

Florida Supreme Court Issues New Decision Amending Rule of Appellate Procedure Relating To Attorney's Fees

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Practice Alert: Florida Supreme Court Issues New Decision Amending Rule of Appellate Procedure Relating To Attorney's Fees The Florida Supreme Court recently decided, [SC09-2062](#) (Fla. June 24, 2010), in which it substantially revised Florida Rule of Appellate Procedure 9.410 governing motions for sanctions against an opposing party. The Court amended the rule to conform to the safe-harbor provisions of section 57.105, Florida Statutes. Under the old rule, an appellate court could sanction a party for taking a frivolous position in a pleading or at oral argument. However, under the new rule, the Court established specific time requirements for the serving and filing of such a motion for sanctions. Under the new rule, service of the motion must be as follows: (1) If a party files a frivolous appellate pleading, the motion must be served on the opposing party within the time allotted for a response to that allegedly frivolous pleading; or (2) If no response is allowed under the rules, such as where the frivolous position is taken in a reply brief or made at oral argument, then the moving party must serve the motion within 15 days. Once the motion is served, the opposing party has 21 days to withdraw the pleading or correct the frivolous position. If the opposing party fails to do so, the moving party must file the motion in the appellate court, either before the reply brief is filed or within 30 days after service of the motion, and again serve the opposing party with the motion as filed. At that point, the opposing party will have 10 days to file a response to the motion. Under the new rule, it is imperative that these deadlines are followed. The failure to do so may prevent the moving party's ability to obtain sanctions under the rule.

For further information, please contact [Andrew D. Manko](#).

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