Workgroup text	**CivPRC narrative comments**	**CIVPRC alternative if any**

RULE 1.160. MOTIONS **(a) Application.** This rule shall apply to all motions other than motions made pursuant to rules 1.480, 1.500, 1.510, 1.525, 1.530, 1.535, and 1.540. In the event of contradiction between this rule and a rule governing a specific type of motion, the latter shall prevail. **(b) Relief and Grounds.** A request for an order must be made by motion. The motion must state with particularity the grounds upon which it is based and the substantial matters of law to be argued. The motion must be in	The CivPRC does not agree with amendments to Rule 1.160 or the new Rule 1.161 in concept. However, if the concept is accepted by the court, the CivPRC suggests the court consider its alternative Rule 1.160 that would replace the Workgroup's proposed Rule 1.160 and Rule 1.161. The CivPRC presents the Workgroup's proposal as filed on the left column and in the right column indicates deleting the entire Workgroup proposed rules and replacing with an entirely different rule by CivPRC.	**~~RULE 1.160. MOTIONS~~** **[Delete entire rule proposed by the Workgroup and existing Rule]** **~~RULE 1.161. SCHEDULING OF HEARINGS ON MOTIONS~~** **[Delete entire rule proposed by the Workgroup]** **Replace with CivPRC version below.** **RULE 1.160 MOTIONS** **(a) Application.** This rule applies to all motions other than motions made pursuant to rules 1.480, 1.500, 1.510, 1.525, 1.530, 1.535, and 1.540. In the event of a conflict between this rule and a rule governing a specific type of motion, the rule governing the specific motion applies. **(b) Relief and Grounds.** (1) A request for court action must be made by motion. The

writing, except that the court may at its discretion consider an oral motion when grounds arise during a hearing or trial, subject to any other relevant rules and orders of the court. Any party may file supporting or opposing memoranda for any motion filed, provided that the parties shall observe any briefing schedule set by the court under subdivision (j)(2). Page limits on memoranda are as follows: memorandum accompanying a motion, 15 pages; response, 15 pages; reply, 10 pages. **(c) Obligation to Meet and Confer.** With the exception of stipulated motions filed pursuant to subdivision (d), ex parte motions filed under subdivision (e), and motions requiring expedited resolution under subdivision (f), prior to the filing of any motion filed under this rule, the parties, whether represented by counsel or self-represented, shall meet and confer to discuss the motion. If a party is represented by counsel, such party shall meet and confer		motion must be in writing, except that the court may consider an oral motion when grounds arise during a hearing or trial, subject to any other relevant rules and orders of the court. A motion must state with particularity the grounds upon which it is based and the requested relief, explain the legal basis for the relief requested with citations to any supporting authorities, and include a certificate of compliance with subdivision (c). For all motions, except motions served with the summons and complaint, each party opposing a motion must file and serve a response explaining the legal basis for opposing the motion with citations to any supporting authorities no later than 15 days after service of the motion. Failure to do so is sufficient cause for granting the motion by default. The movant may, within 7 days after service of any response to the motion, file and serve a reply in support of the motion which must be strictly limited to rebuttal of matters raised in the response in

through counsel, who shall have full authority to resolve all issues relating to the motion. **(1) Substance of Conference.** The parties shall attempt in good faith to resolve or otherwise narrow the issues raised in the motion. The parties shall also discuss whether a hearing will be scheduled or requested, and how much time should be reserved for any such hearing. If a hearing will not be scheduled or requested, the parties shall discuss whether the parties prefer that the court decide the motion with memoranda under subdivision (j)(1) or without memoranda under subdivision (j)(2). **(2) Outcome of Conference.** If the parties are able to resolve the motion without the court's consideration, the movant shall file and submit to the court the motion and a proposed stipulated order within 5 days after the conference. If the court does not rule on the motion within 10 days, the movant may submit to the court a request for decision.		opposition to the motion without reargument of matters covered in the motion. No further or additional briefing may be filed and served without prior leave of Court. For a motion served with the summons and complaint, the response is due on the day the response to the complaint is due. (2) Absent prior permission of the Court, neither a motion nor any response may exceed 20 pages; a reply may not exceed ten 10 pages. **(c) Obligation to Meet and Confer and Scheduling of Hearings.** (1) With the exception of ex parte motions filed under subdivision (f), and motions requiring expedited resolution under subdivision (g), prior to the filing of any motion filed under this rule, the movant must confer (orally or in writing), or make reasonable effort to confer (orally or in writing), with all parties or non-parties who may be affected

If the parties are not able to resolve the motion, the party seeking relief may file and serve the subject motion. Upon filing and service of the motion, the parties shall proceed as follows: **(A) Hearing Requested.** Any party may request a hearing on a motion pursuant to subdivision (i) and the procedure outlined in rule 1.161(b). Such a request is subject to the court's discretion to conduct a hearing under subdivision (h). **(B) No Hearing to Be Requested.** If the parties agree to not request a hearing, the movant shall, within 5 days after the filing and service of the motion, file and submit to the judicial office a notice dispensing with oral argument and indicate whether the parties request the court to decide the motion with memoranda under subdivision (j)(1) or without memoranda under subdivision (j)(2). The court shall proceed according to one of the following options: (i) within 10 days after the filing of the notice dispensing with oral argument,		by the relief sought in the motion in a good faith effort to resolve by agreement the issues to be raised in the motion. The parties or non-parties conferring with the movant must cooperate and act in good faith in attempting to resolve the dispute. (2) Each party must obtain 3 available hearing dates for the hearing to occur within the timeframes set forth in subdivision (c)(5) so that in addition to conferring on the amount of time for any hearing, the parties must coordinate scheduling of the hearing while conferring. (3) At the end of the motion, and above the signature block, the movant must certify either: (A) that counsel for the movant (or the movant if self-represented) has conferred with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve the issues raised in the motion and has been unable to do so; or

instruct the parties to schedule a hearing in accordance with rule 1.161; (ii) decide the motion summarily under subdivision (j)(2); or (iii) direct briefing under subdivision (j)(1). **(3) Nature of Conference.** To comply with this rule, the parties shall have a substantive conversation in person or by telephone or videoconference. An exchange of correspondence between the parties does not satisfy the requirement to meet and confer. **(4) Scheduling of Conference.** The conference shall occur prior to the filing of the motion, and prior to scheduling a hearing under rule 1.161. The parties shall respond promptly to inquiries and communications from opposing parties when they are attempting to schedule the conference. If the movant is unable to reach the opposing party after at least 3 good-faith attempts, the movant shall identify the dates and times of the efforts made in the certificate of		(B) that counsel for the movant (or the movant if self-represented) has made reasonable efforts to confer with all parties or non-parties who may be affected by the relief sought in the motion, in the statement (including the date, time, and manner of each effort), but has been unable to do so. If the conferral does not occur after movant has attempted to contact opposing parties in at least 3 good-faith attempts on 3 separate days one of which must be made by telephone, the movant must identify the dates and times of the efforts made in the certificate of compliance with this requirement. If only some of the issues have been resolved by agreement, the certification must specify the issues so resolved and the issues remaining unresolved. (4) The movant must immediately file and serve the motion after conferring. The movant must also file and serve a notice of hearing at the same time that the motion is filed and served and the movant must immediately secure the hearing date through

compliance filed under subdivision (5). In that event, the movant may file the subject motion and schedule a hearing in accordance with rule 1.161. **(5) Certificate of Compliance.** The movant shall include in the motion document a certificate of compliance stating that the conference has occurred. If the conference did not occur, the certificate of compliance shall describe the 3 or more good faith attempts to schedule the conference. The certificate of compliance shall indicate the date of the conference, the names of the participants, and the outcome of the conference, including whether a hearing is requested, and if no hearing is requested, whether the parties request the court to decide the motion with or without written memoranda. **(d) Stipulated Motions.** A party seeking relief that has been agreed to by the other parties may file and submit to the court a stipulated motion. The title of any such motion shall indicate that		the court's online scheduling portal or through the court's judicial office, whichever is applicable. (5) A reasonable time from the date of scheduling the hearing to the date of the hearing is as follows: (A) no more than 35 days for matters requiring a hearing time of less than 15 minutes; (B) no more than 45 days for matters requiring a hearing time of 15 minutes to less than 30 minutes; (C) no more than 60 days for requiring a hearing time of 30 minutes to less than 1 hour; and (D) no more than 90 days for matters requiring a hearing of 1 hour or longer. (6) The movant must schedule a case management conference to schedule a hearing due to any inability to obtain a hearing date within the timeframes set forth in subdivision (c)(5) or where the parties or non-

the relief has been stipulated to by the other parties. At the time the stipulated motion is filed, the movant shall also submit a proposed order to the court, the form of which has been agreed to by the other parties. The court is under no obligation to grant a stipulated motion. If the court does not rule on the motion within 10 days of filing, the movant may submit to the court a request for decision. **(e) Ex Parte Motions.** A party seeking ex parte relief may file and submit to the court an ex parte motion when permitted by law. The title of any such motion shall indicate that ex parte relief is being requested. Any such motion shall include the legal authority authorizing ex parte relief to be issued. At the time the motion is filed, the movant shall also submit a proposed order to the court. If the court does not rule on the motion within 10 days of filing, the movant may submit to the court a request for decision. **(f) Motions Requiring Expedited Resolution**		parties who may be affected by the relief sought in the motion cannot agree to a date, time, or duration for the hearing. (7) If all of the parties or non-parties who may be affected by the relief sought in the motion agree to a resolution of the motion, the movant must file and serve the motion and submit to the court a copy of the motion and a proposed order agreed to by all of the parties or non-parties who may be affected by the relief sought in the motion. **(d) Request for Decision for Court Action & Hearings.** (1) No later than the time for the filing of any reply on the motion, the movant must file and serve on the court and all parties and non-parties who may be affected by the relief sought in the motion a Request for Decision, informing the court that the motion and all responses and any reply have been filed and the dates the documents were filed, as well as the date the motion is scheduled to be heard. (2) The court must rule on

("Emergency" Motions). A party seeking an order for matters that require expedited resolution may immediately file such a motion. The title of any such motion shall indicate that the motion requires expedited resolution. Any such motion shall be verified and shall include a factual basis supporting a good-faith need for expedited resolution. Any such motion shall also include a certificate of exigent circumstances signed by the attorney or self-represented movant. Matters requiring expedited resolution shall include only those situations in which irreparable harm, death, manifest injury to person or property, or dispossession from real property will occur if expedited relief is not granted and situations where extraordinary unforeseen circumstances require an immediate ruling from the court. Motions filed under this subsection shall be immediately brought to the court's attention as specified in rule 1.161(c). Failure of a party or an attorney to act timely shall not constitute exigent		the motion without a hearing or notify the parties and any non-parties who may be affected by the relief sought in the motion by order entered within 7 days of service of the Request for Decision that the court will decide the motion without a hearing. If the court does not rule on the motion or enter the order dispensing with the hearing within 7 days of receipt of the Request for Decision, then the hearing will occur as scheduled. If the court rules on the motion or enters the order dispensing with the hearing, then the movant must immediately file and serve a notice of cancellation of the hearing and cancel the hearing through the court's online scheduling portal or through the court's judicial office, whichever is applicable. The court may order supplemental briefing as it deems necessary to decide any issues raised in the motion, any response, or reply. **(e) Ex-Parte Motions.** A party seeking ex-parte relief may file an ex-parte motion when permitted

circumstances or the required basis for an expedited hearing. The court may sanction abuses of this subsection through monetary or other appropriate sanctions. **(g) Evidentiary Motions.** If a motion requires that issues of material fact be decided in order for the court to resolve the motion, the court shall hold an evidentiary hearing on the motion. The title of any such motion shall specify that an evidentiary hearing is requested. If the movant does not so specify but the nonmoving party believes that an evidentiary hearing is required, the nonmoving party may proceed in accordance with subdivision (i) and rule 1.161(b). **(h) Nonevidentiary Motions.** If it is not necessary for the court to decide issues of material fact to rule on a motion, and except as otherwise specifically provided in these rules or other applicable legal authority, the court may, but is not required to, hold a hearing on a motion. **(i) Motions Decided with Hearing.** All hearings on motions		by law. The title of the motion shall indicate that ex-parte relief is requested. In addition to the grounds upon which it is based, the motion must include the legal authority authorizing ex parte relief to be issued. At the time the motion is filed, the movant must also submit a copy of the motion and proposed order to the court. **(f) Motions Requiring Expedited Resolution ("Emergency" Motions).** A motion seeking expedited resolution must state in the title that expedited resolution is requested. Because conferral prior to filing the motion is not required, in lieu of the certificate of compliance required in subdivision (c), the motion must include a certificate of exigent circumstances signed by the attorney for a represented party, or personally by a self-represented party. For purposes of this subdivision, the only circumstances that will be considered exigent are when irreparable harm, death, manifest injury to person or property, or

shall be scheduled in accordance with rule 1.161. **(j) Motions Decided without Hearing.** If the court declines to conduct a hearing on a motion, the court shall inform the parties of that decision by order entered within 5 days after the date on which the hearing was scheduled or requested. The court may at that time direct the parties to file memoranda on the motion or, so long as no substantial fundamental right of a party will be prejudiced, may rule on the motion summarily. **(1) Motions Decided with Memoranda.** The court may, within 10 days after either the entry of its order declining to conduct a hearing or the filing of a notice dispensing with oral argument under subdivision (c)(2)(B), order the parties to file memoranda in the first instance or supplemental to any memoranda already filed under subdivision (b). The court's order shall specify the required and permitted memoranda from each party and shall set forth a reasonable		dispossession from real property will occur if expedited relief is not granted, or in situations where extraordinary unforeseen circumstances require an immediate ruling from the court. Failure of a moving party or an attorney to act timely will not constitute exigent circumstances or the required basis for an expedited hearing. At the time of filing, the moving party must serve a copy of the motion on the court. Within 2 business days of filing, the court must issue an order: (1) ruling upon the motion; (2) requiring an expedited response; or (3) finding that the matter does not warrant expedited treatment and must issue an order denying the motion without prejudice. **(g) Abandonment of Motions**. A motion shall be deemed abandoned and denied as moot if the movant does not timely file and serve a Request for Decision pursuant to subdivision (e) or if a party ordered to set a hearing fails to timely do so. A motion that has

briefing schedule, limited to 20 days from the date of the order for a memorandum to be filed by the movant if such a memorandum is ordered, 20 days for any memorandum from the nonmoving party (counted from the date of service of the movant's memorandum if one is ordered or otherwise from the date of the order), and 10 days for any reply memorandum from the movant if the nonmoving party's memorandum raises a new issue (counted from the date of service of the nonmoving party's memorandum). Any such memoranda shall include a statement of the party's preferred disposition of the motion, together with the factual and legal grounds supporting that disposition. Page limits on memoranda are as follows: memorandum accompanying or supplemental to a motion, 15 pages; response, 15 pages; reply, 10 pages. Within 10 days after the expiration of the time permitted for the completion of briefing on a motion without hearing, the movant shall file and		been abandoned may be refiled. **(h) Motions Grantable by the Clerk**. All motions in the clerk's office for the issuance of process and to enforce and execute judgments, for entering of clerk's defaults, and for such other proceedings in the clerk's office as do not require an order of court shall be deemed motions and applications grantable as of course by the clerk. The clerk's action may be suspended or altered or rescinded by the court upon cause shown. **Committee Note** When a movant is attempting to confer under subdivision (c), the requirement that one attempt be made by phone is intended to provide a variety of contact methods so that a practitioner who accidentally overlooks an e-mail might answer the phone or at least be less likely to overlook a phone message. If the movant is unable to reach the person with whom the movant is attempting to confer, the movant should leave a message. If voicemail is full or

serve on all parties and the court a request for decision. The request shall state the dates on which the motion, response memoranda, and reply memoranda were filed, if applicable, and shall request the court to make a ruling on the motion. **(2) Motions Decided Summarily.** If the court declines to direct the parties to submit memoranda, the court shall rule on the motion summarily within 10 days after either the entry of its order declining to conduct a hearing or the filing of a notice dispensing with oral argument under subdivision (c)(2)(B). If the court fails to rule within 10 days, the movant shall, within an additional 10 days, file and serve on all parties and the court a request for decision. The request shall state the date on which the motion was filed and shall request the court to make a ruling on the motion. **(k) Abandonment of Motions.** A motion shall be deemed abandoned and denied without		there is no message option, then it would be best practices to send a written communication indicating that voicemail was unavailable.

prejudice if either of the following occurs: (1) The movant does not timely schedule and notice a hearing as required by subdivision (i), provided, however, that when only the nonmoving party desires a hearing but fails to timely initiate the hearing-setting process under subdivision (c)(2)(A), the movant may avoid abandonment of the motion by filing and submitting to the judicial office, within 15 days after the filing and service of the motion, a unilateral notice dispensing with oral argument that briefly explains the circumstances and is otherwise consistent with subdivision (c)(2)(B). (2) The movant does not timely file and serve a request for decision pursuant to subdivision (j)(1) or (j)(2). **(l) Motions Grantable by the Clerk.** All motions and applications in the clerk's office for the issuance of ~~mesne process and final~~ process to enforce and execute judgments, for entering		

defaults, and for such other proceedings in the clerk's office as do not require an order of court shall be deemed motions and applications grantable as of course by the clerk. The clerk's action may be suspended or altered or rescinded by the court upon cause shown. **2021 Commentary** The phrase in subdivision (c) concerning conferral between represented and self-represented parties is intended to serve as a reminder to litigants that contact between an attorney for one party and a self-represented party is not prohibited. *Cf.* R. Regulating Fla. Bar 4-4.2, 4-4.3. **RULE 1.161. SCHEDULING OF HEARINGS ON MOTIONS** **(a) In general.** Motions shall be filed at the time they are ready for prosecution. Meeting and conferral shall take place in accordance with rule 1.160(c). **(b) Procedure.** (1) For motions for which		

a hearing is requested, the party desiring the hearing (or the movant, if both parties desire a hearing) ("scheduling party") shall, within 5 days after the filing and service of the motion, schedule the motion for hearing in accordance with the reasonable times defined in subdivision (3). When the court directs the scheduling of a hearing under rule 1.160(c)(2)(B), the movant shall be the scheduling party and shall schedule the hearing in accordance with this subdivision within 5 days after entry of the court's order directing such scheduling. (A) Where online scheduling is available, the scheduling party shall coordinate among the parties a date and time for hearing. (B) Where scheduling takes place manually through the judicial office, the scheduling party shall contact that office, which shall offer the parties 3 dates and times. The parties shall accept or reject the dates by e-mail to all parties within 2 business days. If rejected, the rejecting		

party must identify the conflict and obtain from the judicial office 3 alternative dates and times within 2 business days. If the parties agree on a date and time, the scheduling party shall submit the date and time to the judicial office by email, with email copy to all parties, promptly upon agreement. (2) If the parties cannot agree on a date and time available within a reasonable time as defined in subdivision (3), the scheduling party shall promptly submit the motion to the judge's or other judicial officer's chambers with a certification that the parties could not agree on scheduling. The court shall either schedule the matter with the parties' cooperation or unilaterally schedule the matter. (3) A reasonable time from the date of scheduling the hearing to the date of the hearing is as follows: (A) no more than 30 days for matters requiring a hearing time of less than 15 minutes;		

(B) no more than 45 days for matters requiring a hearing time of 15 minutes to less than 30 minutes; (C) no more than 60 days for requiring a hearing time of 30 minutes to less than 1 hour; and (D) no more than 120 days for matters requiring a hearing of 1 hour or longer. These schedules may be amended by administrative order in local jurisdictions in situations of docket stress. If a matter is unable to be set, either online or through the office, within the timeframes defined in this subdivision, the scheduling party shall certify to the court that there is no acceptable time available within a reasonable time and that the court may proceed under subdivision (2). (4) If the parties cannot agree on the amount of time required, the scheduling party shall certify to the court that the parties are unable to agree on scheduling and inform the court of the parties' respective positions on the amount of time needed. The		

court may elect how it wishes to proceed consistent with subdivision (2). The court may reject time requests that it determines unreasonable and set the matter for the amount of time it deems appropriate or proceed under subdivision (2). (5) Within 5 days after the parties have agreed on or the court has determined the date, time, and length of the hearing, the scheduling party shall file and serve a notice of hearing. **(c) Motions Requiring Expedited Resolution ("Emergency" Motions).** A party seeking consideration of a motion that requires expedited resolution as defined by rule 1.160(f) shall immediately file the motion and deliver a copy of the motion to the judge's chambers. As soon as is practicable, the judge shall determine whether the motion requires emergency consideration or should be handled in the ordinary course of business. If expedited consideration is warranted, the judge may either		

set the matter for an emergency hearing or may enter an immediate order, as the circumstances may require. **(d) Cancellation of Hearings.** Hearings set pursuant to this rule may be canceled by the parties only if an agreement has been reached on the merits of the motion and the parties have entered into an agreed order or stipulation approved by the court, if the case otherwise has been resolved of record, or if the court approves the cancellation or continuance. In any instance, all parties have the responsibility to ensure the court has promptly been notified that the hearing should be canceled. If the parties fail to timely cancel the hearing, they shall both be required to appear to explain to the court why they failed to promptly notify the court that the hearing was no longer needed. **2021 Commentary** Subdivision (d) attempts to redress a recurring issue involving the administration of justice. The		

court's hearing time is limited. The court must be made cognizant of all the cases before it, not simply the case having reserved hearing time. Parties who fail to promptly cancel unneeded hearings limit the availability of hearing time for other cases.		

RULE 1.190. AMENDED AND SUPPLEMENTAL PLEADINGS **(a) Amendments.** [NO CHANGE] **(b) Amending Affirmative Defenses Involving Comparative Fault.** (1) Any motion to amend seeking to plead the fault of a party or nonparty must (A) be timely in accordance with the Florida Rules of Civil Procedure, the case management order, and other orders of the court; and (B) absent a showing of good cause and no prejudice to the other parties or the court, be brought within 15 days of when the party seeking to amend knew or reasonably should have known, with the exercise of due diligence, of the party's or nonparty's alleged fault. (2) In order to allocate any or all fault to another party or a nonparty, a party seeking to	The CivPRC suggests that proposed subdivision (b) be placed at the end of this rule so as not to require renaming the various subdivisions of this rule. The CivPRC sees no compelling reason to insert this subdivision in the middle. It works well as the last subdivision. The left column shows the Workgroup's amendments as the workgroup proposed. For ease, the right column shows the changes as CivPRC suggests using single underline to indicate the same subdivision as proposed by the Workgroup being placed as subdivision (g) rather than (b).	**RULE 1.190. AMENDED AND SUPPLEMENTAL PLEADINGS** **(a) Amendments.** [NO CHANGE] **(b) Amendments to Conform with the Evidence.** [NO CHANGE] **(c) Relation Back of Amendments.** [NO CHANGE] **(d) Supplemental Pleadings.** [NO CHANGE] **(e) Amendments Generally.** [NO CHANGE] **(f) Claims for Punitive Damages.** [NO CHANGE] **(g) Amending Affirmative Defenses Involving Comparative Fault.** (1) Any motion to amend seeking to plead the fault of a party or nonparty must: (A) be timely in accordance with the Florida Rules of Civil Procedure, the case management order, and other orders of the court; and (B) absent a

amend must (A) affirmatively plead the fault of the party or nonparty in accordance with rule 1.140 and other applicable rules and decisional law; and (B) absent a showing of good cause, identify the party or nonparty, if known, or describe the nonparty as specifically as practicable by motion with the proposed defense attached to the motion. **(b~~c~~) Amendments to Conform with the Evidence.** [NO CHANGE] **(e~~d~~) Relation Back of Amendments.** [NO CHANGE] **(~~d~~e) Supplemental Pleadings.** [NO CHANGE] **(e~~f~~) Amendments Generally.** [NO CHANGE] **(~~f~~g) Claims for Punitive Damages.** [NO CHANGE]		showing of good cause and no prejudice to the other parties or the court, be brought within 15 days of when the party seeking to amend knew or reasonably should have known, with the exercise of due diligence, of the party's or nonparty's alleged fault. (2) In order to allocate any or all fault to another party or a nonparty, a party seeking to amend must (A) affirmatively plead the fault of the party or nonparty in accordance with rule 1.140 and other applicable rules and decisional law; and (B) absent a showing of good cause, identify the party or nonparty, if known, or describe the nonparty as specifically as practicable by motion with the proposed defense attached to the motion.

RULE 1.200. CASE MANAGEMENT; PRETRIAL PROCEDURE	The CivPRC continues to recommend the Court consider adopting its proposal to amend Rule 1.280 in lieu of wholesale adoption of the Workgroup's proposal to amend Rule 1.200. However, if the court desires to adopt this rule, the Committee provides a clean version (accepting all strikethroughs and underlines) of Rule 1.200 for ease of understanding as proposed by the Workgroup in the left column and CivPRC's suggested amendments to the Workgroup's amendments in single underline and strikethrough in the right column.	**RULE 1.200. CASE MANAGEMENT; PRETRIAL PROCEDURE**
(a) Objectives. In accordance with rule 1.010, the purpose of the Florida Rules of Civil Procedure is to secure the just, speedy, and inexpensive determination of every action. In accordance with Florida Rule of General Practice and Judicial Administration 2.545(a), the purpose of case management is to conclude litigation as soon as it is reasonably and justly possible to do so while affording parties a reasonable time to prepare and	The CivPRC suggests deleting subdivision (a) as reflected in the right column. If desired, the court may move the objectives section to the commentary of the rule.	~~**(a) Objectives.** In accordance with rule 1.010, the purpose of the Florida Rules of Civil Procedure is to secure the just, speedy, and inexpensive determination of every action. In accordance with Florida Rule of General Practice and Judicial Administration 2.545(a), the purpose of case management is to conclude litigation as soon as it is reasonably and justly possible to do so while affording parties a reasonable time to prepare and~~

present their case. The purpose of the present rule is to provide a mandatory uniform framework by which the trial court shall exercise case control under rule 2.545(b). The court shall manage a civil action with the following objectives: (1) expediting a just disposition of the action and establishing early and continuing control so that the action will not be protracted because of lack of management; (2) avoiding unnecessary delay between critical case events; (3) ensuring that the case management schedule adopted in the case meets the needs of the action; (4) ensuring that discovery is relative to the needs of the action, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of proposed discovery		~~present their case. The purpose of the present rule is to provide a mandatory uniform framework by which the trial court shall exercise case control under rule 2.545(b). The court shall manage a civil action with the following objectives:~~ ~~(1) expediting a just disposition of the action and establishing early and continuing control so that the action will not be protracted because of lack of management;~~ ~~(2) avoiding unnecessary delay between critical case events;~~ ~~(3) ensuring that the case management schedule adopted in the case meets the needs of the action;~~ ~~(4) ensuring that discovery is relative to the needs of the action, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of proposed discovery~~

outweighs its likely benefit; (5) discouraging wasteful, expensive, and duplicative pretrial activities; (6) improving the quality of case resolution through more thorough and timely preparation; (7) facilitating the appropriate use of alternative dispute resolution; (8) conserving parties' resources; (9) managing the court's calendar to eliminate unnecessary hearing and trial settings and continuances; and (10) adhering to applicable standards for timely resolution of civil actions under the Florida Rules of General Practice and Judicial Administration. **(b) Applicability; Exemptions.** [NO CHANGES PROPOSED BY CIVPRC] **(c) Case Track Assignment.** Not later than 120 days after filing, each civil case shall be assigned to one of three case management tracks either by	If the court desires this rule as proposed by the Workgroup, then the CivPRC has no suggestions to further amend the subdivision (b) text and therefore the Workgroup proposal is not replicated in either left or right column. The CivPRC suggests renumbering to subdivision (a) if the court takes	~~outweighs its likely benefit;~~ ~~(5) discouraging wasteful, expensive, and duplicative pretrial activities;~~ ~~(6) improving the quality of case resolution through more thorough and timely preparation;~~ ~~(7) facilitating the appropriate use of alternative dispute resolution;~~ ~~(8) conserving parties' resources;~~ ~~(9) managing the court's calendar to eliminate unnecessary hearing and trial settings and continuances; and~~ ~~(10) adhering to applicable standards for timely resolution of civil actions under the Florida Rules of General Practice and Judicial Administration.~~ **(b~~a~~) Applicability; Exemptions.** [NO CHANGES PROPOSED BY CIVPRC] **(c~~b~~) Case Track Assignment.** Not later than 120 days ~~after filing~~after the commencement of an action, each civil case shall be assigned to one

an initial case management order or an administrative order on case management issued by the chief judge of the circuit: streamlined, general, or complex. Assignment does not reflect on the financial value of the case but rather the amount of judicial attention required for resolution. (1) "Complex" cases are actions that have been or may be designated by court order as complex in accordance with the definition of "complex" and associated criteria delineated in rule 1.201(a). Upon such designation, the action shall proceed as provided in rule 1.201. (2) "Streamlined" cases are actions that, while of varying value, reflect some mutual knowledge of the underlying facts, and as a result, limited needs for discovery, well-established legal issues related to liability and damages, few anticipated dispositive pretrial motions, minimal documentary evidence,	the CivPRC's suggestion to delete subdivision (a), Objectives. In subdivision (c), the CivPRC recommends amending "after filing" to "after commencement of an action" which is consistent with rule 1.050, providing for when an action is deemed commenced. The CivPRC suggests renumbering the subdivision if the court takes the CivPRC's suggestion to delete subdivision (a). Within subdivision (c)(1), the CivPRC recommends including language indicating that the case track will be assigned with input of the parties as identified in the Joint Case Management Report. In subdivision (c)(2), the CivPRC believes that the phrase "a short anticipated trial length" is ambiguous and subjective. The CivPRC recommends an objective period of time, such as "a short anticipated trial length of 5 days or less in duration."	of three case management tracks either by an initial case management order or an administrative order on case management issued by the chief judge of the circuit: streamlined, general, or complex. Assignment does not reflect on the financial value of the case but rather the amount of judicial attention required for resolution. (1) "Complex" cases are actions that have been or may be designated by court order as complex in accordance with the definition of "complex" and associated criteria delineated in rule 1.201(a). <u>The case track will be assigned with input of the parties as identified in the Joint Case Management Report.</u> Upon such designation, the action shall proceed as provided in rule 1.201. (2) "Streamlined" cases are actions that, while of varying value, reflect some mutual knowledge of the underlying facts, and as a result, limited needs for discovery, well-established legal issues related to liability and damages, few anticipated dispositive pretrial motions,

and a short anticipated trial length. Uncontested cases should generally be presumed to be streamlined cases, as are cases that are to be resolved by a bench trial. (3) "General" cases are all other actions that do not meet the criteria for streamlined or complex. These are generally cases that reflect an imbalance among the parties with regard to the knowledge of the underlying facts, and as a result, a greater need for discovery and imply a greater length of for trial and a more significant need for judicial attention. **(d) Changes in Track Assignment.** **(1) Change Requested by a Party.** **(A) Cases in Which a Joint Case Management Report Is Required.** Any motion to change the track to which a case is assigned must be made by the	The CivPRC believes that the amended proposed language in is ambiguous. The CivPRC recommends the Court revisit the Workgroup's proposed language and consider CivPRC's recommendation of "an anticipated trial length of 5 days or more, but that are not identified as 'complex' in subdivision (b)(1)."	minimal documentary evidence, and a short, anticipated trial length of 5 days or less in duration. Uncontested cases should generally be presumed to be streamlined cases, as are cases that are to be resolved by a bench trial. (3) "General" cases are all other actions that do not meet the criteria for streamlined or complex. These are generally cases ~~that reflect an imbalance among the parties with regard to the knowledge of the underlying facts, and as a result, a greater need for discovery and imply a greater length of for trial and a more significant need for judicial attention~~ have an anticipated trial length of 5 days or more, but that are not identified as "complex" in subdivision (b)(1). **(~~d~~c) Changes in Track Assignment.** **(1) Change Requested by a Party.** **(A) Cases in Which a Joint Case Management Report Is Required.** Any motion to change the track to which a case

date on which the parties must file their joint case management report in those cases in which a joint case management report is required. Any such motion must be filed separately from the joint case management report and may not exceed 3 pages in length. Any responsive memorandum may not exceed 3 pages in length and must be filed within 5 days after service of the motion. No reply memorandum is permitted. **(B) Cases in Which a Joint Case Management Report Is Not Required.** [NO CHANGES PROPOSED BY CIVPRC] **(C) Exception — Complex Cases.** [NO CHANGES PROPOSED BY CIVPRC] **(2) Change Directed by the Court.** [NO CHANGES PROPOSED BY CIVPRC]	The CivPRC believes that the amended proposed language in subdivision (d)(1)(A) is ambiguous. The CivPRC recommends the Court revisit the Workgroup's proposed language and consider more straightforward language such as "within 30 days after the Court makes the case track assignment." The CivPRC suggests renumbering the subdivision if the court takes the CivPRC's suggestion to delete subdivision (a). If the court desires this rule as proposed by the Workgroup, then the CivPRC has no suggestions to these subdivisions and therefore	is assigned must be made ~~by the date on which the parties must file their joint case management report in those cases in which a joint case management report is required~~within 30 days after the Court makes the case track assignment. Any such motion must be filed separately from the joint case management report and may not exceed 3 pages in length. Any responsive memorandum may not exceed 3 pages in length and must be filed within 5 days after service of the motion. No reply memorandum is permitted. **(B) Cases in Which a Joint Case Management Report Is Not Required.** [NO CHANGES PROPOSED BY CIVPRC] **(C) Exception — Complex Cases.** [NO CHANGES PROPOSED BY CIVPRC] **(2) Change Directed by the Court.** [NO CHANGES PROPOSED BY CIVPRC]

(e) Case Management Order. **(1) Complex Cases.** Case management orders in complex cases shall issue as provided in rule 1.201. **(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, 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. **(3) General Cases.** **(A) Meet and Confer.** Parties shall meet and confer within 30 days after service after	the Workgroup proposal is not replicated in either the left or right column. The CivPRC suggests renumbering the subdivision if the court takes the CivPRC's suggestion to delete subdivision (a), Objections. In subdivision (c)(2), the CivPRC recommends amending "after the case is filed" to "after commencement of an action" which is consistent with rule 1.050, providing for when an action is deemed commenced. In subdivision (c)(3)(A), the CivPRC offers a friendly amendment to remove the duplicative "after initial service" language which is presumably a scrivener's error. Also, in this subdivision, the CivPRC is concerned with the	**(ed) Case Management Order.** **(1) Complex Cases.** Case management orders in complex cases shall issue as provided in rule 1.201. **(2) Streamlined Cases.** In streamlined cases the court shall issue a case management order no later than 120 days after ~~the case is filed~~after the commencement of an action or 30 days after service on the first defendant, 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. **(3) General Cases.** **(A) Meet and Confer.** Parties shall meet and confer within 120 days after filing or 30 days after service ~~after initial~~

initial service of the complaint on the first defendant served, unless extended by order of the court. The parties should discuss and identify deadlines for: (i)-(vii) [NO CHANGES PROPOSED BY CIVPRC] **(B) Joint Case Management Report and Proposed Case Management Order.** **(i) In General.** [NO CHANGES PROPOSED BY CIVPRC] **(ii) Good-Faith Effort Required.** [NO CHANGES PROPOSED BY CIVPRC] **(iii) Failure to File.** [NO CHANGES PROPOSED BY CIVPRC]. **(C) Content of Joint Case Management Report.** The	Workgroup's proposal to amend subdivision to require the meet and confer take place "within 30 days" after "initial service" on "the first defendant served." Such a meet and confer would be futile in multi-party litigation and not all defendants have been served within this time frame. Consistent with the Workgroup's proposed language in subdivision (e)(3)(B)(iii), the CivPRC suggest rephrasing (c)(3)(A). If the court desires this rule as proposed by the Workgroup, then the CivPRC has no suggestions to subdivisions (a)(3)(B) and therefore the workgroup proposal is not replicated in either the left or right column.	~~service~~ on ~~of the complaint on~~ the first defendant, whichever occurs first~~served~~, unless extended by order of the court. The parties should discuss and identify deadlines for: (i)-(vii) [NO CHANGES PROPOSED BY CIVPRC] **(B) Joint Case Management Report and Proposed Case Management Order.** **(i) In General.** [NO CHANGES PROPOSED BY CIVPRC] **(ii) Good-Faith Effort Required.** [NO CHANGES PROPOSED BY CIVPRC] **(iii) Failure to File.**[NO CHANGES PROPOSED BY CIVPRC] **(C) Content of Joint Case Management Report.**

joint case management report shall include the following as applicable to the case: (i)-(xvii)[NO CHANGES PROPOSED BY CIVPRC] (xviii) the name and contact information (telephone number and e-mail address) of each attorney and self-represented party, subject to Florida Rule of General Practice and Judicial Administration 2.516; (xix) a list of persons to whom the joint case management report has been furnished; and (xx) a signature by a representative of each party. **(D) Content of Proposed Case Management Order.** (i) The proposed case management order must specify the following deadlines by date certain: 1-13. [NO CHANGES PROPOSED BY CIVPRC]	If the court desires this rule as proposed by the Workgroup, then the CivPRC has no suggestions to subdivisions (e)(3)(C)(i)-(A)(3)(C)(xvii) and therefore the Workgroup proposal is not replicated in either the left or right column. The CivPRC recommends deleting subdivision (e)(3)(C)(xx) as it is difficult to sometimes obtain the signature of the party on short notice (grammar corrections are suggested) If the court desires this rule as	The joint case management report shall include the following as applicable to the case: (i)-(xvii)[NO CHANGES PROPOSED BY CIVPRC] (xviii) the name and contact information (telephone number and e-mail address) of each attorney and self-represented party, subject to Florida Rule of General Practice and Judicial Administration 2.516; and (xix) a list of persons to whom the joint case management report has been furnished~~; and~~. ~~(xx) a signature by a representative of each party.~~ **(D) Content of Proposed Case Management Order.** 1–13. [NO CHANGES PROPOSED BY CIVPRC] 14. use of and timing of alternative dispute resolution; and

14.use of and timing of alternative dispute resolution; 15.filing motions directed to evidence, including *Daubert* motions pursuant to section 90.702, Florida Statutes, or related law; and 16.filing dispositive motions; (ii) [NO CHANGES PROPOSED BY CIVPRC] **(E) Case Management Order.** [NO CHANGES PROPOSED BY CIVPRC] **(F) Exception.** [NO CHANGES PROPOSED BY CIVPRC] **(4) Cases Pending as of the Effective Date of This Rule.** [NO CHANGES PROPOSED BY CIVPRC] **(f) Extensions of Time; Modification of Deadlines** **(1) Modification of Dates Established by Case Management Order.** [NO CHANGES PROPOSED BY	proposed Workgroup, then the CivPRC has no suggestions to this subdivision and therefore the workgroup proposal is not replicated in either left or right column. The CivPRC recommends removing subdivision (e)(3)(D)(i)(16) due to its unintentional inclusion of Rule 1.140 motions, which do not appear to fall within the Workgroup's suggested language. Other subdivisions are corrected grammatically. If the court desires subdivision (c)(3)(D)(ii), (c)(3)(E), (c)(3)(F), and (c)(H) as proposed by the Workgroup, then the CivPRC has no suggestions to this subdivision and therefore the workgroup proposal is not replicated in either left or right column. The CivPRC offers a friendly	15. filing motions directed to evidence, including *Daubert* motions pursuant to section 90.702, Florida Statutes, or related law~~;~~ ~~and~~. ~~16. filing dispositive motions;~~ (ii) [NO CHANGES PROPOSED BY CIVPRC] **(E) Case Management Order.** [NO CHANGES PROPOSED BY CIVPRC] **(F) Exception.** [NO CHANGES PROPOSED BY CIVPRC] **(4) Cases Pending as of the Effective Date of This Rule.** [NO CHANGES PROPOSED BY CIVPRC] **(f<u>e</u>) Extensions of Time; Modification of Deadlines<u>.</u>** **(1) Modification of Dates Established by Case Management Order.** [NO CHANGES PROPOSED BY

CIVPRC] **(2) Individual Deadlines.** Parties may not extend deadlines by agreement if the extension affects their ability to comply with the remaining dates on the schedule. Any motion for extension of time to comply with a deadline must specify the reason for noncompliance and the specific date by which the activity can be completed, including confirming availability and cooperation of any required participant such as a third-party witness or expert, and must otherwise comply with rule 1.460(a). Motions for extension of time shall not be granted if the effect is to delay the case or if the extension affects the remaining deadlines, in the absence of extraordinary unforeseen circumstances. If the problem affects a subsequent date or dates, parties must seek an amendment of the case management order as opposed to an individual motion for extension. **(3) Periodic Updates.** [NO CHANGES PROPOSED BY CIVPRC]	amendment to add a period at the end of the title pf subdivision (e), which is presumably a scrivener's error. If the court desires subdivision (f)(1) as proposed by the Workgroup, then the CivPRC has no suggestions to this subdivision and therefore the Workgroup proposal is not replicated in either the left or right column. Individual deadlines can be extended by agreement, but only by complying with Rule 1.460(a). The CivPRC feels the client consent in writing in Rule 1.460(a) is unnecessary within subdivision (f)(2), and is even more unnecessary here, where any possible extension of time is even lower on the importance scale. If the court desires subdivision (f)(1) as proposed by the Workgroup, then the CivPRC has no suggestions to this subdivision and therefore the Workgroup proposal is not replicated in either the left or right column.	CIVPRC] **(2) Individual Deadlines.** Parties may not extend deadlines by agreement if the extension affects their ability to comply with the remaining dates on the schedule. Any motion for extension of time to comply with a deadline must specify the reason for noncompliance and the specific date by which the activity can be completed, including confirming availability and cooperation of any required participant such as a third-party witness or expert~~, and must otherwise comply with rule 1.460(a)~~. Motions for extension of time shall not be granted if the effect is to delay the case or if the extension affects the remaining deadlines, in the absence of extraordinary unforeseen circumstances. If the problem affects a subsequent date or dates, parties must seek an amendment of the case management order as opposed to an individual motion for extension. **(3) Periodic Updates.** [NO CHANGES PROPOSED BY CIVPRC]

(4) Notices of Unavailability. [NO CHANGES PROPOSED BY CIVPRC] **(5) When Trial Does Not Timely Occur.** If a trial is not reached during the trial period scheduled by the case management order, no further activity may take place absent leave of court, and the case shall be reset to the next immediately available trial period. **(g) Forms.** [NO CHANGES PROPOSED BY CIVPRC] **(h) Case Management Conferences.** **(1) Scheduling.** [NO CHANGES PROPOSED BY CIVPRC] **(2) Advance Filings.** [NO CHANGES PROPOSED BY	If the court desires subdivision (f)(3) and (4) as proposed by the Workgroup, then the CivPRC has no suggestions to this subdivision and therefore the Workgroup proposal is not replicated in either the left or right column. The CivPRC believes that the language "next immediately available trial period" is vague and ambiguous. Given the complexities of scheduling trial *i.e.*, the courts' full trial dockets and the parties' schedules the CivPRC believes that the Florida court system would be better served through use of language indicating that the case "shall be reset to the next trial period available for the court and all parties." The CivPRC further believes that an updated discovery period should be addressed by the court. If the court desires subdivision (g)and (h)(4) as proposed by the Workgroup, then the CivPRC has no suggestions to this subdivision and therefore the Workgroup	**(4) Notices of Unavailability.** [NO CHANGES PROPOSED BY CIVPRC] **(5) When Trial Does Not Timely Occur.** If a trial is not reached during the trial period scheduled by the case management order, no further activity may take place absent leave of court, and the case shall be reset to the next ~~immediately available~~ trial period available for the court and all parties. Upon request, the court may grant an updated discovery period. **(g~~f~~) Forms.** [NO CHANGES PROPOSED BY CIVPRC] **(~~h~~g) Case Management Conferences.** **(1) Scheduling.** [NO CHANGES PROPOSED BY CIVPRC] **(2) Advance Filings.** [NO

CIVPRC] **(3) Preparation Required.** [NO CHANGES PROPOSED BY CIVPRC] **(4) Issues That May Be Addressed.** [NO CHANGES PROPOSED BY CIVPRC] (A) [NO CHANGES PROPOSED BY CIVPRC] (B) [NO CHANGES PROPOSED BY CIVPRC] (C) determining whether the court should enter orders addressing one or more of the following: (i)-(iv) [NO CHANGE] (v) determining whether the parties should be required to provide signed reports from retained or specially employed experts; (vi)- determining the number of expert witnesses or designating expert witnesses; (vii) resolving any discovery disputes, including addressing ongoing	proposal is not replicated in either the left or right column. The CivPRC is concerned with subdivision (h)(4)(C)(v) which suggests that a court can use its discretion to require a retained expert to prepare a report and recommends it be deleted. If accepted by the court, this deletion would require the renumbering of the following subdivisions.	CHANGES PROPOSED BY CIVPRC] **(3) Preparation Required.** [NO CHANGES PROPOSED BY CIVPRC] **(4) Issues That May Be Addressed.** [NO CHANGES PROPOSED BY CIVPRC] (A) [NO CHANGES PROPOSED BY CIVPRC] (B) [NO CHANGES PROPOSED BY CIVPRC] (C) determining whether the court should enter orders addressing one or more of the following: (i)-(iv) [NO CHANGES PROPOSED BY CIVPRC] ~~(v) determining whether the parties should be required to provide signed reports from retained or specially employed experts;~~ (v~~i~~) determining the number of expert witnesses or designating expert witnesses; (vi~~i~~) resolving any discovery disputes, including addressing ongoing

supplementation of discovery responses; (viii) eliminating nonmeritorious claims or defenses; (ix) assisting in identifying those issues of fact that are still contested; (x) addressing the status and timing of dispositive motions; (xi) addressing the status and timing of *Daubert* motions filed pursuant to section 90.702, Florida Statutes, or related law, which may be raised by a party or the court, including motions for a pretrial determination of whether the expert's opinion is of a character or on a subject matter eligible for *Daubert* exclusion; (xii) obtaining stipulations for the foundation or admissibility of evidence; (xiii) determining the desirability of special procedures for managing the action; (xiv)		supplementation of discovery responses; (viii~~i~~)eliminating nonmeritorious claims or defenses; (~~ix~~viii) assisting in identifying those issues of fact that are still contested; (~~x~~ix) addressing the status and timing of dispositive motions; (x~~i~~) addressing the status and timing of *Daubert* motions filed pursuant to section 90.702, Florida Statutes, or related law, which may be raised by a party or the court, including motions for a pretrial determination of whether the expert's opinion is of a character or on a subject matter eligible for *Daubert* exclusion; (xi~~i~~) obtaining stipulations for the foundation or admissibility of evidence; (xii~~i~~) determining the desirability of special procedures for managing the action; (xiii~~v~~) determining whether any time limits or

determining whether any time limits or procedures set forth in these rules or local rules should be modified or suspended; (xv) determining a date for filing the joint pretrial statement; (xvi) setting a trial period if one was not set under subdivision (e)(3)(D)(ii)1. or reviewing the anticipated trial period and confirming the anticipated number of days needed for trial; (xvii) discussing any time limits on trial proceedings, juror notebooks, brief pre-voir dire opening statements, and preliminary jury instructions and the effective management of documents and exhibits; and (xviii) discussing other matters and entering other orders that the court deems appropriate. **(5) Revisiting Deadlines.** At any conference under this rule, the court may revisit any of the deadlines previously set where the parties have demonstrated a good-		procedures set forth in these rules or local rules should be modified or suspended; (xiv) determining a date for filing the joint pretrial statement; (xvi) setting a trial period if one was not set under subdivision (e)(3)(D)(ii)1. or reviewing the anticipated trial period and confirming the anticipated number of days needed for trial; (xvii) discussing any time limits on trial proceedings, juror notebooks, brief pre-voir dire opening statements, and preliminary jury instructions and the effective management of documents and exhibits; and (xviii) discussing other matters and entering other orders that the court deems appropriate. **(5) Revisiting Reconsider Deadlines.** At any conference

faith attempt to comply with the deadlines or have demonstrated a significant change of circumstances, such as the addition of new parties. **(6) Compliance and Noncompliance; Sanctions.** (A) At a case management conference the court may consider compliance, noncompliance, and consequences of noncompliance with the case management order. Parties should appear for the conference ready to address their conduct of the case, case deadlines, and any pending motions or outstanding issues. As may be appropriate, the court may enter orders sanctioning a party or attorney as authorized by rule 1.275. No order to show cause is required as the parties are on notice of their obligations under the case management order and the necessity of complying. (B) If a party finds that the party is unable to comply with one or more provisions of the case	The word "revisiting" is not normally recognized in these rules. Reconsider or reconsideration would be more consistent and the CivPRC therefore offers this friendly amendment for subdivision (h)(5). The issue of repeating the sanction power of the Court has been dealt discussed in the report. The CivPRC urges that because it is said once in the sanctions rule, it should be deleted here.	under this rule, the court may revisit any of the deadlines previously set where the parties have demonstrated a good-faith attempt to comply with the deadlines or have demonstrated a significant change of circumstances, such as the addition of new parties. ~~**(6) Compliance and Noncompliance; Sanctions.**~~ ~~(A) At a case management conference the court may consider compliance, noncompliance, and consequences of noncompliance with the case management order. Parties should appear for the conference ready to address their conduct of the case, case deadlines, and any pending motions or outstanding issues. As may be appropriate, the court may enter orders sanctioning a party or attorney as authorized by rule 1.275. No order to show cause is required as the parties are on notice of their obligations under the case management order and the necessity of complying.~~

management order, the party shall immediately file a motion for a case management conference laying out the issue and proposing a remedy. The party must seek consideration of the matter by the court by setting a case management conference or submitting the matter to the court for consideration as a written submission as soon as the party determines that the party is unable to comply. **(7) Other Hearings Convertible.** Any scheduled hearing may be converted to a sua sponte case management conference by agreement of the parties at the time of the hearing, in which case the report requirement is excused; however, the parties should be prepared to address all pending motions or issues. **(8) Proposed Orders.** All proposed orders reflecting rulings made at a case management conference must be submitted to the court within 7 days after the conference. If the parties do not agree to the content of the order,	If the above proposed amendment is adopted, subdivision (h)(7) should be renumbered as (h)(6). The CivPRC is concerned with the language used within subdivision(h)(8). Such a rule would place an undue financial burden on the parties to obtain	~~(B) If a party finds that the party is unable to comply with one or more provisions of the case management order, the party shall immediately file a motion for a case management conference laying out the issue and proposing a remedy. The party must seek consideration of the matter by the court by setting a case management conference or submitting the matter to the court for consideration as a written submission as soon as the party determines that the party is unable to comply.~~ **(~~7~~6) Other Hearings Convertible.** Any scheduled hearing may be converted to a sua sponte case management conference by agreement of the parties at the time of the hearing, in which case the report requirement is excused; however, the parties should be prepared to address all pending motions or issues. **~~(8) Proposed Orders.~~** ~~All proposed orders reflecting rulings made at a case management conference must be submitted to~~

competing orders must be delivered to the court within 7 days, along with a copy of the relevant portion of the transcript if a court reporter was present. **(9) Failure to Appear.** If both parties fail to appear at a case management conference, the court may conclude that the case has been resolved and may thereupon dismiss the case without prejudice. Such dismissal shall not be deemed a sanction, but shall be without prejudice to a party's seeking relief under rule 1.540. **(~~b~~i) Pretrial Conference.** [NO CHANGES PROPOSED BY CIVPRC] **2021 Commentary** [NO CHANGES PROPOSED BY CIVPRC]	hearing transcripts of any hearing where competing orders are submitted (which constitutes a significant number of hearings). Further, standard delivery of a transcript is 10 business days, which is longer than the 7 calendar days provided by the Workgroup's proposed language, thereby making it necessary to order transcripts on a "rush" requiring a more significant expense. Given the expense, the CivPRC anticipates that this rule could cause parties and their counsel to forego use of court reporters, which could threaten the parties' due process rights in the even there is not a sufficient record to appeal adverse rulings. If the above proposed amendment is adopted, subdivision (h)(7) should be renumbered as (h)(8). If the court desires subdivision (i) as proposed by the Workgroup, then the CivPRC has no suggestions and therefore the Workgroup proposal is not replicated in either the left or right column.	~~the court within 7 days after the conference. If the parties do not agree to the content of the order, competing orders must be delivered to the court within 7 days, along with a copy of the relevant portion of the transcript if a court reporter was present.~~ **(9~~8~~) Failure to Appear.** If both parties fail to appear at a case management conference, the court may conclude that the case has been resolved and may thereupon dismiss the case without prejudice. Such dismissal shall not be deemed a sanction, but shall be without prejudice to a party's seeking relief under rule 1.540. **(~~b~~h) Pretrial Conference.** [NO CHANGES PROPOSED BY CIVPRC] **2021 Commentary** [NO CHANGES PROPOSED BY CIVPRC]

RULE 1.201. COMPLEX LITIGATION [NO CHANGES PROPOSED BY CIVPRC]	The CivPRC continues to support the use of rule 1.201. The CivPRC, however, recommends including cases designated as complex to fall within the purview of Rule 1.160 and its procedures.	**RULE 1.201. COMPLEX LITIGATION** [NO CHANGES PROPOSED BY CIVPRC]
RULE 1.271. PRETRIAL COORDINATION COURT **(a) Applicability.** [NO CHANGES PROPOSED BY CIVPRC] **(b) Definitions.** [NO CHANGES PROPOSED BY CIVPRC] **(c) Transfer to a PCC.** [NO CHANGES PROPOSED BY CIVPRC] **(e) Retention by the PCC; Remand to the Trial Court.** [NO CHANGES PROPOSED BY CIVPRC]	CivPRC agrees with thr concept of rule 1.271. For ease, the CivPRC provides a clean version without underlining as the Workgroup proposes in the left column and provides the CivPRC changes in single strikethrough and underlining on the on the right column. If the court desires subdivisions (a)-(e) as proposed by the Workgroup, then the CivPRC has no suggestions and therefore the Workgroup proposal is not replicated in either the left or right column.	**RULE 1.271. PRETRIAL COORDINATION COURT** **(a) Applicability.** [NO CHANGES PROPOSED BY CIVPRC] **(b) Definitions.** [NO CHANGES PROPOSED BY CIVPRC] **(c) Transfer to a PCC.** [NO CHANGES PROPOSED BY CIVPRC] **(e) Retention by the PCC; Remand to the Trial Court.** [NO CHANGES PROPOSED BY CIVPRC]

(f) PCC Orders Binding in the Trial Court after Remand. **(1) Generally.** [NO CHANGES PROPOSED BY CIVPRC] **(2) Concurrence of the PCC Required to Change Its Orders.** Without the written concurrence of the PCC, the trial court cannot, over objection, vacate, set aside, or modify PCC orders, including but not limited to orders related to summary judgment, jurisdiction, venue, joinder, special exceptions, discovery, sanctions related to pretrial proceedings, privileges, the admissibility of expert testimony, and scheduling. **(3) Exceptions.** The trial court need not obtain the written concurrence of the PCC to vacate, set aside, or modify PCC orders regarding the admissibility of evidence at trial (other than expert evidence) when necessary because of changed circumstances, to correct an error of law, or to prevent manifest injustice. But the	The CivPRC suggests deleting subdivision (2) as the CivPRC recommends allowing the trial judge to reconsider any previous PCC ruling. The CivPRC suggests modifying this subdivision for greater clarity.	**(f) PCC Orders Binding in the Trial Court after Remand.** **(1) Generally.** [NO CHANGES PROPOSED BY CIVPRC] ~~**(2) Concurrence of the PCC Required to Change Its Orders.** Without the written concurrence of the PCC, the trial court cannot, over objection, vacate, set aside, or modify PCC orders, including but not limited to orders related to summary judgment, jurisdiction, venue, joinder, special exceptions, discovery, sanctions related to pretrial proceedings, privileges, the admissibility of expert testimony, and scheduling.~~ **(3~~2~~) ~~Exceptions~~Concurrence.** The trial court need not obtain the written concurrence of the PCC to vacate, set aside, or modify PCC orders regarding the admissibility of evidence at trial (other than expert evidence) when necessary because of changed circumstances, to correct an error

trial court must support its action with specific findings and conclusions in a written order or stated on the record. **(g) Review.** [NO CHANGES PROPOSED BY CIVPRC]	If the court desires subdivisions (g) as proposed by the Workgroup, then the CivPRC has no suggestions and therefore the Workgroup proposal is not replicated in either the left or right column.	of law, or to prevent manifest injustice. ~~But the trial court must~~To vacate, set aside, or modify all other PCC orders, the trial must either obtain concurrence from the PCC or support its action with specific findings and conclusions in a written order or stated on the record. **(g) Review.** [NO CHANGES PROPOSED BY CIVPRC]

RULE 1.275. SANCTIONS **(a) Generally.** The court may impose a sanction if a party or attorney fails to comply with these rules or with any court order arising out of a case filed pursuant to these rules. To the extent any rule of civil procedure specifies options for sanctioning misconduct, the sanctions set forth in this rule shall be deemed supplemental to such other rule, as appropriate.	Within subdivision (a), the CivPRC agrees that after the opportunity for hearing, the Workgroup's use of the phrase "the court **may** impose a sanction" is preferable. The order whose violation is sanctionable should have to be entered in the case; "arising out of a case" suggests judicial power to enter a sanction for the violation of an order entered in some related proceeding The phrase "specifies options for" can be better said by using the word "authorizes" The phrase "shall be deemed" unnecessarily raises the shall/must issue and is unnecessarily formal. The CivPRC believes ", as appropriate.	**RULE 1.275. SANCTIONS** **(a) Generally.** After an for opportunity hearing,~~T~~the court may impose a sanction if a party or attorney fails to comply with these rules or with any court order ~~arising out of~~entered in a case filed pursuant to these rules. To the extent any rule of civil procedure ~~specifies options for~~authorizes sanctioning misconduct, the sanctions set forth in this rule ~~shall be deemed~~are supplemental to such other rule~~, as appropriate~~.
(b) Available Sanctions. On a party's motion or on its own motion, the court may enter appropriate sanctions concerning such conduct unless the noncompliant party or attorney shows good cause and the exercise of due diligence. Such sanctions may include, but are not limited to, one or more of the following	Subdivision (B) should be amended as sanctions are more technically "ordered" than "entered." The word "appropriate" does not add a legal standard and "such conduct" is stilted. Misconduct is preferred language. The standard for the imposition of sanctions should be consistent	**(b) Available Sanctions.** On a party's motion or on its own motion, the court may order ~~enter appropriate~~ sanctions concerning ~~such~~ misconduct unless the noncompliant party or attorney shows ~~good cause and the exercise of due diligence~~substantial justification. ~~Such~~The sanctions may include, but are not limited

measures: (1) reprimanding the party or attorney, or both, in writing or in person; (2) requiring that one or more clients or business-entity representatives attend specified hearings or all future hearings in the action; (3) refusing to allow the party to support or oppose a designated claim or defense; (4) prohibiting a party from introducing designated matters in evidence; (5) staying further proceedings, in whole or in part, until the party obeys a rule or previous order; (6) requiring a noncompliant party or attorney, or both, to pay reasonable expenses (as defined in this rule) incurred by the opposing party because of the conduct; (7) reducing the number of peremptory challenges available to a party; (8) dismissing the action, in whole or in part, with or without prejudice;	throughout the rules. That standard should be the lack of "substantial justification." Also, lack of due diligence is not relevant to the bulk of sanctions. "Such" is stilted "measures" is unnecessary and not helpful. Within subdivision (b)(2), the term should be "party" and not "client." Within subdivision (b)(5), the preferable phrase should be "complies with" to apply to orders and rules. This subdivision should direct the effect of this delay on the overall scheduling for the case. The preferred language is "misconduct" within subdivision (b)(6). The CivPRC sees no basis in the law, and no compelling reason, for subdivision (b)(7), so the CivPRC recommends the subdivision is	to, one or more of the following~~-measures~~: (1) reprimanding the party or attorney, or both, in writing or in person; (2) requiring that one or more ~~clients or business-entity~~party or party-representatives attend specified hearings or all future hearings in the action; (3) refusing to allow the party to support or oppose a designated claim or defense; (4) prohibiting a party from introducing designated matters in evidence; (5) staying further proceedings, in whole or in part, until the party ~~obeys~~complies with a rule or previous order; (6) requiring a noncompliant party or attorney, or both, to pay reasonable expenses (as defined in this rule) incurred by the opposing party because of the misconduct; ~~(7) reducing the number of peremptory challenges available to a party~~; (~~8~~7) dismissing the action,

(9) striking pleadings and entering a default or default judgment; (10) referring the attorney to the local professionalism panel or The Florida Bar; and (11) finding the party or attorney in contempt of court. **(c) Continuance of Trial.** A continuance of a trial shall not be used as a sanction unless the court finds that the continuance does not act to the detriment of the nonoffending party. **(d) Reasonable Expenses.** In determining the amount of reasonable expenses that may be taxed as a sanction under this rule, the court may include any attorney's fees incurred by a party as a result of the offending party's or attorney's sanctioned conduct, any out-of-pocket costs or travel expenses reasonably incurred, and any other financial loss reasonably arising as a result of the sanctioned conduct.	deleted. If deleted, the following subdivisions will be renumbered. The Workgroup's proposals often assume that there are only two parties in a case. In this subdivision, the effect of a continuance on any nonoffending party should be considered before sanctioning. Within subdivision (d), there appears to be no reason why the reasonable expenses that can be incurred in sanctions under this rule should be any different from those available under any other rule. For example, costs. This rule is preferable and rule 1.380 should be changed. Also, the plural possessive of "attorneys' fees" has become standard "sanctioned conduct" should be	in whole or in part, with or without prejudice; (~~9~~8) striking pleadings and entering a default or default judgment; (~~10~~9) referring the attorney to the local professionalism panel or The Florida Bar; and (1~~1~~0) finding the party or attorney in contempt of court. **(c) Continuance of Trial.** A continuance of a trial shall not be used as a sanction unless the court finds that the continuance does not act to the detriment of ~~the~~any nonoffending party. **(d) Reasonable Expenses.** In determining the amount of reasonable expenses that may be taxed as a sanction under this rule, the court may include any ~~attorney's~~attorneys' fees incurred by a party as a result of the offending party's or attorney's ~~sanctioned~~ misconduct, any out-of-pocket costs or travel expenses reasonably incurred, and any

(e) Limitation. The court may not order the payment of reasonable expenses if the court finds that a party'' or attorney's noncompliance was substantially justified.	consistently referred to as misconduct. The standard for "excuse" should be consistently described – "substantial justification" Noncompliance should read "misconduct".	other financial loss reasonably arising as a result of the ~~sanctioned~~ misconduct. **(e) Limitation.** The court may not order the payment of reasonable expenses if the court finds that a party's or attorney's ~~has~~ has shown substantial justification for the conduct ~~noncompliance was substantially justified~~.
(f) Dismissal with Prejudice or Default. Before the court may impose the sanction of either dismissal with prejudice or default, the court must consider: (1) whether the noncompliance was willful, deliberate, contumacious, or grossly noncompliant rather than an act of neglect or inexperience; (2) whether the attorney has previously been sanctioned in this or related cases involving the same parties; (3) whether the client was personally involved in the act of disobedience; (4) whether the noncompliance prejudiced the opposing party through undue	An act of neglect suggests action whereas sanctionable conduct can be inaction. For that reason it is suggested that the term "negligence" be used instead. Disobedience should read misconduct, for consistency. Noncompliance should be	**(f) Dismissal with Prejudice or Default.** Before the court may impose the sanction of either dismissal with prejudice or default, the court must consider: (1) whether the ~~noncompliance~~misconduct was willful, deliberate, contumacious, or grossly noncompliant rather than an act of ~~neglect~~negligence or ~~inexperience~~other excusable conduct; (2) whether the attorney has previously been sanctioned in this or related cases involving the same parties; (3) whether the client was personally involved in the ~~act of~~

expense, loss of evidence, or in some other fashion; (5) whether the attorney offered reasonable justification for the noncompliance; and (6) whether the noncompliance created significant problems for the administration of justice. The court shall weigh all these factors before deciding whether to impose either a dismissal with prejudice or a default as a sanction. No single factor shall be dispositive. A written order is required, but factual findings as to each factor are not required unless the sanctioned conduct relates to an attorney who requests such findings to be made within 15 days after the date of filing of the written order of dismissal or entry of the judgment of default.	"misconduct" throughout CivPRC recommends replacing "in some other fashion" with "otherwise." The standard for "excuse" should be consistently described – "substantial justification" Noncompliance should read "misconduct". The Workgroup did not include the final *Kozel v. Ostendorf*, 629 So. 2d 817 (1993) factor, which is whether there is a lesser sanction available. That provision should be kept in a rule attempting to codify Kozel so the CivPRC suggests adding it. "Must" replaces "shall" in compliance with the Rules for Guideline submission. Misconduct is the preferred word over sanctioned conducted and the CivPRC suggests that both an attorney or a party can make the request for factual findings.	~~disobedience~~misconduct; (4) whether the ~~noncompliance~~misconduct prejudiced the opposing party through undue expense, loss of evidence, or ~~in some other fashion~~otherwise; (5) whether the attorney ~~offered reasonable~~substantial justification for the ~~noncompliance~~misconduct; and (6) whether the ~~noncompliance~~misconduct created significant problems for the administration of justice. (7) whether a less severe sanction is a viable alternative. The court ~~shall~~must weigh all these factors before deciding whether to impose either a dismissal with prejudice or a default as a sanction. No single factor shall be dispositive. A written order is required, but factual findings as to each factor are not required unless the~~sanctioned~~ misconduct relates to an attorney or party who requests such findings to be made within 15 days after the date of filing of the written order of dismissal or

		entry of the judgment of default.
(g) Level of Conduct. Except as stated in this rule or elsewhere in these rules, a finding of willfulness shall not be necessary to impose a sanction provided in this rule. The sanction, however, shall be commensurate with the conduct.	"Is not" simplifies the sentence. Replace "provided in" with "under" for simplicity.	**(g) Level of Conduct.** Except as stated in this rule or elsewhere in these rules, a finding of willfulness ~~shall~~is ~~not~~ be necessary to impose a sanction ~~provided in~~under this rule. The sanction, however, ~~shall~~must be commensurate with the conduct.
~~(h) Client to be Notified.~~ ~~Promptly upon issuance of a sanctions order, the attorney representing the client or clients that are the subject of the order shall deliver a copy of the order to the client or clients.~~	It appears that the Workgroup only intended the client [represented party] to be notified of the sanctions issue upon the issuance of an order. If a sanction motion may seek sanctions against the represented party (with or without their lawyer), that party needs to be notified at the start of the process.	**(h) C~~lient to be Notified.~~** ~~Promptly upon issuance of a sanctions order, the attorney representing the client or clients that are the subject of the order shall deliver a copy of the order to the client or clients.~~**Notice to Represented Party.** When a motion is filed seeking sanctions against a represented party and when an order is entered imposing any sanction against a party, that motion or order must be immediately delivered to the party by the party's lawyer.

RULE 1.279. STANDARDS OF CONDUCT FOR DISCOVERY **(a) In general.** The intent of the Florida Rules of Civil Procedure is	The CivPRC feels that the provisions of proposed rule 1.279, or a discussion of these concepts, would be more appropriately placed into the Court's opinion adopting whatever rules are accepted by the Court, or published separately outside of the Rules of Civil Procedure. The CivPRC feels that the concepts are not "rule" concepts, and as guiding principles, they should apply to all lawyers in Florida and not just those who practice in our civil courts. Nevertheless, if the Court accepts the premise of this proposed rule and wants to keep in the Rules of Civil Procedure, the following suggestions and comments are submitted in the right column with strikethrough and underline. The left column is the new Rule 1.279, without underline, as proposed by the workgroup.	**RULE 1.279. ~~STANDARDS~~ ~~OF~~GUIDELINES FOR CONDUCT ~~FOR~~OF DISCOVERY**

to ensure fairness in the courts, a search for the truth, and the efficient delivery of justice. (1) Discovery is a vital component of the justice system. The discovery rules provide all parties the right to relevant information in the evaluation, construction, and presentation of their case. The intent of the rules is that the relevant facts should be the determining factor in cases rather than gamesmanship, surprise, or superior trial tactics. (2) [NO CHANGES PROPOSED BY CIVPRC] (3) Surprise tactics, delay, trickery, and concealment of discoverable information impairs the administration of justice and results in unnecessary expense within the litigation process. Through proper disclosure of discoverable information, all parties can evaluate the strengths and weaknesses of their case. Not meeting discovery obligations by delay, obstructing the truth, or failing to be candid with the court or opponents is discovery abuse over which the court has wide	The language proposed by the Workgroup could easily be read to expand discovery to all relevant information, which is overbroad. Privileged and confidential information is not discoverable, and there are limits to the discovery of relevant information. A lawyer cannot fail to disclose a witness and surprise the opponent at trial. But when to call a witness and in what manner can cause massive surprise, and be perfectly legal and professional. The CivPRC believes better language is delay or obfuscation. Surprise tactics, by themselves, are not sanctionable nor professionally improper, so long as the rules are followed. "Impair" should be plural by dropping the "s." since delay, trickery and concealment of discoverable information affect the administration of justice.	**(a) In general.** The intent of the Florida Rules of Civil Procedure is to ensure fairness in the courts, a search for the truth, and the efficient delivery of justice. (1) Discovery is a vital component of the justice system. The discovery rules provide all parties the right to relevant<u>, non-privileged, and discoverable</u> information in the evaluation, construction, and presentation of their case. The intent of the rules is that the relevant facts should be the determining factor in cases rather than gamesmanship,<u> delay or obfuscation</u> ~~surprise, or superior trial tactics~~. (2) [NO CHANGES PROPOSED BY CIVPRC] (3) ~~Surprise tactics, d~~<u>D</u>elay, trickery, and concealment of discoverable information impair~~s~~ the administration of justice and results in unnecessary expense within the litigation process. Through proper disclosure of discoverable information, all parties can evaluate the strengths and weaknesses of their case. Not

discretion. **(b) Attorneys' and parties' obligations.**[NO CHANGES PROPOSED BY CIVPRC] (2) An attorney is an officer of the court who has a special responsibility for the quality of justice. Zealous advocacy is not inconsistent with civility, professionalism and justice. (A) [NO CHANGES PROPOSED BY CIVPRC] (B) [NO CHANGES PROPOSED BY CIVPRC] (C) Attorneys shall familiarize themselves with the following resources setting standards of conduct. Attorneys have a duty to conduct themselves consistent with the standards of behavior reflected in: (i) the Oath of Admission to The Florida Bar; (ii) The Florida Bar	If the court desires these parts of the rule as proposed by the Workgroup, then the CivPRC has no suggestions to this subdivision and therefore the Workgroup proposal is not replicated in either the left or right column. The worthy publications listed in this subdivision, by their own terms, do not and were not written, to create "standards" for attorneys. Their stature should not be elevated by a generic description. There should not be a "duty" [punishable by sanctions presumably] to comply with	meeting discovery obligations by delay, obstructing the truth, or failing to be candid with the court or opponents is discovery abuse over which the court has wide discretion. **(b) Attorneys' and parties' obligations.**[NO CHANGES PROPOSED BY CIVPRC] (2) An attorney is an officer of the court who has a special responsibility for the quality of justice. Zealous advocacy is not inconsistent with civility, professionalism and justice. (A) [NO CHANGES PROPOSED BY CIVPRC] (B) [NO CHANGES PROPOSED BY CIVPRC] (C) Attorneys ~~shall~~must familiarize themselves with the following resources ~~setting standards of~~professional conduct. Attorneys ~~have a duty to~~should conduct themselves consistent with the ~~standards of~~ behavior reflected in: (i) the Oath of

Creed of Professionalism; (iii) The Florida Bar Professionalism Expectations; (iv) the Rules Regulating The Florida Bar; and (v) the *Florida Handbook on Civil Discovery Practice*. (3) Attorneys shall advise clients of their discovery obligations and shall counsel them to comply with them. Courts may presume that attorneys have met this obligation in any instance of discovery abuse. **(c) The court's obligations.** (1) Where a party or attorney interferes with the ability of the court to adjudicate the issues in the case or impairs the rights of others, the court has the authority to sanction parties, law firms, and individual attorneys, to strike pleadings, and, in extreme or repeated conduct, to dismiss the action or defenses. The courts have an obligation to prevent unreasonable delay or disruption	aspirational goals. Again, the conduct described in these publications is not described or promulgated as "standards." The rule standard for mandatory conduct is "must", not shall. Any "presumption" of advising the client should be automatic. This complete subdivision is unnecessary, and generally not helpful. Rule 1.275 gives judges full and complete authority to sanction lawyers for violating actual duties. This restatement is incompete and contradictory of Rule 1.275, and totally focuses on the judge's role as disciplinarian, rather than emphasizing the court's more important roles as teacher, role model, and manager.	Admission to The Florida Bar; (ii) The Florida Bar Creed of Professionalism; (iii) The Florida Bar Professionalism Expectations; (iv) the Rules Regulating The Florida Bar; and (v) the *Florida Handbook on Civil Discovery Practice*. (3) Attorneys ~~shall~~must advise clients of their discovery obligations and ~~shall~~must counsel them to comply with them. ~~Courts may presume that attorneys have met this obligation in any instance of discovery abuse.~~ ~~**(c) The court's obligations.**~~ ~~(1) Where a party or attorney interferes with the ability of the court to adjudicate the issues in the case or impairs the rights of others, the court has the authority to sanction parties, law firms, and individual attorneys, to strike pleadings, and, in extreme or repeated conduct, to dismiss the action or defenses. The courts have an obligation to prevent~~

of litigation. (2) Judges shall take appropriate steps to require parties, law firms, and attorneys to abide by these rules. **2021 Commentary** [NO CHANGES PROPOSED BY CIVPRC]		~~unreasonable delay or disruption of litigation.~~ ~~(2) Judges shall take appropriate steps to require parties, law firms, and attorneys to abide by these rules.~~ **2021 Commentary** [NO CHANGES PROPOSED BY CIVPRC]

	Most of the language in this proposed new rule (regarding standards for conduct in depositions) is taken verbatim from rule 1.310. For ease, the Workgroup's proposal is presented in a clean version in the left column (without strikethroughs and underlining) and the CivPRC's suggestions are present in single strikethrough and underline on the right column.	
RULE 1.335. STANDARDS FOR CONDUCT IN DEPOSITIONS, OBJECTIONS, CLAIMS OF PRIVILEGE, TERMINATION OR LIMIT, FAILURE TO APPEAR, AND SANCTIONS **(a) Conduct in Depositions.** [NO CHANGES PROPOSED BY CIVPRC] **(b) Witness Conduct.** Attorneys shall instruct clients and witnesses under their control to act with honesty, fairness,	If the court desires this rule as proposed by the Workgroup, then the CivPRC has no suggestions to this subdivision and therefore the Workgroup proposal is not replicated in either the left or right column. "Must" replaces "shall" for compliance with the Guidelines.	**RULE 1.335. STANDARDS FOR CONDUCT IN DEPOSITIONS, OBJECTIONS, CLAIMS OF PRIVILEGE, TERMINATION OR LIMIT, FAILURE TO APPEAR, AND SANCTIONS** **(a) Conduct in Depositions.** [NO CHANGES PROPOSED BY CIVPRC] **(b) Witness Conduct.** Attorneys ~~shall~~must instruct clients and witnesses under their control to act with honesty,

respect, and courtesy. **(c) Objections During Depositions.** [NO CHANGES PROPOSED BY CIVPRC] **(d) Instruction Not to Answer.** [NO CHANGES PROPOSED BY CIVPRC] **(e) Motion to Terminate or Limit Examination.** At any time during the taking of the deposition, on motion of a party or of the deponent and on a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, or that an objection or an instruction to a deponent not to answer are being made in violation of subdivision (d), the court in which the action is pending or the circuit court where the deposition is being taken may order the officer conducting the examination to cease immediately from taking the deposition or may limit the scope and manner of the taking of the deposition under rule 1.280(d). If the order terminates the examination, it shall be resumed	If the court desires this rule as proposed by the Workgroup, then the CivPRC has no suggestions to this subdivision and therefore the Workgroup proposal is not replicated in either the left or right column.	fairness, respect, and courtesy. **(c) Objections During Depositions.** [NO CHANGES PROPOSED BY CIVPRC] **(d) Instruction Not to Answer.** [NO CHANGES PROPOSED BY CIVPRC] **(e) Motion to Terminate or Limit Examination.** At any time during the taking of the deposition, on motion of a party or of the deponent and on a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, or that an objection or an instruction to a deponent not to answer are being made in violation of subdivision (d), the court in which the action is pending or the circuit court where the deposition is being taken may order the officer conducting the examination to cease immediately from taking the deposition or may limit the scope and manner of the taking of the deposition under rule 1.280(d). If the order terminates the examination, it ~~shall~~must be

thereafter only on the order of the court in which the action is pending. Upon demand of any party or the deponent, the taking of the deposition must be suspended for the time necessary to make a motion for an order. The provisions of rule 1.380(a)(5) apply to the award of sanctions or expenses incurred in relation to the motion. **(f) Failure to Attend or Serve Subpoena; Expenses and Sanctions.** [NO CHANGES PROPOSED BY CIVPRC] **(g) Sanctions for Improper Conduct During Depositions.** Attorneys are officers of the court who are responsible to the judiciary for the propriety of their professional activities. Violations of this rule adversely impact the perception of our judicial system and the administration of justice. Violations also potentially create prejudice that is frequently difficult and time-consuming to determine. Therefore, any violation of this rule creates a	"Must" replaces "shall" for compliance with the guidelines.	resumed thereafter only on the order of the court in which the action is pending. Upon demand of any party or the deponent, the taking of the deposition must be suspended for the time necessary to make a motion for an order. The provisions of rule 1.380(a)(5) apply to the award of sanctions or expenses incurred in relation to the motion. **(f) Failure to Attend or Serve Subpoena; Expenses and Sanctions.** [NO CHANGES PROPOSED BY CIVPRC] **(g) Sanctions for Improper Conduct During Depositions.** Attorneys are officers of the court who are responsible to the judiciary for the propriety of their professional activities. Violations of this rule adversely impact the perception of our judicial system and the administration of justice. Violations also potentially create prejudice that is frequently difficult and time-consuming to determine. ~~Therefore, any violation of this rule creates a presumption~~

presumption of prejudice and will result in expenses, fees, or other sanctions as provided in this rule and in rule 1.380. The court has the discretion to assess expenses, fees, and other sanctions against the attorney, the law firm, the client, or any combination thereof where warranted by the violation that occurred.	The CivPRC suggests that the Court not adopt the language stating that "Therefore, any violation of this rule creates a presumption of prejudice and will result in expenses, fees, or other sanctions as provided in this rule and in rule 1.380." That language restricts trial judges instead of empowering them. It is also inconsistent with the last sentence, which grants discretion to assess expenses, fees, sanctions.	~~of prejudice and will result in expenses, fees, or other sanctions as provided in this rule and in rule 1.380.~~ The court has the discretion to assess expenses, fees, and other sanctions against the attorney, the law firm, the client, or any combination thereof where warranted by the violation that occurred.

RULE 1.380. FAILURE TO MAKE DISCOVERY; SANCTIONS	The CivPRC's comments focus on the sanctions aspects of the proposal in subdivisions (a)(5) and (b). For ease, a clean version of the Workgroup's proposal is seen on the left column with no strikethrough and underlining. The CivPRC's suggestions are on the right column in single strikethrough and underline.	**RULE 1.380. FAILURE TO MAKE DISCOVERY; SANCTIONS**
(a) Motion for Order Compelling Discovery. Upon reasonable notice to other parties and all persons affected, a party may move for an order compelling disclosure or discovery. Such a motion shall comply with rule 1.160(c).	"Must" replaces "shall" for compliance with the Guidelines for Rules Submissions.	**(a) Motion for Order Compelling Discovery.** Upon reasonable notice to other parties and all persons affected, a party may move for an order compelling disclosure or discovery. Such a motion ~~shall~~must comply with rule 1.160(c).
(1) Appropriate Court. A motion for an order to a party shall be made to the court where the action is pending or, if applicable, in accordance with rule 1.335(e). A motion for an order to a nonparty must be made to the court where the discovery is or will be taken.		**(1) Appropriate Court.** A motion for an order to a party ~~shall~~must be made to the court where the action is pending or, if applicable, in accordance with rule 1.335(e). A motion for an order to a nonparty must be made to the court where the discovery is or will be taken.
(2) Motion. [NO CHANGES PROPOSED BY CIVPRC]		**(2) Motion.** [NO CHANGES PROPOSED BY CIVPRC]

(3) Motions Relating to Depositions. [NO CHANGES PROPOSED BY CIVPRC]		**(3) Motions Relating to Depositions.** [NO CHANGES PROPOSED BY CIVPRC]
(4) Evasive or Incomplete Answer. For purposes of this subdivision an evasive or incomplete answer shall be treated as a failure to answer.	"Must" replaces "shall" for compliance with the Guidelines for Rules Submission.	**(4) Evasive or Incomplete Answer.** For purposes of this subdivision an evasive or incomplete answer ~~shall~~must be treated as a failure to answer.
(5) Award of Expenses of Motion.		**(5) Award of Expenses of Motion.**
(A) If the Motion Is Granted. If the motion is granted, and after opportunity for hearing, the court shall require the party or deponent whose conduct necessitated the motion, the party or attorney advising the conduct, or any appropriate combination of these persons to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorneys' fees and costs, unless the court finds that the movant failed to certify in the motion that a good-faith effort was made to obtain the discovery without court action~~,~~ or that the opposition to the motion was substantially justified.	"Must" replaces "shall" for compliance with the Guidelines for Rules Submission. The CivPRC recommends eliminating "including attorneys' fees and costs," because subdivision (5)(D) addresses what can be included in an award.	**(A) If the Motion Is Granted.** If the motion is granted, and after opportunity for hearing, the court ~~shall~~must require the party or deponent whose conduct necessitated the motion, the party or attorney advising the conduct, or any appropriate combination of these persons to pay to the moving party the reasonable expenses incurred in obtaining the order, ~~including attorneys' fees and costs,~~ unless the court finds that the movant failed to certify in the motion that a good-faith effort was made to obtain the discovery without court action~~,~~ or that the opposition to the motion was substantially justified.
(B) If the Motion is Denied. If the motion is denied,		**(B) If the Motion is Denied.** If the motion is denied,

and after opportunity for hearing, the court shall require the moving party, the party's attorney, or both to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorneys' fees, unless the court finds that the making of the motion was substantially justified. **(C) If the Motion Is Granted in Part and Denied in Part.** If the motion is granted in part and denied in part, and after opportunity for hearing, the court shall apportion the reasonable expenses incurred as a result of making or opposing the motion, including attorneys' fees and costs. To the extent the motion is granted, the court shall require the reasonable expenses incurred as a result of making the motion to be paid pursuant to subdivision (A). To the extent the motion is denied, the court shall require the reasonable expenses incurred as a result of opposing the motion to be paid pursuant to subdivision (B).	"Must" replaces "shall" for compliance with the Guidelines for Rules Submission. The CivPRC recommends eliminating "including attorneys' fees and costs" because subdivision (5)(D) addresses what can be included in an award. In most of subdivision (a)(5), the proposed rule gives the court discretion to not impose sanctions when a motion or opposition is "substantially justified." But, if a motion to compel is granted in part and denied in part, there is no discretion. The court must apportion the reasonable expenses between the moving and opposing parties. There is no "substantially justified" exception. This subdivision should include the "substantially justified" exception, particularly given that neither party prevailed entirely.	and after opportunity for hearing, the court ~~shall~~must require the moving party, the party's attorney, or both to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, ~~including attorneys' fees,~~ unless the court finds that the making of the motion was substantially justified. **(C) If the Motion Is Granted in Part and Denied in Part.** If the motion is granted in part and denied in part, and after opportunity for hearing, the court ~~shall~~must apportion the reasonable expenses incurred as a result of making or opposing the motion, including attorneys' fees and costs, unless the court finds that the making of or opposition to the motion is substantially justified. To the extent the motion is granted, the court ~~shall~~must require the reasonable expenses incurred as a result of making the motion to be paid pursuant to subdivision (a)(5)(A). To the extent the motion is denied, the court shall require the reasonable expenses incurred as a result of opposing the motion to be paid

(D) Reasonable Expenses. In determining the amount of reasonable expenses that may be taxed as a sanction under this rule, the court may include any attorney's fees incurred by a party as a result of the offending party's or attorney's sanctioned conduct, any out-of-pocket costs or travel expenses reasonably incurred, and any other financial loss reasonably arising as a result of the sanctioned conduct. **(b) Discovery Violations Interfering with Adjudication of Case.** **(1) Failure to Comply with Order.** If a party, including any officer, director, or managing agent of a party or a person designated under rule 1.310(b)(6) or 1.320(a) to testify on behalf of a party, fails to obey an order to provide or permit discovery, including an order made pursuant to subdivision (a), such a failure shall be deemed to have interfered with the ability of the court to adjudicate the issues in the case.	The CivPRC recommends changing "attorney's fees" to "attorneys' fees." "Must" replaces "shall" for compliance with the Guidelines. The CivPRC recommends adding the "substantially justified"	pursuant to subdivision (a)(5)(B). **(D) Reasonable Expenses.** In determining the amount of reasonable expenses that may be taxed as a sanction under this rule, the court may include any ~~attorney's~~attorneys' fees incurred by a party as a result of the offending party's or attorney's sanctioned conduct, any out-of-pocket costs or travel expenses reasonably incurred, and any other financial loss reasonably arising as a result of the sanctioned conduct. **(b) Discovery Violations Interfering with Adjudication of Case.** **(1) Failure to Comply with Order.** If a party, including any officer, director, or managing agent of a party or a person designated under rule 1.310(b)(6) or 1.320(a) to testify on behalf of a party, fails to obey an order to provide or permit discovery, including an order made pursuant to subdivision (a), such a failure ~~shall~~must be deemed to have interfered with the ability of the court to adjudicate the issues

In such an event, the court shall, after opportunity for hearing, enter an order imposing discovery sanctions under subdivision (3).	exception used in other subdivisions and also cites to the correct subdivision.	in the case. In such an event, the court ~~shall~~must after opportunity for hearing, enter an order imposing discovery sanctions under subdivision (b)(3),unless the court finds that the conduct was substantially justified.
(2) Discovery Abuse and Failure to Provide or Supplement Discovery. If a party misuses or abuses discovery rules for tactical advantage or delay or fails to make or supplement discovery, including an initial discovery disclosure, as required under these rules, the court shall, after opportunity for hearing, determine whether the failure interfered with, or was calculated to interfere with, the court's ability to adjudicate the issues in the case. If the court determines that the failure did interfere with, or was calculated to interfere with, the court's ability to adjudicate the issues in the case, the court shall consider and make findings on the record as to the following factors: (A)–(D) [NO CHANGES PROPOSED BY CIVPRC]	The CivPRC recommends including the party's attorney as someone who can be sanctioned and adding the "substantially justified" exception used in other subdivisions. The CivPRC recommends replacing "shall" with "must" in compliance with the Guidelines.	**(2) Discovery Abuse and Failure to Provide or Supplement Discovery.** If a party or the party's attorney misuses or abuses discovery rules for tactical advantage or delay or fails to make or supplement discovery, including an initial discovery disclosure, as required under these rules, the court ~~shall~~must, after opportunity for hearing, determine whether the failure interfered with, or was calculated to interfere with, the court's ability to adjudicate the issues in the case. If the court determines that the failure did interfere with, or was calculated to interfere with, the court's ability to adjudicate the issues in the case, the court shall consider and make findings on the record as to the following factors: (A)–(D) [NO CHANGES PROPOSED BY CIVPRC]
Upon consideration of these		

factors, the court shall, if appropriate, enter an order imposing discovery sanctions under subdivision (3).	The CivPRC recommends replacing "shall" with "must" and deleting "if appropriate" as it is not necessary. The CivPRC's recommends adding the standard for consistency with other subdivisions.	Upon consideration of these factors, the court ~~shall, if appropriate,~~ must enter an order imposing discovery sanctions under subdivision (b)(3),unless the court finds that the conduct was substantially justified.
(3) Sanctions for Discovery Violations Interfering with Adjudication of Case.		**(3) Sanctions for Discovery Violations Interfering with Adjudication of Case.**
(A) If the court finds that a discovery violation or a failure to obey a court order has occurred under subdivision (1) or (2), the court shall enter an order requiring the disobedient party, the party's attorney, or both to pay the reasonable expenses incurred by the opposing party arising out of such discovery violation, including attorneys' fees and costs, unless the court finds that the failure was substantially justified. The description of "reasonable expenses" stated in subdivision (a)(5)(D) shall apply to this subdivision. In addition, the court may enter an order imposing one or more of the following additional discovery sanctions:	The CivPRC recommends replacing "shall" with "must" in compliance with the Guidelines. The CivPRC recommends deleting phrases in this sentence to comply the other modifications made in this subdivision.	(A) If the court finds that a discovery violation or a failure to obey a court order has occurred under subdivision (1) or (2), the court ~~shall~~must enter an order requiring the disobedient party, the party's attorney, or both to pay the reasonable expenses incurred by the opposing party arising out of such discovery violation~~, including attorneys' fees and costs,~~ unless the court finds that the failure was substantially justified. ~~The description of "reasonable expenses" stated in subdivision (a)(5)(D) shall apply to this subdivision.~~ In addition, the court may enter an order imposing one or more of the following additional discovery sanctions:

(i)–(ix) [NO CHANGES PROPOSED BY CIVPRC]		(i)–(ix) [NO CHANGES PROPOSED BY CIVPRC] <u>If sanctions are imposed, the court must make findings of fact on the record.</u>
(B) Prior to imposing a sanction that will have the effect of dismissing a claim or entering a default, the court shall consider and make findings on the record as to each of the following factors. The court may only impose such a sanction if the court finds that the factors weigh in favor of the sanction:	The CivPRC believes it is important to add this sentence for greater transparency.	(B) Prior to imposing a sanction that will have the effect of dismissing a claim or entering a default, the court ~~shall~~<u>must</u> consider and make findings on the record as to each of the following factors. The court may only impose such a sanction if the court finds that the factors weigh in favor of the sanction:
(i)–(vi) [NO CHANGES PROPOSED BY CIVPRC]		(i)–(vi) [NO CHANGES PROPOSED BY CIVPRC]
(c) Failure to Preserve Electronically Stored Information. [NO CHANGES PROPOSED BY CIVPRC]		**(c) Failure to Preserve Electronically Stored Information.** [NO CHANGES PROPOSED BY CIVPRC]

RULE 1.420. DISMISSAL OF ACTIONS	The CivPRC's opinion is that the current rule needs no amendment and will not benefit from this proposal. The rule is not designed or intended to force significant numbers of cases into dismissal for lack of record activity with possible prejudice, but rather is intended to make sure that cases stay active by reminding parties in cases with less record activity of their obligation to move the case. With enhanced case management under Rules 1.200 and 1.201, the current rule, with its 10-month period will serve as a more-than-adequate backstop for any case that evades case management. If this Court feels the need to amend Rule 1.420(e), the CivPRC sees no need for or purpose in creating some new standard of conduct called "extraordinary cause." There are many cases defining the existing standard of "good cause", and, with the Court's strong preference for not dismissing cases, it seems antithetical to impose a more arduous standard [not otherwise recognized by or defined in the	**RULE 1.420. DISMISSAL OF ACTIONS**

(a) Voluntary Dismissal. [NO CHANGE] **(b) Involuntary Dismissal.** [NO CHANGES PROPOSED BY CIVPRC] **(c) Dismissal of Counterclaim, Crossclaim, or Third-Party Claim.** [NO CHANGE] **(d) Costs.** [NO CHANGE] **(e) Failure to Prosecute.** **(1) Definitions.** As used in this subdivision: (A) "Extraordinary cause" means that the lack of activity in the action has been caused by one or more matters that were unforeseen despite ordinary diligence. Mere good cause or excusable neglect is insufficient. (B) "Post-notice record activity" means: (i) the filing and setting for hearing of a motion to stay the action or of a motion that is dispositive of the entire action; (ii) the proper filing	law] that a party must meet to avoid dismissal. The proposal turns this rule into a sanction rule; that was not its purpose. If the court is going to redesign this rule, there has to be a viable avenue for a party to use to keep the case alive. With trial dates already set under Rule 1.200, some cases simply do not need much "record activity." Many civil cases can be active without that activity showing up on the court docket. The CivPRC notes that a lack of 'record activity' does not necessarily equate to inaction. The parties may be exchanging discovery informally, conducting sworn statements rather than doing depositions or doing document reviews, none of which would result in record activity. In cases such as a product failure or fire loss cases or construction defect cases, the parties may be coordinating and conducting critical site inspections and doing	**(a) Voluntary Dismissal.** [NO CHANGE] **(b) Involuntary Dismissal.** [NO CHANGES PROPOSED BY CIVPRC] **(c) Dismissal of Counterclaim, Crossclaim, or Third-Party Claim.** [NO CHANGE] **(d) Costs.** [NO CHANGE] **(e) Failure to Prosecute.** **(1) Definitions.** As used in this subdivision: (A) ~~"Extraordinary cause" means that the lack of activity in the action has been caused by one or more matters that were unforeseen despite ordinary diligence. Mere good cause or excusable neglect is insufficient.~~ (~~B~~A) "Post-notice record activity" means: (i) the filing and setting for hearing of a motion to stay the action or of a motion that is dispositive of the entire action; (ii) the proper filing

and service of a notice for trial; or (iii) the court's issuance of an order that sets pretrial deadlines or a trial date. (2) In any action~~s~~ in which it appears on the face of the record that no activity by filing of pleadings or other paper has occurred for a period of 6 months~~,~~ and the court has not issued an order staying the action or approving a stipulation for stay, any interested person whether a party to the action or not, the court, or the clerk of the court may serve notice to all parties that no such activity has occurred. (3) Except as provided in subdivision (4), the court shall dismiss the action if: (A) No record activity has occurred within the 6 months immediately preceding the service of such notice; (B) No post-notice record activity occurs within the 60 days immediately following the service of such notice; and- (C) The court has not issued or approved a stay prior to	products testing. Coordinating these efforts will not appear in the record but in many cases, it is the primary activity needed to properly determine if a case needs to be tried or not.	and service of a notice for trial; or(iii) the court's issuance of an order that sets pretrial deadlines or a trial date. (2) In any action~~s~~ in which it appears on the face of the record that no activity by filing of pleadings or other ~~paper~~document has occurred for a period of 6 months~~,~~ and the court has not issued an order staying the action or approving a stipulation for stay, any interested person whether a party to the action or not, the court, or the clerk of the court may serve notice to all parties that no such activity has occurred. (3) Except as provided in subdivision (4), the court shall dismiss the action if: (A) No record activity has occurred within the 6 months immediately preceding the service of such notice; (B) No post-notice record activity occurs within the 60 days immediately following the service of such notice~~,~~; and ~~if no~~ (C) The court has not issued or approved a stay prior to

the expiration of such 60-day period. (4) During the 60-day period, a party may file a written motion with the court requesting that the action remain pending based on a showing of extraordinary cause. A written response to the motion may be filed with the court by any other party within 10 days following service of the motion. The movant shall serve the motion and the nonmoving party shall serve any response on the presiding judge as set forth in Florida Rule of General Practice and Judicial Administration 2.516. The court may set a hearing for the motion or, if resolution of the motion does not require factual findings, may rule based on the filings. (5) Mere inaction for a period of less than 8 months shall not be sufficient cause for dismissal for failure to prosecute unless the procedure in this rule is followed. **(f) Effect on Lis Pendens.** [NO	If the Court is inclined to adopt the changes to this rule, there is simply no provision for how to serve a presiding judge in the rules. Often the judge's e-mails are not disclosed. Moreover, encouraging direct contact with the judge by the litigants in this fashion, rather than simply mandating the usual filing and e-service, invites a whole host of complications, especially for self-represented litigants, without providing any benefit.	the expiration of such 60-day period. (4) During the 60-day period, a party may file a written motion with the court requesting that the action remain pending based on a showing of extraordinary cause. A written response to the motion may be filed with the court by any other party within 10 days following service of the motion. The movant shall serve the motion and the nonmoving party ~~shall~~file and serve any response ~~on the presiding judge~~ as set forth in Florida Rule of General Practice and Judicial Administration 2.516. The court may set a hearing for the motion or, if resolution of the motion does not require factual findings, may rule based on the filings. (5) Mere inaction for a period of less than 8 months shall not be sufficient cause for dismissal for failure to prosecute unless the procedure in this rule is followed.

CHANGE]		**(f) Effect on Lis Pendens.** [NO CHANGE]
RULE 1.460. CONTINUANCES **(a) Motions to Continue Nontrial Events.** (1)Motions to continue nontrial events that are the subject of special set hearings before the court shall be in writing and signed by the client. (2) The motion shall state with specificity: (A)the factual basis of the need for the continuance; (B)the proposed action and schedule to cure the need for continuance; and (C)the proposed date by which the case will be ready for the scheduled event. (3) The motion shall describe the potential effect of the requested continuance on remaining case management deadlines. **(b) Motions to Continue Trial.**	Dash is added for grammar. "Before the court" is superfluous. "Shall" is changed to "must" per the Guidelines. "Shall" is changed to "must" per the Guidelines. The CivPRC suggests amendments to address how a party can cure the "need" for the continuance and for greater clarity. "Shall" is changed to "must" per the Guidelines, and "potential" is deleted as it is unnecessary.	**RULE 1.460. CONTINUANCES** **(a) Motions to Continue Nontrial Events.** (1) Motions to continue nontrial events that are the subject of special-set hearings ~~before the court shall~~must be in writing and signed by the client. (2) The motion ~~shall~~must state with specificity: (A) the ~~factual basis of the need~~grounds for the continuance; (B) the proposed action and schedule to ~~cure~~resolve the grounds that gave rise to the need for continuance; and (C) the proposed date by which the case will be ready for the scheduled event. (3) The motion ~~shall~~must describe the ~~potential~~ effect of the requested continuance on the remaining case management deadlines.

(1) Motions to continue trial are disfavored. Once the case is set for trial, no continuance may be granted except for extraordinary unforeseen circumstances involving the personal health of counsel or a party, court emergencies, or other dire circumstances that provide extraordinary cause. Lack of preparation is not grounds to continue the case. Where possible, trial dates shall be set in collaboration with counsel and self-represented parties as opposed to the issuance of unilateral dates by the court. (2) A motion to continue trial shall be in writing and signed by the client. (3) Any motion to continue trial must be filed within 14 days after the appearance of grounds to support such a motion. (4) The motion shall state with specificity: (A) the factual basis of the need for the continuance; (B) the proposed date by which the case will be ready for trial; and	The CivPRC recommends several amendments for clarity including: deleting "unforeseen" and "dire" as it is superfluous and addressing grammatical issues. Replaces "the case" with "trial" for greater specification. CivPRC proposes rewriting the sentence to give flexibility to the parties and judges. "Shall" is changed to "must" per the Guidelines. "Any" is replaced with "A" and "within" with "no later than."	**(b) Motions to Continue Trial.** (1) Motions to continue trial are disfavored. Once the case is set for trial, no continuance may be granted except ~~for~~in extraordinary ~~unforeseen~~ circumstances involving: the personal health of counsel or a party, court emergencies, or other ~~dire~~ circumstances that provide extraordinary cause. Lack of preparation is not grounds to continue ~~the case~~trial. ~~Where possible, trial dates shall be set in collaboration with counsel and self-represented parties as opposed to the unilateral issuance of~~ unilateral~~trial dates by the court.~~ The Court must coordinate trial dates with counsel and self-represented parties. (2) A motion to continue trial ~~shall~~must be in writing and signed by the client. (3) A~~ny~~ motion to continue trial must be filed ~~within~~no later than 14 days after the appearance of grounds to support such a motion.

(C) the proposed action and schedule that will enable the movant to be ready for trial by the proposed date. (5) No motion to continue shall be granted upon any of the following grounds: (A) failure to complete discovery; (B) failure to complete mediation; (C) outstanding dispositive motions; (D)counsel or witness unavailability except where the record demonstrates new circumstances beyond counsel or witness control; (E) withdrawal of counsel within 60 days of trial; or (F) trial conflicts, which are subject to resolution under Florida Rule of General Practice and Judicial Administration	Replaces "factual basis of the" with "grounds for the" for greater clarity. CivPRC recommends deletion of subdivisions (b)(5) and (b)(6) to give judges and parties more fleiibility.	(4) The motion shall state with specificity: (A) the ~~factual basis of~~ grounds for the need for the continuance; (B) the proposed date by which the case will be ready for trial; and (C) the proposed action and schedule that will enable the movant to be ready for trial by the proposed date. ~~(5) No motion to continue shall be granted upon any of the following grounds~~ ~~(A) failure to complete discovery;~~ ~~(B) failure to complete mediation;~~ ~~(C) outstanding dispositive motions;~~ ~~(D) counsel or witness unavailability except where the record demonstrates new circumstances beyond counsel or witness control;~~ ~~(E) withdrawal of counsel within 60 days of trial; or~~ ~~(F) trial conflicts, which are subject to resolution under Florida Rule of General Practice~~

2.550. (6) If amendment of pleadings or affirmative defenses is required due to extraordinary unforeseen circumstances supporting an order permitting such amendment, within 60 days before trial the amendment shall not serve as grounds for continuance where no additional discovery is required. If additional discovery is required, continuance shall not be granted except where cure is impossible. If discovery is required, it is the responsibility of the party seeking amendment to facilitate the needed additional discovery, and if the party fails to do so, the court may deny the amendment due to the interference with the trial date and the orderly progress of the case. (7) Trial courts should utilize all remedies available to cure issues regarding the trial setting short of continuance, including requiring depositions to preserve testimony, remote appearance, and conflict consultations with other judges. (8) All orders granting motions	Changes made to subdivision (b)(7) per the Guidelines and for clarity.	~~and Judicial Administration 2.550.~~ ~~(6) If amendment of pleadings or affirmative defenses is required due to extraordinary unforeseen circumstances supporting an order permitting such amendment, within 60 days before trial the amendment shall not serve as grounds for continuance where no additional discovery is required. If additional discovery is required, continuance shall not be granted except where cure is impossible. If discovery is required, it is the responsibility of the party seeking amendment to facilitate the needed additional discovery, and if the party fails to do so, the court may deny the amendment due to the interference with the trial date and the orderly progress of the case.~~ (7) ~~Trial c~~Courts should ~~utilize~~use all remedies available to ~~cure issues regarding the trial setting short of~~avoid continuance of trial, including requiring depositions to preserve testimony, allowing remote appearance, and engaging in conflict consultations

to continue shall state the factual basis, including the reason for the continuance, shall schedule the action required to resolve the need for the continuance, and shall set a new trial date. Counsel shall serve all orders granting continuances upon counsel's clients. Counsel and self-represented parties shall be prepared to try the case on the trial date reset by the court. (9) No case may be continued for a duration exceeding 6 months from its original trial date, except where the action required to cure the need for the continuance cannot be completed within 6 months. Findings regarding same shall be made on the record in any order of continuance.	Deleted superfluous language in subdivision (b)(8) and made changes in accordance with the Guidelines. Also, similar concern to subdivision (a)(2)(B) with similar language suggested. Similar concern to subdivision (a)(2)(B) with similar language suggested. Also, for consistency, it is the "trial" being continued, not the "case." As well, the CivPRC offers suggestions in the right column to address confusion regarding to what "same" is referring and whether the beyond-6-months	with other judges. (8) All orders granting motions to continue ~~shall~~must state the ~~factual basis, including the reason~~grounds for the continuance, ~~shall~~ schedule the action required to resolve the grounds that gave rise to the need for the continuance, and ~~shall~~ set a new trial date. Counsel ~~shall~~must serve all orders granting continuances ~~upon~~on ~~counsel's~~their client~~s~~. Counsel and self-represented parties ~~shall~~must be prepared to try the case on the trial date reset by the court. (9) Unless the action required to resolve the grounds that gave rise to the need for the continuance cannot be completed within 6 months, ~~N~~no ~~case~~trial may be continued ~~for a duration exceeding~~beyond 6 months from its originally ~~trial~~scheduled date~~, except where the action required to cure the need for the continuance cannot be completed within 6 months~~. An order that continues trial beyond 6 months from the trial's originally

(10) Orders granting or denying motions to continue shall benefit from presumption of correctness on appeal where the trial court has made factual findings regarding its ruling and shall only be reversed upon a finding of gross abuse of discretion.	exception applies. Substantively, putting an appellate standard of review into a procedural rule is problematic. So, the CivPRC recommends it being deleted.	scheduled date must make ~~F~~findings regarding ~~same shall be made on the record in any~~the ~~order of~~grounds for the extended continuance. ~~(10) Orders granting or denying motions to continue shall benefit from presumption of correctness on appeal where the trial court has made factual findings regarding its ruling and shall only be reversed upon a finding of gross abuse of discretion.~~