RULE 9.210 | BRIEFS

(a) Generally. Unless otherwise ordered by the court, the only briefs permitted to be filed by the parties in any 1 proceeding are the initial brief, the answer brief, and a reply brief. A cross-reply brief is permitted if a cross-appeal has been filed or if the respondent identifies issues on cross-review in its brief on jurisdiction in the supreme court. All briefs required by these rules must be prepared as follows:

(1) The cover sheet of each brief must state the name of the court, the style of the cause, including the case number if assigned, the lower tribunal, the party on whose behalf the brief is filed, the type of brief, and the name, address, and e-mail address of the attorney filing the brief.

(2) Computer-generated briefs must not exceed the word count limits of this subdivision. Handwritten or typewritten briefs must not exceed the page limits of this subdivision. The word count or page limits for briefs will be as follows:

(A) Briefs on jurisdiction must not exceed 2,500 words or 10 pages.

(B) Except as provided in subdivisions (a)(2)(C) and (a)(2)(D) of this rule, the initial and answer briefs must not exceed 13,000 words or 50 pages and the reply brief must not exceed 4,000 words or 15 pages. If a cross-appeal is filed or the respondent identifies issues on cross-review in its brief on jurisdiction in the supreme court, the appellee or respondent's answer/cross-initial brief must not exceed 22,000 words or 85 pages, and the appellant or petitioner's reply/cross-answer brief must not exceed 13,000 words or 50 pages. Cross-reply briefs must not exceed 4,000 words or 15 pages.

(C) In an appeal from a judgment of conviction imposing a sentence of death or from an order ruling after an evidentiary hearing on an initial postconviction motion filed under Florida Rule of Criminal Procedure 3.851, the initial and answer briefs must not exceed 25,000 words or 100 pages and the reply brief must not exceed

10,000 words or 35 pages. If a cross-appeal is filed, the appellee's answer/cross-initial brief must not exceed 40,000 words or 150 pages and the appellant's reply/cross-answer brief must not exceed 25,000 words or 100 pages. Cross-reply briefs must not exceed 10,000 words or 35 pages.

(D) In an appeal from an order summarily denying an initial postconviction motion filed under Florida Rule of Criminal Procedure 3.851, a ruling on a successive postconviction motion filed under Florida Rule of Criminal Procedure 3.851, a finding that a defendant is intellectually disabled as a bar to execution under Florida Rule of Criminal Procedure 3.203, or a ruling on a motion for postconviction DNA testing filed under Florida Rule of Criminal Procedure 3.853, the initial and answer briefs must not exceed 75 pages. Reply briefs must not exceed 25 pages.

(E) The cover sheet, the tables of contents and citations, the certificates of service and compliance, and the signature block for the brief's author are excluded from the word count or page limits in subdivisions (a)(2)(A)–(a)(2)(D). For briefs on jurisdiction, the statement of the issues also will be excluded from word count or the page limits in subdivision (a)(2)(A). All pages not excluded from the computation must be consecutively numbered. The court may permit longer briefs.

(3) Unless otherwise ordered by the court, an attorney representing more than 1 party in an appeal may file only 1 initial or answer brief and 1 reply brief, if authorized, which will include argument as to all of the parties represented by the attorney in that appeal. A single party responding to more than 1 brief, or represented by more than 1 attorney, is similarly bound.

(b) Contents of Initial Brief. The initial brief must contain the following, in order:

(1) a table of contents listing the sections of the brief, including headings and subheadings that identify the issues presented for review, with references to the pages on which each appears;

(2) a table of citations with cases listed alphabetically, statutes and other authorities, and the pages of the brief on which each citation appears;

(3) a statement of the case and of the facts, which must include the nature of the case, the course of the proceedings, and the disposition in the lower tribunal, with references to the appropriate pages of the record or transcript;

(4) a summary of argument, suitably paragraphed, condensing succinctly, accurately, and clearly the argument actually made in the body of the brief, which should not be a mere repetition of the headings under which the argument is arranged;

(5) argument with regard to each issue, with citation to appropriate authorities, and including the applicable appellate standard of review;

(6) a short conclusion setting forth the precise relief sought;

(7) a certificate of service; and

(8) a certificate of compliance for computer-generated briefs.

(c) Contents of Answer Brief. The answer brief must be prepared in the same manner as the initial brief, provided that the statement of the case and of the facts may be omitted, if the corresponding section of the initial brief is deemed satisfactory. If a cross-appeal has been filed or the respondent identifies issues on cross-review in its brief on jurisdiction in the supreme court, the answer brief must include the issues presented in the cross-appeal or cross-review, and argument in support of those issues.

(d) Contents of Reply Brief. The reply brief must contain argument in response and rebuttal to argument presented in the answer brief. A table of contents, a table of citations, a certificate of service, and, for computer-generated briefs, a certificate of compliance must be included in the same manner as in the initial brief.

(e) Contents of Cross-Reply Brief. The cross-reply brief is limited to rebuttal of argument of the cross-apellee. A table of contents, a table of citations, a certificate of service,

and, for computer-generated briefs, a certificate of compliance must be included in the same manner as in the initial brief.

(f) Contents of Briefs on Jurisdiction. Briefs on jurisdiction, filed under rule 9.120, must contain a statement of the issues, a statement of the case and facts, the argument, the conclusion, a table of contents, a table of citations, a certificate of service, and, for computer-generated briefs, must also include a certificate of compliance in the same manner as provided in subdivisions (a) and (b) of this rule. In the statement of the issues, petitioner must identify any issues independent of those on which jurisdiction is invoked that petitioner intends to raise if the court grants review. Respondent, in its statement of the issues, must clearly identify any affirmative issues, independent of those on which jurisdiction is invoked and independent of those raised by petitioner in its statement of the issues, that respondent intends to raise on cross-review if the court grants review.

(g) Times for Service of Briefs. The times for serving jurisdiction and initial briefs are prescribed by rules 9.110, 9.120, 9.130, 9.140, and 9.148. Unless otherwise required, the answer brief must be served within 30 days after service of the initial brief; the reply brief, if any, must be served within 30 days after service of the answer brief; and the cross-reply brief, if any, must be served within 30 days thereafter. In any appeal or cross-appeal, if more than 1 initial or answer brief is authorized, the responsive brief must be served within 30 days after the last initial or answer brief was served. If the last authorized initial or answer brief is not served, the responsive brief must be served within 30 days after the last authorized initial or answer brief could have been timely served.

(h) Citations. Counsel are requested to use the uniform citation system prescribed by rule 9.800.

Committee Notes

1977 Amendment. This rule essentially retains the substance of former rule 3.7. Under subdivision (a) only 4 briefs on the merits are permitted to be filed in any 1 proceeding: an initial brief by the appellant or petitioner, an answer brief by the appellee or respondent, a reply brief by the appellant or petitioner, and a cross-reply brief by the appellee or respondent (if a cross-appeal or petition has been filed). A limit of 50 pages has been placed on the length of the initial and

answer briefs, 15 pages for reply and cross-reply briefs (unless a cross-appeal or petition has been filed), and 20 pages for jurisdictional briefs, exclusive of the table of contents and citations of authorities. Although the court may by order permit briefs longer than allowed by this rule, the advisory committee contemplates that extensions in length will not be readily granted by the courts under these rules. General experience has been that even briefs within the limits of the rule are usually excessively long.

Subdivisions (b), (c), (d), and (e) set forth the format for briefs and retain the substance of former rules 3.7(f), (g), and (h). Particular note must be taken of the requirement that the statement of the case and facts include reference to the record. The abolition of assignments of error requires that counsel be vigilant in specifying for the court the errors committed; that greater attention be given the formulation of questions presented; and that counsel comply with subdivision (b)(5) by setting forth the precise relief sought. The table of contents will contain the statement of issues presented. The pages of the brief on which argument on each issue begins must be given. It is optional to have a second, separate listing of the issues. Subdivision (c) affirmatively requires that no statement of the facts of the case be made by an appellee or respondent unless there is disagreement with the initial brief, and then only to the extent of disagreement. It is unacceptable in an answer brief to make a general statement that the facts in the initial brief are accepted, except as rejected in the argument section of the answer brief. Parties are encouraged to place every fact utilized in the argument section of the brief in the statement of facts.

Subdivision (f) sets forth the times for service of briefs after service of the initial brief. Times for service of the initial brief are governed by the relevant rule.

Subdivision (g) authorizes the filing of notices of supplemental authority at any time between the submission of briefs and rendition of a decision. Argument in such a notice is absolutely prohibited.

Subdivision (h) states the number of copies of each brief that must be filed with the clerk of the court involved 1 copy for each judge or justice in addition to the original for the permanent court file. This rule is not intended to limit the power of the court to require additional briefs at any time.

The style and form for the citation of authorities should conform to the uniform citation system adopted by the Supreme Court of Florida, which is reproduced in rule 9.800.

The advisory committee urges counsel to minimize references in their briefs to the parties by such designations as "appellant," "appellee," "petitioner," and "respondent." It promotes clarity to use actual names or descriptive terms such as "the employee," "the taxpayer," "the agency," etc. See Fed. R. App. P. 28(d).

1980 Amendment. Jurisdictional briefs, now limited to 10 pages by subdivision (a), are to be filed only in the 4 situations presented in rules 9.030(a)(2)(A)(i), (ii), (iii), and (iv).

A district court decision without opinion is not reviewable on discretionary conflict jurisdiction. See Jenkins v. State, 385 So. 2d 1356 (Fla. 1980); Dodi Publishing Co. v. Editorial Am., S.A., 385 So. 2d 1369 (Fla. 1980). The discussion of jurisdictional brief requirements in such cases that is contained in the 1977 revision of the committee notes to rule 9.120 should be disregarded.

1984 Amendment. Subdivision (b)(4) is new; subdivision (b)(5) has been renumbered from former (b)(4); subdivision (b)(6) has been renumbered from former (b)(5). Subdivision (g) has been amended.

The summary of argument required by (b)(4) is designed to assist the court in studying briefs and preparing for argument; the rule is similar to rules of the various United States courts of appeals.

1992 Amendment. Subdivision (a)(2) was amended to bring into uniformity the type size and spacing on all briefs filed under these rules. Practice under the previous rule allowed briefs to be filed with footnotes and quotations in different, usually smaller, type sizes and spacing. Use of such smaller type allowed some overly long briefs to circumvent the reasonable length requirements established by subdivision (a)(5) of this rule. The small type size and spacing of briefs allowed under the old rule also resulted in briefs that were difficult to read. The amended rule requires that all textual material wherever found in the brief will be printed in the same size type with the same spacing.

Subdivision (g) was amended to provide that notices of supplemental authority may call the court's attention, not only to decisions, rules, or statutes, but also to other authorities that have been discovered since the last brief was served. The amendment further provides that the notice may identify briefly the points on appeal to which the supplemental authorities are pertinent. This amendment continues to prohibit argument in such notices, but should allow the court and opposing counsel to identify more quickly those issues on appeal to which these notices are relevant.

1996 Amendment. Former subdivision (g) concerning notices of supplemental authority was transferred to new rule 9.225.

2020 Amendment. Page limits for computer-generated briefs were converted to word counts. Page limits are retained only for briefs that are handwritten or typewritten.

Court Commentary

1987. The commission expressed the view that the existing page limits for briefs, in cases other than those in the Supreme Court of Florida, are tailored to the "extraordinary" case rather than the "ordinary" case. In accordance with this view, the commission proposed that the page limits of briefs in appellate courts other than the supreme court be reduced. The appellate courts would, however, be given discretion to expand the reduced page limits in the "extraordinary" case.

2000. As to computer-generated briefs, strict font requirements were imposed in subdivision (a)(2) for at least three reasons:

First and foremost, appellate briefs are public records that the people have a right to inspect. The clear policy of the Florida Supreme Court is that advances in technology should benefit the people whenever possible by lowering financial and physical barriers to public record inspection. The Court's eventual goal is to make all public records widely and readily available, especially via the Internet. Unlike paper documents, electronic documents on the Internet will not display properly on all computers if they are set in fonts that are unusual. In some instances, such electronic documents may even be unreadable. Thus, the Court adopted the policy that all computer-generated appellate briefs be filed in one of two fonts — either Times New Roman 14-point or Courier New 12-point — that are commonplace on computers with Internet connections. This step

will help ensure that the right to inspect public records on the Internet will be genuinely available to the largest number of people.

Second, Florida's court system as a whole is working toward the day when electronic filing of all court documents will be an everyday reality. Though the technology involved in electronic filing is changing rapidly, it is clear that the Internet is the single most significant factor influencing the development of this technology. Electronic filing must be compatible with Internet standards as they evolve over time. It is imperative for the legal profession to become accustomed to using electronic document formats that are most consistent with the Internet.

Third, the proliferation of vast new varieties of fonts in recent years poses a real threat that page-limitation rules can be circumvented through computerized typesetting. The only way to prevent this is to establish an enforceable rule on standards for font use. The subject font requirements are most consistent with this purpose and the other two purposes noted above.

Subdivision (a)(2) was also amended to require that immediately after the certificate of service in computer-generated briefs, counsel (or the party if unrepresented) shall sign a certificate of compliance with the font standards set forth in this rule for computer-generated briefs.