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Jonathan Mann of Schwartz Sladkus Reich Greenberg Atlas. Photo

COMMENTARY

## Get Ready for a New Florida Court of Appeal: Florida's Sixth DCA Is Here

As of Jan. 1, Florida has a new district court of appeal. In June 2022, Gov. Ron DeSantis signed into law HB 7027 that created the new Sixth District Court of Appeal.

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As of Jan. 1, Florida has a new district court of appeal. In June 2022, Gov. Ron DeSantis signed into law HB 7027 that created the new Sixth District Court of Appeal. The Florida Supreme Court, in November 2021, had recommended the creation of a new district court of appeal. Prior to that, the most recent district court of appeal to be created was the Fifth District Court of Appeal in 1979.

For over 40 years, Florida has had five intermediate state courts of appeal. These district courts of appeal, commonly known as “DCAs,” handle almost all of the appeals and original writ proceedings originating from circuit courts in Florida’s 20 judicial circuits. A recent legislative amendment resulted in most appeals from Florida’s 67 *county* courts also going to the DCAs rather than to the circuit courts sitting in their appellate capacity as they previously had.

As intermediate appellate courts, the district courts of appeal sit between the circuit courts and the Florida Supreme Court, which is the highest appellate court in Florida. However, the limited discretionary jurisdiction of the Florida Supreme Court results in the district courts of appeal being the “court of last resort” in the vast majority of cases.

The creation of the Sixth DCA comes with changes to the boundaries of three of the existing five appellate districts in Florida’s state courts. The new Sixth DCA will cover the 9th, 10th and 20th Judicial Circuits. The circuit court compositions of the current Third and Fourth Districts will remain unchanged, so that the 11th and 16th Judicial Circuits will continue to compose the Third District and the 15th, 17th and 19th Judicial Circuits will continue to compose the Fourth District. However, as a result of HB 7027, effective Jan. 1, 2023, the composition of the other three districts will change. The First District will consist of the 1st, 2nd, 3rd, 8th and 14th Judicial Circuits; the Second District will consist of the 6th, 12th and 13th Judicial Circuits; and the Fifth District will consist of the 4th, 5th, 7th and 18th Judicial Circuits.

The creation of the new Sixth DCA will also result in transfers of some pending appeals. Beginning Jan. 2, the First DCA will transfer pending

appeals originating from the Fourth Judicial Circuit to the Fifth DCA. The Second DCA will transfer any pending appeals originating from the 10th and 20th judicial circuits to the newly created Sixth DCA. Finally, the Fifth DCA will transfer any pending appeals originating from the Ninth Judicial Circuit to the Sixth DCA.

Who will decide cases at the Sixth DCA? On Dec. 20, 2022, DeSantis announced the appointment of three judges to the Sixth DCA. They are: Jared Smith, formerly a judge of the Thirteenth Judicial Circuit; Joshua Mize, formerly a judge of the Ninth Judicial Circuit; and Keith White, formerly a judge of the Ninth Judicial Circuit. Additionally, five judges of the Fifth DCA have been assigned to the new Sixth DCA. They are: Jay Cohen; Meredith Sasso; Dan Traver; Mary Alice Nardella; and Carrie Ann Wozniak. Charles R. Crawford, who served as marshal of the Fifth DCA for 10 years, has been selected to serve as marshal of the Sixth DCA. Stacey Pectol will serve as clerk and Sarah Corbett will be Director of Central Staff.

Some attorneys have asked how the creation of the new district court of appeal will affect binding case precedent in Florida. Precedent from the Florida Supreme Court will bind the new Sixth DCA in the same way it binds the other DCAs. Additionally, absent unresolved interdistrict conflict between district courts of appeal, a decision of any district court of appeal is binding on trial courts throughout the state. But the realignment of judicial circuits into the new Sixth District could mean that certain district-court precedents may no longer control, and the decisions of district courts of appeal are considered persuasive—rather than binding—on other district courts of appeal. Accordingly, the new Sixth DCA will have the opportunity to take its own position on any

important issues of law that come before it that have not already been decided by the Florida Supreme Court.

The Sixth DCA will have its headquarters in Lakeland. The new court's website is <https://6dca.flcourts.gov/>.

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