

**IN THE SECOND JUDICIAL CIRCUIT OF
FLORIDA**

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2009-04

**IN RE: FEES – COSTS FOR PAYMENT OF ATTORNEY’S FEES; PUBLIC
DEFENDER APPLICATION FEE**

WHEREAS, an amendment to section 938.29, Florida Statutes (2008), effective July 1, 2008, mandates that assessments for public defender representation shall be set in all criminal cases at no less than \$50.00 per case in misdemeanor and criminal traffic cases, and no less than \$100.00 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 costs 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 distribute costs of defense in every case; and

WHEREAS, section 27.52(1)(b), Florida Statutes, mandates that a defendant pay a \$50.00 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; it is therefore

ORDERED that:


- I.** Each criminal judgment shall contain an assessment pursuant to section 938.29, Florida Statutes, unless specifically waived by the Court, in the amount of \$50.00 in misdemeanor cases and \$100.00 in felony cases in all cases in which the defendant received the assistance of the Public Defender’s Office or any other court appointed counsel. A similar assessment shall be imposed, unless specifically waived by the Court, in all cases which the defendant has received due process services after being found indigent for costs under section 27.52, Florida Statutes. These assessments shall be made in all original criminal actions as well as violations of probation or community control.
- II.** A claim for costs higher than \$50.00 in misdemeanor cases and \$100.00 in felony cases shall be entered at or before sentencing and the defendant shall be given notice of the right to a hearing to contest the claim. The hearing shall be held within 30 days of the date of sentencing.



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- III. If not previously paid, each criminal judgment shall also include the \$50.00 Public Defender application fee if the Defendant applied for the services of the Public Defender and/or the court appointed the Public Defender, unless specifically waived by the court.
- IV. The first \$50.00 of any fees or costs collected on a case by the Clerk of Court will go toward satisfaction of the Public Defender Application fee, pursuant to section 27.52, Florida Statutes.
- V. Administrative Order 2002-09, In Re: Affidavit and Application for Appointment of Public Defender, is hereby rescinded.

DONE and ORDERED in Chambers in Tallahassee, Leon County, Florida, and effective this 11th day of August, 2009.


CHARLES A. FRANCIS
Chief Judge

cc: All Circuit and County Judges, Second Judicial Circuit
All Clerks of Court, Second Judicial Circuit
All Sheriffs, Second Judicial Circuit
Public Defender, Second Judicial Circuit
State Attorney, Second Judicial Circuit

