

TYPE OF CLAIM OR PROCEEDING	WILL FLA. R. CIV. P. 1.525 APPLY SO AS TO REQUIRE A MOTION SEEKING TO TAX COSTS, ATTORNEY'S FEES, OR BOTH, TO BE SERVED WITHIN 30 DAYS AFTER THE FILING OF THE JUDGMENT?
Action for breach of fiduciary duty or challenging the exercise of, or failure to exercise, a trustee's powers (i.e., breach of trust claim against trustee) under F.S. 737.627	Yes. Clearly, a motion seeking to tax attorneys' fees and/or costs pursuant to F.S. 737.627, must comply with the requirements of R. 1.525.
<p>Proceeding where no breach of trust by the trustee is alleged (e.g., construction, determination of beneficiaries, trust contest):</p> <ol style="list-style-type: none"> 1. Trustees or trustee's attorney being paid from assets of the trust 2. Trustee seeks to charge its fees and expenses of litigation against the interest of a non-prevailing beneficiary who is a party to the litigation pursuant to F.S. 737.2035(3) 3. Attorney for non-trustee party seeking to recover attorney's fees from trust assets pursuant to F.S. 737.2035(2) (having rendered services to the trust) 4. Non-trustee prevailing party in litigation seeking award of costs (including attorney's fees) from trust assets under F.S. 737.2035(1) 	<p>No. This should be ordinary or extraordinary expenses of administration payable without court order under 727.2041 (1) and (5).</p> <p>Probably. For example, if a trust beneficiary brings an action contesting the validity of the trust and the beneficiary does not prevail, under F.S. 737.2035 (3), the court may charge the trustee's attorney's fees against the interest of the non-prevailing beneficiary. Although no judgment for fees and costs will be entered against the non-prevailing beneficiary, the effect of charging the trustee's attorney's fees against his or her share or the trust is a taxation of fees and costs against the non-prevailing beneficiary.</p> <p>The result is unclear. The attorney is not a "party" and would not fall within the scope of R. 1.525. However, Barry Spivey has successfully argued that R. 1.525 does apply in such circumstances.</p> <p>Yes.</p>
Non-trustee renders services to trust but no court proceeding is filed	No. If there is no litigation, R. 1.525 never comes into play.