



September 8, 2021

VIA THE FLORIDA COURTS E-FILING PORTAL

Florida Supreme Court
Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399

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:

The Federation of Defense & Corporate Counsel is comprised of over 1,500 civil defense and corporate counsel and industry professionals engaged in ensuring unfettered access the courts and the fair resolution of contested issues on which there is a genuine dispute. Many of our members practice and reside in the state of Florida. We appreciate the opportunity of providing the Court with our views regarding the proposed Amendment to Florida Rule of Civil Procedure 1.280.

The FDCC and its members uniformly support and urge adoption of the proposed amendment to codify the “apex doctrine” in order to afford its protections to litigating parties in the private sector. As noted in the comments cemented by our colleagues from the Florida Defense Lawyers Association, Defense Research Institute, International Association of Defense Counsel, Association of Defense Trial Attorneys Washington Legal Foundation, and others, we similarly agree with this Honorable Court’s prior statements that there is “no good reason to withhold from private officers the same protection that Florida courts have long purported government officers.”

Establishing a special need before the deposition of a high-level corporate employee can be sought, simply provides a further element of fairness to the litigation. Whether accomplished through written discovery illustrating the involvement of a proposed deponent or by taking the deposition of other employees whose involvement in the issues to be addressed is more relevant, these less invasive efforts also further judicial economy in advancing litigation forward, as opposed to expending time to question a corporate executive not having pertinent information relating to the facts or circumstances at issue. If there are additional areas of inquiry remaining open, the apex doctrine certainly does allow for the deposition of corporate executives to proceed over objection, thereby providing fairness to all litigants.

We sincerely appreciate the Court's engagement in this issue and will be pleased to provide any further information or details required in order to incorporate this proposed amendment to Florida's Rules of Civil Procedure.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert L. Christie". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Robert L. Christie
President