

## RULE 38. FRIVOLOUS CIVIL APPEALS—DAMAGES AND COSTS

~~[(a) Frivolous Appeals; Costs.]~~ If the Supreme Court or Court of Appeals determines that an appeal is frivolous~~[, it may impose monetary sanctions.~~

~~(b) Frivolous Appeals; Attorney Fees as Costs. When an appeal has frivolously been taken or been processed in a frivolous manner, when circumstances indicate that an appeal has been taken or processed]~~ or was brought or maintained without reasonable ground or solely for purposes of delay, [when an appeal has been occasioned through respondent's imposition on the court below,] or whenever the appellate processes of the court have otherwise been misused, the court may, ~~[on its own motion,]~~ after reasonable opportunity to respond to a notice from the court or a separately filed motion, impose monetary sanctions and/or require the offending party to pay[, as] costs [on appeal, such] or attorney fees as it deems appropriate to discourage like conduct in the future.

### REVIEWING NOTE

This rule is substantively changed to remove appeal being occasioned by respondent's imposition on the court below as a basis for a sanction and to provide the alleged offending party an opportunity to respond prior to the court imposing any sanction.