

LAWYER

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Traditionally, parties seek briefing extensions in Florida state courts by motion pursuant to Florida Rule of Appellate Procedure 9.300. However, four of the five District Courts of Appeal have recently adopted an alternative procedure — extension by “notice” — that supplants the motion process in certain circumstances.

The “Notice” Process, by Court

Led by the Fourth District, the Second, Third, Fourth, and Fifth Districts each authorize a party who meets specific requirements to file a notice of an agreed or stipulated extension of time to file an initial, answer, or reply brief, in lieu of a motion. The process reduces the workload of the court in reviewing and ruling on motions, while allowing the parties to exercise increased control over their own appeals.

The courts’ administrative orders authorizing the procedure are found on their websites. They each differ slightly in their requirements and approved language. It is important to review each administrative order

carefully to ensure compliance with approved procedures.

The Fourth District. In Administrative Order No. 2011-2, the court ordered it would accept “a notice” in lieu of an agreed motion for extension of time on briefs. This procedure applies only in “criminal and civil appeals,” not “adoptions, dependency, termination of parental rights, non-final orders, or any expedited appeal.” Agreed extensions by notice are authorized for up to 120 days for an initial or answer brief and up to 60 days for a reply brief, without any intervention from the court.

The Fifth District. In Amended Administrative Order AO5D13-02, the court largely adopted the Fourth District’s “notice” process but added to the excluded proceedings any “original proceeding.” The court also reduced the time available under the “notice” process to 90 days for initial or answer briefs and 60 days for reply briefs.

The Third District. In Administrative Order AO3D13-01, the court adopted the “notice” process, applying the list of excluded proceedings from the Fifth District but the 120-day and 60-day time limitations from the Fourth District.

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The Second District. In Administrative Order 2013-1, the court adopted the “notice” process, adding “any domestic relations appeal with a custody or visitation matter at issue”

to the list of excluded proceedings from the Fourth and Fifth Districts. However, it adopted the Fifth District’s 90-day and 60-day time limitations.

Other Appellate Courts. Neither the Florida Supreme Court nor the First District Court of Appeal has adopted any alternative procedure to a Rule 9.300(a) motion.

A motion is still required in many circumstances.

Where the parties cannot agree, the time requested exceeds the authorized amount, or a notice is not authorized for other reasons, Rule 9.300(a) controls and a motion is required. In addition, some district courts govern appellate motion practice via administrative orders or “notice[s] to attorneys and parties” located on their respective websites. Again, review of these documents is always advised to ensure compliance with local court procedures.

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