

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO THE FLORIDA  
RULES OF JUDICIAL ADMINISTRATION  
2017 REGULAR-CYCLE**

**CASE NO: 17-155**

**COMMENT OF THE  
CRIMINAL PROCEDURE RULES COMMITTEE  
REGARDING RULE 2.140(a)(6)**

H. Scott Fingerhut, Chair of the Criminal Procedure Rules Committee (“CPRC”), and John F. Harkness, Jr., Executive Director of The Florida Bar, file this comment on behalf of the Committee. The comment was approved by the CPRC by a vote of 35-0-1.

In its proposed amendment to Rule 2.140(a)(6), the Rules of Judicial Administration Committee (“RJAC”) announces its intention to serve as the Bar’s “central” rules coordinating committee, and in doing so recrafts both the procedures and time frames necessary to suit its newly-envisioned, master-rules role.

The CPRC has carefully considered the RJAC proposal, both its concerns giving rise to the proposed amendment and its rationale and methodology for how to ameliorate them.

CPRC has also considered the replies made available to date of fellow Rules Committees, to wit, the Appellate Court Rules Committee (“ACRC”) and the joint comment from the Family Law Rules Committee (“FLRC”), Florida Probate Rules Committee (“FPRC”), and Juvenile Court Rules Committee (“JCRC”), and we are grateful for the time, care, and attention each—RJAC included—articulates in common purpose to better our rulemaking process and to more faithfully serve our justice systems and the People.

To be sure, the rulemaking process can be cumbersome, frustrating, and sometimes likened to the “slow boring of hard boards.”

That said, our rules of procedure are the lifeblood of how we get justice done, and across rules sets, a reflection of how uniquely tempered the journey that is finding justice can and, in the end, must necessarily be.

RECEIVED, 04/03/2017 01:23:26 PM, Clerk, Supreme Court

No more so is the particularity required of impactful rulemaking present than in our criminal courts, where the business of liberty is specially in play.

The expertise of the CPRC member—bench, bar, and academic alike—is relied upon, weekly throughout the year, to reply to legislation and the call of the court, any time and place procedure is lacking, and to do so swiftly, soundly, and within the manifold structures already in place. These structures are internal to CPRC and beyond, ensuring that how a society treats its outcasts says perhaps the most about the type of society it is and yearns to become.

RJAC's concerns are well-intentioned, we agree. But its call to arms, we respectfully submit, is unnecessary.

Given our unique justice sphere, our targeted talent pool, our carefully crafted rules about rulemaking long and well in place, and our ability to leap into action and expedite process wherever, whenever our colleagues, the Court, and justice require, there is simply no need to cede to RJAC's call. In fact, doing so, by day's end, will likely not do more good than harm.

It is for these reasons, therefore, that the CPRC respectfully opposes RJAC's proposed amendment to Rule 2.140(a)(6), and joins, in turn, the comments and proposed amendments filed in opposition by the ACRC and jointly by the FLRC, FPRC, and JCRC.

Respectfully submitted on April 3, 2017.

/s/ H. Scott Fingerhut

H. Scott Fingerhut

Chair, Criminal Procedure Rules Committee

H. Scott Fingerhut, P.A.

500 S. Dixie Highway, Suite 301

Coral Gables, FL 33136-2768

305/285-0500

hsfpa@aol.com

Florida Bar No. 796727

/s/ John F. Harkness, Jr.

John F. Harkness, Jr.

Executive Director

The Florida Bar

651 East Jefferson Street

Tallahassee, FL 32399-2300

850/561-5600

jharkness@floridabar.org

Florida Bar No. 123390

## **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was furnished by e-mail, via the Florida Courts E-filing Portal, on April 3, 2017, to:

Lori Holcomb, Division Director  
Ethics and Consumer Protection  
The Florida Bar  
651 E. Jefferson Street  
Tallahassee, FL 34399  
lholcomb@floridabar.org  
Florida Bar No. 501018

Alison Verges Walters, Chair  
Small Claims Rules Committee  
Kelley Kronenberg Attorneys at Law  
1511 N. West Shore Blvd, Ste. 400  
Tampa, FL 33607  
awalters@kelleykronenberg.com  
Florida Bar No. 679402

Judge Laurel Lee, Chair  
Family Law Rules Committee  
Hillsborough County Courthouse  
301 N. Michigan Avenue  
Plant City, FL 33563-3429  
eastcirdivr@fljud13.org  
Florida Bar No. 177581

Kristin A. Norse  
Kynes, Markman & Felman  
P.O. Box 3396  
Tampa, FL 33601-3396  
813/229-1118  
knorse@kmf-law.com  
Florida Bar No. 965634

Michael Travis Hayes, Co-Chair  
Florida Probate Rules Committee  
5551 Ridgewood Drive, Suite 501  
Naples, FL 34108  
239/514-1000  
thayes@gfpac.com  
Florida Bar No. 27883

Jon Scuderi, Co-Chair  
Florida Probate Rules Committee  
850 Park Shore Drive, Suite 203  
Naples, FL 34103-3587  
239/436-1988  
jscuderi@gfsestatelaw.com  
Florida Bar No. 108278

Krys Godwin, Staff Liaison  
Rules of Judicial Administration  
Committee  
The Florida Bar  
651 E. Jefferson Street  
Tallahassee, FL 32399-6584  
850/561-5706  
kgodwin@floridabar.org  
Florida Bar No. 2305

Mikalla Andies Davis  
Family Law Rules Committee  
The Florida Bar  
651 E. Jefferson Street  
Tallahassee, FL 32399-6584  
850/561-5663  
mdavis@floridabar.org  
Florida Bar No. 100529

Ward L. Metzger, Chair  
Juvenile Court Rules Committee  
921 N. Davis St., Bldg. B, Suite 360  
Jacksonville, FL 32209-6805  
904/380-2137  
ward.metzger@myflfamilies.com  
Florida Bar No. 333662

Joel M. Silvershein, Chair  
Criminal Law Section  
State Attorney's Office  
17th Judicial Circuit  
Rm. 07130, Broward Co. Courthouse  
West Building  
201 S. E. 6th Street  
Fort Lauderdale, FL 33301  
954/831-7913  
jsilvershein@sao17.state.fl.us  
Florida Bar No. 608092

Hon. Steven Scott Stephens, Chair  
Rules of Judicial Administration  
Committee  
Edgecomb Courthouse, Suite 522  
800 E. Twiggs Street  
Tampa, FL 33602  
813/272-5330  
Division1@fljud13.org  
Florida Bar No. 779441

### **CERTIFICATE OF COMPLIANCE**

I certify that this comment was prepared in compliance with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

/s/ Heather Savage Telfer  
Heather Savage Telfer, Staff Liaison  
Criminal Procedure Rules Committee  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399-2300  
850/561-5702  
htelfer@floridabar.org  
Florida Bar No. 139149