

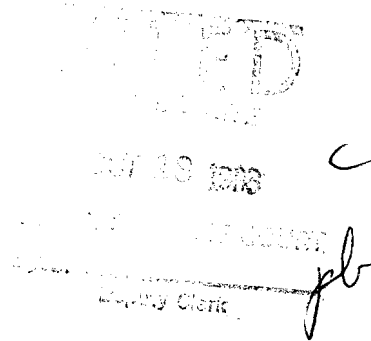
O/a 10-28-86

IN THE SUPREME COURT OF FLORIDA

CASE NO. 69,310

THE FLORIDA BAR RE:  
PROPOSED AMENDMENTS  
TO THE FLORIDA RULES OF  
APPELLATE PROCEDURE

---



RESPONSE OF THE FLORIDA BAR BOARD OF GOVERNORS  
TO THE BRIEF OF THE  
FLORIDA BAR APPELLATE COURT RULES COMMITTEE

The Florida Bar Board of Governors responds to the brief filed by the Appellate Court Rules Committee as follows:

1. The court referred the recommendations of the Court Restructure Commission to the Appellate Court Rules Committee on February 19, 1986.

2. The usual procedure under Florida Rule of Judicial Administration 2.130(f) is for the rules committee to report its recommendations with those of the Board of Governors.

3. The rules committee filed its recommendations in its brief on September 10, 1986. The Board of Governors had not considered the recommendations at that time.

4. At its meeting on September 19, 1986, the Board considered the recommendations as presented in the committee's brief. The voting of the Board on each proposal is shown on the table attached to this response.

5. The Board strongly opposes the proposed Rule 9.315 on summary disposition. See (a) on the attached table. Because the


district courts of appeal now are the court of last resort in most cases, full appellate review should be available in all cases appealable to those courts. The Board vote also reflects concern about the use of a screening committee as discussed in the Court Restructure Commission's commentary to proposed Rule 9.315. The composition of that committee is not described, but presumably it could be composed of court staff rather than judges. It is the position of the Board of Governors that this change would be an unwarranted limitation of the right to appeal.

6. The rules committee favored on a close vote the proposed amendment to §57.105, Fla.Stat. (1985). The Board strongly opposes that amendment. See (d) on the attached table. It should be noted first that §57.105 was amended effective July 1, 1986. Ch.86-160, §61, Laws of Fla. The amendments are designed to ensure that lawyers take responsibility for the decision to appeal. If, in addition to the 1986 amendment, the statute is changed as recommended, a significant chilling effect on the right of access to the courts will result. The determination of what issues are substantial justiciable issues will vary significantly from one judge to another. Because of this unpredictability, a lawyer may refrain from appealing a decision even when the lawyer is convinced that it involves a substantial justiciable issue.

7. The Board opposes the proposed amendment to Rule 9.600(a) that removes the jurisdiction of the trial court to grant extensions of time. See (f) on the attached table. This amendment would create an unnecessary burden on the parties when the trial court geographically is readily accessible but the appellate court is not.

8. As to all other recommendations of the Court Restructure Commission, the Board supports the position of the Appellate Court Rules Committee.

The undersigned certifies that a copy hereof has been  
furnished to Gregory P. Borgognoni by mail on October 13, 1986.



John F. Harkness, Jr.  
Executive Director  
The Florida Bar  
Tallahassee, Florida 32301  
(904)222-5286

Joseph J. Reiter, President  
The Florida Bar  
Post Office Box 024466  
West Palm Beach, Florida 33402

Ray Ferrero, Jr., President-elect  
The Florida Bar  
Post Office Box 14604  
Ft. Lauderdale, Florida 33302

Table Showing Votes For And Against  
Amendments Proposed By Court Restructure Commission

Proposed Rules	Appellate Rules Committee Vote		Board of Governors Vote	
	<u>For</u>	<u>Against</u>	<u>For</u>	<u>Against</u>
(a) Rule 9.319	17	11	0	30
(b) Rules 9.200,9.420,9.900	27	3	24	5
(c) Docketing statement	Committee supports but vote not known		22	1
(d) Recommendation to <u>F.S.</u> 57.105	13	12	1	28
(e) Rule 9.210	3	23	1	29
(f) Rule 9.600(a)	25	0	11	18
(g) Rule 9.210(b)	Committee supports but vote not known		29	0
(h) Rule 9.140(c)	Unanimous (vote not known)		Vote not taken (but no objection)	