



# Supreme Court of Florida

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Tallahassee, Florida 32399-1927

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September 13, 2017

The Florida Bar News Editor  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, Florida 32399-2300

In Re: Amendments to the Florida Rules of Judicial Administration - 2017  
Regular-Cycle Report, Case No. SC17-155

Dear Editor:

I have provided you with a copy of the proposed Rules in the above case. Please publish said Rules in the October 15, 2017, Bar News. Please publish a statement that the Court has placed the proposed Rules on the Internet at location: **[http://jweb.flcourts.org/pls/docket/ds\\_docket\\_search](http://jweb.flcourts.org/pls/docket/ds_docket_search)**.

Any comments should be filed with the Supreme Court on or before November 6, 2017. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the Portal. Comments filed via the Portal must be submitted in Microsoft Word 97 or higher. See In re Electronic Filing in the Florida Supreme Court, Fla. Admin. Order No. AOSC17-

27 (May 9, 2017). Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

Thank you for your cooperation in this matter.

Most cordially,

A handwritten signature in dark ink, appearing to read 'JT' followed by a horizontal line.

John A. Tomasino

JAT/sh

Enclosure

cc: Judson Lee Cohen, Chair, Rules of Judicial Administration Committee  
Honorable Ricky L. Polston, Supreme Court Justice Liaison  
Honorable Michael J. Higer, President, The Florida Bar  
Honorable Michelle R. Suskauer, President-elect, The Florida Bar  
John F. Harkness, Jr., Executive Director, The Florida Bar  
Lori Holcomb, Division Director Ethics and Consumer Protection  
Honorable Steven Scott Stephens, Past Chair, Rules of Judicial  
Administration Committee  
Amy Singer Borman, Past Chair, Rules of Judicial Administration  
Committee  
Stanford R. Solomon, Subcommittee Chair, Rules of Judicial Administration  
Committee  
Robert Joseph Merlin, Chair, Family Law Rules Committee  
Honorable Laurel Lee, Past Chair, Family Law Rules Committee  
Caroline Black Sikorske, Member, Family Law Rules Committee  
Landis Vernon Curry, III, Chair, Appellate Court Rules Committee  
Thomas D. Hall, Vice Chair, Appellate Court Rules Committee  
Kristin Ann Norse, Past Chair, Appellate Court Rules Committee  
Michael Thiel Debski, Chair, Small Claims Rules Committee  
Alison Verges Walters, Past Chair, Small Claims Rules Committee  
Jonathan Adam Galler, Chair, Florida Probate Rules Committee  
Michael Travis Hayes, Past Co-Chair, Florida Probate Rules Committee  
Jon Scuderi, Past Co-Chair, Florida Probate Rules Committee

Honorable Jon Berkley Morgan, Chair, Criminal Procedure Rules  
Committee

H. Scott Fingerhut, Past Chair, Criminal Procedure Rules Committee

Meredith Charbula, Past Chair, Criminal Procedure Rules Committee

Kara Ann Fenlon, Chair, Juvenile Court Rules Committee

Ward Lee Metzger, Past Chair, Juvenile Court Rules Committee

Joel M. Silvershein, Past Chair, Criminal Law Section of The Florida Bar

Krys Godwin, Bar Staff Liaison

Heather Telfer, Bar Staff Liaison

Mikalla Davis, Bar Staff Liaison

Chief Judges of the District Courts of Appeal

Clerks of the District Courts of Appeal

Chief Judges of the Judicial Circuits

Clerks of the Judicial Circuits

Deborah J. Meyer, Central Staff Director

The Florida Supreme Court recently amended Florida Rule of Judicial Administration 2.140 (Amending Rules of Court). See In re Amendments to the Florida Rules of Judicial Administration — 2017 Regular-Cycle Report, No. SC17-155 (Fla. Sept. 7, 2017). The Court previously published the amendments proposed by The Florida Bar’s Rules of Judicial Administration Committee (RJA Committee). The Court adopted most of the published amendments, modified several of them, and adopted additional amendments on the its own motion to further clarify and delineate the current procedures for amending court rules.

Because the amendments adopted on the Court’s own motion have not been published for comment, the Court invites all interested persons to comment only on those amendments, which are reproduced in full below and indicted in italicized type, as well as online at <http://www.floridasupremecourt.org/decisions/opinions.shtml>. The RJA Committee is welcome to comment on those amendments. Comments on amendments that were previously published will not be entertained, unless included in a timely motion for rehearing or clarification. All comments must be filed with the Court on or before November 6, 2017, with a certificate of service verifying that a copy has been served on the Chair of the RJA Committee, Judson Lee Cohen, 14125 N.W. 80th Avenue, Suite 400, Miami Lakes, Florida 33016-2350, [jcohen@weinsteincohen.com](mailto:jcohen@weinsteincohen.com), and on the Bar Staff Liaison to the Committee, Krys Godwin, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300, [kgodwin@flabar.org](mailto:kgodwin@flabar.org), as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Committee Chair has until November 27, 2017, to file a response to any comments filed with the Court. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the Portal. Comments filed via the Portal must be submitted in Microsoft Word 97 or higher. See In re Electronic Filing in the Florida Supreme Court, Fla. Admin. Order No. AOSC17-27 (May 9, 2017). Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO THE FLORIDA RULES OF JUDICIAL  
ADMINISTRATION — 2017 REGULAR-CYCLE REPORT, CASE NO.  
SC17-155**

**Amendments made on the Court's own motion and are appropriate for  
comment are shown in italicized type.**

**RULE 2.140. AMENDING RULES OF COURT**

(a) [All changes previously published]

(b) Schedule for Regular-Cycle Rules Proposals.

(1) [No Change]

(2) [All changes previously published] No later than June 15 of the year prior to each reporting year or such other date as the board of governors of The Florida Bar may set, each reporting committee shall submit all proposed rule changes to the board of governors with the committee's final numerical voting record on each proposal. Contemporaneously with reporting proposed rule changes to the board of governors, each committee report shall be furnished to the Speaker of the Florida House of Representatives, the President of the Florida Senate, and the chairs of the House and Senate committees as designated by the Speaker and the President, and published on the ~~Internet~~-website of The Florida Bar, and in the ~~Florida Bar Journal~~ or The Florida Bar News~~News~~. Any person desiring to comment upon proposed rule changes shall submit written comments to the appropriate committee chair(s) no later than August 1 of the year prior to each reporting year. Each committee shall consider any comments submitted and thereafter report to the board of governors, no later than October 15~~31~~ of the year prior to each reporting year, any revisions to the proposed rule changes. Contemporaneously with reporting any revisions to the board of governors, each committee's revised proposed rule changes shall be furnished to the Speaker of the Florida House of Representatives, the President of the Florida Senate, and the chairs of the House and Senate committees as designated by the Speaker and the President, and published on the ~~Internet~~-website of The Florida Bar, and in the ~~Florida Bar Journal~~ or The Florida Bar News~~News~~. Any person desiring to comment thereafter shall submit written comments to the supreme court in accordance with subdivision (b)(6).

(3) [No Change]

(4) No later than February 1 of each reporting year, each committee and the executive director of The Florida Bar shall file a report of its proposed rule changes with the supreme court. Each committee may amend its recommendations to coincide with the recommendations of the board of governors or may decline to do so or may amend its recommendations in another manner. Any such amendments shall also be reported to the supreme court. The report and proposed rule changes must conform to the Guidelines for Rules Submissions approved by administrative order and posted on the ~~Internet~~-websites of the supreme court and The Florida Bar. Consistent with the requirements that are fully set forth in the Guidelines, the report shall include:

(A) a list of the proposed changes, together with a detailed explanation of each proposal that includes a narrative description of how each amendment changes the language of the rule and a thorough discussion of the reason for each change;

(B) the final numerical voting record of the proposals in the committee;

(C) the name and address of the proponent of each change, if other than a member of the rules committee;

(D) a report of the action taken by the committee on comments submitted in accordance with subdivision (b)(2);

(E) a report of the action and voting record of the board of governors;

(F) any dissenting views of the committee and, if available, of the board; and

(G) an appendix containing all comments submitted to the committee, all relevant background documents, the proposed amendments in legislative format, and a two-column chart setting forth the proposed changes in legislative format in the first left column and a brief summary of the explanation of each change given in the report in the second right column.

The report and the proposed rule changes shall be filed with the supreme court, ~~in legislative format, both on paper and~~ in an electronic format approved by the supreme court.

(5) If oral argument is deemed necessary, the supreme court shall establish a date ~~during~~in the month of ~~May or~~ June of each reporting year for oral argument on the proposals. Notice of the ~~hearing~~oral argument on the proposals and a copy of the proposals shall be furnished to the affected committee chair(s) and vice chair(s), the executive director and staff liaison of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The clerk may provide the notice electronically. ~~If the committee modifies its recommendations after considering comments submitted in accordance with subdivision (b)(2), t~~The recommendations or a resume of them shall be published on the ~~Internet~~ websites of the supreme court and The Florida Bar and in ~~the Florida Bar Journal or The Florida Bar News~~News before the ~~hearing~~oral argument or consideration of the proposals without oral argument. Notice of the ~~hearing~~oral argument, if scheduled, shall also be published on the ~~Internet~~ websites of the supreme court ~~and The Florida Bar and in the Florida Bar Journal or Florida Bar News.~~

(6) ~~Before the date of oral argument~~Within the time allowed for comments set by the supreme court, any person may file comments concerning the proposals. All comments and other submissions by interested persons shall be filed with the clerk of the supreme court and served on the chair(s) of the appropriate rules committee, the Bar staff liaison, and on the proponent of the rule change if other than a member of the rules committee. The chair(s) of the rules committee and the executive director of The Florida Bar shall file a response to all comments within the time period set by the court. All comments and other submissions regarding the rule change proposals, ~~in addition to being filed with the supreme court in paper format,~~ shall also be filed in an approved electronic format ~~approved by~~with the supreme court. ~~Prior to the date of oral argument and a~~As soon as practicable after the date of filing, the clerk of the supreme court shall publish on the ~~Internet~~ websites of the supreme court ~~and The Florida Bar~~ all comments and the responses of the chair(s) of the rules committee that have been filed concerning the rule change proposals. All requests or submissions by a rules committee made in connection with a pending rule change proposal shall be filed with the clerk of the supreme court and thereafter published by the clerk of the supreme court on the ~~Internet~~ websites of the supreme court and The Florida Bar.

(7) ~~Orders of the supreme court on said~~Opinions adopting the proposals should be ~~adopted~~issued in sufficient time for the rule changes to take effect on January 1 of the year following the reporting year. The supreme court may permit motions for rehearing to be filed on behalf of any person who filed a comment, The Florida Bar, any bar association, and the affected committee.

(c) **[All changes previously published]**

(d) **Emergency Amendments by Court.** The supreme court, with or without notice, may change court rules at any time if an emergency exists that does not permit reference to the appropriate committee of The Florida Bar for recommendations. The rule changes must conform to the Guidelines for Rules Submissions approved by administrative order and posted on the websites of the supreme court and The Florida Bar. If a change is made without reference to the committee, ~~the~~ The change may become effective immediately or at a future time. In either event, the court shall give notice of and fix a date for further consideration of the change. Any person may file comments concerning the change, seeking its abrogation or a delay in the effective date, in accordance with the procedures set forth in subdivision (b)(6) ~~of this rule~~. The court may allow oral argument in support of such comments by The Florida Bar, by its sections and committees, and by other bar associations. Notice of the ~~hearing~~oral argument, if scheduled, on the change and a copy of the change shall be furnished to the affected committee chair(s) and vice chair(s), the executive director and staff liaison of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The clerk may provide the notice electronically. ~~The~~Notice of the change shall be published on the Internet websites of the supreme court and The Florida Bar, and in ~~the Florida Bar Journal or The Florida Bar News~~News either before the hearing or after the change is adopted. Notice of the ~~hearing~~oral argument, if scheduled, shall also be published on the Internet websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News.

(e) **Out-of-Cycle Committee Proposals.**

(1) **Emergency Recommendations by Committee Proposals and Proposals in Response to Legislative Changes.** If, in the opinion of a committee, a



proposal is of an emergency nature or a rule amendment is necessary due to changes in legislation, and the board of governors concurs, proposals may be made at any time to the supreme court. The report and proposed rule changes may be filed without prior publication for comment and must conform to the Guidelines for Rules Submissions approved by administrative order and posted on the ~~Internet~~ websites of the supreme court and The Florida Bar. *The rules committees' fast-track procedures shall be used to address legislative changes to ensure that any resulting proposed rule amendments are filed with and can be adopted by the court before or soon after the effective date of the legislation.* If the court agrees that an emergency exists or a rule change is necessary due to a legislative change, the court may publish the rule amendment for comment after adopting it or may set a time for oral argument ~~and/or for~~ consideration of the proposal without oral argument. Notice of the ~~hearing~~ oral argument on the proposals, if scheduled before or after adoption, and a copy of the proposals shall be furnished to the affected committee chair(s) and vice chair(s), the executive director and the staff liaison of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The clerk may provide the notice electronically. *Prior to or after their adoption, The recommendations or a resume of them shall be published on the* ~~Internet~~ websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or The Florida Bar News ~~News before the hearing.~~ *Any person may file comments concerning the changes, in accordance with the procedures set forth in subdivision (b)(6).* Notice of the ~~hearing~~ oral argument, if scheduled, shall also be published on the ~~Internet~~ websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News.

**(2) Non-Emergency Out-of-Cycle Proposals.** If, in the opinion of a committee, a proposal is not of an emergency nature, but is sufficiently necessary to the administration of justice that it should not wait until the next *regular*-cycle submission, and the board of governors concurs, proposals may be made out-of-cycle at any time to the supreme court. The report and proposed rule changes must conform to the Guidelines for Rules Submissions approved by administrative order and posted on the websites of the supreme court and The Florida Bar. Such out-of-cycle submissions must be published in The Florida Bar News and posted on the website of The Florida Bar for comment, and such comment must be reviewed and addressed by the committee prior to the out-of-cycle rule submission to the board

of governors to recommend acceptance, rejection, or amendment. If the supreme court agrees that a proposal should be addressed before the next *regular-cycle* report, the supreme court may set a time for oral argument *or for consideration of the proposal without oral argument*. Notice of the oral argument on the proposals, *if scheduled*, and a copy of the proposals shall be furnished to the affected committee chair(s) and vice chair(s), the executive director and the staff liaison of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, the person who initially proposed the matter to the committee, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The clerk may provide the notice electronically. The recommendations or a resume of them shall be published on the websites of the supreme court and The Florida Bar, and in The Florida Bar News for comment before the oral argument *or consideration of the proposals without oral argument*. Any person may file comments concerning the proposals, in accordance with the procedures set forth in subdivision (b)(6). Notice of the oral argument, *if scheduled*, shall also be published on the website of the supreme court.

**(f) Request by Court.** The supreme court may direct special consideration of a proposal at times other than those specified in this rule and may require a committee to report its recommendation with the recommendations of the board of governors. All requests or submissions by a rules committee made in connection with a request under this subdivision shall be filed with or submitted to the clerk of the supreme court as provided in this subdivision. ~~The report and proposed rule changes must conform to the Guidelines for Rules Submissions approved by administrative order and posted on the Internet websites of the supreme court and The Florida Bar. The supreme court may set oral argument on the report at any time. Notice of the hearing on the proposals and a copy of the proposals shall be furnished to the affected committee chair and vice chair, the executive director of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The clerk may provide the notice electronically. The recommendations or a resume of them shall be published on the Internet websites of the supreme court~~

~~and The Florida Bar, and in the Florida Bar Journal or Florida Bar News before the hearing. Notice of the hearing shall also be published on the Internet websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News.~~

(1) **Recommended Rule Changes.** A rule change recommended in response to a request under this subdivision shall be included in the rules committee's next regular-cycle report filed under subdivision (b), unless the court directs or the committee determines and the board of governors agrees that the rule change should be submitted out of cycle. If the committee submits a recommended change out of cycle, the procedures for out-of-cycle rule proposals under subdivision (e) shall apply, except the report shall state that it is filed in response to a request by the court under this subdivision.

(2) **No Action Recommendations.** If the court refers a matter to a rules committee for consideration only and does not direct the committee to propose a rule change, and after considering the matter referred the committee determines that no rule change is warranted, the committee shall submit a "no action report" to the court explaining its recommendation that no rule change is needed. A no action recommendation should not be included in a report proposing rule changes filed under any other subdivision of this rule. After the court considers the recommendation, the clerk shall notify the rules committee chair(s) and the executive director and the staff liaison of The Florida Bar whether any further action is required of the committee.

**(g) Amendments to the Rules of Judicial Administration.**

**(1) Amendments Without Referral to Rules Committee.**

Changes to the Rules of Judicial Administration contained in Part II, State Court Administration, of these rules, and rules 2.310, and 2.320, contained in Part III, Judicial Officers, generally will be considered and adopted by the supreme court without reference to or proposal from the Rules of Judicial Administration Committee. The supreme court may amend rules under this subdivision at any time, with or without notice. If a change is made without notice, the court shall fix a date for future consideration of the change and the change shall be published on the ~~Internet~~ websites of the supreme court and The Florida Bar, and in ~~the Florida Bar Journal or The Florida Bar News~~ News. Any person may file comments concerning the change, in accordance with the procedures set forth in subdivision (b)(6) ~~of this rule~~. The court may hear oral argument on the change. Notice of the

~~hearing~~oral argument on the change, if scheduled, and a copy of the change shall be provided in accordance with subdivision (d) ~~of this rule~~.

(2) [All changes previously published]

(h) [No Change]

#### Committee Notes

[No Change]