IN THE SUPREME COURT OF THE STATE OF FLORIDA

IN RE: AMENDMENTS TO THE FLORIDA RULES OF CIVIL PROCEDURE — MANAGEMENT OF CASES INVOLVING COMPLEX LITIGATION	))))	**CASE NO.: SC08-1141**

COMMENTS OF THE CIVIL PROCEDURE RULES COMMITTEE

The Florida Bar Civil Procedure Rules Committee ("Rules Committee") and John F. Harkness, Jr., Executive Director of The Florida Bar, have the following comments to the petition of the Task Force on the Management of Cases Involving Complex Litigation, pursuant to the letter of referral dated June 20, 2008 (attached as Appendix A).

INTRODUCTION[1]

In response to the Court's request for comments of the Civil Procedure Rules Committee on the Proposed Rule of Civil Procedure promulgated by the Task Force on the Management of Cases Involving Complex Litigation ("Task Force"), The Florida Bar Civil Procedure Rules Committee respectfully suggests

[1]This is not the usual practice for amending the Rules of Civil Procedure. The usual practice is set forth in Rule 2.130 of the Rules of Judicial Administration, and requires that proposed amendments to the Rules of Civil Procedure be submitted to the Rules Committee for consideration. In this instance, the Rules Committee has been asked to comment on the rule along with public comment. The Rules Committee has not considered this proposed rule in the normal course of its operations, but has responded on an expedited basis within the time frame required by the Court.

that the new complex litigation rule proposed in a petition filed by the Task Force is unnecessary and places an unduly heavy burden on the time and financial resources of overburdened judges, clerks, and their staffs in a time of unprecedented budget cuts. The Task Force's Report contains no empirical evidence that such a rule is either needed or supported by even a minority of trial judges and lawyers across the state. Significantly, the majority of what the new rule attempts to accomplish can be found, for the most part, in existing Rule 1.200.

The Rules Committee approved this response at its September 12, 2008 meeting by a vote of 42-0. The Rules Committee consists of members from diverse backgrounds and practice areas, representing plaintiffs and defendants, and from private practice and government agencies, as well as judges from across the state. The Florida Bar Board of Governors, by its executive committee, approved the response 8-0.

This response addresses the reasons why the proposed rule is unnecessary and discusses potential problems with the language of the new rule as proposed by the Task Force. In the event that the Court were, nonetheless, determined to adopt a rule, this response suggests, at the end, how minor changes to Rule 1.200 might strengthen those areas that the Task Force believes should be accomplished by a new rule. Overall, the Rules Committee's position is that much more work needs to be done to develop a workable rule, if a new rule is to be adopted.

I. There is a lack of empirical evidence to support the need for a separate rule for complex litigation.

Although the proposed rule appears to be based on a perception of need, the Rules Committee has noted a lack of empirical evidence to establish there is a problem with complex litigation cases clogging the court system. The Rules Committee asked several clerks of court for statistical information which could be used to demonstrate the types of cases which take unreasonable amounts of time and court resources (and, thus, which types of cases are "complex" or warrant more effective case management). Many clerks of court, including in the Tampa and South Florida areas, responded that no current statistics are kept that could assist with this inquiry.

In Duval County, a meeting was had with four members of the clerk's office[2] to determine if effective criteria could be formulated for running reports through the computer tracking system, given how the Clerk currently tracks cases. Using the Task Force's articulated guidelines in paragraph 2 of its proposed rule, the following criteria were established for cases pending in the Duval County

[2]The Rules Committee wishes to thank Jim Fuller, Clerk of the Circuit Court of Duval County. Special thanks is extended to Steven Johnroe, Director of Court Operations, Betty Brown, Assistant to the Clerk of the Circuit Court, Jill Misra, Special Assistant Clerk of the Circuit Court, and Joe Solomon, Assistant to the Clerk of the Circuit Court, who helped formulate the search criteria and forwarded the search results to the subcommittee.

Circuit Court:

- Each case must have had activity within the last nine months.
- Cases pending for more than 3 years.
- Cases with more than three defendants or plaintiffs.
- Cases with more than 10 pretrial motions filed, to track complex legal issues or discovery disputes.
- Cases with more than 5 hearings, tracked via notices of hearing.
- Cases with more than 20 notices of depositions (to track the number of witnesses and cull-out rescheduling).

The first criterion, that activity must have occurred in the case during the last nine months, was established in an effort to weed out cases that have been in the system for years due to neglect rather than their complex nature. That criterion yielded a list of 13,928 cases. From those cases, when all of the above criteria were applied simultaneously, a list of approximately 100 cases was generated. Thus, out of the 13,928 active pending cases in the Circuit Court, only 0.7% of those cases met all of the above criteria.

The Clerk of Court's office also provided copies of statistics of the numbers of case filings in Circuit Court, broken out by type of case.[3] It is interesting to note that asbestos cases — occupying a large part of the case load in previous years — are filed with much less frequency. In recent years, the number of foreclosures has increased dramatically. Tobacco cases will receive their own division in Duval County, while Tampa will probably be eliminating its separate division for

[3]The statistics are located in the attached Appendix B.

Tobacco cases. In sum, the type of cases tending to "clog" the system run in trends, so determining the specific criteria that mark a "complex" case may be elusive. Thus, the Rules Committee is concerned that the need for the proposed rule has not been established.

The limitations in available data hindered the Rules Committee's efforts to provide its own analysis. The Rules Committee recommends further investigations. Nevertheless, the Task Force's proposed rule on complex litigation puts a high burden on practitioners and judges alike, and the Rules Committee believes that the need for such a rule should be well established by reliable evidence before the obligations set forth in the proposed rule are imposed upon our State's circuit judges.

Additionally, to the extent the Court determines that a new rule governing complex litigation is necessary, there appears to be no empirical evidence to show that the rule as drafted would alleviate the perceived problems. The statistics available are not very useful to explain the factors that make a case "complex." The proposed rule will not alleviate the pressures on our court system if its provisions do not address the root causes of any perceived problems. In short, there will be a certain burden upon our trial judges, but with no assurance of, nor even a reasonable basis to hope for, a countervailing benefit to litigants or the court system.

II. Concerns about the rule proposed by the Task Force.

A. General concerns

The new proposed Rule 1.201 for complex litigation does not really propose new case management tools, as case management conferences and other tools contained in the proposed rule are available to parties and judges in Rule 1.200. What the proposed rule as written does provide, however, is a loss of discretionary judicial powers in favor of imposed obligations on judges. Moreover, the proposed rule micromanages cases to an extent far in excess of the requirements of the Federal Rules of Civil Procedure. The proposed rule is so extensive in its micromanagement that there are concerns whether any litigants would even seek designation of their case as "complex," much less judges agree to make such designation.

Indeed, the proposed rule could easily be bypassed by a judge merely by denying a litigant's motion to declare a case complex. Thus, if the perception of the Task Force is that such a rule is required because judges are currently not using the tools already available to them under Rule 1.200, the rule as proposed does not provide an answer. In effect, it is no less aspirational than the existing rule, in that it does no more than inform trial judges of the Supreme Court's interest in having judges take greater control over more difficult cases by telling them, in effect, that they should more vigorously manage cases than may previously have been

suggested by the current Rule 1.200. That purpose can be addressed more directly and effectively, however, through other, more direct channels (including judicial education).[4]

Additionally, the Rules Committee suspects that sending this message to judges through the proposed amendment will have the effect of dissuading judges from designating cases as complex, given the extent to which judges are already overburdened with large dockets and limited hearing times, and in light of all of the extra procedural requirements, hearings, and loss of discretion contained in the proposed rule.

The rule in many places, including Section C, states that a failure to comply with the rule's provisions may result in sanctions. Of course, courts already have the inherent authority to enforce their own orders, including case management orders. Consequently, the failure to comply with a discovery schedule set forth by a court under the current Rule 1.200 pretrial conference and scheduling order,

[4]Indeed, prior to the Task Force's recommendations, this Court had in place two very significant rules: one addressing the importance of case management, in Rule of Judicial Administration 2.545, which mandates, in subdivision (b), that judges "take charge of all cases at an early stage … and … control the progress of the case … until … determined"; and the second providing trial judges with a guide to the tools available to them to manage their cases effectively, in Civil Procedure Rule 1.200. The Task Force's proposal appears little more than an escalation of a process to which the Task Force considers there to have been insufficient adherence.

would already face the potential of being subject to sanctions. Other provisions allowing briefing schedules and deadlines to be set by the court already exist in the current Rule 1.200 and, therefore, would be redundant.

It is also worth noting that subdivision (b)(1)(H) would require that the parties discuss the elimination of frivolous claims or defenses. The Rules Committee notes that no case or defense should be filed in the first instance if frivolous (a violation both of statute and of Rule of Judicial Administration 2.515(a)). It seems doubtful that an attorney would be dissuaded from his or her belief in the righteousness of a client's cause during an initial conference with opposing counsel if the ethical obligation of not to file a frivolous claim had already been overlooked or disregarded.

Finally, because the proposed rule shifts the burden to manage a case away from litigants' counsel and to individual judges, the Rules Committee has concerns that judges will not have adequate resources to manage the cases as anticipated by the proposed rule. The proposed rule was drafted before the current funding crisis for the courts, and staffing concerns to handle the extra judicial workload are real.

B. Concerns regarding specific provisions

(1) Timing of Designation. With regard to the drafting of the proposed rule, beginning at subdivision (a) of Rule 1.201, it is noted that "complex" litigation is defined and any party or the court may move to declare a case complex. Of

concern, however, is that the time for making such a motion would come after an appearance has been entered in response to the complaint by *each* party. This would imply that all parties have to make an appearance prior to such a motion being made. From a practical point of view, some cases proceed against one or some defendants without serving other defendants. The reasons for such decisions are sometimes strategic but often practical, in the sense that some defendants are not able to be located in order to be served. It would appear that the more parties there are to a case the more likely it would be considered "complex," yet also the more likely that not all defendants could be served or make an appearance. Thus, the rule would not be applicable to cases in which all parties had not yet been served or had not made an appearance.

(2) Standard for Designation. Next, a "complex" case is defined as one that is "likely to involve complicated legal or case management issues and that may require extensive judicial management to expedite the case, keep costs reasonable, or promote judicial efficiency." This definition is a subjective standard that could easily vary from court to court and judge to judge, based upon the personal opinions of the lawyers and judges involved.[5] Continuity of practice statewide

[5]The Rules Committee also notes that how complex a case is may depend as much on how hard it is litigated by counsel, rather than upon the intrinsic nature of any particular dispute. Some cases which most attorneys and judges would agree involve simple legal issues and *should* require normal to less judicial management,

would be difficult to ensure. Thus, the definition of "complex" case could encompass cases that most would not traditionally associate with complex cases — or conversely, fail to cover cases that would benefit enormously from aggressive judicial management.

(3) Hearing Requirement for Designation. Subdivision (a) also requires that upon a motion filed by any of the parties or judge to declare a case complex, the court *shall*[6] convene a hearing in order to make that determination. There is no guidance as to the evidentiary burden required in order to support a decision that a case is complex. It does not specify which party has the burden of proof or the proof standard to be applied. The rule also does not specify whether the taking of testimony or admission of evidence is anticipated or if the hearing would merely be based on the arguments of counsel. Furthermore, it is noted that in many circuits it is difficult to obtain timely hearings before many judges because of busy dockets. Yet, before a perceived complex case could proceed, a hearing as to whether the case should be declared complex is required to take place. The Rules Committee

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can easily bloom into an expensive case based on the amount of discovery being taken and the parties' abilities or inabilities to resolve discovery disputes. Although discovery is often a major factor in case delays and expense, it is not exclusive to complex litigation and neither are discovery disputes.

[6]Although the Supreme Court has indicated disfavor for use of the word "shall," it is included multiple times within the proposed rule. The instant critique will not comment on the use of the word "shall."

has concerns as to whether or not these additional hearings will be able to fit into an already burdened court docket.

(4) Mandatory (Non-Discretionary) Action. In Subdivision (b) of the proposed Rule 1.201, the court does not have any discretion as to whether or not to set a pretrial conference; rather, the court is mandated to set one. This is just one of many instances in which the discretion of the court is eliminated, in favor of mandatory action. It is also noted that the case management conference would occur up to 60 days after the court declares the case complex, which could add significant delay to the case. The case management conference would occur *after* a party or a judge has already moved to declare a case complex, *after* the hearing has been scheduled and heard, and *after* the requisite time necessary for the court to issue an order on the motion and schedule the conference. Given existing crowded court dockets, months could easily pass before the case management conference actually occurs.

(5) Premature Meet-and-Confer Requirements. Subdivision (b) also requires that at least 20 days prior to the case management conference, the attorneys for the parties should meet and prepare a joint statement that is very similar in substance to preliminary pretrial stipulations and most federal case management reports. There is a concern that some of the required disclosures would be premature at the initial filing stage of a case. For example, in the very early stages of any litigation

it is often unknown what the likelihood of a settlement is or the likelihood of the appearance of additional parties.

(6) Premature Disclosure Requirements. Also potentially premature are disclosures of pertinent documents, lists of fact witnesses, and the number of experts and fields of expertise a particular party will use at trial. These are provided after the initial conference between the attorneys and, although it might be ideal to have such a situation for effective management of cases, it seems unlikely that the parties would have sufficient information to have the rule function as intended. By the very nature of such information at the beginning of the case, the information provided would be preliminary and not complete. Since this type of information is already the subject of standard interrogatories — which are usually propounded early in any case — the usefulness of or need for this requirement is doubtful.

(7) Unintended Consequences: Priority and Favoritism. In the last part of subdivision (b), the proposed rule provides that the court will set trial dates immediately upon the initiation of the case. Thus, rather than be driven by the attorneys (as is usual for the Florida court system), a "complex" case is now to be driven by the judges much like in the federal system. Because of the already overcrowded dockets of judges, there is concern that the complex cases will gain precedence over other cases in being set for trial, due to the fact that they are

simply first. Another concern is the perception of favoritism that such a provision would entail.

(8) Conflict with Continuance Rule. The proposed rule also provides that continuances of a case deemed complex "should rarely be granted." Under Rule of Judicial Administration 2.545(e), good cause must be shown for any continuance, and heard and resolved by a judge using his or her discretion. There is concern that the proposed rule conflicts with existing law by limiting that discretion. There is also concern that continuances of a case would not be granted even where the parties are in agreement to postpone the case.[7]

(9) Micromanagement Issues. Subdivision (c) also promulgates a form for the case management order. Although sample case management orders exist in a form that is already used widely throughout the state, this rule would impose the specific requirements of the proposed form on judges. This is also another example of judges losing discretion to run their own dockets. It is another example of how the rule requires judges to micromanage cases. For example, counsel are responsible for securing three confirmed dates from expert witnesses under the proposed rule. This type of provision seems to regulate "bad" lawyers by

[7]Such circumstances illustrate the fundamental issues underlying a proposed change that moves control of a case from the litigants, the longtime tradition under our state procedural system, to the trial judge, as in the federal practice — but only in "complex" cases.

instructing them on what they need to do. Writing rules to instruct "bad" lawyers is generally neither preferable nor particularly effective. "Bad" lawyers will continue to be "bad" lawyers notwithstanding rule requirements that they take certain actions.

Another example of micromanagement of cases is a provision requiring parties to file a discovery deposition schedule for its experts. This provision is contrary to recent trends to eliminate non-necessary documents from being filed with the public record. Indeed, amendments to the Rules of Civil Procedure that would eliminate the filing of all discovery in the court record unless necessary for resolution of a motion or at trial are currently under consideration.

(10) Inhibitions of Counsel in Scheduling Conferences. Subdivision (c)(3) requires that a court "shall" schedule periodic case management conferences. Within the same paragraph it is also required that the parties shall notify a court at least 10 days prior to any such conference set by a court if they deem the conference or hearing time unnecessary. Failure to timely notify the court that the hearing it has scheduled is unnecessary may result in sanctions. This leaves counsel in a delicate position of notifying the court that a hearing or status conference that the court believes is necessary is not really necessary. This delicate position is amplified by the threat of sanctions. The Rules Committee anticipates that potential motions for sanctions under this provision and required

hearings would only serve to increase litigation costs.

(11) Inappropriate Timing of Final Case Management Conference. In Subdivision (d), the proposed rule requires that a final case management conference be held not less than three months before the trial date. The rule does not explain why the final pretrial conference would occur such a long time before trial. A lot can happen in three months, and it would appear that this is yet again adding a potential for delay and further drawing out proceedings, rather than shortening case life. When the parties request trial dates, they will undoubtedly take this three months into account and in all likelihood will ask for a trial date further away in time to compensate for this three-month rule.

(12) Problematic Pretrial Stipulation Requirements. There is also a form of pretrial stipulation that most courts already require. This rule would appear to be redundant of those already available to the courts. The rule is itself internally redundant, in that pretrial stipulation subdivisions (d)(4) and (d)(5) require witness and exhibits lists, which are immediately followed by subdivision (d)(6) requiring a certification that copies of these lists will be filed with the clerk of court at least 48 hours before the pretrial conference. Since the exhibit and witness lists are already in the pretrial stipulation, a certification that they would be filed again would appear to be unnecessary. This redundancy is repeated again in subdivision (7), where the parties are supposed to give a deadline for the filing of the witness

and exhibit lists for use at trial. Although it is good to anticipate that some change will be necessary since the pretrial stipulation would be filed with the court over three months away from trial, such a procedure would appear to encourage the filing of incomplete lists with the pretrial stipulation only to be followed later by the lists that will really be used.

III. Comments on Proposed Forms

The Rules Committee welcomes a new civil cover sheet that would have counsel provide information about a case which would help the tracking of different types of cases. The Rules Committee notes the difficulty, if not impossibility, of obtaining empirical evidence of the need for a complex litigation rule. Better tracking of case types and demands would enable future study of the needs for a complex litigation rule. To that end, the Rules Committee recommends that mortgage foreclosure have its own category for separate tracking.

IV. Rule 1.100

The Rules Committee welcomes the use of greater tracking, in order to facilitate future study of the judicial system. There was no opposition to the proposed amendment to Rule 1.100(c)(3). The Rules Committee believes that the accompanying form, Form 1.998 Final Disposition Form, should acknowledge and track final dispositions reached through settlement. Therefore, the Rules Committee recommends adding two additional categories to section II for:

"Dismissed pursuant to settlement" and "Dismissed pursuant to mediated settlement."

Due to the Rules Committee's recommendation regarding the proposed new Rule 1.201, it does not recommend implementation of the new proposed Form 1.999 Order Designating a Case Complex.

IV. Rule 1.200

The Rules Committee remains uneasy about using a rule amendment as a tool to induce judicial action, where the existing rule already provides the power to act. The Rules Committee is of the opinion that the current Rule 1.200 already contains the flexibility to do what is needed, and the Task Force's recommendations show a desire to compel trial judges to utilize the Rule's flexibility and take action in certain circumstances, rather than leaving case management to the discretion of the individual judge.

To the extent there is any consensus on the need to add further case management tools to a judge's arsenal, the Rules Committee believes that provisions focused on complex litigation cases should not require a new, separate rule. To the contrary, it would appear that the existing Rule 1.200 could be amended to include additional provisions to address the concerns of the Task Force without a separate rule only applicable to a limited class of cases.

To that end, the Rules Committee considered and approved the following

amendments to Rule 1.200:

RULE 1.200. 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 shall 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 papers;

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

(3) coordinate the progress of the action if complex litigation factors are present;

(4) limit, schedule, order, or expedite discovery, or implement a discovery plan, and consider the necessity for a protective order to facilitate discovery;

(5) schedule disclosure of expert witnesses and the discovery of facts known and opinions held by such experts, as well as schedule disclosure of expert opinions and the factual basis for such opinions;

(6) schedule or hear motions in limine;

(7) pursue the possibilities of settlement, including schedule mediation or other alternative dispute resolution processes;

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

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

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

(11) propose limits on the time to add other parties, to amend the pleadings, to file and hear motions, or for any other pretrial proceedings; and

(12) consider a process for the formulation and simplification of the issues and disposition claims and defenses, including the number and timing of motions for summary judgment or partial summary judgment.

Again, the Rules Committee only proposes these changes to Rule 1.200 as an alternative to the language proposed in the new Rule 1.201 submitted by the Task Force.

V. Conclusion

The Rules Committee believes that a separate rule for complex cases is not necessary, as tools already exist in Rule 1.200 that a court may employ in managing its docket. There are also philosophical concerns about the advisability of promulgating more rules to regulate perceived inappropriate behavior by some lawyers and judges, where neither currently use the tools already available to them in order to streamline cases — failing to heed, among other things, the express purpose underlying the Case Management rule in Rule of Judicial Administration 2.545; i.e., under subdivision (a), the "professional obligation to conclude litigation as soon as it is reasonably and justly possible to do so" and the requirement under

subdivision (b) that the trial judge "monitor and control the pace of litigation."

No empirical evidence has been provided to the Court that could provide any assurance, much less any reasonable basis to believe, that the proposed complex litigation rule would be effective in reducing the time and expense burdens of complex cases. The proposed rule as drafted would appear to be more of a regulatory move to require judges to take certain actions to run their dockets, as opposed to leaving it within their or counsels' discretion. This Rules Committee, however, believes that the proposed new rule is not the solution to the perceived problems of "complex" cases. Courts should be encouraged to consider various factors identified by the Task Force, but a rule listing them is unnecessary, and for the most part, already exists in Rule 1.200 or could be included in Rule 1.200 with minor changes.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via U.S. Mail to: Henry Trawick, P.O. Box 4009, Sarasota, FL 34230-4009; Gregory C. Smith, 500 S. Duval St., Tallahassee, FL 32399-6556; Bill Wagner, 601 Bayshore Blvd., Suite 910, Tampa, FL 33606-2786; Hon. Judith L. Kreeger, 175 NW 1st Ave., Suite 2114, Miami, FL 33128-1845; Hon. Hugh E. Starnes, 3715 McGregor Blvd., Ft. Myers, FL 33901-8701; Hon. Thomas Bateman, Leon County Courthouse, 301 S. Monroe Street, Rm 365-C, Tallahassee, FL 32301-1861; Scott L. Rubin, 44 W. Flagler St., Miami, FL 33130-1808; Ellen H. Sloyer, The Florida Bar, 651 E. Jefferson St., Tallahassee, FL 32399-2300; Irene Plank, P.O. Box 3079, Sarasota, FL 34230-3079; Hon. Sandy Karlan, Dade County Circuit Court, 175 NW 1st Ave., Suite 2327, Miami, FL 33128-1846; Raymond McNeal, 2640 SE 45th St., Ocala, FL 33480-5784; Diane M. Kirigin, S. County Courthouse, 200 W. Atlantic Ave., Suite 217, Delray Beach, FL 33444-3664; and Robyn L. Vines, 200 E. Broward Blvd., Ft. Lauderdale, FL 33301-1963, on October, 14, 2008.

CERTIFICATE OF COMPLIANCE

I certify that this response was prepared in accordance with the font requirements of Fla. R. App. P. 9.210(a)(2).

_____

MADELON HORWICH
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APPENDIX A — Referral Letter from Supreme Court to The Florida Bar

[Supreme Court seal]

Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1925

THOMAS. D. HALL
CLERKS
TANYA CARROLL
CHIEF DEPUTY CLERK
GREGORY J. PHILO
STAFF ATTORNEY

PHONE NUMBER: (850) 488--0125
flcourts.org/clerk.html

June 20, 2008

Ms. Cheryle Dodd, Editor
The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399-2300

Re: In Re: Amendments to Florida Rules of Civil Procedure — Management of Cases Involving Complex Litigation
Case No. SC08-1141

Dear Ms. Dodd:

I have provided you with a copy of the proposed Rules in the above case. Please publish said Rules in the August 15, 2008, Bar News. Please publish a statement that the Court has placed the proposed Rules on the Internet at location: **http://www.floridasupremecourt.org/decisions/proposed.shtml.**

Any comments should be filed with the Supreme Court on or before September 15, 2008. The committee must file a response on or before October 15, 2008, to all comments filed. All comments must be filed in paper format and an electronic copy provided to the Court in accordance with AOSC04-84. An original and nine copies must be filed.

Thank you for your cooperation & this matter.

Most cordially,

By:
Deputy Clerk
Thomas D. Hall

TDH/vm
Enclosure
cc: Honorable Thomas H. Bateman, III, Chair, Task Force on the Management of Cases Involving Complex Litigation
Ms. Corinne Cotton Hodak, Chair, Civil Procedure Rules Committee
Mr. Raymond T. McNeal, Chair, Family Law Rules Committee
Honorable Barbara J. Pariente, Supreme Court Justice Liaison
Honorable Francisco R. Angones, President, The Florida Bar
Honorable John G. White, III, President-elect, The Florida Bar
John F. Harkness, Jr., Executive Director, The Florida Bar
Gregory C. Smith, Task Force Liaison
Madelon Horwich, Bar Liaison
Ellen Sloyer, Bar Liaison
Chief Judges of the District Court of Appeal
Clerks of the District Court of Appeal
Chief Judges of the Judicial Circuits
Clerks of the Judicial Circuits
Deborah J. Meyer, Central Staff Director

The Task Force on the Management of Cases Involving Complex Litigation (Task Force) has submitted to the Florida Supreme Court a petition to amend the Florida Rules of Civil Procedure to provide procedures to improve the management of complex civil cases.

The Court invites all interested persons to comment on the Task Force's proposed amendments, which are reproduced in full below, as well as online at http://www.floridasupremecourt.org/decisions/proposed.shtml. The Court specifically seeks comments from the Civil Procedure Rules Committee on all the proposals and from the Family Law Rules Committee on the proposed removal of family law cases from the civil cover sheet (form 1.997). An original and nine paper copies of all comments must be filed with the Court on or before September 15, 2008, with a certificate of service verifying that a copy has been served on Task Force Chair, The Honorable Thomas H. Bateman III, Leon County Courthouse, Room 365C, 301 South Monroe Street, Tallahassee, Florida 32301-1861, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Task Force Chair has until October 15, 2008, to file a response to any comments filed with the Court. Electronic copies of all comments also must be filed in accordance with the Court's administrative order In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).

[Text of petition deleted]

APPENDIX B — Statistical Charts

2006	Profes-sional Malprac-tice		Pro-ducts Liabi-lity		Auto Negli-gence		Other Negli-gence		Condo-minium		Con-tract and In-debt-ed-ness		Real Property Mort-gage Foreclo-sure		Emi-nent Domain		Other	
Month	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed
Jan	7	4	5	7	94	103	36	44	0	0	97	75	401	336	10	2	112	77
Feb	5	7	2	1	102	64	49	30	2	0	98	67	367	331	28	0	111	91
Mar	8	5	1	6	126	97	54	42	1	1	128	83	383	393	13	3	119	122
Apr	1	6	4	5	84	64	53	38	0	0	99	63	327	322	25	0	124	61
May	6	5	2	4	104	78	39	49	4	1	120	71	333	379	51	0	121	74
Jun	5	6	5	3	100	96	49	49	0	0	126	87	359	321	2	0	137	128
Jul	5	3	4	1	119	74	45	34	1	1	121	71	333	335	7	0	125	61
Aug	2	3	3	1	134	97	47	46	1	1	116	93	416	345	17	0	123	111
Sept	6	7	5	2	101	84	41	42	0	0	120	70	443	322	1	8	151	60
Oct	1	5	1	5	121	100	42	62	1	0	154	87	438	331	5	9	142	76
Nov	2	5	5	4	104	96	43	49	0	0	144	113	395	294	1	13	128	125
Dec	5	2	7	4	94	62	35	40	0	0	124	71	461	239	0	0	115	70
06-Totals	53	58	44	43	1283	1015	533	525	10	4	1,447	951	4,656	3,948	160	35	1,508	1056
05-Totals	60	92	87	68	1134	979	524	496	2	0	1,198	895	4,216	3,521	159	35	1467	1161
Difference	-7	-34	-43	-25	149	36	9	29	8	4	249	56	440	427	1	0	41	-105

			DIFF.
2006	TOTAL FIL-INGS	9,694	
2005	TOTAL FIL-INGS	8,847	847
2006	TOTAL CLOSED	7,635	
2005	TOTAL CLOSED	7,247	388

2007	Profes-sional Mal-practice		Pro-ducts Liability		Auto Negli-gence		Other Negli-gence		Con-domi-nium		Con-tract and Indeb-tedness		Real Proper-ty Mort-gage Fore-closure		Emi-nent Domain		Other	
Month	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed
Jan	5	5	0	0	98	87	59	45	1	0	136	77	485	273	40	3	128	88
Feb	1	7	1	7	108	60	35	37	0	1	133	64	483	332	5	3	125	75
Mar	5	1	5	7	100	100	51	35	1	0	204	89	463	336	26	7	108	79
Apr	2	6	4	6	123	93	46	42	2	0	125	97	447	381	6	3	124	96
May	5	6	2	1	89	83	57	48	8	1	155	105	451	318	14	3	133	90
Jun	4	4	0	1	121	86	26	32	4	0	149	105	495	328	1	0	155	84
Jul	7	5	2	3	118	79	24	37	1	0	145	86	576	309	37	0	175	88
Aug	12	7	2	8	138	95	48	41	1	0	155	90	617	249	6	0	163	78
Sept	3	5	7	3	83	86	45	32	2	0	127	86	595	288	2	0	148	92
Oct	3	9	3	16	152	135	53	42	1	1	173	141	734	424	34	0	192	120
Nov	7	4	2	8	109	120	51	39	1	1	149	120	764	248	7	0	141	95
Dec	4	5	32	1	95	85	41	40	8	2	138	102	721	352	23	0	106	90
07-Totals	58	64	60	61	1,334	1,109	536	470	30	6	1,789	1,162	6,831	3,838	201	19	1,698	1,075
06-Totals	53	58	44	43	1,283	1,015	533	525	10	4	1,447	951	4,656	3,948	160	35	1,508	1,056
Difference	5	6	16	18	51	94	3	-55	20	2	342	211	2,175	-110	41	-16	190	19

			DIFF.
2007	TOTAL FIL-INGS	12,537	
2006	TOTAL FIL-INGS	9,654	2,883
2007	TOTAL CLOSED	7,804	
2006	TOTAL CLOSED	7,635	169

2008	Profes-sional Mal-practice		Pro-ducts Liability		Auto Negli-gence		Other Negli-gence		Con-domi-nium		Con-tract and Indeb-tedness		Real Pro-perty Mort-gage Fore-closure		Emi-nent Domain		Other	
Month	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed
Jan	9	5	18	10	98	109	93	50	0	1	140	132	787	359	11	0	177	112
Feb	7	3	1	5	112	89	52	37	3	1	143	104	857	320	17	0	138	105
Mar	11	4	7	6	137	80	70	34	5	0	141	90	891	278	5	0	161	73
Apr	7	5	2	11	90	93	73	43	9	3	199	91	916	66	4	1	149	100
May	5	2	3	8	118	67	40	36	2	0	193	89	880	317	1	1	146	75
Jun	4	5	1	5	116	98	55	46	3	2	255	141	985	436	0	0	98	141
Jul	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Aug	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sept	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Oct	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Nov	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dec	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
																	869	0
08-Totals	43	24	32	45	671	536	383	246	22	7	1,071	647	5,316	1,776	38	2	771	465
07-Totals	58	64	60	61	1,334	1,109	536	470	30	6	1,789	1,162	6,831	3,838	201	19	1,698	1,075
Difference	-15	-40	-28	-16	-663	-573	-153	-224	-8	1	-718	-515	-1,515	-2,062	-163	-17	-927	-610

			DIFF.
2008	TOTAL FIL-INGS	8,347	
2007	TOTAL FIL-INGS	12,537	-4,190
2008	TOTAL CLOSED	3,748	
2007	TOTAL CLOSED	7,804	-4,056