from 1992 to the present, the Appellate Rules Committee from 1990 to 1993, the Appellate Judges Conference Education Committee, and the Court Education Trust Fund from 1992 to 1995.

In 2001 Chief Justice Wells appointed Judge Warner to serve on the District Court of Appeal Budget Commission. From 1999 to 2000 she served as a member and the recruitment coordinator of the ABA Committee on the Masters of Judicial Process Program. She is a member of the Subcommittee on the Judicial Appellate Workload of the Judicial Management Council and the Committee on Trial Court Performance and Accountability. Judge Warner is a member of the Florida Bar Commission on the Legal Needs of Children. She currently chairs the Florida Court Education Council's Publications Committee and the Committee on District Court of Appeal Performance and Accountability. She has also

chaired the Committee on Legislative Reform of Judicial Administration in 1998 and the FCEC Special Committee on Evaluation and Administration of Florida's Judicial Education Programs. Judge Warner is also involved in her community, serving on the Board of Directors for the Martin County Council for the Arts from 1996 to 1999, and as the Chair of the 1997, 1998 and 1999 High School Juried Art Shows.

Footnotes

¹ Siobhan Helene Shea is an appellate attorney who practices in Palm Beach County, Florida. She is Chair of the Appellate Court Rules Committee of the Florida Bar, Treasurer of the Appellate Practice Section of the Florida Bar and a Past Editor of *The Record*, the Journal of the Appellate Practice Section of The Florida Bar. Shea has served on the Executive Council of Appellate Lawyers of the American Bar Association. She is a former Chair of the Appellate Practice Committee of the Palm Beach County Bar Association. and Past President of the Florida Association for Women Lawyers Statewide.

Special thanks to Ilene Pabian, the original author of this article.

² In 1979 Judge Letts commented the Fourth DCA was suffering from "motion sickness." *Dubowitz v. Century Village East, Inc.*, 381 So. 2d 252 (Fla. 4th DCA 1979).

JUDGES OF THE FOURTH DISTRICT COURT OF APPEAL

NAME	TERM OF OFFICE
Charles O. Andrews, Jr.	1965-1967
Sherman N. Smith, Jr.	1965-1967
James H. Walden	1965-1976, 1982-1990
Spencer C. Cross	1967-1979
David L. McCain	1967-1970
John L. Reed, Jr.	1967-1973
William C. Owen, Jr.	1967-1976
Gerald Mager	1970-1977
James C. Downey	1973-1992
James E. Alderman	1976-1978
James C. Dauksch	1977-1979
Harry Lee Anstead	1977-1994
Gavin K. Letts	1977-1993
John J. Moore, II	1977-1981
John R. Beranek	1978-1984
George W. Hersey	1979-1995
Hugh S. Glickstein	1979-1998
Daniel T. K. Hurley	1979-1986
John W. Dell	1981-2001
Rosemary Barkett	1984-1985
BOBBY W. GUNTHER	1986 to Present
BARRY J. STONE	1986 to Present
MARTHA C. WARNER	1989 to Present
MARK E. POLEN	1989 to Present
Eugene Garrett	1989-1993
GARY M. FARMER	1991 to Present
LARRY A. KLEIN	1993 to Present
Barbara Pariente	1993-1997
W. MATTHEW STEVENSON	1993 to Present
GEORGE A. SHAHOOD	1994 to Present
ROBERT M. GROSS	1995 to Present
CAROLE Y. TAYLOR	1998 to Present
FREDERICK A. HAZOURI	1998 to Present
MELANIE MAY	2002 to Present

FOURTH APPELLATE DISTRICT: Broward, Indian River, Okeechobee, Palm Beach, St. Lucie, and Martin Counties comprising the 15th, 17th and 19th Circuits.