

September 2, 2021

**SHOOK**  
HARDY & BACON

**VIA THE FLORIDA COURTS E-FILING PORTAL**

Florida Supreme Court  
Office of the Clerk  
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Tallahassee, Florida 32399

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

To the Honorable Justices of the Florida Supreme Court:

On behalf of Shook, Hardy & Bacon L.L.P., we submit this Comment in support of the Court's decision to amend Florida Rule of Civil Procedure 1.280 to codify the "apex doctrine" and extend its protections to corporate officers, including former officers, in pending and future civil actions.

Shook is an international trial-oriented firm that specializes in defending complex civil cases. The *Global Legal Post* recognized Shook as "the most active defendants' firm for product liability cases between 2015 and 2019, working on 27,240 cases." With offices in Miami and Tampa, Shook's vast litigation and trial experience in Florida gives us perspective as to why the apex doctrine is important to incorporate in the state's civil rules for private and government officers.

Previously, the apex doctrine was clearly established in Florida for high-ranking government officials. See *Suzuki Motor Corp. v. Winckler*, 284 So. 3d 1107, 1109 (Fla. 1st DCA 2019). New Rule 1.280(h) codifies this existing law and wisely extends the doctrine's "protections to the private sphere." As the Court appreciated, the same "efficiency and anti-harassment principles animating [the] doctrine are equally compelling in the private sphere."<sup>1</sup> We agree

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<sup>1</sup> See, e.g., *Gen. Star Indem. Co. v. Atlantic Hospitality of Fla., LLC*, 57 So. 3d 238, 240 (Fla. 3d DCA 2011) ("The job of the president of the company is to manage the company, not to fly around the United

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with the Court that there is “no good reason to withhold from private officers the same protection that Florida courts have long afforded government officers.”

Courts in other jurisdictions adopting the apex doctrine have also recognized the parallels between high-ranking government and corporate officers. *See, e.g., State ex rel. Mass. Mut. Life Ins. Co. v. Sanders*, 724 S.E.2d 353, 363 (W. Va. 2012) (adopting apex doctrine in corporate context and finding doctrine “analogous to the approach this Court adopted for use when a party seeks to depose [a] high-ranking governmental official”).

Florida’s codification of the apex doctrine will help curb abusive discovery tactics and improve fairness in Florida’s courts. Our firm appreciates your consideration of this Comment and your continuing efforts to implement constructive rule changes.

Respectfully submitted,

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States participating in depositions about . . . disputes of which the president has no personal knowledge. . . . If all claimants demand and obtain the same right, the chief executive officer manages his or her deposition schedule, not the company.”).