

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR, RE:

AMENDMENT TO INTEGRATION RULE

RESPONSE

FILED

SIDNEY W. NO. 64,333

MAY 28 1985

CLERK, SUPREME COURT

By  Chief Deputy Clerk

By judicial opinion dated April 18, 1985, the Court promulgated Integration Rule 11.02(4)(f), but with the effective date delayed until further order of the Court. This response is being made to the Court's invitation for responses, comments and suggestions.

While we believe the Rule as so promulgated is an improvement over the Rule proposed by The Florida Bar, nevertheless, we respectfully submit that attorneys on the "firing line" will still be stifled in making immediate disbursements should all or a portion of the closing funds (which are to be deposited to the attorney's trust account) be so-called uncollected funds which do not qualify under the exceptions set forth in the Rule.

This would mean that an attorney could not immediately disburse on the strength of a check from, for example, Southern Bell, the du Pont Estate, Coca Cola or the "richest man in town". Can the Court imagine an attorney having to ask the Coca Cola Company to produce a cashier's check for, say, \$1500.00? This would be ridiculous.

Moreover, attorneys often find that last minute adjustments at the closing, which cannot be anticipated by the attorneys, must be made. To require that one of the parties leave the closing to obtain a cashier's check for, say, \$182.00 would be absurd, and would obviously place the attorney at a strong competitive disadvantage with lay closing agents not burdened by such restrictions.

The Court in its opinion seems to state that if an attorney has an arrangement for his bank to cover disbursements made on the strength of uncollected funds, then the attorney

would not be using the funds of other clients and thus would not be in violation of the Rule. We urge the Court to make this a part of the Rule.

As the Court correctly points out, the attorney is in any event at risk. We submit that the attorney should be allowed to exercise his or her prudent judgment in accepting uncollected funds for disbursement. Therefore, we strongly urge the Court to delete the first sentence of the last paragraph of the promulgated Rule which states that disbursement of uncollected funds in any circumstances other than as set forth in the Rule may be grounds for a finding of professional misconduct.

We implore the Court not to shackle the hands of the Florida attorneys.

Respectfully submitted,



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This is to certify that a copy of the foregoing has been furnished to Gerald F. Richman, Esq., President of The Florida Bar, 25th Floor, Two South Biscayne Blvd., Miami, Florida 33131; Patrick G. Emmanuel, Esq., President-elect of The Florida Bar, P. O. Drawer 1271, Pensacola, Florida 32596; John F. Harkness, Jr., Executive Director of The Florida Bar, The Florida Bar Center, Tallahassee, Florida 32301-8226, and Dennis Crowley, Esq., The Florida Bar, The Florida Bar Center, Tallahassee, Florida 32301-8226, this 24 day of May, 1985.



James K. Rush, Esq.