

RULE 9.330 | REHEARING; CLARIFICATION; CERTIFICATION; WRITTEN OPINION

(a) Time for Filing; Contents; Response.

(1) Time for Filing. A motion for rehearing, clarification, certification, or issuance of a written opinion may be filed within 15 days of an order or decision of the court or within such other time set by the court.

(2) Contents.

(A) Motion for Rehearing. A motion for rehearing shall state with particularity the points of law or fact that, in the opinion of the movant, the court has overlooked or misapprehended in its order or decision. The motion shall not present issues not previously raised in the proceeding.

(B) Motion for Clarification. A motion for clarification shall state with particularity the points of law or fact in the court's order or decision that, in the opinion of the movant, are in need of clarification.

(C) Motion for Certification. A motion for certification shall set forth the case(s) that expressly and directly conflicts with the order or decision or set forth the issue or question to be certified as one of great public importance.

(D) Motion for Written Opinion. A motion for written opinion shall set forth the reasons that the party believes that a written opinion would provide:

(i) a legitimate basis for supreme court review;

(ii) an explanation for an apparent deviation from prior precedent; or

(iii) guidance to the parties or lower tribunal when:

a. the issue decided is also present in other cases pending before the court or another district court of appeal;



- b. the issue decided is expected to recur in future cases;
- c. there are conflicting decisions on the issue from lower tribunals;
- d. the issue decided is one of first impression; or
- e. the issue arises in a case in which the court has exclusive subject matter jurisdiction.

(3) Response. A response may be served within 15 days of service of the motion.

(b) Limitation. A party shall not file more than 1 motion for rehearing, clarification, certification, or written opinion with respect to a particular order or decision of the court. All motions filed under this rule with respect to a particular order or decision must be combined in a single document.

(c) Exception; Bond Validation Proceedings. A motion for rehearing or for clarification of an order or decision in proceedings for the validation of bonds or certificates of indebtedness as provided by rule 9.030(a)(1)(B)(ii) may be filed within 10 days of an order or decision or within such other time set by the court. A response may be served within 10 days of service of the motion. The mandate shall issue forthwith if a timely motion has not been filed. A timely motion shall receive immediate consideration by the court and, if denied, the mandate shall issue forthwith.

(d) Exception; Review of District Court of Appeal Decisions. No motion for rehearing or clarification may be filed in the supreme court addressing:

- (1) the dismissal of an appeal that attempts to invoke the court's mandatory jurisdiction under rule 9.030(a)(1)(A)(ii) when the appeal seeks to review a decision of a district court of appeal without opinion;
- (2) the grant or denial of a request for the court to exercise its discretion to review a decision described in rule 9.030(a)(2)(A); or
- (3) the dismissal of a petition for an extraordinary writ described in rule 9.030(a)(3) when such writ is



used to seek review of a district court of appeal decision without opinion.

(e) Application. This rule applies only to appellate orders or decisions that adjudicate, resolve, or otherwise dispose of an appeal, original proceeding, or motion for appellate attorneys' fees. The rule is not meant to limit the court's inherent authority to reconsider nonfinal appellate orders and decisions.

Committee Notes

1977 Amendment. This rule replaces former rule 3.14. Rehearing now must be sought by motion, not by petition. The motion must be filed within 15 days of rendition and a response may be served within 10 days of service of the motion. Only 1 motion will be accepted by the clerk. Re-argument of the issues involved in the case is prohibited.

Subdivision (c) provides expedited procedures for issuing a mandate in bond validation cases, in lieu of those prescribed by rule 9.340.

Subdivision (d) makes clear that motions for rehearing or for clarification are not permitted as to any decision of the supreme court granting or denying discretionary review under rule 9.120.

2000 Amendment. The amendment has a dual purpose. By omitting the sentence "The motion shall not re-argue the merits of the court's order," the amendment is intended to clarify the permissible scope of motions for rehearing and clarification. Nevertheless, the essential purpose of a motion for rehearing remains the same. It should be utilized to bring to the attention of the court points of law or fact that it has overlooked or misapprehended in its decision, not to express mere disagreement with its resolution of the issues on appeal. The amendment also codifies the decisional law's prohibition against issues in post-decision motions that have not previously been raised in the proceeding.

2002 Amendment. The addition of the language at the end of subdivision (a) allows a party to request the court to issue a written opinion that would allow review to the supreme court, if the initial decision is issued without opinion. This language is not intended to restrict the ability of parties to seek rehearing or clarification of such decisions on other grounds.

2008 Amendment. Subdivision (d) has been amended to reflect the holding in *Jackson v. State*, 926 So. 2d 1262 (Fla. 2006).

2018 Amendment. This rule has been amended to broaden the grounds upon which a party may permissibly seek a written opinion following the issuance of a per curiam affirmance. Subdivision (a)(2)(D)(iii)e. is intended to address situations in which a specific district court of appeal has exclusive subject matter jurisdiction over a type of case by operation of law, such as the First District Court of Appeal regarding workers' compensation matters.

