

RULE 9.400 | COSTS AND ATTORNEYS' FEES

(a) Costs. Costs will be taxed in favor of the prevailing party unless the court orders otherwise. Taxable costs include:

- (1) fees for filing and service of process;
- (2) charges for preparation of the record and any hearing or trial transcripts necessary to determine the proceeding;
- (3) bond premiums; and
- (4) other costs permitted by law. Costs will be taxed by the lower tribunal on a motion served no later than 45 days after rendition of the court's order. If an order is entered either staying the issuance of or recalling a mandate, the lower tribunal is prohibited from taking any further action on costs pending the issuance of a mandate or further order of the court.

(b) Attorneys' Fees. With the exception of motions filed under rule 9.410(b), a motion for attorneys' fees must state the grounds on which recovery is sought and must be served not later than:

- (1) in appeals, the time for service of the reply brief;
- (2) in original proceedings, the time for service of the petitioner's reply to the response to the petition;
- (3) in discretionary review proceedings commenced under rule 9.030(a)(2)(A), the time for serving the respondent's brief on jurisdiction, or if jurisdiction is accepted, the time for serving the reply brief; or
- (4) in proceedings in which the court renders an order of dismissal before the otherwise applicable deadline for filing a motion for attorneys' fees has expired, not later than 7 days after rendition of the order of dismissal.

The assessment of attorneys' fees may be remanded to the lower tribunal. If attorneys' fees are assessed by the court, the lower tribunal may enforce payment.



(c) Review. Review of orders rendered by the lower tribunal under this rule will be by motion filed in the court within 30 days of rendition.

Committee Notes

1977 Amendment. Subdivision (a) replaces former rules 3.16(a) and (b). It specifies allowable cost items according to the current practice. Item (3) is not intended to apply to bail bond premiums. Item (4) is intended to permit future flexibility. This rule provides that the prevailing party must move for costs in the lower tribunal within 30 days after issuance of the mandate. Subdivision (b) retains the substance of former rule 3.16(e). The motion for attorneys' fees must contain a statement of the legal basis for recovery. The elimination of the reference in the former rule to attorneys' fees "allowable by law" is not intended to give a right to assessment of attorneys' fees unless otherwise permitted by substantive law.

Subdivision (c) replaces former rules 3.16(c) and (d). It changes from 20 days to 30 days the time for filing a motion to review an assessment of costs or attorneys' fees by a lower tribunal acting under order of the court.

2018 Amendment. Subdivision (b) is amended to specify the time limit for serving a motion for attorneys' fees in a discretionary review proceeding in the Supreme Court of Florida. Absent a statement to the contrary in the motion, any timely motion for attorneys' fees, whether served before or after the acceptance of jurisdiction, will function to request attorneys' fees incurred in both the jurisdiction and merits phases of the proceeding. As a result, generally only 1 motion per party per proceeding is contemplated.

