

Writer's Dial No.: (850) 425-2355

April 1, 2008

The Florida Supreme Court
Clerk of the Court
500 South Duval Street
Tallahassee, FL 32399-1927

RE: Proposed Rule Amendment to Florida Rules of Appellate Procedure –
Rule No. 9.310(b)(2) – Stay Pending Review; Exceptions; Public
Bodies; Public Officers

To Whom It May Concern:

I am writing as a practitioner in administrative law for over 26 years to go on record in favor of the aforementioned proposed amendment to the Florida Rules of Appellate Procedure which will eliminate the automatic stay provisions currently granted in Chapter 120, Florida Statutes (F.S.) proceedings. The administrative process has become increasingly complex and costly, and, as a practitioner in this area, it is difficult to promote or advocate to the citizens at large that this process, which results in an advisory opinion from a third party Administrative Law Judge subject to a final agency decision from the very agency which was the subject of the dispute, can be considered fair and balanced when there is a prospect that a government litigant would be automatically entitled to a stay of the outcome in this proceeding simply by asserting their government status. In order for the Administrative Procedures Act to provide meaningful relief to Florida citizens, they must be given equal litigation stature with the governments against whom they are battling. The inability to implement or exercise a decision resulting from administrative litigation can have devastating economic consequences to private parties engaged in this litigation, and there is no public policy reason which supports a government being able to frustrate a litigation outcome without having to post a bond or provide other assurances that justify such an extraordinary impediment to the orderly administration of justice. I urge you to adopt the proposed amendment and provide a semblance of equal footing for Florida citizens under Chapter 120, F.S.

Respectfully submitted,

Frank E. Matthews
Hopping Green & Sams, P.A.
Florida Bar No. 0328812

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing comments has been delivered by U.S. first class mail this 1st day of April, 2008 to the following:

Steven L. Brannock
Committee Chair
Appellate Court Rules Committee
The Florida Bar
P.O. Box 1288
Tampa, FL 33601-1288

Lawrence Sellers
Holland and Knight LLP
P.O. Box 810
Tallahassee, FL 32302-0810

Attorney