

Supreme Court of Florida

No. SC2023-0836

IN RE: AMENDMENTS TO FLORIDA RULES OF APPELLATE PROCEDURE 9.020 AND 9.400.

December 21, 2023
CORRECTED OPINION

PER CURIAM.

The Florida Bar’s Appellate Court Rules Committee filed a report proposing amendments to Florida Rules of Appellate Procedure 9.020 (Definitions) and 9.400 (Costs and Attorneys’ Fees).¹ The Board of Governors of The Florida Bar unanimously recommends acceptance of the amendments. The Committee and the Court both published the proposed amendments and received no comments.

The Court hereby amends the Florida Rules of Appellate Procedure as proposed by the Committee. First, rule 9.020(h)(1)

1. We have jurisdiction. See art. V, § 2(a), Fla. Const.; see also Fla. R. Gen. Prac. & Jud. Admin. 2.140(b).

(Rendition of an Order; Motions Tolling Rendition), which provides a list of motions that can toll rendition, is amended to add motions to vacate orders issued by general magistrates under Florida Family Law Rule of Procedure 12.490 (General Magistrates) to the list.

This proposal is in response to the Court's recent amendment of rule 12.490(e)(3), which now provides for the ratification of a general magistrate's recommended order, unless the court finds it deficient, and allows the challenge of such an order through a motion to vacate. *See In re Amends. to Fla. Fam. L. Rules of Proc. 12.490 & 12.491, & Forms 12.920(a)-(c)*, 346 So. 3d 1053 (Fla. 2022). Subdivision (i) (Rendition of an Appellate Order) is retitled and amended to reflect that it applies to both opinions and orders and to specify that an appellate order or opinion is deemed rendered when docketed.

Rule 9.400 is amended to create a new subdivision (b)(4) to provide a uniform practice and procedure before the appellate courts in cases where the court issues an order of dismissal under rule 9.350 (Dismissal of Causes). New subdivision (b)(4) establishes a 7-day period after an order of dismissal is rendered to serve a

motion for appellate attorneys' fees, if the otherwise applicable deadline for serving the motion has not yet expired.

Accordingly, we amend the Florida Rules of Appellate Procedure as reflected in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The amendments shall become effective January 1, 2024, at 12:02 a.m.

It is so ordered.

MUÑIZ, C.J., and CANADY, LABARGA, COURIEL, GROSSHANS, FRANCIS, and SASSO, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding – Florida Rules of Appellate Procedure

Elaine D. Walter, Chair, Appellate Court Rules Committee, Miami, Florida, Hon. Andrew D. Manko, Past Chair, Appellate Court Rules Committee, Tallahassee, Florida, Joshua E. Doyle, Executive Director, The Florida Bar, Tallahassee, Florida, and Heather Savage Telfer, Bar Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

APPENDIX

RULE 9.020. DEFINITIONS

The following terms have the meanings shown as used in these rules:

(a)-(g) [No Change]

(h) Rendition of an Order. An order is rendered when a signed, written order is filed with the clerk of the lower tribunal.

(1) *Motions Tolling Rendition.* The following motions, if authorized and timely filed, toll rendition unless another applicable rule of procedure specifically provides to the contrary:

(A)-(K) [No Change]

(L) motion to vacate an order ~~based on the recommendations of a hearing officer in accordance with~~ under Florida Family Law Rules of Procedure 12.490(e)(3) or 12.491(f); or

(M) [No Change]

(2) [No Change]

(i) Rendition of an Appellate Order or Opinion. An appellate order or opinion is rendered when docketed by the clerk of the court. If any timely and authorized motion under rules 9.330 or 9.331 is filed, the order ~~must~~ or opinion will not be deemed rendered as to any party until all of the motions are either withdrawn or resolved by the rendition of an order or opinion on the motion.

(j)-(l) [No Change]

Committee Notes

[No Change]

Court Commentary

[No Change]

RULE 9.400. COSTS AND ATTORNEYS' FEES

(a) [No Change]

(b) **Attorneys' Fees.** With the exception of motions filed under rule 9.410(b), a motion for attorneys' fees must state the grounds on which recovery is sought and must be served not later than:

(1) [No Change]

(2) in original proceedings, the time for service of the petitioner's reply to the response to the petition;~~or~~

(3) in discretionary review proceedings commenced under rule 9.030(a)(2)(A), the time for serving the respondent's brief on jurisdiction, or if jurisdiction is accepted, the time for serving the reply brief;or

(4) in proceedings in which the court renders an order of dismissal before the otherwise applicable deadline for filing a motion for attorneys' fees has expired, not later than 7 days after rendition of the order of dismissal.

The assessment of attorneys' fees may be remanded to the lower tribunal. If attorneys' fees are assessed by the court, the lower tribunal may enforce payment.

(c) [No Change]

Committee Notes

[No Change]