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## **Amendments to the Florida Small Claims Rules**

GOOD MORNING, EVERYONE, AND WELCOME TO THE FLORIDA SUPREME COURT. THIS MORNING, WE CONTINUE WITH OUR CONSIDERATION OF THE AMENDMENTS TO VARIOUS RULES OF PROCEDURE, AND WE BEGIN THIS MORNING WITH THE AMENDMENTS TO THE FLORIDA SMALL CLAIMS RULES, AND, MR. COBURN.

MAY IT PLEASE THE COURT. MY NAME IS GUY KOLBE UMPB, AND I AM THE -- COBURN, AND I AM THE CURRENT CHAIR OF THE COMMITTEE AND I, ALSO, HAVE WITH ME THE IMMEDIATE PAST CHAIR OF THE COMMITTEE. IN ADDITION TO SOME EDITORIAL CHANGE, WE HAVE PROPOSED A SET OF CHANGES IN THE SMALL CLAIMS RULES, WHICH, WE CONTEND, WILL HELP THE SMALL CLAIMS COURT BE SUBSTANTIALLY MORE EFFICIENT BY ANING THE UNNECESSARY USE OF TIME OF JUDGES, CLERKS, PLAINTIFFS, DEFENDANTS, AND MEDIATORS, ON UNCONTESTED CASES. THE CURRENT PRETRIAL SYSTEM IS OFTEN INEFFICIENT. WHEN A PLAINTIFF FILES A LAWSUIT, THE CLERK SETS A PRETRIAL HEARING 35 DAYS AWAY. THE PROCESS SERVER MUST, THEN, GET THE NOTICE TO APPEAR SERVED WITHIN THAT 35-DAY PERIOD. IN MANY JURISDICTIONS, THERE MAY BE AS MANY AS 130 PRETRIALS SET AT ONE TIME. THE CLERK MUST PULL EACH OF THESE FILES AND, THEN, AT THE PRETRIAL HEARING, THE JUDGE MUST CALL EACH OF THESE CASES, TO CHECK ON WHETHER IT HAS BEEN SERVED AND WHETHER THE PARTIES HAVE APPEARED. IN SOME CASES, THE NOTICE TO APPEAR MAY NOT HAVE BEEN SERVED UNTIL, EVEN, THE DAY BEFORE THE PRETRIAL, AND THE RETURN HAS NOT YET MADE IT INTO THE COURT FILE, SO THE COURT MUST, STILL, CALL THESE PARTICULAR CASES. IF THE DEFENDANT WAS SERVED, THEN ABOUT HALF THE TIME, THE DEFENDANT DOES NOT APPEAR AT THE PRETRIAL. HOWEVER, THE PLAINTIFF MUST AND EERB AT THE PRETRIAL AND -- MUST APPEAR AT THE PRETRIAL AND WAIT AN HOUR AND-A-HALF OR, PROBABLY, LONGER, FOR A DEFENDANT NOT TO APPEAR. FOR EXAMPLE, JUDGE MARVIN GILMAN, A DADE COUNTY JUDGE IN DADE COUNTY, E-MAILED ME AND SAID I HAVE 120 CASES ON MY PRETRIAL DOCKET TODAY. HALF DID NOT APPEAR.

HAS HE FILED A COMMENT, WITH REFERENCE TO THE PROPOSED RULE CHANGE?

NO, YOUR HONOR, BUT HE IS ON OUR COMMITTEE.

AS YOU KNOW, THIS FUNDAMENTAL CHANGE HAS DRAWN A NUMBER OF RESPONSES, INCLUDING A NUMBER OF RESPONSES FROM COUNTY COURT JUDGES AROUND THE STATE. ONE THING THAT WE WOULD BE INTERESTED IN, IN THE REPORT THAT YOU BROUGHT TO THE COURT, YOU MENTIONED ABOUT THE INCREASED FILINGS, BECAUSE OF THE INCREASED -- DID THE COMMITTEE DO ANY WORK, AS FAR AS GATHERING STATISTICS, AS ON WHAT THE INCREASED FILINGS HAVE BEEN, YEAR BY YEAR, IN THE LAST SEVERAL YEARS? THE INCREASE INJURIOUS DICTION OCCURRED, WHEN, ABOUT THREE YEARS AGO?

THE INCREASE INJURIOUS DICTION OCCURRED IN 1996, AND WE CHECKED -- INJURIOUS DICTION -- IN JURISDICTION OCCURRED IN 1996, AND WE CHECKED --

CAN YOU TELL US WHAT THE GROWTH IS. CAN YOU TELL ME THAT?

YES. IN FACT, WE CHECKED, AND ACCORDING TO THE ASSOCIATION OF COURT CLERKS, THE INCREASE IN OVERALL FILINGS DURING THAT PERIOD OF TIME WAS ONLY ABOUT 2%, BUT BECAUSE OF THE INCREASE INJURIOUS DICTION, THE -- IN JURISDICTION, THE INCREASE IN SMALL

CLAIM FILINGS WAS 30 OR 40%. SO OBVIOUSLY THERE HAS BEEN A LOT MORE OF A BURDEN PUT ON THE SMALL CLAIMS SYSTEM.

THE 2 PERCENT FIGURE IS FILINGS IN ALL OF THE COURTS?

I BELIEVE THAT WAS COUNTY COURT, DOWN.

COULD YOU ADDRESS THE MAJOR CONCERN THAT, THAT THIS FUNDAMENTAL CHANGE, IN THE WAY THAT THE COUNTY COURT OPERATES, WILL CHANGE, IN A SIGNIFICANT WAY, THE FACE OF COUNTY COURT, FROM A PEOPLE'S COURT TO SOMETHING THAT IS VERY LEGAL, MORE LEGALISTIC AND WILL CREATE, TRULY, AN UNEVEN PLAYING FIELD, BECAUSE, I THINK, THAT SEEMS TO BE THE THRUST OF THOSE THAT OPPOSE IT. I THINK EVERYONE WANTS EFFICIENCY BUT NOT AT THE SAKE OF DENYING LITIGANTS, ESPECIALLY THOSE THAT ARE UNREPRESENTED, THEIR DAY IN COURT.

WE CONTEND THAT IT IS NOT GOING TO BE A SIGNIFICANT CHANGE. THE PROPOSAL THAT WE HAVE IS A SIMPLIFIED CHECK-OFF ANSWER, AND THEN IF THE DEFENDANT EITHER DOESN'T SEND IN THE ANSWER OR ANSWERS SAYING, YES, I ADMIT THE DEBT, THEN THE PLAINTIFF WILL BE ENTITLED TO A JUDGMENT. IF ANYTHING ELSE IS MARKED, THEN A PRETRIAL WILL BE SET, JUST SAME WAY IT IS RIGHT NOW. SO WITH THAT SIMPLIFIED ANSWER, THE FORM THAT WE HAVE PROPOSED IS VERY SIMPLE, AND, I THINK, THERE IS A PROPOSAL HERE, TODAY, FROM MS. RUDER, OF EVEN A MORE SIMPLE FORM THAT, ACTUALLY, WE LIKE, SO WE BELIEVE -- WE CONTEND, IN THIS SITUATION, THAT IT IS NOT SUBSTANTIALLY CHANGING THE PRETRIAL SYSTEM. A PRETRIAL WILL, STILL, BE HELD, AS IT IS PRESENTLY. THE ONLY DIFFERENCE IS GOING TO BE THAT, INITIALLY, IN ORDER FOR A DEFENDANT TO GET TO THE PRETRIAL, THEY WILL HAVE TO PROVIDE SOME SORT OF RESPONSE.

WELL, WHAT ABOUT THIS FIRST -- THIS SECTION ON 7.050. IT SAYS UPON DEFAULT OR RECEIPT OF AN ANSWER, YOU SEND OUT THIS FORM THAT YOU ARE PROPOSING. WELL, IF THERE IS A DEFAULT, WHAT DO YOU PUT ON THE FORM? I AM NOT SURE THAT THE FORM ADDRESSES THE DEFAULT SITUATION.

THE FORM IS A SMALL CLAIMS NOTIFICATION, FORM 7.325, WHICH, I BELIEVE, IS ON PAGE 55, AND THAT IS WHAT THE CLERK MARKS OFF, INDICATING, IN A DEFAULT SITUATION, THAT WOULD BE SENT OUT, WELL, IF THE DEFENDANT SENDS IN AN ANSWER, SAYING THAT THEY ADMIT IT, THEN THAT WOULD BE CHECKED OFF ON THE FIRST OPTION.

BUT IF THERE IS A DEFAULT, THE DEFENDANT, OBVIOUSLY, HAS NOT SENT IN AN ANSWER, SO WHAT, ON THIS FORM, DO YOU PROPOSE YOU CHECK OFF, IN THAT SITUATION?

ACTUALLY I BELIEVE THAT MAY HAVE BEEN A CHANGE THAT WE MADE IN THE COURSE OF THE RULES THAT WE DID NOT CHANGE THIS PARTICULAR FORM. THE INTENT OF THE SITUATION WAS THAT THE PLAINTIFF WILL SIMPLY BE ABLE TO GO IN AND GET A DEFAULT JUDGMENT, AFTER 20 DAYS.

SO YOU DON'T NEED THIS, UPON DEFAULT, LANGUAGE IN THE RULE?

THE 7.050?

THE 7.050. YES. SUBC. -- SUBC -- SUB-C, BECAUSE IT SAYS THAT YOU ARE SUPPOSED TO SEND THIS FORM, EVEN UPON DEFAULT.

WE HAD ORIGINALLY DRAFTED THAT FORM TO INCLUDE BEING SENT OUT WITH A NOTIFICATION FOR DEFAULT. SEVERAL OF THE CLERKS SAID THAT THAT WAS GOING TO CREATE AN UNNECESSARY BURDEN, SO WE DELETED THAT PORTION ON THAT FORM, AND, I GUESS, WE DID

NOT CORRECT THAT PARTICULAR RULE, SO, YES, IT SHOULD SIMPLY BE "UPON RECEIPT OF THE ANSWER". OUR INTENT, IN PROCEEDING FORWARD WITH THIS, IS TO TRY TO SIMPLIFY THIS PROCESS, TO GIVE THE DEFENDANT A VERY SIMPLE WAY OF HAVING THE OPPORTUNITY TO SIMPLY INDICATE THEIR INTENT TO CONTEST THE CASE. THE WEB FITS FOR -- THE BENEFITS FOR DEFENDANTS ARE QUITE EVIDENT, FOR THOSE INSTANCES, FOR INSTANCE, WHERE A DEFENDANT IS SERVED JUST DAY BEFORE THE PRETRIAL. THEY HAVE GREAT DIFFICULTY IN TRYING TO ARRANGE TO GET TIME OFF. THEY DON'T HAVE AN OPPORTUNITY TO CONSULT WITH AN ATTORNEY. THEY DON'T HAVE AN OPPORTUNITY TO RESEARCH THEIR RECORDS. I HAVE HAD MANY, MANY PRETRIALS, WHERE THE DEFENDANT HAS TO HAVE A CONTINUANCE OF A PRETRIAL OR A REQUEST FOR CONTINUANCE OF A MEDIATION, BECAUSE OF THE FACT THAT THEY WERE SERVED SO CLOSELY BEFORE THE PRETRIAL THAT THEY HAVEN'T HAD A CHANCE TO REVIEW THEIR RECORDS.

IS THERE NOT AN ALTERNATIVE WAY, RIGHT NOW, UNDER THE SYSTEM, WHEN THE SERVICE OCCURS THE DAY BEFORE THE PRETRIAL, TO HANDLE THOSE SITUATIONS? ARE YOU AWARE OF --

THERE IS NO SITUATION. THERE IS NO EASY WAY FOR A CONTINUANCE OF A PRETRIAL, ESPECIALLY WHERE IT IS SERVED THE DAY BEFORE. THERE IS NO WAY TO NOTIFY THE PARTIES. AND WHAT THIS RULE ALLOWS IS THAT, ONCE THE DEFENDANT IS SERVED, THEN THEY HAVE 20 DAYS, IN ORDER TO DECIDE WHAT THEY ARE GOING TO DO.

THERE SEEMS TO BE, ALSO, SOME CONCERN THAT, ACTUALLY, THIS REQUIREMENT OF ACTUALLY SERVING AN ANSWER AND, ACTUALLY, DOING THAT PART, WILL, ACTUALLY, DRAW OUT PROCESS. HAVE YOU GIVEN ANY THOUGHT TO THAT?

YES, WE HAVE, AND WHAT, IN FACT, HAPPENS, HERE, CURRENTLY, UNDER THE PRETRIAL SYSTEM, THE PRETRIAL IS SET 35 DAYS AWAY, SO IF THE DEFENDANT IS SERVED IN THE FIRST 15 DAYS, IN FACT THE CURRENT PRETRIAL SYSTEM WOULD TAKE LONGER FOR A PLAINTIFF TO GET A DEFAULT JUDGMENT. IT IS ONLY IF THE DEFENDANT IS SERVED AFTER THE INITIAL 15 DAYS, THAT, IN FACT, IT WOULD STRETCH THINGS OUT, SO WE FELT THAT THE -- IT WAS SORT OF A GIVE AND TAKE SITUATION THERE. IT WOULD TAKE 20 DAYS FROM WHENEVER THE SERVICE OCCURS, RATHER THAN BEING WITHIN THAT 35-DAY PERIOD, DEPENDING UPON WHEN THE SERVICE OCCURS.

ONE OF THE THEMES RUNNING THROUGH THE RESPONSES, AND I NOTED THIS, ALSO, WITH THE RESPONSE OF SOME OF THE MEDIATORS, THAT WERE CONCERNED ABOUT THIS, WAS THAT, REALLY, THE PRESENT PROCEDURE, ALSO, SERVES A FUNCTION OF EDUCATING PEOPLE ABOUT THE SYSTEM AND THE PROCESS. AND THAT IS THAT THEY ARE, WHEN THEY ACTUALLY ARE BEFORE A JUDGE, THAT THEY, REALLY, GET EDUCATED, AND THAT THEY, REALLY, ARE NOT -- THAT THE LEVEL OF EDUCATION, BEFORE, THAT THEY UNDERSTAND ANY OF THIS OR THEIR RIGHTS, AND THAT THIS WILL, ALL, BE LOST, IN THE PROCESS NOW. THAT IS THAT THEY WILL BE FILING THESE ANSWERS, AND THEY, REALLY, WILL NOT BE INFORMED OR KNOWLEDGEABLE ABOUT WHAT THE CONSEQUENCES WILL BE TO THIS.

FOR THE MOST PART, WE ASSERT THAT THAT WON'T BE TRUE. THE VAST MAJORITY OF CASES WILL BE DISPOSED OF BECAUSE THE DEFENDANT SIMPLY DOES NOT SEND IN THE ANSWER FORM. THAT WILL BE A DEFAULT CASE, JUST LIKE HALF OF THE CASES, NOW, ARE DEFAULTS. THERE WILL BE A RELATIVELY SMALL NUMBER, AND WE HAVE ESTIMATED THAT TO BE, MAYBE, 10%ENT, WHERE THE DEFENDANT ADMITS THEY -- PERCENT, AND -- 10 PERCENT, WHERE THE DEFENDANT ADMITS THEY OWE THE DEBT. BUT THEY, IN THAT SITUATION, ALSO, HAVE THE OPTION OF TRYING TO SET UP A PAYMENT PLAN, TO TRY TO APPEAR IN COURT TO ASK QUESTIONS AND THOSE KINDS OF THINGS. THAT IS SET FORTH, IN OPTION B OF OUR PROPOSED ANSWER. WHEN YOU TAKE A LOOK AT MS. RUDER'S PROPOSAL, I BELIEVE THAT IS, ALSO, COVERED IN HER ANSWER, AS WELL.

DOES THIS PROCESS, NOW, SERVE THE EDUCATIONAL FUNCTION, IN YOUR OPINION?

DEPENDS ON EACH COUNTY. DIFFERENT COUNTIES CONDUCT DIFFERENT PRETRIALS IN DIFFERENT WAYS. WHERE I PRACTICE IN ORANGE COUNTY, IN FACT THE DEFENDANT DOESN'T SEE THE JUDGE UNTIL THE DAY OF THE TRIAL, SO THERE, REALLY, ISN'T THAT EDUCATIONAL PROCESS, OTHER THAN THROUGH THE PROCESS OF MEDIATION, THEY GET TO ASK THE ASK -- TO ASK THE MEDIATOR SOME QUESTIONS, BUT SINCE THEY ARE NOT ATTORNEYS OR JUDGES, THEY SIMPLY EXPLAIN THE MEDIATION PROCESS, ITSELF.

LET ME ASK YOU SOMETHING ABOUT THIS FORM, 7.324. I THINK ONE OF THE THE COMMENTS WAS THAT THIS WOULD BE -- ONE OF THE COMMENTS WAS THAT THIS WOULD BE THE REQUIRED FORM, IN ORDER TO FILE AN ANSWER. NOW, IS THAT WHAT THE RULE SAYS, OR DOES THE RULE SIMPLY SAY THAT THIS IS THE FORM THAT WILL BE SENT OUT? IS YOUR INTENT THAT THIS IS WHAT YOU MUST GET BACK?

PROFESSOR TRAY -- PROFESSOR TRAWICK ADDRESSED THAT IN HIS COMMENTS, AND OUR INTENT WAS THAT THIS NOT BE THE EXCLUSIVE FORM, AND, IN FACT, THERE ARE SOME CORRECTIONS THAT WE ARE PROPOSING AT THIS POINT, AFTER SEEING HIS RESPONSE, IN ORDER TO CORRECT THAT PROBLEM. IN PARTICULAR, IN RULE 7.060, PAGE 19, WHERE IT SAYS THE ANSWER MUST STATE ONE OF THE FOLLOWING, WE SUGGEST THAT IT SHOULD BE AMENDED TO SAY THE ANSWER SHOULD STATE ONE OF THE FOLLOWING. ON PAGE 20 OF THE SAME RULE, ON THE FOURTH PARAGRAPH, LAST SENTENCE, IT SAYS "YOU MUST CHECK THE APPROPRIATE RESPONSE", AND WE WOULD SUGGEST THAT IT BE AMENDED TO SAY "YOU MAY CHECK THE APPROPRIATE RESPONSE", AND FURTHERMORE, THERE IS A TYPE GLAFCKAL ERROR -- A TYPOGRAPHICAL ERROR THAT MR. TRAWICK POINTED OUT, IN PAGE 25 AND 26, THE LAST WORD IN THE LAST SENTENCE SHOULD BE PLAINTIFF INSTEAD OF DEFENDANT. THAT WAS SIMPLY A TYPOGRAPHICAL ERROR, AND FINALLY, IN FORM 7.322, THE FOURTH PARAGRAPH, WHICH IS ON PAGE 46, WHERE IT SAYS "AN APPROVED RESPONSE FORM", SHOULD BE MODIFIED TO SAY A "SUGGESTED RESPONSE FORM", WHICH IS TO SAY IF SOMEBODY SCRATCHES SOMETHING ON A MATCHBOOK COVER AND SENDS IT IN, THAT SHOULD BE ENOUGH TO TRIGGER THE CLERK TO GO AHEAD AND SET A PRETRIAL. THIS FORM WOULD, CERTAINLY, MAKE THINGS EASIER AND ALLOW THEM TO ADMIT, IF NECESSARY, BUT UNDER ANY OTHER CIRCUMSTANCES, THEY SHOULD BE ALLOWED TO GO AHEAD AND SET A PRETRIAL, AS IS ESTABLISHED IN THE CURRENT SYSTEM.

YOU ARE IN YOUR REBUTTAL TIME.

YES. I WOULD LIKE TO RESERVE MY ADDITIONAL TIME.

THANK YOU. MR. TRAWICK, I DO NOTE THAT THERE ARE A NUMBER OF LAWYERS, REPRESENTATIVES, HERE, WHO WANT TO ADDRESS THE COURT, AND SO IF YOU WOULD PLEASE PAY ATTENTION TO YOUR TIMES, BECAUSE THE COURT FINDS NECESSARY TO STAY WITHIN THE TIME ALLOTTED HERE.

YES, YOUR HONOR. I HAVE A VERY BRIEF COMMENT, BECAUSE WE HAVE DISCUSSED SOME OF THESE THINGS, AND I THINK THEY ARE GOING TO BE THE SUBJECT OF CORRECTIVE ACTION. THE ANSWER SITUATION, AS PROPOSED, I THINK, IS UNCONSTITUTIONAL, BECAUSE I DON'T THINK YOU CAN LIMIT A DEFENDANT TO THE ANSWERS THAT ARE PROPOSED BY THE COMMITTEE, AND THE COMMITTEE, NOW, AGREES WITH THAT, AND I THINK THEY ARE GOING TO CORRECT THAT. THE NEXT THING I WANT TO POINT OUT IS A QUESTION THAT WAS RAISED BY, I BELIEVE, JUSTICE ANSTEAD. THE JURISDICTIONAL LIMIT IS TOO HIGH. THERE ISN'T ANY QUESTION ABOUT THAT. IF YOU GO BACK TO THE FIRST SMALL CLAIMS COURTS WITH A \$1 ON 0 JURISDICTION, BACK IN THE - - WITH A \$100 JURISDICTION, BACK IN THE '40s AND THE '50s, AND INDEX IT FOR INFLATION, IT SHOULD BE \$200 OR TWICE THAT AMOUNT. AS FAR AS THE EDUCATIONAL AMOUNT THAT THE COURT WAS CONCERNED WITH, I DON'T THINK THAT IS RELEVANT, BECAUSE YOU DO NOT

CONCERN YOURSELVES WITH THE EDUCATION OF PERSONS WHO ARE SERVED IN CIRCUIT COURT, AND THAT IS A FAR MORE IMPORTANT AND FAR MORE SIGNIFICANT THING THAT THEY ARE CONCERNED WITH IN CIRCUIT COURT, AND SO THE FACT THAT THIS IS SUPPOSED TO BE A LAYMAN'S COURT, IT IS NOT SUPPOSED TO BE A SCHOOL FOR LAYMEN TO BECOME LAWYERS. IF THE COURT HAS ANY QUESTIONS, I WILL BE GLAD TO ANSWER THEM. THANK YOU.

GOOD MORNING. I ADDRESS THIS ISSUE BECAUSE I AM PARTICULARLY CONCERNED WITH THE ACCESS TO COURT. OLIVER WENDELL HOLMES SAID --

CAN YOU GIVE YOUR NAME.

MY NAME IS PAULINE DRAYTON-HARRIS, AND I DO COUNTY COURT CIVIL AND CRIMINAL LAW AND, ALSO, I DO A LOT OF UNCONTESTED DIVORCES.

YOU, ALSO, WHEN YOU FILED YOUR COMMENT, YOU FILED NOT ONLY ON YOUR OWN BEHALF BUT ON BEHALF OF THE --

COUNTY CLERK. YES. I AM THE CIRCUIT COURT REPRESENTATIVE FOR DUVAL COUNTY, AND I, ALSO, SERVE ON THE SMALL CLAIMS COMMITTEE ON THE COUNTY COURT CONFERENCE OF JUDGES. WE HAVE THE OPPORTUNITY TO LOOK AT THE PROPOSED AMENDMENTS OF THE SMALL CLAIMS COURT, AND THEY ARE VERY BASIC THINGS THAT WE OBJECT TO. I KNOW THAT SOME PEOPLE THAT INDICATE THAT EDUCATION IS NOT A PROCESS THAT THE COURTS ARE RESPONSIBLE FOR. HOWEVER, AS A COUNTY COURT JUDGE WITH SOME EXPERIENCE IN THIS AREA, I TELL YOU THAT THE SMALL CLAIMS AREA IS AN AREA WHICH THIS COURT SHOULD BE CONCERNED WITH, FOR THE REDRESS OF CAUSES. I AM PARTICULARLY CONCERNED, BECAUSE THE MEDIA, TODAY, PORTRAYS JUDGES AND THOSE PEOPLE THAT ARE PART OF THE JUDICIAL SYSTEM ASSETS BEING INCOMPETENT, IN SENSE I HAVE -- INSENSITIVE OR UNCARING. I THINK IT IS IMPORTANT THAT THE ACCESS OF COURTS PORTRAYED TO THE PUBLIC, THAT JUDGES ARE, IN FACT, CARING INDIVIDUALS WHO ARE CONCERNED ABOUT THE PLIGHT OF THE EVERYDAY MAN. I HAD THE OPPORTUNITY TO ADDENT -- ATTEND THE PRO SE CONFERENCE THAT WAS HELD, AND BASICALLY I TAKE OFFENSE THAT A PARTICULAR FORM IS GOING TO SOLVE ALL OF THE ILLS. I APPRECIATE THE FACT THAT THE COURT DOCKETS ARE CROWDED. I AM A PART OF. THAT I UNDERSTAND THAT. I UNDERSTAND, ALSO, THAT WE NEED AN EFFICIENT WAY TO HANDLE REDRESS. BUT IT HAS BEEN MY EXREPERSONS THAT -- EXPERIENCE THAT PEOPLE WANT TO HEAR FROM A JUDGE. ANOTHER FORUM SAYS THAT WE ARE, NOW, DISTANCING OURSELVES FROM THE GENERAL PUBLIC, AND I DO NOT FEEL THAT IT IS A APPROPRIATE RESPONSE ON BEHALF OF THE JUDICIARY.

WHAT SUGGESTION WOULD YOU HAVE FOR THE PERSON THAT IS SERVED THE DAY BEFORE AND THERE IS NO PROOF OF THE SERVICE AND THERE IS -- THIS UNCERTAINTY ABOUT WHETHER OR NOT A DEFAULT CAN BE ENTERED OR WHETHER THE PERSON IS ENTITLED TO BE THERE.

WHAT USUALLY HAPPENS IN OUR COUNTY IS THOSE INDIVIDUALS OFTEN CALL THE JUDICIAL ASSISTANTS AND THEY INDICATE THAT I HAVE JUST GOTTEN THE SERVICE THE DAY BEFORE. I HAVE A PROBLEM GETTING THERE.

IS THERE AN INDICATION ON THE SUMMONS, THAT THAT IS AN ACCEPTABLE PROCEDURE?

NO, IT ISN'T. ACTUALLY WHAT HAPPENS IS, WHEN A SUMMONS IS SERVED THE DAY BEFORE, AN INDIVIDUAL IS NOT PRESENT. SOMETIMES THEY ACTUALLY DO MAKE IT TO COURT AND ACTUALLY THERE IS SOME DOCUMENTATION IN THE FILE AS TO LATE SERVICE. I DON'T SEE THAT AS A SIGNIFICANT PROBLEM. I THINK THAT WE CAN HANDLE THAT PROBLEM, BY ALLOWING THAT INDIVIDUAL TO RESPOND AT A LATER POINT. I HAVE SPOKEN TO JUDGE GOOD DEAL MAN, THE -- JUDGE GELMAN, THE JUDGE AT THE CIRCUIT COURT CONFERENCE, WHO HAD CONCERN ABOUT ATTORNEYS STAYING AROUND FOR AN HOUR AND-A-HALF OR INDIVIDUALS THAT DON'T SHOW

UP. WE SUGGESTED FROM THE COUNTY COURT CONFERENCE STANDPOINT HAD, THAT THOSE FILES ARE GOING TO HAVE TO BE PULLED AT SOME TIME, ANYWAY, THAT WE RECOGNIZE THAT, BUT I HAVE, ALSO, SPOKEN TO ATTORNEYS IN DUVAL COUNTY WHO ROUTINELY DO SMALL CLAIMS COURT WHO SET THOSE CASES, WHO HAVE A LARGE AMOUNT OF CASES ON THAT DATE, ANYWAY, SO THEY AREN'T, REALLY, WASTING TIME, AND THEY VIEW THAT AS AN OPPORTUNITY TO TALK TO A DEFENDANT FACE-TO-FACE AND WORK OUT STIPULATE LAKES AND -- STIPULATION AND PAYMENT AGREEMENTS AT THE PRETRIAL, SO I DON'T VIEW IT AS A WASTED DAY OR WASTED TIME FRAME AT ALL.

WHAT IS YOUR BIGGEST CONCERN WITH THE ANSWER, IF, AS HAS BEEN REPRESENTED, THE DEFENDANT CAN CHECK OFF "I WANT TO BE IN COURT", AND THEN THEY HAVE GOT THE SAME RIGHTS. IS IT THAT THE ACTUAL FORM, ITSELF, IS JUST NOT GOING TO BE UNDERSTOOD, NO MATTER HOW SIMPLE, BY THE MAJORITY OF PEOPLE SERVED?

IT HAS BEEN MY EXPERIENCE, AS A COUNTY COURT JUDGE THAT, AS LEGAL PRACTITIONERS, WE ARE ACCUSTOMED TO FORMS. WE DEAL WITH FORMS ALL THE TIME. THIS IS SOMETHING THAT WE HAVE GROWN ACCUSTOMED TO. IT IS A WAY OF LIFE. BUT YOU DO HAVE SOME PRO SE LITIGANTS WHO HAVE NEVER BEEN SUED BEFORE. YOU HAVE ELDERLY PEOPLE WHO HAVE NEVER BEEN SUED BEFORE. YOU HAVE ELDERLY PEOPLE WHO HAVE COSIGNED ON DOCUMENTS, WHERE THIRTEEN AGED GRANDSONS OR DAUGHTERS. PICH HE WILL WHO ARE ILLITERATE. YOU HAVE PEOPLE FROM OTHER COUNTIES WHO ARE NOT FAMILIAR WITH THE ENGLISH LANGUAGE, AND THE FORM, THEY MAY CHECK OFF THE WRONG THING ON THE FORM, OR IT ONLY TAKES ME ABOUT FIVE MINUTES OR LESS TO DETERMINE WHAT AN INDIVIDUAL WANTS TO SAY TO ME, SO A FORM, TO A PRACTITIONER, IS FINE. WE CAN -- WE KNOW WHAT WE WANT FORMS TO SAY, BUT THE PRO SE LITIGANTS, THEY, REALLY, DON'T UNDERSTAND WHAT IS NEEDED IN THAT FORM.

DO WE KNOW HOW MANY OF THE CASES FILED, HOW MANY OF PEOPLE THAT ARE PLAINTIFFS, ARE REPRESENTED AND HOW MANY DEFENDANTS ARE REPRESENTED? DO WE HAVE ANY FIGURES ABOUT THAT?

WE DON'T HAVE ANY FIGURES. I DON'T HAVE ANY FIGURES. BUT I CAN TELL YOU, ON THE DEBT COLLECTION CASES, ON 95 PERCENT OF THE CASES, THE PLAINTIFFS ARE REPRESENTED, OF COURSE, BY THE ATTORNEYS' LAWYERS, AND THE DEFENDANTS SHOW UP PRO SE.

WOULD YOU SHARE WITH US YOUR EXPERIENCE FROM THROUGHOUT THE STATE. IT HAS BEEN SUGGESTED THIS MORNING THAT WE ARE DEVELOPING A SYSTEM WHERE THE PEOPLE NEVER SEE A JUDGE UNTIL THE LAST DAY. IS THAT WHAT -- IS THAT THE COMMON PRACTICE, THROUGHOUT THE STATE OF FLORIDA? IS THAT WHAT IS HAPPENING TO OUR PEOPLE?

I THINK, ON A LARGE PERCENTAGE, IT IS. I THINK WE ARE SAYING THAT WE ONLY WANT TO HANDLE THOSE SERIOUS CASES, AND I THINK THERE IS, STILL, ROOM FOR JUDGES, BECAUSE PEOPLE WANT TO HEAR FROM JUDGES. THEY WANT TO KNOW WHAT -- WHY THEY ARE BEING SUED, AND I CAN SAY, IN A FEW MINUTES, AND I AM GOING TO YIELD TO SOMEONE ELSE, NOW, THAT YOU ARE HERE BECAUSE YOU ARE BEING SUED, BECAUSE YOU OWE "X" NUMBER OF DOLLARS OF MONEY. IT IS NOT AN EXCUSE THAT I FEEL SORRY FOR YOU. I MAY SYMPATHIZE WITH YOU, THAT YOU ARE NO LONGER EMPLOYED, THAT YOU ARE ILL. BUT BUT THOSE ARE NOT DEFENSES FOR A DEBT. AND THEN THE PEOPLE USUALLY SAY, AND I AM SURPRISED, SOMETIMES, THAT OVER 25% OF THE PEOPLE WILL COME UP AND SAY I ADMIT THE DEBT. I WAS OUT OF WORK. I CAN'T PAY IT. AND THEN THEY WILL GO IN THE BACK AND THEY WILL SPEAK TO THE ATTORNEY AND THEY WILL DRAW UP A STIPULATION.

JUDGE, HAS THE COUNTY COURT CONFERENCE TAKEN A POSITION ON THIS AMENDMENT?

YES. THE COUNTY COURT CONFERENCE OF JUDGES HAS INDICATED THAT THEY ARE IN OPPOSITION TO THE CHANGE OF THE SMALL CLAIMS.

DID THEY SAY THAT IN A DIALOGUE WITH THE COMMITTEE?

YES, WE DID. WE DID NOT TAKE A POSITION ORIGINALLY, IN THE COUNTY COURT CONFERENCE, SMALL CLAIMS. WE MET THIS PAST SUMMER. WE DISCUSSED THE SMALL CLAIMS CHANGES. WE HAD A MEETING REFERENCE THAT. THE SMALL CLAIMS COMMITTEE, IN THE COUNTY COURT CONFERENCE, DECIDED TO OPPOSE IT. SOME OF THOSE REASONS WERE THE UNLIQUIDATED ATTORNEY FEES. SOME WERE -- SOME EXTRANEIOUS COST. WE HAD SOME JUDGES WHO SAID THAT SOME ATTORNEYS WOULD SEND IN ATTORNEY FEES AS HIGH AS \$1,000 FOR DEFAULT.

I DON'T BELIEVE WE HAVE RECEIVED ANY OFFICIAL NOTIFICATION.

THEY DIDN'T. I AM KIND OF THE --

YOU ARE THE OFFICIAL NOIFER?

I AM THE OFFICIAL NOTE FIRE, I SUPPOSE, IN THE SENSE THAT -- NOTE I PHIER -- FOT PHIER, I SUPPOSE, BECAUSE -- NOTIFYER. IT WAS IN JULY. WE DID SEND A WRITTEN NOTIFICATION TO THE CHAIRMAN, IN GAINESVILLE, OF THE SMALL CLAIMS COMMITTEE. WE DIDN'T WRITE A WRITTEN RESPONSE. WE TOOK A VOTE. IT WAS SOMEWHAT OF A SPLIT IN THE GENERAL MEMBERSHIP, BUT I CAN TELL YOU THE RECOMMENDATION --

WAS OPPOSING THE NEW CHANGE.

-- WAS OPPOSING THE NEW CHANGE.

INCLUDING, I GUESS, THE ANSWER. I WOULD IMAGINE THAT, IN SMALL CLAIMS COURT, THERE ARE A LOT OF DEFAULTS. IS THAT CORRECT OR NOT?

THERE ARE A LOT OF DEFAULTS. HOWEVER, WHAT HAPPENS, I GUESS I CAN EXPLAIN THE PROCEDURE THAT WE USE. A GIVEN JUDGE, IN ANY ONE OF THE 13 OR 14 COUNTY COURT JUDGES, GOES OVER TO PRETRIAL. THERE IS A CLERK THERE. THE CLERK BASICALLY CALLS THE INDIVIDUAL NAMES. IF THE INDIVIDUAL DOESN'T THOUGH SHOE P, THE ATTORNEYS COME -- SHOW UP, THE ATTORNEYS COME FORTH. THEY CAN -- THEY REQUEST A DEFAULT AND THE DEFAULT CAN BE SIGNED AT THAT PARTICULAR POINT.

WOULDN'T, AT LEAST, A DEFENDANT WOULD HAVE AN OPPORTUNITY, INSTEAD OF JUST GETTING A SUMMONS WITH A COPY OF WHATEVER COMPLAINT IS FILED, IF THERE IS, ALSO, A COPY OF AN ANSWER FORM THAT THEY CAN SEND IN, DON'T YOU THINK THAT WOULD CUT DOWN ON THE NUMBER OF DEFAULTS, AND PEEP WEEL HAVE AN OPPORTUNITY TO ACTUALLY HAVE THEIR DAY IN COURT?

WELL, THE PROBLEM IS THAT SOME PEOPLE WON'T EVEN SEND IT IN, AND THEY WON'T KNOW WHY THEY CAN'T SEND IT IN, AND WHAT WILL HAPPEN, THEN, WILL AND DEFAULT WILL BE ENTERED, BUT FROM MY PERSPECTIVE, AS A COUNTY COURT JUDGE, YOU, ALSO, END UP WITH A MOTION TO SET ASIDE THE FINAL JUDGMENT, BASED ON SOME REASON THEY DIDN'T UNDERSTAND OR THEY WEREN'T THERE OR THEY WERE LATE, SO THIS WON'T CUT DOWN ON ALL OF THE DEFAULTS. YOU WILL, STILL, HAVE ALL OF THOSE INDIVIDUALS WHO WILL WANT TO COME IN LATER AND SET ASIDE THE FINAL JUDGMENT OR SET ASIDE THE DEFAULT, BECAUSE THEY DID NOT UNDERSTAND THE FORM, AND THERE ARE NO PROVISIONS FOR THAT IN THE CURRENT FORM. I AM NOT OPPOSED TO SOME CHANGE TO SMALL CLAIMS COURT. I AM NOT OPPOSED, PER SE, TO FORMS. BUT I AM OPPOSED TO THE FACT THAT, WHEN WE LOOK FOR SIMPLIFIED ANSWERS FOR A PROCEDURE THAT ALREADY PROVIDES FOR THAT, IF YOU LOOK AT THE SMALL CLAIMS RULE CURRENTLY IN EFFECT, IT PROVIDES FOR THE SIMPLIFICATION OF ISSUES. IT PROVIDES FOR, TO DETERMINE WHETHER OR NOT A CASE SHOULD BE DISMISSED.

SMALL CLAIMS IS NOT JUST DEBT OR'S COURT. IT IS NEIGHBOR SUING NEIGHBOR. IT IS SMALL BUSINESSMAN, A LAWN SERVICE AGENT SUING SOMEONE WHO DIDN'T PAY HIM FOR HIS LAWN. IT IS, ALSO, RELATIVE SUING RELATIVES, UNDER ORAL CONTRACTS, AND THESE FORMS DON'T ADAPT TO THOSE SITUATIONS. THANK YOU.

THANK YOU.

GOOD MORNING. MY NAME IS CATHY REUTER. I AM DIRECTOR OF THE MEDIATION PROGRAM IN ORANGE COUNTY, AND OVER THE LAST, I HAVE BEEN IN THE COURT SYSTEM FOR 13 YEARS AND DEALT WITH, PROBABLY, ABOUT 30 OR 40,000 CASES, DIRECTLY OR INDIRECTLY, AND, PROBABLY, MORE SO WITH THE ACTUAL PEOPLE THAT COME TO COURT AND TALKING TO THEM ABOUT THE PROBLEMS THEY HAVE, AND I, REALLY, BASICALLY, BELIEVE IN THE NEED FOR THIS PROCESS, THIS ANSWER FORM, BECAUSE I TRY TO THINK OF 6 BOTH SIDES, WITH -- THINK OF BOTH SIDES, WITH THE PLAINTIFF AND THE DEFENDANT, AND WE HAVE A LOT OF PLAINTIFFS WHO SHOW UP FOR COURT AND WOULD LIKE TO HAVE KNOWN THAT THE DEFENDANT WAS NOT GOING TO SHOW UP. THEY ARE PRO SE, AND THEY COME, AND OUR MEDIATORS, AGAIN, WE DO THE MEDIATION. WE HAVE NO IDEA, ON A 150 CASE LOAD, IF 20 PEOPLE ARE GOING TO SHOW UP OR IF 140 PEOPLE ARE GOING TO SHOW UP, SO MANY OF THESE PEOPLE WIND UP WAITING QUITE A LONG TIME. WE DON'T HAVE JUDGE THAT IS SEE ANYONE FOR PRETRIAL ANYWHERE IN THE NINTH JUDICIAL CIRCUIT, AND A LOT OF THE OTHER COUNTIES, NOW, IN THE STATE, HAVE GOTTEN INTO THE SAME PROCESS. I AM OPPOSED TO THE ANSWER FORM, AS IT IS, BECAUSE I THINK IT IS VERY DIFFICULT TO PEOPLE. WE PUT IT OUT TO A LOT OF PEOPLE, AS IN MY RESPONSE, I PUT A LOT OF DIFFERENT ANSWERS OR THE POSSIBLE CASES WHERE PEOPLE WOULD NOT HAVE ANY IDEA WHAT TO CHECK OFF. THE ANSWER FORM THAT I PUT UP THERE THAT I PROPOSE IS JUST A SIMPLE ONE OR TWO, AND THEY DO NOT HAVE TO SERVE IT ON THE PLAINTIFF, BECAUSE THEY WON'T, REALLY, UNDERSTAND IT.

DID YOU SUBMIT THIS TO THE COMMITTEE, WHEN THEY WERE MAKING THEIR -- HAVING THEIR DELIBERATIONS?

NO. YOU MEAN ORIGINALLY?

YES.

NO. THE ONLY TIME I EVER KNEW ABOUT THE WHOLE THING WAS BACK IN THE DAYS WHEN THEY WERE TALKING ABOUT A POSTCARD, SO IT SEEMED LIKE IT WAS A VERY SIMPLE LITTLE POSTCARD THAT PEOPLE WERE GOING TO CHECK OFF, YES, I WANT TO COME TO COURT OR, NO, I DON'T WANT TO COME TO COURT, AND THIS IS KIND OF BACK TO WHAT I THOUGHT ORIGINALLY WAS IN THE SMALL CLAIMS PROPOSAL IS JUST A, YES, I WANT TO COME TO COURT AND TALK ABOUT IT WITH A MEDIATOR OR PRETRIAL, WHICHEVER THAT PARTICULAR COUNTY DOES, OR, NO, I DON'T WANT TO COME TO COURT. I CAN'T MAKE ANY PAYMENTS. A LOT OF THE DEFENDANTS FEEL, AND I HAVE HEARD THEM SAY TO ME THAT THEY WOULDN'T HAVE COME, IF THEY DIDN'T REALIZE THAT THEY HAVE TO COME, BUT THEY GET THAT SUMMONS, AND THEY THINK THEY ARE GOING TO GO TO JAIL, IF THEY DON'T SHOW UP. IF THEY HAD THAT OPTION THAT THEY COULD JUST CHECK IT OFF AND SAY I DON'T WANT TO COME TO COURT. I AGREE I OWE ALL THE MONEY. I CAN'T MAKE ANY PAYMENTS. GET ME A JUDGMENT. AND THAT WAY, ALSO, THE PRO SE PLAINTIFF WON'T HAVE TO SPEND A WHOLE DAY IN COURT. THEY ARE MOM AND POPS, TOO, THAT DON'T HAVE ANY MONEY AND HAVE TO TAKE OFF A MORNING FROM WORK WHEN IT WAS UNNECESSARY. SO MY BIGGEST OBJECTION IS TO THE COMPLEXITY OF THAT FORM AND THE FACT THAT THEY WOULD HAVE TO SERVE IT ON THE PLAINTIFF, WHICH THEY MAY NOT UNDERSTAND OR WHATEVER.

EXCUSE ME. HOW WOULD THIS WORK THIS? -- HOW WOULD THIS WORK THEN?

IF THEY CHECKED OFF THE ANSWER THAT SAYS I AGREE TO EVERYTHING. IF THE PLAINTIFF



DOESN'T GET A RESPONSE WITHIN THE ON DAYS, ONE WAY OR THE OTHER, THEN THEY KNOW THEY CAN SEND IN THEIR JUDGMENT PAPERS, IF THEY DON'T GET A NOTICE IN THE MAIL THAT SAYS THEY HAVE TO COME BACK FOR A PRETRIAL OR A MEDIATION. IF THEY CHECK OFF B, THEN THEY COME BACK FOR A PRETRIAL OR MEDIATION, WHICHEVER THAT PARTICULAR COUNTY DOES.

BUT THE FIRST ONES, I AGREE WITH THE STATEMENT OF CLAIM. I AM UNABLE TO MAKE PAYMENTS AT THIS TIME.

RIGHT.

WHAT WOULD HAPPEN IN THAT SITUATION?

THEN THERE WOULD AND DEFAULT JUDGMENT. IT GOES ON TO SAY THAT, THAT THERE WOULD BE A JUDGMENT.

THEY ARE AGREEING TO ATTORNEYS' FEES AND ALL OF THAT.

THAT WOULD BE DETERMINED BY THE COURT.

THAT YOU ARE TALKING ABOUT.

THAT WOULD BE DETERMINED BY THE COURT.

YOU KNOW, IN LOOKING AT WHAT HAPPENS IN ORANGE COUNTY, I AM FAMILIAR WITH WHAT DO, AND YOU HAVE A WONDERFUL GROUP OF MEDIATORS, VOLUNTEERS, WUL ---WELL-QUALIFIED KINDS OF FOLKS TO ADDRESS THIS PROBLEM, BUT DO OTHER COUNTIES, OTHER CIRCUITS SHARE THIS KIND OF EXPERTISE AND THE KIND OF PROGRAM THAT YOU HAVE TO SEEM TO SOLVE THESE KINDS OF PROBLEMS THAT YOU DISCUSS. CAN YOU SHARE WITH US WHAT YOU KNOW ABOUT THE REST OF THE STATE.

I DO TRAVEL AROUND THE STATE, AND THERE IS SUCH A WIDE VARIETY OF WHETHER THEY SEE A JUDGE, WHETHER THE JUDGE ACTUALLY GETS INTO THE CASE OR IN MANY CASES THE JUDGE JUST GIVE AN OPENING SPEECH AND THEN SEND THE CASES OFF. SOME COUNTIES, THE JUDGE WILL ACTUALLY START HEARING THE CASE, AND THEN IF HE OR SHE SEES THAT IT SHOULD GO TO MEDIATION, THEY WILL GO ON TO MEDIATION, AND THEY WILL TRY SOME. IT DEPENDS ON HOW MANY MEDIATORS THEY HAVE AVAILABLE. SOMETIMES THEY WILL OFFER IT TO THE PARTIES AND SAY ANYONE WHO WANTS TO GO TO MEDIATION, LET US KNOW. SOMETIMES THE CLERK CALLS THE CASES. IT IS EVERY COUNTY.

THE PROGRAM THAT ORANGE COUNTY, APPARENTLY, IS FOLLOW FOLLOWING, AND THAT IS YOU DON'T SEE A JUDICIAL OFFICER. YOU COME AND YOU MEET WITH THE MEDIATORS.

RIGHT. THE CLERK SENDS THEM RIGHT TO MEDIATION. IN ORANGE COUNTY, OSCEOLA COUNTY, AND A FEW OTHER COUNTIES AROUND THE STATE, YES, THEY DO.

THAT IS NOT THE PREDOMINANT PRACTICE. THAT IS AN ISOLATED PRACTICE?

NO. EVEN SOME COUNTIES THAT SEE A JUDGE DON'T ACTUALLY GET TO TALK TO THE JUDGE. THE JUDGE WILL GIVE AN OPENING SPEECH AND SAY YOU ARE ALL GOING TO GO OFF TO MEDIATION. WE EXPECT YOU TO SETTLE THIS CASE. WE ENCOURAGE YOU TO SETTLE IT OR WHATEVER, AND THEN SEND THEM OFF TO MEDIATION. THEY DON'T START HEARING THE CASES. THEY WILL SEND THEM OFF TO MEDIATION, BUT THEY WILL GIVE AN OPENING SPEECH, WHICH IS WHAT THEY CONSIDER THE PRETRIAL, SO IT IS A REAL COUNTY BY COUNTY CHANGE, AND DIFFERENT COUNTIES CHANGE, DEPENDING ON WHICH JUDGE IS THERE, TOO, BECAUSE SOME JUDGES WILL

SEE THE PEOPLE FIRST AND SOME WON'T, WITHIN THE SAME COUNTY. SO IT IS VERY SPECIFIC TO THE JUDGES. BUT I DO THINK THAT THE ANSWER FORM, EVEN IF YOU ELIMINATED QUESTION OR ANSWER ONE AND JUST HAD "SEND IN THE ANSWER FORM", AND THAT WOULD GET YOU TO MEDIATION OR PRETRIAL, AND ANYONE WHO DOESN'T SEND IN THE ANSWER FORM, ONE WAY OR THE OTHER, JUST A VERY SIMPLE THING FOR THE PEOPLE TO ANSWER TO OR EVEN BACK TO THE POSTCARD, THE ORIGINAL IDEA THAT SMALL CLAIMS COMMITTEE HAD WAS THE POSTCARD, JUST TO CHECK OFF AND SEND BACK, AND THERE IS, ALWAYS, THE OPTION, IF SOMEBODY MISS PLACES OR DOESN'T GET BACK TO THE COURT, THAT THEY CAN MOTION TO SET IT ASIDE. WHICH IS THE OPPOSITE NOW, WHEN SOMEONE GETS SUBSTITUTE SERVICE. THEY FIND OUT, LATER, THEY NEVER ACTUALLY GOT THE SUMMONS.

THANK YOU VERY MUCH, MS. REUTER.

MAY IT PLEASE THE COURT. MY NAME IS LYNN DRYSDALE, AND I AM ADDRESSING THE COURT, TODAY, BOTH IN MY CAPACITY AS A LEGAL SERVICES ATTORNEY WHO HEARS A LOT OR GETS A LOT OF CALLS FROM PEOPLE WHO HAVE RECEIVED THE NOTICE TO APPEAR SUMMONS AND FEEL FRUSTRATION AND INNOCENT --, AND IN MY INABILITY TO ADDRESS ALL OF THEIR CONCERNS, I FEEL THEY ARE MORE APPROPRIATELY ADDRESSED AND ADEQUATELY ADDRESSED, WITH THE NOTICE-TO-APPEAR SYSTEM, BUT I ALSO, WITH GREAT PRIDE, HIM ONE OF THE COUNTY COURT MEDIATORS IN DUVAL COUNTY, AND JUSTICE LEWIS, IN ADDRESSING YOUR CONCERNS, IN DUVAL COUNTY, THE PEOPLE WHO ARE AT THE PRETRIAL CONFERENCE ARE, FIRST, SHOWN A NICE VIDEO, WITH LOCAL ACTORS, JUST TALKING ABOUT WHAT MEDIATION IS, WHAT THE COURT PROCESS IS, AND THEY ARE INFORMED OF THE MEDIATION PROCESS THAT, IT IS A FREE SERVICE PROVIDED BY WELL-QUALIFIED MEDIATORS. THERE ARE ATTORNEYS, THERE ARE FORMER JUDGES, WE HAVE A FORMER STATE SENATOR WHO IS A MEDIATOR, AND THEY ARE OFFERED THIS OPPORTUNITY, ON THE SPOT, FOR FREE, AND DON'T HAVE TO COME BACK TO COURT, IF THE MATTER IS RESOLVED. AFTER THE FILM, EACH PERSON IS CALLED TO THE FRONT, AND THEN THEY ARE BEGIN AN OPPORTUNITY TO ADMIT OR DENY. IF THEY DENY OR HAVE ANY CONCERNS, THEY, THEN, TALK TO THE JUDGE, WHO IS PRESENT AT THE PRETRIAL CONFERENCE, TO LET THE JUDGE KNOW THEIR CONCERNS BRIEFLY, AND TO LET THE JUDGE KNOW HOW MUCH TIME THEY BELIEVE THEY WILL NEED TO PRESENT THEIR DEFENSES, AFFIRMATIVE DEFENSES, AND, IMPORTANTLY, COUNTERCLAIMS, WHICH I DON'T BELIEVE ARE ADDRESSED IN THE PRESENT FORMS. MY OTHER CONCERN WITH THE FORMS IS THAT WE HAVE SET UP, IN DUVAL COUNTY AND MANY OTHER COUNTIES, I THINK THE MAJORITY OF COUNTIES, THIS WONDERFUL OPPORTUNITY FOR FREE MEDIATION, WITH QUALIFIED SUPREME COURT CERTIFIED MEDIATORS THAT IS AN OPPORTUNITY TO PRO SE LITIGANTS ON THE SPOT, WITHOUT ANY FURTHER EXPENSE. THEY HAVE HAD TO TAKE OFF TIME TO COME TO THE COURT, ANYWAY, AND IT MAY ENABLE THEM TO SPEAK TO SOMEONE, GET AN IDEA WHAT THE PROCESS IS GOING TO BE LIKE, AND AT LEAST HAVE AN OPPORTUNITY TO PARTICIPATE. I AM AFRAID, WITH THE PRESENT FIRMS, IF -- I THINK IT IS ONLY GOING TO CAUSE TO INCREASE THE DEFAULT RATE, BECAUSE PEOPLE, BASED ON MY CONVERSATIONS WITH PEOPLE WHO GET THE NOTICES TO APPEAR NOW, THEY ARE GOING TO GET THE FORM. THEY ARE NOT GOING TO UNDERSTAND THAT THEY HAVE OF THIS OPPORTUNITY TO MEDIATE, THAT THEY MAY HAVE AFFIRMATIVE DEFENSES, JURISDICTION MAY BE WRONG, THAT THEY MAY HAVE COUNTERCLAIMS, WHICH THEY COULD BRING, NOW, UNDER THE PRESENT SYSTEM, THEY EITHER FILL OUT THIS ONE PIECE OF PAPER THAT HAS THE FOUR LIMITED OPTIONS, CERTAINLY NOT ALL OF THEIR OPTIONS. I SEE THAT PIECE OF PAPER GOING INTO THE TRASH, BECAUSE THEY DON'T KNOW HOW TO RESPOND, AND THEY FEEL FRUSTRATED, MORE FRUSTRATED WITH THE PROCESS.

MS. DRYSDALE, I AM AFRAID OUR TIME IS UP HERE. THANK YOU VERY MUCH FOR APPEARING IN YOUR INTEREST IN THIS. I AM GOING TO GIVE EACH OF THE LAST TWO SPEAKERS TWO MINUTES EACH, SO THAT WE CAN KEEP ON -- PLEASE OBSERVE THAT.

GLADLY. MY NAME IS BEN OXIL, AND I AM AN ATTORNEY AT FLORIDA -- MY NAME IS BEN OCHSHORN, AND I AM AN ATTORNEY WITH FLORIDA LEGAL SERVICES, TALLAHASSEE. I THOUGHT

THAT YOU MIGHT WANT SPECIFICS AS TO HOW MANY SMALL CLAIMS CASES ARE BEING RUN, AND I ASKED YOUR STAFF TO RUN THOSE NUMBERS, AND THEY WERE VERY GLAD TO. I ASKED THEM BACK TO 1990. I WILL SUBMIT THE STATISTICS TO THE CLERK'S OFFICE AND GIVE A COPY TO THE COMMITTEE. THEY SHOW THE ACTUAL NUMBER OF CASES FILED IN COUNTY COURTS, REQUESTING DAMAGES, HAS BEEN UNCHANGED, FROM 1990. IT WAS 214,000 IN 1990. IT WAS 1214,000 LAST YEAR. -- IT WAS 214,000 LAST YEAR. THE NUMBER IN SMALL CLAIMS COURTS IN 1990 WAS 165,000. THAT AMOUNT DROPPED TO A LOW, IN 1995, OF 1 12,000. AND THE NEXT YEAR, THE COURT EXERCISED DISCRETION ITS DISCRETION IN RAISING THE LIMIT FOR SMALL CLAIMS COURT CASES TO \$5,000. THAT NUMBER, THE NEXT YEAR, WENT UP, BUT IT NEVER REACHED THE 1990 LEVEL, AND CURRENTLY, IN 1999, THE AMOUNT OF FILINGS WERE 152000, SO ACTUALLY LESS THAN 1990, AND I HAVE THAT DECREASE ACTUALLY OCCURRED IN THE LAST TWO YEARS. THERE MAY BE OTHER ISSUES HERE, BUT A CASE LOAD IN SMALL CLAIMS COURT, WE FEEL, IS NOT ONE OF THEM. THE SECOND POINT WE WOULD MAKE IS THAT THESE RULES, HOWEVER, WILL HAVE A PARTICULARLY ADVERSE IMPACT ON LOW-INCOME PEOPLE. THEY ARE, OVERALL, LESS LITERATE, MORE DISABLED. THEY HAVE LESS TIME TO PREPARE FOR COURT CASES. AND THAT IS WHY WE ARE HERE. THANK YOU.

THANK YOU VERY MUCH.

MAY IT PLEASE THE COURT. I AM GEORGE WERNER. I PRACTICE IN CLEARWATER, BUT, REALLY, I HAVE A STATEWIDE PRACTICE FOR COUNTY COURTS, BECAUSE I REPRESENT A MAJOR RENT A CAR COMPANY THAT IS SELF-ASSURED, AND I FILE CASES, THROUGHOUT FLORIDA, AND I HAVE BEEN TO MAJOR COUNTIES AND MINOR COUNTIES. MY COMMENT IS PRIMARILY CONCERNED WITH THE AMENDMENT TO RULE 7.070. WHICH IS THE SERVICE OF PROCESS BY CERTIFIED MAIL RULE. AS THE COMMITTEE HAS PROPOSED IT TO THE COURT, IT IS BASICALLY JUST A TYPOGRAPHICAL ERROR CHANGE. INSTEAD OF PUTING IN A COMMA, THAT IS TAKING AWAY AN APOSTROPHE. THAT SORT OF THING. WHAT I AM ASKING THE COURT TO DO IS CLARIFY A PROBLEM THAT I HAVE RUN INTO, THROUGHOUT THE STATE, AND IT IS REFLECTIVE OF THE ANSWER PROBLEM THAT--- OR APPEARANCE PROBLEM THAT THE COURT IS DEALING WITH TODAY. NO TWO COURTS DO THINGS THE SAME WAY. IN FACT, OFTENTIMES, JUDGES IN THE SAME CIRCUIT OR THE SAME COUNTY WILL CONDUCT SMALL CLAIMS DIFFERENT WAYS, AND IN THE APPLICATION OF CERTIFIED MAIL RULE, MOST OF THE JUDGES IN THE STATE AND THE COMMITTEE AGREES WITH ME, ON THIS, MOST OF THE JUDGES ALLOW THE ATTORNEYS TO MAIL THE CERTIFIED MAIL, BECAUSE IT IS NOT THE ATTORNEY SERVING THE PROCESS. IT IS THE POST MASTER OR THE MAILMAN OR MAIL WOMAN.

DOES IT MAKE IT WRONG, IF THE DEFENDANT RECEIVES IT BY CERTIFIED MAIL. WHAT PRACTICAL DIFFERENCE DOES IT MAKE?

IT DOESN'T MATTER IF THE CLERK SERVES IT OR THE ATTORNEY.

YOU WANT TO MAKE IT GENERAL PRACTICE? IS THAT RIGHT?

THAT IS THE GENERAL PRACTICE, THROUGHOUT THE STATE, AND EVEN YESTERDAY I PUT IN MY AND', WHICH I PUT IN THE APES -- IN MY APPEAL, WHICH I PUT IN THE PAPERS WHICH I FILED WITH THE COURT, AND EVEN YESTERDAY I RECEIVED, FROM THE CLERK OF CIRCUIT COUNTY, THE CIRCUIT PANEL OF THREE JUDGES, SAID THAT BASICALLY, WHILE I RAISE GOOD POINTS IN MY BRIEF, THE-ON IT IS I AM -- THE -- IT IS IMPLIED IN THE RULE, AS THE RULE IS NOW WRITTEN, THAT ONLY THE CLERK CAN DO IT, BECAUSE OF THE PORTION OF THE RULE THAT SAYS "IN ADDITION TO THE FILING FEE", THAT THE COST WILL BE ASSESSED, IN ADDITION TO THE FILING FEE.

YOU EXPRESSED THAT TO THE ATTORNEYS.

YES. IF I MAY GO OUTSIDE MY --

I AM AFRAID YOUR TIME IS UP. THANK YOU VERY MUCH.

THANK YOU, YOUR HONOR.

I WOULD LIKE TO ADDRESS SEVERAL OF THESE POINTS. FIRST AND FOREMOST, THE ANSWER FORM THAT MS. REUTER HAS PROPOSED, I THINK, DOES ADDRESS SOME OF THESE PROBLEMS. THIS FORM, EVEN OUR FORM THAT WAS ORIGINALLY PROPOSED BUT EVEN THIS FORM IS EVEN SIMPLER. IT IS, CERTAINLY, SIMPLER THAN MANY OF THE FORMS THAT ARE CURRENTLY USED THAT COMMON MAN HAS TO FILL OUT TODAY. IT IS CERTAINLY SIMPLER THAN A TAX FORM. IT IS CERTAINLY SIMPLER THAN TRYING TO FILE A SMALL CLAIMS CASE. IT IS CERTAINLY SIMPLER THAN THE SIMPLIFIED DISSOLUTION OF MARRIAGE FORMS THAT THIS COURT HAS APPROVED. THIS FORM IS VERY SIMPLE, AND OUR PROPOSAL IS NOT GOING TO TAKE AWAY ANYBODY'S RIGHTS, ANYBODY'S OPPORTUNITY TO SHOW UP IN COURT. ALL THEY HAVE TO SIMPLY DO IS SAY I WANT TO GO TO COURT, AND THEN THEY HAVE EVERY OPPORTUNITY THAT CURRENTLY EXISTS, UNDER THE PRESENT SYSTEM. THAT IS ALL THAT IS NECESSARY. CHECK IT OFF AND MAIL IT IN.

WHAT IS THE BAFING MAKEUP OF YOUR COMMITTEE?

WE HAVE SEVERAL JUDGES.

SEVERAL COUNTY JUDGES?

YES. I THINK, WHAT, WE HAVE THREE COUNTY JUDGES, JUDGE RUTH, JUDGE GILMAN, AND JUDGE TOM FREEMAN, FROM PINELLAS COUNTY. WE HAVE A NUMBER OF ATTORNEYS WHO PARTICIPATE IN DOING A HIGH VOLUME COLLECTIONS PRACTICE, AS WELL AS A NUMBER OF ATTORNEYS WHO DO A WIDE RANGE OF OTHER THINGS. WE HAVE, CERTAINLY, IN THE PAST, HAD PEOPLE WHO HAVE BEEN INVOLVED IN LEGAL AID. WE HAVE A TOTAL OF 28 MEMBERS. SO THERE IS A WIDE RANGE, AND TYPICALLY, IT IS ATTORNEYS WHO SPEND A SUBSTANTIAL AMOUNT OF TIME IN SMALL CLAIMS COURT AND HAVE A WIDE RANGE OF EXPERIENCE.

BUT JUST IN FOLLOWING WHAT JUSTICE WELLS IS ASKING, FOR THIS COMMITTEE THAT PROPOSED THIS RULE, YOU SAID THAT YOU, FROM TIME TO TIME, HAVE HAD PEOPLE THAT ARE LEGAL SERVICES ATTORNEYS, WHICH, I GUESS, WOULD BE THE PREDOMINANT NUMBER OF TYPES OF ATTORNEYS THAT WOULD REPRESENT PEOPLE IN SMALL CLAIMS COURT. WHAT, AT THE TIME THIS RULE HAS BEEN PROPOSED, WHAT WAS, OF THE 28, HOW MANY WERE REPRESENTING OR HAD THE INTEREST OF THE PEOPLE BEING SUED, AS PART OF THEIR PRACTICE? DO YOU KNOW THAT?

SINCE I AM THE NEW INCOMING CHAIR, I HAVEN'T NECESSARILY HAD ALL THE STANDARDICS OF THE MEMBERS IN THE PAST. I -- ALL OF THE STATISTICS OF THE MEMBERS IN THE PAST. I DO RECALL CERTAIN INDIVIDUALS. ONE FRIEND OF MINE, ALANA BRYNER, WAS ON OUR COMMITTEE FOR A WHILE FROM ORANGE COUNTY, WHILE THIS PROCESS WAS BEING DISCUSS, AND SHE WAS AN ATTORNEY FOR ORANGE COUNTY LEGAL SERVICES AT THE TIME. THERE HAVE BEEN SEVERAL OTHER -- I THINK ONE OF OUR CURRENT VICE CHAIRS, CERTAINLY, ON A REGULAR BASIS, ARGUES THE DEFENDANT'S SIDE OF THINGS, EUNICE MARTIN, SO WE HAVE A NUMBER OF PEOPLE WHO ARE VERY AWARE AND VERY VOCAL ABOUT PROTECTING THE RIGHTS OF THE DEFENDANTS. THIS PROPOSAL, IN PARTICULAR, WE BELIEVE, IS NOT GOING TO TAKE AWAY ANY OF THOSE RIGHTS. THEY ARE GOING TO HAVE EVERY OPPORTUNITY TO ASK FOR MEDIATION. MEDIATION IS A FANTASTIC PROCESS. AND THE TIMES THAT I HANDLE SMALL CLAIMS CASES, I LOVE MEETING SOMEBODY AT MEDIATION, BECAUSE I CAN RESOLVE MY CASE MUCH MORE QUICKLY THAN IF I HAVE AN INDIVIDUAL WHERE I SIMPLY HAVE A DEFAULT. BUT THIS PROPOSAL, ALSO, IS NOT A NEW IDEA. THERE ARE SEVEN STATES IN THE COUNTRY THAT CURRENTLY HAVE WRITTEN ANSWERS IN PRETRIALS. WE HAVE A LIST OF THEM, ALSO. ALABAMA, GEORGIA, IOWA, LOUISIANA, OREGON, SOUTH CAROLINA, AND VERMONT. THOSE ARE THE OTHER STATES THAT, ALSO, HAVE WRITTEN ANSWER IN HIS SMALL CLAIMS CASES.

IS THAT TO SAY, THEN, THE REST OF THE STATES HAVE A PROCEDURE, AS FLORIDA CURRENTLY HAS?

THE STATES VARY WIDELY.

FOR BIG STATES, LIKE NEW YORK AND CALIFORNIA, IS THEIR PRACTICE TO REQUIRE WRITTEN ANSWERS? YOU DON'T KNOW?

WELL, IT IS DIFFICULT TO SAY, BECAUSE EACH STATE IS DIFFERENT. SOME STATES, IN FACT, HAVE A SMALL CLAIM JURISDICTION THAT EXCLUDE ATTORNEYS. USUALLY THE AMOUNT IS MUCH LOWER THAN FLORIDA'S, AND THEY HAVE A CONCURRENT JURISDICTION, SO ATTORNEYS CAN USE A COUNTY COURT PROCEDURE, BUT THE SMALL CLAIMS PROCEDURE, WHICH IS THE NEIGHBOR VERSUS NEIGHBOR VENUE, IS SEPARATED OUT. THERE ARE A NUMBER OF STATES WHICH EXCLUDE ATTORNEYS IN SMALL CLAIMS CASES, BUT THEY HAVE A CONCURRENT JURISDICTION. IN CALIFORNIA, IT IS, IN FACT, ONE OF THOSE THAT EXCLUDES ATTORNEYS IN THE SMALL CLAIM VENUE. THIS COMMITTEE HAS, REALLY, SOUGHT TO TRY TO REVIEW THE PURPOSES OF THE SMALL CLAIMS RULES. IN RULE 7.010, THE RULE SAYS THESE RULES SHALL BE CONSTRUED TO IMPLEMENT THE SIMPLE SPEEDY AND INEXPENSIVE TRIAL OF ACTIONS AT LAW, IN COUNTY COURTS. AND THAT IS WHAT WE HAVE BEEN SEEKING TO DO WITH THIS RULE. WE ASSERT THAT IT WILL NOT TAKE AWAY ANYBODY'S RIGHTS. THE FORM, ESPECIALLY THE FORM PROPOSED BY MS. REUTER, IS EXTREMELY SIMPLE. CERTAINLY SIMPLER THAN WHAT MOST PEOPLE DO NOWADAYS, IN TERMS OF NORMAL LIFE, OTHER THING THAT IS ARE INVOLVED, AND WE BELIEVE THAT THIS WILL ALLOW THE COURTS TO HANDLE THE VOLUME THAT EXISTS. NOW, THE VOLUME MAY HAVE DECREASED SINCE 1990. I HAVE BEEN ON THIS COMMITTEE SINCE '92, SO I DON'T KNOW ABOUT 1990, BUT IT IS IMPORTANT, OBVIOUSLY THE NUMBERS OF COUNTY JUDGES HAVE BEEN INCREASING, IN ORDER TO TRY TO HANDLE THE CASELOADS THAT EXIST. THERE WON'T --

IT IS KIND OF INTERESTING, THOUGH, IF THE AMOUNT HAS STAYED STABLE. WE HAVE MORE COUNTY COURT JUDGES. I GUESS WE WILL JUST HAVE TO LOOK AT HOW THAT WORKLOAD HAS BEEN ALLOCATED.

I THOUGHT THOSE NUMBERS WERE INTERESTING, TOO. IT WAS SOMETHING I DIDN'T KNOW. BUT IT IS IMPORTANT FOR US TO TRY TO MAKE A SYSTEM THAT WILL ALLOW THINGS TO WORK EFFICIENTLY, WITHOUT TAKING AWAY ANYTHING FROM THE EXISTING SYSTEM.

JUSTICE SHAW HAS A QUESTION.

HOW WOULD YOU RESPOND TO THE JUDGE'S COMMENT THAT THE CURRENT RULES ARE ADEQUATE AND PROVIDE FOR MANY OF THESE THINGS YOU ARE SUGGESTING?

AS MS. REUTER WAS SAYING, IF HER PERSONAL KNOWLEDGE, AND, CERTAINLY, FROM MY PERSONAL KNOWLEDGE, ALTHOUGH THE CURRENT SYSTEM MAY WORK, IT IS, ALSO, EXTREMELY IN EFFICIENT. YOU HAVE A LOT OF PEOPLE SHOWING UP IN COURT, WAITING AROUND FOR NOTHING. FOR NOTHING TO HAPPEN, ONE. A DEFAULT IS -- NOTHING TO HAPPEN, OFTEN, AND A DEFAULT IS ENTERED FROM THE PLAINTIFF'S SIDE. FROM THE DEFENDANT'S SIDE, ONE OF THE COMMENTS WAS THAT THE DEFENDANTS DON'T HAVE ADEQUATE TIME TO PREPARE BECAUSE THEY ARE NOT AS SOPHISTICATED. THIS PROPOSAL WILL GIVE THEM ADEQUATE TIME TO PREPARE. ONCE THEY RECEIVE SERVICE OF PROCESS, THEY ARE GOING TO HAVE 20 DAYS, INSTEAD OF HAVING TO SHOW UP IN COURT THE NEXT DAY. THEY ARE GOING TO HAVE THAT ADEQUATE TIME TO CALL LEGAL SERVICES, IF THAT IS WHAT THEY NEED TO DO. THEY ARE GOING TO HAVE ADEQUATE TIME TO CALL THE CLERK'S OFFICE, AND, IN FACT, UNDER THE SMALL CLAIMS RULES, THE CLERK IS ALLOWED TO PROVIDE SOME ASSISTANCE TO PARTIES, IN TRYING TO FILL THESE THINGS OUT. THIS SIMPLIFIED ANSWER, CERTAINLY, IS VERY SIMPLE, BUT THEY HAVE ADEQUATE TIME TO CALL THE CLERK'S OFFICE AND ASK ON THAT ASSISTANCE. THEY WILL, ALSO, NOT HAVE TO BE IN A TOUGH SITUATION, WHERE THEY ARE DECIDING DO I SHOW UP AT

WORK OR DO I GO TO COURT. THAT SQUEEZE WILL NOT EXIST. SO IT WILL BENEFIT THE DEFENDANTS. IT WILL, ALSO, BENEFIT THE MEDIATION PROGRAMS. THERE IS A MAJOR PROBLEM, AS MS. REUTER SAID, OF NOT KNOWING HOW MANY MEDIATORS YOU NEED, AND THESE PEOPLE ARE VOLUNTEERS. IS PRETTY BAD, WHEN YOU HAVE A WHOLE BUNCH OF MEDIATORS THERE AND ONLY A FEW CASES TO MEDIATE. IT IS, ON THE OTHER HAND, REALLY TOUGH FOR ALL OF THE LITIGANTS, IF THERE ARE ONLY TWO MEDIATORS AND 15 OR 16 CASES TO MEDIATE IN AN HOUR AND-A-HALF. THIS WILL HELP ELIMINATE THAT. IT WILL ALLOW MEDIATION TO BE SCHEDULED AT WHATEVER TIME THE MEDIATORS ARE, IN FACT, AVAILABLE. IT PROVIDES A GREAT DEAL OF FLEXIBILITY FOR INDIVIDUAL COURTS, DEPENDING UPON THE CIRCUMSTANCES, AND, IF A PARTY WANTS TO SEND IN AN ANSWER WITH MORE OF AN EXPLANATION, THEY CAN CHOOSE TO DO SO, AND THE COURT CAN DEAL WITH THAT, ON AN AS-NEEDED BASIS.

THANK YOU VERY MUCH. WE APPRECIATE ALL THE WORK OF THE COMMITTEE AND WE APPRECIATE EACH ONE OF YOU BEING HERE AND GIVING US THE BENEFIT OF YOUR EXPERIENCE AND KNOWLEDGE IN THIS AREA AND REGRET THAT WE DID NOT HAVE MORE TIME THAT WE COULD HAVE FOR YOUR COMMENTS. BUT THANK YOU VERY MUCH, FOR BEING HERE.