



DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950

IMPORTANT NOTICE IN UNEMPLOYMENT COMPENSATION CASES

(Revised December 20, 2010)

IT IS STRONGLY RECOMMENDED THAT YOU READ THIS NOTICE UPON RECEIPT AS IT CONTAINS IMPORTANT INFORMATION FOR PROCEEDING WITH YOUR APPEAL

BECAUSE THE INFORMATION BELOW SHOULD ADDRESS MOST QUESTIONS REGARDING YOUR CASE, DO NOT CALL THE CLERK'S OFFICE UNLESS YOU HAVE READ THIS ENTIRE NOTICE.

We have set up your appeal of your unemployment case as reflected in the enclosed acknowledgment letter. If you do not have an attorney, then **you** are responsible for handling your appeal as it is considered by this court. This court is a state appellate court, not a trial court or a branch of the Unemployment Appeals Office. This court reviews decisions of the Unemployment Appeals Commission (UAC) as well as many other agencies and lower courts. To proceed with your appeal in this court, you must follow certain rules of the court system, even if you do not have an attorney or have any legal training. To help guide you in getting your appeal ready to be reviewed by the court, the court has provided the following frequently asked questions and answers.

1. Question: What do I need to do to get my appeal ready to be considered by the First District Court of Appeal?

Answer: For your appeal to be ready to be reviewed by the court, **you** must do **all** of the following:

- Request the Unemployment Appeals Commission (UAC) to prepare the **RECORD ON APPEAL** if you have not done so already. (See Question #2 below explaining the record on appeal)
- Fill out the enclosed light pink **docketing statement** the best you can, send a copy to the Unemployment Appeals Commission, and return the original pink copy to this court. Not all sections will apply to you. The docketing statement helps us properly set up your case. Be sure to sign it.
- Comply with any and all **orders** of this court in a timely manner. (See Questions #3 and #4 below)
- Prepare and file your **Initial Brief** containing all of your arguments to the court. (See Question #5 below)

Failure to do all of the above may result in your case being dismissed without review by the court.

You should also be aware of the following:

- Unlike filing unemployment claims and proceedings before the appeals referees and the UAC, appeals to this court cannot be conducted by telephone, by fax, or by email. Documents required to be filed with this court must be mailed or delivered to the court. Documents may also be electronically filed through the court's online portal, eDCA, but only after registering with eDCA.
- Parties may register through the court's website at www.1dca.org to access copies of electronic documents in their case and to file documents with the court electronically. Electronic filing is not required for non-attorneys, but any non-attorney wishing to file electronically must be familiar with and comply with the requirements of Administrative Order 10-3.

- The court does not have the resources to translate documents you file from other languages into English. Thus, you should file all of your documents in English or accompanied by a signed translation.
- You should keep a copy of anything you file with the court for your own records.
- You should update the court, the UAC, the UAC general counsel, and any other parties to the case in writing if your mailing address changes while the appeal is pending.
- As documents filed with the court are public records, you should **not** put your social security number or other confidential personal information on documents filed with the court.
- While the court attempts to review cases as efficiently as possible, the appeals process is generally not very quick. It may take a number of months for a case to be ready to present to the court for consideration and for the court to decide the case. (See Question #9 on how soon cases are decided.) The sooner you ensure preparation of the record on appeal, complete and file the light pink docketing statement, comply with all orders of the court, and file your initial brief, the sooner your case will be ready for review by the court.

2. Question: What is the record on appeal and who has to file it?

Answer: The record on appeal is a collection of all of the formal papers filed in your case with the UAC, including the transcript of your hearing with the referee if needed in order to support your contention of error in your case. The record on appeal is prepared by the UAC clerk's office and transmitted to this court for review. You should inform the UAC within 10 days of the date you filed your notice of appeal which portions of the proceeding you want to have transcribed and included in the record that will be reviewed by this court. See Florida Administrative Code 60BB-7.009. Per the appellate court rules, it is your responsibility as the appellant to make sure that the record is prepared and submitted to this court by the UAC.

3. Question: How do I know if a paper I receive from this court is a **court order**?

Answer: Orders are styled in your case (with the case name and case number at the top) and contain the words: "BY ORDER OF THE COURT". Read all orders carefully and respond promptly in the time given if a response is required. (See Question #4 on how to respond to a court order.) You should keep all court orders that are sent to you for your records; you do not need to return your copy to the court. Keep in mind that failure to comply with a court order in the time given may result in your case being dismissed by the court. If you need more time to comply with a court order, you should file a document called a "Motion for Extension of Time" (see Question #8 on how to file a motion). You should read all documents you receive from the court.

4. Question: How do I respond to a **court order**?

Answer: Responses must be hand written or typed separately on your own 8 1/2 by 11 inch paper. Do **not** add your response at the bottom of the court's order; that is improper. As with **anything** you file with the court, a response to a court order must be styled in this court, meaning that "First District Court of Appeal" is written at the top, along with your case name and case number. (See Question #13 for an example of how to format a response to a court order.) A response to a court order is an official pleading filed with the court. Do not write it as a letter (i.e., don't write "Dear Mr. Wheeler" or "To Whom it May Concern"). Title it as a response to the court's order of that date (i.e., title it "Response to Court's order of _____ [date]"). As with **anything** you file with the court, a response must also contain a "Certificate of Service." (See Question #6 for an explanation of a "Certificate of Service"). If you file a response without a certificate of service, it is not proper to be presented to the court and your case may be dismissed for failure to file a proper response. As with **anything** you file with the court, a response must also be signed by you unless you are represented in the appeal by an attorney licensed to practice law in the state of Florida. If you have an attorney for the appeal, he or she should file all documents in the case and any orders of the court will be sent to your attorney.

4a. Question: I was ordered to file an “Amended Notice of Appeal.” How do I do that?

Answer: If the court ordered you to file an “Amended Notice of Appeal,” it means that the document you filed seeking to appeal your case to this court does not have enough information about what you are appealing. If you are ordered to file an “Amended Notice of Appeal,” you will be provided a form to fill out along with an instruction sheet on how to fill out the form. These documents are also available on the court’s website at www.1dca.org. Read the instructions carefully and completely fill out the form as directed. Fill out the form, not the instruction sheet. If you were ordered to file an “Amended Notice of Appeal” which contains certain information, be sure to include that information. For example:

- If the court orders you to file an “Amended Notice of Appeal” containing the **rendition date** of the order you are appealing, that means you need to fill out the amended form and include the rendition date of the UAC’s order, which is the date the Commission’s signed, written order is filed with the UAC clerk’s office. A copy of the rule defining “rendition date” is included with the order. The “rendition date” is not the date of this court’s order to you. As well, if you filed a document with the UAC that you believe in some way changed the rendition date of the order being appealed, include a copy of that document with the copy of the order being appealed (this is rarely done in UAC cases).
- If the court orders you to file an “Amended Notice of Appeal” containing a “**Certificate of Service**” showing that you sent a copy to the opposing counsel (the UAC’s general counsel), that means you need to fill out the amended form and write in the “Certificate of Service” that you sent a copy to A. Robert Whaley, General Counsel, Unemployment Appeals Commission. See Question #6 for an explanation of a “Certificate of Service.”
- If the court orders you to file an “Amended Notice of Appeal” containing an **original signature**, that means you need to fill out the amended form and be sure to sign it. Everything you file with the court needs to be signed.

4b. Question: I was ordered to file a conformed copy of the order I am seeking to appeal. What does that mean?

Answer: By filing an appeal, you have told the court that you want to appeal or have this court review a particular order of the UAC that you disagree with. You are required to send the court a copy of the order you are appealing so the court knows exactly what order of the UAC you are asking this court to review. A “conformed copy of the order being appealed” is a complete copy of the order issued by the Unemployment Appeals Commission (UAC) ruling on your case, **not** a “Notice of Order,” a cover sheet, or the order from the Agency for Workforce Innovation you appealed to the UAC. If the court orders you to file a copy of the order being appealed, you should send a copy of the UAC’s order to this court attached to a proper response (see Question #4) or, attached to a copy of your “Amended Notice of Appeal” if you are required to file one (See Question #4a). If you do not have a copy of the UAC’s order you are appealing, you should contact the UAC to ask for another copy.

5. Question: What is an initial brief and why do I have to file one?

Answer: This court does not conduct “hearings.” Any and all arguments you wish the court to consider regarding the merits of your case **must** be put into writing and filed with the court in a document called the “Initial Brief.” An initial brief must be filed with the court before the appeal will be reviewed by the court. The initial brief must be a separate document from the “Notice of Appeal” you filed to start your appeal to this court. If you already wrote out your arguments in your notice of appeal, you need to re-write them as an “Initial Brief.” The initial brief is a handwritten or typed document that you, the appellant, have to prepare which contains all of your arguments to the court as to why you believe the decision of the Unemployment Appeals Commission (UAC) was in error. The initial brief should contain a statement of the case and facts with references to the record on appeal. See Chapter 5 of the Pro Se (Unrepresented) Appellate Handbook published by the Florida Bar online at <http://www.flabarappellate.org> for more

information on writing an appellate brief, and see Florida Rule of Appellate Procedure 9.210 for all requirements of the initial brief. You should be especially aware of the following:

- The initial brief is due within 70 days of the date you filed your notice of appeal. If you need more time than that to complete the initial brief, you should file and serve a properly styled and served motion for extension of time with this court stating the reasons why you need more time. (See Question #7 on how to file a motion)
- The initial brief must be styled in the court (meaning that “First District Court of Appeal” is written at the top) and include the name of the case and the court’s case number. (See Question #13 for an example of how to style a document.) Do not style the initial brief in the Unemployment Appeals Commission.
- The initial brief should be clearly titled as your “Initial Brief.” The initial brief is an official document you must file with the court and should not be written as a letter. Do not title it “Dear Judges, Dear Mr. Wheeler,” etc.
- You must send a copy of your initial brief to: **A. Robert Whaley, General Counsel, Unemployment Appeals Commission, Suite 101, Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151** and to any other parties in the case. You are required to write at the end of the initial brief a “Certificate of Service” saying that you sent a copy to the UAC’s general counsel and any other parties in the case. (See Question #13 for an example of a certificate of service).
- Your initial brief should not be longer than 50 pages unless you ask for and are granted permission by the court to file a longer brief.
- Your initial brief must be signed by you, the appellant.
- You must timely file the original initial brief (with your signature) and 3 copies of the initial brief with the court, meaning they must be mailed or delivered to the court within the required time and received by the court.

6. Question: You keep referring to something called a “Certificate of Service.” What exactly is a “Certificate of Service” and why do I have to include one on every document I file with the court?

Answer: The rules of the court system require that any time you file a document with the court, you must send a copy to the opposing side (usually the UAC’s general counsel) so that the other side knows what you sent to the court. It is **your** responsibility to send a copy to the opposing side; the court will not send copies for you. As well, the court does not have the resources to check and see whether a copy of every document you sent to the court was also sent to the opposing side. Therefore, the rules require that you write at the end of every document you file with the court a “Certificate of Service.” A “Certificate of Service” is simply a sentence at the end of the document officially informing the court that you sent a copy of that document to the opposing side. In Unemployment Appeals cases, you should send a copy of any document you file with the court to **A. Robert Whaley, General Counsel, Unemployment Appeals Commission, Suite 101, Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151**. If there are other parties in the case, such as the employer, you should send a copy to them as well. List in the certificate of service every party you sent a copy of the document to (including the UAC’s general counsel), the address of each party, and how you sent it to them (i.e., whether you mailed it or hand delivered it). See Question #13 for an example of a certificate of service.

7. Question: How do I make requests of the court, such as to ask for more time to file something?

Answer: During the course of your appeal with the court, if you want to ask the court for something, such as a request for more time to file your brief or to comply with a court order, your request should be written out as an official document, not sent as an informal letter to the clerk. Your request should be titled as a “Motion.” While in your “Initial Brief” you write out your arguments regarding the merits of your case, a motion should be filed if you want to request something of the court while the appeal is proceeding (such as an extension of time). You should be aware of the following:

- All motions should be styled in the court (with “First District Court of Appeal” at the top), include the case name and number, and contain a “Certificate of Service” at the end stating that you sent a copy

to the UAC's general counsel and to any other parties in the case. (See Question #13 for an example of how to format a motion)

- Your motion should clearly explain what you are requesting and the reasons why you are requesting it. If you are requesting more time to file something, you should specify how much more time you are requesting.
- The other party(ies) may, within 10 days, file a response to any motion you file with the court. Likewise, if the other side files a motion, you may file a properly styled and served response to the motion with the court within 10 days. The court will then issue an order deciding the motion.
- If you ask for an extension of time, don't wait for the court's order deciding the motion. Continue working on whatever you are seeking an extension of time to file with the court.

8. Question: What happens after I file my initial brief and the record on appeal is filed by the UAC?

Answer: After your initial brief is filed, the opposing side will have an opportunity to file a brief in response (called an "Answer Brief"). Just as you are required to send them a copy of your initial brief, they are required to send you a copy of their answer brief. You may then file a "Reply Brief" responding to their answer brief if you want to do so. While you are required to file an initial brief, you are not required to file a reply brief. If you do file a reply brief, it must be styled in this court (with "First District Court of Appeal" at the top), include the case name and number, and contain a certificate of service. Your reply brief cannot be longer than 15 pages unless you obtain permission from the court. Once the record and briefs have been filed and all orders of the court have been complied with, the appeal will be ready to be submitted to a panel of three judges of this court for a decision.

9. Question: How soon will my case be decided by the court?

Answer: For a case to be ready for review, the record and briefs must be filed and you need to have complied with all orders of the court. Cases are presented to the court in the order in which they become ready for review, and there is no way to know how long it will take for the court to reach a decision in any particular case. You will be mailed a copy of the court's decision when it is issued (called an "Opinion"); if you have an attorney handling your appeal, the opinion will be mailed to your attorney. The opinion may state that the Unemployment Appeals Commission's decision is either *Affirmed*, with or without an explanation of the reasoning of the court, or *Reversed*, with an explanation of the reasoning of the court. An *Affirmed* opinion means that the court did not find that there was reversible error and the Commission's decision stands.

You should also be aware of the following: (A) The purpose of the court of appeal is to decide whether the Unemployment Appeals Commission followed the *law*. A court of appeal does not review new *evidence*. It takes the decision of the Commission as to what the *facts* are and applies the law to those facts. (B) Not every error or mistake of *law* by the Commission requires that the case be *reversed*. An error must actually affect the outcome in some meaningful way to cause the case to be *reversed*.

11: Question: Where else can I find information about how to proceed with my appeal?

Answer: For other needed case processing information, you should to read this court's blue "Notice to Attorneys and Parties" provided with this mailing. For further details as to the contents of a brief and the time limits for filing of the record and briefs (as well as other requirements regarding the appellate process), please consult the Florida Rules of Appellate Procedure, which can be found in most law libraries, on the court's website (www.1dca.org), or obtained from The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300. You may also find it helpful to read the Pro Se (Unrepresented) Appellate Handbook published by the Florida Bar online at <http://www.flabarappellate.org>. See chapter 15 of the Handbook, which specifically addresses Unemployment Compensation Appeals.

12. Question: If I have more questions about how to proceed with my appeal, can I call your office for advice?

Answer: **The court prohibits court personnel from providing legal advice, such as helping you prepare your brief or interpreting the law. If you have additional questions or concerns, you should contact a private attorney, or if you cannot afford one, you may be able to contact a local legal aid office or The Florida Bar.**

13: Question: Can you show me an example of how to “style” a case in the court and how to do a “certificate of service?”

Answer: Do not format documents filed with the court as letters. See the below example of how to properly format an official document filed with the court by “styling” in this court and including at the end a “certificate of service” stating you sent a copy of the document to the opposing side. A document is “styled” in the court if it reflects the court’s name at the top. You should also include the case name and case number below the court’s name. The following is just an example. You should copy this example onto your own paper so that you have enough room to write out your response, motion, or initial brief. Fill in the blanks and bolded sections with your own information and choose the appropriate title for your document.

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT
STATE OF FLORIDA

(Your name) _____,
Appellant

DCA Case No. **(your 1st DCA case #)**

v.

Lower Court Case No. **(your UAC case #)**

(usually “The Unemployment Appeals Commission”),
Appellee

(Choose the appropriate title of your document based on what you are filing with the court:)

APPELLANT’S RESPONSE TO COURT’S ORDER OF _____ (date)

or

APPELLANT’S MOTION FOR _____ (what you are requesting)

or

APPELLANT’S INITIAL BRIEF

(In your own words, type or write out your response, motion, or initial brief in the body of the document.)

(Your signature)
(Your name printed neatly)
(Your address & phone number)

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to _____ **(insert A. Robert Whaley, General Counsel, The Unemployment Appeals Commission, Suite 101, Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; as well as any other parties or their attorney in the case)** by _____ **(insert “mail” or “delivery”)** on _____ **(insert the date you mailed or delivered the document)**. (Note: By completing this certificate of service, you are officially certifying to the court that you have sent a copy of your document to the opposing side as required, so be sure to send a copy to the opposing side.)

(Your signature)