

**SUPREME COURT OF FLORIDA**

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

CASE NO. SC22-122

**COMMENT OF AMERICAN PROPERTY CASUALTY  
INSURANCE ASSOCIATION**

The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in Florida, throughout the United States, and across the globe.

Property casualty insurers are high-volume consumers of legal services and have a genuine interest in preserving the integrity of a fair, predictable, legal system. APCIA appreciates the opportunity to submit these comments supporting certain amendments to the Florida Rules of Civil Procedure proposed by the International

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Association of Defense Counsel (IADC) in its April 20, 2022 Comment on the Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases. APCIA believes that adoption and implementation of the proposed amendments, which require proportionality in discovery and require disclosure of agreements with outside third-parties that have a contingent interest in the outcome of litigation, would improve civil discovery practice in Florida and improve the resolution of civil cases for the benefit all parties, as well as the Florida courts.

APCIA's comment is intended to highlight support for certain amendments proposed by the IADC; APCIA's silence on other amendments proposed by IADC should not be interpreted as opposition.

APCIA supports the concept of proportionality in discovery and specifically supports the IADC recommendation to amend Florida Rule of Civil Procedure 1.280(b)(1) "Scope of Discovery" to bring it more in line with Federal Rule of Civil Procedure 26(b)(1). The proposed new Rule would help reign in excessive costs of discovery while continuing to permit access to important, relevant information. APCIA believes that the IADC recommendations to amend Florida

Rules of Civil Procedure 1.280(b)(2) “Discovery Limits” and 1.280(d)(2)-(4) “Limitations on Discovery of Electronically Stored Information” would similarly help reign in excessive discovery costs without prohibiting access to important, relevant information.

APCIA supports the IADC recommendation to amend Florida Rule of Civil Procedure 1.280(b)(3) “Third Party Agreements” to require disclosure of “...any agreement under which any person, other than an attorney permitted to charge a contingent fee representing a party, has a right to receive compensation that is contingent on and sourced from any proceeds of the civil action, by settlement, judgment, or otherwise.”

APCIA specifically supports the required disclosure of third-party litigation funding (TPLF) agreements.

TPLF is profit-driven private investment that bets on the plaintiff’s outcome in a lawsuit. Civil litigation is a mechanism for resolving disputes and should not be usurped by private investors as a mechanism to create and grow capital. Requiring disclosure of TPLF agreements will help mitigate outsized influence by strangers to the transaction or incident at the core of the litigation dispute. TPLF is funding by anonymous entities that otherwise have no

relationship to the civil litigation, in exchange for a portion of the settlement or judgment or some agreed upon value above the amount loaned to a claimant. TPLF effectively cedes control of litigation to unknown third parties, depriving claimants of compensation, complicating prompt resolution of matters, and ultimately transforming the civil justice system into a profit center for strangers to litigation. Furthermore, TPLF potentially violates ethical rules that prohibit sharing of attorney fees with nonlawyers; creates the possibility of conflicts of interest between and among the plaintiff, the attorney, and the funder; and raises the possibility of judicial conflicts of interest.

It is imperative that courts and all parties understand who is actually making and/or influencing a plaintiff's litigation strategy and settlement decisions. Accordingly, APCIA recommends that the Florida courts follow the lead of multiple federal courts in requiring disclosure of TPLF arrangements and adopt the IADC proposal to amend Florida Rule of Civil Procedure 1.280(b)(3). Doing so would promote important principles of justice, fairness, and transparency.

APCIA appreciates the opportunity to voice support for the IADC proposals to amend the above-referenced Florida Rules of Civil

Procedure and urges the Florida Supreme Court to adopt these amendments.

Dated: June 1, 2022

Respectfully submitted,

/s/ Colleen Reppen Shiel

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**CERTIFICATE OF COMPLIANCE**

I certify that this comment was prepared in Bookman Old Style 14-point font and complies with the font requirements in Florida Appellate Rule of Procedure 9.045.

/s/ Colleen Reppen Shiel  
Colleen Reppen Shiel

**CERTIFICATE OF SERVICE**

I certify that on June 1, 2022, the foregoing was electronically filed via the Florida Courts E-Filing Portal and a copy was sent by first class U.S. Mail, postage prepaid, addressed to the following:

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/s/ Colleen Reppen Shiel  
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