Appendix A: Proposed Rule Amendments

RULE 1.010. SCOPE AND TITLE OF RULES

These rules apply to all actions of a civil nature and all special statutory proceedings in the circuit courts and county courts except those to which the Florida Probate Rules, the Florida Family Law Rules of Procedure, the Florida Rules of Juvenile Procedure, or the Small Claims Rules apply. The form, content, procedure, and time for pleading in all special statutory proceedings shall be as prescribed by the statutes governing the proceeding unless these rules specifically provide to the contrary. These rules shall be construed to secure the just, speedy, and inexpensive determination of every action. These rules shall be known as the Florida Rules of Civil Procedure and abbreviated as Fla.R.Civ.P.

RULE 1.090. TIME

(a) Computation. [NO CHANGE]

(b) Enlargement. [NO CHANGE]

(c) Unaffected by Expiration of Term. [NO CHANGE]

~~**(d) For Motions.** A copy of any written motion which may not be heard ex parte and a copy of the notice of the hearing thereof shall be served a reasonable time before the time specified for the hearing.~~

RULE 1.100. PLEADINGS ~~AND MOTIONS~~

(a) Pleadings. [NO CHANGE]

~~**(b) Motions.** An application to the court for an order must be by motion which must be made in writing unless made during a hearing or trial, must state with particularity the grounds for it, and must set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion. All notices of hearing must specify each motion or other matter to be heard.~~

(~~c~~b) Caption. [NO CHANGE]

(~~d~~c) Civil Cover Sheet. [NO CHANGE]

(e~~d~~) Motion in Lieu of Scire Facias. [NO CHANGE]

RULE 1.160. MOTIONS

(a) Application. This rule ~~shall apply~~applies to all motions other than motions made ~~pursuant to~~under rules 1.480, 1.500, 1.510, 1.525, 1.530, 1.535, and 1.540. In the event of ~~contradictiona~~ conflict between this rule and a rule governing a specific type of motion, the ~~latter shall prevail~~rule governing the specific motion applies.

(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 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 affected by the motion, or non-party against whom the motion is directed, may file supporting or opposing memoranda for any motion filed, provided that the parties ~~shall~~must observe any briefing schedule set by the court under subdivision (j)(2).

(1) For all motions, except motions served with the summons and complaint, each affected party or non-party may 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. For a motion served with the summons and complaint, the response is due on the day the response to the complaint is due.

(2) 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 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.

(3) The collective ~~P~~page limits, including any attached ~~on~~memoranda, are as follows: ~~memoranda accompanying a~~ motion, ~~15~~20 pages; response, ~~15~~20 pages; reply, 10 pages. These limits exclude any page containing only the certificate of service and/or certificate of compliance.

(4) If a party or nonparty against whom the motion is directed needs additional time beyond that stated in this rule, before the deadline, the party or nonparty may file a motion for enlargement of time to file a response or reply. The motion must state the reason an enlargement is necessary and must propose a deadline by which the response or reply will be filed. If a hearing has been set, then the requested extension must take into account the date of the hearing and be tailored so that all filings can be completed at least 2 business days before the hearing. If the party or nonparty seeking an extension requested an extension of 10 days or less, and the court has not ruled upon the motion by the time the deadline proposed in the motion has passed, any response or reply filed by the proposed deadline in the motion will be considered timely filed.

(c) Obligation to Meet and Confer. With the exception of stipulated motions filed ~~pursuant to~~under subdivision (d), ex parte motions filed under subdivision (e), ~~and~~motions requiring expedited resolution under subdivision (f), and motions for disqualification, ~~prior to~~before the filing of any motion filed under this rule, the parties, whether represented by counsel or self-represented, ~~shall~~must promptly meet and confer to discuss the motion. If a party is represented by counsel, such party ~~shall~~must meet and confer through counsel, who ~~shall~~must have full authority to resolve all issues relating to the motion.

(1) Substance of Conference. The parties ~~shall~~must attempt in good faith to resolve or otherwise narrow the issues raised in the motion. The parties ~~shall~~must also discuss whether a hearing will be scheduled or requested, and how much time should be reserved for any such hearing. If a hearing is

requested, the parties shall use their best efforts to coordinate scheduling the hearing. If a hearing will not be scheduled or requested, the parties ~~shall~~must 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~~must, within 7 days after the conference, file and ~~submit to the court the motion and a proposed stipulated order within 5 days after the conference~~serve a copy of the motion and proposed stipulated order on the court official as set forth in Florida Rule of General Practice and Judicial Administration 2.516 or as otherwise provided by the chief judge on a circuit-wide basis. If the court does not rule on the motion within 10 days, the movant may submit to the court a request for decision. 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~~must proceed as follows:

(A) Hearing Requested. Any party may request a hearing on a motion ~~pursuant to~~under 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~~must, within ~~5~~7 days after the filing and service of the motion, file a notice dispensing with hearing and ~~submit to the judicial office a~~serve a copy of the notice dispensing with ~~oral argument~~hearing on the court official as set forth in Florida Rule of General Practice and Judicial Administration 2.516 or as otherwise provided by the chief judge on a circuit-wide basis. ~~and~~The notice must 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~~must proceed according to one of the following options:

(i) within 10 days after the filing of the notice dispensing with ~~oral argument~~hearing, 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~~must have a substantive conversation in person or by telephone or ~~videoconference~~audio-video communication technology. An exchange of correspondence between the parties does not satisfy the requirement to meet and confer.

(4) Scheduling of Conference. The conference ~~shall~~must occur ~~prior to~~before the filing of the motion, and prior to scheduling a hearing under rule 1.161. The parties ~~shall~~must 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~~must identify the dates and times of the efforts made in the certificate of compliance filed under subdivision (5). At least 1 good-faith attempt to schedule the conference must be by telephone call during normal business hours, and if the party with whom the movant is attempting to confer is unavailable, the movant must attempt to leave a message. In that event, the movant may file the subject motion and schedule a hearing in accordance with rule 1.161.

(5) Certificate of Compliance. For all written motions subject to this rule, ~~T~~the movant ~~shall~~must include in the motion document ~~a~~one of the following certificates 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.~~

(A) Conference Occurred. "I ….. (name) ….. certify that all necessary parties met and conferred regarding this motion on …..(date)…..; …..(names of parties)….. were in attendance; and the outcome was …..(description of outcome)…… I further certify that a hearing is/is not requested in accordance with rule 1.161, and the parties request the court decide the motion with/without written memoranda."

_____
Movant/Movant's attorney

(B) Conference Did Not Occur. "I …..(name)….. certify that, despite three or more good-faith attempts to schedule a conference, the parties were unable to meet and confer regarding this motion. The three or more good-faith attempts included at least one telephone call during normal business hours and …..(description of other attempts)…… I further certify that a motion hearing is/is not requested in accordance with rule 1.161."

_____
Movant/Movant's attorney

(d) Stipulated Motions. A ~~party~~movant seeking relief that has been agreed to by the other parties may file a stipulated motion and serve a copy of the stipulated motion on the court official as set forth in Florida Rule of General Practice and Judicial Administration 2.516 or as otherwise provided by the chief judge on a circuit-wide basis. The title of any such motion ~~shall~~must indicate that the relief has been stipulated to by the other parties. At the time the stipulated motion is filed, the movant ~~shall~~must 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~~must indicate that ex parte relief is being requested. Any such motion ~~shall~~must include the legal authority authorizing ex parte relief to be issued. At the time the motion is filed, the movant ~~shall~~must also ~~submit~~serve a copy of the ex parte motion and a proposed order ~~to~~on the court official in accordance with Florida Rule of General Practice and Judicial Administration 2.516 or as otherwise provided by the chief judge on a circuit-wide basis. 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 ("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~~must indicate that the motion requires expedited resolution. Any such motion ~~shall~~must be verified and ~~shall~~include a factual basis supporting a good-faith need for expedited resolution. Any such motion ~~shall~~must also include a certificate of exigent circumstances signed by the attorney or self-represented movant. Motions filed under this subdivision must be immediately served on the court as specified in rule 1.161(c).

(1) Matters requiring expedited resolution ~~shall~~must 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~~will not constitute exigent circumstances or the required basis for an expedited hearing. After an opportunity for hearing, ~~T~~the court may sanction abuses of this subsection through monetary or other appropriate sanctions.

(2) If the court determines that the matter does not require expedited treatment, the court must notify the parties within 2 business days of service of the motion on the court. Notification may be sent via e-mail or other non-record activity; a court order is not required.

(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~~must hold an evidentiary hearing on the motion. The title of any such motion ~~shall~~must 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 ~~shall~~must 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~~must inform the parties of that decision by order entered within 5 days after the date on which the hearing was scheduled or requested or 5 days after the conclusion of the briefing schedule, if any, whichever occurs last. 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~~hearing 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~~must specify the required and permitted memoranda from each party and ~~shall~~must set forth a reasonable 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~~must include a statement of the party's preferred disposition of the motion, together with the factual and legal grounds supporting that disposition. The collective ~~P~~page limits, including any attached or supplemental ~~on~~memoranda, are as follows: ~~memorandum accompanying or supplemental to a~~motion, ~~15~~20 pages; response, ~~15~~20 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~~must file and serve on all parties and the court a request for decision. The request ~~shall~~must state the dates on which the motion, response memoranda, and reply memoranda were filed, if applicable, and ~~shall~~must 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~~must 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~~hearing under subdivision (c)(2)(B). If the court fails to rule within 10 days, the movant ~~shall~~must, within an additional 10 days, file and serve a request for decision on all parties and the court official as set forth in Florida Rule of General Practice and Judicial Administration 2.516 or as otherwise provided by the chief judge on a circuit-wide basis~~a request for decision~~. The request ~~shall~~must state the date on which the motion was filed and ~~shall~~must request the court to make a ruling on the motion.

(k) Abandonment of Motions. A motion ~~shall~~must be deemed abandoned and denied without 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~~hearing that briefly explains the circumstances and is otherwise consistent with subdivision (c)(2)(B), and serving a copy of the notice on the court official as set forth in Florida Rule of General Practice and Judicial Administration 2.516 or as otherwise provided by the chief judge on a circuit-wide basis.

(2) The movant does not timely file and serve a request for decision ~~pursuant to~~under subdivision (j)(1) or (j)(2).

(3) An abandoned motion that has been denied without prejudice may be refiled. The refiled motion must contain an explanation setting forth a good faith reason why the motion was initially abandoned.

(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~~ Workgroup on Improved Resolution of Civil Cases Note

2022 Amendment. 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.

Subdivision (c) requires that parties promptly meet and confer because delay in the meet and confer is unacceptable. Parties must be diligent in making themselves available for the necessary conversations. Failure to do so may result in sanctions.

When a movant is attempting to confer under subdivision (c), the requirement that one attempt be made by phone during normal business hours is intended to provide a variety of contact methods so that a practitioner who accidentally overlooks an email might answer the phone or at least be less likely to overlook a phone message. If voicemail is full or there is no message option, then it would be best practice to send a written communication indicating that the movant was unable to leave a message. For purposes of this rule, normal business hours are Monday through Friday, 8:00 a.m. to 5:00 p.m.,in the time zone where the action is filed.

When filing a document in support of a motion, the Notice of Filing must be filed separately from the motion and must identify the supporting document in the title of the notice.

RULE 1.161. SCHEDULING OF HEARINGS ON MOTIONS

(a) In general. Motions ~~shall~~must be filed at the time they are ready for prosecution. Meeting and conferral ~~shall~~must 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~~must, within ~~5~~7 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~~must be the scheduling party and ~~shall~~must schedule the hearing in accordance with this subdivision within ~~5~~7 days after entry of the court's order directing such scheduling.

(A) Where online scheduling is available, the scheduling party ~~shall~~must coordinate among the parties a date and time for the hearing.

(B) Where scheduling takes place manually through the judicial office, the scheduling party ~~shall~~must contact that office, which shall offer the parties 3 dates and times. The parties ~~shall~~must accept or reject the dates by e-mail to all parties within 2 business days after receipt of the dates from the judicial office. If rejected, the rejecting party must identify the conflict and obtain from the judicial office 3 alternative dates and times within 2 business days after the date the party rejects the initial dates offered by the judicial office.

If the parties agree on a date and time, the scheduling party ~~shall~~must submit the date and time to the judicial office by email, with an 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~~must 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~~must 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~~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 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~~must 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~~must 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~~7 days after the parties have agreed on or the court has determined the date, time, and length of the hearing, the scheduling party ~~shall~~must 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~~must immediately file the motion and ~~deliver a copy of the motion to the judge's chambers~~serve a copy of the motion on the court official as set forth in Florida Rule of General Practice and Judicial Administration 2.516 or as otherwise provided by the chief judge on a circuit-wide basis. As soon as is practicable, and in no less than 7 days, the judge ~~shall~~must 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~~under this rule may be canceled by the ~~parties~~scheduling party 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~~the scheduling party must serve a copy of the notice of cancellation on the court official as set forth in Florida Rule of General Practice and Judicial Administration 2.516 or as otherwise provided by the chief judge on a circuit-wide basis. If the ~~parties~~scheduling party fails to timely cancel the hearing, ~~they~~ the scheduling party ~~shall both be required to~~must appear before the court to explain ~~to the court~~why ~~they failed to~~the court was not promptly notif~~y~~ied ~~the court~~that the hearing was no longer needed.

~~2021 Commentary~~ Workgroup on Improved Resolution of Civil Cases Note

2022 Adoption. 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~~unnecessary hearings limit the availability of hearing time for other cases.

The time standards set forth in subdivision (b)(3) are not meant to limit parties' ability to be heard. The standards are intended as a guideline for the court. This rule should not serve as grounds to punish lawyers or litigants for noncompliance in instances where hearing time was not available.

In order for counsel and parties to comply with the proposed rule, judges will need to utilize time and docket management procedures in order to ensure that sufficient hearing time is available to permit compliance with the rule. Judges and their judicial staff should monitor hearing time availability on an ongoing basis and expand hearing time availability if backlogs of unheard motions accrue.The most common complaint in civil court is with regard to reasonable hearing time availability. Ensuring prompt access is critical to civil case management and can significantly reduce the length of time a case is pending. The state courts system and local jurisdictions will need to provide education on hearing and schedule management and technology-supported business process procedures, such as online scheduling, to assist judges in delivering prompt hearing time. Counsel should be encouraged to advise chambers where limitations in available hearing time frustrates the ability to comply with case management deadlines.

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 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]

(~~c~~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]

RULE 1.200. CASE MANAGEMENT; PRETRIAL PROCEDURE

~~**(a) Case Management Conference.** At any time after responsive pleadings or motions are due, the court may order, or a party by serving a notice may convene, a case management conference. The matter to be considered must be specified in the order or notice setting the conference. At such a conference the court may:~~

~~(1) schedule or reschedule the service of motions, pleadings, and other documents;~~

~~(2) set or reset the time of trials, subject to rule 1.440(c);~~

~~(3) coordinate the progress of the action if the complex litigation factors contained in rule 1.201(a)(2)(A)–(a)(2)(H) are present;~~

~~(4) limit, schedule, order, or expedite discovery;~~

~~(5) consider the possibility of obtaining admissions of fact and voluntary exchange of documents and electronically stored information, and stipulations regarding authenticity of documents and electronically stored information;~~

~~(6) consider the need for advance rulings from the court on the admissibility of documents and electronically stored information;~~

~~(7) discuss as to electronically stored information, the possibility of agreements from the parties regarding the extent to which such evidence should be preserved, the form in which such evidence should be produced, and whether discovery of such information should be conducted in phases or limited to particular individuals, time periods, or sources;~~

~~(8) schedule disclosure of expert witnesses and the discovery of facts known and opinions held by such experts;~~

~~(9) schedule or hear motions in limine;~~

~~(10) pursue the possibilities of settlement;~~

~~(11) require filing of preliminary stipulations if issues can be narrowed;~~

~~(12) consider referring issues to a magistrate for findings of fact; and~~

~~(13) schedule other conferences or determine other matters that may aid in the disposition of the action.~~

(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~~exercises case control under rule 2.545(b). The court ~~shall~~will 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. The requirements of this rule apply to all civil actions except:

(1) actions required to proceed under section 51.011, Florida Statutes;

(2) actions proceeding under section 45.075, Florida Statutes;

(3) actions subject to the Florida Small Claims Rules, unless the court, ~~pursuant to~~under rule 7.020(c), has ordered the action to proceed under one or more of the Florida Rules of Civil Procedure and the deadline for the trial date specified in rule 7.090(d) no longer applies;

(4) actions initiated under chapters 415, 731-735, 738, and 744, and sections 393.12 and 825.1035, Florida Statutes, unless otherwise agreed to by the parties, accepted by the court, or authorized by another rule of procedure;

(~~4~~5) an action for review ~~on an administrative record~~of an administrative proceeding;

(6) eminent domain actions under article X, section 6 of the Florida Constitution and/or chapter 73, Florida Statutes. Eminent domain actions proceeding under chapter 74, Florida Statutes, are excluded until 20 days after the order granting quick take;

(~~5~~7) a forfeiture action in rem arising from a state statute;

(~~6~~8) a petition for habeas corpus or any other proceeding to challenge a criminal conviction or sentence;

(~~7~~9) an action brought without an attorney by a person in the custody of the United States, a state, or a state subdivision;

(~~8~~10) an action to enforce or quash an administrative summons or subpoena;

(~~9~~11) a proceeding ancillary to a proceeding in another court;

(~~10~~12) an action to enforce an arbitration award;

(~~11~~13) an action involving an extraordinary writ or remedy ~~pursuant to~~under rule 1.630;

(~~12~~14) actions to confirm or enforce foreign judgments;

(~~13~~15) a claim requiring expedited or priority resolution under an applicable statute or rule; and

(~~14~~16) a civil action pending in a special division of the court established by local administrative order or local rule (e.g., a complex business division or a complex civil division) that manages cases consistent with the objectives of subdivision (a) and enters case management orders with timelines, schedules, and deadlines for key events in the case.

~~**(c) Notice.** Reasonable notice must be given for a case management conference, and 20 days' notice must be given for a pretrial conference. On failure of a party to attend a conference, the court may dismiss the action, strike the pleadings, limit proof or witnesses, or take any other appropriate action. Any documents that the court requires for any conference must be specified in the order. Orders setting pretrial conferences must be uniform throughout the territorial jurisdiction of the court.~~

(c) Case Track Assignment. Not later than 120 days after ~~filing~~commencement of the action as provided in rule 1.050, each civil case ~~shall~~must be assigned to one 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). Upon such designation, the action ~~shall~~must 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, 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) Pretrial Order.** The court must make an order reciting the action taken at a conference and any stipulations made. The order controls the subsequent course of the action unless modified to prevent injustice.~~

(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 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. When a joint case management report is not required, parties may seek a change in track assignment by motion filed within 120 days after ~~first filing~~commencement of the action under rule 1.050 or 30 days after service on the last defendant, whichever occurs first.

(C) Exception — Complex Cases. A party may seek by motion to have a case changed to or from the complex track at any time after all defendants have been served and an appearance has been entered in response to the complaint by each party or a default entered.

A motion, including any attached memoranda, filed under this subdivision may not exceed 3 pages in length. Any response, including any attached memoranda, may not exceed 3 pages in length and must be filed within 7 days after service of the motion. No reply memorandum is permitted.

(2) Change Directed by the Court. A track assignment may be changed by the court on its own motion where it finds the needs of the case required a change.

(e) Case Management Order.

(1) Complex Cases. Case management orders in complex cases ~~shall~~must issue as provided in rule 1.201.

(2) Streamlined Cases. In streamlined cases, the court ~~shall~~must issue a case management order that addresses each matter specified in subdivision (e)(3)(D) no later than 120 days after ~~the case is filed~~commencement of the action as provided in rule 1.050 or 30 days after service on the first defendant

is served, whichever comes first. A copy of rule 1.279 must be attached to each case management order. No case management conference is required to be set by the court ~~prior to~~before 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~~Counsel and self-represented parties ~~shall~~must meet and confer within 30 days ~~after service~~after ~~initial service of the complaint on the first defendant served~~commencement of the action as provided in rule 1.050, unless extended by order of the court. Self-represented parties must be included in this process unless they fail to participate. The parties should discuss and identify deadlines for:

(i) their anticipated disclosures concerning witnesses, including the number of fact witnesses, whether they will seek to use expert witnesses, and how much deposition testimony they expect will be necessary;

(ii) their anticipated disclosures of documents, including any issues already known to them concerning electronically stored information;

(iii) motions they expect to file, so that the parties can determine whether any of the motions can be avoided by stipulations, amendments, or other cooperative activity;

(iv) any agreements that could aid in the just, speedy, and inexpensive resolution of the case;

(v) the discovery that will be required to be taken and timing, including disclosures, supplements, interrogatories, requests for production, third party discovery, depositions, examinations, and inspections;

(vi) potential dispositive motions, jury instructions; and

(vii) anticipated trial readiness date.

(B) Joint Case Management Report and Proposed Case Management Order.

(i) In General. After the meet and confer, the parties must file a joint case management report and a proposed case management order. Parties may submit their joint case management report and proposed case management order as early in the case as possible. The court may accept, amend, or reject the parties' proposed order. Proposed orders that do not comply with the Florida Rules of General Practice and Judicial Administration deadline for case resolution will be rejected.

(ii) Good-Faith Effort Required. The attorneys of record and all self-represented parties who have appeared in the action are jointly responsible for attempting in good faith to agree on a proposed case management order and for filing the joint case management report and the proposed case management order with the court. The joint case management report must certify that the parties conferred in good faith, either in person or remotely. Self-represented parties must be included in this process unless they fail to participate. Any failure to participate must be reflected in the report.

(iii) Failure to File. If the parties fail to file the joint case management report and proposed case management order by 120 days after ~~filing~~commencement of the action as provided in rule 1.050 or 30 days after ~~service on last defendant~~responsive pleadings have been filed by each non-defaulted defendant served, whichever occurs first, the court shall issue its own case management order without input from the parties.

(C) Content of Joint Case Management Report. The joint case management report ~~shall~~must include the following as applicable to the case:

(i) the case's track assignment;

(ii) a brief factual description of the case~~.~~;

(iii) the legal issues in the case;

(iv) pleadings already filed;

(v) whether additional pleadings (counterclaims, cross-claims, third-party claims) are expected to be filed;

(vi) a list of anticipated motions;

(vii) a summary of documents and other evidence already known to the parties;

(viii) discovery already propounded;

(ix) any issues associated with electronically stored information;

(x) a list of confidentiality issues and proposed resolutions;

(xi) names (or job title, etc., if name not known) of all fact witnesses;

(xii) whether each fact witness has been deposed and, if not, the date by which deposition is expected to be accomplished;

(xiii) names of all expert witnesses (if unknown, the anticipated area of testimony);

(xiv) whether any inspections have been conducted or have been or will be requested, with details;

(xv) whether any comprehensive medical examinations have been or will be performed;

(xvi) whether any form of alternative dispute resolution is anticipated;

(xvii) whether jury or nonjury trial will be requested, requested trial period, and anticipated trial length;

(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 a date certain:

1. initial disclosures in accordance with rule 1.280(a);

2. addressing issues associated with confidentiality, protective orders, evidence preservation, and electronically stored information;

3. propounding written discovery;

4. disclosing nonexpert witnesses;

5. identifying areas of expert testimony;

6. completing all discovery other than depositions;

7. completing inspections and examinations;

8. identifying and disclosing expert witnesses and their opinions;

9. adding parties, provided that disclosure of additional parties must be timely made after the disclosing party becomes aware of them;

10. amending affirmative defenses to reflect the addition of any *Fabre* defendants;

11. completing fact witness depositions;

12. completing expert witness depositions;

13. final supplementation of discovery and disclosures;

14. filing dispositive motions;

~~14~~15. use of and timing of alternative dispute resolution;

~~15~~16. filing motions directed to evidence, including *Daubert* motions ~~pursuant to~~under section 90.702, Florida Statutes, or related law; and

~~16~~17. ~~filing dispositive motions;~~submission of jury instructions.

(ii) The proposed case management order must additionally specify the following:

1. a proposed trial period or a date for a case management conference to set a trial period; and

2. the anticipated number of days for trial.

The proposed case management order also may address other appropriate matters, including any issues with track assignment.

(E) Case Management Order. The court must issue a case management order as soon as practicable either after receiving the parties' joint case management report and proposed case management order or after holding a case management conference. A copy of Rule 1.279 must be attached to each case management order. The court's case management order may also, at the court's discretion, incorporate revisions to the parties' proposed order.

(F) Exception. Each circuit may create by administrative order uniform case management orders that are universally applicable to certain types of cases and that will issue in each appropriate case without a case management conference, the "meet and confer" process, and the requirement of a proposed case management order and joint case management report set forth in subdivisions (A)–(D). Such an administrative order or orders ~~shall~~must specify the deadlines and other timeframes, by case type if appropriate, for the items listed in subdivision (D).

(4) Cases Pending as of the Effective Date of This Rule.

(A) The assigned court in each case that is pending as of the effective date of this rule and is subject to this rule under subdivision (b) ~~shall~~must, within 30 days after the effective date of this rule, by written order categorize the case as defined in subdivision (c) and ~~shall~~must, except as provided in subdivisions (1) or (4)(D) or (F), issue a case management order in accordance with subdivisions (B) or (C).

(B) In streamlined cases the court ~~shall~~must issue a case management order within 30 days after the effective date of this rule. The provisions of subdivision (2), other than the deadline defined in that subdivision, ~~shall~~apply.

(C) In general cases the parties ~~shall~~must meet and confer within 30 days after the issuance of the case categorization order and proceed as outlined in subdivisions (3)(A)(i)–(vii), (B)–(D). They ~~shall~~must file a joint case management report and proposed case management order within 30 days after their conference. The court ~~shall~~must proceed in accordance with subdivision (3)(E). The parties and court may instead proceed under

subdivision (3)(F) if an appropriate administrative order issues within 30 days of the effective date of this rule.

(D) If the assigned court has, ~~pursuant to~~under the circuit's existing case management protocol, including a protocol enacted under a local administrative order promulgated ~~pursuant to~~under Florida Supreme Court Administrative Order AOSC20-23, issued a case management order substantially similar to the case management order described in subdivision (e) for the appropriate category of case, no new case management order need issue under subdivisions (B) or (C).

(E) The provisions of subdivisions (d) and (f)–(i) shall apply in ~~e~~all cases subject to subdivisions (B)–(D).

(F) The court need not issue a case management order under subdivisions (B) or (C) in cases in which trial or a trial period has been scheduled or in which trial scheduling is imminent.

(f) Extensions of Time; Modification of Deadlines

(1) Modification of Dates Established by Case Management Order. The parties may seek by motion to modify the deadlines established in the case management order that govern court filings or hearings only by court order for good cause. Once a trial period or date is set, the parties must establish grounds for continuance under rule 1.460 to change that period or date.

(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~~will 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~~ If extending an individual case management deadline may affect a subsequent deadline in the case management order, parties must seek an amendment of the case management order, rather than submitting an individual motion for extension.

(3) Periodic Updates. The court may require periodic updates advising it of the progress of the case and compliance with deadlines during the pendency of the case. Such additional reports may be specified in the case management order or requested independently by the court. If the case cannot move forward due to availability of hearings or the dilatory behavior of a party or attorney, the moving party must immediately serve an update on the court official as set forth in Florida Rule of General Practice and Judicial Administration 2.516 or as otherwise provided by the chief judge on a circuit-wide basis.

(4) Notices of Unavailability. Notices of unavailability ~~shall~~must not affect the deadlines set by the case management order. Parties must seek amendment of the deadline.

(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~~must be reset to the next ~~immediately~~available trial period.

(g) Forms. The parties must file the joint case management report and the proposed case management order using any forms approved by the court or local administrative order. Except for case management orders issued in cases governed by rule 1.201, the forms of the case management order and the case management report ~~shall~~will be set by local administrative order and ~~shall~~must be uniform within each circuit, whether it be a single form approved for all types of cases or forms approved for particular case types. Under all circumstances, however, the form orders and reports ~~shall~~must comply with the requirements of rule 1.200.

(h) Case Management Conferences.

(1) Scheduling. The court, after entry of the case management order, may set case management conferences on its own notice or upon motion of a party. Case management conferences may be scheduled on an ongoing periodic basis, or as needed with at least 20 days' notice ~~prior to~~before the conference.

(2) Advance Filings. The parties ~~shall~~must file, with courtesy copy served on the court, the following items no later than 7 days ~~prior to~~before a case management conference: an updated joint case management report (if required by the court) and a statement identifying outstanding motions or issues for the court, including any matter that is under advisement.

(3) Preparation Required. Attorneys and self-represented parties who appear at a case management conference must be prepared on the pending matters in the case, be prepared to make decisions about future progress and conduct of the case, and have authority to make representations to the court and enter into binding agreements concerning motions, issues, and scheduling. If more than one attorney is involved, counsel ~~shall~~must be prepared with all attorneys' availability for future events. The court may address any outstanding motion at the case management conference, and the parties should be prepared.

(4) Issues That May Be Addressed. Issues that may be addressed at a case management conference or in an updated joint case management report include but are not limited to:

(A) determining what additional disclosures, discovery, and related activities will be undertaken and establishing a schedule for those activities, including whether and when any examinations will take place;

(B) determining the need for amendment of pleadings or addition of parties;

(C) determining whether the court should enter orders addressing one or more of the following:

(i) amending any dates or deadlines, contingent upon parties establishing a good-faith effort to comply or a significant ~~unforeseen~~change of circumstances;

(ii) setting forth any requirements or limits for the disclosure or discovery of electronically stored information, including the form or forms in which the information should be produced and, if appropriate, the sharing or shifting of costs incurred by the parties in producing the information;

(iii) setting forth any measures the parties must take to preserve discoverable documents or electronically stored information;

(iv) adopting any agreements the parties reach for asserting claims of privilege or of protection for work-product materials after production;

(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 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~~under 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) 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-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 management order, the party ~~shall~~must 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~~12 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~~12 days, along with a copy of the relevant portion of the transcript if a court reporter was present. Unless stipulated by the parties or otherwise ordered by the court, the cost of the transcript will be split between the parties.

(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.~~ Such dismissal is not a sanction and must be without prejudice to a party's seeking relief under rule 1.540.

(~~b~~i) Pretrial Conference. After the action ~~is at issue~~ has been set for trial the court itself may or shall on the timely motion of any party require the parties to appear for a conference to consider and determine:

(1) ~~the simplification~~ a statement of the issues to be tried;

~~(2) the necessity or desirability of amendments to the pleadings;~~

(~~3~~2) the possibility of obtaining ~~admissions of fact and of documents~~ evidentiary and other stipulations that will avoid unnecessary proof;

(~~4~~3) the ~~limitation of the number of expert~~ witnesses who will testify, evidence to be proffered, and any associated logistical or scheduling issues;

(~~5~~4) the ~~potential use of juror notebooks; and~~ use of technology and other means to facilitate the presentation of evidence and demonstrative aids at trial;

(5) the order of proof at trial, time to complete the trial, and reasonable time estimates for voir dire, opening statements, closing arguments, and any other part of the trial;

(6) the numbers of prospective jurors required for a venire, alternate jurors, and peremptory challenges for each party;

(7) finalization of jury instructions and verdict forms; and

(~~6~~8) any matters permitted under subdivision (~~a~~h)(4) ~~of this rule~~.

The court must enter an order reciting the action taken at the pretrial conference and any stipulations made. The order entered by the court ~~shall~~will control the course of the trial.

~~2021 Commentary~~ Workgroup on Improved Resolution of Civil Cases Note

2022 Amendment. Rule 1.200 as amended is intended to supersede any case management rules issued by circuit courts and administrative orders on case management to the extent of contradiction. The rule is not intended to preclude the possibility of local administrative orders that refine and supplement the procedures delineated in the rule, particularly circuit or county-wide rollover practices for situations where a trial is not reached during the trial period scheduled by the case management order.

RULE 1.201. COMPLEX LITIGATION

(a) Complex Litigation Defined. ~~At any time after all defendants have been served, and an appearance has been entered in response to the complaint by each party or a default entered, any party, or the court on its own motion, may move to declare an action complex. However, any party may move to designate an action complex before all defendants have been served subject to a showing to the court why service has not been made on all defendants. The court shall convene a hearing to determine whether the action requires the use of complex litigation procedures and enter an order within 10 days of the conclusion of the hearing.~~

(1) A "complex action" is one that is likely to involve complicated legal or case management issues and that may require extensive judicial management to expedite the action, keep costs reasonable, or promote judicial efficiency.

(2) In deciding whether an action is complex, the court must consider whether the action is likely to involve:

(A) numerous pretrial motions raising difficult or novel legal issues or legal issues that are inextricably intertwined that will be time-consuming to resolve;

(B) management of a large number of separately represented parties;

(C) coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court;

(D) pretrial management of a large number of witnesses, ~~or~~ a substantial amount of documentary evidence, or complex issues associated with electronically stored information;

(E) substantial time required to complete the trial;

(F) management at trial of a large number of experts, witnesses, attorneys, or exhibits;

(G) substantial post-judgment judicial supervision; and

(H) any other analytical factors identified by the court or a party that tend to complicate comparable actions and which are likely to arise in the context of the instant action.

(3) ~~If all of the parties, pro se or through counsel, sign and file with the clerk of the court a written stipulation to the fact that an action is complex and identifying the factors in (2)(A) through (2)(H) above that apply, the court shall enter an order designating the action as complex without a hearing.~~ A case ~~shall~~will be designated or redesignated as complex in accordance with rule 1.200.

(b) Initial Case Management Report and Conference. The court ~~shall~~must hold an initial case management conference within 60 days from the date of the order declaring the action complex.

(1) [NO CHANGE]

(2) [NO CHANGE]

(3) Notwithstanding rule 1.440, at the initial case management conference, the court ~~will~~ ~~shall~~must set the trial date or dates no sooner than 6 months and no later than 24 months from the date of the conference unless good cause is shown for an earlier or later setting. The trial date or dates shall be on a docket having sufficient time within which to try the action and, when feasible, for a date or dates certain. The trial date shall be set after consultation with counsel and in the presence of all clients or authorized client representatives. The court shall, no later than 2 months prior to the date scheduled for jury selection, arrange for a sufficient number of available jurors. Continuance of the trial of a complex action should rarely be granted and then only upon good cause shown.

(c) The Case Management Order. Within 10 days after completion of the initial case management conference, the court ~~shall~~must enter a case management order. A copy of rule 1.279 must be attached to each case management order. The case management order ~~shall~~must address each matter set forth ~~under~~in rule 1.200~~(a)~~(e)(~~2~~3)(D), adhere to the case management objectives outlined in rule 1.200(a); and set the action for a pretrial conference and trial. The case management order may also ~~shall~~ specify ~~the following:~~

~~(1) Dates by which all parties shall name their expert witnesses and provide the expert information required by rule 1.280(b)(5). If a party has named an expert witness in a field in which any other parties have not identified experts, the other parties may name experts in that field within 30 days thereafter. No additional experts may be named unless good cause is shown.~~

~~(2) Not more than 10 days after the date set for naming experts, the parties shall meet and schedule dates for deposition of experts and all other witnesses not yet deposed. At the time of the meeting each party is responsible for having secured three confirmed dates for its expert witnesses. In the event the parties cannot agree on a discovery deposition schedule, the court, upon motion, shall set the schedule. Any party may file the completed discovery deposition schedule agreed upon or entered by the court. Once filed, the deposition dates in the schedule shall not be altered without consent of all parties or upon order of the court. Failure to comply with the discovery schedule may result in sanctions in accordance with rule 1.380.~~

~~(3) Dates by which all parties are to complete all other discovery.~~

~~(4) The court shall schedule periodic case management conferences and hearings on lengthy motions at reasonable intervals based on the particular needs of the action. The attorneys for the parties as well as any parties appearing pro se shall confer no later than 15 days prior to each case management conference or hearing. They shall notify the court at least 10 days prior to any case management conference or hearing if the parties stipulate that a case management conference or hearing time is unnecessary. Failure to timely notify the court that a case management conference or hearing time is unnecessary may result in sanctions.~~

~~(5) The case management order may include~~ a briefing schedule setting forth a time period within which to file briefs or memoranda, responses, and reply briefs or memoranda, prior to the court considering such matters.

~~(6) A deadline for conducting alternative dispute resolution.~~

(d) Additional case management conferences and hearings. The court ~~shall~~must schedule periodic case management conferences and hearings on lengthy motions at reasonable intervals based on the particular needs of the action. The court may set a conference or hearing schedule, or part of such a schedule, in the initial case management order described in subdivision (c) or in a subsequent order or orders. The attorneys for the parties as well as any self-represented parties ~~shall~~must confer no later than 15 days ~~prior to~~before each case management conference or

hearing. They ~~shall~~must notify the court at least 10 days ~~prior to~~before any case management conference or hearing if the parties stipulate that a case management conference or hearing time is unnecessary. Failure to timely notify the court that a case management conference or hearing time is unnecessary may result in sanctions.

(~~d~~e) Final Case Management Conference [NO CHANGE]

RULE 1.271. PRETRIAL COORDINATION COURT

(a) Applicability. This rule applies to civil actions in a given circuit that involve one or more common questions of fact or law that, as determined by the administrative judge, are anticipated as requiring significant case management and that would therefore benefit from consolidated or coordinated handling and case management.

(b) Definitions. As used in this rule:

(1) "Court division" means the individual court division or section in which a case is filed, except when the context reflects a reference to the pretrial coordination court.

(2) "Pretrial coordination court" (PCC) means the court division to which related cases are transferred for coordinated pretrial proceedings under this rule.

(3) "Related" means that cases involve one or more common questions of fact, law, or both.

(4) "Administrative judge" refers to the administrative judge of the circuit court designated by the chief judge under Florida Rule of General Practice and Judicial Administration 2.215(b)(5) as having administrative responsibility over assignment of cases to PCCs. In this rule, "administrative judge" refers to the chief judge of the circuit in circuits in which no administrative judge has been appointed in the civil division.

(5) "Bellwether case" refers to a case fundamentally similar to a group of related cases, with a trial conducted to gauge how jurors will react to the evidence and arguments. The outcome of the trial of a bellwether case does not dictate the outcome of related cases.

(c) Transfer to a PCC.

(1) Request for Transfer.

(A) Motion for Transfer by a Party. A party in a case may move for transfer of the case and related cases to a PCC. The motion must be in writing and must:

(i) list the case number, style, court division, and trial judge of each related case for which transfer is sought;

(ii) state the common question or questions of fact or law involved in the cases and any legal basis for the transfer;

(iii) contain a clear and concise explanation of the reasons that transfer would be for the convenience of the parties and witnesses and would promote the just and efficient conduct of the cases;

(iv) list all parties in each related case and the names, addresses, telephone numbers, and e-mail addresses of all attorneys and self-represented parties; and

(v) certify that the movant has made a good-faith effort to consult with all attorneys or self-represented parties of record in all cases for which transfer is sought and state whether each attorney or party agrees to the motion.

(B) Request for Transfer by a Judge. A trial court judge may request a transfer of related cases to a PCC. The request must be in writing and must list the cases to be transferred and state the common question or questions of fact or law. The request ~~shall~~must be made to the chief judge, who may rule on the request or refer it to the administrative judge.

(C) Transfer on Administrative Judge's Initiative. The administrative judge may, on the judge's own initiative or in response to a request under subdivision (B), issue a notice of impending transfer. The notice must be served on an attorney for each party, each self-represented party, and each assigned trial judge.

(2) Effect on the Trial Court of the Filing of a Motion, Request, or Notice. The filing of a motion or request for or notice of transfer under this rule does not automatically stay proceedings or orders in a case's civil division during the pendency of the motion. The trial court or administrative judge may stay all or part of any trial court proceedings until an order on motion or request for or notice of transfer to a PCC is entered.

(3) Response; Reply. Any party in the case sought to be transferred or a related case may file:

(A) a response to a motion or request for or notice of transfer within 10 days after service of such motion, request, or transfer; and

(B) a reply to a response within 10 days after service of such response.

The administrative judge may request additional briefing from any party.

(4) Length of Pleadings. Without leave of the administrative judge, each of the following must not exceed 20 pages: a motion to transfer filed under subdivision (1)(A), a response, and a reply.

(5) Service. A party must, upon filing, serve a motion, response, reply, or other document on the administrative judge, the trial judge in each related case in which transfer is sought, and all parties in each related case.

(6) Notice. Any date of submission or hearing on a motion to transfer must be noticed to all parties in all related cases.

(7) Evidence. The administrative judge may order parties to submit evidence by affidavit or deposition and to file documents, discovery, or stipulations from cases under consideration for transfer.

(8) Decision. The administrative judge may decide any matter on written submission or after a hearing. The administrative judge may direct transfer in an order finding that related cases involve one or more common questions of fact or law and that transfer to a specified court division, to serve as the PCC for the related cases, will promote the just and efficient conduct of the related cases.

(9) Order of Transfer. An order of transfer must:

(A) be in writing;

(B) list all parties who have appeared and remain in the case, and the names, addresses, phone numbers, and bar numbers of their attorneys or, if a party is self-represented, the party's name, address, and phone number; and

(C) list those parties who have not yet appeared in the case.

(10) When Transfer Effective. A case is deemed transferred from the trial court to the PCC when the order of transfer is filed with the trial court and the PCC.

(11) Further Action in Trial Court Limited. After an order of transfer is filed, the trial court must take no further action in the case except for good cause stated in the order after conferring with the PCC.

(12) Retransfer. On its own initiative, on a party's motion, or at the request of the PCC, the administrative judge may order cases transferred from one PCC to another PCC when the judge presiding over the PCC has died, resigned, been replaced at an election, requested retransfer, been recused, or been disqualified or in other circumstances when retransfer will promote the just and efficient conduct of the cases.

(d) Proceedings in the PCC.

(1) Judges Who May Preside. The administrative judge may assign as judge of a PCC a trial judge in the civil division or a senior judge approved by the chief justice of the Florida Supreme Court. Judges who sit on PCC assignments ~~shall~~must have completed case management education as approved by the Florida Court Education Council.

(2) Authority of the PCC.

(A) The judge assigned as judge of the PCC has exclusive jurisdiction over each related case transferred ~~pursuant to~~under this rule unless a case is retransferred, resolved, or remanded to the trial court. The PCC has the authority to decide all pretrial matters in all related cases transferred to the PCC. Those matters include, without limitation, jurisdiction, joinder, venue, discovery, trial preparation (such as motions to strike expert witnesses, objections to exhibits, and motions in limine), referral to alternative dispute resolution, and disposition by means other than trial on the merits (such as

default judgment, summary judgment, consolidated trial upon stipulation, bellwether trial upon stipulation, and settlement approval).

(B) The PCC may set aside or modify any pretrial ruling made by the trial court before transfer over which the trial court's plenary power would not have expired had the case not been transferred.

(C) The PCC's authority terminates upon case closure or upon remand to the trial court.

(D) Motions for sanctions for conduct in PCC proceedings ~~shall~~must be brought before the PCC.

(E) Post-resolution events such as motions for attorney~~'~~s' fees and costs pursuant to offers of settlement, settlement enforcement, judgment collection, and proceedings supplementary ~~shall~~must proceed before the trial court judge.

(3) Case Management. The judge of the PCC should apply sound judicial management methods early, continuously, and actively, based on the judge's knowledge of each related case and the entire litigation, ~~in order~~to set fair and firm time limits tailored to ensure the expeditious resolution of each case and the just and efficient conduct of the litigation as a whole. After a case is transferred, the PCC should, at the earliest practical date, conduct a hearing or case management conference and enter a case management order. The PCC should consider at the hearing or case management conference, and its order should address, all matters pertinent to the conduct of the litigation, including:

(A) accomplishment of the necessary events to move the case to resolution;

(B) settling the pleadings;

(C) determining whether severance, consolidation, or coordination with other actions is desirable and whether identification of separable triable portions of the case is desirable;

(D) scheduling preliminary motions;

(E) scheduling discovery proceedings and setting appropriate limitations on discovery, including the establishment and timing of discovery procedures and addressing electronically stored information; and addressing calendaring, including set-aside weeks and process for scheduling depositions and case events;

(F) issuing protective orders;

(G) arranging for mediation or arbitration ~~pursuant to~~under rule 1.700;

(H) appointing organizing or liaison counsel;

(I) scheduling dispositive motions;

(J) providing for an exchange of documents, including adopting a uniform numbering system for documents and establishing a document depository;

(K) addressing the use of communication equipment ~~pursuant to~~under rule 1.451 and Florida Rule of General Practice and Judicial Administration 2.530;

(L) evaluating alternate methods of moving the cases to resolution, including stipulations for consolidated trial or bellwether trial and where appropriate presiding over those proceedings;

(M) considering such other matters the court or the parties deem appropriate for the just and efficient resolution of the cases; and

(N) scheduling further case events as necessary.

(4) Setting of Trials. The PCC, in conjunction with the trial court, may set a transferred case for trial at such a time and on such a date as will promote the convenience of the parties and witnesses and the just and efficient disposition of all related proceedings. The PCC must confer, or order the parties to confer, with the trial court regarding potential trial dates or other matters regarding remand. The trial court must cooperate reasonably with the PCC, and the PCC must defer appropriately to the trial court's docket. The trial court must not continue or postpone a trial setting without the concurrence of the PCC.

(e) Retention by the PCC; Remand to the Trial Court.

(1) Retention or Return. The PCC is generally for pretrial coordination. In order to assure a timely progress to resolution, cases should be returned to the original court division for trial. However, for purposes of trial, the PCC ~~shall~~must choose among the following options:

(A) By stipulation and agreement of all parties in each related case, a single case may be tried by the PCC as a bellwether case.

(B) By stipulation and agreement of all parties in each related case, the PCC may try a consolidated trial on specific common issues, such as liability.

(C) By stipulation and agreement of ~~the~~all parties in each related case, the PCC may try a consolidated trial on certain preliminary issues that would aid in the overall disposition of the cases, such as immunity.

(D) Where no stipulation and consensus is available, upon completion of all pretrial labor including jury instructions, related cases ~~shall~~must be returned to the court divisions to which they were originally assigned.

(2) When the Case Reaches Final Disposition in the PCC. No case in which the PCC has issued a final and appealable decision ~~shall~~will be returned to the trial court until after any motion for rehearing or new trial has been disposed of. A case that has reached disposition in the PCC ~~shall~~must be returned to the trial court upon the disposition becoming final.

(3) When Pretrial Coordination Has Been Accomplished before Disposition. When pretrial coordination (including the completion of any bellwether or consolidated trials) has been accomplished to such a degree that the purposes

of the transfer have been fulfilled or no longer apply, the PCC may remand to the original court divisions any one or more related cases remaining pending, or triable portions of related cases remaining pending, for final resolution or disposition of each individual case.

(f) PCC Orders Binding in the Trial Court after Remand.

(1) Generally. The trial court should recognize that to alter a PCC order without a compelling justification would frustrate the purpose of consolidated and coordinated pretrial proceedings. The PCC should recognize that its rulings should not unwisely restrict a trial court from responding to circumstances that arise following remand.

(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 trial court must support its action with specific findings and conclusions in a written order or stated on the record.

(g) Review. An appellate court ~~shall~~should expedite review of an order or judgment in a case pending in a PCC.

RULE 1.275. SANCTIONS

(a) Generally. ~~The~~After an opportunity for hearing, 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~~under these rules. This is a rule of general application. To the extent any rule of civil procedure ~~specifies options~~authorizes ~~for~~sanctioning ~~misconduct~~noncompliance, the sanctions set forth in this rule ~~shall be deemed~~are supplemental to such other rule, as appropriate.

(b) Definitions. As used throughout the Florida Rules of Civil Procedure:

(1) "Due diligence" means the care a reasonable attorney ordinarily exercises to satisfy a legal requirement or discharge an obligation.

(2) "Substantially justified" means having a reasonable basis in fact and law.

(~~b~~c) Available Sanctions. On a party's motion or on its own motion, and after an opportunity for hearing, the court may enter appropriate sanctions concerning such ~~conduct~~noncompliance unless the noncompliant party or attorney shows ~~good cause and~~the exercise of due diligence and that the noncompliance was substantially justified. Such sanctions may include, but are not limited 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 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~~noncompliance;

(7) reducing the number of peremptory challenges available to a party;

(8) dismissing the action, in whole or in part, with or without prejudice;

(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~~d) **Continuance of Trial.** A continuance of a trial ~~shall~~must not be used as a sanction unless the court finds that the continuance does not act to the detriment of the nonoffending party.

(~~d~~e) **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 and costs incurred by a party as a result of the offending party's or attorney's sanctioned ~~conduct~~noncompliance, any out-of-pocket costs or travel expenses reasonably incurred, and any other financial loss ~~reasonably arising as a result of the sanctioned conduct~~directly related to the sanctioned noncompliance.

(~~e~~ f) **Limitations.** The court may not order the payment of reasonable expenses if the court finds that a party's or attorney's noncompliance was substantially justified. Neither a party nor an attorney may be sanctioned if the reason for noncompliance is due to availability of hearings or the dilatory behavior of an opposing party or attorney.

(~~f~~g) **Dismissal with Prejudice or Default.** Before the court may impose the sanction of either dismissal with prejudice or default, the court must first provide an opportunity for hearing and then 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 expense, loss of evidence, or in some other fashion;

(5) whether the attorney's ~~offered reasonable justification for the~~noncompliance was substantially justified; and

(6) whether the noncompliance created significant problems for the administration of justice.

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~~is dispositive. A written order is required if dismissal with prejudice or default is granted as a sanction, 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 with prejudice or entry of the judgment ~~of~~on default.

(~~g~~h) **Level of Conduct.** Except as stated in this rule or elsewhere in these rules, a finding of willfulness or bad faith ~~shall~~will not be necessary to impose a sanction provided in this rule. The sanction, however, ~~shall~~must be commensurate with the conduct.

(~~h~~i) **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~~must deliver a copy of the order to the client or clients and file a notice of imposition of sanctions with the court.

Workgroup on Improved Resolution of Civil Cases Note

2022 Adoption. Rule 1.275, "Sanctions," is a new rule of general application. Trial courts have frequently been hamstrung from attempting to correct improper conduct by the almost insurmountable task of having to make a finding of willfulness or bad faith before imposing a sanction, creating a widespread culture of noncompliance with rules and court orders. This new rule eliminates in most instances a requirement that trial courts make a finding of willfulness or bad faith to impose sanctions. This rule is also intended to eliminate confusion and to ameliorate the requirements of *Kozel v. Ostendorf*, 629 So.3d 817 (Fla. 1994) so that the *Kozel* requirements are now clearly set forth in this rule and do not apply to dismissals without prejudice. Certainly, there are situations in which willfulness should be required. The rule does not completely eliminate the standard. However, the new rule aligns itself with the concurring decision in *Rivero v. Meister*, 46 So. 3d 1161 (Fla. 4th DCA 2010) and the suggestion in *Infinity Auto Ins. Co. v. Metric Diagnostic Testing, Inc.*, 343 So. 3d 98, 104 n.1 (Fla. 4th DCA 2022) which urged that a negligence standard should be in place, rather than a willful or bad faith standard, for most attorney misconduct issues. Indeed much, if not most, attorney misconduct goes without remedy because of the inability of the trial court to make the required findings. The adoption of this rule is intended to make it easier to hold attorneys and parties accountable for their improper conduct.

The due diligence standard in subdivision (b) examines the reasonableness of the conduct under the circumstances. When prompt action is required to avoid an adverse impact on other parties or the proper progress of the case, then the court should also require prompt action to avoid sanctions.

RULE 1.279. STANDARDS OF CONDUCT FOR DISCOVERY

(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 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) It is in the best interest of the justice system and the parties to litigation for cases to be timely evaluated with full knowledge of the relevant facts by both sides. This promotes a search for the truth and reasonable early resolution without costly litigation. Efficiency through proper and timely disclosure of the relevant facts of a case promotes justice, the public interest, and the rights of the parties in litigation.

(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 discretion.

(b) Attorneys' and parties' obligations.

(1) Parties to litigation and their attorneys are obligated to:

(A) timely comply with the discovery rules in good faith without gamesmanship or delay; and

(B) timely share information discoverable under the law.

(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) The attorney has an obligation to protect and pursue a client's legitimate interests, within the bounds of the law while maintaining a professional, courteous, and civil attitude toward all persons involved in the legal system.

~~(B) The attorney must not present discovery or responses for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.~~

(~~C~~B) Attorneys ~~shall~~must 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 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~~counsel them to comply with them. Courts may presume that attorneys have met this obligation in any instance of discovery abuse.

(4) Neither a party nor a party's attorney may present discovery or responses for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

(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 of litigation.

(2) Judges ~~shall~~must take appropriate steps to require parties, law firms, and attorneys to abide by these rules.

~~2021 Commentary~~ Workgroup on Improved Resolution of Civil Cases Note

2022 Adoption. Rule 1.279, "Standards of Conduct for Discovery," serves as a guide for judges in the interpretation of the rules for discovery and informs attorneys of the standards that are expected in fulfilling their responsibilities under the discovery rules. The history and purpose of the discovery rules within the Florida Rules of Civil Procedure are addressed in multiple cases. *See, e.g.*, *Dodson v. Persell*, 390 So. 2d 704, 706–07 (Fla.1980) ("A search for truth and justice can be accomplished only when all relevant facts are before the judicial tribunal. Those relevant facts should be the determining factor rather than gamesmanship, surprise, or superior trial tactics. We caution that discovery was never intended to be used and should not be allowed as a tactic to harass, intimidate, or cause litigation delay and excessive costs."); *Surf Drugs, Inc. v. Vermette*, 236 So. 2d 108, 111–12 (Fla. 1970) ("A primary purpose in the adoption of the Florida Rules of Civil Procedure is to prevent the use of surprise, trickery, bluff and legal gymnastics. Revelation through discovery procedures of the strength and weaknesses of each side before trial encourages settlement of cases and avoids costly litigation. Each side can make an intelligent evaluation of the entire case and may better anticipate the ultimate results."); *Jones v. Publix Supermarkets, Inc.*, 114 So. 3d 998, 1003–04 (Fla. 5th DCA 2012); *Cox v. Burke*, 706 So. 2d 43, 47 (Fla 5th DCA 1998).

Nothing in this rule is intended to prevent an attorney from zealously protecting the client within the bounds of the law or from taking appropriate steps to ensure a proper record in doing so.

RULE 1.280. GENERAL PROVISIONS GOVERNING DISCOVERY

(a) Initial Discovery Disclosure.

(1) In General. Except as exempted by subdivision (2) or as ordered by the court, a party must, without awaiting a discovery request, provide to the other parties the following initial discovery disclosures unless privileged or protected from disclosure:

(A) the name and, if known, the address, telephone number, and e-mail address of each individual likely to have discoverable information ~~relevant to the subject matter of the action,~~ along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

(B) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control (or, if not in the disclosing party's possession, custody, or control, a description by category and location of such information) and ~~that are relevant to the subject matter of the action~~may use to support its claims or defenses, unless the use would be solely for impeachment;

(C) a computation for each category of damages claimed by the disclosing party and a copy of the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; provided that a party is not required to provide computations as to noneconomic damages to be set by the jury but ~~shall~~must identify categories of damages claimed and provide supporting documents;

(D) a copy of any insurance policy or agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment; and

(E) answers to all questions on any applicable standard interrogatory forms approved by the Florida Supreme Court and included in Appendix I to these rules. When a party responds under this subdivision to questions on a standard interrogatory form, the questions responded to ~~shall~~will not count toward the proponent's 30-question limit under rule 1.340(a).

(F) the identity of any witness the disclosing party may use at trial to present evidence under sections 90.702–90.705, Florida Statutes.

(2) Proceedings Exempt from Initial Discovery Disclosure. Unless ordered by the court, actions and claims listed in rule 1.200(b) are exempt from initial discovery disclosure.

(3) Time for Initial Discovery Disclosures. A party must make the initial discovery disclosures required by this rule within 45 days after the service of the complaint unless a different time is set by court order.

(4) Basis for Initial Discovery Disclosure; Unacceptable Excuses; Objections. A party must make its initial discovery disclosures based on the information then reasonably available to it. A party is not excused from making its initial discovery disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's initial discovery disclosures or because another party has not made its initial discovery disclosures. A party who formally objects to providing certain information is not excused from making all other initial discovery disclosures required by this rule in a timely manner.

(5) Certificate of Compliance. All parties subject to initial discovery disclosure must file with the court a certificate of compliance identifying with particularity the documents that have been delivered and certifying the date of service of documents by that party. The party must swear or affirm under oath that the disclosure is complete, accurate, and in compliance with this rule, unless the party indicates otherwise, with specificity, in the certificate of compliance.

(~~a~~b) Discovery Methods. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property for inspection and other purposes; physical and mental examinations; and requests for admission. Unless the court orders otherwise and under subdivision ~~(c)~~(d) ~~of this rule~~, the frequency of use of these methods is not limited, except as provided in rules 1.200, 1.340, and 1.370. Discovery must be conducted in accordance with the case management objectives outlined in rule 1.200(a).

(~~b~~c) Scope of Discovery. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. [NO CHANGE]

(2) Indemnity Agreements. [NO CHANGE]

(3) Electronically Stored Information. [NO CHANGE]

(4) Trial Preparation: Materials. Subject to the provisions of subdivision ~~(b)~~(c)(5) ~~of this rule~~, a party may obtain discovery of documents and tangible things otherwise discoverable under subdivision ~~(b)~~(c)(1) ~~of this rule~~ and prepared in anticipation of litigation or for trial by or for another party or by or for that party's representative, including that party's attorney, consultant, surety, indemnitor, insurer, or agent, only upon a showing that the party seeking discovery has need of the materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of the materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation. Without the required showing a party may obtain a copy of a statement concerning the action or its subject matter previously made by that party. Upon request without the

required showing a person not a party may obtain a copy of a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for an order to obtain a copy. The provisions of rule 1.380(a)~~(4)~~(5) apply to the award of expenses incurred as a result of making the motion. For purposes of this paragraph, a statement previously made is a written statement signed or otherwise adopted or approved by the person making it, or a stenographic, mechanical, electrical, or other recording or transcription of it that is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(5) Trial Preparation: Experts. Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subdivision ~~(b)~~(c)(1) ~~of this rule~~ and acquired or developed in anticipation of litigation or for trial, may be obtained only during initial discovery disclosure under the provisions of subdivision (a)(1) or as follows:

(A)

(i) By interrogatories a party may require any other party to identify each person whom the other party expects to call as an expert witness at trial and to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(ii) Any person disclosed by interrogatories or otherwise as a person expected to be called as an expert witness at trial may be deposed in accordance with rule 1.390 without motion or order of court.

(iii) A party may obtain the following discovery regarding any person disclosed by interrogatories or otherwise as a person expected to be called as an expert witness at trial:

1. The scope of employment in the pending case and the compensation for such service.

2. The expert's general litigation experience, including the percentage of work performed for plaintiffs and defendants.

3. The identity of other cases, within a reasonable time period, in which the expert has testified by deposition or at trial.

4. An approximation of the portion of the expert's involvement as an expert witness, which may be based on the number of hours, percentage of hours, or percentage of earned income derived from serving as an expert witness; however, the expert shall not be required to disclose his or her earnings as an expert witness or income derived from other services.

An expert may be required to produce financial and business records only under the most unusual or compelling circumstances and may not be compelled to compile or produce nonexistent documents. Upon motion,

the court may order further discovery by other means, subject to such restrictions as to scope and other provisions pursuant to subdivision ~~(b)~~(c)(5)(C) ~~of this rule~~ concerning fees and expenses as the court may deem appropriate.

(B) [NO CHANGE]

(C) Unless manifest injustice would result, the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subdivisions ~~(b)~~(c)(5)(A) and ~~(b)~~(c)(5)(B) ~~of this rule~~; and concerning discovery from an expert obtained under subdivision ~~(b)~~(c)(5)(A) ~~of this rule~~ the court may require, and concerning discovery obtained under subdivision ~~(b)~~(c)(5)(B) ~~of this rule~~ shall require, the party seeking discovery to pay the other party a fair part of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(D) [NO CHANGE]

(6) Claims of Privilege or Protection of Trial Preparation Materials. [NO CHANGE]

(~~c~~d) Protective Orders. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires, including one or more of the following: (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place or the allocation of expenses; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (5) that discovery be conducted with no one present except persons designated by the court; (6) that a deposition after being sealed be opened only by order of the court; (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; and (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court. If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of rule 1.380(a)~~(4)~~(5) apply to the award of expenses incurred in relation to the motion.

(~~d~~e) Limitations on Discovery of Electronically Stored Information. [NO CHANGE]

(~~e~~f) Sequence and Timing of Discovery. Except as provided in subdivision ~~(b)~~(c)(5), or unless the parties stipulate or the court ~~upon motion for the convenience of parties and witnesses and in the interest of justice~~orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or otherwise, ~~shall~~must not delay any other party's discovery.

(~~f~~g) Supplementing of Responses. ~~A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement the response to include information thereafter acquired.~~ A party or attorney who has made an initial discovery disclosure, who has been ordered by the court to disclose specified information or witnesses, or who has responded to an interrogatory, a request for production, or a request for admission must supplement or correct its disclosure or response: (1) promptly after the date on which the party or attorney learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or (2) as ordered by the court. If a party or attorney fails to timely ~~to~~supplement a disclosure or response ~~pursuant to~~under this subdivision, the court may impose sanctions as provided in rule 1.380.

(~~g~~h) Court Filing of Documents and Discovery. [NO CHANGE]

(~~h~~i) Apex Doctrine. [NO CHANGE]

(~~i~~j) Form of Responses to Written Discovery Requests. [NO CHANGE]

RULE 1.310. DEPOSITIONS UPON ORAL EXAMINATION

(a) When Depositions May Be Taken. [NO CHANGE]

(b) Notice; Method of Taking; Production at Deposition. ~~[NO CHANGE]~~

(1) [NO CHANGE]

(2) [NO CHANGE]

(3) NO CHANGE]

(4) [NO CHANGE]

(5) [NO CHANGE]

(6) In the notice a party may name as the deponent a public or private corporation, a partnership or association, or a governmental agency, and designate with reasonable particularity the matters on which examination is requested. The organization so named must designate one or more officers, directors, or managing agents, or other persons who consent to do so, to testify on its behalf and may state the matters on which each person designated will testify. Before or promptly after the notice or subpoena is served, the serving party and the organization must confer in good faith about the matters for examination. A subpoena must advise a nonparty organization of its duty to confer with the serving party and to designate each person who will testify in advance. The persons so designated must testify about matters known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized in these rules.

(7) [NO CHANGE]

(8) [NO CHANGE]

(c) Examination and Cross-Examination; Record of Examination; Oath~~;~~ ~~Objections~~. Examination and cross-examination of witnesses may proceed as permitted at the trial. The officer before whom the deposition is to be taken must put the witness on oath and must personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness, except that when a deposition is being taken by telephone, the witness must be sworn by a person present with the witness who is qualified to administer an oath in that location. The testimony must be taken stenographically or recorded by any other means ordered in accordance with subdivision (b)(4) ~~of this rule~~. If requested by one of the parties, the testimony must be transcribed at the initial cost of the requesting party and prompt notice of the request must be given to all other parties. ~~All objections made at time of the examination to the qualifications of the officer taking the deposition, the manner of taking it, the evidence presented, or the conduct of any party, and any other objection to the proceedings must be noted by the officer on the deposition. Any objection during a deposition must be stated concisely and in a nonargumentative and nonsuggestive manner. A party may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation on evidence directed by the court, or to present a motion under subdivision (d). Otherwise, evidence objected to must be taken subject to the objections.~~ Instead of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and that party must transmit them to the officer, who must propound them to the witness and record the answers verbatim.

~~**(d) 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 objection and instruction to a deponent not to answer are being made in violation of rule 1.310(c), 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(c). If the order terminates the examination, it shall be 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) apply to the award of expenses incurred in relation to the motion.~~

(e<u>d</u>) Witness Review. [NO CHANGE]

(~~f~~<u>e</u>) Filing; Exhibits.

(1), (2) [NO CHANGE]

(3) A copy of a deposition may be filed only under the following circumstances:

(A) It may be filed in compliance with Florida Rule of General Practice and Judicial Administration 2.425 and rule 1.280~~(g)~~<u>(h)</u> by a party or the witness when the contents of the deposition must be considered by the court on any matter pending before the court. Prompt notice of the filing of the

deposition must be given to all parties unless notice is waived. A party filing the deposition must furnish a copy of the deposition or the part being filed to other parties unless the party already has a copy.

(B) If the court determines that a deposition previously taken is necessary for the decision of a matter pending before the court, the court may order that a copy be filed by any party at the initial cost of the party, and the filing party must comply with rules 2.425 and 1.280~~(g)~~(h).

(~~g~~f) Obtaining Copies. [NO CHANGE]

~~(h) Failure to Attend or to Serve Subpoena; Expenses.~~

~~(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to the other party the reasonable expenses incurred by the other party and the other party's attorney in attending, including reasonable attorneys' fees.~~

~~(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena on the witness and the witness because of the failure does not attend and if another party attends in person or by attorney because that other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to the other party the reasonable expenses incurred by that other party and that other party's attorney in attending, including reasonable attorneys' fees.~~

RULE 1.320. DEPOSITIONS UPON WRITTEN QUESTIONS

(a) Serving Questions; Notice. After commencement of the action any party may take the testimony of any person, including a party, by deposition upon written questions. The attendance of witnesses may be compelled by the use of subpoena as provided in rule 1.410. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes. A party desiring to take a deposition upon written questions must serve them with a notice stating (1) the name and address of the person who is to answer them, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which that person belongs, and (2) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation, a partnership or association, or a governmental agency in accordance with rule 1.310(b)(6). Within 30 days after the notice and written questions are served, a party may serve cross questions on all other parties. Within 10 days after being served with cross questions, a party may serve redirect questions on all other parties. Within 10 days after being served with redirect questions, a party may serve recross questions on all other parties. Notwithstanding any contrary provision of rule 1.310(c) or rules 1.335(c) and (d), objections to the form of written questions are waived unless served in writing on the party propounding them within the time allowed for serving the succeeding cross or other questions and within 10 days

after service of the last questions authorized. The court may for cause shown enlarge or shorten the time.

(b) Officer to Take Responses and Prepare Record. A copy of the notice and copies of all questions served must be delivered by the party taking the depositions to the officer designated in the notice, who must proceed promptly to take the testimony of the witness in the manner provided by rules 1.310(c)~~, –~~(e)~~, and (f)~~ and 1.335(c), (d) in response to the questions and to prepare the deposition, attaching the copy of the notice and the questions received by the officer. The questions must not be filed separately from the deposition unless a party seeks to have the court consider the questions before the questions are submitted to the witness. Any deposition may be recorded by videotape without leave of the court or stipulation of the parties, provided the deposition is taken in accordance with rule 1.310(b)(4).

RULE 1.335. STANDARDS FOR CONDUCT IN DEPOSITIONS, OBJECTIONS, CLAIMS OF PRIVILEGE, TERMINATION OR LIMIT, FAILURE TO APPEAR, AND SANCTIONS

(a) Conduct in Depositions. ~~Depositions are court proceedings and a~~Attorneys are expected to conduct themselves as officers of the court. Attorneys have a duty to conduct themselves consistent with the standards of behavior delineated in rule 1.279.

(b) Witness Conduct. Attorneys ~~shall~~must instruct clients and witnesses under their control to act with honesty, fairness, respect, and courtesy.

(c) Objections During Depositions. All legally permitted objections made at time of the examination to the qualifications of the officer taking the deposition, the manner of taking it, the evidence presented, the conduct of any party, and any other objection to the proceedings must be noted by the officer on the deposition. Any legally permitted objection during a deposition must be stated concisely and in a nonargumentative and nonsuggestive manner.

(d) Instruction Not to Answer. A party may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation on evidence directed by the court, or to present a motion under subdivision (e). Otherwise, evidence objected to must be taken subject to the objections.

(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~~and 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~~will be 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.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to the other party the reasonable expenses incurred by the other party and the other party's attorney in attending, including reasonable attorneys' fees and costs, and may impose other sanctions as appropriate under rule 1.380.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena on the witness and the witness because of the failure does not attend and if another party attends in person or by attorney because that other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to the other party the reasonable expenses incurred by that other party and that other party's attorney in attending, including reasonable attorneys' fees and costs, and may impose other sanctions as appropriate under rule 1.380.

(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 of prejudice and will result in expenses, fees, costs, 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 1.340. INTERROGATORIES TO PARTIES

(a) Procedure for Use. Without leave of court, any party may serve on any other party written interrogatories to be answered (1) by the party to whom the interrogatories are directed, or (2) if that party is a public or private corporation or partnership or association or governmental agency, by any officer or agent, who must furnish the information available to that party. Interrogatories may be served on the plaintiff after commencement of the action and on any other party with or after service of the process and initial pleading on that party. The interrogatories must not exceed 30, including all subparts, unless the court permits a larger number on motion and notice and for good cause. If the supreme court has approved a form of interrogatories for the type of action, the initial interrogatories on a subject included within must be from the form approved by the court. A party may serve fewer than all of the approved interrogatories within a form. Other interrogatories may be added to the approved forms without leave of court, so long as the total of approved and additional interrogatories does not exceed 30. Each interrogatory must be answered separately and fully in writing under oath unless it is objected to,

in which event the grounds for ~~objection~~ objecting to an interrogatory must be stated with specificity and signed by the attorney making it. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure. The party to whom the interrogatories are directed must serve the answers and any objections within 30 days after the service of the interrogatories, except that a defendant may serve answers or objections within 45 days after service of the process and initial pleading on that defendant. The court may allow a shorter or longer time. Notwithstanding any objection to one or more interrogatories, the party to whom the interrogatories are directed must timely serve answers to all unobjected-to interrogatories in accordance with this rule. The party submitting the interrogatories may move for an order under rule 1.380(a) on any objection to or other failure to answer an interrogatory.

(b) Scope; Use at Trial. Interrogatories may relate to any matters that can be inquired into under rule 1.280~~(b)~~(c), and the answers may be used to the extent permitted by the rules of evidence except as otherwise provided in this subdivision. An interrogatory otherwise proper is not objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or calls for a conclusion or asks for information not within the personal knowledge of the party. A party must respond to such an interrogatory by giving the information the party has and the source on which the information is based. Such a qualified answer may not be used as direct evidence for or impeachment against the party giving the answer unless the court finds it otherwise admissible under the rules of evidence. If a party introduces an answer to an interrogatory, any other party may require that party to introduce any other interrogatory and answer that in fairness ought to be considered with it.

(c) Option to Produce Records. [NO CHANGE]

(d) Effect on Co-Party. [NO CHANGE]

(e) Service and Filing. Interrogatories must be served on the party to whom the interrogatories are directed and copies must be served on all other parties. A certificate of service of the interrogatories must be filed, giving the date of service and the name of the party to whom they were directed. The answers to the interrogatories must be served on the party originally propounding the interrogatories and a copy must be served on all other parties by the answering party. The original or any copy of the answers to interrogatories may be filed in compliance with Florida Rule of General Practice and Judicial Administration 2.425 and rule 1.280~~(g)~~(h) by any party when the court should consider the answers to interrogatories in determining any matter pending before the court. The court may order a copy of the answers to interrogatories filed at any time when the court determines that examination of the answers to interrogatories is necessary to determine any matter pending before the court.

RULE 1.350. PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES

(a) Request; Scope. Any party may request any other party (1) to produce and permit the party making the request, or someone acting in the requesting party's behalf, to inspect and copy any designated documents, including electronically stored information, writings, drawings, graphs, charts, photographs, audio, visual, and audiovisual recordings, and other data compilations from which information can be obtained, translated, if necessary, by the party to whom the request is directed through detection devices into reasonably usable form, that constitute or contain matters within the scope of rule 1.280~~(b)~~(c) and that are in the possession, custody, or control of the party to whom the request is directed; (2) to inspect and copy, test, or sample any tangible things that constitute or contain matters within the scope of rule 1.280~~(b)~~(c) and that are in the possession, custody, or control of the party to whom the request is directed; or (3) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation on it within the scope of rule 1.280~~(b)~~(c).

(b) Procedure. Without leave of court the request may be served on the plaintiff after commencement of the action and on any other party with or after service of the process and initial pleading on that party. The request shall set forth the items to be inspected, either by individual item or category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection or performing the related acts.

(1) Time to Respond. The party to whom the request is directed shall serve a written response within 30 days after service of the request, except that a defendant may serve a response within 45 days after service of the process and initial pleading on that defendant. The court may allow a shorter or longer time.

~~For each item or category the response shall state that inspection and related activities will be permitted as requested unless the request is objected to, in which event the reasons for the objection shall be stated. If an objection is made to part of an item or category, the part shall be specified. When producing documents, the producing party shall either produce them as they are kept in the usual course of business or shall identify them to correspond with the categories in the request. A request for electronically stored information may specify the form or forms in which electronically stored information is to be produced. If the responding party objects to a requested form, or if no form is specified in the request, the responding party must state the form or forms it intends to use. If a request for electronically stored information does not specify the form of production, the producing party must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.~~

(2) Responding to Each Item. For each item or category, the response must either state that inspection and related activities will be permitted as requested or state with specificity the grounds for objecting to the request, including the reasons.

The responding party may state that it will produce copies of documents or of electronically stored information instead of permitting inspection. The production must then be completed no later than the time for inspection specified in the request or another reasonable time specified in the response.

(3) Objections. An objection must state whether any responsive materials are being withheld on the basis of that objection. An objection to part of a request must specify the part and permit inspection of the rest.

(4) Responding to a Request for Production of Electronically Stored Information. The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form—or if no form was specified in the request—the party must state the form or forms it intends to use.

(5) Producing the Documents or Electronically Stored Information. Unless otherwise stipulated or ordered by the court, these procedures apply to producing documents or electronically stored information:

(A) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;

(B) If a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and

(C) A party need not produce the same electronically stored information in more than one form.

Notwithstanding any objection to one or more requests, the party to whom the requests are directed must timely permit unobjected-to inspection and related activities or produce or identify unobjected-to documents, things, and electronically stored information in accordance with this rule. The party submitting the request may move for an order under rule 1.380(a) concerning any objection, failure to respond to the request, or any part of it, or failure to permit the inspection as requested.

(c) Persons Not Parties. [NO CHANGE]

(d) Filing of Documents. Unless required by the court, a party shall not file any of the documents or things produced with the response. Documents or things may be filed in compliance with Florida Rule of General Practice and Judicial Administration 2.425 and rule 1.280~~(g)~~(h) when they should be considered by the court in determining a matter pending before the court.

RULE 1.351. PRODUCTION OF DOCUMENTS AND THINGS WITHOUT DEPOSITION FROM NONPARTIES

(a) Request; Scope. [NO CHANGE]

(b) Procedure. A party desiring production under this rule shall serve notice as provided in Florida Rule of General Practice and Judicial Administration 2.516 on every other party of the intent to serve a subpoena under this rule at least 10 days before the subpoena is issued if service is by delivery or e-mail and 15 days before the subpoena is issued if the service is by mail. The proposed subpoena shall be attached to the notice and shall state the time, place, and method for production of the documents or things, and the name and address of the person who is to produce the documents or things, if known, and if not known, a general description sufficient to identify the person or the particular class or group to which the person belongs; shall include a designation of the items to be produced; and shall state that the person who will be asked to produce the documents or things has the right to object to the production under this rule and that the person will not be required to surrender the documents or things. A copy of the notice and proposed subpoena shall not be furnished to the person upon whom the subpoena is to be served. If any party serves an objection to production under this rule within 10 days of service of the notice, the objected-to documents or things shall not be produced pending resolution of the objection in accordance with subdivision (d). A person objecting to production under this rule must specify all bases, legal and factual, for the objection. Notwithstanding any objection to one or more requests, the person to whom the requests are directed must timely produce unobjected-to documents and things in accordance with this rule.

(c) Subpoena. If no objection is made by a party under subdivision (b), an attorney of record in the action may issue a subpoena or the party desiring production shall deliver to the clerk for issuance a subpoena together with a certificate of counsel or ~~pro se~~ self-represented party that no timely objection has been received from any party, and the clerk shall issue the subpoena and deliver it to the party desiring production. Service within the state of Florida of a nonparty subpoena shall be deemed sufficient if it complies with rule 1.410(d) or if (1) service is accomplished by mail or hand delivery by a commercial delivery service, and (2) written confirmation of delivery, with the date of service and the name and signature of the person accepting the subpoena, is obtained and filed by the party seeking production. The subpoena shall be identical to the copy attached to the notice and shall specify that no testimony may be taken and shall require only production of the documents or things specified in it. The subpoena may give the recipient an option to deliver or mail legible copies of the documents or things to the party serving the subpoena. The person upon whom the subpoena is served may condition the preparation of copies on the payment in advance of the reasonable costs of preparing the copies. The subpoena shall require production only in the county of the residence of the custodian or other person in possession of the documents or things or in the county where the documents or things are located or where the custodian or person in possession usually conducts business. If the person upon whom the subpoena is served objects at any time before the production of the documents or things, the documents or things shall not be produced under this rule, and relief may be obtained pursuant to rules 1.310 and 1.335.

(d) Ruling on Objection. If an objection is made by a party under subdivision (b), the party desiring production may file a motion with the court seeking a ruling on the objection or may proceed ~~pursuant to~~under rules 1.310 and 1.335.

(e) Copies Furnished. [NO CHANGE]

(f) Independent Action. [NO CHANGE]

~~2021 Commentary~~ Workgroup on Improved Resolution of Civil Cases Note

2022 Amendment. Subdivision (b) has been amended in part to avoid the result that a mere filing of an unspecified objection automatically requires the party desiring production instead to proceed to deposition.

RULE 1.370. REQUESTS FOR ADMISSION

(a) Request for Admission. A party may serve upon any other party a written request for the admission of the truth of any matters within the scope of rule 1.280~~(b)~~(c) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Without leave of court the request may be served upon the plaintiff after commencement of the action and upon any other party with or after service of the process and initial pleading upon that party. The request for admission shall not exceed 30 requests, including all subparts, unless the court permits a larger number on motion and notice and for good cause, or the parties propounding and responding to the requests stipulate to a larger number. Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter within 30 days after service of the request or such shorter or longer time as the court may allow but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 45 days after service of the process and initial pleading upon the defendant. If objection is made, the reasons shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless that party states that that party has made reasonable inquiry and that the information known or readily obtainable by that party is insufficient to enable that party to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not object to the request on that ground alone; the party may deny the matter or set forth reasons why the party cannot admit or deny it, subject to ~~rule 1.380~~ subdivision (c). The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the

court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. Instead of these orders the court may determine that final disposition of the request be made at a pretrial conference or at a designated time before trial. The provisions of rule 1.380(a)~~(4)~~(5) apply to the award of expenses incurred in relation to the motion.

(b) Effect of Admission. Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. ~~Subject to rule 1.200 governing amendment of a pretrial order, the~~ The court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved by it and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice that party in maintaining an action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission for any other purpose nor may it be used against that party in any other proceeding.

(c) Expenses on Failure to Admit. If a party fails to admit the genuineness of any document or the truth of any matter as requested under this rule and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may file a motion for an order requiring the other party to pay the requesting party the reasonable expenses incurred in making that proof, which ~~shall~~must include attorney's fees and costs. The court ~~shall~~must issue such an order at the time a party requesting the admissions proves the genuineness of the document or the truth of the matter, upon motion by the requesting party, unless it finds that (1) the request was held objectionable ~~pursuant to~~under subdivision (a), (2) the admission sought was of no substantial importance, or (3) there was other good reason for the failure to admit.

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 ~~apply~~ move for an order compelling disclosure or discovery ~~as follows:~~. Such a motion ~~shall~~must comply with rule 1.160(c).

(1) Appropriate Court. ~~An application~~ A motion for an order to a party ~~may shall~~must be made to the court ~~in which~~ where the action is pending or, if applicable, in accordance with rule ~~1.310(d)~~1.335(e). ~~An application~~ A motion for an order to a ~~deponent who is not a party shall~~ nonparty must be made to the ~~circuit~~ court where the ~~deposition is being~~ discovery is or will be taken.

(2) Motion. If any party or person fails to meet any disclosure or discovery obligation required under these rules, the discovering party may move for an order compelling such disclosure or discovery obligation to be met. Such a motion may be made when:

(A) a party fails to make or supplement a required disclosure under rule 1.280(a);

(B) a deponent fails to appear to take a deposition as required or fails to answer a question propounded or submitted under rule 1.310 or 1.320~~, or~~;

(C) a corporation or other entity fails to make a designation under rule 1.310(b)(6) or 1.320(a)~~, or~~;

(D) a party fails to answer an interrogatory submitted under rule 1.340~~, or if~~;

(E) a party in response to a request for inspection submitted under rule 1.350 fails to respond that inspection will be permitted as requested or fails to permit inspection as requested~~, or if~~;

(F) a party in response to a request for examination of a person submitted under rule 1.360(a) improperly objects to the examination, fails to respond that the examination will be permitted as requested, or fails to submit to or to produce a person in that party's custody or legal control for examination~~,~~ or if the party setting the compulsory medical examination fails to remedy or withdraw a defective notice of examination upon proper objection (such withdrawal being without prejudice to a future proper and timely notice of compulsory medical examination); or

(G) any party or person fails to meet any other disclosure or discovery obligation required under these rules.

~~the discovering party may move for an order compelling an answer, or a designation or an order compelling inspection, or an order compelling an examination in accordance with the request. The motion must include a certification that the movant, in good faith, has conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action.~~

(3) Motions Relating to Depositions. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before applying for an order. If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to rule 1.280~~(c)~~(d).

(~~3~~4) Evasive or Incomplete Answer. For purposes of this subdivision an evasive or incomplete answer shall be treated as a failure to answer.

(~~4~~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, ~~or~~ the party or ~~counsel~~ 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, ~~that may include~~ 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~~, or that other circumstances make an award of expenses unjust~~. Except as stated in this rule or elsewhere in

these rules, a finding of willfulness is not necessary to impose a sanction provided in this rule. The sanction, however, must be commensurate with the conduct.

(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, ~~that may include~~ including attorneys' fees and costs, unless the court finds that the making of the motion was substantially justified ~~or that other circumstances make an award of expenses unjust~~. Except as stated in this rule or elsewhere in these rules, a finding of willfulness is not necessary to impose a sanction provided in this rule. The sanction, however, must be commensurate with the conduct.

(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 ~~may~~ ~~shall~~must apportion the reasonable expenses incurred as a result of making or opposing the motion, ~~among the parties and persons~~ including attorneys' fees and costs. 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~~under subdivision (A). To the extent the motion is denied, the court ~~shall~~must require the reasonable expenses incurred as a result of opposing the motion to be paid ~~pursuant to~~under subdivision (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' fees and costs 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. ~~(1) If, after being ordered to do so by the court, a deponent fails to be sworn or to answer a question or produce documents, the failure may be considered a contempt of the court.~~ 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~~under subdivision (a), such a failure ~~shall~~will be deemed to have interfered with the ability of the court to adjudicate the issues in the case. In such an event, the court ~~shall~~must, after opportunity for hearing, enter an order imposing discovery sanctions under subdivision (3), unless the court finds that the conduct was substantially justified.

~~(2) If a party or an 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 under~~

~~subdivision (a) of this rule or rule 1.360, the court in which the action is pending may make any of the following orders:~~

(2) Discovery Abuse and Failure to Provide or Supplement Discovery. If a party or a party's counsel 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~~must consider and make findings on the record as to the following factors:

(A) whether the failure was willful, grossly noncompliant, or inadvertent and whether the offending party's ~~offered a reasonable justification for the~~failure was substantially justified;

(B) the duration of the failure and whether the party responsible for the failure ultimately revealed it;

(C) whether the failure prejudiced the opposing party, or would have prejudiced the opposing party, had the information not been learned ~~prior to~~before trial; and

(D) whether and to what extent the party responsible for the failure mitigated prejudice to the opposing party.

Upon consideration of these factors, the court ~~shall~~must, if appropriate, enter an order imposing discovery sanctions under subdivision (3).

(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~~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. Except as stated in this rule or elsewhere in these rules, a finding of willfulness is not necessary to impose a sanction provided in this rule. The sanction, however, must be commensurate with the conduct. The description of "reasonable expenses" stated in subdivision (a)(5)(D) ~~shall apply~~applies to this subdivision. In addition, the court may enter an order imposing one or more of the following additional discovery sanctions:

~~(A)~~(i) ~~An order~~ directing that the matters ~~regarding which the questions were asked~~ that are the subject of the order or ~~any~~ other designated facts ~~shall~~ be taken ~~to be~~ and established for the purposes of the action, ~~in accordance with the claim of the party obtaining the order~~ as the prevailing party claims~~.~~;

~~(B)~~(ii) ~~An order refusing to allow~~ prohibiting the disobedient party ~~to~~ from supporting or ~~oppose~~ opposing designated claims or defenses~~,~~ or ~~prohibiting that party~~ from introducing designated matters into evidence~~.~~;

~~(C)~~(iii) ~~An order~~ striking ~~out~~ pleadings ~~or parts of them or~~ in whole or in part;

(iv) staying further proceedings until ~~the order is obeyed, or~~ discovery obligations are met;

(v) dismissing the action ~~or proceeding or any part of it, or~~ in whole or in part;

(vi) rendering a default judgment ~~by default~~ against the disobedient party~~.~~;

~~(D)~~(vii) ~~Instead of any of the foregoing orders or in addition to them, an order~~ treating as a contempt of court the failure to obey any discovery order~~s~~, except an order to submit to ~~an examination made pursuant to rule 1.360(a)(1)(B) or subdivision (a)(2) of this rule.~~ a physical or mental examination;

~~(E) When a party has failed to comply with an order under rule 1.360(a)(1)(B) requiring that party to produce another for examination, the orders listed in paragraphs (A), (B), and (C) of this subdivision, unless the party failing to comply shows the inability to produce the person for examination.~~

(viii) requiring that a party not be allowed to use documents, information, or a witness to provide evidence at a hearing or at trial if that party failed to provide or disclose such documents, information, or witness as required; or

(ix) such other sanction crafted by the court as may be appropriate to the circumstances of the discovery or disclosure violation, including without limitation the sanctions provided in rule 1.275(~~b~~c).

~~Instead of any of the foregoing orders or in addition to them, the court shall require the party failing to obey the order to pay the reasonable expenses caused by the failure, which may include attorneys' fees, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.~~

(B) ~~Prior to~~Before imposing a sanction that will have the effect of dismissing a claim or entering a default, the court ~~shall~~must 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) whether the violation of the order was willful, deliberate, contumacious, or grossly noncompliant rather than an act of simple negligence or inexperience;

(ii) whether the attorney or party has previously failed to comply with a discovery order in the present or other cases;

(iii) to what extent the attorney and the party were each responsible for the act of disobedience;

(iv) whether the disobedience prejudiced the opposing party through undue expense, loss of evidence, or some other fashion;

(v) whether the party's ~~offered reasonable justification for~~ noncompliance was substantially justified; and

(vi) whether the delay created significant problems in judicial administration.

~~**(c) Expenses on Failure to Admit.** If a party fails to admit the genuineness of any document or the truth of any matter as requested under rule 1.370 and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may file a motion for an order requiring the other party to pay the requesting party the reasonable expenses incurred in making that proof, which may include attorneys' fees. The court shall issue such an order at the time a party requesting the admissions proves the genuineness of the document or the truth of the matter, upon motion by the requesting party, unless it finds that (1) the request was held objectionable pursuant to rule 1.370(a), (2) the admission sought was of no substantial importance, or (3) there was other good reason for the failure to admit.~~

~~**(d) Failure of Party to Attend at Own Deposition or Serve Answers to Interrogatories or Respond to Request for Inspection.** If a party or an 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 (1) to appear before the officer who is to take the deposition after being served with a proper notice, (2) to serve answers or objections to interrogatories submitted under rule 1.340 after proper service of the interrogatories, or (3) to serve a written response to a request for inspection submitted under rule 1.350 after proper service of the request, the court in which the action is pending may take any action authorized under paragraphs (A), (B), and (C) of subdivision (b)(2) of this rule. Any motion specifying a failure under clause (2) or (3) of this subdivision shall include a certification that the movant, in good faith, has conferred or attempted to confer with the party failing to answer or respond in an effort to obtain such answer or response without court action. Instead of any order or in addition to it, the court shall require the party failing to act to pay the reasonable expenses caused by the failure, which may include attorneys' fees, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. The failure to act described in this subdivision may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by rule 1.280(c).~~

(e~~c~~) Failure to Preserve Electronically Stored Information. If electronically stored information that should have been preserved in the anticipation or conduct of

litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the court:

(1) upon finding prejudice to another party from loss of the information, may order measures no greater than necessary to cure the prejudice; or

(2) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation may:

(A) presume that the lost information was unfavorable to the party;

(B) instruct the jury that it may or must presume the information was unfavorable to the party; ~~or~~

(C) dismiss the action or enter a default judgment~~.~~, subject to the provisions of rule 1.275(~~f~~g); or

(D) impose one or more of the other sanctions described in subdivision (b)(3)(A).

Workgroup on Improved Resolution of Civil Cases Note

2022 Amendment. Trial courts have frequently been hamstrung from attempting to correct improper conduct by the almost insurmountable task of having to make a finding of willfulness or bad faith before imposing a sanction, creating a widespread culture of noncompliance with rules and court orders. These amendments eliminate in most instances a requirement that trial courts make a finding of willfulness or bad faith to impose sanctions. This rule is also intended to eliminate confusion and to ameliorate the requirements of *Kozel v. Ostendorf*, 629 So.3d 817 (Fla. 1994) so that the *Kozel* requirements are now clearly set forth in this rule and do not apply to dismissals without prejudice. Certainly, there are situations in which willfulness should be required. The rule does not completely eliminate the standard. However, the new rule aligns itself with the concurring decision in *Rivero v. Meister*, 46 So. 3d 1161 (Fla. 4th DCA 2010) and the suggestion in *Infinity Auto Ins. Co. v. Metric Diagnostic Testing, Inc.*, 343 So. 3d 98, 104 n.1 (Fla. 4th DCA 2022), which urged that a negligence standard should be in place, rather than a willful or bad faith standard, for most attorney misconduct issues. Indeed much, if not most, attorney misconduct goes without remedy because of the inability of the trial court to make the required findings. The amendments to this rule are intended to make it easier to hold attorneys and parties accountable for their improper conduct.

RULE 1.410. SUBPOENA

(a) Subpoena Generally. [NO CHANGE]

(b) Subpoena for Testimony before the Court. [NO CHANGE]

(c) For Production of Documentary Evidence. A subpoena may also command the person to whom it is directed to produce the books, documents (including electronically stored information), or tangible things designated therein, but the court, upon motion made promptly and in any event at or before the time specified

in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable and oppressive, or (2) condition denial of the motion on the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, documents, or tangible things. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms. A person responding to a subpoena may object to discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue costs or burden. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought or the form requested is not reasonably accessible because of undue costs or burden. If that showing is made, the court may nonetheless order discovery from such sources or in such forms if the requesting party shows good cause, considering the limitations set out in rule 1.280~~(d)~~(e)(2). The court may specify conditions of the discovery, including ordering that some or all of the expenses of the discovery be paid by the party seeking the discovery. A party seeking a production of evidence at trial which would be subject to a subpoena may compel such production by serving a notice to produce such evidence on an adverse party as provided in Florida Rule of General Practice and Judicial Administration 2.516. Such notice shall have the same effect and be subject to the same limitations as a subpoena served on the party.

(d) Service. [NO CHANGE]

(e) Subpoena for Taking Depositions.

(1) Filing a notice to take a deposition as provided in rule 1.310(b) or 1.320(a) with a certificate of service on it showing service on all parties to the action constitutes an authorization for the issuance of subpoenas for the persons named or described in the notice by the clerk of the court in which the action is pending or by an attorney of record in the action. The subpoena must state the method for recording the testimony. The subpoena may command the person to whom it is directed to produce designated books, documents, or tangible things that constitute or contain evidence relating to any of the matters within the scope of the examination permitted by rule 1.280~~(b)~~(c), but in that event the subpoena will be subject to the provisions of rule 1.280~~(c)~~(d) and subdivision (c) ~~of this rule~~. Within 10 days after its service, or on or before the time specified in the subpoena for compliance if the time is less than 10 days after service, the person to whom the subpoena is directed may serve written objection to inspection or copying of any of the designated materials. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued. If objection has been made, the party serving the subpoena may move for an order at any time before or during the taking of the deposition on notice to the deponent.

(2) [NO CHANGE]

(f) Contempt. [NO CHANGE]

(g) Depositions before Commissioners Appointed in this State by Courts of Other States; Subpoena Powers; etc. [NO CHANGE]

(h) Subpoena of Minor. [NO CHANGE]

RULE 1.420. DISMISSAL OF ACTIONS

(a) Voluntary Dismissal. [NO CHANGE]

(b) Involuntary Dismissal. Any party may move for dismissal of an action or of any claim against that party for failure of an adverse party to comply with these rules or any order of court. ~~Notice of hearing on the motion shall be served as required under rule 1.090(d).~~ After a party seeking affirmative relief in an action tried by the court without a jury has completed the presentation of evidence, any other party may move for a dismissal on the ground that on the facts and the law the party seeking affirmative relief has shown no right to relief, without waiving the right to offer evidence if the motion is not granted. The court as trier of the facts may then determine them and render judgment against the party seeking affirmative relief or may decline to render judgment until the close of all the evidence. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction or for improper venue or for lack of an indispensable party, operates as an adjudication on the merits.

(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 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 ~~all~~ any action~~s~~ in which it appears on the face of the record that no activity by filing of pleadings~~, order of court,~~ or ~~otherwise~~ other ~~paper~~documents has occurred for a period of ~~10~~ 6 months~~,~~ and ~~no~~ the court has not issued an order staying the action ~~has been issued nor~~ or approving a stipulation for stay ~~approved by the court~~, 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. ~~If no such~~

(3) Except as provided in subdivision (4), the court ~~shall~~must dismiss the action if:

(A) No record activity has occurred within the ~~10~~6 months immediately preceding the service of such notice~~, and no~~;

(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 ~~was issued or approved~~ prior to the expiration of such 60-day period~~, the action shall be dismissed by the court on its own motion or on the motion of any interested person, whether a party to the action or not, after reasonable notice to the parties, unless a party shows good cause in writing at least 5 days before the hearing on the motion why the action should remain pending~~.

(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~~must serve the motion and the nonmoving party ~~shall~~must serve any response on the ~~presiding judge~~court official as set forth in Florida Rule of General Practice and Judicial Administration 2.516 or as otherwise provided by the chief judge on a circuit-wide basis. 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 ~~1 year~~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 CHANGE]

Workgroup on Improved Resolution of Civil Cases Note

2022 Amendment. If a case is subject to a case management order or is set for trial, the case may not be dismissed for a lack of prosecution.

RULE 1.440. SETTING ACTION FOR TRIAL

(a) ~~When at Issue.~~ Projecting Trial Period. ~~An action is at issue after any motions directed to the last pleading served have been disposed of or, if no such motions are served, 20 days after service of the last pleading. The party entitled to serve motions directed to the last pleading may waive the right to do so by filing a notice for trial at any time after the last pleading is served. The existence of crossclaims among the parties~~ A trial period ~~shall~~must be projected by the court in conjunction with the requirements of rule 1.200 or rule 1.201, if applicable. In any cases other than those governed by rule 1.201, the court ~~shall~~must fix the actual trial period in accordance with this rule. The failure of any party to file any pleading subsequent to the complaint or any counterclaim shall not prevent the court from ~~setting the action for~~ proceeding to trial ~~on the issues raised by the complaint, answer, and any~~

~~answer to a counterclaim~~ under this rule on the issues raised by the complaint or by the counterclaim.

(b) Notice for Trial. ~~Thereafter~~ For any case not subject to rule 1.200 or rule 1.201 or for any case in which any party seeks a trial for a date earlier than the projected trial period specified in a case management order, and after the deadline for a responsive pleading has passed, any party may file and serve a notice ~~that~~ to set the action ~~is at issue and ready to be set~~ for trial. The notice shall include an estimate of the time required, whether the trial is to be by ~~a~~ jury or not, and whether the trial is on the original action or a subsequent proceeding. The clerk shall then submit the notice ~~and the case file~~ to the court.

(c) ~~Setting for~~ Fixing Trial Period.

(1) ~~If~~ Upon a party's notice or upon the court's own initiative, if the court finds the action ready to be set for a trial period earlier than the projected trial period specified in the case management order entered under rule 1.200 or rule 1.201, ~~it shall~~ the court may enter an order fixing ~~a date for~~ an earlier trial period.

(2) For any case subject to rule 1.200, not later than 45 days ~~prior to~~before the projected trial period set forth in the case management order, but no sooner than the deadline for filing a responsive pleading, the court ~~shall~~must enter an order fixing the trial period.

(3) For any case not subject to rule 1.200 or 1.201, upon a party's notice or upon the court's own initiative, if the court finds the action ready to be set for trial, the court ~~shall~~must enter an order fixing the trial period.

(4) Under any circumstance, however, ~~Trial~~ trial shall be set for a period not less than 30 days ~~from~~ after the court's service of an order setting the ~~notice for~~ trial period. ~~By giving the same notice the court may set an action for trial.~~

(5) In actions in which the damages are not liquidated, the order setting an action for trial shall be served on parties who are in default in accordance with Florida Rule of General Practice and Judicial Administration 2.516.

(d) Applicability. This rule does not apply to actions to which chapter 51, Florida Statutes ~~(1967)~~, applies ~~or to cases designated as complex pursuant to rule 1.201~~.

~~2021 Commentary~~ Workgroup on Improved Resolution of Civil Cases Note

2022 Amendment. This rule has been substantially amended. It ties the date of trial directly to the projected trial period set forth in the case management order. It no longer relies on a rigid concept of a case being "at issue." Too often, parties have used the prior requirement of a case being at issue as a shield to prevent the case from moving forward to trial. As such, the concept of a case being "at issue" no longer has any relevance to the applicability or interpretation of this rule. By this amended rule, the failure of the parties to move diligently to have pleadings filed or amended will no longer thwart the ability of the court to move a case to trial. Instead, bona fide difficulties in getting pleadings filed or amended will be addressed by the court on motions to

continue a trial date, which are addressed to the sound discretion of the court subject to the requirements of rule 1.460.

RULE 1.460. CONTINUANCES

~~A motion for continuance shall be in writing unless made at a trial and, except for good cause shown, shall be signed by the party requesting the continuance. The motion shall state all of the facts that the movant contends entitle the movant to a continuance. If a continuance is sought on the ground of nonavailability of a witness, the motion must show when it is believed the witness will be available.~~

(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, if the hearing is scheduled for 30 minutes or longer, the motion to continue must be 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 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 remaining case management deadlines.

(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 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. In the event one party needs a continuance due to the dilatory conduct of another party, the court will grant a continuance upon reasonable cause and will simultaneously set a sanctions hearing. Where possible, trial dates ~~shall~~must 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~~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.

(4) The motion ~~shall~~ must 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~~will 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~~unanticipated circumstances beyond counsel or witness control; or

~~(E) withdrawal of counsel within 60 days of trial; or~~

(~~F~~E) trial conflicts, which are subject to resolution under Florida Rule of General Practice 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~~will not serve as grounds for continuance where no additional discovery is required, except where cure is impossible~~. 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 with other judges.

(8) ~~All orders~~ When granting a motion~~s~~ to continue, the court ~~shall~~must state, either on the record or in a written order, the factual basis~~,~~ including the reason for the continuance~~,~~. An order granting a motion to continue ~~shall~~must also schedule the action required to resolve the need for the continuance~~,~~ and ~~shall~~set a new trial date. Counsel ~~shall~~must serve all orders granting continuances upon counsel's clients. Counsel and self-represented parties ~~shall~~must 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.

(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~~ should only be reversed upon a finding of gross abuse of discretion.

Workgroup on Improved Resolution of Civil Cases Note

2022 Amendment. While motions to continue have been significantly limited by the amendments to this rule, the court retains the ability to reset a trial. Additionally, nothing contained in this rule is intended to override rule 2.570.

RULE 1.650. MEDICAL MALPRACTICE PRESUIT SCREENING RULE

(a) Scope of Rule. [NO CHANGE]

(b) Notice. [NO CHANGE]

(c) Discovery.

(1) Types. [NO CHANGE]

(2) Procedures for Conducting.

(A) Unsworn Statements. Any party may require other parties to appear for the taking of an unsworn statement. The statements shall only be used for the purpose of presuit screening and are not discoverable or admissible in any civil action for any purpose by any party. A party desiring to take the unsworn statement of any party shall give reasonable notice in writing to all parties. The notice shall state the time and place for taking the statement and the name and address of the party to be examined. Unless otherwise impractical, the examination of any party shall be done at the same time by all other parties. Any party may be represented by an attorney at the taking of an unsworn statement. Statements may be transcribed or electronically recorded, or audiovisually recorded. The taking of unsworn statements of minors is subject to the provisions of rule 1.310(b)(8). The taking of unsworn statements is subject to the provisions of rule ~~1.310(d)~~1.335(e) and may be terminated for abuses. If abuses occur, the abuses shall be evidence of failure of that party to comply with the good faith requirements of section 766.106, Florida Statutes.

(B) Documents or Things. [NO CHANGE]

(C) Physical Examinations. [NO CHANGE]

(D) Written Questions. [NO CHANGE]

(E) Unsworn Statements of Treating Healthcare Providers. [NO CHANGE]

(3) Work Product. [NO CHANGE]

(d) Time Requirements. [NO CHANGE]

RULE 1.820. HEARING PROCEDURES FOR NON-BINDING ARBITRATION

(a) Authority of the Chief Arbitrator. [NO CHANGE]

(b) Conduct of the Arbitration Hearing. [NO CHANGE]

(c) Rules of Evidence. [NO CHANGE]

(d) Orders. [NO CHANGE]

(e) Default of a Party. [NO CHANGE]

(f) Record and Transcript. [NO CHANGE]

(g) Completion of the Arbitration Process. [NO CHANGE]

(h) Time for Filing Motion for Trial. Any party may file a motion for trial. If a motion for trial is filed by any party, any party having a third-party claim ~~at issue~~ ready to be tried at the time of arbitration may file a motion for trial within 10 days of service of the first motion for trial. If a motion for trial is not made within 20 days of service on the parties of the decision, the decision shall be referred to the presiding judge, who shall enter such orders and judgments as may be required to carry out the terms of the decision as provided by section 44.103(5), Florida Statutes.

FORM 1.989. ORDER OF DISMISSAL FOR LACK OF PROSECUTION

(a) Notice of Lack of Prosecution.

NOTICE OF LACK OF PROSECUTION

PLEASE TAKE NOTICE that it appears on the face of the record that no activity by filing of pleadings~~, order of court,~~ or ~~otherwise~~ other paper has occurred for a period of ~~10~~6 months immediately preceding service of this notice~~,~~ and no stay has been issued or approved by the court. ~~Pursuant to~~Under rule 1.420(e), if no ~~such~~ "post-notice record activity" occurs within 60 days following the service of this notice~~,~~ and if no stay is issued or approved during such 60-day period, this action ~~may~~ ~~shall~~must be dismissed by the court ~~on its own motion or on the motion of any interested person, whether a party to the action or not, after reasonable notice to the parties, unless a party shows good cause in writing at least 5 days before the hearing on the motion why the action should remain pending~~ unless a party, by written motion filed with the court and served on the ~~presiding judge~~court official ~~pursuant to~~ under Florida Rule of General Practice and Judicial Administration 2.516 or as otherwise provided by the chief judge on a circuit-wide basis, shows extraordinary cause why the action should remain pending. "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) issuance of an order by the court that sets pretrial deadlines or the trial date.

(b) Order Dismissing Case for Lack of Prosecution.

ORDER OF DISMISSAL

This action was heard on the ~~.....~~respondent's/defendant's/court's/interested party's/ .....(name)'s..... motion to dismiss for lack of prosecution served on ..... (date) ..... The court finds that (1) notice prescribed by rule 1.420(e)(2) was served on ..... (date) .....; (2) there was no post-notice record activity during the ~~10~~6 months immediately preceding service of the foregoing notice; (3) there was no record activity during the 60 days immediately following service of the foregoing notice; (4) no stay has been issued or approved by the court; and (5) no party has shown ~~good~~ cause why this action should remain pending. Accordingly,

IT IS ORDERED that this action is dismissed for lack of prosecution.

ORDERED at ....., Florida, on ..... (date) .....

_____

Judge

RULE 2.215. TRIAL COURT ADMINISTRATION

(a) Purpose. [NO CHANGE]

(b) Chief Judge. [NO CHANGE]

(c) Selection. [NO CHANGE]

(d) Circuit Court Administrator. [NO CHANGE]

(e) Local Rules and Administrative Orders. [NO CHANGE]

(f) Duty to Rule within a Reasonable Time. Every judge has a duty to ~~rule upon and announce~~ enter an order or judgment on every matter submitted to that judge within a reasonable time. ~~Each judge shall maintain a log of cases under advisement and inform the chief judge of the circuit at the end of each calendar month of each case that has been held under advisement for more than 60 days.~~

(1) Ruling.

(A) Unless another rule of procedure requires a different timeframe, a judge ~~shall~~must enter an order or judgment on all matters submitted to the judge for determination after a trial within 60 days after the date the trial concluded or post-trial submissions were filed, whichever is later.

(B) Unless another rule of procedure requires a different timeframe, a judge ~~shall~~must enter an order on a motion within 60 days after the later of:

(i) the date the motion was argued, if ~~oral argument~~a hearing was conducted;

(ii) the date a request for decision was filed;

(iii) the date a notice dispensing with ~~oral argument~~hearing was filed; or

(vi) the date an order dispensing with ~~oral argument~~hearing was entered.

(2) Reporting.

(A) Each judge ~~shall~~must report to the chief judge matters under subdivision (1) that have not been ruled upon within the applicable time periods. Promptly after the effective date of this rule, the chief judge of each circuit ~~shall~~must by administrative order set a reasonable deadline for initial reporting under this subdivision for use throughout the circuit. The chief judge ~~shall~~must confer with the judge who has any motion or judgment pending beyond the applicable time period and ~~shall~~must determine the reasons for the delay 2 the rulings. If the chief judge determines that there is just cause for the delay, the reporting judge ~~shall~~must provide the chief judge with a status report on the matter 60 days after the date of chief judge's determination, and, if the matter remains pending, the chief judge

~~shall~~must again review the matter under this subdivision. If, upon initial or subsequent notification, the chief judge determines that there is no just cause for the delay, the chief judge ~~shall~~must seek to rectify the delay within 60 days. If the delay is not rectified within 60 days, the chief judge ~~shall~~must report the delay to the chief justice. Just cause for delays over 60 days ~~shall~~must include situations in which a large volume of evidence requires additional time to review.

(B) All reports ~~shall~~must be filed with the clerk by the reporting judge upon submission to the chief judge.

(g) Duty to Expedite Priority Cases. [NO CHANGE]

(h) Neglect of Duty. [NO CHANGE]

(i) Status Conference after Compilation of Record in Death Case. [NO CHANGE]

RULE 2.250. TIME STANDARDS FOR TRIAL AND APPELLATE COURTS AND REPORTING REQUIREMENTS

(a) Time Standards. The following time standards are hereby established as a presumptively reasonable time period for the completion of cases in the trial and appellate courts of this state. Periods during which a case is on inactive status ~~shall be~~are excluded from the calculation of the time periods set forth herein. It is recognized that there are cases that, because of their complexity, present problems that cause reasonable delays. However, most cases should be completed within the following time periods:

(1) Trial Court Time Standards.

(A) Criminal. [NO CHANGE]

(B) Civil.

Complex cases — 30 months (from date of service of initial process on the last defendant or 120 days after ~~filing~~commencement of the action as provided in rule 1.050, whichever occurs first, to final disposition)

~~Jury~~ Other jury cases — 18 months (~~filing~~ from date of service of initial process on the last defendant or 120 days after ~~filing~~commencement of the action as provided in rule 1.050, whichever occurs first, to final disposition)

Other nonjury ~~Non-jury~~ cases — 12 months (~~filing~~ from date of service of initial process on the last defendant or 120 days after ~~filing~~commencement of the action as provided in rule 1.050, whichever occurs first, to final disposition)

Small claims cases — 95 days (~~filing~~from commencement of the action as provided in rule 7.050 to final disposition, unless 1 or more rules of civil procedure are invoked that eliminate the deadline for trial under rule 7.090(d), in which event the "complex," "other jury," or "other nonjury" deadline ~~shall~~will apply, as appropriate to the case)

(C) Domestic Relations. [NO CHANGE]

(D) Probate. [NO CHANGE]

(E) Juvenile Delinquency. [NO CHANGE]

(F) Juvenile Dependency. [NO CHANGE]

(G) Permanency Proceedings. [NO CHANGE]

(2) Supreme Court and District Courts of Appeal Time Standards. [NO CHANGE]

(3) Florida Bar Referee Time Standards. [NO CHANGE]

(4) Circuit Court Acting as Appellate Court. [NO CHANGE]

(b) Reporting of Cases.

(1) Quarterly Reports. The time standards require that the following monitoring procedures be implemented:

All pending cases in circuit and district courts of appeal exceeding the time standards shall be listed separately on a report submitted quarterly to the chief justice. The report shall include for each case listed the case number, type of case, case status (active or inactive for civil cases and contested or uncontested for domestic relations and probate cases), the date of arrest in criminal cases, and the original filing date in civil cases. The Office of the State Courts Administrator will provide the necessary forms for submission of this data. The report will be due on the 15th day of the month following the last day of the quarter.

(2) Annual Report of Pending Civil Cases.

(A) By the last business day of July of every year, the chief judge of each circuit ~~shall~~must serve on the chief justice and the state courts administrator a report of the status of the docket of the general civil division of that circuit, including both circuit and county courts, for the preceding fiscal year. The Office of the State Courts Administrator ~~shall~~must provide the necessary forms for submission of this data. The report ~~shall~~must, at a minimum, include the following:

(i) a list of all civil cases, except cases on inactive status, by case number and style, grouped by county, court level (circuit or county), division, and assigned judge, pending in that circuit 3 years or more from the filing of the complaint or other case-initiation filing as of the last day of the fiscal year;

(ii) a reference as to whether each such case appeared on the previous fiscal year's report and, if so, whether the same or a different judge was responsible for the case as of the previous fiscal year's report; and

(iii) a reference as to whether an active case management order is in effect in the case.

(B) Cases that must remain confidential by statute, court rule, or court order ~~shall~~must be included in the report, anonymized by an appropriate designation. The Office of the State Court Administrator ~~shall~~must devise a designation system for such cases that enables the chief judge and the recipients of the report to identify cases that appear on a second or subsequent annual report.

(C) The reporting requirement of subdivision (A) ~~shall~~will take effect on July 1, 2024, for the fiscal year running from July 1, 2023, to June 30, 2024.

RULE 2.546. ACTIVE AND INACTIVE CASE STATUS

(a) Change to Inactive Status. The parties ~~shall~~must promptly file a motion to place a case on inactive status when a case pending in a trial court is required to be stayed, including, but not limited to, when a court has imposed a stay or when a stay is imposed by operation of federal bankruptcy law. A party may move to place a case on inactive status for ~~other~~bona fide reasons. Absent a stipulation by the parties that a pending appellate ruling in another case is dispositive of an entirely separately filed case at the trial level not subject to appellate review, the trial case ~~shall~~will not be placed on inactive status pending resolution of the appellate case absent extraordinary circumstances.

(b) Removal of Designation as Inactive. The parties ~~shall~~must file a motion to remove a case's "inactive" status within 30 days after an event occurs that makes it unnecessary. A party may move to restore a case to active status when otherwise permissible. ~~A party that fails~~Failure to timely inform the court that a case's "inactive" status has become unnecessary may ~~be subject to~~result in sanctions, including dismissal of the action or the striking of pleadings.

(c) Service; Order upon Change of Status. All motions filed under this rule ~~shall~~must be served on the presiding trial judge at the time of filing. Notwithstanding any other rule of procedure, the court ~~shall~~must within 30 days after service of the motion issue an order placing the case on the appropriate status (with the reason for the placement cited in the order) or denying the motion. The court ~~shall~~must order a change to a case's "active" or "inactive" designation pursuant to a motion filed under subdivision (a) or (b) when the motion definitively establishes a basis for the change. Upon issuance of an order changing the case status, the clerk ~~shall~~must promptly adjust the status in the docket.

(d) Deadlines Tolled. All deadlines in a case management order issued under rule 1.200 or rule 1.201 ~~shall~~will be tolled from the date an order is entered placing the case on inactive status until the date an order is entered restoring the case to active status.

~~2021 Commentary~~ Workgroup on Improved Resolution of Civil Cases Note

2022 Adoption. This new rule is being implemented to clarify the roles of the respective players—the parties (or attorneys), the judge, and the clerk—under Fla. Admin. Order No. AOSC14-20 (Mar. 26, 2014), or a subsequent administrative order, which defines case events and case statuses, including "active" and "inactive." Under

the rule, the primary burden is on the parties to keep the court and thus the clerk updated on the status of their case, and it is the responsibility of the clerk to ensure that the status of the case is properly reflected in the case management system.

The last sentence of subdivision (a) governs the active or inactive status of cases not on appellate review that entail issues similar or identical to those of a separate case pending in an appellate court. The subdivision does not govern the active or inactive status in the trial court of cases on appellate review.

RULE 2.550. CALENDAR CONFLICTS

(a) Guidelines. [NO CHANGE]

(b) Additional Circumstances. [NO CHANGE]

(c) Notice and Agreement; Resolution by Judges. When an attorney is scheduled to appear in 2 courts at the same time and cannot arrange for other counsel to represent the clients' interests, the attorney shall give prompt written notice of the conflict to opposing counsel or self-represented party, the clerk of each court, and the presiding judge of each case, if known. If the presiding judge of the case cannot be identified, written notice of the conflict shall be given to the chief judge of the court having jurisdiction over the case~~,~~ or to the chief judge's designee. The judges or their designees shall confer and ~~undertake to avoid~~ resolve the conflict by agreement among themselves. ~~Absent agreement, conflicts should be promptly resolved by the judges or their designees in accordance with the above case guidelines.~~

RULE 7.020. APPLICABILITY OF RULES OF CIVIL PROCEDURE

(a) Generally. [NO CHANGE]

(b) Discovery. ~~Any party represented by an attorney is subject to discovery pursuant to Florida Rules of Civil Procedure 1.280–1.380 directed at said party, without order of court. If a party not represented by an attorney directs discovery to a party represented by an attorney, the represented party may also use discovery pursuant to the above-mentioned rules without leave of court. When a party is not represented by an attorney, and has not initiated discovery pursuant to Florida Rules of Civil Procedure 1.280–1.380, the opposing party shall not be entitled to initiate such discovery without leave of court. However, the time for such discovery procedures may be prescribed by the court.~~ A party ~~shall~~will not be entitled to initiate discovery ~~pursuant to~~under the Florida Rules of Civil Procedure without leave of court.

(c) Additional Rules. In any particular action, the court may order that action to proceed under 1 or more additional Florida Rules of Civil Procedure on application of any party or the stipulation of all parties or on the court's own motion. To the extent that any 1 or more rules of civil procedure are invoked in a small claims action that eliminate the deadline for trial under rule 7.090(d), the court and parties ~~shall~~will be subject to the case management provisions of Florida Rule of Civil Procedure 1.200.

RULE 7.070. METHOD OF SERVICE OF PROCESS

(a) In General. Service of process shall be effected as provided by law or as provided by Florida Rules of Civil Procedure 1.070(a)–(h). Constructive service or substituted service of process may be effected as provided by law. Service of process on Florida residents only may also be effected by certified mail, return receipt signed by the defendant, or someone authorized to receive mail at the residence or principal place of business of the defendant. Either the clerk or an attorney of record may mail the certified mail, the cost of which is in addition to the filing fee.

(b) Summons; Time Limit. If service of the initial process and initial pleading is not made upon a defendant within 90 days after ~~filing of the initial pleading directed to that defendant~~commencement of the action as provided in rule 7.050, the court, on its own initiative after notice or on motion, ~~shall~~must direct that service be effected within a specified time or ~~shall~~dismiss the action without prejudice or drop that defendant as a party; provided that if the plaintiff shows good cause or excusable neglect for the failure, the court ~~shall~~must extend the time for service for an appropriate period. When a motion for leave to amend with the attached proposed amended complaint is filed, the 90-day period for service of amended complaints on the new party or parties ~~shall~~will begin upon the entry of an order granting leave to amend. A dismissal under this subdivision ~~shall~~will not be considered a voluntary dismissal or operate as an adjudication on the merits under rule 7.110(a)(1).

RULE 10.420. CONDUCT OF MEDIATION

(a) Orientation Session. Upon commencement of the mediation session, a mediator shall describe the mediation process and the role of the mediator, and shall inform the mediation participants that:

(1) mediation is a consensual process;

(2) the mediator is an impartial facilitator without authority to impose a resolution or adjudicate any aspect of the dispute; and

(3) communications made during the process are confidential, except where disclosure is required or permitted by law.

For mediations that may be conducted in conjunction with pretrial conferences ~~pursuant to~~under Florida Small Claims Rule 7.090(f), and before any individual case is referred to a mediator by court order or otherwise, a mediator may present the orientation session in multiple cases as a group, either in person, ~~by remote or virtual appearance~~through audio-video communication technology, or by means of a prerecorded video presentation.

(b) Adjournment or Termination. [NO CHANGE]

(c) Closure. [NO CHANGE]