

**SUPREME COURT OF FLORIDA**

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

**CASE NO. SC22-122**

**COMMENT OF THE SMALL CLAIMS RULES COMMITTEE**

Kevin McKinley Stone, Chair of Small Claims Rules Committee (“Committee”), and Joshua E. Doyle, Executive Director of The Florida Bar, file this comment in reaction to the filed proposed rule amendments by the Workgroup on Improved Resolution of Civil Cases (“Workgroup”).

The Workgroup, appointed within the Judicial Management Council, reviewed Florida and other state courts for, in part:

- “Examining this state’s laws, rules of court, and practices relating to civil procedure and case management to determine whether changes can be made to improve the resolution of civil cases. This examination had to include consideration of whether this state’s laws and rules of court sufficiently address and deter a failure to prosecute, a violation of discovery, presentation of an unsupported claim or defense, and causation of an improper delay in litigation.
- Making recommendations, if warranted, to improve the resolution of civil cases and propose any revisions to this state’s laws, rules of court, or practices necessary to implement the Workgroup’s recommendations.”

*Judicial Management Council, Workgroup on Improved Resolution of Civil Cases, Final Report, November 15, 2021*, pages 5–6. From this review, the Workgroup suggests amendments within several chapters of the rules of court procedure, one of which is the Florida Small Claims Rules.

The proposed rule amendments were shared by the Workgroup prior to filing and published for comment upon the filing of the

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report; the Committee accepted the invitation to review the proposed rule amendments and now files this comment in reaction to the proposed amendments to Florida Small Claims Rules 7.020 (Applicability of Rules of Civil Procedure) and 7.070 (Method of Service of Process).

The Committee thoroughly reviewed the proposed rule amendments, and recommends to this Court that the proposed amendments be mostly rejected. The Committee's reactions to the Workgroup's proposed amendments may be seen in Appendix A, visible by double-underline and double-strikethrough. The Committee's proposed amendments were approved by a vote of 16-0; in compliance with Florida Rule of General Practice and Judicial Administration 2.140(b)(3), the Board of Governors vote was 37 in favor to recommend acceptance, 2 to recommend rejection, and 0 to recommend amendment.

**RULE 7.020. APPLICABILITY OF RULES OF CIVIL PROCEDURE**

Within Florida Small Claims Rule 7.020, Applicability of Rules of Civil Procedure, the Workgroup proposes deleting the current text of subdivision (b) and substituting it for "A party shall not be entitled to initiate discovery pursuant to the Florida Rules of Civil Procedure without leave of court." The Workgroup also added a sentence to subdivision (c) that clarifies the application of Rule of Civil Procedure 1.200 in small claims cases.

The Committee agrees that current rule 7.020(b) is out of date and not necessary, but the Committee also believes the Workgroup's suggested amendment is not necessary. The Committee recommends deleting subdivision (b) in its entirety and renumbering current subdivision (c) to be subdivision (b). The Committee feels that the concerns of the Workgroup are addressed and met, but simplified, with the remainder of rule 7.020 and the references to the appropriate civil rules. The Committee accepts within newly renumbered subdivision (b) the Workgroup's proposed sentence requiring a case management hearing in compliance with

Florida Rule of Civil Procedure 1.200, in the circumstances in which the small claims deadlines for trial are eliminated in a small claims case.

## **RULE 7.070. METHOD OF SERVICE OF PROCESS**

Within Florida Small Claims Rule 7.070, Method of Service of Process, the Workgroup proposes adding a title and subdivision number to the current text to create subdivision (a) and proposes the adoption of subdivision (b), Summons; Time Limit.

The Committee rejects the numbering of the current rule as subdivision (a), but proposes a correction to the cross-reference within rule 7.070. The Committee recommends the reference to the civil rule be updated from “Florida Rules of Civil Procedure 1.070(a)–(h)” to “Florida Rules of Civil Procedure 1.070(a)–(j)” to mirror the civil rule.

The Committee does not recommend the adoption of proposed subdivision (b). After great discussion, the Committee believes that a deadline of 90 days is too short a time to successfully serve the initial process and initial pleadings upon a defendant in small claims cases. The Committee bases this concern on the deadline being unachievable given possible burden on and delays by clerks of court in issuing summons. A fundamental concern of the Committee is that many of the small claims courts’ participants are self-represented litigants and setting such a deadline would inappropriately lead to case dismissals, thereby requiring future filings. The goal of streamlining case management would actually result in *more* filings thereby creating an unnecessary clogging of the court and clerk process.

Given that rejection of subdivision (b), the committee does not support adding the suggested title to subdivision (a) as it is not necessary.

The Committee would like to express its respect for the hard work done by the Workgroup, but urges the Court to not accept the proposed amendment to rule 7.020(b), renumber and accept the

proposed amendment to current rule 7.020(c), and to reject the proposed amendments to rule 7.070.

Respectfully submitted on the 31st day of May 2022.

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