IN THE SUPREME COURT OF THE STATE OF FLORIDA
Case No.: SC22-122

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

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COMMENT AND REQUEST FOR ORAL ARGUMENT BY THE REAL PROPERTY, PROBATE, AND TRUST LAW SECTION OF THE FLORIDA BAR

Robert S. Swaine, as Chair and on behalf of the Executive Council of the Real Property, Probate and Trust Law Section of the Florida Bar[1] respectfully provides these comments to the Court regarding proposed revisions to the Florida Rules of Civil Procedure and states as follows:

I. Introduction

The Real Property, Probate and Trust Law Section of the Florida Bar ("RPPTL" or the "Section") appreciates and acknowledges the efforts of the Judicial Management Council Workgroup (the "Workgroup") on Improved Resolution of Civil Cases and, in response,

[1] These comments are provided solely on behalf of the Real Property, Probate and Trust Law Section of the Florida Bar and not on behalf of the Florida Bar itself.

commissioned an Ad Hoc committee comprised of members of its real property litigation committee, probate litigation committee and construction law committee to study the Final Report, dated November 15, 2021 (the "Report"). The Section's Comment will first address our general comments to the Rule Revisions[2], recommend certain key specific edits to the Rule Revisions to address those general comments, and finally analyze the impact of the Rule Revisions on probate, guardianship, and trust matters.

II. General Comments to Rule Revisions

1. Disclosure Rule

The "Initial Disclosures" set forth in Fla. R. Civ. P. 1.280(a) (the "Disclosure Rule") are more extensive in comparison to those utilized in the Federal Court system. Specifically, the Disclosure Rule requires the immediate production of all documents, electronically stored information and tangible things in a compressed time period at the very beginning of a lawsuit and prohibits the parties from

[2] The Workgroup's recommended amendments to the Florida Rules of Civil Procedure, Florida Rules of General Practice, and Judicial Administration, and other rules chapters will sometimes be referred to collectively as the "Rule Revisions".

independently stipulating to any revision to the disclosure deadlines that are more appropriate for a given action.

In contrast, Rule 26 of the Federal Rules of Civil Procedure only requires the parties to provide a "description by category and location" allowing each party to request the production of specific categories at the appropriate time. Additionally, the parties are free to stipulate to modifications to the Federal rule and tailor the rule to the specific action.

Implementation of the Disclosure Rule may unnecessarily increase litigation costs for certain proceedings. Many cases are resolved without significant expense or use of judicial resources. It is not uncommon in probate and trust matters for the case to settle or be adjudicated before discovery has been initiated. Requiring work that may not be required to conclude a case seems unnecessary. The Section recommends an option for parties to consent to early mediation and stay the initial disclosures or, in the alternative, adopt a system like that utilized in Federal Court that requires the disclosure of categories but not the actual production of documents.

2. Timing of the Initial Disclosures

Under the Disclosure Rule, plaintiffs effectively have an unlimited amount of time to prepare their Initial Disclosures because they choose when to file the lawsuit. In contrast, the Defendant must use a significant portion of their 45-day window to engage competent legal counsel, who must first gain an understanding of the lawsuit, claims, mandatory counterclaims and affirmative defenses, then prepare an appropriate response to the complaint, deal with incoming production from opposing counsel and then timely make the mandatory Initial Disclosures.

In addition, if the complaint is vague, indefinite, or does not state proper causes of action, the defense is entitled to no relief from the Initial Disclosures under the Rules Revisions unless the defense is able to obtain a court order entered in the short period between responding to the complaint and the disclosure deadline.

If the Court does not change the rule to require the disclosure of categories of documents instead of the actual production of documents, the Section believes Defendants should be provided additional time to provide their Initial Disclosure without the necessity of obtaining a court order.

3. Case Management Rule

The procedures established under the proposed Case Management Rule, 1.200(e)(3), may be difficult to implement in the proposed time-period. Specifically, the provisions found in Subsection (e) require the parties to meet and confer within 30 days after service of the *first* defendant. This deadline may not be reasonable in multiple defendant cases, which are typical in many probate and trust cases, or those involving counterclaims or crossclaims. It would seem the meet and confer would be more useful after all defendants have been served. Additionally, it may be premature to hold the meet and confer before the pleadings have been finalized.

4. Sanctions

The sanctions set forth in Section 1.380 of the Rule Revisions appear to be mandatory unless the motion or opposition to the motion was substantially justified. Further, the sanctions are not limited to fees and reasonable costs. They can include travel expenses and "any other financial loss reasonably arising as a result

of the sanctioned conduct".[3] It is not clear what "any other financial loss" means and presumably could include lost profits, special damages or other damages caused by unintended consequences. The financial loss language is also contained in Rule 1.275(d). To prevent sanctions motions from creating unnecessary and additional hearings which could detract from the ultimate progress of the case, the Court should consider removing the financial loss language and limit sanctions to fees and reasonable costs.

In addition, the standard to avoid sanctions in Rule 1.275 appears to be inconsistent. Part (b) of the Rule prohibits the Court from ordering the payment of reasonable expenses as a sanction if the party or attorney shows "good cause and the exercise of diligence." Part (e) provides the court may not order payment of reasonable expenses if the court finds the party or attorney's noncompliance was "substantially justified." The standard should be consistent. The Section recommends "good cause" as that standard is fairly well-defined in existing case law.

[3] Revised Rules, § 1.380(a)(5)(D)

The Section understands the desire for sanctions to discourage unnecessary objections and hearings, but sanctions should not be designed to discourage legitimate disputes. Sometimes there is legitimate dispute as to the scope of discovery and sometimes a party may push the bounds of discovery. Counsel should be free to seek court relief, when necessary, without having to be concerned about the imposition of sanctions.

5. Access to Justice and Pro-Bono Services

The impact of the Rule Revisions on litigation in Florida is unclear. Many of our members have expressed concern that the Initial Disclosures will unnecessarily increase litigation expenses. This could result in lawyers being reluctant to take on pro bono cases, especially with the added risk of sanctions. Our members also raised concern that the Initial Disclosures may cause lawyers to charge higher retainers due to the front-end loaded nature of the new requirements which could limit access of our citizens to competent counsel. The added complexity would also make it difficult for pro se parties to comply, compounding this issue of access to justice. Although pro se litigants may appear in any matter, the Section is

concerned about the impact on residential landlord-tenant and residential mortgage foreclosures.

III. Proposed General Amendments to the Rule Revisions

Given the foregoing concerns, the Section submits the following proposed general amendments to the Rule Revisions for the Court's consideration:

a. Rule 1.200 should be revised to transfer part "(a) Objectives" to the Rules of General Practice and Judicial Administration, in Rule 2.545. The provisions of this part are general and of broader application than Rule 1.200.

b. Rule 1.271 should be revised to clarify the jurisdictional parameters of the rule. It is unclear whether the rule would apply only to cases in a single county or circuit, or whether it might also apply to cases that might span multiple counties or circuits. The rule seems to be modeled after the concepts in the federal Multi-District Litigation Rules, which have nationwide breadth, but the specific Rule Revision provides no jurisdictional parameters.

c. Rule 1.279 should be deleted in its entirety. This revision codifies ethical obligations as a rule of civil procedure. While the goal of this rule is laudable and the goals and aspirations stated therein are how every attorney should practice, allowing this to become a rule of civil procedure may only invite abuse and allow attorneys to weaponize aspirational goals and subjective terms during the discovery process. This Rule should be limited to a comment for Rule 1.280 or Rule 1.275 and be amended to exclude Rule 1.279 from being subject to sanctions.

d. The first sentence of Rule 1.280(a)(1) should be revised as follows:

> **In General**. Except as exempted by subdivision (2), as otherwise stipulated, or as ordered by the court, a party must . . .

e. The first sentence of Rule 1.280(a)(1)(B) should be revised as follows:

> a copy of – or a description by category and location – of all documents, electronically stored information and tangible . . .

f. Rule 1.200(e)(2) should be revised to account for counterclaims as follows:

> (2) Streamlined Cases. In streamlined cases the court shall issue a case management order no later than ~~120 days after the case is filed or~~ 30 days after ~~service on the first defendant~~ the case is at issue~~, whichever comes first~~. No case management conference is required to be set by the court prior to issuance. Parties seeking to amend the deadlines set forth in the case management order shall follow the procedures set forth in subdivision (f). Parties may request a case management conference as set forth in subdivision (h); however, they must comply with the case management order in place. In streamlined cases the court issues a case management order without the preliminary procedures required for cases on the general track as described in subdivision (3).

g. Rule 1.200(e)(3)(A) should be revised as follows:

(3) General Cases.

(A) Meet and Confer. Parties shall meet and confer within 30 days after ~~service after initial service of the complaint on the first defendant served~~ [Alternative 1: responsive pleadings have been filed by each non-defaulted defendant served, Alternative 2: the case is at issue,] unless extended by order of the court. The parties should discuss and identify deadlines for:

h. Rule 1.200(e)(3)(B)(iii) should be revised as follows:

(B)(iii) Failure to File. If the parties fail to file the joint case management report and proposed case management order ~~by 120 days after filing or~~ within 30 days after ~~service on last defendant, whichever occurs first,~~ [Alternative 1: responsive pleadings have been filed by each non-defaulted defendant served, Alternative 2: the case is at issue,] the court shall issue its own case management order without input from the parties.

IV. Impact on Probate, Guardianship, and Trust Proceedings

In addition to the general comments above, the Section is very concerned about the application of the Rule Revisions to probate, guardianship, and trust proceedings (the "PGT Proceedings").

Probate and guardianship proceedings are governed by the Florida Probate Rules[4], and one could reasonably assume, would be unaffected by the Rule Revisions. However, certain Rules of Civil Procedure apply universally in all probate and guardianship proceedings. See, e.g., Rule 1.280.[5] Additionally, the Rules of Civil Procedure govern (i) all probate and guardianship proceedings that are "adversary proceedings" under the Florida Probate Rules[6], and (ii) all trust proceedings initiated pursuant to Chapter 736.[7]

The Section recognizes that some PGT Proceedings – specifically the ones that most closely mirror civil cases, such as will and trust contests or claims for breach of fiduciary duty -- may benefit from the Rule Revisions and a streamlined case management process. These truly contested matters very often operate like traditional civil

[4] Fla. Prob. R. 5.010.
[5] Fla. Prob. R. 5.080.
[6] Fla. Prob. R. 5.025(d)(2).
[7] Fla. Stat. § 736.0201(1).

cases. However, not all PGT Proceedings are actually contested or are even adversarial. In fact, a great number of PGT Proceedings are uncontested and bear very little resemblance to civil litigation. The Section believes that a significant number, perhaps even a majority, of PGT Proceedings (i.e. the ones that do not resemble traditional civil cases) will not fit well within the proposed framework of the Rule Revisions.

The Section is particularly concerned about the implementation of the proposed case-management track system in connection with certain (often uncontested) PGT Proceedings. Specifically, proceedings to construe a will or trust, to appoint a successor trustee, to probate a lost or destroyed will, to approve a non-judicial settlement agreement, or to terminate or modify a trust are a few everyday examples of proceedings that, despite currently being governed by the Florida Rules of Civil Procedure, are regularly resolved without a case management order, discovery, or trial. These PGT Proceedings, as well as many others, are filed because the statutes and applicable rules require court approval of a transaction or course of conduct but all parties (which frequently involve multiple interested persons such as fiduciaries, next of kin, and beneficiaries),

who are entitled to notice, are in agreement and will ultimately join in the result. In many instances, the interested persons are entitled to notice but take no active position in the matter. These interested persons are also very frequently not represented by counsel; nevertheless, they often stay involved solely to receive notice and to have the opportunity to be heard, as needed.

The Section worries that the application of the Rule Revisions to these types of PGT Proceedings will have the unintended effect of increasing costs and expenses associated with Florida estates, trusts, and guardianships, particularly with respect to interested persons who may not resemble civil "litigants," such as elderly or incapacitated adults, minors, surviving spouses, other estate and trust beneficiaries, and other interested third parties, such as estate creditors.

More specifically, as set forth below, the Section is especially concerned that despite their laudable goals, the Rule Revisions may actually (a) create conflicts with the Florida Probate Rules, Probate, Guardianship and Trust Codes and Florida Constitution, (b) negatively impact the flow of "adversary proceedings," causing an unnecessary delay in the administration of estates and trusts in

contravention of the public policy of Florida which requires estates and trusts to be expeditiously administered, (c) add unnecessary expense to estate and trust proceedings, and (d) apply unnecessary and cumbersome meet and confer requirements in instances where there is likely no dispute at all.

1. Conflicts with the Rules, Codes and Florida Constitution

The Probate Rules, Probate Code, and Guardianship Code are designed to require disclosure of estate and guardianship assets, set deadlines, and ensure the expeditious administration of estates and guardianships in Florida. Probate and guardianship administrations are governed by the Florida Probate Rules, which, *inter alia,* provide their own deadlines for case management and set forth specific provisions defining who, among many interested parties, are entitled to notices[8]. They are also defined to protect the privacy of

[8] Fla. R. Civ. P. 1.010, Fla. Prob. R. 5.010 and 5.080; Fla. Prob. R. 5.340 (probate inventory is required to be filed within 60 days after issuance of letters); Fla. Prob. R. 5.620 and 5.690 (a personal representative is required to file proof of publication of notice to creditors within 45 days of publication).

incapacitated wards and deceased persons and limit the notices and disclosures provided to particular parties.

Given this backdrop, the Section is concerned that several provisions of the Rule Revisions, and in particular the proposed case management framework of Rule 1.200, appear to conflict with existing and well-defined statutory and case law that has developed in connection with notices and timeframes in PGT Proceedings. For example, in the probate context, the Florida Probate Rules proscribe specific time periods for an interested person to object to a petition for discharge or final accounting, as well as the timing of service for objections and a notice of hearing on such objections.[9] Considering this existing procedure, if implemented, the Rules Revisions are very

[9] Fla. Prob. R. 5.401(a) requires that an interested person object to a petition for discharge or final accounting within 30 days after service. Fla. Prob. R. 5.401(c) provides that copies of the objections shall be served by the objector on the personal representative not later than 30 days after the last date on which the petition for discharge or final accounting was served on the objector. Finally, Fla. Prob. R. 5.401(d) provides that if a notice of hearing on the objections is not served within 90 days of filing the objections, the objections shall be deemed abandoned.

likely to result in confusion about these notices and time frames for attorneys and interested parties.

Similarly, the Section is concerned about conflicts and potential confusion arising from mandating the new initial disclosures in Rule 1.280, as well as the meet and confer requirements of Rules 1.160 and 1.161 whenever any party decides to declare a proceeding "adversary." For example, guardians must request authority from the court for particular actions[10] but the Rule Revisions require that all "parties" meet and confer prior to filing any motion. Guardianship proceedings involve "interested persons"[11], not parties, and those persons change depending on the relief requested in a pleading. A guardian seeking the court's authority to sign a lease, repair a home, or otherwise manage a ward's estate affairs will be required to meet and confer with all interested persons, in person or via audio/visual communication technology, prior to filing the motion according to

[10] Fla. Stat. § 744.441 identifies many instances in which a guardian must request court approval via a petition for authorization to act.
[11] Fla. Stat. § 731.201(23) "Interested person" means any person who may reasonably be expected to be affected by the outcome of the particular proceeding involved.

Rule 1.160(c). This process may cause delays in a time-sensitive proceeding and increase the ward's expenses.

Additionally, the existing procedures and notice requirements under section 744.331 incapacity cases are designed to protect the alleged incapacitated person's constitutional privacy rights and rights to self-determination while also advancing the State of Florida's interests in protecting minors and vulnerable adults. That framework balancing these important public policy goals may be unintentionally undone if the Rule Revisions are adopted with respect to guardianship proceedings. For example, Section 744.331(3) requires the appointment of an examining committee within five days after filing a petition for determination of incapacity. An adjudicatory hearing is required at least 10 days, but no more than 30 days after the filing of the last report of the examining committee members. Rule 1.280 requires initial disclosures within 45 days after service of the complaint. The Rule Revisions could result in disclosure of an alleged incapacitated person's private

personal and financial information prior to an adjudication of incapacity.

2. "Adversary Proceedings"

The phrase "adversary proceeding," when used in probate, and guardianship, is a term of art and does not necessarily correspond to a proceeding that is actually contested. Any party, for one of many reasons, may simply serve a "declaration that the proceeding is adversary"[12] and invoke the Rules of Civil Procedure. Such declared adversary proceedings may be any number of simple or complex issues, many of which are already before the court's administration.

The majority of adversary proceedings do not appear to be a good fit for the proposed case management framework of Rule 1.200, the initial disclosures in Rule 1.280, or the meet and confer requirements of Rules 1.160 and 1.161. Many of these "adversary" matters have multiple "notice" parties (heirs, beneficiaries, interested persons, potential creditors, etc.) who are not active litigants and rarely hire counsel. Moreover, despite being labeled as "adversary," many of these proceedings are actually uncontested, but are legally

[12] Fla. Prob. R. 5.025(b).

framed so that interested parties can participate without necessity of counsel. The Section is concerned that the proposed initial disclosures and meet and confer requirements for all parties, which may make great sense for traditional contested civil disputes, would have the unintended consequence of actually increasing costs and creating delays in a large number of these "uncontested" PGT Proceedings.

Additionally, regardless of whether there is actually any dispute, certain probate and guardianship proceedings are automatically "adversary proceedings" by Rule.[13] Again, under the current Florida Probate Rules, all "adversary proceedings" are governed by the Rules of Civil Procedure. However, many of these automatic adversary proceedings are uncontested or do not develop into matters litigated in the traditional sense. For example, proceedings to probate a lost or destroyed will[14] or to determine beneficiaries of an estate[15] require service by formal notice and an evidentiary hearing, but are often uncontested. Further, it is not unusual to have multiple "adversary proceedings" concurrently

[13] Fla. Prob. R. 5.025(a).
[14] Id.
[15] Id.

during a probate or guardianship case. Again, the Section is concerned that the imposition of the Rule Revisions will actually increase costs and create delays in these matters.

3. Effect of the Rule Revisions on Trust Proceedings

Under existing Florida law, trust proceedings are not addressed in the Florida Probate Rules.[16] Instead, all Florida trust proceedings are governed by the Rules of Civil Procedure.[17] Much like probate and guardianship proceedings, however, many common trust proceedings initiated pursuant to Chapter 736 are non-adversarial, involve many inactive or unrepresented parties, and require little to no case management. For example, claims for judicial approval of a final accounting[18], claims for judicial modification[19], claims to construe a trust document[20], and claims to appoint a successor

[16] The precursor to the Florida Probate Rules, then known as the "Rules of Probate and Guardianship Procedure," were promulgated by the Florida Supreme Court on July 26, 1967. *In re Rules of Probate and Guardianship Procedure*, 201 So. 2d 409 (Fla. 1967). Those Rules became effective on January 1, 1968. During that period of time, the idea of trusts and other vehicles as a potential substitute for wills aimed at avoiding the probate process was just gaining steam. *See, e.g.* Langbein, John H., *The Nonprobate Revolution and the Future of the Law of Succession*, 97 Harv. L. Rev. 1108 (1983-84).

[17] Fla. Stat. § 736.0201

[18] Fla. Stat. § 736.0201(4)(d).

[19] Fla. Stat. §§ 736.04113 and 736.04115.

[20] Fla. Stat. § 736.0201(4)(a).

trustee when a vacancy exists[21] are all examples of simple proceedings that may require only one uncontested hearing for resolution. All of these trust matters currently proceed efficiently under, and are ruled by, the existing Rules of Civil Procedure.[22]

The Section is concerned that the Rule Revisions would require a superfluous case management order and track assignment for trust proceedings that are typically resolved through stipulation or bench hearing. Presumably, these cases would be considered "streamlined." However, even "streamlined" cases require a case management order, pre-trial conference, and trial. The Section believes that the imposition of the Rule Revisions on these types of trust matters could unnecessarily increase the court's involvement in each case, increase legal fees and costs, and unintentionally delay resolution of these matters.

4. The Meet and Confer Requirement

PGT Proceedings frequently include "interested persons,"[23] and/or "parties" who do not necessarily correspond to "plaintiffs" and "defendants" in civil litigation. These interested persons may include

[21] Fla. Stat. § 736.0704(3)(c).
[22] Fla. Stat. § 736.0201(1).
[23] Fla. Stat. § 731.201(23)

heirs, beneficiaries, contingent beneficiaries, trustees, non-profit organizations, corporate fiduciaries, business entities, other interested parties, non-residents of Florida or even the United States. The Rule Revisions, as drafted, do not appear to contemplate "interested persons" and require all named parties to meet and confer, in person or via phone/video conference, prior to the filing of each and every motion in a PGT Proceeding.

Similarly, section 744.331 incapacity proceedings provide an example of proceedings that would benefit from a clear definition of a "party" in the Rule Revisions. Section 744.331 incapacity proceedings contain defined procedures, timelines, and a body of law regarding who is an "interested person" on any particular issue. A meet and confer requirement with undefined "parties," is likely to be interpreted more broadly than "interested person," and may conflict with current guardianship law and the alleged incapacitated person's constitutional privacy rights.

On a broader level, the Section is also concerned that it will be impractical, if not impossible, to meet and confer with every interested person that is notified or listed in a case caption solely because they are a beneficiary of an estate or trust. If the parties are

unable to satisfy the meet and confer requirements, they face the threat of sanctions pursuant to Rule 1.275. Importantly, the cost increase associated with the Rule Revisions will be paid for by the estate or trust and be borne by the beneficiaries, such as surviving spouses, minors, and charities, to their financial detriment.

5. Potential Approaches to Address the Section's Concerns

As noted above, the Section understands and appreciates the efforts and intentions of the Workgroup in connection with improving the resolution of civil cases in Florida. Nevertheless, many PGT Proceedings are quite different from traditional civil cases. Given these differences, the Section has considered numerous potential alternatives aimed at mitigating its concerns about the Rule Revisions as applied to certain PGT Proceedings. While we would like to offer very specific proposed solutions, we have concluded that doing so will require a comprehensive and extensive analysis of all existing probate, trust, and guardianship statutes and rules. Unfortunately, absent some type of general exclusion for probate, trust, and guardianship matters from the Rule Revisions, which we understand may not be tenable, there does not appear to be a "one size fits all" solution. Nevertheless, the Section notes the following

potential approaches for both the Workgroup and the Supreme Court's consideration.

As a threshold issue, if the Supreme Court is inclined to adopt the Rule Revisions, as drafted, to PGT Proceedings, the Section respectfully requests a two-year delay in their implementation as to PGT Proceedings. A delayed effective date for PGT Proceedings would give the Section and Florida Probate Rules Committee an opportunity to expeditiously work together on potential revisions to the Florida Statutes and Florida Probate Rules to tailor the current procedures to any Rule Revisions adopted by the Court, with a specific focus on solutions addressing the issues, including the treatment of uncontested cases, discussed in this Comment. A delayed implementation would also afford the Section and Probate Rules Committee time to consider a proposed expansion of the Florida Probate Rules to include the types of uncontested trust proceedings discussed in this Comment.

Although not ideal, the Section also considered the following immediate approaches if the Supreme Court is unwilling to permit an exemption or delayed effective date of the Rule Revisions for PGT Proceedings. The following ideas, which may assist in mitigating

some of the issues arising from immediate implementation of the Rule Revisions as drafted, admittedly do not address all of the Section's concerns:

(a) Create an exemption for PGT Proceedings from specific rules. Specifically, the Rule Revisions could be amended to provide exemptions from: (i) Rule 1.200(b) of all proceedings initiated pursuant to Chapters 731-735, 744, and governed by the Florida Probate Rules; (ii) Rule 1.200(b) for all proceedings initiated pursuant to Chapter 736; and (iii) Rule 1.200(b) for all *in rem* or *quasi in rem* proceedings.

(b) Include claims initiated pursuant to Chapters 731-736 and 744 within the definition of "streamlined" cases under the Rule Revisions.

(c) Provide an opt-out provision from the requirements of the Rule 1.200 case management requirements, the Rule 1.280 initial disclosures, and potentially the meet and confer requirements of Rules 1.160 and 1.161. One possible approach would be to allow a petitioner or plaintiff to designate an anticipated "uncontested" petition, complaint, or other matter as exempt from these procedural rules. Upon such designation, the relevant rules would not apply

unless another party or interested person objects, or, alternatively, the court directs otherwise.

Finally, in addition to the foregoing, for the reasons discussed above, the Section specifically suggests that the Workgroup consider defining the term "party" in the Rule Revisions. As it stands now, the term could cause confusion in PGT Proceeding, especially considering the number of people or entities discussed above that could be included as "parties." Additionally, the Section suggests that Rule 1.160(c)(3) authorize the use of electronic and regular mail as a method to comply with the meet and confer requirement.

V. Conclusion

The Real Property, Probate and Trust Law Section supports the goals of this Court and respectfully requests the Court consider the recommendations set forth above.

Dated: May 27, 2022

Respectfully submitted,

Real Property, Probate and Trust Law Section of the Florida Bar

/s/ Robert S. Swaine

CERTIFICATE OF COMPLIANCE

I hereby certify that document was prepared in Bookman Old Style, 14-point font, in compliance with Rule 9.045(b) of the Florida Rules of Appellate Procedure, and does not exceed 13,000 words, in compliance with Rule 9.210(a)(2)(B).

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CERTIFICATE OF SERVICE

I certify that the foregoing was furnished by email to all counsel of record on May 27, 2022 to:

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