

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT

ADMINISTRATIVE ORDER NO.:
08-24

IN RE: FEES - COSTS OF DEFENSE; PUBLIC DEFENDER APPLICATION FEE

WHEREAS, an amendment to Section 938.29, Florida Statutes, effective July 1, 2008, mandates that costs for the public defender shall be set in all criminal cases at no less than \$50 per case in misdemeanor or criminal traffic cases and no less than \$100 per case when a felony offense is concluded by entry of a guilty or nolo contendere plea or by guilty verdict at trial or hearing, including a proceeding in which the underlying offense is a violation of probation or community control; and

WHEREAS, Section 938.29, Florida Statutes, mandates that the sentencing court order cost of defense without regard to the defendant's present ability to pay; and

WHEREAS, Section 938.29, Florida Statutes, requires the clerk of court to collect and dispense costs of defense in any case; and

WHEREAS, Section 27.52(1)(b) Florida Statutes, mandates that a defendant pay a \$50 Public Defender Application Fee within 7 days of the appointment of the Public Defender and mandates that the clerk of court notify the court if the fee has not been paid at time of sentencing; and

WHEREAS, there is a need for direction to the Clerk of Court to properly implement the requirements of Sections 938.29 and 27.52(1)(b) Florida Statutes: IT IS ORDERED THAT:

1. The Clerk of the Court shall include in each criminal judgment, in cases in which the defendant was represented by the Public Defender, costs for the Public Defender in the amount of \$50.00 in misdemeanor cases and \$100.00 in

felony cases, including original actions and violations of probation or community control. A claim for costs higher than \$50.00 in misdemeanor cases and \$100.00 in felony cases must be submitted by motion and scheduled for hearing before the assigned judge prior to imposition of a sentence or within 60 days after the date a sentence is imposed, if jurisdiction is specifically reserved for that purpose in the judgment and sentence. The motion shall set forth facts justifying the imposition of additional costs with particularity.

2. The Clerk of Court shall, at the time of the appointment of the Public Defender, include in the court minutes and orders that the defendant shall pay to the Clerk of Court within 7 days the \$50 Public Defender Application Fee for each application for court-appointed counsel filed. This shall not apply to the appointment of the Public Defender in juvenile delinquency cases.
 3. The Clerk of Court at sentencing shall notify the sentencing court if the defendant has not paid the \$50 Public Defender Application Fee and the court shall either assess the application fee as part of the sentence or as a condition of probation, of suspension of sentence, or of the withholding the imposition of sentence; or pursuant to s. 938.29, order the defendant pay the application fee in full or in installments, at the time or times specified.
- DONE AND ORDERED this 11th day of August, 2008.

CLAYTON D. SIMMONS
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CHIEF JUDGE

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