

**DISTRICT COURT OF APPEAL, FIRST DISTRICT
STATE OF FLORIDA
(Revised January 6, 2011)
NOTICE TO ATTORNEYS AND PARTIES
WEBPAGE: <http://www.1dca.org>**

COUNSEL AND PARTIES ARE EXPECTED TO BE FAMILIAR WITH AND COMPLY WITH THE FLORIDA RULES OF APPELLATE PROCEDURE AND THESE GUIDELINES. To help the court efficiently process cases, the following court guidelines are provided to litigants. This informational sheet is not intended to and does not provide parties with separately enforceable rights. The court's docket is available on-line at the court's website (www.1dca.org) which is updated at the close of each business day. The website also includes an archive of court opinions and oral argument videos, a live oral argument video feed, the court's calendar, administrative orders, the court's Internal Operating Procedures, and other useful information. This court has also developed an online application known as eDCA for electronic filing and access to court documents. See the court's website at www.1dca.org to register with eDCA and for more information on the court's electronic filing requirements.

Ex parte communication with judges or their staffs is prohibited. Any questions about the status of a case should be directed to the Clerk's office, and clients should direct such inquiries to their attorneys. Attorneys and parties are encouraged to consult the website before contacting the court about routine docket inquiries. *The court does not accept filings by fax unless specifically authorized or ordered by the court.*

NEW! Effective August 9, 2010, registered users are permitted to electronically file all pleadings through eDCA rather than in paper. Documents filed electronically are not required or permitted to be filed in paper format. Effective September 1, 2010, all attorneys and registered users are required to file their documents electronically through eDCA, and the filing of paper pleadings by attorneys and registered users will no longer be authorized. Attorneys must register before they can file electronically through eDCA. All pleadings filed through eDCA must be in PDF format.

NEW! The court is now providing electronic notifications via email (known as "Casemail") to registered eDCA users informing them when electronic documents are filed or uploaded in any case to which the user is a party, attorney of record, or additional party. The email will contain a link to the electronic document.

NEW! Electronic copies of briefs are now available to attorneys registered in eDCA even though the attorney is not listed with the court as attorney of record on that case. See this court's website at www.1dca.org for more information. Briefs in confidential cases are not available except to the attorneys and parties of record for that case. Not all briefs are available electronically, especially briefs in older cases.

NEW! Per Administrative Order 10-1, attorneys are now required to electronically file docketing statements online in case number 1D10-1600 and higher via eDCA rather than in paper format.

The court now directs that attorneys, parties, and lower tribunals not include with pleadings filed in paper or electronically a "transmittal letter" which serves no other purpose but to inform the court of what document(s) is being filed. Documents being filed with the court should be clearly marked identifying what the document is (brief, record, motion, etc.) and the case in which it is to be filed. Transmittal or cover letters merely repeating this information are unnecessary and undesired by the court as finite court resources must be used to sort, file, and scan these letters. Transmittal letters containing additional information, such as whether confidential information appears in a record, are still welcomed.

1. NOTICE OF APPEAL

The notice of appeal should include the full name of the lower tribunal judge or hearing officer who entered the order(s) and the date of rendition of the order(s) sought to be reviewed. See Fla. R. App. P. 9.020(h) or 9.180(b)(2). The notice should also contain the names of all parties to the appeal, whether the appeal is from a final or non-final order, and the exact nature of the order being appealed. For each attorney listed, the certificate of service for the notice of appeal should include the attorney's address, the name of the party the attorney represents, and whether the party represented is an appellant, appellee, etc. See Fla. R. App. P. 9.110(d), 9.130(c), 9.180(b)(3), and 9.420(c)(2). Notices of appeal may be filed electronically with the court through eDCA by registered users in addition to filing the notice of appeal with the lower tribunal issuing the order being appealed.

2. COPY OF ORDER BEING APPEALED

Except in criminal cases, the party filing the appeal shall attach a copy of the order(s) designated in the notice of appeal. The party filing the appeal shall attach a copy of any motion that affects the date of rendition of the order appealed and any order entered on any motion that affects the date of rendition. See Fla. R. App. P. 9.020(h), 9.110(d) and 9.130(c). If a notice of appeal is efiled through eDCA, an electronic copy of the order being appealed should be efiled at the same time or immediately after as a separate document.

3. DOCKETING STATEMENTS

All parties are requested to carefully follow the instructions on the pink Docketing Statement provided by the court, fill it out to the best of their ability, serve a copy on the opposing party/attorneys, and return it to the court. **Instead of completing a paper Docketing Statement, attorneys and registered users are required to complete and submit the Docketing Statement online via eDCA on the court's website, www.1dca.org.**

4. NUMBER OF COPIES

Additional copies of pleadings required by the Florida Rules of Appellate Procedure have been discontinued pursuant to the court's Administrative Order 10-3, dated August 2, 2010. If a document is filed in paper by a non-attorney, only the original is required to be filed with the court. If a document is filed electronically through eDCA by a registered user, no paper copies are permitted or required to be filed with the court.

5. COPIES OF RECORDS

The Clerk's office is required by statute to charge a fee of \$1.00 per page to make copies of records. Additional fees may apply for other services, such as certification, creation, or mailing of documents. **Registered attorneys and parties in eDCA may also check their cases in eDCA to see if a copy of the record has been uploaded to the case file. Copies of the record may be downloaded by a registered user in his or her case without charge.**

6. SUPPLEMENTATION OF RECORDS

Supplemental records in appeals from final orders must be provided by the clerks of the lower tribunal. Absent special circumstances, records in these appeals may not be supplemented by attachments to motions or briefs.

7. MOTIONS

Any request for action or relief from this court should be clearly set forth in the form of a motion styled in the case which reflects "First District Court of Appeal" at the top, the case name, this court's case number, and the lower tribunal number. See Fla. R. App. P. 9.300. As well, all motions must contain a proper certificate of service reflecting that copies of the motion have been served on the opposing counsel/parties. See #8 below. If the record has not yet been filed with this court, record material supporting a motion should be included in an appendix attached to the motion.

As the court moves toward serving registered eDCA users with all orders, opinions, and mandates via Casemail, the submission of stamped envelopes with motions will no longer be required.

a. Extensions of Time for Filing Briefs

A first request for an extension of time to file an initial or answer brief of up to 30 days will usually be granted unless the motion certifies that another party opposes the motion. Such motions must contain a certificate that opposing counsel has been consulted and state whether there is an objection to the motion, as should other motions, including those relating to the preparation of the record or briefs or to the rescheduling of oral argument. Attempts to contact opposing counsel are generally not sufficient.

A motion for extension of time served after time has expired for serving the brief will generally not be granted in the absence of good cause shown. **Extensions for reply briefs are discouraged and will usually only be granted based on emergencies.** Failure to comply with these standards may result in dismissal of the case, striking of the untimely brief, and/or other sanctions.

In Workers' Compensation cases, a motion for extension of time must specifically state the circumstances justifying an extension, and motions requesting an extension on the sole basis of a busy schedule will not be favorably received. In addition to the reasons for requesting the extension and the opposition/agreement of opposing counsel, the motion must include the number of days requested and a date certain when the brief will be filed. Extensions for reply briefs in Workers' Compensation cases will not be granted except upon showing of extreme emergency.

b. Expedited Child Cases

The court has instituted accelerated procedures for the processing of certain child cases. These cases are designated as such when the case is set up and receive priority treatment in the court as addressed in the court's order. Extensions of time in such cases are not granted except in emergency circumstances.

c. Responses to Motions

Any response to a motion, including responses to motions for rehearing, shall be promptly served, i.e., within 10 days of the service of the motion. No reply to a response will be considered unless specifically authorized by the court. See Fla. R. App. P. 9.300(a).

8. CERTIFICATES OF SERVICE

All paper and electronically filed motions, petitions, notices, briefs, appendices, supplemental authorities, etc., shall contain a certificate of service attesting that copies have been provided to the opposing counsel/parties. There are different forms for proof of service based on whether you are filing as an attorney, a pro se inmate, or other pro se litigant. See Fla. R. App. P. 9.420. Pleadings which are served on the opposing side electronically must state the electronic means used as well as the date of service. **This court does not provide service of process for litigants. Litigants are required to serve opposing counsel/parties with a copy of all documents filed with the court.**

Examples of Certificates of Service:

By Attorney or Pro Se (Non-Inmate) Litigant:

I certify that a copy hereof has been furnished to (insert name or names) by (delivery) (mail/email) on (date).

Attorney for (name of party) or (name if pro se)
(address)
(phone number)
Florida Bar No. _____ (omit if pro se)

By Pro Se Inmate:

I certify that I placed this document in the hands of (insert name of institutional official) for mailing to (insert name or names) on (date).

(name)
(address)
(prison identification number)

9. AFTER HOURS FILINGS

For paper filings after 5 p.m., there is usually a guard on duty from 5:00 p.m. until **midnight** Monday through Friday, except holidays or days that the court is closed. Paper filings received by the guard after regular business hours are stamped as filed on the day received. There is no guarantee the guard will be available on any given day to accept filings so litigants should insure that time sensitive matters are filed during regular business hours. For electronic filings, the date an electronic filing is received by the court through eDCA will constitute the date of filing of that pleading, up to 11:59 p.m., Eastern Standard Time, on the date the document is electronically filed. Any filing on or after midnight will be deemed to be filed the next business day. Electronic filings on a weekend, a holiday, or other day the court is closed will be deemed to be filed on the next business day.

10. SERVICE OF EMERGENCY PAPERS

Any paper filed in this court designated as an "Emergency" should be served on the parties in the same manner, when practical, as used for the filing itself; e.g., if the paper was filed by special delivery, then the papers should be served on the parties via special delivery, and if faxed, then it should be faxed. Electronically filed documents though eDCA may be marked as "Emergency" when filed by checking the emergency filing box as well as in the title of the document. Pleadings may only be marked as "Emergency" if a true emergency exists.

11. BRIEFS

Paper briefs are to be filed only with an original copy containing an original signature of the submitting party and marked "ORIGINAL" on the cover page. Additional copies are not required. In lieu of paper filing, effective September 1, 2010, the court **REQUIRES** the electronic submission of briefs and all other filings via the court's secure eDCA portal for represented parties and registered users and encourages electronic filing of briefs by pro se litigants pursuant to this court's Administrative Order of 10-3. Please see that order for instructions on how to file electronically.

Paper briefs shall be bound so that the brief will lie flat when opened, **preferably by a secure staple in the upper left corner rather than bound in book form.** See Fla. R. App. P. 9.210(a)(3). Briefs are screened by the court when filed to determine compliance with Florida Rule of Appellate Procedure 9.210.

The answer brief shall contain all the same elements as contained in the initial brief except that the statement of the case and facts may be omitted. The initial and answer briefs shall include a list of citations and a table of contents with each issue listed and reference made to the page(s) where each issue is discussed in the brief. The court requests that the reply brief be submitted in this same format.

a. Font Size on Briefs:

Briefs filed in paper format are required to be on 8 1/2-by-11 inch white paper, with electronically filed briefs utilizing the equivalent size and color, and double spaced. Headings and subheadings shall be in print at least as large as the rest of the brief and may be single spaced. Rule 9.210(a) requires that all computer-generated briefs be submitted in either Times New Roman 14-point font or Courier New 12-point font and include a certification signed by the individual filing the brief immediately after the certificate of service that the brief complies with the font requirements of the Rule. Per this court's Administrative Order 10-3, briefs filed electronically through eDCA are not required to have an original signature.

b. Standard of Review in Briefs:

The argument section of briefs must contain the standard of review to be applied by the court as to each issue presented. See Fla. R. App. P. 9.210(b)(5). The statement of the standard of review should be included as to each issue immediately following the issue heading in the argument section.

c. Expanded Briefs:

Because of the number of cases currently being considered by the court, the court does not generally approve briefs which exceed the page limits contained in Florida Rule of Appellate Procedure 9.210(a)(5). That rule provides that initial and answer briefs should not exceed 50 pages and the reply brief is limited to 15 pages. If a cross-appeal has been filed, the answer brief/initial brief on cross-appeal shall not exceed 85 pages. A reply brief that includes the appellant's answer brief on a cross-appeal may not exceed 50 pages in length and not more than 15 pages may be devoted to the reply brief portion. See Fla. R. App. P. 9.210(a)(5). Any motion requesting to exceed the page limit of a brief must include with the motion the original proposed expanded brief. If the motion is filed electronically through eDCA, the proposed expanded brief must be efiled as a separate document at the same time as or immediately after the e filing of the motion. See *Bennett v. Florida National Bank*, 517 So. 2d 97 (Fla. 1st DCA 1987).

d. Amendments or Corrections:

Any request to amend or correct a filed brief is to be submitted by motion, accompanied by an original copy of the entire brief that includes the correction(s) and is entitled an "Amended Brief." If a motion to amend a brief is filed electronically, the "Amended Brief" must be efiled as a separate document at the same time as or immediately after the e filing of the motion. See Fla. R. App. P. 9.210, *North Florida Regional Medical Center v. Witt*, 616 So. 2d 614 (Fla. 1st DCA 1993). It is also desirable that the motion contain the position of the opposing counsel regarding the filing of the amended brief.

e. Amicus Curiae Briefs

Any party wishing to file an amicus brief shall file a motion requesting leave of court to file the brief complying with the requirements of Florida Rule of Appellate Procedure 9.370. If filed by an attorney or registered user, amicus curiae briefs must be electronically filed via the court's eDCA secure portal as set forth in Administrative Order 10-3.

12. APPENDIX

If an appendix is submitted in paper, it shall include at the front an index (table of contents), separated from the brief by a TABBED cover page and include a copy of the order(s) being appealed (unless a previously filed appendix to an initial brief contains the order(s) being appealed). See Fla. R. App. P. 9.220. As with paper briefs, paper appendices must be securely bound in book form or fastened along the left side in a manner that will allow them to lie flat when opened. The easiest and **preferred binding is by using a secure staple in the upper left corner rather than bound in book form.** Appendices which are filed electronically may either be attached in the same file as the document to which they are an appendix or filed as a separate document. If electronically filed separately, the appendix must contain a certificate of service and a cover page must be properly styled and identify the document to which it is an appendix. An appendix must be efiled in one document, not broken up into multiple filings. If an appendix contains more than one document, it is the responsibility of the filer to combine those documents before submission to the court; eDCA does not have the ability to combine multiple documents into one filing for a filer. Electronically filed appendices must be numbered or tabbed and, if tabbed, the numbered or lettered tabs must appear within the electronic document. If multiple volumes of an appendix are efiled, each volume of appendix must contain a cover page with the case information and clearly set forth the pleading to which it is an appendix and the volume number of the appendix.

13. FONT SIZE AND PAGE LIMITS ON PETITIONS, RESPONSES AND REPLIES

Rules 9.210(a) and 9.100(l) set forth the requirements for margins, font size, and spacing for briefs, petitions, replies and responses. The print must be black, double spaced, and contain no less than 1 inch margins. Footnotes and quotations may be single spaced and shall be of the same type size and spacing as the text. Computer-generated petitions, responses and replies shall be submitted in either Times New Roman 14-point font or Courier New 12-point font. All computer-generated petitions, responses, or replies must contain a certification as to compliance with the Rule's font requirements. The certification shall appear immediately following the certificate of service and be signed by the filing counsel or, if unrepresented, by the party. Per this court's Administrative Order 10-3, an original signature is not required if it is electronically filed by a registered user through eDCA. See Fla. R. App. P. 9.100(l). Rule 9.100(g), (j), and (k) provides that a petition or response to a petition should not exceed 50 pages in length, and the petitioner's reply should not exceed 15 pages.

14. PHYSICAL EVIDENCE

If a party desires to include one or more articles of physical evidence with the record forwarded to this court on appeal, excluding documents, the party shall first seek permission from this court by filing a motion. See Fla. R. App. P. 9.200(a)(1). Because of limited storage space at the court, physical evidence is usually not included in the court's record and no exhibit which exceeds 48 inches in height, depth, or width will be permitted absent special circumstances and approved by this court's order.

15. CORPORATE SELF-REPRESENTATION

While an individual may represent his or her interest in court without an attorney, a corporation is not permitted to do so through non-lawyer employees, officers, or shareholders. See *Richter v. Higdon Homes, Inc.*, 544 So. 2d 300 (Fla. 1st DCA 1989); *Nicholson Supply Co. v. First Federal Savings & Loan Assoc. of Hardee County*, 184 So. 2d 438 (Fla. 2d DCA 1966).

16. FOREIGN ATTORNEYS

Attorneys who are members in good standing in other jurisdictions may be granted permission by court order to appear in proceedings in this court. See Fla. R. App. P. 9.440(a) and the requirements contained in Florida Rule of Judicial Administration 2.510 (formerly Florida Rule of Judicial Administration 2.061). Pursuant to Section 35.22(3), Florida Statutes, the clerk is required to collect a \$100 filing fee from each attorney appearing pro hac vice, an order for the payment of which will be issued when and if the motion to appear is granted. An additional filing fee of \$250 is required by the Florida Bar.

17. ORAL ARGUMENT

Requests for oral argument shall be made by filing a separate pleading clearly designated as such and shall contain no other subject matter. Oral argument requests should be limited to those cases where counsel believes it will serve a definite and useful purpose in aiding the court in deciding the issue(s) on appeal. See Fla. R. App. P. 9.320. Cases receive the same consideration regardless of whether an oral argument request has been made. Request for oral argument shall be made not later than the time the last brief of that party is due unless otherwise ordered by the court.

Once the court has scheduled oral argument, motions for continuances are not favored except in emergency circumstances, when the court will usually move the case to the backup date listed in the order granting oral argument. In the rare instance where the provided backup date cannot be used, the parties should contact the clerk's office to schedule possible oral argument backup dates prior to filing the motion. Opposing counsel's availability and position on the backup date should be included in the motion. Further, the court should be notified first telephonically, then followed by motion, if within ten days prior to the oral argument date settlement agreements appear successful or a motion for voluntary dismissal is expected prior to oral argument.

Any request for oral argument by video teleconferencing should be contained in the motion for oral argument and should contain the consent of the opposing counsel/party as well as designate the specific location for the appearance of counsel for the oral argument. Video teleconferencing facilities are available from the following cities: Miami, West Palm Beach, Tampa, Daytona Beach, Pensacola, and Jacksonville. The party requesting this option is responsible for payment of the video teleconferencing fee within 10 days of notification that the case has been scheduled for oral argument by video teleconferencing.

18. SUPPLEMENTAL AUTHORITY

A copy of newly discovered authority should be attached to the notice. While the notice should designate clearly the issue to which the supplemental authority is pertinent, no argument or comment on the authority will be accepted. See Fla. R. App. P. 9.225. Counsel should be familiar with *Ogden Allied Services v. Panesso*, 619 So. 2d 1023 (Fla. 1st DCA 1993), and *Brown and Williamson Tobacco Corporation, etc. v. David Young*, 690 So. 2d 1377 (Fla. 1st DCA 1997).

19. APPELLATE MEDIATION PROGRAM

This court no longer has a mediation program. Any requests for mediation are governed by Florida Rule of Appellate Procedure 9.700.

20. REHEARING

Although motions for rehearing are permitted by Florida Rule of Appellate Procedure 9.330, the court strongly discourages the practice of routinely filing such motions. See *Whipple v. State*, 431 So. 2d 1011 (Fla. 2d DCA 1983). Rule 9.330(a) requires that a motion for rehearing set forth the law or fact that in the opinion of the movant the court has overlooked or misapprehended in its decision, and shall not present issues not previously raised in the proceedings. Where there has been an award of attorney's fees on appeal in connection with the decision on the merits, additional fees may be awarded upon a denial of a motion for rehearing. Counsel should be familiar with *Gainesville Coca-Cola v. Young*, 632 So. 2d 83 (Fla. 1st DCA 1993) and *Lawyers Title Insurance Corp. v. Reitzes*, 631 So. 2d 1101 (Fla. 4th DCA 1994). Any response to a motion for rehearing must be filed within 10 days of service of the motion.

21. LEGAL ADVICE

Judges of this court are not permitted to provide legal advice, provide separate advisory opinions, or respond to general questions of the law except in cases properly brought before the court. Employees of the clerk's office and the court are likewise not permitted to provide legal advice. Those representing themselves on appeal should review the Florida Rules of Appellate Procedure and may find it helpful to consult the Pro Se (Unrepresented) Appellate Handbook published by the Florida Bar at <http://www.flabarappellate.org>.

22. AMERICANS WITH DISABILITIES ACT

In accordance with the Americans with Disabilities Act, if you are a person with a disability who needs any accommodation in order to participate in proceedings or activities before this court, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the First District Court of Appeal Marshal's Office at 2000 Drayton Drive, Tallahassee, Florida 32399-0950; or at telephone number (850) 717-8132 at least seven (7) days before to the proceeding, or immediately upon receiving this notification if the time before the scheduled proceeding is less than seven (7) days. If you are hearing or voice impaired, call 711.

23. FIRST DISTRICT COURT OF APPEAL WEB PAGE

www.1dca.org