

*The following is a real-time transcript taken as closed captioning during the oral argument proceedings, and as such, may contain errors. This service is provided solely for the purpose of assisting those with disabilities and should be used for no other purpose. These are not legal documents, and may not be used as legal authority. This transcript is not an official document of the Florida Supreme Court.*

## **Amendments to Rules of Appellate Procedure**

**SC08-147**

>> PLEASE RISE.

HEAR YE, HEAR YE, HEAR YE, THE  
SUPREME COURT OF FLORIDA IS NOW  
IN SESSION.

ALL THAT HAVE CAUSE PLEASE DRAW  
NEAR.

GIVE ATTENTION AND YOU SHALL BE  
HEARD.

GOD SAVE THE UNITED STATES, THE  
GREAT STATE OF FLORIDA AND THIS  
HONORABLE COURT.

>> GOOD MORNING.

GOOD MORNING.

>> LADIES AND GENTLEMEN, THE  
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> GOOD MORNING, FRIENDS WELCOME  
TO THE FLORIDA SUPREME COURT.

AND THE ORAL ARGUMENT CALENDAR  
FOR TUESDAY, JUNE 10th.

THE FIRST MATTER ON THE CALENDAR  
THIS MORNING CONCERNS AMENDMENT  
TO THE FLORIDA RULES OF  
APPELLATE PROCEDURE.

MR. BRANNOCK, ARE YOU READY TO  
PROCEED?

OKAY.

>> GOOD MORNING, YOUR HONOR, AND  
MATE PLEASE THIS COURT, I'M  
STEVE BRANNOCK, AND TODAY I HAVE  
THE HONOR OF REPRESENTING THE  
APPELLATE RULES COMMITTEE IN THE  
PRESENTATION OF THE TRIENNIAL  
REPORT, PROPOSED AMENDMENTS TO  
THE RULES AND WE HAVE PROPOSED 8  
AMENDMENTS TO THE RULES, ONLY  
ONE OF WHICH HAS INSPIRED  
SIGNIFICANT COMMENT, AND MY PLAN  
TODAY IS TO FOCUS SOLELY ON  
9.310 B-2 WHICH INSPIRED THE  
COMMENT THAT OF COURSE I'M  
PREPARED TO DISCUSS AN ANSWER  
QUESTIONS ON ANY OF THOUGH  
PROPOSED AMENDMENTS IF THE COURT  
DESIRES.

THE PURPOSE OF THE AMENDMENT,  
9.301 B-2 IS TO RESOLVE A  
CONFLICT BETWEEN 9310 B-2 AND  
128.68 AND 9.301 HAS AN  
AUTOMATIC STAY WHEN A GOVERNMENT  
LOSES AND TAKES AN APPEAL AND  
10.683 OF THE ADMINISTRATIVE  
PROCEDURES ACTED SAYS THE FILING  
OF A PETITION DOES NOT INVOKE A  
STAY AND SO THE PURPOSE OF THE  
RULE IS TO RESOLVE THAT  
CONFLICT, AND THE APPELLATE  
RULES COMMITTEE SUGGESTION THE  
RULE BE RESOLVED, IN FAVOR OF  
THE ADMINISTRATIVE PROCEDURE  
ACTED, 128.683 AND WE THINK THAT  
THAT RESOLUTION WOULD ACCORD  
WITH THE LEGISLATIVE INTENT AND  
BEST SERVE THE PRINCIPLES BEHIND  
THE AUTOMATIC STAY.

>> CAN YOU JUST GIVE ME SOME  
EXAMPLES OF WHAT GOES ON DAY IN  
AND DAY OUT AS TO ACADEMIC  
ARGUMENTS.

>> A TYPICAL CASE YOU HAVE A  
PLAINTIFF, AND IF THE COUNTY  
LOSES IN THAT CASE AND TAKES AN  
APPEAL THEY GET AN AUTOMATIC  
STAY.

AND IN OUR PROPOSAL, IT HAS  
NOTHING TO DO WITH THAT  
SITUATION.

OUR SITUATION ARISES IN THE  
ADMINISTRATIVE PROCEDURE ACT  
CONTEXT WHEN YOU HAVE TWO  
ADMINISTRATIVE AGENCIES AT PLAY,  
ONE THAT SETS THE NEUTRAL --  
DECISION MAKER IN THE CASE AND  
THEN YOU HAVE A GOVERNMENT  
ENTITY THAT MAY BE A LITIGANT IN  
THE CASE, AND GIVE YOU PROBABLY  
THE MOST COMMON ANGLE, YOU HAVE  
A DEVELOPER SEEKING A PERMANENT  
AND LET'S SAY A PERMIT IN FRONT  
OF THE DEP.

AND THE DEP IS THE  
DECISION MAKER CHARGED  
WITH DETERMINING WHETHER IN  
WEIGHING THE INTEREST OF THE  
CASE A PERMIT SHOULD ISSUE AND  
ONE LITIGANT THEY BE A  
GOVERNMENT ENTITY, A SETH CITY  
OPPOSES THE ISSUE AND THE CITY  
IS LITIGATING IN FRONT OF THE

DEP AND YOU HAVE TWO GOVERNMENT ENTITIES IN PLAY AND LET'S SAY THIS CITY LOSES AND THE DEP DETERMINES TO ISSUE THE PERMIT AND THE QUESTION UNDER THAT CIRCUMSTANCE IS, WHEN YOU HAVE KIND OF TWO GOVERNMENT ENTITIES, THAT HAVE OPPOSING INTERESTS, WHICH INTEREST IS GOING TO HAVE PRIORITY?

ONE -- 9.310 B-2 THESE THIS GOVERNMENT ENTITY AND THE MUNICIPALITY GETS AN AUTOMATIC STAY ELEVATING THE LITIGANT'S PRIORITY OVER THE NEUTRAL DECISION MAKER.

THE AGENCY, THE DEP THAT MADE THE DECISION, 120.683 SAYS THAT THE -- THERE IS NO AUTOMATIC STAY, THUS, GIVING PRIORITY TO THE NEUTRAL DECISION MAKERS -- >> DOESN'T THAT HAPPEN, THOUGH, -- ALL KNOW -- ALTHOUGH THE TYPICAL CASE IN COURT MIGHT INVOLVE A PRIVATE LITIGANT AND A GOVERNMENTAL ENTITY, NOTHING STOPS THE CONTINUED VARIOUS IN COURT FROM BEING BETWEEN TWO GOVERNMENTAL ENTITIES, YET WE HAVE THAT AUTOMATIC STAY. SO, IN TERMS OF THIS POLICY, WHICH IS OF COURSE ON EITHER SIDE, THE STAY CAN BE ALTERED, WHY SHOULDN'T THE SAME POLICY THAT DRIVES EVEN A BLANKET RULE FOR LITIGATION AND APPARENTLY -- HAS BEEN IN EFFECT 30, 40 YEARS.

>> 1945.

>> OH, EVEN LONGER.

>> YES.

>> WHY, YOU KNOW, WHY NOT KEEP THAT AND ALLOW THE -- WELL, ALLOW THE DECISION MAKER TO DETERMINE WHETHER THE STAY SHOULD BE IN EFFECT OR NOT.

>> WELL, ACTUALLY, YOUR HONORS THAT IS PRECISELY OUR POINT THIS IS DECISION MAKER SHOULD MAKE THE DECISION ON THE STAY AND SHUNNED BE AN AUTOMATIC STAY THAT TAKES A COMPELLING INTEREST TO OVERCOME.

>> AND I'M ASKING YOU WHY IS THAT ANY DIFFERENT THAN IF THERE

WERE TWO LITIGANTS IN COURT AND IT WAS NOT AGAINST PRIVATE ENTITIES, IT WAS THE CITY VERSUS, YOU KNOW, THE DEP OR -- I'M SURE -- I KNOW THERE ARE MANY EXAMPLES OF WHERE THERE IS GOVERNMENTAL ENTITIES ON BOTH SIDES IN A COURT CASE.

THAT SAME ISSUE -- WOULDN'T THAT SAME ARGUMENT, COULDN'T IT BE MADE THAT YOU DON'T HAVE THE SAME INTERESTS AT STAKE IF THERE IS NOT MONEY AT STAKE.

>> I SUPPOSE IT COULD HAVE BEEN, IN THAT CASE BOTH THE GOLF ENTITIES ARE ON THE SAME LEVEL AND ARE EACH LITIGANTS AND THE REASON WE THINK IT IS DIFFERENT IN THE APA CONTEXT IS YOU HAVE A GOVERNMENTAL ENTITY SET UP THAT'S NEUTRAL DECISION MAKER AND THEY ARE CHARGED WITH A RESPONSIBILITY FOR BALANCING ALL OF THE INTERESTS IN THE CASE. AND THEN ON THE OTHER SIDE YOU HAVE PERHAPS A MUNICIPALITY, JUST A LITIGANT, AND THE QUESTION IS, DO YOU GIVE THAT LITIGANT THE AUTOMATIC STAY OR DO WE GIVE DEFERENCE TO THE NEUTRAL DECISION MAKER THAT IS CHARGED WITH WEIGHING ALL OF THE

--  
>> WELL, AS I UNDERSTAND IT, ANOTHER DIFFERENCE IS THAT THE LEGISLATURE HAS ACTED IN RESPECT TO THIS MATTER.

CORRECT.

>> YES, ABSOLUTELY. AND WE THINK THIS IS ONE OF THOSE SITUATIONS WHERE DEFERENCE TO THE LEGISLATURE IS CERTAINLY CALLED FOR, BECAUSE, WHEN YOU ARE TALKING ABOUT RESOLVING A PRIORITY DISPUTE, BETWEEN TWO ADMINISTRATIVE AGENCIES OR AN AGENCY AND A MUNICIPALITY, THESE ARE BOTH CREATURES OF STATUTE. THE ADMINISTRATIVE AGENCY OF COURSE IS ENTIRELY A CREATURE OF STATUTE, SET UP BY THE LEGISLATURE. COUNTIES AND MUNICIPALITIES, ALTHOUGH THEY HAVE INDEPENDENT

POWERS, ARE CERTAINLY REGULATED BY THE LEGISLATURE AND THE LEGISLATURE HAS THE POWER TO LIMIT THEIR STATUTE, SO, IT SEEMS TO ME ALTHOUGH IN MANY CASES, THE SUBSTANTIVE, VERSUS PROCEDURAL ISSUE IS COMPLEX AND THIS IS NOT A PARTICULARLY COMPLEX ISSUE, BECAUSE BOTH OF THESE ENTITIES HAVE THEIR POWER DERIVED FROM THE LEGISLATURE AND IF THERE IS A CONFLICT BETWEEN THE TWO ENTITIES, WHY SHOULDN'T WE HAVE THE LEGISLATURE RESOLVE THE CONFLICT --

>> YOU SAY --

WAS THERE ANY DEBATE AMONG THE COMMITTEE MEMBERS THAT A CONFLICT EXISTED BETWEEN THE STATUTE AND THE RULES?

>> THERE WAS NO DEBATE AT ALL ON THAT POINT.

I MEAN, YOU COULD LOOK AT THE VOTES HERE, UNANIMOUS BY THE SUBCOMMITTEE, ADMINISTRATIVE PROCEDURES SUBCOMMITTEE, A 48-0 -- SUBCOMMITTEE, A 48-0 VOTE BY THE END TIRE RULES COMMITTEE AND WENT TO THE BOARD OF GOVERNORS IT WAS ALSO UNANIMOUS.

>> AS A HOUSEKEEPING MATTER, LET ME -- IF THE COMMITTEES -- COMMITTEE'S VIEW IS UPHELD ON 9.310.

>> B-2.

>> B-2, WHAT ABOUT THE EFFECT ON 9.10 E-1.

>> 1.190 E, I DON'T THINK THERE IS ANY IMPACT, BECAUSE 1.190 E---

>> IT IS CONFUSING WHEN IT SAYS THAT A PETITION IN REVIEW OF -- ADMINISTRATIVE ACTION SHALL NOT OPERATE AS A STAY EXCEPT THAT SUCH FILING SHALL GIVE RISE TO AN AUTOMATIC STAY, AS PROVIDED IN RULE 9.310 B-2.

>> CORRECT.

>> AND I MEAN, IS THAT GOING TO -- ANY LONGER GOING TO BE TRUE AS FAR AS AN AUTOMATIC STAY.

>> IT WOULD REFER BACK TO 9.310 B-2 AND 9.310 B-2 WOULD HAVE THE LIMITATION WITHIN IT AN 9.310

B-2 IF AMENDED AS PROPOSED WOULD SAY THERE IS NO STAY IN THE ADMINISTRATIVE PROCEDURE CONTEXT BECAUSE 1.190 E REFERS BACK TO 310 I THINK IT TAKES CARE OF THE ISSUE, BECAUSE, IT -- 9.310 B-2 WOULD BE CLEARED.

BUT, THE CENTRAL PURPOSE OF THE AUTOMATIC STAY IS THAT WE PRESUME THAT WHEN THE GOVERNMENT IS INVOLVED IN THAT CASE, THE GOVERNMENT IS LITIGATING IN THE PUBLIC INTEREST AND SO YOU DEFER TO THE GOVERNMENT'S INTERESTS. AND THAT WORKS GREAT WHEN YOU HAVE A PRIVATE PARTY VERSUS THE GOVERNMENT.

BUT, AGAIN, IN THIS CASE, WHEN YOU HAVE THE GOVERNMENT THAT IS -- A GOVERNMENTAL AGENCY THAT IS IN A -- A NEUTRAL DECISION MAKER AND A GOVERNMENT ENTITY THAT IS A LITIGANT AND YOU HAVE TO DECIDE BETWEEN THE TWO IT SEEMS TO MAKE SENSE TO US, AND THAT IS WHAT THE LEGISLATURE HAS DONE IS THEY'VE DEFERRED IN FAVOR OF THE GOVERNMENT -- GOVERNMENTAL AGENCY.

>> WE'D SAY IF WE AMEND THE RULE AND THE LEGISLATURE SAYS WE WERE HAPPY WITH THE RULE, WE WANT THIS IN EFFECT, THEN ALL ANYONE HAS TO DO -- I MEAN, NOT ALL, BUT THEY COULD GO TO THE LEGISLATURE AND SAY, WE'D LIKE YOU TO CHANGE THE STATUTE SO THERE IS AN AUTOMATIC STAY.

>> RIGHT.

CERTAINLY AND THE ONLY OTHER POINT I WANTED TO MAKE ON THE ISSUE WAS AN ISSUE OF WHETHER THERE IS IN FACT A CONFLICT. THE RULE SUGGESTED THERE IS NO CONFLICT AND THAT HAVE GOT A VERY COMPLEX 35-PAGE ARGUMENT EXPLAINING HOW THE RULES CAN BE RECONCILED.

TO ME, MY PHILOSOPHY IS, THE CHAIR OF THE APPELLATE RULES COMMITTEE AND THE PHILOSOPHY OF THE APPELLATE RULES COMMITTEE THIS IS RULES SHOULD BE SIMPLE AND CLEAR AND IF THERE IS A

CONFLICT OR APPEARANCE OF A CONFLICT, THE PARTIES SHOULDN'T HAVE TO ENGAGE A VERY COMPLICATED ANALYSIS TO BE ABLE TO RECONCILE A RULE AND A STATUTE.

AND BECAUSE THERE IS CERTAINLY -- IF YOU LOOK AT THE LANGUAGE OF THE RULE, AND THE LANGUAGE OF THE STATUTE, THE CONFLICT JUMPS OUT AT YOU AND WHETHER OR NOT IT COULD POSSIBLY BE RECONCILED, WE DON'T THINK IT CAN BE, BECAUSE OF THE APPEARANCE OF CONFLICT IT IS VERY IMPORTANT, WE THINK THAT THAT CONFLICT BE RESOLVED AND FOR THAT REASON, WE STRONGLY RECOMMEND THE ADOPTION OF OUR PROPOSED AMENDMENT TO 9.310 B-2 AND I WOULD LIKE TO RESERVE THE REST OF TIME FOR REBUTTAL.

>> ALL RIGHT.

.  
>> MAY IT PLEASE THIS COURT, GOOD MORNING, YOUR HONOR, I'M DAVID CALDEVILLA AND TODAY I'M PLEASED TO BE HERE. ON BEHALF OF CHARLOTTE COUNTY. THE CITY OF CAPE CORAL, THE CITY, COUNTY, LOCAL GOVERNMENT LAW SECTION OF THE FLORIDA BAR. THE FLORIDA ASSOCIATION OF COUNTIES. FLORIDA ASSOCIATION OF COUNTY ATTORNEYS. AND THE FLORIDA LEAGUE OF CITIES.

>> YOU MUST REPRESENT EVERY GOVERNMENT IN FLORIDA, THEN I TAKE IT?

>> ALMOST.

FORGIVE ME IF I'M A LITTLE NERVOUS, MY FIRST TIME.

>> WELCOME TO THE COURT.

LET'S PUT YOU AT EASE, DISCUSS WHAT YOU THINK IS WHY WE SHOULD NOT ADOPT THIS RULE, AND TAKE A DEEP BREATH AND WE'LL GET THROUGH ALL THIS.

HOW ABOUT THAT.

>> THANK YOU, YOUR HONOR.

>> OKAY.

>> WE BELIEVE THE COMMITTEE IS TRYING TO FIX A PROBLEM THAT

JUST DOESN'T EXIST.

THE APPLICABILITY OF -- AND CONFLICT BETWEEN FORMER RULE 51.2 AND SECTION 120.68 [3] WAS DEFINITELY AN ISSUE BACK IN 1976

AND THAT WAS WHEN THE FIRST DISTRICT COURT OF APPEAL ISSUED A FEW DECISIONS NOTING THERE WAS A CONFLICT BETWEEN THAT RULE AND THE STATUTE.

AND THERE WAS NO ANALYSIS IN THE FIRST DISTRICT COURT OF APPEALS DECISIONS, THE SEPARATION OF POWERS DOCTRINE, WHICH THIS COURT HAS INVOKED FREQUENTLY OVER THE YEARS.

YOUR HONORS, THAT CONFUSION, HOWEVER, OR THAT CONFLICT WAS RESOLVED ABOUT 30 YEARS AGO BY BOTH THIS COURT AND THIS FIRST DISTRICT COURT OF APPEAL.

IN 1997, AFTER THE FIRST DISTRICT COURT OF APPEAL ISSUED THE LEWIS CASE WHICH IS CITED IN OUR BRIEFS, THIS COURT REPLACED THE FORMER FLORIDA APPELLATE RULES WITH THE RULES WE KNOW TODAY AS THE FLORIDA RULES OF APPELLATE PROCEDURE.

THE VERY FIRST RULE IN THAT SET OF RULES SAY THAT THESE RULES ARE GOING TO PRESIDE OVER ALL APPELLATE PROCEEDINGS AS OF MARCH 1, 1978.

THAT FIRST RULE 9.010 ALSO SAYS THAT THESE RULES SHALL SUPERSEDE ANY CONFLICTING STATUTES.

>> LET'S GO -- I APPRECIATE THAT WE DO HAVE YOUR VERY EXTENSIVE COMMENT IN OPPOSITION.

ADDRESS THE ISSUE THAT AUTOMATIC STAYS, THE EXCEPTION IN TERMS OF THE WORLD OF APPEALS OR PETITIONS FOR REVIEW.

NORMALLY, ONCE THE TRIBUNAL RULES, THEN IT IS -- DISCRETIONARY ISSUE.

GOVERNMENTAL ENTITIES HAVE THE BENEFIT IN NORMAL APPELLATE PROCEEDINGS AND SOMETIMES, FRANKLY, I HAVE SEEN IT WHERE YOU THINK, WHY SHOULD THIS OCCUR?

THERE IS NOT MONEY AT STAKE AND JUST -- I MEAN, THE -- STOP WHAT IS GOING ON.

NOW WE HAVE A SITUATION WHERE THE ARGUMENT HAS BEEN MADE THAT THERE IS THIS CONFLICT THAT THE LEGISLATURE DOES NOT INTEND IN THE AREA OF THE APA, FOR THERE TO BE AN AUTOMATIC STAY.

THAT STILL DOESN'T MEAN A TRIBUNAL CAN'T GRANT A STAY. WHY ISN'T THE ARGUMENT THAT MR. BRANNOCK MADE THAT THERE IS A CONFLICT AND THE REASON FOR THE AUTOMATED STAY IS NOT COMPELLING IN THE AREA OF ADMINISTRATIVE PROCEDURES AND MAYBE AGAIN, YOU CAN GIVE US A COUPLE OF REAL LIFE EXAMPLES SO WE CAN FEEL THE PAIN OF YOUR CLIENTS AS TO WHAT WOULD HAPPEN IF WE REVERSED THE RULE.

>> ABSOLUTELY.

I'LL GO AHEAD AND ADDRESS THE SECOND PART OF YOUR QUESTION, THE REASON WHY THERE SHOULD BE A STAY AS TO WHETHER OR NOT THERE IS A CONFLICT AND I DON'T BELIEVE THERE IS A CONFLICT. BUT YOUR HONORS, THERE IS VERY IMPORTANT REASONS BEHIND THE AUTOMATIC STAY.

AND FIRST OF ALL, YOU'VE GOT TO REALIZE THAT LOCAL GOVERNMENTS, THE CLIENTS I REPRESENT, HAVE THOUSANDS, SOMETIMES MILLIONS OF CONSTITUENTS AND RESIDENTS. LOCAL GOVERNMENTS GET INVOLVED IN THESE ADMINISTRATIVE PROCEEDINGS, NOT BECAUSE THERE IS A SMALL AMOUNT OF MONEY INVOLVED, OR BECAUSE SOMEBODY HAD A PERSONAL INJURY, A CRACK ON THE SIDEWALK, THESE ARE CASES THAT HAVE BROAD AND FAR-REACHING IMPLICATIONS SUCH AS THE PERMITTING TYPE OF CASES THAT MR. BRANNOCK BROUGHT OUT AND IN FACT WE HAVE A CASE, HE AND I HAVE A CASE INVOLVING A LARGE PHOSPHATE MINE HIS CLIENT WANTS TO DEVELOP NEAR CHARLOTTE COUNTY'S PRIMARY SOURCE OF DRINKING WATER.

THE PEACE RIVER.

IT IS A 4,000 ACRE PROJECT,  
WHERE HIS CLIENT, A LARGE  
PHOSPHATE MINING COMPANY WANTS  
TO REMOVE THE TOP 52 FEET OF THE  
EARTH'S SURFACE, INCLUDING ALL  
WETLANDS, CREEKS, STREAMS,  
WILDLIFE HABITAT, IN THE PATH OF  
THE DRAG LINE.

THE DEPARTMENT OF ENVIRONMENTAL  
PROTECTION ISSUED A FINAL ORDER  
THAT WAS NOT EVEN SIGNED BY THE  
SECRETARY OF THE AGENCY, IT WAS  
SIGNED BY A DEPUTY.

THIS IS THE TYPE OF CASE THAT  
HAS VERY FAR-REACHING  
IMPLICATIONS TO THOUSANDS IN  
FACT HUNDREDS OF THOUSANDS OF  
PEOPLE.

>> GRANTED THE --

>> YES, IT DID AND MY CLIENT AND  
SEVERAL OTHER GOVERNMENTAL  
ENTITIES ARE APPEALING THAT IN  
THE SECOND DISTRICT RIGHT NOW.

>> COULD YOU SEEK A STAY.

>> WE COULD, IF THERE WAS NO  
AUTOMATIC STAY WE CERTAINLY  
COULD.

THE AUTOMATIC STAY IS IN PLACE  
EXCEPT WHEN SOMEBODY MOVES TO  
LIFT OR MODIFY THE STAY.  
DUE TO COMPELLING CIRCUMSTANCES.

SO IF WE REMOVE THE AUTOMATIC  
STAY THE OTHER WAY TO LOOK AT IT  
IS, IS THAT THE AUTOMATIC STAY  
WILL BE IN PLACE IN EVERY  
SITUATION WHERE THERE ARE NO  
COMPELLING CIRCUMSTANCES.  
AND THE GOVERNMENT HAS -- THE  
BURDEN WILL SHIFT TO THE  
GOVERNMENT TO COME FORWARD AND  
INVOKE IS THE STAY.

AND OF COURSE, WE BELIEVE THAT  
THERE WILL BE FINANCIAL  
CONSEQUENCES TO THAT.

>> WHAT IS THE POLICY OF THE  
LEGISLATIVE ENACTMENT OF  
120.564?

>> YOUR HONOR, THAT IS A  
SITUATION WHERE IT IS A RULE  
CHALLENGE SITUATION.  
WHERE A STATE AGENCY HAS USED  
WHAT WE CALL UNADOPTED RULES OR  
UNWRITTEN RULES AND

ADMINISTRATIVE PROCEEDINGS.  
IN THAT PARTICULAR STATUTE, THE  
LEGISLATURE SAID THAT -- I CAN  
QUOTE IT.

BUT THE GIST OF IT IS, THAT IF  
THE ADMINISTRATIVE LAW JUDGE  
FOUND THAT THE AGENCY'S  
STATEMENT, THE UNWRITTEN RULE IS  
UNLAWFUL, THEN THEY SHOULD STOP  
RELYING ON IT.

IT DOES NOT ADDRESS WHAT HAPPENS  
IN THE CONTEXT OF AN APPEAL AND  
OF COURSE, 120.68 ADDRESSES WHAT  
HAPPENS IN APPEALS.

120.68 ALSO DOES NOT ADDRESS --  
IS SILENT ABOUT WHAT HAPPENS  
WHEN A GOVERNMENTAL ENTITY TAKES  
AN APPEAL.

IT IS A BROAD STATEMENT THAT  
SAYS THERE IS --

>> WHAT IS YOUR REASON WHY IT --  
IF YOU HAVE THE ENTITLEMENT TO  
SEEK AN AUTOMATIC STAY, AS ANY  
OTHER PARTY WHAT WOULD BE THE  
RATIONALE TO TREAT YOUR CLIENT  
DIFFERENTLY THAN ANYBODY ELSE.

>> AS I WAS SAYING, LOCAL  
GOVERNMENTS REPRESENT THOUSANDS,  
HUNDREDS OF THOUSANDS, SOMETIMES  
MILLIONS OF PEOPLE.

IT'S NOT A CASE LIKE A CIVIL  
LAWSUIT, WHERE WE'VE GOT A  
BREACH OF CONTRACT, OR A  
PERSONAL INJURY.

IN FACT IN A CIVIL LAWSUIT THE  
AUTOMATIC STAY RULE DEFERS --  
DOES NOT DEFER TO THE CIRCUIT  
COURT JUDGE WHO IS ACTUALLY AN  
ATTORNEY WITH YEARS OF  
EXPERIENCE.

WHEREAS UNDER THE APA, AGENCY  
HEADS WERE NONLAWYERS --  
MAKE DECISIONS MANY TIMES, NOT  
LAWYERS, USUALLY THE NOT  
LAWYERS.

>> YOU KNOW, I GUESS THE PROBLEM  
THAT I'M HAVING IS THAT IT GOES  
BACK TO THE SEPARATION OF POWERS  
ISSUE WHICH, IN THE AREA OF APA,  
WE'RE REALLY -- DEFERRING TO THE  
EXECUTIVE BRANCH AND I KNOW WE  
ARE ALLOWED AND MAKE THE RULES  
ON THE APPELLATE SIDE.  
BUT IT WOULD SEAM THE POLICY

ARGUMENT THAT YOU ARE MAKING  
WOULD BE BETTER MADE TO THE  
LEGISLATURE.

THAT IF THE COURT WERE TO ADOPT  
THE RECOMMENDATIONS OF THE  
APPELLATE RULES COMMITTEE, BASED  
ON THE FACT THAT WE PERCEIVE  
THERE IS A CONFLICT, THEN THE  
RECOURSE WOULD BE TO GO TO THE  
LEGISLATURE AND, YOU KNOW, WE  
COULD -- PROVIDE IN THERE IT IS  
TO BRING IT INTO COMPLIANCE, PER  
YOUR GOVERNMENT GOVERNMENTAL  
ENTITIES TO GO TO THE  
LEGISLATURE AND HAVE THEM SAY,  
NO, YOU KNOW, WE WANT THIS STAY  
IN EFFECT.

>> BUT ACTUALLY THE AMENDMENT  
PROPOSED BY THE COMMITTEE WOULD  
BIND THE LEGISLATURE AND NOT  
ALLOW THE LEGISLATURE TO DO  
THAT.

>> BUT IF WE PUT IN SOMETHING  
EXCEPT AS THE LAW WOULD  
OTHERWISE PROVIDE, WOULD THAT BE

--

>> THAT IS OUR ALTERNATE  
PROPOSAL.

AT THE END OF OUR BRIEFS, OF  
COURSE WE CONTEND THAT IT SHOULD  
STAY AS IT IS.

AND IF I COULD ADDRESS THE FIRST  
PART OF YOUR STATEMENT, JUSTICE,  
JUSTICE PARIENTE, IT IS A  
SEPARATION OF POWERS, OF COURSE,  
THE LEGISLATURE HAS THE RIGHT TO  
GOVERN PROCEDURES OF THE  
ADMINISTRATIVE PROCEEDINGS  
THEMSELVES.

BUT KEEP IN MIND THAT AN APPEAL  
IS THIS THE TIME WHEN THE  
JUDICIARY GETS TO TAKE A LOOK AT  
THIS CASE, NOT LIKE A CIVIL  
PROCEEDING WHERE A COURT OF LAW  
HAS ALREADY MADE A DETERMINATION  
AND APPEALS TO A HIGHER  
APPELLATE TRIBUNAL.

THIS TYPE OF PROCEEDING IS THE  
FOUR EXECUTIVE BRANCH AGENCIES  
AND THEN, WHEN A NOTICE OF  
APPEAL IS FILED IT INVOKES THE  
JURISDICTION OF THE JUDICIAL  
BRANCH.

>> AGAIN AS YOU ACKNOWLEDGE, NO

ONE IS SAYING YOU WOULDN'T BE --  
RECEIVE A STAY.  
IT WOULD JUST BE NOT AN  
AUTOMATIC THAT YOU --  
>> NOT GETTING AN AUTOMATIC STAY  
AND WOULD IMPOSE A FINANCIAL  
BURDEN ON LOCAL GOVERNMENT THAT  
I SUBMIT IS UNNECESSARY.  
THESE ARE BROAD, FAR-REACHING  
POLICY IMPLICATING TYPES OF  
CASES, AND IF WE HAVE TO ALSO  
LITIGATE OVER WHETHER OR NOT WE  
ARE GOING TO HAVE A BOND  
IMPOSED.  
OR WHAT TYPE OF -- NO BOND, OF  
COURSE IN LEGISLATIVE PLANNING  
LEVEL FUNCTION TYPE OF CASES, NO  
BOND CAN BE IMPOSED AGAINST THE  
LOCAL GOVERNMENT BUT IN  
OPERATIONAL CASES, IF THERE IS  
GOING TO BE A STAY, RULE 9.310  
AND 120.68 PROVIDES THAT THERE  
HAVE TO BE CONDITIONS ON THAT  
STAY.  
SO, THE GOVERNMENTAL ENTITY WILL  
HAVE TO COME FORWARD AND FILE  
ITS NOTICE OF APPEAL AND MOVE  
FOR A STAY AND DEBATE OVER  
WHETHER OR NOT THERE SHOULD BE A  
BOND, AND DEBATE OVER WHAT THE  
CONDITIONS SHOULD BE.  
AND OF COURSE THAT IS GOING TO  
BE MADE PRIMARILY -- IN THE  
FIRST INSTANCE BY THE LOWER  
TRIBUNAL WHICH IS THE APPOINTED  
POLITICAL OFFICIAL WHO MADE THE  
DECISION AND THEN --  
>> WELL, BUT THAT INVOLVES A  
WHOLE OTHER -- APPOINTED OR  
ELECTED BUT LET ME ASK YOU ABOUT  
THE PROCESS.  
DID YOU PRESENTED YOUR ARGUMENTS  
TO THE COMMITTEE?  
>> YES.  
YES.  
I DID BUT IT WAS ONLY AFTER ALL  
OF THE VOTES HAD BEEN CAST.  
>> HAD THE MATTER UP FOR  
RECONSIDERATION.  
>> I'M SORRY, JUDGE.  
>> HAD THE MATTER UP.  
>> YES, THEY DID.  
ABSOLUTELY.  
>> AND GAVE YOU AN OPPORTUNITY

TO PRESENT.

>> YES, THEY DID.

>> YOUR POSITION.

>> YES.

AND MAY I SAY, JUSTICE WELLS, I SEE THE JUDGE HAD A QUESTION, JUSTICE WELLS, YOU ASKED WHETHER IT WOULD BE A CONFLICT BETWEEN RULE 9.190 E-1 AND THE PROPOSED AMENDMENT AND THERE DEFINITELY WILL BE.

I RESPECTFULLY HAVE TO DISAGREE WITH THE COMMITTEE.

RULE 9.190 E-1 SAYS THE FILING OF A NOTICE OF ADMINISTRATIVE APPEAL SHALL NOT OPERATE AS A STAY EXCEPT THAT SUCH FILING SHALL GIVE RISE TO AN AUTOMATIC STAY, AS PROVIDED IN 9.310 B-2.

NOW, ON ONE HAND, 9.190 E-1 SAYS THERE WILL BE AN AUTOMATIC STAY, IF YOU GO TO THE OTHER RULE IT SAYS THERE WILL NOT BE AND THE COMMITTEE HAS SUGGESTED --

>> I AGREE WITH YOU, AT LEAST THE IMPRESSION -- IT LEAVES THE IMPRESSION THAT 9.3 --

>> RIGHT.

>> WOULD PROVIDE FOR AN AUTOMATIC STAY.

BECAUSE THAT IS WHAT IT DID.

UP UNTIL THE AMENDMENT TO THE RULES.

AS THE RULES CHANGE WE PROBABLY NEED TO ADDRESS THAT.

>> I THINK YOU NEED TO ADDRESS BOTH, IN FACT, ONE OF THE COMMITTEES -- COMMITTEES ON RECORD, AND APPENDIX H IS A MEMO FROM AN ASSISTANT ATTORNEY GENERAL BUREAU CHIEF IN CHARGE OF THE ADMINISTRATIVE WORK FOR THE ATTORNEY GENERAL.

AND PAGE 78 OF APPENDIX H AND SHE CONCLUDED THERE IS A DIRECT CONFLICT.

>> MY CONCERN, I GUESS, IS D --

I'M HEARING YOU GAVE AN EXAMPLE OF LITIGATION INVOLVING MR. BRANNOCK'S FIRM AND YOUR FIRM AND WE ALWAYS LOOK AT THESE COMMITTEES THAT ARE BAR APPOINTED COMMITTEES AS -- MADE UP OF JUDGES FROM EACH DISTRICT.

MADE UP OF BROAD SPECTRUM OF PRESUMABLY INDIVIDUALS THAT ARE ACTING IN A OBJECTIVE CAPACITY THEMSELVES.

I MEAN, I'M GOING TO ASK MR. BRANNOCK, ARE YOU SAYING THE COMMITTEE IS ENTIRELY MADE UP OF PRIVATE PRACTITIONERS, NO LOCAL GOVERNMENT LAWYERS ON IT.

>> ABSOLUTELY NOT, YOUR HONOR AND I'M NOT CASTING ANY ASPERSIONS ON MR. BRANNOCK OR HIS FIRM, WE ALL REPRESENT CLIENTS OVER TIME AND I DO QUITE A BIT OF ADMINISTRATIVE LITIGATION.

ON BEHALF OF BOTH GOVERNMENTAL ENTITIES, AND PRIVATE ENTITIES, AS WE ALL KNOW THE HOLLAND, KNIGHT FIRM DOES AS WELL AND SO I DO HAVE --

>> BUT THE COMMITTEE ITSELF IS MADE UP, THERE ARE GOVERNMENT LAWYERS ON THAT COMMITTEE.

>> ABSOLUTELY.

>> LET ME ASK YOU A QUESTION, CHANGE YOUR FACT PATTERN. YOU GAVE THE COUNTY VERSUS A BIG CORPORATION.

PUT THE PRIVATE PARTY, THE SMALL MOM AND POP THAT GOES AND GETS RELIEF IN ADMINISTRATIVE CONTEXT.

IT IS YOUR POSITION THAT THERE WOULD HAVE BEEN AUTOMATIC STAY IN THAT CASE AND WE PUT THE BURDEN ON THE LESS PER KUHNUS INDIVIDUAL CITIZEN TO GET IT LIFTED, THOUGH THEY PREVAIL IN ADMINISTRATIVE PROCEEDING COMPLETELY UNLIKE A NORMAL CIVIL PROCEEDING.

>> YOUR HONOR THE ALTERNATE STAY

--

>> YOU'RE RIGHT.

>> A PROCEEDING AS WELL.

>> RIGHT.

>> AND ONE QUESTION I HAVE IS WHY ARE WE GOING TO REMOVE THE AUTOMATIC STAY AND ADMINISTRATIVE PROCEEDINGS WHICH HAVE BROAD RAKING IMPLICATIONS TO -- RANGING IMPLICATIONS TO THE CITIZENS OF THE LOCAL

GOVERNMENTS WHO ARE LITIGANTS.  
BUT IN A CIVIL CONTEXT, TRIP AND  
FALL CASE OR BREACH OF CONTRACT  
DECISION, ISSUED BY A JUDGE, IS  
GOING TO BE AUTOMATICALLY  
STAYED.

PENDING THE -- THE CITY.

>> MAYBE WE OUGHT TO LOOK AT  
THAT, TOO BUT THAT IS NOT BEFORE  
US RIGHT NOW.

>> IT'S NOT BUT CREATES AN  
ABSURD OR AT LEAST A  
QUESTIONABLE DICHOTOMY THAT I  
THINK THE COURT COULD -- SHOULD  
CONSIDER.

I ALSO THINK THE COURT SHOULD  
CONSIDER THE FACT THAT THIS  
120.68 HAS BEEN AMENDED AT LEAST  
14 TIMES.

SINCE 1974.

THE SUB SECTION 3 THAT WE ARE  
DEBATING HAS BEEN AMENDED 5 OR 6  
TIMES.

SINCE 1974.

THIS IS A STATUTE LIKE THE APA,  
FREQUENTLY AMENDED.

AND THE COURT, IF IT IS GOING TO  
MAKE THE CHANGE, SHOULD PROVIDE  
THE LEGISLATURE WITH THE  
FLEXIBILITY THAT OUR PROPOSED  
ALTERNATIVE LANGUAGE PROVIDES.  
ALTHOUGH WE SUBMIT THERE IS NO  
CONFLICT.

THE ISSUE WAS DECIDED LONG AGO  
BY THE CITY OF JACKSONVILLE, THE  
FIRST DCA HELD THIS IS A  
SEPARATION OF POWERS ISSUE, TO  
THE EXTENT THERE IS A CONFLICT,  
WHICH THEY -- IN HARMONY WHICH I  
THINK IS WHAT THE COURTS ARE  
REQUIRED TO DO, READ THE STATUTE  
AND RULE IN HOUR MANY, TO MAKE  
THEM MORE TOGETHER.

BUT TO THE EXTENT THERE IS A  
CONFLICT THE RULES HAVE TO  
PREVAIL.

YOUR HONOR, JUSTICE LEWIS YOU  
WROTE RECENTLY, ISSUED THE  
MASSEY VERSUS DAVID DECISION  
WHERE STATUTE WAS HELD  
UNCONSTITUTIONAL UNDER THE  
SEPARATION OF POWERS DOCTRINE.  
THIS IS THE SAME SITUATION.

EXCEPT WE ARE ACCOMMODATING THE

LEGISLATURE'S LANGUAGE WHICH TO ME IS NOT REALLY IN CONFLICT. IT'S NOT AS SPECIFIC.

AS WHAT THE RULE PROVIDES. I'M OUT OF TIME --

>> YOU ARE, WITH OUR HELP, AND WE HAVE EXHAUSTED ALL OF YOUR TIME AND IT WASN'T SO BAD FOR THE FIRST TIME, WAS IT.

>> NO, AND I APPRECIATE YOUR PATIENCE WITH ME.

THANK YOU VERY MUCH.

>> THANK YOU VERY MUCH.

>> MR. BRANNOCK LET ME ASK YOU A QUESTION, FIRST, SPEAK TO HIS ALTERNATIVE.

-- ALTERNATIVE PROPOSAL TO PROVIDE FLEXIBILITY SHOULD THE LEGISLATURE WANT TO DO SOMETHING DIFFERENT.

>> WE'D HAVE NO DIFFICULTY WITH THAT LANGUAGE BEING IN -- INSERTED INTO THE STATUTE, ALONG WITH OUR PROPOSED CHANGE.

BUT IF YOU JUST PUT THAT -- BUT IF YOU JUST BUT THAT LANGUAGE IN WITHOUT OUR PROPOSED CHANGE I STILL THINK IT LEAVES AMBIGUITY BETWEEN 930 B AND 120.68 B AND SHOULD BE ELIMINATED.

>> WHAT IS WRONG WITH THE ANALYSIS OR -- WHAT ARE THE VULNERABLE POINTS ON AN ARGUMENT THAT AS WE LOOK AT OUR RULES OF PROCEDURE, BE IT FOR PURPOSES THAT YOU CANNOT EXECUTE AGAINST THE GOVERNMENTAL ENTITY OR FOR WHATEVER REASON, THAT THE LAW HAS CONTEMPLATED, THAT THE PUBLIC TREASURY NOT BE EXPOSED TO ADDITIONAL DOLLARS AND NOT BE EXPOSED TO EXECUTION, THAT THE PUBLIC INTEREST ASPECT OF THIS IS THAT THINGS OUGHT TO BE IN A STATUS QUO UNTIL DETERMINED, IS THERE A FRAILTY AND ACHILLES HEEL OF LOGIC THAT FLOWS THROUGH THESE MATTERS THAT THERE IS SOMETHING DIFFERENT ABOUT, WHEN THE GOVERNMENT AND THE PUBLIC, REALLY, THEY REPRESENT THE CITIZENS OF THE STATE, WHEN THEIR INTERESTS ARE INHERENTLY INVOLVED IN A DECISION, WHETHER

ADMINISTRATIVE BY AN ALJ OR A COURT OF LAW?

>> RIGHT.

REMEMBER, THE ONLY QUESTION HERE IS WHETHER THE GOVERNMENT GIVES AN AUTOMATIC STAY --

>> I UNDERSTAND BUT I'M SAYING, WHY THAT RULE DEVELOPED FROM THAT KIND OF THINKING, THE THEORY, WHAT I'M ASKING, WHERE IS THE FRAILTY AND THE ERROR IN THAT KIND OF THINKING.

>> THE ERROR IN THAT KIND OF THINKING IN THE APA CONTEXT IS YOU HAVE ANOTHER GOVERNMENT ENTITY INVOLVED, MADE A DIFFERENT DECISION.

AND THAT IS THE GOVERNMENTAL ENTITY THAT HAS BEEN CHARGED WITH THE RESPONSIBILITY OF LOOKING AT ALL OF THE PUBLIC INTERESTS, WEIGHING THE ECONOMIC INTERESTS, VERSUS THE DEVELOPMENT INTERESTS, VERSUS THE ENVIRONMENTAL INTERESTS, AND THEN, WEIGHING -- USING THEIR EXPERTISE, THE DEP FOR EXAMPLE, USING THE EXPERTISE IN THE AREA OF ENVIRONMENTAL REGULATION, AND COMING TO A DECISION AND NOW THE QUESTION IS, IF WE ARE GOING TO -- GOING TO FAVOR A STATUS QUO, WHICH STATUS QUO DO WE FAVOR THE STATUS QUO PROPOSED BY THE LITIGANT MUNICIPALITY THAT OPPOSES THE DECISION, OR DO WE FAVOR THE STATUS QUO IMPOSED BY THE NEUTRAL DECISION MAKER THAT IS ALREADY WEIGHED ALL OF THOSE INTERESTS?

>> IT SEEMS TO ME THAT YOUR ARGUMENT IS PUTTING THE DECISION MAKER AHEAD OF THE PARTIES, WHEREAS UNDER THE RULES, 9.310, IT IS THIS PARTY, THE PARTY IS THIS GOVERNMENTAL ENTITY, THEN THE ENTITY GETS THE AUTOMATIC STAY.

SO WHY SHOULD WE TREAT THE PARTY, GOVERNMENTAL PARTY IN AN ADMINISTRATIVE PROCEEDING, ANY DIFFERENT FROM A GOVERNMENTAL PARTY AND ANY OTHER APPEAL SITUATION?

>> BECAUSE THE WHOLE POINT OF THE AUTOMATIC STAY IS TO GIVE DEFERENCE TO THE GOVERNMENT AND THAT DOESN'T WORK SO NEATLY WHEN YOU HAVE THE GOVERNMENT ON BOTH SIDES OF THE ISSUE, AND SO --

>> BUT THIS GOVERNMENT ON THAT -- ON THE OTHER SIDE IS THE DECISION MAKER.

JUST AS THE JUDGE WOULD HAVE BEEN IN A REGULAR COURT PROCEEDINGS AND I STILL AM HAVING A HARD TIME FOLLOWING THE ARGUMENT THAT THE DECISION MAKER SHOULD HAVE -- DECISION MAKER AND -- IN AN ADMINISTRATIVE PROCEDURE SHOULD HAVE A GREATER ROLE AS IT WERE THAN A JUDGE IN A COURT PROCEEDING.

>> RIGHT.

AND I THINK THOSE ARE REASONABLE ARGUMENTS AND REASONABLE ARGUMENTS CAN BE MADE ON BOTH SIDES OF THAT QUESTION BUT I THINK ONE OF THE MAJOR POINTS BEHIND THE RULE PROPOSAL IS THAT THIS IS A POLICY QUESTION THAT HAS BEEN RESOLVED BY THE LEGISLATURE.

BOTH THE GOVERNMENT GOVERNMENTAL ENTITY THAT IS THE DECISION MAKER AND THE GOVERNMENTAL ENTITY THAT IS THE LITIGANT ARE CREATURES OF STATUTE AND THEIR POWERS ARE CREATED BY OR LIMITED BY THE LEGISLATURE AND SHOULDN'T IT BE THE LEGISLATURE THAT MAKES THE CALL AS TO HOW YOU BALANCE THOSE INTERESTS?

AND I THINK THE BEAUTY OF THE PROPOSAL IS THAT STILL IT GIVES THE GOVERNMENT -- GOVERNMENTAL ENTITY THE LITIGANT THE RIGHT TO COME BEFORE THE NEUTRAL DECISION MAKER AND EVENTUALLY BEFORE THE COURT AND SAY, UNDER THESE CIRCUMSTANCES, WE THINK A STAY IS IMPORTANT AND HERE'S WHY.

AND THEN, THE NEUTRAL DECISION MAKER WILL MAKE THE DECISION AND I THINK IN MANY, MANY CASES, THE GOVERNMENT LITIGANT IS GOING TO GET ITS STAY BECAUSE IN MOST CASES, IN MANY CASES --

>> THAT GOES BACK TO THE -- THE DECISION MAKER THAT DECIDED GAS -- SIDED AGAINST THE GOVERNMENT, CORRECT.

>> RIGHT, JUST -- BUT JUST A STAY, DECISION ON STAYS ALWAYS GO BACK TO THE JUDGE WHO HAS MADE THE ADD SENIORS DECISION AND THE JUDGES THEN HAVE A SEPARATE --

>> YOU ARE ELEVATING THIS APA DECISION MAKER, HIGHER THAN THE JUDGE WHO IS ALSO NEUTRAL AND MAKING A DECISION OR A -- FOR A JAR AFTER ALL CONSIDERATIONS AND, YOU KNOW, I THINK THE BEST REASON WOULD BE THAT IF IT'S CLEAR THE LEGISLATURE PROVIDED OTHERWISE, THEN WE HAVE A REASON TO DEFER TO THE LEGISLATURE. AND THAT IS -- WHERE WE STARTED FROM.

>> I THINK THAT IS THE ULTIMATE BOTTOM LINE IS THIS IS A CALL THAT SHOULD BE MADE BY THE LEGISLATURE.

>> WITH THAT YOU HAVE USED UP ALL OF YOUR TIME.

I THINK YOU HAVE SOME TYPE OF AWARD OR RECOGNITION THAT YOU WOULD LIKE TO ANNOUNCE AT THIS TIME.

>> I DO, YOUR HONOR, THIS THE COURT'S INDULGENCE, APPRECIATE GIVING ME THIS TIME.

I -- OUR LIAISON ON THE APPELLATE RULES COMMITTEE FOR THE PAST, ALL OF THE ENTIRE SIX YEARS I HAVE BEEN ON THE APPELLATE RULES COMMITTEE AND SHE IS GOING TO BE LEAVING US, TO MOVE TO MARYLAND, TO BE WITH HER FAMILY UP IN MARYLAND AND IS GOING TO BE JOINING THE MARYLAND COURT OF APPEALS, IN AN ADMINISTRATIVE CAPACITY UP THERE, AND I WANTED TO PUBLICLY ACKNOWLEDGE, JOANNA, I BELIEVE IS IN THE ROOM, WANTED TO ACKNOWLEDGE HER.

>> PLEASE STAND.

>> HER WONDERFUL SERVICE TO THE COMMITTEE, AND TO THE BAR AND TO THIS COURT.

SHE'S THE BRAINS OF THE  
OPERATION.

SHE'S THE ONE THAT KEEPS  
EVERYTHING ON LINE, AND ON  
TRACK, AND THOSE OF US ON THE  
COMMITTEE, WE COME AND GO, BUT,  
JOANNA HAS ALWAYS BEEN THERE AS  
THE ROCK, AND HER SERVICE HAS  
BEEN EXTRAORDINARY AND I THOUGHT  
IT SHOULD BE PUBLICLY  
ACKNOWLEDGED.

>> THANK YOU VERY MUCH AND ON  
BEHALF OF THE COURT WE TAKE THIS  
OPPORTUNITY TO THANK YOU FOR  
YOUR YEARS OF SERVICE, AND NOT  
ONLY TO THE APPELLATE RULES  
COMMITTEE BUT TO THE PEOPLE OF  
FLORIDA AND THAT IS WHO YOU  
REALLY HAVE BEEN SERVING AND  
CERTAINLY, FLORIDA'S LOSS IS --  
APPEARS TO BE MARYLAND'S GAIN  
AND YOU ALWAYS CAN COME HOME,  
REMEMBER THAT, YOU CAN ALWAYS  
COME HOME, THANK YOU VERY MUCH  
FOR THOSE YEARS OF SERVICE.