

HOW-TO: WRITE A PETITION FOR A WRIT OF QUO WARRANTO

Last Updated
4/19/2023

Background:	The government did something that harmed you
Problem:	The government didn't have the authority to do it
Solution:	You Petition a reviewing court for a Writ of Quo Warranto

Recommend

I. DEFINITIONS

Quo Warranto

Lat.: by what right or authority. An ancient common law writ that was issued out of chancery on behalf of the king against one who claimed or usurped an office, franchise or liberty, to inquire by what authority he asserted such a right, in order that the legitimacy of the assertion might be determined.

Source: *Barron's Dictionary of Legal Terms*, Steven H. Gifis, 5th Edition; © 2016

II. LEGAL CITATIONS

Art. V §3(b)(8) Florida Constitution | Supreme Court

"(8) May issue writs of mandamus and quo warranto to state officers and state agencies."

Art. V §4(b)(3) Florida Constitution | District Court of Appeal

"(3) A district court of appeal or any judge thereof may issue writs of habeas corpus returnable before the court or any judge thereof or before any circuit judge within the territorial jurisdiction of the court. A district court of appeal may issue writs of mandamus, certiorari prohibition quo warranto and other

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writs necessary to the complete exercise of its jurisdiction. To the extent necessary to dispose of all issues in a cause properly before it, a district court of appeal may exercise any of the appellate jurisdiction of the circuit courts."

[Art. V §5\(b\)](#) Florida Constitution | Circuit Courts

"(b) **JURISDICTION.** - The circuit courts shall have original jurisdiction not vested in the county courts, and jurisdiction of appeals when provided by general law. They shall have the power to issue writs of mandamus, quo warranto, certiorari, prohibition and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction. Jurisdiction of the circuit court shall be uniform throughout the state. They shall have the power of direct review of administrative action prescribed by general law."

[Rule 9.030\(a\)\(3\)](#) Fla. R. App. P. | Original Jurisdiction (Supreme Court)

"**Original Jurisdiction.** The supreme court may issue writs of prohibition to courts and all writs necessary to the complete exercise of its jurisdiction, and may issue writs of mandamus and quo warranto to state officers and state agencies. The supreme court or any justice may issue writs of habeas corpus returnable before the supreme court or any justice, a district courts of appeal or any judge thereof, or any circuit judge."

[Rule 9.030\(b\)\(3\)](#) Fla. R. App. P. | Original Jurisdiction (Appellate Courts)

"**Original Jurisdiction.** District courts of appeal may issue writs of mandamus, prohibition, quo warranto, and common law certiorari, and all writs necessary to the complete exercise of the courts' jurisdiction; or any judge thereof may issue writs of habeas corpus returnable before



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[Rule 9.100\(e\)](#) Fla. R. App. P. | Petitions for Writs of Mandamus and Quo Warranto Directed to...

"**Petitions for Writs of Mandamus and Quo Warranto Directed to a Judge or Lower Tribunal.** When a petition for a writ of mandamus or prohibition seeks a writ directed to a judge or lower tribunal, the following procedures apply:

(1) **Caption.** The name of the judge or lower tribunal shall be omitted from the caption. The caption shall bear the name of the petitioner and other parties to the proceeding in the lower tribunal who are not petitioners shall be named in the caption as respondents.

(2) **Parties.** The judge or the lower tribunal is a formal party to the petition for mandamus or prohibition and must be named as such in the body of the petition (but not in the caption). The petition must be served on all parties, including any judge or lower tribunal who is a formal party to the petition.



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(3) Response. Following the issuance of an order pursuant to subdivision (h), the responsibility for responding to a petition is that of the litigant opposing the relief requested in the petition. Unless otherwise specifically ordered, the judge or lower tribunal has no obligation to file a response. The judge or lower tribunal retains the discretion to file a separate response should the judge or lower tribunal choose to do so. The absence of a separate response by the judge or lower tribunal shall not be deemed to admit the allegations of the petition.

[Rule 9.100\(g\)](#) Fla. R. App. P. | Petition

"Petition. The caption shall contain the name of the court and the name and designation of all parties on each side. The petition shall not exceed 50 pages in length and shall contain:

- (1) the basis for invoking the jurisdiction of the court;
- (2) the facts on which the petitioner relies;
- (3) the nature of the relief sought; and
- (4) argument in support of the petition and appropriate citations of authority.

If the petition seeks an order directed to a lower tribunal, the petition shall be accompanied by an appendix as prescribed by [rule 9.220](#), and the petition shall contain references to the appropriate pages of the supporting appendix.

[Rule 24](#) Fed. R. App. P. | Writs of Mandamus and Prohibition...

"(c) An application for an extraordinary writ other than one provided for in Rule 21(a) must be made by filing a petition with the circuit clerk with proof of service on the respondents. Proceedings on the application must conform, so far as is practicable, to the procedures prescribed in Rule 21(a) and (b)."

[Rule 1.630](#) Fla. R. Civ. P. | Extraordinary Remedies

"(a) Applicability. This rule applies to actions for the issuance of writs of mandamus, prohibition, quo warranto, and habeas corpus."



III. SAMPLES



#	PDF	Comments
1		X Denied. TBD case . Pro Se Filing. LT = 1DCA. Perjur
		✓ Granted! SC. Attorney Filing. Representatives vs Governor. State Compact.
		X Dismissed. SC. Attorney Filing. Judicial Candidate SOS. Remove Other Candidate.

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