



# Taking and Perfecting Appeals: An Overview of the Appellate Process

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# What is an appeal?

The complaint to a superior court of an injustice done or error committed by an inferior one, whose judgment or decision the court above is called upon to correct or reverse.

-Black's Law Dictionary

- ▶ An appeal is not a retrial.
- ▶ Most cases are entitled to one, and only one, level of appellate review.

# APPELLATE JURISDICTION

Florida Supreme Court

Limited jurisdiction

# Florida Supreme Court

Narrow mandatory jurisdiction under Art. V, §§ (3)(b)(1)-(3)(b)(2), Fla. Const., implemented by Fla. R. App. P. 9.030(a)(1).

- Death Penalty
- Bond Validation
- Actions of Statewide Agencies Relating to Rates or Service of Utilities providing Electric, Gas, or Telephone Service
- Decision from District Court of Appeal declaring invalid a state statute or constitutional provision

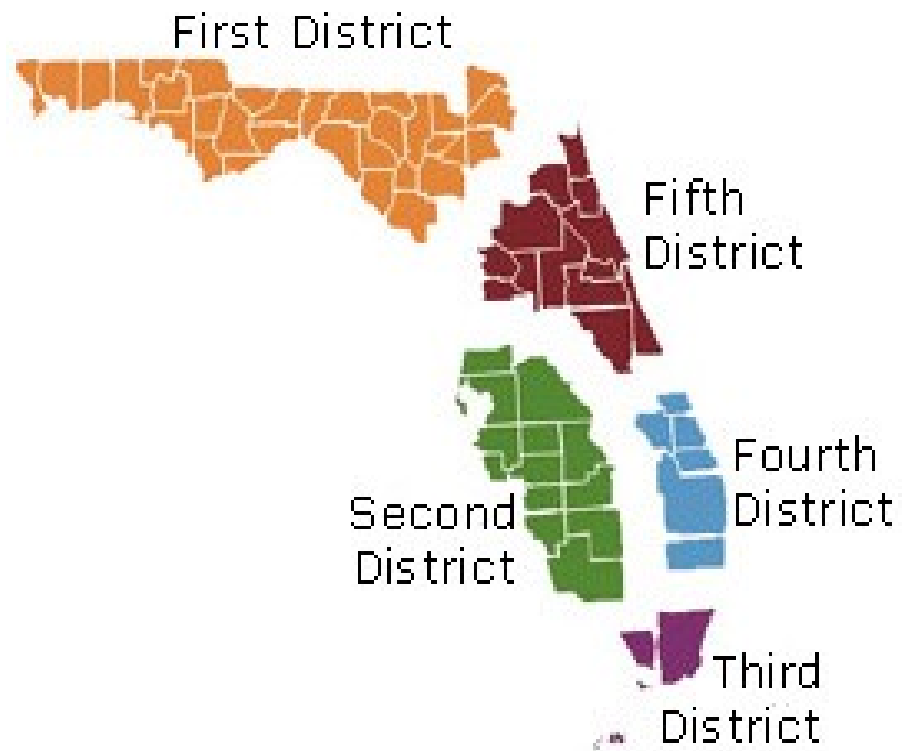
# Florida Supreme Court

Discretionary jurisdiction to review District Courts of Appeal decisions under Art. V, §§ 3(b)(3)-3(b)(6), that:

- expressly declare valid a state statute or expressly construe a provision of the state or federal constitution
- expressly affect a class of constitutional or state officers
- expressly and directly conflict with a decision of another DCA or Supreme Court on the same question of law
- certify a question of great public importance
- certify conflict with a decision from another DCA

Original Jurisdiction—Extraordinary Writs

# District Courts of Appeal



# District Courts of Appeal

- ▶ First District Court of Appeal - (1st, 2nd, 3rd, 4th, 8th and 14th Circuits)
- ▶ Second District Court of Appeal - (6th, 10th, 12th, 13th and 20th Circuits)
- ▶ Third District Court of Appeal - (11th and 16th Circuits)
- ▶ Fourth District Court of Appeal - (15th, 17th and 19th Circuits)
- ▶ Fifth District Court of Appeal - (5th, 7th, 9th and 18th Circuits)

## Mandatory appellate jurisdiction:

- ▶ Final orders of trial courts not directly reviewable by Florida Supreme Court or circuit court. Art. V, § 4(b)(1), as implemented by Fla. R. App. P. 9.030(b)(1)(A)
- ▶ Non-final orders of circuit courts listed in Fla. R. App. P. 9.130
- ▶ Certain administrative action



## Discretionary jurisdiction:

- ▶ Final orders of a county court certified to be of great public importance. Fla. R. App. P. 9.030(b)(4)

# Certiorari and Original jurisdiction:

- ▶ Writs of certiorari. Fla. R. App. P. 9.030(b)(2)
- ▶ Final orders of circuit courts acting in their review capacity. Fla. R. App. P. 9.030(b)(2)
- ▶ Other writs (original jurisdiction). Fla. R. App. P. 9.030(b)(3)

# Circuit Courts

- ▶ Traditionally, final orders of county courts have been appealed to the circuit courts. Fla. R. App. P. 9.030(c)(1)
- ▶ As of January 1, 2020, appeals of county court orders or judgments with an amount in controversy exceeding \$15,000 will be heard by the applicable DCA. § 26.012, Fla. Stat.
- ▶ Temporary and expires on January 1, 2023.
- ▶ Circuit courts also have original jurisdiction to issue writs. Fla. R. App. P. 9.030(c)(3)

# How do I appeal?

- ▶ Final Orders: Follow Fla. R. App. P. 9.110
- ▶ Non-Final Orders: Follow Fla. R. App. P. 9.130
- ▶ Timely file notice of appeal with the clerk of the lower tribunal (generally 30 days).
- ▶ Original Proceedings: File petition (not notice!) directly in reviewing court.

# Beware the definition of RENDITION in Fla. R. App. P. 9.020(h):

- ▶ When a signed, written order is filed with the clerk of the lower tribunal
- ▶ Certain motions may toll rendition of an order. Fla. R. App. P. 9.020(h)(1)
- ▶ The filing of an **authorized and timely** motion for new trial or rehearing, clarification, or certification; to alter or amend; for judgment notwithstanding verdict or in accordance with prior motion for directed verdict, or in arrest of judgment; or a challenge to the verdict postpones rendition of an order.

# Briefs

- ▶ Review briefing deadlines carefully!
- ▶ Final Orders: Fla. R. App. P. 9.110(f) and 9.210
- ▶ Non-Final Orders: Fla. R. App. P. 9.130(e) and 9.210
- ▶ Original Proceedings: Fla. R. App. P. 9.100
- ▶ Follow Fla. R. App. P. 9.210 for required contents and page limits

# Record or Appendix?

- ▶ Appeals from final orders are decided on the record of the trial court proceeding. Follow Fla. R. App. P. 9.200.
- ▶ Appeals from non-final orders and original proceedings use appendices. Fla. R. App. P. 9.130, 9.100.

# Oral Argument

- ▶ Not always granted and courts have varying policies
- ▶ Read (and reread!) your court's administrative orders on oral argument and the notice of oral argument



# Decision Time!

- ▶ Victory? Congratulations!
- ▶ Defeat
  - ▶ Consider post-opinion motions, and use them only where appropriate. Fla. R. App. P. 9.330 and 9.331.
  - ▶ File motions for rehearing sparingly.

# Appellate Practice Resources

- ▶ The Florida Bar Appellate Practice Section Pro Bono Committee
  - ▶ Joe Eagleton, Brannock and Humphries (Chair)
- ▶ Florida Appellate Practice (Philip J. Padovano) West's Florida Practice Series
- ▶ Fla. Jur. on Appellate Review
- ▶ Florida Appellate Practice (The Florida Bar CLE Manual)
- ▶ Federal Court of Appeals Manual (David G. Knibb), published by West
- ▶ Advanced Appellate Practice and Certification Review (The Florida Bar CLE)
- ▶ The Florida Bar Appellate Practice Section's CLEs