

# Supreme Court of Florida

---

No. 84,558

---

AMENDMENTS TO FLORIDA RULES  
OF APPELLATE PROCEDURE  
9.140 and 9.600

[June 15, 1995]

PER CURIAM.

This matter is before the Court upon the Emergency Petition to Amend Florida Rules of Appellate Procedure 9.140 and 9.600 filed by the Florida Bar and its Appellate Court Rules Committee.

The proposed changes have been published and the Court has received a number of comments. Upon consideration thereof, it is the view and order of the Court that the proposed amendment to Rule 9.600 should be adopted at this time, effective upon

release of this opinion. The amended rule and the commentary thereto are attached to this opinion as Appendix A. However, consideration of the proposed change to Rule 9.140 will be deferred until the Court considers other proposed rule changes pursuant to the regular cyclical review of the rules of Court.

It is so ordered.

GRIMES, C.J., and OVERTON, SHAW, KOGAN, HARDING, WELLS and ANSTEAD, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THIS AMENDED RULE.

## APPENDIX A

### RULE 9.600. JURISDICTION OF LOWER TRIBUNAL PENDING REVIEW

(a) **Concurrent Jurisdiction.** Only the court may grant an extension of time for any act required by these rules. Before the record is transmitted, the lower tribunal shall have concurrent jurisdiction with the court to render orders on any other procedural matter relating to the cause, subject to the control of the court.

(b) **Further Proceedings.** If the jurisdiction of the lower tribunal has been divested by an appeal from a final order, the court by order may permit the lower tribunal to proceed with specifically stated matters during the pendency of the appeal.

(c) **Dissolution of Marriage Actions.** In dissolution of marriage actions the lower tribunal shall retain jurisdiction to enter and enforce orders awarding separate maintenance, child support, alimony, attorneys' fees and costs for services rendered in the lower tribunal, temporary attorneys' fees and costs reasonably necessary to prosecute or defend an appeal, or other awards necessary to protect the welfare and rights of any party pending appeal, ~~including costs and attorneys' fees.~~ Review of such orders shall be by motion filed in the court within 30 days of rendition. The receipt or payment of funds under an order awarding separate maintenance, child support, ~~or alimony,~~ attorneys' fees, or costs shall not prejudice the rights of appeal of any party.

#### Committee Notes

**1977 Amendment.** This rule governs the jurisdiction of the lower tribunal during the pendency of review proceedings, except for interlocutory appeals. If an interlocutory appeal is taken, the lower tribunal's jurisdiction is governed by rule 9.130(f).

Subdivision (b) replaces former rule 3.8(a). It allows for continuation of various aspects of the proceeding in the lower tribunal, as may be allowed by the court, without a formal remand of the cause. This rule is intended to prevent unnecessary delays in the resolution of disputes.

Subdivision (c) is derived from former rule 3.8(b). It provides for jurisdiction in the lower tribunal to enter and enforce orders awarding separate maintenance, child support, alimony, temporary suit money, and attorneys' fees. Such orders may be reviewed by motion.

**1980 Amendment.** Subdivision (a) was amended to clarify the appellate court's paramount control over the lower tribunal in the exercise of its concurrent jurisdiction over procedural matters. This amendment would allow the appellate court to limit the number of extensions of time granted by a lower tribunal, for example.

1994 Amendment. Subdivision (c) was amended to conform to and implement section 61.16(1), Florida Statutes (1994 Supp.), authorizing the lower tribunal to award temporary appellate attorneys' fees, suit money, and costs.

Original Proceeding - Florida Rules of Appellate Procedure

John F. Harkness, Jr., Executive Director, The Florida Bar,  
Tallahassee, Florida; and Roy D. Wasson, Chairman, Appellate  
Rules Committee, Miami, Florida,

for Petitioner

James W. Rogers, Tallahassee Bureau Chief Criminal Appeals,  
Office of the Attorney General, Tallahassee, Florida; Honorable  
E. Earle Zehmer, Chief Judge, First District Court of Appeal,  
Tallahassee, Florida; and Stephen Krosschell of Goodman &  
Nekvasil, P.A., Safety Harbor, Florida,

Responding