

ADMINISTRATIVE ORDER
NO. 07-98-02

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN
AND FOR ORANGE AND
OSCEOLA COUNTIES, FLORIDA

**AMENDED ADMINISTRATIVE ORDER CONCERNING REMOVAL OF
COURT FILES FROM OFFICES OF CLERK OF THE COURTS**

WHEREAS, pursuant to rule 2.050 and rule 2.072, Florida Rules of Judicial Administration, the following procedures for the removal of court files from the offices of the Clerk of Circuit and County courts are hereby established; and

WHEREAS, rule 2.072, Florida Rules of Judicial Administration, prohibits the removal of court records from the clerk's office by any person other than judges and authorized court employees, except by order of the Chief Judge upon a showing of good cause. According to the Florida Supreme Court, a chief judge has the authority to enter general administrative orders to allow the removal of court files for particular purposes. In re: Florida Rule of Judicial Administration 2.072, No. 87,058 (Fla. June 27, 1996);

NOW, THEREFORE, I, Belvin Perry, Jr., pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under rule 2.050 and rule 2.072 of the Florida Rules of Judicial Administration hereby order the following:

1. No person other than judges and authorized court employees may remove court records from the offices of the Clerk of the Circuit and County Courts except as may be allowed by this

Administrative Order or by order of the Chief Judge or presiding judge upon a showing of good cause.

2. Any judge may allow, by specific court order, the removal of a court file upon a showing by the person requesting the removal of the court file that the removal is

necessary. Persons requesting to remove a court file must submit to the Court a motion and proposed order which states the reasons for the need to remove the court file. Such motion and proposed order should substantially comply with the forms attached to this Administrative Order.

3. Any court file removed from the Clerk's office in Orange County or Osceola County pursuant to a court order or this Administrative Order must remain in Orange County or Osceola County unless the judge grants special permission for its removal to another county. Persons who request that a court file be mailed must submit the request in writing to the presiding judge. Should the presiding judge order a court file to be mailed, the file must be sent and returned by registered mail, return receipt requested, and insured for an amount to be determined by the presiding judge, at the expense of the party designated by the presiding judge.

4. Unless the judge orders otherwise, all court files must be returned to the Clerk's office by the third business day. However, the Clerk or a deputy clerk may, at any time, require that the court file be returned immediately if requested by the Clerk or by a judge.

5. In order to remove a file from the Clerk's office, a person duly authorized to do so must sign a receipt furnished by the Clerk. The Clerk may allow the file to be removed without obtaining a signature if the person's signature is on file in the Clerk's office on a properly executed signature card captioned "authorization for removal of case files from the offices of the Clerk of the Circuit and County Courts".

6. The Clerk is required by Section 28.13, Florida Statutes, to keep all papers filed in the Clerk's office with the utmost care and security. No person, other than a

judge or the Clerk or a judicial assistant under the direction of the judge, may insert, delete, destroy, or make an entry on any paper filed with the Clerk or the file folder in which it is placed unless authorized by a judge to do so.

7. Any court file removed by an authorized person must be maintained with the utmost of care and returned intact with the papers in proper sequence. No file may be released to a third party or sent to a commercial printer or copy center for copying purposes. If an authorized person removes a court file and leaves it with a judge, the authorized person is responsible for notifying the Clerk to check out the file to the judge.

8. The Clerk is authorized to suspend or revoke removal privileges for violations of the above stated provisions. The Clerk shall report all violations of these procedures, including the failure to timely return a file, to the Chief Judge or to the Administrative Judge of the division in which the case is assigned.

9. Nothing herein is intended to allow the removal of evidence from the custody of the Clerk without leave of court.

10. Nothing herein is intended to allow the removal of court records that are confidential from the custody of the Clerk without leave of court.

11. Nothing herein is intended to allow removal of court records from the custody of the clerk without leave of court when the records pertain to cases filed within the Criminal Justice Division, the Juvenile Division, the Probate Division, or the Criminal Justice or Traffic subdivisions of the County Court Division.

12. **Judges and Court Personnel:**

It is specifically intended by the undersigned that nothing in this order shall prevent the removal of any court file from any Clerk's office by the judges, judicial

assistants, judicial staff attorneys (law clerks) and the Court Administrator or his or her staff when necessary in the performance of their duties. It is implicit in Court Administration's administrative assistance to the Chief Judge that the staff perform on behalf of, and as directed by, the Chief Judge.

All court personnel when forwarding a court file to a person who is authorized to remove the court file pursuant to a court order or this Administrative Order shall ensure that the Clerk's office is notified as to whom the court file has been forwarded. Should a judge or the judge's staff wish to forward a court file to authorized persons outside of the judge's division, the judge or the judge's staff shall return the court file to the Clerk's office with written instructions to the Clerk to forward the court file to those persons. All court personnel are prohibited from forwarding a court file to a person who is not authorized to remove court files.

13. **The Florida Department of Professional Regulation:**

The Florida Department of Professional Regulation is hereby authorized to remove **closed civil court files** for a period of seventy-two (72) hours. Said Department may remove **open civil court files** for forty-eight (48) hours by written authorization to the Clerk from the assigned Judge or the Chief Judge. The Department may make copies of the documents in the court file for its use, but shall not, in so doing, take apart any deposition transcripts or other bound documents and shall comply with the procedures stated in paragraphs 3. through 10. of this Administrative Order. The authorization provided to the Department of Professional Regulation is limited to removal of **civil court files** and does not extend to court files pertaining to cases filed within the Criminal Justice Division, the Juvenile Division, the Probate Division or the

Criminal Justice or Traffic subdivisions of the County Court Division.

14. **Attorneys of Record:**

In any proceeding within the **General Civil Division**, the **Domestic Relations Division**, or the **general civil subdivisions of the County Court Division**, an attorney of record or other authorized person may remove a court file for the limited purposes of delivery to the judge for matters including, but not limited to, ex parte hearings. The court file may not be removed from the courthouse and must be returned to the Clerk's office immediately following the conclusion of the proceeding.

As stated in paragraph 2. of this Administrative Order, attorneys of record who request to remove a court file from the courthouse must submit a motion and proposed order to the Court stating the reasons for the need to remove the court file. Such motion and proposed order must substantially comply with the forms attached to this Administrative Order.

Furthermore, should a court order be granted allowing the removal of the court file, the attorney must comply with the procedures stated above in paragraphs 3. through 10. of this Administrative Order.

15. **Legal Aid Society:**

The Legal Aid Society of the Orange County Bar Association is responsible for the initial clearing of all cases referred to private attorneys through the Orange County Bar Association's Pro Bono Program. For cases in which there is ongoing litigation, it is necessary that the court files be removed by the Legal Aid Society's staff in order to review the cases to determine whether the cases warrant representation by the Legal Aid Society and pro bono attorneys. Therefore, for court files pertaining to **Domestic**,

Circuit Civil or County Civil matters in which the Legal Aid Society contemplates the filing of an appearance, the Legal Aid Society's staff is authorized to remove court files in accordance with the procedures as stated above in paragraphs 3. through 10. of this Administrative Order.

16. **Child Support Enforcement:**

The Florida Department of Revenue, Child Support Enforcement and its agents in the enforcement of child support in the Title IV-D cases are authorized to remove court files for the purpose of review in order to file appropriate subsequent pleadings and must comply with the procedures stated above in paragraphs 3. through 10. of this Administrative Order.

17. **Juvenile Division:**

The Clerk shall keep all official records prescribed in section 39.045, Florida Statutes, separate from other records of the Circuit Court. These records shall not be open to inspection by the public. No record shall be inspected except upon order of the Court permitting inspection by persons deemed by the Judge to have a proper interest therein. However, a child and the parents or legal custodians of the child and their attorneys shall always have the right to inspect and copy any official record pertaining to the child. Furthermore, other persons who are designated within the statute may inspect and copy court files by Court order. Liaison personnel employed with the Department of Juvenile Justice and the Department of Health and Rehabilitative Services are authorized to remove court files for the purpose of bringing the court files to and from the judges' chambers, hearing rooms, courtrooms and the Clerk's office. However, these

persons shall not remove court files from the courthouse.

Administrative Order No. 07-96-40 titled "Order Regarding Research by the Florida Juvenile Justice Advisory Board Concerning Transfers of Juveniles for Prosecution as Adults" allows the Juvenile Justice Advisory Board professional staff and the staff's authorized agents access to Juvenile Division court files for the limited purpose of completing research concerning the transfers of juveniles for prosecution as adults. When removing court files, these persons must comply with the provisions in Administrative Order No. 07-96-40 and the procedures and limitations as stated above in paragraphs 3. through 10. of this Administrative Order.

18. **Mediators:**

Mediators, who are appointed by the Court to conduct mediations at the Court for both county civil cases and domestic cases are authorized to remove court files for the limited purpose of bringing the court files to and from the mediations. The Clerk shall maintain a list of these mediators' names and upon removing the court files, the mediators shall present to the Clerk proper identification for such removal. The court files shall not be removed from the courthouse by the mediators except upon written order from the Court.

19. **Court Reporters:**

Court Reporters, except those who are employees of the Ninth Judicial Circuit, must have a written order from the Court to remove court files.

20. **Pro Se Litigant (i.e. a party to a lawsuit who is proceeding without an attorney):**

Pro Se litigants must have a written order from the presiding judge or the

Administrative Judge of a specific division to remove court files; and the removal of court files shall only be for the limited purpose of bringing the court file to the presiding judge for a pending court proceeding or for bringing the court file to a mediator for a scheduled mediation, or for bringing the court file to a hearing officer for a hearing. Under no circumstances shall pro se litigants be authorized to remove court files from the courthouse.

21. **Effective Date:**

This Administrative Order shall become effective immediately. Administrative Order No. 07-96-57 is vacated and set aside.

DONE AND ORDERED at Orlando, Florida, this 11th day of August, 1998.

/s/ Belvin Perry, Jr.
Belvin Perry, Jr.
Chief Judge

Copies to:

All Circuit & County Judges, Ninth Judicial Circuit
State Attorney's Office, Ninth Judicial Circuit
Public Defender's Office, Ninth Judicial Circuit
General Counsel, Orange County Sheriff's Office
Orange County Corrections
Orange County Bar Association
Bar Briefs, Orange County Bar Association
Paul C. Perkins Bar Association
Hispanic Bar Association
Clerk of Courts, Orange County
Orange County Law Library
Clerk of Courts, Osceola County
The Osceola County Bar Association
The Osceola County Law Library

The Osceola County Sheriff's Office
Office of the Statewide Prosecutor
Central Florida Criminal Defense Attorneys Association
Legal Aid Society of the Orange County Bar Association
Executive Director of The Florida Bar
Official Records, Orange County Comptroller

Administrative Order No. 07-98-02

FORM 1.

IN THE CIRCUIT/COUNTY
COURT OF THE NINTH
JUDICIAL CIRCUIT, IN AND FOR
ORANGE/OSCEOLA COUNTY,
FLORIDA

Case No. _____

Division No. _____

_____ ,

Plaintiff,

vs.

_____ ,

Defendant.

_____ /

MOTION TO REMOVE COURT FILE

COMES NOW, _____, and moves this Court to allow
the removal of the court file in case number _____ from the court facility and as
grounds would
show:

1. The removal of the court file from the court facility is necessary
because (state reasons/purposes for the necessity of removing the court file).
2. Should the Court grant this Motion, Movant and Movant's duly
authorized representatives, including, but not limited to, employees and associates, shall

comply with the procedures stated in this Court's Order and in Administrative Order 07-98-02.

WHEREFORE, Movant respectfully requests this Honorable Court grant this Motion to allow Movant to remove said court file from the court facility for the purposes stated above.

DATED this ____ day of _____, 19__.

Person's printed name
and signature,
address, telephone number
(if an attorney, state
Florida Bar #)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the following persons by United States mail this ____ day of _____, 199__: (list persons' names)

Person's printed name
and signature

FORM 2.

IN THE CIRCUIT/COUNTY COURT
OF THE NINTH JUDICIAL CIRCUIT,
IN AND FOR ORANGE/OSCEOLA
COUNTY, FLORIDA

Case No. _____

Division No. _____

_____ ,

Plaintiff,

vs.

_____ ,

Defendant.

_____ /

ORDER ON MOTION FOR REMOVAL OF COURT FILE

THIS CAUSE having come before me upon the Motion for Removal of Court File, and the Court having reviewed said Motion and being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED:

1. Motion is granted/denied.
2. The Clerk of Court is ordered to allow _____,

Movant and Movant's duly authorized representatives to remove the court file from the court facility for the purposes of (list purposes).

3. Movant and Movant's duly authorized representatives, including, but

not limited to, employees and associates, shall comply with the procedures stated in Administrative Order No. 07-98-02 governing the removal of court files. Failure of Movant and Movant's duly authorized representatives to comply with said procedures shall constitute a violation of this Order and Administrative Order No. 07-98-02 and the Clerk is authorized to suspend or revoke removal privileges for such violation.

4. Movant and Movant's duly authorized representatives shall keep the court file with the utmost care and security. Movant and Movant's duly authorized representatives shall not insert, delete, destroy, or make an entry on any paper or the file folder itself in the court file and shall return the court file intact. Movant and Movant's duly authorized representatives shall not release the court file to any third party, or firm, nor shall the court file be given to any commercial printer or copy center for copying purposes.

5. Movant or Movant's duly authorized representative shall return the court file to the Clerk's office within three (3) days (or earlier should the Court or Clerk deem necessary) from the date the court file is checked out to Movant or to Movant's duly authorized representative by the Clerk.

DONE AND ORDERED at Orlando/Kissimmee, Florida this ____ day of _____, 19__.

Circuit/County Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the following persons by United States Mail this ____ day of _____, 19__:
(list persons' names)

Judicial Assistant