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Supreme Court of Florida

THURSDAY, JANUARY 12, 2023

CASE NO.: SC22-122

IN RE: REPORT AND RECOMMENDATIONS OF THE WORKGROUP ON IMPROVED RESOLUTION OF CIVIL CASES

Having considered the final report of the Workgroup on Improved Resolution of Civil Cases, the comments filed, the Workgroup's response to the comments, and oral argument, the Court declines to adopt the Workgroup's proposed amendments at this time because additional refinements are necessary. Instead, the Court will make a series of phased referrals for the refinement and study of the Workgroup's proposals, beginning with the attached referrals to the Civil Procedure Rules Committee, the Rules of General Practice and Judicial Administration Committee, the Florida Courts Technology Commission, and the Trial Court Budget Commission. Any outstanding motions are denied.

The Court thanks the Workgroup and its staff for their hard work on this important matter, and it greatly appreciates the many helpful comments submitted in this case.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

MUÑIZ, C.J., and CANADY, POLSTON, LABARGA, COURIEL, and GROSSHANS, JJ., concur.
FRANCIS, J., did not participate.

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

so
Served:

GEORGE N. MEROS JR.
RICHARD E. RAMSEY
NICHOLE J. SEGAL
JOHN W. LITTLE III
KARLA D. ELLIS
JASON GOLDSTEIN
DANIEL J. SANTANIELLO
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HON. MONIQUE MARIE SCOTT
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JOSHUA S. STRATTON
AMELIA HALLENBERG BEARD
DENNIS W. MOORE

JASON B. GONZALEZ
JOSHUA A. SAVAL
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JANINE Q. MENENDEZ-APONTE
NICHOLAS E. CHRISTIN
CELENE H. HUMPHRIES
HON. SCOTT A FARR, JUDGE
JASON LAWRENCE UNGER
SCOTT M. EDSON
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DUSTIN W. METZ
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LEE L. HAAS
DAVID B. ALEXANDER
HON. ASHLEY MOODY, ATTORNEY GENERAL
HON. REX MARTIN BARBAS, JUDGE

HON. JENNIFER X. GABBARD, JUDGE
HON. CHRISTOPHER JOSEPH SPROWLS
HON. MESHON RAWLS, JUDGE
HON. FRANCES M. PERRONE, JUDGE
HON. EMMETT LAMAR BATTLES, JUDGE
HON. RONALD N. FICARROTTA, CHIEF JUDGE
HON. MONICA J. BRASINGTON, JUDGE
HON. KATIE L. DEARING, JUDGE
HON. DONNA MICHELLE KEIM, JUDGE
HON. CRAIG C. DETHOMASIS, JUDGE
HON. DON H. LESTER, JUDGE
HON. JONATHAN ERIC SJOSTROM, CHIEF JUDGE
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HON. ROBERTO ARIAS, JUDGE
HON. MICHAEL SCOTT SHARRIT, JUDGE
HON. MARIANNE LLOYD AHO, JUDGE
HON. BRUCE RUTLEDGE ANDERSON JR., JUDGE
HON. GILBERT LEE FELTEL JR., JUDGE
HON. MARK W. MOSELEY, CHIEF JUDGE
HON. ROBERT MICHAEL DEES, JUDGE
HON. JAMES HUNT DANIEL, JUDGE
HON. STEVEN B. WHITTINGTON, JUDGE
HON. VIRGINIA BAKER NORTON, JUDGE
HON. THOMAS PATRICK BARBER, JUDGE
HON. CAROLINE TESCHE ARKIN, JUDGE
HON. CATHERINE M. CATLIN, JUDGE
HON. WENDY JOY DEPAUL, JUDGE
HON. CHERYL KENDRICK THOMAS, JUDGE
HON. EMILY A. PEACOCK, JUDGE
HON. DONALD ALVIN MYERS JR., JUDGE
HON. DIANA LEE MORELAND, JUDGE
HON. JAMES MANLY BARTON II, JUDGE
HON. JENNIFER D. BAILEY, JUDGE
HON. ROBERT J. MORRIS, CHIEF JUDGE
HON. PATRICIA ANN MUSCARELLA, JUDGE
HON. CLAUDIA RICKERT ISOM, JUDGE
HON. WESLEY D. TIBBALS, JUDGE

HON. LYANN GOUDIE, JUDGE
HON. SUSAN SHORTER LOPEZ, JUDGE
HON. JAMES SALVATORE GIARDINA, JUDGE
HON. CHRISTOPHER NIDA PATTERSON, CHIEF JUDGE
HON. MICHAEL S. ORFINGER, JUDGE
HON. MELISSA M. POLO, JUDGE
HON. HELENE L. DANIEL, JUDGE
HON. MATTHEW ALEX SMITH, JUDGE
HON. LAWRENCE MARK LEFLER, JUDGE
HON. MIRIAM V. VALKENBURG, JUDGE
HON. MICHAEL T. MCHUGH, CHIEF JUDGE
HON. CHRISTOPHER CHARLES NASH, JUDGE

Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

CARLOS G. MUÑIZ
CHIEF JUSTICE
CHARLES T. CANADY
RICKY POLSTON
JORGE LABARGA
JOHN D. COURIEL
JAMIE R. GROSSHANS
RENATHA S. FRANCIS
JUSTICES

JOHN A. TOMASINO
CLERK OF COURT

SILVESTER DAWSON
MARSHAL

January 12, 2023

Mr. Lance V. Curry III
Chair, Florida Civil Procedure Rules Committee
Paul Knopf Bigger
511 West Bay Street, Suite 450
Tampa, Florida 33606

Dear Mr. Curry:

At the direction of the Court, I am writing to you in your capacity as Chair of the Civil Procedure Rules Committee to ask the Committee to propose amendments to rules 1.200 (Pretrial Procedure), 1.201 (Complex Litigation), 1.440 (Setting Action for Trial), 1.280 (General Provisions Governing Discovery), and 1.460 (Continuances). As indicated in the order in Case No. SC22-122, this is the first in a series of phased referrals to the Committee for the refinement and study of the proposals submitted by the Workgroup on Improved Resolution of Civil Cases.

As you know, the Workgroup on Improved Resolution of Civil Cases submitted a final report proposing amendments to the Florida Rules of Civil Procedure and other rule sets aimed at promoting the fair and timely resolution of civil cases. The Workgroup's proposed amendments provided for court case management of civil cases with early judicial intervention, adherence to established deadlines, and reporting of case management data. Because additional refinements were needed,

the Court declined to adopt the Workgroup's proposals at this time. *In re Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases*, No. SC22-122 (Fla. Jan. 12, 2023).

The Court now asks that the Committee review the Workgroup's proposal as revised in response to the comments and make the necessary refinements. Specifically, the Committee is asked to propose amendments to rule 1.200 that incorporate the fundamental elements of the Workgroup's revised proposal for differentiated case management—i.e., the assignment of a case to one of three specific tracks based on the required level of judicial attention rather than its monetary value as well as the issuance of a case management order setting a timetable for pretrial proceedings and a proposed trial date. Eminent domain cases as well as probate, guardianship, and trust cases must be excluded from the case management requirements. Further, the proposed amendments must not place all bench trials into the streamlined track.

In preparing its proposal for rule 1.200, the Committee should consider the concerns expressed by the Attorney General's Office in its comment on the Workgroup's proposal regarding the timing of certain case management requirements. The Committee should also propose any necessary corresponding amendments to rule 1.201, and it should propose amendments to rule 1.440 to eliminate the "at issue" requirement to set a case for trial and to provide for the judicial fixing of trial periods.

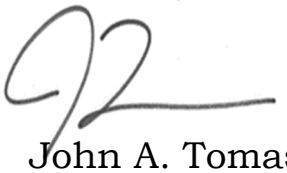
Additionally, the Committee is asked to propose amendments to rule 1.280 that will require a party in a civil case to make certain initial discovery disclosures without awaiting a discovery request and to timely supplement any discovery that is made in the case. The proposed amendments should be modeled after the relevant aspects of Federal Rules of Civil Procedure 26(a) and 26(e)(1) and be consistent with the Committee's proposed amendments to rules 1.200 and 1.201 pertaining to differentiated case management.

Lastly, the Committee is asked to propose amendments to rule 1.460 (Continuances) to provide that trial continuances should rarely be granted and then only upon good cause shown. The Committee's proposal must provide that lack of preparation is not grounds to continue the case and that successive continuances are highly disfavored.

Please file your report with my office by Monday, July 3, 2023. If you determine that more time is required to consider this matter, please submit a request for extension of time to my office indicating when your petition will be filed.

Thank you in advance for your consideration of this matter, and please do not hesitate to contact me or the Court's liaison to the Committee, Chief Justice Muñiz, if you have any questions.

Sincerely,



John A. Tomasino

JAT/pw/sb

cc: Honorable Carlos G. Muñiz, Liaison to the Civil Procedure Rules Committee
Honorable Charles T. Canady
Diane West, Supreme Court Director of Central Staff
Heather Telfer, Bar Staff Support to the Committee

Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

CARLOS G. MUÑIZ
CHIEF JUSTICE
CHARLES T. CANADY
RICKY POLSTON
JORGE LABARGA
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JAMIE R. GROSSHANS
RENATHA S. FRANCIS
JUSTICES

JOHN A. TOMASINO
CLERK OF COURT

SILVESTER DAWSON
MARSHAL

January 12, 2023

Honorable Stephen R. Jewett
Chair, Florida Rules of General Practice and Judicial Administration Committee
Ninth Judicial Circuit of Florida
425 North Orange Avenue, Suite 465-A
Orlando, Florida 32801

Dear Judge Jewett:

At the direction of the Court, I am writing to you in your capacity as Chair of the Rules of General Practice and Judicial Administration Committee to ask the Committee to propose rule amendments that address the issues addressed by the Workgroup on Improved Resolution of Civil Cases in its revised proposals to amend the Florida Rules of General Practice and Judicial Administration.

As you know, the Workgroup submitted a final report proposing amendments to the Florida Rules of General Practice and Judicial Administration and multiple other rule sets aimed at promoting the fair and timely resolution of civil cases. The proposed amendments provided for court case management of civil cases with early judicial intervention, adherence to established deadlines, and reporting of case management data. Because additional refinements were needed, the Court declined to adopt the Workgroup's proposals at this time. *In re Report and*

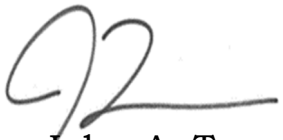
Recommendations of the Workgroup on Improved Resolution of Civil Cases, No. SC22-122 (Fla. Jan. 12, 2023).

The Court asks that the Committee assist in making the necessary refinements to the Workgroup's revised proposals. Specifically, the Committee is asked to propose rule amendments that address the issues addressed by the Workgroup in its revised proposals to add new rule 2.546 (Active and Inactive Case Status), and to amend existing rules 2.215 (Trial Court Administration), 2.250 (Time Standards for Trial and Appellate Courts and Reporting Requirements), and 2.550 (Calendar Conflicts). In preparing its proposals, the Committee must consult with and seek input from the Civil Procedure Rules Committee, the Commission on Trial Court Performance and Accountability, and the chief judges of the circuits.

Please file your report with my office by Monday, July 3, 2023. If you determine that more time is required to consider this matter, please submit a request for extension of time to my office indicating when your petition will be filed.

Thank you in advance for your consideration of this matter, and please do not hesitate to contact me or the Court's liaison to the Committee, Justice Canady, if you have any questions.

Sincerely,



John A. Tomasino

JAT/pw/sb

cc: Honorable Charles T. Canady, Liaison to the Rules of General Practice and Judicial Administration Committee
Diane West, Supreme Court Director of Central Staff
Elizabeth Clark Tarbert, Bar Staff Support to the

Committee
Kelly Smith, Bar Staff Support to the Committee

Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

CARLOS G. MUÑIZ
CHIEF JUSTICE
CHARLES T. CANADY
RICKY POLSTON
JORGE LABARGA
JOHN D. COURIEL
JAMIE R. GROSSHANS
RENATHA S. FRANCIS
JUSTICES

JOHN A. TOMASINO
CLERK OF COURT

SILVESTER DAWSON
MARSHAL

January 12, 2023

Honorable Lisa T. Munyon
Chair, Florida Courts Technology Commission
Ninth Judicial Circuit of Florida
425 North Orange Avenue, Suite 2010
Orlando, Florida 32801

Dear Chief Judge Munyon:

At the direction of the Court, I am writing to you in your capacity as Chair of the Florida Courts Technology Commission to ask that the Commission work with the Florida Courts E-Filing Authority to ensure that the Florida Courts E-Filing Portal (Portal) is capable of serving certain authorized documents on judges and other court officials without them being added to the service list.

The Court recently declined to adopt the Workgroup on Improved Resolution of Civil Cases' proposed rule amendments because additional refinements were necessary. *In re Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases*, No. SC22-122 (Fla. Jan. 12, 2023). One of the changes proposed by the Workgroup was the establishment of a singular mechanism for directly notifying a judge when certain types of motions or notices are filed with the court. The amendments proposed by the Workgroup in its revised proposal would have required such documents to be electronically served on a judge through the Portal in accordance with Rule of General Practice and

Judicial Administration 2.516 (Service of Pleadings and Documents). However, the Workgroup expressed concern that service through the Portal may in practice inundate judges with unnecessary notifications, since the Portal automatically serves copies of all court filings in a case by e-mail to each address on the service list, and there is currently no easy way to be removed from the service list once added through the Portal.

The Court asks that the Commission work with the Florida Courts E-Filing Authority to resolve the Workgroup's concerns regarding service on judges and other court officials through the Portal. The Commission should ensure that the Portal is capable of serving certain authorized documents on judges and other court officials without them being added to the service list. It should also correspondingly ensure that judges and other court officials can remove themselves from the service list.

Please file your report with my office by Monday, July 3, 2023. If you determine that more time is required to consider this matter, please submit a request for extension of time to my office indicating when your report will be filed.

Thank you in advance for your consideration of this matter, and please do not hesitate to contact me or the Court's liaison to the Committee, Justice Grosshans, if you have any questions.

Sincerely,

John A. Tomasino

JAT/pw/sb

cc: Honorable Jamie R. Grosshans, Liaison to the Florida Courts Technology Commission
Honorable Charles T. Canady

Diane West, Supreme Court Director of Central Staff
Roosevelt Sawyer, OSCA Staff Support to the Commission

Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

CARLOS G. MUÑIZ
CHIEF JUSTICE
CHARLES T. CANADY
RICKY POLSTON
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JOHN D. COURIEL
JAMIE R. GROSSHANS
RENATHA S. FRANCIS
JUSTICES

JOHN A. TOMASINO
CLERK OF COURT

SILVESTER DAWSON
MARSHAL

January 12, 2023

Honorable Margaret O. Steinbeck
Chair, Trial Court Budget Commission
Twentieth Judicial Circuit of Florida
Lee County Justice Center
1700 Monroe Street
Fort Myers, Florida 33901

Dear Judge Steinbeck:

At the direction of the Court, I am writing to you in your capacity as Chair of the Trial Court Budget Commission to ask that the Commission develop a legislative budget request for the resources necessary to implement the differentiated case management measures recently referred to the Civil Procedure Rules Committee for refinement.

The Court declined to adopt the Workgroup on Improved Resolution of Civil Cases' proposed rule amendments aimed at improving the fair and timely resolution of civil cases because additional refinements were necessary. *In re Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases*, No. SC22-122 (Fla. Jan. 12, 2023). One of the main criticisms expressed by the commenters about the Workgroup's proposal for Florida's trial courts to engage in differentiated case management was the lack of resources currently available to successfully implement the proposal. Many of the commenters

noted that successful implementation of the Workgroup's differentiated case management proposals will require additional staffing and technological resources.

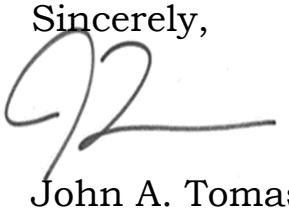
Recently, the Court asked the Civil Procedure Rules Committee to assist in refining some of the Workgroup's proposals. Specifically, the Committee was asked to propose amendments to Florida Rule of Civil Procedure 1.200 (Pretrial Procedure) to "incorporate the fundamental elements of the Workgroup's revised proposal for differentiated case management—i.e., the assignment of a case to one of three specific tracks based on the required level of judicial attention rather than its monetary value as well as the issuance of a case management order setting a timetable for pretrial proceedings and a proposed trial date." Eminent domain, probate, guardianship, and trust cases are to be excluded from the case management requirements. The Court also asked the Committee to propose corresponding amendments to Florida Rule of Civil Procedure 1.201 (Complex Litigation) as well as amendments to Florida Rule of Civil Procedure 1.440 (Setting Action for Trial) to "eliminate the 'at issue' requirement to set a case for trial and to provide for the judicial fixing of trial periods." Additionally, the Court asked the Committee to propose amendments to Florida Rule of Civil Procedure 1.280 (General Provisions Governing Discovery) to "require a party in a civil case to make certain initial discovery disclosures without awaiting a discovery request and to timely supplement any discovery that is made in the case." The proposed amendments to rule 1.280 are to be modeled after the relevant aspects of Federal Rules of Civil Procedure 26(a) and 26(e)(1). Finally, the Committee was asked to propose amendments to Florida Rule of Civil Procedure 1.460 (Continuances) "to provide that trial continuances should rarely be granted and then only upon good cause shown." Lack of preparation is not to be considered grounds to continue a case, and successive continuances are to be highly disfavored.

The Court asks that the Commission develop a legislative budget request for the resources necessary to successfully

implement these differentiated case management measures referred to the Civil Procedure Rules Committee on an ongoing basis.

Thank you in advance for your consideration of this matter, and please do not hesitate to contact me or the Court's liaison to the Committee, Justice Polston, if you have any questions.

Sincerely,



John A. Tomasino

JAT/pw/sb

cc: Honorable Ricky L. Polston, Liaison to the Trial Court Budget Commission
Honorable Charles T. Canady
Diane West, Supreme Court Director of Central Staff
Eric Maclure, OSCA Staff Support to the Commission