

IN THE SUPREME COURT OF FLORIDA

**IN RE: 2017 REGULAR-CYCLE
AMENDMENTS TO THE FLORIDA
RULES OF JUDICIAL ADMINISTRATION CASE NO: 17-**

**REGULAR-CYCLE REPORT OF THE
RULES OF JUDICIAL ADMINISTRATION COMMITTEE**

The Honorable Steven Scott Stephens, Chair of the Rules of Judicial Administration Committee (“Committee”), and John F. Harkness, Jr., Executive Director of the The Florida Bar, file this regular-cycle report of the Rules of Judicial Administration Committee in compliance with Florida Rule of Judicial Administration 2.140(b). All rule amendments have been approved by the full Committee and, as required by Rule 2.140(b)(2), reviewed by The Florida Bar Board of Governors. The voting records of the Committee and the Board of Governors are shown on the attached Table of Contents (*see* Appendix A).

The proposed amendments were published for comment in the August 1, 2016, edition of The Florida Bar *News*, and also posted on The Florida Bar’s website (*see* Appendix D). Comments were received in response to the notices and they are discussed in the applicable rule amendment. While amendments to Rule 2.560 (Appointment of Spoken Language Court Interpreters for Non-English-Speaking and Limited-English-Proficient Persons) were published as being part of this cycle report, as a result of the opinion in *In re Amendments to the Florida Rules of Judicial Administration*, 2016 WL 7159097 (Fla. Dec. 8, 2016) (Case No. SC15-1594), and this Court’s January 5, 2017, letter the Committee is working on further amendments to this rule and felt it most prudent to combine all possible Rule 2.560 amendments into one out-of-cycle filing to prevent different effective dates for different amendments within the same rule.

This report contains:

- Appendix A: Table of Contents
- Appendix B: Rules in legislative format
- Appendix C: Rules in 2-column format
- Appendix D: Publication Notices
- Appendix E: Letters requesting consideration of rules changes

The following rules are proposed for amendment:

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Rule 2.140. Amending Rules of Court
Rule 2.510. Foreign Attorneys
Rule 2.516. Service of Pleading and Documents

The proposed amendments and reasons for change are as follows:

RULE 2.140. AMENDING RULES OF COURT

The Committee proposed extensive amendments to Rule 2.140 (Amending Rules of Court) for two reasons: first, the Committee felt the rule committees' communication regarding rule amendments required fine-tuning and clarification; second, the actual procedure of rule amendment submissions to the Court required updating. Due to the amount of amendments proposed for this rule, each affected subdivision will be addressed independently.

To ensure anyone who suggests a rule amendment is aware that a suggestion may be addressed by a committee without requiring an initial submission to the clerk of the supreme court, subdivision (a)(2) is updated to include the committee chair and the committee staff liaison as receivers of the initial request. Specifically, the first sentence that requires an amendment proposal be submitted to the clerk of the supreme court will be expanded by adding “, the committee chair(s) of a Florida Bar committee listed in subdivision (a)(3), or the Bar staff liaison of The Florida Bar.” This will provide anyone who is interested the ability to file a rule review request to the clerk, the respective committee chair, or the respective committee staff liaison.

Subdivision (a)(4) is significantly amended to alter the membership requirements of the committees. To ensure the membership of the rules of court procedure are attorneys, judges, or other Bar licensed professionals with sufficient knowledge of the respective committee's focus, the first sentence is amended to rephrase the experience requirement for Committee membership. Specifically, the sentence is amended to require “Each committee shall be ~~composed~~comprised of attorneys and judges with extensive experience and training in the committee's area of ~~practice of the committee calling for regular, frequent use of the~~rules concentration.” Following this first amended sentence and to recognize the uniqueness and broadness of Rules of Judicial Administration, two new sentences are added: the first establishes the requirement that members of the Rules of Judicial Administration Committee have “previous rules committee experience or substantial experience in the administration of the Florida court system”; and the

second is a slight amendment and relocation of a current subdivision (a)(6) sentence that requires the chairs of the other respective rules committees to appoint one of those committee members to “serve as a regular member of the Rules of Judicial Administration Committee.” To enhance the communication between committees as well as to reduce redundancy or conflict between rule sections, this new sentence further expands the role of these committee liaison members to one who “facilitate[s] and implement[s] routine periodic reporting by and to the Rules of Judicial Administration Committee on the development and progress of rule proposals under consideration and their potential impact on other existing or proposed rules.” The fourth sentence of this rule is then amended to clarify that the committee liaison member serves at the pleasure of the respective committee chair by whom they are appointed. The last sentence is amended to clarify that the selection of committee chairs and vice chairs of all Bar rules committees are appointed by the president-elect of The Florida Bar Board of Governors.

The first sentence in proposed subdivision (a)(5) is merely relocated within the section—shifting order with the current second sentence—for greater clarity and order of process. The now first sentence is amended to clarify that rules committees are required to regularly review and reevaluate the rules under their purview. The third sentence merely adds “rules” to clarify to what type of committee this rule relates. The fourth sentence rephrases the requirement of committees to prepare meeting agendas and minutes “reflecting the status of rules proposals under consideration and action taken.” To ensure the sharing of rule amendment information is timely, a new sentence is added at the end of this subdivision that requires each committee to “promptly and timely” share “all meeting agendas and all minutes or other record of action taken.”

As the profession of law is becoming, to a large population of practitioners, more specialized, the role of the Committee as a hub of communication is becoming more crucial. Currently, other rule committee members specialize in their area of practice and may be unaware of how a proposed amendment may impact or be impacted by another rule in another rule section. For these reasons, the Committee felt it prudent to clarify its role as the hub within subdivision (a)(6). Specifically, in the first sentence it is clarified that the Committee “shall ~~also~~ serve as the central rules coordinating committee.” Sentences 2-4 of the current rule are deleted and relocated: the second sentence is moved to subdivision (a)(5) and sentences 3 and 4 are rephrased and moved lower within this subdivision.

The new second sentence defines the role of the Committee as the reviewer of proposed rules to determine if a proposed rule is of general or common application or if there are competing or inconsistent rules. This rule further clarifies that this review is necessary to avoid conflicts between rules sets and to ensure consistency across the board and to minimize repetition between all rule sets. The new third sentence requires the Committee to regularly and promptly communicate to other committees a report of the rule review. The new fourth sentence—essentially the relocation of the current second sentence—sets the deadline for other committees to share a copy of approved proposed rule amendments with the Committee within 30 days of the affirmative vote. The new fifth sentence—essentially the relocation of the current third sentence—requires the Committee to forward any other committee’s proposed amendments to other possibly impacted committees for consideration. The new sixth sentence requires the Committee to issue a “formal response” within 30 days of a regularly scheduled committee meeting for regular-cycle report proposals and 30 days after a formal approval by a committee for out-of-cycle submissions. The new last sentence of this subdivision establishes that, unless a deadline prevents such, the Committee’s response to the review of proposed rule amendments will be included in and may be addressed within the respective proposal submission to the board of governors and to the Court.

Comments were received, as a result of the scheduled publication, by the Appellate Court Rules Committee (ACRC), the Family Law Rules Committee (FLRC), and the Small Claims Rules Committee (SCRC) (*see* Appendix E). The ACRC urged the Committee to review the proposed amendments to Rule 2.140(a)(6) because the language “would add unnecessary burden and delay to the rulemaking process; are unclear in their scope (which could further contribute to the burdens and delay); and may result in unintentionally shifting the meaningful input on a rule away from a substantive committee with members who specialize in that area of practice.” (Appendix E – page 1.) The ACRC argued that current rule 2.140(b) gives the Committee the opportunity to comment on all rule proposals. The FLRC urged the Committee to reject the proposed amendments to subdivision (a)(6) because “they appear to give the [Committee] the power to effectively ‘veto’ proposed rule changes made by the standing rules committees.” The FLRC further argues that the proposed amendment gives the Committee “more control of the entire rule-making process than exists under the current 2.140” which “appears to give the RJAC a ‘gatekeeper’ power to assess whether rule proposals address a matter of common or general application without clarity about how and by whom

such assessments will be made.” (Appendix E – page 10.) The SCRC urged the Committee to reconsider the proposed amendments to Rule 2.140 because they are “overreaching.” In particular, the proposed amendments to subdivision (a)(6) “redefine the role of the [Committee] to potentially comment on all Florida Bar rules committees’ proposed amendments. This additional comment period is duplicative of other comment periods currently in the rules.” (Appendix E – page 14.)

The Committee discussed these comments in the October 2016 meeting but did not motion or vote to amend the rule as a result of the comments received. In the Committee’s view, the proposed amendments do not afford it anything approaching “veto” authority, but rather a responsibility and opportunity to identify coordination issues with rules proposals before their submission to the Court. The substantive rules committees are in no way bound by the comment of this Committee, and the weight the Court affords to this Committee’s comment will in each case depend on the merits of the comment. To make sure that the Committee’s coordination efforts are as broadly informed as possible, under current leadership all coordination issues are initially referred to the liaison subcommittee, consisting of members appointed by the Chairs of the various domain-specific rules committees.

The title of subdivision (b) is amended to clarify the procedure within this subdivision for regular court-scheduled cycle reports. Subdivision (b)(2) is updated by removing “Internet” when speaking of web postings, deleting the reference to publication within *The Florida Bar Journal*, by correcting the publication title of *The Florida Bar News*, by adding the option to have more than one chair being appointed to a committee, and by expanding the date of committee consideration of received comments to publications to October 31 because the scheduling of the committee meetings is out of the committees’ control. Subdivision (b)(4) is amended to clarify that reports are submitted by both committee chairs and the executive director of The Florida Bar and “Internet” is deleted. Subdivision (b)(5) is updated by substituting “oral argument” for “hearing,” adding an “(s)” after chair and vice chair as more than one are often appointed, by requiring a notice of oral argument be served on the staff liaison, by deleting “Internet” and references to *The Florida Bar Journal*, correcting the title of *The Florida Bar News*, and by removing *The Florida Bar’s* website, the *Journal*, and the *News* from locations that publish the notice of oral argument. Subdivision (b)(6) is amended by adding an “(s)” to chair, adding the Bar staff liaison as a receiver of comments, adding the

executive director of the Bar as a filer, deleting the reference to paper filings, deleting the posting of filed comments on the Bar webpage, and deleting the term “Internet.”

Subdivision (c) is amended by adding an “(s)” to chair and vice chair because there are times when more than one are appointed within a committee.

Subdivision (d) is amended with the deletion of “of this rule” as this is unnecessary and redundant. This subdivision is further amended with the substitution of “oral argument” for “hearing,” the addition of “(s)” after chair and vice chair, the addition of the staff liaison as a receiver of notice, the deletion of “Internet,” the deletion of the reference to the Florida Bar Journal and the updating of the title of The Florida Bar *News*. The last sentence is further amended by the deletion of the Bar website, the Journal and the *News* as publication locations for a notice of oral argument.

Subdivision (e) is extensively amended by adding the title “**Committee Out-of-Cycle Report**,” lowering the current subdivision text to new subdivision (e)(1) with an amended title of **Emergency Recommendations by Committee or Response to Legislation Reports**, and creating subdivision **(2) Non-Emergency Time-Sensitive Reports**. New subdivision (e)(1) is further amended in the first sentence with the addition of legislation stimulated amendments within this emergency procedure. The second and third sentences are amended to clarify that such emergency or legislatively stimulated amendments are not required to be published for comment prior to filing with the Court and the Court may publish the proposed rule amendments after the issuance of an opinion. In this rule, the term “Internet” is deleted, “oral argument” is substituted for “hearing,” the “(s)” is added to chair and vice chair, the Bar staff liaison is added as a receiver of notice, the reference to The Florida Bar Journal is deleted, and the title of The Florida Bar *News* is corrected. Additionally, in the second to last sentence “after filing” is added to the reference of publishing; in the last sentence the list of publication locations for notice is updated.

Subdivision (e)(2) is created to provide specific authority for committee non-emergency out-of-cycle filings. Such out-of-cycle reports may be necessary because a proposed rule amendment, though not an emergency or legislatively stimulated, is substantially crucial enough to the profession that harm may result if delayed for scheduled filings, or there are two or more committees filing a joint

report that would make it inappropriate the proposed amendments be attached to a single committee's regular-cycle report. The rule text within new subdivision (e)(2) is a revised copy of (e)(1). Specifically, the first sentence requires the committee's determination and the Board of Governors' concurrence that the proposed amendment is "sufficiently necessary to the administration of justice" that it warrants an out of cycle filing. The second sentence requires compliance with the Guidelines of Rules Submissions as currently published in AOSC06-14. The third sentence requires, though time-sensitive enough to be filed out of cycle, publication of the proposed amendment for comment by the profession or public and the addressing of those comments by the respective committee prior to submission to the Board of Governors for approval. The fourth and fifth sentences authorize the Court to schedule an oral argument, if desired, and define the notice required for such scheduling. The sixth sentence authorizes the Clerk to serve notice of the oral argument electronically. The seventh sentence establishes the publication of comments filed prior to oral argument. The last sentence requires the publication of the notice of oral argument on the Court's website.

Subdivision (f) is updated by the removal of "Internet," the substitution of "oral argument" for "hearing," the adding of "(s)" after chair and vice chair, the addition of the Bar staff liaison as a receiver of notice, the removal of the Florida Bar Journal as a publication location, and the removal of the Bar's Journal, the *News*, and the website as locations for notice publication.

Subdivision (g)(1) is updated by the removal of "Internet" and references to The Florida Bar Journal. The reference to The Florida Bar *News* is corrected and "of this rule" is deleted as unnecessary. In subdivision (g)(1), "of this rule" is deleted as unnecessary.

RULE 2.510. FOREIGN ATTORNEYS

The Committee proposes an amendment to Rule 2.510 (Foreign Attorneys). Rule 2.510 restricts foreign attorneys from engaging in a "general practice" before Florida Courts and that is defined as "more than 3 appearances within a 365-day period in separate cases." The concern raised is that by legal definition, any case in which a federal agency is a party requires the appearance of the agency's leader, specifically, if filed by the Department of Justice then the filing party is the federal attorney general. It is unreasonable to expect there are less than 3 filed cases within the whole state involving the federal attorney general and it is U.S.

Constitutionally required that all courts permit the appearance of the federal attorney general. There are other federal agencies or parties that also participate in state filings.

To clarify the federal authority and remove the pro hac vice limitation for federally authorized court appearances within this state rule of procedure, the Committee recommends, with a slight grammatical amendment authorized by the Fast-track Subcommittee, the addition of the following sentence at the end of subdivision (a) (Eligibility): “This rule shall not affect the eligibility of a foreign attorney to appear in a Florida court when authorized by federal law.”

An informal comment was received by Lori Holcomb, Division Director, Ethics and Consumer Protection, who expressed a concern that this sentence is in violation of the unlicensed practice of law rules. The committee appreciates this comment and discussed this concern in its October 2016 meeting. The Committee acknowledged the apparent conflict but concluded the rule would be federally pre-empted if applied in the context of an attorney authorized by federal law to appear in state court actions.

As an editorial amendment, within the Verified Motion for Admission to Appear Pro Hac Vice Pursuant to Florida Rule of Judicial Administration 2.510, item 10, “resignation” is substituted for “revocation” as Rule Regulating The Florida Bar 3-7.12 was amended in 2012 to alter the discipline option from disciplinary resignation to disciplinary revocation.

RULE 2.516. SERVICE OF PLEADINGS AND DOCUMENTS

The Committee proposes some clarifying amendments to Rule 2.516 (Service of Pleadings and Documents). The Rule is expected to be revised extensively as part of the ongoing Post-Transitional rules Revision Project, but the Committee concluded these amendments are appropriate at this time. At the end of subdivisions (b)(1)(B) (Exception to E-mail Service on Attorneys) and (b)(1)(C) (Service on and by Parties Not Represented by an Attorney), following the identification clause “in subdivision (b)(2), the clause “of this rule” is deleted as this is unnecessary and inconsistent within the rule section. Within subdivision (b)(1)(E)(i), that specifies the specific subject line text in electronic mail (e-mail) service, the clause “and case style” is inserted. This addition will further identify the case for which service is performed within the subject matter line to prevent e-

mail service from being deleted accidentally as junk mail or automatically falling into a spam file.

In subdivision (b)(2) (Service by Other Means), the second sentence is amended to avoid the failure of service within a case by providing for situations when a pro se litigant has not designated an e-mail address and no physical address is known, that service may be performed “by leaving it with noting the non-service in the certificate of service, and stating in the certificate of service that a copy of the served document may be obtained, on request, from the clerk of the court or from the party serving the document.” This will prevent the unfair stalling or dismissal of a case because service is unable to be made.

The proposed amendment in subdivision (b)(1)(F), indicated by double-underline, is currently before the Florida Supreme Court, in *In re: Amendments to the Florida Rules of Judicial Administration, Florida Rule of Criminal Procedure 3.010, and Florida Rule of Appellate Procedure 9.440*, Case SC16-1062.

WHEREFORE, the Florida Rules of Judicial Administration Committee requests that the Court amend the Rules of Judicial Administration as outlined in this report.

Respectfully submitted on January 31, 2017.

/s/ Steven Scott Stephens

Judge Steven Scott Stephens, Chair

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was furnished by the Florida Courts E-Filing Portal, on January 31, 2017, to:

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CERTIFICATION OF COMPLIANCE

I certify that these rules were read against Thomson Reuter *Florida Rules of Court – State* (2016 Revised Edition).

I certify that this report was prepared in compliance with the font requirements of *Fla. R. App. P. 9.210(a)(2)*.

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TABLE OF CONTENTS

PART I. GENERAL PROVISIONS

2.110.	SCOPE AND PURPOSE	[NO CHANGE]
2.120.	DEFINITIONS	[NO CHANGE]
2.130.	PRIORITY OF FLORIDA RULES OF APPELLATE PROCEDURE	[NO CHANGE]
2.140.	AMENDING RULES OF COURT Subdivisions (a)(4)–(a)(6): Committee vote: 21-4-2 Board of Governors’ vote: 43-0 Subdivisions (a)(2), (b), (c), (d), (e), (f), (g) Committee vote: 30-1-0 Board of Governors’ vote: 43-0	[AMENDED]

PART II. STATE COURT ADMINISTRATION

2.205.	THE SUPREME COURT	[NO CHANGE]
2.210.	DISTRICT COURTS OF APPEAL	[NO CHANGE]
2.215.	TRIAL COURT ADMINISTRATION	[NO CHANGE]
2.220.	CONFERENCES OF JUDGES	[NO CHANGE]
2.225.	JUDICIAL MANAGEMENT COUNCIL	[NO CHANGE]
2.230.	TRIAL COURT BUDGET COMMISSION	[NO CHANGE]
2.235.	DISTRICT COURT OF APPEAL BUDGET COMMISSION	[NO CHANGE]
2.236.	FLORIDA COURTS TECHNOLOGY COMMISSION	[NO CHANGE]
2.240.	DETERMINATION OF NEED FOR ADDITIONAL JUDGES	[NO CHANGE]
2.241.	DETERMINATION OF THE NECESSITY TO INCREASE, DECREASE, OR REDEFINE JUDICIAL CIRCUITS AND APPELLATE DISTRICTS	[NO CHANGE]

2.244.	JUDICIAL COMPENSATION	[NO CHANGE]
2.245.	CASE REPORTING SYSTEM FOR TRIAL COURTS	[NO CHANGE]
2.250.	TIME STANDARDS FOR TRIAL AND APPELLATE COURTS AND REPORTING REQUIREMENTS	[NO CHANGE]
2.255.	STATEWIDE GRAND JURY	[NO CHANGE]
2.256.	JUROR TIME MANAGEMENT	[NO CHANGE]
2.260.	CHANGE OF VENUE	[NO CHANGE]
2.265.	MUNICIPAL ORDINANCE VIOLATIONS	[NO CHANGE]

PART III. JUDICIAL OFFICERS

2.310.	JUDICIAL DISCIPLINE, REMOVAL, RETIREMENT, AND SUSPENSION	[NO CHANGE]
2.320.	CONTINUING JUDICIAL EDUCATION	[NO CHANGE]
2.330.	DISQUALIFICATION OF TRIAL JUDGES	[NO CHANGE]
2.340.	JUDICIAL ATTIRE	[NO CHANGE]

PART IV. JUDICIAL PROCEEDINGS AND RECORDS

2.410.	POSSESSION OF COURT RECORDS	[NO CHANGE]
2.420.	PUBLIC ACCESS TO AND PROTECTION OF JUDICIAL BRANCH RECORDS	[NO CHANGE]
2.425.	MINIMIZATION OF THE FILING OF SENSITIVE INFORMATION	[NO CHANGE]
2.430.	RETENTION OF COURT RECORDS	[NO CHANGE]
2.440.	RETENTION OF JUDICIAL BRANCH	

	ADMINISTRATIVE RECORDS	[NO CHANGE]
2.450.	TECHNOLOGICAL COVERAGE OF JUDICIAL PROCEEDINGS	[NO CHANGE]
2.451.	USE OF ELECTRONIC DEVICES	[NO CHANGE]

PART V. PRACTICE OF LAW

A. ATTORNEYS

2.505.	ATTORNEYS	[NO CHANGE]
2.510.	FOREIGN ATTORNEYS Subdivision (a): Committee vote: 35-0 Board of Governors' vote: 43-0 Form correction editorial	[AMENDED]

B. PRACTICE AND LITIGATION PROCEDURES

2.514.	COMPUTING AND EXTENDING TIME	[NO CHANGE]
2.515.	SIGNATURE AND CERTIFICATES OF ATTORNEYS AND PARTIES	[NO CHANGE]
2.516.	SERVICE OF PLEADINGS AND DOCUMENTS Subdivision (b)(1)(E)(i) Committee vote: 19-4 Board of Governors' vote: 43-0 Subdivision (b)(2) Committee vote: 26-4 Board of Governors' vote: 43-0	[NO CHANGE]
2.520.	DOCUMENTS	[NO CHANGE]
2.525.	ELECTRONIC FILING	[NO CHANGE]
2.526.	ACCESSIBILITY OF INFORMATION AND TECHNOLOGY	[NO CHANGE]

2.530.	COMMUNICATION EQUIPMENT	[NO CHANGE]
2.535.	COURT REPORTING	[NO CHANGE]
2.540.	REQUESTS FOR ACCOMODATIONS BY PERSONS WITH DISABILITIES	[NO CHANGE]
2.545.	CASE MANAGEMENT	[NO CHANGE]
2.550.	CALENDAR CONFLICTS	[NO CHANGE]
2.555.	INITIATION OF CRIMINAL PROCEEDINGS	[NO CHANGE]
2.560.	APPOINTMENT OF SPOKEN LANGUAGE COURT INTERPRETERS FOR NON-ENGLISH- SPEAKING AND LIMITED-ENGLISH- PROFICIENT PERSONS	[AMENDED]
2.565.	RETENTION OF SPOKEN LANGUAGE COURT INTERPRETERS FOR NON- ENGLISH-SPEAKING AND LIMITED- ENGLISH-PROFICIENT PERSONS BY ATTORNEYS OR SELF-REPRESENTED LITIGANTS	[NO CHANGE]

RULE 2.140. AMENDING RULES OF COURT

(a) Amendments Generally. The following procedure shall be followed for consideration of rule amendments generally other than those adopted under subdivisions (d), (e), (f), and (g):

(1) Proposals for court rules, amendments to them, or abrogation of them may be made by any person.

(2) Proposals shall be submitted to the clerk of the supreme court, the committee chair(s) of a Florida Bar committee listed in subdivision (a)(3), or the Bar staff liaison of The Florida Bar in writing and shall include a general description of the proposed rule change or a specified proposed change in content. The clerk of the supreme court shall refer proposals to the appropriate committee under subdivision (a)(3).

(3) The Florida Bar shall appoint the following committees to consider rule proposals: Civil Procedure Rules Committee, Criminal Procedure Rules Committee, Small Claims Rules Committee, Traffic Court Rules Committee, Appellate Court Rules Committee, Juvenile Court Rules Committee, Code and Rules of Evidence Committee, Rules of Judicial Administration Committee, Probate Rules Committee, and Family Law Rules Committee.

(4) Each committee shall be ~~composed~~comprised of attorneys and judges with extensive experience and training in the committee's area of practice ~~of the committee calling for regular, frequent use of the rules~~concentration. Members of the Rules of Judicial Administration Committee shall also have previous rules committee experience or substantial experience in the administration of the Florida court system. The chair of each rules committee shall appoint one of its members to the Rules of Judicial Administration Committee to serve as a regular member of the Rules of Judicial Administration Committee to facilitate and implement routine periodic reporting by and to the Rules of Judicial Administration Committee on the development and progress of rule proposals under consideration and their potential impact on other existing or proposed rules. The members of the each rules committee shall serve for 3-year staggered terms, except members appointed by a rules committee chair to the Rules of Judicial Administration Committee who shall serve at the pleasure of the respective rules committee chairs. The president-elect of The Florida Bar shall appoint sitting members of each rules committee to serve as the chair(s) and vice chair(s) of each committee for each successive year.

(5) ~~The committees shall consider and vote on each proposal. The~~ rules ~~committees may originate proposals and are charged with the duty of~~ shall ~~regularly review and reevaluation of~~ reevaluate the rules to advance orderly and inexpensive procedures ~~in~~ for the administration of justice. The committees shall consider and vote on each proposal. The rules committees may accept or reject proposed amendments or may amend proposals. The rules committees shall keep minutes of their activities, which minutes shall reflect the action taken on each proposal prepare meeting agendas and minutes reflecting the status of rules proposals under consideration and actions taken. Copies of the minutes shall be furnished to the clerk of the supreme court, to the board of governors of The Florida Bar, and to the proponent of any proposal considered at the meeting. Each rules committee shall furnish promptly and timely to every other rules committee all meeting agendas and all minutes or other record of action taken.

(6) ~~The Rules of Judicial Administration Committee shall also serve as a~~ the central ~~rules coordinating committee. Each rules committee shall have at least 1 of its members appointed to the Rules of Judicial Administration Committee to serve as liaison. All committees shall provide a copy of any proposed rules changes to the Rules of Judicial Administration Committee within 30 days of a committee's affirmative vote to recommend the proposed change to the supreme court. The Rules of Judicial Administration Committee shall then refer all proposed rules changes to those rules committees that might be affected by the proposed change.~~ The Rules of Judicial Administration Committee's consideration of the rule proposal shall assess specifically whether the rule proposal addresses a matter of general or common application and shall include recommendations for reconciling competing or inconsistent rules, avoiding conflicts, ensuring consistency, limiting redundancy, and minimizing repetition among rules. The Rules of Judicial Administration Committee shall communicate regularly and promptly with other affected rules committees regarding the Rules of Judicial Administration Committee's considerations. Each rules committee shall provide a copy of any proposed rules changes to the Rules of Judicial Administration Committee within 30 days of a committee's affirmative vote to recommend the proposed change to the supreme court. The Rules of Judicial Administration Committee shall promptly acknowledge each rule proposal approved formally by a rules committee and refer all proposed rules changes to those rules committees that might be affected by the proposed change. The Rules of Judicial Administration Committee may issue a formal response to each rule proposal approved by a rules committee within 30 days after the next regularly-scheduled meeting of the Rules of Judicial Administration Committee for regular-cycle submissions and within 30 days after formal approval by a rules committee

for out-of-cycle submissions. Unless a deadline established by the supreme court or by the board of governors does not permit, the Rules of Judicial Administration Committee's response to a rule proposal shall be included and may be addressed in the submission of the rule proposal to the board of governors and to the supreme court.

(7) Whenever the Rules of Judicial Administration Committee receives a request to coordinate the submission of a single comprehensive report of proposed rule amendments on behalf of multiple rules committees, the general procedure shall be as follows:

(A) The subcommittee chairs handling the matter for each committee will constitute an ad hoc committee to discuss the various committees' recommendations and to formulate time frames for the joint response. The chair of the ad hoc committee will be the assigned Rules of Judicial Administration Committee subcommittee chair.

(B) At the conclusion of the work of the ad hoc committee, a proposed joint response will be prepared by the ad hoc committee and distributed to the committee chairs for each committee's review and final comments.

(C) The Rules of Judicial Administration Committee shall be responsible for filing the comprehensive final report.

(b) Schedule for Cycle Report Rules Proposals.

(1) Each committee shall report all proposed rule changes on a staggered basis (with the first cycle starting in 2006). Reports shall be made by the Criminal Procedure Rules Committee, the Traffic Court Rules Committee, and the Juvenile Court Rules Committee in 2006; by the Civil Procedure Rules Committee, the Probate Rules Committee, the Small Claims Rules Committee, and the Code and Rules of Evidence Committee in 2007; and by the Family Law Rules Committee, the Appellate Court Rules Committee, and the Rules of Judicial Administration Committee in 2008. Thereafter, the cycle shall repeat.

(2) 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 later than December 15 of the year prior to each reporting year, the board of governors shall consider the proposals and shall vote on each proposal to recommend acceptance, rejection, or amendment.

(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 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, and a two-column chart setting forth the proposed changes in legislative format in the first column and a brief explanation of each change in the second 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 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), 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. Notice of the ~~hearing~~oral argument 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, 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 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 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 proposals should be adopted in sufficient time 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, The Florida Bar, any bar association, and the affected committee.

(c) **Rejected Proposals.** If a committee rejects a proposal, the proponent may submit the proposed rule to the board of governors and shall notify the chair(s) and vice chair(s) of the affected committee of the submission of the proposed rule to the board of governors. Minority reports of committees are allowed and may be submitted to both the board of governors and the supreme court.

(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. If a change is made without reference to the committee, the change may become effective immediately or at a future time. In either event, the court shall 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 hearingoral argument 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 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 before the hearingoral argument. Notice of the hearingoral argument 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) **Committee Out-of-Cycle Reports.**

(1) Emergency Recommendations by Committee or Response to Legislation Reports. If, in the opinion of a committee, a proposal is of an emergency nature or if a rule amendment is necessary due to legislation amendments, 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. If the court agrees that an emergency exists, the court may publish the rule amendment for comment after an opinion has been issued or may set a time for oral argument and consideration of the proposal. Notice of the hearingoral 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 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. The recommendations or a resume of them shall be published after filing 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 hearingoral argument. Notice of the

~~hearing~~oral argument 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 Time-Sensitive Reports. 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 scheduled 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. 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 cycle report the supreme court may set a time for oral argument and consideration of the proposal. Notice of the 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 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. Notice of the oral argument 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 the clerk of 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. The supreme court may set oral argument on the report at any time. 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 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. 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. Notice of the ~~hearing~~oral argument 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.~~

(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 on the change and a copy of the change shall be provided in accordance with subdivision (d) ~~of this rule.~~

(2) Other Amendments. Amendments to all other Rules of Judicial Administration shall be referred to or proposed by the Rules of Judicial Administration Committee and adopted by the supreme court as provided in subdivisions (a), (b), (c), (d), (e), and (f) ~~of this rule.~~

(h) Local Rules Proposed by Trial Courts. The foregoing procedure shall not apply to local rules proposed by a majority of circuit and county judges in the circuit. The chief justice of the supreme court may appoint a Local Rule

Advisory Committee to consider and make recommendations to the court concerning local rules and administrative orders submitted pursuant to rule 2.215(e).

Committee Notes

1980 Amendment. Rule 2.130 is entirely rewritten to codify the procedures for changes to all Florida rules of procedure as set forth by this court in *In re Rules of Court: Procedure for Consideration of Proposals Concerning Practice and Procedure*, 276 So. 2d 467 (Fla. 1972), and to update those procedures based on current practice. The Supreme Court Rules Advisory Committee has been abolished, and the Local Rules Advisory Committee has been established.

RULE 2.510. FOREIGN ATTORNEYS

(a) Eligibility. Upon filing a verified motion with the court, an attorney who is an active member in good standing of the bar of another state and currently eligible to practice law in a state other than Florida may be permitted to appear in particular cases in a Florida court upon such conditions as the court may deem appropriate, provided that a member of The Florida Bar in good standing is associated as an attorney of record. The foreign attorney must make application in each court in which a case is filed even if a lower tribunal granted a motion to appear in the same case. In determining whether to permit a foreign attorney to appear pursuant to this rule, the court may consider, among other things, information provided under subdivision (b)(3) concerning discipline in other jurisdictions. No attorney is authorized to appear pursuant to this rule if the attorney (1) is a Florida resident, unless the attorney has an application pending for admission to The Florida Bar and has not previously been denied admission to The Florida Bar; (2) is a member of The Florida Bar but is ineligible to practice law; (3) has previously been disciplined or held in contempt by reason of misconduct committed while engaged in representation permitted pursuant to this rule provided, however, the contempt is final and has not been reversed or abated; (4) has failed to provide notice to The Florida Bar or pay the filing fee as required in subdivision (b)(7); or (5) is engaged in a “general practice” before Florida courts. For purposes of this rule, more than 3 appearances within a 365-day period in separate cases shall be presumed to be a “general practice.” Appearances at different levels of the court system in the same case shall be deemed 1 appearance for the purposes of determining whether a foreign attorney has made more than 3 appearances within a 365-day period. In cases involving indigent or pro bono clients, the court may waive the filing fee for good cause shown. This rule shall not affect the eligibility of a foreign attorney to appear in a Florida court when authorized by federal law.

(b) Contents of Verified Motion. A form verified motion accompanies this rule and shall be utilized by the foreign attorney. The verified motion required by subdivision (a) shall include:

(1) a statement identifying all jurisdictions in which the attorney is an active member in good standing and currently eligible to practice law, including all assigned bar numbers and attorney numbers, for which a certificate of good standing is not required;

(2) a statement identifying by date, case name, and case number all other matters in Florida state courts in which pro hac vice admission has been sought in the preceding 5 years, including any lower tribunals for the case in which the motion is filed, and whether such admission was granted or denied;

(3) a statement identifying all jurisdictions in which disciplinary, suspension, disbarment, or contempt proceedings have been initiated against the attorney in the preceding 5 years including the date on which the proceeding was initiated, the nature of the alleged violation, and the result of the proceeding including the sanction, if any, imposed;

(4) a statement identifying the date on which the legal representation at issue commenced, and the party or parties represented;

(5) a statement that all applicable provisions of these rules and the Rules Regulating The Florida Bar have been read, and that the verified motion complies with those rules;

(6) the name, record bar address, and membership status of the Florida Bar member or members associated for purposes of the representation;

(7) a certificate indicating service of the verified motion upon all counsel of record in the matter in which leave to appear pro hac vice is sought and upon The Florida Bar at its Tallahassee office accompanied by a nonrefundable \$250.00 filing fee made payable to The Florida Bar or notice that the movant has requested a judicial waiver of said fee; and

(8) a verification by the attorney seeking to appear pursuant to this rule and the signature of the Florida Bar member or members associated for purposes of the representation.

IN THE _____ COURT OF THE
_____ JUDICIAL CIRCUIT,
IN AND FOR _____,
COUNTY, FLORIDA

Plaintiff

Case No.

Division

**VERIFIED MOTION FOR ADMISSION TO APPEAR PRO HAC VICE
PURSUANT TO FLORIDA RULE OF JUDICIAL ADMINISTRATION
2.510**

1. ☐ Movant resides in _____, _____
(City) (State)

[] Movant is a resident of the State of Florida and has an application pending for admission to The Florida Bar and has not previously been denied admission to The Florida Bar.

2. Movant is an attorney and a member of the law firm of (or practices law under the name of) _____, with offices at
_____, _____, _____,
(Street Address) (City) (County)
_____, _____, _____
(State) (Zip Code) (Telephone)

3. Movant has been retained personally or as a member of the above
named law firm on _____ by
(Date Representation Commenced)
_____ to provide legal representation in connection with
(Name of Party or Parties)

the above-styled matter now pending before the above-named court of the State of Florida.

4. Movant is an active member in good standing and currently eligible to practice law in the following jurisdiction(s): Include attorney or bar number(s). (Attach an additional sheet if necessary.)

JURISDICTION

ATTORNEY/BAR NUMBER

5. There have been no disciplinary, suspension, disbarment, or contempt proceedings initiated against Movant in the preceding 5 years, except as provided below (give jurisdiction of proceeding, date upon which proceeding was initiated, nature of alleged violation, statement of whether the proceeding has concluded or is still pending, and sanction, if any, imposed): (Attach an additional sheet if necessary.)

6. Movant, either by resignation, withdrawal, or otherwise, never has terminated or attempted to terminate Movant's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings.

7. Movant is not an inactive member of The Florida Bar.

8. Movant is not now a member of The Florida Bar.

9. Movant is not a suspended member of The Florida Bar.

10. Movant is not a disbarred member of The Florida Bar nor has Movant received a disciplinary ~~resignation~~revocation from The Florida Bar.

11. Movant has not previously been disciplined or held in contempt by reason of misconduct committed while engaged in representation pursuant to

Florida Rule of Judicial Administration 2.510, except as provided below (give date of disciplinary action or contempt, reasons therefor, and court imposing contempt): (Attach an additional sheet if necessary.)

12. Movant has filed motion(s) to appear as counsel in Florida state courts during the past five (5) years in the following matters: (Attach an additional sheet if necessary.)

Date of Motion	Case Name	Case Number	Court	Date Motion Granted/Denied

13. Local counsel of record associated with Movant in this matter is _____ who is an active member in good standing of The _____ (Name and Florida Bar Number)

Florida Bar and has offices at _____, _____, _____,
(Street Address) (City) (County)
_____, _____, _____.
(State) (Zip Code) (Telephone with area code)

(If local counsel is not an active member of The Florida Bar in good standing, please provide information as to local counsel's membership status.
_____)

14. Movant has read the applicable provisions of Florida Rule of Judicial Administration 2.510 and Rule 1–3.10 of the Rules Regulating The Florida Bar and certifies that this verified motion complies with those rules.

15. Movant agrees to comply with the provisions of the Florida Rules of Professional Conduct and consents to the jurisdiction of the courts and the Bar of the State of Florida.

WHEREFORE, Movant respectfully requests permission to appear in this court for this cause only.

DATED this _____ day of _____, 20____.

Movant

Address

Address

City, State, Zip Code

Telephone Number

E-mail Address

STATE OF _____

COUNTY OF _____

I, _____, do hereby swear or affirm under penalty of perjury that I am the Movant in the above-styled matter; that I have read the foregoing Motion and know the contents thereof, and the contents are true of my own knowledge and belief.

Movant

I hereby consent to be associated as local counsel of record in this cause pursuant to Florida Rule of Judicial Administration 2.510.

DATED this _____ day of _____, 20____.

Local Counsel of Record

Address

Address

City, State, Zip Code

Telephone Number

Florida Bar Number

E-mail Address

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing motion was served by mail to PHV Admissions, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2333 accompanied by payment of the \$250.00 filing fee made payable to The Florida Bar, or notice that the movant has requested a judicial waiver of said fee; and by (e-mail) (delivery) (mail) (fax) to (name of attorney or party if not represented)

this _____ day of _____, 20____.

Movant

RULE 2.516. SERVICE OF PLEADINGS AND DOCUMENTS

(a) Service; When Required. Unless the court otherwise orders, or a statute or supreme court administrative order specifies a different means of service, every pleading subsequent to the initial pleading and every other document filed in any court proceeding, except applications for witness subpoenas and documents served by formal notice or required to be served in the manner provided for service of formal notice, must be served in accordance with this rule on each party. No service need be made on parties against whom a default has been entered, except that pleadings asserting new or additional claims against them must be served in the manner provided for service of summons.

(b) Service; How Made. When service is required or permitted to be made upon a party represented by an attorney, service must be made upon the attorney unless service upon the party is ordered by the court.

(1) Service by Electronic Mail (“e-mail”). All documents required or permitted to be served on another party must be served by e-mail, unless the parties otherwise stipulate or this rule otherwise provides. A filer of an electronic document has complied with this subdivision if the Florida Courts e-filing Portal (“Portal”) or other authorized electronic filing system with a supreme court approved electronic service system (“e-Service system”) served the document by e-mail or provided a link by e-mail to the document on a website maintained by a clerk (“e-Service”). The filer of an electronic document must verify that the Portal or other e-Service system uses the names and e-mail addresses provided by the parties pursuant to subdivision (b)(1)(A).

(A) Service on Attorneys. Upon appearing in a proceeding, an attorney must designate a primary e-mail address and may designate no more than two secondary e-mail addresses and is responsible for the accuracy of and changes to that attorney’s own e-mail addresses maintained by the Portal or other e-Service system. Thereafter, service must be directed to all designated e-mail addresses in that proceeding. Every document filed or served by an attorney thereafter must include the primary e-mail address of that attorney and any secondary e-mail addresses. If an attorney does not designate any e-mail address for service, documents may be served on that attorney at the e-mail address on record with The Florida Bar.

(B) Exception to E-mail Service on Attorneys. Upon motion by an attorney demonstrating that the attorney has no e-mail account and

lacks access to the Internet at the attorney's office, the court may excuse the attorney from the requirements of e-mail service. Service on and by an attorney excused by the court from e-mail service must be by the means provided in subdivision (b)(2) ~~of this rule~~.

(C) Service on and by Parties Not Represented by an Attorney. Any party not represented by an attorney may serve a designation of a primary e-mail address and also may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding by the means provided in subdivision (b)(1) of this rule. If a party not represented by an attorney does not designate an e-mail address for service in a proceeding, service on and by that party must be by the means provided in subdivision (b)(2) ~~of this rule~~.

(D) Time of Service. Service by e-mail is complete on the date it is sent.

(i) If, however, the e-mail is sent by the Portal or other e-Service system, service is complete on the date the served document is electronically filed.

(ii) If the person required to serve a document learns that the e-mail was not received by an intended recipient, the person must immediately resend the document to that intended recipient by e-mail, or by a means authorized by subdivision (b)(2) of this rule.

(iii) E-mail service, including e-Service, is treated as service by mail for the computation of time.

(E) Format of E-mail for Service. Service of a document by e-mail is made by an e-mail sent to all addresses designated by the attorney or party with either (a) a copy of the document in PDF format attached or (b) a link to the document on a website maintained by a clerk.

(i) All documents served by e-mail must be sent by an e-mail message containing a subject line beginning with the words "SERVICE OF COURT DOCUMENT" in all capital letters, followed by the case number and case style of the proceeding in which the documents are being served.

(ii) The body of the e-mail must identify the court in which the proceeding is pending, the case number, the name of the initial party on

each side, the title of each document served with that e-mail, and the name and telephone number of the person required to serve the document.

(iii) Any document served by e-mail may be signed by any of the “/s/,” “/s,” or “s/” formats.

(iv) Any e-mail which, together with its attached documents, exceeds the appropriate size limitations specified in the Florida Supreme Court Standards for Electronic Access to the Court, must be divided and sent as separate e-mails, no one of which may exceed the appropriate size limitations specified in the Florida Supreme Court Standards for Electronic Access to the Court and each of which must be sequentially numbered in the subject line.

(F) Service in Limited Appearance Cases. All pleadings or other documents shall be served upon the limited representation counsel and the party during the attorney’s limited representation as defined in Florida Rule of Judicial Administration 2.505(g). Unless the Notice of Limited Appearance filed in the case identifies the specific proceedings at which the limited representation counsel will appear, if limited representation counsel receives notice of a hearing that is not within the scope of the limited representation, limited representation counsel shall notify the court and the opposing party that the attorney will not attend the court proceeding because it is outside the limited representation.¹

(2) Service by Other Means. In addition to, and not in lieu of, service by e-mail, service may also be made upon attorneys by any of the means specified in this subdivision. If a document is served by more than one method of service, the computation of time for any response to the served document shall be based on the method of service that provides the shortest response time. Service on and by all parties who are not represented by an attorney and who do not designate an e-mail address, and on and by all attorneys excused from e-mail service, must be made by delivering a copy of the document or by mailing it to the party or attorney at their last known address or, if no address is known, by ~~leaving it with~~ noting the non-service in the certificate of service, and stating in the certificate of service that a copy of the served document may be obtained, on request, from the clerk of the court or from the party serving the document. Service by mail is complete upon mailing. Delivery of a copy within this rule is complete upon:

(A) handing it to the attorney or to the party,

¹ This proposed amendment, indicated with double underline, is currently before the Florida Supreme Court, Case SC16-1062.

(B) leaving it at the attorney's or party's office with a clerk or other person in charge thereof,

(C) if there is no one in charge, leaving it in a conspicuous place therein,

(D) if the office is closed or the person to be served has no office, leaving it at the person's usual place of abode with some person of his or her family above 15 years of age and informing such person of the contents, or

(E) transmitting it by facsimile to the attorney's or party's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, and the number of pages transmitted. When service is made by facsimile, a copy must also be served by any other method permitted by this rule. Facsimile service occurs when transmission is complete.

(F) Service by delivery shall be deemed complete on the date of delivery.

(c) **Service; Numerous Defendants.** In actions when the parties are unusually numerous, the court may regulate the service contemplated by these rules on motion or on its own initiative in such manner as may be found to be just and reasonable.

(d) **Filing.** All documents must be filed with the court either before service or immediately thereafter, unless otherwise provided for by general law or other rules. If the original of any bond or other document required to be an original is not placed in the court file or deposited with the clerk, a certified copy must be so placed by the clerk.

(e) **Filing Defined.** The filing of documents with the court as required by these rules must be made by filing them with the clerk in accordance with rule 2.525, except that the judge may permit documents to be filed with the judge, in which event the judge must note the filing date before him or her on the documents and transmit them to the clerk. The date of filing is that shown on the face of the document by the judge's notation or the clerk's time stamp, whichever is earlier.

(f) **Certificate of Service.** When any attorney certifies in substance:

“I certify that the foregoing document has been furnished to (here insert name or names, addresses used for service, and mailing addresses) by (e-mail (delivery) (mail) (fax) on(date).....

Attorney”

the certificate is taken as prima facie proof of such service in compliance with this rule.

(g) Service by Clerk. When the clerk is required to serve notices and other documents, the clerk may do so by e-mail as provided in subdivision (b)(1) or by any other method permitted under subdivision (b)(2). Service by a clerk is not required to be by e-mail.

(h) Service of Orders.

(1) A copy of all orders or judgments must be transmitted by the court or under its direction to all parties at the time of entry of the order or judgment. No service need be made on parties against whom a default has been entered except orders setting an action for trial and final judgments that must be prepared and served as provided in subdivision (h)(2). The court may require that orders or judgments be prepared by a party, may require the party to furnish the court with stamped, addressed envelopes for service of the order or judgment, and may require that proposed orders and judgments be furnished to all parties before entry by the court of the order or judgment. The court may serve any order or judgment by e-mail to all attorneys who have not been excused from e-mail service and to all parties not represented by an attorney who have designated an e-mail address for service.

(2) When a final judgment is entered against a party in default, the court must mail a conformed copy of it to the party. The party in whose favor the judgment is entered must furnish the court with a copy of the judgment, unless it is prepared by the court, with the address of the party to be served. If the address is unknown, the copy need not be furnished.

(3) This subdivision is directory and a failure to comply with it does not affect the order or judgment, its finality, or any proceedings arising in the action.

Proposed Rule

Reason for Change

RULE 2.140. AMENDING RULES OF COURT

(a) **Amendments Generally.** The following procedure shall be followed for consideration of rule amendments generally other than those adopted under subdivisions (d), (e), (f), and (g):

(1) Proposals for court rules, amendments to them, or abrogation of them may be made by any person.

(2) Proposals shall be submitted to the clerk of the supreme court, the committee chair(s) of a Florida Bar committee listed in subdivision (a)(3), or the Bar staff liaison of The Florida Bar in writing and shall include a general description of the proposed rule change or a specified proposed change in content. The clerk of the supreme court shall refer proposals to the appropriate committee under subdivision (a)(3).

(3) The Florida Bar shall appoint the following committees to consider rule proposals: Civil Procedure Rules Committee, Criminal Procedure Rules Committee, Small Claims Rules Committee, Traffic Court Rules Committee, Appellate Court Rules Committee, Juvenile Court Rules Committee, Code and Rules of Evidence Committee, Rules of Judicial Administration Committee, Probate Rules Committee, and Family Law Rules Committee.

(4) Each committee shall be ~~composed~~comprised of attorneys and judges with extensive experience and training in the committee's area of ~~practice of the~~

Subdivision (a)(2) is amended to include the Chair or Bar staff liaison of the pertinent Florida Bar rules of court committee as receivers of rule amendment proposals.

Subdivision (a)(4) is amended to ensure the membership of the rules of court procedure are attorneys, judges, or other

~~committee calling for regular, frequent use of the rules concentration. Members of the Rules of Judicial Administration Committee shall also have previous rules committee experience or substantial experience in the administration of the Florida court system. The chair of each rules committee shall appoint one of its members to the Rules of Judicial Administration Committee to serve as a regular member of the Rules of Judicial Administration Committee to facilitate and implement routine periodic reporting by and to the Rules of Judicial Administration Committee on the development and progress of rule proposals under consideration and their potential impact on other existing or proposed rules. The members of the each rules committee shall serve for 3-year staggered terms, except members appointed by a rules committee chair to the Rules of Judicial Administration Committee who shall serve at the pleasure of the respective rules committee chairs. The president-elect of The Florida Bar shall appoint sitting members of each rules committee to serve as the chair(s) and vice chair(s) of each committee for each successive year.~~

(5) ~~The committees shall consider and vote on each proposal. The rules committees may originate proposals and are charged with the duty of shall regularly review and reevaluation of reevaluate the rules to advance orderly and inexpensive procedures in for the administration of justice. The committees shall consider and vote on each proposal. The rules committees may accept or reject proposed amendments or may amend proposals. The rules committees shall keep minutes of their activities, which minutes shall reflect the action taken on each proposal prepare meeting agendas and minutes reflecting the status of rules proposals under consideration and actions taken.~~ Copies of the minutes shall be furnished to the clerk of the supreme court, to the board of governors of The Florida Bar, and

Bar licensed professionals with sufficient knowledge of the respective committee's focus.

Two new sentences are added to establish the requirement that members of the Rules of Judicial Administration Committee have certain practical experience to be appointed and that the chairs of each other respective rules committee appoint a member to the Rules of Judicial Administration Committee. This third sentence is an updating and relocation of a sentence from subdivision (a)(5).

The fourth sentence of this rule is amended to clarify that the committee liaison member serves at the pleasure of the respective committee chair by whom they are appointed. The last sentence is amended to clarify that the selection of committee chairs and vice chairs of all Bar rules committees are appointed by the president-elect of The Florida Bar Board of Governors.

The first sentence within subdivision (a)(5) is relocated for greater clarity and order of process. The now first sentence is amended to clarify that rules committees are required to regularly review and reevaluate the rules under their purview. The third sentence adds "rules" to clarify to what type of committee this rule relates. The fourth sentence rephrases the requirement of committees to timely prepare meeting agendas and minutes.

to the proponent of any proposal considered at the meeting. Each rules committee shall furnish promptly and timely to every other rules committee all meeting agendas and all minutes or other record of action taken.

(6) The Rules of Judicial Administration Committee shall also serve as the central rules coordinating committee. ~~Each rules committee shall have at least 1 of its members appointed to the Rules of Judicial Administration Committee to serve as liaison. All committees shall provide a copy of any proposed rules changes to the Rules of Judicial Administration Committee within 30 days of a committee's affirmative vote to recommend the proposed change to the supreme court. The Rules of Judicial Administration Committee shall then refer all proposed rules changes to those rules committees that might be affected by the proposed change. The Rules of Judicial Administration Committee's consideration of the rule proposal shall assess specifically whether the rule proposal addresses a matter of general or common application and shall include recommendations for reconciling competing or inconsistent rules, avoiding conflicts, ensuring consistency, limiting redundancy, and minimizing repetition among rules. The Rules of Judicial Administration Committee shall communicate regularly and promptly with other affected rules committees regarding the Rules of Judicial Administration Committee's considerations. Each rules committee shall provide a copy of any proposed rules changes to the Rules of Judicial Administration Committee within 30 days of a committee's affirmative vote to recommend the proposed change to the supreme court. The Rules of Judicial Administration Committee shall promptly acknowledge each rule proposal approved formally by a rules committee and refer all proposed rules changes to those rules committees that might be affected by the proposed change. The~~

Subdivision (a)(6) is amended to clarify the role of the Rules of Judicial Administration Committee as a central hub to ensure consistency of rules of procedure.

Sentences 2-4 of the current subdivision (a)(6) are deleted and relocated either within this subdivision or to subdivision (a)(5).

The new second sentence defines the role of the Rules of Judicial Administration Committee as the reviewer of proposed rules to determine if a proposed rule is of general or common application or if there are competing or inconsistent rules.

The new third sentence requires the Committee to regularly and promptly communicate to other committees a report of the rule review.

The new fourth sentence is essentially the relocation of the current second sentence, that sets the deadline for other committees to share a copy of approved proposed rule amendments within 30 days of the affirmative vote.

The new fifth sentence is essentially the relocation of the current third sentence that requires the sharing of proposed

Rules of Judicial Administration Committee may issue a formal response to each rule proposal approved by a rules committee within 30 days after the next regularly-scheduled meeting of the Rules of Judicial Administration Committee for regular-cycle submissions and within 30 days after formal approval by a rules committee for out-of-cycle submissions. Unless a deadline established by the supreme court or by the board of governors does not permit, the Rules of Judicial Administration Committee's response to a rule proposal shall be included and may be addressed in the submission of the rule proposal to the board of governors and to the supreme court.

(7) [No Change]

(b) Schedule for Cycle Report Rules Proposals.

(1) Each committee shall report all proposed rule changes on a staggered basis (with the first cycle starting in 2006). Reports shall be made by the Criminal Procedure Rules Committee, the Traffic Court Rules Committee, and the Juvenile Court Rules Committee in 2006; by the Civil Procedure Rules Committee, the Probate Rules Committee, the Small Claims Rules Committee, and the Code and Rules of Evidence Committee in 2007; and by the Family Law Rules Committee, the Appellate Court Rules Committee, and the Rules of Judicial Administration Committee in 2008. Thereafter, the cycle shall repeat.

(2) 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.

amendments with possibly impacted committees for consideration.

The new sixth sentence requires the Committee to issue a "formal response" within 30 days of a regular committee meeting for regular-cycle report proposals and 30 days after a formal approval by a committee for out-of-cycle submissions.

The new last sentence of this subdivision establishes that, unless a deadline prevents such, the Committee's response to the review of proposed rule amendments will be included in and may be addressed within the respective proposal submission to the board of governors and to the Court.

The title of subdivision (b) is amended to clarify the procedure within this subdivision

Subdivision (b)(2) is updated by deleting unnecessary terms and deleting or including procedural steps that occur in regular-cycle report procedure.

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~~ of 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~~ of 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 later than December 15 of the year prior to each reporting year, the board of governors shall consider the proposals and shall vote on each proposal to recommend acceptance, rejection, or amendment.

(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

The date of committee consideration of received comments to publications is amended to October 31 due to recent meeting scheduling to ensure compliance with the rule.

Subdivision (b)(4) is updated by deleting unnecessary terms and deleting or including procedural steps that occur in regular-cycle report procedure.

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)–(G) [No Change]

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 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)(5) is updated by deleting unnecessary terms and deleting or including procedural steps that occur in regular-cycle report procedure.

subdivision (b)(2), 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. Notice of the ~~hearing oral argument~~ 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, 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 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 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) [No Change]

Subdivision (b)(6) is updated by deleting unnecessary terms and deleting or including procedural steps that occur in regular-cycle report procedure.

(c) Rejected Proposals. If a committee rejects a proposal, the proponent may submit the proposed rule to the board of governors and shall notify the chair(s) and vice chair(s) of the affected committee of the submission of the proposed rule to the board of governors. Minority reports of committees are allowed and may be submitted to both the board of governors and the supreme court.

(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. If a change is made without reference to the committee, the change may become effective immediately or at a future time. In either event, the court shall 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~~ argument 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 change shall be published on the ~~Internet~~ websites of the

Subdivision (c) is updated to include the possibility of more than one chair or vice chair being appointed to a committee.

Subdivision (d) is updated by deleting unnecessary terms and deleting or including procedural steps that occur when an emergency amendment by the Court is published.

supreme court and The Florida Bar, and in ~~the Florida Bar Journal or The Florida Bar News/News~~ before the ~~hearing~~oral argument. Notice of the ~~hearing~~oral argument 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) Committee Out-of-Cycle Reports.

(1) Emergency Recommendations by

Committee Response to Legislation Reports. If, in the opinion of a committee, a proposal is of an emergency nature or if a rule amendment is necessary due to legislation amendments, 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. If the court agrees that an emergency exists, the court may publish the rule amendment for comment after an opinion has been issued or may set a time for oral argument and consideration of the proposal. 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 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. The recommendations or a resume of them shall

Subdivision (e) is split into two subdivisions to provide procedure for different types of out-of-cycle report submissions.

New subdivision (e)(1) is amended to specifically include rule proposals stimulated from legislation within this emergency rule amendment procedure.

The second and third sentences are amended to clarify that such emergency or legislatively stimulated amendments are not required to be published for comment prior to filing with the Court and the Court may publish the proposed rule amendments after the issuance of an opinion.

Subdivision is updated by deleting unnecessary terms and deleting or including procedural steps that occur in emergency or legislative stimulated procedures.

be published after filing on the ~~Internet~~ websites of the supreme court and The Florida Bar, and in the ~~Florida Bar Journal~~ of The Florida Bar ~~News~~ before the ~~hearing~~oral argument. Notice of the ~~hearing~~oral argument 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 Time-Sensitive

Reports. 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 scheduled 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. 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 cycle report the supreme court may set a time for oral argument and consideration of the proposal. Notice of the 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 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

Subdivision (e)(2) is created to provide specific authority for committee non-emergency out-of-cycle filings. The rule text within new subdivision (e)(2) is a revised copy of (e)(1). Specifically, the first sentence requires the committee's determination and the Board of Governors' concurrence that the proposed amendment warrants an out of cycle filing. The second sentence requires compliance with the Guidelines of Rules Submissions as currently published in AOSC06-14. The third sentence requires publication of the proposed amendment for comment. The fourth and fifth sentences authorizes the Court to schedule an oral argument, if desired, and define the notice requires for such scheduling. The sixth sentence authorizes the Clerk to serve notice of the oral argument electronically. The seventh sentence establishes the publication of comments filed prior to oral argument. The last sentence requires the publication of the notice of oral argument on the Court's website.

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. Notice of the oral argument 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 the clerk of 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. The supreme court may set oral argument on the report at any time. 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 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. 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~~

Subdivision (f) is updated by deleting unnecessary terms and deleting or including procedural steps that occur in request by court procedures.

~~Journal of The Florida Bar News~~News before the ~~hearing~~oral argument. Notice of the ~~hearing~~oral argument 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.~~

(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 on the change and a copy of the change shall be provided in accordance with subdivision (d) ~~of this rule.~~

(2) Other Amendments. Amendments to all other Rules of Judicial Administration shall be referred to or proposed by the Rules of Judicial Administration Committee and adopted by the supreme court as provided in subdivisions (a), (b), (c), (d), (e), and (f) ~~of this rule.~~

Subdivisions (g)(1) and (g)(2) are updated by deleting unnecessary terms and deleting or including procedural steps that occur in amendments without referral to rules committees and other amendment procedures.

(h) Local Rules Proposed by Trial Courts. [No Change]

Committee Notes

[No Change]



RULE 2.510.

FOREIGN ATTORNEYS

(a) Eligibility. Upon filing a verified motion with the court, an attorney who is an active member in good standing of the bar of another state and currently eligible to practice law in a state other than Florida may be permitted to appear in particular cases in a Florida court upon such conditions as the court may deem appropriate, provided that a member of The Florida Bar in good standing is associated as an attorney of record. The foreign attorney must make application in each court in which a case is filed even if a lower tribunal granted a motion to appear in the same case. In determining whether to permit a foreign attorney to appear pursuant to this rule, the court may consider, among other things, information provided under subdivision (b)(3) concerning discipline in other jurisdictions. No attorney is authorized to appear pursuant to this rule if the attorney (1) is a Florida resident, unless the attorney has an application pending for admission to The Florida Bar and has not previously been denied admission to The Florida Bar; (2) is a member of The Florida Bar but is ineligible to practice law; (3) has previously been disciplined or held in contempt by reason of misconduct committed while engaged in representation permitted pursuant to this rule provided, however, the contempt is final and has not been reversed or abated; (4) has failed to provide notice to The Florida Bar or pay the filing fee as required in subdivision (b)(7); or (5) is engaged in a “general practice” before Florida courts. For purposes of this rule, more than 3 appearances within a 365-day period in separate cases shall be presumed to be a “general practice.” Appearances at different levels of the court system in the same case shall be deemed 1 appearance for the purposes of determining whether a foreign attorney has made more than 3 appearances within a 365-day period. In cases involving indigent or pro bono clients, the court may waive the filing fee for good

cause shown. This rule shall not affect the eligibility of a foreign attorney to appear in a Florida court when authorized by federal law.

(b) Contents of Verified Motion. [No Change]

Amendments to the form to Rule 2.510 is shown in Appendix B pursuant to *In Re: Guidelines for Rules Submissions*, No. AOSCO6-14 (Fla. 2006).

Subdivision (a) is amended to clarify the federal authority and remove the pro hac vice limitation for federally authorized court appearances within this state rule of procedure.

RULE 2.516. SERVICE OF PLEADINGS AND DOCUMENTS

(a) Service; When Required. [No change]

(b) Service; How Made. When service is required or permitted to be made upon a party represented by an attorney, service must be made upon the attorney unless service upon the party is ordered by the court.

(1) Service by Electronic Mail (“e-mail”).

All documents required or permitted to be served on another party must be served by e-mail, unless the parties otherwise stipulate or this rule otherwise provides. A filer of an electronic document has complied with this subdivision if the Florida Courts e-filing Portal (“Portal”) or other authorized electronic filing system with a supreme court approved electronic service system (“e-Service system”) served the document by e-mail or provided a link by e-mail to the document on a website maintained by a clerk (“e-Service”). The filer of an electronic document must verify that the Portal or other e-Service system uses the names and e-mail addresses provided by the parties pursuant to subdivision (b)(1)(A).

(A) Service on Attorneys. [No Change]

(B) Exception to E-mail Service on Attorneys. Upon motion by an attorney demonstrating that the attorney has no e-mail account and lacks access to the Internet at the attorney’s office, the court may excuse the attorney from the requirements of e-mail service. Service on and by an attorney

excused by the court from e-mail service must be by the means provided in subdivision (b)(2) ~~of this title~~.

(C) Service on and by Parties Not Represented by an Attorney. Any party not represented by an

attorney may serve a designation of a primary e-mail address and also may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding by the means provided in subdivision (b)(1) of this rule. If a party not represented by an attorney does not designate an e-mail address for service in a proceeding, service on and by that party must be by the means provided in subdivision (b)(2) ~~of this title~~.

(D) Time of Service. [No Change]

(E) Format of E-mail for Service.

Service of a document by e-mail is made by an e-mail sent to all addresses designated by the attorney or party with either (a) a copy of the document in PDF format attached or (b) a link to the document on a website maintained by a clerk.

(i) All documents served by e-mail must be sent by an e-mail message containing a subject line beginning with the words “SERVICE OF COURT DOCUMENT” in all capital letters, followed by the case number and case style of the proceeding in which the documents are being served.

(ii) The body of the e-mail must identify the court in which the proceeding is pending; the case number, the name of the initial party on each side, the title

Editorial amendment to remove unnecessary text for consistency within the rule sets.

Editorial amendment to remove unnecessary text for consistency within the rule sets.

Subdivision (b)(1)(E)(i) is amended to further identify the case for which service is performed within the subject matter line in e-mail service to avoid accidental deletion of service as junk mail or automatically falling into a spam file.

of each document served with that e-mail, and the name and telephone number of the person required to serve the document.

(iii) Any document served by e-mail may be signed by any of the “/s/,” “/s,” or “s/” formats.

(iv) Any e-mail which, together with its attached documents, exceeds the appropriate size limitations specified in the Florida Supreme Court Standards for Electronic Access to the Court, must be divided and sent as separate e-mails, no one of which may exceed the appropriate size limitations specified in the Florida Supreme Court Standards for Electronic Access to the Court and each of which must be sequentially numbered in the subject line.

(F) Service in Limited Appearance

Cases. All pleadings or other documents shall be served upon the limited representation counsel and the party during the attorney’s limited representation as defined in Florida Rule of Judicial Administration 2.505(g). Unless the Notice of Limited

Appearance filed in the case identifies the specific proceedings at which the limited representation counsel will appear, if limited representation counsel receives notice of a hearing that is not within the scope of the limited representation, limited representation counsel shall notify the court and the opposing party that the attorney will not attend the court proceeding because it is outside the limited representation.

(2) **Service by Other Means.** In addition to, and not in lieu of, service by e-mail, service may also be made upon attorneys by any of the means specified in this subdivision. If a document is served by more than one method of service, the computation of time for any response to the served document

This proposed amendment in subdivision (b)(1)(F), indicated by double-underline, is currently before the Florida Supreme Court, Case SC16-1062.

shall be based on the method of service that provides the shortest response time. Service on and by all parties who are not represented by an attorney and who do not designate an e-mail address, and on and by all attorneys excused from e-mail service, must be made by delivering a copy of the document or by mailing it to the party or attorney at their last known address or, if no address is known, by ~~leaving it with~~ noting the non-service in the certificate of service, and stating in the certificate of service that a copy of the served document may be obtained, on request, from the clerk of the court or from the party serving the document. Service by mail is complete upon mailing. Delivery of a copy within this rule is complete upon:

(A) handing it to the attorney or to the party,

(B) leaving it at the attorney's or party's office with a clerk or other person in charge thereof,

(C) if there is no one in charge, leaving it in a conspicuous place therein,

(D) if the office is closed or the person to be served has no office, leaving it at the person's usual place of abode with some person of his or her family above 15 years of age and informing such person of the contents, or

(E) transmitting it by facsimile to the attorney's or party's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, and the number of pages transmitted. When service is made by facsimile, a copy must also be served by any other

Subdivision (b)(2) is amended to provide an option to avoid the failure of service within a case by providing for situations when a pro se litigant has not designated an e-mail address and no physical address is known.

method permitted by this rule. Facsimile service occurs when transmission is complete.

(F) Service by delivery shall be deemed complete on the date of delivery.

(c)–(h) [No Change]

RULES OF JUDICIAL ADMINISTRATION COMMITTEE THREE-YEAR CYCLE AMENDMENTS

The Rules of Judicial Administration Committee invites comments on proposed three-year cycle amendments to the Rules of Judicial Administration shown below. The full text of the proposals can be found on The Florida Bar's website at www.FloridaBar.org. The proposed amendments will be filed with the court by February 1, 2017. Pursuant to *Fla.R.Jud.Admin.* 2.140(b)(2), interested persons have until August 31, 2016, to submit comments **electronically** to The Honorable Steven S. Stephens, Chair, Rules of Judicial Administration Committee, stephenss@fljud13.org, with a copy to the Bar staff liaison, Krys Godwin, kgodwin@floridabar.org.

RULE/FORM	VOTE	EXPLANATION
2.140. (Amending Rules of Court)	(a)(4)–(a)(6): 21-4-2	Amends subdivision (a)(4) to more clearly define the requirements for membership within a rule of procedure committee and clarifies the role of the voting committee liaison members within the Rules of Judicial Administration Committee. Amends subdivision (a)(5) to clarify: that rule amendments may originate by committee members or from others; the procedure of approving proposed rule amendments; the requirement for record keeping, and distribution and sharing of the records with other committees. Amends subdivision (a)(6) to redefine the role of the Rules of Judicial Administration Committee review of all committees' proposed rules: requires a review of all rules for possible general or common application; confirms the requirement for regular and prompt communication between committees regarding the Rules of Judicial Administration Committees reviews and referrals to other committees possibly being impacted by proposed rules; establishes the time-line for the Rules of Judicial Administration Committee's review and the procedure for communication of that review. Proposes procedures to share that review with the Board of Governors and the supreme court.
	All others: 30-1-0	Amends many other subdivisions of this rule to more clearly detail the procedure for rules of procedure amendments. Generally, the chair and vice chair terms are pluralized; the word "Internet" is deleted; "News" referring to The Florida Bar <i>News</i> is italicized; "The" for The Florida Bar is

RULE/FORM	VOTE	EXPLANATION
		capitalized where appropriate; “hearing” is changed to “oral argument” throughout; and “of this rule” is deleted when not necessary because no other rule is cited to lead to confusion. Specifically, subdivision (a)(2) requires proposed rule amendments be submitted to the committee chair and attorney staff liaison of the pertinent committee. Subdivision (b) title is amended to define the procedure for 3-year cycle reports; extends the time for committees to review comments received by 16 days; clarifies the publication requirement; Bar staff liaison is included as a receiver of comments, notices, and filings; and includes a necessary inclusion of The Florida Bar Executive Director as a required party in the filings. Subdivision (e) is renamed as Committee Out-of-Cycle Reports and two types of filings are detailed: filings stimulated by an emergency or in response to a legislative amendment that are time-sensitive enough that they must be filed with the court without prior publication by the committee; and filings stimulated by a non-emergency, yet time-sensitive, concern that cannot wait for the committee’s 3-year cycle report schedule yet is not an emergency so the matter may be published by the committee and comments will be considered prior to submission to the court.
2.510. (Foreign Attorneys)	(a): 35-0 Form (editorial)	Amends subdivision (a) (Eligibility) by adding a sentence to clarify that the rule does not apply to foreign attorneys who are permitted to be named or appear by federal law (<i>i.e.</i> , Federal Attorney General or Solicitor General of the United States). Amends paragraph 10 of the Verified Motion form to update the term “disciplinary resignation” to the current “disciplinary revocation” per the Rules Regulating The Florida Bar. (101 So. 3d 807.)
2.516. (Service of Pleadings and Documents)	(b)(1)(E)(i): 19-4-0 (b)(2): 26-4-0	Amends subdivision (b)(1)(E)(i) (Format of E-mail for Service) by adding “and case style” in the subject line of the e-mail used for service of any document. Amends subdivision (b)(2) (Service by Other Means) by providing an option to note the inability

RULE/FORM	VOTE	EXPLANATION
		to serve a party within the certificate of service and providing information of where a copy of the served document may be obtained.
2.560. (Appointment of Spoken Language Court Interpreters for Non-English- Speaking and Limited- English- Proficient Persons)	27-0	Amends subdivision (a) (Criminal or Juvenile Delinquency Proceedings) to provide a non-English-speaking or limited-English-proficient parent, in any juvenile delinquency proceeding, the appointment of an interpreter.

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August 31, 2016

VIA EMAIL

The Honorable Steven S. Stephens, Chair
Rules of Judicial Administration Committee
stephenss@fljud13.org

**Re: Appellate Court Rules Committee Comments to Proposed Amendments to Rule of
Judicial Administration 2.140(a)(6) Relating to the Rule Amendment Process**

Dear Judge Stephens,

On behalf of the Appellate Court Rules Committee ("ACRC"), I am writing to provide to you our Committee's comments to the Rules of Judicial Administration Committee's ("RJAC") proposed amendments to Rule 2.140. When the proposed amendment of Rule 2.140 was first under consideration by the RJAC, former ACRC chair Wendy Loquasto appointed an ad hoc subcommittee to review the proposed amendments on behalf of the ACRC. Based on the work of that subcommittee, the ACRC provided comments to Murray Silverstein, then the chair of the RJAC, on December 24, 2014. (See Attachment 1). Now that the RJAC has formally approved proposed amendments to Rule 2.140, the ACRC provides the following comments to the new proposal to amend Rule 2.140(a)(6).

The ACRC recognizes the RJAC's laudable goals of avoiding conflict in the rules sets and encouraging better communication between the rules committees when rules affect more than one area of practice. The ACRC is appreciative of the significant work that the RJAC has undertaken in that regard and believes many of the proposed changes to Rule 2.140 as a whole will be beneficial. The ACRC has some concerns, however, regarding the proposed amendments to Rule 2.140(a)(6). In sum and as explained below, the ACRC is concerned that as currently worded, the proposed amendments to Rule 2.140(a)(6) would add unnecessary burdens and delay to the rulemaking process; are unclear in their scope (which could further contribute to the burdens and delay); and may result in unintentionally shifting the meaningful input on a rule away from a substantive committee with members who specialize in that area of practice to the RJAC, where a majority of the members may have little or no experience using that rules set. For these reasons, the ACRC suggests alternative language to try to further the work and goals of the RJAC while addressing the ACRC's concerns.

RJAC's Historical Role as the Coordinating Committee

The RJAC was given the role of a “coordinating committee” in 1984 amendments to the Rules of Judicial Administration. The Florida Bar Re: Rules of Judicial Administration, 458 So. 2d 1110 (Fla. 1984). The Florida Supreme Court explained the scope and intent of this function:

A new rule, Rule 2.130(b)(5), has been submitted which provides for a coordinating function of all rule proposals to be assigned to the Judicial Administration Rules Committee. The intent is to identify how proposed changes in one set of rules inter-relate with existing and proposed rules in other areas. This coordinating function provides a means for determining the potential impact of rules changes on rules in other areas of the law.

458 So. 2d at 1110-11.

The 1984 version of Rule 2.130(b)(5) expressly stated that the RJAC's role as coordinating committee involved identifying conflicts and referring them to the applicable committees for resolution. The rule read as follows:

(5) The Judicial Administration Rules Committee shall also serve as a Rules Coordinating Committee. Each rules committee shall have at least one of its members appointed to the Judicial Administration Rules Committee to serve as liaison. All proposed rules changes shall be submitted to the Judicial Administration Rules Committee which shall then refer all proposed rules changes to those rules committees that might be affected by the proposed change. All proposed changes shall be submitted by June 30 of each year of the rules cycle.

(emphasis supplied).

The petition filed by the RJAC requesting the amendment to make it a “coordinating committee” likewise confirms that the intent of this role was to identify conflicts and refer those conflicts to the relevant rules committees for resolution. The stated “reason for proposed amendment” in the RJAC petition was: “This rule provides for a coordinating function to be assigned to the Judicial Administration Rules Committee. The intent is to ensure that all proposed changes are referred to a rules committee that might be affected by a proposed change in a rule on another rules committee. The committee felt this function was important to provide adequate review of the potential impact of a rules change in one area upon other rules.” RJA Proposed Amendments for cycle ending July 1, 1984, page 5.

The RJAC's role as a “coordinating committee” is currently set forth in Rule 2.140(a)(6), now the subject of the RJAC's proposed amendment. Rule 2.140(a)(6) provides:

All committees shall provide a copy of any proposed rules changes to the Rules of Judicial Administration Committee within 30 days of a committee's affirmative vote to recommend the proposed change to the supreme court. The Rules of Judicial Administration Committee shall then refer all proposed rules changes to those rules committees that might be affected by the proposed change.

Presently the RJAC acts as an intermediary to ensure that all rules committees are aware of proposed rules or amendments that may impact their rules set. The resolution of any perceived impact or conflict between rules sets is then referred to and resolved by the rules committees that would be affected by any change.

The History and Purpose of the Proposed Amendments to Rule 2.140

Based upon a review of the RJAC's agendas and minutes, amendments to Rule 2.140 arose from a desire to increase greater communication among the rules committees and to avoid conflict and redundancy between rules sets. There was a shared belief that if the rules committees communicated more frequently and before rule amendments were formally approved, then efforts at systemic changes could be better coordinated and conflicts could be potentially avoided. The ACRC generally agrees with these goals.

There were, however, vocal RJAC members who expressed concern about making consistency a priority over the best practices for each area of law. Those members explained that there may be very purposeful and good reasons why a rule would operate differently in one rule set than it does in the other rules of procedure. The ACRC generally agrees with these concerns also.

Ultimately, in its January 2015 report, the RJAC's Ad Hoc Subcommittee outlined three goals to accomplish through amendment of Rule 2.140:

- (1) describe the qualifications for membership on the RJAC and the role of rules committee liaisons;
- (2) establish an efficient and consistent procedure for ensuring that the RJAC and other rules committees are promptly apprised of proposed rules changes that could affect their rules sets; and
- (3) clarify the RJAC's role as a "rules coordinating committee" to reflect that the RJAC should determine whether proposed rule changes address a matter of common or general application and make recommendations for resolving inconsistencies, conflicts, and redundancies among the rules sets.

In that same report, the Ad Hoc Subcommittee acknowledged that complete consensus on how Rule 2.140 should be amended had not been reached. It was noted, however, that members of other rules committees expressed a shared view that amendments to Rule 2.140 should not authorize the RJAC to veto changes proposed by other rules committees, or to dictate how other rules committees address matters that those committees considered to be unique to their individual rule set.

The Proposed Amendments to Rule 2.140(a)(6)

The RJAC has now approved a proposal to amend Rule 2.140(a)(6) as follows:

(6) ~~The Rules of Judicial Administration Committee~~RJAC shall also serve as ~~the~~central rules coordinating committee. The RJAC's consideration of a rule proposal shall assess specifically whether the rule proposal addresses a matter of general or common application and shall include recommendations for reconciling competing or inconsistent rules, avoiding conflicts, ensuring consistency, limiting redundancy, and minimizing repetition among rules. The RJAC shall communicate regularly and promptly with other affected rules committees regarding the RJAC's considerations. The RJAC shall acknowledge promptly each rule proposal approved

formally by a rules committee and may issue a formal response to each rule proposal approved by a rule committee. Each rules committee shall have at least 1 of its members appointed to the Rules of Judicial Administration Committee to serve as liaison. All committees shall provide a copy of any proposed rules changes to the Rules of Judicial Administration Committee within 30 days of a committee's affirmative vote to recommend the proposed change to the supreme court. The Rules of Judicial Administration Committee shall then refer all proposed rules changes to those rules committees that might be affected by the proposed change within 30 days after the next regularly-scheduled meeting of the RJAC for regular-cycle submissions and within 30 days after formal approval by a rules committee for out-of-cycle submissions. Unless a deadline established by the supreme court or by the board of governors of The Florida Bar does not permit, the RJAC's response to a rule proposal shall be included and may be addressed in the submission of the rule proposal to the board of governors of The Florida Bar and to the supreme court.

As presently drafted, proposed Rule 2.140(a)(6) significantly expands the role of RJAC. Currently and as shown, the RJAC identifies proposed rules that may affect another rules set and refers them to the relevant rules committees for resolution. Under the proposed rule, the RJAC would be tasked with "consideration" of all rule proposals. This implies a deliberative process much like a court deciding an issue. And the RJAC's consideration is not limited to identifying conflicts in the rules and referring them to the affected rules committees for resolution. Instead, the RJAC is to assess if the rule "addresses a matter of general or common application" and to make its specific "recommendations for reconciling competing or inconsistent rules, avoiding conflicts, ensuring consistency, limiting redundancy, and minimizing repetition among rules." Because of this additional step in the rulemaking process, the amendment requires that any proposal approved by a rules committee will now have to await a formal response from the RJAC at its next regularly scheduled meeting. And the RJAC's formal response may then require further consideration by the proposing committee at its next regularly scheduled meeting thereafter.

The ACRC's Three Concerns with the Proposed Amendment

The ACRC has three concerns with the proposed amendment to Rule 2.140:

- 1. The proposed amendment adds an extra step to an already cumbersome rulemaking process that will cause significant and often unnecessary delay.**

The proposed amendments to Rule 2.140(a)(6) contemplate that the RJAC may issue a formal response to each rule proposal approved by another committee within 30 days after the next regularly-scheduled meeting of the RJAC for regular-cycle submissions and within 30 days after formal approval by a rules committee for out-of-cycle submissions. The amendments also contemplate that the RJAC's response (and if the affected committee chooses to address it, their reply to the RJAC's response) shall be included in the submission of the rule proposal to The Florida Bar's Board of Governors and to the Florida Supreme Court. This "response process" for every proposed rule or rule amendment adds another layer of labor and undue delay to an already thorough and lengthy rule amendment process.

The delay created by the amendments is best articulated through example. The ACRC often vets, debates, and works on referrals in its subcommittees for months before proposing amendments for the full committee's consideration. Assuming the ACRC approves an amendment at the January Bar meeting, the RJAC's deadline for issuing a response would be 30 days after its next regularly scheduled meeting in June—at least a six-month period of time. If the RJAC decides not to respond, the delay is only that six months. But if the RJAC issues a formal response as contemplated by the amendments, the ACRC will need time to reconvene the subcommittee that worked on the proposal and to have the subcommittee

report its recommendations to the full ACRC. Depending on how extensive the RJAC's recommendations are, the ACRC may need to discuss and vote on the appropriate action to take in response to the RJAC's response at the ACRC's next full committee meeting—September at the earliest, but possibly the next January. This could result in scenarios where proposals approved by the ACRC are not ready for submission to the Board of Governors or the Florida Supreme Court for at least six months, and possibly more than a full year, after the ACRC has approved them. In addition, if the ACRC were to ultimately disagree with the RJAC's recommendations, additional work would no doubt be required of both committees when the rule was presented to the Board of Governors or the Florida Supreme Court.

This delay will not only impact the particular proposal that is the subject of the RJAC review. Anytime the RJAC files a response that must be included in the ACRC's proposal packet, the ACRC will need to carve out time from its next meeting agenda to consider the response. As a result, the ACRC may be unable to address as many requests for amendment in the limited time provided for its meetings or in each three-year cycle.

It is respectfully suggested that this additional burden on the committees and delay in the rule process is not merited when the majority of rules amendment proposals present no conflict across the rules sets. And in the few cases in which such conflicts arise, there are existing mechanisms in place to resolve them, as discussed further below.

2. The proposed amendment does not clearly define the scope of the RJAC's proposed review, consideration, and comment.

The ACRC's concern regarding additional burdens and delay is heightened by the seemingly broad language of the proposed amendment and the difficulty in interpreting the precise scope of the RJAC's new review process.

For example, the new amendments contemplate the RJAC will review every other committee's rule proposals to determine whether the proposals address a "matter of general or common application." Yet the RJAC has provided no definition or guidance regarding what constitutes a "matter of general or common application." Indeed, members of the RJAC Ad Hoc Subcommittee acknowledged their struggle to articulate what would constitute a "rule of general application." And former Chair Loquasto's prior comments to the RJAC on an earlier draft of Rule 2.140 also explained that no consensus had been reached as to what those potential rules of general application might cover.

In the absence of a clear definition of a "matter of general or common application," whether or not a proposed rule falls into this category will generally be left to the discretion of the reviewer, i.e., the assigned RJAC member. While one RJAC member may limit the definition to a rule that has equal application across *all* rules sets, another RJAC member may consider a rule that impacts two or more rules sets to be a matter of common application that should be applied elsewhere. Moreover, the question may beg a result-driven analysis: If a rule passed by the RJAC will apply to all proceedings, then such a rule is or will be a "matter of general or common application," regardless of its impact on differing areas of practice. In the absence of a definition or further guidance, what constitutes a matter of general or common application could be infinite—and would seem to be determined largely by the eye of the beholder.

In truth, there is and has been legitimate debate about what is or should be considered a "matter of general or common application." The RJAC's Ad Hoc Subcommittee's January 2015 report suggested that "several rules of common or general application are easily identified, such as computation of time,

service and filing of pleadings, motion, notices, etc., attorney appearances, attorney signature, basic discovery devices, court testimony, and motions for rehearing.” While there certainly may be “rules of common or general application” crafted on these subjects, the potential impact of such rules could be very different across the different areas of practice. Discovery is different in criminal and civil proceedings, and does not occur at all in appellate proceedings, for example. And limited appearances may work one way in trial courts but differently in appellate courts.

A similar concern is presented over what may be considered “competing or inconsistent” rules, as compared to rules that actually create a conflict. Where two rules are diametrically opposed, a conflict will be easy to identify. But the RJAC’s materials provide no guidance as to what may constitute a “competing or inconsistent rule” that would merit RJAC intervention under new Rule 2.140.

Recently, RJAC’s liaison subcommittee’s “coordinating” activity has gone beyond merely looking for conflicts between rules sets. As reflected in recent RJAC Liaison Subcommittee reports and RJAC minutes, some RJAC members have begun to comment on language or procedural choices in rules proposed by the other substantive rules committees, even where no conflict exists. Such recent actions suggest the RJAC may identify rules to be “competing or inconsistent” more frequently than the RJAC contemplated when it determined the RJAC should prepare formal, written responses to all such rules.

Because terms like “matter of general or common application” and “competing and inconsistent” remain undefined and unclear, it is impossible to determine how many potential rule proposals will be subject to delay as a result of the RJAC preparing a written response with recommendations of further action. However, it is reasonable to conclude that the broader these concepts are interpreted to be, the more responses the RJAC may draft and the more proposals will be delayed.

3. The proposed rule risks shifting the meaningful input on rules away from the substantive rules committees that are made up of practitioners who specialize in the use of those rules to a committee with a majority of members without specialized experience in the rules at issue.

Currently, the primary responsibility for both crafting rules of procedure in discrete practice areas and reconciling any perceived conflicts in the rules lies with the respective substantive rules committees. In turn, those committees are made up of “attorneys and judges with extensive experience and training in the area of practice of the committee calling for regular, frequent use of the rules.” Rule 2.140(a)(4). And under current Rule 2.140(a)(6), the RJAC acts effectively as an intermediary to ensure that all rules committees are aware of rules that may impact their committee’s rules or pose a potential conflict. That process then promotes having the affected committees work together when necessary to propose rules that are consistent and in keeping with their respective areas of practice.

To date, the RJAC has not been tasked with formally commenting on the work of the substantive committees, much less required to propose recommendations as to how those substantive rules should be crafted. That the RJAC will now directly advise the other committees, the Board of Governors, and the Florida Supreme Court regarding how proposals should be reconciled or rewritten is a significant departure from its current coordinating function.

To the extent the proposed amendments to Rule 2.140(a)(6) contemplate that the RJAC will review all rules and recommend changes to already-approved amendments by other substantive committees, the amendments tend to undermine the rationale for having members with specialized knowledge on each rules committee. By way of example, the ACRC’s members with extensive experience in appellate practice and procedure should be in the best position to determine what rules of

procedure should apply in appellate proceedings and the likely impact of proposed rule changes on appellate practice—whether or not non-appellate practitioners might view a proposed rule as one of “common application.” But rather than let the ACRC resolve that issue, the proposed amendments to Rule 2.140(a)(6) would permit RJAC members with potentially little or no appellate court experience to review ACRC proposals and make alternative recommendations to the Board of Governors or the Florida Supreme Court.

And while the substantive rules committees are provided representation on the RJAC, their limited representation would not carry the day over the larger group of diverse practitioners. As a result, if the RJAC is to truly shift from a coordinating committee to a reviewing committee with formal substantive input on the text of rules, perhaps the makeup of the committee should be changed or other protections put in place to ensure the expertise of the substantive committee members is not easily overridden by other RJAC members who have little or no experience with those rules or subject matters.

The Purposes Behind The Amendments Can Be Served By Already-Existing Mechanisms

As noted, the ACRC supports the RJAC’s laudable goals to increase greater communication among the various rules committees and to avoid conflict and redundancy between rules sets. To that end, the existing rules and procedures rightfully allow the RJAC the opportunity to participate in the other rules committee’s amendment process.

Rule 2.140(a)(6) requires a rules committee to “provide a copy of any proposed rule changes” to the RJAC within 30 days of the rules committee’s vote affirming the proposal. The RJAC then refers those proposals to any “rules committees that might be affected by the proposed change.” It is now common for members of the RJAC to contact the referring committee if they perceive a problem in the proposed rule or rule amendment. Rule 2.140(a)(5) also requires committees to “keep minutes of their activities” and furnish those minutes to the Supreme Court Clerk, the Board of Governors, and proponents of a proposal. These mechanisms keep the RJAC apprised of and involved in other committees’ rule proposals.

The schedule for rules proposals outlined by Rule 2.140(b) also gives RJAC the opportunity to comment on all rule proposals. As set forth therein, all proposed rule changes are published and “[a]ny person desiring to comment upon proposed rule changes” can submit written comments to the relevant committee. The relevant committee must then consider all comments received and report any changes that follow—or the reasons no changes were made—to the Board of Governors.

Furthermore, once the proposed amendment is filed with the Florida Supreme Court, the RJAC has another opportunity to comment. Under Rule 2.140(b)(4)(D) and (b)(4)(G), a rules committee must report to the Florida Supreme Court the actions taken in response to comments the committee received before the proposal was filed. And under Rule 2.140(b)(6), the RJAC could submit comments directly to the Florida Supreme Court after the proposed amendment is filed. The chair of the proposing rules committee must thereafter respond to all such comments. These existing mechanisms provide the RJAC ample opportunity to comment on any proposals it receives.

Aside from the mechanisms already in place in the Rules of Judicial Administration, the individual rules committees may have their own procedures in place to further ensure proposals are available for public view and comment. For example, the ACRC posts a chart of its active referrals on its webpage. Pursuant to the ACRC’s Internal Operating Procedure V.c., upcoming meeting agendas and minutes are posted to the ACRC’s website. Consistent with the amendment process set forth in the Rules

of Judicial Administration, the ACRC's procedures require relevant subcommittees to review any comments made to proposals and prepare written responses thereto (IOP V.i.). And the ACRC is well known for working with other rules committees on matters that affect more than one rules set. See, e.g., In Re Amendments to The Florida Rules Of Criminal Procedure, 167 So.3d 395 (Fla. 2015) (criminal submission joined by ACRC to jointly address conflict between rules regarding rendition).

In addition, the structure of the RJAC, which includes members from the other substantive rules committees, already promotes the goal of encouraging greater communication before rule amendments are formally approved. In recent years, the RJAC has successfully navigated communications with and among the various rules committees to gain consensus where consensus could be had without a negative impact on any specific rules set. And to further that effort, the RJAC's proposed amendment to Rule 2.140(a)(5) will also increase pre-approval communications by requiring the committees to furnish their agendas and minutes to other committees.

Given the concerns expressed above and the existing procedures in place to identify and resolve conflicts in the rules—procedures that are consistent with the premise that those practitioners most experienced in a rule set should be the arbiters of the best proposed rules for that area of practice—the ACRC believes that the proposed amendments to Rule 2.140(a)(6) are unnecessary and unwieldy and should be reconsidered.

ACRC's Alternative Proposal

ACRC agrees that all of the rules committees can benefit from greater communication and coordination. Therefore, ACRC proposes that Rule 2.140(a)(6) be amended as follows:

RULE 2.140. AMENDING RULES OF COURT

(a) **Amendments Generally.** The following procedure shall be followed for consideration of rule amendments generally other than those adopted under subdivisions (d), (e), (f), and (g):

(1)–(5) [No change to the proposed amendments]

(6) The Rules of Judicial Administration Committee shall also serve as the central rules coordinating committee. ~~Each rules committee shall have at least 1 of its members appointed to the Rules of Judicial Administration Committee to serve as liaison. All committees shall provide a copy of any proposed rules changes to the Rules of Judicial Administration Committee within 30 days of a committee's affirmative vote to recommend the proposed change to the supreme court. The Rules of Judicial Administration Committee shall then refer all proposed rules changes to those rules committees that might be affected by the proposed change. The Rules of Judicial Administration Committee's consideration of the rule proposal shall assess specifically whether the rule proposal addresses a matter of general or common application and shall include recommendations for reconciling competing or inconsistent rules, avoiding conflicts, ensuring consistency, limiting redundancy, and minimizing repetition among rules. The Rules of Judicial Administration Committee shall communicate regularly and promptly with other affected rules committees regarding the Rules of Judicial Administration Committee's considerations. The Rules of Judicial Administration Committee shall consider whether any proposed rule conflicts with another rule of procedure, and may make informal recommendations to the affected committee(s) for ensuring consistency, limiting redundancy, and minimizing repetition among rules. The Rules of Judicial Administration Committee shall acknowledge promptly each rule proposal approved formally by a rules committee and refer all proposed rules changes to those rules committees~~

~~that might be affected by the proposed change. The Rules of Judicial Administration Committee may issue a formal response to each rule proposal approved by a rules committee within 30 days after the next regularly scheduled meeting of the Rules of Judicial Administration Committee for regular cycle submissions and within 30 days after formal approval by a rules committee for out of cycle submissions. Unless a deadline established by the supreme court or by the board of governors does not permit, the Rules of Judicial Administration Committee's response to a rule proposal shall be included and may be addressed in the submission of the rule proposal to the board of governors and to the supreme court.~~

(7) [No change to the proposed amendments]

(b)-(h) [No change to the proposed amendments]

When RJAC serves its intended function as the “coordinating committee” by identifying conflicts and referring them to the relevant committees, as it has increasingly done in recent years, the process works.

The above proposed changes thus contemplate the RJAC will continue to serve in that role and that the originating committee—the one with the specialized knowledge of the rule’s impact—should continue to be tasked with addressing any potential conflict. And under the RJAC’s proposed changes to Rule 2.140(a)(5), any other committee that may be affected by proposed rules will have received the proposed changes. If necessary, two or more affected committees can work together to resolve identified areas of conflict or potential conflict. In the opinion of the ACRC, this proposal can strike a proper balance between the goals of the RJAC and the concerns of substantive rules committees.

If you have any questions regarding these comments, please feel free to contact me.

Sincerely,



Kristin Norse
Chair, Appellate Court Rules Committee

cc (by email):

Krys Godwin, Liaison, Rules of Judicial Administration Committee (krigodwin@flabar.org)
Heather Telfer, Liaison, Appellate Court Rules Committee (htelfer@flabar.org)

TO: Hon. S. Scott Stephens
Chair, Rules of Judicial Administration Committee

FROM: Hon. Laurel Moore Lee
Chair, Family Law Rules Committee

SUBJECT: Comment regarding Rules of Judicial Administration Committee
proposed amended Rule 2.140(a)(4), (5) and (6)

DATE: September 7, 2016

CC: Krys Godwin, RJAC Liaison; James M. Barclay, Family Law Liaison

Dear Judge Stephens,

The Family Law Rules Committee (“FLRC”) reviewed the proposed changes to the Rules of Judicial Administration 2.140(a)(4), (a)(5), and (a)(6) and respectfully presents the following three comments:

1. The proposed amendments and revisions to Fla. R. Jud. Admin. 2.140 as contained in subdivision (a)(6) should be rejected because they appear to give the Rules of Judicial Administration Committee (“RJAC”) the power to effectively “veto” proposed rule changes made by the standing rules committees, by giving greater weight to the RJAC’s formal comments, and by giving the RJAC the inherent ability to argue against the recommendations of The Florida Bar Board of Governors to the Supreme Court.

The proposed revisions to Rule 2.140 address the insufficiencies in the current rules coordination function of the RJAC, but the FLRC believes the proposed revisions go beyond the intended fix. Specifically, the proposed revisions made to Rule 2.140(a)(6) give the RJAC more control of the entire rule-making process than exists under the current 2.140. Subdivision (a)(5) requires all standing rules committees to follow a detailed procedure to keep all rules committees informed of any rule proposals that are under discussion. However, the proposed subdivision (a)(6) appears to give the RJAC a “gatekeeper” power to assess whether rule proposals address a matter of common or general application without clarity about how and by whom such assessments will be made.

Further, the proposed amended subdivision (a)(6) empowers the RJAC to issue a formal response to each rule proposal within 30 days after the next scheduled meeting of the RJAC and requires that all standing rules committees “shall include” the RJAC response in their rule proposal. This procedure suggests that a RJAC formal response could potentially have greater weight than the input of the other standing rules committees in the consideration of the rule making process.

Additionally, in its requirement that each standing rule committee attach the RJAC formal comments to its proposed rules, the new rule requires both the standing committees’ comments and the RJAC formal response be submitted to both the Board of Governors and then to the Florida Supreme Court. In effect, even if the Board of Governors approves the proposed rule(s), the standing committee would be required to attach the RJAC comments, even if in opposition, to the submission of the proposed rules to the Florida Supreme Court. Thus, the RJAC will have the ability to argue against the position of the standing committees and Board of Governors without filing actual comments during the published comment time. This effectively permits RJAC to propose rejecting or substantially amending proposed rule(s), even if the Board of Governors approved the rules and did not agree with the RJAC’s underlying recommendation.

2. The FLRC respectfully suggests that the RJAC should either strike the proposed changes to subdivision (a)(6) in their entirety or revise this subdivision to make it clear that RJAC formal comments: (1) do not carry any greater weight than comments made by other standing rules committees; and (2) are limited to advising whether any conflicts exist with other rules of procedure, including those of the RJAC. We suggest that it should not be the responsibility of the RJAC to reconcile competing or inconsistent rules. Rather, that function is more properly the responsibility of each of the standing rules committees and the Board of Governors.
3. The Family Law Rules Committee has no objection to the amendments made to subdivisions (a)(4) and (a)(5). The proposed amendments appear to clarify how the RJAC will administer the rules coordination function. To the extent this clarification gives the RJAC only a

coordinating, and not an oversight, role, we do not object to the proposed revisions to these two sections.

Thank you for your consideration of this comment. If you have any questions or would like any further input or information from the Family Law Rules Committee, please let me know.

Respectfully Submitted,

/s/ Hon. Laurel M. Lee

Hon. Laurel M. Lee

Chair, Family Law Rules Committee

August 29, 2016

VIA EMAIL

The Honorable Steven S. Stephens, Chair
Rules of Judicial Administration Committee
stephenss@fljud13.org

**Re: Small Claims Rules Committee Comments to Proposed
Amendments to Rule of Judicial Administration 2.140(a)(6)
Relating to the Rule Amendment Process**

Dear Judge Stephens,

Alison Verges Walters, Chair, Small Claims Rules Committee (“Committee”), submits this comment (the “Comment”) to the Florida Rules of Judicial Administration’s proposed amendments to Rule 2.140 on behalf of the Committee. The Committee voted 31-0 in favor of the Comment via an email vote which concluded on August 29, 2016.

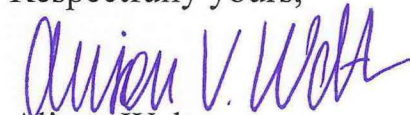
The Committee reviewed the proposed amendments to Rule 2.140(a)(4)–(a)(6) during its June 16, 2016, Committee meeting. There was no vote on the proposed amended Rule 2.140 at that meeting but questions were raised and there was a consensus that a comment should be submitted.



The Committee is concerned that the proposed amendments to Rule 2.140 are overreaching. In particular, Rule 2.140(a)(6) currently provides that the Rules of Judicial Administration Committee shall serve as a coordinating committee. The proposed amendments to Rule 2.140(a)(6) redefine the role of the Rules of Judicial Administration Committee to potentially comment on all Florida Bar rules committees' proposed amendments. This additional comment period is duplicative of other comment periods currently in the rules. Additionally, as the Committee would like the opportunity to respond to any comments from the Rules of Judicial Administration Committee, this additional comment period would take away several months during which the Committee could be working on cycle amendments.

The Committee favors that the rule remain in its current form and that the Rules of Judicial Administration Committee continue to refer potentially conflicting rules back to the affected committees for additional review.

Respectfully yours,



Alison Walters

Chair, Small Claims Rules Committee

cc: Krys Godwin, Liaison, Rules of Judicial Administration
(krigodwin@floridabar.org)

Heather Savage Telfer, Liaison, Small Claims, Rules Committee,
(htelfer@floridabar.org)