

THIRTEENTH JUDICIAL CIRCUIT PRACTICE PREFERENCES AND TIPS
FOR CIVIL APPEALS and WRIT PETITIONS
www.fljud13.org

These guidelines are offered to assist practitioners as well as self-represented parties in the handling of *civil* appeals and writ petitions in the Thirteenth Judicial Circuit. These are general guidelines and are not a replacement for the Florida Rules of Appellate Procedure. They are not intended to expand or limit existing legal rights or alter the application of the Florida Rules of Appellate Procedure. If you are filing an appeal or writ petition you are urged to familiarize yourself with the [Florida Rules of Appellate Procedure](#), the [Rules of Judicial Administration](#), any applicable [Rules of Civil Procedure](#), [local rules](#), and [administrative orders of this court](#), as they may be from time to time amended. Parties representing themselves in appeals should also consult [The Pro Se Appellate Handbook](#). Additional links are provided below.

Circuit courts in Florida hold the unique jurisdictional position of being both trial courts and appellate courts. As appellate courts, circuit courts hear appeals of final orders of county courts. Circuit courts also review final orders of administrative tribunals (such as code enforcement boards) and certain nonfinal orders by appeal (such as orders relating to arbitration) *if* review by appeal is provided for those orders by statute. Appellate review of nonfinal orders provided for by rule alone does not confer appellate jurisdiction in the circuit court as it does in the District Courts of Appeal. Most nonfinal orders of the county court, and most orders—final or otherwise—of administrative tribunals, are reviewed in the circuit court by petition for writ of certiorari. In addition, circuit courts are empowered to consider petitions for writ of mandamus, prohibition, quo warranto, habeas corpus and all writs necessary or proper to the complete exercise of their jurisdiction.

APPEALS

In the Thirteenth Judicial Circuit, appeals are assigned to three-judge panels in Division X. Attorneys appearing in appeals are required to associate with the appeal on [JAWS](#)— Judicial Automated Workflow System—as orders are entered and served electronically. See the link provided below. If counsel does not register on JAWS, s/he should monitor the Clerk’s website to determine whether an order has been entered. Court staff is not responsible for transferring email addresses from filed documents onto the JAWS software.

Notices of Appeal

- Self-represented parties seeking to appeal a judgment of the county court may file a paper notice of appeal, in conformance with the Rules of Appellate Procedure, with the Clerk of Court in person, by mail, or electronically as long as the notice of appeal is received by the Clerk within 30 days of the date of the judgment to be reviewed. Directions for paper filings may be found at [this link](#). Click on “Appeals Department” for appeal-specific information. Notices of Appeal may also be filed in person at the Plant City Courthouse. Directions for electronic filing may be found here: [Florida Courts E-Filing Portal](#).

- Notices of appeal must be filed within 30 days of rendition of the order to be reviewed (Florida Rule of Appellate Procedure 9.110(b)). If an *authorized* (by rule) and *timely* motion for rehearing is filed, the order is considered rendered when an order is entered on the motion (Fla. R. App. P. 9.020(i)). Failure to file a notice within 30 days of the order or judgment's rendition will preclude appellate review (Rule 9.110(b)).
- A notice of appeal should include the date and nature (final or nonfinal) of the order to be reviewed, along with a copy of the order. If the time to file a notice of appeal has been tolled by an authorized and timely motion for rehearing, the *order* on any tolling motion must also be included with the notice. It would be helpful to the court if a copy of the *motion* tolling rendition of a final order is also included with the notice of appeal.
- Because circuit courts' appellate review of county court orders is generally limited to final orders (nonfinal orders are reviewable by appeal in circuit court *only* if provided for by statute), parties or their attorneys should examine any orders to determine that they are, indeed, final. For example, orders granting *motions* to dismiss are not final orders, whereas orders dismissing a case are final. Similarly, orders granting *motions* for summary judgment are not final, whereas orders entering summary judgment are final.

The Record

- Rule 9.200(a) sets forth items that must be included in the record.
- Items such as transcripts and notices are not automatically included in the record on appeal.
- Additional items, such as transcripts (a verbatim written record of a hearing or trial), must be specially requested by way of a designation within 10 days of the filing of a notice (Rule 9.200(b) (1)). Within 20 days of the notice, appellees may request additional documents, if necessary (Rule 9.200(b) (1)).
- It is the appellant's (party bringing the appeal) responsibility to ensure that the record is prepared and contains all documents necessary to facilitate the court's full review. The record may not be supplemented with documents that were not contained in the record below or any newly-discovered evidence. The ability to supplement the record on appeal is no substitute for the failure to create a proper record in the trial court.
- Because it is impossible to prepare a brief without a completed record, late records *automatically extend the time in which to file an initial brief*. When the record is late, appellants are given an additional 20 days after the record's completion to file an initial brief; a motion for extension *is not required* under these circumstances, and motions to dismiss filed under these circumstances will be denied. The schedule for remaining briefs will be adjusted based upon the filing of the initial brief; however, the *amount* of time given by rule after the initial brief is served remains unaffected by the timing of the record (Rule 9.210(f)).

- The failure to create a record will preclude appellate review. The failure to provide a transcript *may* preclude review if there is insufficient documentary evidence to support the arguments on appeal.

Motions

- Some motions that are frequently filed in an appellate proceeding should be filed in the county court. While the circuit court acting in its appellate capacity may entertain a motion to stay, such motions should first be considered by the lower tribunal, and, if denied, then be filed in the appellate proceeding.
- Motions for appellate costs are required to be brought in the county court (Rule 9.400 (a)).
- Review of orders under Rule 9.400 may be reviewed by the circuit court in its appellate capacity upon timely filed motion (Rule 9.400(c)).
- When the time to file motions is limited by rule or otherwise, untimely filed motions will be denied.
- The court rarely conducts hearings on motions in appellate proceedings. Motions filed with the court should clearly state the relief sought and specific grounds why the court should grant the requested relief. Unsupported or incomplete motions will be denied.
 - Motions for extension of time in which to file a brief should allege more than a busy calendar in support of an extension. They should be filed before the deadline to file the brief and set forth the length of the requested extension.
 - Parties are advised that requests for extension, while frequently granted, are not automatic.
 - The filing of successive motions for extension is discouraged and serial requests may be denied.
 - The failure to confer with the opposing party regarding a requested extension (Rule 9.300(a)) will result in the denial of the motion without prejudice.
- Motions to supplement the record are intended to correct errors in the record, not as a substitute for a party's failure to provide directions within 10 days of the filing of the notice of appeal (or 20 days, if by the appellee) (Rule 9.200(a)(2)).
 - Supplementation of the record requires a stipulation of the parties or leave of court (Rule 9.200(f) (1), (2)).
 - Piecemeal requests to supplement the record are strongly discouraged.

Briefs

- Be mindful of page limits for briefs (Rule 9.210). Excessively long briefs will be stricken. Brevity in briefs is appreciated and will likely improve their quality.
- The use of footnotes, except for citations, is discouraged. When used, footnotes must be in the same size font as used throughout the text of the brief. Excessive use of footnotes in an attempt to circumvent the page limitations set forth in the Rules of Appellate Procedure will result in the brief being stricken.
- Recite only the facts relevant to the court's consideration of the issues on appeal. In the recitation of facts, cite the page or pages of the record accurately. It does not assist the court to cite to an entire transcript or, worse, the entire record on appeal. Such lapses may result in the brief being stricken.
- Careful attention paid to the summary of the argument to include a clear, brief statement of the issues on appeal as well as a summary of the law supporting the requested relief will greatly assist the court.
- Include the standard of review for the issue(s) presented.
- It is often beneficial to limit the number of issues presented to those that are most likely to yield the desired result. Including additional weaker issues may detract from stronger issues.
- Tailor legal argument to the specific facts in your case.
- In answer briefs, a recitation of the case and facts is usually unnecessary and should be provided only to supply omissions from, or clarify statements made in, the initial brief. Answer briefs should, whenever possible, respond to issues in the order they have been presented in the initial brief.
- All briefs should strive to maintain a professional tone. They should challenge the argument of the opposing party on legal grounds but refrain from disparaging and dismissive remarks directed at the trial court or any individual associated with the case. Such remarks undermine the writer's credibility and detract from the merits of the argument.
- Check citations. Briefs are often submitted with incomplete or typographical errors in citations to authority. Such errors frustrate the court's ability to evaluate the argument presented.
- The use of string citations—multiple citations of authority, particularly when aimed at a well-known point of law—is unnecessary and strongly discouraged.

Notices of Supplemental Authority

- Notices of supplemental authority should include only decisions that have been published *after* the submission of the party's brief. Authority that was available but not discovered until after the filing of the brief is not considered supplemental.
- Notices of supplemental authority, footnotes, and formatting adjustments should not be used to defeat page limitations in briefs. Briefs that exceed established page limitations set by rule will be stricken (Rule 9.210 (a)).

Code Enforcement Appeals

- It is very helpful to the court if the parties attach copies of the applicable local ordinances, rules, and regulations relied upon in code enforcement appeals.
- A code enforcement appeal resembles a hybrid of an appeal and a petition for writ of certiorari in that review is by appeal, but the clerk of court does not prepare a record in code enforcement appeals. In a code enforcement appeal it is the appellant's responsibility to cite to and attach an appendix to the brief. Consult Rule 9.190.
- A brief in code enforcement appeals is, as with any appeal, due within 70 days of the filing of the notice of appeal.

Oral Argument

Based upon the court's experience, it is anticipated that appellate matters appropriate for oral argument will be rare. If a party seeks oral argument, a request must be filed with the court, setting forth reasons why oral argument would benefit the court. Even when requested, oral argument is not assured. Because of the logistics of scheduling oral argument in appeals with three judges who must also coordinate busy trial schedules, oral argument, when granted, will be set by the court without consulting the parties. Rescheduling oral argument is discouraged and, if attempted more than once may result in the cancellation of oral argument.

WRIT PETITIONS

Writs that may be considered by the circuit court include:

- Certiorari
- Mandamus
- Prohibition
- Quo Warranto
- Habeas Corpus
- All writs necessary or proper to the complete exercise of its jurisdiction

The most commonly filed are petitions for writ of certiorari and habeas corpus. By local rule and administrative order, petitions for writs of habeas corpus in the Thirteenth Judicial Circuit are not filed in the Circuit Civil Division. Depending on the subject matter, habeas corpus petitions may be filed in the Circuit Criminal Division, Unified Family Division, or the Probate, Guardianship, Mental Health and Trust Division of the Circuit Court. ([Local Rule 1](#)) Petitions for writs related to the administration of criminal justice should be filed in the Criminal Division. ([Local Rule 1](#))

Petitions and Responses

Petitions for writs of certiorari are appellate in nature in that they seek review of either nonfinal county court or administrative agency action, or of final agency action for which review by appeal is not provided for by statute. In the Thirteenth Judicial Circuit, such cases are assigned to a single division judge. Unless otherwise provided for by law, petitions for writ of certiorari must be filed within 30 days of the action to be reviewed. The failure to meet that deadline will preclude review. Petitions for certiorari in circuit court are governed by Rule 9.100, Florida Rule of Appellate Procedure. All other writ petitions in circuit court are governed by Florida Rule of Civil Procedure 1.630.

- Petitions for writ of certiorari directed to final orders of administrative agencies resemble appeals in that review is considered to be a matter of right. Unless otherwise provided by law (for example, the Teacher Tenure Act, Ch. 75-384, Laws of Florida), petitions directed to final agency action must be filed within 30 days of the order to be reviewed.
- Review of nonfinal orders, including those nonfinal orders that are otherwise appealable to the District Courts of Appeal under Rule 9.130, must be reviewed in the circuit court by petition for writ of certiorari unless appellate review is provided for by statute.
- Petitions for writ of certiorari directed to nonfinal orders will, therefore, be reviewed at the court's discretion. In exercising discretion, the court may use as a guide the list of nonfinal, appealable orders set forth in Rule 9.130.
- Drafting points and preferences for appellate briefs are equally applicable to petitions and responses.
- In addition to the petition, the petitioner must furnish the court with an appendix containing any documents necessary to advance petitioner's argument and cite to the appendix for any statement of fact (Rule 9.220).
- Responses to petitions are filed only upon order of the court if it is determined that any writ petition sets forth a preliminary basis for relief. Responses are like petitions in that they may require the attachment of and citation to an appendix.

- It is helpful to the court, and the parties are encouraged, to attach copies of the applicable authority if the case involves review of an administrative agency and requires the court to consult applicable local ordinances, rules, and regulations.

Replies

After a response is filed, the petitioner may file a reply within 20 days (Rule 9.100(k)). A reply is not required. Extensions of time to file replies are not routinely granted.

Oral Argument

As with appeals, oral argument may be requested. If granted, oral argument will then be scheduled by the parties as they would for any hearing before the court. Usually, each party will have 15 minutes to present argument.

Helpful links:

Judicial Automated Workflow System (JAWS): <http://jaws.fljud.org/>

[The Pro Se \(self-represented\) Appellate Handbook](#)

[Florida Rules of Appellate Procedure](#)

[Florida Rules of Judicial Administration](#)

[Florida Rules of Civil Procedure](#)

[Florida Statutes](#)

Thirteenth Judicial Circuit Administrative Orders:
<http://www.fljud13.org/AdministrativeOrders.aspx>

Thirteenth Judicial Circuit Local Rules:
<http://www.fljud13.org/AdministrativeOrders/LocalRules.aspx>

FindLaw: <http://public.findlaw.com/>

Hillsborough County Clerk of Court: <http://hillsclerk.com/publicweb/home.aspx>

Florida Courts E-Filing Portal: <https://www.myflcourtaccess.com/>