



Supreme Court of Florida

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September 9, 2021

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

In Re: Amendment to Florida Rule of Civil Procedure 1.280,
Case No. SC21-929

Dear Editor:

I have provided you with a copy of the proposed Rules in the above case. Please publish said Rules in the October 1, 2021, Bar News. Please publish a statement that the Court has placed the proposed Rules on the Internet at location:

<http://onlinedocketssc.flcourts.org/>.

Any comments should be filed with the Supreme Court on or before November 9, 2021. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with *In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal*, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in

Florida, the comment may be, but is not required to be, filed via the Portal. Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

Thank you for your cooperation in this matter.

Most cordially,



John A. Tomasino

JAT/so
Enclosure

cc: Hon. Carlos G. Muñoz, Supreme Court Justice Liaison
Diane West, Director of Central Staff, Florida Supreme Court
Chief Judges of the District Courts of Appeal
Clerks of the District Courts of Appeal
Chief Judges of the Judicial Circuits
Clerks of the Judicial Circuits
Michael G. Tanner, President, The Florida Bar
Gary S. Lesser, President-elect, The Florida Bar
Joshua E. Doyle, Executive Director, The Florida Bar
Mikalla Andies Davis, Bar Liaison, The Florida Bar
Jason Paul Stearns, Chair, Civil Procedure Rules
Committee

The Florida Supreme Court recently adopted an amendment to Florida Rule of Civil Procedure 1.280 (General Provisions Governing Discovery) on its own motion. The amendment codifies the apex doctrine for high-level government officers and extends its protections to high-level corporate officers.

The Court invites all interested persons to comment on the amendment, which is reproduced in full below. All comments must be filed with the Court on or before November 9, 2021, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with *In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal*, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the Portal. Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENT TO FLORIDA RULE OF CIVIL PROCEDURE 1.280, CASE NO. SC21-929

Rule 1.280 General Provisions Governing Discovery

(a) – (g) [No Change]

(h) Apex Doctrine. A current or former high-level government or corporate officer may seek an order preventing the officer from being subject to a deposition. The motion, whether by a party or by the person of whom the deposition is sought, must be accompanied by an affidavit or declaration of the officer explaining that the officer lacks unique, personal knowledge of the issues being litigated. If the

officer meets this burden of production, the court shall issue an order preventing the deposition, unless the party seeking the deposition demonstrates that it has exhausted other discovery, that such discovery is inadequate, and that the officer has unique, personal knowledge of discoverable information. The court may vacate or modify the order if, after additional discovery, the party seeking the deposition can meet its burden of persuasion under this rule. The burden to persuade the court that the officer is high-level for purposes of this rule lies with the person or party opposing the deposition.