

**RULE 9.360 | PARTIES**

**(a) Joinder for Realignment as Appellant or Petitioner.** An appellee or respondent who desires to realign as an appellant or petitioner must serve a notice of joinder no later than the latest of the following:

- (1) within 15 days of service of a timely filed notice of appeal or petition;
- (2) within the time prescribed for filing a notice of appeal; or
- (3) within the time prescribed in rule 9.100(c). The notice of joinder must be filed in the appellate court either before service or immediately thereafter. The body of the notice must set forth the proposed new caption. The notice must be accompanied by any required filing fee except as provided in rule 9.430 for proceedings by indigents. On filing the notice and payment of the fee, the clerk of the court will change the caption to reflect the realignment of the parties in the notice.

**(b) Attorneys; Representatives; Guardians Ad Litem.** Attorneys, representatives, and guardians ad litem in the lower tribunal will retain their status in the court unless others are duly appointed or substituted; however, for limited representation proceedings under rule 9.440 or Florida Family Law Rule of Procedure 12.040, representation terminates on the filing of a notice of completion titled "Termination of Limited Appearance" pursuant to rule 9.440 or rule 12.040(c).

**(c) Substitution of Parties.**

- (1) If substitution of a party is necessary for any reason, the court may so order on its own motion or that of a party.
- (2) Public officers as parties in their official capacities may be described by their official titles rather than by name. Their successors in office will be automatically substituted as parties.
- (3) If a party dies while a proceeding is pending and that party's rights survive, the court may order the



substitution of the proper party on its own motion or that of any interested person.

(4) If a person entitled to file a notice of appeal dies before filing and that person's rights survive, the notice may be filed by the personal representative, the person's attorney, or, if none, by any interested person. Following filing, the proper party will be substituted.

### Committee Notes

**1977 Amendment.** This rule is intended as a simplification of the former rules with no substantial change in practice.

Subdivision (a) is a simplification of the provisions of former rule 3.11(b), with modifications recognizing the elimination of assignments of error.

Subdivision (b) retains the substance of former rule 3.11(d).

Subdivision (c)(1) substantially simplifies the procedure for substituting parties. This change is in keeping with the overall concept of this revision that these rules should identify material events that may or should occur in appellate proceedings and specify in general terms how that event should be brought to the attention of the court and how the parties should proceed. The manner in which these events shall be resolved is left to the courts, the parties, the substantive law, and the circumstances of the particular case.

Subdivision (c)(2) is new and is intended to avoid the necessity of motions for substitution if the person holding a public office is changed during the course of proceedings. It should be noted that the style of the case does not necessarily change.

Subdivision (c)(4) is new, and is intended to simplify the procedure and avoid confusion if a party dies before an appellate proceeding is instituted. Substitutions in such cases are to be made according to subdivision (c)(1).

**2018 Amendment.** The title of subdivision (a) was amended to clarify that the joinder permitted by this rule is only for the purpose of realigning existing parties to the appeal. The required notice pursuant to subdivision (a) retains the original terminology and continues to be referred to as a "notice of joinder" consistent with the existing statutory scheme to collect a fee for filing such a notice. Subdivision (a) was also amended to remove the prior directions for filing the notice "in the same manner as the petition or notice of appeal," so that a notice of realignment is now properly filed in the court.

