

**IN THE SUPREME COURT OF FLORIDA**

IN RE: AMENDMENT TO FLORIDA  
RULE OF CIVIL PROCEDURE 1.280

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No. SC21-929

**APPENDIX TO THE STATE OF FLORIDA'S COMMENTS**

**Florida Rules of Civil Procedure**

**Rule 1.280(h) (Apex Doctrine)**

(1) 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.

(2) A current or former high-level government officer may seek an order preventing the officer from being subject to a deposition. The court shall issue an order preventing the deposition, unless the party seeking the deposition demonstrates that (a) it has exhausted all discovery tools in an attempt to obtain the information sought; (b) the testimony sought is necessary; and (c) the testimony sought is unavailable from other witnesses. 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.

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