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Amendments to the Florida Rules of Civil Procedure

THE NEXT WILL BE THE AMENDMENTS TO THE RULES OF CIVIL PROCEDURE.

MAY IT PLEASE THE COURT. NAME IS LORI TERENS, AND I AM HERE, TODAY, TO PRESENT TO YOU THE COMMITTEE'S REPORT CONCERNING THE RULES OF CIVIL PROCEDURE. THE RECOMMENDATION OUR COMMITTEE FALL INTO THREE BASIC CATEGORIES. THE FIRST CATEGORY CONSISTS OF EDITORIAL CHANGES TO THE RULES. THESE CHANGES, THESE PROPOSED CHANGES, DO NOT GO THROUGH OUR NORMAL INTERNAL PROCEDURES OF THE COMMITTEE, WHERE WE APPOINT A SUBCOMMITTEE, HAVE A REPORT, SUBCOMMITTEE REPRESENTS THE REPORT, STUDIES THE ISSUE, AND WE HAVE TWO VOTES ON EVERY PROPOSAL. THE EDITORIAL CHANGES ARE, USUALLY, HANDLED BY OUR BAR LIAISON, MADELEINE HORWITZ, WHO WORKS FOR THE FLORIDA BAR. THOSE CHANGES ARE PRETTY MUCH SELF-EXPLANATORY, AND IN THE QUADRANIAL REPORT, IN THE THIRD PARAGRAPH, I LIST THOSE PARAGRAPHS WHERE THERE ARE EDITORIAL CHANGES. THE OTHER TWO CATEGORIES ARE RECOMMENDATIONS WHICH HAVE GONE THROUGH OUR INTERNAL PROCEDURES, WHERE THERE THEY ARE STUDIED BY A SUBCOMMITTEE. THOSE TWO CATEGORIES CONSIST OF, FIRST, RESPONSES TO INCREASE POSED BY THIS COURT, AND THE OTHER CATEGORY ARE RESPONSES TO INQUIRIES, WHICH HAVE COME FROM EITHER MEMBERS OF THE COMMITTEE OR PEOPLE OUTSIDE OF OUR COMMITTEE, ASKING OUR COMMITTEE TO REVIEW THOSE MATTERS. FIRST, WE WILL ADDRESS OUR RESPONSES TO THE QUESTIONS POSED TO OUR COMMITTEE BY THIS COURT. FIRST, AND I WILL ADDRESS THEM IN THE ORDER IN WHICH THEY APPEAR IN THE RULES. SO, FIRST, I WILL ADDRESS RULE 1.061, WHICH DEALS WITH FORM NONCONVENIENCE, AND AS YOU RECALL, THIS COURT, IN THE KENNY CASE, DECIDED TO ADOPT, FOR FLORIDA, THE FEDERAL DOCUMENT FORM NONCONVENIENCE, AND DETERMINED THAT, BECAUSE AT THAT TIME IT WAS A SUBSTANTIAL DEPARTURE FROM EXISTING LAW, THAT THE COURT, IN THAT CASE, WOULD ADOPT AN EMERGENCY RULE TO GUIDE US THROUGH THOSE PROCEDURES. IN THAT OPINION, THE COURT ASKED OUR COMMITTEE TO REVIEW THE EMERGENCY RULE AND COMMENT ON IT. OUR COMMITTEE DID REVIEW THE RULE, AND THERE WAS A MINORITY OF THE COMMITTEE THAT WANTED TO LEAVE THE RULE JUST AS IT WAS, AS IT WAS ADOPTED IN THE KENNY CASE, AND THERE WAS ANOTHER GROUP THAT WANTED TO GO WELL BEYOND WHAT WAS IN THAT RULE, BUT WHAT THE COMMITTEE ULTIMATELY DETERMINED WAS -- ULTIMATELY DETERMINED WAS THAT IT WOULD BE ADD VIABLE TO MAKE FOUR CHANGES TO THE EMERGENCY RULE, AND THOSE CHANGES ARE SET FORTH IN THE REPORT. THE FIRST TWO CHANGES INVOLVE CLARIFYING PROVISIONS IN SUBDIVISION A-1. AND B. THE THIRD CHANGE INVOLVES AN ADDITION OF A TIME PERIOD FOR FILING SUCH MOTIONS. THERE WAS SOME DISAGREEMENT AS TO WHETHER A TIME PERIOD IS ADVISEABLE AND HOW LONG THE TIME PERIOD SHOULD BE. HOWEVER, THE MAJORITY VOTED THAT IT THOUGHT THAT A 60-DAYTIME PERIOD WOULD BE ADVISABLE FOR JUDICIAL EFFICIENCY, AND THE FOURTH CHANGE INVOLVES SUBDIVISION H. BY THE WAY, THE THIRD CHANGE WAS IN SUBDIVISION G. THE FOURTH CHANGE IS SUBDIVISION H. WHICH WAS DESIGNED TO FACILITATE THIS PROCEDURE. THE COMMITTEE, ALSO, INCLUDED A COMMITTEE NOTE WITH THOSE THOSE PROPOSED RULE CHANGES -- WITH THOSE PROPOSED RULE CHANGES.

YOU HAVE DONE A LOT OF CLARIFICATION HERE, IN TERMS OF SOME OF THESE MODEST CHANGES. YOU HAVE, REALLY, DRAWN VERY FEW RESPONSES OR COMMENTS, BUT I WONDER, WITH REFERENCE TO OUR TIME HERE, TODAY, IF YOU COULD JUST FOCUS ON THOSE ISSUES WHERE YOU HAVE DRAWN SOME COMMENT. YOU KNOW, WE HAVE, ALL, READ THE PROPOSED CHANGES AND THE COMMITTEE --

IN TERMS OF 1.061 OR ALL OF THE CHANGES?

ALL.

IN TERMS OF THE COMMENTS WHICH WERE FILED WITH THE SUPREME COURT OR IN TERMS OF COMMENTS WHICH WERE MADE IN THE COMMITTEE?

WITH THE SUPREME COURT. IF YOU COULD FOCUS ON THOSE.

THE ONLY COMMENTS WHICH I AM AWARE OF ARE -- IS THE RESPONSE OF HENRY TRAWICK. AND I WILL JUST GO THROUGH THOSE COMMENTS IN ORDER. HE FILED THREE PAGES OF COMMENTS ON -- ACTUALLY SERVED THEM ON MAY 10, 2000. THE FIRST ONE PERTAINS TO RULE 1.080-F, THE RECOMMENDED CHANGE IS AN EDITORIAL CHANGE. WE LOOKED AT THAT COMMENT, AND I THINK MR. TRAWICK IS CORRECT ON THAT, AND WE WOULD RECOMMEND THAT THE WORDS "THIS BLANK DAY OF BLANK", BE DELETED, BUT IN ORDER TO DO THAT, WE WOULD RECOMMEND ADDING THE WORD "ON" BEFORE THE WORD "DATE". THE SECOND COMMENT CONCERNS THE COMMAS, IN RULE 1.200-A, AND, AGAIN, THAT WAS AN EDUCATORRAL CHANGE. AND -- AN EDITORIAL CHANGE, AND I CONSULTED OUR GRAMMATICAL EXPERT, AND IT WAS DETERMINED THAT, EITHER, THE COMMAS SHOULD BE IN THERE OR THERE WAS ONE OTHER DRAMATICALLY-CORRECT WAY TO DO IT -- GRAMITICALLY-CORRECT WAY TO DO IT, AND I WOULD PROPOSE THAT WOULD BE IN CHANGING THE RULE. THE THIRD COMMENT CONCERNED RULE 1.332-B, AND I WOULD POINT OUT TO THE COURT, AND THAT IS THE OFFER FOR PROPOSAL OF SETTLEMENT RULE. I WOULD POINT OUT TO THE COURT THAT THE RECOMMENDED CHANGES THAT OUR COMMITTEE PROPOSED FOR THAT RULE PER TANLED TO TWO AREAS. ONE INVOLVES -- PERTAINED TO TWO AREAS. ONE INVOLVES THE TIME PERIOD IN CLASS ACTION RULES. CLASS ACTION CASES. EXCUSE ME. AND THE OTHER INVOLVES THE TIME FOR FILING MOTIONS FOR ATTORNEYS' FEES, AND THE COMMITTEE DECIDED TO INCLUDE THAT PROVISION, SO THAT THE NEW ATTORNEYS' FEES RULE, WHICH IS PROPOSED, USE BE CONSISTENT. -- WOULD BE CONSISTENT. THE COMMITTEE DID NOT GO BACK AND REVIEW AND EVALUATE THE OTHER PROVISIONS OF RULE 1.442. THERE WAS ANOTHER CHANGE PROPOSED TO 1.442, WHICH WAS NOT A SUBSTANTIVE CHANGE, WHICH INVOLVED THE NAME OF SUBSECTION B.

LET ME JUST ASK YOU ABOUT THIS QUESTION ABOUT THE CLASS CERTIFICATION. MY UNDERSTANDING THAT YOU ARE EXTENDING THE TIME FOR SOMEONE TO BE ABLE TO RESPOND TO AN OFFER OF JUDGMENT, UNTIL 30 DAYS AFTER. IT IS STILL KEEPING THE REQUIREMENT THAT, EVEN IN CLASS CERTIFICATIONS, THERE IS STILL AN ABSOLUTE DEADLINE OF 45 DAYS PRIOR TO TRIAL. TO SERVE THESE OFFERS.

I BELIEVE THAT IS CORRECT.

YOU WOULDN'T WANT TO -- THE INTENT WASN'T TO TRY TO MOVE UP FOR CLASS CERTIFICATION, TO CLOSURE TO TRIAL, WAS IT?

NO.

OKAY. NORMALLY, I GUESS, THERE WOULD BE CLASS CERTIFICATION, A REASONABLE TIME BETWEEN THEN AND THE ACTUAL TRIAL?

WOULD YOU SHARE, WITH US, SOME OF THE DISCUSSIONS THAT THE COMMITTEE HAD, WITH REGARD TO THE PROBLEMS THAT HAVE BEEN ENCOUNTERED IN THE CLASS ACTION LITIGATION, TO ELIMINATE WHAT THE PROBLEMS THAT WERE ENCOUNTERED, AND THIS IS GOING TO SOLVE.

YES, I WOULD.

OKAY.

THERE WAS NOT EXTENSIVE DISCUSSION INVOLVING THIS RULE CHANGE. THE -- THERE WAS A LETTER SENT TO OUR COMMITTEE, BY A COMMITTEE MEMBER, SUGGESTING THE INITIAL ACTUALLY SUGGESTED THIS CHANGE OR REMOVING CLASS ACTIONS FROM THE RULE, ALL TOGETHER. THE LETTER ATTACHED BRIEFS WHICH WERE FILED IN THE ARUGA CASE, AND THAT -- THOSE WERE THE MATERIALS WHICH WERE SUBMITED TO OUR COMMITTEE. A SUBCOMMITTEE WAS APPOINTED, AND THE SUBCOMMITTEE, I PRESUME, ABANDONED THE CONCEPT OF ELIMINATING THE -- ELIMINATING CLASS ACTION CASES FROM THE RULE, AND THAT IS, PROBABLY, BASED ON THE ANALYSIS IN THE ARUGA CASE. THE -- WHEN THE PROPOSAL WAS, FIRST, SUBMITTED TO OUR COMMITTEE, THERE WAS VERY LITTLE DISCUSSION, AND THE COMMITTEE ALMOST UNANIMOUSLY APPROVED THE CHANGE. THEN THE CHANGE WENT TO THE DRAFTING SUBCOMMITTEE, WHICH MADE SOME MINOR CHANGES AND CAME BACK TO THE FULL COMMITTEE AND, AGAIN, THERE WAS VERY LITTLE DISCUSSION. THE DISCUSSIONS AT THAT MEETING, REALLY, PERTAINED TO TECHNICAL USE OF LANGUAGE IN THAT SUBDIVISION.

BUT IT IS DESIGNED TO COVER THE SITUATION, SO YOU WILL KNOW WHETHER IT IS A CLASS ACTION OR NOT, BEFORE YOU HAVE TO, EVEN, DEAL WITH THE OFFER OF SETTLEMENT.

CORRECT.

TO RESOLVE THAT FUNDAMENTAL PROBLEM.

CORRECT. AND THE BRIEFS, WHICH WERE SUBMITTED IN THE ARUGA CASE, SET OUT THE TYPES OF PROBLEMS THAT THIS IS DESIGNED TO ADDRESS. BACK ON MR. TRAWICK'S COMMENTS, SO, THE COMMENT ON THAT RULE IS SOMETHING THAT THE COMMITTEE HAS NOT LOOKED INTO, AND UNDER OUR PROCEDURES, WE WOULD NEED TO HAVE SOMEONE BRING THIS UP TO THE COMMITTEE, APPOINT A SUBCOMMITTEE, AND LOOK INTO THIS SPECIFIC QUESTION. THE NEXT SET OF COMMENTS PERTAINED TO THE RECOMMENDATIONS TO REVISE RULE 1.560, WHICH PERTAINS TO DISCOVERY IN AID OF EXECUTION, ALONG WITH THE PROPOSED ACCOMPANYING FORM. THIS PROPOSAL IS MODELED AFTER A PROCEDURE IN THE SMALL CLAIMS RULES, WHICH WAS ADOPTED IN 1996, AND ACCORDING TO THE CHAIR OF THE SUBCOMMITTEE, WHICH PROPOSED THIS, IT HAS WORKED VERY WELL IN SMALL CLAIMS CASES, AND IT IS DESIGNED TO JUST FACILITATE THAT PROCEDURE. OUR COMMITTEE DISAGREES WITH THE COMMENTS MADE BY MR. TRAWICK ON THAT ISSUE. I WILL GO THROUGH THEM, AND MAKE SOME SPECIFIC COMMENTS. I DON'T THINK IT IS INTENDED TO REPLACE THE INADEQUACY OF INTERROGATORIES. IT IS JUST ANOTHER SIMPLIFIED PROCEDURE. WE DIDN'T SEE HOW IT WOULD MAKE A DIFFERENCE IN DEFAULT CASES, AND IN FACT, THIS PROCEDURE HAS BEEN USED SUCCESSFULLY IN SMALL CLAIMS CASES, IN DEFAULT SITUATIONS.

WOULD YOU GO BACK --

HE SEEMS TO CRITICIZE THE -- SOME PRIVACY ISSUES THAT ARE INVOLVED, WITH REGARD TO TELEPHONE NUMBERS, SOCIAL SECURITY NUMBERS, THINGS THAT SEEM TO BE SAYING YOU ARE MAKING PUBLIC THAT, REALLY, SHOULD NOT BE INCLUDED. WHAT KIND OF RESPONSE DO YOU THINK IS APPROPRIATE?

WELL, I HAVE A COUPLE OF COMMENTS, WITH REGARD TO THAT. THIS IS NO DIFFERENT FROM REGULAR DISCOVERY. THE PROPOSED PROCEDURE PROVIDES THAT THE ANSWERS ARE SERVED ON THE OPPOSING SIDE, NOT FILED WITH THE COURT, UNLESS IT IS NECESSARY FOR SOME COURT DETERMINATION, AND THAT WOULD BE TRUE IN MOST CASES, IN DISCOVERY. AND IN TERMS OF DISCOVERY IN AID OF EXECUTION, THIS INFORMATION IS NECESSARY INFORMATION FOR THE CREDITOR TO DISCOVERY THE ASSETS. SO WE DON'T SEE THAT AS A PROBLEM.

WOULD YOU GO FURTHER ON THE RULES. I WANTED TO GO BACK TO A SPECIFIC COMMENT, BUT I WANTED TO MAKE SURE I UNDERSTAND RULE 1.525 IS A NEW RULE GOVERNING MOTIONS FOR

COST AND ATTORNEY FEES, AND IT SAYS ANY PARTY SEEKING A JUDGMENT, TAXED COSTS AND ATTORNEYS FEES, SHALL FILE A MOTION WITHIN 30 DAYS AFTER FILING OF THE JUDGMENT, SO THAT SETS AN OUTER TIME LIMIT FOR FILING THIS. WAS THIS INTENDED TO CHANGE SOME OF THE COURT'S PRIOR CASE LAW THAT SAID THAT THERE HAS GOT TO BE PRIOR NOTICE, BEFORE THE ENTRY OF THE JUDGMENT, THAT A PERSON IS CLAIMING ATTORNEYS FEES, OR IS THIS INTENDED TO SUPERSEDE IT, SO SO LAST LONG AS IT IS A MOTION FOR ATTORNEYS FEES THAT IS FILED 30 DAYS AFTER THE JUDGMENT, THE COURT WILL HAVE JURISDICTION TO AWARD ATTORNEYS' FEES?

ARE YOU ASKING WHETHER THIS RULE CHANGES PLEADING REQUIREMENTS, UNDER THE STOCK MAN CASE?

YES.

I DON'T THINK SO. IT DOESN'T ADDRESS IT.

SURE, IF I WAS READING IT AND I WAS AN ATTORNEY WHO HADN'T PLED IT EARLIER, I WOULD SURE MAKE THAT ARGUMENT. THAT WAS NOT DISCUSSED?

YOU HAVE JUST INTENDED TO CODIFY A TIME LIMIT AFTER JUDGMENT, IN WHICH THE MOTION SHOULD BE FILED.

THAT'S CORRECT. THE RULE JUST REFERS TO THE FILING OF THE MOTION. THE RULE DOESN'T MAKE ANY REFERENCE TO PLEADING REQUIREMENTS, AND THE COMMITTEE NOTE TO THE RULE EXPLAINS THE PURPOSE OF THE RULE. LET ME REFER TO THAT. IT JUST SAYS THE RULE IS INTENDED TO ESTABLISH A TIME REQUIREMENT TO SERVE MOTIONS FOR ATTORNEYS FEES AND COSTS.

DOESN'T THAT IMPLY THAT, IF IT IS FILED WITHIN 30 DAYS AFTER JUDGMENT, IT IS TIMELY AND IT SHOULD BE CONSIDERED?

WELL, THE MOTION IS. BUT THAT DOESN'T ADDRESS PLEADING REQUIREMENTS. THAT IS TWO DIFFERENT QUESTIONS. PERHAPS, IN LIGHT OF THE QUESTION YOU RAISED, PERHAPS A COURT COMMENTARY WOULD BE ADVISABLE, MAKING THAT DISTINCTION.

I THINK YOU ALREADY IN YOUR REBUTTAL TIME. YOU MAY CONTINUE. YOU ARE IN YOUR REBUTTAL TIME. I WANT YOU TO BE AWARE OF THAT.

I WILL JUST PROBABLY BE EASIER IF I JUST FINISH GOING THROUGH MR. TRAWICK'S COMMENTS, AND THEN IF THE COURT HAD ANY OTHER QUESTIONS. AS TO FORM 1.996, THE REFERENCE IN THAT NOTE IS TO A JUDGMENT LIEN NOT A MORTGAGE LIEN. AND THE COMMITTEE, I SENT THIS BACK TO THE SUBCOMMITTEE CHAIR, AND HIS CONCLUSION WAS THAT HE DID NOT THINK THAT THIS WOULD CREATE ANY CONFUSION. ON THE QUESTION, THE FINAL MATTER, ATTORNEYS FEES, WHERE THE APOSTROPHE GOES, THE INTENTION OF THAT RULE CHANGE IS TO MAKE THEM CONSISTENT THROUGHOUT THE RULES, AND IN MANY, MANY CASES CONCERNING ATTORNEYS' FEES AND TREATISES, THE APOSTROPHE IS IN THE PLACE WHERE WE PUT IT. IT IS A STYLISTIC QUESTION. I DON'T THINK IT IS A MAJOR ISSUE. ARE THERE ANY OTHER QUESTIONS?

THANK YOU.

WOULD YOU JUST SHARE, JUST ONE MOMENT, WITH THE COURT, JUSTICE PARIENTE RAISED A QUESTION WITH REGARD TO THE TIMING FOR THE FILING OF THE MOTION FOR ATTORNEYS' FEES. WOULD YOU SHARE WITH HER OR WITH THE COURT THE AMOUNT OF TIME THAT THE COMMITTEE SPENT, JUST ON THAT ONE RULE?

ON THE ATTORNEYS' FEE RULE?

JUST THAT ONE RULE.

YES. THE COMMITTEE SPENT A CONSIDERABLE AMOUNT OF TIME ON THIS RULE. IN FACT, THE SUBCOMMITTEE DID A SUBSTANTIAL AMOUNT OF WORK ON THIS ISSUE. THEY PRESENTED MEMORANDA TO THE FULL COMMITTEE. THEY PRESENTED CASE LAW, STATUTES, ARTICLES. THERE WAS A LOT OF ANALYSIS DONE. THERE WAS A LOT OF DEBATE. THERE WERE SEVERAL OTHER VERSIONS OF THE RULE, WHICH WERE PROPOSED AND DISCUSSED, AND THE RESULTING RULE WAS THE CONSENSUS OF THE COMMITTEE, AFTER THEY REVIEWED ALL THESE MATERIALS.

NOW THAT YOU ARE MAKING THIS -- NOW IT SOUNDS LIKE IT IS MUCH MORE COMPLICATED. WAS THE DEBATE OVER SHOULD IT BE 60 DAYS OR 30 DAYS, OR SHOULD IT HAVE TO BE BEFORE JUDGMENT?

THE DEBATE --

WHEN THIS MOTION COULD BE FILED?

THE DEBATE WAS NOT OVER THE FINAL LANGUAGE IN THE RULE. THE DEBATE WAS OVER OTHER PROVISIONS, WHICH ULTIMATELY WERE NOT PROPOSED BY THE KET.

WELL, YOU ARE BEING CRYPTIC. OTHER PROVISIONS THAT WOULD ALTER STOCKTON VERSUS DOWNS?

NO. NOT THAT WOULD ALTER STOCK MAN VERSUS DOWNS. BUT THERE WAS THE OTHER PROPOSALS INCLUDED SOME REFERENCES TO WHAT SHOULD BE IN THE MOTION AND WHETHER THE -- WHETHER THE MOTION SHOULD HAVE A REASONABLE ESTIMATE OF THE FEES OR WHETHER IT SHOULD SHOULDITYMIZE THE FEES. THOSE KINDS OF THINGS. THEY DID NOT INVOLVE THE PLEADING RIRLTS. THERE WAS NOT, IF MY RECOLLECTION SERVES ME CORRECTLY, THERE WAS NOT A LOT OF DISCUSSION ABOUT THE PLEADING REQUIREMENTS. I THINK THE COMMITTEE FELT THAT THE CASE LAW WAS CLEAR ON THAT. THEY THOUGHT THAT THE AMBIGUITY WAS IN THE NUMBER OF DAYS, THE NUMBER OF DAYS IN WHICH THE MOTION NEEDED TO BE SERVED.

YOU ARE TALKING ABOUT ADDRESSING THE PROBLEM OF WHETHER YOU HAVE A REASONABLE TIME AFTER FINAL JUDGMENT IS ENTERED OR YOU HAVE AN INDEFINITE PERIOD OF TIME?

THAT'S CORRECT. THAT WAS THE ISSUE THE COMMITTEE SOUGHT TO ADDRESS, BY THIS PROPOSAL, AND THE COMMITTEE OPTED NOT TO ADDRESS SOME OF THOSE OTHER THINGS. DID I ADEQUATELY ANSWER YOUR QUESTION?

I DIDN'T -- YEAH. I DON'T KNOW IF YOU DID OR NOT. I THINK JUSTICE LEWIS WAS EXPLAINING THAT, AND I KNOW THIS, FROM BEING A MEMBER OF YOUR COMMITTEE, THAT EVERYTHING IS VERY THOROUGHLY DEBATED IN THE CIVIL RULES COMMITTEE, OVER A PERIOD OF TIME. SO I AM SURE THERE WAS A LOT OF THOUGHTFUL ANALYSIS GIVEN.

THANK YOU. IT HAS BEEN A PRIVILEGE FOR ME TO PARTICIPATE IN THIS PROCESS.

THANK YOU. MR. TRAWICK.

THANK YOU, CHIEF JUSTICE. HENRY TRAWICK, FROM SARASOTA, FLORIDA. IF I MAY RESPOND TO JUSTICE PARIENTE, THERE ARE TWO PROBLEMS IN ATTORNEYS' FEES. ONE IS WHEN THEY ARE PROVIDED BY CONTRACTOR STATUTE THAT IS TO BE PLEADED, AND THIS COURT HAS, ALREADY, DECIDED THAT, IN AT LEAST ONE CASE, AND THE OTHER IS WHEN WE ARE TALKING ABOUT 57.105

ATTORNEYS' FEES OR SIMILAR FEES FOR FRIVOLOUS MOTIONS AND ACTIONS AND SO FORTH THAT DO NOT HAVE TO BE PLEADED. I SUBMIT THAT THE COMMITTEE INTENDED TO DIRECT ITS ATTENTION TO THE LATTER CATEGORY ONLY, BECAUSE THAT IS THE ONE THAT THE COURT HAS HAD SOME CONCERN WITH, AND WHEN DOES THE MOTION FOR A FRIVOLOUS PLEADING OR FRIVOLOUS CAUSE OF ACTION, WHEN MUST IT BE FILED, OR IT IS WAIVED? AND THE COURT HAS SET A REASONABLE TIME, AND IGE, IN THE LAST CASE, SAID 30 -- AND, I THINK, IN THE LAST CASE, SAID 30 DAYS. THERE IS A PRACTICAL PROBLEM THERE, BECAUSE WHEN COSTS AND ATTORNEYS' FEES, IF ASSESSIBLE, ARE NOT ASSESSED BEFORE AN APPEAL IS TAKEN, THEN WE HAVE TWO APPEALS, ONE ON THE FINAL JUDGMENT OF THE MERITS AND ONE ON THE FINAL JUDGMENT OF THE COSTS. I SUBMIT TO YOU THAT IT WOULD BE BETTER TO REQUIRE THE MOTION TO BE FILED WITHIN IS A DAYS AND TO HAVE THE PELL -- WITHIN 15 DAYS AND TO HAVE THE APPELLATE RULES AMENDED SO THE MOTION, ALSO, TOLLS THE TIME FOR TAKING THE APPEAL, UNTIL IT IS HERALD, SO THAT WE CAN GO UP ONE TIME ON TWO ORDERS, INSTEAD OF PAYING TWO FILING FEES, HAVING A MOTION TO CONSOLIDATE, TWO NOTICES OF APPEAL AND ALL OF THAT. THAT IS NOT IN MY BRIEF, BECAUSE I GOT THIS FROM THE FLORIDA BAR THREE DAYS BEFORE THE DUE DATE, AND I, REALLY, DIDN'T HAVE A CHANCE TO CONSIDER ALL OF THESE POINTS THAT CAREFULLY, BUT THAT HAS BEEN A PERENNIAL PROBLEM, FOR THE PAST 30 YEARS, THAT --

WOULD YOU AGREE THERE SHOULD BE A TIME DEADLINE, AND IT SHOULDN'T BE JUST LEFT "A REASONABLE"?

YES. I DON'T THINK A REASONABLE TIME SHOULD BE. I THINK EVERYBODY IS ENTITLED TO KNOW WHEN THE ATTORNEYS' FEES AND COSTS HAVE BEEN WAIVED. THE MATTERSER IS AT -- THE MATTER IS AT AN END. IT IS RES ADJUDICATA. IT IS ALL OVER. I AGREE WITH THE MATTERS THAT THE COMMITTEE HAD. IT IS A PROFERBL QUESTION OF WHEN IT SHOULD BE -- A PROCEDURAL QUELL OF WHEN IT SHOULD BE DONE, SO THE APPELLATE CAN CUT DOWN ON THE NUMBER OF APPEALS, BECAUSE PROBABLY TEN TIMES I HAVE HAD HAD TO TAKE AN APPEAL ON THE FINAL JUDGMENT, BUT THE COSTS AND SO FORTH HAVE NOT BEEN DECIDED AND THAT MAY NOT BE DECIDEDED FOR A COUPLE OF MONTHS, AND THEN HE HAVE TO -- I HAVE TO TAKE ANOTHER APPEAL ON THAT, AND THEN MY CLIENT HAS TO PAY ANOTHER FILING FEE, AND THEN I HAVE TO FILE A MOTION TO CONSOLIDATE, WHICH IS INVARIABLY GRANTED.

DO YOU, MAYBE IT COULD, BUT IT ONLY SETS THE TIME LIMIT FOR WHEN THAT MOTION IS GOING TO BE FILED. THEN, CERTAINLY, IF IT IS A CONTESTED ATTORNEY FEES ISSUE, IT COULD TAKE SOME PERIOD OF TIME, IF IT REQUIRES A HEARING, SO YOUR PROPOSAL, AND -- ABOUT WHAT EFFECT IT WOULD HAVE ON THE MAIN APPEAL, I THINK, WOULDN'T IT BE BETTER TO, PERHAPS, ADDRESS THAT TO THE APPELLATE RULES COMMITTEE, AS FAR AS THAT ISSUE, WHICH IS THAT THE -- WE OFTEN HAVE SEPARATE APPEALS OF ATTORNEYS' FEES, AND THE MAIN JUDGMENT, AND I, CERTAINLY, KNOW THAT FROM BEING ON THE APPELLATE COURT, THAT THAT DID MAP EVEN -- THAT THAT DID HAPPEN A CONSIDERABLE NUMBER OF TIMES.

THERE USED TO BE A COMMITTEE WHOSE DUTY IT WAS, WAS TO SEE, WHERE TWO RULES COMMITTEES WERE INVOLVED, WAS COORDINATED. THAT COMMITTEE HAS LONG SINCE BEEN ABOLISHED, BUT THAT WOULD BE THE PREFERABLE WAY OF DOING IT, BUT I GO BACK TO WHAT JUSTICE THOMAS TOLD ONE OF MY COLLEAGUES ONE TIME, WHEN JUSTICE THOMAS REALIZED THAT THE SPREBLTH HAD MADE AN ERROR, SO HE TOLD HIM, HE SAID, BILL, FILE A MOTION FOR REHEARING. JUDGE ALLEN SAID I HAVE ALREADY DONE THAT AND YOU DENIED IT. WHERE CAN I GO? HE SAYS FILE A SECOND PETITION FOR RENEWAL. HE SAID THAT IS NOT ALLOWED BY THE RULES, AND JUSTICE THOMAS SAYS WHO MAKES THE RULES. HE FILED A SECOND PETITION. IT WAS GRANTED AND THEY CHANGED THEIR OPINION, SO I SUGGEST, TO YOU, THAT THAT IS ONE OF THE PURPOSES FOR WHICH WE ARE HERE, TODAY, IF THIS COURT FEELS LIKE THERE IS SOME PROBLEM THAT NEEDS TO BE ADDRESSED BY ANOTHER COMMITTEE, IT CAN, CERTAINLY, DIRECT AN INQUIRY AND ASK FOR A SUMMARY RESPONSE ON THAT PARTICULAR POINT. I DON'T SEE THAT TOLLING THE TIME, SO THAT THE -- ONLY ONE APPEAL NEEDS TO BE TAKEN, IS ANY

DIFFERENT THAN TOLLING THE TIME FOR A MOTION FOR REHEARING. THE TRIAL COURT'S JOB HAS NOT BEEN COMPLETED AT THAT POINT. IT, STILL, HAS TO ASSESS FEES AND COSTS. IF YOU KNOW THAT THE FEES AND COSTS ARE TO BE ASSESSED BECAUSE A MOTION HAS BEEN FILED, WHAT DIFFERENCE DOES IT MAKE ON FEES AND COSTS, ANYMORE THAN IT DOES ON A MOTION FOR NEW TRIAL, MOTION FOR REHEARING?

AND THE GIST OF WHAT YOU ARE ADVOCATING IS TO GET THE MOTION FOR REHEARING AND THE MOTION FOR ATTORNEYS FEES N'SYNC.

YES.

SO IT -- IN SING, SO IT ALL FLOWS -- IN SYNC, SO IT ALL FLOWS AT ONE TIME.

YES, SIR. I HAVE HAD FILING OF BRIEFS BEFORE THE DISTRICT COURT OF APPEAL CONSOLIDATED THEM, AND THAT IS CERTAINLY AN ENORMOUS WASTE OF TIME AND MONEY, FOR EVERYBODY CONCERNED, BUT AS I SAID, THIS IS SOMETHING THAT I DIDN'T INTEND TO ARGUE WITH THE COURT THIS MORNING.

BECAUSE THE -- CHANGING IT TO 5 DAYS, REALLY, WON'T CHANGE -- TO 15 DAYS, REALLY, WON'T CHANGE THAT PROBLEM OF A SEPARATE JUDGMENT.

NO, IT WILL NOT, YOUR HONOR.

I AM CONCERNED ABOUT THE ATTORNEYS' FEES, BECAUSE I WAS CONCERNED ABOUT WHAT THE CORRECT DESIGNATION WAS. THAT WAS ENLIGHTENING.

IF WE SAID LEGAL FEES, THAT WOULD BE WHAT WE ARE DOING IS MODIFYING FEES. ATTORNEY FEES IS NO DIFFERENT. THE PROBLEM IS, WITH ALL DUE RESPECT TO THIS COURT AND ITS PREDECESSORS, LAWYERS HAVE A PROBLEM WITH THE PIETY OF THIS COURT ON ATTORNEY FEES. THAT PROBLEM ARISES ALL THE TIME, SO WE TRY TO FOLLOW THIS COURT'S DECISION IN HIS THE PAST, TO MAKE SURE WE GET OUR ATTORNEYS' FEES. THE MAIN THING IS, MY POINT IS, WHEN I ASK FOR ATTORNEYS' FEES IN THE PLEADING, THEY ARE NOT YET MINE. THERE IS NO POSSESSION THERE. AND AN APOSTROPHE S ALWAYS APPLIES POSSESSION. THERE CAN'T BE POSSESSION, UNTIL A JUDGE AGREES THAT THERE IS POSSESSION, THEN I CAN APPLY THE APOSTROPHE AND THE S THERE. WE HAVE ONE OF THE DECISIONS BACK IN THE 1930s THAT SAYS WE CAN PROVE THEM BY AFFIDAVIT. YOU CAN'T CONVINCE A TRIAL JUDGE, ANYMORE, THAT WE CAN, AND SO WE HAVE A SUMMARY JUDGMENT OF FORECLOSURE. AND WE GO IN TO PROVE ATTORNEYS FEES. THERE HAS BEEN A DEFAULT. NOBODY HAS APPEARED, AND WE GO IN, AND ALL OF A SUDDEN SOMEBODY SAYS HE WANTS A FULL-FLEDGED HEARING ON ATTORNEYS FEES FOR A DEFAULTED MORTGAGE FORECLOSURE, SO WHAT HAPPENS? THE JUDGE HAS TO TAKE TIME TO HEAR THAT. THAT RELATES TO THE QUESTION ABOUT THE FORM. I CAN, ALREADY, HEAR SOME ATTORNEY ARGUING TO THE SUPREME COURT THAT SAYS, WELL, YOUR HONOR, JUST OTHER DAY YOU SAID THAT WE HAD TO PUT THE NAME AND ADDRESS OF A PLAINTIFF ON THE FINAL FORM OF A MORTGAGE FORECLOSURE, AND THAT MEANS THAT THE SUPREME COURT HAS REVERSED ITSELF ON ITS EARLIER DECISIONS, AND NOW WE BELIEVE THAT THIS JUDGMENT IS A LIEN ON THE PROPERTY.

WOULD YOU ADDRESS JUST ONE ASPECT, PLEASE, HERE, SO WE CAN KIND OF SORT THIS OUT. IT APPEARS THEY ARE TRYING TO MAKE THE FORM MATCH WITH 5501, AND 55.01-1, SEEMS TO MAKE THE STATEMENT THAT IT DEALS WITH JUDGMENTS, AND IT SATS IT IS A, IN THE STATUTE, IT -- AND IT STATES, IN THE STATUTE, ITSELF, WHETHER SUCH SUM IS COVERED BY WAY OF DEBT OR DAMAGES. DOES IT COVER THE FACT THAT THE DAMAGES MAKES REFERENCE TO THE ISSUE OF RECOVERY BY WAY OF DEBT OR DAMAGES. DOES THAT ANSWER OR DOES THAT EVEN CONFUSE IT FURTHER?

NO, SIR. DEBT AND DAMAGES ARE, BOTH, COMMON LAW TERMS, AND THIS MORTGAGE FORECLOSURE IS IN CHANCERY, SO IT DOESN'T APPLY. DAMAGES ARE WHAT YOU GET FOR EXDELICTO ACTIONS AT COMMON LAW. DEBT IS WHAT YOU GOT RECOVERY FOR IN EXCONTRACTO ACTIONS AT FORECLOSURE LAW. THAT DEALS WITH A LIEN ON REAL ESTATE, AS A RESULT OF OBTAINING A RECOVERY FOR EITHER DEBT OR DAMAGES. IT HAS NO APPLICATIONS OF ANY CHANCERY DAMAGES OF ANY KIND. NOW, IT IS TRUE A CHANCERY JUDGE MAY, FOR EXAMPLE, IN A DISSOLUTION OF MARRIAGE, DECREASE AN AMOUNT OF JUDGMENT LIEN ON PROPERTY, BUT THAT IS DIFFERENT, BECAUSE WHAT HE IS DOING IS GIVING SOMEONE A COMMON LAW MONEY JUDGMENT IN AN EQUITABLE ACTION, WHICH IS ENTITLED TO. HE HAS EVERY REASON TO DO IT, THEN IN THAT EQUITABLE FORM OF FINAL JUDGMENT, A DRD ADDRESS WOULD BE NECESSARY. OF COURSE IT IS NECESSARY, ANYWAY, IN A DISSOLUTION OF MARRIAGE. THE POINT IS, HERE, IS THAT THIS COURT HAS CONSISTENTLY HELD THAT A MORTGAGE FORECLOSURE JUDGMENT IS NOT A LIEN ON REAL ESTATE, AND THAT IS CORRECT. THE MORTGAGE IS THE LIEN. THE JUDGMENT IS NOT. THE JUDGMENT OF FORECLOSURE IS THE METHOD GIVING EFFECT TO FORECLOSE ON THE SECURITY ONLY. IT DOESN'T CREATE A MONEY DEBT. NOW, IF THE PROCEEDS OF THE SALE ARE NOT SUFFICIENT AND YOU GO IN AND GET A DEFICIENCY I JUDGMENT, THEN, IN THE MORTGAGE FORECLOSURE, YOU HAVE YOUR FIRST MONEY JUDGMENT, WHICH HAS TO HAVE THE ADDRESS, IN ORDER TO BE A LIEN ON REAL PROPERTY. NOW, WHY THE LEGISLATURE WAS EVER PERSUADED TO DO THAT, I CANNOT TELL YOU, AND WHY THE DISTRICT COURTS OF APPEAL UPHELD THAT STATUTE, BECAUSE IT IS A PURELY PROCEDURAL STATUTE, I CANNOT TELL YOU, BUT BY THE SAME TOKEN, IT CAUSES A GREAT PROBLEM IN REAL STATE LAW -- IN REAL ESTATE LAW, WHICH, I GUESS, ABOVE ALL OTHER, AT LEAST THE THEORY IS IT IS SUPPOSED TO REMAIN CERTAIN CONSISTENT, AND THAT IS MY CONCERN HERE. I DO A LOT OF MORTGAGE FORECLOSURES.

HOW ABOUT THE JUDGMENT FOR ATTORNEYS FEES AND COSTS. IS THAT A LIEN?

SO LONG AS THAT IS NOT A PART OF THE DEFICIENCY JUDGMENT, IT IS SIMPLY A PART OF THE PLAINTIFF'S FREE BID AT THE FORECLOSURE SALE. IT IS NOT A LIEN. A MONEY LIEN ON THE PROPERTY. NO, SIR. NOT UNTIL IT IS CONVERTED INTO A DEFICIENCY JUDGMENT, DOES IT BECOME A MONEY LIEN. AND THAT IS THE REASON WHY IT IS IMPORTANT THAT WE KEEP THESE CATEGORIES SEPARATE, BECAUSE ALL REAL ESTATE LAWYERS THAT RELY ON THE FACT THAT A MORTGAGE IS A MORTGAGE LIEN, AND THEY DON'T, WOULDN'T LIKE FOR IT TO BE CONFUSED IN EXAMINING TITLES, WITH A JUDGMENT LIEN. WE HAVE ENOUGH PROBLEMS WITH MORTGAGE FORECLOSURES AND SALES AND SO FORTH, SO THAT WE DON'T NEED ANOTHER ONE. IF I MAY MOVE ON, AND I DIDN'T MEAN TO SPEND SO MUCH TIME ON 15-25, BUT I THINK IT IS IMPORTANT TO -- ON 15.25, BUT I THINK IT IS IMPORTANT TO HELP THE LAWYERS AND THE LITIGANTS, BOTH, TO HAVE THE TIMES CONSISTENT WITH EFFICIENCY, AND REGARDLESS OF WHAT MAY APPLY IN SMALL CLAIMS COURT, EFFICIENCY IS AN IMPORTANT PART, I SUBMIT, OF THE JUDICIAL PROCESS. BY WAY OF COMMENT ON EFFICIENCY AND TIME, I THINK THE 60 DAYS ON A MOTION TO TRANSFER TO ANOTHER JURISDICTION IS TOO LONG. SUPPOSED TO BE SPEEDY. IF YOU COME INTO COURT AND ARE BROUGHT INTO COURT AS A DEFENDANT AND YOU WANT THIS CASE TRANSFERRED TO A DIFFERENT FORUM, WHY SHOULDN'T YOU HAVE TO DO THAT IN 20 DAY, THE SAME TIME YOU HAVE TO FILE AN ANSWER? WHY CONDUCT DISCOVERY, HAVE A RASH OF PLEADINGS IN THE COURT THAT YOU NEVER INTEND TO LET HEAR THE CASE TO A CONCLUSION? I THINK 60 DAYS IS FAR TOO LONG. THE SAME THING APPLIES, YOU KNOW, TO SOME OF OUR DISCOVERY THINGS THAT ARE NOT HERE. REQUESTS FOR ADMISSIONS. 30 DAYS. A MAN KNOWS WHETHER OR NOT HE IS GOING TO ADMIT OR DENY SOMETHING IN TEN DAYS, SO GIVE HIM 20, BUT WE HAVE GOT FAR TOO MANY LENGTHY THINGS LIKE THAT IN OUR RULES, TODAY, AND THAT IS NOT A PART OF WHAT IS BEFORE THE COURT TODAY. I WOULD LIKE TO MOVE ON TO 15.60. ABOUT THE ASSET DISCLOSURE. THAT HAS NOT WORKED WELL IN SMALL CLAIMS COURT. I NEVER HAVE SEEN IT WORK, AT ALL, IN SMALL CLAIMS COURT, UNLESS YOU HAVE THE MAN BEFORE THE COURT. IT SIMPLY WILL NOT WORK IN A DEFAULT SITUATION. HOW IN THE WORLD IS THIS DEFAULTING DEFENDANT GOING TO KNOW WHAT HE IS SUPPOSED TO DO, AND HOW ARE YOU

GOING TO ENFORCE IT? MANY YEARS AGO, A VERY DISTINGUISHED CIRCUIT JUDGE TOLD ME HE WAS NOT GOING TO ENTER ANORDER THAT I REQUESTED. HE SAID YOU ARE ABSOLUTELY RIGHT ON THE LAW. HE SAYS YOU HAVE CONVINCED ME, BUT, HE SAYS, IF I ENTER THIS JUDGMENT, I CAN'T ENFORCE IT, BECAUSE THIS MAN IS OUTSIDE MY JURISDICTION, AND, HE SAID, I DO NOT BELIEVE THAT A COURT SHOULD ENTER AN ORDER THAT IT CANNOT ENFORCE, BECAUSE IT WILL, THEN, LOOK FOOLISH, AND A COURT SHOULD NEVER LOOK FOOLISH. WELL, I DIDN'T AGREE WITH HIM, THEN, BUT I HAVE LEARNED HE WAS A LOT WISER THAN I. HE IS CORRECT. NOW, HERE WE HAVE A SITUATION WHERE INTERROGATORIES HAVE ALWAYS BEEN AVAILABLE TO DO THIS. WHY HAVEN'T THEY BEEN USED? BECAUSE AS A PRACTICAL MATTER, IF YOU SEND OUT INTERROGATORIES TO A DEFAULTING DEFENDANT OR A DEFENDANT WHO DOES NOT HAVE A LAWYER, HE IS NOT GOING TO KNOW WHAT TO DO WITH THEM. HE MAY THROW THEM IN THE TRASH CAN, AND THEN YOU COME IN ON A MOTION TO COMPEL AND YOU FORCE THE TRIAL JUDGE, THEN, TO BECOME HIS LAWYER AND TELL HIM, HEY, YOU HAVE GOT TO FILE THESE OR I AM GOING TO THROW YOU IN JAIL FOR CONTEMPT. HE IS NOT, I SUBMIT TO YOU, GOING TO THROW HIM INTO JAIL FOR CONTEMPT THE FIRST TIME IT APPEARS BEFORE HIM, BECAUSE THE MAN DIDN'T KNOW WHAT HE WAS SUPPOSED TO DO. I DON'T THINK ANY ONE OF YOU SITTING ON THE TRIAL BENCH WOULD THROW A PERSON IN JAIL FOR NOT DOING SOMETHING, WHEN HE WAS COMPLETELY IGNORANT OF IT. IGNORANCE OF THE LAW IS NO DEFENSE, BUT IT IS PLENTY OF IGNORANCE, BECAUSE WE KNOW THE LAW HAS GOTTEN SO COMPLEX. AND LAYMEN SIMPLY CAN'T DO IT, SO WHAT I AM CONCERNED WITH, HERE, IS THE FACT THAT WE ARE GOING TO HAVE A LOT OF PAPERWORK THAT IS GOING TO BE UNPRODUCTIVE, AND IT IS GOING TO MAKE THE COURT SYSTEM LESS EFFICIENT. THE GREATEST TRAGEDY IN THE ADMINISTRATION OF JUSTICE IN THE STATE OF FLORIDA IS THE FACT THAT WE GIVE PEOPLE, ALL OF THESE JUDGMENTS AND EVERYTHING, AND THEN WE TAKE AWAY ALL THE RIGHT TO ENFORCE THEM. BUT YOU CAN'T CHANGE THAT, BECAUSE THAT IS SUBSTANTIVE LAW, AND IT HAS TO BE DONE ACROSS THE STREET AND UP THE HILL THERE. I WOULD BET YOU THAT I COULD PAPER THIS ENTIRE COURTROOM, WITH ALL OF THE JUST THAT I HAVE GOTTEN THAT CANNOT BE ENFORCED, BECAUSE OF ALL OF THE EXEMPTIONS PROVIDED BY FLORIDA LAW. NOW, THIS PROPOSAL DOESN'T AFFORD ANY PROTECTION THAT DISCOVERY AFFORDS. IT DOESN'T TELL THE MAN HE HAS GOT A RIGHT TO GET A PROTECTIVE ORDER, IT IF HE DOESN'T WANT TO REVEAL CERTAIN THINGS. WHAT ABOUT THE APPEAL TIME, AGAIN? SHOULD HE BE FORCED TO DO ALL OF THIS BEFORE HIS APPEAL TIME RUNS? I DON'T THINK SO. I SUBMIT THAT HE SHOULD NOT BE, BECAUSE IF I TAKE AN APPEAL, IN CIRCUIT COURT, AND I AM THE LAWYER REPRESENTING THE DEFENDANT, I TAKE THE APPEAL FOR HIM, AND THEY COME IN WITH A BUNCH OF DISCOVERY IN AID OF EXECUTION, WHILE TECHNICALLY I HAVEN'T PUT UP A STAY ON IT AND IT CAN'T BE STAYED, I WILL BET YOU I GET SOME FORM OF PROTECTION FROM THE CIRCUIT JUDGE UNTIL THE APPEAL IS OVER, BECAUSE I SHOULDN'T HAVE TO REVEAL ALL OF THIS INFORMATION, NECESSARILY, UNTIL THAT TIME, ALTHOUGH THE JURISDICTION IS VESTED. THEY DON'T EVEN GIVE THE MAN THE RIGHT TO GO TO COURT TO ASK FOR PROTECTION OR DON'T EVEN TELL HIM THAT HE HAS THAT RIGHT. IN ADDITION, I THINK THAT IT IS GOING TO CLUTTER THE COURT FILES. IT IS GOING TO CLUTTER THE PAPERWORK. THE FRENCH MAY HAVE INVENTED RED TAPE, BUT WE HAVE, REALLY, TURNED IT INTO GOLD, IN THIS COUNTRY, AND I SUBMIT TO YOU THAT THE CLERKS ARE GOING TO HAVE A PROBLEM WITH SENDING ALL OF THESE OUT. THE JUDGES ARE GOING TO HAVE A PROBLEM ATTACHING IT TO THEIR FINAL JUDGMENT. IS IT GOING TO BE INCLUDED IN THE RECORDING FEE? IS IT GOING TO BE A PART OF THE FINAL JUDGMENT FOR ALL PURPOSES? IS IT TO BE RECORDED? I SUBMIT TO YOUR HONORS THAT NONE OF THESE PRACTICAL PROBLEMS WERE TAKEN INTO CONSIDERATION BY THE COMMITTEE, IN CONSIDERING THIS, AND I CAN THE CONCEPT, I APPROVE -- AND I THINK THE CONCEPT I APPROVE IT, WHOLE HEART EDLY, BUT WHAT -- I THINK IT NEEDS MORE CAREFUL CONSIDERATION TO DETERMINE WHETHER OR NOT IT IS FEASIBLE, WHETHER OR NOT IT IS PRACTICAL, WHETHER OR NOT IT IS COST EFFICIENT FOR EVERYBODY. I AM NOT TALKING ABOUT THE DEFENDANT. A MAN OUGHT TO PAY HIS JUST DEBTS. I DON'T HAVE ANY PROBLEM WITH THAT. BUT HERE WE ARE TALKING ABOUT REQUIRING OTHERS TO DO THE WORK, TO GET HIM TO TELL US WHERE THOSE ASSETS ARE. AND I DON'T THINK THAT IS RIGHT. THE JUDGE IS GOING TO HAVE TO DO SOME WORK. THE CLERK IS GOING TO HAVE TO DO

SOME WORK, AND ALL OF IT MAY COME TO NAUGHT, BECAUSE THE GUY MAY SAY, WELL, I DIDN'T SHOW UP TO GET THAT JUDGMENT. LET HIM COLLECT IT. WASN'T IT PRESIDENT JACKSON WHO SAID JOHN MARSHAL HAS HIS JUDGMENT. LET HIM ENFORCE IT? BECAUSE HE KNEW HE HAD CONTROL OF ALL OF THE FEDERAL MARSHALLS AND THE CHIEF JUSTICE COULDN'T DO VERY MUCH WITHOUT THE MARSHALLS. THE SAME PRINCIPLE, I THINK, APPLIES HERE, THAT THIS IS A SITUATION WHERE IT CRIES FOR A REMEDY. BUT IT IS NOT THE REMEDY THAT IS BEING PROPOSED. IF THE COURT HAS ANY QUESTIONS ABOUT THAT OR ANY OF THE OTHERS, I WILL BE HAPPY TO RESPOND. THANK YOU.

THANK YOU HAD, MR. TRAWICK. ANY REBUTTAL? I THINK YOU HAVE GOT TWO MINUTES.

DOES THE COURT HAVE ANY QUESTIONS?

I DON'T. THANK YOU VERY MUCH. WE -- PLEASE EXPRESS OUR APPRECIATION TO THE COMMITTEE FOR ALL OF ITS HARD WORK, AND WE APPRECIATE THEIR BEING INVOLVED IN THIS PROCESS. MR. TRAWICK, WE, ALWAYS, APPRECIATE YOUR VIGILANCE AND DILIGENCE IN CALLING THESE MATTERS TO OUR ATTENTION. WE WILL BE IN RECESS FOR 15 MINUTES.