

RULE 9.148 | APPEAL PROCEEDINGS TO REVIEW ORDERS UNDER FLORIDA MENTAL HEALTH/BAKER ACT

(a) Applicability. Appeal proceedings in cases under The Florida Mental Health Act, also called The Baker Act, sections 394.451–394.47892, Florida Statutes, will be as in civil cases except to the extent those rules are modified by this rule.

(b) Stay of Proceedings. Except as provided by general law, a party seeking to stay a final or nonfinal order pending review must file a motion in the lower tribunal, which will have continuing jurisdiction, in its discretion, to grant, modify, or deny such relief. A party may seek review of a lower tribunal's order entered under this rule by filing a motion in the court.

(c) Retention of Jurisdiction. Transmission of the record to the court does not remove the jurisdiction of the lower tribunal to conduct judicial reviews or other proceedings related to the health and welfare of the patient pending appeal.

(d) References to Patient. When the patient is a party to the appeal, the appeal must be docketed and any documents filed in the court must be titled with the initials, but not the name, of the patient and the court case number. All references to the patient in briefs, other documents, and the decision of the court must be by initials.

(e) Special Procedures and Time Limitations Applicable to Appeals of Orders in Florida Mental Health/Baker Act Proceedings.

(1) Applicability. This subdivision applies only to appeals of final orders to the district courts of appeal.

(2) The Record. The record must be prepared in accordance with rule 9.200, except as modified by this subdivision.

(A) Transcripts of Proceedings. The appellant must file any designation to the court reporter, including the name(s) of the individual court reporter(s), if applicable, with the notice of appeal. The designation must be served on the court reporter on the date of filing and must state that the appeal is from an order under The Florida Mental



Health Act/Baker Act and that the court reporter must provide the transcript(s) designated within 20 days of the date of service. Within 20 days of the date of service of the designation, the court reporter must transcribe and file with the clerk of the lower tribunal the transcripts. If extraordinary reasons prevent the reporter from preparing the transcript(s) within the 20 days, the reporter must request an extension of time, must state the number of additional days requested, and must state the extraordinary reasons that would justify the extension.

(B) Directions to the Clerk of the Lower Tribunal, Duties of the Clerk of the Lower Tribunal, Preparation and Transmission of the Record. Any directions to the clerk of the lower tribunal from the appellant must be filed with the notice of appeal. The clerk of the lower tribunal must electronically transmit the record to the court within 7 days after the date the court reporter files the transcript(s) or, if a designation to the court reporter has not been filed, within 7 days after the filing of the notice of appeal.

(3) Briefs.

(A) In General. Briefs must be prepared and filed in accordance with rule 9.210(a)-(e), (g), and (h).

(B) Times for Service. The initial brief must be served within 20 days after service of the record on appeal. The answer brief must be served within 20 days after service of the initial brief. The reply brief, if any, must be served within 7 days after the service of the answer brief. In any appeal or cross-appeal, if more than 1 initial or answer brief is authorized, the responsive brief must be served within 20 days after the last initial brief or within 7 days after the last answer brief was served. If the last authorized initial or answer brief is not served, the responsive brief must be served within 20 days after the last authorized initial brief or within 7 days after the last authorized answer brief could have been timely served.



(C) Anders Briefs. Within the time required for service of the initial brief, counsel may file a brief stating that an appeal would be frivolous. Within 7 days of serving the brief, counsel must file a notice with the court certifying that counsel has forwarded a copy of the record and a copy of the transcript(s) of the proceedings to the appellant or that counsel is unable to forward a copy of the record and the transcript(s) of the proceedings after making diligent efforts. The court will independently review the record to discover any arguable issues apparent on the face of the record. On the discovery of an arguable issue, the court will order briefing on the issues identified by the court.

(4) Motions for Extensions of Time. An extension of time will be granted only for extraordinary circumstances. The motion must state that the appeal is from an order under The Florida Mental Health Act/Baker Act and must set out the extraordinary circumstances that necessitate an extension, the amount of time requested, and the effect an extension will have on the progress of the case.

(5) Oral Argument. A request for oral argument must be in a separate document served by a party not later than the time when the first brief of that party is due.

(6) Rehearing; Rehearing En Banc; Clarification; Certification; Issuance of Written Opinion. Motions for rehearing, rehearing en banc, clarification, certification, and issuance of a written opinion must be in accordance with rules 9.330 and 9.331, except that no response to these motions is permitted unless ordered by the court.

(7) The Mandate. The clerk of the district court of appeal must issue such mandate or process as may be directed by the court as soon as practicable.

(f) Expedited Review. The court must give priority to appeals under this rule.

