

RULE 1.630. EXTRAORDINARY REMEDIES

(a) Applicability. This rule applies to actions for the issuance of writs of mandamus, prohibition, quo warranto, and habeas corpus.

(b) Initial Pleading. The initial pleading must be a complaint. It must contain:

- (1) the facts on which the plaintiff relies for relief;
- (2) a request for the relief sought; and
- (3) if desired, argument in support of the complaint with citations of authority.

The caption must show the action filed in the name of the plaintiff in all cases and not on the relation of the state. When the complaint seeks a writ directed to a lower court or to a governmental or administrative agency, a copy of as much of the record as is necessary to support the plaintiff's complaint must be attached.

(c) Time. A complaint must be filed within the time provided by law.

(d) Process. If the complaint shows a prima facie case for relief, the court must issue:

- (1) an order nisi in prohibition;
- (2) an alternative writ in mandamus that may incorporate the complaint by reference only;
- (3) a writ of quo warranto; or
- (4) a writ of habeas corpus.

The writ must be served in the manner prescribed by law.

(e) Response. Defendant must respond to the writ as provided in rule 1.140, but the answer in quo warranto must show better title to the office when the writ seeks an adjudication of the right to an office held by the defendant.



Committee Notes

2012 Amendment. Subdivision (d)(5) is amended to reflect the relocation of the service rule from rule 1.080 to Fla. R. Jud. Admin. 2.516.

2013 Amendment. Rule 1.630 has been amended to remove any reference to certiorari proceedings, which instead are governed by the Florida Rules of Appellate Procedure. The Florida Rules of Appellate Procedure apply when the circuit courts exercise their appellate jurisdiction.

Court Commentary

1984 Amendment. Rule 1.630 replaces rules and statutes used before 1980 when the present Florida Rules of Appellate Procedure were adopted. Experience has shown that rule 9.100 is not designed for use in trial court. The times for proceeding, the methods of proceeding, and the general nature of the procedure is appellate and presumes that the proceeding is basically an appellate proceeding. When the extraordinary remedies are sought in the trial court, these items do not usually exist and thus the rule is difficult to apply. The uniform procedure concept of rule 9.100 has been retained with changes making the procedure fit trial court procedure. The requirement of attaching a copy of the record in subdivision (b) may not be possible within the time allowed for the initial pleading because of the unavailability of the record. In that event the plaintiff should file a motion to extend the time to allow the preparation of the record and supply it when prepared. The filing of a motion to extend the time should be sufficient to extend it until the motion can be decided by the court.

