

IN THE SUPREME COURT OF FLORIDA
Case No. SC10-144

In the matter of
Amendments to the
Florida Small Claims Rules

COMMENTS IN OPPOSITION TO PROPOSED

SMALL CLAIMS RULE 7.090(b)

The following comments are submitted by Walt Fullerton, Judge of the Pinellas County Court.

The Small Claims Rules Committee's proposed change to Rule 7.090(b) would require County Judges to preside over all phases of the Small Claims Pretrial Conference. Supreme Court approval of this change will prohibit the individual Counties from utilizing innovative, effective and cost saving alternatives under the current Rule 7.090(b).

Having served as a Pinellas County Judge for more than twenty years (during half of which I have presided over County Civil and Small Claims cases), I express my comments with more "hands on", actual and real experience than most in dealing with Small Claims Pretrial Conferences.

In Pinellas County literally hundreds of Small Claims cases are scheduled and heard each week. In this County we are particularly fortunate to utilize a Small Claims Hearing Officer and Mediators during our twice weekly Small Claims Pretrial Conferences.

The Small Claims Hearing Officer performs no judicial function. Rather, her role is purely ministerial. The Hearing Officer can best be described as a case manager or Small Claims “traffic cop.”

Our Small Claims Hearing Officer, an experienced and very capable private attorney under contract with the Court (at a very reasonable hourly rate), reviews the facts, identifies and narrows the issues with the parties in each case.

When both Plaintiff and Defendant are present and the Claim is contested, the parties are immediately referred to a Mediator. Through this process nearly ninety (90%) of the cases are promptly resolved through a Stipulated Settlement.

During each full day of Small Claims Pretrial Conferences and during every single hearing, a “Duty Judge” is present and available - all day long - until the very final Small Claims case is resolved – frequently late in the evening.

As Duty Judge I hear all Motions raised by either party and consider issues of Summary Disposition without delay.

Throughout the Pretrial day, all mediated Settlement Agreements are presented in writing to the Duty Judge, in the presence of both parties, for review and Court approval. Likewise, all Official Court documents, such as Final Judgments (when the Defendant fails to appear) or Dismissals (when the Plaintiff fails to attend), as well as all other Orders, including Continuances or Amendments, are received, reviewed and executed promptly by the Duty Judge.

What makes the use of a Small Claims Hearing Officer so effective is this: In addition to being “Duty Judge” for the Small Claims Pretrial, *that same Judge* also schedules throughout the very same day numerous other types of Civil and Small Claims hearings and trials.

As a result, one Judge and one Hearing Officer are able to accomplish the work of *two County Judges*.

On the other hand, none of the reasoning expressed in the proposed Rule change is applicable to the procedure we utilize. There *never has been a problem* with litigants immediately appearing before a Pinellas County Judge during the Pretrial Conference for resolution of any disputed legal issue.

In this day and age of limited financial resources, declining tax revenues and shrinking budgets, the Court must pursue all possible cost saving alternatives which conserve and make the best use of its eroding funds. Approval of this proposed Rule change will do nothing but increase the workload of County Judges which, in turn, will cause the various Circuits to request creation of additional County Judges.

Such would come at a much higher cost than alternatives the current Small Claims Rule 7.090(b) permits. At great extra expense there simply would be *no corresponding improvement* in the administration of justice to the people of Florida.

As a veteran County Judge who regularly and personally participates in the Small Claims Pretrial Conferences, I urge the Supreme Court to reject this proposed change to Rule 7.090(b). The current Rule has worked well for many, many years.

Respectfully submitted this 31st day of March 2010.

Walt Fullerton
Pinellas County Judge
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545 First Avenue North
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CERTIFICATE OF SERVICE

I hereby certify that this document has been electronically filed, the original and nine copies have been overnight Federal Express to the Supreme Court and copies of the foregoing have been furnished this 31st day of March, 2010 by United States Mail to the following:

The Honorable Robert W. Lee
Chair, Small Claims Rules Committee
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(954) 831-5509
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CERTIFICATE OF COMPLIANCE

Pursuant to Rule of Appellate Procedure 9.100(l) I certify that this computer generated response is prepared in Times New Roman 14 point font and complies with the Rule's font requirements.

Walt Fullerton
Pinellas County Judge

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REQUEST FOR ORAL ARGUMENT

In the event the Supreme Court schedules oral argument upon the proposed change to Small Claims Rule 7.090(b), the undersigned (at his own expense) wishes to participate.

NOTICE OF UNAVAILABILITY

The undersigned is unavailable June 1, 2010 through June 11, 2010.

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Pinellas County Judge
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CERTIFICATE OF COMPLIANCE

Pursuant to Rule of Appellate Procedure 9.100(I) I certify that this computer generated response is prepared in Times New Roman 14 point font and complies with the Rule's font requirements.

Walt Fullerton
Pinellas County Judge