

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO FLORIDA RULE  
OF JUDICIAL ADMINISTRATION 2.540

CASE NO.: SC09-1487

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**COMMENT OF MANUEL MENENDEZ, JR.,**  
**CHIEF JUDGE OF THE THIRTEENTH JUDICIAL CIRCUIT,**  
**ON THE PROPOSED AMENDMENTS TO**  
**FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.540**

This Court invited comments on the Rules of Judicial Administration Committee's proposed amendments to Rule 2.540 – *Notice to Persons with Disabilities*. The Rules of Judicial Administration Committee is to be complimented for undertaking its review of and proposing amendments to Rule 2.540. The Equal Opportunities Law Section of The Florida Bar is likewise to be applauded for its diligence in fostering diversity in the legal profession and for monitoring the proposed amendments to Rule 2.540. My comment is limited to the proposed amendment to Rule 2.540(e)(2).

Proposed amendment to Rule 2.540(e)(2) states:

(2) The court must inform the individual with a disability in writing, as may be appropriate, and if applicable, in an alternative format, of the following:

(A) That the request for accommodation is granted or denied, in whole or in part, and if the request for accommodation is denied, the reason therefore; or that an alternative accommodation is granted;

(B) The nature of the accommodation to be provided, if any; and

(C) The duration of the accommodation to be provided.

The proposed amendment would require all requests for accommodation under the Americans with Disabilities Act to be responded to in writing, even if the court grants the request in its entirety. This writing requirement would

unnecessarily increase the workload of each judicial circuit's ADA coordinator. It would also needlessly increase costs associated with this requirement.

I wholeheartedly concur with the concerns of the minority of the Rules of Judicial Administration Committee as expressed on page 5 of the Out-of-Cycle Report submitted on August 18, 2009. The comments to the Rules of Judicial Administration Committee's minority report seem to indicate that if an individual with a disability's request for accommodation is granted, the requestor would not receive any notice of the court's granting of the accommodation request. On the contrary, all requests for accommodations made by individuals with disabilities warrant a response. But a formal written response should not be needed if a telephone call would suffice to notify someone that his or her request for an accommodation has been granted.

Notwithstanding all of the well-intentioned work of the Rule of Judicial Administration Committee and the Equal Opportunities Law Section, I suggest instead of amending Rule 2.540(e)(2) as proposed by the committee, the Court should consider amending this rule as follows:

- (2) The court must inform the individual with a disability of the following:
  - (A) That the request for accommodation is granted or denied, in whole or in part, and if the request for accommodation is denied, the reason therefore; or that an alternative accommodation is granted;
  - (B) The nature of the accommodation to be provided, if any; and
  - (C) The duration of the accommodation to be provided.

If the request for accommodation is granted in its entirety, the court shall respond to the individual with a disability by any appropriate method. If the request is denied or granted only in part or if an alternative accommodation is

granted, the court must respond to the individual with a disability in writing, as may be appropriate, and if applicable, in an alternative format.

Respectfully submitted this second day of November, 2009.

/s/ Manuel Menendez, Jr.  
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing “Comment of Manuel Menendez, Jr., Chief Judge of the Thirteenth Judicial Circuit, on the Proposed Amendments to Florida Rule Of Judicial Administration 2.540” was furnished by United States mail to the Honorable Lisa Davidson, 2825 Judge Fran Jamieson Way, Viera, Florida 32940-8006; Matthew Dietz, 2990 Southwest 35<sup>th</sup> Avenue, Miami, Florida 33133; Reginald Clyne, 2600 South Douglas Road, Suite 1100, Coral Gables, Florida 33134-6143; the Honorable Kim A. Skievaski, M.C. Blanchard Judicial Building, 190 Governmental Center, Pensacola, Florida 32502-5795; and Laura Rush, General Counsel, Office of the State Courts Administrator, 500 South Duval Street, Tallahassee, Florida 32399-1900, on November 2, 2009.

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