

**Real Property, Probate and Trust Law (“RPPTL”) Section  
Executive Council Meeting  
JW Marriott Water Street  
Tampa, Florida  
November 11, 2023  
9:30 a.m. (E.T.)**

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**Agenda**

- I. **Presiding** — *S. Katherine Frazier, Chair*
- II. **Secretary’s Report** — *Lee A. Weintraub, Secretary*
  1. Motion to approve the minutes of the September 23, 2023 meeting of the Executive Council held at The Fairmont Le Chateau Frontenac in Quebec City, Quebec. **p. 8**
  2. Meeting Attendance. **p. 10**
- III. **Chair’s Report** — *S. Katherine Frazier, Chair*
  1. Recognition of Special Guests.
  2. Thank you to our Sponsors! **p. 25**
  3. 2023-2024 Executive Council Meetings. **p. 27**
  4. Milestones.
  5. General Comments of the Chair.
- IV. **Board of Governors Report** – *Rosalyn Sia (“Sia”) Baker-Barnes, Liaison*
- V. **Chair-Elect’s Report** – *John C. Moran, Chair-Elect*
  1. 2024-2025 Executive Council meetings. **p. 28**
- VI. **Treasurer’s Report** – *S. Dresden Brunner, Treasurer*
  1. Statement of Current Financial Conditions. **p. 29**
- VII. **Director of At-Large Members Report** – *Wilhelmina F. Kightlinger, Director*
- VIII. **CLE Seminar Coordination Report** – *Angela M. Adams (Probate & Trust) and Brenda Ezell (Real Property), Co-Chairs*

1. Upcoming CLE programs and opportunities. **p. 38**

**IX. Legislation Committee** – *Steven H. Mezer (Real Property) and Sancha Brennan (Probate & Trust), Co-Chairs*

**X. Probate and Trust Law Division Report** – *Jon Scuderi, Division Director*

**Action Item:**

1. **Ad Hoc Guardianship Law Revision Committee** – Nicklaus J. Curley, Stacy B. Rubel, David C. Brennan, Co-Chairs

Proposed positions in response to SB48 (Karilyn's Law). **p. 39**

Motion to:

(A) support legislation that provides for the continued rights of a ward to receive visitors and communicate with others when such contact would not be potentially harmful to the ward;

(B) oppose legislation that would:

- allow for jury trials in proceedings initiated under Chapter 744,
- allow for jury trials in proceedings related to contesting the validity of wills or trusts prior to the death of the testator/settlor,
- require the re-evaluation of wards without the filing of a suggestion of capacity or the exercise of the court's discretion,
- require a guardianship proceeding to be transferred to a new judge after the establishment of a guardianship without a substantive basis, or
- provide for a blanket requirement that any and all family members of the ward related by blood, marriage or adoption have access to guardianship inventories, accountings, or other financial information of the ward;

(C) find that the legislative positions are within the purview of the RPPTL Section; and

(D) expend funds in support of the proposed legislative positions.

**Information Item:**

1. **Asset Protection Committee** – Michael A. Sneeringer, Chair

Proposed legislation to enact new Florida Statutes Section 736.05057 to provide that spouses may validly maintain the creditor protection characteristics of tenancies by the entirety ("TBE") property within the context of a joint revocable trust that meets the requirement of the proposed statute. **p. 52**

XI. [Real Property Law Division Report](#) – *Wm. Cary Wright, Division Director*

**Action Item:**

1. **Title Issues and Standards** – Rebecca Wood and Amanda K. Hersem, Co-Chairs

Motion to approve amendment to Standard 00 of the Uniform Title Standards to remove the masculine pronoun in the recognition of the diversity in the legal community and in the spirit of inclusivity. **p. 63**

XII. [General Standing Committees Report](#) – *John C. Moran, Chair-Elect*

**Action Items:**

1. **Budget Committee** – *S. Dresden Brunner, Chair*

Motion to: (A) approve the proposed RPPTL Section Budget for the fiscal year 2024-2025; and (B) authorize transmittal to The Florida Bar Board of Governors with a request for the Board's approval. **p. 64**

2. **Historian Committee** – *David C. Brennan, Chair*

Report on creation of the newly established Historian Committee.

3. **Legislative Committee** – *Steven H. Mezer (Real Property) and Sancha Brennan (Probate & Trust), Co-Chairs*

Update. **p. 75**

4. **Ad Hoc Rules Revisions Committee** – *Michael V. Hargett, Thomas M. Karr, J. Richard Caskey, Co-Chairs*

Motion to: (A) authorize and approve filing of Comment by the RPPTL Section in response to the Florida Supreme Court's August 9, 2023 request for publication of proposed rules in *In Re: Amendments to Florida Rules of Civil Procedure*, Case No. SC2023-0962; (B) find that such Comment is within the purview of the RPPTL Section; and (C) authorize transmittal of the proposed Comment to The Florida Bar Board of Governors with a request for the Board's approval. **p. 83**

5. **Professionalism and Ethics Committee** – *Andrew B. Sasso, Chair*

Motion to: (A) authorize and approve filing of Comment by the RPPTL Section in response to the Florida Supreme Court's July 7, 2023 Opinion in *In Re:*

*Code for Resolving Professionalism Referrals and Amendments to Rule Regulating The Florida Bar 6-10.3, Case No. SC2023-0884; (B) find that such Comment is within the purview of the RPPTL Section; and (C) authorize transmittal of the proposed Comment to the Florida Bar Board of Governors with a request for the Board’s approval. p. 175*

**XIII. Probate and Trust Law Division Committee Reports – Jon Scuderi, Division Director**

1. **Ad Hoc Guardianship Law Revision** – Nicklaus (“Nick”) J. Curley, Stacy B. Rubel, and David C. Brennan, Co-Chairs; Sancha K. Brennan, Vice Chair
2. **Ad Hoc Committee on Electronic Wills** — Frederick (“Ricky”) L. Hearn, Chair; Jenna G. Rubin, Vice Chair
3. **Ad Hoc Study Committee on Jurisdiction and Due Process** — Barry F. Spivey, Chair; Sean W. Kelley and Shelly Wald Harris, Co-Vice Chairs
4. **Ad Hoc ART** — Alyse Reiser Comiter, Chair; Jack A. Falk, Jr. and Sean M. Lebowitz, Co-Vice Chairs
5. **Asset Protection** — Michael A. Sneeringer, Chair; Richard (“Rick”) R. Gans, Patrick J. Lannon, and Justin M. Savioli, Co-Vice-Chairs
6. **Attorney/Trust Officer Liaison Conference** — Mitchell A. Hipsman, Chair; Stacey L. Cole, Michael M. Rubenstein, Gail G. Fagan, and Eammon W. Gunther, Co-Vice Chairs
7. **Charitable Planning and Exempt Organizations** — Denise S. Cazobon, Chair; Kelly L. Hellmuth and Alyssa R. Wan, Co-Vice-Chairs
8. **Elective Share Review** — Jenna G. Rubin, Chair; Cristina Papanikos, Jason P. Van Lenten and Lauren Y. Detzel, Co-Vice-Chairs
9. **Estate and Trust Tax Planning** — Richard N. Sherrill, Chair; Alfred (“Al”) J. Stashis, Jr., Andrew H. Thompson and Jolyon D. Acosta, Co-Vice Chairs
10. **Guardianship, Power of Attorney and Advanced Directives** — Stacy B. Rubel, Chair; Elizabeth (“Liz”) M. Hughes, Stephanie L. Cook, Caitlin M. Powell and Jacobeli J. Behar, Co-Vice Chairs
11. **IRA, Insurance and Employee Benefits** — Charles (“Chad”) W. Callahan, III, Chair; Rebecca C. Bell and Rachel N. Barlow, Co-Vice-Chairs
12. **Liaisons with ACTEC** — Elaine M. Bucher, Tami F. Conetta, Jerome L. Wolf, Charles I. Nash, L. Howard Payne and Diana S.C. Zeydel
13. **Liaisons with Elder Law Section** — Travis D. Finchum and Marjorie E. Wolasky
14. **Liaison with the FSGA** – Stephanie Cook
15. **Liaisons with Tax Section** — William R. Lane, Jr., Brian M. Malec and Brian C. Sparks
16. **Liaison with Professional Fiduciary Council** — Darby Jones
17. **OPPG Delegate** — Nicklaus (“Nick”) J. Curley
18. **Principal and Income** — Edward F. Koren and Pamela O. Price, Co-Chairs, Jolyon D. Acosta and Keith B. Braun, Co-Vice Chairs
19. **Probate and Trust Litigation** — R. Lee McElroy, IV, Chair; Cady L. Huss and Darren M. Stotts, Co-Vice Chairs
20. **Probate Law and Procedure** — Theodore S. Kypreos, Chair; Benjamin F. Diamond, Stacey Prince-Troutman, and J. Grier Pressley, III, Co-Vice

Chairs

21. **Trust Law** — David J. Akins, Chair; Jennifer J. Robinson, Jenna G. Rubin, and M. Travis Hayes, Co-Vice Chairs
22. **Wills, Trusts and Estates Certification Review Course** — Rachel A. Lunsford, Chair; J. Allison Archbold and J. Eric Virgil, Co-Vice Chairs

**XIV. Real Property Law Division Committee Reports** – *Wm. Cary Wright, Division Director*

1. **Ad Hoc Hayslip** – Brian W. Hoffman, Chair; James (“Jim”) C. Russick and Russell M. Robbins, Co-Vice Chairs
2. **Ad Hoc UCRERA** - Manuel (“Manny”) Farach, Chair; Jason M. Ellison and James (“Jim”) C. Russick, Co-Vice Chairs
3. **Attorney Banker Conference** — Kristopher E. Fernandez and Salome J. Zikakis, Co-Chairs; R. James (“Jim”) Robbins, Jr., Vice Chair
4. **Commercial Real Estate** — E. Ashley McRae, Chair; Annabella Barboza, Erin M. Miller, and Alexandra D. Gabel, Co-Vice Chairs
5. **Condominium and Planned Development** — Alexander B. Dobrev and Allison L. Hertz, Co-Chairs; Russell M. Robbins, Vice Chair
6. **Condominium and Planned Development Law Certification Review Course** —Christine M. Ertl, Chair; Alessandra Stivelman, Vice Chair
7. **Construction Law** — Sanjay Kurian, Chair; Bruce D. Partington and Elizabeth B. Ferguson, Co-Vice Chairs
8. **Construction Law Certification Review Course** — Gregg E. Hutt, Chair; Jason J. Quintero and Scott P. Pence, Co-Vice Chairs
9. **Construction Law Institute** — Bradley R. Weiss, Chair; Haley R. Maple and Trevor B. Arnold, Co-Vice Chairs
10. **Development & Land Use** —Lisa B. Van Dien, Chair; Jin Liu, Vice Chair
11. **Insurance & Surety** — Adele I. Stone and Debbie S. Crockett, Co-Chairs; Anne Q. Pollack, Vice Chair
12. **Liaisons with FLTA** — Alan K. McCall, Melissa J. Murphy, Alan B. Fields and James (“Jim”) C. Russick
13. **Liaison with American College of Real Estate Lawyers (ACREL)** — Martin A. Schwartz and William (“Bill”) P. Sklar
14. **Liaison with American College of Construction Lawyers (ACCL)** — George J. Meyer
15. **Liaison with Florida Realtors** – Louis (“Trey”) E. Goldman, III
16. **Real Estate Certification Review Course** — Lloyd Granet, Chair; Martin (“Marty”) S. Awerbach, Laura M. Licastro and Jason M. Ellison, Co-Vice Chairs
17. **Real Estate Leasing** —Christopher (“Chris”) A. Sajdera, Chair; Kristen K. Jaiven and Ryan J. McConnell, Co-Vice Chairs
18. **Real Property Finance & Lending** — Jason M. Ellison, Chair; Deborah B. Boyd and Jin Liu, Co-Vice Chairs
19. **Real Property Litigation** — Manuel (“Manny”) Farach and Shawn G. Brown, Co-Chairs; Amanda R. Kison and Terrence L. Harvey, Co-Vice Chairs
20. **Real Property Problems Study** — Susan K. Spurgeon, Chair; Amber E.

- Ashton and Brian W. Hoffman, Co-Vice Chairs
21. **Residential Real Estate and Industry Liaison** — Nicole M. Villarroel and Kristen K. Jaiven, Co-Chairs; James (“Jamie”) A. Marx and Richard (“Rich”) S. McIver, Co-Vice Chairs
  22. **Title Insurance and Title Insurance Industry Liaison** — Christopher W. Smart, Chair; Leonard F. Prescott, IV, Jeremy T. Cranford, and Michelle G. Hinden, Co-Vice Chairs
  23. **Title Issues and Standards** — Rebecca L.A. Wood and Amanda K. Hersem, Co-Chairs; Robert (“Bob”) M. Graham, Karla J. Staker and Melissa Scaletta, Co-Vice Chairs

**XV. General Standing Committee Reports** — *John C. Moran, Chair-Elect*

1. **Ad Hoc Bylaws** - Robert (“Bob”) S. Swaine and William (“Bill”) T. Hennessey, III, Co-Chairs
2. **Ad Hoc Protocols** – Stacy O. Kalmanson, Chair; Colleen C. Sachs, Vice Chair
3. **Ad Hoc Rules Revisions** – Michael V. Hargett, Thomas M. Karr, and J. Richard Caskey, Co-Chairs
4. **Ad Hoc RTODD** — Alan (“Steve”) S. Kotler and Christopher (“Chris”) W. Smart, Co-Chairs; Jeffrey (“Jeff”) S. Goethe, Vice Chair
5. **Ad Hoc Series LLC** - James A. Marx, James C. Russick and Michael A. Sneeringer, Co-Chairs
6. **Amicus Coordination** — Kenneth B. Bell, Gerald B. Cope, Jr., Robert W. Goldman and John W. Little, III, Co-Chairs
7. **Budget** — S. Dresden Brunner, Chair; Tae K. Bronner, Linda S. Griffin, Alfred (“Al”) J. Stashis, Jr. and Pamela O. Price, Co-Vice Chairs
8. **Communications** – Michael V. Hargett, Chair; Laura K. Sundberg, Vice Chair
9. **CLE Coordination** — Brenda B. Ezell and Angela M. Adams, Co-Chairs; Tatianna Brenes-Stahl, Silvia B. Rojas, Robert (“Rob”) Lancaster, Amanda R. Kison, Yoshimi O. Smith, and Stacy O. Kalmanson, Co-Vice Chairs
10. **Convention Coordination** —Tae K. Bronner and Stacy O. Kalmanson, Co-Chairs
11. **Disaster and Emergency Preparedness and Response** — Colleen C. Sachs, Chair; Amy B. Beller and Michael A. Bedke, Co-Vice Chairs
12. **Fellows** — Bridget M. Friedman and Terrence L. Harvey, Co-Chairs; Taniquea C. Reid and Amanda C. Cummins, Co-Vice Chairs
13. **Historian Committee** – David C. Brennan, Chair
14. **Homestead Issues Study** — Jeffrey (“Jeff”) A. Baskies, Chair; Shane Kelley, Jeremy T. Cranford and E. Burt Bruton, Co-Vice Chairs
15. **Information Technology** — Hardy L. Roberts III, Chair; Alexander (“Alex”) B. Dobrev, Jesse B. Friedman and Jourdan Haynes, Co-Vice Chairs
16. **Law School Outreach** — Kymberlee C. Smith, Chair; Amanda C. Cummins, Lilleth Bailey and Kristine L. Tucker, Co-Vice Chairs
17. **Legislation** — Sancha C. Brennan (PT) and Steven H. Mezer (RP), Co-Chairs; M. Travis Hayes, Benjamin (“Ben”) F. Diamond and Nicklaus (“Nick”) J. Curley (PT), Christopher (“Chris”) W. Smart, Michael V. Hargett

- and Arthur J. Menor (RP), Co-Vice Chairs
18. **Legislative Update** — Salome J. Zikakis (RP) and Kit van Pelt (PT), Co-Chairs; Terrence L. Harvey (RP), Gutman Skrande (PT) and Jennifer S. Tobin (RP), Co-Vice Chairs
  19. **Liaison with:**
    - a. **American Bar Association (ABA)** — Robert (“Rob”) S. Freedman, Edward F. Koren, George J. Meyer and Julius J. Zschau
    - b. **Business Law Section** – Manuel (“Manny”) Farach and Gwynne A. Young
    - c. **Clerks of Circuit Courts** — Laird A. Lile
    - d. **FLEA / FLSSI** — David C. Brennan and Roland D. (“Chip”) Waller
    - e. **Florida Bankers Association** — Mark T. Middlebrook and Robert G. Stern
    - f. **Judiciary** — Judge Mary Hatcher, Judge Hugh D. Hayes, Judge Mark A. Speiser, and Judge Michael Rudisill
    - g. **Out of State Members** — Nicole C. Kibert Basler, John E. Fitzgerald, Jr., and Michael P. Stafford
    - h. **TFB Board of Governors** — Rosalyn Sia Baker-Barnes
    - i. **TFB CLE Committee** — Angela M. Adams and Brenda B. Ezell
    - j. **TFB Council of Sections** — S. Katherine Frazier and John C. Moran
    - k. **TFB Pro Bono Legal Services** — Lorna E. Brown-Burton
  20. **Long-Range Planning** — S. Katherine Frazier, Chair
  21. **Meetings Planning** — George J. Meyer, Chair
  22. **Membership and Inclusion** — Lawrence (“Larry”) J. Miller, Chair; Annabella Barboza, Shayla M. Johnson-Mount, Eryn E. Riconda, and Joseph M. Percopo, Co-Vice Chairs
  23. **Model and Uniform Acts** — Patrick J. Duffey and Amber E. Ashton, Co-Chairs; Michael A. Bedke and Cullen I. Boggus, Co-Vice Chairs
  24. **Professionalism and Ethics** — Andrew B. Sasso, Chair; Elizabeth A. Bowers Stoops, Alexander (“Alex”) B. Dobrev, Rt. Judge Celeste H. Muir, and Laura K. Sundberg, Co-Vice Chairs
  25. **Publications ActionLine** — Erin F. Finlen and Michelle G. Hinden, Co-Chairs; Alexander S. Douglas, II, Daniel (“Danny”) L. McDermott, Gregg I. Strock, Paul E. Roman, and Seth R. Kaplan, Co-Vice Chairs
  26. **Publications Florida Bar Journal** — J. Allison Archbold (PT) and Homer Duvall, III (RP), Co-Chairs; Marty J. Solomon, Brian C. Sparks, and Jonathan A. Galler, Co-Vice Chairs
  27. **Sponsor Coordination** — Arlene C. Udick and Rebecca C. Bell, Co-Chairs; Marsha G. Madorsky, Jason J. Quintero, and J. Michael Swaine, Co-Vice Chairs
  28. **Strategic Planning** — Robert (“Rob”) S. Freedman and William (“Bill”) T. Hennessey, III, Co-Chairs
  29. **Strategic Planning Implementation** — Robert (“Rob”) S. Freedman, Robert (“Bob”) S. Swaine, William (“Bill”) T. Hennessey, III, Debra L. Boje, and Sarah S. Butters, Co-Chairs

**XVI. Adjourn:** Motion to Adjourn.

**Real Property, Probate and Trust Law (“RPPTL”) Section  
Executive Council Meeting  
Fairmont Le Château Frontenac  
Québec City, Québec, Canada  
September 23, 2023  
8:00 a.m. (E.T.)**

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**Meeting Minutes**

**I. Presiding** — *S. Katherine Frazier, Chair*. Meeting called to order at 8:09 am.

**II. Secretary’s Report** — *Lee A. Weintraub, Secretary*

1. Motion to approve the minutes of the July 22, 2023 meeting of the Executive Council held at The Breakers in Palm Beach, Florida. Approved unanimously.

**III. Chair’s Report** — *S. Katherine Frazier, Chair*

1. Recognition of Special Guests. Me Karine Dionne, lawyer from Stein Monast, and Marie Eve Pare, President of the Americas Committee, who spoke on real estate in Quebec. They also discussed the Cooperation Agreement between the Quebec Bar and the Florida Bar.
2. Thank you to all of our Sponsors!
3. Formation of new committee:
  - (A) GS Division – Historian Committee  
David C. Brennan, Chair
4. Interim Actions Approved by the Executive Committee.
  - (A) August 23, 2023: On July 6, 2023, the Florida Supreme Court issued its Corrected Opinion in In Re: Code for Resolving Professionalism Referrals and Amendments to Rule Regulating the Florida Bar 6-10.3. Subsequent to the Section’s Executive Council meeting on July 22, 2023, the Professionalism & Ethics Committee prepared a proposed Comment for submission to the Court by the September 19, 2023 deadline. On August 23, 2023, the Executive Committee voted unanimously to seek an extension of time from the Court to allow for the RPPTL Section’s full Executive Committee to provide opportunity for discussion and to approve the filing of a Comment on the matter, should the full Executive Committee decide to file one.

The Executive Committee also voted unanimously to direct the



Professionalism and Ethics Committee to collaborate with the CLE Committee to present a series of CLEs focused on non-discrimination principles and bias recognition and elimination in the substantive context of real property, probate and trust law.

- (B) September 7, 2023: The Executive Committee voted to ask the Florida Supreme Court for an extension of time through December 15, 2023 to provide the Section with an opportunity to discuss, consider and debate whether to comment on the two proposed procedural tracks for changes to the Rules of Civil Procedure being considered by the Court and, if deemed advisable, for the Section to provide a comment.
- (C) September 7, 2023: Consistent with the direction provided by the Executive Council at its July 22, 2023 meeting, the Executive Committee voted unanimously to adopt a legislative position clarifying the common law expressly validating easements, servitudes and other interests in real property notwithstanding that, at the time of creation, all of the affected real property is under common ownership. The Committee found this legislative position to be within the purview of the RPPTL Section and voted to expend funds in support of the proposed legislative position. **p. 33**

**IV. Board of Governors Report** — *Rosalyn Sia (“Sia”) Baker-Barnes, Liaison*. Sia thanked the Executive Council for being so welcoming to her and her family. Sia is working to expedite the Section’s legislative positions in time for an early legislative session.

Meeting adjourned at 9:03 am.

**ATTENDANCE ROSTER**  
**REAL PROPERTY PROBATE & TRUST LAW SECTION**  
**EXECUTIVE COUNCIL MEETINGS**  
**2023-2024**

Executive Committee	Division		7/22/23 Breakers	9/23/23 Quebec City, Canada	11/11/23 Tampa	2/24/24 Orlando	6/1/24 Bonita Springs
	R	P					
Frazier, S. Katherine <b>Chair</b>	RP		√	√			
Moran, John C., <b>Chair-Elect</b>		PT	√	√			
Wright, Wm. Cary <b>Division Director Real Property</b>	RP		√	√			
Jon Scuderi, <b>Division Director, Probate &amp; Trust</b>		PT	√				
Lee Weintraub <b>Secretary</b>	RP		√	√			
Dresden Brunner, <b>Treasurer</b>		PT	√				
Kightlinger, Wilhelmina <b>Director, At-Large Members</b>	RP		√				
Sancha Brennan, <b>Legislation Co-Chair Probate &amp; Trust</b>		PT	√				
Steven H. Mezer, <b>Legislation Co-Chair, Real Property</b>	RP		√				
Adams, Angela M. <b>CLE Co-Chair Probate &amp; Trust</b>		PT	√	√			
Brenda Ezell, <b>CLE Co-Chair Real Property</b>	RP		√	√			
Sarah Butters, <b>Immediate Past Chair</b>		PT	√	√			

Executive Council Members	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Breakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
Acosta, Jolyon Delphin		PT	√				
Akins, David J.		PT	√	√			
Alaimo, Marve Ann M.		PT	√				
Altman, Stuart H.		PT					
Archbold, J. Allison		PT		√			
Arnold, Casey		PT	√				
Arnold, Trevor	RP		√				
Aron, Jerry E. <b>Past Chair</b>	RP						
Ashton, Amber E.	RP		√				
Awerbach, Martin S.	RP		√				
Bald, Kimberly A.		PT					
Bailey, Lilleth		PT	√				
Baker-Barnes, Rosalyn Sia				√			
Ballaga, Raul	RP		√				
Barboza, Annabella	RP		√				
Barlow, Rachel N.		PT	√				
Baskies, Jeffrey		PT	√				
Battle, Carlos A.		PT	√				
Baumann, Phillip A.		PT	√				
Beales, III, Walter R. <b>Past Chair</b>	RP		√				
Bedke, Michael A.	RP		√				
Behar, Jacobeli J.		PT	√				
Belcher, William F.		PT	√				
Bell, Kenneth B.	RP						

Executive Council Members	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Breakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
Bell, Rebecca Coulter		PT	√	√			
Beller, Amy		PT					
Bloodworth, Jennifer J.	RP						
Boggus, Cullen			√				
Boje, Debra Lynn <b>Past Chair</b>		PT	√	√			
Bouchard, Eve		PT	√				
Bowers-Stoops, Elizabeth A.		PT					
Boyd, Deborah	RP		√				
Braun, Keith Brian		PT	√				
Brenes-Stahl, Tattiana		PT	√				
Brennan, David C. <b>Past Chair</b>		PT					
Bronner, Tae K.		PT	√				
Brown, Shawn	RP		√				
Brown-Burton, Lorna	RP		√				
Bruton, Jr., Ed Burt	RP		√				
Bucher, Elaine M.		PT	√				
Callahan, Chad W. III		PT	√				
Caskey, John Richard "Rich"		PT					
Cazobon, Denise		PT					
Christiansen, Patrick <b>Past Chair</b>	RP			√			
Cole, Stacey L.		PT	√				
Coleman, Jami A.		PT					
Comiter, Alyse Reiser		PT	√				

Executive Council Members	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Breakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
Conetta, Tami F.		PT	√				
Cook, Stephanie		PT	√				
Cope, Jr., Gerald B.	RP						
Cornett, Jane Louise	RP		√				
Cranford, Jeremy	RP		√				
Crockett, Debbie	RP		√				
Cummins, Amanda		PT	√				
Curley, Nick		PT	√				
Detzel, Lauren Y.		PT	√				
Diamond, Benjamin F.		PT	√	√			
Diamond, Sandra F. <b>Past Chair</b>		PT	√	√			
Dobrev, Alex	RP		√				
Dollinger, Jeffrey	RP						
Douglas, Alexander		PT	√				
Dribin, Michael <b>Past Chair</b>		PT	√				
Duffey, Patrick J.		PT	√				
Duvall, III, Homer	RP		√				
Eisel, Jeffrey		PT	√				
Ellison, Jason M.	RP		√				
Emerich, Guy S.		PT	√				
Ertl, Christene M.	RP		√				
Evert, Jamison C.		PT					
Fagan, Gail		PT	√	√			
Falk, Jr., Jack A.		PT	√				

Executive Council Members	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Breakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
Farach, Manuel	RP		√	√			
Felcoski, Brian J. <b>Past Chair</b>		PT	√				
Ferguson, Elizabeth B.	RP						
Fernandez, Kristopher E.	RP		√	√			
Fields, Alan B.	RP		√				
Finchum, Travis		PT	√				
Finlen, Erin F.		PT	√	√			
Fitzgerald, Jr., John E.		PT					
Freedman, Robert (Rob) <b>Past Chair</b>	RP			√			
Friedman, Bridget		PT	√	√			
Friedman, Jesse B.		PT	√				
Fugate, Norm	RP		√				
Gabel, Alexandra	RP		√				
Galler, Jonathan		PT					
Gans, Richard R.		PT	√				
Gelfand, Michael J <b>Past Chair</b>	RP		√	√			
George, Joseph P.		PT	√	√			
Getzan, Roberta							
Goethe, Jeffrey S.		PT	√				
Goldman, Louis "Trey"	RP		√				
Goldman, Robert W. <b>Past Chair</b>		PT	√				
Goodall, Deborah P.		PT	√				

Executive Council Members	Division		7/22/2023 Breakers	9/23/2023 Quebec City, Canada	11/11/2023 Tampa	2/24/2024 Orlando	6/1/2024 Bonita Springs
	R	P					
<b>Past Chair</b>							
Graham, Robert M.	RP		√				
Granet, Lloyd	RP		√				
Griffin, Linda S.		PT					
Grimsley, John G.		PT					
<b>Past Chair</b>							
Gunther, Eamonn W.		PT	√				
Guttmann, III, Louis B	RP		√				
<b>Past Chair</b>							
Hargett, Michael V.	RP		√	√			
Harris, Shelly W.		PT					
Harvey, Terrance	RP		√				
Hatcher, Hon. Mary							
Hayes, Hon. Hugh D.			√				
Hayes, Michael Travis		PT	√				
Haynes, Jourdan	RP		√				
Hearn, Frederick “Ricky”		PT	√				
Hearn, Steven L.		PT	√				
<b>Past Chair</b>							
Hellmuth, Kelly		PT					
Henderson, III, Thomas N.	RP		√				
Hennessey, William (“Bill”)		PT		√			
<b>Past Chair</b>							
Hersem, Amanda	RP		√				
Hertz, Allison	RP		√				
Heuston, Stephen P.		PT	√				

Executive Council Members	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Breakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
Hinden, Michelle	RP		√				
Hipsman, Mitchell Alec		PT	√				
Hoffman, Brian W.	RP		√				
Hughes, Elizabeth		PT	√				
Huss, Cady L.		PT	√				
Hutt, Gregg Evan	RP						
Isphording, Roger O. <b>Past Chair</b>		PT					
Jaiven, Kristen King	RP		√	√			
Jarrett, Sharifa K.		PT					
Johnson, Amber Jade		PT	√				
Jones, Darby		PT					
Jones, Frederick W.	RP						
Kalmanson, Stacy O.	RP		√	√			
Kangas, Michael R.		PT	√				
Kaplan, Seth		PT					
Karr, Thomas M.		PT					
Kayser, Joan B. <b>Past Chair</b>		PT					
Kelley, Rohan <b>Past Chair</b>		PT	√				
Kelley, Sean W.		PT					
Kelley, Shane		PT					
Kibert-Basler, Nicole	RP						
Kinsolving, Ruth Barnes <b>Past Chair</b>	RP						



Executive Council Members	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Breakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
Kison, Amanda	RP		√				
Koren, Edward F. <b>Past Chair</b>		PT	√				
Kotler, Alan Stephen		PT	√				
Kurian, Sanjay	RP		√				
Kypreos, Theodore S.		PT	√				
Lancaster, Rob		PT	√				
Lane, Jr., William R.		PT					
Lannon, Patrick		PT	√				
Lebowitz, Sean		PT					
Licastro, Laura	RP		√				
Lile, Laird A. <b>Past Chair</b>		PT	√				
Little, III, John W.	RP		√				
Liu, Jin	RP		√				
Lunsford, Rachel Albritton		PT	√	√			
Madorsky, Marsha G.		PT	√				
Malec, Brian		PT	√				
Maple, Hayley	RP		√				
Marger, Bruce <b>Past Chair</b>		PT					
Marx, James A.	RP						
McCall, Alan K.	RP		√				
McConnell, Eryn	RP						
McConnell, Ryan	RP		√	√			
McDermott, Daniel		PT					

Executive Council Members	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Breakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
McElroy, IV, Robert Lee		PT	√				
McIver, Richard	RP		√				
McRae, Ashley E.	RP		√				
Menor, Arthur J.	RP						
Meyer, George F. <b>Past Chair</b>	RP		√				
Meyer, Michael	RP		√				
Middlebrook, Mark	RP		√				
Miller, Erin			√				
Miller, Lawrence ("Larry")		PT	√				
Mount, Shayla							
Muir, Hon. Celeste H.		PT					
Murphy, Melissa J. <b>Past Chair</b>	RP		√				
Nash, Charles I.		PT	√				
Neukamm, John B. <b>Past Chair</b>	RP			√			
Nguyen, Hung V.		PT					
O'Malley, Andrew M.	RP						
Papanikos, Cristina		PT	√				
Partington, Bruce	RP		√	√			
Payne, L. Howard		PT					
Pence, Scott P.	RP		√				
Percopo, Joe		PT	√				
Pilotte, Frank		PT	√	√			
Pollack, Anne Q.	RP		√	√			

Executive Council Members	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Breakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
Powell, Caitlin		PT	√				
Prescott, Leonard	RP		√				
Pressley, Grier James		PT	√				
Price, Pamela O.		PT					
Prince-Troutman, Stacy		PT	√				
Quintero, Jason	RP		√				
Reid, Taniquea		PT	√				
Redding, John N.	RP		√	√			
Riconda, Eryn		PT	√				
Robbins, Jr., R. James	RP		√	√			
Robbins, Russell	RP		√				
Roberts, III, Hardy L.	RP		√				
Roberts, Tance		PT	√				
Robinson, Jennifer		PT					
Rojas, Silvia B.	RP		√	√			
Rolando, Margaret A.	RP		√	√			
<b>Past Chair</b>							
Roman, Paul E.		PT	√	√			
Romano, Antonio		PT					
Rubel, Stacy		PT	√				
Rubenstein, Michael		PT	√				
Rubin, Jenna		PT	√				
Rudisill, Hon. Michael	RP		√				
Russick, James C.	RP		√	√			
Sachs, Colleen C.	RP		√				
Sajdera, Christopher	RP						

Executive Council Members	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Breakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
Sanchez-Medina, Roland							
Sasso, Andrew		PT	√				
Savioli, Justin		PT					
Scaletta, Melissa	RP		√				
Schwartz, Martin	RP						
Schwartz, Robert M.	RP		√				
Shanks, David	RP		√				
Sheets, Sandra G.		PT	√	√			
Sherrill, Richard		PT	√				
Sklar, William P.	RP						
Skrande, Gutman		PT	√				
Smart, Christopher W.		PT	√				
Smith, Kymberlee C.	RP		√				
Smith, G. Thomas <b>Past Chair/Hon. Member</b>	RP						
Smith, Yoshimi O.		PT					
Sneeringer, Michael A.		PT	√				
Solomon, Marty	RP		√				
Sparks, Brian C.		PT	√				
Speiser, Hon. Mark A.		PT	√				
Spivey, Barry F.		PT	√				
Spurgeon, Susan K.	RP						
Stafford, Michael P.		PT	√				
Staker, Karla J.	RP		√	√			
Stashis, Alfred Joseph		PT					
Stern, Robert G.	RP		√	√			

Executive Council Members	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Breakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
Stivelman, Alessandra			√				
Stoops, Elizabeth			√				
Stone, Adele I.	RP						
Stone, Bruce M. <b>Past Chair</b>		PT					
Stotts, Darren		PT	√				
Strock, Gregg			√				
Sundberg, Laura K.		PT	√	√			
Swaine, Jack Michael <b>Past Chair</b>	RP			√			
Swaine, Robert S. <b>Past Chair</b>	RP						
Taft, Ellie	RP		√				
Taylor, Richard W.	RP						
Thomas, Hon. Patricia		PT	√	√			
Thompson, Andrew		PT	√				
Thornton, Kenneth E. "Kip"	RP		√				
Tobin, Jennifer S.	RP		√				
Tschida, Joseph John	RP		√				
Tucker, Kristine L.		PT					
Udick, Arlene C.	RP		√	√			
Van Dien, Lisa Barnett	RP						
Van Lenten, Jason Paul		PT	√				
Van Pelt, Kit E.		PT	√	√			
Villarroel, Nicole Marie	RP		√				
Virgil, Eric		PT					
Waller, Roland D.	RP		√				

Executive Council Members	Division		7/22/2023 Breakers	9/23/2023 Quebec City, Canada	11/11/2023 Tampa	2/24/2024 Orlando	6/1/2024 Bonita Springs
	R	P					
<b>Past Chair</b>							
Wan, Alyssa Razook		PT	√				
Warner, Richard		PT					
Weiss, Brad R.	RP		√				
Williams, Margaret A.	RP						
Williams, Jorja		PT	√				
Williamson, Julie Ann <b>Past Chair</b>	RP						
Wolasky, Marjorie E.		PT	√	√			
Wolf, Jerome L.		PT					
Wood, Rebecca	RP		√				
Young, Gwynne A.		PT					
Zeydel, Diana S.C.		PT					
Zikakis, Salome J.	RP		√				
Zschau, Julius J. <b>Past Chair</b>	RP						
Zuroweste, Zack		PT	√				

**Affiliate Members**

Fellows	Division		7/22/2023 Beakers	9/23/2023 Quebec City, Canada	11/11/2023 Tampa	2/24/2024 Orlando	6/1/2024 Bonita Springs
	R	P					
Boisrond, Sandra							
Cherneski, John		PT	√				

Curtis, Wade							
Clark, Danielle		PT	√				
Davis, Jade							
Harmon, Sara Ashley		PT	√				
Mora, Jeanette		PT	√				
Pieczynski, Janaye			√				
Selvaraj, Natasha			√				

Legislative Consultants	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Beakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
Brown, French	RP		√				
Dunbar, Marc							
Dunbar, Peter M.	RP		√	√			
Edenfield, Martha Jane		PT	√	√			

Sponsors	Division		7/22/2023	9/23/2023	11/11/2023	2/24/2024	6/1/2024
	R	P	Beakers	Quebec City, Canada	Tampa	Orlando	Bonita Springs
Vianna, Rafaela				√			
Jones, Todd				√			
Jenkins, Joryn				√			
Seigel, Daniel				√			

	<b>R</b>	<b>P</b>				





## Thank you to Our General Sponsors

<b><u>Level</u></b>	<b><u>Sponsor</u></b>	<b><u>Contact Name</u></b>	<b><u>Email</u></b>
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Platinum	<b>The Fund</b>	Melissa Murphy	<a href="mailto:mmurphy@thefund.com">mmurphy@thefund.com</a>
Platinum	<b>RealAdvice</b>	Todd Jones	<a href="mailto:Todd.Jones@realadvice.com">Todd.Jones@realadvice.com</a>
APP	<b>WFG National Title Insurance</b>	Joseph J. Tschida	<a href="mailto:jtschida@wfgnationaltitle.com">jtschida@wfgnationaltitle.com</a>
Gold	<b>CATIC</b>	Deb Boyd	<a href="mailto:dboyd@catic.com">dboyd@catic.com</a>
Gold	<b>Coral Gables Trust</b>	John Harris	<a href="mailto:jharris@cgtrust.com">jharris@cgtrust.com</a>
Gold	<b>First American Title Insurance Company</b>	Len Prescott	<a href="mailto:lprescott@firstam.com">lprescott@firstam.com</a>
Gold	<b>FNF Family of Companies – Florida</b>	Karla Staker	<a href="mailto:Karla.staker@fnf.com">Karla.staker@fnf.com</a>
Gold	<b>Guardian Trust</b>	Travis Finchum	<a href="mailto:travis@specialneedslawyers.com">travis@specialneedslawyers.com</a>
Gold	<b>JP Morgan Private Bank</b>	Carlos Batlle	<a href="mailto:Carlos.a.batlle@jpmorgan.com">Carlos.a.batlle@jpmorgan.com</a>
Gold	<b>Stewart Title Guaranty Company</b>	David Shanks	<a href="mailto:David.shanks@stewart.com">David.shanks@stewart.com</a>
Gold	<b>Stout</b>	Garry Marshall	<a href="mailto:gmarshall@stout.com">gmarshall@stout.com</a>
Gold	<b>Westcor Land Title Insurance Company</b>	Laura Licastro	<a href="mailto:Laura.licastro@wltic.com">Laura.licastro@wltic.com</a>
Silver	<b>Management Planning, Inc.</b>	Roy Meyers	<a href="mailto:rmeyers@mpival.com">rmeyers@mpival.com</a>
Silver	<b>Provisie</b>	Steve Athanassie	<a href="mailto:Athanassie@provisie.com">Athanassie@provisie.com</a>
Silver	<b>Title Resources Group</b>	Lee Offir	<a href="mailto:Lee.offir@titleresources.com">Lee.offir@titleresources.com</a>
Silver	<b>Valuation Services Inc.</b>	Jeff Bae	<a href="mailto:jeff@valuationservice.com">jeff@valuationservice.com</a>

Bronze	<b>Amerant Bank</b>	Madelayne Cordero	<a href="mailto:mcordero@amerantbank.com">mcordero@amerantbank.com</a>
Bronze	<b>BNY Mellon Wealth Management</b>	Rafaela Vianna	<a href="mailto:Rafaela.vianna@bnymellon.com">Rafaela.vianna@bnymellon.com</a>
Bronze	<b>Business Valuation Analysts</b>	Tim Bronza	<a href="mailto:tbronza@bvanalysts.com">tbronza@bvanalysts.com</a>
Bronze	<b>Cumberland Trust</b>	Bob Carville	<a href="mailto:bcarville@cumberlandtrust.com">bcarville@cumberlandtrust.com</a>
Bronze	<b>Grove Bank &amp; Trust</b>	Marta Goldberg	<a href="mailto:mgoldberg@grovebankandtrust.com">mgoldberg@grovebankandtrust.com</a>
Legislative Update	<b>The Fund</b>	Melissa Murphy	<a href="mailto:mmurphy@thefund.com">mmurphy@thefund.com</a>

**RPPTL 2023-2024**  
**Executive Council Meeting Schedule**  
**Katherine Frazier's Year**

**Limit 1 reservation per registrant, additional rooms will be approved upon special request.**

**NOTE- Committee meetings may be conducted virtually via Zoom prior to the in-state Executive Council meeting weekend. Both virtual attendance and voting will be permitted at the in-state Executive Council meeting unless notice is otherwise provided.**

<b>Date</b>	<b>Location</b>
<b>July 19 – July 23, 2023</b>	<b>Executive Council Meeting &amp; Legislative Update</b> The Breakers Palm Beach, Florida Room Rate (Deluxe Room – King): \$257 Premium Room Rate: \$314
<b>September 20 – September 24, 2023</b>	<b>Executive Council Meeting</b> Fairmont Le Chateau Frontenac Quebec City, Quebec, Canada Standard Guest Room Rate (King): \$359 CAD (Canadian Dollars) *Reminder – You will need your passport!
<b>November 8 – November 12, 2023</b>	<b>Executive Council Meeting</b> JW Marriott Tampa Water Street Tampa, Florida Standard Guest Room Rate: \$259 King Suite Room Rate: \$289
<b>February 21 – February 25, 2024</b>	<b>Executive Council Meeting</b> Ritz Carlton Grande Lakes Orlando, Florida Standard Room Rate: \$359 JW Marriott Standard Room Rate: \$329
<b>May 29 – June 2, 2024</b>	<b>Executive Council Meeting &amp; Annual Convention</b> Hyatt Regency Coconut Point Bonita Springs, Florida Standard Guest Room Rate: \$209

**RPPTL 2024-2025**  
**Executive Council Meeting Schedule**  
**John Moran's Year**

Limit 1 reservation per registrant, additional rooms will be approved upon special request.

**NOTE- Committee meetings may be conducted virtually via Zoom prior to the in-state Executive Council meeting weekend. Both virtual attendance and voting will be permitted at the in-state Executive Council meeting unless notice is otherwise provided.**

Date	Location
<b>July 24 – July 27, 2024</b>	<b>Executive Council Meeting &amp; Legislative Update</b> The Breakers Palm Beach, Florida Room Rate (Deluxe Room – King): \$295 Premium Room Rate: \$365
<b>September 4 – September 8, 2024</b>	<b>Executive Council Meeting</b> Loews Coral Gables Coral Gables, Florida Room Rate (Run of house): \$229
<b>December 4 – December 08, 2024</b>	<b>Executive Council Meeting</b> The Broadmoor Colorado Springs, Colorado Room Rate (Run of West): \$265
<b>February 5 – February 9, 2025</b>	<b>Executive Council Meeting</b> The Ritz Carlton Amelia Island Amelia Island, Florida Room Rate (Coastal View): \$399
<b>May 28 – June 1, 2025</b>	<b>Executive Council Meeting &amp; Annual Convention</b> Four Seasons Orlando Orlando, Florida Room Rate (Run of house): \$399

**THE FLORIDA BAR**  
**Real Property Probate and Trust Law Section Rollup**  
**For the Three Months Ending September 30, 2023**

	September	YTD 2024	YTD 23-24 Budget	YTD/YTD Variance (\$)	FY 23-24 Budget	YTD 2023	YTD/Prior YTD Variance (\$)	FYE Actual 2023
3001-Annual Fees	18,600	665,760	160,000	505,760	660,000	666,600	(840)	679,210
3002-Affiliate Fees	700	11,320	1,200	10,120	5,000	11,900	(580)	12,540
<b>Total Fee Revenue</b>	<b>19,300</b>	<b>677,080</b>	<b>161,200</b>	<b>515,880</b>	<b>665,000</b>	<b>678,500</b>	<b>(1,420)</b>	<b>691,750</b>
3301-Registration-Live	30,570	491,308	248,800	242,508	579,300	344,307	147,001	676,879
3321-Registration-Webcast	-	-	15,000	(15,000)	15,000	-	-	-
3331-Registration-Ticket	(160)	8,930	30,000	(21,070)	32,000	-	8,930	12,300
<b>Total Registration Revenue</b>	<b>30,410</b>	<b>500,238</b>	<b>293,800</b>	<b>206,438</b>	<b>626,300</b>	<b>344,307</b>	<b>155,931</b>	<b>689,179</b>
3341-Exhibit Fees	-	118,500	62,000	56,500	78,500	-	118,500	99,900
3351-Sponsorships	11,500	381,900	158,000	223,900	495,000	388,825	(6,925)	578,950
3391 Section Profit Split	49,707	170,068	75,000	95,068	425,000	166,424	3,645	627,155
3392-Section Differential	1,500	6,300	3,750	2,550	15,000	3,840	2,460	21,300
<b>Other Event Revenue</b>	<b>62,707</b>	<b>676,768</b>	<b>298,750</b>	<b>378,018</b>	<b>1,013,500</b>	<b>559,089</b>	<b>117,680</b>	<b>1,327,305</b>
3401-Sales-CD/DVD	7,430	15,315	2,500	12,815	20,000	21,212	(5,897)	68,427
3411-Sales-Published Materials	-	-	1,000	(1,000)	1,500	-	-	-
<b>Sales, Rents &amp; Royalties Revenue</b>	<b>7,430</b>	<b>15,315</b>	<b>3,500</b>	<b>11,815</b>	<b>21,500</b>	<b>21,212</b>	<b>(5,897)</b>	<b>68,427</b>
3561-Advertising	-	-	9,000	(9,000)	18,000	2,000	(2,000)	8,840
<b>Other Revenue Sources</b>	<b>-</b>	<b>-</b>	<b>9,000</b>	<b>(9,000)</b>	<b>18,000</b>	<b>2,000</b>	<b>(2,000)</b>	<b>8,840</b>
3699-Other Operating Revenue	-	-	-	-	800	-	-	-
3901-Eliminated InterFund Revenue	-	-	-	-	-	-	-	350
<b>Other Revenue Sources</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>800</b>	<b>-</b>	<b>-</b>	<b>350</b>
<b>Total Revenue</b>	<b>119,847</b>	<b>1,869,402</b>	<b>766,250</b>	<b>1,103,152</b>	<b>2,345,100</b>	<b>1,605,108</b>	<b>264,294</b>	<b>2,785,852</b>
4134-Web Services	5,917	9,868	18,750	(8,882)	75,000	12,755	(2,887)	48,648
4301-Photocopying	-	-	100	(100)	100	-	-	-
4311-Office Supplies	264	1,143	1,350	(207)	5,150	64	1,079	2,301
<b>Total Staff &amp; Office Expense</b>	<b>6,181</b>	<b>11,011</b>	<b>20,200</b>	<b>(9,189)</b>	<b>80,250</b>	<b>12,819</b>	<b>(1,808)</b>	<b>50,949</b>
5031-AV Services	-	-	-	-	-	79	(79)	79
5051-Credit Card Fees	1,488	5,738	31,110	(25,372)	31,110	10,240	(4,501)	45,115
5101-Consultants	30,000	40,400	30,000	10,400	120,000	11,366	29,034	150,600
5121-Printing-Outside	-	-	67,500	(67,500)	127,500	16,190	(16,190)	80,712
5181-Speaker Honorarium	-	-	-	-	5,000	-	-	-
5199-Other Contract Services	1,233	2,820	30,000	(27,180)	125,000	675	2,145	55,703
<b>Total Contract Services</b>	<b>32,721</b>	<b>48,958</b>	<b>158,610</b>	<b>(109,652)</b>	<b>408,610</b>	<b>38,550</b>	<b>10,408</b>	<b>332,208</b>
5501-Employee Travel	4,023	9,074	27,203	(18,129)	41,966	5,146	3,928	21,632
5531-Board/Off/Memb Travel	-	-	19,998	(19,998)	19,998	-	-	3,755
5571-Speaker Travel	7,322	10,653	14,100	(3,447)	27,100	8,710	1,944	24,734
5581-Consultant Travel	-	-	15,000	(15,000)	15,000	8,634	(8,634)	15,344
5599-Other Travel	-	-	-	-	-	1,410	(1,410)	636
<b>Total Travel</b>	<b>11,345</b>	<b>19,727</b>	<b>76,301</b>	<b>(56,574)</b>	<b>104,064</b>	<b>23,900</b>	<b>(4,172)</b>	<b>66,102</b>
6001-Post 1st Class/Bulk	158	551	-	551	-	574	(23)	37,036
6021-Post Express Mail	-	-	-	-	-	96	(96)	165
6311-Mtgs General Meeting	(3,137)	182,624	375,000	(192,376)	750,000	311,360	(128,735)	791,312
6319-Mtgs Other Functions	4,474	6,317	10,000	(3,683)	42,000	10,198	(3,880)	45,575
6321-Mtgs Meals	90,130	130,306	102,000	28,306	389,000	244,136	(113,830)	313,601
6325-Mtgs Hospitality	96,053	114,579	114,000	579	194,100	29,130	85,449	256,264
6341-Mtgs Equip Rental	1,051	30,182	45,000	(14,818)	101,000	29,042	1,140	78,517
6361-Mtgs Entertainment	-	-	-	-	40,000	-	-	35,800
6399-Mtgs Other	-	-	-	-	25,000	3,320	(3,320)	3,320
6401-Speaker Expense	-	-	200	(200)	7,500	-	-	-
6451-Committee Expense	110	28,569	25,000	3,569	100,000	32,075	(3,506)	161,842

6531-Brd/Off Special Project	-	-	15,000	(15,000)	50,000	265	(265)	265
6599-Brd/Off Other	-	-	4,000	(4,000)	15,000	-	-	1,000
7001-Grant/Award/Donation	-	3,402	5,000	(1,598)	13,000	1,985	1,417	9,373
7003-Div Int Grants	-	-	3,000	(3,000)	12,000	1,584	(1,584)	3,084
7004-Law School Prog.	-	-	4,225	(4,225)	5,500	235	(235)	1,859
7006-Professional Outreach	-	-	750	(750)	3,000	-	-	500
7011-Scholarship/Fellowship	1,514	5,735	9,000	(3,265)	27,000	8,119	(2,384)	19,097
7999-Other Operating Exp	483	2,077	2,500	(423)	6,300	4	2,073	3,607
<b>Total Other Expense</b>	<b>190,835</b>	<b>504,342</b>	<b>714,675</b>	<b>(210,333)</b>	<b>1,780,400</b>	<b>672,121</b>	<b>(167,779)</b>	<b>1,762,217</b>
8011-Administration CLE	-	16,650	25,750	(9,100)	33,250	15,850	800	37,850
8021-Section Admin Fee	34,409	245,166	-	245,166	229,354	246,362	(1,196)	251,865
8101-Printing In-House	86	1,960	7,350	(5,390)	7,350	300	1,660	1,349
8131-A/V Services	630	5,895	-	5,895	-	5,260	635	5,827
8141-Journal/News Service	-	425	500	(75)	500	850	(425)	1,275
8171-Course Approval Fee	-	-	150	(150)	450	150	(150)	750
8901-Eliminated IntEnt Exp	500	500	375	125	3,000	2,500	(2,000)	7,500
<b>Total Admin &amp; Internal Expense</b>	<b>35,624</b>	<b>270,596</b>	<b>34,125</b>	<b>236,471</b>	<b>273,904</b>	<b>271,273</b>	<b>(676)</b>	<b>306,417</b>
9692-Transfer Out-Council of Sections	-	500	500	-	500	500	-	500
<b>Total InterFund Transfers Out</b>	<b>-</b>	<b>500</b>	<b>500</b>	<b>-</b>	<b>500</b>	<b>500</b>	<b>-</b>	<b>500</b>
<b>Total Expense</b>	<b>276,707</b>	<b>855,136</b>	<b>1,004,411</b>	<b>(149,275)</b>	<b>2,647,728</b>	<b>1,019,163</b>	<b>(164,027)</b>	<b>2,518,393</b>
<b>Operating Income</b>	<b>(156,860)</b>	<b>1,014,266</b>	<b>(238,161)</b>	<b>1,252,427</b>	<b>(302,628)</b>	<b>585,945</b>	<b>428,321</b>	<b>267,459</b>
3899-Investment Income (loss)	(73,482)	(64,817)	37,227	(102,044)	148,906	(118,156)	53,339	228,505
<b>Total Nonoperating Revenue (Expenses)</b>	<b>(73,482)</b>	<b>(64,817)</b>	<b>37,227</b>	<b>(102,044)</b>	<b>148,906</b>	<b>(118,156)</b>	<b>53,339</b>	<b>228,505</b>
<b>Change in Net Position</b>	<b>(230,342)</b>	<b>949,449</b>	<b>(200,934)</b>	<b>1,150,383</b>	<b>(153,722)</b>	<b>467,789</b>	<b>481,660</b>	<b>495,964</b>
<b>Net Position</b>								
2001-Beginning of the year, restated (Fund Balance)	-	3,103,715				2,607,751		2,607,751
<b>End of the Year (Current Month)</b>	<b>-</b>	<b>4,053,164</b>				<b>3,075,540</b>		<b>3,103,715</b>

**THE FLORIDA BAR**  
**Real Property, Probate and Trust Law General**  
**For the Three Months Ending September 30, 2023**

	September	YTD 2024	YTD 23-24 Budget	YTD/YTD Variance (\$)	FY 23-24 Budget	YTD 2023	YTD/Prior Variance (\$)	FYE Actual 2023
3001-Annual Fees	18,600	665,760	160,000	505,760	660,000	666,600	(840)	679,210
3002-Affiliate Fees	700	11,320	1,200	10,120	5,000	11,900	(580)	12,540
<b>Total Fee Revenue</b>	<b>19,300</b>	<b>677,080</b>	<b>161,200</b>	<b>515,880</b>	<b>665,000</b>	<b>678,500</b>	<b>(1,420)</b>	<b>691,750</b>
3301-Registration-Live	30,570	220,828	72,000	148,828	180,000	116,645	104,183	249,176
<b>Total Registration Revenue</b>	<b>30,570</b>	<b>220,828</b>	<b>72,000</b>	<b>148,828</b>	<b>180,000</b>	<b>116,645</b>	<b>104,183</b>	<b>249,176</b>
3351-Sponsorships	11,500	267,000	78,000	189,000	200,000	208,750	58,250	181,875
3391 Section Profit Split	49,707	170,068	75,000	95,068	425,000	166,424	3,645	627,155
3392-Section Differential	1,500	6,300	3,750	2,550	15,000	3,840	2,460	21,300
<b>Other Event Revenue</b>	<b>62,707</b>	<b>443,368</b>	<b>156,750</b>	<b>286,618</b>	<b>640,000</b>	<b>379,014</b>	<b>64,355</b>	<b>830,330</b>
3561-Advertising	-	-	9,000	(9,000)	18,000	2,000	(2,000)	8,840
<b>Other Revenue Sources</b>	<b>-</b>	<b>-</b>	<b>9,000</b>	<b>(9,000)</b>	<b>18,000</b>	<b>2,000</b>	<b>(2,000)</b>	<b>8,840</b>
3901-Eliminated InterFund Revenue	-	-	-	-	-	-	-	350
<b>Other Revenue Sources</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>350</b>
<b>Total Revenue</b>	<b>112,577</b>	<b>1,341,277</b>	<b>398,950</b>	<b>942,327</b>	<b>1,503,000</b>	<b>1,176,159</b>	<b>165,118</b>	<b>1,780,446</b>
4134-Web Services	5,917	9,868	18,750	(8,882)	75,000	12,755	(2,887)	48,648
4311-Office Supplies	264	1,143	1,200	(57)	5,000	64	1,079	2,301
<b>Total Staff &amp; Office Expense</b>	<b>6,181</b>	<b>11,011</b>	<b>19,950</b>	<b>(8,939)</b>	<b>80,000</b>	<b>12,819</b>	<b>(1,808)</b>	<b>50,949</b>
5051-Credit Card Fees	1,310	4,063	17,500	(13,437)	17,500	2,325	1,738	16,084
5101-Consultants	30,000	40,400	30,000	10,400	120,000	11,366	29,034	150,600
5121-Printing-Outside	-	-	60,000	(60,000)	120,000	13,420	(13,420)	77,942
5199-Other Contract Services	1,233	2,820	30,000	(27,180)	125,000	-	2,820	55,028
<b>Total Contract Services</b>	<b>32,543</b>	<b>47,283</b>	<b>137,500</b>	<b>(90,217)</b>	<b>382,500</b>	<b>27,111</b>	<b>20,172</b>	<b>299,654</b>
5501-Employee Travel	1,887	5,776	21,487	(15,711)	28,000	2,738	3,039	14,078
5531-Board/Off/Memb Travel	-	-	19,998	(19,998)	19,998	-	-	3,755
5581-Consultant Travel	-	-	15,000	(15,000)	15,000	8,634	(8,634)	15,344
5599-Other Travel	-	-	-	-	-	1,410	(1,410)	636
<b>Total Travel</b>	<b>1,887</b>	<b>5,776</b>	<b>56,485</b>	<b>(50,709)</b>	<b>62,998</b>	<b>12,781</b>	<b>(7,005)</b>	<b>33,813</b>
6001-Post 1st Class/Bulk	136	327	-	327	-	445	(118)	35,445
6311-Mtgs General Meeting	(3,137)	182,624	375,000	(192,376)	750,000	309,904	(127,279)	780,243
6319-Mtgs Other Functions	-	-	-	-	-	-	-	818
6325-Mtgs Hospitality	-	17,937	17,500	437	35,000	28,805	(10,868)	33,654
6399-Mtgs Other	-	-	-	-	25,000	-	-	-
6401-Speaker Expense	-	-	200	(200)	7,500	-	-	-
6451-Committee Expense	110	28,569	25,000	3,569	100,000	32,075	(3,506)	161,842
6531-Brd/Off Special Project	-	-	15,000	(15,000)	50,000	265	(265)	265
6599-Brd/Off Other	-	-	4,000	(4,000)	15,000	-	-	1,000
7001-Grant/Award/Donation	-	-	-	-	8,000	27	(27)	7,344
7003-Div Int Grants	-	-	3,000	(3,000)	12,000	1,584	(1,584)	3,084
7004-Law School Prog.	-	-	4,225	(4,225)	5,500	235	(235)	1,859
7006-Professional Outreach	-	-	750	(750)	3,000	-	-	500
7011-Scholarship/Fellowship	1,514	5,735	9,000	(3,265)	27,000	8,119	(2,384)	19,097
7999-Other Operating Exp	-	-	1,000	(1,000)	3,000	-	-	-
<b>Total Other Expense</b>	<b>(1,378)</b>	<b>235,193</b>	<b>454,675</b>	<b>(219,482)</b>	<b>1,041,000</b>	<b>381,458</b>	<b>(146,266)</b>	<b>1,045,152</b>
8021-Section Admin Fee	34,409	245,166	-	245,166	229,354	246,362	(1,196)	251,865
8101-Printing In-House	86	312	3,000	(2,688)	3,000	94	218	928
8901-Eliminated IntEnt Exp	500	500	375	125	3,000	2,500	(2,000)	7,500

<b>Total Admin &amp; Internal Expense</b>	<b>34,994</b>	<b>245,978</b>	<b>3,375</b>	<b>242,603</b>	<b>235,354</b>	<b>248,956</b>	<b>(2,978)</b>	<b>260,293</b>
9692-Transfer Out-Council of Sections	-	500	500	-	500	500	-	500
<b>Total InterFund Transfers Out</b>	<b>-</b>	<b>500</b>	<b>500</b>	<b>-</b>	<b>500</b>	<b>500</b>	<b>-</b>	<b>500</b>
<b>Total Expense</b>	<b>74,228</b>	<b>545,741</b>	<b>672,485</b>	<b>(126,744)</b>	<b>1,802,352</b>	<b>683,626</b>	<b>(137,885)</b>	<b>1,690,361</b>
<b>Operating Income</b>	<b>38,349</b>	<b>795,536</b>	<b>(273,535)</b>	<b>1,069,071</b>	<b>(299,352)</b>	<b>492,532</b>	<b>303,003</b>	<b>90,085</b>
3899-Investment Income (loss)	(73,482)	(64,817)	37,227	(102,044)	148,906	(118,156)	53,339	228,505
<b>Total Nonoperating Revenue (Expenses)</b>	<b>(73,482)</b>	<b>(64,817)</b>	<b>37,227</b>	<b>(102,044)</b>	<b>148,906</b>	<b>(118,156)</b>	<b>53,339</b>	<b>228,505</b>
<b>Change in Net Position</b>	<b>(35,134)</b>	<b>730,718</b>	<b>(236,308)</b>	<b>967,026</b>	<b>(150,446)</b>	<b>374,377</b>	<b>356,342</b>	<b>318,591</b>



**THE FLORIDA BAR**  
**Real Property Trust Officer Liaison Conference**  
**For the Three Months Ending September 30, 2023**

	September	YTD 2024	YTD 23-24 Budget	YTD/YTD Variance (\$)	FY 23-24 Budget	YTD 2023	YTD/Prior Variance (\$)	FYE Actual 2023
3301-Registration-Live	-	270,950	176,800	94,150	176,800	228,673	42,277	219,443
3331-Registration-Ticket	(160)	8,930	10,000	(1,070)	10,000	-	8,930	8,550
<b>Total Registration Revenue</b>	<b>(160)</b>	<b>279,880</b>	<b>186,800</b>	<b>93,080</b>	<b>186,800</b>	<b>228,673</b>	<b>51,207</b>	<b>227,993</b>
3341-Exhibit Fees	-	81,000	48,000	33,000	48,000	-	81,000	73,400
3351-Sponsorships	-	108,900	80,000	28,900	80,000	163,675	(54,775)	89,875
<b>Other Event Revenue</b>	<b>-</b>	<b>189,900</b>	<b>128,000</b>	<b>61,900</b>	<b>128,000</b>	<b>163,675</b>	<b>26,225</b>	<b>163,275</b>
3401-Sales-CD/DVD	2,630	3,250	2,500	750	5,000	8,072	(4,822)	16,992
3411-Sales-Published Materials	-	-	1,000	(1,000)	1,000	-	-	-
<b>Sales, Rents &amp; Royalties Revenue</b>	<b>2,630</b>	<b>3,250</b>	<b>3,500</b>	<b>(250)</b>	<b>6,000</b>	<b>8,072</b>	<b>(4,822)</b>	<b>16,992</b>
<b>Total Revenue</b>	<b>2,470</b>	<b>473,030</b>	<b>318,300</b>	<b>154,730</b>	<b>320,800</b>	<b>400,420</b>	<b>72,610</b>	<b>408,260</b>
5051-Credit Card Fees	58	1,469	7,000	(5,531)	7,000	7,254	(5,786)	14,683
5121-Printing-Outside	-	-	2,500	(2,500)	2,500	107	(107)	107
<b>Total Contract Services</b>	<b>58</b>	<b>1,469</b>	<b>9,500</b>	<b>(8,031)</b>	<b>9,500</b>	<b>7,361</b>	<b>(5,892)</b>	<b>14,790</b>
5501-Employee Travel	2,136	3,298	2,716	582	2,716	1,303	1,994	1,746
5571-Speaker Travel	5,957	5,957	8,100	(2,143)	8,100	3,997	1,960	5,098
<b>Total Travel</b>	<b>8,093</b>	<b>9,254</b>	<b>10,816</b>	<b>(1,562)</b>	<b>10,816</b>	<b>5,300</b>	<b>3,955</b>	<b>6,844</b>
6001-Post 1st Class/Bulk	4	60	-	60	-	-	60	267
6021-Post Express Mail	-	-	-	-	-	51	(51)	98
6319-Mtgs Other Functions	4,474	6,317	10,000	(3,683)	10,000	5,198	1,120	5,198
6321-Mtgs Meals	90,130	90,130	57,000	33,130	57,000	199,258	(109,128)	63,970
6325-Mtgs Hospitality	96,053	96,053	95,000	1,053	95,000	325	95,728	135,613
6341-Mtgs Equip Rental	1,051	19,201	30,000	(10,799)	30,000	19,683	(482)	19,683
6399-Mtgs Other	-	-	-	-	-	3,320	(3,320)	3,320
7999-Other Operating Exp	483	1,470	1,000	470	1,000	4	1,466	1,374
<b>Total Other Expense</b>	<b>192,195</b>	<b>213,233</b>	<b>193,000</b>	<b>20,233</b>	<b>193,000</b>	<b>227,838</b>	<b>(14,606)</b>	<b>229,522</b>
8011-Administration CLE	-	15,950	25,000	(9,050)	25,000	14,850	1,100	14,850
8101-Printing In-House	-	1,338	3,000	(1,662)	3,000	6	1,332	6
8131-A/V Services	560	5,825	-	5,825	-	5,085	740	5,155
8141-Journal/News Service	-	425	-	425	-	850	(425)	850
8171-Course Approval Fee	-	-	150	(150)	150	-	-	150
<b>Total Admin &amp; Internal Expense</b>	<b>560</b>	<b>23,538</b>	<b>28,150</b>	<b>(4,612)</b>	<b>28,150</b>	<b>20,791</b>	<b>2,746</b>	<b>21,011</b>
<b>Total Expense</b>	<b>200,905</b>	<b>247,494</b>	<b>241,466</b>	<b>6,028</b>	<b>241,466</b>	<b>261,290</b>	<b>(13,797)</b>	<b>272,167</b>
<b>Operating Income</b>	<b>(198,435)</b>	<b>225,536</b>	<b>76,834</b>	<b>148,702</b>	<b>79,334</b>	<b>139,130</b>	<b>86,406</b>	<b>136,093</b>

**THE FLORIDA BAR**  
**Real Property Construction Law Institute**  
**For the Three Months Ending September 30, 2023**

	September	YTD 2024	YTD 23-24 Budget	YTD/YTD Variance (\$)	FY 23-24 Budget	YTD 2023	YTD/Prior Variance (\$)	FYE Actual 2023
3301-Registration-Live	-	-	-	-	140,000	-	-	129,560
3331-Registration-Ticket	-	-	-	-	2,000	-	-	3,750
<b>Total Registration Revenue</b>	-	-	-	-	<b>142,000</b>	-	-	<b>133,310</b>
3351-Sponsorships	-	-	-	-	190,000	-	-	244,300
<b>Other Event Revenue</b>	-	-	-	-	<b>190,000</b>	-	-	<b>244,300</b>
3401-Sales-CD/DVD	3,900	10,540	-	10,540	15,000	9,340	1,200	40,510
3411-Sales-Published Materials	-	-	-	-	500	-	-	-
<b>Sales, Rents &amp; Royalties Revenue</b>	<b>3,900</b>	<b>10,540</b>	-	<b>10,540</b>	<b>15,500</b>	<b>9,340</b>	<b>1,200</b>	<b>40,510</b>
3699-Other Operating Revenue	-	-	-	-	800	-	-	-
<b>Other Revenue Sources</b>	-	-	-	-	<b>800</b>	-	-	-
<b>Total Revenue</b>	<b>3,900</b>	<b>10,540</b>	-	<b>10,540</b>	<b>348,300</b>	<b>9,340</b>	<b>1,200</b>	<b>418,120</b>
5051-Credit Card Fees	102	186	5,250	(5,064)	5,250	327	(141)	10,357
5181-Speaker Honorarium	-	-	-	-	5,000	-	-	-
5199-Other Contract Services	-	-	-	-	-	675	(675)	675
<b>Total Contract Services</b>	<b>102</b>	<b>186</b>	<b>5,250</b>	<b>(5,064)</b>	<b>10,250</b>	<b>1,002</b>	<b>(816)</b>	<b>11,032</b>
5501-Employee Travel	-	-	-	-	2,000	-	-	2,119
5571-Speaker Travel	-	-	-	-	9,000	-	-	11,671
<b>Total Travel</b>	-	-	-	-	<b>11,000</b>	-	-	<b>13,790</b>
6001-Post 1st Class/Bulk	-	142	-	142	-	69	72	867
6021-Post Express Mail	-	-	-	-	-	45	(45)	67
6319-Mtgs Other Functions	-	-	-	-	32,000	5,000	(5,000)	39,559
6321-Mtgs Meals	-	-	-	-	96,000	-	-	88,130
6325-Mtgs Hospitality	-	-	-	-	57,600	-	-	82,920
6341-Mtgs Equip Rental	-	-	-	-	35,000	-	-	49,240
7999-Other Operating Exp	-	-	-	-	1,500	-	-	2,076
<b>Total Other Expense</b>	-	<b>142</b>	-	<b>142</b>	<b>222,100</b>	<b>5,114</b>	<b>(4,973)</b>	<b>262,859</b>
8011-Administration CLE	-	-	-	-	1,500	-	-	14,850
8101-Printing In-House	-	-	-	-	-	-	-	78
8131-A/V Services	70	70	-	70	-	105	(35)	497
8141-Journal/News Service	-	-	500	(500)	500	-	-	425
8171-Course Approval Fee	-	-	-	-	150	-	-	150
<b>Total Admin &amp; Internal Expense</b>	<b>70</b>	<b>70</b>	<b>500</b>	<b>(430)</b>	<b>2,150</b>	<b>105</b>	<b>(35)</b>	<b>16,000</b>
<b>Total Expense</b>	<b>172</b>	<b>397</b>	<b>5,750</b>	<b>(5,353)</b>	<b>245,500</b>	<b>6,221</b>	<b>(5,824)</b>	<b>303,681</b>
<b>Operating Income</b>	<b>3,728</b>	<b>10,143</b>	<b>(5,750)</b>	<b>15,893</b>	<b>102,800</b>	<b>3,119</b>	<b>7,024</b>	<b>114,439</b>

**THE FLORIDA BAR**  
**Real Property Legislative Update**  
**For the Three Months Ending September 30, 2023**

	September	YTD 2024	YTD 23-24 Budget	YTD/YTD Variance (\$)	FY 23-24 Budget	YTD 2023	YTD/Prior Variance (\$)	FYE Actual 2023
3321-Registration-Webcast	-	-	15,000	(15,000)	15,000	-	-	-
3331-Registration-Ticket	-	-	20,000	(20,000)	20,000	-	-	-
<b>Total Registration Revenue</b>	-	-	<b>35,000</b>	<b>(35,000)</b>	<b>35,000</b>	-	-	-
3341-Exhibit Fees	-	37,500	14,000	23,500	14,000	-	37,500	-
3351-Sponsorships	-	6,000	-	6,000	-	16,400	(10,400)	20,400
<b>Other Event Revenue</b>	-	<b>43,500</b>	<b>14,000</b>	<b>29,500</b>	<b>14,000</b>	<b>16,400</b>	<b>27,100</b>	<b>20,400</b>
3401-Sales-CD/DVD	900	1,525	-	1,525	-	3,800	(2,275)	10,925
<b>Sales, Rents &amp; Royalties Revenue</b>	<b>900</b>	<b>1,525</b>	<b>-</b>	<b>1,525</b>	<b>-</b>	<b>3,800</b>	<b>(2,275)</b>	<b>10,925</b>
<b>Total Revenue</b>	<b>900</b>	<b>45,025</b>	<b>49,000</b>	<b>(3,975)</b>	<b>49,000</b>	<b>20,200</b>	<b>24,825</b>	<b>31,325</b>
5031-AV Services	-	-	-	-	-	79	(79)	79
5051-Credit Card Fees	18	30	360	(330)	360	336	(306)	1,240
5121-Printing-Outside	-	-	5,000	(5,000)	5,000	2,663	(2,663)	2,663
<b>Total Contract Services</b>	<b>18</b>	<b>30</b>	<b>5,360</b>	<b>(5,330)</b>	<b>5,360</b>	<b>3,078</b>	<b>(3,048)</b>	<b>3,982</b>
5501-Employee Travel	-	-	3,000	(3,000)	3,000	1,106	(1,106)	1,106
5571-Speaker Travel	1,365	4,697	6,000	(1,303)	6,000	4,713	(17)	5,165
<b>Total Travel</b>	<b>1,365</b>	<b>4,697</b>	<b>9,000</b>	<b>(4,303)</b>	<b>9,000</b>	<b>5,819</b>	<b>(1,122)</b>	<b>6,271</b>
6001-Post 1st Class/Bulk	18	22	-	22	-	60	(38)	458
6311-Mtgs General Meeting	-	-	-	-	-	1,069	(1,069)	1,069
6321-Mtgs Meals	-	40,176	45,000	(4,824)	45,000	44,878	(4,702)	44,878
6325-Mtgs Hospitality	-	588	1,500	(912)	1,500	-	588	-
6341-Mtgs Equip Rental	-	10,691	15,000	(4,309)	15,000	9,359	1,332	9,359
7001-Grant/Award/Donation	-	3,402	5,000	(1,598)	5,000	1,958	1,444	2,028
7999-Other Operating Exp	-	607	500	107	500	-	607	157
<b>Total Other Expense</b>	<b>18</b>	<b>55,486</b>	<b>67,000</b>	<b>(11,514)</b>	<b>67,000</b>	<b>57,324</b>	<b>(1,837)</b>	<b>57,949</b>
8011-Administration CLE	-	700	750	(50)	750	1,000	(300)	1,000
8101-Printing In-House	-	311	1,150	(839)	1,150	200	111	200
8131-A/V Services	-	-	-	-	-	70	(70)	175
8171-Course Approval Fee	-	-	-	-	-	150	(150)	300
<b>Total Admin &amp; Internal Expense</b>	<b>-</b>	<b>1,011</b>	<b>1,900</b>	<b>(889)</b>	<b>1,900</b>	<b>1,420</b>	<b>(409)</b>	<b>1,675</b>
<b>Total Expense</b>	<b>1,401</b>	<b>61,224</b>	<b>83,260</b>	<b>(22,037)</b>	<b>83,260</b>	<b>67,640</b>	<b>(6,417)</b>	<b>69,877</b>
<b>Operating Income</b>	<b>(501)</b>	<b>(16,199)</b>	<b>(34,260)</b>	<b>18,062</b>	<b>(34,260)</b>	<b>(47,440)</b>	<b>31,242</b>	<b>(38,552)</b>

**THE FLORIDA BAR**  
**Real Property Trust Attorney Loan Officer**  
**For the Three Months Ending September 30, 2023**

	September	YTD 2024	YTD 23-24 Budget	YTD/YTD Variance (\$)	FY 23-24 Budget	YTD 2023	YTD/Prior Variance (\$)	FYE Actual 2023
3301-Registration-Live	-	-	-	-	12,500	-	-	8,400
<b>Total Registration Revenue</b>	-	-	-	-	<b>12,500</b>	-	-	<b>8,400</b>
3341-Exhibit Fees	-	-	-	-	1,500	-	-	-
3351-Sponsorships	-	-	-	-	15,000	-	-	8,500
<b>Other Event Revenue</b>	-	-	-	-	<b>16,500</b>	-	-	<b>8,500</b>
<b>Total Revenue</b>	-	-	-	-	<b>29,000</b>	-	-	<b>16,900</b>
5051-Credit Card Fees	-	-	-	-	-	-	-	409
<b>Total Contract Services</b>	-	-	-	-	-	-	-	<b>409</b>
5501-Employee Travel	-	-	-	-	1,250	-	-	1,100
5571-Speaker Travel	-	-	-	-	4,000	-	-	318
<b>Total Travel</b>	-	-	-	-	<b>5,250</b>	-	-	<b>1,418</b>
6321-Mtgs Meals	-	-	-	-	6,000	-	-	2,500
6325-Mtgs Hospitality	-	-	-	-	5,000	-	-	4,077
6341-Mtgs Equip Rental	-	-	-	-	1,000	-	-	-
7999-Other Operating Exp	-	-	-	-	300	-	-	-
<b>Total Other Expense</b>	-	-	-	-	<b>12,300</b>	-	-	<b>6,577</b>
8011-Administration CLE	-	-	-	-	6,000	-	-	7,150
8101-Printing In-House	-	-	-	-	-	-	-	137
8171-Course Approval Fee	-	-	-	-	150	-	-	150
<b>Total Admin &amp; Internal Expense</b>	-	-	-	-	<b>6,150</b>	-	-	<b>7,437</b>
<b>Total Expense</b>	-	-	-	-	<b>23,700</b>	-	-	<b>15,841</b>
<b>Operating Income</b>	-	-	-	-	<b>5,300</b>	-	-	<b>1,059</b>

**THE FLORIDA BAR**  
**Real Property Convention**  
**For the Three Months Ending September 30, 2023**

	September	YTD 2024	YTD 23-24 Budget	YTD/YTD Variance (\$)	FY 23-24 Budget	YTD 2023	YTD/Prior Variance (\$)	FYE Actual 2023
3301-Registration-Live	-	(470)	-	(470)	70,000	(1,011)	541	70,300
<b>Total Registration Revenue</b>	-	<b>(470)</b>	-	<b>(470)</b>	<b>70,000</b>	<b>(1,011)</b>	<b>541</b>	<b>70,300</b>
3341-Exhibit Fees	-	-	-	-	15,000	-	-	26,500
3351-Sponsorships	-	-	-	-	10,000	-	-	34,000
<b>Other Event Revenue</b>	-	-	-	-	<b>25,000</b>	-	-	<b>60,500</b>
<b>Total Revenue</b>	-	<b>(470)</b>	-	<b>(470)</b>	<b>95,000</b>	<b>(1,011)</b>	<b>541</b>	<b>130,800</b>
5051-Credit Card Fees	-	(9)	1,000	(1,009)	1,000	(2)	(7)	2,341
<b>Total Contract Services</b>	-	<b>(9)</b>	<b>1,000</b>	<b>(1,009)</b>	<b>1,000</b>	<b>(2)</b>	<b>(7)</b>	<b>2,341</b>
5501-Employee Travel	-	-	-	-	5,000	-	-	1,484
5571-Speaker Travel	-	-	-	-	-	-	-	2,483
<b>Total Travel</b>	-	-	-	-	<b>5,000</b>	-	-	<b>3,967</b>
6311-Mtgs General Meeting	-	-	-	-	-	387	(387)	10,000
6321-Mtgs Meals	-	-	-	-	185,000	-	-	114,123
6341-Mtgs Equip Rental	-	290	-	290	20,000	-	290	235
6361-Mtgs Entertainment	-	-	-	-	40,000	-	-	35,800
<b>Total Other Expense</b>	-	<b>290</b>	-	<b>290</b>	<b>245,000</b>	<b>387</b>	<b>(97)</b>	<b>160,158</b>
8101-Printing In-House	-	-	200	(200)	200	-	-	-
<b>Total Admin &amp; Internal Expense</b>	-	-	<b>200</b>	<b>(200)</b>	<b>200</b>	-	-	-
<b>Total Expense</b>	-	<b>280</b>	<b>1,200</b>	<b>(920)</b>	<b>251,200</b>	<b>385</b>	<b>(105)</b>	<b>166,466</b>
<b>Operating Income</b>	-	<b>(750)</b>	<b>(1,200)</b>	<b>450</b>	<b>(156,200)</b>	<b>(1,396)</b>	<b>646</b>	<b>(35,665)</b>

Date of Presentation	Crs. #	Title	Location
11/17/23	8005	Probate Law	Ft. Lauderdale, Marriott Harbor Beach Resort & Spa
12/7/23	8074	Condominium ADR/Mediation/Arbitration Program	Webcast
12/14/23	8149	4th Annual RPPTL Death & Dirt Mid-Year Case Law Review?	Zoom
1/11/24		Real Estate Certification Review "Academy"	Webcast
1/11/24	8075	Joint CLE with Lender Finance on Association Borrowing after Surfside	Webcast
1/17/24	7985	A Primer on the Live Local Act	Webcast
1/24/24		Partitions	Webcast
2/2/24 – 2/3/24	8025	Advanced Condominium and Planned Development Certification Review	Tampa Marriott Airport
2/2/24 – 2/3/24	8006	Advanced Real Property Certification Review	Tampa Marriott Airport
2/2/24 – 2/3/24	8007	Advanced Wills, Trusts and Estates Certification Review	Tampa Marriott Airport
3/6/24		Derivative Actions (joint with Condo Committee)	Webcast
3/14/24	8148	Transitioning from Residential to Commercial Real Estate Practice	Webcast
3/20/24 – 3/24/24	8008	Advanced Construction Law Certification Review Course	Orlando
3/20/24 – 3/24/24	8009	Construction Law Institute	Orlando
4/8/24		Fair Debt Litigation (joint with Lender Finance)	Webcast
4/11/24	8010	Litigation & Trust Law Symposium	Tampa
4/12/24	8011	Guardianship	Tampa
4/12/24	8076	Attorney-Bankers Conference	Tampa
4/25/24	8026	Technology in Disaster CLE	Webcast
5/15/24		Title Claims (joint with Title Insurance)	Webcast
6/19/24		Charging and Retaining Liens	Webcast



# The Florida Bar

651 East Jefferson Street  
Tallahassee, FL 32399-2300

Joshua E. Doyle  
Executive Director

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## REAL PROPERTY, PROBATE AND TRUST LAW SECTION LEGISLATIVE OR POLITICAL ACTIVITY REQUEST FORM

- This form is for Section Committees to seek approval for Section legislative or political activities.
- Legislative or political activity is defined in the Standing Board Policies of The Florida Bar (SBP 9.11) as “activity by The Florida Bar or a bar group including, but not limited to, filing a comment in a federal administrative law case, taking a position on an action by an elected or appointed governmental official, appearing before a government entity, submitting comments to a regulatory entity on a regulatory matter, or any type of public commentary on an issue of significant public interest or debate.”
- Requests for legislative and political activity must be made on this form and submitted to the RPPTL Legislation Committee, with your Committee’s white paper.
- Pursuant to SBP 9.50(d), the Section must advise The Florida Bar of proposed legislative or political activity AND circulate the proposal to all Bar divisions, sections and committees that might be interested in the issue.
  - Committees must check with other interested Bar divisions, sections and committees to see if there are comments or issues.
  - If comments have been received from another interested group, the comments must be included.
  - If comments have not yet been received, the proposal may still be submitted to the Legislation Committee, with a list of the interested groups that have been notified and the dates and methods of notification.
  - If a decision needs to be expedited, the proposal must explain the need for an expedited decision and request a specific deadline for a decision by the Bar.
- The Legislation Committee will review the proposal.
  - The proposal will then need to be presented at the Division Round Table.
  - Then, published as an Information Item to the Executive Council.
  - Then, published as an Action Item to the Executive Council.

**General Information**

**Submitted by:** *(name of Section Committee)* Ad Hoc Guardianship Law Revision Committee

**Contact:** *(Name of Committee Chair(s), address and phone number)*  
Nick Curley, Gunster, Yoakley & Stewart, PA, 777 S. Flagler Drive, Suite 500E, West Palm Beach, FL 33401, Telephone: 561-650-0609

Stacy Rubel, Virgil & Rubel LLP, 201 Alhambra Circle, Ste. 705, Coral Gables, FL 33134, Telephone: 305-448-6333

David Brennan, The Brennan Law Firm, 545 Delaney Street, Bldg. 1, Orlando, FL 32801, Telephone: 407-893-7888

*(Name of Sub-committee Chair, if any, address and phone number, if any)* \_\_\_\_\_

**Proposed Advocacy**

Complete #1 below if the issue is legislative OR #2 if the issue is political; AND #3 must be completed.

**1. Proposed Wording of Legislative Position for Official Publication**

- 1. Support legislation that provides for the continued rights of a ward to receive visitors and communicate with others when such contact would not be potentially harmful to the ward.
- 2. Oppose legislation that would:
  - a. allow for jury trials in proceedings initiated under Chapter 744,
  - b. allow for jury trials in proceedings related to contesting the validity of wills or trusts prior to the death of the testator/settlor,
  - c. require the re-evaluation of wards without the filing of a suggestion of capacity or the exercise of the court’s discretion,
  - d. require a guardianship proceeding to be transferred to a new judge after the establishment of a guardianship without a substantive basis, or
  - e. provide for a blanket requirement that any and all family members of the ward related by blood, marriage or adoption have access to guardianship inventories, accountings, or other financial information of the ward.

**2. Political Proposal**

N/A

**Reasons For Proposed Advocacy**

- a. Per SBP 9.50(a), does the proposal meet all three of the following requirements?  
*(select one)*      Yes



- It is within the group’s subject matter jurisdiction as described in the Section’s Bylaws;
- It is beyond the scope of the Section/Bar’s permissible legislative or political activity, **or** within the Section/Bar’s permissible scope of legislative or political activity **and** consistent with an official Section/Bar position on that issue; **and**
- It does not have the potential for deep philosophical or emotional division among a substantial segment of the Bar’s membership.

b. Additional Information: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Referrals to Other Committees, Divisions & Sections/Voluntary Bar Groups**

Pursuant to SBP 9.50(d), the Section must provide copies of its proposed legislative or political actions to all Bar committees, divisions, sections and voluntary bar groups that may be interested in the issue. **List** all Bar committees, divisions, sections and voluntary bar **groups that this proposal has been shared with** pursuant to this requirement, **the date the proposal was shared**, and **provide all comments** received from such groups as part of your submission. The Section may submit its proposal before receiving comments, but only after the proposal has been provided to other bar divisions, sections or committees. A form for sharing proposals is available for this purpose.

The Committee’s white paper incorporates comments provided by the Probate Law and Probate and Trust Litigation Committees to SB48.  
The Legislative Chair for the Elder Law Section, Travis Finchum, has provided written confirmation that the Elder Law Section intends to oppose SB48.  
Once approved, the Committee will provide a copy of the position materials to the Legislative Liaisons with the Elder Law and Family Law Sections.  
Additionally, the RPPTL Section Liaison to the Florida State Guardianship Association (FSGA), Stephanie Cook, has consulted with the representative from FSGA, Leonard Burke, and has received confirmation that the FSGA will also be opposing SB48

**Contacts**

**Legislation Committee Appearance** *(list name, address and phone #)*  
Sancha K. Brennan, Legislation Committee Co-Chair, 545 Delaney Avenue, Hovey Court, Bldg. 1, Orlando, FL 32801, Telephone: 407-893-7888

Steven H. Mezer, Legislation Committee Co-Chair, 1511 Westshore Boulevard, Suite 1000, Tampa, FL 33607, Telephone 813-527-3900

**Appearances before Legislators** *(list name and phone # of those having direct contact before House/Senate committees)*  
Martha J. Edenfield, c/o Dean, Mead & Dunbar, PA, 106 E College Ave # 1200, Tallahassee, FL 32301, Telephone 850-999-4100

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*Peter M. Dunbar, c/o Dean, Mead & Dunbar, PA, 106 E College Ave # 1200, Tallahassee, FL 32301, Telephone 850-999-4100*

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*French Brown, Edenfield c/o Dean, Mead & Dunbar, PA, 106 E College Ave # 1200, Tallahassee, FL 32301, Telephone 850-999-4100*

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**Meetings with Legislators/staff** *(list name and phone # of those having direct contact with legislators)*

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**WHITE PAPER**  
**2024 SB 48**  
**“Karilyn’s Law” Bill**

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**I. SUMMARY**

The Real Property Probate & Trust Law Section of the Florida Bar has reviewed Senate Bill 48 (“Karilyn’s Law”) and is encouraged by the efforts to protect Florida’s most vulnerable persons, including minors and persons who lack capacity. However, the RPPTL Section has concerns with some of the current language of the proposal and believes that passage in its current format would have the unintended result of significant harm to wards, increased expenses, destruction of the ward’s privacy rights, and multiple, significant constitutional challenges. As a result, this memorandum is intended to provide technical guidance to the legislature in order to address concerns with the bill’s current form.

Karilyn’s Law includes significant and serious changes to the Florida Guardianship Law including (1) pre-death will and trust contests, (2) impaneling juries, (3) greatly expanding persons entitled to a ward’s protected, private information, (4) requiring additional considerations and evidentiary findings in incapacity proceedings regarding visitation, and (5) requiring a trial every 3 years on re-adjudication of incapacity (including appointment of a new examining committee and transfer of case to a new judge). These changes are largely contrary to longstanding Florida law and, upon evaluation of current law, are unnecessary. These changes would significantly increase the costs of guardianship proceedings; and as those expenses are customarily borne by the assets of the ward, it would cause a detrimental impact to the ward’s estate contrary to the ward’s best interests.

The concern of the RPPTL Section is that, as currently written, Karilyn’s Law does not accomplish the intended goals of increasing protection of the Ward. Instead, the well-intended changes decrease longstanding protections and drastically increase costs at the incapacitated person’s expense. Further, the protections that SB 48 looks to provide are largely available under current law which the explanations below will clarify. While other states may still need to incorporate some of these protections, Florida leads the country in providing legal protections for our most vulnerable; and thus, these protections are already present in our body of law.

**II. SUPPORT OF WARD’S RIGHTS**

Current Law (Contact and Communication)

Currently, Florida law provides that persons determined to be incapacitated retain the right to receive visitors and communicate with others. Also, Florida law recognizes the importance of

preventing a guardian from arbitrarily isolating a ward from their family members. Fla. Stat. § 744.3215(1)(m). Guardians are only permitted to apply restrictions on a person’s contact with a ward if that contact is considered harmful to the ward, an extremely high standard placed on the guardian. Fla. Stat. § 744.361(13)(b). Further, should a family member believe that a guardian is improperly denying contact with the ward, existing law provides a method for that person to petition the court to address the issue, and the court must act expeditiously. See Fla. Stat. § 744.3715(1). In this way, current law mandates that the guardian act only in the most extreme of circumstances and provides a process for review of that decision to ensure any harm by a wrongful decision is immediately addressed by the Court.

### “Karilyn’s Law” Bill

“Karilyn’s Law” Bill seeks to protect a ward by requiring the court to establish “visitation rights” for the ward’s “family” at the hearing for determination of incapacity or on appointment of a guardian (for minors). As stated above, even when the ward’s rights are removed, they retain the right to receive visitors and communicate with others. As such, this aspect of the bill reduces the rights of the ward by establishing limitations to visitation at early stages of the guardianship, whereas current law assumes visitation is appropriate in all cases. SB 48 also conflicts with other provisions of current Florida law, as set forth below.

### Minors

SB 48 requires the court to establish certain “visitation rights” of the minor’s “family” at the time of the hearing to appoint a guardian, with a rebuttable presumption in favor of allowing “visitation” or other contact. [Lines 76-78]. SB 48 provides that visitation or other contact may only be denied upon a showing of clear and convincing evidence that visitation or other contact is not in the best interests of the minor. [Lines 78-83]. However, a majority of guardianships of minors are merely guardianships of their property, and not their person. A guardian of the property has no authority over the rights of others to visit or communicate with the minor. Therefore, any requirement in guardianship law related to access to or communication with a minor must be strictly limited to circumstances where a guardian of the person is appointed for the minor. Statements not limited in this way may cause confusion or be interpreted to grant additional authority to a guardian of the property, where it is not otherwise intended. Additionally, as set forth above, Florida law already provides appropriate safeguards for a minor’s visitation with family members.

### Adult Alleged Incapacitated Persons (AIPs)

SB 48 requires the court to establish certain “visitation rights” of the AIP’s “family” at the time of the adjudicatory hearing on a petition alleging incapacity, with a rebuttable presumption

in favor of allowing “visitation” or other contact. [Lines 154-156]. SB 48 provides that visitation or other contact may only be denied upon a showing of clear and convincing evidence that such contact is not in the best interests of the AIP. [Lines 159-162]. However, “visitation rights” (which are retained despite a person’s level of capacity), are not appropriate for limitation or restriction during a proceeding to determine incapacity. It is premature to determine the rights of the AIP to visit or communicate with “family” prior to the appointment of a guardian.

Even if the appointment of a guardian is made during the same hearing, directly after the determination of incapacity, the guardian will not have had an opportunity to meet with the ward in a fiduciary capacity or develop an opinion as to the ward’s best interest at that stage (having only just been awarded such authority). Additionally, the ward is represented by counsel and there would be insufficient time to ensure a proper hearing on the matter with evidence and due consideration of such a pivotal issue. These circumstances would most likely arise as a consequence of a contested guardianship proceeding; and it is more likely the court would be inclined to restrict or limit contact as a result, having the opposite effect intended by Karilyn’s Law.

### Recommendation

The RPPTL Section recognizes and appreciates the importance of protecting the rights of wards. Another way to address the concerns raised by Karilyn’s Law is to seek amendment to the Florida Probate Rules requiring a guardian to file a notice in the guardianship proceeding each time a guardian determines it appropriate to restrict the ward’s contact or communication with others. This procedure would allow for due process, providing notice to interested persons, a method for objecting to the guardian’s actions and seeking a determination by the court.

## **III. SPECIFIC ISSUES**

The concerns set forth below are the prevailing issues currently presented, however, there are additional concerns not fully addressed in this memorandum. Many of these concerns relate to proposed changes of formative policies in Florida law that have been previously considered and rejected. Many of the changes would also constitute monumental, systemic modifications to guardianship law which should not be implemented quickly or without due consideration or significant study.

### **A. Karilyn’s Law Requires Impermissible Pre-Death Will and Trust Contests**

SB 48, as currently proposed, alters Florida law by authorizing challenges to an incapacitated individual’s last will and testament and trust before death. Such a change would be a significant policy shift which Florida has considered and decided against numerous times in the

past on pivotal historical and policy grounds. Specifically, SB 48 requires the court, as part of the adjudicatory hearing, to impanel a jury to determine the validity of the AIP's trust, trust amendment, power of attorney, or will, and also to determine whether any of these documents are reasonable alternatives to guardianship. To be clear, the Florida Probate Code (Chapter 732, Florida Statutes) and the Florida Trust Code (Chapter 736, Florida Statutes) prohibit challenging the validity of wills and revocable trusts prior to the death of the testator/settlor. Additionally, a will can never be an alternative to the appointment of a guardian or guardian advocate, as a will cannot be admitted to probate (and given effect) until the death of the testator.

Florida Statute § 732.518 prohibits an action to contest the validity of all or part of a will or the revocation of all or part of a will before the death of the testator. Florida Statute § 736.0207 prohibits actions to contest the validity of all or part of a revocable trust, or the revocation of part of a revocable trust, prior to the trust becoming irrevocable by its terms or by the settlor's death. An exception to this prohibition is the allowance of a guardian of the property of an incapacitated settlor to bring an action relating to a revocable trust. *Id.* However, before a guardian can bring such an action, the guardian must obtain court approval, and the court must find that action to be in the ward's best interests during the ward's probable lifetime. Fla. Stat. § 744.441(k). There is a rebuttable presumption that an action challenging the ward's revocation of all or part of a trust is not in the ward's best interests if the revocation relates solely to a devise. As such, any action must be brought by a guardian of the property, upon court approval, and cannot be brought as part of the adjudicatory hearing either before the appointment of a guardian or simultaneously with the appointment of a guardian.

Florida's prohibition on pre-death will and trust challenges stems from the hypothetical nature of such cases. A will has no legal effect until after the death of the testator and can be altered or revoked at any time prior to death. A revocable trust is similarly situated, allowing for change in most instances upon the settlor's unilateral decision. Florida has long held that it is inappropriate to challenge these vehicles prior to death because the matters are not ripe – the person can merely alter the document immediately after the case ends and no one else has current vested rights. In addition, Florida's law has long held that such contests are in nearly every circumstance better situated to be heard after death because there is no significant detriment to the parties by waiting until the applicable rights and facts have vested. To act early as SB 48 provides, would be an enormous financial cost to all involved, but particularly to the ward. In addition, it would open the door to additional guardianship filings by malicious parties seeking to gain standing for such will and trust contests where they would not otherwise have standing.

#### **B. Karilyn's Law Requires Impermissible Jury Trials at Significant Cost**

SB 48 provides several instances during a guardianship proceeding where jury trials are required to be empaneled. [Lines 113-115, 121, 144-147, 194-195, 319-320]. Jury trials are

expensive. Conducting a trial is costly both in the court's time and the time of the community members empaneled to serve, and costly to the ward who will be charged with the additional expenses of their own attorney, the guardian and the guardian's attorney, for each and every jury trial. As contemplated by SB 48, juries would be empaneled in each guardianship case every three years, at a minimum. The anticipated consequences of empaneling juries in this way would take time, would affect the speed at which the court can hear these and other cases, tax court resources, fill court dockets and likely slow the administration of guardianships and other proceedings across Florida, generally.

To require a jury trial for the initial adjudication proceeding and every three years, at a minimum, thereafter, and for any contest of a ward's will, trust or power of attorney, will certainly have the unintended consequence of making guardianships astronomically more costly to the ward.

Additionally, there is not now, nor has there ever been, a right to trial by jury in Florida for proceedings to contest a will or trust. See *Lavey v. Doig*, 25 Fla. 611, 6 So. 259 (1889); *In re Estate of Ciccorella*, 407 So.2d 1044 (Fla. 3d DCA 1981); *Allen v. Estate of Dutton*, 394 So.2d 132 (Fla. 5<sup>th</sup> DCA 1981). It is, therefore, contradictory to permit pre-death contests to be decided by a jury while post-death contests cannot be decided by jury.

### **C. Karilyn's Law Compels Disclosure of Constitutionally Protected Private Information to Almost Unlimited Persons**

SB 48 defines "family" as a parent, sibling, child, spouse, or any other relative by blood, marriage, or adoption of the minor, ward, or alleged incapacitated person. [Lines 54-56]. This definition is incredibly broad and would often include an unlimited amount of people, many of whom may have little or no relationship with the ward or AIP and may not even know the ward or AIP. The definition is seemingly broad in a manner that makes it unusable because it goes both up and down family lines (i.e., descendants and relatives such as grandparents, aunts, uncles, and cousins to any degree).

As used throughout SB 48, it also appears that the "family" is being treated as one unit – meaning that the Court will make determinations as to the entire family rather than as to individual members. See for instance the visitation determinations laid out in lines 154-165 which require the court to establish the visitation rights of the family of the person. As defined, this means that the Court is making an individual determination of nearly every blood relative of the alleged incapacitated person – requiring evidence and information on each such person. Alternatively, the Court must determine the visitation rights of the family as a whole – something that could have the unintended consequences of an entire family being restricted or limited as a result of one bad actor.

The primary concern with this broad definition however is seen in connection to disclosure of the incapacitated individual's private financial information, including statements of their bank accounts, lists of each daily transaction, all sources of the ward's income, and receipts showing these items which can include invoices for medical services or mental health treatment and medication information. In essence, SB 48 provides that the ward's entire financial life is required (not just allowed but required) to be shown to anyone related by blood. [Lines 277-280, 285-287].

The Florida Constitution, Article 1, Section 23, provides a constitutional right to privacy. This includes the right to determine whether or not sensitive information about oneself will be disclosed to others. The disclosure of personal financial information may cause irreparable harm in a case in which the information is not relevant. *Schlesinger v. Schlesinger*, 186 So. 3d 618, 619 (Fla. 3d DCA 2016). It is difficult to believe that, if asked, Florida citizens would want their financial lives shared with their cousins, brothers, sisters, kids, grandchildren, great-grandchildren, aunts, uncles, and everyone else in their expanded family, regardless of any actual connection to those people. Incapacity should not alter this right.

Current Florida law already has proper safeguards on the disclosure of private medical and financial information in a guardianship case. The clerk of the court must review and audit all inventories and annual accountings and advise the court of the results. Fla. Stat. § 744.368. If the clerk believes additional review is appropriate, the clerk may request and review additional records and documents that reasonably impact the guardianship assets. *Id.* Then, the court reviews the initial and annual reports and either approves or disapproves the reports. Additionally, an interested person may file a request for notice and copies of the guardianship proceeding. Fla. Prob. R. 5.060(b).

#### **D. Re-Evaluation of Incapacity Concerns**

SB 48 requires the mandatory full re-evaluation of the ward and the ward's need for guardianship every 3 years, including re-examination by an examining committee and an adjudicatory hearing, which may not be conducted by the same judge who conducted the initial adjudicatory hearing. [Lines 303-308]. This is impractical, unnecessary, and unduly burdensome in both cost and time to the court system, interested persons, and most importantly, to the ward.

Florida law already provides multiple mechanisms for review of the continuing need of a guardianship. Florida Statute § 744.3215 provides that a person who has been determined to be incapacitated retains the right to have continuing review of the need for restriction of his or her rights. Any interested person, including the ward, may file a suggestion of capacity, indicating the ward is currently capable or exercising some or all of the rights which were removed. Fla. Stat. § 744.464. Thereafter, the court will appoint a physician to examine the ward and file a report prior



to a restoration hearing or order of restoration. If the physician recommends full restoration and there are no objections filed to the restoration, the court may restore the ward without any hearing at all. Further, the burden of proof for restoration of rights is a “preponderance of the evidence” which is a lower burden than the “clear and convincing evidence” standard for determining incapacity. The difference in standards is intentional as Florida public policy is always to promote the welfare of incapacitated persons and provide the form of assistance that least interferes with the legal capacity of a person to act on their own behalf. The procedure is laid out in detail in Florida Guardianship Law and is much less burdensome than the complete re-evaluation mandated by SB 48.

Additionally, every year the guardian of the person must complete and file an annual report which addresses the issue of restoration of rights to the ward. The annual report must include statements as to whether the ward can have any rights restored and whether restoration of any rights will be sought. Fla. Stat. § 744.3675(3). The guardian of the person is also obligated to notify the court if, at any time, the guardian believes the ward may have regained capacity, and one or more of the rights that have been removed could be restored. Fla. Stat. § 744.361(13)(e). The court, in its discretion, may require reexamination of the ward by a physician at any time. Fla. Stat. § 744.3675(4).

Fla. Stat. § 744.108 entitles a guardian, or an attorney who has rendered services to the ward or to the guardian on the ward’s behalf, to a reasonable fee and reimbursement of costs incurred on behalf of the ward from the guardianship estate, meaning the assets of the ward. Therefore, at a minimum, the ward’s attorney, the guardian, and the guardian’s attorney will all be paid from the ward’s assets for time and costs incurred in connection with a re-evaluation every three years. Additionally, there are significant issues with the concept in general. For example, determinations of incapacity are evidentiary issues that require an evidentiary hearing and the presentation of evidence. The initial determination is made upon a pleading of incapacity and presentation of evidence sufficient to meet the burden of proof (clear and convincing evidence) that the AIP lacks capacity. In a mandatory re-adjudication proceeding contemplated by SB 48, who would be responsible for presenting evidence? How would the proceeding work? Who is entitled to participate?

### **E. Judiciary Concerns**

As stated above, SB 48 requires the automatic, full re-evaluation of the need for guardianship every 3 years, including re-examination by an examining committee and a new adjudicatory hearing, which may not be conducted by the same judge who conducted the initial adjudicatory hearing. [Lines 303-308]. There is no legitimate basis to require a different judge to preside over any adjudicatory hearings subsequent to the first adjudicatory hearing. The presiding judge, who is familiar with the circumstances of the guardianship proceeding, the ward’s assets

and the annual reports, is in the best position to evaluate the continuing need for guardianship. Additionally, many Florida jurisdictions only have one or two judges presiding over guardianship cases. It would be an enormous disruption to Florida courts to require guardianship proceedings to be transferred to a new presiding judge every three years, particularly to judges that may not be otherwise presiding over guardianship cases or have specialized knowledge in this area. In addition, circuit judges are regularly reassigned; and in many jurisdictions, only serve on the probate bench for a period of one or two years.

#### **F. Significant Fiscal Impact**

SB 48 would have a significant fiscal impact on both the public and private sectors by significant increases in costs. In addition to the increased costs for the wards, there will be increased costs to the state and to the court related to the mandatory empaneling of juries. Additional funding will be required for the Office of Public and Professional Guardians and for the offices of Criminal Conflict and Civil Regional Counsel across the state, to support the additional staffing required to manage existing cases due to the increased time involved conducting multiple jury trials in every guardianship. Requiring regular jury trials in a division of the court not accustomed to handling trials of this type will likely require additional courtrooms outfitted for jury trials, and an increase of court staff and bailiff presence to manage jurors. There will be increased compensation required for the significant number of additional jurors needed regularly. The requirement to re-adjudicate wards every three years with a different presiding judge would indicate an enormous additional workload on the court system and the clerks. This will also have a significant impact on the private sector, and will be most detrimental to the ward, as the fees and costs associated with the guardianship proceedings are typically awarded from the assets of the guardianship (i.e., the ward's assets) for the fees of the guardian, counsel for the guardian, counsel appointed for the ward, and anyone else providing a benefit to the ward.

#### **G. No Current Need**

It should also not be overlooked that, while well intended, there is not a current need for Karilyn's Law in Florida. Karilyn's Law was adopted in New York to address the concerns raised by an adult daughter of a ward who was denied access to the ward because the guardian had personal differences with the daughter. It took several months to obtain a hearing to address the daughter's concerns in the New York proceeding; and as a result, Karilyn's Law includes a provision that hearing must be set within 10 days of an order to show cause. This circumstance would not arise in Florida under the current statutory and rule structure. Florida law already has procedures in place to address concerns about communication or access to a ward and Florida law requires the court to address visitation matters expeditiously.

As to the other changes proposed, for the reasons listed above these are not changes which the RPPTL section believes are in the best interests of the citizens of the state. Furthermore, if there is disagreement as to this opinion, it would be incumbent that these changes be fully studied and vetted prior to being passed into law as they would constitute system-altering changes which would carry policy level modifications to our State, with the likelihood of significant negative consequences, both foreseen and unforeseen. If this bill is to proceed it should only do so after time is given for further study.

#### **IV. Conclusion**

The Real Property, Probate and Trust Law Section of the Florida Bar supports additional protections for wards in Florida. SB 48, in its current form, is not superior to our current law nor more protective to wards, and several aspects of the bill require serious study prior to consideration for implementation. As drafted, the bill contradicts current Florida law as set forth in the Florida Probate Code, Florida Trust Code and the Probate Rules; and would therefore significantly change the practice of guardianship law and procedure, eroding the protections currently in place for wards. Finally, the additional significant financial burden to the ward and to the state of Florida cannot be overstated. For the reasons noted herein, as well as multiple others which were not highlighted in this memorandum, the RPPTL Section believes further consideration, discussion and revisions are necessary.

**ASSET PROTECTION COMMITTEE OF  
THE REAL PROPERTY, PROBATE AND TRUST LAW  
SECTION OF THE FLORIDA BAR**

**WHITE PAPER ON PROPOSED  
ENACTMENT OF FLORIDA STATUTES SECTION 736.05057**

**I. SUMMARY**

The proposed legislation originates from The Asset Protection Committee (the “Committee”) of the Real Property, Probate and Trust Law Section of The Florida Bar (the “RPPTL Section”).

The proposed legislation would enact new Florida Statutes Section 736.05057 to provide that spouses may validly maintain the creditor protection characteristics of tenancies by the entirety (“TBE”) property within the context of a joint revocable trust that meets the requirement of the proposed statute.

Joint trusts are often the primary estate planning vehicle for married Florida residents of modest means. Many middle class Floridians rely on joint trusts to simplify asset titling, provide for consolidated care during incapacity, minimize administration expenses, and avoid probate. These same Florida residents seek the protection of Florida’s TBE laws, and the Committee believes that the same public policy goals of protecting such residents exist regardless of whether that ownership is vested in the spouses, individually, or in a joint trust that meets the specifications set forth in the proposed legislation.

The proposed legislation is necessary because there is currently disagreement among practitioners, and unclear legal precedent, as to whether the creditor-protected status of TBE property continues inside a properly structured trust.

The statute is not intended to extend TBE protection to a new or previously unprotected class of assets. A transfer of assets to a trust that meets the requirements of the proposed statute does not convert property that was not TBE property before the transfer into property to which the TBE exemption applies. Enactment of the proposed legislation will merely provide that existing TBE property transferred to a joint trust described in the proposed statute will not operate to disrupt the exemption that the TBE property enjoyed before the transfer. The proposed legislation does not expand or alter any presumptions regarding what is or is not TBE property, and it does not shift the burden of proving whether a particular asset is subject to the protections of TBE.

**II. CURRENT SITUATION**

At common law, six unities must coincide to qualify property as TBE: (1) unity of possession (joint ownership and control); (2) unity of interest (the interest in the property must be identical); (3) unity of title (the interest must have originated in the same instrument); (4) unity of time (the interest must have commenced simultaneously); (5) survivorship (on the death of one spouse, the survivor must become the sole owner); and (6) unity of marriage (the parties must be married at

the time the property became titled in their joint names). *See Beal Bank, SSB v. Almand & Assoc.*, 780 So. 2d 45, 52 (Fla. 2001).

Subsequent cases have touched on the issue of preserving the above unities within the context of trust ownership. However, each case was based on a unique and limited set of facts, and collectively such cases do not provide certainty as to the TBE status of property held in a standard joint revocable trust that meets the parameters set forth in the proposed legislation. This leaves many Florida residents “in the dark” as to one of the State’s most compelling protections for its married residents.

In 2001, the Fifth District Court of Appeals in *Rollins v. Alvarez*, 792 So.2d 695 (Fla. 5<sup>th</sup> DCA 2001), denied TBE protection to property that had been transferred to a trust over which only one spouse had control based upon a disruption of the unity of possession and unity of interest. In that case, husband and wife created an *inter vivos* trust and transferred TBE property to that trust. Husband was named as the sole trustee with the power to distribute income and principal to both husband and wife during their joint lifetimes. Husband was also granted the sole power to amend, modify or revoke the trust during his lifetime. Due to husband’s unilateral control over the trust, the transfer was deemed tantamount to TBE property being conveyed to a single spouse with unqualified fee simple title. The court noted, “[t]here is no dispute that the effect of this transfer to the trustee destroyed any tenancy by the entireties that may have existed in the property pre-transfer.”<sup>1</sup> *Id.* at 696 n. 2.

In 2004, the Fourth District Court of Appeals in *Passalino v. Protective Group Securities, Inc.*, 866 So.2d 295 (Fla. 4<sup>th</sup> DCA 2004), upheld the TBE status of property that was transferred to an attorney’s trust account.<sup>2</sup> Husband and wife deposited the sale proceeds from their TBE residence into their attorney’s trust account. The creditor argued that the transfer disrupted the unity of title and possession as the attorney was the only person in possession of and with authority over the funds; thus, the TBE character of the property had been severed. The court rejected the creditor’s argument, noting that the TBE character is retained “where the parties clearly intended their property to be held as a tenancy by the entireties by exercising beneficial ownership of the property and controlling the property’s disposition.” *Id.* at 297.

<sup>1</sup> The most recent case to discuss the severance of TBE upon transfer to trust was decided in December of 2020. *In re Hughes*, 2020 WL 7388075 (N.D. Ill.). The court upheld the protected status of Illinois TBE homestead property against husband’s creditors. The property was transferred from husband and wife, as tenants by the entirety, to a trust of which the wife was the grantor with “the sole right to revoke or terminate the trust.” *Id.* at 1. Wife was also the sole trustee with the power to distribute income and principal for the benefit of herself, her husband, and her children. The trust contained valid spendthrift clauses with respect to the husband and children. The court concluded that husband’s beneficial interest in the trust did not enter into the bankruptcy estate as the wife was the sole grantor and trustee and there was a valid spendthrift clause under Illinois law. The creditors attempted to argue that the trust property was not protected as it proceeded from the husband as the initial owner of the property with his wife as tenants by the entirety. The court rejected this argument, noting that when husband and wife conveyed the property to the trust “they did so as a single legal entity. Title ‘proceeded from’ that entity, not from [the husband] himself.” *Id.* at 6. While not at issue in the case, the court noted that “courts differ on whether the conveyance of entireties property to a spendthrift trust severs the tenancy or renders the trust’s spendthrift provision unenforceable.” *Id.* at 6 n. 6.

<sup>2</sup> The Florida Trust Code does not apply to attorney trust accounts.

In 2011, the Federal District Court for the Middle District of Florida in *Quaid v. Baybrook Home of Polk Cnty., LLC*, 2011 WL 5572605 (M.D. Fla.), denied TBE protection to TBE property transferred to a trust over which only one spouse had control. Wife established a revocable trust, which named her husband and son as successor trustees and her husband as the sole beneficiary upon her death. During her lifetime, only wife had the ability to control trust assets and to revoke or amend the trust. Husband transferred TBE assets to the trust during wife's lifetime. Upon wife's death, husband's creditors sought collection against such assets on the grounds that they were no longer TBE assets and husband was a settlor with respect to the trust assets in question. The court held that "when assets are transferred to a trust in which only one party maintains control, the terms of the trust eliminate any TBE protection." *Id* at 2. However, the court ultimately found that the assets were not subject to husband's creditors as he was not a settlor of the trust as only his wife had the power to revoke the transfer or withdraw the assets. Upon wife's death the spendthrift provisions of the trust protected the assets from husband's creditors.

In September of 2020, the Bankruptcy Court in *In re Givans*, 623 B.R. 635 (Bankr. M.D. Fla. 2020), denied TBE protection to a residence that was initially TBE and was subsequently transferred to a trust. Husband and wife transferred the TBE residence to a joint trust. The court noted that "they held bare legal title as Trustee of the Trust. Because a trust is not a married individual, the Trust cannot own the Property as tenants by the entirety. The unity of marriage does not exist as to the Trust." The court also placed considerable emphasis on the fact that the children of the settlors were also beneficiaries of the trust and thereby received an equitable interest in the trust property, which disrupted the unity of interest necessary for TBE property.

In direct contrast to *In re Givans*, the court in *In re Romagnoli*, 321 B.R. 807 (Bankr. S.D. Fla. 2021) upheld the preservation of TBE protection to assets transferred to a joint trust. In *In re Romagnoli* the debtor and his wife were the grantors and co-trustees of the trust. The debtor, his wife, and their minor child were beneficiaries. Debtor and his wife transferred TBE property to the trust. The court noted that if TBE property was contributed to the trust then the debtor and his wife could only jointly remove the TBE property from the trust and if the property were removed from the trust it would continue to retain its TBE status. In short, the creditor had no remedy even if substituted in for debtor as a trustee of the trust.

The above cases that decide against TBE protection ultimately hinge on the absence of one of the six unities required for TBE. For example, *Rollins* and *Quaid* both focus on the disruption of the unity of possession as only one spouse was granted the ability to revoke or amend the trust in question. The proposed legislation seeks to narrowly define the requirements of a joint trust that allows continuation of TBE status for TBE property transferred to such a trust. Those requirements are aimed at preserving the status quo of all parties (spouses and spouses' creditors).

No Florida court or federal court has provided a conclusive precedent as to the retention of TBE-protected status within a carefully structured joint trust that meets the characteristics of the proposed legislation, and the varying outcomes under the above cases continues to leave Florida residents "in the dark" as to the status of TBE property in the context of joint trusts. There is no compelling policy reason to bar the protection of TBE status within a joint trust that meets the requirements of the proposed legislation and does not otherwise create a new protected category of property nor deny creditors satisfaction that would otherwise be available. Married couples have a legitimate expectation that TBE property is protected from the creditors of either spouse,

and ownership via a trust structure that preserves the exemptions that would (or would not) be available if the settlor spouses had held the property individually should not disrupt that expectation.

### **III. EFFECT OF PROPOSED LEGISLATION (DETAILED ANALYSIS OF PROPOSED STATUTE)**

#### A. Effect of Proposed Legislation.

The proposed statute would offer a clear path as to the continuation of the protected status of TBE property transferred to a joint trust meeting the requirements set forth in the statute. The essential characteristics of the six unities required at common law would be maintained provided such structure is followed. The proposed legislation does not otherwise shift the burden of proving that a TBE exemption applies to specific property or proceeds. That analysis remains the same whether owned by spouses individually or within a joint trust that satisfies the requirements of the proposed legislation.

#### B. Specific Statutory Provisions

##### 1. Subsection (1)

Subsection (1) defines “TBE trust property” and “proceeds” for purposes of the proposed legislation. Property is limited to property that is already TBE property before its transfer to a trust, to which the statute applies. “Proceeds” are assets attributable to the sale, lease, exchange or other disposition of property transferred to the trust, income from the property, and claims and insurance proceeds attributable to the property.

The proposed statute does not allow for the transmutation of non-TBE property into TBE property via a conveyance to a trust. The proposed legislation is focused on the preservation of prior TBE status when the structure of the trust to which the TBE assets are transferred does not otherwise alter the relationship between the spouses and the TBE property in question.

##### 2. Subsection (2)

Subsection (2) sets forth the provisions in the trust agreement and the factual circumstances that are required to maintain the TBE exemption of property transferred to such a trust. It is the heart of the proposed legislation.

The trust must: (i) be revocable by either or both of the settlors during their joint lifetimes; (ii) if the trust is revoked during the joint lifetimes of the settlors then the trustee must distribute any property and proceeds to the settlors as tenants by the entirety; (iii) the settlors must both be living and remain married to each other; (iv) the property and proceeds must be held for the settlors benefit during the course of their marriage, but the terms of the TBE trust agreement allow the settlors to permit the trustee to make distributions to other persons; and (v) upon the death of the first settlor the surviving settlor has the power to revoke the trust as to the property and proceeds and vest full title in the surviving settlor, individually.

If a trust meets the requirements of subsection (2), then property that was TBE property prior to its transfer to the trust, and the proceeds of such property, will obtain the benefit of TBE protection from the settlors' separate creditors. Creditors stand in the same relationship to the TBE property of the settlors titled to the trust as they would with respect to TBE property titled to the Settlers, individually. Upon termination of the marriage or the death of the first settlor, the same avenues are available for creditors that would otherwise have been available to individually-owned TBE property.

### 3. Subsection (3)

Subsection (3) clarifies that the protections afforded by this statute apply regardless of who is serving as trustee.

### 4. Subsection (4)

Subsection (4) allows one or both of the settlors to transfer non-TBE property to the trust, and any property so transferred retains its character as non-TBE property inside the TBE trust.

### 5. Subsection (5)

Subsection (5) addresses the treatment of property and proceeds with respect to dissolution of marriage and related provisions under Chapter 61, Florida Statutes and elective share rights and related provisions under Part II of Chapter 732, Florida Statutes. For purposes of those statutory regimes property and proceeds held in trust under the proposed legislation are treated the same as TBE property titled to the settlors, individually.

### 6. Subsection (6)

Subsection (6) provides that upon the death of the first settlor the exemption from the first settlor's individual creditors with respect to the property and/or proceeds continues for the benefit of the surviving settlor. This subsection maintains the status quo of TBE property following the death of one settlor with respect to the separate creditors of the first settlor to die. The same exemption to claims of the deceased settlor's creditors apply as if the settlors had owned the property and/or proceeds as TBE property, individually.

### 7. Subsection (7)

Subsection (7) provides that upon the death of the first settlor the property and/or proceeds are subject to the claims of the surviving settlor's creditors. This subsection maintains the status quo of TBE property following the death of one settlor with respect to the separate creditors of the surviving settlor. The creditors of the surviving settlor have the same claims against the property and/or proceeds as they would have if the property and/or proceeds were owned by the surviving settlor individually.

Subsection (7) also provides that the surviving settlor is granted the same rights to disclaim a portion of the property and/or proceeds under Chapter 739, Florida Statutes, subject to the same



restrictions thereunder, as the surviving settlor would have had upon the death of the first settlor if the property and/or proceeds were titled as TBE in the settlors' individual names.

8. Subsection (8)

The termination of the settlors' marriage by dissolution, invalidity or annulment operates to terminate the TBE protection granted to property and/or proceeds under subsection (2) above, just as such protection would be terminated if the property and/or proceeds were titled as TBE in the settlor's individual names prior to the termination of the settlors' marriage.

9. Subsection (9)

For purposes of Sections 732.401 and 732.4015, Florida Statutes, a residence owned by a trust described in subsection (2) that meets the definition of property in subsection (1) and that is used by the settlors as their homestead is treated as property owned by the settlors as TBE under those sections and not as protected homestead for purposes of Constitutional restrictions on devise of homestead. After the death of the first settlor these sections would apply to the homestead property in question. Once again, the proposed legislation is seeking the same result as if the property were owned by the settlors, individually, as tenants by the entirety.

10. Subsection (10)

Subsection (10) maintains the status quo with respect to the burden to prove the TBE exemption. The burden of proof for property and/or proceeds held within a trust described in subsection (2) is the same as if the settlors owned such property, individually, as tenants by the entirety. Nothing in the proposed legislation is intended to diminish the rights of creditors that would otherwise be available with respect to the settlors' assets, TBE or otherwise.

#### **IV. FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS**

Adoption of this legislative proposal by the Florida Legislature should not have a fiscal impact on state and local governments. It should be revenue neutral.

#### **V. DIRECT IMPACT ON PRIVATE SECTOR**

The certainty and predictability that the proposed legislation will lend to rights and liabilities in TBE property titled to a joint trust that meets the requirements set forth in the statute will benefit the private sector.

#### **VI. CONSTITUTIONAL ISSUES**

The proposed legislation is prospective in application. There are no known Constitutional issues.

#### **VII. OTHER INTERESTED PARTIES**

Other groups that may have an interest in the legislative proposal include the Family and Business Law Sections of The Florida Bar and the Florida Bankers Association.

1 Section 736.05057, Florida Statutes, is created to read:

2 **736.05057 Transfer of tenants by the entirety property to**  
3 **trust**

4 (1) As used in this section:

5 (a) "TBE trust property " means any property owned by married  
6 persons as tenants by the entirety at the time of its transfer to  
7 the trustee of a TBE Trust, and includes proceeds.

8 (b) "TBE trust" means a trust which satisfies the requirements  
9 of this section.

10 (c) "Proceeds" means:

11 1. Assets attributable to the sale, lease, exchange or  
12 other disposition of TBE trust property;

13 2. Income attributable to TBE trust property;

14 3. Claims arising out of a loss or damage to TBE trust  
15 property, and proceeds of insurance payable to the trustee on  
16 account thereof.

17 (2) TBE trust property shall have the same exemption from the  
18 claims of the settlors' respective separate creditors as it would  
19 have if legal title were still held by the settlors as tenants by  
20 the entirety if the instrument creating the TBE trust provides  
21 that:

22 (a) The trustee shall hold the TBE trust property for the sole  
23 benefit of both settlors during their marriage and the trustee may  
24 distribute TBE trust property and income only to or for the  
25 benefit of the settlors or otherwise as both settlors direct;

26       (b) The TBE trust is revocable by either or both of the  
27 settlers during their marriage to each other, and if the TBE trust  
28 is revoked during that time the trustee shall immediately  
29 distribute the TBE trust property to the settlers as tenants by  
30 the entirety, or as otherwise directed by both settlers;

31       (c) If the settlers' marriage ends at the death of the first  
32 settlor, the trustee shall hold the TBE trust property for the  
33 sole benefit of the surviving settlor during his or her lifetime,  
34 during which time the surviving settlor can revoke the trust as to  
35 the TBE trust property in its entirety and, in that event, the  
36 trustee shall immediately distribute all TBE trust property to the  
37 surviving settlor or otherwise as the surviving settlor shall  
38 direct; and

39       (d) The exemption of TBE trust property from the claims of  
40 the settlers' respective separate creditors shall immediately  
41 terminate if the settlers: (i) are no longer married to each  
42 other; (ii) cease being the sole beneficiaries of the TBE trust  
43 property; or (iii) take any action with respect to their equitable  
44 and beneficial interest in the TBE trust property that would  
45 effectively sever or terminate a TBE in the property if they held  
46 legal title individually.

47       (3) This section applies if one, both, or neither of the settlers  
48 serves as trustee of the trust.

49       (4) If one or both of the settlers or another person transfers  
50 property that is not TBE trust property to the trustee of a TBE

51 trust any such property, and all income, increases, receipts, and  
52 claims attributable to such property retain, as assets of the  
53 trust or as distributed from the trust, its character as property  
54 that is not TBE trust property.

55 (5) Unless provided to the contrary in a writing signed by both  
56 settlers, and subject to the requirements of s. 732.702, TBE trust  
57 property held in a TBE trust shall be treated as being owned by  
58 the settlers as tenants by the entirety for purposes of  
59 determining a settlor's marital property rights under Ch. 61 and  
60 for purposes of part II of ch. 732.

61 (6) Upon the death of the first settlor:

62 (a) All TBE trust property that was exempt from the claims of  
63 the first deceased spouse's separate creditors immediately prior  
64 to his or her death shall have the same exemption from such claims  
65 after his or her death as would have applied if the settlers held  
66 the TBE trust property outside the trust as tenants by the  
67 entirety.

68 (b) All TBE property is subject to the claims of the  
69 surviving settlor's separate creditors to the same extent that  
70 such property would be so subject if solely owned by the surviving  
71 settlor.

72 (c) For purposes of Ch. 739, the surviving settlor may  
73 disclaim an interest in TBE trust property, as if such TBE trust  
74 property were owned by the settlers as tenants by the entirety  
75 immediately before the death of the first settlor.

76 (7) If the settlors' marriage terminates by dissolution,  
77 invalidity or annulment, upon the court's order dissolving or  
78 annulling the marriage or the court's determination that the  
79 marriage was invalid, the exemption from the claims of the  
80 settlors' separate creditors provided for in this section  
81 immediately terminates.

82 (8) For purposes of ss. 732.401 and 732.4015, during the settlors'  
83 marriage TBE trust property used by either or both settlors as  
84 their homestead shall be treated as property owned by them as  
85 tenants by the entirety outside of the trust, and for purposes of  
86 s. 731.201 is not protected homestead. If the settlors' marriage  
87 terminates by the death of the first settlor to die, there is no  
88 devise of the homestead within the meaning of s. 732.4015. Upon  
89 the surviving settlor's death the homestead is property to which  
90 ss. 732.401 and 732.4015 apply.

91 (9) In any proceeding relating to the exemption of TBE trust  
92 property from the claims of a separate creditor of either or both  
93 settlors, the burden to prove such exemption is the same as if the  
94 TBE trust property were owned by the settlors or settlor  
95 individually.

96 (10) The provisions of this section are in addition to, and not in  
97 derogation of, any common law allowing property titled in the name  
98 of the trustee of a trust to be, or to be treated as, tenants by  
99 the entirety property.

100 (11) This section shall take effect upon becoming law, and it  
101 applies to all TBE trust property transferred by settlors to the  
102 trustee of a trust that satisfies the requirements of Subsection  
103 (2) on or after the effective date of the statute.

## Executive Summary

### Revisions to Uniform Title Standards Chapter 0.0 Construction of Title Problems

The Title Issues and Standards Committee is proposing a minor change to Standard 0.0 to make the Standard gender neutral. Thank you to Peggy Williams and Lauren Danilchenko for proposing this change.

Redlined Version:

#### STANDARD 00

##### CONSTRUCTION OF TITLE PROBLEMS

**STANDARD: THE ATTORNEY, UPON EXAMINING AN ABSTRACT OF TITLE TO LAND, SHOULD CONSTRUE QUESTIONS IN FAVOR OF MARKETABILITY WHENEVER POSSIBLE.**

**Problem:** What questions and objections should be raised by the examining attorney?

**Answer:** Objections and requirements should be made only when the irregularities or defects appearing in the abstract of title actually impair the title or may be expected to expose the purchaser or lender to the hazards of adverse claims or litigation. When such a situation arises the attorney should consult, when possible, with the prior examiner and endeavor to resolve the question in favor of marketability. ~~He~~ **The Attorney** should communicate, when possible, with the prior examining attorney before delivering ~~his an~~ opinion of title to ~~his~~ **the** client.

Clean Version:

#### STANDARD 00

##### CONSTRUCTION OF TITLE PROBLEMS

**STANDARD: THE ATTORNEY, UPON EXAMINING AN ABSTRACT OF TITLE TO LAND, SHOULD CONSTRUE QUESTIONS IN FAVOR OF MARKETABILITY WHENEVER POSSIBLE.**

**Problem:** What questions and objections should be raised by the examining attorney?

**Answer:** Objections and requirements should be made only when the irregularities or defects appearing in the abstract of title actually impair the title or may be expected to expose the purchaser or lender to the hazards of adverse claims or litigation. When such a situation arises the attorney should consult, when possible, with the prior examiner and endeavor to resolve the question in favor of marketability. **The Attorney** should communicate, when possible, with the prior examining attorney before delivering an opinion of title to the client.





Budget 2024-25 Summary

**Roll Up**

<b>General</b>	<b>Budget</b>
Revenue	\$ 1,705,500
Expenses	\$ 1,852,500
Net	\$ (147,000)

<b>ABC</b>	<b>Budget</b>
Revenue	\$ 27,000
Expenses	\$ 27,650
Net	\$ (650)

<b>CLI</b>	<b>Budget</b>
Revenue	\$ 412,000
Expenses	\$ 295,475
Net	\$ 116,525

<b>Legislative Update</b>	<b>Budget</b>
Revenue	\$ 36,000
Expenses	\$ 55,150
Net	\$ (19,150)

<b>ATO</b>	<b>Budget</b>
Revenue	\$ 435,000
Expenses	\$ 266,450
Net	\$ 168,550

<b>Convention</b>	<b>Budget</b>
Revenue	\$ 141,000
Expenses	\$ 258,900
Net	\$ (117,900)

<b>Rollup Summary</b>	<b>Budget</b>
Revenue	\$ 2,756,500
Expenses	\$ 2,756,125
<b>Net Operations</b>	\$ 375

**Budgeted 2024-25 Fund Balance** \$ 2,616,686

**Estimated Ending Fund Balance for 2024-25 based on Current Budget**

**THE FLORIDA BAR**  
**Real Property, Probate and Trust Law General**  
**Budget 2024-2025**

	2018-19 Actual	2019-20 Actual	2020-21 Actual	2021-22 Actual	2022-23 Actual	2023-24 Budget	2024-25 Budget
3001-Annual Fees	\$626,460	633,200	648,900	666,280	679,210	660,000	660,000
3002-Affiliate Fees	8,680	9,760	9,590	10,780	12,540	5,000	7,500
<b>Total Fee Revenue</b>	<b>635,140</b>	<b>642,960</b>	<b>658,490</b>	<b>677,060</b>	<b>691,750</b>	<b>665,000</b>	<b>667,500</b>
3301-Registration-Live	180,582	171,961	171,003	148,347	249,176	180,000	250,000
3331-Registration-Ticket						0	0
<b>Total Registration Revenue</b>	<b>180,582</b>	<b>171,961</b>	<b>171,003</b>	<b>148,347</b>	<b>249,176</b>	<b>180,000</b>	<b>250,000</b>
3351-Sponsorships	237,476	225,875	192,313	198,750	181,875	200,000	305,000
3391 Section Profit Split	276,501	336,907	562,502	451,920	627,487	425,000	450,000
3392-Section Differential	25,440	15,463	12,960	18,300	21,300	15,000	15,000
<b>Other Event Revenue</b>	<b>539,417</b>	<b>578,245</b>	<b>767,775</b>	<b>668,970</b>	<b>830,662</b>	<b>640,000</b>	<b>770,000</b>
3561-Advertising	18,117	20,466	14,918	8,969	8,840	18,000	18,000
<b>Advertising &amp; Subscription Revenue</b>	<b>18,117</b>	<b>20,466</b>	<b>14,918</b>	<b>8,969</b>	<b>8,840</b>	<b>18,000</b>	<b>18,000</b>
3899-Investment Allocation	100,919	-29,830	582,529	-388,574	148,906	0	0
<b>Non-Operating Income</b>	<b>100,919</b>	<b>-29,830</b>	<b>582,529</b>	<b>-388,574</b>	<b>148,906</b>	<b>0</b>	<b>0</b>
<b>Total Revenue</b>	<b>1,474,175</b>	<b>1,383,802</b>	<b>2,194,715</b>	<b>1,114,772</b>	<b>1,929,334</b>	<b>1,503,000</b>	<b>1,705,500</b>
4131-Telephone Expense	1,321	1,539	0		0	0	0
4134-Web Services	45,372	36,099	47,049	58,168	48,648	75,000	75,000
4301-Photocopying	65				0	0	0
4311-Office Supplies	2,021	1,489	1,018	1,672	2,301	5,000	5,000
<b>Total Staff &amp; Office Expense</b>	<b>48,779</b>	<b>39,127</b>	<b>48,067</b>	<b>59,841</b>	<b>50,949</b>	<b>80,000</b>	<b>80,000</b>
5051-Credit Card Fees	11,178	12,762	11,638	17,063	16,084	18,000	20,000
5031-AV Services (Zoom Expenses)							75,000
5101-Consultants	120,000	110,000	152,025	108,634	150,600	120,000	120,000
5121-Printing-Outside (Actionline)	103,658	99,276	69,541	79,170	77,942	120,000	128,000
5199-Other Contract Services	15,125	8,640	49,685	2,500	55,028	125,000	25,000
<b>Total Contract Services</b>	<b>249,961</b>	<b>230,678</b>	<b>282,889</b>	<b>207,367</b>	<b>299,654</b>	<b>383,000</b>	<b>368,000</b>
5501-Employee Travel	18,438	8,703	9,510	15,585	14,191	28,000	28,000
5581-Legislative Consultant Travel	NEW	8,123		5,543	15,344	15,000	20,500
5531-Board/Off/Memb Travel	32,741	14,804	14,293	9,895	3,755	20,000	20,000
<b>Total Travel</b>	<b>51,179</b>	<b>31,630</b>	<b>23,803</b>	<b>31,023</b>	<b>33,290</b>	<b>63,000</b>	<b>68,500</b>
6001-Post 1st Class/Bulk	1,046	28,362	26,018	27,464	35,445	30,000	2,500
6211 Promotion Exhibit Expense				535	0	0	0
6101-Products Purch for Sale		0	0		0	0	0
6251-Promotion Sponsorship		1000	0	500	0	0	0
6319 Mtgs Other Functions				2,139	0	0	0
6311-Mtgs General Meeting	559,586	637,324	677,186	651,612	780,243	750,000	850,000
6321- Mtgs Meals	250		164	164	0	0	0
6325-Mtgs Hospitality	20,938	36,242	41,234	27,911	33,654	35,000	40,000
6361-Mtgs Entertainment			0			0	0
6399-Mtgs Other	10,306	8,538	3,101	3,377	0	25,000	5,000
6401-Speaker Expense	328	2,719	0	2,942	0	7,500	3,000
6451-Committee Expense	67,348	122,124	82,368	91,776	161,842	100,000	100,000
6531-Brd/Off Special Project (Historian)	491	1,275	0	21,133	265	50,000	1,500
6599-Brd/Off Other (ALMS)	6,632	8,081	2,610	727	1,000	15,000	15,000
7001-Grant/Award/Donation	18,099	5,883	12,137	4,950	7,344	8,000	8,000
7004-Law School Programming	NEW	1,622	0	0	1,859	5,500	5,500
7006-Professional Outreach	NEW	0	0	0	500	3,000	3,000
7003 -Diversity Initiatives	590	572	0	0	3,084	12,000	12,000
7011-Scholarship/Fellowship	14,091	11,301	12,115	18,667	19,097	27,000	27,000

	2018-19 Actual	2019-20 Actual	2020-21 Actual	2021-22 Actual	2022-23 Actual	2023-24 Budget	2024-25 Budget
7999-Other Operating Exp	1,475	230	1,207	3	0	5,000	5,000
<b>Total Other Expense</b>	<b>• 701,180</b>	<b>868,273</b>	<b>858,140</b>	<b>853,736</b>	<b>1,044,333</b>	<b>1,073,000</b>	<b>1,077,500</b>
8021-Section Admin Fee	217,024	222,046	227,939	245,819	251,865	229,354	250,000
8901-Eliminated IntFund Exp		3000	0	6000	7500	3000	6000
8101-Printing In-House	86	485	664	2,769	928	2,000	2,000
8111-Meetings Services	3,000	0	0		0	0	0
<b>Total Admin &amp; Internal Expense</b>	<b>220,110</b>	<b>225,531</b>	<b>228,603</b>	<b>254,588</b>	<b>260,293</b>	<b>234,354</b>	<b>258,000</b>
9692-Transfer Out-Council of Sections	300	300	500	500	500	500	500
<b>Total InterFund Transfers Out</b>	<b>300</b>	<b>300</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>
<b>Total Expense</b>	<b>1,271,509</b>	<b>1,392,539</b>	<b>1,442,002</b>	<b>1,407,055</b>	<b>1,689,019</b>	<b>1,833,854</b>	<b>1,852,500</b>
<b>Net Income</b>	<b>202,666</b>	<b>(8,737)</b>	<b>752,713</b>	<b>(292,283)</b>	<b>228,505</b>	<b>(330,854)</b>	<b>(147,000)</b>

**THE FLORIDA BAR**  
**RPPTL Legislative Update**  
**Budget 2024 -2025**

	2018-19 Actual	2019-20 Actual	2020-21 Actual	2021-22 Actual	2022-23 Actual	2023-24 Budget	2024-25 Budget
3321-Registration-Webcast	\$8,509	9,078	0	0	0	15,000	0
<b>Total Registration Revenue</b>	<b>8,509</b>	<b>9,078</b>	<b>0</b>		<b>0</b>	<b>15,000</b>	<b>0</b>
3341-Exhibit Fees	18,250	27,175	9,336	9,400	0	14,000	30,000
3351-Sponsorships	0	0	0		20,400	0	6,000
<b>Other Event Revenue</b>	<b>18,250</b>	<b>27,175</b>	<b>9,336</b>	<b>9,400</b>	<b>20,400</b>	<b>14,000</b>	<b>36,000</b>
3401-Sales-CD/DVD	24,535	27,045	4,310		10,925	0	0
3411-Sales-Published Materials	630	-60	0		0	0	0
<b>Sales, Rents &amp; Royalties Revenue</b>	<b>25,165</b>	<b>26,985</b>	<b>4,310</b>		<b>10,925</b>	<b>0</b>	<b>0</b>
<b>Total Revenue</b>	<b>51,924</b>	<b>63,238</b>	<b>13,646</b>	<b>9,400</b>	<b>31,325</b>	<b>29,000</b>	<b>36,000</b>
4111-Rent Equipment		0	0			0	0
4301-Photocopying	127	0	0		0	100	100
4311-Office Supplies	71	0	0		0	150	150
<b>Total Staff &amp; Office Expense</b>	<b>198</b>	<b>0</b>	<b>0</b>		<b>0</b>	<b>250</b>	<b>250</b>
5031-A/V Services	1,495	1,495	0		79	0	0
5051-Credit Card Fees	1,043	906	-66	261	1,240	700	0
5121-Printing-Outside	2,846	33	363	290	2,663	5,000	3,000
5199-Other Contract Services	0	0	0		0	0	0
<b>Total Contract Services</b>	<b>5,384</b>	<b>2,434</b>	<b>297</b>	<b>551</b>	<b>3,982</b>	<b>5,700</b>	<b>3,000</b>
5501-Employee Travel	450	2,315	0	1,457	1,106	3,000	1,500
5571-Speaker Travel	227	6,034	0	4,626	5,165	6,500	6,500
<b>Total Travel</b>	<b>677</b>	<b>8,349</b>	<b>0</b>	<b>6,083</b>	<b>6,271</b>	<b>9,500</b>	<b>8,000</b>
6001-Post 1st Class/Bulk	49	403	10	3	458	50	50
6021-Post Express Mail	283	860	58	10	0	500	500
6311 - Mtgs General Meeting	81	64	0		1,069	0	0
6321-Mtgs Meals	48,321	52,525	0	26,998	44,878	45,000	24,000
6325-Mtgs Hospitality	707	455	0	679	0	1,500	1,500
6341-Mtgs Equip Rental	30,162	14,193	0	10,871	9,359	15,000	12,000
6401-Speaker Expense	1,258	993	50		0	0	3,000
6451-Committee Expense		977	0		0	0	0
7001-Grant/Award/Donation		0	3,245	1,601	2,028	5,000	0
7999-Other Operating Exp	84	302	55	280	157	500	500
<b>Total Other Expense</b>	<b>80,945</b>	<b>70,772</b>	<b>3,418</b>	<b>40,443</b>	<b>57,949</b>	<b>67,550</b>	<b>41,550</b>
8011-Administration CLE	3,200	1,000	1,000	1,000	1,000	500	1,000
8101-Printing In-House	0	102	0		200	1,000	200
8131-A/V Services	3,703	4,544	63		175	0	0
8141-Journal/News Service	0	0	0		0	1,600	1,000
8171-Course Approval Fee	0	300	150		300	0	150
<b>Total Admin &amp; Internal Expense</b>	<b>6,903</b>	<b>5,946</b>	<b>1,213</b>	<b>1,000</b>	<b>1,675</b>	<b>3,100</b>	<b>2,350</b>

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
	Actual	Actual	Actual	Actual	Actual	Budget	Budget
<b>Total Expense</b>	<b>94,107</b>	<b>87,501</b>	<b>4,928</b>	<b>48,077</b>	<b>69,877</b>	<b>86,100</b>	<b>55,150</b>
<b>Net Income</b>	<b>(42,183)</b>	<b>(24,263)</b>	<b>8,718</b>	<b>(38,677)</b>	<b>(38,552)</b>	<b>(57,100)</b>	<b>(19,150)</b>

\*\*The 2020 Legislative Update program was entirely virtual due to covid-19.

**THE FLORIDA BAR**  
**RPPTL Attorney Bankers Conference**  
**Budget 2024 -2025**

	2018-19 Actual	2019-20 Actual	2020-21 Actual	2021-22 Actual	2022-23 Actual	2023-24 Budget	2024-25 Budget
3301-Registration-Live	\$5,875	8,662	0	0	8,400	12,500	12,500
<b>Total Registration Revenue</b>	<b>5,875</b>	<b>8,662</b>	<b>0</b>		<b>8,400</b>	<b>12,500</b>	<b>12,500</b>
3341-Exhibit Fees	750	0	0		0	1,500	1,500
3351-Sponsorships	8,500	14,000	0		8,500	15,000	13,000
<b>Other Event Revenue</b>	<b>9,250</b>	<b>14,000</b>	<b>0</b>		<b>8,500</b>	<b>16,500</b>	<b>14,500</b>
3401-Sales-CD/DVD	0	900	-300	150	0	0	0
<b>Total Revenue</b>	<b>15,125</b>	<b>23,562</b>	<b>-300</b>	<b>150</b>	<b>16,900</b>	<b>29,000</b>	<b>27,000</b>
5051-Credit Card Fees	223	326	0	4	409	500	500
<b>Total Contract Services</b>	<b>223</b>	<b>326</b>	<b>0</b>	<b>4</b>	<b>409</b>	<b>500</b>	<b>500</b>
5501-Employee Travel	0	274	0		1,100	1,250	1,250
5571-Speaker Travel	4,990	2,187	0		318	4,000	4,000
<b>Total Travel</b>	<b>4,990</b>	<b>2,461</b>	<b>0</b>	<b>0</b>	<b>1,418</b>	<b>5,250</b>	<b>5,250</b>
6021-Post Express Mail			-11	1	0	0	0
6321-Mtgs Meals	30,443	6,194	0		2,500	6,000	6,000
6325-Mtgs Hospitality	0	0	0		4,077	5,000	5,000
6341-Mtgs Equip Rental	1,563	0	0		0	1,000	1,000
6401-Speaker Expense	5	0	0		0	0	0
7999-Other Operating Exp		1,425	0		0	300	300
<b>Total Other Expense</b>	<b>32,011</b>	<b>7,619</b>	<b>-11</b>	<b>1</b>	<b>6,577</b>	<b>12,300</b>	<b>12,300</b>
8011-Administration CLE	5,722	10,000	0		7,150	6,000	8,250
8101-Printing In-House	5	0	0		137	200	200
8131-A/V Services*	0	0	105		0	550	0
8141-Journal/News Service	425	850	0		0	1,000	1,000
8171-Course Approval Fee	150	300	0		150	150	150
<b>Total Admin &amp; Internal Expense</b>	<b>6,302</b>	<b>11,150</b>	<b>105</b>	<b>0</b>	<b>7,437</b>	<b>7,900</b>	<b>9,600</b>
<b>Total Expense</b>	<b>43,526</b>	<b>21,556</b>	<b>120</b>	<b>5</b>	<b>15,841</b>	<b>25,950</b>	<b>27,650</b>
<b>Net Income</b>	<b>(28,401)</b>	<b>2,006</b>	<b>(420)</b>	<b>145</b>	<b>1,059</b>	<b>3,050</b>	<b>(650)</b>

\* Ask finance to put 8131 at \$0 because it will not be recorded.

**THE FLORIDA BAR**  
**Real Property Construction Law Institute**  
**2024-2025 Budget**

	2018-19 Actual	2019-20 Actual	2020-21 Actual	2021-22 Actual	2022-23 Actual	2023-24 Budget	2024-25 Budget
3301-Registration-Live	\$93,580	122,045	114,105	122,760	129,560	140,000	140,000
3331-Registration-Ticket	1,097	2,806			3,750	2,000	2,000
<b>Total Registration Revenue</b>	<b>94,677</b>	<b>124,851</b>	<b>114,105</b>	<b>122,760</b>	<b>133,310</b>	<b>142,000</b>	<b>142,000</b>
3341-Exhibit Fees							140,000
3351-Sponsorships	208,276	207,340	167,050	216,975	244,300	190,000	100,000
3392-Section Differential	0	0	0		0	0	0
<b>Other Event Revenue</b>	<b>208,276</b>	<b>207,340</b>	<b>167,050</b>	<b>216,975</b>	<b>244,300</b>	<b>190,000</b>	<b>240,000</b>
3401-Sales-CD/DVD	13,160	24,295	36,540	33,870	40,510	15,000	30,000
3411-Sales-Published Materials	900	840	300		0	500	0
<b>Sales, Rents &amp; Royalties Revenue</b>	<b>14,060</b>	<b>25,135</b>	<b>36,840</b>	<b>33,870</b>	<b>40,510</b>	<b>15,500</b>	<b>30,000</b>
3699-Other Operating Revenue		0	0		0	800	0
<b>Other Revenue Sources</b>		<b>0</b>			<b>0</b>	<b>800</b>	<b>0</b>
<b>Total Revenue</b>	<b>317,013</b>	<b>357,326</b>	<b>317,995</b>	<b>373,605</b>	<b>418,120</b>	<b>348,300</b>	<b>412,000</b>
5031-AV Services							0
5051-Credit Card Fees	6,719	8,249	6,881	5,179	10,357	5,120	10,000
5181-Speaker Honorarium	0	2,000			0	5,000	5,000
5199 - Other Contract Services			3,425	1,269	675	0	0
<b>Total Contract Services</b>	<b>6,719</b>	<b>10,249</b>	<b>10,306</b>	<b>6,448</b>	<b>11,032</b>	<b>10,120</b>	<b>15,000</b>
5501-Employee Travel	1,923	2,470	2,250	534	725	2,000	2,500
5571-Speaker Travel	7,199	15,849	6,903	10,581	11,671	9,000	9,000
<b>Total Travel</b>	<b>9,122</b>	<b>18,319</b>	<b>9,153</b>	<b>11,115</b>	<b>12,396</b>	<b>11,000</b>	<b>11,500</b>
6001-Post 1st Class/Bulk	6	11	2	261	867	25	25
6021-Post Express Mail	172	178	156	325	67	200	200
6319-Mtgs Other Functions	20,017	22,082	33,571	19,541	39,559	32,000	32,000
6321-Mtgs Meals	62,278	77,501	0	102,477	88,130	96,000	100,000
6325-Mtgs Hospitality	45,508	42,840	43,870	59,272	82,920	57,600	88,000
6341-Mtgs Equip Rental	25,833	24,032	106,907	50,747	49,240	35,000	25,000
6399-Mtgs Other	163	0	0		0	0	0
6401-Speaker Expense	5,141	2,214	0		0	0	0
7999-Other Operating Exp	2,484	3,277	2,093	-15,623	2,076	1,500	2,500
<b>Total Other Expense</b>	<b>161,602</b>	<b>172,135</b>	<b>186,599</b>	<b>217,000</b>	<b>262,859</b>	<b>222,325</b>	<b>247,725</b>
8011-Administration CLE	25,000	15,400	25,000	25,000	14,850	25,000	16,000
8101-Printing In-House	264	903	0	737	78	2,000	200
8131-A/V Services	2,738	2,780	5,315	5,672	497	3,250	3,250
8141-Journal/News Service	425	850	0	425	425	1,650	1,650
8171-Course Approval Fee	150	150	150	150	150	150	150
<b>Total Admin &amp; Internal Expense</b>	<b>28,577</b>	<b>20,083</b>	<b>30,465</b>	<b>31,984</b>	<b>16,000</b>	<b>32,050</b>	<b>21,250</b>
<b>Total Expense</b>	<b>206,020</b>	<b>220,786</b>	<b>236,523</b>	<b>266,548</b>	<b>302,287</b>	<b>275,495</b>	<b>295,475</b>
<b>Net Income</b>	<b>110,993</b>	<b>136,540</b>	<b>81,472</b>	<b>107,057</b>	<b>115,833</b>	<b>72,805</b>	<b>116,525</b>

2018-19 Actual	2019-20 Actual	2020-21 Actual	2021-22 Actual	2022-23 Actual	2023-24 Budget	2024-25 Budget
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**THE FLORIDA BAR**  
**RPPTL Attorney Trust Officer Liaison Conference**  
**2024 -2025 Budget**

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
	Actual	Actual	Actual	Actual	Actual	Budget	Budget
3301-Registration-Live	\$160,924	154,870	0	176,610	219,443	176,800	240,000
3331-Registration-Ticket	12,085	4,270	0		8,550	10,000	10,000
<b>Total Registration Revenue</b>	<b>173,009</b>	<b>159,140</b>	<b>0</b>	<b>176,610</b>	<b>227,993</b>	<b>186,800</b>	<b>250,000</b>
3341-Exhibit Fees	20,700	51,200	12,000		73,400	48,000	80,000
3351-Sponsorships	81,900	66,750	14,000	107,950	89,875	80,000	100,000
<b>Other Event Revenue</b>	<b>102,600</b>	<b>117,950</b>	<b>26,000</b>	<b>107,950</b>	<b>163,275</b>	<b>128,000</b>	<b>180,000</b>
3401-Sales-CD/DVD	11,290	10,820	0	22,320	16,992	5,000	5,000
3411-Sales-Published Materials	1,740	1,680	0		0	1,000	0
<b>Sales, Rents &amp; Royalties Revenue</b>	<b>13,030</b>	<b>12,500</b>	<b>0</b>	<b>22,320</b>	<b>16,992</b>	<b>6,000</b>	<b>5,000</b>
<b>Total Revenue</b>	<b>288,639</b>	<b>289,590</b>	<b>26,000</b>	<b>306,880</b>	<b>408,260</b>	<b>320,800</b>	<b>435,000</b>
4111-Rent Equipment	0	0	0		0	0	0
<b>Total Staff &amp; Office Expense</b>	<b>0</b>	<b>0</b>	<b>0</b>		<b>0</b>	<b>0</b>	<b>0</b>
5051-Credit Card Fees	3,340	2,821	1,556	6,648	14,683	8,000	15,000
5121-Printing-Outside	1,154	1,469	0		107	2,500	2,500
<b>Total Contract Services</b>	<b>4,494</b>	<b>4,290</b>	<b>1,556</b>	<b>6,648</b>	<b>14,790</b>	<b>10,500</b>	<b>17,500</b>
5501-Employee Travel	2,652	3,649	0	2,061	1,303	2,000	3,000
5571-Speaker Travel	1,056	6,093	0	6,656	5,098	8,100	7,000
<b>Total Travel</b>	<b>3,708</b>	<b>9,742</b>	<b>0</b>	<b>8,717</b>	<b>6,401</b>	<b>10,100</b>	<b>10,000</b>
6001-Post 1st Class/Bulk	173	2	0	85	267	1,000	350
6021-Post Express Mail	166	122	0	297	98	150	150
6319-Mtgs Other Functions	7,844	6,201	0	5,899	5,198	10,000	10,000
6321-Mtgs Meals	43,044	43,464	0	48,345	63,970	57,000	85,000
6325-Mtgs Hospitality	62,353	72,994	0	52,218	135,613	95,000	90,000
6341-Mtgs Equip Rental	18,391	33,259	0	19,151	19,683	30,000	25,000
6399-Mtgs Other	750		0	1,447	3,320	0	0
6401-Speaker Expense	3,799	-259	0		0	0	1,000
7999-Other Operating Exp	300	1,360	0	2,869	1,374	1,000	3,200
<b>Total Other Expense</b>	<b>136,820</b>	<b>157,143</b>	<b>0</b>	<b>130,310</b>	<b>229,523</b>	<b>194,150</b>	<b>214,700</b>
8011-Administration CLE	25,000	17,050	0	25,000	14,850	25,000	16,000
8101-Printing In-House	2,563	3,165	0		6	3,000	100
8131-A/V Services	5,503	2,968	0	5,427	5,155	7,000	6,000
8141-Journal/News Service	0	425	0		850	1,600	2,000
8171-Course Approval Fee	150	150	150	150	150	150	150
<b>Total Admin &amp; Internal Expense</b>	<b>33,216</b>	<b>23,758</b>	<b>150</b>	<b>30,577</b>	<b>21,011</b>	<b>36,750</b>	<b>24,250</b>
<b>Total Expense</b>	<b>178,238</b>	<b>194,933</b>	<b>1,706</b>	<b>176,252</b>	<b>271,725</b>	<b>251,500</b>	<b>266,450</b>
<b>Net Income</b>	<b>110,401</b>	<b>94,657</b>	<b>24,294</b>	<b>130,628</b>	<b>136,535</b>	<b>69,300</b>	<b>168,550</b>

\*2020 Conference was cancelled due to covid. Revenues rolled over to the 2021 year.

**THE FLORIDA BAR**  
**RPPTL Convention**  
**2024-2025 Budget**

	2018-19 Actual	2019-20 Actual	2020-21 Actual	2021-22 Actual	2022-23 Actual	2023-24 Budget	2024-25 Budget
3301-Registration-Live	\$66,035	-125	67,702	97,357	70,300	70,000	75,000
<b>Total Registration Revenue</b>	<b>66,035</b>	<b>-125</b>	<b>67,702</b>	<b>97,357</b>	<b>70,300</b>	<b>70,000</b>	<b>75,000</b>
3341-Exhibit Fees	20,582	4,145	-214	0	26,500	15,000	36,000
3351-Sponsorships	25,000	0	5,000	0	34,000	10,000	30,000
<b>Other Event Revenue</b>	<b>45,582</b>	<b>4,145</b>	<b>4,786</b>	<b>0</b>	<b>60,500</b>	<b>25,000</b>	<b>66,000</b>
<b>Total Revenue</b>	<b>111,617</b>	<b>4,020</b>	<b>72,488</b>	<b>97,357</b>	<b>130,800</b>	<b>95,000</b>	<b>141,000</b>
4111-Rent Equipment	3,874	450	0	0	0	0	0
4311-Office Supplies	19	0	0	0	0	0	0
<b>Total Staff &amp; Office Expense</b>	<b>3,893</b>	<b>450</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
5031-AV Services							20,000
5051-Credit Card Fees	1,375	294	-178	-2	2,341	3,000	3,000
<b>Total Contract Services</b>	<b>1,375</b>	<b>294</b>	<b>(178)</b>	<b>(2)</b>	<b>2,341</b>	<b>3,000</b>	<b>3,000</b>
5501-Employee Travel	3,994	0	3,526	5,774	5,000	5,000	5,000
<b>Total Travel</b>	<b>3,994</b>	<b>0</b>	<b>3,526</b>	<b>5,774</b>	<b>5,000</b>	<b>5,000</b>	<b>5,000</b>
6001-Post 1st Class/Bulk	9	0	0	246	0	500	500
6021- Post Express Mail	4	0	0	0		0	0
6321-Mtgs Meals	121,486	550	194,234	362,967	114,123	185,000	210,000
6341-Mtgs Equip Rental	8,530	0	34,744	33,765	235	20,000	0
6361-Mtgs Entertainment	8,256	0	15,656	50,646	35,800	40,000	40,000
7001 - Grant Donation	10	0	0			0	0
<b>Total Other Expense</b>	<b>138,285</b>	<b>550</b>	<b>244,634</b>	<b>452,526</b>	<b>150,158</b>	<b>245,500</b>	<b>250,500</b>
8101-Printing In-House		0	0	0	0	400	400
<b>Total Admin &amp; Internal Expense</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>400</b>	<b>400</b>	<b>400</b>
<b>Total Expense</b>	<b>147,547</b>	<b>1,294</b>	<b>247,982</b>	<b>458,297</b>	<b>157,899</b>	<b>253,900</b>	<b>258,900</b>
<b>Net Income</b>	<b>(35,930)</b>	<b>2,726</b>	<b>(175,494)</b>	<b>(360,941)</b>	<b>(27,099)</b>	<b>(158,900)</b>	<b>(117,900)</b>

**THE FLORIDA BAR  
SECTION LEGISLATIVE ADVISING SERVICES AGREEMENT**

THIS AGREEMENT is entered into on July 26, 2022, by and between the REAL PROPERTY, PROBATE AND TRUST LAW SECTION of THE FLORIDA BAR ("SECTION"), and DEAN, MEAD, EGERTON, BLOODWORTH, CAPOUANO & BOZARTH, P.A., ("LEGISLATIVE ADVISOR"), who, in consideration as stated below, agree as follows:

1. **Term.** The LEGISLATIVE ADVISOR will serve from September 1, 2022 to August 31, 2024, as a legislative advisor for the SECTION. The LEGISLATIVE ADVISOR agrees to comply with all policies adopted by The Florida Bar Board of Governors and by the SECTION.
2. **Services.**
  - a. The LEGISLATIVE ADVISOR will serve as the advisor regarding legislative, administrative and regulatory matters that affect the SECTION. Peter M. Dunbar will be the lead contact and will be primarily responsible for performing the services to the SECTION under this Agreement. Other professional staff at the firm that will assist are: Martha Edenfield, French Brown, Marc Dunbar, Angela Bonds, Chris Moya and Jennifer Ungru.
  - b. Other Clients
    - 1) The LEGISLATIVE ADVISOR agrees that, if the LEGISLATIVE ADVISOR individually or his/her firm are to represent any client before the Florida Legislature other than set forth in the attached list, the LEGISLATIVE ADVISOR will notify in writing the Executive Director of The Florida Bar, the chair of the Bar's Legislation Committee, and the chair of the SECTION in writing at least 2 days before initiation of any such representation by the LEGISLATIVE ADVISOR.
    - 2) The LEGISLATIVE ADVISOR further agrees not advance on behalf of other clients any legislative position contrary to an official legislative position of The Florida Bar or the SECTION.
      - a) Potential or actual conflicts of interest will be communicated within 24 hours to the Executive Director of The Florida Bar and the chair of the SECTION to facilitate immediate resolution.
      - b) If the conflict cannot be resolved to the satisfaction of The Florida Bar and the SECTION, this agreement will be terminated.
    - 3) The LEGISLATIVE ADVISOR and the SECTION acknowledge that the services to be provided under this Agreement are governed by The Florida Bar's Rules of Professional Conduct, including those provisions relating to conflict of interest between clients.
  - c. The LEGISLATIVE ADVISOR will work on The Florida Bar legislative matters only as directed by the Executive Director of The Florida Bar, when the Executive Director believes that such participation is necessary and in the best interest of the membership of The Florida Bar, unless conflict exists or

it is inappropriate for the LEGISLATIVE ADVISOR to work on The Florida Bar legislative matters.

- 1) In this event, the cost of the LEGISLATIVE ADVISOR's time will be assessed against the SECTION.
  - 2) In this event, the LEGISLATIVE ADVISOR will advise the SECTION and track and report to the SECTION the costs incurred by the LEGISLATIVE ADVISOR.
- d. The LEGISLATIVE ADVISOR will coordinate all activities regarding the Florida Legislature that might affect the SECTION, which includes but is not limited to:
- 1) Identifying legislative issues likely to come before the Legislature during the term of the Agreement that will require services under the Agreement;
  - 2) Notifying the SECTION of any committee hearings of the Legislature that deal with issues that concern any area within the purview of the SECTION;
  - 3) Preparing presentations, when requested, to be made to legislators and their committee staff;
  - 4) Providing to the SECTION summaries of pre-filed and filed bills that deal with areas within the purview of the SECTION and copies of the actual bills when appropriate;
  - 5) Providing weekly reports during the legislative session on the status of legislative matters on which the SECTION has taken a position or has a pending legislative proposal, and providing reports on any new matters filed that are within the purview of the SECTION;
  - 6) Providing all services necessary to promote and support the SECTION's legislative proposals and other matters affecting the SECTION's areas of practice, and work with SECTION-designated contacts to obtain legislative sponsors for the SECTION's proposals;
  - 7) Using best efforts, while working with SECTION representatives, to ensure there is a diversity of legislators that sponsor SECTION legislation from year to year;
  - 8) Alerting the SECTION to the activities of other interested groups relating to legislative proposals promoted by, supported, or opposed by the SECTION; and
  - 9) Reporting on other matters that might affect, or be of interest to, the SECTION and its legislative program, including but not limited to regulation, rulemaking, and the provisions of technical assistance to the Executive Branch, executive branch agencies, and the Florida Legislature.
3. **Payment.** The SECTION will pay the LEGISLATIVE ADVISOR a fee of \$120,000.00, inclusive of all reasonable costs and expenses to be paid in the following manner: \$30,000 payable on September 1, 2022, \$30,000 payable on

December 1, 2022, \$30,000 payable on March 1, 2023, \$30,000 payable on June 1, 2023, \$30,000 payable on September 1, 2023, \$30,000 payable on December 1, 2023, \$30,000 payable on March 1, 2024, and \$30,000 payable on June 1, 2024 plus out-of-pocket expenses in an aggregate amount not to exceed \$20,500 per year for attendance at in-state Executive Council meetings and certain incidental expenses approved by the Section.

4. **Termination.** This Agreement may be terminated by either party upon sixty (60) days' written notice being given, or may be immediately terminated by The Florida Bar if it decides that the LEGISLATIVE ADVISOR or a member of the LEGISLATIVE ADVISOR's firm does not act within the best interest of The Florida Bar. In the event of such termination, the LEGISLATIVE ADVISOR will be entitled to payment of outstanding fees. Monthly fees will be determined on a *pro rata* basis based on the number of days remaining in the applicable month.
5. **Disclosure Requirements.**
  - a. Florida law requires lobbying firms to make certain public disclosures regarding their legislative and executive branch lobbying activity, including registering to represent a client and reporting compensation related to all lobbying activity for each client on a quarterly basis, with such compensation reports being subject to a random audit on an annual basis. The SECTION and LEGISLATIVE ADVISOR agree and consent to the disclosure of any information in this Agreement by either party or by The Florida Bar as required by law.
  - b. The Florida House of Representatives requires lobbying firms to publicly disclose each issue they are engaged to lobby on behalf of a lobbying client, including specific bill numbers. The Florida House of Representatives also requires lobbying firms representing public sector clients to post the lobbying contract on this [website](#).
  - c. Florida lawyers who engage in lobbying activity for a client are bound by the Rules Regulating the Florida Bar that provide that information relating to a client's representation is confidential unless certain limited exceptions apply. Some of the information required to be disclosed by Florida law and the Florida House of Representatives above is considered confidential by The Florida Bar. By entering into this Agreement, the SECTION consents to the disclosure of the required information.
6. **Miscellaneous.**
  - a. The LEGISLATIVE ADVISOR always agrees to identify him/herself as a representative of the SECTION and not as a representative of The Florida Bar when working on SECTION matters.
  - b. This Agreement will be governed by the laws of the State of Florida.
  - c. This Agreement is not assignable by either party.
  - d. All notices provided under this Agreement will be in writing and addressed to the undersigned persons and their designees at their email and mailing addresses as set forth in the membership records of The Florida Bar.
  - e. This Agreement represents the entire agreement of the parties and may be amended only by a written instrument signed by all parties, unless a

document is referenced in this Agreement and attached; then it is part of this Agreement as if fully incorporated herein.

- f. This Agreement may be executed in counterparts manually or by electronic means, all of which together will constitute one instrument that will be the Agreement.

WITNESS our signatures below.

DATED: \_\_\_\_\_

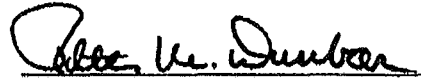


SARAH BUTTERS, Section Chair  
RPPI Law Section  
The Florida Bar

DATED: \_\_\_\_\_

JOSHUA E. DOYLE  
Executive Director  
The Florida Bar

DATED: July 26, 2022



PETER M. DUNBAR  
Legislative Advisor

Attachment 1: List of Clients

**CONTRACT ADDENDUM**

By mutual consent of the parties hereto and consistent with the enactment of revisions to Sections 11.045 and 112.3215 and related provisions of the Florida Statutes during the 2005-B Special Session of the Legislature, the contract with DEAN, MEAD, EGERTON, BLOODWORTH, CAPOUANO & BOZARTH, P.A. is revised to identify the services and the compensation for said services in the following categories:

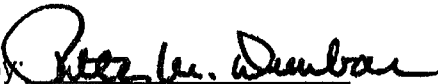
1. **Lobbying before the Legislature:** The client and Firm agree that the portion of time and services under the Agreement that is to be devoted to influencing or attempting to influence legislative action or non-action through oral or written communication or attempting to obtain the goodwill of members of the Legislature and employees of the Legislature shall be equal to forty percent (40%) of the total time and services to be provided under this Agreement. The annual compensation to be paid for these services shall be \$48,000.00.

2. **Lobbying before the Executive Branch:** The client and Firm agree that the portion of time and services under the Agreement that is to be devoted to influencing or attempting to influence an agency with respect to a decision of the agency in the area of policy through oral or written communication or attempting to obtain the goodwill of an agency official or employee shall be equal to twenty percent (20%) of the total time and services to be provided under this Agreement. The annual compensation to be paid for these services shall be \$24,000.00.

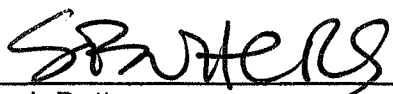
3. **Other Non-Lobbying Services:** The client and Firm agree that the portion of time and services under the Agreement to be devoted to non-lobbying services for the client, its members and employees, including, but not limited to, preparation of CLE educational written and oral offerings and briefings, legal research, attendance at meetings of the client and related travel, communications with judicial and court administration officials and the preparation of written articles, opinions and reports for the client, shall be equal to forty percent (40%) of the total time and services to be provided under this Agreement. The annual compensation to be paid for these services shall be \$48,000.00.

Except as modified hereby, the terms and conditions of the contract with Firm are ratified and confirmed to be effective this 26<sup>th</sup> day of July, 2022.

DEAN, MEAD, EGERTON, BLOODWORTH,  
CAPOUANO & BOZARTH, P.A.

By:   
Peter M. Dunbar

REAL PROPERTY, PROBATE & TRUST  
LAW SECTION OF THE FLORIDA BAR

By:   
Sarah Butters

THE FLORIDA BAR

By: \_\_\_\_\_  
Joshua Doyle



## 2022 DEAN MEAD LOBBY CLIENTS

LEGISLATIVE PRINCIPALS - 2022	Legislative	Executive
A. Duda & Sons	X	X
AbbVie Inc	X	X
ABC Fine Wine & Spirits		X
American Health Associates (The)	X	X
ARA - c/o MultiState Associates	X	X
American Sportfishing Association	X	X
Anheuser-Busch Companies, LLC	X	X
Carvana Co	X	X
Center for Aging and Rehabilitation, Inc.		X
CEV Multimedia	X	X
Charlotte County	X	X
Charter Communications	X	X
Charter Schools USA	X	X
CHO Management, Ltd		X
City of Clearwater	X	X
City Parking, Inc	X	X
Community Based Care, LLC		X
Conference of Circuit Court Judges of FL	X	X
Deloitte Consulting, LLP	X	X
Dosal Tobacco Corporation	X	X
Florida Ambulance Association	X	X
Florida Agritourism Association, Inc	X	
Florida Association of RV Parks & Campgrounds	X	X
Florida Bar, The	X	X
Florida Chamber of Commerce	X	X
Florida Defense Contractors Association	X	X
Florida Energy Pipeline Association	X	X
Florida Int'l E Commerce Forwarder Assoc, Inc	X	X
Florida Outdoor Advertising Association	X	X
Florida Power & Light Company	X	X
Florida Realtors	X	X
Florida Recreational Vehicle Trade Assn.	X	X
Florida Retail Federation	X	X
Funeral Services, Inc	X	X
Gaming Laboratories International	X	X
Germain Automotive Partnership		X
Graham Healthcare Group		X
HHS Technology Group, LLC	X	X
Home Care Association of America	X	X
John C. Heath, Attorney at Law PC d/b/a Lexington	X	X
Knox Nursery, Inc.		X
Lee County Board of County Commissioners	X	X
Leon Medical Centers	X	X
Lula Technologies		X
Marriott International, Inc	X	X
Marriott Vacations Worldwide Corporation	X	X

## 2022 DEAN MEAD LOBBY CLIENTS

LEGISLATIVE PRINCIPALS - 2022	Legislative	Executive
Parkway Maintenance & Management Company	X	X
Perdue, Brandon, Fielder, Collins & Mott, LLP		X
Phantom Fireworks Showrooms, LLC	X	X
Positive Behavior Supports Corporation	X	X
Precast Concrete Structures Association of Florida	X	X
Progexion ASG, Inc.	X	X
Real Property, Probate & Trust Law Section	X	X
Scientific Games Corporation	X	X
Seminole Tribe of Florida	X	X
Special Olympics Florida	X	X
State Farm Mutual Automobile Insurance	X	X
Step Up for Students	X	X
Tampa Bay Water	X	X
TelevisaUnivision	X	X
The Amos Group	X	X
The Nemours Foundation	X	X
Viera Builders		X
Walt Disney Parks and Resorts, US	X	X
Williams Companies (The)	X	X

**To:** RPPTL Executive Council

**From:** Michael V. Hargett, Thomas M. Karr, J. Richard Caskey

**Date:** October 24, 2023

**Re:** Report of Ad Hoc Civil Rules Committee

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On August 9, 2023, the Florida Supreme Court requested publication of proposed Rules in the above case in the September 1, 2023, Bar News. In the publication request, the Court invited interested persons to comment on the proposals no later than October 2, 2023. Additionally, the Court requested that all interested persons state a preference for either Track A or Track B. On September 16, 2023, the Section filed its Motion for Extension of Time so that the Section could seek input from the Section's members at its November 11, 2023, in-state Executive Council Meeting. The Supreme Court granted RPPTL's request for an extension of time providing until December 1, 2023, for the Section to file its comment.

The preliminary feedback received by the Ad Hoc Civil Rules Committee was to support the Civil Procedure Rules Committee's recommendation that the Court adopt the proposed amendment to rules 1.200, 1.201, 1.280, 1.440, and 1.460 of the Florida Rules of

Civil Procedure set forth in “Track A,” which includes many changes that our members are familiar with and were implemented during Covid-19. Further, the preliminary feedback also included a concern regarding the pace of implementation and the ability to timely educate the Section’s more than 11,000 members on the changes to the rules of civil procedure when they are implemented.

The Ad Hoc Civil Rules Committee provided this initial feedback and supporting documentation to multiple committees on both the real property and the probate and trust law side of the Section so that those committees could verify that their feedback is consistent with that the Ad Hoc Committee has already received or if additional feedback to the Supreme Court is appropriate. Assuming no additional feedback to the Supreme Court is desired, the Ad Hoc Civil Rules Committee recommends that the Section file its comment supporting the Civil Procedure Rules Committee’s recommendations, including Track “A,” and requesting a One Hundred Eighty (180) day delay in its implementation allowing the Section time to fully educate its members.

# Supreme Court of Florida

Office of the Clerk  
500 South Duval Street  
Tallahassee, Florida 32399-1927

PHONE NUMBER: (850) 488-0125  
[www.floridasupremecourt.org](http://www.floridasupremecourt.org)

JOHN A. TOMASINO  
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MARK CLAYTON  
CHIEF DEPUTY CLERK  
JULIA BREEDING  
STAFF ATTORNEY

August 9, 2023

The Florida Bar News Editor  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, Florida 32399-2300

*In Re: Amendments to Florida Rules of Civil Procedure,*  
Case No. SC2023-0962

Dear Editor:

I have provided you with a copy of the proposed Rules in the above case. Please publish said Rules in the September 1, 2023, Bar News. Please publish a statement that the Court has placed the proposed Rules on the Internet at location:

**<https://acis.flcourts.gov/portal/search/case>.**

Any comments should be filed with the Florida Supreme Court on or before October 2, 2023. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with *In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal*, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to

practice in Florida, the comment may be, but is not required to be, filed via the Portal. Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

Thank you for your cooperation in this matter.

Most cordially,



John A. Tomasino

JAT/so

Enclosure

cc: Hon. Charles T. Canady, Supreme Court Justice Liaison  
Diane West, Director of Central Staff, Florida Supreme Court  
Chief Judges of the District Courts of Appeal  
Clerks of the District Courts of Appeal  
Chief Judges of the Judicial Circuits  
Clerks of the Judicial Circuits  
F. Scott Westheimer, President, The Florida Bar  
Roland Sanchez-Medina, Jr., President-elect, The Florida Bar  
Joshua E. Doyle, Executive Director, The Florida Bar  
Heather Savage Telfer, Bar Liaison, The Florida Bar  
Judson Lee Cohen, Chair, Civil Procedure Rules Committee

The Florida Bar’s Civil Procedure Rules Committee (Committee), in Case No. SC2023-0962, has submitted to the Florida Supreme Court a report proposing amendments to the Florida Rules of Civil Procedure in response to the Court’s request for the Committee to refine and study aspects of the proposals submitted by the Workgroup on Improved Resolution of Civil Cases (Workgroup). The Committee has provided two alternative tracks of proposed amendments to implement case management requirements into the civil rules. Track A includes amendments that are based on the Court’s existing case management requirements that went into effect during the COVID-19 pandemic. Track B is a refinement of the Workgroup’s proposal for differentiated case management, including the requirement that parties in general cases meet and confer and then submit a proposed case management order. Both tracks include initial discovery and supplementation of discovery requirements as well as the elimination of the “at issue” requirement of rule 1.440 (Setting Action for Trial) and the narrowing of grounds for continuances.

The Court invites all interested persons to comment on the proposals. In addition to any other comments that interested persons wish to offer, the Court invites interested persons to state a preference for either Track A or Track B. Both tracks are reproduced in full below and online at <https://www.floridasupremecourt.org/Case-Information/Rules-Cases-Proposed-Amendments>. All comments must be filed with the Court on or before October 2, 2023, with a certificate of service verifying that a copy has been served on the Committee Chair, Judson Lee Cohen, 100 Biscayne Boulevard, Suite 2802, Miami, FL 33132, [jcohen@weinsteincohen.com](mailto:jcohen@weinsteincohen.com), and on the Bar Staff Liaison to the Committee, Heather Telfer, 651 E. Jefferson Street, Tallahassee, Florida 32399, [htelfer@floridabar.org](mailto:htelfer@floridabar.org), as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Committee Chair has until October 23, 2023, to file a response to any comments filed with the Court. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal). If filed by a nonlawyer or a lawyer not licensed to practice in Florida,

the comment may be, but is not required to be, filed via the Portal. Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927.

## IN THE SUPREME COURT OF FLORIDA

### IN RE: AMENDMENTS TO FLORIDA RULES OF CIVIL PROCEDURE, CASE NO. SC2023-0962

#### **Track A** (compared against current rules)

#### **RULE 1.200. CASE MANAGEMENT; PRETRIAL PROCEDURE**

**(a) ~~Case Management Conference.~~** ~~At any time after responsive pleadings or motions are due, the court may order, or a party by serving a notice may convene, a case management conference. The matter to be considered must be specified in the order or notice setting the conference. At such a conference the court may:~~

~~(1) schedule or reschedule the service of motions, pleadings, and other documents;~~

~~(2) set or reset the time of trials, subject to rule 1.440(c);~~

~~(3) coordinate the progress of the action if the complex litigation factors contained in rule 1.201(a)(2)(A)–(a)(2)(H) are present;~~

~~(4) limit, schedule, order, or expedite discovery;~~

~~(5) consider the possibility of obtaining admissions of fact and voluntary exchange of documents and electronically stored information, and stipulations regarding authenticity of documents and electronically stored information;~~



~~(6) — consider the need for advance rulings from the court on the admissibility of documents and electronically stored information;~~

~~(7) — discuss as to electronically stored information, the possibility of agreements from the parties regarding the extent to which such evidence should be preserved, the form in which such evidence should be produced, and whether discovery of such information should be conducted in phases or limited to particular individuals, time periods, or sources;~~

~~(8) — schedule disclosure of expert witnesses and the discovery of facts known and opinions held by such experts;~~

~~(9) — schedule or hear motions in limine;~~

~~(10) — pursue the possibilities of settlement;~~

~~(11) — require filing of preliminary stipulations if issues can be narrowed;~~

~~(12) — consider referring issues to a magistrate for findings of fact; and~~

~~(13) — schedule other conferences or determine other matters that may aid in the disposition of the action.~~

**Applicability;**  
**Exemptions.** The requirements of this rule apply to all civil actions except:

(1) actions required to proceed under section 51.011, Florida Statutes;

(2) actions proceeding under section 45.075, Florida Statutes;

(3) actions subject to the Florida Small Claims Rules, unless the court, under rule 7.020(c), has ordered the action to proceed under one or more of the Florida Rules of Civil Procedure and the deadline for the trial date specified in rule 7.090(d) no longer applies;

- (4) an action or proceeding initiated under chapters 731–736, 738, and 744, Florida Statutes;
- (5) an action for review of an administrative proceeding;
- (6) eminent domain actions under article X, section 6 of the Florida Constitution or chapter 73, Florida Statutes. Eminent domain actions proceeding under chapter 74, Florida Statutes, are excluded until 20 days after the order granting quick take;
- (7) a forfeiture action in rem arising from a state statute;
- (8) a petition for habeas corpus or any other proceeding to challenge a criminal conviction or sentence;
- (9) an action brought without an attorney by a person in the custody of the United States, a state, or a state subdivision;
- (10) an action to enforce or quash an administrative summons or subpoena;
- (11) a proceeding ancillary to a proceeding in another court;
- (12) an action to enforce an arbitration award;
- (13) an action involving an extraordinary writ or remedy under rule 1.630;
- (14) actions to confirm or enforce foreign judgments;
- (15) all proceedings under chapter 56, Florida Statutes;
- (16) a civil action pending in a special division of the court established by administrative order issued by the chief judge of the circuit or local rule (e.g., a complex business division or a complex civil division) that enters case management orders;
- (17) all proceedings under chapter 415, Florida Statutes, and sections 393.12 and 825.1035, Florida Statutes; and

(18) a claim requiring expedited or priority resolution under an applicable statute or rule.

~~(b) **Pretrial Conference.** After the action is at issue the court itself may or shall on the timely motion of any party require the parties to appear for a conference to consider and determine:~~

~~(1) the simplification of the issues;~~

~~(2) the necessity or desirability of amendments to the pleadings;~~

~~(3) the possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;~~

~~(4) the limitation of the number of expert witnesses;~~

~~(5) the potential use of juror notebooks; and~~

~~(6) any matters permitted under subdivision (a) of this rule.~~

**Case Track Assignment.** Not later than 120 days after an action commences as provided in rule 1.050, the court must assign each civil case to 1 of 3 case management tracks either by an initial case management order or an administrative order on case management issued by the chief judge of the circuit: streamlined, general, or complex. Assignment does not reflect on the financial value of the case but rather the amount of judicial attention required for resolution.

(1) “Complex” cases are actions designated by court order as complex under rule 1.201(a). Complex cases must proceed as provided in rule 1.201.

(2) “Streamlined” cases are actions that reflect some mutual knowledge about the underlying facts, have limited needs for discovery, well-established legal issues related to liability and damages, few anticipated dispositive pretrial motions, minimal documentary evidence, and a trial length of less than 2 days.

(3) “General” cases are all other actions that do not meet the criteria for streamlined or complex.

~~(c) **Notice.** Reasonable notice must be given for a case management conference, and 20 days’ notice must be given for a pretrial conference. On failure of a party to attend a conference, the court may dismiss the action, strike the pleadings, limit proof or witnesses, or take any other appropriate action. Any documents that the court requires for any conference must be specified in the order. Orders setting pretrial conferences must be uniform throughout the territorial jurisdiction of the court.~~**Case Management Order.**

(1) *Complex Cases.* Case management orders in complex cases must issue as provided in rule 1.201.

(2) *Streamlined and General Cases.* In streamlined and general cases, the court must issue a case management order that specifies the projected trial period based on the case track assignment or the actual trial period, consistent with administrative orders entered by the chief judge of the circuit. The order must also set deadlines that are differentiated based on whether the case is streamlined or general and must be consistent with the time standards specified in Florida Rule of General Practice and Judicial Administration 2.250(a)(1)(B) for the completion of civil cases. The order must specify no less than the following deadlines:

(A) service of complaints;

(B) service under extensions;

(C) adding new parties;

(D) completion of fact and expert discovery;

(E) resolution of all objections to pleadings;

(F) resolution of all pretrial motions; and

(G) completion of mediation.

(3) *Strict Enforcement of Deadlines.* The case management order must indicate that the deadlines established in the order will be strictly enforced by the court.

(4) *Timing of Issuance.* The court must issue the case management order no later than 120 days after commencement of the action as provided in rule 1.050 or 30 days after service of the complaint on the last of all named defendants, whichever date comes first. No case management conference is required to be set by the court before issuance.

(5) *Changes to Track Assignment or Deadlines.* Parties may by motion seek to change the track assignment or amend the deadlines set forth in the case management order. Parties may also request a case management conference as set forth in subdivision (e), but must comply with the case management order in place.

(6) *Notices of Unavailability.* Notices of unavailability have no effect on the deadlines set by the case management order. If a party is unable to comply with a deadline in a case management order, the party must take action consistent with subdivision (c)(5).

(7) *Inability to Meet Case Management Deadlines.* If any party is unable to meet the deadlines set forth in the case management order for any reason, including due to the unavailability of hearing time, the affected party may promptly move for a case management conference and alert the court. The motion must identify the issues to be addressed in the case management conference.

~~(d) **Pretrial Order.** The court must make an order reciting the action taken at a conference and any stipulations made. The order controls the subsequent course of the action unless modified to prevent injustice.~~ **Forms.** Except for case management orders issued in cases governed by rule 1.201, the forms for case management orders will be set by the chief judge of the circuit. The form orders must comply with the requirements of this rule.

**(e) Case Management Conferences.**

(1) Scheduling. The court may set case management conferences on its own notice or on motion of a party. Case management conferences may be scheduled on an ongoing periodic basis, or as needed with reasonable notice before the conference.

(2) Preparation Required. Attorneys and self-represented litigants who appear at a case management conference must be prepared on the pending matters in the case, be prepared to make decisions about future progress and conduct of the case, and have authority to make representations to the court and enter into binding agreements concerning motions, issues, and scheduling. If a party is represented by more than 1 attorney, the attorney(s) present at a case management conference must be prepared with all attorneys' availability for future events.

(3) Issues That May Be Addressed. Issues that may be addressed at a case management conference include, but are not limited to:

(A) determining what additional disclosures, discovery, and related activities will be undertaken and establishing a schedule for those activities, including whether and when any examinations will take place;

(B) determining the need for amendment of pleadings or addition of parties;

(C) determining whether the court should enter orders addressing 1 or more of the following:

(i) amending any dates or deadlines, contingent on parties establishing a good-faith effort to comply or a significant change of circumstances;

(ii) setting forth any requirements or limits for the disclosure or discovery of electronically stored information, including the form or forms in which the information should be produced and, if appropriate, the sharing or shifting of costs incurred by the parties in producing the information;

(iii) setting forth any measures the parties must take to preserve discoverable documents or electronically stored information;

(iv) adopting any agreements the parties reach for asserting claims of privilege or of protection for work-product materials after production;

(v) determining whether the parties should be required to provide signed reports from retained or specially employed experts;

(vi) determining the number of expert witnesses or designating expert witnesses;

(vii) resolving any discovery disputes, including addressing ongoing supplementation of discovery responses;

(viii) assisting in identifying those issues of fact that are still contested;

(ix) addressing the status and timing of dispositive motions;

(x) addressing the status and timing of motions filed under section 90.702, Florida Statutes, or related law;

(xi) obtaining stipulations for the foundation or admissibility of evidence;

(xii) determining the desirability of special procedures for managing the action;

(xiii) determining whether any time limits or procedures set forth in these rules or local rules should be modified or suspended;

(xiv) determining a date for filing the joint pretrial statement;

(xv) setting a trial period if one was not set or reviewing the anticipated trial period and confirming the anticipated number of days needed for trial;

(xvi) discussing any time limits on trial proceedings, juror notebooks, brief pre-voir dire opening statements, and preliminary jury instructions and the effective management of documents and exhibits; and

(xvii) discussing other matters and entering other orders that the court deems appropriate.

(4) *Revisiting Deadlines.* At any conference under this rule, the court may revisit any of the deadlines previously set where the parties have demonstrated a good-faith attempt to comply with the deadlines or have demonstrated a significant change of circumstances, such as the addition of new parties.

(5) *Other Hearings Convertible.* Any scheduled hearing may be converted to a sua sponte case management conference by agreement of the parties at the time of the hearing.

(6) *Proposed Orders.* At the conclusion of the case management conference, unless the court is drafting its own order, the court must set a deadline for submitting proposed orders arising out of the case management conference. A proposed order must be submitted by that deadline unless an extension is requested. If the parties do not agree to the contents of a proposed order, competing proposed orders must be submitted to the court. The parties must notify the court of the basis of any objections at the time the competing orders are submitted.

(7) *Failure to Appear.* If none of the parties appear at a case management conference, the court may conclude that the case has been resolved and may issue an order to show cause why the case should not be dismissed without prejudice.

**(f) Pretrial Conference.** After the action has been set for an actual trial date and the deadlines in the case management order have expired, the court itself may, or must on the timely motion of



any party, require the parties to appear for a conference to consider and determine:

- (1) a statement of the issues to be tried;
- (2) the possibility of obtaining evidentiary and other stipulations that will avoid unnecessary proof;
- (3) the witnesses who are expected to testify, evidence expected to be proffered, and any associated logistical or scheduling issues;
- (4) the use of technology and other means to facilitate the presentation of evidence and demonstrative aids at trial;
- (5) the order of proof at trial, time to complete the trial, and reasonable time estimates for voir dire, opening statements, closing arguments, and any other part of the trial;
- (6) the numbers of prospective jurors required for a venire, alternate jurors, and peremptory challenges for each party;
- (7) finalize jury instructions and verdict forms; and
- (8) any matters permitted under subdivision (e)(3).

**(g) If Trial Is Not Reached During Trial Period.** If a trial is not reached during the trial period set by court order, the court should enter an order setting a new trial period that is as soon as practicable from the date of the order. The order resetting the trial period must reflect what further activity will or will not be permitted.

### **Committee Notes**

**1971 Amendment - 2012 Amendment.** [No Change]

**202 Amendment.** Rule 1.200 as amended is intended to implement the case management procedures initially established by the Court during the Coronavirus Disease 2019 pandemic. The rule is not intended to preclude the possibility of administrative orders

issued by the chief judge of the circuit that refine and supplement the procedures delineated in the rule, particularly circuit or county-wide rollover practices for situations where a trial is not reached during the trial period scheduled by the case management order.

### **Court Commentary**

[No Change]

#### **RULE 1.201. COMPLEX LITIGATION**

**(a) Complex Litigation Defined.** At any time after all defendants have been served, and an appearance has been entered in response to the complaint by each party or a default entered, any party, or the court on its own motion, may move to declare an action complex. However, any party may move to designate an action complex before all defendants have been served subject to a showing to the court why service has not been made on all defendants. The court ~~shall~~will convene a hearing to determine whether the action requires the use of complex litigation procedures and enter an order within 10 days of the conclusion of the hearing.

(1) A “complex action” is one that is likely to involve complicated legal or case management issues and that may require extensive judicial management to expedite the action, keep costs reasonable, or promote judicial efficiency.

(2) In deciding whether an action is complex, the court must consider whether the action is likely to involve:

(A) numerous pretrial motions raising difficult or novel legal issues or legal issues that are inextricably intertwined that will be time-consuming to resolve;

(B) management of a large number of separately represented parties;

(C) coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court;

(D) pretrial management of a large number of witnesses, or a substantial amount of documentary evidence;

(E) substantial time required to complete the trial;

(F) management at trial of a large number of experts, witnesses, attorneys, or exhibits;

(G) substantial post-judgment judicial supervision; and

(H) any other analytical factors identified by the court or a party that tend to complicate comparable actions and which are likely to arise in the context of the instant action.

(3) If all of the parties, pro se or through counsel, sign and file with the clerk of the court a written stipulation to the fact that an action is complex and identifying the factors in (a)(2)(A) through (a)(2)(H) above that apply, the court ~~shall~~will enter an order designating the action as complex without a hearing.

**(b) Initial Case Management Report and Conference.** The court ~~shall~~must hold an initial case management conference within 60 days from the date of the order declaring the action complex.

(1) At least 20 days prior to the date of the initial case management conference, attorneys for the parties as well as any parties appearing pro se ~~shall~~must confer and prepare a joint statement, which ~~shall~~must be filed with the clerk of the court no later than 14 days before the conference, outlining a discovery plan and stating:

(A) a brief factual statement of the action, which includes the claims and defenses;

(B) a brief statement on the theory of damages by any party seeking affirmative relief;

(C) the likelihood of settlement;

(D) the likelihood of appearance in the action of additional parties and identification of any nonparties to whom any of the parties will seek to allocate fault;

(E) the proposed limits on the time:

(i) \_\_\_ to join other parties and to amend the pleadings;<sub>2</sub>

(ii) \_\_\_ to file and hear motions;<sub>2</sub>

(iii) \_\_\_ to identify any nonparties whose identity is known, or otherwise describe as specifically as practicable any nonparties whose identity is not known;<sub>2</sub>

(iv) \_\_\_ to disclose expert witnesses;<sub>2</sub> and

(v) \_\_\_ to complete discovery;

(F) the names of the attorneys responsible for handling the action;

(G) the necessity for a protective order to facilitate discovery;

(H) proposals for the formulation and simplification of issues, including the elimination of frivolous claims or defenses, and the number and timing of motions for summary judgment or partial summary judgment;

(I) the possibility of obtaining admissions of fact and voluntary exchange of documents and electronically stored information, stipulations regarding authenticity of documents, electronically stored information, and the need for advance rulings from the court on admissibility of evidence;

(J) the possibility of obtaining agreements among the parties regarding the extent to which such electronically stored information should be preserved, the form in which such information should be produced, and whether discovery of such

information should be conducted in phases or limited to particular individuals, time periods, or sources;

(K) suggestions on the advisability and timing of referring matters to a magistrate, master, other neutral, or mediation;

(L) a preliminary estimate of the time required for trial;

(M) requested date or dates for conferences before trial, a final pretrial conference, and trial;

(N) a description of pertinent documents and a list of fact witnesses the parties believe to be relevant;

(O) number of experts and fields of expertise; and

(P) any other information that might be helpful to the court in setting further conferences and the trial date.

(2) Lead trial counsel and a client representative ~~shall~~must attend the initial case management conference.

(3) ~~Notwithstanding rule 1.440, a~~At the initial case management conference, the court will set the trial date or dates no sooner than 6 months and no later than 24 months from the date of the conference unless good cause is shown for an earlier or later setting. The trial date or dates ~~shall~~must be on a docket having sufficient time within which to try the action and, when feasible, for a date or dates certain. The trial date ~~shall~~must be set after consultation with counsel and in the presence of all clients or authorized client representatives. The court ~~shall~~must, no later than 2 months ~~prior to~~before the date scheduled for jury selection, arrange for a sufficient number of available jurors. Continuance of the trial of a complex action should rarely be granted and then only ~~upon~~ upon good cause shown.

**(c) The Case Management Order.** The case management order ~~shall~~must address each matter set forth under rule

1.200(a)(2) and set the action for a pretrial conference and trial. The case management order also ~~shall~~must specify the following:

(1) Dates by which all parties ~~shall~~must name their expert witnesses and provide the expert information required by rule 1.280(b)(5). If a party has named an expert witness in a field in which any other parties have not identified experts, the other parties may name experts in that field within 30 days thereafter. No additional experts may be named unless good cause is shown.

(2) Not more than 10 days after the date set for naming experts, the parties ~~shall~~must meet and schedule dates for deposition of experts and all other witnesses not yet deposed. At the time of the meeting each party is responsible for having secured three confirmed dates for its expert witnesses. In the event the parties cannot agree on a discovery deposition schedule, the court, ~~upon~~ motion, ~~shall~~must set the schedule. Any party may file the completed discovery deposition schedule agreed ~~upon~~ or entered by the court. Once filed, the deposition dates in the schedule ~~shall~~may not be altered without consent of all parties or ~~upon~~ order of the court. Failure to comply with the discovery schedule may result in sanctions in accordance with rule 1.380.

(3) Dates by which all parties are to complete all other discovery.

(4) The court ~~shall~~must schedule periodic case management conferences and hearings on lengthy motions at reasonable intervals based on the particular needs of the action. The attorneys for the parties as well as any parties appearing pro se ~~shall~~must confer no later than 15 days prior to each case management conference or hearing. They ~~shall~~must notify the court at least 10 days prior to any case management conference or hearing if the parties stipulate that a case management conference or hearing time is unnecessary. Failure to timely notify the court that a case management conference or hearing time is unnecessary may result in sanctions.

(5) The case management order may include a briefing schedule setting forth a time period within which to file briefs or

memoranda, responses, and reply briefs or memoranda, prior to the court considering such matters.

(6) A deadline for conducting alternative dispute resolution.

**(d) Final Case Management Conference.** The court ~~shall~~must schedule a final case management conference not less than 90 days ~~prior to~~before the date the case is set for trial. At least 10 days ~~prior to~~before the final case management conference the parties ~~shall~~must confer to prepare a case status report, which ~~shall~~must be filed with the clerk of the court either ~~prior to~~before or at the time of the final case management conference. The status report ~~shall~~must contain in separately numbered paragraphs:

(1) A list of all pending motions requiring action by the court and the date those motions are set for hearing.

(2) Any change regarding the estimated trial time.

(3) The names of the attorneys who will try the case.

(4) A list of the names and addresses of all non-expert witnesses (including impeachment and rebuttal witnesses) intended to be called at trial. However, impeachment or rebuttal witnesses not identified in the case status report may be allowed to testify if the need for their testimony could not have been reasonably foreseen at the time the case status report was prepared.

(5) A list of all exhibits intended to be offered at trial.

(6) Certification that copies of witness and exhibit lists will be filed with the clerk of the court at least 48 hours ~~prior to~~before the date and time of the final case management conference.

(7) A deadline for the filing of amended lists of witnesses and exhibits, which amendments ~~shall~~will be allowed only ~~upon~~ motion and for good cause shown.

(8) Any other matters which could impact the timely and effective trial of the action.

### **Committee Notes**

[No Change]

## **RULE 1.280. GENERAL PROVISIONS GOVERNING DISCOVERY**

### **(a) Initial Discovery Disclosure.**

(1) *In General.* Except as exempted by subdivision (a)(2) or as ordered by the court, a party must, without awaiting a discovery request, provide to the other parties the following initial discovery disclosures unless privileged or protected from disclosure:

(A) the name and, if known, the address, telephone number, and e-mail address of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

(B) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control (or, if not in the disclosing party’s possession, custody, or control, a description by category and location of such information) and may use to support its claims or defenses, unless the use would be solely for impeachment;

(C) a computation for each category of damages claimed by the disclosing party and a copy of the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; provided that a party is not required to provide computations as to noneconomic damages, but the party must identify categories of damages claimed and provide supporting documents; and



(D) a copy of any insurance policy or agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(2) Proceedings Exempt from Initial Discovery Disclosure. Unless ordered by the court, actions and claims listed in rule 1.200(a) are exempt from initial discovery disclosure.

(3) Time for Initial Discovery Disclosures — In General. A party must make the initial discovery disclosures required by this rule within 14 days after the parties meet and confer under rule 1.280(h) unless a different time is set by court order.

(4) Time for Initial Disclosures — For Parties Served or Joined Later. A party that is first served or otherwise joined after the rule 1.280(h) conference must make the initial disclosures within 30 days after being served or joined, unless a different time is set by stipulation or court order.

(5) Basis for Initial Discovery Disclosure; Unacceptable Excuses; Objections. A party must make its initial discovery disclosures based on the information then reasonably available to it. A party is not excused from making its initial discovery disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's initial discovery disclosures or because another party has not made its initial discovery disclosures. A party who formally objects to providing certain information is not excused from making all other initial discovery disclosures required by this rule in a timely manner.

**(ab) Discovery Methods.** Parties may obtain discovery by ~~one~~one or more of the following methods: depositions ~~upon~~ oral examination or written questions; written interrogatories; production of documents or things or permission to enter ~~upon~~ land or other property for inspection and other purposes; physical and mental examinations; and requests for admission. Unless the court orders otherwise and under subdivision ~~(e)(d)~~ of this rule, the frequency of use of these methods is not limited, except as provided in rules 1.200, 1.340, and 1.370.

**(bc) Scope of Discovery.** Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) *In General.* Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) *Indemnity Agreements.* A party may obtain discovery of the existence and contents of any agreement under which any person may be liable to satisfy part or all of a judgment that may be entered in the action or to indemnify or to reimburse a party for payments made to satisfy the judgment. Information concerning the agreement is not admissible in evidence at trial by reason of disclosure.

(3) *Electronically Stored Information.* A party may obtain discovery of electronically stored information ~~in accordance with~~under these rules.

(4) *Trial Preparation; Materials.* Subject to the provisions of subdivision ~~(b)(c)(5) of this rule~~, a party may obtain discovery of documents and tangible things otherwise discoverable under subdivision ~~(b)(c)(1) of this rule~~ and prepared in anticipation of litigation or for trial by or for another party or by or for that party's representative, including that party's attorney, consultant, surety, indemnitor, insurer, or agent, only ~~upon~~ a showing that the party seeking discovery has need of the materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of the materials when the required showing has been made, the court ~~shall~~must protect against disclosure of the mental

impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation. Without the required showing a party may obtain a copy of a statement concerning the action or its subject matter previously made by that party. ~~Upo~~On request without the required showing a person not a party may obtain a copy of a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for an order to obtain a copy. The provisions of rule 1.380(a)(4) apply to the award of expenses incurred as a result of making the motion. For purposes of this paragraph, a statement previously made is a written statement signed or otherwise adopted or approved by the person making it, or a stenographic, mechanical, electrical, or other recording or transcription of it that is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(5) *Trial Preparation; Experts.* Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subdivision ~~(b)(c)(1) of this rule~~ and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(A) (i) By interrogatories a party may require any other party to identify each person whom the other party expects to call as an expert witness at trial and to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(ii) Any person disclosed by interrogatories or otherwise as a person expected to be called as an expert witness at trial may be deposed in accordance with rule 1.390 without motion or order of court.

(iii) A party may obtain the following discovery regarding any person disclosed by interrogatories or otherwise as a person expected to be called as an expert witness at trial:

1. The scope of employment in the pending case and the compensation for such service.

2. The expert's general litigation experience, including the percentage of work performed for plaintiffs and defendants.

3. The identity of other cases, within a reasonable time period, in which the expert has testified by deposition or at trial.

4. An approximation of the portion of the expert's involvement as an expert witness, which may be based on the number of hours, percentage of hours, or percentage of earned income derived from serving as an expert witness; however, the expert ~~shall~~will not be required to disclose ~~his or her~~the expert's earnings as an expert witness or income derived from other services.

An expert may be required to produce financial and business records only under the most unusual or compelling circumstances and may not be compelled to compile or produce nonexistent documents. ~~Upo~~On motion, the court may order further discovery by other means, subject to such restrictions as to scope and other provisions ~~pursuant to~~under subdivision ~~(b)(c)(5)(C)~~(c)(5)(C) of this rule concerning fees and expenses as the court may deem appropriate.

(B) A party may discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, only as provided in rule 1.360(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(C) Unless manifest injustice would result, the court ~~shall~~will require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subdivisions ~~(b)(c)(5)(A)~~(c)(5)(A) and ~~(b)(c)(5)(B)~~(c)(5)(B) of this rule; and

concerning discovery from an expert obtained under subdivision ~~(b)(c)(5)(A) of this rule~~ the court may require, and concerning discovery obtained under subdivision ~~(b)(c)(5)(B) of this rule~~ ~~shall~~will require, the party seeking discovery to pay the other party a fair part of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(D) As used in these rules an expert witness ~~shall be an expert witness as is~~ defined in rule 1.390(a).

(6) *Claims of Privilege or Protection of Trial Preparation Materials.* When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party ~~shall~~must make the claim expressly and ~~shall~~must describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

**(ed) Protective Orders.** ~~Upo~~On motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires, including ~~one~~1 or more of the following:

(1) that the discovery not be had;

(2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place or the allocation of expenses;

(3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(5)\_\_\_ that discovery be conducted with no one present except persons designated by the court;

(6)\_\_\_ that a deposition after being sealed be opened only by order of the court;

(7)\_\_\_ that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; and

(8)\_\_\_ that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of rule 1.380(a)(4) apply to the award of expenses incurred in relation to the motion.

**(de) Limitations on Discovery of Electronically Stored Information.**

(1) A person may object to discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of burden or cost. On motion to compel discovery or for a protective order, the person from whom discovery is sought must show that the information sought or the format requested is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order the discovery from such sources or in such formats if the requesting party shows good cause. The court may specify conditions of the discovery, including ordering that some or all of the expenses incurred by the person from whom discovery is sought be paid by the party seeking the discovery.

(2) In determining any motion involving discovery of electronically stored information, the court must limit the frequency or extent of discovery otherwise allowed by these rules if it determines that:

(iA) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from another source or in another manner that is more convenient, less burdensome, or less expensive; or

(iiB) the burden or expense of the discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

**(ef) Sequence and Timing of Discovery.** Except as provided in subdivision (b)(c)(5) or unless the court ~~upon motion for the convenience of parties and witnesses and in the interest of justice~~ orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or otherwise, ~~shall~~must not delay any other party's discovery.

**(fg) Supplementing of Responses.** ~~A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement the response to include information thereafter acquired.~~ A party who has made a disclosure under this rule or who has responded to an interrogatory, a request for production, or a request for admission must supplement or correct its disclosure or response:

(1) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or

(2) as ordered by the court.

**(h) Conference of the Parties.**

(1) Conference Timing. Except in a proceeding exempted from initial disclosure under rule 1.200(a), or when the court orders

otherwise, the parties must confer as soon as practicable—and, in any event, no more than 60 days after the first defendant is served.

(2) Conference Content; Parties' Responsibilities. In conferring, the parties must consider the nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case; make or arrange for the disclosures required by rule 1.280(a)(1); and discuss any issues about preserving discoverable information. The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference. The court may order the parties or attorneys to attend the conference in person.

**(i) Court Filing of Documents and Discovery.** Information obtained during discovery ~~shall~~ may not be filed with the court until such time as it is filed for good cause. The requirement of good cause is satisfied only ~~where~~ when the filing of the information is allowed or required by another applicable rule of procedure or by court order. All filings of discovery documents ~~shall~~ must comply with Florida Rule of Judicial Administration 2.425. The court ~~shall~~ has the authority to impose sanctions for violation of this rule.

**(hj) Apex Doctrine.** ~~If a party seeks to depose a current or former high-level government or corporate officer, the officer or a party may move for an order may seek an order preventing the officer from being subject to a deposition. The movant has the burden to persuade the court that the office is high-level for purposes of this rule. The motion, whether by a party or by the person of whom the deposition is sought, must be accompanied by an affidavit or declaration of the officer explaining that the officer lacks unique, personal knowledge of the issues being litigated. If the officer/movant meets these burdens of production, the court shall/must issue an order preventing the deposition, unless the party seeking the deposition demonstrates/establishes either:~~

(1) that the officer is not high-level for purposes of this rule; or



(2) that the party has exhausted other discovery, that such discovery is inadequate, and that the officer has unique, personal knowledge of discoverable information.

If the party seeking the deposition meets its burden, then the motion must be denied. In denying the motion, the court may limit the scope and manner of the taking of the deposition under rule 1.280(c). If the motion is granted, the court may vacate or modify the order preventing the deposition if, after additional discovery, the party seeking the deposition can meet its burden of persuasion under this rule. The burden to persuade the court that the officer is high-level for purposes of this rule lies with the person or party opposing the deposition. [Amendments in double underline and double strike through are pending in SC2021-0929]

**(jk) Form of Responses to Written Discovery Requests.**

When responding to requests for production served pursuant to rule 1.310(b)(5), written deposition questions served pursuant to rule 1.320, interrogatories served pursuant to rule 1.340, requests for production or inspection served pursuant to rule 1.350, requests for production of documents or things without deposition served pursuant to rule 1.351, requests for admissions served pursuant to rule 1.370, or requests for the production of documentary evidence served pursuant to rule 1.410(c), the responding party ~~shall~~ must state each deposition question, interrogatory, or discovery request in full as numbered, followed by the answer, objection, or other response.

**(l) Signing Disclosures and Discovery Requests; Responses; and Objections.** Every discovery under subdivision (a) of this rule and every discovery request, response, or objection made by a party represented by an attorney must be signed by at least 1 attorney of record and must include the attorney's address, e-mail address, and telephone number. A self-represented litigant must sign the request, response, or objection and must include the self-represented litigant's address, e-mail address, and telephone number. By signing, an attorney or self-represented litigant certifies

that to the best of the person's knowledge, information, and belief formed after a reasonable inquiry:

(1) with respect to a disclosure, it is complete and correct as of the time it is made; and

(2) with respect to a discovery request, response, or objection, it is:

(A) consistent with these rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(B) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and

(C) not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

No party has a duty to act on an unsigned disclosure, request, response, or objection until it is signed.

### **Committee Notes & Court Commentary**

[No Change]

### **RULE 1.440. SETTING ACTION FOR TRIAL**

**(a) When at IssueSetting Trial.** ~~An action is at issue after any motions directed to the last pleading served have been disposed of or, if no such motions are served, 20 days after service of the last pleading. The party entitled to serve motions directed to the last pleading may waive the right to do so by filing a notice for trial at any time after the last pleading is served. The existence of crossclaims among the parties shall not prevent the court from setting the action for trial on the issues raised by the complaint, answer, and any answer to a counterclaim.~~The failure of the

pleadings to be closed will not preclude the court from setting a case for trial.

**(b) NoticeMotion for Trial.** ~~Thereafter~~For any case not subject to rule 1.200 or rule 1.201, for any case in which any party seeks a trial for a date earlier than the projected trial period specified in a case management order, or when there is a projected trial period but no actual trial date has been set, any party may file and serve a notice~~motion~~ that the action is at issue and ready to be set~~the action~~ for trial. The notice~~motion~~ must include an estimate of the time required, whether there is a basis for expedited trial, indicate whether the trial~~it~~ is to be by a jury or non-jury trial, and whether the trial is on the original action or a subsequent proceeding, and, if applicable, indicate that the court has authorized the participation of prospective jurors or empaneled jurors through audio-video communication technology under rule 1.430(d). The clerk must then submit the notice and the case file to the court.

**(c) Timing of Trial Period.** Any order setting a trial period must set the trial period to begin at least 30 days after the date of the court's service of the order, unless all parties agree otherwise.

**(ed) Setting for TrialService on Defaulted Parties.** ~~If the court finds the action ready to be set for trial, it shall enter an order fixing a date for trial. Trial shall be set not less than 30 days from the service of the notice for trial. By giving the same notice the court may set an action for trial. In actions in which the damages are not liquidated and when otherwise required by rule 1.500(e), the order setting an action for trial shall~~must ~~be served on parties who are in~~against whom a default has been entered in accordance with~~under~~ Florida Rule of General Practice and Judicial Administration 2.516. [Amendments in~~double underline and double strikethrough~~ are pending in *In Re: Amendments to Florida Rules of Civil Procedure 1.440 and 1.500, SC2022-0575.*]

**(de) Applicability.** ~~This rule does not apply to actions to which~~under ~~chapter 51, Florida Statutes (1967), applies or to cases designated as complex pursuant to rule 1.201.~~

## Committee Notes

**1972 Amendment-2012 Amendment.** [No Change]

**202 Amendment.** This rule has been substantially amended in that it no longer requires that a case be “at issue” before it can be set for trial.

## Court Commentary

[No Change]

### **RULE 1.460. ~~CONTINUANCES~~ MOTIONS TO CONTINUE TRIAL**

~~A motion for continuance shall be in writing unless made at a trial and, except for good cause shown, shall be signed by the party requesting the continuance. The motion shall state all of the facts that the movant contends entitle the movant to a continuance. If a continuance is sought on the ground of nonavailability of a witness, the motion must show when it is believed the witness will be available.~~

**(a) Generally.** Motions to continue trial are disfavored and should rarely be granted except for good cause shown. Successive continuances are highly disfavored. Lack of due diligence in preparing for trial is not grounds to continue the case.

**(b) Motion; Requirements.** A motion to continue trial must be in writing unless made at a trial and, except for good cause shown, must be signed by the named party requesting the continuance.

**(c) Motion; Timing of Filing.** A motion to continue trial must be filed promptly after the appearance of good cause to support such motion. Failure to promptly request a continuance may be a basis for denying the motion to continue.

**(d) Motion; Contents.** The moving party or counsel must make reasonable efforts to confer with the non-moving party or opposing counsel about the need for a continuance, and the non-moving party or opposing counsel must cooperate in responding

and holding a conference. All motions for continuance, even if agreed, must state with specificity:

(1) the basis of the need for the continuance, including when the basis became known to the movant;

(2) whether the motion is opposed;

(3) the action and specific dates for the action that will enable the movant to be ready for trial by the proposed date, including, but not limited to, confirming the specific date any required participants such as third-party witnesses or experts are available; and

(4) the proposed date by which the case will be ready for trial and whether that date is agreed by all parties.

If the required conference did not occur, the motion must explain the dates and methods of the efforts to confer. Failure to confer by any party or attorney under this rule may result in sanctions.

**(e) Efforts to Avoid Continuances.** To avoid continuances, trial courts should use all methods available to address the issues causing delay, including requiring depositions to preserve testimony, allowing remote appearances, and resolving conflicts with other judges as provided in the Florida Rules of General Practice and Judicial Administration.

**(f) Setting Trial Date.** When possible, continued trial dates must be set in collaboration with attorneys and self-represented litigants as opposed to the issuance of unilateral dates by the court.

**(g) Dilatory Conduct.** If a continuance is granted based on the dilatory conduct of an attorney or named party, the court may impose sanctions on the attorney, the party, or both.

**(h) Order on Motion for Continuance.** When ruling on a motion to continue, the court must state, either on the record or in a written order, the factual basis for the ruling. An order granting a motion to continue must either set a new trial date or set a case

management conference. If the trial is continued, the new trial should be set for the earliest date practicable. The order must reflect what further activity will or will not be permitted.

### **Committee Notes**

**1980 Amendment-1988 Amendment.** [No Change]

**202 Comment.** This rule does not limit the discretion of trial court judges to efficiently and equitably administer their dockets.

### **Track B (compared against current rules)**

#### **RULE 1.200. CASE MANAGEMENT; PRETRIAL PROCEDURE**

**(a) ~~Case Management Conference.~~** ~~At any time after responsive pleadings or motions are due, the court may order, or a party by serving a notice may convene, a case management conference. The matter to be considered must be specified in the order or notice setting the conference. At such a conference the court may:~~

~~(1) schedule or reschedule the service of motions, pleadings, and other documents;~~

~~(2) set or reset the time of trials, subject to rule 1.440(c);~~

~~(3) coordinate the progress of the action if the complex litigation factors contained in rule 1.201(a)(2)(A)–(a)(2)(H) are present;~~

~~(4) limit, schedule, order, or expedite discovery;~~

~~(5) consider the possibility of obtaining admissions of fact and voluntary exchange of documents and electronically stored information, and stipulations regarding authenticity of documents and electronically stored information;~~

~~(6) — consider the need for advance rulings from the court on the admissibility of documents and electronically stored information;~~

~~(7) — discuss as to electronically stored information, the possibility of agreements from the parties regarding the extent to which such evidence should be preserved, the form in which such evidence should be produced, and whether discovery of such information should be conducted in phases or limited to particular individuals, time periods, or sources;~~

~~(8) — schedule disclosure of expert witnesses and the discovery of facts known and opinions held by such experts;~~

~~(9) — schedule or hear motions in limine;~~

~~(10) — pursue the possibilities of settlement;~~

~~(11) — require filing of preliminary stipulations if issues can be narrowed;~~

~~(12) — consider referring issues to a magistrate for findings of fact; and~~

~~(13) — schedule other conferences or determine other matters that may aid in the disposition of the action.~~**Applicability; Exemptions.** The requirements of this rule apply to all civil actions except:

(1) actions required to proceed under section 51.011, Florida Statutes;

(2) actions proceeding under section 45.075, Florida Statutes;

(3) actions subject to the Florida Small Claims Rules, unless the court, under rule 7.020(c), has ordered the action to proceed under one or more of the Florida Rules of Civil Procedure and the deadline for the trial date specified in rule 7.090(d) no longer applies;

- (4) an action or proceeding initiated under chapters 731-736, 738, and 744, Florida Statutes;
- (5) an action for review of an administrative proceeding;
- (6) eminent domain actions under article X, section 6 of the Florida Constitution or chapter 73, Florida Statutes. Eminent domain actions proceeding under chapter 74, Florida Statutes, are excluded until 20 days after the order granting quick take;
- (7) a forfeiture action in rem arising from a state statute;
- (8) a petition for habeas corpus or any other proceeding to challenge a criminal conviction or sentence;
- (9) an action brought without an attorney by a person in the custody of the United States, a state, or a state subdivision;
- (10) an action to enforce or quash an administrative summons or subpoena;
- (11) a proceeding ancillary to a proceeding in another court;
- (12) an action to enforce an arbitration award;
- (13) an action involving an extraordinary writ or remedy under rule 1.630;
- (14) actions to confirm or enforce foreign judgments;
- (15) all proceedings under chapter 56, Florida Statutes;
- (16) a civil action pending in a special division of the court established by administrative order issued by the chief judge of the circuit or local rule (e.g., a complex business division or a complex civil division) that enters case management orders;
- (17) all proceedings under chapter 415, Florida Statutes, and sections 393.12 and 825.1035, Florida Statutes; and



(18) a claim requiring expedited or priority resolution under an applicable statute or rule.

~~(b) **Pretrial Conference.** After the action is at issue the court itself may or shall on the timely motion of any party require the parties to appear for a conference to consider and determine:~~

~~(1) the simplification of the issues;~~

~~(2) the necessity or desirability of amendments to the pleadings;~~

~~(3) the possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;~~

~~(4) the limitation of the number of expert witnesses;~~

~~(5) the potential use of juror notebooks; and~~

~~(6) any matters permitted under subdivision (a) of this rule.~~

~~(c) **Notice.** Reasonable notice must be given for a case management conference, and 20 days' notice must be given for a pretrial conference. On failure of a party to attend a conference, the court may dismiss the action, strike the pleadings, limit proof or witnesses, or take any other appropriate action. Any documents that the court requires for any conference must be specified in the order. Orders setting pretrial conferences must be uniform throughout the territorial jurisdiction of the court.~~

(b) **Case Track Assignment.** Not later than 120 days after commencement of the action as provided in rule 1.050, each civil case must be assigned to 1 of 3 case management tracks either by an initial case management order or administrative order issued by the chief judge of the circuit: streamlined, general, or complex. Assignment does not reflect on the financial value of the case but rather the amount of judicial attention required for resolution. A party can request that the assignment be changed under subdivision (c).

(1) “Complex” cases are actions designated by court order as complex under rule 1.201(a). Complex cases must proceed as provided in rule 1.201.

(2) “Streamlined” cases are actions that, while of varying value, reflect some mutual knowledge of the underlying facts, and as a result, limited needs for discovery, well-established legal issues related to liability and damages, few anticipated dispositive pretrial motions, minimal documentary evidence, and a short, anticipated trial length. Uncontested cases should generally be presumed to be streamlined cases.

(3) “General” cases are actions that do not meet the criteria for streamlined, complex, or parties in agreement. These are generally cases that reflect an imbalance among the parties with regard to the knowledge of the underlying facts, and as a result, a greater need for discovery and imply a greater length of trial and a more significant need for judicial attention.

**(c) Changes in Track Assignment.**

(1) *Change Requested by a Party.* Any motion to change the track to which a case is assigned must be filed promptly after the appearance of good cause to support the motion. A motion, including any attached memoranda, filed under this subdivision may not exceed 3 pages in length. Any response, including any attached memoranda, may not exceed 3 pages in length and must be filed within 7 days after service of the motion. No reply memorandum is permitted.

(2) *Change Directed by the Court.* A track assignment may be changed by the court on its own motion when it finds the needs of the case require a change.

**(d) Issuance of Case Management Order.**

(1) *Complex Cases.* Case management orders in complex cases must be issued as provided in rule 1.201.

(2) Streamlined and General Cases. In streamlined and general cases, the court must issue a case management order as soon as practicable either after receiving the parties' proposed case management order or after holding a case management conference. In cases in which the parties submit a proposed case management order, the court may accept, amend, or reject the parties' proposed order. The court's case management order may also, at the court's discretion, incorporate revisions to the parties' proposed case management order.

(3) Exception. Each circuit may create by administrative order uniform case management orders and that will issue in each appropriate case without the requirement of a proposed case management order set forth in subdivision (e). Such administrative orders must specify the deadlines and other timeframes, by case type if appropriate, for the items listed in subdivision (e)(5).

**(e) Meet and Confer Requirement; Proposed Case Management Order.**

(1) Meet and Confer Requirement. In cases designated as general or streamlined, counsel and self-represented litigants must meet and confer within 50 days after service of the first defendant, unless extended by order of the court. Plaintiff is responsible for initiating the scheduling of the conference. Self-represented litigants must be included in the meet and confer process unless they fail to participate. If new parties are added or joined after the initial conference, all parties must conduct supplemental meet and confers within 30 days of the new party being served or joined, unless a different a different time is set by stipulation or court order.

(2) In General. In jurisdictions that do not have uniform case management orders, after the parties meet and confer, the parties must file a proposed case management order and submit the order for the court's signature. Proposed orders that do not comply with the Florida Rules of General Practice and Judicial Administration deadline for case resolution timeframes will be rejected.

(3) *Good-Faith Effort Required.* The attorneys of record and all self-represented litigants who have appeared in the action are jointly responsible for conferring in good faith to agree on a proposed case management order. The joint case management order must certify that the parties conferred in good faith, either in person or remotely. Self-represented litigants must be included in this process unless they fail to participate. Any failure to participate by an attorney or self-represented litigant must be reflected in the proposed case management order.

(4) *Failure to File.* Parties may file the proposed case management order as early in the case as possible, but no later than 120 days after commencement of the action as provided in rule 1.050 or 30 days after service on the last defendant, whichever comes first. In jurisdictions in which a proposed case management order is required, if the parties fail to timely file the proposed case management order, the court must either issue its own case management order without input from the parties or order the parties to file a proposed case management order. In either circumstance, the court may order the parties to show cause why there should not be a sanction for the delay.

(5) *Contents of Proposed Case Management Order.*

(A) The proposed case management order must designate the case track assignment;

(B) The proposed case management order must specify deadlines for the events listed below. If a deadline does not apply to the case, the proposed case management order should so indicate. Parties are required to consult with local rules and administrative order issued by the chief judge of the circuit for parameters within which specific deadlines must be set and for complying with the parameters when applicable. The proposed case management order must include deadlines for:

(i) adding parties;

(ii) amending the pleadings;

(iii) amending affirmative defenses, including those that reflect the addition of any *Fabre* defendants;

(iv) completing fact discovery;

(v) completing inspections, testing, and examinations, medical or otherwise;

(vi) disclosing expert witnesses intended for use at trial and the expert information required by rule 1.280(c), the parties may elect to choose staggered dates for plaintiffs and defendants;

(vii) disclosing any rebuttal expert witnesses intended for use at trial and the expert information required by rule 1.280(c);

(viii) completing expert discovery;

(ix) filing dispositive motions;

(x) filing motions under section 90.702, Florida Statutes, or related law;

(xi) final supplementation of all discovery and disclosures;

(xii) filing motions in limine;

(xiii) completing mediation or alternative dispute resolution or both;

(xiv) exchanging exhibit lists, the parties may elect to make this deadline earlier than the time of the trial statement; and

(xv) exchanging witness lists, the parties may elect to make this deadline earlier than the time of the trial statement.

(C) The proposed case management order must additionally specify the following:

(i) a projected trial period or, if specified by local rules, administrative order issued by the chief judge of the circuit, or the court, an actual trial period; and

(ii) the anticipated number of days for trial.

(D) The proposed case management order may also address other appropriate matters, including any issues with track assignment. The proposed case management order must include a signature by an attorney for each party or the signature of a self-represented litigant, and a certification that the signatories conferred in good faith.

(6) Forms. For streamlined and general cases, the parties must file the proposed case management order using the form approved by administrative order issued by the chief judge of the circuit. The forms of the case management order will be set by chief judge of the circuit and will comply with the requirements this rule, whether it be a single form approved for all types of cases or forms approved for particular case types.

**(f) Extensions of Time; Modification of Deadlines.**

(1) Deadlines are Strictly Enforced. Deadlines in a case management order must be strictly enforced unless changed by court order. Parties may submit an agreed order to extend a deadline if the extension does not affect the ability to comply with the remaining dates in the case management order. If extending an individual case management deadline may affect a subsequent deadline in the case management order, parties must seek an amendment of the case management order, rather than submitting a motion for extension of an individual deadline.

(2) Modification of Actual Trial Period. Once an actual trial period is set, the parties must satisfy the requirements of rule 1.460 to change that period. During the time a trial period is still a

projection, the parties may seek to change the projected trial period through the process in subdivision (f)(3).

(3) *Modifications of Deadlines or Projected Trial Period.* Any motion to extend a deadline, amend a case management order, or alter a projected trial period must specify:

(A) the basis of the need for the extension, including when the basis became known to the movant;

(B) whether the motion is opposed;

(C) the specific date to which the movant is requesting the deadline or projected trial period be extended, and whether that date is agreed by all parties; and

(D) the action and specific dates for the action that will enable the movant to meet the proposed new deadline or projected trial period, including, but not limited to, confirming the specific date any required participants such as third-party witnesses or experts are available.

**(g) Inability to Meet Case Management Deadlines.** If any party is unable to meet the deadlines set forth in the case management order for any reason, including due to the unavailability of hearing time, the affected party may promptly move for a case management conference and alert the court. The motion must identify the issues to be addressed in the case management conference.

**(h) Notices of Unavailability.** Notices of unavailability have no effect on the deadlines set by the case management order. If a party is unable to comply with a deadline in a case management order, the party must take action consistent with subdivision (f)(1).

**(i) If Trial Is Not Reached During Trial Period.** If a trial is not reached during the trial period set by court order, the court should enter an order setting a new trial period that is as soon as practicable from the date of the order. The order resetting the trial

period must reflect what further activity will or will not be permitted.

**(j) Case Management Conferences.**

(1) Scheduling. The court may set case management conferences at any time on its own notice or on proper notice by a party. Whether set by the court or a party, the amount of notice must be reasonable. If noticed by a party, the notice itself must identify the specific issues to be addressed during the case management conference and must also provide a list of all pending motions. The court may set, or the parties may request, case management conferences on an as-needed basis or an ongoing, periodic basis.

(2) Issues that may be addressed. During a case management conference, the court may address all scheduling issues, including requests to amend the case management order, and other issues that may impact trial of the case. In addition, on reasonable notice to the parties and adequate time available during the conference, the court may elect to hear a pending motion, other than motions for summary judgment and motions requiring evidentiary hearings, even if the parties have not identified the motion as an issue to be resolved. Motions for summary judgment and motions requiring evidentiary hearings may not be heard as part of a case management conference.

(3) Preparation Required. Attorneys and self-represented litigants who appear at a case management conference must be prepared to:

(A) argue pending motions that are noticed by the court or a party to be heard during the case management conference;

(B) address pending matters in the case; and

(C) make decisions about future scheduling and conduct of the case.



Attorneys and self-represented litigants who appear at a case management conference must have full authority to make representations to the court and enter into binding agreements concerning motions, issues, and scheduling. If more than 1 attorney represents a party, the counsel appearing at the conference must be prepared with all attorneys' availability for future events and the ability to schedule future events for all counsel for that party.

(4) *Case Management Conference to Set Actual Trial Period.* Unless a trial order has been entered under rule 1.440, or an administrative order issued by the chief judge of the circuit directs differently, the parties must work with the court so that, at least 60 days before the first day of the projected trial period, the court may hold a case management conference to check the status of deadlines and set an actual trial period.

(5) *Proposed Orders.* At the conclusion of the case management conference, unless the court is drafting its own order, the court must set a deadline for submitting proposed orders arising out of the case management conference. A proposed order must be submitted by that deadline unless an extension is requested. If the parties do not agree to the contents of a proposed order, competing proposed orders must be submitted to the court. The parties must notify the court of the basis of any objections at the time the competing orders are submitted.

(6) *Failure to Appear.* If none of the parties appear at a case management conference, the court may conclude that the case has been resolved and may issue an order to show cause why the case should not be dismissed without prejudice.

**(k) Trial Conference.** After the action has been set for an actual trial period, the court may special set a trial conference on its own motion or a party may request a special set trial conference. The special set trial conference can take place no more than 60 days before the first day of the actual trial period. Issues that may be discussed at the special set trial conference include, but are not limited to:

(1) the order of witnesses who are expected to testify, evidence expected to be proffered, pre-marking of exhibits, and any associated logistical or scheduling issues;

(2) the use of technology and other means to facilitate the presentation of evidence and demonstrative aids at trial;

(3) the order of proof at trial, time to complete the trial, and reasonable time estimates for voir dire, opening statements, closing arguments, and any other part of the trial;

(4) the number of prospective jurors required for a venire, alternate jurors, and peremptory challenges for each party;

(5) finalization of jury instructions and verdict forms;

(6) deposition designations and any disputes regarding the designations; and

(7) any other matters the court considers appropriate.

**(d1) Pretrial Order Statement.** ~~The court must make an order reciting the action taken at a conference and any stipulations made. The order controls the subsequent course of the action unless modified to prevent injustice.~~ According to the deadline set by the court, the parties must file a joint trial statement. The joint trial statement must include the following information:

(1) Statement of Facts. A concise, impartial statement of the facts of the case.

(2) Stipulated Facts. A list of any stipulated facts requiring no proof at trial. No stipulation may be listed in this subdivision unless all parties agree.

(3) Statements of Disputed Law and Fact. A statement of the disputed issues of law and fact to be tried.

(4) Exhibit Lists. Each party must list all exhibits the party intends to introduce into evidence.

(5) *Witness Lists.* Each party must attach to the joint trial statement a list of the names of all witnesses, including expert, rebuttal, and impeachment witnesses, the party intends to call at trial.

(6) *Pending Motions.* Each party must list all motions filed by that party that still need to be resolved as of the date of the joint trial statement and, for each motion, indicate whether a hearing has been set and, if so, the date of the hearing.

(7) *Deposition Designations.* The parties must certify that they have exchanged depositions designations and indicate any designations to which a party objects with a specific description of the objection.

(8) *Jury Instructions.* If the trial is a jury trial, all agreed jury instructions and disputed jury instructions must be filed as part of the joint trial statement. Copies of any statutory citations and case law pertaining to the proposed instruction(s) must be attached.

(9) *Verdict Forms.* If the trial is a jury trial, an agreed verdict form or disputed verdict forms must be filed as part of the joint trial statement.

Failure to comply with the requirements of this subdivision may result in sanctions as determined by the court, including, but not limited to, excluding witnesses or exhibits not properly listed.

### **Committee Notes**

**1971 Amendment-2012 Amendment.** [No Change]

**20 Amendment.** This rule is not intended to preclude the possibility of administrative orders issued by the chief judge of the circuit and local rules under Florida Rules of General Practice and Judicial Administration 2.215(e) that refine and supplement the procedures delineated in the rule.

**Subdivision (k) (Trial Conference).** Many courts conduct a “pretrial conference” as a mass docket, docket sounding, or

calendar call. In this type of pretrial conference, judges are essentially confirming which cases are set for trial. That is not the “trial conference” contemplated by subdivision (k). The “trial conference” described in subdivision (k) is meant to be conducted when there is a high likelihood that the case will actually go to trial.

**Subdivision (l) (Trial Statement).** The list is not intended to be restrictive. Courts are free to include more requirements in the trial statement than what is listed in this rule.

### **Court Commentary**

[No Change]

## **RULE 1.201. COMPLEX LITIGATION**

**(a) Complex Litigation Defined.** At any time after all defendants have been served, and an appearance has been entered in response to the complaint by each party or a default entered, any party, or the court on its own motion, may move to declare an action complex. However, any party may move to designate an action complex before all defendants have been served subject to a showing to the court why service has not been made on all defendants. ~~The court shall convene a hearing to determine whether the action requires the use of complex litigation procedures and enter an order within 10 days of the conclusion of the hearing.~~

(1) A “complex action” is one that is likely to involve complicated legal or case management issues and that may require extensive judicial management to expedite the action, keep costs reasonable, or promote judicial efficiency.

(2) In deciding whether an action is complex, the court must consider whether the action is likely to involve:

(A) numerous pretrial motions raising difficult or novel legal issues or legal issues that are inextricably intertwined that will be time-consuming to resolve;

(B) management of a large number of separately represented parties;

(C) coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court;

(D) pretrial management of a large number of witnesses, or a substantial amount of documentary evidence;

(E) substantial time required to complete the trial;

(F) management at trial of a large number of experts, witnesses, attorneys, or exhibits;

(G) substantial post-judgment judicial supervision; and

(H) any other analytical factors identified by the court or a party that tend to complicate comparable actions and which are likely to arise in the context of the instant action.

~~(3) If all of the parties, pro se or through counsel, sign and file with the clerk of the court a written stipulation to the fact that an action is complex and identifying the factors in (2)(A) through (2)(H) above that apply, the court shall enter an order designating the action as complex without a hearing. A case will be designated or redesignated as complex as in accordance with rule 1.200.~~

**(b) Initial Case Management Report and Conference.** The court ~~shall~~must hold an initial case management conference within 60 days from the date of the order declaring the action complex.

(1) At least 20 days ~~prior to~~before the date of the initial case management conference, attorneys for the parties as well as any parties appearing pro se ~~shall~~must confer and prepare a joint statement, which ~~shall~~must be filed with the clerk of the court no later than 14 days before the conference, outlining a discovery plan and stating:

(A) a brief factual statement of the action, which includes the claims and defenses;

(B) a brief statement on the theory of damages by any party seeking affirmative relief;

(C) the likelihood of settlement;

(D) the likelihood of appearance in the action of additional parties and identification of any nonparties to whom any of the parties will seek to allocate fault;

(E) the proposed limits on the time:

(i) \_\_\_ to join other parties and to amend the pleadings;<sup>2</sup>

(ii) \_\_\_ to file and hear motions;<sup>2</sup>

(iii) \_\_\_ to identify any nonparties whose identity is known, or otherwise describe as specifically as practicable any nonparties whose identity is not known;<sup>2</sup>

(iv) \_\_\_ to disclose expert witnesses;<sup>2</sup> and

(v) \_\_\_ to complete discovery;

(F) the names of the attorneys responsible for handling the action;

(G) the necessity for a protective order to facilitate discovery;

(H) proposals for the formulation and simplification of issues, including the elimination of frivolous claims or defenses, and the number and timing of motions for summary judgment or partial summary judgment;

(I) the possibility of obtaining admissions of fact and voluntary exchange of documents and electronically stored information, stipulations regarding authenticity of documents, electronically stored information, and the need for advance rulings from the court on admissibility of evidence;

(J) the possibility of obtaining agreements among the parties regarding the extent to which such electronically stored information should be preserved, the form in which such information should be produced, and whether discovery of such information should be conducted in phases or limited to particular individuals, time periods, or sources;

(K) suggestions on the advisability and timing of referring matters to a magistrate, master, other neutral, or mediation;

(L) a preliminary estimate of the time required for trial;

(M) requested date or dates for conferences before trial, a final pretrial conference, and trial;

(N) a description of pertinent documents and a list of fact witnesses the parties believe to be relevant;

(O) number of experts and fields of expertise; and

(P) any other information that might be helpful to the court in setting further conferences and the trial date.

(2) Lead trial counsel and a client representative ~~shall~~must attend the initial case management conference.

(3) ~~Notwithstanding rule 1.440, a~~At the initial case management conference, the court will set the trial date or dates no sooner than 6 months and no later than 24 months from the date of the conference unless good cause is shown for an earlier or later setting. The trial date or dates ~~shall~~must be on a docket having sufficient time within which to try the action and, when feasible, for a date or dates certain. The trial date shall be set after consultation with counsel and in the presence of all clients or authorized client representatives. The court ~~shall~~must, no later than 2 months ~~prior to~~before the date scheduled for jury selection, arrange for a sufficient number of available jurors. Continuance of the trial of a complex action should rarely be granted and then only ~~upon~~ good

cause shown. Any motion for continuance will be governed by rule 1.460.

**(c) The Case Management Order.** Within 10 days after completion of the initial case management conference, the court must enter a case management order. The case management order ~~shall~~must address each matter set forth ~~under~~in rule 1.200(ae) and set the action for a pretrial conference and trial. The case management order may also ~~shall~~ specify the following:

~~(1) Dates by which all parties shall name their expert witnesses and provide the expert information required by rule 1.280(b)(5). If a party has named an expert witness in a field in which any other parties have not identified experts, the other parties may name experts in that field within 30 days thereafter. No additional experts may be named unless good cause is shown.~~

~~(2) Not more than 10 days after the date set for naming experts, the parties shall meet and schedule dates for deposition of experts and all other witnesses not yet deposed. At the time of the meeting each party is responsible for having secured three confirmed dates for its expert witnesses. In the event the parties cannot agree on a discovery deposition schedule, the court, upon motion, shall set the schedule. Any party may file the completed discovery deposition schedule agreed upon or entered by the court. Once filed, the deposition dates in the schedule shall not be altered without consent of all parties or upon order of the court. Failure to comply with the discovery schedule may result in sanctions in accordance with rule 1.380.~~

~~(3) Dates by which all parties are to complete all other discovery.~~

~~(4) The court shall schedule periodic case management conferences and hearings on lengthy motions at reasonable intervals based on the particular needs of the action. The attorneys for the parties as well as any parties appearing pro se shall confer no later than 15 days prior to each case management conference or hearing. They shall notify the court at least 10 days prior to any case management conference or hearing if the parties stipulate that~~



~~a case management conference or hearing time is unnecessary. Failure to timely notify the court that a case management conference or hearing time is unnecessary may result in sanctions.~~

~~(5) The case management order may include a briefing schedule setting forth a time period within which to file briefs or memoranda, responses, and reply briefs or memoranda, prior to before the court considering such matters.~~

~~(6) A deadline for conducting alternative dispute resolution.~~

**(d) Additional case management conferences and hearings.** The court may set a conference or hearing schedule, or part of such a schedule, in the initial case management order described in subdivision (c) or in a subsequent order(s). The parties must notify the court immediately if case management conference or hearing time becomes unnecessary.

**(de) Final Case Management Conference.** The court ~~shall~~must schedule a final case management conference not less than 90 days ~~prior to before~~ the date the case is set for trial. At least ~~107~~ days ~~prior to before~~ the final case management conference the parties ~~shall~~must confer to prepare a case status report, which ~~shall~~must be filed with the clerk of the court either ~~prior to before~~ or at the time of the final case management conference. The status report ~~shall~~must contain in separately numbered paragraphs:

(1) A list of all pending motions requiring action by the court and the date those motions are set for hearing.

(2) Any change regarding the estimated trial time.

(3) The names of the attorneys who will try the case.

(4) A list of the names and addresses of all non-expert witnesses (including impeachment and rebuttal witnesses) intended to be called at trial. However, impeachment or rebuttal witnesses not identified in the case status report may be allowed to testify if

the need for their testimony could not have been reasonably foreseen at the time the case status report was prepared.

(5) A list of all exhibits intended to be offered at trial.

(6) Certification that copies of witness and exhibit lists will be filed with the clerk of the court at least 48 hours ~~prior~~ ~~to~~before the date and time of the final case management conference.

(7) A deadline for the filing of amended lists of witnesses and exhibits, which amendments ~~shall~~will be allowed only ~~upon~~ motion and for good cause shown.

(8) Any other matters which could impact the timely and effective trial of the action.

### **Committee Notes**

[No Change]

## **RULE 1.280. GENERAL PROVISIONS GOVERNING DISCOVERY**

### **(a) Initial Discovery Disclosure.**

(1) *In General.* Except as exempted by subdivision (a)(2) or as ordered by the court, a party must, without awaiting a discovery request, provide to the other parties the following initial discovery disclosures unless privileged or protected from disclosure:

(A) the name and, if known, the address, telephone number, and e-mail address of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

(B) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control (or, if not in the disclosing party's possession, custody, or control, a description by category and location of such

information) and may use to support its claims or defenses, unless the use would be solely for impeachment;

(C) a computation for each category of damages claimed by the disclosing party and a copy of the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; provided that a party is not required to provide computations as to noneconomic damages, but the party must identify categories of damages claimed and provide supporting documents; and

(D) a copy of any insurance policy or agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(2) *Proceedings Exempt from Initial Discovery Disclosure.* Unless ordered by the court, actions and claims listed in rule 1.200(a) are exempt from initial discovery disclosure.

(3) *Time for Initial Discovery Disclosures — In General.* A party must make the initial discovery disclosures required by this rule within 14 days after the parties meet and confer under rule 1.200(e) unless a different time is set by court order.

(4) *Time for Initial Disclosures — For Parties Served or Joined Later.* A party that is first served or otherwise joined after the initial conference under rule 1.200(b) must make its initial disclosures within 30 days after being served or joined, unless a different time is set by court order.

(5) *Basis for Initial Discovery Disclosure; Unacceptable Excuses; Objections.* A party must make its initial discovery disclosures based on the information then reasonably available to it. A party is not excused from making its initial discovery disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's initial discovery disclosures or because another party has not made its initial discovery disclosures. A party who formally objects to providing

certain information is not excused from making all other initial discovery disclosures required by this rule in a timely manner.

**(ab) Discovery Methods.** Parties may obtain discovery by ~~one~~one or more of the following methods: depositions ~~upon~~ oral examination or written questions; written interrogatories; production of documents or things or permission to enter ~~upon~~ land or other property for inspection and other purposes; physical and mental examinations; and requests for admission. Unless the court orders otherwise and under subdivision ~~(e) of this rule~~(d), the frequency of use of these methods is not limited, except as provided in rules 1.200, 1.340, and 1.370.

**(bc) Scope of Discovery.** Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) *In General.* Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) *Indemnity Agreements.* A party may obtain discovery of the existence and contents of any agreement under which any person may be liable to satisfy part or all of a judgment that may be entered in the action or to indemnify or to reimburse a party for payments made to satisfy the judgment. Information concerning the agreement is not admissible in evidence at trial by reason of disclosure.

(3) *Electronically Stored Information.* A party may obtain discovery of electronically stored information ~~in accordance with~~under these rules.

(4) *Trial Preparation; Materials.* Subject to the provisions of subdivision ~~(b)(c)(5) of this rule~~, a party may obtain discovery of documents and tangible things otherwise discoverable under subdivision ~~(b)(c)(1) of this rule~~ and prepared in anticipation of litigation or for trial by or for another party or by or for that party's representative, including that party's attorney, consultant, surety, indemnitor, insurer, or agent, only ~~upon~~ upon a showing that the party seeking discovery has need of the materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of the materials when the required showing has been made, the court ~~shall~~ must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation. Without the required showing a party may obtain a copy of a statement concerning the action or its subject matter previously made by that party. ~~Upon~~ On request without the required showing a person not a party may obtain a copy of a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for an order to obtain a copy. The provisions of rule 1.380(a)(4) apply to the award of expenses incurred as a result of making the motion. For purposes of this paragraph, a statement previously made is a written statement signed or otherwise adopted or approved by the person making it, or a stenographic, mechanical, electrical, or other recording or transcription of it that is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(5) *Trial Preparation; Experts.* Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subdivision ~~(b)(c)(1) of this rule~~ and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(A) (i) By interrogatories a party may require any other party to identify each person whom the other party expects to call as an expert witness at trial and to state the subject matter on which the expert is expected to testify, and to state the

substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(ii) Any person disclosed by interrogatories or otherwise as a person expected to be called as an expert witness at trial may be deposed in accordance with rule 1.390 without motion or order of court.

(iii) A party may obtain the following discovery regarding any person disclosed by interrogatories or otherwise as a person expected to be called as an expert witness at trial:

1. The scope of employment in the pending case and the compensation for such service.

2. The expert's general litigation experience, including the percentage of work performed for plaintiffs and defendants.

3. The identity of other cases, within a reasonable time period, in which the expert has testified by deposition or at trial.

4. An approximation of the portion of the expert's involvement as an expert witness, which may be based on the number of hours, percentage of hours, or percentage of earned income derived from serving as an expert witness; however, the expert ~~shall~~will not be required to disclose ~~his or her~~the expert's earnings as an expert witness or income derived from other services.

An expert may be required to produce financial and business records only under the most unusual or compelling circumstances and may not be compelled to compile or produce nonexistent documents. ~~Upon~~On motion, the court may order further discovery by other means, subject to such restrictions as to scope and other provisions ~~pursuant to~~under subdivision ~~(b)(c)(5)(C)~~(c)(5)(C) of this rule concerning fees and expenses as the court may deem appropriate.

(B) A party may discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, only as provided in rule 1.360(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(C) Unless manifest injustice would result, the court ~~shall~~will require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subdivisions ~~(b)(c)(5)(A) and (b)(c)(5)(B) of this rule~~; and concerning discovery from an expert obtained under subdivision ~~(b)(c)(5)(A) of this rule~~ the court may require, and concerning discovery obtained under subdivision ~~(b)(c)(5)(B) of this rule~~ ~~shall~~will require, the party seeking discovery to pay the other party a fair part of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(D) As used in these rules an expert witness ~~shall be an expert witness as is~~ defined in rule 1.390(a).

(6) *Claims of Privilege or Protection of Trial Preparation Materials.* When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party ~~shall~~must make the claim expressly and ~~shall~~must describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

**(ed) Protective Orders.** ~~Upo~~On motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires, including ~~one~~1 or more of the following:

(1)\_\_\_ that the discovery not be had;

(2)\_\_\_ that the discovery may be had only on specified terms and conditions, including a designation of the time or place or the allocation of expenses;

(3)\_\_\_ that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4)\_\_\_ that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(5)\_\_\_ that discovery be conducted with no one present except persons designated by the court;

(6)\_\_\_ that a deposition after being sealed be opened only by order of the court;

(7)\_\_\_ that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; and

(8)\_\_\_ that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of rule 1.380(a)(4) apply to the award of expenses incurred in relation to the motion.

**(de) Limitations on Discovery of Electronically Stored Information.**

(1) A person may object to discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of burden or cost. On motion to compel discovery or for a protective order, the person from whom discovery is sought must show that the information sought or the



format requested is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order the discovery from such sources or in such formats if the requesting party shows good cause. The court may specify conditions of the discovery, including ordering that some or all of the expenses incurred by the person from whom discovery is sought be paid by the party seeking the discovery.

(2) In determining any motion involving discovery of electronically stored information, the court must limit the frequency or extent of discovery otherwise allowed by these rules if it determines that:

(iA) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from another source or in another manner that is more convenient, less burdensome, or less expensive; or

(iiB) the burden or expense of the discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

**(ef) Sequence and Timing of Discovery.** Except as provided in subdivision ~~(b)(c)~~(5) or unless the court ~~upon motion for the convenience of parties and witnesses and in the interest of justice~~ orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or otherwise, ~~shall~~must not delay any other party's discovery.

**(fg) Supplementing of Responses.** ~~A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement the response to include information thereafter acquired.~~A party who has made a disclosure under this rule or who has responded to an interrogatory, request for production, or request for admission must supplement or correct its disclosure or response:

(1) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or

(2) as ordered by the court.

**(h) Signing Disclosures and Discovery Requests; Responses; and Objections.** Every disclosure under subdivision (a) of this rule and every discovery request, response, or objection made by a party represented by an attorney must be signed by at least 1 attorney of record and must include the attorney's address, e-mail address, and telephone number. A self-represented litigant must sign the disclosure, request, response, or objection and must include the self-represented litigant's address, e-mail address, and telephone number. By signing, an attorney or self-represented litigant certifies that to the best of the person's knowledge, information, and belief formed after a reasonable inquiry:

(1) with respect to a disclosure, it is complete and correct as of the time it is made; and

(2) with respect to a discovery request, response, or objection, it is:

(A) consistent with these rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(B) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and

(C) not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

No party has a duty to act on an unsigned disclosure, request, response, or objection until it is signed.

**(gi) Court Filing of Documents and Discovery.** Information obtained during discovery ~~shall~~may not be filed with the court until such time as it is filed for good cause. The requirement of good cause is satisfied only ~~where~~when the filing of the information is allowed or required by another applicable rule of procedure or by court order. All filings of discovery documents ~~shall~~must comply with Florida Rule of Judicial Administration 2.425. The court ~~shall~~has the authority to impose sanctions for violation of this rule.

**(hj) Apex Doctrine.** ~~If a party seeks to depose a current or former high-level government or corporate officer, the officer or a party may move for an order may seek an order preventing the officer from being subject to a deposition. The movant has the burden to persuade the court that the officer is high-level for purposes of this rule. The motion, whether by a party or by the person of whom the deposition is sought, must be accompanied by an affidavit or declaration of the officer explaining that the officer lacks unique, personal knowledge of the issues being litigated. If the officer/movant meets this/se~~these burdens of production, the court ~~shall~~must issue an order preventing the deposition, unless the party seeking the deposition ~~demonstrates~~establishes earlier:

(1) that the officer is not high-level for purposes of this rule; or

(2) that ~~the~~ party has exhausted other discovery, that such discovery is inadequate, and that the officer has unique, personal knowledge of discoverable information.

If the party seeking the deposition meets its burden, then the motion must be denied. In denying the motion, the court may limit the scope and manner of the taking of the deposition under rule 1.280(c). If the motion is granted, ~~t~~The court may vacate or modify the order preventing the deposition if, after additional discovery, the party seeking the deposition can meet its burden of persuasion under this rule. ~~The burden to persuade the court that the officer is high-level for purposes of this rule lies with the person or party~~

~~opposing the deposition. [Amendments in double underline and double strike through are pending in SC2021-0929]~~

**(ik) Form of Responses to Written Discovery Requests.**

When responding to requests for production served ~~pursuant to~~under rule 1.310(b)(5), written deposition questions served ~~pursuant to~~under rule 1.320, interrogatories served ~~pursuant to~~under rule 1.340, requests for production or inspection served ~~pursuant to~~under rule 1.350, requests for production of documents or things without deposition served ~~pursuant to~~under rule 1.351, requests for admissions served ~~pursuant to~~under rule 1.370, or requests for the production of documentary evidence served ~~pursuant to~~under rule 1.410(c), the responding party ~~shall~~must state each deposition question, interrogatory, or discovery request in full as numbered, followed by the answer, objection, or other response.

**Committee Notes & Court Commentary**

[No Change]

**RULE 1.440. SETTING ACTION FOR TRIAL**

**(a) ~~When at Issue~~Setting Trial.** ~~An action is at issue after any motions directed to the last pleading served have been disposed of or, if no such motions are served, 20 days after service of the last pleading. The party entitled to serve motions directed to the last pleading may waive the right to do so by filing a notice for trial at any time after the last pleading is served. The existence of crossclaims among the parties shall not prevent the court from setting the action for trial on the issues raised by the complaint, answer, and any answer to a counterclaim.~~The failure of the pleadings to be closed will not preclude the court from setting a case for trial.

**(b) ~~Notice~~Motion for Trial.** ~~Thereafter~~For any case not subject to rule 1.200 or rule 1.201, for any case in which any party seeks a trial for a date earlier than the projected trial period specified in a case management order, or when there is a projected trial period but no actual trial date has been set, any party may file

and serve a ~~notice~~motion that the action is at issue and ready to be set the action for trial. The ~~notice~~motion must include an estimate of the time required, whether there is a basis for expedited trial, ~~indicate whether the trial~~it is to be by a jury or ~~not~~non-jury trial, and whether the trial is on the original action or a subsequent proceeding, and, if applicable, indicate that the court has authorized the participation of prospective jurors or empaneled jurors through audio-video communication technology under rule 1.430(d). ~~The clerk must then submit the notice and the case file to the court.~~

**(c) Timing of Trial Period.** Any order setting a trial period must set the trial period to begin at least 30 days after the date of the court’s service of the order, unless all parties agree otherwise.

**(ed) Setting for Trial**~~Service on Defaulted Parties.~~ If the court finds the action ready to be set for trial, it shall enter an order ~~fixing a date for trial. Trial shall be set not less than 30 days from the service of the notice for trial. By giving the same notice the court may set an action for trial.~~ In actions in which the damages are not liquidated and when otherwise required by rule 1.500(e), the order setting an action for trial ~~shall~~must be served on parties ~~who are~~ in~~against whom a default has been entered in accordance with~~under Florida Rule of General Practice and Judicial Administration 2.516. [Amendments in double underline and ~~double strikethrough~~ are pending in *In Re: Amendments to Florida Rules of Civil Procedure 1.440 and 1.500*, SC2022-0575.]

**(de) Applicability.** This rule does not apply to actions ~~to~~ which~~under~~ chapter 51, Florida Statutes (1967), ~~applies or to cases designated as complex pursuant to rule 1.201.~~

### **Committee Notes**

**1972 Amendment-2012 Amendment.** [No Change]

**202 Amendment.** This rule has been substantially amended in that it no longer requires that a case be “at issue” before it can be set for trial.

## Court Commentary

[No Change]

### **RULE 1.460. CONTINUANCES MOTIONS TO CONTINUE TRIAL**

~~A motion for continuance shall be in writing unless made at a trial and, except for good cause shown, shall be signed by the party requesting the continuance. The motion shall state all of the facts that the movant contends entitle the movant to a continuance. If a continuance is sought on the ground of nonavailability of a witness, the motion must show when it is believed the witness will be available.~~

**(a) Generally.** Motions to continue trial are disfavored and should rarely be granted except for good cause shown. Successive continuances are highly disfavored. Lack of due diligence in preparing for trial is not grounds to continue the case.

**(b) Motion; Requirements.** A motion to continue trial must be in writing unless made at a trial and, except for good cause shown, must be signed by the named party requesting the continuance.

**(c) Motion; Timing of Filing.** A motion to continue trial must be filed promptly after the appearance of good cause to support such motion. Failure to promptly request a continuance may be a basis for denying the motion to continue.

**(d) Motion; Contents.** The moving party or counsel must make reasonable efforts to confer with the non-moving party or opposing counsel about the need for a continuance, and the non-moving party or opposing counsel must cooperate in responding and holding a conference. All motions for continuance, even if agreed, must state with specificity:

(1) the basis of the need for the continuance, including when the basis became known to the movant;

(2) whether the motion is opposed;

(3) the action and specific dates for the action that will enable the movant to be ready for trial by the proposed date, including, but not limited to, confirming the specific date any required participants such as third-party witnesses or experts are available; and

(4) the proposed date by which the case will be ready for trial and whether that date is agreed by all parties.

If the required conference did not occur, the motion must explain the dates and methods of the efforts to confer. Failure to confer by any party or attorney under this rule may result in sanctions.

**(e) Efforts to Avoid Continuances.** To avoid continuances, trial courts should use all methods available to address the issues causing delay, including requiring depositions to preserve testimony, allowing remote appearances, and resolving conflicts with other judges as provided in the Florida Rules of General Practice and Judicial Administration.

**(f) Setting Trial Date.** When possible, continued trial dates must be set in collaboration with attorneys and self-represented litigants as opposed to the issuance of unilateral dates by the court.

**(g) Dilatory Conduct.** If a continuance is granted based on the dilatory conduct of an attorney or named party, the court may impose sanctions on the attorney, the party, or both.

**(h) Order on Motion for Continuance.** When ruling on a motion to continue, the court must state, either on the record or in a written order, the factual basis for the ruling. An order granting a motion to continue must either set a new trial period or set a case management conference. If the trial is continued, the new trial period should be set for the earliest date practicable. The order must reflect what further activity will or will not be permitted.

### **Committee Notes**

**1980 Amendment-1988 Amendment.** [No Change]

**202 Comment.** This rule does not limit the discretion of trial court judges to efficiently and equitably administer their dockets.



**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO THE  
FLORIDA RULES OF CIVIL  
PROCEDURE—CIVIL WORKGROUP  
REFERRAL TO THE CIVIL PROCEDURE  
RULES COMMITTEE (RULES 1.200,  
1.201, 1.280, 1.440, AND 1.460)**

**CASE NO.:SC23-**

**FAST-TRACK REPORT OF THE  
CIVIL PROCEDURE RULES COMMITTEE**

Landis V. Curry III, 2022–2023 Chair of the Civil Procedure Rules Committee, and Joshua E. Doyle, Executive Director of The Florida Bar, file this report under Florida Rule of General Practice and Judicial Administration 2.140(b) and in response to this Court’s January 12, 2023, referral, attached as Appendix G. The Committee recommends that the Court adopt the proposed amendments to rules 1.200, 1.201, 1.280, 1.440, and 1.460 of the Florida Rules of Civil Procedure that are set forth in the attached “Track A.” See App. B. The Committee has also provided an alternative track of proposed amendments, which are set forth in the attached “Track B.” See App. D. The Committee does not recommend that the Court adopt Track B, but nevertheless provides it as an alternative approach to implementing case management requirements into the civil rules. The proposals have not been published for comment.

**BACKGROUND**

This Court asked the Committee to propose amendments to Florida Rules of Civil Procedure 1.200 (Pretrial Procedure), 1.201 (Complex Litigation), 1.280 (General Provisions Governing Discovery), 1.440 (Setting Action for Trial), and 1.460 (Motions to Continue Trial). See App. G. It also asked the Committee to review the proposals submitted by the Workgroup on Improved Resolution of Civil Cases and to make the necessary refinements. It gave the Committee specific guidance regarding the proposed amendments and asked that the Committee file its report by Monday, July 3, 2023.

Chair Curry appointed Maegen Peek Luka to chair the Committee's response to the Court's referral. The Committee formed the necessary subcommittees and invited several judges and prominent attorneys to participate as ad hoc members. The Committee thanks the following individuals for the assistance and participation:

- Hon. Lisa Ann Allen (13th Judicial Circuit);
- Bruce Berman (Carlton Fields);
- Hon. Kimberly Sharpe Byrd (6th Judicial Circuit);
- Hon. Robert M. Dees (4th Judicial Circuit);
- Steven Joseph Brotman (Locke Lord);
- Hon. Hunter Wyman Carroll (12th Judicial Circuit)
- Gregory Carter Harrell (Clerk of the Court and Comptroller for Marion County);
- Hon. Paul L. Huey (13th Judicial Circuit);
- Hon. Michael McHugh (20th Judicial Circuit – Chief Judge);
- Charles Richard Allen Morse (Jones Day)
- Hon. Mark W. Moseley (8th Judicial Circuit)
- Hon. Lisa Munyon (9th Judicial Circuit)
- Hon. Frances Perrone (13th Judicial Circuit)
- Hon. Jessica Recksiedler (18th Judicial Circuit – Chief Judge);
- Allison M. Stevenson (Hill Ward Henderson);
- Hon. Jonathan E. Sjostrom (2nd Judicial Circuit – Chief Judge);
- Scott Owen Stigall (Gunster);
- Hon. Miriam Valkenburg (13th Judicial Circuit); and
- Peter D. Webster (Carlton Fields).

The subcommittees began meeting virtually on a weekly basis to study the issues and develop proposed amendments. The minutes of the subcommittee meetings are available as Appendices L–O.

The subcommittee tasked with amending rules 1.200 and 1.201 realized that there were two substantially different views regarding how the rules should be amended to provide for differentiated case management. Several subcommittee members

(including ad hoc members) believed that the Workgroup’s proposal for rule 1.200 is overly complicated and inflexible and requires too much judicial involvement at the outset of all general cases. Those subcommittee members believed that a better approach would be to implement into the rules the civil case management requirements that initially went into effect in *In re Comprehensive COVID-19 Emergency Measures for Florida Trial Courts*, Florida Administrative Order No. AOSC20-23, Amendment 10 (March 9, 2021).<sup>1</sup> Among the reasons given in support of this approach is that Florida’s 20 judicial circuits and 67 county clerks of the courts have already successfully adopted those requirements, which are based on some—but not all—of the fundamental elements of the Workgroup’s proposals regarding case management.

Chair Curry and Ms. Peek Luka discussed the issue with Chief Justice Muñiz and proposed that the Committee provide the Court with two options for amending the rules. The first option (Track A) would essentially implement into the rules the existing case management requirements established by the Court’s administrative orders. The second option (Track B) would refine the approach proposed by the Workgroup. Chief Justice Muñiz approved the Committee’s proposal to provide both options.

The subcommittees began developing proposals for each track and provided working drafts to the Committee in late April. On April 27, 2023, the Committee met to discuss the proposals in concept. After receiving input from Committee members and ad hoc members, the subcommittees continued their work to develop the tracks.

The Committee met again on June 1 and 5, 2023, to finalize the proposals and discuss which track (if any) the Committee members favored. Chair Curry informed the Committee that both tracks propose identical amendments for rules 1.440 and 1.460 and

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<sup>1</sup>The requirements are now found in *In re COVID-19 Health and Safety Protocols and Emergency Operational Measures for Florida Appellate and Trial Courts*, Florida Administrative Order No. AOSC21-17, Amendment 3, at 18-23 (Fla. Jan. 8, 2022) (attached as App. H).

propose substantially similar amendments for 1.280. He noted that the tracks differ significantly in their approaches to case management under rules 1.200 and 1.201. In short, Track A requires the chief judge of each judicial circuit to enter an administrative order addressing certain case management requirements in general and streamlined cases, while Track B requires the parties in each general case to meet and confer and prepare a proposed case management order, which must then be submitted to the court for review and approval.

On June 5, 2023, 15 committee members voted in favor of recommending Track A to the Court. One member voted in favor of recommending Track B. And 1 member voted to recommend not amending the rules at all. That member said that, if pressed, he would favor Track A. Several members who either could not attend or had to leave the meeting early also indicated a preference for Track A. And several ad hoc (nonvoting) members also spoke in support of Track A.

The Board of Governors voted to recommend acceptance of the proposed amendments with 1 member of the Board of Governors recommending amendment of the Committee's proposals. Appendix A details the vote count. The proposed amendments have not been published for comment because publishing is not required for this submission under Florida Rules of General Practice and Judicial Administration 2.140(f)(1) and 2.140(e).

On June 22, 2023, at the Committee's Annual Meeting, the Committee discussed this report and certain minority positions that are addressed below.

## **DISCUSSION OF TRACK A**

Appendix B is the Track A proposal in legislative format against the current civil rules. Appendix D is the Track A proposal in legislative format against the Workgroup's final proposals to these rules. Appendix C is the 2-column chart against the Workgroup's final proposals.

Track A proposes amendments to rule 1.200 that are based on this Court's existing case management requirements, which went into effect during the COVID pandemic. Those requirements incorporate several of the fundamental elements of the Workgroup's proposal for differentiated case management, including assignment of a case to one of three specific tracks and the issuance of a case management order setting a timetable for pretrial proceedings and a proposed trial date.

Track A also proposes amendments to rule 1.280 requiring parties in civil cases to make certain initial discovery disclosures and to timely supplement any discovery that is made in the case. Track A eliminates the "at issue" requirement of rule 1.440 and narrows the grounds on which cases can be continued under rule 1.460.

Below, each rule is addressed individually.

**Rule 1.200 under Track A:** Track A proposes substantial revisions to rule 1.200. Much of the language in the proposed amendments comes directly from AOSC21-17, which this Court issued to require case management during the COVID pandemic. See App. H at 18-23. The Track A subcommittee wanted to respect the work done by the judicial circuits and clerks in responding to this Court's administrative orders. The subcommittee also wanted to avoid imposing a one-size-fits-all system for case management on all 20 judicial circuits and 67 counties. And given the Florida judiciary's success in managing cases during and after the pandemic, the subcommittee believed that the amendment should implement the flexible approach to case management created by this Court's administrative orders.

The exemptions to case management under Track A and B are the same and are based on the exemptions proposed by the Workgroup. Because this Court's referral letter instructed the Committee to also exempt matters involving trusts, the Committee included actions or proceedings initiated under chapter 736 of the Florida Statutes (titled "Florida Trust Code"). The Committee consulted with The Florida Bar's Florida Probate Rules Committee who reached out to the Real Property Probate and Trust Law

Section—both the leadership of the Florida Probate Rules Committee and the Real Property Probate and Trust Law Section are in favor of the addition of that exemption. And after consulting with The Florida Bar’s Business Law Section, the Committee also added an exemption for all proceedings under chapter 56 of the Florida Statutes (titled “Final Process”).

Track A continues the current practice of requiring courts to assign each civil case to 1 of 3 case management tracks (Complex, Streamlined, or General). Cases assigned complex must proceed under rule 1.201. Cases assigned streamlined or general must proceed under rule 1.200.

Track A’s rule 1.200 requires courts in streamlined and general cases to “issue a case management order that specifies the projected trial period based on the case track assignment or the actual trial period, consistent with administrative orders entered by the chief judge of the circuit.” Both this Court’s administrative orders and the Workgroup’s revised proposal require case management orders that specify a projected or proposed trial date. The Committee decided to require either a projected or actual trial period because some circuits utilize projected trial periods at the outset, while other circuits require the parties to attend a case management conference where an initial case management order sets an actual trial period. The Committee wanted the rule to be sufficiently flexible so that different circuits and counties can continue to manage cases in the way that works best for them while meeting certain uniform requirements.<sup>2</sup>

A minority of subcommittee members objected to the continued use of “projected trial periods,” arguing that the continued use of an uncertain trial date in case management orders will simply add “a largely unnecessary procedural step somewhere after the start of the case and well before a scheduled trial.” See

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<sup>2</sup> This Court recently recognized that it is in the public’s best interest for the circuits to have flexibility in addressing issues that affect case management. *In re: Civil Case Management*, Fla. Admin. Order No. AOSC23-29, at 2 (Fla. June 14, 2023). See App. K.

App. I. The majority voted to retain the “projected” and “actual” trial period language for several reasons, including the following:

- This Court’s referral letter specifically instructed the Committee to “incorporate the fundamental elements of the Workgroup’s revised proposal for differentiated case management” including “the issuance of a case management order setting a timetable for pretrial proceedings and a *proposed* trial date.” (Emphasis added.)
- The Track A subcommittee began with the goal of implementing the case management procedures established by this Court during the Coronavirus Disease 2019 pandemic. Those case management procedures did not include specifying a specific trial period at the outset of the case.
- Requiring the CMO to include a specific trial period could force the judicial circuits to substantially revise their current practices and administrative orders. The Track A subcommittee’s goal was to implement the existing case management system; not substantially alter it or cause extensive additional work for the circuits or clerks.
- Setting a trial period at the outset would force parties to seek continuances in nearly every case, which could create significant problems given the restrictions imposed under the proposed continuance rule.
- Setting large numbers of cases for the same trial period creates the impression that the cases are not really set for trial even though the CMO says that they are. Thus, the desired effects of pushing cases to resolution may not materialize.

Track A allows the parties to file a motion if they seek to change the track assignment or amend the deadlines set forth in the case management order. Alternatively, the parties can address changes during a case management conference.

Track A requires parties to notify the court if they are unable to meet case management deadlines for any reason, including due to the unavailability of hearing time. It also requires that an order resetting the trial period when a case is not reached during the trial period for which it was set must be set as soon as practicable and the order must indicate what further activity will or will not be permitted.

Track A's rule 1.200(e)–(f) incorporates the fundamental elements of the Workgroup's revised proposal regarding case management conferences and the pretrial conference.

**Rule 1.201 under Track A:** Track A does not propose significant changes to rule 1.201. The Track A subcommittee believes that rule 1.201 is working effectively as it is and that there were very few necessary corresponding amendments.

**Rule 1.280 under Track A:** Proposed rule 1.280 is largely identical under both Track A and Track B except that Track A requires a discovery conference of the parties similar to Federal Rule 26(f). The proposed rule includes substantial revisions to model certain provisions of Federal Rule 26.

The proposed amendments to rule 1.280(a) require parties in civil cases to make certain initial discovery disclosures without awaiting a discovery request. The proposal is modeled after Federal Rule of Civil Procedure 26(a), but also adopts certain changes proposed by the Workgroup. The Committee rejected the Workgroup's proposal that initial disclosures also include the identity of experts and answers to all questions on any applicable standard interrogatory forms. Those requirements are not in Federal Rule 26(a), and a majority of the Committee believed that those additions were unnecessary or inappropriate for initial disclosures. A small minority of the Committee would have included those additional requirements.

The proposal also requires parties to timely supplement discovery responses. The proposal is modeled after Federal Rule 26(e)(1).



Because Track A does not require a meeting of the parties under rule 1.200 for case management, Track A proposes requiring a conference of the parties under rule 1.280 so that they can discuss discovery and initial disclosures. Although the Track A proposal is based in part on Federal Rule 26(f), it does not require the parties to submit a “discovery plan” as is required under the Federal Rule. A majority of the Committee felt that requiring the discovery plan was an unnecessary burden on the parties. A minority of the Committee would have included the filing of a discovery plan similar to that required under Federal Rule 26(f)(3). *See App. J.* At the June 22, 2023, Committee meeting, 8 of the 42 Committee members indicated that they favored requiring the discovery plan.

The Committee also decided to propose adopting a requirement similar to Federal Rule 26(g), which requires attorneys and self-represented litigants to sign disclosures, requests, responses, and objections. By signing, the attorney or party certifies certain information about the disclosures, requests, responses, or objections. The Committee concluded that the proposed language would be helpful and would not conflict with Florida Rule of General Practice and Judicial Administration 2.515 (titled “Signature and Certificates of Attorneys and Parties”). A minority of the Committee would have adopted all of Federal Rule 26(g), including the provision requiring sanctions if a certification violates the rule without substantial justification. A majority of the Committee concluded that the issue of sanctions is best left to the sound discretion of the courts.

An initial version of Track A’s 1.280 also included proposed amendments modeled after Federal Rule 26(d), which preclude parties from seeking discovery before the parties have conferred. The Committee decided to remove those proposals because they would unnecessarily restrict and delay discovery. A minority of the Committee (9 of the 42 members at the June 22, 2023, Committee meeting) would have retained that proposed language based on Federal Rule 26(d). *See App. J.*

A minority of the Committee (9 of the 42 members at the June 22, 2023, Committee meeting) also favored adopting the proportionality language included in Federal Rule 26(b)(1). *See* App. J. The majority decided not to include proportionality in rule 1.280. Among the reasons given were that the Workgroup did not recommend adding proportionality, this Court’s referral letter did not request it, and proportionality is already addressed in other parts of the civil rules.

**Rule 1.440 under Track A:** Proposed rule 1.440 is identical under both Track A and Track B. Pursuant to this Court’s referral letter, the Committee eliminated the “at issue” rule. However, the Committee’s proposed change dramatically simplifies the Workgroup’s proposal by making it clear, in section (a), that the “failure of the pleadings to be closed will not preclude the court from setting a case for trial.” The Committee notes that current rule 1.140(c) (rule 1.140 is entitled “Defenses:”) uses similar language about the pleadings being “closed.”

The Committee’s proposal allows a party to serve a motion (as opposed to a notice) if the party wants to set a case for trial—either because the case is not subject to case management and has no projected trial date under a case management order or because the party wants a trial date earlier than the projected date in the case management order. The motion must include specific details that will aid the court in determining when to set the trial date. The Committee’s proposal retains the due process requirement that no case can be set for trial less than 30 days from the date of the trial order, unless all parties agree otherwise.

**Rule 1.460 under Track A:** Proposed rule 1.460 is identical under both Track A and Track B. Pursuant to this Court’s referral letter, the Committee’s proposed revisions state that lack of diligent preparation is not a basis for a continuance, that continuances should rarely be granted and only on good cause shown, and that successive continuances are highly disfavored. The Committee also created a provision that, if a continuance is granted based on dilatory conduct of an attorney or party, the court may issue a sanction to the attorney, the party, or both.

The Committee eliminated subdivision (a) of the Workgroup’s proposal, which called for detailed written motions to continue dates in a case management order, because the Committee agreed it was confusing and unnecessary. The Committee kept the Workgroup’s requirement that a motion for continuance be in writing and signed by the party requesting it; however, the Committee created a “safety valve” that the requirement could be waived where good cause is shown. The Committee created a requirement of a conference with opposing counsel or unrepresented parties regarding the need for a continuance and the requirement of cooperation in setting the conference. The Committee then detailed 4 requirements for the content of the motion to continue. Those requirements are based on, but not identical to, the Workgroup’s proposed suggestions.

The Committee eliminated the Workgroup’s list of items that would not constitute a permissible basis for a continuance as well as a Workgroup subdivision describing circumstances where the complaint is amended close to trial. The Committee felt both were unnecessary and likely to work more mischief than resolve problems.

The Committee kept the Workgroup’s requirement that judges should use all methods available to help avoid a continuance. When ruling on a continuance motion, the court must state, either on the record or in a written order, the basis for its ruling and the order must either set a new trial date or set a case management conference where a date will be selected. The Committee also created a requirement that, when a continuance motion is granted, the new trial date should be decided in collaboration with the parties rather than unilaterally set by the court and set for the earliest date possible. Finally, the Committee included a requirement that an order granting a continuance must reflect what further activity in the case will or will not be permitted.

## **DISCUSSION OF TRACK B**

Appendix E is the Track B proposal in legislative format against the current civil rules. Appendix F is the Track B proposal

in legislative format against the Workgroup's final proposals to these rules.

Track B is a refinement of the Workgroup's proposal for differentiated case management. It requires the assignment of a case to 1 of 3 specific tracks and the issuance of a case management order setting a timetable for pretrial proceedings and a proposed trial date. It also requires the parties in all general cases to meet and confer and then submit to the court a proposed case management order for review and approval.

Like Track A, Track B also proposes amendments to rule 1.280 requiring parties in civil cases to make certain initial discovery disclosures and to timely supplement any discovery that is made in the case. It also eliminates the "at issue" requirement of rule 1.440, and narrows the grounds on which cases can be continued under rule 1.460. Again, Track B's proposals for rules 1.440 and 1.460 are identical to Track A's proposals.

**Rule 1.200 under Track B:** Track B proposes substantial revisions to rule 1.200. The most significant difference between Track A and Track B is that Track B requires much more detail than Track A. While both tracks require the court to assign each case to a track by initial case management order, unlike Track A, in jurisdictions where there is not an automatic case management order, Track B requires the parties to meet and confer and create a proposed case management order. (Jurisdictions that issue case management orders automatically can continue to do so as long as the case management order contains all of the deadlines specified in the rule.) Where Track A contain 7 specific deadlines the parties must include in the proposed case management order, Track B contains 25 specific deadlines. Track B has a very detailed subdivision regarding the process for amending a deadline in the case management order and that requires specific information be included in a motion to amend. (The requirements are similar to those the Workgroup included in subdivision 1.460(a); the Committee essentially relocated the concept of the Workgroup's 1.460(a) to Track B's rule 1.200.)

Like Track A, Track B requires parties to notify the court if they are unable to meet case management deadlines for any reason, including due to the unavailability of hearing time. It also requires that an order resetting the trial period when a case is not reached during the trial period for which it was set must be set as soon as practicable and the order must indicate what further activity will or will not be permitted.

Track B deletes the Workgroup's subdivision titled "Cases Pending as of the Effective Date of this Rule" (because the subdivision can be effectuated through an administrative order).

As it relates to case management conferences, Track B kept the Workgroup's concept that counsel should come to case management conferences with the calendars for all attorneys in the case and be prepared to schedule events. Track B expanded/clarified the Workgroup's proposal that a court can address any pending motion during a case management conference. Track B requires the parties to provide to the court a list of pending motions and requires the court to notify the parties of any motions the court would like to hear during the case management conference (to ensure due process). The Committee specifically excluded summary judgment and evidentiary hearings as matters that could be heard during a case management conference.

Track B kept the Workgroup's concept of a pre-trial conference, but the Track B proposal calls it a "Trial Conference" and states that it can take place no more than 60 days before trial. Track B also creates a "Trial Statement" requirement. This is a document jointly filed by the parties at a deadline set by the court, which requires what the Track B subcommittee agrees most courts require in a pretrial statement: a statement of the issues, a statement of disputed facts, witness lists, and exhibit lists. The Track B proposal also requires the parties to list all pending motions and to indicate all objections to deposition designations.

Track B empowers judges to issue sanctions for failure to comply with the trial statement requirements, including but not limited to striking witnesses or exhibits not properly listed. The "trial statement" idea was born out of the observation of judges on

the subcommittee that cases tend to resolve when the parties are forced to finalize their cases with an exercise similar to the “trial statement” requirements.

**Rule 1.201 under Track B:** Track B largely adopts the Workgroup’s proposed changes to rule 1.201, with a few minor revisions to keep rule 1.201 consistent with the changes proposed in rule 1.200.

**Rule 1.280 under Track B:** As noted above, Track B’s proposal regarding this rule is identical to Track A’s proposal, except for Track A’s requirement of a discovery meeting between the parties. Under Track B, the parties are required to address discovery issues as part of the case management meeting under rule 1.200. Thus, there is no need to include a separate discovery meeting in Track B’s rule 1.280.

**Rules 1.440 and 1.460 under Track B:** Track B proposes the same amendments that are identified in Track A. The discussion of these rules under Track A applies equally here.

## **CONCLUSION**

The Committee recommends that this Court adopt the proposed amendments to Florida Rules of Civil Procedure 1.200, 1.201, 1.280, 1.440, and 1.460 detailed in Track A. The Committee thanks the Court for the opportunity to assist with these important issues. To further assist this Court with any questions it may have, the Committee will separately request oral argument.

Respectfully submitted July 3, 2023.

/s/ Landis V. Curry III

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### **CERTIFICATE OF COMPLIANCE**

I certify that these rules were read against *Thomson Reuters’ Florida Rules of Court—State* (2023 Edition). I certify that this report was prepared in compliance with the font requirements of Florida Rule of Appellate Procedure 9.045 and the requirements within *Guidelines for Rules Submissions*, AOSC22-78 (Fla. 2022).

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# Supreme Court of Florida

FRIDAY, SEPTEMBER 22, 2023

In Re: Amendments to Florida  
Rules of Civil Procedure


**SC2023-0962**

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The “Motion for Extension of Time to File Comment by the Real Property Probate and Trust Law Section of The Florida Bar” is granted in part. The “Motion for Extension of Time to Serve Comments” filed by Maegan Peek Luka is granted. The “Motion to Toll Time” filed by Maegan Peek Luka is denied as moot. The Real Property Probate and Trust Law Section of The Florida Bar, Maegan Peek Luka, and all interested persons may file comments on or before December 1, 2023. Accordingly, the Civil Procedure Rules Committee is allowed to and including December 22, 2023, in which to file a response to comments.

A True Copy  
Test:

SC2023-0962 9/22/2023

  
John A. Tomasino

Clerk, Supreme Court

SC2023-0962 9/22/2023



SO

Served:

JUDSON LEE COHEN

LEE GILL COHEN

JOSHUA E. DOYLE

S. KATHERINE FRAZIER

MINA GRACE

JED LOUIS KURZBAN

DAVID MICHAEL LIPMAN

MAEGEN PEEK LUKA



**CASE NO.: SC2023-0962**

Page Two

JOHN CHRISTOPHER MORAN  
HEATHER SAVAGE TELFER  
JOSHUA L WINTLE

**IN THE SUPREME COURT OF FLORIDA**

CASE NO. SC2023-0962

IN RE: AMENDMENTS TO FLORIDA  
RULES OF CIVIL PROCEDURE

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**COMMENT BY THE REAL PROPERTY, PROBATE,  
AND TRUST LAW SECTION OF THE FLORIDA BAR**

S. Kathryn Frazier, as Chair and on behalf of the Executive Council of the Real Property Probate and Trust Law Section (“RPPTL” or the “Section”) of the Florida Bar<sup>1</sup> respectfully provides these comments in response to the Court’s August 9, 2023, request for publication of proposed Rules in the above case in the September 1, 2023, Bar News. In the publication request, the Court invited interested persons to comment on the proposals. Additionally, the Court requested that all interested persons state a preference for either Track A or Track B.

**I - Introduction**

The RPPTL Section is a group of Florida lawyers who practice in the areas of real estate, trust and estate law. The RPPTL Section is

<sup>1</sup> These comments are provided solely on behalf of the Real Property, Probate and Trust Law Section of the Florida Bar and not on behalf of the Florida Bar itself.

dedicated to serving all Florida lawyers and the public in these fields of practice. We produce educational materials and seminars, assist the public *pro bono*, draft legislation, draft rules of procedure, and occasionally serve as a friend of the court to assist on issues related to our fields of practice. Our RPPTL Section has over 11,000 members.

The RPPTL Section of the Florida Bar appreciates and acknowledges the efforts of Landis V. Curry III, 2022-2023 Chair of the Civil Procedure Rules Committee and Joshua E. Doyle, Executive Director of the Florida Bar, (the “Civil Rules Committee”) and their report filed on July 3, 2023 (the “Report”), in response to this Courts January 12, 2023, referral (the “Referral”). In the Report, the Civil Rules Committee recommended that the Court adopt the proposed amendment to rules 1.200, 1.201, 1.280, 1.440, and 1.460 of the Florida Rules of Civil Procedure set forth in “Track A.” RPPTL supports the Civil Rules Committee recommendation of “Track A.” However, RPPTL is concerned about the pace of implementation and desires to fulfill its mission to educate the Section’s more than 11,000 members on the changes to the rules of civil procedure when they are implemented.

## **II – Pace of Implementation**

RPPTL acknowledged the extensive nature of the Judicial Management Council Workgroup (the “Workgroup”) on Improved Resolution of Civil Cases and, in response, commissioned an Ad Hoc committee comprised of members of its real property litigation committee, probate litigation committee and construction law committee to study the Final Report, dated November 15, 2021 (the “Report”). As stated in the Report, the Workgroup “recommends extensive amendment to the Florida Rules of Civil Procedure and Florida Rules of General Practice and Judicial Administration, along with several amendments to other rules chapters” (collectively, the “Rule Revisions”). RPPTL is appreciative of the Courts limited scope and selection of specific rules to implement, as demonstrated in the Referral. While the adoption of the proposed amendment to rules 1.200, 1.201, 1.280, 1.440, and 1.460 of the Florida Rules of Civil Procedure set forth in “Track A” (the “Amendment”) is far less extensive than the Rule Revisions, they include provisions from the Federal Rules of Civil Procedure and other significant changes, that will be new to many of our members. Therefore, in the event the Amendment is adopted, all or in part, the Section respectfully

requests a one hundred eighty (180) day delay in their implementation to allow the Section to fulfill its mission and educate its more than 11,000 Section members.

## **VI - Conclusion**

The Real Property, Probate and Trust Law Section supports the goals of this Court and the efforts of the Civil Rules Committee and their recommendation that the Court adopt the proposed amendment to rules 1.200, 1.201, 1.280, 1.440, and 1.460 of the Florida Rules of Civil Procedure set forth in “Track A.” RPPTL supports the Civil Rules Committee recommendation of “Track A.” However, RPPTL is concerned about the pace of implementation and desires to fulfill its mission to educate the Section’s more than 11,000 members on the changes to the rules of civil procedure when they are implemented.

Therefore, in the event the Amendment is adopted, all or in part, the Section respectfully requests a one hundred eighty (180) day delay in its implementation.

Respectfully submitted on December \_\_, 2023.

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S. Katherine Frazier  
Chair - RPPTL  
Florida Bar Number 962457  
Hill Ward Henderson

101 E Kennedy Blvd, Ste 3700  
Tampa, FL 33602-5195  
katherine.frazier@hwhlaw.com

**CERTIFICATE OF TYPE SIZE AND STYLE**

I hereby certify that this motion was prepared in Bookman Old Style, 14-point font, in compliance with Rule 9.045(b) of the Florida Rules of Appellate Procedure.

---

S. Katherine Frazier  
Chair - RPPTL  
Florida Bar Number 962457

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this motion has been sent by e-mail to the following individuals on this \_\_\_\_ day of December, 2023.

Committee Chair  
Judson Lee Cohen  
100 Biscayne Boulevard, Suite 2802  
Miami, Florida 33132  
[jcohen@weinsteincohen.com](mailto:jcohen@weinsteincohen.com),

Bar Staff Liaison to the Committee  
Heather Telfer  
615 E. Jefferson Street  
Tallahassee, Florida 32399  
[htelfer@floridabar.org](mailto:htelfer@floridabar.org)

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S. Katherine Frazier  
Chair - RPPTL  
Florida Bar Number 962457

## **Memorandum**

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From: Dale Noll

To: Andrew Sasso, Esq.

Date: October 21, 2023

Subject: RPPTL Professionalism and Ethics Committee - Comment  
Regarding Change to The Rules Regulating the Florida Bar

## **Background**

In a July 6, 2023 Corrected Opinion (Exhibit 1) for Case SC2023-0884, the Florida Supreme Court stated, at page 5–6, the following regarding Rule Regulating The Florida Bar 6-10.3:

Second, the current CLE rule says in part that “[a]t least 5 of the 33 credit hours must be in approved legal ethics, professionalism, bias elimination, substance abuse, or mental health and wellness programs.” Today the Court amends the rule by removing “bias elimination” from that list. The Court believes that non-discrimination principles and civility can and should be addressed in the context of legal ethics and professionalism. Courses in “bias elimination” that meet The Florida Bar’s general course approval requirements will continue to count toward the fulfillment of Bar members’ overall 30-hour CLE requirement; but such courses will no longer count toward fulfillment of the five-hour sub-requirement specified in the rule.

This was a *sua sponte* decision. The Court invited comments filed by September 19, 2023 since the amendment was not previously published for comment. Commenters could separately file a request for oral argument.

The Professionalism & Ethics Committee appointed a sub-committee to analyze the change. A draft comment was prepared, circulated, and ultimately approved by the Professionalism & Ethics Committee for submission to RPPTL's Executive Committee. Because there was no time to obtain approval for action by the Executive Council, the Executive Committee approved the submission of a Motion for Extension of Time to submit a comment. A Motion was submitted, (Exhibit 2), and the Court granted the Motion. The Order (Exhibit 3) gave "all interested persons" the ability to file comments on or before January 31, 2024.

### **Existing Rule**

#### RULE 6-10.3 MINIMUM CONTINUING LEGAL EDUCATION STANDARDS

(b) Minimum Hourly Continuing Legal Education Requirements. Every member must complete a minimum of 33 credit hours of approved continuing legal education activity every 3 years. At least 5 of the 33 credit hours must be in approved legal ethics, professionalism, bias elimination, substance abuse, or mental health and wellness programs, with at least 1 of the 5 hours in an approved professionalism program, and at least 3 of the 33 credit hours in approved technology programs. If a member completes more than 33 credit hours during any reporting cycle, the excess credits cannot be carried over to the next reporting cycle.

### **Draft Comment**

After entry of the Order granting the requested extension of time, there have been other comments submitted. The subcommittee of the Professionalism & Ethics Committee reviewed those comments and edited the initial draft. That draft was circulated to the full Professionalism & Ethics Committee, as well as individuals representing the Amicus Coordination, CLE Coordination, and Membership & Inclusion Committees. Attached as Exhibit 4 is the current draft comment, which incorporates comments by representatives of those three Committees.

### **Other Comments**

Attached as composite Exhibit 5 are four other comments filed that respond to the deletion of "bias elimination" as a category. It is our understanding that the comment submitted by attorneys Greenbaum, Small, and Bloom was prepared on behalf of The Florida Bar's CLE Committee and submitted to the Board of Governor's Executive Committee. Apparently, the BOG Executive Committee rejected The Bar's CLE Committee's proposed comment on the grounds that it was not within the scope of permissible legislative or political activity.



# Supreme Court of Florida

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No. SC2023-0884

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**IN RE: CODE FOR RESOLVING PROFESSIONALISM REFERRALS  
AND AMENDMENTS TO RULE REGULATING THE FLORIDA BAR  
6-10.3.**

July 6, 2023

**CORRECTED OPINION**

PER CURIAM.

In May 2021, The Florida Bar created the Special Committee for the Review of Professionalism in Florida. The Special Committee's charge was to consider the state of professionalism among Florida lawyers and to develop recommendations for this Court and The Florida Bar on: the teaching of professionalism throughout a lawyer's career; the content of Florida's professionalism standards; and the enforcement of those standards. The Court is grateful for the Special Committee's hard work and its thorough and thoughtful report and recommendations.

A key focus of the Special Committee's study was the Code for Resolving Professionalism Complaints, which this Court adopted in

2013 and later amended twice. *See In re Code for Resolving Professionalism Complaints*, 116 So. 3d 280 (Fla. 2013); *In re Amend. Code for Resolving Professionalism Complaints*, 156 So. 3d 1034 (Fla. 2015); *In re Amends. Code for Resolving Professionalism Complaints*, 174 So. 3d 995 (Fla. 2015). The Special Committee has proposed that the Court replace the 2013 Code with a new code, the Code for Resolving Professionalism Referrals. The Special Committee also asks the Court to amend Florida’s Professionalism Expectations and Rule Regulating The Florida Bar 6-10.3 (Minimum Continuing Legal Education Standards). We grant the Special Committee’s requests with modifications.<sup>1</sup>

First, the Court replaces the 2013 Code with the Code for Resolving Professionalism Referrals. This new code will clarify and enhance the important role of local professionalism panels, entities that are independent of The Florida Bar and established in each circuit for the purpose of informally resolving referrals of claimed

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1. We have jurisdiction. Art. V, § 15, Fla. Const. (“The supreme court shall have exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted.”).

unprofessional conduct by lawyers practicing in that circuit. Importantly, the code we adopt today clarifies the distinction between the informal local professionalism panel process and the formal grievance process for investigating and adjudicating possible violations of the Florida Rules of Professional Conduct. The Court agrees with the Special Committee that the informal, peer-to-peer mentoring approach offered by local professionalism panels can materially improve professionalism among Florida lawyers.

Second, we amend the Professionalism Expectations as recommended by the Special Committee. The Professionalism Expectations are one of four sources that make up the standards of professionalism in Florida; the other sources are the Oath of Admission to The Florida Bar, The Florida Bar Creed of Professionalism, and the Rules Regulating The Florida Bar. The revised Professionalism Expectations that we adopt today emphasize that Florida's professionalism standards apply to all forms of communication, including online communication, and to both in-person and remote (video or audio) interactions with others.

Third, we amend Bar Rule 6-10.3(b) (Minimum Hourly Continuing Legal Education Requirements). The existing CLE rule

generally requires Bar members to complete a minimum of 33 credit hours of approved continuing legal education activity every three years. The existing rule further mandates that at least one of the 33 hours consists of an approved professionalism program.

Adopting in part a recommendation of the Special Committee, today we amend the CLE rule to require Bar members to complete, during each reporting cycle, a two-hour legal professionalism course produced by The Florida Bar and approved by this Court. This two-hour course, which the Bar will offer free of charge, replaces the existing one-hour professionalism program requirement.

Finally, the Court on its own motion today makes two additional changes to the existing CLE rule. First, the overall CLE requirement is reduced to 30 hours per reporting cycle. This change restores the required hourly total in place when the Court first imposed mandatory CLE in 1987, and it aligns the total CLE hours requirement for lawyers with the corresponding continuing education requirement for judges. *See Fla. Bar re Amend. to R. Regulating Fla. Bar (Continuing Legal Educ.)*, 510 So. 2d 585 (Fla. 1987); Fla. R. Gen. Prac. & Jud. Admin. 2.320(b)(2).

Second, the current CLE rule says in part that “[a]t least 5 of the 33 credit hours must be in approved legal ethics, professionalism, bias elimination, substance abuse, or mental health and wellness programs.” Today the Court amends the rule by removing “bias elimination” from that list. The Court believes that non-discrimination principles and civility can and should be addressed in the context of legal ethics and professionalism. Courses in “bias elimination” that meet The Florida Bar’s general course approval requirements will continue to count toward the fulfillment of Bar members’ overall 30-hour CLE requirement; but such courses will no longer count toward fulfillment of the five-hour sub-requirement specified in the rule.

We hereby adopt the Code for Resolving Professionalism Referrals as reflected in Appendix A, which replaces the 2013 Code for Resolving Professionalism Complaints. We also hereby amend the Professionalism Expectations as reflected in Appendix B and Rule Regulating The Florida Bar 6-10.3 as reflected in Appendix C. In Appendices B and C, new language is indicated by underscoring, while deletions are indicated by struck-through type.

The Code for Resolving Professionalism Referrals and the amendments to the Professionalism Expectations are effective immediately. The amendments to Bar Rule 6-10.3 shall be effective January 8, 2024. Any “bias elimination” courses taken prior to the effective date of the amendments to Bar Rule 6-10.3 will count toward a member’s fulfillment of the five-hour sub-requirement for the member’s applicable reporting cycle. For any member who has less than three months remaining in his or her CLE reporting cycle on the effective date of the Bar Rule 6-10.3 amendments, the requirement to take the two-hour Bar-produced course on professionalism will not apply until the member’s subsequent reporting cycle.

Because the amendments were not published for comment previously, interested persons shall have 75 days from the date of this opinion in which to file comments with the Court.<sup>2</sup>

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2. All comments must be filed with the Court on or before September 19, 2023, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the

It is so ordered.

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

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER  
THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding – Code for Resolving Professionalism Referrals  
and Florida Rules Regulating The Florida Bar

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Portal. Any person unable to submit a comment electronically must  
mail or hand-deliver the originally signed comment to the Florida  
Supreme Court, Office of the Clerk, 500 South Duval Street,  
Tallahassee, Florida 32399-1927.

## Appendix A

### The Code for Resolving Professionalism Referrals

**Purpose:** This code describes an informal peer-to-peer mentoring process for addressing instances of unprofessional conduct separate and apart from instances of misconduct that require the formal grievance process. This process does not replace the Florida Rules of Professional Conduct or the formal disciplinary process for a violation of those rules as set out in Chapter 3 of the Rules Regulating The Florida Bar. Rather, this code establishes local professionalism panels (LPPs) in each judicial circuit that will receive, screen, and act on referrals of unprofessional conduct; and address those referrals informally, if possible; or refer those referrals to The Florida Bar for investigation.

#### 1.0 Unprofessional Conduct and the Standards of Professionalism

**1.1 Definition of Unprofessional Conduct.** Members of The Florida Bar must not engage in unprofessional conduct. “Unprofessional Conduct” means a violation of the Standards of Professionalism. The Standards of Professionalism are found in the *Oath of Admission to The Florida Bar*, *The Florida Bar Creed of Professionalism*, the *Professionalism Expectations*, and the *Rules Regulating The Florida Bar*.

**1.2 Referrals to The Florida Bar.** Minor or isolated instances of unprofessional conduct may be addressed through the informal process described in this code. However, when unprofessional conduct is substantial or repeated, that conduct may be referred to The Florida Bar for a disciplinary investigation into whether the formal disciplinary process should be initiated. In particular, Rule 4-8.4(d) of the Rules Regulating The Florida Bar has been the basis for imposing discipline in these instances. *See e.g., The Florida Bar v. Norkin*, 132 So. 3d 77 (Fla. 2013) (holding that lawyer’s unprofessional behavior at numerous hearings violated Rule Reg. Fla. Bar 4- 3.5(c) and inappropriate emails and outbursts violated Rule Reg. Fla. Bar 4-8.4(d); *The Florida Bar v. Ratiner*, 46 So. 3d 35



(Fla. 2010) (holding that lawyer's unprofessional deposition conduct violated Rules Reg. Fla. Bar 3-4.3, 3-4.4, 4-3.5, 4-4.4(a), 4-8.4(b), and 4-8.4(d)); *The Florida Bar v. Abramson*, 3 So. 3d 964 (Fla. 2009) (holding that lawyer's disrespectful and confrontational conduct toward a judge and jury violated Rules Reg. Fla. Bar 4-3.5(a), 4-3.5(c), 4-8.2(a), 4-8.4(d)); and *The Florida Bar v. Martocci*, 791 So. 2d 1074 (Fla. 2001) (holding that lawyer's disparaging and profane remarks to opposing party and counsel violated Rule Reg. Fla. Bar 4-8.4(d)). The bar must refer conduct that an LPP referred to the bar, but for which the bar determines prosecution through the disciplinary process is not warranted, to the LPP for the appropriate circuit for handling through the informal process described in this code.

## **2.0 Process for Addressing Unprofessional Conduct Referrals**

**2.1 Initiating Referrals.** Any person may initiate an unprofessional conduct referral against a member of The Florida Bar through the appropriate judicial circuit's local professionalism panel as described in Section 3.0.

## **3.0 Processing Referrals of Unprofessional Conduct through a Local Professionalism Panel**

**3.1 Formation.** The chief judge of each judicial circuit will create and maintain in continuous operation a local professionalism panel ("LPP" or "panel") to receive, screen, and act on any referrals of claimed unprofessional conduct and to resolve those referrals informally, if possible, or refer them to The Florida Bar, if necessary. The LPPs are entities independent of The Florida Bar, established in each circuit for the purpose of informally resolving referrals of claimed unprofessional conduct by lawyers practicing in that circuit, including appellate practice and transactional practice.

The chief judge appoints the panel, which must include judges (current or senior, trial or appellate) and local attorneys that are in good standing with The Florida Bar and eligible to practice law from diverse areas of practice with varying levels of experience, but must have practiced law at least 5 years. The chief judge appoints the

LPP Chair. The chief judge or the chief judge's designee also appoints members as necessary to fill LPP vacancies. The chief judge determines the number of members to serve on the LPP.

**3.2 Terms.** LPP members serve staggered 3-year terms. A member may be reappointed to serve 1 additional 3-year term, not to exceed 6 consecutive years. Each term begins on July 1 and runs through June 30 of the third year.

**3.3 Immunity.** The members of the LPP, staff assisting those panels, members of the circuit committees on professionalism, and staff assisting those committees, have absolute immunity from civil liability for all acts in the course and scope of their duties under this code.

**3.4 Education.** The chief judges must facilitate the promotion and education of the lawyers in their respective circuits about the LPPs through local, circuit-wide, CLE program about the role of the LPPs. The members of the LPPs must undergo training by experienced lawyers involved in the The Florida Bar disciplinary process prior to serving on the panels.

**3.5 Required Meetings.** Every other year, beginning in 2023, the chairs, or the member of the panel designated by the chair of each LPP, must meet in person or through the use of remote conferencing to review this code and make any recommendations for change to the Florida Supreme Court, review the forms used by the circuits to maintain uniformity of the forms (allowing for each circuit to modify the forms to meet the needs of the individual circuits), and review the procedures used by the circuits to maintain uniformity of procedures (allowing for each circuit to modify procedures to meet the needs of the individual circuits). The LPPs also must discuss the policies and procedures of the circuits to facilitate continued enhancement of the program. The Florida Bar will organize the biannual conferences.

**3.6 Confidentiality.** Documents and records provided to, and proceedings before, each LPP are confidential. LPP referrals to the

bar do not remain confidential under Rule Regulating The Florida Bar 3-7.1.

### **3.7 Reporting.**

(a) Each LPP must file a written report with the chief judge of its circuit, the Florida Supreme Court, and The Florida Bar identifying all professionalism referrals received against a member of The Florida Bar in June and December of each calendar year.

(b) The biannual reports must include the following information for each referral for the six calendar months preceding the month in which the report is due:

- (1) the date of the referral;
- (2) the circuit in which the issue arose;
- (3) a short summary detailing the substance of the referral;
- (4) the relationship of the respondent to the person submitting the referral;
- (5) whether or not the respondent voluntarily participated in the process;
- (6) the resolution, if any, of the referral; and
- (7) whether there were previous referrals against the respondent.

(c) The reports must not include identifying information for the respondent or the party who submitted the referral.

**3.8 Publishing Reports.** The Florida Bar will publish on its website the LPP biannual reports. The chief judge, or the chief judge's designee, will publish on the judicial circuit's website the LPP biannual reports from that circuit.

## Appendix B

### Professionalism Expectations

“Professionalism is the pursuit and practice of the highest ideals and tenets of the legal profession. It embraces far more than simply complying with the minimal standards of professional conduct. The essential ingredients of professionalism are character, competence, commitment, and civility.”

-The Florida Bar Standing Committee on Professionalism

#### Preamble:

The professionalism standards in Florida are set forth in (1) these Professionalism Expectations; (2) the Rules Regulating The Florida Bar; (3) The Florida Bar Creed of Professionalism; and (4) the Oath of Admission to The Florida Bar. The Florida Supreme Court adopted this integrated standard of professionalism to identify the professional behavior expected of lawyers practicing law in Florida. As The Florida Bar grows, it becomes more important to articulate the Bar’s professionalism expectations and for Florida lawyers to demonstrate these expectations in practice. The guidance provided in these Professionalism Expectations originates both from (1) the ethical duties established by the Florida Supreme Court in the Rules Regulating The Florida Bar and (2) the long-standing customs of fair, civil, and honorable legal practice in Florida. Where a Professionalism Expectation is coextensive with a lawyer’s ethical duty, the expectation is stated as an imperative, cast in the terms of “must” or “must not.” Where a Professionalism Expectation is drawn from a professional custom that is not directly provided for in the Rules Regulating The Florida Bar, the expectation is stated as a recommendation of correct action, cast in terms of “should” or “should not.” To the Florida Supreme Court and The Florida Bar, lawyer professionalism is:

1. embracing a commitment to serve others;

2. dedicating to properly using knowledge and skills to promote a fair and just result;
3. endeavoring to enhance knowledge, skills, and competence;
4. ensuring that concern for a client's desired result does not subvert the lawyer's fairness, honesty, civility, respect, and courtesy during interactions with fellow professionals, clients, opponents, public officials, members of the judiciary, or the public;
5. contributing skill, knowledge, and influence to further the profession's commitment to service and the public good, including efforts to provide all persons, regardless of their means or popularity of their causes, with access to the law and the judicial system;
6. enhancing the legal system's reputation by educating the public about the profession's capabilities and limits, specifically about what the legal system can achieve and the appropriate methods of obtaining those results; and
7. accepting responsibility for one's own professional conduct and the conduct of others in the profession, including encouraging other lawyers to meet these civility and Professionalism Expectations and fostering peer regulation to ensure that each lawyer is competent and public-spirited.

To reinforce and communicate its expectations of lawyer professionalism among our members, the Florida Supreme Court and The Florida Bar adopt the following Professionalism Expectations:

**1. Commitment to Equal Justice Under the Law and to the Public Good**

A license to practice law is a privilege that gives the lawyer a special position of trust, power, and influence in our society. This privilege requires a lawyer to use that position to promote the

public good and to foster the reputation of the legal profession while protecting our system of equal justice under the law.

**Expectations:**

1.1 A lawyer should avoid the appearance of impropriety.

1.2 A lawyer should counsel and encourage other lawyers to abide by these Professionalism Expectations.

1.3 A lawyer should promote the public's understanding of the lawyer's role in the legal profession and protect public confidence in a just and fair legal system founded on the rule of law.

1.4 A lawyer should not enter into a lawyer-client relationship when the lawyer cannot provide competent and diligent service to the client throughout the course of the representation.

1.5 A lawyer must not seek clients through the use of misleading or manipulative oral and written representations or advertisements. (See R. Regulating Fla. Bar 4-7.13 and 4-7.14). Contingency fee arrangements must be in writing and follow R. Regulating Fla. Bar 4-1.5(f).

1.6 When employed by a new client, a lawyer should discuss fee and cost arrangements at the outset of the representation and promptly confirm those arrangements in writing.

1.7 A lawyer must place a client's best interest ahead of the lawyer's or another party's interests. (See R. Regulating Fla. Bar 4-1.7(a)(2)).

1.8 A lawyer must maintain and preserve the confidence and private information of clients. (See R. Regulating Fla. Bar 4-1.6).

1.9 In any representation where the fee arrangement is other than a contingent percentage-of-recovery fee or a fixed, flat-sum fee or in which the representation is anticipated to be of more than brief duration, a lawyer should bill clients on a regular, frequent interim basis, and avoid charging unnecessary expenses to the client.

1.10 When a fee dispute arises that cannot be amicably resolved, a lawyer should endeavor to utilize an alternative dispute resolution mechanism such as fee arbitration.

1.11 A lawyer must routinely keep clients informed and attempt to resolve client concerns. (See R. Regulating Fla. Bar 4-1.4). In the case of irreconcilable disagreements with a client, the lawyer must provide diligent representation until the lawyer-client relationship is formally dissolved in compliance with the law and the client's best interests. (See R. Regulating Fla. Bar 4-1.16).

1.12 A lawyer must devote professional time and resources and use civic influence to ensure equal access to our system of justice. (See R. Regulating Fla. Bar 4-6.1).

1.13 A lawyer must avoid discriminatory conduct prejudicial to the administration of justice in connection with the practice of law. (See R. Regulating Fla. Bar 4-8.4(d)).

## **2. Honest and Effective Communication**

A lawyer's word is his or her bond. Effective communication requires lawyers to be honest, diligent, civil, and respectful in their interactions with others, including interactions in person and by video conferencing, telephone, text messaging, social media, email, online communications, and all other oral and written communications.

### **Expectations:**

2.1 A lawyer should inform every client what the lawyer expects from the client and what the client can expect from the lawyer during the term of the legal representation.

2.2 Candor and civility must be used in all oral and written communications, including online communications. (See R. Regulating Fla. Bar 4-8.4(c)).

2.3 A lawyer must avoid disparaging personal remarks or acrimony toward opposing parties, opposing counsel, third parties or the court. (See R. Regulating Fla. Bar 4-8.4(d)).

2.4 A lawyer must timely serve all pleadings to prevent prejudice or delay to the opposing party. (See R. Regulating Fla. Bar 4-3.2).

2.5 A lawyer's communications in connection with the practice of law, including communications on social media or other online communications, must not disparage another's character or competence or be used to inappropriately influence or contact others. (See R. Regulating Fla. Bar 4-8.4(d)).

2.6 A lawyer should use formal letters or emails for legal correspondence and should not use text messages to correspond with a client or opposing counsel unless mutually agreed.

2.7 In drafting a proposed letter of intent, the memorialization of an oral agreement, or a written contract reflecting an agreement reached in concept, a lawyer should draft a document that fairly reflects the agreement of the parties.

2.8 In drafting documents, a lawyer should point out to opposing counsel all changes that the lawyer makes or causes to be made from one draft to another.

2.9 A lawyer should not withhold information from a client to serve the lawyer's own interest or convenience.

2.10 A lawyer must not knowingly misstate, misrepresent, or distort any fact or legal authority to the court or to opposing counsel and must not mislead by inaction or silence. Further, the discovery of additional evidence or unintentional misrepresentations must immediately be disclosed or otherwise corrected. (See R. Regulating Fla. Bar 4-3.3 and 4-8.4).

2.11 A lawyer must not inappropriately communicate with a party represented by a lawyer (See R. Regulating Fla. Bar 4-4.2), including not responding "reply all" to emails.



2.12 A lawyer should diligently prepare legal forms and documents to avoid future harm or litigation for the client while ensuring compliance with the requirements of the law.

2.13 Social media must not be used to disparage opposing parties, lawyers, judges, and members of the public. (See R. Regulating Fla. Bar 4-8.2(a) and 4-8.4(d)).

2.14 Social media should not be used to avoid the ethical rules regulating lawyer advertising.

2.15 Social media must not be used to inappropriately contact judges, mediators, jurors, witnesses, or represented parties. (See R. Regulating Fla. Bar 4-3.5 and 4-4.2).

2.16 Social media must not be used for the purpose of influencing adjudicative proceedings. (See R. Regulating Fla. Bar 4-3.6).

2.17 A lawyer must ensure that the use of electronic devices does not impair the attorney-client privilege or confidentiality. (See R. Regulating Fla. Bar 4-1.6).

2.18 A lawyer must diligently respond to calls, correspondences, complaints, and investigations by The Florida Bar. (See R. Regulating Fla. Bar 4-8.4(g)).

### **3. Adherence to a Fundamental Sense of Honor, Integrity, and Fair Play**

Courtesy, cooperation, integrity, fair play, and abiding by a sense of honor are paramount for preserving the integrity of the profession and to ensuring fair, efficient, and effective administration of justice for the public.

#### **Expectations:**

3.1 A lawyer must not engage in dilatory or delay tactics. (See R. Regulating Fla. Bar 4-3.2).

3.2 A lawyer should not make scheduling decisions that limit opposing counsel's opportunity to prepare or respond.

3.3 A lawyer should not unreasonably oppose an adversary's motion.

3.4 A lawyer must not permit non-lawyer personnel to communicate with a judge or judicial officer on any matters pending before the judge or officer or with other court personnel except on scheduling and other ministerial matters. (See R. Regulating Fla Bar 4-3.5(b) and 4-8.4(a)).

3.5 A lawyer must avoid substantive ex parte communications in a pending case with a presiding judge. The lawyer must notify opposing counsel of all communications with the court or other tribunal, except those involving only scheduling or clerical matters. (See R. Regulating Fla. Bar 4-3.5).

3.6 When submitting a written communication to a court or other tribunal, a lawyer should provide opposing counsel with a copy of the document contemporaneously or sufficiently in advance of any related hearing.

3.7 A lawyer must promptly prepare a proposed order, ensure that the order fairly and adequately represents the court's ruling before submitting the order to the court, and advise the court whether opposing counsel has approved the order. (See R. Regulating Fla. Bar 4-3.4(c)).

3.8 A lawyer should only schedule depositions to ascertain relevant facts and not to generate income or harass deponents or opposing counsel.

3.9 A lawyer must not ask a deponent irrelevant personal questions or questions designed to embarrass a deponent. (See R. Regulating Fla. Bar 4-4.4(a)).

3.10 A lawyer should not make improper objections in depositions.

3.11 A lawyer must not prevent a deponent from answering questions unless a legal privilege applies. (See R. Regulating Fla. Bar 4-3.4(c)).

3.12 When scheduling depositions, hearings, and other court proceedings, a lawyer should request an amount of time that permits all parties in the case the opportunity to be fully and fairly heard on the matter.

3.13 A lawyer should immediately provide a scheduling notice for a hearing, deposition, or trial to all opposing parties.

3.14 A lawyer should notify opposing parties and subpoenaed witnesses of a cancelled or rescheduled hearing, deposition, or trial.

3.15 During pre-trial disclosure, a lawyer should make a reasonable, good-faith effort to identify witnesses likely to be called to testify.

3.16 During pre-trial disclosure, a lawyer should make a reasonable, good-faith effort to identify exhibits to be proffered into evidence.

3.17 A lawyer should not mark on or alter exhibits, charts, graphs, or diagrams without opposing counsel's permission or leave of court.

3.18 A lawyer must not threaten opposing parties with sanctions, disciplinary complaints, criminal charges, or additional litigation to gain a tactical advantage. (See R. Regulating Fla. Bar 4-3.4(g) and (h)).

#### **4. Fair and Efficient Administration of Justice**

The just, speedy, and inexpensive determination of every controversy is necessary to preserve our system of justice.

**Expectations:**

4.1 A lawyer should be familiar with the court's administrative orders, local rules, and each judge's published standing orders, practices, and procedures.

4.2 A lawyer should endeavor to achieve the client's lawful objectives as economically and expeditiously as possible.

4.3 A lawyer should counsel the client concerning the benefits of mediation, arbitration, and other alternative methods of resolving disputes.

4.4 A lawyer should counsel the client to consider settlement in good faith.

4.5 A lawyer should accede to reasonable requests for waivers of procedural formalities when the client's legitimate interests are not adversely affected.

4.6 A lawyer must not invoke a rule for the purpose of creating undue delay, or propose frivolous oral or written arguments which do not have an adequate basis in law nor fact. (*See R. Regulating Fla. Bar 4-3.1*).

4.7 A lawyer must not use discovery to harass or improperly burden an adversary or cause the adversary to incur unnecessary expense. (*See R. Regulating Fla. Bar 4-4.4*).

4.8 A lawyer should frame reasonable discovery requests tailored to the matter at hand.

4.9 A lawyer should assure that responses to proper discovery requests are timely, complete, and consistent with the obvious intent of the request. A lawyer should not avoid disclosure unless a legal privilege prevents disclosure.

4.10 A lawyer should not respond to discovery requests in a disorganized, unintelligible, or inappropriate manner, in an attempt to conceal evidence.

4.11 A lawyer should stipulate to all facts and principles of law that are not in dispute and should promptly respond to request for stipulations of fact or law.

4.12 After consulting with the client, a lawyer should voluntarily withdraw claims and defenses that are without merit, superfluous, or cumulative.

4.13 A lawyer should be fully prepared when appearing in court or at hearings.

4.14 A lawyer should not use voir dire to extract promises from or to suggest desired verdicts to jurors.

4.15 A lawyer should abstain from all acts, comments, and attitudes calculated to curry favor with jurors.

4.16 A lawyer should not express bias or personal opinion concerning any matter at issue in opening statements and in arguments to the jury.

4.17 A lawyer should not make offers or requests for a stipulation in front of the jury.

4.18 A lawyer should not use the post-hearing submission of proposed orders as an opportunity to argue or reargue a matter's merits.

4.19 A lawyer must not request rescheduling, cancellations, extensions, and postponements without legitimate reasons or solely for the purpose of delay or obtaining unfair advantage. (See R. Regulating Fla. Bar 4-4.4).

4.20 A lawyer must not criticize or denigrate opposing parties, witnesses, or the court to clients, media, or members of the public. (See R. Regulating Fla. Bar 4-8.2(a) and 4-8.4(d)).

## **5. Decorum and Courtesy**

When lawyers display reverence for the law, the judicial system, and the legal profession by acting with respect, decorum, and courtesy, including interactions in person and by video conferencing, they earn trust of the public and help to preserve faith in the operation of a fair judicial system.

5.1 A lawyer should abstain from rude, disruptive, and disrespectful behavior. The lawyer should encourage clients and support personnel to do the same.

5.2 A lawyer should be civil and courteous in all situations, both professional and personal, and avoid conduct that is degrading to the legal profession. (See R. Regulating Fla. Bar 3-4.3).

5.3 A lawyer must always behave in a courteous and formal manner in hearings, depositions, and trials and should refrain from seeking special consideration from a judge or juror.

5.4 A lawyer should refer to all parties, witnesses, and other counsel by their last names during legal proceedings.

5.5 A lawyer should request permission from the court before approaching the bench or submitting any document.

5.6 A lawyer should state only the legal grounds for an objection unless the court requests further argument or elaboration.

5.7 A lawyer should inform clients and witnesses that approving and disapproving gestures, facial expressions, or audible comments are absolutely prohibited in legal proceedings.

5.8 A lawyer should abstain from conduct that diverts the fact-finder's attention from the relevant facts or causes a fact-finder to make a legally impermissible decision.

5.9 A lawyer should address objections, requests, and observations to the judge.

5.10 A lawyer should attempt to resolve disagreements before requesting a court hearing or filing a motion to compel or for sanctions.

## **6. Respect for the Time and Commitments of Others**

Respecting the time and commitments of others is essential to the efficient and fair resolution of legal matters.

### **Expectations:**

6.1 A lawyer should not impose arbitrary or unreasonable deadlines on others.

6.2 A lawyer should schedule a deposition during a time period sufficient to allow all parties to examine the deponent.

6.3 Unless circumstances compel more expedited scheduling, a lawyer should provide litigants, witnesses, and other affected persons with ample advance notice of hearings, depositions, meetings, and other proceedings, and whenever practical, schedule these events at times convenient for all interested persons.

6.4 A lawyer should accede to all reasonable requests for scheduling, rescheduling, cancellations, extensions, and postponements that do not prejudice the client's opportunity for full, fair, and prompt adjudication.

6.5 A lawyer should promptly agree to a proposed time for a hearing, deposition, meeting or other proceeding or make his or her own counter proposal of time.

6.6 A lawyer should promptly call potential scheduling conflicts or problems to the attention of those affected, including the court or tribunal.

6.7 A lawyer should avoid last-minute cancellations of hearings, depositions, meetings, and other proceedings.

6.8 A lawyer should promptly notify the court or tribunal when a scheduled court appearance becomes unnecessary.

6.9 A lawyer should be punctual in attending all court appearances, depositions, meetings, conferences, and other proceedings.

6.10 A lawyer must respond promptly to inquiries and communications from clients and others. (See R. Regulating Fla. Bar 4-1.4.)

## **7. Independence of Judgment**

An enduring value of a lawyer's service is grounded in the lawyer's willingness to exercise independent judgment in practice and while giving the client advice and counsel.

7.1 A lawyer should exercise independent judgment and should not be governed by the client's ulterior motives, ill will, or deceit.

7.2 A lawyer should counsel a client or prospective client, even with respect to a meritorious claim or defense, about the public and private burdens of pursuing the claim as compared with the benefits to be achieved.

7.3 In advising a client, a lawyer should not understate or overstate achievable results or otherwise create unrealistic expectations.

7.4 A lawyer should not permit a client's ill will toward an adversary, witness, or tribunal to become that of the lawyer.

7.5 A lawyer must counsel a client against using tactics designed: (a) to hinder or improperly delay a legal process; or (b) to



embarrass, harass, intimidate, improperly burden, or oppress an adversary, party or any other person and should withdraw from representation if the client insists on such tactics. (See R. Regulating Fla. Bar 4-1.16, 4-3.2, and 4-4.4).

7.6 In contractual and business negotiations, a lawyer should counsel a client concerning what is reasonable and customary under the circumstances.

## Appendix C

### Rules Regulating The Florida Bar, Chapter 6

#### Rule 6-10.3. Minimum Continuing Legal Education Standards

(a) [No Change]

**(b) Minimum Hourly Continuing Legal Education Requirements.** Every member must complete a minimum of 330 credit hours of approved continuing legal education activity every 3 years. At least 3 of the 30 credit hours must be in approved technology programs. ~~At least 5 of the 330 credit hours must be in approved legal ethics, professionalism, bias elimination, substance abuse, or mental health and wellness programs, with at least 1 of the 5 hours in an approved professionalism program and at least 3 of the 33 credit hours in approved technology programs;~~ as part of the 5 credit hours, each member must complete, during each reporting cycle, the 2-credit hour Florida Legal Professionalism course produced by The Florida Bar and approved by the Supreme Court of Florida. If a member completes more than 330 credit hours during any reporting cycle, the excess credits cannot be carried over to the next reporting cycle.

(c)-(g) [No Change]

**IN THE SUPREME COURT OF FLORIDA**

CASE NO. SC2023-0884

IN RE: CODE FOR RESOLVING  
PROFESSIONALISM REFERRALS AND  
AMENDMENTS TO RULE REGULATING  
THE FLORIDA BAR 6-10.3.

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**CORRECTED MOTION FOR EXTENSION OF TIME TO FILE  
COMMENT BY THE REAL PROPERTY, PROBATE AND TRUST  
LAW SECTION OF THE FLORIDA BAR**

The Real Property, Probate and Trust Law Section of The Florida Bar (“RPPTL Section” or “Section”)<sup>1</sup> files this corrected motion for extension of time to submit a comment to the Court’s July 6, 2023 Corrected Opinion in which the Court, *sua sponte*, amended Rule 6-10.3 of the Rules Regulating The Florida Bar (“Opinion”).

The RPPTL Section is a group of Florida lawyers who practice in the areas of real estate, trust and estate law. The RPPTL Section is dedicated to serving all Florida lawyers and the public in these fields of practice. We produce educational materials and seminars, assist the public *pro bono*, draft legislation, draft rules of procedure, and

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<sup>1</sup> This motion is filed solely on behalf of the Real Property, Probate and Trust Law Section of The Florida Bar and not on behalf of The Florida Bar itself.

occasionally serve as a friend of the court to assist on issues related to our fields of practice. Our RPPTL Section has over 11,000 members.

The Opinion has generated discussion, and the RPPTL Section's Professionalism and Ethics Committee has recommended to the RPPTL Executive Committee (composed of 12 persons, including the Section's officers and chairs of the CLE Coordination and Legislation Committees) that the RPPTL Section submit a comment to the Court. The RPPTL Executive Committee, however, pursuant to its Bylaws, has voted unanimously to seek an extension of time from the Court to allow for the RPPTL Section's full Executive Council to consider this matter at its next in-state meeting. Unfortunately, there is no such in-state Executive Council meeting scheduled until November 11, 2023. To provide opportunity for discussion and to prepare a comment, should the RPPTL Section's full Executive Council approve the filing of a comment, the RPPTL Section respectfully requests an extension of time to January 31, 2024 within which to file a comment to the Opinion.

The RPPTL Section makes this request in good faith and not for the purpose of undue delay. There is no perceived prejudice to any

individuals in granting the additional time. Further, granting this additional time for any interested parties to submit a comment may be helpful to the Court in considering the proposed amendments.

Dated: September 15, 2023.

Respectfully submitted,

Real Property, Probate and Trust Law  
Section of The Florida Bar

/s/ John C. Moran

S. Katherine Frazier, Chair

Florida Bar Number 962457

John C. Moran, Chair-Elect

Florida Bar Number 0505072

## **CERTIFICATE OF TYPE SIZE AND STYLE**

I hereby certify that this motion is typed in 14-point Bookman Old type font and complies with the word count and font requirements of Florida Rules of Appellate Procedures 9.045(b).

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this motion was furnished by electronic mail through the Florida Courts E-Filing Portal on this 15th day of September, 2023.

/s/ John C. Moran

John C. Moran

Florida Bar Number 0505072

Gunster

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[jmoran@gunster.com](mailto:jmoran@gunster.com)

# Supreme Court of Florida

WEDNESDAY, SEPTEMBER 27, 2023


In Re: Code for Resolving  
Professionalism Referrals and  
Amendments to Rule  
Regulating The Florida Bar 6-  
10.3

**SC2023-0884**

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The “Corrected Motion for Extension of Time to File Comment by the Real Property, Probate and Trust Law Section of The Florida Bar” is granted. The Real Property, Probate and Trust Law Section of The Florida Bar and all interested persons may file comments on or before January 31, 2024.

A True Copy  
Test:

  
SC2023-0884 9/27/2023  
\_\_\_\_\_  
John A. Tomasino  
Clerk, Supreme Court  
SC2023-0884 9/27/2023



SO  
Served:  
MICHAEL SCOTT BLOOM  
EDWARD K CHEFFY  
JOSHUA E. DOYLE  
S. KATHERINE FRAZIER  
DOUGLAS AVERY GREENBAUM  
GISELLE GUTIERREZ  
VICTORIA ELIZABETH HEULER

**CASE NO.: SC2023-0884**

Page Two

CAITLEIN JAYNE JAMMO  
HON. ALBERT LEWIS KELLEY  
LAIRD LILE  
JORDI CARLOSANTIAGO MARTÍNEZ-CID  
JOHN CHRISTOPHER MORAN  
GEORGE PETER PAVLIDAKEY, JR.  
BARRY SCOTT RICHARD  
ROLAND SANCHEZ-MEDINA, JR.  
COLLETT P SMALL  
MARGARET ELIZABETH SWOPE  
ELIZABETH CLARK TARBERT  
F. SCOTT WESTHEIMER



SUPREME COURT OF FLORIDA

CASE NO. SC2023-0884

IN RE: CODE FOR RESOLVING  
PROFESSIONALISM REFERRALS AND  
AMENDMENTS TO RULE REGULATING  
THE FLORIDA BAR 6-10.3.

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**COMMENT BY THE REAL PROPERTY PROBATE  
AND TRUST LAW SECTION OF THE FLORIDA BAR**

The Real Property, Probate and Trust Law Section of The Florida Bar files this comment to the Court’s July 6, 2023 Corrected Opinion in which the Court, *sua sponte*, amended Rule 6-10.3 of the Rules Regulating The Florida Bar. The Real Property, Probate and Trust Law Section of The Florida Bar (“RPPTL”) serves the citizens of the State of Florida, the legal community, and its Section members with the goals of providing the highest levels of knowledge, experience and commitment to real property, probate, and trust law. We are the Bar’s largest substantive law section, and one of the most active sections of The Florida Bar, with over 11,000 members, and we are dedicated to maintaining our ethical and professional obligations in an ever-changing world.

RPPTL acknowledges and is grateful that the Court granted its motion for enlargement of time to submit this Comment so that the Comment could be presented, considered, edited, and approved by its Executive Council.<sup>1</sup>

RPPTL is concerned with the unrequested deletion of the “bias elimination” as one of the categories of approved specialized mandatory CLE courses in the five-hour sub-requirement, which all relate to obligations of The Florida Bar members to aspire to professional behavior.<sup>2</sup>

Rule 4-8.4 of the Rules Regulating the Florida Bar directs that a lawyer, in connection with the practice of law, must not engage in conduct that “knowingly, or through callous indifference, disparage, humiliate, or discriminate” against those they come into contact with based upon several enumerated categories, including “race,

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<sup>1</sup> RPPTL also acknowledges that the Clearwater Bar Association submitted a Comment on September 19, 2023, and that the Clearwater Bar Association’s Comment was adapted and modeled on an early draft by one of RPPTL’s committees, as was acknowledged in its Comment.

<sup>2</sup> A phrase such as “bias recognition” or “bias awareness” might be more apt as a goal for professional behavior, but the change for which the Court requested comment was deletion of the term “bias elimination”.

ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic”. The Florida Bar therefore puts an affirmative obligation upon its members to avoid unknowingly acting in a manner that is insensitive or unintentionally discriminatory. “Callous indifference”, to some, may suggest a level of cruelty, but it also refers to insensitivity—or unknowing lack of understanding—something that bedevils all of us to one degree or another, in many cases unconsciously. Helping Florida Bar members understand when their actions may reflect bias and be discriminatory is one of the things The Florida Bar can do to help them better serve our ever changing communities and avoid unintended misconduct. Inclusion of “bias elimination” or a similar category of specialized CLE courses is a recognition of this mandate and our needs as lawyers.

It is evident that for those reasons (at least in part), “bias elimination” was one of five categories available for the five-hour sub-requirement of Rule 6-10.3. Eliminating this topic is antithetical to The Florida Bar’s and the Court’s goals of molding and maintaining the highest professional standards among Florida lawyers. Its elimination could send a message that the Florida Bar does not

consider the topic as important as the other specialized categories relating to a lawyer's professionalism: substance abuse, mental health, and wellness programs.

RPPTL's members recognize that as lawyers they assist Florida citizens in exercising their rights, including ownership of property and the transfer of wealth. It is thus imperative to RPPTL that its members conduct themselves in a manner that avoids disparate impacts to protected communities or that impedes Florida citizens in protecting property rights.

Like The Florida Bar in general, RPPTL has as a key goal recognition of biases in connection with the practice of law. Its core purposes include:

“[inculcating in its members the principles of duty and service to the public; and [serving] the public and its members by improving the administration of justice . . . , through all appropriate means, including . . . continuing legal education; standards for ethical and competent practice by lawyers; and professional relationships between real property (including construction), probate, and trust lawyers, and other lawyer and nonlawyer groups.”

Bylaws of The Real Property, Probate and Trust Law Section, Article I, Section 2(b) and (c). . RPPTL's Membership and Inclusion Committee recognizes that service to the public and RPPTL members

“can only be fully accomplished through a vibrant and diverse membership and by embracing a culture of inclusion of minorities at all levels.” RPPTL Membership and Inclusion page, available at <https://www.rpptl.org/DrawCommittees.aspx?GroupCommitteeID=27>.

RPPTL has a particular interest in recognizing the negative impacts of bias given the unique position of its members who are involved in assisting the public in the protection of wealth and transfer of land via transfers of property; asserting rights of self-determination<sup>3</sup> through the preparation of testamentary documents and advance directives; and overcoming the well-documented history of (a) discriminatory practices concerning the many facets of ownership of property and of the transfer of wealth and (b) loss of property due to the lack of resources and access to representation to avoid such loss.

The Florida Legislature has recognized that there are discriminatory barriers to housing that need to be addressed.

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<sup>3</sup> See §765.102(1), Fla. Stat. (“The Legislature finds that every competent adult has the fundamental right of self-determination regarding decisions pertaining to his or her own health, including the right to choose or refuse medical treatment.”).

Section 760.23 of the Florida Statutes makes it unlawful to discriminate in sales or rental of housing due to various protected categories. This legislative recognition of public policy to protect against discriminatory practices in home ownership has been in place since at least 1989. FAIR HOUSING, 1989 Fla. Sess. Law Serv. 89-321 (West). This is a recognition of historic laws and practices limiting property rights of people of color, Native Americans, immigrants, and women that have been widespread throughout the United States.

Along with home ownership, minorities face unique challenges with wealth transfer. Statistics show that the decline in home ownership has significantly reduced the amount of real property left to descendants within communities of color. Further, minorities disproportionately face issues associated with property titling and fractional ownership of property because of disproportionate intestate succession. *The Disproportionate Impact of Heirs Property in Florida's Low-Income Communities of Color*, FLA. BAR J., Vol. 92, No. 8 at p. 57 (Sept./Oct. 2018), available at <https://www.floridabar.org/the-florida-bar-journal/the->

[disproportionate-impact-of-heirs-property-in-floridas-low-income-communities-of-color/](#)).

Bias, whether intentional or not, affects multiple populations. For example, a critical concern for RPPTL and for Florida citizens in general is the risk of bias against older citizens. Florida's senior population has grown rapidly:

“With more than 5.5 million residents age 60 and older, Florida outnumbers the state senior populations of 20 other states combined. By 2045, the older adult population is estimated to increase to 8.4 million, or over 30 percent of the state's population. Florida is expected to experience continued increases in the number of older residents over the next 10 years as a result of migration and baby boomers who will continue to age into retirement.”

*Florida State Plan on Aging 2022–2025*, FLORIDA DEPARTMENT OF ELDER AFFAIRS (Aug. 5, 2021), available at <https://elderaffairs.org/wp-content/uploads/FINAL-Florida-State-Plan-on-Aging-2022-2025-10182021.pdf>.

With a growing senior population, Florida practitioners must be diligent to avoid age-related bias. Even if a client suffers from age-related diminished capacity, lawyers must maintain as normal an attorney-client relationship as reasonably possible. R. Reg. Fla. Bar. 4–1.14. Further, Florida citizens enjoy a presumption of capacity.

*Raimi v. Furlong*, 702 So. 2d 1273, 1286 (Fla. 3d DCA 1997) (“the presumption of testamentary capacity is so strong in Florida that it allows for a demented or insane person to execute a valid will during a “lucid interval”). Yet lawyers who are unaware of implicit or unconscious bias may perceive in clients in their seventies or eighties instances of momentary confusion, lack of understanding of legal concepts, or general signs of infirmities as signs of incapacity, but perceive similar instances differently with younger clients. Age-related bias, also known as ageism, is a form of discrimination that could prevent clients from receiving legal assistance to exercise their rights to make their own decisions with respect to testamentary documents, gifting, transfers of property, and advance directives.

Multiple appellate courts have cautioned lawyers and judges against “paternalistic” actions that infringe upon the rights of individuals whose only sin is age. *See, e.g. McJunkin v. McJunkin*, 896 So. 2d 962, 962 (Fla. 2d DCA 2005) (trial court, out of paternalistic concern about possible future harmful decision improperly refused to restore rights to subject of guardianship who, at seventy-nine “was deprived of his right to contract, to gift or dispose of property, to sue and defend lawsuits, to manage property,



and to apply for government benefits when he was declared to be incapacitated” after the examining doctors found that his rights should be fully restored). This is a recognition of a negative impact of bias.

Of course, bias can negatively impact practitioners, as well. Women lawyers in 2015 who participated in a survey by the Young Lawyers Division of The Florida Bar reported that 43% had experienced gender-based bias in their careers. *Results of the 2015 YLD Survey on Women in the Legal Profession*, THE FLORIDA BAR (Dec. 2015), available at <https://flayld.org/wp-content/uploads/2017/05/results-of-2015-survey.pdf>. The

American Bar Association reported in 2021 that women lawyers are not as satisfied in their career experiences while working at law firms as their male counterparts. Among the reasons referenced is a salary gap, with women in general reported to earn \$0.82 to the dollar earned by men (in general) and women equity partners averaging over \$130,000 less in annual compensation than male equity partners. *There Are More Women Lawyers Than Ever, and They're Not Pleased With Legal Industry Norms*, THE AMERICAN LAWYER (July 29, 2021). Bias awareness is obviously critical to developing and maintaining a

healthy practice environment if employers want to ensure retention of their female lawyers. But data demonstrates that women and men do not perceive the issues in the same manner. In the same report, 88% of men said that gender diversity was a priority for their firm, but only 54% of women thought so. *Id.*

We must add here Florida lawyers appear to want to learn about bias and avoiding discriminatory behavior. Since its introduction in 2010 as one of the five specialized categories of required CLE credit, there has been evidence of a growing interest in the topic among Florida lawyers. The Florida Bar Legal Specialization & Education (LSE) Department has provided RPPTL with the number of members of The Florida Bar who have claimed credit for bias elimination courses. These numbers show that there has been a significant increase in members choosing bias elimination as one of their specialized required continuing legal education courses, with 9 doing so in 2012, 5,567 doing so in 2017, and 18,954 claiming credit in 2022.

RPPTL agrees that ethical and professional lawyers should avoid discriminatory, humiliating, or uncivil behavior associated with bias. Education is a key component to recognizing bias and how it can

affect its members' service to the public and interaction within the legal community.

For these reasons, the Real Property, Probate and Trust Law Section of The Florida Bar respectfully requests that the Court reconsider its decision to eliminate "bias elimination" as one of the five specialized categories of CLE credit. We do suggest that perhaps a better way to identify the category is by referring to it as "bias recognition" or "bias awareness." Should the Court prefer to not change language without further evaluation, though, RPPTL requests that the Court leave the current unchallenged language in place.

Respectfully submitted on this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Real Property, Probate and Trust Law  
Section of The Florida Bar

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S. Katherine Frazier, Chair  
Florida Bar Number 962457  
John C. Moran, Chair-Elect  
Florida Bar Number 0505072

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this Comment was furnished by electronic mail through the Florida Courts E-Filing Portal on this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ to

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**CERTIFICATE OF COMPLIANCE**

I certify that this Comment was prepared in compliance with the font requirements of Florida Rule of Appellate Procedure 9.045(b).

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SUPREME COURT OF FLORIDA  
CASE NO. SC2023-0884

IN RE: CODE FOR RESOLVING  
PROFESSIONALISM REFERRALS AND  
AMENDMENTS TO RULE REGULATING  
THE FLORIDA BAR 6-10.3.

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**COMMENT BY THE CLEARWATER BAR ASSOCIATION**

The Clearwater Bar Association (“Clearwater Bar”) files this comment to the Court’s July 6, 2023 Corrected Opinion in which the Court, *sua sponte*, amended Rule 6-10.3 of the Rules Regulating The Florida Bar. The Clearwater Bar serves the Clearwater legal community with the highest levels of knowledge, experience and commitment to the practice of law. With over 800 members, the Clearwater Bar is dedicated to maintaining our ethical and professional needs and obligations in an ever-changing world.<sup>1</sup>

The Clearwater Bar is concerned with the *sua sponte* deletion of the term “bias elimination” as one of the categories of approved specialized mandatory CLE courses in the five-hour sub-

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<sup>1</sup> Much of this Comment has been adapted from and modeled after the draft Comment approved by the Professionalism and Ethics Committee of the Real Property Probate and Trust Law Section of The Florida Bar and drafted by a subcommittee led by Dale Noll, Esq., so the Clearwater Bar wanted to reference and acknowledge the hard and excellent work.

requirement. It is noted that the Court suggests that non-discrimination principles and civility are appropriately considered as ethics and professionalism matters, but unfortunately inequality and discriminatory behavior associated with explicit and implicit bias in connection with the practice of law continue. It is thus critical that recognition of bias and efforts to eliminate discriminatory practices remain a particular focus of specialized training for our members. Therefore, the Clearwater Bar requests that the Court reconsider its amendment. Recognizing that it is impossible to eliminate biases altogether, Clearwater Bar's recommendation is to amend the current language to "bias recognition" or to leave the current language in place.

Lawyers in connection with the practice of law are not permitted to engage in conduct that "knowingly, or through callous indifference, disparage, humiliate, or discriminate" against those they come into contact with based upon several enumerated categories, including "race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic". R. Reg. Fla. Bar 4-8.4. It is thus critical for Florida Bar members to

recognize when their actions may, unknowingly, be discriminatory or otherwise considered misconduct. The inclusion of bias elimination as a category of specialized CLE courses is a recognition of this mandate.

Bias elimination as a specialized category has been in place for over 13 years and the Court's opinion cites no request by a member of The Florida Bar or the public for its elimination. Bias elimination was added to the Rule in 2010, among various updates, pursuant to a proposal from The Florida Bar, after publication of the proposed changes in 2008 and approval by the Board of Governors. In re Amends. to the Rules Regulating the Fla. Bar, 24 So. 3d 63 (Fla. 2009); *Corrected Bar rules proposals to be filed*, FLA. BAR NEWS (Sept. 1, 2008), available at <https://www.floridabar.org/the-florida-bar-news/corrected-bar-rules-proposals-to-be-filed/>).

The Florida Bar itself has a Diversity and Inclusion committee that has as its mission: "To increase diversity and inclusion in The Florida Bar, to develop opportunities for community involvement, and to make leadership roles within the profession and The Florida Bar accessible to all attorneys, including those who are racially, ethnically and culturally diverse, women, members of the LGBTQ

community and persons with disabilities.” THE FLORIDA BAR, Diversity/Inclusion Committee page, available at <https://www.floridabar.org/about/diversity/>. The Clearwater Bar similarly has a Diversity, Equity, and Inclusion committee, and both have as key goals recognition of biases in connection with the practice of law. The decision to take away as a specialized category courses focused on recognizing bias is thus contradictory to areas of importance to The Florida Bar and its members.

The Florida Bar and Clearwater Bar’s interest in recognizing and avoiding the impact of negative biases focuses on improving the practice of law. For example, women lawyers in 2016 reported to The Florida Bar disproportionate experiences associated with gender bias. 29% of females reported being called names like “honey” or “sweetie”, as opposed to 1% of male respondents. 17% of female respondents reported personally being assigned tasks that their male counterparts would not normally be asked to perform, as opposed to 4% of male respondents. Kristen Palacio, *What Does Gender Bias Look Like in Real Life?*, FLA. BAR J., Vol. 93, No. 2 at p. 23 (March/April 2019), available at <https://www.floridabar.org/the-florida-bar-journal/what-does-gender-bias-look-like-in-real-life/>.



While there may be cases of explicit bias, which are overt and internally recognized biases, implicit biases are internally learned biases that people may not realize that they have. Recognizing implicit biases will help Florida lawyers improve the practice of law. It could also help Florida lawyers avoid inadvertently acting in a manner that violates Rule 4-8.4 in dealing with colleagues or clients of different genders, different religions, or with disabilities, etc. See Yasir Billo, *Implicit Bias and Its Application in the Life of a Lawyer*, FLA. BAR J., Vol. 93, No. 2 at p. 10 (March/April 2019), available at <https://www.floridabar.org/the-florida-bar-journal/implicit-bias-and-its-application-in-the-life-of-a-lawyer/>.

Lawyers also need to be aware of the impact bias has on the members of the public that we serve. As the legal community faces an increasingly divisive and changing environment, the need to understand bias and maintain constant awareness is not only vitally relevant but also the need has become even greater. The changing practices and nature of human interaction have also affected this issue. Remote court proceedings and client meetings have become more common. Artificial intelligence processes may incorporate programmers' or other non-party biases. Lawyers must be trained to

help recognize, understand, and eliminate negative biases in a rapidly changing environment if lawyers are to properly counsel and represent their clients. Effective understanding and awareness can only be guaranteed by retaining a specific category for bias elimination in required CLE.

While the Clearwater Bar agrees that ethical and professional lawyers should avoid discriminatory and uncivil behavior associated with bias, acknowledgment and education is a key component to recognizing bias and how it can affect its members' service to the public and interaction within the legal community. Therefore, the Clearwater Bar respectfully requests that the Court reconsider its decision and replace "bias elimination" with "bias recognition" as one of the five specialized categories of CLE credit or that it leave the current unchallenged language in place.

Respectfully submitted on September 19, 2023

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Margaret E. Swope, Esq.  
President  
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/s/ Caitlein J. Jammo  
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**CERTIFICATE OF COMPLIANCE**

I certify that these comments were prepared in compliance with the font requirements of Florida Rule of Appellate Procedure 9.045(b).

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**SUPREME COURT OF FLORIDA**

**CASE NO. SC2023-0884**

**IN RE: CODE FOR RESOLVING  
PROFESSIONALISM REFERRALS AND  
AMENDMENTS TO RULE REGULATING  
THE FLORIDA BAR 6-10.3.**

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**COMMENT TO CODE FOR RESOLVING PROFESSIONALISM  
REFERRALS AND AMENDMENTS TO RULE REGULATING THE  
FLORIDA BAR 6-10.3.**

Douglas A. Greenbaum, Past Chair of the Florida Bar Family Law Section and current Chair of The Florida Bar Continuing Education Committee (CLE Committee), Collett P. Small, Past Chair of the Florida Bar Elder Law Section, Vice-Chair of the CLE Committee and Board Certified by the Florida Bar in Elder Law and Michael S. Bloom, Past Chair of the CLE Committee and Board Certified by the Florida Bar in Real Estate submit the following comments to the July 6, 2023, Florida Supreme Court Corrected Opinion ***In Re: Code For Resolving Professionalism Referrals and Amendments to Rule Regulating The Florida Bar 6-10.3.*** This comment is submitted on behalf of the undersigned attorneys in their

individual capacities only and does not express any position of The Florida Bar or any Florida Bar committees or sections.

1. The mission of the CLE Committee of the Florida Bar is to assist the members of The Florida Bar in their continuing legal education and to facilitate the production and delivery of quality CLE programs and course materials for the benefit of Bar members in coordination with the sections, committees and staff of the Florida Bar and others who participate in the CLE process.
2. There have been no requests by members of the Bar, the public, nor the judiciary cited for the elimination of the bias elimination requirement.
3. Florida Bar members should have more, not less choices for CLEs. In the event that the award of credit for bias elimination education is lifted, the sections of The Florida Bar currently providing programs may choose to limit future programming as a result of this unprecedented mandate. The potential reductions in offerings would certainly be detrimental to the members of the Bar as a whole. For those members who seek to broaden their knowledge beyond what is required, the sole source of education will be to seek their continuing education through third party providers. This will result in

the potential for lost revenue for The Florida Bar since all revenue from such courses will be paid to such third party providers. Additionally, attorneys may receive lower quality education from providers who do not maintain the higher standards demanded from The Florida Bar in each and every course offering. The quality of education provided through The Florida Bar's CLE programming is unmatched. The CLE Committee demands quality over quantity and profit. It is these standards which ensure that all programming is nothing less than first rate. However, when the directive from the Supreme Court is that the nature of the programming provided is not of such value as to be mandated, it will be more difficult to encourage any section to offer such DEI programs to members of The Florida Bar.

4. Current bias elimination education enhances the providing of legal services. While attorneys provide legal services in a variety of means, their advocacy for or against opposing parties and positions will most certainly be impacted by external forces, whether environmental, cultural, or societal. As advocates, it is essential to understand both the positions of the represented parties. The parties themselves, as well as those the attorney may oppose.

5. Current bias elimination education enables attorneys to better understand all aspects of contemporary society as it may emerge, whether within the scope of their personal belief system or beyond.

The current expansive education platform enables attorneys to represent the best interests of their clients in transactional matters, and in litigation, through discovery, potential resolution and if necessary to prosecute and defend through trial. There is a quote from Sun Tzu, *“If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained you will also suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle.”* For a member of the Bar to best prepare for all situations, it is best to understand all members of the population of Florida, whoever they represent, and whichever side they may be on. Bias elimination is the key to understanding the clients, each side and being prepared to best represent all sides.

6. Other court-related service providers continue to maintain bias elimination requirements. For example, court certified mediators continue to have a CME requirement for diversity/cultural awareness

education. Members of the Bar should be no different and rather should be held to a higher standard.

7. Bias elimination was the only category cut out of Rule 6-10.3 giving the appearance that it is less important than ethics or technology.
8. Florida Bar members are charged with advocacy and the very oath of admission to the Florida Bar charges members to “*reject from consideration personal to myself, the cause of the defenseless or oppressed.*” The offering of bias elimination CLEs to members assists in meeting the general principles under which they took an oath to practice. This is particularly important when serving clients with disabilities, elderly clients, indigent clients and those from underrepresented backgrounds.
9. Removal of the bias elimination credit will create the appearance that the Supreme Court is taking a position in pending litigation filed against a Florida law firm, to wit: Morrison & Foerster. The pending case alleges “that the firm’s Keith Wetmore Fellowship for Excellence, Diversity, and Inclusion only considers African American/Black, Latinx, Native Americans/Native Alaskans, and/or members of the LGBTQ+ community.” - The Wall Street Journal Online August 22, 2023. <https://www.wsj.com/us-news/edward->



[blum-lawsuits-affirmativeaction-law-firms-b8871ab1](#). See also The Daily Caller Online August 22, 2023. <https://dailycaller.com/2023/08/22/american-alliance-for-equal-rights-sues-perkins-coie-morrison-and-foerster-over-diversity-fellowships/>. The litigation against Morrison & Forester is currently pending in the Southern District of Florida while a similar action has been filed against another national law firm, Perkins Coie, in the U.S. District Court for the Northern District of Texas.

10. Currently, bias elimination credit is offered under the umbrella of Professional Responsibility and is not a stand-alone requirement. Members may elect to meet all their professional responsibility requirements by taking ethics or professionalism courses. However, some may seek to take bias elimination credit as a part of their fulfillment of the five-hour sub requirement. That choice has now been taken away from them. Before the amendment the requirement was as follows: at least 5 of the 33 credit hours must be in approved legal ethics, professionalism, bias elimination, substance abuse, **or** (emphasis added) mental health and wellness programs, with at least 1 of the 5 hours in an approved professionalism program, and at least 3 of the 33 credit hours in approved technology programs.

11. The prevalence of members seeking to obtain CLE credits from outside providers has already had an adverse impact on the revenue generated from educational courses provided by The Florida Bar. While The Bar is not an organization designed to make money, it does need to keep in mind the services it provides to its members. The outside providers will be able to pick up the void or lack created if this amendment is adopted. The Bar is a multicultural organization comprised of attorneys who have a wealth of knowledge and see things from multiple perspectives. When consumers of educational courses required by the Bar have many choices, cost is not the only factor. Consumers want to see people have a choice and to see those who are representative of them, including gender, race, and ethnicity and those who are different. When members of the Bar see that understanding bias is important and valued, it is not promoting an agenda to correctness but rather showing members of the Bar that everyone is eligible to become board certified, leaders in their field, or presenters on different topics. It shows all members of The Florida Bar that they are valued. It allows members to better understand the community they serve. The Bar has a unique opportunity to provide quality education while promoting board

certification in different areas of the law which will generate revenues to the bar to provide services which are needed. These programs provide the quality which members of The Florida Bar deserve and for which the Florida Bar has become known. The members of The Florida Bar deserve nothing less.

Respectfully submitted this 19<sup>th</sup> day of September 2023

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**Supreme Court of Florida**

**Case No. SC2023-0884**

**IN RE: CODE FOR RESOLVING  
PROFESSIONALISM REFERRALS  
AND AMENDMENTS TO RULE  
REGULATING THE FLORIDA BAR 6-  
10.3**

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**Comment of the Cuban American Bar Association, Inc.**

The Cuban American Bar Association, Inc. (“CABA”) files this comment to the Court’s July 6, 2023, opinion regarding professionalism standards for Florida lawyers. CABA takes no position regarding the changes recommended by the Special Committee for the Review of Professionalism in Florida. CABA wishes, however, to address the Court’s unprompted removal of “bias elimination” as a category of approved continuing legal education that counts toward fulfilling the five-hour sub-requirement under Rule 6-10.3 of the Rules Regulating The Florida Bar, and states the following.

1. CABA is one of the largest voluntary bar associations, with members across the State of Florida.

2. Membership in CABA is open to all attorneys in good

standing (and law students) who support CABA’s mission.

3. The mission statement outlines CABA’s core beliefs and is available at [cabaonline.com/caba/overview](http://cabaonline.com/caba/overview).

4. Part of CABA’s mission is to: “serve the public interest by increasing awareness to the study of jurisprudence; preserve high standards of integrity, honor, and professional courtesy among our peers; provide equal access to and adequate representation of all minorities before the courts; [and] facilitate the administration of justice[.]”

5. It is not coincidence that those aspects of our mission statement are linked together. CABA believes that professionalism, equal access, and the administration of justice are all related and furthered by the study of jurisprudence.

6. CABA believes that the Court’s decision—on its own motion—to remove the category of “bias elimination” as an approved subject matter for continuing legal education under Bar Rule 6-10.3(b) is ill advised.

7. While CABA is encouraged by the Court’s statement that “non-discrimination principles and civility can and should be addressed in the context of legal ethics and professionalism,” the rule

change deemphasizes the very non-discrimination principles and civility that the Court states should be addressed.

8. Indeed, any of the other sub-categories could similarly be subsumed by the categories of legal ethics and professionalism.

9. Accepting that continuing legal education should address non-discrimination and civility, this rule change will be interpreted as the Florida Supreme Court’s imprimatur that “eliminating bias” is of less value or importance than substance abuse, mental health and wellness programs, or technology—each its own recognized and accepted category of continuing legal education that counts towards the five-hour sub-requirement under Bar Rule 6-10.3.

10. But bias elimination is of critical importance.

11. Continuing legal education courses in bias elimination seek to ensure that each side is treated fairly and civilly, concepts that are at the very heart of the lawyerly and judicial ideal.

12. CABA was founded, in part, because of a perception that the administration of justice generally, and lawyers more specifically, did not always engage fairly or civilly with participants in the legal system who are perceived as different, “diverse,” or “other.”

13. Continuing legal education courses in bias elimination address those issues directly and are an invaluable tool in minimizing the impact of bias—both explicit and implicit—which continue to affect our profession.

14. Should the Court remove bias elimination as an accepted category, it is possible (in fact, likely) that many attorneys will not receive instruction concerning explicit and implicit biases, non-discrimination, prejudice, and other topics on which bias elimination focuses.

15. To the extent that the Court’s concern arises from approval of courses only tenuously related to the practice of law, a change to Bar Rule 6-10.3(b) would still be unwarranted.

16. The Court can—and should—instruct the Florida Bar itself that only courses in bias elimination with a sufficient nexus to the practice of law should be approved for continuing legal education credits.

17. Presumably the Florida Bar does this with regards to substance abuse, mental health and wellness programs, and technology, which, in the abstract, are more nebulously connected to the practice of law than bias elimination.

18. To eliminate bias elimination and only bias elimination as an approved category and specified sub-requirement for continuing legal education signals—whether purposefully or inadvertently—that the bias elimination is insignificant or merely tangential to the practice of law. Such an amendment to the rule will have a detrimental effect on professionalism and civility, particularly for women and minorities.

19. For those reasons, CABA urges the Court to reconsider its decision and restore reference to bias elimination as part of Rule 6-10.3(b) of the Rules Regulating The Florida Bar.

Dated: September 19, 2023.

Respectfully submitted,

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*As Treasurer and Counsel for the  
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-and-

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*As President of the Cuban American  
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**CERTIFICATE OF SERVICE**

I hereby certify that on September 19, 2023, I electronically filed the foregoing document with the Clerk of Court using the Florida Courts E-Filing Portal, and that the foregoing document is being digitally served to all counsel and parties of record.

By: /s/ Jordi C. Martínez-Cid  
Jordi C. Martínez-Cid

**SUPREME COURT OF FLORIDA**

**CASE NO. SC2023-0884**

**IN RE: CODE FOR RESOLVING  
PROFESSIONALISM REFERRALS AND  
AMENDMENTS TO RULE REGULATING  
THE FLORIDA BAR 6-10.3.**

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**COMMENT RE: AMENDMENTS TO RULES REGULATING THE  
FLORIDA BAR 6-10.3.**

I have been a Florida Bar licensed attorney for 30 years, including time as an assistant public defender, an insurance defense attorney and, for the past 23 years, an Elder Law attorney. I am the current Chair of the Florida Bar's Elder Law Section and am a past President of the Academy of Florida Elder Law Attorneys. I have been Board Certified in Elder Law since 2007 and am very proud of that distinction. Board certification reminds me that much is expected of me and that I am a leader in my profession, including the highest level of ethical and professional behavior. Awareness of implicit bias and a desire to engage with the diverse world with as few preconceived views as possible is part of what I consider core training toward being the best attorney I can be.

I profess that I do not know all there is to know about bias elimination and believe I will continue to further learn and grow regarding this subject. I do believe that awareness and education are key to creating a well-educated Bar and to reducing the incidences of bias and prejudice that impact how we interact with clients and each other. My urging to you is to consider reinstating the requirement of bias elimination education as a qualifying credit toward the mandatory five-hour continuing education requirement under Bar Rule 6-10.3(b). The inclusion of bias elimination as a category for completion of the five-hour credit requirement does the following:

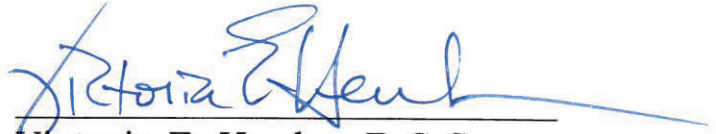
1. Encourages voluntary bar groups to include bias elimination training as part of the continuing education the group offers its members;
2. Incentivizes individual bar members to seek out bias elimination courses and credits to fulfill the five-hour sub-requirement; and
3. Leads bar members to want to be educated about bias and how to recognize it and address it in providing ethical and professional legal services.

Planning for persons with disabilities, including persons with physical and/or cognitive disabilities, is a large part of the practice of Elder Law. Biases toward persons with disabilities exist and appear more prevalent than one might expect. Even subtle actions based on implicit bias can negatively affect a person with a disability over time. *See Implicit Biases & People With Disabilities*, ABA Commission on Disability Rights [https://www.americanbar.org/groups/diversity/disabilityrights/resources/implicit\\_bias/](https://www.americanbar.org/groups/diversity/disabilityrights/resources/implicit_bias/).

Attorneys should be the “front line” for clients. If we attorneys are not sufficiently trained to recognize our own implicit biases, our behavior may negatively impact our client’s case, or our behavior could add to the cumulative societal impact our clients attempt to manage. As attorneys, we are in a unique and critical position to set the standard and lead by example. The encouragement of utilizing bias elimination training as part of our five-hour

mandatory CLE requirement leads attorneys in Florida to be the guide for clients and our citizenry.

Respectfully submitted on this 19<sup>th</sup> day of September, 2023.



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