

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

JOHN A. BARLEY, a Party-in-
interest as Successor-in-interest to
John A. Barley & Associates, P.A.,
a Successor-in-interest to Yellow
Jacket Marina, Inc. (YJM),

Appellant,

v.

TIM PALETTI and MARK
PALETTI, RICHARDE. CORBIN,

Appellees.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D04-4228

Opinion filed February 23, 2005.

An appeal from the Circuit Court for Gilchrist County.
Maurice V. Giunta, Judge.

Appellant, pro se.

Andy B. Parmenter, Gainesville; Gregory V. Beauchamp, Chiefland; Gary S.
Edinger, Gainesville, for Appellees.

PER CURIAM.

Upon consideration of the appellant's responses to the Court's orders of
September 30, 2004, and November 19, 2004, the Court has determined that the order

on appeal is an order granting new trial. Although such an order is reviewable by this Court pursuant to Florida Rule of Appellate Procedure 9.110(a)(4), the instant appeal is untimely. A motion for rehearing does not toll the time for seeking appellate review of an order granting new trial because such a motion is not authorized. See Frazier v. Seaboard System Railroad, 508 So. 2d 345 (Fla. 1987). Thus, the appellant's notice of appeal, which was filed more than thirty days after rendition of the order on appeal, did not timely invoke this Court's jurisdiction. Accordingly, the appeal is hereby dismissed. All pending motions are denied as moot.

ERVIN, KAHN and BENTON, JJ., CONCUR.