

ADMINISTRATIVE DIRECTIVE
INTERIM ADMINISTRATIVE PROCEDURES
REGARDING PRIVATE JUDGES

Pursuant to the authority of the Administrative Director of Courts (ADC) as provided in Ala. Code (1975), §12-5-10(3), the ADC hereby directs the implementation of the following administrative procedures, effective immediately:

- (A) According to Act Number 2012-266, all parties in an action founded exclusively on domestic relations, contract, tort, or a combination of contract or tort action, may agree to the resolution of the action before a private judge. All contracts for or with a private judge shall be in writing, and shall be signed by all parties to the action involving the private judge and each of their attorneys, if applicable.

- (B) A private judge is an individual who has been, but is not actively serving as, a judge of a circuit or district court in the State of Alabama. The private judge shall have served in that judicial capacity for at least six consecutive years, be admitted to practice law in the State of Alabama, be an active member in good standing of the Alabama State Bar Association, be a resident of the State of Alabama, and shall have registered with the Director of the Alabama Center for Alternative Dispute Resolution indicating his or her willingness and ability to serve as a private judge. To serve as a private judge in an action, the action must originate in a court in which the private judge would have had subject matter and monetary jurisdiction

when he or she served as an active judge. Each applicant seeking to serve as private judge shall affirm that he or she is not covered by the State of Alabama Unified Judicial System general liability insurance policy and that the Administrative Office of Courts is under no obligation to provide insurance coverage to any private judge appointed pursuant to this Act.

- (C) If the private judge has not taken the oath of office of a retired judge prescribed in Section 12-18-7, Code of Alabama, he or she, upon each appointment as a private judge, shall take and subscribe to the oath prescribed in Article XVI, Section 279, of the Constitution of Alabama 1901. He or she shall also certify under oath that he or she is aware of and will comply with the applicable provisions of the Alabama Canons of Judicial Ethics and the Alabama Rules of Court.
- (D) The private judge may proceed with the hearing, trial, and determination of the cause after the stipulation, order, oath, and certification have been filed with the circuit clerk of the court in which the action originates. The private judge shall maintain jurisdiction over all matters brought before him or her until the judgment or order is deemed final and appealable, as defined by the Alabama Rules of Civil Procedure.
- (E) In addition to any other disclosure required by law, no later than five days after the designation as a private judge or, if the private judge is not aware of his or her designation or aware of a matter subject to disclosure at that time, as soon as

practicable thereafter, the private judge must disclose to the parties any matter subject to disclosure under the Alabama Canons of Judicial Ethics.

- (F) In addition to any other disqualification required by law, a private judge requested by the parties and designated by the court under this rule must disqualify himself or herself as provided under the Canons of Judicial Ethics.
- (G) For purposes of each case over which a private judge has agreed to preside, he or she shall have the same powers as a judge of a circuit court in relation to (1) court procedure, (2) deciding the outcome of the case, (3) attendance of witnesses, (4) punishment of contempt, (5) enforcement of orders, (6) administering oaths, and (7) giving all necessary certifications for the authentication of the records and proceedings.
- (H) All proceedings in an action heard by a private judge are of record and must be filed with the clerk of the circuit court in the county of proper venue. All parties and their attorneys, if applicable, must agree as part of the private judge contract that all submissions and pleadings will be electronically filed using AlaFile or a successor electronic filing application designated by the Administrative Office of Courts. No paper filings will be accepted by the circuit clerk or the courts in matters in which a private judge has been retained and approved.

(I) The parties to the action shall electronically file a written petition with the circuit clerk of the court in which the action is pending, requesting a private judge and stipulating the person whom the parties wish to serve as the private judge, and the petition shall be accompanied by a form signed by the proposed private judge consenting to the appointment as private judge. The petition may be electronically filed contemporaneously with the filing of the action or at any time after the action has been filed, but before the beginning of the trial. A filing fee of one hundred dollars (\$100) shall accompany the petition. The clerk shall forward the petition to the presiding judge of the circuit in which the proceedings are pending who shall verify that the former judge is registered with the Director of the Alabama Center for Alternative Dispute Resolution and shall enter an order granting the petition and appointing the private judge selected by the parties.

(J) The case record of any matter heard by a private judge shall be made available to the public in the same manner as circuit court records. The Administrative Office of Courts and the circuit clerk of the court in which the case is filed shall provide the same electronic filing case management services as with any other case filed in the circuit clerk's office. The private judge shall have access to all pleadings, docket entries, and other filings in the case through AlacourtPlus or any successor application designated by the Administrative Office of Courts. On request of the private judge, all exhibits and documents not attached to electronically filed documents shall be sent directly to the private judge. The private judge, at the time of appointment, must file a statement in each case in which he or

she is appointed that provides the name, telephone number, and mailing address of a person who may be contacted to obtain access to any documents or exhibits submitted to the private judge that would be open to the public if filed with the court clerk. The private judge must keep all exhibits and deliver them, properly marked and/or indexed, to the circuit clerk at the conclusion of the proceedings, accompanied by an affidavit from the private judge certifying the same as the complete set of all exhibits and records from the proceedings of that matter.

(K) A private judge may hear a case at any time and at any place within the State of Alabama. The private judge shall notify the circuit clerk of the court in which the case was filed of the dates, times, and places of any proceedings that could result in a judgment at least three days before the proceeding is conducted. Unless otherwise stipulated by all parties and their attorneys in writing, all proceedings shall be conducted in accordance with the Alabama Rules of Court, including but not limited to the Alabama Rules of Civil Procedure and the Alabama Rules of Evidence.

(L) A motion to withdraw a stipulation for the appointment of a private judge must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation. The motion must be electronically filed within the matter pending before the private judge, and also served on the Presiding Judge of the circuit in which the matter is pending. The motion shall be heard by the presiding judge unless the presiding judge designates another judge within the

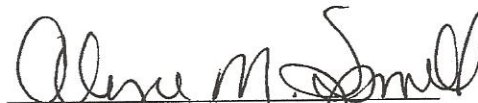
county of the circuit in which the action originated to hear the motion. A declaration that a ruling is based on error of fact or law does not establish good cause for withdrawing a stipulation. If a motion to withdraw a stipulation is granted, the presiding judge must assign the case for hearing or trial as promptly as possible.

(M) The private judge may receive compensation for hearing a case in an amount and subject to the written terms and conditions agreed to in the contract between the private judge and the parties to the case. The contract for services of a private judge must provide for the payment of the judge's compensation by the parties, the compensation of all personnel necessary to the private judge, including any court reporter costs or fees, and the costs of all facilities and materials that are used in relation to the case. The Unified Judicial System shall not incur any costs for any proceeding conducted by a private judge that are not otherwise covered.

(N) A motion for leave to file a complaint for intervention in a case pending before a private judge requested by the parties must be electronically filed within the matter pending before the private judge, served on all parties and upon the presiding judge of the circuit. The motion must be heard by the presiding judge of the circuit or the presiding judge's designee. If intervention is allowed, the case must be returned to the trial court docket unless all parties stipulate, in writing, to proceed before the private judge and be bound by the same as provided by law.

- (O) A private judge has jurisdiction until the order is deemed final and appealable, as defined by the Alabama Rules of Civil Procedure. Any post-judgment motion filed after the private judge loses jurisdiction shall be assigned to the Presiding Circuit Court Judge for adjudication or reassignment to another judge.

The above procedures are hereby DIRECTED to be implemented this 13th day of July, 2012.


Alyce M. Spruell
Administrative Director of Courts