

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE
FLORIDA RULES OF CIVIL
PROCEDURE**

CASE NO.:

**THREE-YEAR CYCLE REPORT OF THE
CIVIL PROCEDURE RULES COMMITTEE**

The Honorable Jacqueline Hogan Scola, Chair, Civil Procedure Rules Committee (“Committee”), and John F. Harkness, Jr., Executive Director, The Florida Bar, respectfully file this Three-Year Cycle Report of the Civil Procedure Rules Committee under Florida Rule of Judicial Administration 2.140(b). All of the rule and form amendments have been approved by the full Committee and, as required by Rule 2.140(b)(3), voted on by The Florida Bar Board of Governors. The votes of the Committee and the Board of Governors are found in Appendix A.

As required by Rule 2.140(b)(2), the proposed amendments were published for comment in the June 15, 2015, issue of *The Florida Bar News* and posted on The Florida Bar’s website. *See* Appendix D. Comments were received from attorneys Henry Trawick and Joseph Little. *See* Appendix E. The comments were considered at the Committee’s September 17, 2015, meeting. Mr. Trawick’s letters addressed concerns with the proposed amendments to Rules 1.100(c)(1), 1.110, and 1.140(a), and Mr. Little’s comment addressed concerns with Rule 1.110.

The Committee initially proposed an amendment to Rule 1.110, General Rules of Pleading, to replace the term “contributory” with the term “comparative” and included that proposal in its publication for comment. Mr. Trawick commented that the proposed amendment to Rule 1.110 was incorrect. In both his original letter and a follow-up letter, Mr. Trawick explained that the proper defense to be included in the rule is contributory negligence and that the proposed change was incorrect in that comparative negligence is merely the method of assessing damages. In addition, Mr. Little commented on the proposed change to Rule 1.110, agreeing with Mr. Trawick’s belief that the proposed amendment was incorrect in that contributory negligence means the negligence committed by a plaintiff while comparative negligence refers to a quantitative system to compare the amount of negligence assigned to a plaintiff and defendant. As a result of these comments, the

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Committee voted 26-1-1 to remove the proposed amendment from its cycle report and leave the rule as it currently reads. The Committee determined that the analyses within the comments were correct in that “contributory negligence” is the affirmative defense while “comparative negligence” is a method of assessing damages. As such, the Committee sees no reason to amend the current rule and has removed the proposed amendment from this submission.

Mr. Trawick’s last comment, regarding Rule 1.140, Defenses, noted his agreement that the term “notice” was a poor substitute for the concept of service rather than filing. He opined that the issue might need to remain since “[s]ometimes the court gives notice of its action at the hearing and there are other times subsequent to the hearing when the court reserves its ruling.” Appendix E-1. Mr. Trawick opined that it would be rather lengthy to correct this in the rules, but did propose language that he believed “continues the ‘service’ concept...instead of the ‘filing’ concept that the initial rule makers sought to avoid.” Appendix E-2. The Committee voted 29-0-0 to leave the currently proposed amendments to Rule 1.140. The Committee determined that the “notice” concept is confusing and capable of multiple interpretations while the use of a filing date provides the comfort of an absolute, uncontroverted date certain, and assuming that the order is served no later than the filing date, presumably provides the most number of days possible for responding to the order.

The proposed amendments to the rules and forms are found in Appendix B (full-page format) and Appendix C (two-column format).

Proposed Rule Amendments

The Committee respectfully submits the proposed amendments for this Court’s consideration for the following reasons and in the following ways:

RULE 1.020. PRIVACY AND COURT RECORDS

In In re Implementation of Committee on Privacy and Court Records Recommendations—Amendments to the Florida Rules of Civil Procedure; the Florida Rules of Judicial Administration; the Florida Rules of Criminal Procedure; the Florida Probate Rules; the Florida Small Claims Rules; the Florida Rules of Appellate Procedure; and the Florida Family Law Rules of Procedure, 80 So. 3d 317, n. 31 (Fla. 2011), the Court asked each rules committee “as part of their regular-cycle review, to conduct a thorough review of rules and forms not amended here to determine whether any of those rules or forms should be amended to ensure consistency with the amendments we adopt here.” Upon

review of the rules and forms, committee member Roberto Vargas recommended amending this rule to include a reference to Florida Rule of Judicial Administration 2.420.

Specifically, the proposed amendment adds the language “2.420, Public Access to and Protection of Judicial Branch Records and” before the number 2.425. For the purpose of consistency, the Committee also proposes adding Rule 2.425’s title, “Minimization of the Filing of Sensitive Information” to the last line of the rule. Lastly, the Committee proposes replacing the term “paper” with the term “document” in view of the institution of e-filing and e-service requirements and, in an effort to remove archaic language, proposes replacing “shall” with “must.”

RULE 1.071. CONSTITUTIONAL CHALLENGE TO STATE STATUTE OR COUNTY OR MUNICIPAL CHARTER, ORDINANCE, OR FRANCHISE; NOTICE BY PARTY

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. The Committee proposes amending the opening and closing paragraphs, subdivision (a), and subdivision (b) by replacing the term “paper” with the term “document.”

RULE 1.100. PLEADINGS AND MOTIONS

The proposed amendments to this rule originated from two separate referrals, one from Judge Robert Crown of the Twentieth Judicial Circuit and one from Attorney Amy Borman. Judge Crown expressed concern that Rule 1.100(c)(1), unlike its counterpart, Federal Rule 10(a), does not expressly require the title of the complaint to name all the parties. The merit and purpose of Judge Crown’s proposed amendment is to ensure that anyone served with a complaint is able to readily determine that they are a defendant to the action. This is a concern especially when the title includes “*et al.*,” requiring defendants to sift through the complaint to determine what claims, if any, have been made against them.

Ms. Borman requested the addition of a new rule to address the Civil Cover Sheet and the Final Disposition Form referred to in Rule 1.100(c)(2)–(c)(3). The merit and purpose of Ms. Borman’s proposed amendment is to assist our judicial branch in tracking their productivity and to ensure that the clerks are receiving these forms and are timely opening and closing cases. Ms. Borman noted the rules regarding the Civil Cover Sheet and the Final Disposition Form are buried under a subdivision broadly labelled “Caption” and are therefore easily overlooked and

unused. As such, she proposed setting out these rules separately in order to bring attention to them and to ensure that practitioners are complying on a routine basis.

The Committee agreed with Judge Crown's assessment that Rule 1.100 should track the Federal rules in addressing this concern by requiring that the caption of the complaint name all parties to the action. The Committee, however, also determined that Federal Rule 10(a) should have gone a step further and required that every pleading and amended pleading be required to name all parties. The Committee was also in favor of Ms. Borman's proposed amendment and determined that by setting out a separate rule, practitioners will hopefully take more notice of the new rule if it appears alongside other "end of the case" rules.

Specifically, the Committee proposes amending Rule 1.100 in the following manner to address these concerns:

Subdivision (c)(1) is amended within the first sentence to remove the language ", motion, order, judgment, or other paper," add the language "of all of the parties, the name," and add the language "a designation identifying the party filing it." The rest of the subdivision is now divided into newly numbered subdivisions (c)(2)–(c)(5) for ease of reading. Newly numbered subdivision (c)(2) is further amended to incorporate the deleted language from the original first sentence of subdivision (c)(1) by adding "Every motion, order, judgment, or other document must have a caption containing the name of the court, the case number," to the beginning of the subdivision. The language "except for in rem proceedings, including forfeiture proceedings," is deleted from now subdivision (c)(2) since newly numbered subdivisions (c)(3) and (c)(4) specifically address the requirements for in rem proceedings. Former subdivision (c)(2) is renumbered as subdivision (d) and is titled "Civil Cover Sheet." Former subdivision (c)(3) is deleted from the rule and has been relocated to new proposed Rule 1.545, Final Disposition Form. Former subdivision (d) is renumbered as subdivision (e).

Throughout the rule, the Committee also proposes replacing the term "paper" with the term "document" in view of the institution of e-filing and e-service requirements. Also, in an effort to remove archaic language from the rules, the Committee proposes replacing the term "therefor" with "for it" in subdivision (b) and replacing the term "shall" with the term "must" or "will," as appropriate, throughout the rule.

The Committee proposes adding a new Committee Note to explain that the amendments to subdivision (c) are similar to Federal Rule of Civil Procedure 10(a)

in addressing the naming of parties in pleadings and amended pleadings and to notify practitioners that the language regarding Civil Cover Sheets has been relocated from subdivision (c)(2) to subdivision (d), and the language regarding Final Disposition Forms has been relocated from subdivision (c)(3) to new Rule 1.545.

Commenter Mr. Trawick opined that the proposed amendments to Rule 1.100(c)(1) were unnecessary and constituted “change without purpose.” Though the Committee appreciates the input, it voted 29-0-0 to leave the currently proposed amendments. The Committee determined that the proposed amendment, which requires the inclusion of all parties’ names on the pleadings, addressed the concern related to pro se parties receiving suit papers but failing to recognize that they were indeed a party to the action since their name did not appear on the style of the complaint.

RULE 1.130. ATTACHING COPY OF CAUSE OF ACTION AND EXHIBITS

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. The Committee proposes amending subdivision (a) by replacing the term “papers” with the term “documents.” Additionally, in an effort to remove archaic language from the rules, the Committee proposes removing the term “upon” and replacing it with “on” in subdivision (a) and replacing the term “shall” with “must.”

RULE 1.140. DEFENSES

The proposed amendments to this rule originated from Committee member Keith Park. The concern arose when a court entered an order denying an attorney’s motion to dismiss a complaint but the order failed to state when the responsive pleading was required to be filed or served. Due to the lack of a specified time frame for service of the responsive pleading, it was opined that Rule 1.140(a) would provide the applicable deadline requirement, but it was determined that the current language of the rule does not provide a definitive answer. In an effort to correct this issue, Mr. Park proposed amendments to subdivisions (a)(3) and (a)(4).

The Committee agreed with Mr. Park’s assessment of the concern and concluded that the language in the rule should be amended and clarified. Specifically, the Committee proposes amending Rule 1.140 in the following manner to address these concerns:

Subdivision (a)(3) is amended to replace the phrase “notice of the court’s action” with the phrase “the filing of the court’s order.” Incorporating this amendment would change the clause governing the timeframe within which a responsive pleading must be served to read: “the responsive pleading must be served within 10 days after the filing of the court’s order.” Subdivision (a)(4) is amended to replace the phrase “notice of the court’s action” with the phrase “the filing of the court’s order unless a different time is fixed by the court” after the 10-day time limit for service of amended or responsive pleadings. Subdivision (e) is amended to replace the term “notice” with “the filing” in the last sentence. Additionally, in an effort to remove archaic language from the rules, the Committee proposes replacing the phrase “shall have” with the term “has” in subdivision (a)(2)(B) and also replacing the term “shall” with “must,” as appropriate, throughout the rest of the rule.

RULE 1.170. COUNTERCLAIMS AND CROSSCLAIMS

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. The Committee proposes amending subdivision (j) by replacing the term “papers” with the term “documents.” Additionally, the Committee proposes amendments to remove archaic language. Specifically, the Committee proposes the following amendments:

Subdivision (a) is amended to replace the term “shall” with the term “must” and the term “upon” with the term “on.” Subdivisions (g) and (h) are amended to replace the term “shall” with the term “must.” Subdivision (j) is amended to replace the term “shall” with the term “must” or “will,” as appropriate, and to replace the term “forthwith” with the term “immediately.”

RULE 1.200. PRETRIAL PROCEDURE

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. The Committee proposes amending subdivision (a)(1) by replacing the term “papers” with the term “documents.” Additionally, the Committee proposes amending subdivisions (a), (c), and (d) to replace the term “shall” with the term “must” in order to remove archaic language.

RULE 1.310. DEPOSITIONS UPON ORAL EXAMINATION

The proposed amendments to this rule originated from Attorney Jonathan Franklin. In a letter to the Committee, Mr. Franklin pointed out what appeared to be incorrect cross-references contained in subdivisions (f)(3)(A) and (f)(3)(B). Mr. Franklin pointed out that the current reference to Rule 1.280(f) is directed at “Supplementing of Responses.” The proper amended reference should be to Rule 1.280(g), which is directed to “Court Filing of Documents and Discovery.”

The Committee agreed with Mr. Franklin’s assessment and concluded that the cross-references should be amended. The Committee proposes amending subdivisions (f)(3)(A) and (f)(3)(B) to change the current cross-reference to Rule 1.280(f) to a cross-reference to Rule 1.280(g).

Additionally, the Committee proposes removing archaic language throughout the entire rule, including replacing the term “shall” with the term “must” and replacing the term “upon” with “on.” More specifically, the Committee proposes replacing the phrase “shall apply” with the term “applies” in subdivision (b)(5), replacing the phrase “shall have” with the term “has” in subdivision (b)(8), and replacing the term “forthwith” with the term “immediately” in subdivision (d).

RULE 1.320. DEPOSITIONS UPON WRITTEN QUESTIONS

The proposed amendments to this rule originated from Attorney Stephen Segall. In a letter to the Committee, Mr. Segall asked the Committee to evaluate Rule 1.320 to see if the rule could be amended to be more specific about the obligations imposed on the parties and the parameters of the rule. Specifically, Mr. Segall’s request was in regard to objections to the form of written questions and to the videotaping of depositions without prior notice or stipulation.

The Committee considered the issues raised by Mr. Segall and agreed that the rule should be amended. In an effort to clarify some of the points raised by Mr. Segall, the Committee voted to incorporate the provisions of Rule 1.330(d)(3)(c) regarding objections to form and to refrain from specifically addressing privilege objections and the right to have counsel present at 1.320 depositions. The Committee chose to defer to the existing case law about the rights and obligations of the parties as to those issues. The Committee also concluded that objections to form should be waived unless raised in the appropriate time frames. In addition, the Committee determined that depositions on written questions should be permitted to be videotaped in accordance with Rule 1.310(b)(4).

Specifically, the Committee proposes amending Rule 1.320 in the following manner to address these concerns:

Subdivision (a) is amended to add a new sentence immediately before the final sentence of the subdivision. This new sentence reads, “Notwithstanding any contrary provision of rule 1.310(c), objections to the form of written questions are waived unless served in writing on the party propounding them within the time allowed for serving the succeeding cross or other questions and within 10 days after service of the last questions authorized.” Subdivision (b) is amended to add a new sentence to the end of the subdivision that reads, “Any deposition may be recorded by videotape without leave of the court or stipulation of the parties, provided the deposition is taken in accordance with rule 1.310(b)(4).” Additionally, the Committee proposes amending the rule to remove archaic language by replacing the term “shall” with the term “must” throughout and replacing the term “upon” with the term “on.”

RULE 1.340. INTERROGATORIES TO PARTIES

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. The Committee proposes amending subdivision (e) by replacing the term “papers” with the term “documents.” Additionally, the Committee proposes removing archaic language by replacing the term “shall” with the term “must” throughout the rule and replacing the term “therein” with the term “within” and the term “upon” with the term “on” in subdivision (a).

RULE 1.410. SUBPOENA

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. The Committee proposes amending subdivisions (c), (e), and (g) by removing the references to “paper” or “papers.” Additionally, the Committee proposes removing archaic language by replacing the term “shall” with the term “must” and the term “upon” with the term “on” throughout the rule and also replacing the term “therein” with the term “within” in subdivision (d).

RULE 1.431. TRIAL JURY

The proposed amendments to this rule originated from Circuit Judge James Barton and Committee member Bard Rockenbach. Judge Barton pointed out to the Committee that even though subdivision (g)(1) states “that 1 or 2 jurors be

impaneled to sit as alternate jurors in addition to the regular panel,” it is often advisable to have more than two alternate jurors for longer trials that may last two or more weeks.

In an e-mail to the Committee’s staff liaison, Mr. Rockenbach pointed out that subdivision (h) contains a timing disconnect with Rule 1.530, which had recently been amended to change the time period for service of a Motion for New Trial to 15 days after the verdict. Mr. Rockenbach noted that Rule 1.431(h), which relates to juror interviews, used to make the motion for juror interviews due at the same time as the Motion for New Trial. However, since Rule 1.431(h) was not amended when Rule 1.530 was amended, a Motion for Juror Interview is now due five days before the Motion for New Trial. Mr. Rockenbach advised that the problem lies in the fact that a Motion for Juror Interview is actually part of the Motion for New Trial because the juror misconduct which is the subject of the interview would be a basis for a new trial.

The Committee agreed with Circuit Judge Barton’s suggestion to amend subdivision (g)(1) to give the court the discretion to impanel more than two jurors to sit as alternate jurors in addition to the regular panel. The Committee agreed that having three or more alternate jurors for longer trials lasting two or more weeks is advisable. The Committee was also in favor of Mr. Rockenbach’s suggested amendment to subdivision (h) in order to make a Motion for Juror Interview due at the same time as a Motion for New Trial.

Specifically, the Committee proposes amending Rule 1.431 in the following manner to address these concerns:

Subdivision (g)(1) is amended to replace the number “2” with the term “more” in the first sentence. This amendment would cause the first sentence to read: “The court may direct 1 or more jurors be impaneled to sit as alternate jurors in addition to the regular panel.” Subdivision (h) is amended to replace the number “10” with the number “15” in the second sentence. This amendment would cause the second sentence to read: “The motion must be served within 15 days after rendition of the verdict unless good cause is shown for the failure to make the motion within that time.”

Additionally, in an effort to remove archaic language, the Committee proposes replacing the term “shall” with the term “must” throughout the rule, replacing the phrase “shall be” with the term “is” or “are,” as appropriate, in

subdivision (g)(2), and replacing the term “upon” with the term “on” in subdivision (i)(3).

RULE 1.500. DEFAULTS AND FINAL JUDGMENTS THEREON

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. The Committee proposes amending subdivisions (a), (b), and (c) by replacing the term “paper” with the term “document.” Additionally, the Committee proposes removing archaic language by replacing the term “shall” with the term “must” throughout the rule.

RULE 1.510. SUMMARY JUDGMENT

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. The Committee proposes amending subdivision (e) by replacing the term “papers” with the term “documents.” Additionally, the Committee proposes removing archaic language by replacing the term “shall” with the term “must” throughout the rule, replacing the term “upon” with the term “on” in subdivisions (a), (c), and (d), replacing the term “forthwith” with the term “immediately” in subdivisions (c) and (g), and replacing the term “thereupon” with the term “then” in subdivision (d).

RULE 1.545. FINAL DISPOSITION FORM

This proposed rule originated with Attorney Amy Borman. Ms. Borman requested the addition of a new rule to address the Civil Cover Sheet and the Final Disposition Form referred to in Rule 1.100(c)(2)–(c)(3). The merit and purpose of Ms. Borman’s proposed amendment is to assist our judicial branch in tracking their productivity and to ensure that the clerks are receiving these forms and are timely opening and closing cases. Ms. Borman noted the rules regarding the Civil Cover Sheet and the Final Disposition Form are buried under a subdivision broadly labelled “Caption” and are therefore easily overlooked and unused. As such, she proposed setting out these rules separately in order to bring attention to them and to ensure that practitioners are complying on a routine basis.

The Committee agreed with Ms. Borman’s proposed amendment and determined that, by setting the rule out separately and placing it alongside other “end of the case” rules, practitioners will hopefully take more notice. In an effort to achieve this goal, the Committee proposes creating new Rule 1.545. The language within this proposed new rule has been lifted directly from Rule 1.100(c)(3) and

placed here with the only change in language coming in the form of replacing the term “shall” with the term “must.”

RULE 1.625. PROCEEDINGS AGAINST SURETY ON JUDICIAL BONDS

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. The Committee proposes amending the rule by replacing the term “papers” with the term “documents” in the second sentence. Additionally, the Committee proposes removing archaic language by replacing the term “shall” with the term “must” throughout the rule.

RULE 1.630. EXTRAORDINARY REMEDIES

The proposed amendments to this rule originated from Attorney Andy Kawel. Mr. Kawel pointed out that amendments to the rule, which became effective January 1, 2014, removed all references to petitions for certiorari. He went on to note that despite the fact that subdivision (b) states that “[t]he initial pleading shall be a complaint,” subdivision (b)(3) retains a reference to a “petition.” Mr. Kawel requested that the committee consider whether the retention of this term had been an oversight and if the proper term should be “complaint.”

The Committee agreed with Mr. Kawel’s observation and proposes amending the rule to correct this oversight. Specifically, the Committee proposes amending subdivision (b)(3) to replace the term “petition” with the term “complaint” in order to make the subdivision read properly as “...if desired, argument in support of the complaint with citations of authority.”

Additionally, the Committee proposes removing archaic language by replacing the term “shall” with the term “must” in subdivisions (b)–(e).

RULE 1.900. FORMS

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. Specifically, the Committee proposes amending subdivision (c) by replacing the term “paper” with the term “document.”

Proposed Form Amendments

The proposed amendments to the following forms originated from former Committee Chair, Kevin Johnson. In response to the institution of e-filing and e-service requirements, Mr. Johnson proposed a review of all of the forms to determine the necessity of adding lines for a telephone number and an e-mail address within the forms' signature blocks. Review of the forms also led to the Committee proposing punctuation corrections in the forms.

FORM 1.910. SUBPOENA FOR TRIAL

The Committee determined that both Form 1.910(a) and Form 1.910(b) should be amended to include within the attorney signature block a separate line to designate a telephone number and a separate line to designate one or more e-mail addresses. Specifically, the Committee proposes adding “.....(Telephone number).....” and “.....(E-mail address(es)).....” to the signature blocks.

Additionally, the Committee proposes removing archaic language by replacing the term “shall” with the term “must” in the second paragraph of Forms 1.910(a) and (b) and replacing the phrase “shall have” with the term “has” and replacing the term “upon” with the term “on” in the paragraph immediately following the signature blocks of Forms 1.910(a) and (b).

Lastly, the Committee proposes amending the form to conform to the court's guidelines for rules submissions as set forth in AOSC06-14, including removing extra line dots in the opening paragraph of Form 1.910(b). The Committee specifically proposes adding a new parenthetical “(a.m./p.m.)” in the opening paragraphs of Forms 1.910(a) and (b) to clarify that the time of day should be specified. The Committee also proposes amending the signature blocks in Forms 1.910(a) and (b) to utilize the 5-dot, parenthetical, 5-dot format described in AOSC06-14. This amendment would cause the signature block to appear as:

.....(Name of Attorney).....
Attorney for(Name of Client).....
.....(Address).....
.....(Telephone number).....
.....(E-mail address(es)).....
Florida Bar No.

FORM 1.911. SUBPOENA DUCES TECUM FOR TRIAL

The Committee determined that both Form 1.911(a) and Form 1.911(b) should be amended to include within the attorney signature block a separate line to designate a telephone number and a separate line to designate one or more e-mail addresses. Specifically, the Committee proposes adding “.....(Telephone number).....” and “.....(E-mail address(es)).....” to the signature blocks.

Additionally, the Committee proposes removing archaic language by replacing the term “shall” with the term “must” in the second paragraph of Forms 1.911(a) and (b) and replacing the phrase “shall have” with the term “has” and replacing the term “upon” with the term “on” in the paragraph immediately following the signature blocks of Forms 1.911(a) and (b).

Lastly, the Committee proposes amending the form to conform to the court’s guidelines for rules submissions as set forth in AOSC06-14, including removing extra line dots in the opening paragraph of Forms 1.911(a) and (b). The Committee specifically proposes adding a new parenthetical “(a.m./p.m.)” in the opening paragraphs of Forms 1.911(a) and (b) to clarify that the time of day should be specified. The Committee also proposes amending the signature blocks in Forms 1.911(a) and (b) to utilize the 5-dot, parenthetical, 5-dot format described in AOSC06-14. This amendment would cause the signature block to appear as:

.....(Name of Attorney).....
Attorney for(Name of Client).....
.....(Address).....
.....(Telephone number).....
.....(E-mail address(es)).....
Florida Bar No.

FORM 1.912. SUBPOENA FOR DEPOSITION

The Committee determined that both Form 1.912(a) and Form 1.912(b) should be amended to include within the attorney signature block a separate line to designate a telephone number and a separate line to designate one or more e-mail addresses. Specifically, the Committee proposes adding “.....(Telephone number).....” and “.....(E-mail address(es)).....” to the signature blocks.

The Committee also proposes correcting a grammatical error in Form 1.912(a) by adding the term “the” in the second sentence of the ADA text block such that the text would read: “Please contact [identify attorney or party taking the deposition by name, address, and telephone number]....”

Additionally, the Committee proposes removing archaic language by replacing the term “shall” with the term “must” in the second paragraph of Forms 1.912(a) and (b) and replacing the phrase “shall have” with the term “has” and replacing the term “upon” with the term “on” in the paragraph immediately following the signature blocks of Forms 1.912(a) and (b).

Lastly, the Committee proposes amending the form to conform to the court’s guidelines for rules submissions as set forth in AOSC06-14, including adding line dots in the opening paragraph of Form 1.912(a) and removing extra line dots in the opening paragraph of Form 1.912(b). The Committee specifically proposes adding a new parenthetical “(a.m./p.m.)” in the opening paragraphs of Forms 1.912(a) and (b) to clarify that the time of day should be specified. The Committee also proposes amending the signature blocks in Forms 1.912(a) and (b) to utilize the 5-dot, parenthetical, 5-dot format described in AOSC06-14. This amendment would cause the signature block to appear as:

.....(Name of Attorney).....
Attorney for(Name of Client).....
.....(Address).....
.....(Telephone number).....
.....(E-mail address(es)).....
Florida Bar No.

FORM 1.913. SUBPOENA DUCES TECUM FOR DEPOSITION

The Committee determined that both Form 1.913(a) and Form 1.913(b) should be amended to include within the attorney signature block a separate line to designate a telephone number and a separate line to designate one or more e-mail addresses. Specifically, the Committee proposes adding “.....(Telephone number).....” and “.....(E-mail address(es)).....” to the signature blocks.

The Committee also proposes correcting a grammatical error in Form 1.913(a) by adding a comma in the first sentence of the ADA text block after the phrase “participate in this deposition.”

Additionally, the Committee proposes removing archaic language by replacing the term “shall” with the term “must” in the second paragraph of Forms 1.913(a) and (b) and replacing the phrase “shall have” with the term “has” and replacing the term “upon” with the term “on” in the paragraph immediately following the signature blocks of Forms 1.913(a) and (b).

Lastly, the Committee proposes amending the form to conform to the court's guidelines for rules submissions as set forth in AOSC06-14, including adding line dots and a missing period at the end of the first sentence in the opening paragraph of Forms 1.913(a) and (b). The Committee also proposes adding a new parenthetical "(a.m./p.m.)" in the opening paragraphs of Forms 1.913(a) and (b) to clarify that the time of day should be specified. The Committee also proposes amending the signature blocks in Forms 1.913(a) and (b) to utilize the 5-dot, parenthetical, 5-dot format described in AOSC06-14. This amendment would cause the signature block to appear as:

.....(Name of Attorney).....
Attorney for(Name of Client).....
.....(Address).....
.....(Telephone number).....
.....(E-mail address(es)).....
Florida Bar No.

FORM 1.918. LIS PENDENS

The Committee determined that the form should be amended to include within the attorney signature block a separate line to designate a telephone number and a separate line to designate one or more e-mail addresses. Specifically, the Committee proposes adding ".....(Telephone number)....." and ".....(E-mail address(es))....." to the signature block.

Lastly, the Committee proposes amending the form's signature block to utilize the 5-dot, parenthetical, 5-dot format described in AOSC06-14. Specifically, the Committee proposes amending the signature block to appear as:

.....(Name of Attorney).....
Attorney for(Name of Client).....
.....(Address).....
.....(Telephone number).....
.....(E-mail address(es)).....
Florida Bar No.

FORM 1.921. NOTICE OF PRODUCTION FROM NONPARTY

The Committee determined that the form should be amended to include within the attorney signature block a separate line to designate a telephone number

and a separate line to designate one or more e-mail addresses. Specifically, the Committee proposes adding “.....(Telephone number).....” and “.....(E-mail address(es)).....” to the signature block.

Lastly, the Committee proposes amending the form to conform to the court’s guidelines for rules submissions as set forth in AOSC06-14, including removing extra line dots. The Committee also proposes amending the signature block to utilize the 5-dot, parenthetical, 5-dot format such that the signature block would appear as:

.....(Name of Attorney).....
Attorney for(Name of Client).....
.....(Address).....
.....(Telephone number).....
.....(E-mail address(es)).....
Florida Bar No.

FORM 1.922. SUBPOENA DUCES TECUM WITHOUT DEPOSITION

The Committee determined that Forms 1.922(a)–(d) should be amended to include within the attorney signature block a separate line to designate a telephone number and a separate line to designate one or more e-mail addresses. Specifically, the Committee proposes adding “.....(Telephone number).....” and “.....(E-mail address(es)).....” to the signature blocks.

The Committee also proposes correcting typographical and grammatical errors in Form 1.922(b) by removing the colon that appears after the term “TO” and by adding the term “to” in the first sentence of the ADA text block such that the text would read: “If you are a person with a disability who needs any accommodation in order to respond to this subpoena...”

Additionally, the Committee proposes removing archaic language by replacing in Forms 1.922(a)–(d) the term “shall” with the term “must” in the last paragraph immediately before the “Dated on” line.

Lastly, the Committee proposes amending the form to conform to the court’s guidelines for rules submissions as set forth in AOSC06-14, including adding line dots and a missing period at the end of the first sentence in the opening paragraph of Forms 1.922(a)–(d). The Committee also proposes adding a new parenthetical “(a.m./p.m.)” in the opening paragraph of Forms 1.922(a)–(d) to clarify that the time of day should be specified. The Committee also proposes amending the

signature blocks in Forms 1.922(a)–(d) to utilize the 5-dot, parenthetical, 5-dot format described in AOSC06-14. This amendment would cause the signature block to appear as:

.....(Name of Attorney).....
Attorney for(Name of Client).....
.....(Address).....
.....(Telephone number).....
.....(E-mail address(es)).....
Florida Bar No.

FORM 1.975. NOTICE OF COMPLIANCE WHEN CONSTITUTIONAL CHALLENGE IS BROUGHT

The Committee determined that the form should be amended to include within the attorney signature block a separate line to designate one or more e-mail addresses. Specifically, the Committee proposes adding “.....(E-mail address(es)).....” to the signature block.

Additionally, the Committee proposes amending the form to conform to the court’s guidelines for rules submissions as set forth in AOSC06-14. The Committee proposes adding a missing period at the end of the first paragraph, removing the line that extends across the entire page, and amending the signature blocks to utilize the 5-dot, parenthetical, 5-dot format described in AOSC06-14. This would cause the signature block to appear as:

.....(Name of Attorney).....
Attorney for(Name of Client).....
.....(Address).....
.....(Telephone number).....
.....(E-mail address(es)).....
Florida Bar No.

FORM 1.980. DEFAULT

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. Specifically, the Committee proposes replacing the term “paper” with the term “document” throughout the form. This amendment occurs in two locations within the Motion for Default text block, resulting in the text reading as “Plaintiff moves

for entry of a default by the clerk against the defendant for failure to serve any document on the undersigned or file any document as required by law.” The amendment occurs in a single location within the Default text block, resulting in the text reading as “A default is entered in this action against the defendant named in the foregoing motion for failure to serve or file any document as required by law.”

Additionally, the Committee proposes amending the form to conform to the court’s guidelines for rules submissions as set forth in AOSC06-14 by removing extra line dots in the first line of the first paragraph and in the “Dated on” section.

FORM 1.997. CIVIL COVER SHEET

The proposed amendments to this rule originated from staff of The Florida Bar in response to the institution of e-filing and e-service requirements. Specifically, the Committee proposes replacing the term “papers” with the term “documents” in the opening sentence. This amendment would result in the sentence reading as “The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law.”

The Committee also proposes an editorial amendment in the final sentence of the opening paragraph to correct the citation to section 25.075, Florida Statutes. Specifically, the Committee proposes moving the phrase “Florida Statutes” from immediately before to immediately after the number 25.075 and inserting a comma after the number, such that it would read “section 25.075, Florida Statutes.”

Additionally, the Committee proposes removing archaic language by replacing the term “shall” with the term “must” in the second sentence of the opening paragraph.

Lastly, the Committee proposes adding colons after “Case #” and “Judge.”

Within the instructions, the Committee proposes amending the first sentence by replacing the term “paperwork” with the term “document” and inserting the term “the” to make the sentence grammatically correct. These amendments would result in the sentence’s reading “Plaintiff must file this cover sheet with the first document filed in the action or proceeding...” Additionally, the Committee proposes making an editorial amendment by adding a period to the end of the section titled “**VII. Is Jury Trial Demanded in Complaint?**”

WHEREFORE, the undersigned respectfully requests that the Court amend the Florida Rules of Civil Procedure as outlined in this Three-Year Cycle Report of the Civil Procedure Rules Committee.

Respectfully submitted on January 27, 2016.

/s/ Judge Jacqueline Hogan Scola

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that Mr. Roberto Vargas and Mr. Kevin Johnson, though mentioned in the foregoing Three-Year Cycle Report of the Civil Procedure Rules Committee, have requested to not receive service and that a true copy of the Report was served through the Florida Courts E-Filing Portal or by U.S. mail on January 27, 2016, to:

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CERTIFICATE OF COMPLIANCE

I certify that these rules and forms have been read against West's *Florida Rules of Court, Vol. I— State* (2015 revised edition) or appropriate Court opinions.

I certify that this document meets the font requirements of Florida Rule of Appellate Procedure 9.120(a)(2).

/s/ Gregory A. Zhelesnik

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