

## CHAPTER 6: CHECKLIST FOR APPELLATE BRIEFS AND GENERALLY PETITIONS IN THE DISTRICT COURTS OF APPEAL

As with the rest of this Handbook, this Checklist is NOT a substitute for reading the Florida Rules of Appellate Procedure and NOT a substitute for visiting each court's website, at [www.flcourts.org](http://www.flcourts.org), to learn that particular court's internal requirements.

### **Review the Florida Rules of Appellate Procedure and Applicable Florida Law.**

- \_\_\_\_\_ An appellate party reviews the Florida Rules of Appellate Procedure ("FRAP"), which can be obtained from a public library, law library, or on The Florida Bar's website at <http://www.floridabar.org/tfb/TFBLegalRes.nsf/>. An appellate party needs Adobe Acrobat on their computer to view the Rules.
- \_\_\_\_\_ An appellate party also reviews any other rules, statutes, or case law that may apply in the case.
- \_\_\_\_\_ An Appellate party also reviews the specific procedures and requirements of the particular court where the appeal is filed (available on the court's website and/or from the court's clerk's office).

### **Page Limits for All Briefs (FRAP 9.210(a)(5))**

- \_\_\_\_\_ 1. Appellant's initial brief can be no more than 50-pages long
- \_\_\_\_\_ 2. Appellee's answer brief can be no more than 50-pages long
- \_\_\_\_\_ 3. Appellant's reply brief can be no more than 15 pages long

### **Paper Size and Binding for All Briefs (FRAP 9.210(a)(1) and (a)(3))**

- \_\_\_\_\_ 1. Standard size 8 1/2" x 11" paper, that is white, opaque, and unglossed
- \_\_\_\_\_ 2. Paper briefs are **not** stapled or bound (except by paperclip or rubber band)

### **Formatting for All Briefs (FRAP 9.210(a)(2))**

- \_\_\_\_\_ 1. One-inch margin on all sides (courts may measure the margins)
- \_\_\_\_\_ 2. Typed briefs must be double spaced
- \_\_\_\_\_ 3. Print on only one side of paper
- \_\_\_\_\_ 4. Font must be either Times New Roman 14-point, or Courier New 12-point font
- \_\_\_\_\_ 5. If the brief is typed on a computer, it must certify that it meets the font requirements. The font certification goes after the certificate of service.

### **Cover Page for All Briefs (FRAP 9.210(a)(4))**

Includes the following, in this order:

- \_\_\_\_\_ 1. Name of the appellate court at the top of the page (e.g. First District Court of Appeal, State of Florida)
- \_\_\_\_\_ 2. Appellate court case number (lower tribunal case number is also a good idea)
- \_\_\_\_\_ 3. Names of the parties and whether they are the appellant or the appellee, e.g.:  
*Jane Doe, Appellant*  
v.  
*John Doe, Appellee.*
- \_\_\_\_\_ 4. Title of the document (“Initial Brief of Appellant,” “Answer Brief of Appellee,” or “Reply Brief of Appellant”)
- \_\_\_\_\_ 5. Name of the lower court or tribunal which entered the order appealed (e.g., “Appeal from the 13th Judicial Circuit, Hillsborough County”)
- \_\_\_\_\_ 6. Name, address and telephone number of the pro se party filing the brief

### **What the Initial Brief Must Contain (FRAP 9.210(b))**

- \_\_\_\_\_ 1. Cover Page – sets forth the information discussed above
- \_\_\_\_\_ 2. Table of Contents – lists the sections of the brief, including headings and subheadings identifying the issues raised in the appeal, with the page number where the argument on each issue begins
- \_\_\_\_\_ 3. Table of Authorities – lists the legal authorities cited in the brief with all pages on which each is cited, in this order: (a) cases are listed alphabetically with citations; (b) statutes; (c) other authorities, including rules of procedure
- \_\_\_\_\_ 4. Statement of the Case and Facts – discusses the facts and procedural history of the case, contains citations to the page in the appellate record where each fact discussed can be found or supported, and includes discussion of: (a) the type of case; (b) history of the case in the lower tribunal before the appeal; (c) the outcome in the lower tribunal, and (d) the facts relevant to the issues on appeal
- \_\_\_\_\_ 5. Summary of the Argument – previews the argument in 2 to 5 pages or less
- \_\_\_\_\_ 6. Standard of Review – briefly states the standard of review for each issue on appeal (this can be a separate section, or it can just stated at the beginning of each argument issue, but must be included in the brief)
- \_\_\_\_\_ 7. Argument – explains the appellant’s legal arguments for each issue heading listed in the table of contents, with citations to legal authorities supporting the arguments (unless the brief has a separate standard of review section, the standard

of review for each issue should be stated at the beginning of each argument issue)

\_\_\_\_\_ 8. Conclusion – tells the appellate court what remedy is sought on appeal (e.g. reverse, reverse and remand for a new trial, etc.)

\_\_\_\_\_ 9. Certificate of Service – certifies a copy of the brief was served (sent) to the opposing party (see below)

\_\_\_\_\_ 10. Certificate of Font Compliance – certifies the brief complies with the font style and size requirements

\_\_\_\_\_ 11. Signature block – the brief must be signed by the party submitting the brief

### **What the Answer Brief Must Contain (FRAP 9.210(c))**

\_\_\_\_\_ 1. Cover Page – as set forth above

\_\_\_\_\_ 2. Table of Contents – lists the issues presented as stated by the appellant in the initial brief and the page numbers on which argument begins for each issue

\_\_\_\_\_ 3. Table of Authorities – lists the legal authorities cited with page references to: (a) cases listed alphabetically with citations; (b) statutes; (c) other authorities, including rules of procedure

\_\_\_\_\_ 4. Statement of the Case and Facts – can be omitted if appellee agrees with appellant's statement, but is usually included to state the facts from appellee's perspective; it discusses the facts and procedural history, and has citations to the page in the appellate record where each fact can be found or supported

\_\_\_\_\_ 5. Summary of the Argument – previews the argument in 2 to 5 pages or less

\_\_\_\_\_ 6. Standard of Review – briefly states the standard of review for each issue on appeal (this can be a separate section, or it can just stated at the beginning of each argument issue, but must be included in the brief)

\_\_\_\_\_ 7. Argument – responds to the initial brief and explains the appellee's legal arguments for each issue, with citations to legal authorities supporting the arguments (unless the brief has a separate standard of review section, the standard of review for each issue should be stated at the beginning of each argument issue)

\_\_\_\_\_ 8. Conclusion – tells the appellate court what the appellee wants the court to do with the appeal (e.g. affirm the lower tribunal's decision).

\_\_\_\_\_ 9. Certificate of Service – certifies a copy of the brief was served (sent) to the opposing party (see below)

\_\_\_\_\_ 10. Certificate of Font Compliance – certifies the brief complies with the font

style and size requirements

\_\_\_\_\_ 11. Signature block – the brief must be signed by the party submitting the brief

### **What the Reply Brief Should Contain (FRAP 9.210(d))**

A reply brief is not required, but one should usually be filed to respond to the answer brief. A reply brief should not raise new arguments nor merely repeat the arguments in the initial brief. Rather, its purpose is to respond to the arguments made in the answer brief.

- \_\_\_\_\_ 1. Cover Page – as set forth above
- \_\_\_\_\_ 2. Table of Contents – lists the issues presented as stated by the appellant in the initial brief and the page numbers on which argument begins for each issue
- \_\_\_\_\_ 3. Table of Authorities – lists the legal authorities cited, with page references to:  
(a) cases listed alphabetically with citations; (b) statutes; (c) other authorities, including rules of procedure
- \_\_\_\_\_ 4. Reply Argument – responds to the answer brief arguments
- \_\_\_\_\_ 5. Conclusion – tells the appellate court what result the appellant wants
- \_\_\_\_\_ 6. Certificate of Service – certifies a copy of the brief was served (sent) to the opposing party (see below)
- \_\_\_\_\_ 7. Certificate of Font Compliance – certifies the brief complies with the font style and size requirements
- \_\_\_\_\_ 8. Original brief must be signed by the party submitting the brief

### **Timely Filing and Service for All Briefs (FRAP 9.110(f) and 9.210(f))**

\_\_\_\_\_ The appellate party must serve the brief (send it by mail, hand delivery, or e-mail if e-service is available) to the other party and file it with the court within the times required by the Rules. The court may reject the brief if it is not timely (see FRAP 9.410). If an appellate party needs more time to write the brief, he or she must file a motion for extension of time under FRAP 9.300(a)—at least a few business days before the brief is due—asking the court for additional time.

- \_\_\_\_\_ 1. Appellant’s initial brief: 70 days from filing notice of appeal (unless the court grants a motion for extension of time filed by the appellant)
- \_\_\_\_\_ 2. Appellee’s answer brief: 20 days after service of appellant’s initial brief (unless the court grants a motion for extension of time filed by the appellee)
- \_\_\_\_\_ 3. Appellant’s reply brief: 20 days after service of appellee’s answer brief (unless the court grants a motion for extension of time filed by the appellant)

\_\_\_\_\_ Serve (by mail, hand delivery, or e-mail if e-service is available) a copy of the brief on the attorney for each party or, if a party is not represented by an attorney, serve a copy on each unrepresented party.

\_\_\_\_\_ File the brief with Appellate Court the same day as service (by mail, delivery, or electronic filing if e-filing is available)

It should be sufficient to file one original paper copy of the brief with the appellate court. But a party should contact the clerk's office for the specific court (and/or visit their website) to find out if multiple paper copies are still required and/or if there may be additional requirements in that court for filing a brief.

Pro se parties are generally permitted to serve documents by e-mail if they comply with certain requirements, which are detailed in Florida Rule of Judicial Administration 2.516. In addition, most courts now allow (but do not require) electronic filing by pro se parties. *See* Florida Rule of Judicial Administration 2.525(c)-(d). The requirements for electronic filing, even when it is available, often vary in different courts. Accordingly, pro se parties interested in electronic filing should consult the website or clerk's office of the particular court to find out if electronic filing is allowed, and, if so, the requirements for electronic filing and service by e-mail. *See also* Florida Rules of Judicial Administration 2.516 and 2.525(c)-(d). Unless electronic filing and service by e-mail is available, a brief must generally be filed by mail or delivery to the court, and served by mail or delivery to the opposing party.

Current through June 2016

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