



# Supreme Court of Florida

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Tallahassee, Florida 32399-1925

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JORGE LABARGA  
C. ALAN LAWSON  
JUSTICES

JOHN A. TOMASINO  
CLERK OF COURT

SILVESTER DAWSON  
MARSHAL

January 10, 2019

## Interested Parties

Dear Interested Party:

The Supreme Court determined that a need existed to review the county court and small claims jurisdictional limits and to examine the operational issues that would be affected if those limits were adjusted. The Work Group on County Court Jurisdiction was formed under the Judicial Management Council, per Administrative Order SC18-39, to conduct that review and offer recommendations (report enclosed). The Supreme Court considered the Work Group's 12 recommendations in December 2018, and a summary of the Supreme Court's actions by charge and recommendation is provided below.

### Charge 1: Evaluate the County Court Jurisdictional Limit and Examine Operational Issues

The Supreme Court supports:

- 1.1 Increasing the county court jurisdictional limit to \$25,000 if legislation to adjust the limit is filed.
- 1.2 Conducting a review five years after an initial jurisdictional change, with reviews thereafter conducted every 10 years or earlier if warranted by data.
- 1.3 Monitoring operational impacts of a jurisdictional change.
- 1.4 Further reviewing adjustments to civil cover sheets to collect information on the amount in controversy for purposes of evaluating the need for, and impacts of, future adjustments to the jurisdictional limit.
- 1.5 Amending the statutory filing fee structure to include an additional statutory filing fee tier in the county court for civil cases with a value

between \$15,000 and \$25,000, mirroring the current circuit civil filing fee and distributions for cases within that range.

Charge 2: Examine Appellate Operational and Structural Issues

The Supreme Court supports:

- 2.1 Adjudicating county court civil cases appealed with a value between \$15,000 and \$25,000 in the circuit court, allowing no direct appeal to district courts of appeal except as otherwise provided by law.
- 2.2 Amending the statutory filing fee structure to include an additional statutory filing fee tier in the county court for appellate civil cases with a value between \$15,000 and \$25,000, mirroring the current filing fee and distributions for appeals of circuit court decisions to the district courts of appeal for cases within that range.
- 2.3 Further evaluating the potential need to authorize the certification of intra- and inter-circuit conflicts in circuit court appellate decisions for review by the relevant district court of appeal. The Florida Supreme Court recently issued an opinion, SC17-152 *In Re: Amendments to the Florida Rules of Appellate Procedure – 2017 Regular-Cycle Report*, holding that circuits shall retain discretion to determine whether or when to utilize appellate panels. The opinion also establishes a workgroup to study whether circuit courts should be uniformly required to hear appeals in panels and to propose appropriate amendments if warranted. This workgroup is established and the evaluation will be accomplished through Administrative Order SC19-3 and its associated charges.

Charge 3: Evaluate the Small Claims Jurisdictional Limit and Explore Technology to Assist in Small Claims Cases

The Supreme Court will pursue:


- 3.1 Increasing the small claims jurisdictional limit from \$5,000 to \$8,000.
- 3.2 Conducting a review five years after an initial jurisdictional change, with reviews conducted every 10 years thereafter or earlier if warranted by data.
- 3.3 Implementing an online dispute resolution pilot program (currently underway pursuant to another Supreme Court directive).
- 3.4 Reclassifying small claims cases to: (a) county court civil cases when use of the Rules of Civil Procedure is requested by a party and granted

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by the court; or (b) the appropriate level or division of court when additional damages are sought after filing that exceed the small claims jurisdictional limit. If applicable, additional filing fees for the reclassification should be collected.

If you have any questions regarding this information, please contact State Courts Administrator PK Jameson at (850) 922-5081.

Sincerely,

A handwritten signature in cursive script that reads "Charles T. Canady". The signature is written in black ink and is positioned above the printed name.

Charles T. Canady

CTC:aqj

Enclosure

**Recommendations from the  
Judicial Management Council's  
Work Group on County Court Jurisdiction**

**November 30, 2018**

*Updated to reflect Supreme Court actions in December 2018*

## WORK GROUP ON COUNTY COURT JURISDICTION

### MEMBERS

#### *District Court of Appeal Representatives*

**The Honorable Robert Morris**, Chair, Appellate Judge, Second District Court of Appeal  
**The Honorable Norma S. Lindsey**, Appellate Judge, Third District Court of Appeal  
**The Honorable Vance E. Salter**, Appellate Judge, Third District Court of Appeal

#### *Circuit Court Representatives*

**The Honorable Angela J. Cowden**, Circuit Court Judge, Tenth Judicial Circuit  
**The Honorable Frederick J. Lauten**, Chief Judge, Ninth Judicial Circuit  
**The Honorable Diana Moreland**, Circuit Court Judge, Twelfth Judicial Circuit  
**The Honorable Jonathan Sjostrom**, Chief Judge, Second Judicial Circuit

#### *County Court Representatives*

**The Honorable Paul Alessandroni**, County Court Judge, Charlotte County  
**The Honorable Gina Beovides**, County Court Judge, Miami-Dade County  
**The Honorable Frank S. Castor**, County Court Judge, Palm Beach County  
**The Honorable David Denkin**, County Court Judge, Sarasota County  
**The Honorable Josephine Gagliardi**, County Court Judge, Lee County  
**The Honorable David W. Green**, County Court Judge, Walton County  
**The Honorable Edwin Jagger**, County Court Judge, Pinellas County  
**The Honorable Robert W. Lee**, County Court Judge, Broward County  
**The Honorable James McCune**, County Court Judge, Marion County  
**The Honorable Frances M. Perrone**, County Court Judge, Hillsborough County

#### *Trial Court Administrator Representatives*

**Ms. Holly Elomina**, Trial Court Administrator, Sixteenth Judicial Circuit  
**Ms. Sandra Lonergan**, Trial Court Administrator, Eleventh Judicial Circuit

### STAFF SUPPORT

#### **Office of the State Courts Administrator**

**Arlene Johnson**, Chief, Court Services  
**Tina White**, Chief, Innovations and Outreach  
**Andrew Johns**, Deputy Chief, Innovations and Outreach  
**Patty Harris**, Senior Court Operations Consultant  
**Lindsay Hafford**, Court Operations Consultant  
**Ashley Palelis**, Court Technologist

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## EXECUTIVE SUMMARY

On August 1, 2018, the Florida Supreme Court issued Administrative Order SC18-39, creating the Work Group on County Court Jurisdiction (Work Group) within the Judicial Management Council (see Appendix A). The Court directed the Work Group to review the county court and small claims jurisdictional limits and examine the operational issues that would be affected if those limits were to be adjusted. The Work Group limited its review to county civil jurisdiction and did not fully consider county criminal court jurisdictional issues, as those criminal issues appeared beyond the scope of the administrative order. The Administrative Order included three charges.<sup>1</sup> A summary of the recommendations related to each charge is below. The Supreme Court considered the Work Group's recommendations in December 2018. Actions by the Supreme Court are underlined following each recommendation.

***Charge One: Evaluate whether the county court jurisdiction limit should be adjusted, the appropriate amount of any such adjustment, and whether there should be periodic adjustments in the future. The Work Group should also examine operational issues associated with a change in the jurisdiction of county courts and the related effects of any such change, including but not limited to consideration of facilities resources, docket management, and assignment of cases.***

### Charge One Recommendations:

- 1.1 The Work Group recommends that the county court jurisdictional limit be raised from \$15,000 to \$25,000. The new limit is derived by adding the Consumer Price Index (CPI) adjustment to the \$15,000 limit established in 1992, and rounding that figure to the nearest \$5,000. The Supreme Court supports increasing the county court jurisdictional limit to \$25,000 if legislation to adjust the limit is filed.
- 1.2 The Work Group recommends a subsequent review five years after the initial jurisdictional change, with reviews thereafter conducted every 10 years or earlier if warranted by data. The Supreme Court supports conducting a review five years after an initial jurisdictional change, with reviews thereafter conducted every 10 years or earlier if warranted by data.
- 1.3 The Work Group recommends monitoring potential operational impacts associated with increased workload for county court judges and staff, greater need for attorney representation, expansion of the types of cases heard in county court, additional demand on county court and annex facilities, expansion and modernization of technology systems, greater need for jury trials in county court cases, increased demand for county court mediation services, provision of additional court education for county court judges on new case types, and operational implications for justice stakeholders. Concern over these impacts increases as the county court jurisdictional limit increases. The Supreme Court supports monitoring operational impacts of a jurisdictional change.

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<sup>1</sup> The Work Group was divided into three subcommittees, one to study and make recommendations on each charge, with crossover membership among the subcommittees. Final recommendations were approved by the full Work Group.

- 1.4 The Work Group recommends the modification of the circuit civil cover sheet to collect information on the amount in controversy and the creation of a civil cover sheet for use in county civil cases above small claims to collect information on the amount in controversy to evaluate the need for future adjustments to the jurisdictional limit. The Supreme Court supports further reviewing adjustments to civil cover sheets to collect information on the amount in controversy for purposes of evaluating the need for, and impacts of, future adjustments to the jurisdictional limit.
- 1.5 The Work Group recommends that the statutory filing fee structure be amended to include an additional tier in the county court for civil cases with a value between \$15,000 and \$25,000, and that the new county civil filing fee tier should mirror the circuit civil filing fee and distributions as set in the Florida Statutes. The Work Group notes that if the filing fee structure is not modified to include a new filing fee tier as a component of a county court jurisdictional change, there would be a revenue impact to a variety of state and local entities. The impact to the various entities increases as the county court jurisdictional limit increases. Further, the Work Group believes a broader review may be necessary to fully address issues and impacts related to filing fees. The Supreme Court supports amending the statutory filing fee structure to include an additional statutory filing fee tier in the county court for civil cases with a value between \$15,000 and \$25,000, mirroring the current circuit civil filing fee and distributions for cases within that range.

***Charge Two: Examine appellate operational and structural issues that would be impacted by adjustments to county court jurisdiction, including but not limited to consideration of whether appeals on cases with amounts in controversy exceeding \$15,000 should continue to be adjudicated by the district courts of appeal.***

Charge Two Recommendations:

- 2.1 The Work Group recommends that cases appealed with an amount in controversy between \$15,000 and \$25,000 be adjudicated by the circuit court, acting in their appellate capacity, allowing no direct appeal to the district court of appeal, except as otherwise provided by law. The Supreme Court supports adjudicating county court civil cases appealed with a value between \$15,000 and \$25,000 in the circuit court, allowing no direct appeal to district courts of appeal except as otherwise provided by law.
- 2.2 The Work Group recommends that the statutory filing fee structure be amended to include an additional tier in the county court for appellate civil cases with a value between \$15,000 and \$25,000, and that the new county civil filing fee tier should mirror the filing fee and distributions for appeals of circuit court decisions to the district courts of appeal, which are set forth in the Florida Statutes. The Work Group notes that if the filing fee structure is not modified to include a new filing fee tier as a component of a county court jurisdictional change, there would be a revenue impact to a variety of state and local entities. The impact to the various entities increases as the county court jurisdictional limit increases. Further, the Work Group believes a broader review may be necessary to fully address issues and impacts related to filing fees. The Supreme Court supports amending the statutory filing fee structure to include an additional statutory



filing fee tier in the county court for appellate civil cases with a value between \$15,000 and \$25,000, mirroring the current filing fee and distributions for appeals of circuit court decisions to the district courts of appeal for cases within that range.

- 2.3 The Work Group recommends that any modification to the jurisdictional amount include a provision allowing intra- and inter-circuit conflicts in circuit court appellate decisions within the same district to be certified to the district court of appeal for that district. The Supreme Court supports further evaluating the potential need to authorize the certification of intra- and inter-circuit conflicts in circuit court appellate decisions for review by the relevant district court of appeal. A workgroup is established and the evaluation will be accomplished through Administrative Order SC19-3 and its associated charges.

***Charge Three: Evaluate whether the small claims jurisdiction limit should be adjusted, the appropriate amount of any such adjustment, and whether there should be periodic adjustments in the future. The Work Group should also explore any technology or other options that may enhance access to justice in small claims cases. The Work Group should make recommendations for next steps, which may include one or more pilot projects including but not limited to online dispute resolution or other process improvement measures.***

Charge Three Recommendations:

- 3.1 The Work Group recommends that the jurisdictional limit of small claims be increased from \$5,000 to \$8,000. This amount is derived by adding the CPI adjustment to the \$5,000 limit established in 1996, and rounding that figure to the nearest \$1,000. The Supreme Court will pursue increasing the small claims jurisdictional limit from \$5,000 to \$8,000.
- 3.2 The Work Group recommends a subsequent review five years after the initial jurisdictional change, with reviews thereafter conducted every 10 years or earlier if warranted by data. The Supreme Court will pursue conducting a review five years after an initial jurisdictional change, with reviews conducted every 10 years thereafter or earlier if warranted by data.
- 3.3 The Work Group recommends implementing an online dispute resolution pilot program, made available to interested parties, to determine whether statewide implementation of this technology would benefit litigants and the courts. The Supreme Court will pursue implementing an online dispute resolution pilot program (currently underway pursuant to another Supreme Court directive).
- 3.4 The Work Group recommends that small claims cases be reclassified to: (a) county civil cases when use of the Rules of Civil Procedure is requested by a party and granted by the court; or (b) the appropriate level or division of court when additional damages are sought after filing that exceed the small claims jurisdictional limit. Also, if applicable, additional filing fees should be collected. The Supreme Court will pursue reclassifying small claims cases to: (a) county court civil cases when use of the Rules of Civil Procedure is requested by a party and granted by the court; or (b) the appropriate level or

division of court when additional damages are sought after filing that exceed the small claims jurisdictional limit. If applicable, additional filing fees for the reclassification should be collected.

## CHARGE ONE

### Historical Florida County Court Jurisdictional Amounts

The original jurisdiction of county courts is prescribed in §34.01, Fla. Stat. (see Appendix B). Today, the jurisdiction includes, among other things, “all actions at law in which the matter in controversy does not exceed the sum of \$15,000, exclusive of interest, costs, and attorney’s fees.” The \$15,000 jurisdictional threshold took effect on July 1, 1992. As a result of amendments in 1972, 1980, and 1990, the statute provided threshold changes over time, as illustrated in the table below.

**Table 1: Historical Jurisdiction Limits in Florida County Court**

Date	Florida County Court Jurisdictional Limit
Prior to 1972	\$500
1972	\$2,500
July 1, 1980	\$5,000
July 1, 1990	\$10,000
July 1, 1992	\$15,000

### 2018 Legislative Session and Proposed Changes to County Court Jurisdiction

During the 2018 legislative session, both the House of Representatives and the Senate considered proposals to increase the jurisdictional amount for county court. The House of Representatives passed a bill (CS/HB 7061, 1<sup>st</sup> Eng.) that:

- Increased the jurisdictional amount to \$50,000.
- Preserved the current circuit court filing fee for claims of more than \$15,000.
- Retained the manner of appeal from county court to circuit court.
- Provided that the bill took effect on July 1, 2019, and was applicable to each cause of action filed on or after that date, regardless of when the cause of action accrued.

The original version of this bill provided for the change to \$50,000 to be effective July 1, 2018, through June 30, 2020. Further, the original bill provided for the Supreme Court to “adjust the jurisdictional limit ... every 5 years beginning July 1, 2020,” with the adjusted limit being equal to “the sum of the current jurisdictional amount and the cumulative percentage change in the preceding 5 years of the unadjusted CPI for All Urban Consumers” (rounded to nearest \$1,000).

The original Senate bill (SB 1384) increased the jurisdictional amount to \$100,000, effective July 1, 2018, and provided for the amount to be adjusted (but did not specify by what entity) every 10 years thereafter based on the rate of inflation or deflation as indicated by the CPI. As the legislation advanced, the Senate moved to a position of \$50,000 effective January 1, 2020, with CPI adjustments every five years. Similar to the House, the Senate preserved the existing circuit court filing fees for claims exceeding \$15,000 and retained the manner of appeal from county court to circuit court.

In the final hours of the legislative session, the Senate adopted and sent to the House of Representatives a bill providing for a jurisdictional amount of \$25,000, effective January 1, 2020, with CPI adjustments every five years. The Senate offer also required the State Courts Administrator to make recommendations, by December 1, 2018, regarding the potential adjustment of the county court jurisdictional amount to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The recommendation would have had to include an analysis on workflow, timely access to court by litigants, and any resulting fiscal impact to the state as a result of adjusted jurisdictional limits. However, the House of Representatives held to its position of \$50,000 and sent the legislation back to the Senate, where the measure died.

## Developing an Impact Methodology

Florida-specific data to identify cases by the amount in controversy and determine with certainty the number of circuit court cases that would move to county court was not readily available during the 2018 Regular Session because Florida does not currently track civil cases based on a claim value or dollar amount. To develop an estimate of the case filing impact, the Office of the State Courts Administrator reviewed the National Center for State Courts Civil Jurisdiction Thresholds (2015) chart and found that the most comparable and recent information on the effect of changing the claim value threshold in county court was from the State of Virginia, where the jurisdictional limit was raised from \$15,000 to \$25,000. The statistics reported in a Virginia impact statement from 2011 were used to estimate the potential case filing impact in Florida (see Appendix C). According to these statistics, the claim value of 7.4 percent of civil cases in Virginia was between \$15,000 and \$25,000.

## States' Limited Jurisdiction Civil Court Thresholds

A review of other states using data from the National Center for State Courts (not independently verified) indicates that jurisdictional amounts for courts comparable to Florida's county courts range from \$5,000 to \$200,000.

**Table 2: Jurisdictional Limits in Other States**

Amount	State(s)
Less than \$15,000	AL, AZ, AR, ID, KY, MT, NM, OR, RI, SC, SD, TX, UT, WV
\$15,000	FL, CO, NV, OH, PA
\$25,000	MA, MI, NY, NC, TN, VA
\$30,000	MD
\$40,000 - \$45,000	HI, GA
\$50,000	DE, LA, NH, WY
Greater than \$50,000	AK, MS, NE, WA
N/A <sup>1</sup>	CA, CT, IL, IN, IA, KS, ME, MN, MO, NJ, ND, OK, VT, WI

Source: National Center for State Courts, Court Statistics Project website

<sup>1</sup> The states that are included in the N/A category have a single tier trial court or have courts with limited jurisdiction, e.g., jurisdiction is only over probate.

## Work Group Discussion

At the initial meeting of the Work Group on County Court Jurisdiction, the Work Group considered historical filing data (see Appendix D), the fact that the county court civil jurisdictional amount has not been changed by the Legislature since Chapter 90-269, L.O.F., increased it to \$15,000 effective July 1, 1992, and other information. Ultimately, the Work Group agreed that some adjustment to the jurisdictional amount is warranted and that further review should be conducted to determine the adjustment amount as well as to address other issues specified in the administrative order.

To determine the appropriate amount of the adjustment, the Work Group evaluated data from several sources and concluded that the CPI would be the most appropriate measure to apply. Using this method, the initial consensus was that the amount of the adjustment should be \$27,000, which is the number that results from increasing the \$15,000 jurisdictional amount by the change in the CPI since 1992, and then rounding that number to the nearest thousand. After further discussion, however, the Work Group concluded that a rounded-down adjustment to \$25,000 would minimize confusion by being an easier, more memorable figure for self-represented parties and court partners to use.

While data is not currently available in this state to indicate precisely how many civil cases would have a claim value between \$15,000 and \$25,000, an estimate was derived based on the Virginia statistics discussed above, which indicate that 7.4 percent of Virginia's civil cases have a claim value within the specified range. Multiplying that percentage against the three-year average number of relevant Florida's civil case filings suggests that 7,831 civil cases would be filed in county, rather than circuit court if the county court jurisdictional amount was increased to \$25,000.<sup>2</sup> The Work Group anticipates that, based on existing estimates, a statewide increase of 7,831 cases in county court workload may be absorbable within existing resources. For example, it is expected that the county court in Broward County would receive 1,181 of the 7,831 new county court cases. With 15 judges assigned to handle civil cases in county court, each judge would receive approximately 79 additional cases per year, or only 6.6 additional cases per month (see Appendices E and F).

Further, to assist with future evaluations of jurisdictional changes, the Work Group recommends that a civil cover sheet, such as that required in Fla. R. Civ. P. 1.100(d), be required in all county civil cases, excluding small claims cases. In addition, the cover sheet required in circuit civil cases should be modified. Both cover sheets should include data fields designed to collect the case type and amount in controversy sought in the filing. This data collection effort may also require additional Summary Reporting System and Uniform Case Reporting system fields to be created and tracked which will assist in conducting analyses.

The Work Group determined that the jurisdictional limit for county court should be reviewed five years after the effective date of the increase to \$25,000, and that subsequent reviews should be conducted every 10 years thereafter or earlier if warranted by data. The initial five-year period will enable the branch to have enough time to capture resulting data, to determine whether such data confirms the number of cases the Work Group estimated would

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<sup>2</sup> Eligible cases for this analysis excludes case types such as real property and mortgage foreclosure, eminent domain, and habeas corpus.

shift based on the Virginia data, and to determine whether any operational impacts occurred which were not anticipated.

During its deliberations, the Work Group considered whether increases larger than \$25,000 are desirable, and ultimately concluded they are not, as such increases:

- Are likely to fundamentally change the way the county courts operate as the “People’s Court,” because higher dollar cases typically involve attorneys on both sides and an increase in jury demands.
- May not be readily absorbed within existing county court resources, based on current estimates. As illustrated in the following table, it is estimated that a jurisdictional limit of \$50,000 would increase the number of new county court cases at a limit of \$25,000 by more than threefold, while a limit of \$100,000 would increase such cases by almost tenfold.<sup>3</sup>

**Table 3: Estimated Cases Moving to County Court from Circuit Court**

Adjusted Amount	Est. Percent of Circuit Filings Moved to County Court	Est. Number of Additional Civil Filings in County Court
Up to \$25,000	7.4%	7,831
Up to \$50,000	25.9%	27,408
Up to \$100,000	66.6%	70,478

Source: Office of the State Courts Administrator

- As discussed more fully below, will have operational impacts throughout the entire State Courts System and on its stakeholders, which cannot be easily resolved.

These factors necessitate taking smaller deliberate steps to adequately address the needs of Florida’s citizens and to ensure access to the courts.

## Operational Impacts

Charge One directs the Work Group examine operational issues associated with a change in the jurisdiction of county courts. To address the charge, the Work Group discussed potential impacts to the following elements and requested information from all 20 judicial circuits (see results in Appendix G). Overall, concern over the operational impacts listed below increases as the county court jurisdictional limit increases.

**Types of Cases Impacted.** At the \$25,000 level, anecdotal information suggest that a greater number of contract cases (likely credit card and auto loan debt collection cases) and condominium/homeowner association foreclosure cases would be filed in county court. These

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<sup>3</sup> Additionally, other developing circumstances may impact the ability of the county courts to absorb additional cases. For instance, due to recent changes in federal case law, the state courts are currently facing legal challenges on how first appearances are handled statewide, the result of which may be lengthier first appearance proceedings that are typically handled by county court judges. *See, e.g., Walker v. City of Calhoun, GA*, 901 F.3d 1245 (11th Cir. 2018).

cases do not typically result in a significant amount of jury trials and, therefore, may be able to be absorbed within existing county court resources (see Appendix H). There might, however, also be a portion of more complex cases involving property damage insurance, particularly water damage cases such as those arising from hurricanes or other weather-related causes. Unlike credit card and auto loan debt cases, most cases involving property damage insurance claims have a jury trial demand. Increased jury trials in these cases may cause county court workload and facility impacts that could strain existing resources. Further, increasing to an amount greater than \$25,000, such as \$50,000, is fully anticipated to cause a far greater amount of jury trial demands to arise in county court, as many cases involving property damage insurance claims will likely fall within a \$25,000 to \$50,000, or greater, increase.

***Impact on Facilities and Technology.*** Additional cases filed in county court may add a burden for counties handling civil cases in satellite courthouses, including Miami-Dade, Broward, Palm Beach, Hillsborough, Orange and others, where facilities are already crowded and have inadequate parking. Chief judges could consider issuing administrative orders requiring cases above \$15,000 to be filed at the central or main courthouse to ameliorate any increase in the burden faced by the satellite facilities. This change, however, may inconvenience litigants.

Moreover, many county court judges handling civil cases are assigned hearing facilities that do not have jury rooms. Larger counties without assigned jury facilities for each courtroom handling civil cases include several high-volume courts such as Broward, Lee, Miami-Dade, Palm Beach, and Pinellas.<sup>4</sup> Increases in the county court jurisdictional limit that affect satellite facilities and increase jury trial demands will impact county court infrastructure needs. As these needs increase, Florida's counties may be adversely impacted because they are charged with funding county court facility requirements.

Further, Florida's counties may be adversely impacted as they are also charged with funding county court technology needs. In some circuits, county and circuit judges are not assigned the same equipment. For example, in some parts of the state, county court judges are not provided the same case management hardware and software as their circuit court colleagues. As the number of cases in county court grows, county court judges will face a growing need for access to technology that will facilitate resolution of these cases.

***Impact on Court Mediators.*** County court judges rely heavily on Florida Supreme Court certified county mediators to assist the parties in resolving many of the civil cases filed, especially in small claims. The Florida Legislature has directed that mediation in county court be low cost or free.<sup>5</sup> In the majority of judicial circuits, certified county mediators in small claims court are volunteers. Certified county mediators in county cases above small claims are either volunteers or are mediators retained on a contractual basis. The maximum contract rate for county court mediators from state funds is \$50.00 per hour, with many contractors receiving below the maximum rate. Certified county mediators in private practice typically charge fees closer to their professional counterparts in circuit court mediation. Although, if the number of

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<sup>4</sup> For example, in Broward County, 15 judges handling county civil cases share only two courtrooms equipped to handle jury trials.

<sup>5</sup> See §44.108 Fla. Stat. (2017) and Fla. R. Civ. P. 1.750 (b). When a circuit offers a mediation program for court-ordered cases, the fee shall be \$60 per person in a county court case for each mediation session. However, no mediation fees may be assessed in residential eviction cases or small claims cases.

cases in county court increases, it may become necessary to recruit additional certified county mediators willing to work for the courts for nominal compensation or these cases will be referred to the private market at a greater expense to litigants.

The Work Group considered the application of voluntary online dispute resolution (ODR) in small claims cases and noted that, among other benefits, it has the potential to reduce facilities impacts by providing an alternative venue for litigants to resolve cases. However, ODR still requires mediators and may also require staff to help administer the program. Including higher claim value cases may result in an insufficient pool of mediators willing to address these cases, thwarting the effort to address the problem of the backlog of civil cases in Florida's county courts.

***Impact on Court Stakeholders.*** Following up on aging cases, as well as ensuring that cases are resolved under either the 12-month or 18-month Rules of Judicial Administration guidelines, poses a challenge for county court judges and staff.<sup>6</sup> County courts in Florida have implemented various tools to meet time standards, including uniform orders setting pretrial deadlines, use of alternative dispute resolution, and recurring case management orders. These efficiency tools all require monitoring of deadlines. Not all attorneys appearing in county court progress cases expeditiously to resolution. Moreover, most county courts in Florida are not provided with case managers or staff attorneys to assist the judges in docket management.<sup>7</sup> Additionally, in some counties, the clerk of court staff county and circuit court differently, so any change in jurisdiction may result in staffing changes for the clerks.

***Impact on Court Education.*** Anecdotal information suggests that the types of cases moving into county court should not materially change if the limit is increased to \$25,000, resulting in minimal impact on the additional training needed for county court judges. However, more education on case management might be warranted.<sup>8</sup> Increasing the jurisdictional limit significantly above \$25,000 may result in the need to provide educational support for county court judges in additional substantive areas of law and procedure. This could present a challenge as demands on court education time at the annual conference are already greater than the number of programs that can be presented.

## **Other Considerations**

The Work Group agrees that the recommended rounded adjustment based on the CPI to the civil jurisdiction limitation is not expected to significantly impact the number of cases moving from circuit to county court, but did note that any adjustment in the types of criminal cases heard in county court would likely have a greater impact. The Work Group considered whether to recommend that county courts hear theft cases involving amounts up to \$1,000. Currently, the amount is \$300 in Florida for a petit theft misdemeanor case; however, the great

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<sup>6</sup> Fla. R. Jud. Admin. 2.250 provides that civil non-jury cases be disposed within 12 months after filing and that civil jury cases be disposed within 18 months after filing.

<sup>7</sup> One exception is Palm Beach County, where one case manager assists all county court judges handling civil cases, generally by preparing lack-of-prosecution dockets or addressing issues related to venue.

<sup>8</sup> In July 2019, county court judges will be given the opportunity to participate in the Best Practices Symposium: Civil, to be steered by Judge Christopher Kelly of Volusia County.



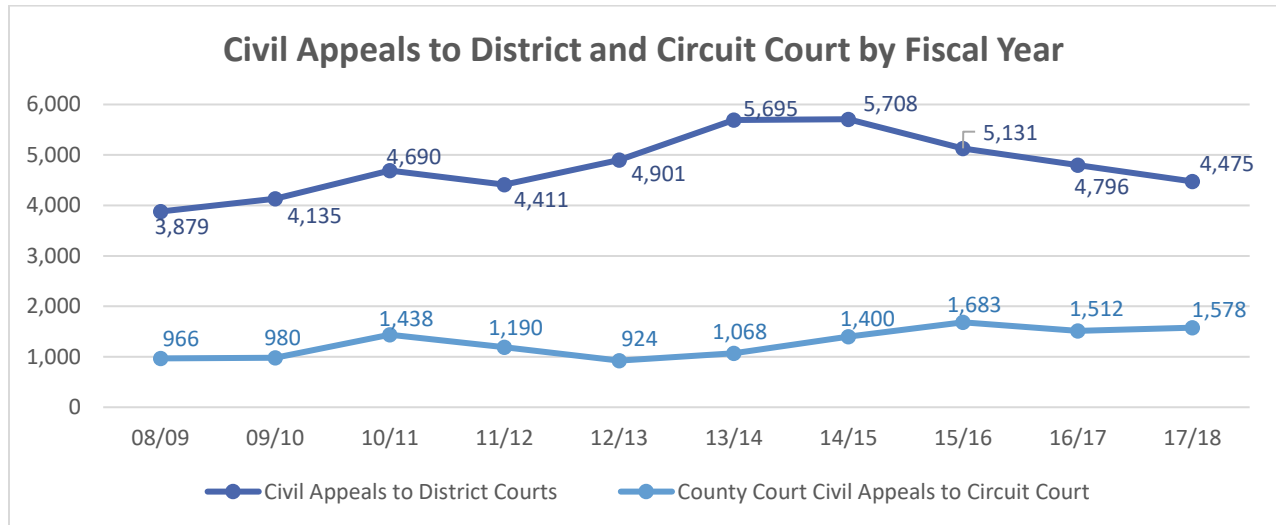
majority of states have raised this amount. In the end, the Work Group believes this issue may require further study.

The Work Group also agrees that the statutory filing fee structure should be amended to include an additional tier in the county court for civil cases with a value between \$15,000 and \$25,000. The new county civil filing fee tier should mirror the circuit civil filing fee and distributions as set in §§28.241(1)(a)1.a., 28.241(1)(a)1.c., and 44.108(1), Fla. Stat., to ameliorate the impact on those relying on these fees as a source of their funding. The highest tier filing fee for county civil cases is approximately \$100 lower than those charged in most circuit civil cases and is distributed differently (see Appendix I). Currently, the State Courts Revenue Trust Fund receives a significantly smaller share of revenue from the highest filing fee tier for county civil cases than from the circuit civil filing fee. Raising the county court jurisdictional limit to include civil cases with a value up to \$25,000 without any corresponding change in filing fees or the distribution of revenue from such fees would result in a negative impact to the State Courts Revenue Trust Fund (an estimated \$1,409,580 reduction) and to the Department of Financial Services Administrative Trust Fund (an estimated \$39,155 reduction). It would also result in a positive impact to each clerk of court's Fine and Forfeiture Fund (an estimated \$665,635 total increase).

## CHARGE TWO

The Work Group developed recommendations regarding whether changes should be made to the jurisdictional limit for appeals heard in circuit court. Consistent with the current county court jurisdictional limit, appeals for cases above \$15,000 are filed in the district court of appeal. The total number of appeals in circuit court and district court are depicted in the chart below.

### Appeals in District Court of Appeal and Circuit Court



Source: eFACTS and Summary Reporting System (Office of the State Courts Administrator)

### Work Group Discussion

As noted in the discussion of Charge One, data is not available on the claim values of cases that fall between \$15,000 and \$25,000. Therefore, estimates have been developed to approximate the number of appeals that may remain in the circuit court if the jurisdictional limit is raised. Based on a \$10,000 increase to the county court jurisdiction, the estimated number of additional appeals to circuit court is 213 statewide. This estimate is based on including 60 percent of civil appellate filings, to account for the case types that would be eligible to move to county court, and data reported by the Virginia Department of Planning and Budget and Virginia's case filing statistics, where approximately 7.4 percent of circuit civil cases had values between \$15,000 and \$25,000. This benchmark was used to approximate claim values of current Florida circuit civil cases. For example, each increment of \$10,000 between \$25,000 and \$100,000 is assumed to have a similar distribution as cases with values between \$15,000 and \$25,000.

At present, some circuits resolve appeals from county court using one judge and some circuits use a three-judge panel. In many circuits that do not use the three-judge panel model as a matter of course, attorneys are provided the opportunity to request a three-judge panel via authority granted in local administrative order. The Florida Supreme Court recently issued an opinion in *SC17-152 In Re: Amendments to the Florida Rules of Appellate Procedure – 2017 Regular-Cycle Report*, holding that circuits shall retain discretion to determine whether or when

to utilize appellate panels. The opinion also establishes a workgroup to study whether circuit courts should be uniformly required to hear appeals in panels and to propose appropriate amendments if warranted.

Members agreed that an increase to the jurisdictional limit for county court from \$15,000 to \$25,000 should not affect the current process for appeals of county court cases to the circuit court; thus, those county court cases falling within the new range should be appealed to the circuit court. They also acknowledged that a mechanism does not currently exist for individual circuit judges or three-judge panels to collegially agree on appellate issues when a conflict arises in their decisions, as Florida Rule of Appellate Procedure 9.331 applies only to the district courts of appeal. Accordingly, there is no requirement for uniformity in circuit appellate decisions.

The circuit court, acting in its appellate capacity, is obligated to apply any controlling Florida Supreme Court decision or a district court of appeal decision in their district on a given legal issue. If no such decision is available, the court must apply a controlling district court of appeal decision issued by another district court of appeal in Florida. If no such controlling Florida Supreme Court or district court of appeal decision is available regarding the issue and the circuit court's appellate decision conflicts with another decision reached by a different circuit court (whether in the same circuit or another circuit within the district), the Work Group agreed that the parties or the circuit court should be able to certify the conflict in decisions to the district court of appeal for that district.

An increase in the county court jurisdictional amount is anticipated to result in more appeals to the circuit court, raising insurance, condominium, and other civil issues that have produced conflicting circuit court rulings. To assure uniformity of decisions throughout the districts and state, and to provide published opinions that are readily available to attorneys and business interests, the Work Group recommends that such a certification procedure be developed. It is directly analogous to the manner in which the district courts of appeal certify a conflict in decisions to the Florida Supreme Court.

The members also discussed en banc review of such conflicts but determined any proposal for intra-circuit or inter-circuit en banc review to resolve conflicts within a district would be fraught with both logistical and legal difficulty. Coordination of nine, 10, or even more circuit judges for an en banc panel, for example, would be very difficult in both: (a) heavily-populated circuits with panel members working from multiple courthouse locations; and (b) sparsely-populated circuits with multiple counties and greater distances between the panel members. Communication among the circuit judges on such a panel, with their already busy schedules and no staff attorneys specifically assigned to those judges, would also be difficult. For these reasons, the Work Group proposes the resolution of such conflicts by certification to the district courts of appeal rather than in a circuit court en banc procedure.

## **Other Considerations**

The Work Group also agrees that the statutory filing fee structure should be amended to include an additional tier in the county court for appellate cases with a value between \$15,000 and \$25,000. The new county court filing fee tier should mirror the filing fee and distributions for appeals of circuit court decisions to the district courts of appeal, which are set forth in §§28.241(2) and 35.22(5), Fla. Stat., to ameliorate the impact on those relying on these fees as a

source of their funding. The filing fees for appeals from county court to the circuit court are \$119 lower than those charged for appeals from the circuit court to the district courts of appeal and are distributed differently (see Appendix J). Currently, the State Courts Revenue Trust Fund receives a significantly smaller share of revenue from the filing fee for cases appealed from the county court than from the circuit court. Raising the county court jurisdictional limit to include civil cases with a value up to \$25,000 and hearing appeals of those cases in circuit court, without any corresponding change in appellate filing fees or in the distribution of revenue from such fees, would result in a negative impact to the State Courts Revenue Trust Fund (an estimated \$10,437 reduction) and to the General Revenue Fund (an estimated \$53,250 reduction). It would also result in a positive impact to each clerks of court's Fine and Forfeiture Fund (an estimated \$38,340 total increase).

## CHARGE THREE

### Small Claims Information

To provide for the efficient and inexpensive resolution of simple civil disputes, the Florida Supreme Court adopted the Florida Small Claims Rules, which are applicable to all actions of a civil nature in the county courts which contain a demand for money or property, the value of which does not exceed \$5,000, exclusive of interest, costs, and attorney's fees, except for those actions that are within the exclusive jurisdiction of the circuit courts. The jurisdictional limit for these cases has not been adjusted since 1996.

Small claims data is available for 37 states and the territory of Puerto Rico. Six states use values of less than \$4,999; nine states use \$5,000; nine others use a range between \$5,001 and \$8,000; 10 use \$10,000; and four use a range between \$10,000 and \$15,000.

**Table 4: Small Claims Limits in Other States**

Amount	States
\$4,999 or less	AZ, KS, KY, NE, NJ, RI
\$5,000	CT, DC, HI, ID, IA, MD, MO, VT, WA
\$5,001 - \$8,000	AL, CO, IN, ME, MI, MT, OH, SC, WY
\$10,000	AK, CA, IL, NV, NH, NM, NC, TX, UT, WI
\$10,000 - \$15,000	MN, ND, PR, SD
Over \$15,000	No states reported using values over \$15,000

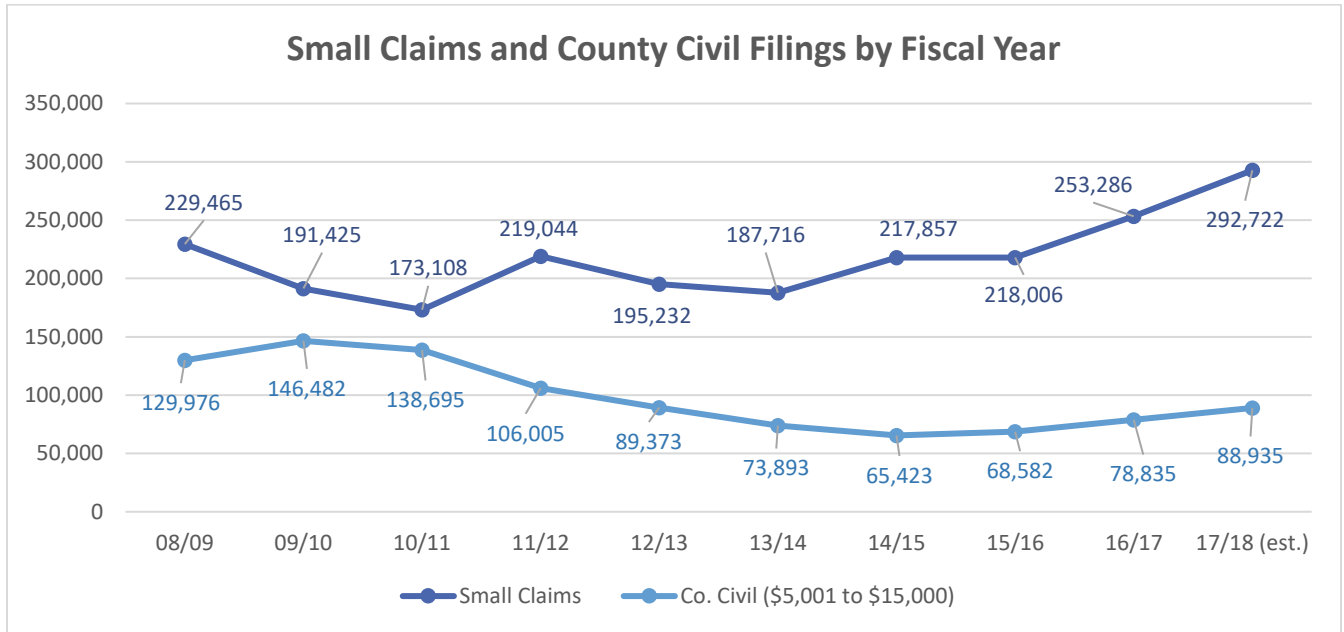
Source: [National Center for State Courts, Court Statistics Project 2016 Civil Caseload Data](#).

### Workgroup Discussion

At the initial meeting of the Work Group, a consensus was reached to increase the jurisdiction of small claims court established in Fla. Sm. Cl. R. 7.010(b). The Work Group agreed that, based on the time that elapsed since the last adjustment in 1996, the limit should be increased to allow the Florida Small Claims Rules to apply to cases with a higher claim value.

In determining the appropriate amount of the adjustment, the Work Group considered amounts up to and including \$10,000. Data is not currently available to indicate how many new cases would qualify as a small claims case based on any prospective adjustment. In addition, the Work Group recognizes small claims cases already account for the majority of all county civil cases, as indicated in the data below. Further, the Work Group discussed the anticipated impacts to judges, litigants, citizens, court administration, clerks of court, justice partners, bailiffs, and other stakeholders as well as the impact on facilities. Considering all factors, members determined an increase to \$10,000 may be too great a change at this time. One recurring concern was to act in a way that would preserve citizens' access to justice and the notion that small claims court is truly the "People's Court," particularly for self-represented litigants and small businesses. In particular, the increase in cases involving unrepresented parties logically will increase the number of trials and therefore court time. Members agreed the more prudent adjustment would be to apply the CPI to the amount last raised in 1996 and rounding that figure to the nearest \$1,000, resulting in a recommended increase to \$8,000.

### Small Claims and County Civil Filings



Source: Trial Court Statistical Reference Guide (Office of the State Courts Administrator)

**Table 5. Small Claims as a Percentage of All County Civil Filings**

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18 <sup>1</sup>
Small Claims	187,716	217,857	218,006	253,286	292,722
County Civil \$5,001 to \$15,000	73,893	65,423	68,582	78,835	88,935
Total	261,609	283,280	286,588	332,121	381,657
<b>Percent Small Claims of Total</b>	<b>71.8%</b>	<b>76.9%</b>	<b>76.1%</b>	<b>76.3%</b>	<b>76.7%</b>

Source: Trial Court Statistical Reference Guide (Office of the State Courts Administrator) <sup>1</sup>FY 2017-18 data is estimated.

Additional court-specific considerations stemming from the proposed increase include the impact to small claims mediation programs. As noted in the discussion of Charge One, many circuits employ a process whereby eligible cases are automatically referred to mediation. Mediations are performed by volunteer mediators or, in some circuits, by contract mediators. With the anticipated increase in these cases, the Work Group recognizes additional resources such as case managers and staff attorneys may be needed. Any increased need may be mitigated by the fact that the cases in question are already part of the overall county court caseload and may be able to be absorbed through administrative and management practices. Additional considerations related to the imposition of garnishments and the application of court technology were also discussed as matters that may need to be addressed with the implementation of these proposed changes.

With regard to future adjustments, the Work Group recommendation mirrors that in Charge One, with the first assessment taking place five years after the initial change is implemented. A five-year collection of data should allow time to evaluate any consequences of the initial adjustment in the event the impact is greater than anticipated. The lack of available

data related to the claim values of cases at the time of filing presents a challenge; therefore, the five-year review seems most appropriate.

The Work Group recognizes the use of technology to enhance access to justice is a crucial consideration, with many business fields turning to electronic and internet-based technology to serve users. Leveraging technology could become particularly important with the anticipated increase in the number of cases heard in small claims court. One promising application of technology comes from online dispute resolution. Online dispute resolution (ODR) is a web-based platform that allows litigants to attempt to resolve cases almost entirely online by proceeding through a series of guided steps. Members participated in a demonstration of the software and agreed that it could offer litigants a viable alternative to the traditional court process. The Work Group also understands that the Court is currently considering information and recommendations from the Online Dispute Resolution Workgroup regarding the use of ODR in small claims cases and the possibility of establishing a pilot program to study its use.

Due to the limited use of the ODR technology nationally, the Work Group recommends its use be explored further and supports the implementation of pilot programs to take place in a few, varied counties to gauge the potential for success of implementation throughout the state. ODR should be offered as an option to litigants, requiring agreement by both parties. ODR could prove successful for multiple types of cases, including credit card debt and disputes between individuals. The ODR process could greatly benefit the parties involved, the courts, the clerks, and other stakeholders as the online systems operate via software and allow for resolution between the parties without the assistance of a live third-party neutral. The Work Group also recommends further exploration of online mediation which could also be elected by the parties prior to a scheduled pre-trial conference.

A significant area of concern identified by the Work Group relates to the application of the Rules of Civil Procedure in small claims cases. The Florida Small Claims Rules apply to all actions of a civil nature in the county courts which contain a demand for money or property, the value of which does not exceed \$5,000 exclusive of costs, interest, and attorneys' fees. This series of rules is designed to govern the expeditious processing of cases pursuant to Fla. R. Jud. Admin. 2.250(a)(1)(B), which establishes that small claims cases should conclude within 95 days. Members reported the widespread occurrence of cases being filed as a small claim followed by a party requesting to invoke the Rules of Civil Procedure, which, if granted by the court, requires that the case process follow the procedural rules of a regular county civil or even a circuit civil case. These cases take significantly more judicial, court, and clerk of court time and routinely exceed the time standard allowed for a small claims case.

Another common practice reported is when a case is filed as a small claim and then modified to include additional damages, thereby increasing the claim value. Oftentimes, such increases result in cases that should have been assigned to a different level or division of court or for which higher filing fees should have been paid. With respect to foreclosure cases, §28.241(1)(a)2., Fla. Stat., provides that the clerk of court shall collect or refund any difference between the filing fee paid based on the initial estimated value of the claim and the filing fee that should have been paid based on the actual value of the claim at final disposition. The Work Group believes a similar procedure should be implemented for small claims cases.

The Work Group recommends that small claims cases be reclassified to: (a) county civil cases when use of the Rules of Civil Procedure is requested by a party and granted by the court; and or (b) the appropriate level or division of court when additional damages are sought after filing that exceed the small claims jurisdictional limit. Also, if applicable, additional filing fees should be collected. Members discussed the impact of such reclassification on the court, clerks, and other personnel and noted the potential challenges with docket management but agreed the benefits of such a requirement outweigh the administrative burdens of performing the reclassification. The time standards appropriate for the new division should apply to the case.



## **STAKEHOLDER OUTREACH**

In developing these recommendations, the Work Group conducted outreach with stakeholders, including:

- The Florida Bar
- The Florida Bar, Appellate Section
- Leon County Clerk of Court
- Florida Justice Reform Institute
- Florida Justice Association
- Florida Association of Counties

## **SUMMARY AND FINAL REMARKS**

The Work Group agrees that these recommendations will allow the county courts to expand the jurisdictional limit and small claim limit in a manner that adjusts for the modern-day value of the limits established in 1992 and 1996, respectively. These suggested increases are significant enough to allow more cases to be heard in county court and to increase access to justice for litigants, but not so significant as to overburden the already crowded dockets of county court.

The Work Group notes that if the filing fee structure is not modified to include new filing fee tiers for original and appellate county civil cases as a component of a county court jurisdictional change, there would be a revenue impact to a variety of state and local entities. The impact to the various entities increases as the county court jurisdictional limit increases. Further, the Work Group believes a broader review may be necessary to fully address issues and impacts related to filing fees.

The Work Group also agrees that the ongoing evaluation of this change is critical to understanding when and where future adjustments may be needed. Increases in the jurisdictional limits, which are greater than the recommended rounded CPI adjustments, could prove to be too much of a change for the courts to readily absorb at this time.

## **APPENDICES**

Appendix A – Florida Supreme Court Administrative Order 18-39

Appendix B – Constitution, Statute, and Florida Court Rule References

Appendix C – Estimate of Eligible Civil Case Filings

Appendix D – Historical Filings Trends in Florida Civil Cases

Appendix E – Estimated Distribution of Case Filings Moving to County Court

Appendix F – Estimated 2017-18 Circuit and County Civil Filings by Case Type

Appendix G – Florida Circuit Survey Results on County Court Jurisdictional Change Impacts

Appendix H – Estimated 2017-18 County Court Jury Trials by Circuit

Appendix I – Trial Court Fiscal Impact Estimate

Appendix J – Appellate Court Fiscal Impact Estimate