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June 24, 2015

The Honorable Jorge Labarga
Chief Justice, Supreme Court of Florida
Supreme Court Building
500 South Duval Street
Tallahassee, Florida 32399-1925

Re: Commission on District Court of Appeal Performance and Accountability Review of the Weighted Case Disposition Threshold for District Court of Appeal Judges

Dear Chief Justice Labarga:

As directed in your letter of May 15, 2015, this Commission has reviewed the weighted case disposition threshold for district court judges, as a follow-up to our 2015 review of the relative case weights.

Our report is enclosed, including two recommendations: (1) to adopt the revised weighted case disposition threshold, and (2) to amend Rule 2.240(2)(b) to remove the specific threshold number within the rule, providing instead for a four-year review similar to that of the relative case weights.

Thank you for the opportunity to present this analysis and report to the Court. We stand ready to undertake any further action the Court may require and to address any questions you may have.

Respectfully submitted,

Vance E. Salter
Chair, DCAP&A Commission

VES / me
Enclosure
cc: Commission Members, with enclosure

Commission on District Court of Appeal Performance & Accountability

Review of the Weighted Case Disposition Threshold for District Court of Appeal Judges

June 2015

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Executive Summary

In February of 2015, the Commission on District Court of Appeal Performance and Accountability submitted a report to the Supreme Court. *Review of Relative Case Weights for District Court of Appeal Judges* was the culmination of the Commission's review of relative case weights as required by rule 2.240(b)(2)(B)(ii), Florida Rules of Judicial Administration. The report offered three recommendations to the Court, including revising the current relative case weights, removing a modifier for the First District Court of Appeal, and reviewing the weighted case disposition threshold of 280.

In response, Chief Justice Labarga, in a letter dated May 15, 2015, noted that the Court approved removing the modifier for the First District and reviewing the weighted case disposition threshold. The approval of the revised relative case weights was deferred until the threshold was reviewed. The Court asked that the Commission to review the threshold and provide recommendations by July 1, 2015.

The Commission reviewed both the weighted case disposition threshold methodology established in 2005 and current data applied to the methodology and determined that the threshold should be revised to 315. Additionally, the Commission determined that a review process for the threshold be established, following a four-year cycle similar to that of the relative case weights.

As directed in the letter from the Supreme Court, the Commission on District Court of Appeal Performance and Accountability provides the following recommendations regarding the weighted case disposition threshold:

Recommendation 1 – Revised the Weighted Case Disposition Threshold

The Commission recommends revising the current weighted case disposition threshold of 280 to 315, taking into account the increase in appellate court judges and current workload trends.

Recommendation 2 – Amend Rule 2.240(b)(2)(B), Fla. R. Jud. Admin.

If Recommendation 1 is approved, the Commission recommends amending rule 2.240(b)(2)(B), Fla. R. Jud. Admin., to remove the specific threshold number of 280 and provide for a four-year review cycle for the threshold, similar to that of the relative case weights. The Commission stands ready to pursue the rule amendment process.

Background and Objective

In 2006, the Supreme Court adopted Florida Rule of Judicial Administration 2.240, which outlines the process whereby a district court may request certification of the need for increasing or decreasing the number of judges in a district:

- The Court will presume that there is a need for an additional appellate court judgeship in any district for which a request is made and where the relative weight of cases disposed on the merits per judge would have exceeded 280 after application of the proposed additional judge(s).
- The relative weight of cases disposed on the merits shall be determined based upon case disposition statistics supplied to the state courts administrator by the clerks of the district courts of appeal, multiplied by the relative case weights established pursuant to subdivision (b)(2)(B)(ii), and divided by 100.
- The Commission on District Court of Appeal Performance and Accountability shall review the workload trends of the district courts of appeal and consider adjustments in the relative case weights every four years.

The relative weighted caseload is determined by surveying a representative sample of judges on the relative degree of judicial effort put into each category of cases based upon an agreed typical case having a value of 100. Each category is assigned a relative weight number based upon the statewide average of the weight calculated through a survey. These weights are then applied to each court's dispositions on the merits to determine the weighted caseload value and divided by 100.

Pursuant to Rule 2.240, where the weighted dispositions on the merits per judge exceed 280 after application of the proposed additional judge(s), there will be a presumption of need. The weighted case threshold is based on a weighted caseload of 28,000, reduced in scale by a factor of 100.[1]

In Administrative Order SC14-41, the Supreme Court charged the Commission with reviewing "workload trends of the district courts, specifically relative case weights for judicial workload as required by rule 2.240(b)(2)(B)(ii), Florida Rules of Judicial Administration." The Commission began the process of review in September of 2014 and submitted a report, *Review of Relative Case Weights for District Court of Appeal Judges*,

[1] *Commission on District Court of Appeal Performance & Accountability, Weighted Case Threshold Report,* (January 2006).

in February 2015. The report offered three recommendations to the Court. First, to adopt the revised relative case weights as enumerated in the report. Second, to eliminate the modifier adopted in 2009 for the First District Court of Appeal. Finally, to direct the Commission to review the weighted case disposition threshold of 280 per judge to determine if it is still an accurate benchmark for the certification process.

By letter to the Commission dated May 15, 2015, Chief Justice Jorge Labarga noted that the Court approved Recommendation 2, to remove the modifier for the First DCA, and Recommendation 3, to direct the Commission to review the threshold. The Court deferred Recommendation 1, to adopt the revised relative case weights, until the review of the threshold is completed. The Court asked that the review be completed by July 1, 2015.

2005 Threshold Methodology

In 2005, the Commission reviewed five years of relative workload data, deliberated on the workload implications, and provided the Court with a benchmark or threshold target of 280 to be used to guide the certification process. Figure 1 displays the relative workload data that is the basis for the current threshold. The Commission suggested using a threshold between the three and four-year average. The three-year (2002-03 to 2004-05) average was 282. The four-year (2001-02 to 2004-05) average was 279.

Figure 1
Application of 2005 Relative Weights to Cases Disposed on the Merits
Weighted Cases Disposed on the Merits Per Judge

District	2000-01	2001-02	2002-03	2003-04	2004-05
First	23,135	25,267	23,702	28,365	28,317
Second	28,566	28,571	31,923	29,317	32,456
Third	24,178	24,621	24,149	22,050	22,553
Fourth	28,003	29,986	30,848	32,005	31,424
Fifth	25,343	26,484	26,654	28,409	28,387
State	**25,845**	**27,008**	**27,497**	**28,171**	**28,842**

Basis for the Current Threshold	**258**	**270**	**275**	**282**	**288**

Note: The basis for threshold was calculated by dividing the state weighted cases disposed on the merits per judge by 100.

2015 Threshold Review

The 2015 review of the threshold began with an update of relative workload data. Utilizing the 2005 methodology described above, the Commission was provided with the past five years of weighted cases disposed on the merits (2009-10 to 2013-14). The updated weighted dispositions are provided in Figure 2 and are based on the 2015 proposed relative case weights. See Appendix A. In addition, based on the Court's recent decision, the weighted dispositions for the First District do not include a modifier for NOA – Administrative (Other) case group.

Figure 2
Application of 2015 Relative Weights to Cases Disposed on the Merits
Total Weighted Cases Disposed on the Merits

District	2009-10	2010-11	2011-12	2012-13	2013-14
First	465,551	440,761	457,875	442,618	443,180
Second	492,877	487,716	470,666	529,727	496,833
Third	272,301	275,121	271,408	277,189	264,999
Fourth	309,989	356,491	420,983	419,064	340,362
Fifth	316,102	345,176	367,638	371,457	330,930
State	**1,856,820**	**1,905,265**	**1,988,571**	**2,040,055**	**1,876,304**

The Commission then reviewed the data for the weighted dispositions per judge, including those based on the 61 district court judges authorized from 2009-10 through 2013-14 and those which incorporates the additional three district court judges authorized during the 2014 legislative session. These three judges were effective July 1, 2014.

Figure 3
Weighted Dispositions Per Judge - 61 District Court Judges

District	2009-10	2010-11	2011-12	2012-13	2013-14
First	31,037	29,384	30,525	29,508	29,545
Second	35,206	34,837	33,619	37,838	35,488
Third	27,230	27,512	27,141	27,719	26,500
Fourth	25,832	29,708	35,082	34,922	28,364
Fifth	31,610	34,518	36,764	37,146	33,093
State	**30,440**	**31,234**	**32,600**	**33,444**	**30,759**

Threshold	**304**	**312**	**326**	**334**	**308**

Figure 3
Weighted Dispositions Per Judge - 64 District Court Judges

District	2009-10	2010-11	2011-12	2012-13	2013-14
First	31,037	29,384	30,525	29,508	29,545
Second	30,805	30,482	29,417	33,108	31,052
Third	27,230	27,512	27,141	27,719	26,500
Fourth	25,832	29,708	35,082	34,922	28,364
Fifth	28,737	31,380	33,422	33,769	30,085
State	**29,013**	**29,770**	**31,071**	**31,876**	**29,317**

Threshold	**290**	**298**	**311**	**319**	**293**

Similar to the 2005 review, the Commission considered the three and four-year average weighted dispositions per judge for both 61 and 64 judges. The results are provided in Figure 4. Although the proposed threshold values for 64 judges are lower than those for 61 judges, neither consideration results in a presumed need for additional district court judges based on 2013-14 total weighted cases disposed on the merits.

Figure 4
Proposed Threshold Options

	61 Judges	64 Judges
Three-Year Average	323	308
Four-Year Average	320	305

Upon deliberation, the Commission determined that the weighted case disposition threshold should be a balance between the three and four-year averages and between 61 and 64 judges. Therefore, the Commission recommends that the weighted case disposition threshold be updated to 315.

The Commission notes that in determining the need for additional judges, district courts should consider not only the quantitative aspect of relative case weights and the weighted case disposition threshold, but also the qualitative factors as enumerated in rule 2.240(b)(2)(A), Fla. R. Jud. Admin., including workload factors, efficiency factors, and effectiveness factors.

Rule Amendment

Due to the ever-changing landscape of judicial workload, the Commission determined that, much like the review required every four years of the relative case weights as directed in rule 2.240(b)(2)(B)(ii), Fla. R. Jud. Admin., the weighted case threshold should also be reviewed on a regular basis. The rule does not suggest a review process for the weighted case threshold. Additionally, the rule specifies a weighted case threshold of 280. This specificity causes difficulty in updating the threshold. The Commission suggests that the rule be amended to remove 280 and provide for a four-year review of the threshold by the Commission with any revision to the threshold to be approved by the Supreme Court.

The Commission suggests the following language:

Rule 2.240. Determination of Need for Additional Judges

(b)(2)(B) The court will presume that there is a need for an additional appellate court judgeship in any district for which is a request is made and where the relative weight of cases disposed on the merits per judge would have exceeded ~~280~~<u>the weighted case disposition threshold</u> after application of the proposed additional judge(s).

(i) The relative weight of cases disposed on the merits shall be determined based upon case disposition statistics supplied to the state courts administrator by the clerks of the district courts of appeal, multiplied by the relative case weights established pursuant to subdivision (b)(2)(B)(ii), and divided by 100.

(ii) The Commission on District Court of Appeal Performance and Accountability shall review the workload trends of the district courts of appeal and consider adjustments in the relative case weights <u>and the weighted case disposition threshold</u> every four years. <u>Any such recommended adjustment shall be subject to the approval of the Supreme Court.</u>

It is recommended that if the updated threshold is approved, the Commission pursue the amendment process for rule 2.240(b)(2)(B), Fla. R. Jud. Admin., to remove the specific weighted case threshold of 280 and provide for a review of the threshold every four years. The Commission stands ready to consult with the appropriate rules committee and begin the process.

Conclusion

As directed by the Court in a letter dated May 15, 2015, the Commission on District Court of Appeal Performance and Accountability provides the following recommendations regarding the weighted case disposition threshold:

Recommendation 1 – Revised the Weighted Case Disposition Threshold

The Commission recommends revising the current weighted case disposition threshold of 280 to 315, taking into account the increase in appellate court judges and current workload trends.

Recommendation 2 – Amend Rule 2.240(b)(2)(B), Fla. R. Jud. Admin.

If Recommendation 1 is approved, the Commission recommends amending rule 2.240(b)(2)(B), Fla. R. Jud. Admin., to remove the specific threshold number of 280 and provide for a four-year review cycle for the threshold, similar to that of the relative case weights. The Commission stands ready to pursue the rule amendment process.

Appendix A – Revised Relative Case Weights by Case Type Group

Case Type Group	Current Relative Case Weight	2015 Recommended Relative Case Weight
Petitions – Certiorari (includes administrative, civil, criminal, family, guardianship, juvenile, probate, workers' compensation)	115	133
Petitions – All Other Petitions	66	99
NOA – Administrative Other	152	122
NOA- Administrative (unemployment compensation)	51	60
NOA – Prisoner Litigation	67	67
NOA – Civil Final (includes foreclosure, adoption, child, probate, guardianship, other)	204	177
NOA – Civil Non Final (includes foreclosure, adoption, child, probate, guardianship, other)	140	134
NOA – Criminal Judgment and Sentence	100	100
NOA – Criminal Postconviction Summary (includes 3.800, 3.801, 3.850, 3.853)	55	64
NOA – Postconviction Nonsummary (includes 3.800, 3.801, 3.850, 3.853)	70	84
NOA – Criminal State Appeals	105	105
NOA – Criminal Habeas Corpus and Other	66	70
NOA – Juvenile (includes delinquency, dependency, termination of parental rights, other)	99	109
NOA – Workers' Compensation	190	118
NOA – Criminal Anders	45	55