

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC22-122

IN RE: REPORT AND RECOMMENDATIONS
OF THE WORKGROUP ON IMPROVED
RESOLUTION OF CIVIL CASES

COMES NOW, Kenneth B. Schurr, Esq., of the Law Offices of Kenneth B. Schurr, P.A. (Coral Gables), and provides this comment to the proposed changes to the Florida Rules of Civil Procedure as reflected in SC22-122, (“Rules”) and hereby states as follows:

My office initially prepared a detailed Rule by Rule comment as to each proposed Rule and how it might be changed to reflect the Committee’s stated goals and the realities of practicing as a Florida civil litigator in 2022. Prior to submitting my comments, however, I read each of the numerous comments submitted by my fellow lawyers as well as those submitted by members of our distinguished Bench. Because my proposed *substantive* comments would have been repetitive and cumulative of those already submitted by others, I make only the following pragmatic observations/comments:

In my years of practice there has never been to my recollection, a case, statute, rule, or proposed change that has engendered such universal trepidation as the proposed Rules change at issue. As a litigator

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and trial lawyer, I recognize the challenge of getting six people to agree on a single proposition. Indeed, opinions in today's world are divided on virtually everything. In reviewing the comments submitted to this Court, however, there is near unanimity from nearly every practice area that utilizes the Rules of Court, including the Plaintiff's Bar, Defense Bar, personal injury litigators, real estate litigators, insurance litigators, commercial litigators, and the Bench. All these diverse groups agree that the proposed Rules, *as presently written*, too drastically remove trial court discretion, reduce or eliminate the ability of lawyers to extend courtesies, and create an atmosphere of angst, anxiety, and hostility that is unnecessary, and certainly not desired in the practice of law.¹ Indeed, litigation and trial practice are inherently stressful under the current Rules. The proposed new rules will serve first and foremost to diminish camaraderie among colleagues as we each jockey to set all of the hearings and depositions necessary to get our own cases ready for trial, while our

¹ This is not a hypothetical issue. The number of articles, seminars and presentations in Florida alone devoted to attorney mental health, mindfulness, suicide, substance abuse and related issues is substantial. As recently as 2018, an entire edition of Florida Bar Magazine was devoted to mental health and wellness. <http://digitaleditions.walworthprintgroup.com/publication/?i=460424&ver=html5&p=1>. Since then, attention to the issues has not diminished. <https://flayld.org/health-wellness/>; <https://flayld.org/health-wellness/health-wellness-video-series/>. In 2022 alone, the Florida Bar posted four pieces on maintaining attorney mental health, overall wellness, and mindfulness. <https://www.floridabar.org/member/healthandwellnesscenter/#articles>.

