

Law Offices of Theodore F. Greene, LC



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February 27, 2019

Florida Supreme Court  
500 South Duval Street  
Tallahassee, FL 32399

RE: **Revised Proposed Rule 2.570 (Parental Leave Continuances).**

Dear Justices,

RECEIVED, 02/27/2019 02:51:33 PM, Clerk, Supreme Court

I write in opposition to *revised* proposed Rule 2.570 (Parental Leave Continuances). The revised proposed rule has not in any way addressed (or alleviated) my previously stated reasons for opposition. Accordingly, I resubmit my prior letter in opposition to the original proposal as a statement of my continued opposition to the revised rule. My prior letter is attached hereto at Exhibit "A".

Additionally, I wish to add this to my comments in opposition:

We live in an increasingly narcissistic society. It is narcissism that compels someone to use their phone to send text messages while driving. Such people believe themselves so important, or their doings of such interest to others, that they text while behind the wheel of a fast-moving vehicle, requiring other drivers to take action to avoid them – all so these narcissists can let the world know they're heading to the convenience store, or the mall, or the gym, or the local pub.

It is this same narcissism that drives attorneys who choose to expand their own families to demand that others bear the burden of that choice and put their plans on hold so that the attorney need not be required to make a life choice that inconveniences them. These attorneys would rather their own clients, the courts, and even the opposing party and their attorney be forced to put their lives and legal disputes on hold so the attorney's choice to have a child is borne, not by them, but others. And make no mistake, that's exactly what a mandatory rule is: force! Expecting others to bear the burden of one's own decisions is the height of narcissism; there is nothing noble about it. And the proposed rule would add insult to injury by requiring the non-moving party to bear the burden of proof as to why the ordinary legal process shouldn't be delayed because of a decision outside their control. That is absurd.

I love children: I have three of my own, and I volunteer as a guardian ad litem so that I can help other people's children too. But what I do not do is demand the world bend to my will and alleviate me of the burdens of my own personal choices. I factor in my professional obligations with my personal choices. As we all should.

Furthermore, as I said in my prior letter, it has been my great privilege to practice throughout this State against a wide variety of worthy adversaries and to appear before a great many judges. Most of my adversaries have voluntarily and professionally agreed to my occasional requests for extensions. And on those few occasions where my adversary wasn't able or willing to do so, the court was available to hear the matter. That process is already available to expectant fathers and mothers without an additional mandatory rule such as the one proposed. We have a system in place right now that allows an expectant father or mother to request a reasonable professional extension either from their adversary or from the court. There is no need to adopt the

proposed rule, nor is there any good justification for doing so. A rule which imposes mandatory maternity or paternity leave, let alone one which imposes a burden on the non-moving party to justify why litigation should *not* be halted is wrong and should be rejected by this Court.

Thank you for your consideration in this matter.

Sincerely,

/s/ Theodore F. Greene III .

Theodore F. Greene III  
Law Offices of Theodore F. Greene, LC  
For the Firm

### **CERTIFICATE OF SERVICE**

I certify that, pursuant to Fla. S. Ct. Order SC10-2101 and Rule 2.516(b)(1)(A) of the Fla. Rules of Jud. Admin., a true and correct copy of the foregoing (and all attachments thereto) have been served by e-mail on the Committee Chair, **Eduardo I. Sanchez**, 99 NE 4th Street, Suite 800, Miami, Florida 33132-2131 (at: [eduardo.i.sanchez@usdoj.gov](mailto:eduardo.i.sanchez@usdoj.gov)) and on the Bar Staff Liaison to the Committee, **Krys Godwin**, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300 (at: [kgodwin@floridabar.org](mailto:kgodwin@floridabar.org)), as well as those parties registered on this case through the e-file system on **February 27, 2019**.

/s/ Theodore F. Greene III .

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# **EXHIBIT A**



**Theodore F. Greene III**  
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October 29, 2018

Florida Supreme Court  
500 South Duval Street  
Tallahassee, FL 32399

RE: **Proposed Rule 2.570 (Parental Leave Continuances).**

Dear Justices,

I write in opposition to proposed Rule 2.570 (Parental Leave Continuances). I oppose adoption of a new rule dictating mandatory parental leave continuances for the following reasons.

First, while the idea of an attorney taking time off from work to get to know a new member of their family may be a laudable thing for the attorney and their family when done voluntarily and when decided on an individual basis, it is not at all laudable when that personal decision is thrust by force upon third parties against their will. And yet that is exactly what this rule proposes: to force the litigants, to force the judge, and to force opposing counsel to delay their own plans based on an individual decision of one attorney to take time away from work. The proposed rule doesn't ask that consideration be given for family leave, it demands it, and it does so with a presumption that 90 days is appropriate as a timeframe. It is not right to force a personal decision to absent oneself from the workforce for 90 days on the litigants (who likely already have their lives upended by their own very personal dispute), opposing counsel (who is typically trying to manage their own schedule based on the demands of life and law), and the judge (who is almost certainly already struggling with keeping their crowded docket moving forward productively). Forcing a personal decision onto others against their will is not laudable, it's selfish, and we should not encourage selfish acts.

I'm not unsympathetic when it comes to balancing personal and professional life. In fact, I raised three children as a single father whose ex-wife was often gone from the local area and therefore unable to routinely help with the children on a daily basis. I understand first-hand that the demands of parenting can be a challenge to balance against the demands of professional life. However, it can be managed – and it can *best* be managed – on an individual level by each attorney making their own decision about how they'll achieve the balance they seek. Imposing upon others to achieve balance in your own life (and that's what this proposed rule does) is also an act of selfishness.

Related to both those points, it has been my experience that, even in the most contentious cases, attorney's routinely professionally agree to continue deadlines for filings, responses, discovery, hearings, trials, and even appeals. I have seldom had an opposing attorney refuse to make accommodation for genuine scheduling conflicts (including personal emergencies), and I have routinely reciprocated the courtesy. And my experience is geographically broad, as I have had the great fortune to litigate all over the State, trying cases from Pensacola to Miami, from Ft. Myers to just south of Jacksonville, and from Tampa to Viera, as well as handling appeals in every district court in the State, and on multiple occasions before the Florida Supreme Court as well. I have found cooperation and consideration to be the norm throughout my practice, even where the consideration was

requested from or by opposing counsel where we each had strong negative personal feelings for the other. In short, we are an extremely considerate profession despite the extremely contentious nature of our work. On those few occasions where I found myself and opposing counsel unable to agree on a continuance, I've always found judges to be available to decide the dispute. In fact, despite their crowded dockets, trial judges routinely find hearing time for urgent and emergency matters, including on the issue of continuances. We have a system that works already. To paraphrase Dan Hanson's uncle Olaf, "If it ain't broke, don't fix it".<sup>1</sup>

Related to that point (if it ain't broke), absent a compelling demonstration by those who propose this rule that there is a present widespread problem with individual attorneys being able to accommodate their personal decision to take time away from work, we should *not* be forcing a one-size-fits-all mandate from "on high" to decide matters that are already routinely handled effectively, and which are not a current problem that needs a new rule. I've seen no evidence even indicating, let alone demonstrating, that this rule is necessary. Absent such evidence, this rule amounts to feel-good meddling in a matter that isn't even a problem. In a legal world in which it is already hard to find hearing time and keep on schedule, the last thing we need is a rule that encourages additional delay as a presumptive first choice imposed on the parties and the judge by a rule of procedure.

Finally, there is this: unless a lawsuit is personal in nature (i.e., unless it's the attorney's own legal dispute), a case isn't the *lawyer's* case, it is the *litigants'* case. A lawyer's decision to take personal time off should not be a means of forcing two (or more) people into a mandatory delay of their dispute so an attorney can choose to spend time with their family rather than zealously handling their client's and the other side's legal dispute. If an attorney wants time off, then s/he can take it, but we shouldn't force the litigants to put their lives on hold to accommodate the attorney's personal choice. Asking litigants to pay that price is a selfish decision. There are now more than 100,000 licensed attorneys in Florida.<sup>2</sup> There's plenty of available coverage counsel in this State if an attorney wants to make the personal decision to take time off of work without demanding that the litigants pay the price for that decision with a delay in the resolution of their dispute.

Thank you for your consideration in this matter.

Sincerely,

/s/ Theodore F. Greene III .

Theodore F. Greene III  
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For the Firm

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<sup>1</sup> From the movie *He Said, She Said*. See relevant clip at <https://www.youtube.com/watch?v=MC2MLmGhc1M>.

<sup>2</sup> See *The Florida Bar News*, November 15, 2015 at <https://www.floridabar.org/news/tfb-news/?durl=%2Fdivcom%2Fjn%2Fjnnews01.nsf%2Fcb53c80c8fabd49d85256b5900678f6c%2Fca9df61f4fe11f7f85257ef30068190a>.