

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO.: 8.101-5/18*

IN RE: APPEALS FROM COUNTY COURT
AND LOCAL ADMINISTRATIVE AGENCIES;
PETITIONS FOR EXTRAORDINARY WRIT

The Circuit Court is charged with the responsibility of hearing and ruling on appeals and petitions for extraordinary writs from County Court and local administrative bodies. Administrative orders 8.101 and 8.102 have been combined into the current 8.101. Due to a combination of the two administrative orders, no bolding indicating change is reflected below.

NOW, THEREFORE, pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215, it is ORDERED as follows:

I. THE APPELLATE COURT

A. PANELS, DIVISIONS OF THE COURT, AND ASSIGNMENT OF CASES

1. Panels: The Circuit Appellate Court fulfills its appellate responsibilities through monthly panels comprised of three judges which shall hear the following matters:
 - a. All appeals invoking the appellate jurisdiction of the circuit court, pursuant to Fla. R. App. P. 9.030(c).
 - b. All petitions for extraordinary writs which are filed pursuant to Fla. R. App. P. 9.030(c) and which seek review of a lower tribunal ruling, except for those qualifying Writs of Habeas Corpus and other Emergency Writs that are ruled up on by the Presiding Judge.
2. Divisions of the Court: Appeals and petitions for extraordinary writs filed in the circuit appellate court shall be assigned to either Division "AC" or Division "AY".
 - a. Appeals and petitions for extraordinary writs arising from county court criminal proceedings shall be assigned to Division "AC".
 - b. Appeals and petitions for extraordinary writs arising from county court civil proceedings shall be assigned to Division "AY".

- c. Appeals and petitions for extraordinary writs arising from administrative proceedings shall be assigned to Division "AY".

3. Assignment of Judges:

- a. Cases assigned to Division "AY" and "AC"

- 1) A panel may be composed of three judges assigned to the North County Courthouse or the South County Courthouse. A branch courthouse panel will not hear appeals arising from one of its county court divisions.
- 2) The chief judge, or designee, shall assign judges to the panels and designate a presiding judge in an equitable and fair manner so that no undue burden falls upon any single judge or group of judges.
- 3) The chief judge may assign any circuit judge to an "AC" or "AY" panel as needed.

- b. Cases assigned to Division "AC"

Cases assigned to Division "AC" will be heard by a panel composed of three judges from the circuit criminal and UFC/juvenile judges located at the Main Judicial Complex, or from circuit judges assigned to a branch courthouse as specified above. UFC/family judges may sit on an "AC" panel as needed.

- c. Cases assigned to Division "AY"

- 1) Appeals and petitions from county civil proceedings will be heard by a panel composed of three judges from the circuit civil and UFC/family judges located at the Main Judicial Complex, or from circuit judges assigned to a branch courthouse as specified above. UFC/juvenile judges may sit on an "AY" panel as needed.
- 2) Appeals and petitions from administrative proceedings may be heard by a panel composed of circuit criminal judges, circuit civil judges, UFC judges, and circuit judges assigned to branch courthouses. A county judge may be specially appointed to sit as a circuit judge, however, there can be no more than one county court judge assigned to a panel.

4. Presiding Judge:

- a. The presiding judge must be a circuit judge.
- b. For panels held at the Main Judicial Complex, the presiding judge is to be a judge

assigned to the circuit civil or circuit criminal divisions.

c. The presiding judge shall have the following responsibilities:

- 1) To rule on non dispositive motions. Dispositive motions shall be decided by the full panel for that month;
- 2) To discharge the administrative duties of the panel, including scheduling oral argument sessions and/or oral-argument-waived conferences;
- 3) To preside at all sessions;
- 4) To assign the writing of opinions among the panel members when the presiding judge is in the majority; however, when the presiding judge is in the minority, this responsibility shall be discharged by the most senior judge in the majority;
- 5) To rule upon Emergency Petitions for Writs of Habeas Corpus or other Emergency Petitions filed pursuant to Fla. R. App. P. 9.030(c) which seek review of a lower tribunal ruling.

d. If the presiding judge is unavailable, then his/her responsibilities may be discharged by one of the two other panel members. If the other two panel members are unavailable, then the presiding judge's responsibilities may be discharged by the circuit civil or circuit criminal administrative judge or, if unavailable, a circuit judge.

B. ORAL ARGUMENTS

1. When oral argument is requested by a party, it will be granted by the court only in those cases where a majority of the panel genuinely believes it is necessary for disposition of the cause.
2. Oral arguments shall be scheduled on any case when requested by two members of the panel of assigned judges, though not requested by the parties.

C. OPINIONS

1. The final opinion shall be circulated together with a face sheet on which each panel member shall indicate their concurrence or dissent. (See attached FORM "A").
2. The face sheet together with the majority opinion and any concurring or dissenting opinions shall be filed with the clerk.

D. DETERMINATION OF CAUSES EN BANC

1. En Banc Proceedings, Generally

- a. En banc hearings and rehearings shall not be ordered unless the case is of exceptional importance or unless necessary to maintain uniformity in the circuit court's appellate decisions.
- b. An en banc panel shall be comprised as follows:
 - 1) En banc criminal panels bearing the designation 'AC' shall be comprised of the judges from the circuit criminal divisions located at the Main Judicial Complex.
 - 2) En banc civil panels bearing the designation 'AY' shall be comprised of the judges from the circuit civil divisions located at the Main Judicial Complex.
 - 3) Any judge who sat on the three judge panel that initially reviewed the matter now before the en banc panel may also sit on the en banc panel. Such judge may sit on the en banc panel even if such judge is no longer assigned to the applicable circuit criminal or circuit civil division.
- c. An en banc decision shall be by a majority of the judges on the en banc panel who participate and vote on the case. If there is no majority decision of the en banc panel, then the decision of the original three panel members shall stand as the decision of the court.

2. Hearings En Banc

- a. A hearing en banc may only be ordered by the court on its own motion. A party may not request an en banc hearing.
- b. At any time after the three judge panel confers, any judge on that panel may poll the judges comprising the en banc panel to determine whether a majority of the en banc panel desires a hearing en banc. A majority of the judges comprising the en banc panel may order that a proceeding pending before the court be determined en banc.

3. Rehearings En Banc

- a. A rehearing en banc may be ordered by the court on its own motion or on motion of a party. Within the time prescribed by Florida Rule of Appellate Procedure 9.330, a party may move for an en banc rehearing solely on the grounds that the case is of exceptional importance or that such consideration is necessary to maintain uniformity in the court's decisions. A motion based on any other ground shall be stricken. A response may be served within ten (10) days of service of the motion.
- b. Any judge on the original three judge panel may poll the judges comprising the en banc panel to determine whether a majority of the en banc panel desires a rehearing en banc. A vote by the en banc panel will not be taken on a party's motion requesting en banc rehearing unless requested by a judge on the original three judge panel.

Judges who did not sit on the original panel are under no obligation to consider a party's motion unless a vote is requested.

- c. A motion for rehearing en banc must contain a statement as required by Florida Rule of Appellate Procedure 9.331(d)(2).
- d. A motion for rehearing en banc shall be disposed of by order. If rehearing en banc is granted, the court may limit the issues to be reheard, require the filing of additional briefs, and may require additional argument.

II. RESPONSIBILITIES OF THE PARTIES

The parties will be provided a copy of Form B - Notice to Attorneys and Parties - by the Clerk in accordance with Part III below. Form B sets forth the parties' responsibilities and is incorporated herein.

III. THE CLERK OF COURT

A. DUTIES OF THE CLERK OF COURT

- 1. The clerk shall perform all functions and discharge all duties traditionally fulfilled by clerks in Florida's Fourth District Court of Appeal. See Manual of Internal Operating Procedures, Fourth District Court of Appeal.
- 2. Upon receipt of the Notice of Appeal or Petition for Extraordinary Writ arising from the county court, the clerk will input the party and attorney information from the lower court for the petitioner/appellant and respondent/appellee.
- 3. The Clerk will link together the applicable lower court case with the appellate case in its case maintenance system.
- 4. The Clerk's duties include but are not limited to the following:
 - a. Original Notice of Appeal: filing and docketing the original notice of appeal in the lower court case and a copy in the appellate case and providing a copy of the notice of appeal to the Trial Court Law Clerk/Staff Attorney's Office.
 - b. Acknowledgment of New Case and Designation to Court Reporter: filing and docketing in Division AC cases (criminal appeals), the designation to Court Reporter, the Court Reporter's Acknowledgement in the appellate case.
 - c. Overdue Fees:
 - 1) notifying the Appellant/Petitioner as to whether the required appellate filing fee or record on appeal fee has not been paid in full. Such notice shall be

filed in the appellate court file with a courtesy copy forwarded to the Trial Court Law Clerk/Staff Attorney's Office.

- 2) notifying the Trial Court Law Clerk/Staff Attorney's Office when the Appellant/Petitioner has paid an overdue fee. Such notice shall be filed in the appellate court file with a courtesy copy forwarded to the Trial Court Law Clerk/Staff Attorney's Office.
- d. Form B: forwarding copies of the "notice to attorneys and parties" (See attached FORM "B") to all parties after receipt of the notice of appeal or petition for extraordinary writ.
- e. Motions: filing and docketing all requests for extension of time and motions relating to the appeal in the appellate case and forwarding copies of all motions to the Trial Court Law Clerk/Staff Attorney's Office.
- f. Briefs: filing and docketing all briefs (initial/petition, answer/response and reply) in the appellate case and forwarding the 3 courtesy copies of briefs filed by the parties to the Trial Court Law Clerk/Staff Attorney's Office.
- g. Transmitting the record on appeal to the Trial Court Law Clerk/Staff Attorney's Office.
- h. Mandates: issuing the mandates in accordance with Fla. R. App. P. 9.340.

B. MONTHLY REPORTS

1. The clerk shall, pursuant to Fla. R. Jud. Admin. 2.215(b)(6), prepare and provide monthly civil reports to the Chief Judge and Staff Attorney Office, and prepare and provide monthly criminal reports to the Chief Judge, Staff Attorney Office, the Office of the State Attorney, and the Office of the Public Defender.
2. The monthly reports shall be due on the first of each month.
3. The Reports shall list all of the appeals and petitions for extraordinary writ pending in the division. The listing shall be in sequential order utilizing the filing date of the notice of appeal or petition and shall contain as follows:
 - a. the appellate case number;
 - b. the style of the case (e.g., Jones v. State);
 - c. the date on which the notice of appeal or petition was filed;
 - d. the date a request for oral argument is filed, if applicable;
 - e. the date on which oral argument or an oral-argument-waived conference was held, if applicable;

- f. the date on which the court's decision was issued; and
- g. the date on which the mandate was issued.

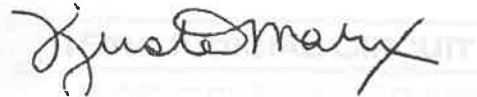
IV. TRIAL COURT LAW CLERK/STAFF ATTORNEY

The Trial Court Law Clerks/Staff Attorney's Office shall:

- 1. maintain a log of all pending appeals;
- 2. perform case management responsibilities under the supervision and direction of the presiding judge;
- 3. review all motions and prepare orders under the supervision and direction of the presiding judge;
- 4. prepare bench memoranda for all cases;
- 5. assist in drafting of opinions under the direction and supervision of a member of the appellate panel;
- 6. prepare the calendars for oral argument sessions and oral-argument-waived conferences ("panel");
- 7. distribute copies of all Court orders to parties of record;
- 8. distribute copies of the court's opinions as follows:
 - a. FLW Supplement;
 - b. Main Courthouse Law Library;
 - c. County Civil Judges (if a civil decision), or County Criminal Judges (if criminal decision);
 - d. Office of General Counsel;
 - e. Parties of Record.

21

DONE and SIGNED in Chambers at West Palm Beach, Palm Beach County Florida, this day of May 2018.



Krista Marx
Chief Judge

* supersedes admin. order no. 8.101-5/17 (amended as to Form B only)

FORM "A"

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.:

L.T. NO.:

Opinion/Decision filed:

Appeal/Petition from the [Lower Tribunal]
[in and for Palm Beach County],
, [Judge].

Appellant/Petitioner(s),

v.

Appellee/Respondent(s).

Date of Appeal/Petition:

_____ /

DATE OF PANEL: _____

PANEL JUDGES: _____, _____, _____

AFFIRMED/REVERSED/OTHER: _____

DECISION BY: _____

CONCURRING:	)	DISSENTING:	)	CONCURRING SPECIALLY:)
	)	With/Without Opinion	)	With/Without Opinion)
)))
_____)	_____)	_____)
Date:	)	Date:	)	Date:)
)))
_____)	_____)	_____)
Date:	)	Date:	)	Date:)
)))
_____)	_____)	_____)
Date:	)	Date:	)	Date:)

FORM "B"

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION OF THE CIRCUIT COURT

IMPORTANT NOTICE TO ATTORNEYS AND PARTIES ****Revised 5/18****

Unless there are exigent circumstances, the court will strictly enforce the following procedures to assist in the prompt and orderly disposition of matters under review:

1. NOTICE OF APPEAL: The notice of appeal shall be substantially in the form prescribed by rule 9.900(a). The Caption shall contain the name of the lower tribunal, the name of the trial court judge, the name and designation of at least 1 party on each side, and the case number in the lower tribunal. The notice shall contain the name of the court to which the appeal is taken, the date of rendition, and the nature of the order to be reviewed. Except in criminal cases, a conformed copy of the order or orders designated in the notice of appeal shall be attached to the notice together with any order entered on a timely motion postponing rendition of the order or orders appealed. See Fla. R. App. P. 9.110(d) and 9.130(c).
2. BRIEFS: Each brief must be served and filed as follows:
 - a. To Parties: One (1) copy of each brief and appendix must be served on counsel for each party separately represented;
 - b. To Clerk's Office: Filing with Clerk:
 - 1) E-filing. Briefs shall be e-filed in accordance with Florida Rule of Judicial Administration 2.525.
 - 2) Physical filing. Any briefs that are physically filed (rather than e-filed) with the Clerk's office must be secured with a binder clip and without brief covers on opaque, white, unglossed 8 ½ by 11 inch paper. See Fla. R. App. P. 9.210.
 - c. Courtesy Copies for the Court:
 - 1) Paper courtesy copies. In addition to filing a copy of the brief and appendix with the clerk, parties must provide three (3) paper courtesy copies of each brief and appendix. The paper courtesy copies shall be submitted to the Clerk and the Clerk shall forward the courtesy copies to the court appellate liaison. Each of the three paper courtesy copies of the briefs and appendices must be securely bound by a staple in the upper left-hand corner or, if they are too voluminous to be securely stapled, by any other secure means (such as a notebook or by spiral binding). The Court will reject paper courtesy copies held together by rubber band, binder clip, or any other insecure means.

2) Electronic courtesy copy. In addition to providing paper courtesy copies, the parties must send an electronic courtesy copy of each brief. The electronic copy must be sent in PDF format with bookmarks to any appendices. The forwarding email must contain the title and docket number of the case, and the name of the attached document. The electronic courtesy copy must be sent via email as follows:

- a) for civil appeals and petitions: **civilappeals@pbcgov.org**
- b) for criminal appeals and petitions: **criminalappeals@pbcgov.org**
- c) for administrative agency appeals and petitions: **adminappeals@pbcgov.org**

3. APPENDIX: An appendix shall be filed as a single PDF with bookmarks unless the size exceeds that permitted by rule or the Standards of the Florida Court Technology Commission. If the filing of one PDF exceeds the permitted megabytes, then the exhibits shall be grouped together so that there are as few separate PDFs as possible.

4. MOTIONS:

- a. Excessive and unnecessary motion practice is discouraged and may result in the imposition of sanctions under Fla. R. App. P. 9.410.
- b. Any record material necessary for resolution of a motion should be attached as an appendix.
- c. Motions are to also contain an express representation, except on motions where clearly inappropriate, that opposing counsel has been contacted and will or will not stipulate to the relief requested.
- d. Any request for action or relief should be clearly set forth in the form of a motion styled in the case which reflects "Fifteenth Judicial Circuit" at the top, the case name, this court's case number, and the lower tribunal case number. See Fla. R. App. P. 9.300.
- e. The moving party shall file the original and one copy of all motions.

5. RESPONSES TO MOTIONS: Responses to motions shall be served within 10 days after service of the motion. No reply will be considered unless specifically authorized by the court. Any unauthorized reply will be stricken without consideration. Fla. R. App. P. 9.300.

6. EXTENSIONS OF TIME:

- a. Attorneys are responsible for seeing that the time schedule set out in the Appellate Rules is followed and that the record and briefs are filed on time. Requests for extension of time should be filed in compliance with Fla. R. App. P. 9.300(a).

- b. In lieu of an agreed motion for extension of time to file an initial, answer, or reply brief, pursuant to Fla. R. App. P. 9.300(a), or an agreed motion for extension of time to file a response to a petition for extraordinary writ or a reply to a response, the court will accept a notice from a party that the parties have agreed to a specific extension of time. This notice shall state as follows:

Counsel for [movant] has consulted opposing counsel or self represented litigant who has agreed that the time for serving [movant's] [initial/answer/response/reply] brief may be extended for _____ days to _____ [date].

An agreed notice of extension of time will be accepted for up to a total of 120 days for an initial or answer brief, and 60 days for a response for a petition for extraordinary writ or reply brief. The notice need not be signed by both parties. No order will issue from the court. This procedure shall apply to criminal, civil, and administrative appeals and petitions for extraordinary writs. It shall not apply to any expedited or emergency appeals or any cases in which the court has ordered that additional extensions are not permitted.

- c. No extensions of time will be granted in expedited cases.
- d. No motion for extension of time will be granted that does not contain a certificate that opposing counsel has been contacted and stating whether the motion is opposed.
- e. A motion for extension of time served after the time for serving the brief has expired may not be granted absent a showing of good cause.
- f. Motions for extensions of time for reply briefs are discouraged.
- g. Failure to comply with these standards may result in dismissal or in striking an untimely brief or in other sanctions.
7. ORAL ARGUMENT: Oral Argument will be granted by the court only in those cases where it is genuinely believed necessary for disposition of the cause. Oral argument will be limited to twenty (20) minutes per side with exceptions only by motion and order of the court. Requests should be filed in conformity with Fla. R. App. P. 9.320.
8. RELATED CASES: All parties have the obligation to advise the Court in writing, as soon as possible, of any other cases pending before this Court involving related issues.
9. CERTIFICATES OF SERVICE: All motions, notices, briefs and appendices are required to have a certificate of service. See Fla. R. App. P. 9.420(d).
10. EXHIBITS: If a party desires to include one or more articles of physical evidence, excluding

documents, in the record on appeal, the party shall first seek permission from the court.

11. SUPPLEMENTAL AUTHORITY: A party's brief should contain all relevant authority published prior to submission of the brief. A Notice of Supplemental Authority should cite to newly discovered cases (copy of opinion to be attached to Notice) with a clear designation of the point on appeal to which the authority is pertinent.

12. REHEARING: Although motions for rehearing are permitted by Fla. R. App. P. 9.330, they should be rare. The court strongly discourages the practice of routinely filing such motions or those which merely re-argue the merits or question the court's decision. Where there has been an award of attorney's fees on appeal in connection with our decision on the merits, additional attorney's fees will be awarded upon a denial of a motion for rehearing.

13. PARTIES:

Pro Se

An individual is entitled to represent herself or himself in a civil proceeding but he or she must comply with the Florida Appellate Rules of Procedure. Failure to properly comply with rules of procedure can reach a point where such failure amounts in an abuse of judicial process properly subjecting the appeal to a dismissal with prejudice. For information on Pro Se Appeals go to:
<http://prose.flabarappellate.org/default.asp>

Businesses

A corporation or limited liability company may not represent itself through non-lawyer employees, officers, or shareholders even where the non-lawyer purporting to represent the corporation is the sole shareholder of the corporation.

14. CHANGE OF ADDRESS: All attorneys representing parties in this court and parties representing themselves must promptly notify this court of any change of address by filing a Notice of Change of Address and updating in the court's online system at:

<https://e-services.co.palm-beach.fl.us/scheduling/login.php?ref=/scheduling/>

15. FILING FEE: In all appeals and cases originating in the circuit appellate court, at the time the certified copy of the notice of appeal, petition, or other initial pleading is filed, the Clerk shall require the payment of a fee as required by law. Parties may file an affidavit of indigency with the Clerk's Office if unable to pay the required filing fee. Failure to pay such fee, after notice from the court, may result in the dismissal of the case. The payment shall not be exacted in advance in criminal appeals in which the defendant has been adjudicated insolvent for the purpose of an appeal, or in appeals in which the state is the petitioner/appellant.