

NINETEENTH JUDICIAL CIRCUIT COURT – APPELLATE DIVISION

NOTICE TO ATTORNEYS & PARTIES

RE: COUNTY COURT APPEALS, PETITIONS FOR WRIT OF CERTIORARI AND
APPEALS FROM LOCAL ADMINISTRATIVE ACTION

The following rules of the Nineteenth Judicial Circuit Court should be followed by all attorneys and parties filing appeals to the Circuit Court from County Court, both civil and criminal, appeals from local administrative action, and Petitions for Writ of Certiorari.

PLEASE READ THESE RULES TO ENSURE YOUR APPEAL WILL PROCEED IN A TIMELY FASHION AND TO AVOID DISMISSAL OF YOUR APPEAL FOR FAILURE TO FOLLOW THESE RULES.

A. Appeal of County Court Judgments, Code Enforcement Board Orders and Construction Licensing Board Orders

1. A Notice of Appeal shall be filed with payment of the appropriate filing fees. For appeals of local government decisions, the Notice of Appeal must also be filed with the local government's clerk.
2. Persons seeking indigent status must file a signed application for determination of indigent status with the Appeal Clerk.
3. The Notice of Appeal and all other documents must be served on all parties or their attorneys.
4. The full name of the lower court judge who entered the order or judgment being appealed and the date of rendition of the order must be indicated on the Notice of Appeal.
5. The Notice of Appeal shall contain the names of all parties to the appeal and whether it involves a final or non-final order. If the appeal is from a criminal case, state whether the defendant is in custody. If the appeal is from a rule 3.850 or 3.853 motion, state whether an evidentiary hearing was held.
6. For record preparation, please comply with Fla. R. App. P. 9.200 in civil cases or Fla. R. App. P. 9.140 and 9.141 in criminal cases. Please be sure to pay the Appeal Clerk for the cost of any record preparation. Otherwise your record will not be transmitted to the appellate panel, and your appeal may be subject to dismissal. Physical evidence shall not be included in the record on appeal without prior permission of this Court. For appeals of administrative action, it is the Appellant's responsibility to ensure that the local government clerk prepares the record and sends it to the Appeal Clerk.

7. The Appellant must file with the Notice of Appeal a copy of (1) the Final Order/Judgment/or Order of Final Administrative Action being appealed AND (2) any subsequent order on a Motion for Retrial or Rehearing, or in the case of final administrative action, an administrative order reviewing the action being appealed, if applicable.

8. Please advise the Court in writing as soon as possible of any other cases pending before this Court involving related issues of which you have personal knowledge.

B. Petitions for Writ of Certiorari (appeals of non-final orders, zoning and land use appeals, and other quasi-judicial local government action)

1. A petition and appendix shall be filed together with payment of the appropriate filing fee.

2. Persons seeking indigent status must file a signed application for determination of indigent status with the Appeal Clerk.

3. The petition, appendix, and all other filings shall be served on all parties or their attorneys and shall contain a certificate of service.

4. The Petitioner must include in the appendix a copy of (1) the Final Order/Judgment/or Order of Final Administrative Action being appealed AND (2) any subsequent order on a Motion for Retrial or Rehearing, or in the case of final administrative action, an administrative order reviewing the action being appealed, if applicable.

5. Please advise the Court in writing as soon as possible of any other cases pending before this Court involving related issues of which you have personal knowledge.

C. Petitions for Writ of Certiorari Directed to the Department of Highway Safety and Motor Vehicles ("DHSMV")

1. It is the policy of the Nineteenth Judicial Circuit Court to expedite petitions for writ of certiorari to review administrative action by the Department of Highway Safety and Motor Vehicles.

2. Petitioners should follow the requirements set forth above in Section B.

3. The Petitioner must include in the appendix a copy of the transcript of the DHSMV proceeding.

4. If the Administrative Judge determines that the petition complies with the rules of appellate procedure, the Administrative Judge will issue an order to show cause granting the Respondent 30 days in which to file a response to the petition and granting the Petitioner 20 days in which to file a reply to the response. Extensions of time in which to file a response or a reply may be granted only by stipulation of the parties or upon good cause shown.

5. Rulings will typically be issued within 60 days of the deadline for filing a reply.

D. Motions

1. Copies of any record material necessary for resolution of the motion should be attached to the motion as an appendix. See Fla. R. App. P. 9.300(a) for required content of and procedure for motions.

2. Motions shall contain a certificate of service showing service on all parties or their attorneys. Motions must also contain express representations (except on motions where it would be clearly inappropriate) that opposing counsel has been contacted and will or will not stipulate to the relief requested.

3. Responses to motions shall be promptly filed within 10 days of service of the motion. Failure to file a response within ten days will result in the motion being decided without consideration of any response. No reply to the response will be considered unless specifically authorized by this Court.

4. In motions for extensions of time, attorneys and parties must establish a realistic target date for filing of a particular brief (for example, 30 days). A first request for an extension of time to file a brief will ordinarily be given favorable consideration if reasonable and not objected to by the opposing side. Note that this Court interprets Fla. R. App. P. 9.300(b) as including an automatic extension of time for filing a brief when an extension of time is given to a Court Reporter or the Clerk of the Lower Tribunal for preparation and filing of a transcript or record on appeal, as well as in the tolling of time under those motions listed in the rule.

5. Excessive and unnecessary motion practice is discouraged and may result in the imposition of sanctions under Fla. R. App. P. 9.410. See *Dubowitz v. Century Village East, Inc.*, 381 So. 2d 252 (Fla. 4th DCA 1979).

E. Briefs

1. All briefs shall be filed with the Appeal Clerk. See Fla. R. App. P. 9.210 for required contents of and procedure for briefs.

2. An initial brief must be filed within 70 days of filing the Notice of Appeal, except in criminal cases. For criminal cases, the initial brief must be filed within 30 days

of when the Appeal Clerk serves the record. Except for post-conviction appeals, your appeal may be dismissed if you fail to file an initial brief.

3. For post-conviction appeals where no evidentiary hearing was held, the initial brief, if any, must be filed within 15 days of filing the notice of appeal.

4. An answer brief must be served within 20 days of service of the initial brief, and any reply brief must be served within 20 days of the answer brief.

5. All briefs shall include a certificate of service showing service of the brief on the opposing parties or their attorneys.

6. A party's brief should contain all relevant authority published prior to submission of the brief. A Notice of Supplemental Authority should cite only to newly discovered cases (copy of the opinion should be attached to the Notice) with a clear designation of the point on appeal to which the authority is pertinent. Argument is not permitted in the Notice of Supplemental Authority.

F. Oral Argument

1. A request for oral argument must be filed as a separate document. If granted, oral argument will generally be limited to ten minutes per side. If there are multiple parties on a side, then the parties must determine amongst themselves how to split the ten minutes.

2. A notice containing information about where the oral argument will be held will be served two weeks prior to the oral argument date. Oral argument may be held at the Indian River, St. Lucie, or Martin County courthouses. Your oral argument will not necessarily be held in the county where you filed your case.

3. Notices of unavailability are unauthorized and will not be considered. Requests for continuances of oral argument must be based on either a substantial commitment preexisting the receipt of the order granting request for oral argument or an emergency situation.

4. Cases without oral argument are subject to the same review, analysis, and consideration by a three judge panel as cases that are orally argued.

G. Other information

1. Pro se parties are strongly encouraged to file a notice of primary email address with the Appeal Clerk. When possible, the Court will transmit copies of orders and opinions electronically via the E-portal.

2. If you do not have an email address, you must keep your mailing address current with the Appeal Clerk. To ensure you receive copies of all motions, orders, and opinions, you must file a notice of change of address when you move. It is not the Court's responsibility to track down your new address.

3. Requests for the status of the matter pending before the Court should be directed to the Appeal Clerk at the Clerk's Office in the county where your case is pending. Please be advised that the Appeal Clerk can only tell you what has or has not been filed into the appeal case file. Do not ask the Appeal Clerk legal questions, as he/she is not trained or licensed to give legal advice.

Revised December 2015