APPLICATION FOR NOMINATION TO THE FLORIDA SUPREME COURT

Meredith L. Sasso

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Instructions: *Respond fully to the questions asked below. Please make all efforts to include your full answer to each question in this document. You may attach additional pages, as necessary, however it is discouraged. In addition to the application, you must provide a recent color photograph to help identify yourself.*

Full Name: Meredith Lee Sasso **Social Security No.:** [redacted]

Florida Bar No.: 58189 **Date Admitted to Practice in Florida:** October 6, 2008

1. **Please state your current employer and title, including any professional position and any public or judicial office you hold, your business address and telephone number.**

   Employer: State of Florida
   Title: Chief Judge - Sixth District Court of Appeal
   Address: 811 E. Main Street
   Lakeland, FL 33801
   Telephone: 386-940-6041

2. **Please state your current residential address, including city, county, and zip code. Indicate how long you have resided at this location and how long you have lived in Florida. Additionally, please provide a telephone number where you can be reached (preferably a cell phone number), and your preferred email address.**

   My current address is [redacted]814. I have lived at my current address for approximately 3.5 years and have lived in Florida approximately 40 years (my entire life).

   My cell phone is [redacted].

   My preferred email address is [redacted]

3. **State your birthdate and place of birth.**

   [redacted]. Tallahassee, FL.

4. **Are you a registered voter in Florida (Y/N)?**

   Yes.

5. **Please list all courts (including state bar admissions) and administrative bodies having special admissions requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have ever been suspended or resigned. Please explain the reason for any lapse in membership.**

Court	*Date of Admission*
Florida Supreme Court	October 6, 2008

U.S. District Court, Middle District of Florida	May 3, 2012
U.S. District Court, Southern District of Florida	March 6, 2014
U.S. District Court, Northern District of Florida	March 21, 2018

6. **Have you ever been known by any aliases? If so, please indicate and when you were known by such alias.**

   No.

EDUCATION:

7. **List in reverse chronological order each secondary school, college, university, law school or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, the date the degree was received, class standing, and graduating GPA (if your class standing or graduating GPA is unknown, please request the same from such school).**

   University of Florida, Levin College of Law — *August 2005 until May 2008*

   I received a Juris Doctor degree on May 9, 2008. My graduating GPA was 3.2 with a class standing of 170/278.

   University of Florida — *August 2001 until April 2005*

   I participated in the dual degree program, receiving a Bachelor of Arts degree in political science and a Bachelor of Science degree in public relations, both of which I received on August 30, 2005. My graduating GPA was 3.83, and my class standing was designated *summa cum laude*.

   During the summer of 2002 and the summer of 2003, I took classes at Florida State University. I did not seek or receive a degree from Florida State University.

   Leon High School — *August 1998 until May 2001*

   I received a high school diploma on May 29, 2001. My weighted graduating GPA was 3.93 and my class standing was 91/433.

   During high school, I was dual enrolled at Tallahassee Community College from the Spring of 2000 through the Spring of 2001. I did not seek or receive a degree from Tallahassee Community College.

8. **List and describe any organizations, clubs, fraternities or sororities, and extracurricular activities you engaged in during your higher education. For each, list any positions or titles you held and the dates of participation.**

   Justice Campbell Thornal Moot Court Board: I was selected through a competitive process for our law school's moot court team, a co-curricular organization founded with the mission of promoting excellence in appellate advocacy. I was a member from Spring of 2007 until the Spring of 2008. I

served as the Bylaws Chair in the Fall of 2007 and served as the Educational Chair in the Spring of 2008.

Spanish American Law Student Association: This organization was for law students of Hispanic descent. To the best of my recollection, I was part of this organization from the Fall of 2005 through the Spring of 2008.

Teaching Assistant: I served as a teaching assistant for Legal Research and Writing during the Fall of 2006 and for Appellate Advocacy during the Spring of 2007. I assisted students with their legal writing assignments.

Career Resource Advisory Board: To the best of my recollection, I was selected for this Board in the Fall of 2007. The Board provided guidance and input to the faculty at the Levin College of Law.

Law School Orientation Ambassador: In this role, I led a small group of incoming law students through the orientation process with the goal of familiarizing the students with the law school and serving as a point of contact for any questions they had throughout the semester. To the best of my recollection, I served as an ambassador for the Fall semester of 2007.

Law School Mentoring Project: With this group, I volunteered alongside fellow law students as a mentor to elementary-age students at a local charter school and ultimately served as a team leader. To the best of my recollection, I volunteered from the Spring of 2006 until the Spring of 2008.

College of Journalism and Communications Ambassador: To the best of my recollection, I was selected as an ambassador for the College of Journalism and Communications in the Fall of 2003. We focused on providing opportunities for professional growth for students of the college and on fostering a network among students and alumni.

University Scholar: I was one of a small number of students selected across all disciplines to undertake a full research project, under the guidance of faculty. To the best of my recollection, I was selected in the Summer of 2004 and continued my research through the Spring of 2005. I conducted my research on Hispanic representation in the State Legislature.

College Republicans: Throughout college and law school, I attended meetings of College and Law School Republicans and volunteered on various campaigns.

Research Assistant: I served as a research assistant in the Fall of 2002 for a professor in the College of Journalism and Communications. In that role, I studied the role of communication, particularly the role of mass media, in the political process.

Resident Assistant: I was a resident assistant from the Fall of 2002 through the Spring of 2004. I also led programming at the dormitories through the Division of Housing.

CHAMPS Mentoring Program: With this program, I volunteered as a mentor to at-risk middle school students at a local school. I primarily provided tutoring assistance to the students. To the best of my recollection, I volunteered throughout my entire time in college.

EMPLOYMENT:

9. **List in reverse chronological order all full-time jobs or employment (including internships and clerkships) you have held since the age of 21. Include the name and address of the employer, job title(s) and dates of employment. For non-legal employment, please briefly describe the position and provide a business address and telephone number.**

District Judge, Fifth District Court of Appeal
300 S. Beach Street
Daytona Beach, FL 32114
January 2019 – December 2022

Executive Office of the Governor
Chief Deputy, Deputy, and Assistant General Counsel
400 S. Monroe Street, Tallahassee, FL 32301
August 2016 - January 2019

Sanabria, Llorente et al. - Employees Farmer's Ins.
Trial Attorney
2290 Lucien Way, Ste. 208, Maitland, FL 32761
January 2015 - July 2016

Hayes Law, P.L.
Associate
830 Lucerne Terrace, Orlando, FL 32801
February 2014 - December 2014

Broussard & Cullen, P.A.
Associate
800 N. Magnolia Ave, Orlando, FL 32803
October 2009 - January 2014

Fox, Wackeen, Dungey, Beard, Sobel, Bush, & McCluskey, LLP
Associate: August 2008 - October 2009
Law Clerk: May 2007 - May 2008
3473 SE Willoughby Blvd., Stuart, FL 34994

Miami-Dade State Attorney's Office
Intern
34994 1350 NW 12th Ave, Miami, FL 33136
May 2006 - August 2006

10. Describe the general nature of your current practice including any certifications which you possess; additionally, if your practice is substantially different from your prior practice or if you are not now practicing law, give details of prior practice. Describe your typical clients or former clients and the problems for which they sought your services.

Prior to joining the judiciary, I served as Chief Deputy General Counsel to the Governor, where I was part of a small legal team advising the Governor and the Executive Office of the Governor regarding the Governor's constitutional duties, as well as the Office's personnel matters, ethics matters, and legal policy. We also defended the Governor in state and federal courts against claims involving constitutional law challenges, including actions subject to the original jurisdiction of the Florida Supreme Court. Each attorney on our team was responsible for overseeing the legal policy and litigation for several executive agencies. During my time in the Office, I was responsible for overseeing legal issues presented by, *inter alia*, the Department of State, the Department of Education, the Department of Management Services, and the Department of Environmental Protection. We were also involved with vetting judicial candidates and judicial nominating commission members. Often, the issues we dealt with were high-stakes, high-profile, and time-sensitive.

Prior to joining the Governor's Office, I worked in private practice, always as a litigator. I began my career with a mixed appellate and trial court practice. Thanks to the opportunities provided to me by my supervisors, I was able to gain significant and meaningful appellate and trial experience as a young lawyer. Over the course of my career, I represented manufacturers and general contractors in construction disputes, small businesses in business dissolution cases, governmental entities in the defense of workers' compensation and liability claims, title insurance companies involved in litigated disputes, and banking institutions in foreclosure claims. While I typically represented businesses or governmental entities, I also had the opportunity to represent individuals facing various issues including unlawful collections and dissolutions of marriage.

Immediately prior to joining the Executive Office of the Governor, I was a staff trial attorney for an insurance company. In that position, I maintained a heavy case load, including high exposure cases, defending against claims of general liability, auto negligence, negligent security, premises liability, and UM/UIM. During that time, I successfully defended entities ranging from small businesses to Fortune 500 companies at bench and jury trials.

11. What percentage of your appearance in court in the last five years or in the last five years of practice (include the dates) was:

Court		Area of Practice	
Federal Appellate	_____ %	Civil	100 %
Federal Trial	5 %	Criminal	_____ %
Federal Other	_____ %	Family	_____ %
State Appellate	25 %	Probate	_____ %
State Trial	70 %	Other	_____ %

State Administrative	_____ %			
State Other	_____ %			
TOTAL	100 %		TOTAL	100 %

If your appearance in court the last five years is substantially different from your prior practice, please provide a brief explanation:

Prior to my service with the Executive Office of the Governor, I practiced almost exclusively before the state trial and appellate courts, with less than 1% of my cases litigated in federal courts. During my first five years of practice, I also appeared frequently before the Division of Administrative Hearings.

12. In your lifetime, how many (number) of the cases that you tried to verdict, judgment, or final decision were:

Jury?	6	Non-jury?	2
Arbitration?	1	Administrative Bodies?	16
Appellate?	23		

13. Please list every case that you have argued (or substantially participated) in front of the United States Supreme Court, a United States Circuit Court, the Florida Supreme Court, or a Florida District Court of Appeal, providing the case name, jurisdiction, case number, date of argument, and the name(s), e-mail address(es), and telephone number(s) for opposing appellate counsel. If there is a published opinion, please also include that citation.

FLORIDA SUPREME COURT

I substantially participated in drafting the briefs in the following cases considered by the Florida Supreme Court, but I did not present oral argument.

League of Women Voters v. Scott
Case No.: SC18-1573; Opinion published at 257 So. 3d 900
Oral Argument Held: November 18, 2018
Opposing Counsel: John S. Mills (jmills@mills-appeals.com; 904-598-0034), Thomas D. Hall (thall@mills-appeals.com; 850-251-1972), Courtney Brewer (cbrewer@bishopmills.com; 850-765-0897), Jonathan Martin (jmartin@bishopmills.com; 850-765-0897)

Bogorff v. Scott
Case No.: SC17-1155; Opinion published at 223 So. 3d 1000

Opposing Counsel: Bruce Rogow (brogow@rogowlaw.com; 954-767-8909), Robert C. Gilbert (robert@gilbertpa.com; 305-384-7270), Neal A. Roth (nar@grossmanroth.com; 305-442-8666 x11)

Trotti v. Scott
Case No.: SC18-1217; Opinion published at 271 So. 3d 904
Oral Argument Held: October 2, 2018
Opposing Counsel: Joseph T. Eagleton (jeagleton@bhappeals.com; 813-223-4300), Robert J. Slama (legalsecretary1@robertjslamapa.com; 904-296-1050), and David P. Trotti (david@dptrottilaw.com; 904-399-1616)

League of Women Voters of Florida v. Scott
Case No.: SC17-1122; Opinion published at 232 So. 3d 264
Oral Argument Held: November 1, 2017
Opposing Counsel: John S. Mills (jmills@mills-appeals.com; 904-598-0034) and Andrew D. Manko (andrew.manko@doah.state.fl.us; 850-488-9675)

FIRST DISTRICT COURT OF APPEAL

I presented oral argument, where oral argument was held, and substantially participated in drafting the briefs filed in the following cases considered by Florida's First District Court of Appeal.

Shattles v. Seminole County Sheriff's Office and John's Eastern Company, Inc.
Case No.: 1D12-5201
Opposing Counsel: Bill McCabe (billjmccabe@earthlink.net; 407-403-6111)

Orange County & Alternative Serv. Concepts v. Lavonda Wilder
Case No.: 1D12-1401; Opinion published at 107 So. 3d 480
Opposing Counsel: Kelli Biferie Hastings (kelli@theyogalawyer.com; 407-539-3032)

Barnes v. City of Orlando
Case No.: 1D10-6447
Opposing Counsel: Kelli Biferie Hastings (kelli@theyogalawyer.com; 407-539-3032) and Adam Ross Littman (adam@adamlittman.com; 407-644-9670)

Washburn v. Florida's Nat. Growers
Case No.: 1D10-3562; Opinion published at 65 So. 3d 1093
Opposing Counsel: Susan W. Fox (susanfox@flappeal.com; 407-580-6798) and Laurie T. Miles (lmiles@milesandparrish.com; 863-226-6828)

City of Orlando v. Davis
Case No.: 1D10-3432; Opinion published at 48 So. 3d 153
Opposing Counsel: Bill McCabe (billjmccabe@earthlink.net; 407-403-6111) and Frederic M. Schott (fredschottesq@gmail.com; 407-665-4129)

Orange County Fire Rescue v. Crowden
Case No.: 1D09-5746
Oral Argument Held: July 20, 2010
Opposing Counsel: Kelli Biferie Hastings (kelli@theyogalawyer.com; 407-539-3032)

Seminole County Gov't v. Kimmel
Case No.: 1D10-1749; Opinion published at 36 So. 3d 930
No appearance for Appellee

Weimer v. City of Kissimmee and Preferred Governmental Claims Solutions
Case No.: 1D09-2293
Opposing Counsel: Richard W. Ervin, III (richardervin@flappeal.com; 850-591-4984)

Orange County v. Alvarado
Case No.: 1D11-4300
Opposing Counsel: Michael J. McDonald (michael.j.mcdonald@usmc.mil; 760-725-0106) and Roland P. Tan, Jr., (rolandesq@yahoo.com; 407-399-0274)

Orange County v. Richards
Case No.: 1D12-4321
Oral Argument Held: May 15, 2013
Opposing Counsel: Timothy A. Dunbrack (tdunbrack@goldbergsegalla.com; 407-458-5600), Richard Heinzman (richard.heinzman@aig.com; 407-335-7581), and Nicholas A. Shannin (nshannin@shanninlaw.com; 407-985-2222)

Myers v. Seminole County E. Co., Inc.
Case No.: 1D10-5551
Oral Argument Held: June 22, 2011
Opposing Counsel: Kelli Biferie Hastings (kelli@theyogalawyer.com; 407-539-3032) and Michael Clelland (mclelland@forthepeople.com; 407-629-8300)

<u>I substantially participated in drafting the briefs in the following cases considered by Florida's First District Court of Appeal, but I did not present oral argument.</u>

Scott v. Hinkle
Case No.: 1D18-966; Opinion published at 259 So. 3d 982
Oral Argument Held: July 17, 2018
Opposing Counsel: Donald M. Hinkle (don@hinkle.law; 850-205-2055)

Scott v. Trotti
Case No.: 1D18-2387; Opinion published at 283 So. 3d 340
Opposing Counsel: Steven L. Brannock (sbrannock@bhappeals.com; 813-223-4300), Joseph T. Eagleton (jeagleton@bhappeals.com; 813-223-4300); Robert J. Slama (legalsecretary1@robertjslamapa.com; 904-296-1050), and David P. Trotti (david@dptrottilaw.com; 904-399-1616)

FIFTH DISTRICT COURT OF APPEAL

I presented oral argument, where oral argument was held, and substantially participated in drafting the briefs filed in the following cases considered by Florida's Fifth District Court of Appeal.

Orange County & Alternative Serv. v. New
Case No.: 5D09-2970; Opinion published at 39 So. 3d 423
Oral Argument Held: May 5, 2010
Opposing Counsel: Richard W. Ervin, III (richardervin@flappeal.com; 850-591-4984), Paul A. Kelley (paul@kelleylawgroup.org; 321-285-2550), and Michael Clelland (mclelland@forthepeople.com; 407-629-8300)

Ray Coudriet Builders, Inc. v. Weather Shield Mfg.
Case No.: 5D12-3566
Oral Argument Held: May 22, 2013
Opposing Counsel: Diane H. Tutt (dtutt@conroysimberg.com; 954-961-1400)

Racetrac Petroleum, Inc. v. Cooper
Case No.: 5D10-3752; Opinion published at 69 So. 3d 1077
Opposing Counsel: Desiree E. Bannasch (debannasch@me.com; 407-649-9790)

14. Within the last ten years, have you ever been formally reprimanded, sanctioned, demoted, disciplined, placed on probation, suspended, or terminated by an employer or tribunal before which you have appeared? If so, please state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

No.

15. In the last ten years, have you failed to meet any deadline imposed by court order or received notice that you have not complied with substantive requirements of any business or contractual arrangement? If so, please explain full.

No.

16. For your last six cases, which were tried to verdict or handled on appeal, either before a jury, judge, appellate panel, arbitration panel or any other administrative hearing officer, list the names, e-mail addresses, and telephone numbers of the trial/appellate counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more*.

David P. Trotti v. Scott, Case No.: SC18-1217 - Attorneys for Petitioner: Philip J. Padovano (ppadovano@bhappeals.com; 850-692-5255), Joseph T. Eagleton (jeagleton@bhappeals.com; 813-223-4300); Robert J. Slama (legalsecretary1@robertjslamapa.com; 904-296-1050), David P. Trotti (david@dptrottilaw.com; 904-399-1616); Attorneys for Respondents: Daniel Nordby

(dnordby@shutts.com; 850-241-1725), Meredith Sasso, John MacIver [redacted], Nicholas Primrose (nicholas.primrose@jaxport.com; 904-357-3132), Alexis Fowler (alexis.fowler@moffitt.org; 813-745-5409); David A. Fugett (dfugett@floridapoly.edu; 863-874-8411), Jesse Dyer (jdyer@conroysimberg.com; 850-436-6605)

Scott v. Donald Hinkle, Case No.: 1D18-0966 - Attorneys for Petitioner: Daniel Nordby (dnordby@shutts.com; 850-241-1725), Meredith Sasso; Attorney for Respondent: Donald Hinkle (don@hinkle.law; 850-205-2055)

League of Women Voters of Florida, Inc. v. Scott, Case No.: SC18-1573 - Attorneys for Petitioners: John S. Mills (jmills@mills-appeals.com; 904-598-0034), Thomas D. Hall (thall@mills-appeals.com; 850-251-1972), Courtney Brewer (cbrewer@bishopmills.com; 850-765-0897), Jonathan Martin (jmartin@bishopmills.com; 850-765-0897); Attorneys for Respondents: Daniel Nordby (dnordby@shutts.com; 850-241-1725), Meredith Sasso, John MacIver [redacted], Alexis Fowler (alexis.fowler@moffitt.org; 813-745-5409); Raoul G. Cantero (raoul.cantero@whitecase.com; 305-371-2700); George T. Levesque (george.levesque@gray-robinson.com; 850-577-9090)

League of Women Voters of Florida, Inc. v. Scott, Case No.: SC17-1122 - Attorney for Petitioners: John S. Mills (jmills@mills-appeals.com; 904-598-0034), Courtney Brewer (cbrewer@bishopmills.com; 850-765-0897), Thomas D. Hall (thall@mills-appeals.com; 850-251-1972); Attorneys for Respondents: Daniel Nordby (dnordby@shutts.com; 850-241-1725), John P. Heekin (jack_heekin@rickscott.senate.gov; 202-224- 5274), Meredith Sasso, John MacIver [redacted]; Peter Penrod (peter.penrod@myfloridacfo.com; 850-413-2898)

Toby Bogorff v. Scott, Case No.: SC17-1155 - Attorneys for Petitioners: Bruce Rogow (brogow@rogowlaw.com; 954-767-8909), Robert C. Gilbert (robert@gilbertpa.com; 305-384-7270), Neal A. Roth (nar@grossmanroth.com; 305-442-8666x11); Attorneys for Respondents: Daniel Nordby (dnordby@shutts.com; 850-241-1725), John P. Heekin (jack_heekin@rickscott.senate.gov; 202-224- 5274), Meredith Sasso, Peter Penrod (peter.penrod@myfloridacfo.com; 850-413-2898); David Fugett (dfugett@floridapoly.edu; 863-874-8411); Chasity O'Steen (osteenc@leoncountyfl.gov; 850-606-2520); Janine B. Myrick (jbamping@gmail.com; 850-322-8348); Paul C. Stadler, Jr. (godisgreat2me2@juno.com; 850-385-0098)

Barbara Rowland v. 21st Century Centennial Insurance Co., Case No.: 15-CA-003145 - Attorney for Plaintiff: E. Blake Paul (bpaul@petersonmyers.com; 863-683-6511); Attorneys for Defendant: Kerri E. Utter (kerri.utter@publix.com; 954-991-6485), Meredith Sasso

17. For your last six cases, which were either settled in mediation or settled without mediation or trial, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases). ***This question is optional for sitting judges who have served five years or more.***

League of Women Voters of Florida, Inc. v. Scott, Case No.: 4:18 cv 525 - Attorneys for Plaintiffs: John A. DeVault, Henry M. Coxe, Michael E. Lockamy 904-353-0211; Jane W. Moscowitz 305-379-8300; Laurence M. Schwartztol 617-384-0361; Jamila Benkato 202-945-2157; Jessica Marsden 202-672-4812; Lawrence S. Robbins, William J. Trunk 202-775-4517; Wendy Liu 202-588-1000; Megan D. Browder 202-471-3891; Jeff Marcus 305-400-4262; Joel S. Perwin 305-779-6090; Michael S. Olin 305-503-5054; Attorneys for Defendant: Daniel Nordby 850-241-1725; Meredith Sasso; John MacIver [redacted]

Kristen Rosen Gonzalez v. Rick Scott, Case No.: 2018 CA 860 - Attorneys for Plaintiff: Kent Harrison Robbins 350-532-0500; Herman J. Russomanno 305-373-2101; Rick L. Yabor 786-773-3105; Attorneys for Defendants: Daniel Nordby 850-241-1725; Meredith Sasso; Bradley McVay, Ashley Davis 850-245-6536; Jean K. Olin 305-776-4364; Raul J. Aguila 305-710-1761, Nicholas Kallergis 305-673-7470

Kirk B. Reams v. Rick Scott, Case No.: 4:18-cv-154 - Attorney for Plaintiff: David Collins 850-997-8111; Attorneys for Defendants: Daniel Nordby 850-241-1725; Meredith Sasso; John MacIver [redacted]; Andy Bardos, George Levesque, Ashley Lukis 850-577-9090

Chabad of Key West, Inc. v. Federal Emergency Management Agency, Case No.: 4:17-cv-10092 - Attorneys for Plaintiffs: Isaac M. Jaroslawicz 305-775-7868; Eric C. Rassbach, Diana M. Verm 202-955-0095; Howard N. Slugh 202-220-9611; Attorneys for Defendants: Daniel Nordby 850-241-1725; Meredith Sasso; Nicholas Primrose 904-357-3132; Kari D'Ottavio 202-305-0568

Stephen Bittel v. Rick Scott, Case No.: 2017 CA 002301 - Attorneys for Plaintiffs: Mark Herron 850-222-0720, Robert Telfer, III 850-488-9675; Attorneys for Defendants: Daniel Nordby 850-241-1725; Meredith Sasso; David A. Fugett 863-874-8411; Jesse Dyer 850-436-6605

Sabir Abdul-Haqq Yasir v. Rick Scott, Case No.: 2016 CA 002605 - Plaintiff: Sabir Abdul-Haqq Yasir, Pro Se 863-491-4976 [cube #921]; Attorneys for Defendant: Meredith Sasso; Peter Penrod 850-413-2898

18. During the last five years, on average, how many times per month have you appeared in Court or at administrative hearings? If during any period you have appeared in court with greater frequency than during the last five years, indicate the period during which you appeared with greater frequency and succinctly explain.

During my service with the Executive Office of the Governor, I had a smaller case load compared with what I had in private practice. As a result, I appeared in court more frequently before joining the Governor's Office. I estimate that I appeared in court, on average, about once a month during

my two-and-a-half years with the Governor's Office. In the two-and-a-half years preceding, I estimate that I appeared in court, on average, about eight times a month.

19. If Questions 16, 17, and 18 do not apply to your practice, please list your last six major transactions or other legal matters that were resolved, listing the names, e-mail addresses, and telephone numbers of the other party counsel.

N/A

20. During the last five years, if your practice was greater than 50% personal injury, workers' compensation or professional malpractice, what percentage of your work was in representation of plaintiffs or defendants?

100% Defendants.

21. List and describe the five most significant cases which you personally litigated giving the case style, number, court and judge, the date of the case, the names, e-mail addresses, and telephone numbers of the other attorneys involved, and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant.

League of Women Voters of Florida v. Scott, 232 So. 3d 264 (Fla. 2017)

Which governor—the outgoing or the incoming—had the authority to appoint successors for appellate judges, including three Florida Supreme Court justices? This was the question Petitioners requested the Supreme Court resolve. However, Petitioners brought the question to the Supreme Court under the guise of a Petition for Quo Warranto, even though no official action had been taken and merely as a result of comments made at a press conference. Considering this backdrop, this case is significant for two primary reasons. First, in dismissing the Petition as unripe and refusing the Petitioners' invitation to weigh in on a hypothetical situation, the Supreme Court made clear that the "use of the writ to address prospective conduct is not appropriate." Second, by declining to become entangled with a hot-button political issue, the majority of the Supreme Court demonstrated an essential component of judging—that just because a court is invited to weigh in on a topic does not mean it should.

The defense of this action was a true team effort. I helped formulate our legal arguments, conducted both legal and historical research for inclusion in the briefs and supporting appendix, and drafted portions of the brief. Our team was led by General Counsel Daniel Nordby (dnordby@shutts.com; 850-241-1725) and rounded out by Jack Heekin (jack heekin@rickscott.senate.gov; 202-224-5274), John MacIver [redacted] and Peter Penrod (peter.penrod@myfloridacfo.com; 850-413-2898). Petitioners were represented by John S. Mills (jmills@mills-appeals.com; 904-598-0034), Courtney Brewer (cbrewer@bishopmills.com; 850-765-0897), and Thomas D. Hall (thall@mills-appeals.com; 850-251-1972). The case was decided by Justices Charles Canady, Jorge Labarga, Alan Lawson, Fred Lewis, Barbara Pariente, Ricky Polston, and Peggy A. Quince on December 14, 2017.

David P. Trotti v. Rick Scott, 271 So. 3d 904 (Fla. 2018); *David P. Trotti v. Rick Scott*, 283 So. 3d 340 (Fla. 1st DCA 2018)

This was Mr. Trotti's second attempt in four years to qualify for election to a judicial seat that the Constitution and case law require be filled by appointment. The First District again clarified the Governor's authority to appoint circuit judges under Article V, section 11(b) of the Florida Constitution when a resignation is received and accepted before the election-qualifying period, but the resignation has a future effective date. And although the Florida Supreme Court initially granted jurisdiction and held oral argument, it ultimately determined jurisdiction was improvidently granted, leaving the First District's decision intact. The significance of this case is evident in the parties' competing concerns: the perceived manipulation of judicial resignation dates versus the Governor's constitutional appointment power. In such situations, it is critical that judges do not bend otherwise unambiguous text to achieve a public policy objective.

The course of this case also read like an appellate procedure exam. Following the State Defendants' appeal of the trial court's order granting preliminary injunction, there was a motion to vacate the automatic stay filed in the lower court, a motion for review of the order vacating the stay filed in the District Court, a motion for and response to request for pass-through jurisdiction filed in the District Court, petitions for constitutional writs filed in the Supreme Court, jurisdictional and merits briefing in the Supreme Court, and oral argument before the Supreme Court.

Daniel Nordby (dnordby@shutts.com; 850-241-1725) and I represented the Governor at the trial and District Court level, and our colleagues John MacIver [redacted] and Alexis Fowler (alexis.fowler@moffitt.org; 813-745-5409) assisted at the Supreme Court level. I was primarily responsible for drafting the pleadings and briefs and sat second chair at oral argument. The Secretary of State was initially represented by David Fugett (dfugett@floridapoly.edu; 863-874-8411) and Jesse Dyer (jdyer@conroysimberg.com; 850-436-6605) and ultimately represented by Brad McVay (brad.mcvay@dos.myflorida.com; 850-245-6536) and Ashley Davis (ashley.davis@dos.myflorida.com; 850-245-6536). The Plaintiff's appellate counsel included Philip J. Padovano (ppadovano@bhappeals.com; 850-692-5255), Joseph T. Eagleton (jeagleton@bhappeals.com; 813-223-4300), and Robert J. Slama (legalsecretary1@robertjslamapa.com; 904-296-1050). The First District's decision was rendered on July 26, 2018, by Judges L. Clayton Roberts, T. Kent Wetherell, and Timothy D. Osterhaus. The Supreme Court's decision discharging jurisdiction was decided 4-3 on November 26, 2018, by Justices Charles Canady, Jorge Labarga, Alan Lawson, Fred Lewis, Barbara Pariente, Ricky Polston, and Peggy A. Quince.

League of Women Voters of Fla., et al. v. Scott, Case No.: 4:18 cv 525 (N.D. Fla.)

In the flurry of litigation during the 2018 statewide recount, Plaintiffs filed this case seeking extraordinary relief—they requested the court strip the Governor of certain powers due to his candidacy for the United States Senate. The Plaintiffs based their request on the argument that the Governor's purported dual roles violated their constitutional rights.

Like most of the cases filed during that time, we were required to defend the case on a very tight timeline. I quickly got up to speed on the body of federal law governing the issue of when a state

official's action may unconstitutionally impede an election. Daniel Nordby and I represented the Governor at the evidentiary hearing scheduled pursuant to Plaintiffs' request for a preliminary injunction. I also helped formulate the legal arguments, conduct research, and draft the requisite papers, including a motion to quash a subpoena commanding the Governor to appear at a hearing.

On November 15, 2018, the court denied Plaintiffs' requested relief and quashed the subpoena. The Plaintiffs subsequently voluntarily dismissed their complaint. This case was primarily significant due to the ramifications of an adverse ruling. However, considering the charged nature of the cases being vigorously litigated in the courtroom that day, the significance of the black robe also resonated. The black robe is emblematic of a judge's duty to cloak personal preferences and political views; it conveys the solemnity of judicial proceedings and serves as a visual reminder to litigants that they should be treated fairly, regardless of who they are and regardless of which courtroom they enter.

Plaintiffs were represented by John A. DeVault (jdevault@bedellfirm.com; 904-353-0211), Henry M. Coxe (hmc@bedellfirm.com; 904-353-0211), Michael E. Lockamy (mel@bedellfirm.com; 904-353-0211), Jane W. Moscowitz (jmoscowitz@moscowitz.com; 305-379-8300), Laurence M. Schwartztol (Larry.Schwartztol@protectdemocracy.org; 202-945-2092), Jamila Benkato (jamila.benkato@cco.sccgov.org; phone unknown); Jessica Marsden (jess.marsden@protectdemocracy.org; 202-672-4812), Lawrence S., Robbins (lrobbins@kramerlevin.com; 202-907-7163), William J. Trunk (wtrunk@kramerlevin.com; 202-775-4517), Wendy Liu (litigation@citizen.org; 202-588-1000), Megan D. Browder (megan.browder@dc.gov; 202-471-3891), Jeff Marcus (jmarcus@mnrlawfirm.com; 305-400-4262); Joel S. Perwin (jperwin@perwinlaw.com; 305-779-6090), and Michael S. Olin (molin@bfwlegal.com; 305-503-5054). The case was decided by Judge Mark Walker.

Rick Scott v. Donald Hinkle, 259 So. 3d 983 (Fla. 1st DCA 2018)

In this case, Mr. Hinkle attempted to challenge the sufficiency of the Governor's annual financial disclosures that the Governor filed with the Florida Commission on Ethics. Mr. Hinkle originally filed a complaint with the Florida Commission on Ethics, which was dismissed by the Commission as legally unfounded. And although the Florida Constitution vests the Commission with the exclusive authority to investigate ethics complaints, Mr. Hinkle then filed a complaint in the circuit court. Daniel Nordby (dnordby@shutts.com; 850-241-1725) and I represented the Governor and moved to dismiss the complaint, arguing only the Commission has authority to investigate the issues raised by Mr. Hinkle (don@hinkle.law; 850-205-2055). When the circuit court denied the motion, we filed a writ of prohibition in the First District Court of Appeal.

On November 30, 2018, Judges Lori S. Rowe, Timothy D. Osterhaus, and Ross Bilbrey granted the petition, holding that Florida law assigns exclusive jurisdiction to the Commission to review "all" complaints, including Mr. Hinkle's complaint. This was significant, both because the First District clearly outlined the limitation of the circuit court's authority and because of the sweeping implications had the circuit court's order stood.

The case also serves as a reminder that a court's power to adjudicate cases is derived only with the consent of the governed through constitutional grants of authority. Mr. Hinkle was self-represented.

Orange County and Alternative Serv., v. New, 39 So. 3d 423 (Fla. 5th DCA 2010)

After a 2008 amendment to the workers' compensation statute, employer/carriers were able to pursue prevailing party costs, a privilege that already existed only for claimants. However, the enforcement provision in chapter 440 provided only claimants the right to seek enforcement of unpaid costs orders. It was not similarly amended, leaving employer/carriers without a clear path for enforcement. Across the state, employer/carriers attempted various methods of obtaining enforcement of unpaid costs orders, each time being denied the relief requested. My client sought enforcement of an unpaid costs order in the trial court via petition for rule nisi. The trial court denied relief, noting that the legislature apparently granted a "right without a remedy." I represented Orange County and its servicing agent on appeal. There we argued that the statute should be interpreted to allow employer/carriers to pursue a petition for rule nisi and, based on Florida Supreme Court precedent, if it was not construed in that manner, the statute was unconstitutional as applied.

As a result of this case, the Fifth District issued the first appellate opinion addressing the issue. The Court determined that the plain language of the statute did not permit employer/carriers to pursue a petition for rule nisi. The Court similarly found the statute was not unconstitutional in its application. However, the Court determined that employer/carriers could seek enforcement in a court of competent jurisdiction, just as any other debt could be enforced. This case was significant because, although our theory was not accepted, it provided employer/carriers statewide with a mechanism for enforcing prevailing party cost orders.

The argument was held on Law Day in front of several spectators, and a former district court judge presented oral argument on behalf of the opponent. The case was decided by Judges Vincent Torpy, Kerry Evander, and Alan Lawson on June 25, 2010. I was responsible for writing the briefs and presenting oral argument. Michael Broussard (mikeb@bcdorlando.com; 407-649-8717) and I represented Orange County, and Kristen Magana (kmagana@wrg.law; 407-789-1830) sat second chair at oral argument. Respondent/Appellee was represented by Richard W. Ervin, III (richardervin@flappeal.com; 850-591-4984), Paul A. Kelley (paul@kelleylawgroup.org; 321-285-2550) and Michael Clelland (mclelland@forthepeople.com; 407-629-8300).

Jose Santos v. Carrie Morrison d/b/a Da Village Coin Laundry, 2012 CA 003249
(5th Cir. Court, Lake County)

My client's humble, Eustis laundry mat became the location of a fatal shooting. This case involved tragic circumstances where my client's (now deceased) husband brought two young men to the laundry mat one evening to do their laundry. This was not out of the norm, but it was somewhat later at night than their typical laundry schedule. Two perpetrators entered the laundry mat, killing Mr. Santos' friend and permanently injuring Mr. Santos. In addition to the criminal cases that followed the incident, the estate of the deceased and Mr. Santos bought a negligent security claim against my client. I took over this case when most of the pre-trial discovery was complete, and the

case was ready to be tried. I therefore was responsible for the final pre-trial motions and hearings, including defending a *Daubert* challenge to our expert's opinions, along with preparing the case for and conducting the jury trial.

In addition to the complex evidentiary issues this case presented, it was significant due to the emotions involved. We did not dispute the permanent nature of Mr. Santos' injuries nor the unimaginable impact this had on his emotional well-being. Yet we felt strongly that my client, a small business owner, was not and should not be held liable for these unfortunate circumstances. Before deliberations, the jury members were instructed to not allow "bias, sympathy, prejudice, public opinion, or any other sentiment" to influence their verdict. This standard instruction summarizes the duty of judges as well—to decide cases neutrally and dispassionately, based on what the law is.

Ultimately a unanimous jury found in favor of my client and entered a complete defense verdict of no liability. Carlos Llorente (cllorente@hamiltonmillerlaw.com; 305-379-3686) co-chaired the trial with me. Plaintiffs were represented by Brent Probinsky (b.probinsky@probinskylaw.com; 941-371-8800) and Affan Ali (aali2@clevelandohio.gov; 216-664-2852). Judge G. Richard Singeltary presided over the trial.

22. Attach at least two, but no more than three, examples of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach a writing sample for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

I authored the attached opinions, with proof-reading assistance from law clerks:

Demase v. State Farm Florida Ins. Co.,
351 So. 3d 136, 141 (Fla. 5th DCA 2022) (specially concurring)
Enriquez v. Velazquez,
350 So. 3d 147, 154 (Fla. 5th DCA 2022) (dissenting)
Napolitano v. St. Joseph Catholic Church,
308 So. 3d 274 (Fla. 5th DCA 2020)

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE

23. Have you ever held judicial office or been a candidate for judicial office? If so, state the court(s) involved, the dates of service or dates of candidacy, and any election results.

Yes. On January 7, 2019, I was appointed as a judge to the Fifth District Court of Appeal for a term commencing January 13, 2019. I was retained by the voters on November 3, 2020, for a term ending January 5, 2027. On January 1, 2023, I was recommissioned to the Sixth District Court of Appeal pursuant to Florida Chapter Law 2022-163 for a term ending January 5, 2027.

24. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name(s) of the commission, the approximate date(s) of each submission, and indicate if your name was certified to the Governor's Office for consideration.

I submitted an application to the Fifth District Court of Appeal Judicial Nominating Commission on December 21, 2018, and to the Florida Supreme Court Judicial Nominating Commission on December 23, 2019 and May 27, 2022. On each occasion, I was honored to have my name certified to the Governor's Office.

25. List any prior quasi-judicial service, including the agency or entity, dates of service, position(s) held, and a brief description of the issues you heard.

N/A

26. If you have prior judicial or quasi-judicial experience, please list the following information:

(i) the names, phone numbers and addresses of six attorneys who appeared before you on matters of substance;

Kansas Gooden: 305-537-1238; 11767 S Dixie Hwy # 274, Miami, FL 33156
Michael Brownlee: 407-403-5886; 200 E Robinson St Ste 800, Orlando, FL 32801
Cord Byrd: 904-246-2404; 1015 Atlantic Blvd # 281, Atlantic Beach, FL 32233
Gary Glassman: 386-671-8040; 301 S Ridgewood Ave, Daytona Beach, FL 32114
Lydia Sturgis Zbrezeznj: 863-656-6672; 520 6th St NW, Winter Haven, FL 33881
Eric M. Levine: 561-653-5000; 777 S Flagler Dr Ste 1100 W, West Palm Beach, FL 33401

(ii) the approximate number and nature of the cases you handled during your tenure;

As a judge on the Fifth and Sixth District Courts of Appeal, I have made dispositive decisions in over 2,500 cases and decided motions applicable to hundreds more. These cases have included appeals from final orders of trial courts, review of non-final orders of circuit courts, appeals from administrative actions, review of final orders of circuit courts acting in their review capacity, and the consideration of original actions. The issues presented by these cases represent the full spectrum of legal matters faced by the citizens of the district. Those matters include, *inter alia*, plenary and post-conviction criminal appeals and civil appeals involving business, family, land use, local government, personal injury, estate and trust, dependency, and juvenile law disputes. The cases are disposed of by way of written opinion, unelaborated per curiam affirmance, or by clerk's order.

(iii) the citations of any published opinions; and

Writing for Majority

1. *Stamer v. Free Fly, Inc.*, 277 So. 3d 179 (Fla. 5th DCA 2019)

2. *Wilson v. State*, 276 So. 3d 454 (Fla. 5th DCA 2019)
3. *Taylor v. State*, 267 So. 3d 1088 (Fla. 5th DCA 2019)
4. *Adams v. Dep't of Corr.*, 264 So. 3d 368 (Fla. 5th DCA 2019)
5. *Helvey v. State*, 275 So. 3d 1275 (Fla. 5th DCA 2019)
6. *State v. Washington*, 277 So. 3d 1142 (Fla. 5th DCA 2019)
7. *Manney v. MBV Eng'g, Inc.*, 273 So. 3d 214 (Fla. 5th DCA 2019)
8. *MacKenzie v. Centex Homes by Centex Real Estate Corp.*, 281 So. 3d 621 (Fla. 5th DCA 2019)
9. *Shamrock-Shamrock, Inc. v. Remark*, 271 So. 3d 1200 (Fla. 5th DCA 2019), *review denied*, SC19-1106, 2019 WL 5290225 (Fla. Oct. 17, 2019)
10. *R & W Rental Properties, LLC v. Warnick*, 277 So. 3d 1099 (Fla. 5th DCA 2019)
11. *Smith v. State*, 292 So. 3d 46 (Fla. 5th DCA 2020)
12. *Bauduy as Next Friend of D.B. v. Adventist Health Sys./Sunbelt, Inc.*, 288 So. 3d 87 (Fla. 5th DCA 2019)
13. *Schultz v. Moore*, 282 So. 3d 152 (Fla. 5th DCA 2019)
14. *State v. Randolph*, 287 So. 3d 686 (Fla. 5th DCA 2019)
15. *Osborne v. State*, 272 So. 3d 794 (Fla. 5th DCA 2019)
16. *Lefkowitz v. Schwartz*, 299 So. 3d 549 (Fla. 5th DCA 2020)
17. *Nemours Found. v. Martinez Arroyo*, 292 So. 3d 6 (Fla. 5th DCA 2019)
18. *McKeehan v. State*, 277 So. 3d 1132 (Fla. 5th DCA 2019)
19. *State Farm Florida Ins. Co. v. Crispin*, 290 So. 3d 150 (Fla. 5th DCA 2020)
20. *Fruehwirth v. State*, 292 So. 3d 1271 (Fla. 5th DCA 2020), *review granted, decision quashed*, SC20-672, 2021 WL 2526611 (Fla. June 21, 2021) (per curiam)
21. *C.N. v. I.G.C.*, 291 So. 3d 204 (Fla. 5th DCA 2020), *approved*, 316 So. 3d 287 (Fla. 2021)
22. *Dep't of Children & Families v. State*, 279 So. 3d 1271 (Fla. 5th DCA 2019)
23. *Rockledge HMA, LLC v. Lawley*, 310 So. 3d 112 (Fla. 5th DCA 2020)
24. *Isom v. State*, 325 So. 3d 924 (Fla. 5th DCA 2020)
25. *Allen v. State*, 301 So. 3d 463 (Fla. 5th DCA 2020)
26. *Melendez v. State*, 325 So. 3d 114 (Fla. 5th DCA 2020)
27. *Sharp v. State*, 293 So. 3d 639 (Fla. 5th DCA 2020)
28. *Carver v. Berkstresser*, 307 So. 3d 986 (Fla. 5th DCA 2020)
29. *Romero v. State*, 300 So. 3d 794 (Fla. 5th DCA 2020)
30. *Sims v. State*, 288 So. 3d 104 (Fla. 5th DCA 2019)
31. *Crawford v. State*, 291 So. 3d 1004 (Fla. 5th DCA 2020)
32. *Napolitano v. St. Joseph Catholic Church*, 308 So. 3d 274 (Fla. 5th DCA 2020)
33. *Bova v. State*, 311 So. 3d 1000 (Fla. 5th DCA 2021)
34. *Hughley v. State*, 325 So. 3d 933 (Fla. 5th DCA 2020)
35. *Geico Gen. Ins. Co. v. Accident & Injury Clinic, Inc.*, 294 So. 3d 1020 (Fla. 5th DCA 2020)
36. *Roberts v. State,* 299 So. 3d 613 (Fla. 5th DCA 2020)
37. *Harvey As Tr. of Russel A. Schlegel Revocable Living Tr. v. Lifespace Communities, Inc.*, 306 So. 3d 1248 (Fla. 5th DCA 2020)
38. *Forrester v. Sch. Bd. of Sumter Cnty.*, 316 So. 3d 774 (Fla. 5th DCA 2021)
39. *Carmack v. Carmack*, 316 So. 3d 396 (Fla. 5th DCA 2021)
40. *Avatar Prop. & Cas. Ins. Co. v. Simmons*, 298 So. 3d 1252 (Fla. 5th DCA 2020)

41. *Hull v. State*, 315 So. 3d 144 (Fla. 5th DCA 2021)
42. *Smith v. Fenton-Smith*, 318 So. 3d 1292 (Fla. 5th DCA 2021)
43. *Friedman v. Deutsche Bank Nat'l Tr. Co. as Tr. for Soundview Home Loan Tr. 2006-OPT5, Asset-Backed Certificates, Series 2006-OPT5*, 347 So. 3d 399 (Fla. 5th DCA 2021)
44. *Asselta v. Alpha Prime II, LLC*, 322 So. 3d 225 (Fla. 5th DCA 2021)
45. *Grant v. State,* 326 So. 3d 204 (Fla. 5th DCA 2021)
46. *Doddapaneni v. Doddapaneni*, 319 So. 3d 172 (Fla. 5th DCA 2021)
47. *Lykkebak v. Lykkebak*, 323 So. 3d 328 (Fla. 5th DCA 2021)
48. *Dennison v. Halifax Staffing, Inc.*, 336 So. 3d 345 (Fla. 5th DCA 2022)
49. *United Auto. Ins. Co. v. AFO Imaging*, 323 So. 3d 826 (Fla. 5th DCA 2021)
50. *Bathke v. Costley*, 332 So. 3d 1076 (Fla. 5th DCA 2021)
51. *Kenyon v. Kenyon*, 334 So. 3d 738 (Fla. 5th DCA 2022)
52. *HFC Collection Ctr., Inc. v. Alexander*, 326 So. 3d 803 (Fla. 5th DCA 2021)
53. *Colon-Perez v. Lindenberger*, 328 So. 3d 1152 (Fla. 5th DCA 2021)
54. *Mattamy Florida LLC v. Reserve at Loch Lake Homeowners Ass'n, Inc.*, 341 So. 3d 372 (Fla. 5th DCA 2022)
55. *D.T. v. Dep't of Children & Families*, 326 So. 3d 859 (Fla. 5th DCA 2021)
56. *Universal Prop. & Cas. Ins. Co. v. Motie*, 335 So. 3d 205 (Fla. 5th DCA 2022)
57. *Payne v. Koch*, 336 So. 3d 1280 (Fla. 5th DCA 2022)
58. *L.M. v. Dep't of Children & Families*, 336 So. 3d 1291 (Fla. 5th DCA 2022)
59. *Scaggs v. State*, 336 So. 3d 1289 (Fla. 5th DCA 2022)
60. *Hastings v. State*, 348 So. 3d 1174 (Fla. 5th DCA 2022)
61. *L.M. v. Dep't of Children & Families*, 336 So. 3d 1291 (Fla. 5th DCA 2022)
62. *State v. Williamson*, 348 So. 3d 48 (Fla. 5th DCA 2022)
63. *Scaggs v. State*, 336 So. 3d 1289 (Fla. 5th DCA 2022)
64. *Hohns v. Thompson*, 350 So. 3d 788 (Fla. 5th DCA 2022)
65. *Oddo v. Oddo*, 340 So. 3d 541 (Fla. 5th DCA 2022)
66. *State v. Trinidad*, 351 So. 3d 109 (Fla. 5th DCA 2022)
67. *Thakkar v. Good Gateway, LLC*, 351 So. 3d 192 (Fla 5th DCA 2022)
68. *State v. Andreskewicz*, 6D23-307, 2023 WL 2336083 (Fla. 6th DCA Mar. 3, 2023)
69. *Ainalez Lopez, S.L.P. v. Fla. Dep't of Health*, 6D23-322 (Fla. 6th DCA Mar. 24, 2023)
70. *Shirley v. State*, 274 So. 3d 536 (Fla. 5th DCA 2019) (per curiam)
71. *Malave v. State*, 269 So. 3d 669 (Fla. 5th DCA 2019) (per curiam)
72. *Henry v. State*, 273 So. 3d 1150 (Fla. 5th DCA 2019) (per curiam)
73. *Charles v. State*, 273 So. 3d 210 (Fla. 5th DCA 2019) (per curiam)
74. *Shinn v. State*, 283 So. 3d 1273 (Fla. 5th DCA 2019) (per curiam)
75. *Gaskins v. State*, 266 So. 3d 882 (Fla. 5th DCA 2019) (per curiam)
76. *Russell v. State*, 266 So. 3d 880 (Fla. 5th DCA 2019) (per curiam)
77. *Vanacore Constr., Inc. v. Bartholomew*, 263 So. 3d 307 (Fla. 5th DCA 2019) (per curiam)
78. *Kelly v. State*, 266 So. 3d 872 (Fla. 5th DCA 2019) (per curiam)
79. *Henry v. State*, 273 So. 3d 1150 (Fla. 5th DCA 2019) (per curiam)
80. *Pascal-Guarino v. First Protective Ins. Co.*, 277 So. 3d 778 (Fla. 5th DCA 2019) (per curiam)

81. *Harris v. Mims*, 273 So. 3d 1130 (Fla. 5th DCA 2019) (per curiam)
82. *Keene v. State*, 266 So. 3d 1264 (Fla. 5th DCA 2019) (per curiam)
83. *Corrales Volpi v. State*, 273 So. 3d 1149 (Fla. 5th DCA 2019) (per curiam)
84. *S.H. v. Dep't of Children & Families*, 264 So. 3d 1094 (Fla. 5th DCA 2019) (per curiam)
85. *S.H. v. Dep't of Children & Families*, 263 So. 3d 306 (Fla. 5th DCA 2019) (per curiam)
86. *Rish v. State*, 268 So. 3d 233 (Fla. 5th DCA 2019) (per curiam)
87. *Cherry v. State*, 268 So. 3d 922 (Fla. 5th DCA 2019) (per curiam)
88. *Dep't of Children & Families v. Rodriguez*, 267 So. 3d 1087 (Fla. 5th DCA 2019) (per curiam)
89. *Gorzelanczyk v. State*, 268 So. 3d 925 (Fla. 5th DCA 2019) (per curiam)
90. *Burns v. Houk*, 300 So. 3d 781 (Fla. 5th DCA 2020) (per curiam)
91. *Rogers v. State*, 273 So. 3d 1191 (Fla. 5th DCA 2019) (per curiam)
92. *Bent v. State*, 271 So. 3d 1212 (Fla. 5th DCA 2019) (per curiam)
93. *Gray v. State*, 275 So. 3d 1293 (Fla. 5th DCA 2019) (per curiam)
94. *Wappler v. State*, 293 So. 3d 1065 (Fla. 5th DCA 2020) (per curiam)
95. *Skelly v. Skelly*, 277 So. 3d 1087 (Fla. 5th DCA 2019) (per curiam)
96. *Clark v. State*, 282 So. 3d 989 (Fla. 5th DCA 2019) (per curiam)
97. *Delgado v. Morejon*, 295 So. 3d 1214 (Fla. 5th DCA 2020)
98. *Ellcey v. State*, 275 So. 3d 1273 (Fla. 5th DCA 2019) (per curiam)
99. *Nelson v. State*, 850 So. 2d 514 (Fla. 5th DCA 2019) (per curiam)
100. *Francois v. State*, 278 So. 3d 313 (Fla. 5th DCA 2019) (per curiam)
101. *Prive v. State*, 301 So. 3d 440 (Fla. 5th DCA 2020) (per curiam)
102. *Howitt v. State*, 278 So. 3d 312 (Fla. 5th DCA 2019) (per curiam)
103. *Murty v. State*, 286 So. 3d 921 (Fla. 5th DCA 2019) (per curiam)
104. *Smith v. State*, 291 So. 3d 637 (Fla. 5th DCA 2020) (per curiam)
105. *Easley v. State*, 291 So. 3d 1269 (Fla. 5th DCA 2020) (per curiam)
106. *Howitt v. State*, 278 So. 3d 312 (Fla. 5th DCA 2019) (per curiam)
107. *Murty v. State*, 286 So. 3d 921 (Fla. 5th DCA 2019) (per curiam)
108. *Smith v. State*, 291 So. 3d 637 (Fla. 5th DCA 2020) (per curiam)
109. Easley v. State, 291 So. 3d 1269 (Fla. 5th DCA 2020) (per curiam)
110. *O'Neal v. State*, 291 So. 3d 1285 (Fla. 5th DCA 2020) (per curiam)
111. *Waters v. State*, 301 So. 3d 509 (Fla. 5th DCA 2020) (per curiam)
112. *Rish v. State*, 291 So. 3d 629 (Fla. 5th DCA 2020) (per curiam)
113.*Hernandez v. State*, 291 So. 3d 625 (Fla. 5th DCA 2020) (per curiam)
114. *Juravin v. DCS Real Estate Investments, LLC*, 313 So. 3d 924 (Fla. 5th DCA 2021) (per curiam)
115. *Banash v. State*, 295 So. 3d 1249 (Fla. 5th DCA 2020) (per curiam)
116. *Vancise v. State*, 308 So. 3d 280 (Fla. 5th DCA 2020) (per curiam)
117. *Williams v. State*, 291 So. 3d 201 (Fla. 5th DCA 2020) (per curiam)
118. *Simpson v. State*, 291 So. 3d 626 (Fla. 5th DCA 2020) (per curiam)
119. *Green v. State*, 294 So. 3d 1016 (Fla. 5th DCA 2020) (per curiam)
120. *Harrison v. State*, 313 So. 3d 926 (Fla. 5th DCA 2021) (per curiam)
121. *McKiver v. State*, 293 So. 3d 631 (Fla. 5th DCA 2020) (per curiam)
122. *Akers v. State*, 300 So. 3d 811 (Fla. 5th DCA 2020) (per curiam)
123. *Simpson v. State*, 291 So. 3d 626 (Fla. 5th DCA 2020) (per curiam)
124. *Young v. State*, 298 So. 3d 1250 (Fla. 5th DCA 2020) (per curiam)

125. *Conteh v. State*, 299 So. 3d 628 (Fla. 5th DCA 2020) (per curiam)
126. *Davis v. State*, 303 So. 3d 1261 (Fla. 5th DCA 2020) (per curiam)
127. *Tullis v. State*, 308 So. 3d 690 (Fla. 5th DCA 2020) (per curiam)
128. *Mills v. State*, 311 So. 3d 1033 (Fla. 5th DCA 2021) (per curiam)
129. *Hunter v. State*, 325 So. 3d 935 (Fla. 5th DCA 2020) (per curiam)
130. *Boyd v. State*, 317 So. 3d 1285 (Fla. 5th DCA 2021) (per curiam)
131. *Jolteus v. State*, 325 So. 3d 935 (Fla. 5th DCA 2020) (per curiam)
132. *Jordan v. State*, 325 So. 3d 948 (Fla. 5th DCA 2021) (per curiam)
133. *Lee v. State*, 325 So. 3d 957 (Fla. 5th DCA 2021) (per curiam)
134. *Simpson v. State*, 347 So. 3d 381 (Fla. 5th DCA 2021) (per curiam)
135. *Innocenti v. State*, 330 So. 3d 1025 (Fla. 5th DCA 2021) (per curiam)
136. *Rivera v. State*, 325 So. 3d 959 (Fla. 5th DCA 2021) (per curiam)
137. *Hardy v. State*, 326 So. 3d 861 (Fla. 5th DCA 2021) (per curiam)
138. *Lindberg v. Assam*, 347 So. 3d 406 (Fla. 5th DCA 2021) (per curiam)
139. *Canales v. State*, 347 So. 3d 405 (Fla. 5th DCA 2021) (per curiam)
140. *Perez v. State*, 348 So. 3d 627 (Fla. 5th DCA 2021) (per curiam)
141. *Hampton v. State*, 333 So. 3d 357 (Fla. 5th DCA 2022) (per curiam)
142. *Mansell v. State*, 292 So. 3d 913 (Fla. 5th DCA 2020) (per curiam)
143. *Batool v. Prime Int'l Properties Duval, LLC*, 48 Fla. L. Weekly D50 (Fla. 5th DCA Dec. 29, 2022) (per curiam)
144. *Hussain v. Prime International Properties Duval, LLC*, 349 So. 3d 260 (Fla. 5th DCA 2022) (per curiam)
145. *Jeffrey Charles v. Shannon Williams*, 350 So. 3d 810 (Fla 5th DCA 2022 (per curiam)
146. *David Lai v. State*, 2022 WL 17365793 (Fla. 5th DCA Dec. 2, 2022) (per curiam)
147. *Danny Dean Allen v. State*, 348 So. 3d 649 (Fla. 5th DCA 2022) (per curiam)
148. *Brayann Edwals Escobar De Jesus v. State*, 166 So. 3d 805 (Fla. 5th DCA 2022) (per curiam)
149. *Ronald Curry v.* State, 350 So. 3d 404 (Fla. 5th DCA 2022) (per curiam)
150. *Demase v. State Farm Florida Insurance Co.*, 351 So. 3d 136 (Fla. 5th DCA 2022) (per curiam)

Writing Separately

1. *State v. Rosario*, 303 So. 3d 555, 566 (Fla. 5th DCA 2020) (concurring in part and dissenting in part)
2. *Landmark Constr. Inc. of Cent. Florida v. Anchor Prop. & Cas. Ins. Co.*, 325 So. 3d 153, 155 (Fla. 5th DCA 2020) (dissenting)
3. *Alvarez v. State Bd. of Admin.,* 326 So. 3d 730, 738 (Fla. 5th DCA 2021) (dissenting)
4. *Harmon Parker, P.A. v. Santek Mgmt., LLC*, 311 So. 3d 213, 219 (Fla. 2d DCA 2020) (dissenting)
5. *Abouzaid v. Helmy*, 326 So. 3d 209, 210 (Fla. 5th DCA 2021) (concurring)
6. *Soundbar, LLC v. BYM Commercial*, 328 So. 3d 1097, 1101 (Fla. 5th DCA 2021) (concurring in result)
7. *CTCW-Berkshire Club, LLC v. CED Capital Holdings 2000 EB, LLC*, 330 So. 3d 991 (Fla. 5th DCA 2021) (concurring)
8. *Knight v. State*, 324 So. 3d 64, 66 (Fla. 5th DCA 2021) (concurring specially)

9. *Sanchez v. Cnty. of Volusia*, 331 So. 3d 853, 855 (Fla. 5th DCA 2021) (concurring in part and dissenting in part)
10. *Merriman v. Adler*, 338 So. 3d 1084, 1086 (Fla. 5th DCA 2022) (concurring specially)
11. *Lyons v. State*, 301 So. 3d 508, 509 (Fla. 5th DCA 2020) (concurring in part and dissenting in part)
12. *Rivas v. State*, 338 So. 3d 1098, 1099 (Fla. 5th DCA 2022) (concurring in part and dissenting in part)
13. *State v. Phipps*, 346 So. 3d 1252, 1255 (Fla. 5th DCA 2022) (concurring)
14. *Enriquez v. Velazquez*, 350 So. 3d 147, 154 (Fla. 5th DCA 2022) (dissenting)
15. *Demase v. State Farm Florida Insurance Co.*, 351 So. 3d 136, 139 (Fla. 5th DCA 2022) (concurring specially)

(iv) descriptions of the five most significant cases you have tried or heard, identifying the citation or style, attorneys involved, dates of the case, and the reason you believe these cases to be significant.

Napolitano v. St. Joseph Catholic Church, 308 So. 3d 274 (Fla. 5th DCA 2020)

This case tested the reach of secular judicial power. The dispute arose after Jacqueline Napolitano sued Father Walden as Pastor of St. Joseph Catholic Church, St. Joseph Catholic Church, and John Gerard Noonan, as Bishop of the Diocese of Orlando, for an alleged breach of her employment agreement. The Church Defendants moved to dismiss, arguing the trial court lacked subject matter jurisdiction based on the church autonomy doctrine, also known as the ecclesiastical abstention doctrine. In litigating the motion to dismiss, both Napolitano and the Church Defendants filed affidavits prepared by competing experts in Canon Law, suggesting the manner in which Canon Law should be construed. The trial court granted the motion to dismiss, and our Court affirmed. In doing so, we concluded that the issue presented by Napolitano was one regarding ecclesiastical polity, and the ecclesiastical abstention doctrine barred consideration of the claim.

The case is significant because it demonstrates that a secular court's only legitimate role in resolving disputes related to religious doctrine is to ensure those disputes are committed to religious authorities. I wrote the opinion for a unanimous panel with Judge Richard Orfinger and Associate Judge Donna McIntosh concurring. Gus R. Benitez, of Benitez Law Group, P.L., represented Appellant. Caroline Landt, Kevin W. Shaughnessy, and Erin M. Sales of Baker Hostetler LLP, represented Appellees. The opinion was issued on December 18, 2020.

Bauduy v. Adventist Health Sys./Sunbelt, Inc., 288 So. 3d 87, 88 (Fla. 5th DCA 2019)

This case presented the issue of whether the adoption of article X, section 25 of the Florida Constitution, commonly referred to as Amendment 7, affects the statutory prohibition against the admissibility of certain incident reports set forth in section 395.0197, Florida Statutes (2018). Appellants argued that because Amendment 7 allows "access" to certain documents, they had a corresponding right to use those documents at trial, despite the statutory limitation

on the same documents' admissibility. Based on the plain language of Amendment 7, we disagreed and affirmed the trial court's decision to exclude the documents at issue.

The case is significant because it addressed the question presented as an issue of first impression. It also serves as an example of my approach to interpreting constitutional provisions based on the language adopted, rather than perceived policy objectives, and touches on the common misperception that silence in statutory and constitutional provisions necessarily creates ambiguity. I wrote for a unanimous panel with Judge Richard Orfinger and Associate Judge Anthony Tatti concurring. Jeremy K. Markman, of King & Markman, P.A., represented Appellants and Dinah S. Stein, Amanda Forti, and Mark Hicks, of Hicks, Porter, Ebenfeld & Stein, P.A., Miami and John W. Bocchino, Beytin, McLaughlin, McLaughlin, O'Hara, Bocchino & Bolin, P.A., represented Appellee. The opinion was issued on November 15, 2019.

Jarrod L. Taylor v. State of Florida, 267 So. 3d 1088 (Fla. 5th DCA 2019)

In this case, Jarrod L. Taylor was convicted of one count of unlawful possession of materials depicting sexual performance by a child (ten or more images) and fifty-five counts of unlawful possession of materials depicting sexual performance by a child. He argued that his convictions and sentences violated the prohibition against double jeopardy. The constitutional guarantee against double jeopardy is limited to assuring that courts do not exceed their legislative authorization by imposing multiple punishments arising from a single criminal act. So, when the Florida Legislature provides clear direction as to whether a person may be separately convicted or sentenced for offenses arising from the same criminal transaction, the specific legislative directive controls. In this opinion, we therefore examined the statutes giving rise to Taylor's convictions. In doing so, we discerned, from the plain language of the statutes, a clear legislative directive authorizing the charges Taylor received. We therefore determined that his convictions and sentences did not violate the prohibition against double jeopardy.

This was significant because it was the first opinion in our District addressing whether the legislature had authorized separate punishments for the conduct giving rise to Taylor's convictions. In addition, the case serves as an example of my commitment to discerning legislative intent from the plain language of the statute. I wrote the opinion for a unanimous panel with Judges Jay P. Cohen and Eric E. Eisnaugle concurring. Marcia J. Silvers of Marcia J. Silvers, P.A., represented Mr. Taylor and Kellie A. Nielan, of the Attorney General's Office represented the State of Florida. The opinion was issued on April 5, 2019.

Lillian D. Manney v. MBV Eng'g, Inc., 273 So. 3d 214 (Fla. 5th DCA 2019)

In this case, Lillian Manney argued that the trial court erred in determining that her claim against MBV Engineering, Inc., f/k/a Mosby, Moia, Bowles & Associates, Inc., f/k/a Mosby & Associates, Inc. ("MBV") was barred by the statute of repose. The issue on appeal boiled down to whether Manney's action for negligence against MBV, which was based on MBV's review of construction drawings and inspection for structural defects, was founded on the "design, planning, or construction" of an improvement to real property. The trial court found Manney's claim was barred by the statute of repose, because her claim "related to" the construction of

real property. We reversed, noting that the statute's plain language neither supported the trial court's determination nor encompassed Manney's claims.

This case is significant because it clarified the scope of the statute of repose. In addition, it serves as an example of my approach to applying the plain language of a statute in the absence of legislatively-supplied definitions. I wrote the opinion for a unanimous panel with Judges Eric E. Eisnaugle and Jamie R. Grosshans concurring. Ms. Manney was represented by Patrick F. Roche. Scott Cole of Cole, Scott, Kissane, P.A., represented MBV Engineering, Inc. The opinion was issued on May 10, 2019.

Shamrock-Shamrock, Inc. v. Remark, 271 So. 3d 1200 (Fla. 5th DCA 2019), *review denied*, SC19-1106, 2019 WL 5290225 (Fla. Oct. 17, 2019)

This case of first impression presented the issue of whether Florida law imposes a duty on nonparties to litigation to preserve evidence based solely on the foreseeability of litigation.

The issue arose after Shamrock-Shamrock, Inc., sued the City of Daytona Beach and its Planning Board over a re-zoning dispute. Tracey Remark was a member of the Planning Board at the time it reviewed a decision denying Shamrock's zoning request, but she was never a party to the litigation between Shamrock and the City. Shamrock deposed Remark and learned she had destroyed her old computer that may have stored evidence relevant to Shamrock's lawsuit against the City. As such, Shamrock filed a separate lawsuit against Remark, alleging a third-party spoliation of evidence claim. However, because there was no statute, contract, or subpoena imposing a duty on Remark to preserve potentially relevant evidence, a duty would arise based only on the foreseeability of litigation. In affirming the trial court's decision, we agreed that Remark did not have a duty to preserve evidence based on the foreseeability of litigation.

This case is significant because of the rule announced, but also because it serves as an example of a case presenting a common law issue of first impression. I wrote the opinion for a unanimous panel with Judges Jay P. Cohen and Eric E. Eisnaugle concurring. Dorothy F. Easley of Easley Appellate Practice, PLLC, represented Appellant. Gary M. Glassman of the Daytona Beach City Attorney's Office represented Appellee. The opinion was issued on April 26, 2019.

27. Provide citations and a brief summary of all of your orders or opinions where your decision was reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, attach copies of the opinions.

Fruehwirth v. State, 292 So. 3d 1271 (Fla. 5th DCA 2020) - This was a tag case to *Gabriel v. State,* 325 So. 3d 96 (Fla. 5th DCA 2019), *decision quashed*, 314 So. 3d 1243 (Fla. 2021). Our panel concluded we were constrained by a prior panel opinion of our court and re-certified the inter-district conflict and question of great public importance posed by the *Gabriel* panel.

Tate v. State, 374 So. 3d 375 (Fla. 5th DCA 2019) - This was a tag case to *Fuller v. State*, 257 So. 3d 521, 524 (Fla. 5th DCA 2018), *review granted, decision quashed*, 45 Fla. L. Weekly S186 (Fla.

May 29, 2020). Our panel concluded we were constrained by the prior panel opinion of our court and re-certified the inter-district conflict.

Piccinini v. State, 275 So. 3d 210 (Fla. 5th DCA 2019) - In this case, our court affirmed Piccinini's conviction but remanded for resentencing after determining the trial court improperly considered his lack of remorse and failure to take responsibility in rendering its sentence. The decision was quashed following *Davis v. State*, 332 So. 3d 970 (Fla. 2021) for reconsideration.

28. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, attach copies of the opinions.

Florida Ass'n of Realtors v. Orange Cnty., 350 So. 3d 115 (Fla. 5th DCA 2022) (concurring in majority opinion)

Landmark Constr. Inc. of Cent. Florida v. Anchor Prop. & Cas. Ins. Co., 325 So. 3d 153, 154 (Fla. 5th DCA 2020) (dissenting), *review denied*, SC20-1428, 2020 WL 6128206 (Fla. Oct. 19, 2020)

Napolitano v. St. Joseph Catholic Church, 308 So. 3d 274 (Fla. 5th DCA 2020) (writing for majority)

Bauduy as Next Friend of D.B. v. Adventist Health Sys./Sunbelt, Inc., 288 So. 3d 87 (Fla. 5th DCA 2019) (writing for majority)

Taylor v. State, 267 So. 3d 1088 (Fla. 5th DCA 2019) (writing for majority)

29. Has a complaint about you ever been made to the Judicial Qualifications Commission? If so, give the date, describe the complaint, whether or not there was a finding of probable cause, whether or not you have appeared before the Commission, and its resolution.

No.

30. Have you ever held an attorney in contempt? If so, for each instance state the name of the attorney, case style for the matter in question, approximate date and describe the circumstances.

No.

31. Have you ever held or been a candidate for any other public office? If so, state the office, location, dates of service or candidacy, and any election results.

No.

NON-LEGAL BUSINESS INVOLVEMENT

32. If you are now an officer, director, or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office.

N/A

33. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, explain and provide dates. If you received any compensation of any kind outside the practice of law during this time, please list the amount of compensation received.

No.

POSSIBLE BIAS OR PREJUDICE

34. The Commission is interested in knowing if there are certain types of cases, groups of entities, or extended relationships or associations which would limit the cases for which you could sit as the presiding judge. Please list all types or classifications of cases or litigants for which you, as a general proposition, believe it would be difficult for you to sit as the presiding judge. Indicate the reason for each situation as to why you believe you might be in conflict. If you have prior judicial experience, describe the types of cases from which you have recused yourself.

My husband and father-in-law are practicing attorneys, and I recuse in any cases involving them or their firm, or their family members who are also practicing attorneys. Otherwise, I have recused consistent with the Code of Judicial Conduct Canon 3E(1)(b) when a lawyer from a firm I was formerly associated with appears before the court on which I serve.

PROFESSIONAL ACCOMPLISHMENTS AND OTHER ACTIVITIES

35. List the titles, publishers, and dates of any books, articles, reports, letters to the editor, editorial pieces, or other published materials you have written or edited, including materials published only on the Internet. Attach a copy of each listed or provide a URL at which a copy can be accessed.

Workers' Compensation Cases Face Challenges; Johns Eastern Company, Inc. Quarterly Newsletter, Dec. 20, 2013; available at http://www.johnseastern.com/wpcontent/uploads/2016/05/Q3-4-Newsletter.pdf

36. List any reports, memoranda or policy statements you prepared or contributed to the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. Provide the name of the entity, the date published, and a summary of the document. To the extent you have the document, please attach a copy or provide a URL at which a copy can be accessed.

I was appointed to the District Court of Appeal Workload and Jurisdiction Assessment Committee by the Chief Justice of the Florida Supreme Court. Our committee published a report on September 30, 2021, which evaluated the necessity for increasing, decreasing, or redefining the appellate districts and provided recommendations based on the evaluation. I contributed to the minority report which can be accessed at https://www.flcourts.org/DCA-Committee-Report.

I was appointed as chair of the Workgroup on the Implementation of an Additional District Court of Appeal by the Chief Justice of the Florida Supreme Court. Our workgroup provided a report to the Chief Justice on August 19, 2022. A copy is attached.

37. List any speeches or talks you have delivered, including commencement speeches, remarks, interviews, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place they were delivered, the sponsor of the presentation, and a summary of the presentation. If there are any readily available press reports, a transcript or recording, please attach a copy or provide a URL at which a copy can be accessed.

On March 8, 2023, the Seminole County Women Lawyer's Association hosted a lunch on International Women's Day at which I spoke regarding my career and the Sixth DCA implementation process.

On January 31, 2023, I spoke at a local elementary school to a group of kindergarteners about structure of government, the role of a judge, and what it is like to have a career as a judge.

On January 26, 2023, I conducted the Oath of Attorneys at the Red Mass at St. James Cathedral in Orlando.

On January 17, 2023, I provided an update on the Sixth DCA implementation process to the House and Senate Judiciary Committees. The House presentation is accessible at https://thefloridachannel.org/videos/1-17-23-house-judiciary-committee/. The Senate presentation is accessible at https://thefloridachannel.org/videos/1-17-23-senate-committee-on-judiciary/.

On November 7, 2022, Chief Judge Munyon of the Ninth Circuit and I discussed the Sixth DCA implementation process on the "Open Ninth" podcast. A recording can be accessed at https://podcasts.apple.com/us/podcast/sixth-district-court-of-appeal/id1145855551?i=1000585347866.

On October 27, 2022, the Collier County Bar Association hosted a DCA Dinner at which I provided remarks regarding the Sixth DCA and conducted the Oath of Attorney for newly admitted attorneys.

On October 27, 2022, I spoke to the Ave Maria Law School Moot Court Board about my career and best practices in appellate advocacy.

On September 15, 2022, the Orlando Lawyers Chapter of the Federalist Society hosted a panel entitled "Judicial Reasoning, Roles, and Rationales: A View from all of Florida's Courts" moderated by Judge Molly Nardella. I spoke on topics such as preservation, party presentation, and prudential considerations relevant to opinion writing.

On September 7, 2022, I provided remarks at the Fall Education Program of the Florida Conference of District Court of Appeal Judges regarding the status of the implementation of the Sixth DCA.

On August 30, 2022, the Appellate Practice Section of the Florida Bar hosted a CLE entitled "An introduction to the Sixth District Court of Appeal." Along with my colleagues, I discussed the events leading up to the creation of the Sixth District Court of Appeal and the status of its implementation.

On August 22, 2022, I co-taught a course at the Conference of Circuit Court Judges with Judge Thomas Logue and Judge Keathan Frink on the new summary judgment standard.

On August 18, 2022, I discussed the implementation of the Sixth DCA with Robert Scavone, Jr. on the "Summarily" podcast. A recording of the conversation can be accessed at https://summarily.buzzsprout.com/1941273/11159234-fla-6th-dca-2023.

On April 22, 2022, the Christian Legal Society hosted a Spring Panel at Barry Law School. I participated in a panel discussion with Judges Gisela Laurent, Brian Sandor, and Elizabeth Gibson and attorney Tom Marks regarding our experiences in the legal profession as Christians.

On April 8, 2022, the Orange County Bar Association hosted a Bench and Bar Conference. I participated on a panel entitled "Judicial Philosophy 2.0" with Justice Alan Lawson and Judge James Edwards, facilitated by attorney Bill Ponall regarding various aspects of my judicial philosophy.

On February 4, 2022, the Federalist Society hosted the Eighth Annual Florida Chapters Conference at which I moderated a panel on redistricting. The panel discussed state and federal issues related to redistricting. The discussion is available at https://fedsoc.org/conferences/2022-annual-florida-chapters-conference#agenda-item-panel-one-redistricting-in-florida.

On December 8, 2021, the Jacksonville Lawyers Chapter of the Federalist Society hosted a discussion entitled "Appellate Perspectives." I participated in a discussion with several other current and former appellate judges about best practices in appeals.

On December 1, 2021, I participated in a panel discussion hosted by the Broward County Bar Association, along with Chief Justice Canady and Judge Alexander Bokor, among others, entitled "Views from the Bench." I spoke about various issues facing the judiciary including COVID-19 and about my personal experience as a working mom.

On November 17, 2021, I spoke at the investiture of Justice Jamie Grosshans about her background and path to the bench. The speech is accessible at https://thefloridachannel.org/videos/11-17-21-investiture-of-florida-supreme-court-justice-jamie-grosshans/. An article referencing the speech is available at https://www.floridabar.org/the-florida-bar-news/grosshans-ceremonially-sworn-in-as-a-justice-of-the-supreme-court/.

On September 23, 2021, the Hispanic Bar Association of Central Florida and the Orange County Bar Association hosted a joint luncheon for Hispanic Heritage Month with a panel discussion among legal professionals of Hispanic descent. I discussed how my family came to the United States, how my background shaped my career path, and how my background informs my judicial philosophy, among other issues. Coverage was included in the Orange County Bar Association's publication which is accessible at https://issuu.com/orangecobarassociationorlando/docs/ocba_the_briefs_november_2021_online.

On August 20, 2021, I spoke at the investiture of Judge John Beamer about his background and path to the bench. The speech is accessible at https://9thnow.lightcast.com/player/23077/394361.

On July 21, 2021, I gave a speech at a luncheon hosted by the Central Florida Chapter of the Christian Legal Society entitled "Biblical Principles and the Law" about the origins and nature of American political thought and parallels between Biblical and modern law.

On October 15, 2020, the Seminole County Bar Association hosted a luncheon at which I facilitated a discussion with Justice Jamie Grosshans about her background and her path to the bench, as well as tips for practicing before the Florida Supreme Court.

On October 22, 2020, the Palm Beach Federalist Society hosted a Zoom meeting where I interviewed Justice Jamie Grosshans about her background and her path to the bench, as well as tips for practicing before the Florida Supreme Court.

On October 2, 2020, the Orange County Bar Association hosted a Bench and Bar Conference. I participated on a panel entitled "Judicial Philosophy" with Justice Alan Lawson and Judge James Edwards, facilitated by Bill Ponall, and spoke about various aspects of my judicial philosophy.

On May 26, 2020, the Pro Bono Section of the Florida Bar hosted a conference where I participated on a judicial panel entitled "Ethical Pitfalls in Appeals and How to Avoid Them" with Judge Dan Traven and (then Judge) Jamie Grosshans. We discussed ethical issues in appeals, and the discussion is accessible at https://www.youtube.com/watch?v=KSng9WvlWBg.

On February 3, 2020, I spoke at a Women's Conference for female professionals with varying occupations, sponsored by Cole, Scott, Kissane, about breaking stereotypes in business.

On November 13, 2019, the Seminole County chapter of the Florida Association for Women Lawyers hosted a luncheon lecture entitled "Go for it!" I spoke regarding the unique issues women lawyers face in the profession.

On November 8, 2019, the Appellate Practice Section of the Florida Bar hosted a course entitled "Practicing Before the Fifth District Court of Appeal." I participated on a "pop quiz" panel with other judges from the Fifth District and an interview segment with (then Judge) Jamie Grosshans. The course is available at https://www.flabarappellate.org/2019/11/practicing-before-the-florida-fifth-district-court-of-appeal-2019-3482/.

On November 1, 2019, the Young Lawyers Division of the Florida Bar hosted a summit for government lawyers. I spoke on a judicial branch panel with Chief Judge Don Myers and Judge Yolonda Green on various topics related to the judiciary including paths to the bench and effective advocacy.

On October 21, 2019, I spoke at Professor Gary Glassman's American Judicial Process class at Stetson University regarding my path to the bench and perspectives from the bench.

On March 13, 2019, the Orange County Bar Association Appellate Practice Committee hosted a seminar entitled "Criminal Appeals and Postconviction Relief in 2019." I participated in a panel discussion with Judge John Harris and then-Judge Jamie Grosshans on the topics of effective advocacy, oral arguments, and the court's decision-making process.

On March 29, 2018, the Palm Beach County Chapter of the Florida Association for Women Lawyers sponsored a program entitled "Demystifying Judicial Nominations." I spoke on a panel with Paul Huck, Jr. and Rocky Rodriguez regarding Florida's judicial appointment process.

On February 8, 2018, the Jacksonville Women Lawyers Association hosted a luncheon lecture entitled "Being Heard in Front of the JNC and Beyond." I spoke on behalf of the Governor's office regarding Florida's judicial appointment process. The Jacksonville Daily Record reported on the luncheon, and the article is accessible at https://www.jaxdailyrecord.com/article/appointment-is-one-possible-path-to-the-bench.

On February 2, 2018, the Executive Office of the Governor hosted a training for judicial nominating commissioners. I spoke at the training on the authority and role of the judicial nominating commissions.

While associated with Broussard & Cullen, P.A., I presented relatively frequently to the firm's clients regarding various workers' compensation issues, including the application and effect of section 112.18, Florida Statutes (the "Heart/Lung Bill").

38. Have you ever taught a course at an institution of higher education or a bar association? If so, provide the course title, a description of the course subject matter, the institution at which you taught, and the dates of teaching. If you have a syllabus for each course, please provide.

No.

39. List any fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement. Include the date received and the presenting entity or organization.

100% Bright Futures Scholarship: Academic scholarship awarded based on a combination of GPA, college entrance exam scores, and community service hours.

University Scholar: One of small number of students across all disciplines chosen through a competitive process to undertake a full research project, under the guidance of a faculty member.

Division of Housing Awards: Honored by the University of Florida's Division of Housing with the "academic award" in recognition of my academic achievements, the "programming award" in recognition of the programs I organized for residents, and the "special recognition award" for general service as a resident assistant.

Justice Campbell Thornal Moot Court Board: Selected through competitive process for the moot court team, a co-curricular organization founded with the mission of promoting excellence in appellate advocacy.

Pro Bono Honors: Awarded to law students who exceeded a certain amount of pro bono hours.

Community Service Honors: Awarded to law students who exceeded a certain amount of community service hours.

Certificate of Appreciation: Legal Aid Society of the Orange County Bar Association April 24, 2017.

40. Do you have a Martindale-Hubbell rating? If so, what is it and when was it earned?

No.

41. List all bar associations, legal, and judicial-related committees of which you are or have been a member. For each, please provide dates of membership or participation. Also, for each indicate any office you have held and the dates of office.

To the best of my recollection a complete list and accompanying dates is as follows:

Commissioner – Ninth Circuit Judicial Nominating Commission (July 2014-August 2016)
Central Florida Association for Women Lawyers (2009-2016)
Fall into Fashion Committee, 2012
Federalist Society (2011-present)
Florida Association for Women Lawyers (2009-2020)
Florida Bar (admitted 2008)
Appellate Court Rules Committee, June 2018-present
Appellate Practice Section, periodic membership since 2008

Florida Conference of District Court of Appeal Judges (2019-present)
Legislative Committee, September 2019-December 2022
Executive Committee, January 1, 2023-present
Florida District Court of Appeal Budget Commission (January 2023-present)
Martin County Bar Association (August 2008-September 2009)
Young Lawyers Division Chair; Social Chair; Constitutional Law Week Speaker
Orange County Bar Association (October 2009-present)
Orange County Young Lawyers (2009-2016)
Law Clerk Reception Committee: 2011, 2012
Orange County Workers' Compensation Section (2010-2014)
Seminole County Bar Association (2009-present)
Seminole County Inns of Court (2009-2016)
Workgroup on the Implementation of an Additional District Court of Appeal (June 2022-present)

42. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in the previous question to which you belong, or to which you have belonged since graduating law school. For each, please provide dates of membership or participation and indicate any office you have held and the dates of office.

To the best of my recollection a complete list and accompanying dates is as follows:

American Enterprise Institute Leadership Network (2016-present)
Central Florida Tiger Bay Club (periodic membership from 2011-2022)
Board Member, December 2019-2022
Central Florida Gator Club (2013)
Gator Club Martin and Palm Beach County (2008-2009)
Orange Blossom Trail Economic Development Board Member (2014-2016)
Orange County Young Republicans (2009-2016)
Secretary, 2015
Public Risk Management Association (2009-2014)
Risk Insurance Management Society (2010-2014)
Rotary Club of Baldwin Park (2009-2014)
St. Luke's Lutheran Church (2008-present; *confirmed April 6, 2014*)
Teneo Network (2020-present)
Winter Park YMCA Board (2011-2016)
Social Responsibility Chair, 2014-2015
Scholarship Chair, 2012-2013
Community Scholarship Chair, 2011-2012
Teen Board Chair, 2012
Young Professionals of Martin County (2008-2009)

43. Do you now or have you ever belonged to a club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion (other than a church, synagogue, mosque or other religious institution), national origin, or sex (other than an educational institution, fraternity or sorority)? If so, state the name and nature of the club(s) or organization(s), relevant policies and practices and whether you intend to continue as a member if you are selected to serve on the bench.

No.

44. Please describe any significant pro bono legal work you have done in the past 10 years, giving dates of service.

I served as a Guardian ad Litem in Orange County beginning in 2013 until I joined the Executive Office of the Governor in 2016. During that time, I served as Guardian ad Litem to two children, both born of the same mother, during the pendency of the State's action for termination of parental rights against the parents. In addition, I received pro bono credit in law school for the hours I served with the Miami-Dade State Attorney's Office, as the internship was on a volunteer basis.

45. Please describe any hobbies or other vocational interests.

Beyond spending time with family, my hobbies include watching Gator football, reading, piano, and fitness.

46. Please state whether you have served or currently serve in the military, including your dates of service, branch, highest rank, and type of discharge.

N/A

47. Please provide links to all social media and blog accounts you currently maintain, including, but not limited to, Facebook, Twitter, LinkedIn, and Instagram.

https://www.instagram.com/msasso215

FAMILY BACKGROUND

48. Please state your current marital status. If you are currently married, please list your spouse's name, current occupation, including employer, and the date of the marriage. If you have ever been divorced, please state for each former spouse their name, current address, current telephone number, the date and place of the divorce and court and case number information.

Michael A. Sasso
Attorney - [redacted]
Date of Marriage: 12/15/12

49. If you have children, please list their names and ages. If your children are over 18 years of age, please list their current occupation, residential address, and a current telephone number.

[redacted]

CRIMINAL AND MISCELLANEOUS ACTIONS

50. Have you ever been convicted of a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

No.

51. Have you ever pled nolo contendere or guilty to a crime which is a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

No.

52. Have you ever been arrested, regardless of whether charges were filed? If so, please list and provide sufficient details surrounding the arrest, the approximate date and jurisdiction.

No.

53. Have you ever been a party to a lawsuit, either as the plaintiff, defendant, petitioner, or respondent? If so, please supply the case style, jurisdiction/county in which the lawsuit was filed, case number, your status in the case, and describe the nature and disposition of the matter.

Christopher Gary Baylor v. Meredith L. Sasso, et al., 05-2022-CA-020287 (Fla. 18th Cir. Ct. 2022). This case involves a complaint filed by a litigant against me and several other judges in our official capacity alleging the denial of fundamental rights and requesting injunctive relief. The complaint was dismissed with prejudice on August 29, 2022.

54. To your knowledge, has there ever been a complaint made or filed alleging malpractice as a result of action or inaction on your part?

No.

55. To the extent you are aware, have you or your professional liability carrier ever settled a claim against you for professional malpractice? If so, give particulars, including the name of the client(s), approximate dates, nature of the claims, the disposition and any amounts involved.

No.

56. Has there ever been a finding of probable cause or other citation issued against you or are you presently under investigation for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group. If so, provide the particulars of each finding or investigation.

No.

57. To your knowledge, within the last ten years, have any of your current or former co-workers, subordinates, supervisors, customers, clients, or the like, ever filed a formal complaint or accusation of misconduct including, but not limited to, any allegations involving sexual harassment, creating a hostile work environment or conditions, or discriminatory behavior against you with any regulatory or investigatory agency or with your employer? If so, please state the date of complaint or accusation, specifics surrounding the complaint or accusation, and the resolution or disposition.

No.

58. Are you currently the subject of an investigation which could result in civil, administrative, or criminal action against you? If yes, please state the nature of the investigation, the agency conducting the investigation, and the expected completion date of the investigation.

No.

59. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you, this includes any corporation or business entity that you were involved with? If so, please provide the case style, case number, approximate date of disposition, and any relevant details surrounding the bankruptcy.

No.

60. In the past ten years, have you been subject to or threatened with eviction proceedings? If yes, please explain.

No.

61. Please explain whether you have complied with all legally required tax return filings. To the extent you have ever had to pay a tax penalty or a tax lien was filed against you, please explain giving the date, the amounts, disposition, and current status.

I have complied with all legally required tax return filings.

HEALTH

62. Are you currently addicted to or dependent upon the use of narcotics, drugs, or alcohol?

No.

63. During the last ten years have you been hospitalized or have you consulted a professional or have you received treatment or a diagnosis from a professional for any of the following: Kleptomania, Pathological or Compulsive Gambling, Pedophilia, Exhibitionism or Voyeurism? If your answer is yes, please direct each such professional, hospital and other facility to furnish the Chairperson of the Commission any information the Commission may request with respect to any such hospitalization, consultation, treatment or diagnosis. ["Professional" includes a Physician, Psychiatrist, Psychologist, Psychotherapist or Mental Health Counselor.] Please describe such treatment or diagnosis.

No.

64. In the past ten years have any of the following occurred to you which would interfere with your ability to work in a competent and professional manner: experiencing periods of no sleep for two or three nights, experiencing periods of hyperactivity, spending money profusely with extremely poor judgment, suffering from extreme loss of appetite, issuing checks without sufficient funds, defaulting on a loan, experiencing frequent mood swings, uncontrollable tiredness, falling asleep without warning in the middle of an activity. If yes, please explain.

No.

65. Do you currently have a physical or mental impairment which in any way limits your ability or fitness to properly exercise your duties as a member of the Judiciary in a competent and professional manner? If yes please explain the limitation or impairment and any treatment, program or counseling sought or prescribed.

No.

66. During the last ten years, have you ever been declared legally incompetent or have you or your property been placed under any guardianship, conservatorship or committee? If yes, provide full details as to court, date, and circumstances.

No.

67. During the last ten years, have you unlawfully used controlled substances, narcotic drugs, or dangerous drugs as defined by Federal or State laws? If your answer is "Yes," explain in detail. (Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs taken under supervision of a licensed health care professional or other uses authorized by Federal or State law provisions.)

No.

68. In the past ten years, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned, or terminated by an employer as result of your alleged consumption of alcohol, prescription drugs, or illegal drugs? If so, please state the circumstances under which such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

No.

69. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? If so, please state the date you were requested to submit to such a test, the type of test required, the name of the entity requesting that you submit to the test, the outcome of your refusal, and the reason why you refused to submit to such a test.

No.

70. In the past ten years, have you suffered memory loss or impaired judgment for any reason? If so, please explain in full.

No.

SUPPLEMENTAL INFORMATION

71. Describe any additional education or experiences you have which could assist you in holding judicial office.

Serving the Executive Branch: There are three experiences I gained while serving the executive branch that standout as particularly relevant to my application for this position.

First, during my time serving the executive branch, I gained an informed appreciation for the separation of powers. Appropriate deference to coordinate branches is not a matter of courtesy; it is essential for the people's chosen representatives to operate. Likewise, judicial decisions are not the only available solution to problems. When judges step outside their role, they often justify it by claiming an altruistic purpose of correcting a perceived injustice. But as judges, we should honor both our defined role and the overall system in which we operate.

Second, during my time in the general counsel's office I played a small part in assisting a governor with his most solemn obligation: carrying out the death penalty. Consequently, while I have not litigated or rendered decisions in death penalty cases, the ultimate sentence imposed in those cases is neither an abstract nor merely academic concept to me.

Third, as both a former member of a judicial nominating commission and part of the EOG team tasked with vetting judicial candidates, I had the unique opportunity to study and test judicial philosophy in a very concrete way. I have found that experience has served me well in my current role and believe it will translate meaningfully if I am selected for this position.

Serving in Administrative Rolls: On June 2, 2022, Governor DeSantis signed House Bill 7027 which authorized the creation of the first new state appellate court district since 1979. Since that

time, I have served as the chair of the workgroup tasked with overseeing the implementation of the new district court, the interim chief administrative officer of the district prior to the first day of operations, and as its first chief judge. Through this experience, I have gained extensive insight into administration of the judicial branch, a deep appreciation for the civil servants that have committed their careers to supporting the judiciary, and the opportunity to analyze court operations from the ground up. I welcome the opportunity to apply what I have learned through this process to the Court's administrative and rule-making duties.

72. Explain the particular contribution you believe your selection would bring to this position and provide any additional information you feel would be helpful to the Commission and Governor in evaluating your application.

I am a first-generation American on my father's side. My grandparents left Cuba in 1953, a time when parts of the Cuban constitution had been suspended, seeking the liberty enjoyed by United States citizens. My grandfather arrived in New York on a Sunday and began working in a factory the next day. My grandmother and father joined him soon thereafter. They worked hard and eventually settled in Hialeah until they moved to Tallahassee.

In contrast, my mother's ancestors can be traced back to revolutionary war veterans. My mother's father, a resident of Louisiana and Alabama, aspired to attend medical school. However, his brother was serving as a pilot in the U.S. Army Air Corps during World War II. My grandfather received a letter from his brother, in which his brother expressed how much he longed for a Coca-Cola. This drove my grandfather to volunteer for the merchant marine—he wanted to get his brother that Coca-Cola. Most merchant ships sailed with little to no protection and Mariners suffered the highest rate of casualties of any service in World War II. Although his service derailed his medical aspirations, he and his brother made it back home safely and built a successful timber business together.

You would think my two grandfathers wouldn't have much in common, but the core values they shared fostered their great relationship. They both worked hard without complaint. They both made immense sacrifices, without guarantees, but with the hope they were building a better life for their families and their children's families. They both expected the same out of their children and grandchildren, having little tolerance for laziness and complaints. They both expect their children and grandchildren not to become complacent, but to build on the opportunities we've been given.

Stories like those of my grandfathers' drive me. I am constantly mindful that the liberty we enjoy exists because of real people's incredible sacrifices. And I am resolutely committed to fulfilling my judicial role in the manner for which it was intended: as an integral part of the structure of government created expressly to secure liberty for ourselves and our posterity.

REFERENCES

73. List the names, addresses, e-mail addresses and telephone numbers of ten persons who are in a position to comment on your qualifications for a judicial position and of whom inquiry may be made by the Commission and the Governor.

The Honorable Raag Singhal
U.S. Federal Building and Courthouse
299 East Broward Boulevard
Courtroom 110, Chambers 107
Fort Lauderdale, Florida 33301
(954) 769-5430
singhal@flsd.uscourts.gov

The Honorable Alan Lawson
Lawson Huck Gonzalez, PLLC
215 S Monroe St Ste 320
Tallahassee, FL 32301
(850) 825-4326
lawsona@flcourts.org

The Honorable Eric Eisnaugle
Fifth District Court of Appeal
300 S Beach St
Daytona Beach, FL 32114
(386) 255-8600
eisnauglee@flcourts.org

The Honorable Molly Nardella
Sixth District Court of Appeal
811 E Main St
Lakeland, FL 33801
(863) 274-9750
nardellam@flcourts.org

The Honorable Joshua Mize
Sixth District Court of Appeal
811 E Main St
Lakeland, FL 33801
(863) 274-9754
mizej@flcourts.org

Jeff Aaron
Gray Robinson
301 East Pine Street

Suite 1400
Orlando, FL 32801
(239) 745-2777
jeff.aaron@gray-robinson.com

Benjamin J. Gibson
Shutts & Bowen, LLP
215 S. Monroe St. Ste. 804
Tallahassee, FL 32301
(850) 241-1717
bgibson@shutts.com

Glenton Gilzean, Jr.
Central Florida Urban League
2804 Belco Drive
Orlando, FL 32808
(407) 841-7654
ggilzean@cful.org

Patrick Kilbane
Ullmann Wealth Partners
1540 The Greens Way
Jacksonville Beach, FL 32250
[redacted]
pkilbane@ullmannwealthpartners.com

Nicholas Primrose
Jacksonville Port Authority
2831 Talleyrand Ave
Jacksonville, FL 32206
(904) 357-3132
nicholas.primrose@jaxport.com

CERTIFICATE

I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any judicial or professional disciplinary or supervisory body or commission, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the respective Judicial Nominating Commission and Office of the Governor any information, files, records or credit reports requested by the commission in connection with any consideration of me as possible nominee for appointment to judicial office. Information relating to any Florida Bar disciplinary proceedings is to be made available in accordance with Rule 3-7.1(l), Rules Regulating The Florida Bar. I recognize and agree that, pursuant to the Florida Constitution and the Uniform Rules of this commission, the contents of this questionnaire and other information received from or concerning me, and all interviews and proceedings of the commission, except for deliberations by the commission, shall be open to the public.

Further, I stipulate I have read and understand the requirements of the Florida Code of Judicial Conduct.

Dated this 31st day of March, 2023.

Meredith Sasso
Printed Name

Meredith Sasso
Signature

(Pursuant to Section 119.071(4)(d)(1), F.S.), . . . *The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1), dealing with public records.*

FINANCIAL HISTORY

1. State the amount of gross income you have earned, or losses you have incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

   Current Year-To-Date: $50,610.00

   Last Three Years: $197,272.50 $183,373.02 $170,825.76

2. State the amount of net income you have earned, or losses you have incurred (after deducting expenses but not taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

   Current Year-To-Date: $50,610.00

   Last Three Years: $197,272.50 $183,373.02 $170,825.76

3. State the gross amount of income or loses incurred (before deducting expenses or taxes) you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

   Current Year-To-Date: n/a

   Last Three Years: n/a _____ _____

4. State the amount you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

   Current Year-To-Date: n/a

   Last Three Years: n/a _____ _____

5. State the amount of net income you have earned or losses incurred (after deducting expenses) from all sources other than the practice of law for the preceding three-year period on a year by year basis, and generally describe the sources of such income or losses.

   Current Year-To-Date: n/a

   Last Three Years: n/a _____ _____

FORM 6
FULL AND PUBLIC

DISCLOSURE OF
FINANCIAL INTEREST

PART A – NET WORTH

Please enter the value of your net worth as of December 31 or a more current date. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of 3/30, 20 23 was $ 1,742,087.63

PART B - ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds $1,000. This category includes any of the following, if not held for investment purposes; jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use.

The aggregate value of my household goods and personal effects (described above) is $ 75,000

ASSETS INDIVIDUALLY VALUED AT OVER $1,000:

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)	VALUE OF ASSET
Vanguard Target Retirement 2040 Trust Select 401k Retirement Fund	$107,249.68
Bank of America Checking Account	$6,709.34
Bank of America Savings Account	$53,128.61
Personal Residence Orlando, FL	$1,500,000.00

PART C - LIABILITIES

LIABILITIES IN EXCESS OF $1,000 (See instructions on page 4): NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY
N/A	

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE: NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY

PART D - INCOME

You may ***EITHER*** (1) file a complete copy of your latest federal income tax return, *including all W2's, schedules, and attachments,* ***OR*** (2) file a sworn statement identifying each separate source and amount of income which exceeds $1,000 including secondary sources of income, by completing the remainder of Part D, below.

☐ I elect to file a copy of my latest federal income tax return and all W2's, schedules, and attachments.
(if you check this box and attach a copy of your latest tax return, you need *not* complete the remainder of Part D.]

PRIMARY SOURCE OF INCOME (See instructions on page 5):

NAME OF SOURCE OF INCOME EXCEEDING $1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
State of Florida - Salary	200 E. Gaines St. Tallahassee, FL 32399	$202,440.00

SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person—see instructions on page 6]

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

PART E – INTERESTS IN SPECIFIC BUSINESS [Instructions on page 7]

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE ☐

OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

SIGNATURE

STATE OF FLORIDA

COUNTY OF Orange

Sworn to (or affirmed) and subscribed before me this 30th day of March, 2023 by _____

Barbara K. DeVore

(Signature of Notary Public—State of Florida)

Barbara K. DeVore

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known ✓ OR Produced Identification _____

Type of Identification Produced _____

BARBARA K. DEVORE
Notary Public - State of Florida
Commission # HH 174955
My Comm. Expires Sep 12, 2025
Bonded through National Notary Assn.

JUDICIAL APPLICATION DATA RECORD

The judicial application shall include a separate page asking applicants to identify their race, ethnicity and gender. Completion of this page shall be optional, and the page shall include an explanation that the information is requested for data collection purposes in order to assess and promote diversity in the judiciary. The chair of the Commission shall forward all such completed pages, along with the names of the nominees to the JNC Coordinator in the Governor's Office (pursuant to JNC Uniform Rule of Procedure).

(Please Type or Print)

Date: March 31, 2023

JNC Submitting To: Florida Supreme Court

Name (please print): Meredith Sasso

Current Occupation: District Judge

Telephone Number: [redacted] Attorney No.: 58189

Gender (check one): ☐ Male ☒ Female

Ethnic Origin (check one):
- ☐ White, non-Hispanic
- ☒ Hispanic
- ☐ Black
- ☐ American Indian/Alaskan Native
- ☐ Asian/Pacific Islander

County of Residence: Orange

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

DISCLOSURE PURSUANT TO THE
FAIR CREDIT REPORTING ACT (FCRA)

The Florida Department of Law Enforcement (FDLE) may obtain one or more consumer reports, including but not limited to credit reports, about you, for employment purposes as defined by the Fair Credit Reporting Act, including for determinations related to initial employment, reassignment, promotion, or other employment-related actions.

CONSUMER'S AUTHORIZATION FOR
FDLE TO OBTAIN CONSUMER REPORT(S)

I have read and understand the above Disclosure. I authorize the Florida Department of Law Enforcement (FDLE) to obtain one or more consumer reports on me, for employment purposes, as described in the above Disclosure.

Meredith Sasso

Printed Name of Applicant

Meredith Sasso

Signature of Applicant

Date: March 31, 2023

351 So.3d 136
District Court of Appeal of Florida, Fifth District.

Thomas DEMASE and Joanne Demase, Appellants,
v.
STATE FARM FLORIDA
INSURANCE COMPANY, Appellee.

Case No. 5D21-2078

Opinion Filed November 14, 2022

Synopsis

Background: Insureds brought action against property insurer to recover for bad faith denial of claim for sinkhole collapse. Insureds brought first-party bad faith action against home insurer. The Circuit Court, 5th Judicial Circuit, Hernando County, Richard Tombrink, Jr., J., granted insurer's motion to dismiss. Insureds appealed. The District Court of Appeal, Orfinger, J., 239 So.3d 218, reversed and remanded. On remand, the Circuit Court, Donald E. Scaglione, J., 2021 WL 3617403, entered summary judgment in favor of insurer based on legally insufficient civil remedy notice (CRN). Insureds appealed.

[Holding:] The District Court of Appeal held that CRN was legally insufficient even under substantial compliance test.

Affirmed.

Sasso, J., concurred and concurred specially with opinion.

Procedural Posture(s): On Appeal; Motion for Summary Judgment.

West Headnotes (1)

[1] **Insurance** Notice, proof, and demand by insured

Insurance Notice and proof of loss

Civil remedy notice (CRN) that was attached to complaint alleging bad faith denial of claim for sinkhole collapse failed to satisfy requirement to state the necessary information with specificity and was legally insufficient even under substantial compliance test, although Department of Financial Services accepted the CRN; CRN claimed insurer's violation of 15 statutes and 22 regulations and implicated virtually the whole policy. Fla. Stat. Ann. § 624.155(3).

More cases on this issue

Appeal from the Circuit Court for Hernando County, Donald Scaglione, Judge. LT Case No. 2015-CA-1361

Attorneys and Law Firms

George A. Vaka and Nancy A. Lauten, of Vaka Law Group, P.L., Tampa, for Appellants.

Ezequiel Lugo, of Banker Lopez Gassler, P.A., Tampa, for Appellee.

Opinion

PER CURIAM.

Thomas and Joanne Demase ("the Demases") appeal the final summary judgment entered in favor of State Farm Florida Insurance Company ("State Farm"). Specifically, the Demases argue the trial court erred in ruling their civil remedy notice ("CRN") was ineffective as a matter of law, contending their CRN was legally sufficient and State Farm failed to cure the alleged violations in the CRN. Because we conclude the CRN lacked the requisite level of specificity, we reject the Demases' arguments and affirm the trial court in all respects.

BACKGROUND AND FACTS

This first-party property insurance case arises out of a sinkhole claim where the Demases filed a single count complaint against State Farm for statutory bad faith, ***137** pursuant to section 624.155, Florida Statutes. The Demases' CRN, a document required by section 624.155(3), was expressly referenced in and was attached to the complaint. [1]

The CRN was prepared on the required form and alleged that State Farm had violated fifteen statutes and twenty-two administrative regulations. In response to "specific policy language that is relevant to the violation," the CRN implicated virtually the whole policy as follows:

RELEVANT POLICY LANGUAGE

SPECIFIC POLICY LANGUAGE THAT IS RELEVANT TO THE VIOLATIONS INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

SEE SUBJECT POLICY:

STATE FARM FLORIDA INSURANCE COMPANY POLICY NO: [redacted]

COVERAGE A–DWELLING

ALL ADDITIONAL COVERAGE PROVISIONS

ALL COVERAGE(S) PROVIDED BY ENDORSEMENT OR RIDER

THE DECLARATIONS PAGE

LOSS PAYMENT OR SETTLEMENT PROVISION

DUTIES IN THE EVENT OF LOSS POLICY PROVISION

THE INSURANCE POLICY'S DEFINITION SECTION

THE INSURANCE POLICY'S EXCLUSION OF COVERAGE PROVISIONS

ALL INSURANCE POLICY PROVISIONS THAT PROVIDE COVERAGE TO THE INSURED PROPERTY

ALL POLICY PROVISIONS.

Ultimately, State Farm moved for summary judgment arguing the Demases' CRN upon which the lawsuit was based was invalid. Specifically, State Farm argued that the CRN: (1) failed to identify the specific policy language at issue; (2) failed to identify the specific statutory provisions State Farm had allegedly violated; (3) failed to identify the person at State Farm most responsible for the alleged violation; and (4) failed to state with specificity the facts and circumstances giving rise to the alleged violation.

In response, the Demases asserted that the motion for summary judgment was legally insufficient, that State Farm could not challenge the CRN's sufficiency based on waiver and estoppel, that State Farm was barred from challenging the validity of the CRN because of the Department of Financial Services' ("the Department") acceptance of the CRN, and that the CRN was legally sufficient.

The trial court granted the motion and entered final judgment for State Farm, and this appeal ensued.

STANDARD OF REVIEW

This court reviews de novo an order on a motion for summary judgment. *United Servs. Auto. Ass'n v. Less Inst.*, 344 So. 3d 557, 559 (Fla. 3d DCA 2022).

ANALYSIS

This appeal presents the issue of whether the Demases' CRN satisfied the requirements of section 624.155, Florida Statutes (2014), which permits civil actions against an insurer under certain circumstances, commonly known as first-party bad faith claims. Relevant to this appeal, ***138** section 624.155(3) requires, as a condition precedent to bringing a first-party bad faith case, that an insured provide timely notice of the alleged violation to the authorized insurer and to the Department, as follows:

> (b) The notice shall be on a form provided by the department and shall state with specificity the following information, and such other information as the department may require:
>
> 1. The statutory provision, including the specific language of the statute, which the authorized insurer allegedly violated.
>
> 2. The facts and circumstances giving rise to the violation.
>
> 3. The name of any individual involved in the violation.
>
> 4. Reference to specific policy language that is relevant to the violation, if any. If the person bringing the civil action is a third party claimant, she or he shall not be required to reference the specific policy language if the authorized insurer has not provided a copy of the policy to the third party claimant pursuant to written request.
>
> 5. A statement that the notice is given in order to perfect the right to pursue the civil remedy authorized by this section.
>
> ....

(d) No action shall lie if, within 60 days after filing notice, the damages are paid or the circumstances giving rise to the violation are corrected.

§ 624.155(3)(a), (b), (d), Fla. Stat. (2014). Thus, "the plain language of section 624.155(3)(b) instructs the policyholder to 'state with specificity' information in the notice; to specify 'language of the statute, which the authorized insurer allegedly violated' and to '[r]eference ... specific policy language that is relevant to the violation, if any.' " *Julien v. United Prop. & Cas. Ins. Co.*, 311 So. 3d 875, 878 (Fla. 4th DCA 2021).

On appeal, the Demases argue that their CRN was legally sufficient because it "substantially complied" with the above legal requirements relating to CRNs. State Farm, by contrast, argues substantial compliance is insufficient, contending that section 624.155 is subject to strict construction and requires strict compliance.

We conclude that even under the more lenient substantial compliance test, the Demases' claim fails. Our sister court analyzed a remarkably similar CRN applying a substantial compliance test in *Julien.* There, the Fourth District determined that a CRN that listed nearly all policy sections and cited thirty-five statutory provisions presented more than a technical defect and therefore did not comply with section 624.155's specificity requirements. The same reasoning applies to the Demases' CRN. As a result, the trial court correctly determined that the Demases' CRN was legally insufficient.

In addition, we reject the Demases' argument that the Department's acceptance of the CRN is entitled to great deference, thus demonstrating compliance with the specificity requirements.[2] We align ourselves with our sister court on this issue as well and disagree with the Demases. *See Julien*, 311 So. 3d at 879–80 (concluding that the Department's failure to return an insured's CRN did not establish the CRN's legal sufficiency; Department's authority does not determine legality of the notice ***139** and courts have an independent obligation pursuant to Article V, section 21 of the Florida Constitution to interpret statutes).

CONCLUSION

In sum, by applying the plain language of section 624.155, we conclude the trial court properly determined the Demases' CRN was legally insufficient. As a result, we affirm the trial court's order in its entirety.

AFFIRMED.

WALLIS and EDWARDS, JJ., concur.

SASSO, J., concurs and concurs specially, with opinion.

SASSO, J., concurring specially.

I fully agree with this court's opinion affirming. However, I also write to explain why State Farm correctly argues that substantial compliance with the requirements of section 624.155 is not enough.

First, I will address a threshold issue advanced by the Demases. Specifically, they argue that section 624.155 is remedial in nature, and, as a result, its requirements should be liberally construed in favor of permitting the Demases access to the remedy contained within the statute. However, the Florida Supreme Court has taken the opposite approach to construing section 624.155. *See Talat Enters., Inc. v. Aetna Cas. & Sur. Co.*, 753 So. 2d 1278, 1281 (Fla. 2000). There, the court held[3] that because section 624.155 is in derogation of common law, it should be strictly construed. *Id.* Because we are required to follow *Talat*, we apply the statute as written and do not extend the text by implication or judicial construction. *See, e.g.*, *Lee v. Walgreen Drug Stores Co.*, 151 Fla. 648, 10 So. 2d 314, 316 (1942). *But see* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 318 (2012) (observing that the maxim that "statutes in derogation of common law must be strictly construed" is a relic and there is no more reason to reject a fair reading of a statute that changes the common law than there is to reject a fair reading of a statute that repeals a prior statute).

a. Substantial Compliance, Prejudice, and Waiver

The manner in which we construe section 624.155 is important because it informs my conclusion as to the Demases' next argument: that this court should conclude the Demases "substantially complied" with section 624.155's CRN requirements, and, as a result, their CRN was legally sufficient. For the following reasons, I reject this argument as well.

Primarily, nothing in the text of section 624.155 permits "substantial compliance" to be considered in determining the legal sufficiency of a CRN. To the contrary, the statute employs the mandatory language "shall" when specifying both the form and the content of the CRN. The statute further requires that the content be stated "with specificity." § 624.155(3)(b), Fla. Stat. And if that were not clear enough, the statute then restates that a CRN must state the "specific" statutory language and the "specific" policy language relevant to the alleged violation. § 624.155(3)(b) 1., (3)(b)4.

***140** Despite the clarity of section 624.155's specificity requirement, the Demases urge this court to adopt a substantial compliance test employed by federal district courts, including *Pin-Pon Corp. v. Landmark American Insurance Co.*, 500 F. Supp. 3d 1336 (S.D. Fla. 2020), and *Fox v. Starr Indemnity & Liability Co.*, No. 8:16-cv-3254-T-23MAP, 2017 WL 1541294 (M.D. Fla. Apr. 28, 2017). In both cases, the district courts considered whether an insured's CRN was legally sufficient where the insured substantially complied with section 624.155's requirements. *Pin-Pon Corp.*, 500 F. Supp. 3d at 1345; *Fox*, 2017 WL 1541294, at *3. Relying on *QBE Insurance Corp. v. Chalfonte Condominium Apartment Ass'n*, 94 So. 3d 541 (Fla. 2012), both courts adopted a "substantial compliance" test, and in both cases concluded that because the insured's CRN substantially complied with section 624.155's requirements, the CRNs were sufficient. *Pin-Pon Corp.*, 500 F. Supp. 3d at 1345; *Fox*, 2017 WL 1541294, at *3.

This is problematic because the courts in *Pin-Pon* and *Fox* transplanted the substantial compliance test from substantively different soil that is inapplicable here. In *Chalfonte*, the case relied upon in *Pin-Pon* and *Fox*, the Florida Supreme Court considered whether the language and type-size requirements established by section 627.701(4)(a), Florida Statutes (2009), rendered a noncompliant hurricane deductible provision in an insurance policy void and unenforceable. 94 So. 3d at 552–54. The legal principle the court considered was one of remedy. So, in analyzing the issue, the court questioned whether courts could supply a remedy for violation of a statute (i.e. declaring a policy void) where the legislature did not. Ultimately, the court deferred to legislative prerogative, finding dispositive the fact that the legislature had provided no such penalty. As a result, the court concluded noncompliance did not render the contract void. *Id.* at 554.

In analyzing the effect of failing to comply with the requirements of section 624.155, the issue also becomes one of legislative prerogative. Section 624.155 creates a statutory condition precedent to bring a cause of action. § 624.155(3)(a), Fla. Stat. And courts have found noncompliance with statutory (as opposed to contractual) conditions precedent excusable only when there are specific statutory exceptions which permit such a consideration. *See, e.g.*, *Stresscon v. Madiedo*, 581 So. 2d 158, 160 (Fla. 1991) ("The fact that no prejudice has been nor can be shown is not the determining factor in this case; nor is it significant that Stresscon substantially complied with the mechanics' lien law. The courts have permitted substantial compliance or adverse effect to be considered in determining the validity of a lien when there are specific statutory exceptions which permit their consideration."); *Lamberti v. Mesa*, 29 So. 3d 446, 450 (Fla. 4th DCA 2010) ("While the doctrine of futility may excuse a party from performing a condition precedent in a contract, that doctrine does not apply to excuse a statutory condition precedent. To impose a common law doctrine to eliminate a statutory condition precedent would be to rewrite the statute.").

In my view, the legislature created a clear specificity requirement in section 624.155 and did not include an exception for substantial compliance. *Cf., e.g.*, § 713.06(2)(c), Fla. Stat. ("The notice may be in substantially the following form ...."). So, similar to the reasoning in *Chalfonte*, because the legislature did not choose to include a substantial compliance exception, this court cannot apply one. For the same reason, I would reject the Demases' argument that their claim should proceed because State Farm was not prejudiced by any deficiencies. A prejudice ***141** exception is also a decision for the legislature. *See Stresscon*, 581 So. 2d at 160.

b. Legal Sufficiency of the Demases' CRN

Having provided my analytical framework, I now turn to the question of whether the Demases' CRN complied with the requirements of section 624.155. As this court's opinion explains, the Demases' CRN lists virtually every statutory and policy provision available to them as insureds. And the CRN does not refer to "specific policy language" at all, choosing to instead list the headings of various policy sections with a general reference to "all policy provisions."

This "kitchen sink" approach does not satisfy the specificity requirements of section 624.155. The design of section 624.155 would crumble under the opposite conclusion.

For example, the plain language of section 624.155(3)(b) demonstrates that the required information is for the purpose of providing "notice." Section 624.155(3)(d) provides that the insurer may cure after it "receives notice." For either of these provisions to have meaningful operative effect, the CRN must be, as the statute says, "specific." In other words, the substance of the CRN must be stated in a way that enables the insurer to ascertain directly from the notice both the alleged violation and the steps it must take to cure the violation. *See* Specific, *American Heritage Dictionary of the English Language* (5th ed. 2011) (explicitly set forth; definite; clear or detailed in communicating). A CRN which simply regurgitates every statutory and policy provision fails to meet this requirement. Thus, the trial court properly concluded the Demases' CRN was legally insufficient.

All Citations

351 So.3d 136, 47 Fla. L. Weekly D2318

Footnotes

1 Upon State Farm's motion to dismiss, the trial court initially dismissed the complaint on the ground that it failed to state a cause of action because it did not allege there was an underlying first-party action for insurance benefits. This court reversed in *Demase v. State Farm Florida Insurance Co.*, 239 So. 3d 218 (Fla. 5th DCA 2018).

2 We do not reach the merits of the Demases' waiver argument because their initial brief fails to challenge the specific grounds on which the trial court decided the issue, and they have therefore waived argument on that point. *See Hagood v. Wells Fargo, N.A.*, 112 So. 3d 770, 771–72 (Fla. 5th DCA 2013) (holding that issue not raised in an initial brief is deemed abandoned and may not be raised for the first time in a reply brief).

3 As this conclusion was actually decided as an essential step on the path to disposition, it does not appear to be dicta. *See Pedroza v. State*, 291 So. 3d 541, 547 (Fla. 2020) ("A holding consists of those propositions along the chosen decisional path or paths of reasoning that (1) are actually decided, (2) are based upon the facts of the case, and (3) lead to the judgment." (internal citations omitted)).

350 So.3d 147
District Court of Appeal of Florida, Fifth District.

James ENRIQUEZ, Appellant,
v.
Ashley VELAZQUEZ, Appellee.

Case No. 5D21-1542

Opinion filed November 3, 2022

Synopsis

Background: Father, who was never married nor in romantic relationship with mother, filed petition seeking to establish paternity and timesharing with minor child conceived using an at-home artificial insemination process. The Circuit Court, 9th Judicial Circuit, Orange County, John D.W. Beamer, J., denied and dismissed petition with prejudice. Father appealed.

[Holding:] The District Court of Appeal, Lambert, C.J., held that father was not precluded from filing petition to establish paternity and timesharing.

Reversed and remanded.

Sasso, J., filed dissenting opinion.

Procedural Posture(s): On Appeal; Petition for Emancipation; Petition for Visitation Rights or Parenting Time.

West Headnotes (3)

[1] **Appeal and Error** 🔑 De novo review

Appeal and Error 🔑 Statutory or legislative law

Review of questions of law and statutory construction is de novo.

[2] **Child Custody** 🔑 Assisted reproduction; surrogate parenting

Child Custody 🔑 Parties; intervention

Parent and Child 🔑 Father

Parent and Child 🔑 Donors of biological material; status, rights, duties, and liabilities

Father, who provided sperm for at-home artificial insemination process used to conceive child with mother, was not "donor" within scope of provision of statute providing for relinquishment of parental rights in connection with provision of biological material during course of assisted reproductive technology, and thus father was not precluded from filing petition to establish paternity and timesharing; statute did not include at-home artificial insemination as one of procreative procedures coming within the statutory definition of assisted reproductive technology. Fla. Stat. Ann. § 742.14.

[3] **Statutes** 🔑 Construing together; harmony

Where possible, courts must give effect to all statutory provisions and construe related statutory provisions in harmony with one another.

***148** Appeal from the Circuit Court for Orange County, John D.W. Beamer, Judge. LT Case No. 2018-DR-14017

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Opinion

LAMBERT, C.J.

The parties, James Enriquez and Ashley Velazquez ("Mother"), both unmarried, decided to have a child together. Though close friends, they were never in a romantic relationship with each other. Instead, they successfully conceived a child using an at-home artificial insemination process. The child is now seven years old.

Enriquez petitioned to establish paternity and to have timesharing with the minor child. Mother answered, agreeing that Enriquez is the child's natural or biological father and further acknowledging that a parenting plan should be ordered by the trial court, with an appropriate timesharing schedule. An interlocutory order was later entered in the case awarding Enriquez temporary timesharing with the child each week from Sunday morning through after school on Wednesday, with the trial court also noting in its order that "the parties stipulate to [Enriquez's] paternity [of the minor child]."

Approximately eighteen months after this order, trial was held on Enriquez's petition. The parties stipulated that the issues to be resolved by the court at trial were: (1) the amount of timesharing that each party would have with the child, (2) their resulting child support obligations, ***149** (3) which party's address would be used for purposes of a "school designation," and (4) who would claim the child as a tax exemption for federal income tax purposes.

Both parties testified at trial. In its final judgment, the trial court acknowledged that Mother had no objection to Enriquez having timesharing with the child, specifically finding, among other things, that Mother intended Enriquez to "be a constant figure in the child's life." The court found that since the interlocutory order awarding him temporary timesharing, Enriquez had, in fact, been a "constant presence in the child's life," with the child knowing him as "Dad."

The court also found that "[b]y all accounts, the statutory factors under section 61.13(3), Florida Statutes related to developing a parenting plan and time-sharing schedule, for the most part, favor both parties equally." In that regard, the court stated that the parties: (1) appeared to put the child's interests ahead of their own, (2) were flexible regarding their exercising of timesharing with the child so far, and (3) were informed as to the child's education, interests, and medical needs. The court summed up that "both parties love and care for the child deeply and have been able to set most of their differences, which are few, aside for the child's best interests."

Despite these favorable findings, Enriquez received no timesharing with the child in the final judgment. Instead, on an issue never raised by Mother, the court, on its own initiative, concluded that section 742.14, Florida Statutes (2020), which it referred to as Florida's "assisted reproductive technology" statute, precluded it from granting Enriquez relief; and it "denied and dismissed" his petition for paternity with prejudice. Following the summary denial of Enriquez's motion for rehearing, this timely appeal ensued.

Enriquez raises three arguments here for reversal. He first contends that he was denied procedural due process when, following the parties' presentation of evidence and just prior to closing argument, the trial court raised the issue of whether section 742.14 precluded his claim of paternity. Enriquez argues that due to this sua sponte action of the trial court, he was unable to adequately prepare for and respond to what became the dispositive issue in the case. Second, Enriquez asserts that, based on the undisputed facts in this case, the trial court erred in applying section 742.14 to deny his petition. Third, Enriquez alternatively argues that section 742.14 is unconstitutional "as applied."

For the following reasons, we agree with Enriquez that the trial court committed reversible error in essentially ruling, as a matter of law, that section 742.14 applies to the facts of this case to bar his claim of paternity. [1]

ANALYSIS—

[1] This appeal presents a question of law and statutory construction. Our review is de novo. *See Townsend v. R.J. Reynolds Tobacco Co.*, 192 So. 3d 1223, 1225 (Fla. 2016) (citing *Daniels v. Fla. Dep't of Health*, 898 So. 2d 61, 64 (Fla. 2005)). To begin this review, we first look to the language of the statute, which, since its inception, has substantively read:

> The donor of any egg, sperm, or preembryo, other than the commissioning couple or a father who has executed a preplanned adoption agreement under s. 63.213, shall relinquish all maternal or ***150** paternal rights and obligations with respect to the donation or the

> resulting children. Only reasonable compensation directly related to the donation of eggs, sperm, and preembryos shall be permitted.

§ 742.14, Fla. Stat.

By this statute, "the Legislature articulated a policy of treating all individuals who provide eggs, sperm, or preembryos as part of assisted reproductive technology as 'donor[s]' bound by the terms of the statute, and then exempting two specific groups in accordance with the purpose behind the statutory enactment." *D.M.T. v. T.M.H.*, 129 So. 3d 320, 333 (Fla. 2013).

Addressing Enriquez's paternity action, the trial court analyzed whether Enriquez fell within either of the two recognized groups exempt from section 742.14's directive that a sperm donor otherwise relinquishes all paternal rights to a child born from their donation. It first observed, correctly, that Enriquez had not executed a preplanned adoption agreement under section 63.213, Florida Statutes; thus, he was not within that exempt group.

The court then turned to whether Enriquez and Mother were a "commissioning couple" who had used "assisted reproductive technology" in the conception of the child. The court acknowledged that a "commissioning couple" was defined in section 742.13(2), Florida Statutes (2020), as the "intended mother and father of a child who will be conceived by means of *assisted reproductive technology* using the eggs or sperm of at least one of the intended parents." (Emphasis supplied by the trial court). It then related the definition of "assisted reproductive technology," which provides, in full:

> "Assisted reproductive technology" means those procreative procedures which involve the laboratory handling of human eggs or preembryos, including, but not limited to, in vitro fertilization embryo transfer, gamete intrafallopian transfer, pronuclear stage transfer, tubal embryo transfer, and zygote intrafallopian transfer.

See § 742.13(1), Fla. Stat.

Applying these statutory definitions from section 742.13, which the trial court acknowledged under *D.M.T.* are to be read *in pari materia* with section 742.14,[2] the court, quite correctly, reached what it referred to as a "legal conclusion" that the parties' "at-home, do-it-yourself method of artificial insemination" did not involve the "laboratory handling of human eggs or preembryos."

At this point, the trial court had seemingly reasoned that because there was no laboratory handling of human eggs or preembryos, the child was not born through the use of "assisted reproductive technology," as that term is defined in section 742.13(1). However, it then concluded that this "does not change the fact that [Enriquez] is a sperm donor under section 742.14" and, as such, "[Enriquez] does not have parental rights to a child resulting from that donation."[3]

[2] We disagree with the trial court's ultimate conclusion. For the following reasons, we hold that section 742.14 applies to ***151** paternity actions only when the child was born as a result of assisted reproductive technology, which did not occur here.

Our dissenting colleague characterizes as misguided our conclusion that section 742.14 applies only when "assisted reproductive technology" is used, as that term is defined in section 742.13(1), asserting that we have improperly considered the Legislature's intent rather than just applying "the plain language of the statutory text." However, as also observed by the dissent, the Florida Supreme Court in *D.M.T.* considered the Legislature's intent in enacting section 742.14, and it likewise concluded that the Legislature intended that the statute apply only when assisted reproductive technology is used.

In that case, the supreme court referred to section 742.14 as the "assisted reproductive technology statute" eleven times[4]; and, as quoted *supra*, the supreme court explicitly held that in enacting section 742.14, "the Legislature articulated a policy of treating all individuals who provide eggs, sperm, or preembryos *as part of assisted reproductive technology* as 'donor[s]' bound by the terms of the statute." *D.M.T.*, 129 So. 3d at 333 (emphasis added). Even the dissenting opinion in *D.M.T.*, written by then-Chief Justice Polston, referred to section 742.14 as the "assisted reproductive technology statute" three times; and it concluded that "[t]he purpose of this statute is to define the rights of parties *who use assisted reproductive technology to conceive* and to thereby provide

certainty and stability for parents and children." *D.M.T.*, 129 So. 3d at 353 (Polston, C.J., dissenting) (emphasis added).

In the instant case, though the dissent arguably questions the practice of discerning legislative intent as a guiding principle in the interpretation of statutes, we are not permitted to disregard binding precedent from the Florida Supreme Court. We note, here, that we respectfully disagree with the dissent's assertion that the subject holding from *D.M.T.* constitutes obiter dicta. The first issue that was presented to the supreme court in *D.M.T.* and that the court addressed in its opinion was whether the party in that case from whom the eggs were withdrawn, and then fertilized and implanted into her partner via in vitro fertilization, was a "donor" pursuant to section 742.14. In the course of concluding that the party was a "donor" as that term is used in the statute, the supreme court held that with the exception of members of a "commissioning couple" or fathers who executed a preplanned adoption agreement, "the subjective intentions of all other individuals who provide eggs, sperm, or preembryos *during the course of assisted reproductive technology*" are not taken into consideration and that, "[i]nstead, the Legislature articulated a policy of treating all individuals who provide eggs, sperm, or preembryos *as part of assisted reproductive technology* as 'donor[s]' bound by the terms of the statute." *D.M.T.*, 129 So. 3d at 333 (second alteration in original) (emphases added). Those holdings were not obiter dicta because they consisted of "propositions along the chosen decisional path or paths of reasoning that (1) [were] actually decided, (2) [were] based upon the facts of the case, and (3) [led] to the judgment." *See Pedroza v. State*, 291 So. 3d 541, 547 (Fla. 2020). Nevertheless, even if we were not bound by the supreme court's ***152** holding in *D.M.T.*, we would reach the same result.

Examining the more recent Florida Supreme Court opinions highlighted by the dissent, in which the court focused solely on the "supremacy-of-text principle"—i.e., that "[t]he words of a governing text are of paramount concern, and what they convey, in their context, is what the text means"—and in which the court did not endeavor to discern the Legislature's intent, the supreme court has nevertheless recognized that the "supremacy-of-text principle" requires consideration of the words of a statute "in their context" and that "every word employed in [a legal text] is to be expounded in its plain, obvious, and common sense, *unless the context furnishes some ground to control, qualify, or enlarge it*." *Ham v. Portfolio Recovery Assocs., LLC*, 308 So. 3d 942, 946–47 (Fla. 2020) (alterations in original) (emphasis added) (quoting Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 56 (2012); *Advisory Op. to Governor re Implementation of Amend. 4, the Voting Restoration Amend.*, 288 So. 3d 1070, 1078 (Fla. 2020)).

[3] Furthermore, even where the supreme court has recently held that inquiry into the Legislature's intent is "a secondary analysis to be employed when construing an ambiguous statute" and that "there is no occasion for resorting to the [secondary] rules of statutory interpretation and construction" where "the language of the statute is clear and unambiguous and conveys a clear and definite meaning," the supreme court has also recognized that related statutes must be read *in pari materia* "in order to determine whether [they] create[ ] an ambiguity not otherwise apparent on the face" of the statute at issue. *State v. Peraza*, 259 So. 3d 728, 732–33 & n.2 (Fla. 2018) (first alteration in original) (first citing *Lowry v. Parole & Prob. Comm'n*, 473 So. 2d 1248, 1249 (Fla. 1985); then quoting *Holly v. Auld*, 450 So. 2d 217, 219 (Fla. 1984)). "This is true because '[w]here possible, courts must give effect to *all* statutory provisions and construe related statutory provisions in harmony with one another.' " *Id.* at 732 (alteration in original) (quoting *M.W. v. Davis*, 756 So. 2d 90, 101 (Fla. 2000)).

In the instant case, the dissent asserts that by section 742.14's "plain terms," it applies to " 'any' donor" who does not satisfy one of the two exceptions explicitly provided in the statute, neither of which applies in the instant case. The dissent then asserts that because Enriquez "cannot dispute any factual issues related to whether he is a donor[,] ... our review is limited to the legal issue of whether donors who use at-home methods of artificial insemination relinquish parental rights under section 742.14." By so framing the issue, the dissent begins with the assumption that Enriquez is a "donor" in analyzing the question of whether Enriquez is a "donor."

In the underlying proceedings, there was no dispute that Enriquez's sperm was used to impregnate Mother via the at-home, do-it-yourself artificial insemination procedure utilized by the parties to conceive a child. That issue of fact remains undisputed. The question of whether the use of Enriquez's sperm in that manner supports the conclusion that Enriquez is a "donor" as that term is used in section 742.14 constitutes a question of statutory interpretation and application that is an issue of law. *See, e.g.*, *McGovern v. Clark*, 298 So. 3d 1244, 1248 (Fla. 5th DCA 2020) (citing *B.Y. v. Dep't of Child. & Fams.*, 887 So. 2d 1253, 1255 (Fla.

2004); *In re Guardianship of J.D.S.*, 864 So. 2d 534, 537 (Fla. 5th DCA 2004)).

As demonstrated, *infra*, if one were to follow the dissent's reasoning to its logical ***153** end, there would be no basis in the plain language of the statute to refrain from applying section 742.14 to the scenario of a child conceived through sexual intercourse; and the plain language of the statute could even support applying section 742.14 to the scenario of a child conceived through sexual intercourse without the conceiving parents having any predetermined intentions as to the parentage of the child, which would be inconsistent with the rest of chapter 742 controlling determinations of paternity.

The plain language from the text of section 742.14, without reference to context, provides that the donor of any sperm, except in the two previously discussed exceptions, relinquishes all paternal rights to the resulting children. However, had Enriquez and Mother gone into the bedroom on the day in question with the intent of conceiving a child and chose to procreate through sexual intercourse instead of artificial insemination, would Enriquez still be a "donor" under the statute and thus precluded from paternal rights to the child?

"Donor" is not defined in section 742.14 or, for that matter, in chapter 742. The dictionary definition of the word "donor" is "one that gives, donates, or presents something" or "one used as a source of biological material (such as blood or an organ)." *Donor*, Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/donor (last visited Oct. 11, 2022). The first dictionary definition of "donor" could logically be applied to one who "gives" or "presents" sperm through sexual intercourse as much as it could be applied to one who does so through an at-home, do-it-yourself artificial insemination kit. That first definition of "donor" could be applied irrespective of whether either parent had any predetermined intention as to the parentage of any child potentially conceived by the sexual intercourse.

On the other hand, while the second dictionary definition might appear to better apply to the at-home artificial insemination scenario than to sexual intercourse, nothing could stop a mother of a child from challenging a paternity action filed by the child's biological father on the basis that she engaged in sexual intercourse with the father for the purpose of "using" him "as a source of biological material" (i.e., sperm) and that the father is therefore a "sperm donor" who relinquished all parental rights under section 742.14, irrespective of whether the father had any knowledge of the mother's plot. The second dictionary definition of "donor" could also be asserted by the biological father of a child to avoid parental responsibility, based on the argument that the mother agreed that she was only using him as a source of biological material (i.e., as a "sperm donor"). In fact, such arguments have actually been raised, and properly rejected, in Florida courts. *See Bassett v. Saunders*, 835 So. 2d 1198, 1199 (Fla. 1st DCA 2002) (recognizing that the trial court correctly found that because the father impregnated the mother in the "usual and customary manner," the "sperm donor" "agreement was invalid and unenforceable under the sperm donor statute"); *Budnick v. Silverman*, 805 So. 2d 1112, 1114 (Fla. 4th DCA 2002) (rejecting a father's argument in a paternity action that he was merely a sperm donor under section 742.14 and finding that section 742.14 does not apply when, under the sperm donor agreement, the father impregnated the mother in the "old-fashioned way").

Because the plain language of section 742.14 leaves open the possibility of interpreting the word "donor" in a manner that would make section 742.14 mutually exclusive with sections 742.011–.108, Florida Statutes, relating to the determination of parentage for children born out of wedlock, ***154** we interpret section 742.14 in a manner that "give[s] effect to *all* statutory provisions" and construe section 742.14 and the rest of chapter 742 "in harmony with one another." *See Peraza*, 259 So. 3d at 732 (quoting *M.W.*, 756 So. 2d at 101); *see also* Scalia & Garner, *supra*, at 252–54 (asserting that under the "Related-Statutes Canon," laws dealing with the same subject should if possible be interpreted harmoniously because a single statute "should no more be interpreted to clash with the rest of [the body of law to which it belongs] than it should be interpreted to clash with other provisions of [that same statute]" and explaining that the "Related-Statutes Canon" is "based upon a realistic assessment of what the legislature ought to have meant," a basis that itself "rests on two sound principles: (1) that the body of the law should make sense, and (2) that it is the responsibility of the courts, within the permissible meanings of the text, to make it so"). Otherwise, could not the plain, untethered text of section 742.14 apply to a couple where the male donates his sperm through sexual intercourse and neither of the two exemptions contained within the statute applies?

Considering section 742.14 *in pari materia* with related statutes, we conclude that the term "donor" in section 742.14 refers to an individual who provides "any egg, sperm, or preembryo" as part of "assisted reproductive technology."

In fact, as stated *supra*, such an interpretation of "donor" in section 742.14 is binding upon this court by means of the Florida Supreme Court's interpretation of that statute in *D.M.T.* *See* 129 So. 3d at 333 (holding that the term "donor" in section 742.14 applies to "all individuals who provide eggs, sperm, or preembryos as part of assisted reproductive technology").

In our view, had the Legislature intended to include the at-home artificial insemination process utilized in this case as one of the procreative procedures coming within the statutory definition of "assisted reproductive technology," it could have clearly and easily done so and may, in fact, elect to do so in the future, as is entirely within its prerogative. However, we hold today that section 742.14, Florida Statutes, does not bar Enriquez's claim for paternity of the minor child when the child was conceived by an at-home artificial insemination process as done in this case.

Accordingly, we reverse the final judgment denying and dismissing Enriquez's petition for paternity with prejudice. We remand with directions that the trial court immediately enter a final judgment granting Enriquez's petition and finding and establishing him as the legal father of the minor child. The trial court is further directed to adjudicate forthwith the issue of timesharing, together with the other issues that were stipulated to by the parties to be resolved at trial, taking into consideration any additional evidence that may be presented by either party so as to provide for the current best interests of the child. [5]

REVERSED and REMANDED, with directions.

HARRIS, J., concurs.

SASSO, J., dissents, with opinion.

SASSO, J., dissenting.

The disposition of this case turns on the interpretation of section 742.14, which provides:

> ***155** The donor of any egg, sperm, or preembryo, other than the commissioning couple or a father who has executed a preplanned adoption agreement under s. 63.213, shall relinquish all maternal or paternal rights and obligations with respect to the donation or the resulting children.

§ 742.14, Fla. Stat. (2020). Under the majority's interpretation though, the statute reads a bit differently. The majority's interpretation transforms section 742.14 to read as follows, with additional language in bold:

> The donor **who provides as a part of assisted reproductive technology** any egg, sperm, or preembryo, other than the commissioning couple or a father who has executed a preplanned adoption agreement under s. 63.213, shall relinquish all maternal or paternal rights and obligations with respect to the donation or the resulting children.

The majority believes this conclusion is required by *D.M.T. v. T.M.H.*, 129 So. 3d 320 (Fla. 2013). I disagree. *D.M.T.* does not require the result reached by the majority nor does a proper interpretation of section 742.14 permit it. As a result, I respectfully dissent.

I.

To begin, it is important to clarify the issue presented by this appeal. Appellant argues that he did not relinquish parental rights pursuant to section 742.14 because his donation was achieved via "artificial insemination at home without the use of 'assisted reproductive technology' as defined in section 742.13(1), Florida Statutes (2020)." He cannot dispute any factual issues related to whether he is a donor because he has not provided this Court with a transcript. *See Applegate v. Barnett Bank of Tallahassee*, 377 So. 2d 1150, 1152 (Fla. 1979) ("Without a record of the trial proceedings, the appellate court can not properly resolve the underlying factual issues so as to conclude that the trial court's judgment is not supported by the evidence or by an alternative theory."). As a result, our review is limited to the legal issue of whether donors who use at-home methods of artificial insemination relinquish parental rights under section 742.14.

The text of section 742.14 forecloses Appellant's argument. By its plain terms the statute applies to "any" donor, with two exceptions: 1) a "commissioning couple" or 2) a "father who has executed a preplanned adoption agreement under s. 63.213." It is undisputed that neither exception applies here. Appellant did not execute a preplanned adoption agreement, and he does not fall within the definition of a "commissioning couple," as that term is defined in section 742.13(2), Florida Statutes (2020).

This is where our inquiry should end. Our "sole function" in interpreting statutes is to apply to the law as we find it. *Alachua Cnty. v. Watson*, 333 So. 3d 162, 169 (Fla. 2022) (citations omitted). This is our obligation even if we believe the proper interpretation leads to a harsh outcome. *See Baker Botts L.L.P. v. ASARCO LLC*, 576 U.S. 121, 134, 135 S.Ct. 2158, 192 L.Ed.2d 208 (2015) (observing courts lack the authority to rewrite statutes).

II.

Despite section 742.14's unambiguous reference to "any" donor, the majority, relying on *D.M.T.*, limits that section to donors who provide genetic material in laboratory settings. *D.M.T.* does not require that result.

In *D.M.T.*, the Florida Supreme Court was presented with two issues: 1) whether section 742.14 applied to a woman who donated an egg to another woman with whom she was previously in a same-sex ***156** relationship with, even though her subjective intent was otherwise, and 2) if so, whether the statute was unconstitutional as applied to the egg donor. Critically though, the *D.M.T.* court did not conclude that section 742.14 applies *only* to individuals employing "assisted reproductive technology." And it certainly did not conclude that section 742.14 does not apply to sperm donors who provide donations via at-home artificial insemination methods. Nor could it—those facts were not presented to the *D.M.T.* court.

Nonetheless, the majority seizes on the *D.M.T.* court's observations related to section 742.14's creation. Specifically, the *D.M.T.* court stated that in structuring section 742.14 as applying to all donors, with two exceptions, "the Legislature articulated a policy of treating all individuals who provide eggs, sperm, or preembryos as part of assisted reproductive technology as 'donor[s]' bound by the terms of the statute ...." *D.M.T.*, 129 So. 3d at 333. But this statement by the *D.M.T.* court is dicta, not a holding. *See Pedroza v. State*, 291 So. 3d 541, 547 (Fla. 2020) ("A holding consists of those propositions along the chosen decisional path or paths of reasoning that (1) are actually decided, (2) are based upon the facts of the case, and (3) lead to the judgment."). So, the statement is better read as an observation made by way of background; not as a means of determining whether the application of section 742.14 is limited to donations that occur in laboratory settings. Similarly, the *D.M.T.* court's multiple references to "the assisted reproductive technology statute" do not transform that choice of stylistic phrase into a holding regarding the statute's reach.

III.

Notwithstanding *D.M.T.*, the majority says it would reach the same result. But this Court should not. The *D.M.T.* court's frequent reference to the "assisted reproductive technology statute" appears to be a reference to the title of the legislative enactment (the "bill title") creating section 742.14. And even considering a bill title leads the court down a wayward path.

For background, a bill title is required by Article III, section VI of the Florida Constitution and appears above the bill's enacting clause. Importantly though, the bill title is not part of the enacted statute (in contrast to statutory titles and headings) and thus does not make its way into Florida Statutes. It is replicated in Florida Chapter Laws, but only as it appears in the bill that was enacted.

Here, the title of the bill that created section 742.14 begins with the phrase "AN ACT relating to reproductive technology." But this bill title, which is not part of the enacted statute, cannot be relied upon to vary the plain meaning of the statutory language the legislature did enact. *See, e.g.*, *Neumann v. City of New York*, 137 A.D. 55, 122 N.Y.S. 62, 66 (1910) ("Neither the title of an act, nor a preamble contained in it, can control the plain words thereof, nor extend its purview to objects mentioned in either title or preamble but not in the act itself." (citing 2 Lewis' Sutherland, Statutory Constr. (2d ed.) §§ 339, 389)). The majority does this though, when it cabins section 742.14 to apply only to paternity cases involving disputes over "assisted reproductive technology" even though the legislature itself did not so limit that section's application.

The majority then compounds the problem by deploying "intent"—rather than the plain language of the statutory text

—as determinative of section 742.14's meaning. The practice of attempting to discern and then give effect to legislative intent is problematic for several reasons. At its foundation, attempting to discern legislative intent ***157** is "a search for the nonexistent." *See* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 394 (2012). "[C]ollective intent is pure fiction because dozens if not hundreds of legislators have their own subjective views on the minutiae of bills they are voting on—or perhaps no views at all because they are wholly unaware of the minutiae." *Id.* at 392. [1]

More importantly though, we are required to interpret the statute according to its plain meaning—not the legislature's subjective intent. Indeed, "even the most formidable argument concerning the statute's purposes [can] not overcome the clarity [of] the statute's text." *Kloeckner v. Solis*, 568 U.S. 41, 55 n.4, 133 S.Ct. 596, 184 L.Ed.2d 433 (2012).

IV.

So, instead of focusing on intent we should, as the Florida Supreme Court has more recently stated, follow the "supremacy-of-text principle"—namely, the principle that "[t]he words of a governing text are of paramount concern, and what they convey, in their context, is what the text means." *Ham v. Portfolio Recovery Assocs., LLC*, 308 So. 3d 942, 946 (Fla. 2020) (quoting Scalia & Garner, *Reading Law* at 56). [2] And, as explained above, the plain language of the governing text forecloses the majority's interpretation.

The majority attempts to sidestep the clear implications of section 742.14 by concluding that the term "donor" must be viewed in context and limited to donors using "assisted reproductive technology," presumably as that term is defined by section 742.13. To be clear, I agree that context always matters in statutory interpretation. "Let us not forget, however, *why* context matters: It is a tool for understanding the terms of the law, not an excuse for rewriting them." *King v. Burwell*, 576 U.S. 473, 501, 135 S.Ct. 2480, 192 L.Ed.2d 483 (2015) (Scalia, J., dissenting) (emphasis in original). And here, limiting the term "donor" as the majority does is not a product of reading the statutes *in pari materia*, but instead would result in judicial revision of section 742.14. *See, e.g.*, *State v. Bradford*, 787 So. 2d 811, 819 (Fla. 2001) ("[T]he concept of reading statutes *in pari materia* does not require that elements from one subsection be carried over and inserted into another subsection even if the statutes are related.").

***158** Rather than offering support, further examination of the contextual clues presented by chapter 742 only undermines the majority's conclusion. As the trial court correctly observed, the legislature incorporated section 742.13(1)'s definition of "assisted reproductive technology" into section 742.14 only through the definition of "commissioning couple" in section 742.13(2). Reading section 742.14 and section 742.13 together provides the meaning of commissioning couple. Specifically, a commissioning couple is a couple that employs assisted reproductive technology of the type that involves "laboratory handling" of human eggs or preembryos. § 742.13(1), (2), Fla. Stat. But the term "donor" is not so limited.

And if the term "donor" is so limited, the structure of section 742.14 starts to crumble. Applying the legislature's definition of "assisted reproductive technology" to the term "donor" in section 742.14 would replicate the defined phrase twice —once to limit the term "donor," and again to limit the term "commissioning couple." In addition, chapter 742's definition of "assisted reproductive technology" refers only to the laboratory handling of "human eggs or preembryos." So, under the majority's construction, if a sperm donation is provided in a laboratory setting, but there is no laboratory handling of the egg, section 742.14 would also not apply. Rather than provide harmony between the various sections of chapter 742, the majority's interpretation only creates discord. [3]

Further, I agree with the majority that if the "Legislature intended to include the at-home artificial insemination process utilized in this case as one of the procreative procedures coming within the statutory definition of 'assisted reproductive technology,' it could have clearly and easily done so." Adding artificial insemination into section 742.13(1) though would only broaden the definition of a "commissioning couple," potentially bringing Appellant within its scope. The absence of that term, in my view, bolsters the determination that section 742.14 is meant to apply to "any" donor, including those who use at-home artificial insemination procedures. *See also T.M.H. v. D.M.T.*, 79 So. 3d 787, 812 (Fla. 5th DCA 2011) (Lawson, J. dissenting) (concluding the term "donor" in the context of section 742.14 "universally encompasses anyone who provides genetic material for use by another").

I am not the first to reach this conclusion. The Second District reached the same conclusion in *A.A.B. v. B.O.C.*, 112 So.

3d 761 (Fla. 2d DCA 2013),[4] when it held that section 742.14 "does not require that the artificial insemination be performed in a clinical setting to apply." *Id.* at 764. As a result, the Second District concluded the trial court erred in granting the biological father parental rights with respect to a child who was conceived via ***159** artificial insemination, determining that the "do-it-yourself" manner in which the artificial insemination was conducted did not alter the fact that the biological father was a sperm donor for purposes of section 742.14. *Id.*

To summarize, the majority's problematic methodology leads to a result that the plain language of the text cannot bear. Further, no case cited by the majority requires the result it reached.[5] By contrast, the trial court faithfully applied the reasonable meaning of the statutory text and concluded that because Appellant, a donor, did not fall within one of the two legislatively supplied exceptions to those donors who relinquish parental rights, he relinquished all paternal rights. So, I would affirm on that basis.

V.

Finally, Appellant has not presented any other argument that constitutes reversible error. First, his due process argument does not provide a basis for reversal. The matter of Appellant's paternity is a necessary element of proof to "an action to determine paternity," as Appellant's petition stated, and he was able to present full and competent argument regarding the issue. *See, e.g.*, *Gingola v. Fla. Dep't of HRS*, 634 So. 2d 1110, 1111 (Fla. 2d DCA 1994) ("The party seeking to establish paternity bears the burden of proof by clear and convincing evidence."); *G.F.C. v. S.G.*, 686 So. 2d 1382, 1385–86 (Fla. 5th DCA 1997) (holding that man who declared himself to be biological father of child born to intact marriage "failed to allege sufficient facts to assert a constitutionally based cause of action for paternity").

Second, the statute is not unconstitutional as applied to Appellant. Instead, Appellant relinquished his rights and claims to any resulting child at the time of his sperm donation by failing to execute a pre-planned adoption agreement. The plain language of section 742.14 provides that Appellant has no parental rights or obligations with respect to the child and, therefore, Appellant has failed to demonstrate that section 742.14 violates his rights under both the United States and Florida Constitutions. I would therefore affirm the final judgment in its totality. For that reason, I respectfully dissent.

All Citations

350 So.3d 147, 47 Fla. L. Weekly D2251

Footnotes

1 Based on our resolution of the case on this issue, we find it unnecessary to reach Enriquez's other arguments.

2 *See D.M.T.*, 129 So. 3d at 333 (recognizing that the court "necessarily must read sections 742.13 and 742.14 together").

3 The trial court did not expressly find that Enriquez and Mother were not a commissioning couple. By inference, it necessarily concluded they were not, since a commissioning couple under the statute must conceive through assisted reproductive technology, which the court correctly found had not occurred. Moreover, it denied Enriquez's petition for paternity when he is unquestionably the child's biological father.

4 The dissent suggests that the Florida Supreme Court's reference to section 742.14 as the "assisted reproductive technology statute" was based on the title of the legislative enactment creating the statute (i.e., the "bill title"). However, *D.M.T.* does not cite or mention at all the legislative enactment, chapter 93-237, Laws of Florida; nor does it indicate in any other way that the supreme court considered the bill title in interpreting section 742.14.

5 We also decline our dissenting colleague's suggestion to certify our decision to be in conflict with *A.A.B. v. B.O.C.*, 112 So. 3d 761 (Fla. 2d DCA 2013). *A.A.B.*, which predates the Florida Supreme Court decision

in *D.M.T.*, addressed the situation where a third person donated his sperm to two women in a committed relationship so that they could conceive a child, which are not the facts in the present case.

1 Here, there are competing policy considerations that neither the *D.M.T.* court nor the majority have accounted for in determining the legislature's "intent." *See, e.g.*, Elizabeth Watkins, *Who's Your Daddy?: In Vitro-Fertilization and the Parental Rights of the Sperm Donor*, 30 U. Fla. J.L. & Pub. Pol'y 131, 139–40 (2019) (observing that the 1973 version of the Uniform Parentage Act, which provided that only sperm donors who provided the donation "to a licensed physician" relinquished parental rights, was amended to eliminate the "to a licensed physician" requirement, so that those who could not afford artificial insemination through a licensed physician could benefit from the statute's protections). So, even if it were possible to discern some collective intent, it is not clear whether the majority or the *D.M.T.* court properly guessed the legislature's intent in creating section 742.14. But again, these policy considerations, which I highlight only to underscore the problem with the majority's methodology, are for the legislature, not the judiciary.

2 We do this because the legislature does not enact intent, it enacts text. *See Livingston Rebuild Ctr., Inc. v. R.R. Ret. Bd.*, 970 F.2d 295, 298 (7th Cir. 1992). Only the text of the statute—not the legislature's "intent"—went through bicameralism and presentment as required by Article III of the Florida Constitution. The statutory text, not the subjective intent of either one or many legislators, is the legitimate source of law. So, the words that were enacted, rather than some amorphous concept of intent, must be our guide in determining the statute's meaning.

3 The majority also seems somewhat motivated by the parade of horribles that will ensue if section 742.14 is interpreted to limit Appellant's parental rights. Rather than answer every question the majority poses, which present both facts and legal questions not presented by this case, I observe the following: section 742.10 provides for the establishment of paternity for children born out of wedlock, a procedure that was not employed in this case. Section 742.11 addresses the scenario in which a child conceived by means of artificial insemination is born within wedlock. And section 742.14 addresses the rights of donors. Each of these statutory sections maintains its operative effect if section 742.14 is interpreted to apply to, as it says, "any" donor, rather than only donors who provide donations in laboratory settings.

4 In my view the holding in *A.A.B.* expressly and directly conflicts with the majority opinion in this case. If I were in the majority, I would certify conflict.

5 *Bassett v. Saunders*, 835 So. 2d 1198 (Fla. 1st DCA 2002), does not analyze the question of whether section 742.14 applies to donors who provide donations in laboratory settings because that issue was not presented to the court. Additionally, *Budnick v. Silverman*, 805 So. 2d 1112 (Fla. 4th DCA 2002), is distinguishable because it concluded that section 742.14 does not apply to a conception that happened "the old-fashioned way," so it did not address the method employed here, an at-home artificial insemination process.

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308 So.3d 274
District Court of Appeal of Florida, Fifth District.

Jacqueline NAPOLITANO, Appellant,
v.
ST. JOSEPH CATHOLIC CHURCH and Thomas Walden, f/k/a Thomas Wanitsky, as Pastor of St. Joseph Catholic Church, His Successors and Assigns in Office, Appellees.

Case No. 5D19-3112

Opinion filed December 18, 2020

Synopsis

Background: Former church employee brought action for breach of employment agreement against pastor, bishop, and church, premised on an alleged employment agreement that a former pastor made with employee before that pastor was removed. The Circuit Court, 9th Judicial Circuit, Orange County, Kevin B. Weiss, J., dismissed. Employee appealed.

[Holding:] The District Court of Appeal, Sasso, J., held that ecclesiastical abstention doctrine barred claims that former pastor had actual or apparent authority to obligate successor administrations to retain his chosen employees.

Affirmed.

Procedural Posture(s): On Appeal; Motion to Dismiss for Lack of Subject Matter Jurisdiction.

West Headnotes (9)

[1] **Appeal and Error** Subject-matter jurisdiction

District Court of Appeal reviews de novo an order on a motion to dismiss for lack of subject matter jurisdiction.

[2] **Constitutional Law** Freedom of Religion and Conscience

Religion clauses of First Amendment and State Constitution serve as a structural barrier against political interference with religious affairs. U.S. Const. Amend. 1; Fla. Const. art. 1, § 3.

1 Case that cites this headnote

[3] **Religious Societies** Judicial supervision in general

The "ecclesiastical abstention doctrine" precludes secular courts from exercising jurisdiction over ecclesiastical disputes, those about discipline, faith, internal organization, or ecclesiastical rule, custom, or law, as distinguished from purely secular disputes between third parties and a particular defendant, albeit a religiously affiliated organization.

[4] **Constitutional Law** Property

States may adopt any one of various approaches of settling church property disputes consistent with First Amendment so long as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith. U.S. Const. Amend. 1.

[5] **Constitutional Law** Property

Application of neutral legal principles in resolving church property disputes is valid under First Amendment only if no issue of doctrinal controversy is involved. U.S. Const. Amend. 1.

[6] **Constitutional Law** Internal affairs, governance, or administration; autonomy or polity

Constitutional Law Property

Church autonomy doctrine under First Amendment extends beyond church property disputes, and applies with equal force to church disputes over church polity and church administration. U.S. Const. Amend. 1.

1 Case that cites this headnote

[7] **Constitutional Law** Religious Organizations in General

If the dispute is one of discipline, faith, internal organization, or ecclesiastical rule, custom, or law, a secular court lacks the authority to resolve the dispute and there is no need for judicial balancing tests; the First Amendment has already struck that balance. U.S. Const. Amend. 1.

[8] **Constitutional Law** Labor and Employment in General

Religious Societies Contracts and indebtedness

Ecclesiastical abstention doctrine barred consideration of former church employee's claim for breach of employment agreement premised on the alleged actual authority of pastor, with whom employee made agreement, to obligate successor administrations of church to retain pastor's chosen employees after he was no longer pastor; resolving claim would have required a judicial assessment of interrelationship between diocese and church and who within church had power and authority to control operation of parishes, and making that assessment would have required a court probe into religious canon law to discern respective legal significance and authority of a pastor, a parish, and diocese. U.S. Const. Amend. 1; Fla. Const. art. 1, § 3.

2 Cases that cite this headnote
More cases on this issue

[9] **Constitutional Law** Labor and Employment in General

Religious Societies Contracts and indebtedness

Ecclesiastical abstention doctrine barred consideration of former church employee's claim for breach of employment agreement premised on the alleged apparent authority of pastor, with whom employee made agreement, to obligate successor administrations of church to retain pastor's chosen employees after he was no longer pastor; resolving claim would have required examining history and operation of parish, scrutinizing governance patterns of diocese, and applying secular conceptions of agency to church governance, and that exercise would have permitted a court to seize control of church's polity to the extent a religious organization's structure and governance failed to conform with secular expectations. U.S. Const. Amend. 1; Fla. Const. art. 1, § 3.

1 Case that cites this headnote
More cases on this issue

***275** Appeal from the Circuit Court for Orange County, Kevin B. Weiss, Judge.

Attorneys and Law Firms

Gus R. Benitez, of Benitez Law Group, P.L., Orlando, for Appellant.

Caroline Landt, Kevin W. Shaughnessy and Erin M. Sales, of Baker Hostetler LLP, Orlando, for Appellees.

Opinion

SASSO, J.

The church autonomy doctrine is a fundamental principle of federal constitutional law, rooted in both the Establishment Clause and the Free Exercise Clause of the First Amendment and reflected in the Florida Constitution's own Religion Clauses. The doctrine recognizes a structural limitation on secular judicial power, the bounds of which this case now tests. Appellant, Jacqueline Napolitano ("Napolitano"), argues the trial court improperly dismissed her complaint for breach of an employment contract against Appellees, Thomas Walden, f/k/a Thomas Wanitsky, as Pastor of St. Joseph Catholic Church ("Father Walden"), St. Joseph Catholic Church ("St. Joseph"), and John Gerard Noonan, as Bishop of the Diocese of Orlando ("the Diocese") (collectively "the Church Defendants"). We disagree. Contrary to Napolitano's assertions, the trial court appropriately recognized the dispute in this case—whether Father Brown had either actual or apparent authority under Canon Law to form an employment contract that bound successor administrations ***276** of St. Joseph—to be one of church governance, which it lacked subject matter jurisdiction to resolve. Accordingly, we affirm.

BACKGROUND AND FACTS

This case involves a dispute over the firing of Napolitano, who was initially hired by then-pastor Father Brown as St. Joseph's office manager.[1] Approximately twelve years after Napolitano was initially hired, and allegedly after Father Brown learned he would be removed as pastor, Father Brown and Napolitano executed an employment agreement for the first time. The agreement purportedly bound St. Joseph and the "Roman Catholic Diocese of Orlando," provided Napolitano with continued employment for the succeeding four years, only allowed termination for cause, and required six months' advance notice to avoid an automatic renewal.

Bishop Noonan subsequently removed Father Brown as Parish Pastor of St. Joseph and appointed Father Walden. Father Walden terminated Napolitano without notice, in violation of her employment agreement, allegedly for the purpose of replacing her with two other employees. The formal separation papers informed Napolitano that her termination was due to a reduction in workforce.

Following her termination, Napolitano sued Father Walden, St. Joseph, and the Diocese in separate counts for breach of her employment agreement. The operative complaint alleged the alternative existence of either a written agreement or an oral agreement, and it further alleged Father Brown had the exclusive authority to hire and fire anyone employed by St. Joseph, to enter into employment agreements with employees of St. Joseph, and to operate and manage St. Joseph as he determined appropriate. The Church Defendants filed a motion to dismiss Napolitano's complaint, arguing the trial court lacked subject matter jurisdiction based on the church autonomy doctrine.

In support of their respective positions, both Napolitano and the Church Defendants filed affidavits prepared by competing experts in Canon Law. Each affidavit detailed citations to Canon Law, suggested the manner in which Canon Law should be construed, and explained the relative significance of the provisions as applied to the formation of employment agreements. Both affidavits emphasized a pastor's authority to act based on his stated role as "administrator of the parish's goods" and attempted to explain the meaning of "acts of ordinary administration" under Canon Law as distinguished from "acts of extraordinary administration," which would require approval of the bishop.

In evaluating the motion to dismiss, the trial court recognized the main dispute as "not whether an employment contract was breached, but whether or not Father Brown had the actual or apparent authority within his capacity as Pastor of St. Joseph Catholic Church to enter into an employment contract with Jacqueline Napolitano." The trial court determined that resolving the issue presented would require it to delve into the duties of a pastor and church organization and it therefore lacked subject matter jurisdiction to hear the case. Consequently, the trial court dismissed the complaint.

STANDARD OF REVIEW

[1] This Court reviews de novo an order on a motion to dismiss for lack of subject matter jurisdiction. *See Bilbrey v. Myers*, 91 So. 3d 887, 890 (Fla. 5th DCA 2012).

*277 ANALYSIS

I.

[2] The First Amendment of the United States Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Art. I, U.S. Const. Florida's Religion Clauses, found in Article I, section 3 of the Florida Constitution, similarly provide "there shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof."[2] Together, the Religion Clauses of both documents serve as a structural barrier against political interference with religious affairs. *See, e.g.*, *Conlon v. InterVarsity Christian Fellowship*, 777 F.3d 829, 836 (6th Cir. 2015) (holding that ministerial exception is "structural" protection, "one that categorically prohibits federal and state governments from becoming involved in religious leadership disputes"); Carl H. Esbeck, *The Establishment Clause As A Structural Restraint on Governmental Power*, 84 Iowa L. Rev. 1, 45 (1998). This provides "a spirit of freedom for religious organizations, [and] an independence from secular control or manipulation – in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 116, 73 S.Ct. 143, 97 L.Ed. 120 (1952).

[3] As to the reach of secular judicial power, the First Amendment's guarantees are recognized as the "ecclesiastical

abstention doctrine" that flows from a line of cases distinct from either the Establishment or Free Exercise cases interpreting the First Amendment. As recognized by the Florida Supreme Court in *Malicki v. Doe*, the doctrine precludes secular courts from exercising jurisdiction over ecclesiastical disputes, those about "discipline, faith, internal organization, or ecclesiastical rule, custom, or law," as distinguished from "purely secular disputes between third parties and a particular defendant, albeit a religiously affiliated organization." 814 So. 2d 347, 357 (Fla. 2002) (quoting *Bell v. Presbyterian Church*, 126 F.3d 328, 331 (4th Cir. 1997)).

Napolitano recognizes the authority of the doctrine but nonetheless maintains the trial court erred in dismissing her case. In support, Napolitano argues the trial court can and should apply neutral principles of law to resolve the dispute, thereby avoiding any excessive entanglement with religious issues. This argument misses the mark though. To explain why, it is necessary to examine the context in which the neutral principles test arose and its scope.

[4] **[5]** The "neutral principles of law" test to which Napolitano refers is derived from *Jones v. Wolf*, 443 U.S. 595, 99 S.Ct. 3020, 61 L.Ed.2d 775 (1979), where the United States Supreme Court addressed constitutionally permissive approaches for adjudicating church property disputes. *Id.* at 597, 99 S.Ct. 3020. Before *Jones*, the Supreme Court held courts must defer to ***278** church tribunals if they had already decided an issue that is referred to the civil court system. *See, e.g.*, *Serbian E. Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 724–25, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1976). But *Jones* held deference to church tribunals was not the only permissible method of adjudication; rather, states "may adopt *any* one of various approaches of settling church property disputes so long as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith." *Jones*, 443 U.S. at 602, 99 S.Ct. 3020 (quoting *Md. & Va. Eldership of Churches of God v. Church of God at Sharpsburg, Inc.*, 396 U.S. 367, 368, 90 S.Ct. 499, 24 L.Ed.2d 582 (1970) (Brennan, J., concurring)). In addressing the various approaches, the Court specifically approved the method of resolving church property disputes based on "neutral principles of law," which principles the Court noted could be derived from "objective, well-established concepts of trust and property law familiar to lawyers and judges" and applied to interpret secular provisions in deeds, church constitutions, and other legal documents.[3] *Id.* at 603, 99 S.Ct. 3020. Importantly though, *Jones* recognized the application of neutral legal principles in resolving church disputes is valid only if "no issue of doctrinal controversy is involved." *Id.* at 605, 99 S.Ct. 3020.

[6] The church autonomy doctrine extends beyond church property disputes. In *Milivojevich*, the Court held that the right of church autonomy "applies with equal force to church disputes over church polity and church administration." 426 U.S. at 710, 96 S.Ct. 2372. And in cases involving disputes over polity and administration, the Court has taken a more categorical approach, recognizing that secular courts may not interfere with matters of internal church governance or interpret a church's written constitution or ecclesiastical law.

For example, in *Shepard v. Barkley*, the Court held a state court could not interfere with the merger of two Presbyterian denominations. 247 U.S. 1, 2, 38 S.Ct. 422, 62 L.Ed. 939 (1918). Likewise, in *Milivojevich*, the Court noted "the reorganization of the Diocese involves a matter of internal church government, an issue at the core of ecclesiastical affairs," and it therefore refused to delve into the various church constitutional provisions relevant to a dispute over control of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, its property, and assets. 426 U.S. at 721, 96 S.Ct. 2372. And several other cases presenting disputes of church polity produced corresponding results. *See, e.g.*, *Presbyterian Church v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 451, 89 S.Ct. 601, 21 L.Ed.2d 658 (1969) (recognizing that civil courts forbidden to interpret and weigh church doctrine); *Kreshik v. St. Nicholas Cathedral*, 363 U.S. 190, 191, 80 S.Ct. 1037, 4 L.Ed.2d 1140 (1960) (recognizing that First Amendment prevented judiciary, as well as legislature, from interfering in ecclesiastical governance of Russian Orthodox Church); *Kedroff*, 344 U.S. at 119, 73 S.Ct. 143 (same). Most recently, in *Our Lady of Guadalupe School v. Morrissey-Berru*, the Court reaffirmed what that unbroken chain of cases make clear: no state authority has the power to interfere in matters of ecclesiastical government. ***279** —— U.S. ——, 140 S. Ct. 2049, 2060, 207 L.Ed.2d 870 (2020) ("[A]ny attempt by government to dictate or even to influence such matters would constitute one of the central attributes of an establishment of religion."); *accord* Stephanie H. Barclay et. al., *Original Meaning and the Establishment Clause: A Corpus Linguistics Analysis*, 61 Ariz. L. Rev. 505, 534 (2019) (explaining findings that state control over doctrine, governance, and personnel of church was historically understood as establishment).

II.

[7] Applying these principles, we now address whether the trial court erred in dismissing Napolitano's complaint. In doing so, our inquiry is whether this dispute is one of discipline, faith, internal organization, or ecclesiastical rule, custom, or law. If so, secular courts lack the authority to resolve the dispute and there is no need for judicial balancing tests—the First Amendment has already struck that balance. *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171, 196, 132 S.Ct. 694, 181 L.Ed.2d 650 (2012) ("When a minister who has been fired sues her church alleging that her termination was discriminatory, the First Amendment has struck the balance for us.").

At the heart of the dispute between Napolitano and the Church Defendants is whether Father Brown had the authority under Canon Law to obligate successor administrations of St. Joseph to retain his chosen employees. Simply put, Napolitano has requested that a secular court examine a hierarchical religious organization and determine who has the authority to speak and act on its behalf. Whether based on actual or apparent authority, Napolitano's request would require a court to impermissibly wade into ecclesiastical polity, in violation of the First Amendment.

[8] Take Napolitano's claim that Father Brown had actual authority to form Napolitano's employment agreement. That claim would require an assessment of the interrelationship between the Diocese and St. Joseph and who within the Catholic Church has the power and authority to control the operation of the parishes. Making that assessment, as Napolitano recognizes, would require a court probe into religious Canon Law to discern the respective legal significance and authority of a pastor, a parish, and the Diocese. The risk of constitutional violation posed by this inquiry is evident: incorrectly identifying or describing the authority of a pastor as well as the scope of ordinary acts of administration would undermine the right of a religious organization to choose a structure that best propagates its message. But what is more, the United States Supreme Court has warned that the First Amendment may be violated not only by judicial decisions, but by the very inquiry that results in a court's findings and conclusions of law. *See NLRB v. Cath. Bishop of Chi.*, 440 U.S. 490, 502, 99 S.Ct. 1313, 59 L.Ed.2d 533 (1979).

[9] Napolitano's claims based on apparent authority do not fare any better. Indeed, resolving this dispute based on a claim of apparent authority would require examining the history and operation of the Parish, scrutinizing the governance patterns of the Diocese, and applying secular conceptions of agency to church governance. This exercise too would permit a court to seize control of the church's polity to the extent a religious organization's structure and governance failed to conform with secular expectations. *Accord Schmidt v. Bishop*, 779 F. Supp. 321, 332 (S.D.N.Y. 1991) ("Insofar as concerns retention or supervision, the pastor of a Presbyterian Church is not analogous to a common law employee. ... The traditional denominations ***280** each have their own intricate principles of governance, as to which the state has no rights of visitation.").

So either way, Napolitano's claim fails. Whether Father Brown had the actual or apparent authority to form the employment agreement and bind St. Joseph and the Diocese, even after his removal, is a quintessentially religious controversy—one that would require judicial inquiry into internal church matters—and constitutes a subject matter of which secular courts lack jurisdiction. *See, e.g.*, *Hosanna-Tabor*, 565 U.S. at 187, 132 S.Ct. 694 (quoting *Milivojevich*, 426 U.S. at 720, 96 S.Ct. 2372); *Smith v. Clark*, 185 Misc.2d 1, 709 N.Y.S.2d 354 (N.Y. Sup. Ct. 2000) (concluding that court lacked subject matter jurisdiction pursuant to First Amendment over breach of contract suit brought by former church employees against church arising from their termination; suit involved principles of religious doctrine, including whether pastor of church had right to terminate employees holding ministry positions and whether administrator of church had authority under canon law to enter into employment agreements on behalf of church); *Harris v. Matthews*, 361 N.C. 265, 643 S.E.2d 566, 571 (2007) ("[A] church's view of the role of the pastor, staff, and church leaders, their authority and compensation, and church management" is affected by the church's religious doctrine, and hence "courts must defer to the church's internal governing body" on such matters.) (citation omitted). Consequently, the trial court appropriately recognized the dispute as one it lacked the authority to resolve.

CONCLUSION

Because the dispute in this case is one regarding ecclesiastical polity, a secular court's only legitimate role is ensuring the dispute is committed to religious authorities. The

ecclesiastical abstention doctrine bars consideration of Napolitano's claims, and the trial court appropriately dismissed her complaint.

AFFIRMED.

ORFINGER, J., and MCINTOSH, D., Associate Judge, concur.

All Citations

308 So.3d 274, 45 Fla. L. Weekly D2838

Footnotes

1 Napolitano managed the day-to-day parish needs, serving as the operational point of contact between the Diocese and the parish and the parishioners and the parish.

2 Prior to the 1968 amendments to Article I, Florida's Religion Clauses were found in two separate sections that differed textually, and significantly, from the religion clauses of the United States Constitution. The current version of Florida's Establishment and Free Exercise clauses now tracks the language of the United States Constitution, and those clauses are generally interpreted in the same manner as their federal counterparts. *See, e.g.*, *Williamson v. Brevard Cnty.*, 276 F. Supp. 3d 1260, 1297 (M.D. Fla. 2017); *Todd v. State*, 643 So. 2d 625, 628 n.3 (Fla. 1st DCA 1994). Consequently, the jurisdiction of Florida's Article V courts over ecclesiastical matters is limited both by the First Amendment of the United States Constitution through incorporation and by the structural limitations imposed by Article I, section 3 of the Florida Constitution.

3 Justice Brennan labeled this approach the “formal title” doctrine, explaining civil courts adjudicating church property disputes could determine ownership by studying deeds, reverter clauses, and general state corporation laws. *Md. & Va. Eldership of Churches of God v. Church of God at Sharpsburg, Inc.*, 396 U.S. 367, 370, 90 S.Ct. 499, 24 L.Ed.2d 582 (1970) (Brennan, J., concurring).

DISTRICT COURT OF APPEAL
FIFTH DISTRICT
300 SOUTH BEACH STREET
DAYTONA BEACH, FLORIDA 32114
(386) 947-1500 COURT

August 19, 2022

The Honorable Carlos G. Muñiz
Chief Justice
Supreme Court of Florida
500 South Duval Street
Tallahassee, Florida 32399-1925

Dear Chief Justice Muñiz:

In my capacity as chair of the Workgroup on the Implementation of an Additional District Court of Appeal, I am submitting a report consistent with the Workgroup's charges under Fla. Admin. Order No. AOSC22-18 (June 7, 2022). The report addresses the status of activities to implement the new law creating a sixth district court of appeal and realigning the boundaries of three existing districts, recommends issues for state-level or local implementation, and identifies a timeline for completing critical activities.

Implementation of chapter 2022-163, Laws of Fla., inherently is an "in the trenches" activity, such as purchasing necessary equipment, aligning technology systems, establishing fiscal and related administrative channels, filling available positions, and developing court operating procedures. The Workgroup finds that the affected district courts of appeal, in cooperation with the Office of the State Courts Administrator, can address effectively most of the myriad tasks. In fact, many activities are well under way in order to meet the January 1, 2023, effective date for the new court and the related boundary changes.

As described in the report, the Workgroup thus far recommends two items for state-level action:

- Issuance of an administrative order addressing case transition and transfer issues.

- Consideration on whether and how best to communicate to the public and the Governor's Office the anticipated judicial composition of the affected DCAs based on residency.

As the administrative order contemplates, the Workgroup will continue to present recommendations to you through the State Courts Administrator on a rolling basis. In addition, the Workgroup will submit no later than November 30, 2022, any recommendations that require action by the Supreme Court before January 1, 2023. The administrative order also contemplates that the Workgroup will apprise the chief judges in writing of actions it believes are in the chief judges' respective authority. The chief judges, as well as the marshals and clerks, of the affected courts already are engaged in the Workgroup's efforts, such as through service on the Workgroup or its subgroups. However, with your concurrence, I will share the report with the chief judges after you have an opportunity to review it, in order comply with the administrative order.

Thank you for the opportunity to chair the Workgroup. I would be pleased to address any questions or provide additional information.

Sincerely,

Meredith L. Sasso
Chair

MLS:ewm

Enclosure

cc: Allison (Ali) C. Sackett, State Courts Administrator

Workgroup on the Implementation of an Additional District Court of Appeal

Status Report, Recommendations, and Timeline

August 19, 2022

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MEMBERSHIP OF THE WORKGROUP

The Honorable Meredith L. Sasso, Chair
Appellate Judge

Mr. Daniel DiGiacomo
Appellate Court Marshal

The Honorable Brian D. Lambert
Appellate Judge

The Honorable Robert Morris
Appellate Judge

Ms. Kristina Samuels
Appellate Court Clerk

The Honorable John K. Stargel
Appellate Judge

The Honorable Dan Traver
Appellate Judge

The Honorable Jonathan D. Gerber (ex officio non-voting)
Chair, Legislative Committee
Florida Conference of District Court of Appeal Judges

The Honorable Stevan Northcutt (ex officio non-voting)
Chair, Appellate Court Technology Committee

The Honorable L. Clayton Roberts (ex officio non-voting)
Chair, District Court of Appeal Budget Commission

EXECUTIVE SUMMARY

The purpose of the Workgroup on the Implementation of an Additional District Court of Appeal is to identify and make recommendations on the various operational and fiscal matters that are necessary to ensure the effective and efficient functioning of Florida's district courts of appeal (DCAs) as they implement the new law creating a sixth DCA and realigning the jurisdictional boundaries of a number of existing DCAs. Working cooperatively with the affected courts, the Workgroup has identified key issues in six areas and targeted deadlines for completion of critical activities: judicial and case management, facilities, human resources, administrative services, technology, and communications. The majority of these issues benefit from implementation at the local level – either by the affected court or cooperatively among the courts and with the Office of the State Courts Administrator. As of this report, the Workgroup is recommending Chief Justice engagement on two state-level matters:

- Issuance of an administrative order addressing case transition and transfer issues, to codify the plan proposed by affected courts and provide notice to litigants and justice system partners.

- Consideration on whether and how best to communicate to the public and the Governor's Office the anticipated judicial composition of the affected DCAs based on residency, as residency information is not readily available, and the composition is thus not likely known.

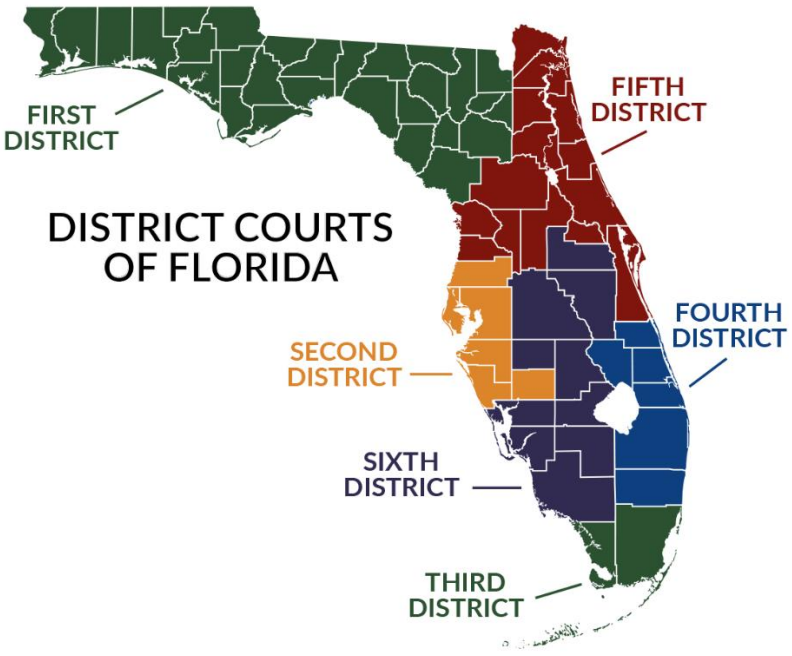
BACKGROUND

ADMINISTRATIVE ORDER

On June 7, 2022, then Chief Justice Charles T. Canady established the Workgroup on the Implementation of an Additional District Court of Appeal through Fla. Admin. Order No. AOSC22-18.[1] The order followed approval by the Governor of House Bill 7027 from the 2022 Regular Session of the Legislature (chapter 2022-163, Laws of Fla.), which, among other provisions, authorized a sixth district court of appeal; realigned the jurisdictional boundaries of the existing First, Second, and Fifth District Courts of Appeal;

[1] Appendix A.

and authorized seven new appellate judgeships – all effective January 1, 2023. The realigned DCAs are reflected in Figure 1, below.



The Governor vetoed funding for a courthouse for the Sixth DCA but retained other critical funding and staffing necessary to establish the new court. Funding and authorization for new positions – other than judgeship and judicial suite staff – were effective July 1, 2022, allowing for necessary expenditures and recruitment of staff to begin in advance of the new court becoming operational on January 1, 2023.

The administrative order specifies that the Workgroup is:

> established for the purpose of identifying and making recommendations on the various operational and fiscal matters that are necessary to ensure the ongoing effective and efficient functioning of Florida's district courts of appeal through this transition, such as human resources; interim and permanent facilities; equipment; technology, security, fiscal, and administrative services; case processing and disposition; and interim governance issues.

Among the Workgroup's specific charges prescribed in the administrative order are:

Workgroup on the Implementation of an Additional District Court of Appeal

- Present recommendations to the Chief Justice through the State Courts Administrator as they are developed.

- Share in writing any recommendations on implementation actions that are determined to be exclusively within the authority of the chief judges or a judge designated by the Chief Justice to serve as the interim chief administrative officer for the Sixth District Court of Appeal[2] with the respective judges for their assistance and consideration and provide a copy to the Chief Justice and State Courts Administrator.

- If the Workgroup identifies an issue that appears to be within the jurisdiction of another court system committee, notify the chair of the other committee in writing with a copy to the Chief Justice and State Courts Administrator, for consideration if the other committee determines the matter is within the authority conferred upon it by rule or administrative order.

- Submit by August 19, 2022, a preliminary list of operational issues for which the Workgroup recommends consistent statewide implementation versus discretion in implementation by each district court of appeal.

- Submit by August 19, 2022, a recommended timeline for completion of critical operational activities in advance of the January 1, 2023, effective date of the district court boundary changes and new judgeships.

This status report is submitted consistent with these charges.

[2] Florida Admin. Order No. AOSC22-19 (June 14, 2022) appointed the Honorable Meredith L. Sasso, currently sitting on the Fifth District Court of Appeal, as interim chief administrative officer to direct the formation and implementation activities for the impending Sixth District Court of Appeal until such time as a chief judge for the district court is chosen in accordance with the constitution and court rules.

WORKGROUP MEETINGS

To date, the Workgroup has met four times. The chair established the following six subgroups to facilitate the Workgroup's activities, comprised of Workgroup members and non-Workgroup members:

- Judicial and Case Management;
- Facilities;
- Human Resources;
- Administrative Services;
- Technology; and
- Communications.

The subgroups developed implementation action plans that, while continuing to evolve, were reviewed and, as necessary, concurred in by the Workgroup. The Workgroup has been working collaboratively with the District Court of Appeal Budget Commission as the Workgroup has identified issues within the Commission's jurisdiction.

FINDINGS AND RECOMMENDATIONS: IMPLEMENTATION ISSUES

The following tables summarize, by subgroup topical area, the key implementation issues identified; recommend either state-level implementation or implementation by each district court of appeal and/or the Office of the State Courts Administrator; and identify a timeline for completion of critical tasks. The tables are not exhaustive and will be refined as the affected courts and the Workgroup identify new issues. In addition, there is inevitable overlap and interplay among topical areas.

As the tables illustrate, the Workgroup believes that the majority of implementation activities are effectively addressed at the local court level or at the local court level in coordination with the Office of the State Courts Administrator. To meet the January 1, 2023, deadline for implementation of the new law, work on a number of these issues is necessarily under way (e.g., recruitment of senior-level positions).

JUDICIAL AND CASE MANAGEMENT

Issue	State-Level or Local Implementation	Status/Timeline
Management of pending cases from affected courts	Managed by each affected court based on parameters memorialized in administrative order issued by Chief Justice	Administrative order issued in September 2022. See narrative below.
Assignment and management of panels	Same as above	Same as above
Establishment of case-related deadlines (e.g., handling of cases filed after specified date)	Same as above	Same as above
Transfer of cases and related records	Same as above	Same as above
Identification of rule and/or statutory changes	State-level implementation by Supreme Court through approval of judicial branch substantive legislative agenda and consideration of any rule recommendations from Workgroup	Workgroup identification of any statutory or rule issues by Fall 2022, in potential collaboration with applicable rules committees
Coordination with Florida Courts E-Filing Portal	State-level implementation through outreach to Florida Courts E-Filing Authority by Workgroup and/or Office of the State Courts Administrator	Ongoing as necessary
Sharing of judicial resources	State-level action by Chief Justice pursuant to R. Gen. Prac. & Jud. Admin. 2.205 and based on request from Chief Judge of Sixth DCA	Winter/Spring 2023 See narrative below.

In conjunction with the establishment of the Fifth DCA in 1979, then Chief Justice Arthur J. England issued an administrative order on July 17, 1979, governing the establishment of the new court on August 5, 1979.[3] Among other provisions, the administrative order specified that:

- Jurisdiction of matters pending in the first, second, and fourth districts which originated in the four judicial circuits comprising the Fifth DCA would vest in the Fifth DCA as of the effective date of the new court.

[3] Appendix B.

- To minimize disruption, judges of the first, second, and fourth DCAs would exercise authority as judges of the Fifth DCA through the disposition of certain pending cases.

- Certain cases would be retained in the first, second, and fourth DCAs. However, jurisdiction would be vested in the Fifth DCA. Documents received after a specified date, and orders decisions, mandates, or other directives entered thereon, would be designated as matters of the Fifth DCA.

- The clerks and deputy clerks of the first, second, and fourth DCAs would be designated as deputy clerks of the Fifth DCA.

- Named judges of the first, second, and fourth DCAs would be assigned and designated as temporary judges of the Fifth DCA.

Reflecting on the approach taken in 1979, as well as the more recent experience with the assumption of county court appeals,[4] and based on the circumstances and current planning of the affected courts,[5] the Workgroup recommends the following elements of an implementation plan governing case transition and transfer issues:

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[4] Appendix C is a November 19, 2020, memorandum from then Chief Justice Canady addressing the process for the transfer of pending county court appeal cases.

[5] The Fifth DCA is implementing a plan in which newly perfected appeals from the Ninth Judicial Circuit will be randomly assigned to the five judges who are transitioning to the Sixth DCA. Newly perfected cases from other circuits within the boundaries of the district will be randomly assigned to the remaining judges of the Fifth DCA. Further, the chief judge is reassigning judges on previously assigned cases as necessary (e.g., to replace judges who are staying on the Fifth DCA with judges who are transitioning to the Sixth DCA for cases from the Ninth Judicial Circuit). The First DCA will continue assigning Fourth Judicial Circuit cases to panels through the assignment period that ends on an established date. The court anticipates prioritizing and concluding the majority of currently assigned appeals from the Fourth Judicial Circuit by the end of December 2022 using the already assigned judges. The management of cases between the Second DCA and the Sixth DCA presents different challenges, however, because there is only one judge on the Second DCA who is transitioning to the Sixth DCA – affecting the ability to specially assign or reassign cases from the Tenth and Twentieth judicial circuits.

- The Fifth DCA assigning perfected appeals from the Ninth Judicial Circuit to the five judges who are transitioning to the Sixth DCA and reassigning these judges on previously assigned non-Ninth Judicial Circuit cases as necessary.

- The First DCA continuing to assign Fourth Judicial Circuit cases to panels through a date established by the court and prioritizing completion of the majority of currently assigned appeals from the Fourth Judicial Circuit by the end of December 2022.

- Effective on a specified date determined by the court, the chief judge of the Second DCA ceasing assignment of judges to cases from the Tenth and Twentieth judicial circuits, in anticipation of those cases transferring to the Sixth DCA. Judges of the Second DCA retaining any assigned cases originating from the Tenth and Twentieth judicial circuits that are not finalized by the end of December 2022.

- The Chief Justice designating named judges from the Second DCA who are serving on retained cases from the Tenth and Twentieth judicial circuits as associate judges of the Sixth DCA, as well as designating the clerk and/or the deputy clerks of the Second DCA as deputy clerks of the Sixth DCA.

- Effective January 1, 2023, any pending Fourth Judicial Circuit cases from the First DCA being transferred to the Fifth DCA, and any pending Ninth Judicial Circuit cases from the Fifth DCA and any unassigned, pending Tenth and Twentieth cases from the Second DCA being transferred to the Sixth DCA.

- The Chief Justice issuing an administrative order to effectuate and provide notice of these case transition plans.

Distinct from the transition of cases between the Second DCA and the Sixth DCA, the Sixth DCA anticipates having workload-assistance needs resulting from having fewer authorized judges than estimated by the District Court of Appeal Workload and Jurisdiction Assessment Committee and having one third of its judges be new appellate judges. Thus, there may be a longer-term need for the Chief Justice, pursuant to R. Gen. Prac. & Jud. Admin. 2.205, to temporarily assign judges of the Second DCA, which appears to have excess judicial capacity, to the Sixth DCA. The extent of this potential workload need will not be known until the Sixth DCA is operational. It is anticipated that, at some point in early 2023, the chief judge of the Sixth DCA would identify the

need for temporary assignment of judges from the Second DCA and request such action from the Chief Justice.

FACILITIES

Issue	State-Level or Local Implementation	Status/Timeline
Transfer of equipment between affected DCAs, subject to new law[6]	Implementation cooperatively by affected DCAs, with administrative assistance (e.g., property inventory records) by Office of the State Courts Administrator	In process Complete by late Fall 2022
Designation of alternate headquarters for judges as authorized by s. 35.051, F.S.	Implementation by each affected DCA individually	Judges from Fifth DCA residing in Orange County already have alternate headquarters, although the space is very limited and poses significant challenges. Search for new space is under way.
Space sharing among affected DCAs	Implementation by each affected DCA	In process. Existing Second DCA has made space available for acting marshal of Sixth DCA.
Space modifications for Second DCA at Stetson University College of Law in Tampa	Implementation by Second DCA with assistance from Office of the State Courts Administrator	In process (e.g., cubicles ordered to accommodate movement of Second DCA clerk's office from Lakeland to Tampa)

[6] Chapter 2022-163, Laws of Fla., specifies that "[a]ll property, including equipment, furnishings, artwork, and fixtures, located at the Lakeland headquarters of the current Second District Court of Appeal or being used by employees assigned to the Lakeland headquarters must remain in Lakeland and must be transferred to the Sixth District Court of Appeal unless the Office of the State Courts Administrator determines that such property is critical to the continuing operations of the Second District Court of Appeal."

Issue	State-Level or Local Implementation	Status/Timeline
Leased space for Sixth DCA (including transferring/extending existing lease in Lakeland and securing additional space to accommodate space needs)	Implementation by Sixth DCA with contract assistance from Office of the State Courts Administrator (i.e., contract amendment to transfer and extend existing lease in Lakeland)	In process Fall 2022
Law enforcement agency status for Sixth DCA	Implementation by Sixth DCA, including adoption of authorizing resolution by court once operational	January 2023 Pending approval, law enforcement employees of Sixth DCA will be assigned to Second DCA as their sponsoring agency.

HUMAN RESOURCES

Issue	State-Level or Local Implementation	Status/Timeline
Allocation of available positions among DCAs	State-level implementation by District Court of Appeal Budget Commission pursuant to R. Gen. Prac. & Jud. Admin. 2.235 with Workgroup input	Complete. See narrative below.
Reassignment and recruitment of staff	Implementation by each affected court in coordination with Office of the State Courts Administrator	See timeline below.
Telecommuting and space sharing	Implementation by each affected DCA	Fall 2022/Winter 2023
Cross-training among new and existing staff	Implementation by each affected DCA in coordination with Office of the State Courts Administrator	Fall 2022/Winter 2023

The Workgroup recommends the following elements of an implementation plan governing reassignment, recruitment, and transitioning of employees in affected courts:

- Working with the District Court of Appeal Budget Commission (DCABC) and the Office of the State Courts Administrator to evaluate appropriate full-time equivalent position allocations for each DCA, for consideration

by the Commission. On August 11, 2022, the DCABC approved position allocations consistent with the Workgroup's recommendations, including with respect to central staff law clerk positions for the Sixth DCA.

- Establishing an approximate timeline for reassignment and recruitment activities as follows:
    - August 15, 2022: Share process with DCA personnel (completed via email from Second DCA chief judge to Second DCA employees);
    - August 31, 2022: Deadline for Second DCA employees requesting reassignment to apprise marshals;
    - September 2, 2022: Second DCA and Sixth DCA advertise vacancies that exist after addressing reassignment requests;
    - September 16, 2022: Deadline for applications to be received;
    - September 17-30, 2022: Internal review of applications and scheduling of interviews;
    - October 2022: Extend offers on positions.

- Noting that decisions on resource sharing, including provision or lending of space in facilities, and telecommuting rest with each court based on its circumstances.

- Providing for "transition units," under which a new and an existing, experienced employee in a particular position for the Second DCA and the Sixth DCA (e.g., systems administrator) would work together as a unit. The seasoned employee would serve in a senior capacity until such time as the new employee is situated. The senior employee would be eligible for a temporary pay adjustment during this period, subject to approval by the chief judge and any other applicable procedures. On August 11, 2022, the DCABC approved use of district court salary dollars for this purpose.

- Recommending that the DCABC provide prospective approval for courts affected by the district court boundary realignment to hire key positions at up to 10% above the minimum if necessary and if an applicant is exceptionally qualified as provided in the budget and pay administration

memorandum.[7] On August 11, 2022, the DCABC approved a rate distribution to the Second DCA and the Sixth DCA to facilitate such hires.

- Seeking DCABC approval for the Sixth DCA to hire a systems administrator at more than 10% above the minimum salary – specifically up to $74,000 – based on market competition for information technology professionals. On August 11, 2022, the DCABC approved this recommendation on behalf of the Sixth DCA and discussed the need to look at systems administrator salaries statewide.

- Providing training opportunities for key personnel, such as an orientation session with staff of the Office of the State Courts Administrator for those engaged in administrative services.

ADMINISTRATIVE SERVICES

Issue	State-Level or Local Implementation	Status/Timeline
Establish accounting organizational codes to effectuate posting of approved budget allocations and expenditures	Implementation by Sixth DCA in coordination with Office of the State Courts Administrator	Complete
Identify budget amendments or internal transfers necessary to address spending needs of affected DCAs	Implementation by affected DCAs in coordination with Office of the State Courts Administrator and subject to approval as necessary by Chief Justice	Ongoing
Provide Sixth DCA with access to administrative accounting, procurement, and human resources systems	Implementation by Sixth DCA in coordination with Office of the State Courts Administrator	Complete, subject to any necessary modifications

[7] The memorandum authorizes original employment rates up to 10% over the minimum when the candidate is exceptionally qualified and the additional rate is within a district's available rate allocation as established by the DCABC.

Issue	State-Level or Local Implementation	Status/Timeline
Identify and assign Second DCA contracts to Sixth DCA as necessary	Implementation by affected courts in coordination with Office of the State Courts Administrator	In process Complete by late Fall 2022
Transfer of equipment between affected DCAs, subject to new law[8]	Implementation cooperatively by affected DCAs, with administrative assistance (e.g., property inventory records) by Office of the State Courts Administrator	In process Complete by late Fall 2022

TECHNOLOGY

Issue	State-Level or Local Implementation	Status/Timeline
Address equipment needs of Second DCA, including for modifications to leased space in Tampa	Implementation by Second DCA with assistance from Office of the State Courts Administrator	In process Nov. 30, 2022
Equipment transfers among affected DCAs	Implementation by affected DCAs with assistance from Office of the State Courts Administrator	In process Dec. 30, 2022
Address equipment needs for Sixth DCA	Implementation by Sixth DCA with assistance from Office of the State Courts Administrator	In process Nov. 30, 2022
Cybersecurity review of equipment, training, account activation, and other issues for Sixth DCA	Collaborative implementation by Sixth DCA and Office of the State Courts Administrator	In process December 2022
File storage, telephone service, and email service needs for Sixth DCA	Implementation by Sixth DCA with assistance from Office of the State Courts Administrator	Nov. 30, 2022
Develop and deploy eFACTS and iDCA/eDCA for Sixth DCA	Office of the State Courts Administrator in collaboration with Sixth DCA	In process December 2022 and January 2023
Ensure database needs align with transfer of cases among affected DCAs	Clerks of affected DCAs in collaboration with Office of the State Courts Administrator	In process

[8] Chapter 2022-163, Laws of Fla., *supra* note 6.

Issue	State-Level or Local Implementation	Status/Timeline
Identify application changes/updates needed to account for Sixth DCA	Office of the State Courts Administrator in consultation with Sixth DCA	August 2022
Create time and attendance application for Sixth DCA	Same as above	September 2022
Update senior judge application	Office of the State Courts Administrator	Dec. 30, 2022

COMMUNICATIONS

Issue	State-Level or Local Implementation	Status/Timeline
Preparation of seal for Sixth DCA	Implementation by Sixth DCA with assistance from Office of the State Courts Administrator	Seal approved by prospective judges.
Website establishment for Sixth DCA and related website or webpage modifications	Same as above	In process See narrative below.
Social media presence	Same as above	In process Handles have been secured for key social media platforms.
Media advisories to apprise practitioners and justice system partners of key implementation developments	State-level and local implementation Implementation by Sixth DCA with assistance from Office of the State Courts Administrator. However, opportunities will exist for state-level communication engagement (e.g., Chief Justice interviews; updates on flcourts.org website).	Ongoing First *Bar News* advisory released week of August 1.
Update map for the district courts used in various communications	Office of the State Courts Administrator	Complete

With respect to applicable court system websites, staff of the Office of the State Courts Administrator developed a Sixth DCA information page (www.flcourts.org/6DCA) that is live on the flcourts.org website. It serves as a

temporary resource for the Sixth DCA. Visitors will be redirected to the permanent website upon launch. The state-level flcourts.org website has been updated to include information about the pending opening of the Sixth DCA. An audit of the flcourts.org and Supreme Court websites is ongoing to identify edits that need to be made immediately and edits that will go into effect on January 1, 2023. An amendment to the contract with the existing website vendor is anticipated to be executed in September 2022. The target for completion of the full Sixth DCA website is November 2022. The URL for the website has been secured.

JUDICIAL COMPOSITION OF NEW AND REALIGNED COURTS

Chapter 2022-163, Laws of Fla., amends s. 35.06, F.S., effective January 1, 2023, to authorize seven new appellate judgeships and to distribute appellate judgeships as follows:

DCA	Current	January 1, 2023
First	15	13
Second	16	15
Third	10	10
Fourth	12	12
Fifth	11	12
Sixth		9
Total	64	71

The law also provides that:

> No judicial vacancy may be deemed to occur as a result of the addition of a sixth appellate district or district realignment under this act. Effective January 1, 2023, a current district court of appeal judge residing in a county, the district of which is realigned under this act, shall be a district court of appeal judge of the new district where he or she resided on December 22, 2021. On January 1, 2023, the Governor shall recommission any judge whose district was modified by the realignment of districts pursuant to this act; except that, the recommission of any judge whose district is modified by the realignment of districts and is seeking retention to office at the 2022 general election, and is retained by the voters at such election, shall occur January 3, 2023.

The Workgroup concurred with the anticipated court composition based on judicial residency information gathered in 2021 and reflected in Appendix D. In light of the fact that judicial residency may not be readily known beyond the courts system, the Workgroup recommends that the Chief Justice consider whether and how to communicate to the public and the Governor's Office the anticipated judicial composition of the courts.

CONCLUSION

As noted above, the Workgroup believes that the majority of implementation activities are effectively addressed at the local court level or at the local court level cooperatively with the Office of the State Courts Administrator. To meet the January 1, 2023, deadline for implementation of the new law, work on a number of these issues is necessarily under way (e.g., recruitment of senior-level positions). Currently there are two items for which the Workgroup is recommending engagement by the Chief Justice:

- Issuance of an administrative order addressing case transition and transfer issues, to codify the proposed plan and provide notice to litigants and justice system partners.

- Consideration on whether and how best to communicate to the public and the Governor's Office the anticipated judicial composition of the affected DCAs based on residency, as residency information is not readily available, and composition is thus not likely known.

Implementation of chapter 2022-163, Laws of Fla., is inherently an operational – "in the trenches" – activity. As work shifts to the affected courts and the Office of the State Courts Administrator, it is anticipated that the Workgroup will assume a posture of monitoring activities, facilitating communication, and helping to resolve implementation obstacles. As contemplated by Fla. Admin. Order No. AOSC22-18, the Workgroup will continue to present recommendations to the Chief Justice through the State Courts Administrator as they are developed, in order to respond quickly as issues arise relating to the DCA realignment. In addition, the Workgroup will submit no later than November 30, 2022, any recommendations that require action by the Supreme Court in advance of the January 1, 2023, effective date of the district court boundary changes and new judgeships.

Supreme Court of Florida

No. AOSC22-18

IN RE: WORKGROUP ON THE IMPLEMENTATION OF AN ADDITIONAL DISTRICT COURT OF APPEAL

ADMINISTRATIVE ORDER

WHEREAS, pursuant to Article V, section 9, of the Florida Constitution, and rules 2.240 and 2.241, Florida Rules of General Practice and Judicial Administration, the Supreme Court of Florida in *In re: Redefinition of Appellate Districts and Certification of Need for Additional Appellate Judges*, Case No. SC21-1543, determined that a sixth appellate district should be created in Florida, that accompanying changes should be made to the existing boundaries of certain other districts, and that seven new appellate judgeships were needed for the continued effective operation of the newly aligned district courts of appeal; and

WHEREAS, in accordance with Article V, section 9, of the Florida Constitution, the Florida Legislature considered the Court's recommendations and enacted Committee Substitute for House Bill

7027 (2022 Reg. Sess., Enrolled), which the Governor approved on June 2, 2022; and

WHEREAS, the establishment of an additional district court of appeal and the accompanying realignment of other appellate districts requires thoughtful planning and preparation in the State Courts System to ensure that the work of the appellate courts continues without undue disruption; and

WHEREAS, it is recognized that some matters related to establishment of an additional district court of appeal will be within the purview of the chief judges as chief administrative officers of the respective district court pursuant to rule 2.210, Florida Rules of General Practice and Judicial Administration, or a judge designated by the Chief Justice to serve as the interim chief administrative officer for the Sixth District Court of Appeal, while other matters will have implications across the court system and therefore warrant consistent application on a branch-wide basis; and

WHEREAS, matters related to establishment of an additional district court of appeal, including unanticipated issues that will no doubt arise during the course of establishment, will benefit from

analysis by and insights from a group of district court judges and staff, even if ultimately determined to be within the purview of individual chief judges or a judge designated by the Chief Justice to serve as the interim chief administrative officer for the Sixth District Court of Appeal;

NOW THEREFORE, the Workgroup on the Implementation of an Additional District Court of Appeal is hereby established for the purpose of identifying and making recommendations on the various operational and fiscal matters that are necessary to ensure the ongoing effective and efficient functioning of Florida's district courts of appeal through this transition, such as human resources; interim and permanent facilities; equipment; technology, security, fiscal, and administrative services; case processing and disposition; and interim governance issues.

The Workgroup may consult with other court system committees and justice system stakeholders as it deems necessary and appropriate. If the Workgroup identifies an issue that appears to be within the jurisdiction of another court system committee, it shall notify the chair of the other committee in writing with a copy

to the Chief Justice and State Courts Administrator, for consideration if the other committee determines the matter is within the authority conferred upon it by rule or administrative order. The Workgroup may propose, for consideration by the Supreme Court, statutory changes and amendments to rules of court procedure related to the establishment of a sixth district court of appeal and the accompanying changes to the existing boundaries of certain other districts.

In order to respond quickly as issues arise relating to the realignment of Florida's appellate courts, the Workgroup shall present its recommendations to the Chief Justice through the State Courts Administrator as they are developed. The Chief Justice will address issues, consistent with the Chief Justice's authority as chief administrative officer for the judicial branch pursuant to rule 2.205, Florida Rules of General Practice and Judicial Administration, that are identified by the Workgroup or are otherwise identified. The Workgroup shall share in writing any of its recommendations on implementation actions that are determined to be exclusively within the authority of the chief judges

or a judge designated by the Chief Justice to serve as the interim chief administrative officer for the Sixth District Court of Appeal with the respective judges for their assistance and consideration and provide a copy to the Chief Justice and State Courts Administrator.

Among other activities, the Workgroup shall:

1. Submit by August 19, 2022, a preliminary list of operational issues for which the Workgroup recommends consistent statewide implementation versus discretion in implementation by each district court of appeal pursuant to rule 2.210, Florida Rules of General Practice and Judicial Administration. The Workgroup may supplement these issues as necessary.
2. Submit by August 19, 2022, a recommended timeline for completion of critical operational activities in advance of the January 1, 2023, effective date of the district court boundary changes and new judgeships.
3. Submit no later than November 30, 2022, any recommendations that require action by the Supreme Court

in advance of the January 1, 2023, effective date of the district court boundary changes and new judgeships.

The following persons are appointed to serve on the Workgroup for a term that expires on June 30, 2023:

Mr. Daniel DiGiacomo
Appellate Court Marshal

The Honorable Brian D. Lambert
Appellate Judge

The Honorable Robert Morris
Appellate Judge

Ms. Kristina Samuels
Appellate Court Clerk

The Honorable Meredith L. Sasso
Appellate Judge

The Honorable John K. Stargel
Appellate Judge

The Honorable Dan Traver
Appellate Judge

Additionally, the following persons are appointed to serve as ex officio non-voting members for a term that expires on June 30, 2023:

The Honorable Jonathan D. Gerber
Chair, Legislative Committee
Florida Conference of District Court of Appeal Judges

The Honorable Stevan Northcutt
Chair, Appellate Court Technology Committee

The Honorable L. Clayton Roberts
Chair, District Court of Appeal Budget Commission

Judge Sasso shall serve as Chair of the Workgroup. The Chair may establish ad hoc subgroups, not limited to members of the Workgroup, as necessary and to report back to the full Workgroup. Staff support shall be provided by the Office of the State Courts Administrator.

DONE AND ORDERED at Tallahassee, Florida, on June 7, 2022.

_____
Chief Justice Charles T. Canady

ATTEST:

_____
John A. Tomasino, Clerk of Court

Supreme Court of Florida

IN THE MATTER OF THE
CREATION OF THE
DISTRICT COURT OF APPEAL,
FIFTH DISTRICT

****

ADMINISTRATIVE ORDER

Pursuant to article V, section 1 of the Florida Constitution, the legislature has by general law established a fifth appellate district for the State of Florida with headquarters in Daytona Beach.* The prescribed effective date of the bill--July 1, 1979--has apparently been deferred to August 5, 1979, pursuant to the governor's decision to allow the bill to become law without his signature.**

The new appellate district will encompass the fifth judicial circuit (Citrus, Hernando, Lake, Marion, and Sumter Counties), the seventh judicial circuit (Flagler, Putnam, St. Johns, and Volusia Counties), the ninth judicial circuit (Orange and Osceola Counties), and the eighteenth judicial circuit (Brevard and Seminole Counties). Each of these circuits was formerly in whole or in part within the first, second, or fourth appellate district. To effect an orderly transition from four to five appellate districts in Florida, the following procedures have been approved by the justices of this Court, by the chief judges and clerks of the affected district courts of appeal, and by the known judges of the new district court of appeal.

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* CS for SB 268.

** In re Advisory Opinion to the Governor, No. 57,208 (Fla. July 17, 1979); 1971 Op. Att'y. Gen. Fla. 071-262 (Aug. 30, 1971).

1. Initial composition of the new court. The legislature has authorized any judge now sitting on the first, second, or fourth district court of appeal to elect to become a judge of the fifth district court of appeal, and fourth district court of appeal Judges Spencer C. Cross and James C. Dauksch, Jr. have evidenced their intention to make that election. Inasmuch as no other judges have indicated an intention to make that election, and because article V, section 4(a) of the Florida Constitution requires the fifth district court of appeal to consist of at least three judges, Parker Lee McDonald, circuit judge of the ninth judicial circuit, is hereby assigned and designated as a temporary judge of the District Court of Appeal, Fifth District, effective August 5, 1979, to determine and dispose of matters which shall be presented to him as a judge of the fifth district court of appeal, and under and by virtue of the authority here conferred is vested with all the powers and prerogatives conferred by the Constitution and laws of the State of Florida on a judge of the fifth district court of appeal.

2. Filing of new cases after August 4, 1979. All new matters properly within the jurisdiction of a district court of appeal under article V, section 4(b) of the Florida Constitution, which are filed from within the fifth, seventh, ninth, and eighteenth judicial circuits on or after August 5, 1979, must be filed with the District Court of Appeal, Fifth District. All fees, notices, briefs, pleadings, other papers, and exhibits pertaining to such cases shall be transmitted directly to the clerk of the fifth district court of appeal, as provided by law and by the rules of this Court. Until further notice, filings by mail shall be made to:

Clerk
District Court of Appeal, Fifth District
Drawer CA
Daytona Beach, Florida 32015;

filings may be hand delivered to:

Clerk
District Court of Appeal, Fifth District
Volusia County Courthouse Annex
125 East Orange Avenue
Daytona Beach, Florida 32014;

and personnel of the court may be reached by telephone at:

(904) 255-8600
(904) 255-8775.

Pursuant to article V, section 2(a) of the Florida Constitution, any items pertaining to these cases which are inadvertently received by a clerk of the first, second, or fourth district court of appeal after August 4 shall, if the jurisdiction of the district court is otherwise properly invoked, be transferred to the clerk of the fifth district court of appeal.

3. Disposition of cases pending on August 4, 1979. Jurisdiction of all matters pending in the first, second, and fourth district courts of appeal which originated in the four judicial circuits comprising the fifth appellate district shall be vested in the new district court of appeal as of 12:01 a.m. on August 5, 1979. Because the judges of the first, second, and fourth district courts of appeal have already begun their consideration of some of these cases, however, the actual transfer of all such cases would result in undesirable consequences, including lengthy delays in disposition, additional costs to litigants, and unnecessary duplication of judicial labor. Consequently, it is in the best interests of the public that disruptions of the judicial process be kept to a minimum through the disposition of certain pending cases by judges of the first, second, and fourth district courts of appeal, exercising authority as judges of the fifth district court of appeal. To facilitate the orderly separation and disposition of pending cases, the following steps are being taken:

(a) Transfer of cases. Except as provided in (b) below, all pending cases, including all notices, briefs, pleadings, other papers, and exhibits pertaining to such cases, shall be physically transferred to the fifth district court of appeal as soon as is practical.

(b) Non-transferable cases. Notwithstanding that jurisdiction shall vest in the fifth district court of appeal as to these cases, no physical transfer shall be made from the first, second, or fourth district court of appeal of:

(i) any case in which oral argument has been heard;

(ii) any case in which oral argument has been scheduled for July, August, or September, 1979;

(iii) any case in which oral argument will not be heard, but which has, in the determination of the chief judge, been submitted to the court for resolution; and

(iv) any case in which the court has entered a final order or judgment, filed an opinion, entered a mandate, or temporarily relinquished jurisdiction to a lower tribunal.

Any case which is not physically transferred to the fifth district court of appeal shall be retained in the court in which it is pending until final disposition thereof.

(c) Transferred cases. In all cases physically transferred to the fifth district court of appeal, the transferring court shall enter an order of transfer which the clerk shall serve on all parties of record and on the clerk of the lower tribunal, if any, in which the cause originated.

(d) Retained cases. In all cases retained in the first, second, or fourth district court of appeal:

(i) the court shall enter an order indicating that although jurisdiction has vested in the fifth district court of appeal, the case will be physically retained by the court. The clerk shall serve a copy of the order on all parties of record and on the clerk of the lower tribunal, if any, in which the cause originated;

(ii) all notices, briefs, pleadings, other papers, and exhibits in these cases shall continue to be filed with the clerk of the district court of appeal in which the cases were pending on August 4, 1979;

(iii) all documents received for filing after August 4, 1979, and all orders, decisions, mandates, or

other directives entered thereon, shall be designated as matters of the fifth district court of appeal;

(iv) the files and records of these cases shall be segregated from the other files and records of the first, second, and fourth district courts of appeal; and

(v) the judges assigned to these cases (under paragraph (f) below) shall be identified, where appropriate, with the following notation after their names:

(Associate Judge, sitting by assignment pursuant to Administrative Order, ___ So.2d ___ (Fla. 1979)).

(e) Designation of deputy clerks. To effectuate the disposition of retained cases, the clerks and deputy clerks of the first, second, and fourth district courts of appeal have been designated as deputy clerks of the fifth district court of appeal.

(f) Assignment of judges. For the purpose of concluding, on or after August 5, 1979, matters in pending cases within the jurisdiction of the fifth district court of appeal which will be retained in the first, second, or fourth district courts of appeal, and under the authority vested in me as chief justice of the Supreme Court of Florida by article V, section 2(b) of the Florida Constitution and the rules of this Court promulgated thereunder:

(i) E. R. Mills, Jr., Guyte P. McCord, Jr., Robert P. Smith, Jr., Richard W. Ervin, III, Anne C. Booth, and Larry G. Smith, judges of the District Court of Appeal, First District, are hereby assigned and designated as temporary judges of the District Court of Appeal, Fifth District, from time to time as necessary, to determine and dispose of matters which shall be presented to them in causes filed before August 5, 1979, which originated in Flagler, Marion, Putnam, St. Johns, and Volusia Counties, and to which they had been assigned as judges of the first district court of appeal;

(ii) Stephen H. Grimes, Edward F. Boardman, T. Frank Hobson, John M. Scheb, T. Truett Ott, Herboth S. Ryder, and Paul W. Danahy, Jr., judges of the District Court of

Appeal, Second District, are hereby assigned and designated as temporary judges of the District Court of Appeal, Fifth District, from time to time as necessary, to determine and dispose of matters which shall be presented to them in causes filed before August 5, 1979, which originated in Citrus, Hernando, Lake, and Sumter Counties, and to which they had been assigned as judges of the second district court of appeal; and

(iii) James C. Downey, Gavin K. Letts, Harry L. Anstead, John H. Moore, II, and John R. Beranek, judges of the District Court of Appeal, Fourth District, are hereby assigned and designated as temporary judges of the District Court of Appeal, Fifth District, from time to time as necessary, to determine and dispose of matters which shall be presented to them in causes filed before August 5, 1979, which originated in Brevard, Orange, Osceola, and Seminole Counties, and to which they had been assigned as judges of the fourth district court of appeal.

(iv) The above-named judges of the first, second, and fourth district courts of appeal, under and by virtue of the authority hereof, are vested with all the powers and prerogatives conferred by the Constitution and laws of the State of Florida upon judges of the fifth district court of appeal.

4. Construction of this order. This administrative order shall be construed liberally to facilitate the purposes for which it is entered, but shall not be interpreted as enlarging to any extent the existing jurisdiction of any court.

It is so ordered.

Arthur J. England, Jr.
Chief Justice

* July 17, 1979

Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

MEMORANDUM

TO: Chief Judges of the Circuit Courts

FROM: Chief Justice Charles T. Canady

DATE: November 19, 2020

SUBJECT: Process for the Transfer of Pending County Court Appeal Cases

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As you are aware, chapter 2020-61, Laws of Florida, repeals the circuit court's statutory authority in sections 26.012 and 924.08, Florida Statutes, to hear appeals from applicable county court civil and criminal decisions. As a result, the district courts of appeal (DCAs) will have appellate jurisdiction in these cases pursuant to Article V, section 4(b)(1) of the Florida Constitution.[1] This act takes effect on January 1, 2021.

An implementation team composed of staff representing DCA clerks, trial court clerks of court, and the Office of the State Courts Administrator (OSCA) has recommended a process, detailed in the attached administrative order template, for the transfer to the DCAs of county court appeals subject to the legislation. I am

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[1] The law did not amend multiple other instances of specific statutory circuit court appellate authority and, as such, the circuit courts will continue to have appellate jurisdiction for certain administrative decisions and county court decisions entered in certain noncriminal infraction and other cases.

requesting that each circuit court chief judge issue such an administrative order in early December to identify those cases anticipated to be transferred to the DCAs. In addition, each chief judge is asked to issue an amended administrative order on January 4, 2021, to facilitate the actual transfer of those cases. The administrative order template provides general language to promote the uniform transfer of cases and allows for some minor customization to meet specific circumstances within a circuit.

To mitigate workload and impacts associated with the jurisdictional transition, and as requested in a memorandum I issued on October 2, 2020, I encourage circuit courts to take the necessary efforts to conclude as many pending appeals as feasible by December 31, 2020, to minimize the number of cases that must be transferred to the DCAs.

Questions regarding this memorandum may be directed to Mr. Andrew Johns, chief of Court Services within OSCA, by email at johnsa@flcourts.org. Thank you for your ongoing leadership in facilitating implementation of this change in appellate jurisdiction.

CTC:aqj

Attachment

cc: Chief Judges of the District Courts of Appeal
Clerks of the District Courts of Appeal
Trial Court Administrators

IN THE CIRCUIT COURT OF THE [SPECIFY] JUDICIAL CIRCUIT
IN AND FOR [SPECIFY COUNTY/COUNTIES], FLORIDA

ADMINISTRATIVE ORDER XX-XX

IN RE: TRANSFER OF PENDING APPEALS FROM THE CIRCUIT COURT TO THE DISTRICT COURT OF APPEAL

WHEREAS, Article V, section 5(b), Florida Constitution bestows circuit courts with "jurisdiction of appeals when provided by general law"; and

WHEREAS, the Florida Legislature in chapter 20-61, section 3, Laws of Florida, amended section 26.012(1), Florida Statutes, and in chapter 20-61, section 8, Laws of Florida, repealed section 924.08, Florida Statutes, to remove circuit court jurisdiction over certain appeals of county court orders or judgments; and

WHEREAS, the effective date of these statutory changes is January 1, 2021; and

WHEREAS, the orderly transfer of cases requires coordination between the [specify] Judicial Circuit, the clerk[s] of court for [specify County/counties], and the [specify district] District Court of Appeal;

NOW THEREFORE, IT IS ORDERED that:

1. Attachment one to this order is a list of county court appeals, by county, that are pending as of November 30, 2020, and that will be affected by the jurisdictional change unless completed before January 1, 2021.

2. On January 4, 2021, an amended administrative order will issue to update attachment one by omitting cases that were disposed of prior to January 1, 2021, and by including cases that were filed after November 30, 2020, and not disposed of prior to January 1, 2021.

3. The following provisions are effective January 1, 2021:

    a. The appeals pending in the [specify] Judicial Circuit in and for [specify County/counties], Florida, on January 1, 2021, are hereby transferred to the [specify district] District Court of Appeal.

    b. This order shall be docketed in each appellate case that is to be transferred and served on the attorneys and pro se parties in the case [specify method of filing and service].

c. By no later than [specify deadline], the clerk shall transfer via the Florida Courts E-Filing Portal all documents on the docket of each appellate case to the clerk of the [specify district] District Court of Appeal in the manner requested by the district court.

d. For each transferred case, the clerk of the circuit court shall include (i) an Appeal Transfer Form substantially mirroring the form included with this order as attachment two; (ii) a progress docket report for the circuit court appeal; and (iii) the civil cover sheet from the underlying county court case, if available.

e. The clerk shall list on the Appeal Transfer Form the underlying county court case number (Uniform Case Numbering (UCN) System court types CC, CT, MM, and SC), the circuit court appeal case number (UCN court type AP), and any local case number assigned in addition to the UCN numbers.

f. For transferred cases where the filing fee is owed, the clerk shall promptly file a status report with the district court of appeal when the fee is satisfied by payment or indigency determination. In the event the fee has not been timely paid, the clerk shall promptly notify the district court of appeal.

g. Any and all pending motions in each transferred case are hereby deferred to the transferee district court.

4. Any future filings by a party to an appellate case shall be submitted electronically to the [specify district] District Court of Appeal via the Florida Courts E-Filing Portal. Pro se submissions may be filed via the portal or by hard copy mailed to the [specify district] District Court of Appeal at [insert address].

5. If not already registered, attorneys in the transferred cases shall register with eDCA for the district court of appeal by following the procedures on the [specify district] District Court of Appeal's website. Pro se parties are permitted, but not required, to register with eDCA to receive electronic access to case filings and electronic service of district court acknowledgement letters, orders, opinions, and mandates.

DONE AND ORDERED in [specify city] this [date] of December, 2020.

_____
Chief Judge

cc:
Attachment one [list of cases]
Attachment two [appeal transfer form]

ATTACHMENT ONE

For AO issued December 1, 2020, attach list of county court appeals subject to transfer that are pending as of November 30, 2020.

For AO amendment issued on January 4, 2021, attach updated list of county court appeals that are pending as of midnight, December 31, 2020, and transferred to DCAs.

For AO amendment 2, if needed, attach list of cases filed as of midnight, December 31, 2020, but set up after January 4, 2021. [Note: Do not replicate Jan. 4 list to avoid requirement for AO to be docketed again in cases already ordered to be transferred.]

ATTACHMENT TWO

APPEAL TRANSFER FORM

_____ _____
Appellant(s) County

v.

_____ L.T. Case No.: _____
Appellee(s) UCN No.: _____
Appeal Case No.:_____
UCN No.: _____

___ Progress docket for appellate case included.

___ Civil cover sheet for county court case included.

___ An appellate filing fee appears to be required

___ and has been paid.
___ but has not been paid.

___ Appellant has been determined to be indigent.

___ There is no filing fee in this type of proceeding (e.g., postconviction, habeas corpus).

___ Pending motions transferred with appeal.

Further comments that might be of value to the district court in determining case classification and jurisdiction are:

_____

Deputy Clerk (Only initials needed)

Anticipated Composition of New and Realigned District Courts of Appeal Based on Parameters of Chapter 2022-163, Laws of Fla., and Residency Information Gathered in 2021

Judges	Notes
First DCA – 13 Judges	
Bilbrey	
Kelsey	
Lewis	
Long	
Nordby	
Osterhaus	
Ray	
Roberts	
Rowe	
Tanenbaum	
Thomas, B.	
Thomas, M.	
Winokur	
Second DCA – 15 Judges	
Atkinson	
Black	
Casanueva	
Kelly	
Khouzam	
Labrit	
LaRose	
Lucas	
Morris	
Northcutt	
Rothstein-Youakim	
Silberman	
Sleet	
Smith	
Villanti	
Fifth DCA – 12 Judges	
Edwards	
Eisnaugle	
Evander	
Harris	
Jay	Transition from First DCA
Lambert	
Makar	Transition from First DCA

Judges	Notes
Wallis	
Newly Appointed Judge	
Newly Appointed Judge	
Newly Appointed Judge	
Newly Appointed Judge	
Sixth DCA – 9 Judges	
Cohen	Transition from Fifth DCA
Nardella	Transition from Fifth DCA
Sasso	Transition from Fifth DCA
Stargel	Transition from Second DCA
Traver	Transition from Fifth DCA
Wozniak	Transition from Fifth DCA
Newly Appointed Judge	
Newly Appointed Judge	
Newly Appointed Judge	