

**IN THE SUPREME COURT OF FLORIDA**

IN RE: AMENDMENTS TO THE FLORIDA  
RULES OF APPELLATE PROCEDURE

Case No. \_\_\_\_\_

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**FAST-TRACK REPORT OF APPELLATE COURT RULES  
COMMITTEE REGARDING STATUTORY CHANGE TO FILING FEES**

John S. Mills, Chair, Florida Appellate Court Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this fast-track report of the Appellate Court Rules Committee (“ACRC”) pursuant to Florida Rule of Judicial Administration 2.140(f). This report is in response to Florida Senate Bill 1790, Chapter 2008-111, Laws of Florida, which became effective July 1, 2008. As required by Florida Rule of Judicial Administration 2.140(f), the proposed amendments have been approved by the ACRC by a vote of 42 to 0. The amendments were then reviewed and approved by the Board of Governors of The Florida Bar by a vote of 39 to 0.

Because of the short period of time between when the ACRC became aware of Chapter 2008-111<sup>1</sup> and the submission of this report, the proposed rule changes have not been published for comment.

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<sup>1</sup> Chapter 2008-111 was not identified in the Office of State Court Administrator’s list of 2008 Bills Impacting Court Rules sent to the ACRC on July 7, 2008 (Appendix 5), but was independently discovered by attorney Bryan S. Gowdy who referred the matter to the ACRC on or about September 8, 2008.

The text of the amendments in both full-page format (Appendix 1) and two-column format (Appendix 2) and the text of Chapter 2008-111 (Appendix 3) are attached to this report. A copy of the ACRC Executive Subcommittee’s report, which includes all of the ACRC’s relevant work product (Appendix 4), is also attached.

The proposed amendments and explanations are as follows:

**Rule 9.110. Appeal Proceedings to Review Final Orders of Lower Tribunals and Orders Granting New Trial in Jury and Non-Jury Cases.**

Florida Rule of Appellate Procedure 9.110(g), governing cross-appeals, currently provides in its final sentence, “No filing fee shall be required for a cross-appeal.” Chapter 2008-111, however, now imposes a filing fee for cross-appeals. The final sentence is replaced with language patterned after the procedure for filing a notice of appeal in subdivision (b). Therefore, a notice of cross-appeal is to be filed in the same manner as a notice of appeal.

In reviewing this language, the ACRC identified two additional changes to improve the clarity and uniformity of the procedures for filing notices of appeal and notices of cross-appeal.

First, the reference to filing “2 copies” of a notice of appeal in subdivision (b) is replaced by “an original and 1 copy” to clarify the requirement. The same language is used for notices of cross-appeal in subdivision (g).

Second, to account for potential future legislative changes the phrase “accompanied by filing fees prescribed by law” in subdivision (b) is replaced by “accompanied by any filing fees prescribed by law.” The same language is used for notices of appeal in administrative actions in subdivision (c) and notices of cross-appeal in subdivision (g).

**Rule 9.360. Parties.**

Chapter 2008-111 also imposes a filing fee for notices of joinder in appellate proceedings. Florida Rule of Appellate Procedure 9.360(a) governs joinder, but is silent on filing fees. Subdivision (a) is amended to mirror the requirements for filing notices of appeal and cross-appeal.

In reviewing this language, the ACRC identified an additional change to subdivision (a) to clarify the time for filing a notice of joinder. The current subdivision requires the notice to be filed by the later of: (1) within 10 days of service of a notice of appeal or original petition or (2) the time for filing a notice of appeal under Rule 9.110(b). The alternative deadline does not account for the time requirement for filing an original petition. The rule is amended to provide alternative dates for notices of joinder in original proceeding.

The ACRC respectfully requests that the Court amend the Florida Rules of Appellate Procedure as outlined in this report.

Respectfully submitted on December 1, 2008 by

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### **CERTIFICATION OF COMPLIANCE**

I certify that these rules were read against *West's Florida Rules of Court – State* (2008).

I certify that this report was prepared in compliance with the font requirements of *Fla. R. App. P. 9.210(a)(2)*.

/s/ Krys Godwin  
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