

**DISTRICT COURT OF APPEAL, FIRST DISTRICT
STATE OF FLORIDA
(Revised October 16, 2009)
NOTICE TO ATTORNEYS AND PARTIES**

<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.

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! Pursuant to a directive from the Florida Legislature, this court has recently developed an online application for electronic filing and access to court documents. The application, called eDCA, can be accessed via the court's website at www.1dca.org. Registration is required prior to filing documents or viewing electronic documents in a case. See the court's website for instructions on how to register. The court has issued Administrative Order 09-3, which supersedes the requirements of Administrative Order 07-1 on Electronic Filing of Briefs. Effective on and after October 26, 2009, at 10:00 am, E.S.T., attorneys are required and pro se litigants are encouraged to file an electronic copy of all briefs, petitions, responses to petitions, replies to petitions, and appendices to any of these documents, using the eDCA application. Documents must be submitted in PDF format. Information on how to convert files from Word and Word Perfect to PDF format is available on the court's website. The clerk's office cannot provide any other information regarding electronic filing than what is provided on the court's website. As required by the current rules of court proceedings, a signed paper original and the requisite number of copies must also be filed with the court in addition to the electronic filing via eDCA. For further information, see this court's Administrative Order 09-3.

NEW! The court now requests that attorneys, parties, and lower tribunals refrain from including with pleadings 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 welcome.

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).

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).

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.

4. NUMBER OF COPIES

All pleadings, including motions, should be filed with an original, plus ONE copy. However, motions for rehearing en banc and responses thereto should be filed with an original plus FIFTEEN copies. Original petitions and responses thereto, supplemental authorities, and all briefs and appendices should be filed with an original plus THREE copies. The original pleading should be marked "ORIGINAL." An electronic copy of briefs, petitions, responses to, and replies to petitions is also required for represented parties and encouraged for unrepresented parties.

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.

6. SUPPLEMENTATION OF RECORDS

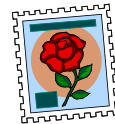
Supplemental records in appeals from final orders must be provided by the clerks of the lower tribunal. Absent special circumstances, records in these appeals may not be supplemented by attachments to motions or briefs.

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.

NON-INDIGENT PARTIES FILING A MOTION ARE REQUESTED TO ALSO ENCLOSE STAMPED, UNADDRESSED (i.e., PLAIN) LEGAL SIZE, 9 1/2" x 4 1/8" ENVELOPES FOR ALL PERSONS ENTITLED TO NOTICE OF THE COURT'S ACTION, including those persons listed on the certificate of service in the motion, as well as the person filing it. The envelope should be blank, i.e. no addressee, but must include the following return address: First District Court of Appeal, Tallahassee, Florida 32399-1850. See example.

First District Court of Appeal
Tallahassee, FL 32399-1850



(do not put an address here)

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 original papers, 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. **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) 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 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. 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.

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.

11. BRIEFS

Briefs are to be filed with an original (containing an original signature of the submitting counsel or party and marked "ORIGINAL" on the cover page) plus THREE copies. Instead of **emailing a copy of the brief**, the court now **REQUIRES** the electronic submission of briefs and selected other pleadings **via the court's secure eDCA portal** for represented parties and encourages electronic filing of briefs and selected other pleadings by pro se litigants pursuant to this court's **new order of 09-3**. Please see that order for instructions on how to file electronically. To avoid filing the brief or pleading electronically because of hardship, the attorney filing the brief or pleading must submit at the time the brief or pleading is filed a motion to the court setting forth the hardship in each case in which a brief or selected pleading is filed. **Briefs and selected pleadings filed via the eDCA secure portal must be filed in PDF format.**

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 are required to be on 8 1/2-by-11 inch white paper 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.

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 and THREE copies of the proposed expanded brief. 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 and THREE copies of the entire brief that includes the correction(s) and is entitled an "Amended Brief." See Fla. R. App. P. 9.210, *North Florida Regional Medical Center v. Witt*, 616 So. 2d 614 (Fla. 1st DCA 1993). **It is mandatory that the amended brief must also be transmitted to the court via the court's secure eDCA portal, as described in this court's administrative order 09-3.** 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. **Amicus curiae briefs must be electronically filed via the court's eDCA secure portal as set forth in Administrative Order 09-3.**

12. APPENDIX

If an appendix is submitted, it shall be indexed, 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 briefs, 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 **preferably by a secure staple in the upper left corner rather than bound in book form. Appendices to briefs, original petitions, responses to petitions, and replies to petitions must be electronically filed via the court's eDCA secure portal as set forth in Administrative Order 09-3.**

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. 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, 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.

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 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 and filed with an original and THREE copies. 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

The court recognizes that mediation often results in substantial savings to litigants, and that appellate mediation has proven to be particularly effective in workers' compensation appeals. Parties are therefore encouraged to engage in private appellate mediation in those cases in which they believe a satisfactory resolution might be reached without incurring all the expenses associated with completion of the appellate process. The court will therefore favorably consider joint motions for reasonable extensions of time under the appellate rules while parties engage in mediation efforts.

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, persons needing special accommodations should contact the Marshal's Office not later than seven (7) days prior to service needed. Telephone: (850) 488-8136.

23. FIRST DISTRICT COURT OF APPEAL WEB PAGE

www.1dca.org