

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT,  
IN AND FOR THE STATE OF FLORIDA**

**ADMINISTRATIVE ORDER NO. A-2021-45**

**ADMINISTRATIVE ORDER ESTABLISHING PROCEDURES FOR  
THE APPELLATE DIVISION OF CIRCUIT COURT,  
FIFTH JUDICIAL CIRCUIT OF FLORIDA**

**And**

**Superseding in Part Administrative Order A-2021-18**

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

**WHEREAS**, Local Rule 1 – IN RE: DIVISIONS OF COURT; APPELLATE DIVISION was approved on April 13, 1987, by the Florida Supreme Court; 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20-61, section 3, Laws of Florida, amended section 26.012(1), Florida Statutes, and in chapter 20-61, section 8, repealed section 924.08, Florida Statutes, removing circuit court jurisdiction over certain appeals of county court orders or judgments effective January 1, 2021; and

**WHEREAS**, in response to the above mentioned amendment(s) the undersigned issued A-2021-18, which in part, dissolved the Appellate Division of the Fifth Judicial Circuit and declared Local Rule 1 inoperative; and

**WHEREAS**, the recent Third District Court of Appeal decision in *Nelson v State*, 46 Fla. L. Weekly D1751a, clearly vests jurisdiction in the Circuit Court to hear traffic infraction appeals; and

**WHEREAS**, section 26.012(1), Florida Statutes continues to vest jurisdiction of appeals from final administrative orders of local

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government code enforcement boards in the Circuit Court; and

**WHEREAS**, pursuant to and in accordance with Local Rule 1, paragraph 5, procedures are to be established for operation of an Appellate Division of the Fifth Judicial Circuit;

**IT IS THEREFORE,**

**ADMINISTRATIVELY ORDERED** as follows:

1. The Appellate Division shall be comprised of three circuit judges assigned by the Chief Judge on a rotating basis set forth in the Amended Administrative Order of Assignment of Circuit Judges to the Appellate Division of the Fifth Judicial Circuit.
2. Any judge appointed to the Panel who finds it necessary to recuse him/herself or being unable to serve due to illness or absence shall contact another circuit judge to serve in his/her absence. Thereafter, said Judge shall notify the Chief Judge in writing of their intended absence and substitute judge. The Chief Judge shall enter an appropriate order of substitution of that Panel member and notify the other Panel members. The judge obtaining a substitute shall immediately provide the docket information to the substitute judge who will be responsible for any cases considered during his/her appointment.
3. When a Notice of Appeal is filed the Clerk of Court shall send a copy of the Notice to the Office of the General Counsel via email to [appellate@circuit5.org](mailto:appellate@circuit5.org). Thereafter, the Clerk shall forward one (1) copy of any filings, including the record on appeal and briefs via electronic means, at the above email address.
4. The docket for the upcoming Appellate Panel Meeting shall be sent via electronic means to the Appellate Panel members at least one week prior to the Panel convening. The entire Record on Appeal, including briefs, shall be available to the Panel Members via electronic judicial viewer.

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5. Upon receiving a copy of the Notice of Appeal, the Court Administrator, or his/her designee, shall mail to all parties a copy of the Order on Notice of Appeal and Appellate Procedure attached hereto as Exhibit A, filing the original with the Clerk of the Court in the appropriate County.
6. If, after ninety (90) days from the date of mailing the Order on Notice of Appeal and Appellate Procedure, there has been no action or Motion for Continuance/Motion for Extension of Time filed, the Court Administrator, or his/her designee shall present to the Presiding Judge an Order to Show Cause Why the Case Should not be Dismissed, which will be served on all parties. If the Appellant fails to respond to the Order to Show Cause Why the Case Should not be Dismissed, the Court Administrator, or his/her designees shall present to the Presiding Judge an Order Dismissing Appeal.
7. The Presiding Judge of the Appellate Division shall be responsible for the orderly and prompt disposition of the Division's business in compliance with the Florida Rules of Appellate Procedure and this Order.
8. Every application for an order in connection with appellate proceedings shall be made to the Presiding Judge who shall have full charge of the proceedings. In the absence, failure, or inability of the Presiding Judge to act, any other judge of the Panel may be substituted.
9. The Presiding Judge of the Appellate Division shall be responsible for hearing all interlocutory matters once an appeal is filed.
10. If the Panel should permit oral arguments, only the Presiding Judge of the Appellate Division may inform counsel when time allotted for oral argument has expired.
11. The Presiding Judge of the Appellate Division may assign a member of the Panel to write an opinion and to circulate the opinion to other Panel members for their concurrence or

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dissent. Before publishing any decision, all Panel members shall be given an opportunity to review and consider the written opinion.

12. All cases shall be decided and published within thirty (30) days of oral argument. Each appellate Panel shall dispose of all appeals argued before it.
13. The Presiding Judge shall coordinate all hearings before the Appellate Division. The Presiding Judge shall be responsible for scheduling the meetings of the Panel. The Presiding Judge of the Panel shall schedule sessions as they are needed.

**IT IS FURTHER ORDERED;**

14. Local Rule 1 is hereby declared in full force and effect.
15. Administrative Order A-2021-18 is hereby superseded by this Order to the extent that A-2021-18 dissolved the Appellate Division of the Fifth Judicial Circuit and declared Local Rule 1 inoperative.

**DONE AND ORDERED** in chambers Brooksville, Hernando County, Florida this 8<sup>th</sup> day of October 2021.

  
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Daniel B. Merritt, Jr.  
Chief Judge

**ORDER ON NOTICE OF APPEAL  
AND  
APPELLATE PROCEDURE**

**\_\_\_\_\_ COUNTY  
APPELLATE CASE NO.: XXXX-AP-XX  
LOWER CASE NO.: 20XX-XX-XXXX**

(APPELLANT)

vs

(APPELLEE)

(Attorney Name), Esquire  
(Street Address)  
(City, FL Zip Code)

**A NOTICE OF APPEAL** has been filed in the above-styled matter. Be advised that the Florida Rules of Appellate Procedure will apply to all appeals from the County Court to the three- judge appellate panel, except as follows:

1. The appellant's initial brief is due seventy (70) days from the date of this order rather than from the filing of the notice of appeal.
2. Time computation is commenced with the date of this order rather than from the date of the notice of appeal.
3. Fla. R. App. P. 9.420(e) is inapplicable.
4. All other time limitations of the rules remain.

This Order shall constitute proper notice advising that any Appellant who does not file a timely appellate brief may have his or her brief stricken and/or appeal dismissed without hearing. A brief is considered timely when it is filed on or before the date as provided below. Because all briefs are due by a date certain Fla. R, App. P.

9.420(e) is inapplicable and there will be no extension provided for mailing.

Oral Argument must be specifically requested as provided by the rules. Any appellee who does not timely file an answer brief will not be allowed to engage in oral argument.

**IT IS SO ORDERED** this \_\_\_ day of \_\_\_\_\_, 20\_\_.

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(PRESIDING JUDGE'S NAME)  
Presiding Judge, Appellate Division

Initial Brief Due. XXXX XX, 20\_\_  
Answer Brief Due: XXXXXXXX, 20\_\_

EXHIBIT A