

>> ALL RISE.

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

ALL WHO HAVE CAUSE TO PLEA, DRAW  
NEAR.

GIVE ATTENTION, YOU SHALL BE  
HEARD.

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

>> LADIES AND GENTLEMEN, THE  
SUPREME COURT OF FLORIDA.

PLEASE BE SEATED.

>> GOOD MORNING.

WELCOME TO THE FLORIDA SUPREME  
COURT.

THE FIRST CASE ON THE DOCKET IS  
THE, IN REFERENCE TO THE  
AMENDMENTS TO THE FLORIDA RULES  
OF APPELLATE PROCEDURE.

WHENEVER YOU'RE READY.

>> GOOD MORNING, JUSTICES.

MAY IT PLEASE THE COURT, MY NAME  
IS KRISTIN NORSE, I AM HERE IN  
MY ROLE AS CHAIR OF THE  
APPELLATE COURT RULES COMMITTEE.  
I ALSO HAVE WITH ME JUDGE ROBERT  
LUCK.

I'M VERY HONORED TO PRESENT THE  
COMMITTEE'S CYCLE REPORT, AND WE  
HAVE PROPOSED AMENDMENTS TO A  
LARGE NUMBER OF-- OR.

>> COULD YOU SPEAK INTO THE MIC?

>> YES, SORRY.

WE'VE PROPOSED AMENDMENTS TO A  
LARGE NUMBER OF OUR RULES.

THANKFULLY, MANY OF THOSE ARE TO  
INCREASE STYLE, AMEND  
READABILITY, CLARITY OF USE.

BUT I DO IN THE TIME ALLOTTED  
HOPE TO PINPOINT A FEW OF THE  
SUBSTANTIVE CHANGES THAT WE  
HAVE, AND THEN I'D LIKE TO SEE  
THE PODIUM TO JUDGE ROBERT LUCK  
TO ADDRESS THE ONE RULE PROPOSAL  
THAT HAS DRAWN SOME COMMENT, AND  
THAT'S THE RULE REGARDING  
THREE-JUDGE PANELS IN CIRCUIT  
COURT APPEALS.

BUT BEFORE WE GET TO THAT,  
THERE'S JUST A FEW PROPOSALS I  
WOULD HIGHLIGHT FOR THE COURT.  
WE'VE PROPOSED AMENDING RULE  
9.110 TO CLARIFY THE SCOPE OF  
REVIEW AND PARTIAL FINAL  
JUDGMENTS CONSISTENT WITH THE  
STATE LAW.

WE'VE PROPOSED 9.130 TO ADD TWO  
TYPES OF ORDERS TO THE ORDERS  
THAT WOULD QUALIFY FOR NON-FINAL  
APPEAL.

THAT WOULD BE ORDERS THAT  
DETERMINE WHETHER A SETTLEMENT  
AGREEMENT IS ENFORCEABLE AS A  
MATTER OF LAW AND ORDERS THAT  
GRANT OR DENY DISQUALIFICATION  
OF COUNSEL.

>> NOW, WHY THE ONE CONCERNING  
THE SETTLEMENT AGREEMENT, YOU  
KNOW?

HAS THERE BEEN A PROBLEM WITH  
THE WAY THEY'RE HANDLED NOW?

>> THERE WAS A PROPOSAL ON THIS  
TO TREAT IT MUCH LIKE THE WAY WE  
TREAT IMMUNITY, THAT IF YOU GOT  
TO A SETTLEMENT AGREEMENT AND,  
OF COURSE, FLORIDA LAW FAVORS  
SETTLING OF DISPUTES.

SO IF YOU HAD A SETTLEMENT  
AGREEMENT AND YOU COULD DECIDE  
AS A MATTER OF LAW WHETHER OR  
NOT IT WAS ENFORCEABLE, THAT  
THAT WOULD HELP PROMOTE  
SETTLEMENT AGREEMENTS AND FOLLOW  
THAT AND ALSO ALLOW THAT STOPGAP  
WHERE, IF IT IS A VALID  
SETTLEMENT AGREEMENT, THEN  
YOU'RE NOT TRYING THE WHOLE  
CASE.

SO THAT WAS THE REASON BEHIND  
THAT PROPOSAL.

>> BUT I GUESS MY REAL QUESTION  
IS, IS THERE INFORMATION,  
ANECDOTAL OR OTHERWISE, THAT  
THERE'D BEEN A PROBLEM WITH THE  
ENFORCEMENT OF SETTLEMENT  
AGREEMENTS IN ANY WAY?

>> I DON'T KNOW THAT THERE WAS  
ANY REPORT OF A WIDESPREAD

PROBLEM.

I THINK TYPICALLY WHEN WE GET A REFERRAL, THERE IS AT LEAST AN ANECDOTAL CONCERN THAT THIS IS HAPPENING, BUT WE DID NOT HAVE ANY WIDESPREAD REPORTS OF PROBLEMS WITH THAT.

IT WAS MORE THE IDEA THAT YOU COULD PROMOTE EFFICIENCY AND SETTLEMENT AGREEMENTS BY DOING THIS.

WE HAVE A PROPOSAL TO AMEND RULE 9.210 TO SPECIFICALLY PROVIDE THAT AN ATTORNEY WHO REPRESENTS MORE THAN ONE PARTY CAN ONLY FILE ONE BRIEF.

THAT APPEARS TO BE THE PROCEDURE ACROSS THE STATE, BUT TO MAKE IT CLEAR TO LITIGANTS WHO ARE LOOKING AT THE RULES, THAT IF THEY NEED-- IF THE ATTORNEY WANTS TO FILE MORE THAN ONE BRIEF, THEY NEED TO SEEK LEAVE OF COURT FOR THAT.

WE HAVE A PROPOSAL TO AMEND RULE 9.330 IN ORDER TO SPECIFY THE GROUNDS ON WHICH ONE CAN ASK FOR A WRITTEN OPINION AFTER PROCURING REFERMENTS, AND THAT PROPOSAL TRACKS THE LANGUAGE FROM A REPORT THAT WAS PRESENTED ON PCAs ON WHEN IT WOULD BE APPROPRIATE TO HAVE A WRITTEN OPINION IN LIEU OF A PCA.

>> DO YOU HAVE ANY STATISTICS ON-- SINCE THAT RULE WENT INTO EFFECT HOW OFTEN APPELLATE COURTS ACTUALLY DO ISSUE A WRITTEN OPINION AFTER A REQUEST FROM A PARTY?

>> WE DO NOT HAVE ANY HARD STATISTICS, AND I THINK THE GENERAL THOUGHT OF THE, OF PRACTITIONERS IN THE ROOM IS WAS THAT IT'S RARE BUT THAT IT DOES HAPPEN MANY SOME CASES.

BUT, CERTAINLY, A SMALL MINORITY OF CASES.

BUT THIS AT LEAST WOULD PUT PARAMETERS ON WHEN YOU SHOULD BE

REQUESTING THAT, YOU KNOW?  
HOPEFULLY NOT SUBJECT TO FILING  
OTHER MOTIONS THAT REQUEST IT  
FOR NO OTHER REASON THAN I WANT  
A WRITTEN OPINION.

THAT PROPOSAL ALSO WOULD CODIFY  
THAT ALL POST-DECISION MOTIONS  
SHOULD BE IN A SINGLE MOTION  
RATHER THAN IN SEPARATE MOTIONS  
WHICH I THINK, AGAIN, IS THE  
BETTER PRACTICE, BUT WE WANTED  
TO HAVE THAT UNIFORM.

WE'VE PROPOSED AMENDING RULE  
9.331 TO REQUIRE THAT PARTIES BE  
NOTIFIED IF AN APPELLATE COURT  
IS GOING TO CONSIDER A CASEMEN  
BANK.

AND WE'VE PROPOSED AMENDING RULE  
9.360 TO CLARIFY THAT JOINDER IN  
AN APPELLATE SETTING IS REALLY A  
REALIGNMENT OF PARTIES, NOT AN  
ADDING OF PARTY TOSS THE APPEAL.  
THAT WAS A PROBLEM THAT CAME TO  
OUR ATTENTION.

WE'VE PROPOSED ENACTING RULE  
9.380 TO PROVIDE A PROCEDURE FOR  
FILING AND NOTICE OF RELATED  
CASE OR ISSUE.

IT'S MY UNDERSTANDING THAT  
DIFFERENT DISTRICT COURTS ALLOW  
THAT, AND IT'S OFTEN IN THE  
DOCKETING STATEMENT.

BUT TO HAVE A UNIFORM PROCEDURE  
FOR THAT SINCE IT SEEMS TO BE A  
UNIFORM PRACTICE ACROSS THE  
STATE.

>> LET ME ASK YOU A TECHNICAL  
QUESTION ABOUT 9.020--

>> OKAY.

>>-- WHICH IS THE TOLLING  
POSITION.

>> RIGHT.

>> IT PROVIDES FOR, IT SEEMS  
LIKE, AUTOMATIC TOLLING FOR A  
NUMBER OF TYPES OF MOTIONS WHERE  
AUTHORIZED, AND EARLIER UP IN  
THE RULE IT SAYS WERE AUTHORIZED  
IN THESE RULES.

DID THE COMMITTEE THINK ABOUT OR  
IS THERE-- DOES THIS RULE

AUTHORIZE AN APPELLATE COURT TO MAKE ITS ORDER NON-TOLLABLE?

I MEAN, LIKE, IF YOU FILED-- IF AN APPELLATE COURT SAID NO MORE EXTENSIONS OF TIME, YOUR BRIEF IS DUE TOMORROW, YOU KNOW, AFTER SIX EXTENSIONS OR SOMETHING LIKE THAT, COULD SOMEONE TOLL THE RENDITION OF THAT ORDER BY FILING A MOTION FOR REHEAR, OR IS IT-- I MEAN, ARE THERE CIRCUMSTANCES DUB.

>> THE COURT COULD CHANGE THE TOLLING?

>> RIGHT.

>> OUR COMMITTEE DID NOT CONSIDER THAT.

MOST OF THOSE AMENDMENTS ARE A REALIGNMENT TO TRY TO INCREASE READABILITY, BUT I THINK IT'S SOMETHING WORTH CONSIDERING.

TO MY KNOWLEDGE, I DON'T THINK-- I THINK THE WAY THE RULE IS WRITTEN WOULD NOT ANTICIPATE ANYBODY COULD CHANGE THE TOLLING, BUT THAT'S AN IMPORTANT POINT I THINK THAT WE COULD START A NEW REFERRAL ON THAT, TO LOOK AT THAT ISSUE.

>> COULD I ASK YOU A QUESTION ABOUT THAT SAME RULE?

>> SURE.

>> THIS IS VERY TECHNICAL.

>> YES.

>> VERY TECHNICAL.

UNDER 1E THERE ARE TWO THINGS COMBINED, MOTION FOR JUDGE ANYTHING ACCORDANCE WITH PRIOR MOTION FOR DIRECTED VERDICT AND FOR ARREST OF JUDGMENT.

NOW, THE REST OF THIS RULE HAS, YOU KNOW, DIFFERENT-- IT SETS FORTH PARTICULAR TYPES OF MOTIONS UNDER EACH SUBHEADING.

>> RIGHT.

>> IS THERE SOME REASON THOSE TWO GOT JAMMED TOGETHER?

>> OTHER THAN THEY WERE PROBABLY IN THE SAME CLAUSE WHEN WE STARTED, I DON'T KNOW WHY THEY

WOULD BE NECESSARILY PUT  
TOGETHER.

THEY CERTAINLY COULD BE  
SEPARATED OUT.

I DON'T SEE A REASON TO HAVE  
THEM NECESSARILY TOGETHER.

>> THANK YOU.

>> VERY DIFFERENT.

THANK YOU.

I WOULD JUST LIKE ONE MINUTE TO  
COMMEND MY COMMITTEE MEMBERS TO  
YOU WHO WORKED VERY HARD AND  
APPRECIATE YOUR CONSIDERATION OF  
THESE RULES.

>> CHIEF JUSTICE AND JUSTICES,  
MAY IT PLEASE THE COURT--

[SPEAKING IN NATIVE TONGUE]

SOON ENOUGH, IF DONE RIGHT.

THAT SEAL SITS RIGHT BELOW YOU,  
CHIEF JUSTICE, AND RIGHT ABOVE  
YOU, AND SITS IN EVERY SINGLE  
APPELLATE COURT THROUGHOUT THIS  
ENTIRE STATE IN EVERY SINGLE  
COURTROOM.

AND IT IS OUR PROMISE AS  
APPELLATE JUDGES THAT WE ARE  
GOING TO GET IT RIGHT.

IT IS WITH THAT GOAL THAT THE  
APPELLATE RULES COMMITTEE  
PROPOSED THIS PROPOSED CHANGE TO  
REQUIRE THREE-JUDGE PANELS--

>> LET ME ASK YOU, I

UNDERSTAND-- OBVIOUSLY, IN AN  
IDEAL WORLD THAT WOULD BE THE  
PERFECT THING.

AND IN THE BIG CIRCUITS SUCH AS  
MIAMI-DADE WHERE YOU PRESIDE OR  
PALM BEACH COUNTY WHERE MOSTLY  
JUDGES ARE IN ONE BUILDING, ONE  
COURTHOUSE, JACKSONVILLE,  
ORLANDO, THAT WORKS PERFECTLY.

AND I REMEMBER BEING A CIRCUIT  
COURT JUDGE AND BEING ON THESE  
APPELLATE PANELS, AND THERE WAS  
ALWAYS THREE OF US.

BUT I'M LOOKING AT MONROE  
COUNTY, AND THEY HAVE FOUR  
CIRCUIT JUDGES.

THREE ARE IN KEY WEST, AND ONE  
IS OUT IN PLANTATION.

SO IF YOU'RE GOING TO REQUIRE APPELLATE PANELS FOR EVERY APPEAL FROM COUNTY COURT, THEN YOU TAKING AWAY 75% OF THEIR JUDGES.

>> SO THE ASSUMPTION UNDERLYING A LOT OF THE COMMENTERS ARE THREE THINGS.

ONE, THAT THERE HAS TO BE ORAL ARGUMENT IN EVERY CASE.

THE OTHER IS THAT ALL THREE PEOPLE HAVE TO BE IN THE SAME ROOM AT THE SAME TIME, AND THE THIRD IS THAT THEY ALL HAVE TO BE FROM THE SAME COUNTY.

THAT'S FROM MULTI-COUNTY CIRCUITS.

AS WE KNOW AS APPELLATE JUDGE, THAT'S NOT THE REALITY.

THE REALITY IS THAT, A, WE HAVE ARGUMENT IN VERY FEW CASE ANDS THERE NEED NOT BE ARGUMENT BECAUSE IT'S NOT REQUIRED BY THE RULE.

SECONDLY, THAT THINGS ARE DONE SERIALLY.

THERE'S A PRESIDING JUDGE OR AN INITIAL JUDGE WHO DECIDES.

THEY SEND IT ELECTRONICALLY OR PHYSICALLY TO THE SECOND JUDGE WHO LOOKS AT THE FILE, SIGNS OFF AND SENDS IT TO THE THIRD JUDGE.

>> I MEAN, THAT IS NOT A MODEL THAT IS USED EVERYWHERE.

IN SOME, IN SOME COURTS THERE'S ACTUALLY DELIBERATION BY A PANEL OF JUDGES, AND SOME PEOPLE, I THINK, WOULD SUGGEST THAT THERE'S SOME VALUE IN ACTUALLY, IN AN APPELLATE PROCESS IF YOU'RE GOING TO HAVE SOMETHING THAT FITS THE THREE-JUDGE MODEL, THAT YOU ACTUALLY HAVE AN OPPORTUNITY FOR THE THREE JUDGES TO SIT DOWN FACE TO FACE.

AND YOU'D REALLY LOSE SOMETHING IF YOU DON'T HAVE THAT.

>> I THINK, JUSTICE CANADY, THAT IS THE IDEAL.

IN EVERY SINGLE DCA, FOR

EXAMPLE, ON THIS COURT THERE ARE SOME PEOPLE WHO DON'T LIVE IN TALLAHASSEE, AND YET ON THEIR DAY TO DAY BUSINESS, THEY'RE ABLE TO DEAL PROPERLY WITH THE BUSINESS BEFORE THEM.

IN MY COURT WE HAVE A JUDGE WHO LIVES IN KEY WEST AND MIAMI.

IN THE SECOND DCA THERE'S JUDGES IN THE TAMPA AREA, IN THE FIFTH DCA, ORLANDO AND--

>> THEY DON'T GET TOGETHER-- I MEAN, THIS IS NOW THE QUALITY OF APPELLATE JUSTICE.

ARE YOU SUGGESTING THAT APPELLATE JUSTICE IS SERVED BY JUST A FILE BEING PASSED FROM JUDGE TO JUDGE IN DIFFERENT LOCATIONS?

>> JUST--

>> AS OPPOSED TO CONFERENCING IT EVEN IF IT'S CONFERENCED BY VIDEO?

>> JUSTICE PARIENTE, I'M SUGGESTING TWO THINGS. FIRST, IS THAT TECHNOLOGY ALLOWS US TO BE IN ONE PLACE TOGETHER WITHOUT PHYSICALLY BEING IN ONE PLACE WHETHER THROUGH VIDEOCONFERENCES, TELEPHONE--

>> LET ME GO TO SOMETHING THAT I JUST WANT TO MAKE SURE WE GET TO, BECAUSE IT'S A QUESTION, FOR ME, OF THE SCOPE.

I AM, I JUST WANT TO TELL YOU, I AM, HAVE BEEN SINCE I WAS AN APPELLATE JUDGE A BIG PROPONENT OF THREE-JUDGE PANELINGS.

PALM BEACH COUNTY HAD IT ALWAYS, BROWARD DIDN'T.

AND IT, TO ME, THE IDEA THAT THE APPELLATE COURT COULD NOT REVIEW WHAT THE CIRCUIT JUDGE DID BECAUSE IT WAS THE, QUOTE, APPEAL WAS THE PART THAT I FOUND TO BE ABSURD.

SO ONE IS TO HAVE THE THOUGHT ABOUT THE IDEA THAT IF A PARTICULAR CIRCUIT DECIDES THAT THEY'RE GOING TO ONLY HAVE ONE

JUDGE, THAT THE APPELLATE COURT WOULD HAVE APPELLATE REVIEWS SO THAT-- BECAUSE REALLY ALL YOU'RE DOING IS SUBSTITUTING ONE JUDGE FOR THE OTHER, NUMBER ONE. NUMBER TWO IS YOU'VE GOT FINAL ORDERS FROM THE COUNTY COURT. THOSE ARE CLEARLY APPEALS, AND THAT'S UNDER A OF THE RULE. YOU ALSO HAVE NON-FINAL ORDERS OF LOWER TRIBUNALS, THEN YOU HAVE ADMINISTRATIVE ACTION, AND THEN YOU HAVE CERT JURISDICTION FOR-- AND THEN YOU HAVE ORIGINAL JURISDICTION WHICH INCLUDES COMMON LAW CERT. NOW, THE RULE THE WAY IT READS YOU'VE GOT ALL UNDER ORIGINAL JURISDICTION ARE THOSE WONDERFUL WRITS OF MANDAMUS AND PROHIBITION.

YOU'RE NOT SUGGESTING THAT COME GENERALLY FROM A CERTAIN SEGMENT OF THE POPULATION THAT WE ALL SEE, YOU'RE NOT SUGGESTING THAT THERE WOULD BE THREE-JUDGE PANELS FOR EVERYTHING UNDER EVERY PART OF THE RULE? OR ARE YOU?

>> NO.

NO, BECAUSE UNDER 1.360 THOSE ARE THE ORIGINAL WRITS THAT GO TO THE CIRCUIT-- IN THE CIVIL CIRCUIT ARE CARVED OUT FROM THE APPELLATE RULES.

>> WELL, WHAT ABOUT-- HOW DO YOU-- BECAUSE IT'S REALLY, THE TWO AREAS THAT ARE PROBABLY, TO ME, THE BIGGEST ONES ARE THE FINAL ORDERS FROM THE COUNTY COURT AND THEN COMMON LAW CERT, BECAUSE THOSE ARE THE CASES WHERE AN ADMINISTRATIVE TRIBUNAL IN ZONING, PLANNING AND ZONING HAVE MADE A DECISION THAT COULD AFFECT A WHOLE LOT OF PEOPLE. AND EVER SINCE SNYDER WE'VE ALLOWED THAT TO GO THROUGH COMMON LAW CERT. SO IS THERE A WAY-- I MEAN, AND

HAVE YOU BEEN ABLE TO LOOK AT NUMBERS?

THE NUMBERS OF HOW MANY OF THE NUMBERS ARE THE PURE, JUST CIRCUIT COUNTY TO CIRCUIT VERSUS COMMON LAW CERT, AND HAVE YOU THOUGHT ABOUT NOT HAVING NON-FINAL ORDER NECESSARILY BEING WITHIN THIS APPELLATE RULE AS MANDATORY?

YOU SEE WHAT I'M GETTING AT?

>> I DO.

JUSTICE PARIENTE, WE WOULD TAKE HALF A LOAF, TO ANSWER YOUR QUESTION.

IN OTHER WORDS--

>> WELL, WHAT ARE THE NUMBERS? DO WE KNOW?

>> WE DO.

THERE'S A CHART ATTACHED, I BELIEVE IT'S APPENDIX H, THAT LAYS OUT WHAT THE CIRCUIT TO COUNTY APPEALS ARE.

IF YOU TAKE HALF THAT NUMBER, THAT'S THE WRITS.

THAT TOTAL NUMBER PLUS HALF IS THE TOTAL NUMBER OF WRITS PLUS CIRCUIT TO COUNTY, COUNTY TO CIRCUIT--

>> WELL, WRITS OF WHAT? WRITS OF CERT OR MANDAMUS OR--

>> ALL.

CERT TAKES UP 95% OF WHAT WE'RE TALKING ABOUT HERE.

BUT ALL.

>> SO YOU WERE ON THE 11TH CIRCUIT.

>> I WAS.

>> HOW-- AND, AGAIN, I GUESS FOR ME YOU'RE A BUSY CIRCUIT.

SO THE, WHEN WE DO THE TERMINATION OF WORKLOAD HOW DID WE-- DO YOU KNOW HOW WHEN WE DID THE WORKLOAD STUDIED WE FIGURE THE THREE-JUDGE PANEL? DOES THAT ADD BECAUSE THERE ARE THREE JUDGES?

HOW-- COULD YOU GIVE US SOME EXPLANATION OF THAT?

>> SURE.

MY FINAL IS UP FOR REBUTTAL.  
ARE YOU ALLOW ME TO ANSWER THAT  
QUESTION AND STILL MAKE MY  
REBUTTAL--  
>> THAT'S UP TO THE CHIEF.  
>> I THINK THERE ARE JUDGES THAT  
HAVE QUESTIONS AS WELL.  
>> SHOULD I SIT DOWN?  
>> NO, GO AHEAD.  
I'LL GIVE YOU EXTRA TIME.  
>> THANK YOU.  
I WANT TO MAKE SURE I'M GOING  
THE RIGHT THING-- I'M DOING THE  
RIGHT THING.  
THE ANSWER IS IT DOES ADD TO THE  
WORKLOAD.  
BUT OUR REAL, GENERAL POINT IS  
IT DOESN'T ADD TO THE WORKLOAD  
TO THE EXTENT THE COMMENTERS  
HAVE NOTED, WHICH IS THAT IT  
DOESN'T REQUIRE AN ENTIRELY NEW  
JUDGE BECAUSE NOT EVERY JUDGE  
NEEDS TO BE IN THE ROOM, THE  
PRIMARY JUDGE ON EVERY SINGLE  
APPEAL.  
YOU ASKED ABOUT THE 11TH  
CIRCUIT.  
WE DO CERTIORARI BY THREE-JUDGE  
PANEL BUT ORIGINAL WRITS ARE  
DONE BY SINGLE JUDGES.  
>> LET ME ASK YOU A QUESTION--  
OH, GO AHEAD.  
>> WELL, LET ME ASK YOU ABOUT  
THE SCOPE OF THIS AGAIN.  
I'M NOT SURE I'M FOLLOWING THIS,  
OR I'M MISSING SOMETHING.  
>> I'M SURE YOU'RE NOT.  
>> WELL, I MAY BE.  
BUT IT SAYS THAT MATTERS WITHIN  
THE CIRCUIT COURT'S JURISDICTION  
UNDER THIS RULE, OKAY, THAT'S  
THIS 9--  
>> 030.  
>>-- 030, SHALL BE CONSIDERED  
BY A PANEL OF THREE JUDGES.  
NOW, YOU'RE SAYING THAT THE  
ORIGINAL WRITS AREN'T COVERED BY  
THAT.  
>> RIGHT.  
SO 1.630 IS THE CIVIL RULE THAT

DEALS WITH ORIGINAL WRITS, WRITS THAT GO DIRECTLY TO THE CIRCUIT COURTS.

THAT IS CARVED OUT OF ALL APPELLATE JURISDICTION.

>> WELL, BUT THE RULE, I MEAN, IN SUBSECTION THREE OF THIS RULE IT SAYS CIRCUIT COURTS MAY ISSUE WRITS OF MANDAMUS, PROHIBITION, COMMON LAW CERTIORARI.

I MEAN, THAT'S WHERE-- IT SAYS THEY HAVE THAT JURISDICTION.

>> RIGHT, FOR--

>> AND THIS RULE SAYING, IT WAS REFERRING TO JURISDICTION UNDER THIS RULE.

>> RIGHT.

>> AND I DON'T KNOW THAT THE RULES OF CIVIL PROCEDURE TRUMP WHAT'S IN THE RULE OF APPELLATE PROCEDURE--

>> EXCEPT THAT THERE'S A SEPARATE RULE OF APPELLATE PROCEDURE THAT SPECIFICALLY STATE THAT IS 1.630 IS CARVED OUT FROM THE JURISDICTION AND CARVED OUT FROM THE APPELLATE RULES.

>> WHERE DOES IT SAY THAT?

>> WHEN I SIT DOWN, I'LL PULL THE RULE FOR YOU AND COME BACK UP AND TELL YOU.

I WISH I KNEW IT OFF THE TOP OF MY HEAD.

>> THAT'S FINE.

>> TO ANSWER YOUR DIRECT QUESTION, MANDAMUS ONLY APPLIES TO MANDAMUS FROM THE APPELLATE CIRCUIT COURT FROM AN APPELLATE PERSPECTIVE, NOT MANDAMUS AS, IN JUSTICE PARIENTE'S EXAMPLE, FOR INSTANCE, THE DEPARTMENT OF CORRECTIONS THAT IS NOT ADDING UP GAME TIME OR TIME CREDIT. THOSE GO DIRECTLY UNDER 1.630 AND THE UNDER THE RULES OF CRIMINAL PROCEDURE.

THAT DOES NOT GO TO THE APPELLATE COURTS.

ONLY IN THE APPELLATE STANDPOINT

ARE WE TALKING ABOUT MANDAMUS  
AND CERTIORARI.  
JUSTICE LAWSON.

>> SO I THINK EVERYBODY PROBABLY  
AGREES THAT IN AN IDEAL WORLD WE  
WOULD DO THIS EVERYWHERE, THAT  
IT'S JUST-- IT LOOKS BETTER, IF  
NOTHING ELSE.

EVEN IF JUSTICE IN AN INDIVIDUAL  
CASE IN MOST CASES ISN'T  
DIFFERENT, IT'S MORE CONSISTENT  
WITH OUR THEORY OF APPELLATE  
PRACTICE.

IT DOESN'T LOOK LIKE YOUR  
COMMITTEE LOOKED AT HOW  
DETRIMENTAL THIS WOULD BE TO THE  
PRIMARY WORK OF THE CIRCUIT  
COURTS IN THOSE SMALL CIRCUITS.  
AND I GUESS MY QUESTION IS  
WOULDN'T YOU AGREE THAT BEFORE  
WE DO SOMETHING LIKE THIS, THAT  
SOMEBODY OUGHT TO LOOK AT THE  
SYSTEM OF A WHOLE AND WHETHER  
WHAT WE GAIN BY DOING THIS IN  
THE SMALL CIRCUITS OUTWEIGHS  
WITH THE CURRENT RESOURCES WHAT  
WE LOSE BY THE DISRUPTION THAT  
THESE CIRCUITS ARE SAYING THIS  
WOULD CAUSE?

>> IF I COULD JUST TALK FOR A  
SECOND ABOUT THE COMMITTEE'S  
WORK TO ANSWER THAT QUESTION.

>> OKAY.

>> THE COMMITTEE IS MADE UP OR  
40 MEMBERS, APPELLATE JUDGES,  
PLAINTIFFS' DEFENSE, PUBLIC  
DEFENDERS, ATTORNEY GENERALS.  
RESIDENTS FROM PENSACOLA DOWN TO  
MIAMI.

IT IS ABOUT AS DIVERSE A  
COMMITTEE AS YOU CAN POSSIBLY  
HAVE IN TERMS OF VIEWPOINT, AND  
FOR THE LAST FOUR YEARS THOSE  
COMMITTEE MEMBERS HAVE GONE BACK  
TO THEIR HOMES, HAVE ASKED THE  
CLERKS, THE CIRCUIT JUDGES, HAVE  
ASKED THE COURT ADMINISTRATORS,  
HAVE ASKED PRACTITIONERS, ALL OF  
THEM COMPILING THIS INFORMATION  
THAT'S CONTAINED IN THE MULTIPLE

APPENDICES THAT THIS COURT HAS BEFORE IT TO BE ABLE TO COME BACK AND PROPOSE THIS RULE. I WOULD ALSO NOTE THAT THIS IS NOT THE FIRST TIME THIS COURT HAS CONSIDERED THIS. IN 2000 AND 2001 THIS COURT CONSIDERED THIS RULE. AND AT THAT TIME THE CIRCUIT COURT'S POSITION WAS ABSOLUTELY CLEAR.

THEY'RE OPPOSED TO IT. THEY'RE OPPOSED TO IT TODAY. THEY WILL BE OPPOSED TO IT IN FIVE YEARS.

WE UNDERSTAND THEIR POSITION. AND IT MAY BE THAT CONVENIENCE OR COST OUTWEIGH WHAT IS RIGHT HERE, WHAT WE ALL AGREE IS THE RIGHT THING--

>> YOU TALKED ABOUT AT SOME POINT AROUND 2000 OR 2001 THE RULE CAME UP.

AT SOME POINT IN TIME, DIDN'T WE ADD A RULE-- THE CURRENT RULE NOW WHERE THERE'S A CERTIFIED QUESTION OF PUBLIC IMPORTANCE BY THE COUNTY COURT?

THAT CANNING GO TO THE DISTRICT COURT OF APPEAL AND BYPASSES THE CIRCUIT COURT, CORRECT?

>> IT IS.

>> WHEN WAS THAT ADDED?

>> THAT WAS ADDED-- I DON'T HAVE THE EXACT DATE, JUSTICE POLSTON, BUT AFTER 2000 AND 2001.

>> SO DOESN'T THAT TAKE REALLY CARE OF THE MORE SIGNIFICANT CASES WHERE THE REALLY IMPORTANT CASES CAN GO TO THE DCA SO WHAT'S LEFT ARE MORE ROUTINE MATTERS?

>> I'LL TELL YOU WHY I DON'T THINK SO, FOR TWO REASONS. IT'S STILL DISCRETIONARY. I KNOW FROM MY OWN COURT AND OTHERS THAT AS A MATTER OF DISCRETION THE CIRCUIT COURTS SOMETIMES DO NOT AGREE-- THE

COURTS EXCITEMENT DO NOT AGREE TO TAKE THOSE YET. SECONDLY, THE VAST MAJORITY ARE STILL BEING DONE AT THE CIRCUIT LEVEL, AND THERE BECAUSE OF SECOND TIER CERTIORARI, NO THREE-JUDGE PANEL OR THIS COURT WILL EVER SEE IT BECAUSE IT'S IS SO LIMITED.

SO IN THE VAST MAJORITY OF CASES, DUIS, PIP CASES, MULTI-MILLION DOLLAR LAND USE DECISIONS, A THREE-JUDGE PANEL THIS COURT WILL NEVER HAVE RECEIVED.

>> WELL, IT JUST SEEMS TO ME THAT WHY ISN'T THE DISCRETION THE BETTER WAY TO DO THIS TO ALLOW THOSE CIRCUITS OR WHATEVER COUNTY TO DECIDE IF THEY CAN HAVE A THREE-JUDGE PANEL OR HAVE IT BY ONE JUDGE?

>> THE PROBLEM WITH THAT IS THE UNIFORMITY ISSUE THAT SOME OF THE OTHER JUSTICES HAVE IDENTIFIED.

LET ME TAKE ONE GEOGRAPHIC EXAMPLE HERE.

IF YOU TAKE ST. JOHNS COUNTY, ST. AUGUSTINE, ONE JUDGE REVIEWS COUNTY TO CIRCUIT OPINIONS. THE ONE COUNTY SOUTH OF THAT, WHICH IS VOLUSIA COUNTY, TWO JUDGES-- THEY ACTUALLY HAVE TWO-JUDGE PANELS-- REVIEW IT. AND THE COUNTY RIGHT SOUTH OF THAT, BREVARD COUNTY, HAS THREE-JUDGE PANELS.

>> BUT AREN'T-- I MEAN, EACH COUNTY HAS TO LOOK AT WHAT KIND OF RESOURCES THEY HAVE BOTH IN TERMS OF DOLLARS AND IN TERMS OF PERSONNEL.

>> AND I THINK THE RULE ALLOWS THAT SORT OF FLEXIBILITY. IN OTHER WORDS, SOME CIRCUITS WILL DECIDE OF TO HAVE ORAL ARGUMENT AND THREE JUDGES IN THE ROOM IN EVERY CASE. BUT FOR OTHER CITY CUTS THAT

HAVE LIMITED RESOURCES, THEY HAVE THE FLEXIBILITY TO DECIDE WHEN HOW THEY WANT TO DO THIS, WHETHER IT'S BY ORAL ARGUMENT, WHETHER IT'S SERIALY. BUT FROM OUR PERSPECTIVE, EVERY MEMBER OF THIS COURT HAS SAT ON A MULTI-MEMBER COURT FOR YEARS X IF YOU WERE GIVEN THE CHOICE, WOULD YOU PREFER THREE JUDGES WITHOUT ORAL ARGUMENT OR ONE JUDGE WITH?

>> ONE.

[LAUGHTER]

>> BE CAREFUL WHAT YOU ASK.

[LAUGHTER]

>> JUSTICE POSITIONSON, I'LL TAKE THE--

>> JUSTICE LEWIS HAD A QUESTION.

>> JUSTICE LEWIS.

>> I'M A LITTLE CONFUSED ON THE PRESENTATION OF THIS POSITION.

WHILE ON ONE HAND I HEAR A COMMITTEE ARGUING FOR 4-3, WHEN I FIRST CAME TO THIS COURT I CAME FROM SOUTH FLORIDA, DADE COUNTY AND PALM BEACH.

NOT BROWARD, BUT-- AND I THOUGHT THAT WAS REALLY INEQUITABLE AND IMPROPER, AND I WAS VERY STRONGLY IN FAVOR OF IT.

YET AFTER COMING HERE AND VISITING WITH THE CHIEF JUDGES OF THE CIRCUITS ALL AROUND THE STATE, THERE'S A VAST DIFFERENCE.

AND I'M NOT SURE-- CONVINC ME-- THAT I'M WRONG ON SAYING, YOU KNOW, YOU'RE JUMPING FROM ONE POT INTO THE FIRE BY ARGUING ALL THESE VIDEO CONFERENCING AND ALL THAT WHEN I THINK I WOULD PREFER, SOME WOULD PREFER AN ORAL PRESENTATION TO A SINGLE JUDGE RATHER THAN VIDEO, I'M GOING TO PASS THE FILE AND THEY'RE NEVER COMING TOGETHER FOR TEN JUDGES.

SO, TO ME, I'M TROUBLED THAT

THIS IS JUST ANOTHER ATTEMPT TO REMOVE THE HUMAN ELEMENT FROM THE PERSONAL APPEARANCE, PERSONAL DECISION MAKING THAT OUR COURTS HAS FOR HUNDREDS OF YEARS.

MAYBE I'M JUST TOO OLD TO DEAL WITH THIS, BUT I THINK THERE'S SOME INHERENT PROBLEMS IN THIS PASSING IT BACK AND FORTH. WHY SHOULD WE COMPROMISE ON ONE END BUT REFUSE?

THE CHIEF JUDGES REALLY STRUGGLE TO COVER ALL THEIR OBLIGATIONS IN THESE COUNTIES WHERE JUDGE SJOSTROM, FOR EXAMPLE, IS HERE IN TALLAHASSEE, THEY'VE GOT TO SEND SOMEONE OVER TO APALACHICOLA OR FRANKLIN COUNTY. I MEAN, IT'S A REAL, PRACTICAL PROBLEM.

AND SO THAT'S WHAT-- IT SEEMS TO ME THAT THIS PUSH FOR UNIFORMITY, YOU WANT TO REQUIRE PERSONAL APPEARANCES AND ALL THOSE, THEN I MAY BE IN FAVOR OF THREE JUDGES.

BUT I CAN'T SEE BEING IN FAVOR OF JUST SUBSTITUTING ANOTHER GLASS AND METAL BOX RATHER THAN THE HUMANITY OF A JUSTICE SYSTEM IN APPEALS.

>> I HAVE TWO RESPONSES TO--

>> [INAUDIBLE]

>> I APOLOGIZE.

I'M GOING TO GIVE VERY SHORT TWO RESPONSES.

RIGHT NOW, IN SOME CIRCUITS THERE'S ONE JUDGE, AND THERE'S NO REQUIREMENT FOR ORAL ARGUMENT.

THEY'RE NOT ORAL ARGUING THESE CASES.

JUDGE SJOSTROM MAY BE DOING THAT, AND I IMAGINE HE DOES BECAUSE HE IS SO GREAT AT HIS JOB, BUT I'M TELLING YOU THROUGHOUT THE STATE, ORAL ARGUMENT IS NOT REQUIRED. SECONDLY, AT THE DCA LEVEL YOU

HAVE THE FIRST DCA RIGHT HERE IN TOWN JUST DOWN THE STREET, AND THEY'RE ARGUE, AS I UNDERSTAND IT, ONLY 20-30% OF ALL THEIR APPEALS.

THAT'S THE RULE RIGHT NOW. AND IF YOU WANT TO DO THAT, I'M WITH YOU, JUSTICE LEWIS.

>> THAT DOESN'T MAKE IT RIGHT.

>> WHAT'S THAT?

>> THAT DOESN'T MAKE IT RIGHT BECAUSE THERE ARE SOME THAT ARE NEGLECTING THEIR OBLIGATIONS.

>> I AGREE.

THREE MINDS REVIEWING THE DECISION OF A COUNTY COURT FOR SOMEONE WHO'S GOING TO JAIL FOR 364 DAYS, SOMEONE WHO IS A PIP CLAIM, A SERIOUS INJURY CLAIM, A MULTI-MILLION DOLLAR LAND USE DECISION IS ONLY BEING REVIEWED BY A SINGLE JUDGE.

THANK YOU.

>> WE'LL GIVE YOU A COME MINUTES FOR REBUTTAL. -- A COUPLE MINUTES.

>> MAY IT PLEASE THE COURT, I'M JOHN SJOSTROM, CHIEF JUDGE OF THE SECOND CIRCUIT HERE IN TALLAHASSEE ALSO WITH THE CONFERENCE OF CIRCUIT JUDGES. FIRST, JUSTICE POLSTON, I WANTED TO ANSWER YOUR QUESTION.

THE APPELLATE JURISDICTION OF THE COURTS DELEGATED TO THE LEGISLATURE TO PROVIDE TO THE CIRCUIT COURTS, THE GREAT PUBLIC IMPORTANCE EXCLUSION OF THAT JURISDICTION WAS FROM 84303 LAWS OF FLORIDA CODIFIED AT 26.012 OF THE FLORIDA STATUTES, SECTION ONE.

SO THE GREAT PUBLIC IMPORTANCE EXCLUSION IS ALWAYS AVAILABLE TO EVERY LITIGANT IN THE CASE. THERE'S ALWAYS A THREE-JUDGE PANEL AVAILABLE TO EVERY LITIGANT IN ANY CASE THAT THEY BELIEVE IS OF GREAT PUBLIC IMPORTANCE.

DOES PLACE THAT RESPONSIBILITY ON THE LITIGANT TO MAKE A MOTION AND MAKE-- TO THE COUNTY COURT. SO THIS IS ALWAYS, FOR CASES THAT ARE MORE CONSEQUENTIAL, A THREE-JUDGE PANEL AVAILABLE IN THE FORM OF THE DISTRICT COURTS OF--

>> I-- IF IT WERE NOT A QUESTION OF RESOURCES, AND, YOU KNOW, DO YOU ACCEPT WHAT JUDGE LUCK IS SAYING AND WHAT THE APPELLATE SECTION, THE APPELLATE RULES COMMITTEE IS SAYING, THAT WHEN WE HAVE APPELLATE JUSTICES THAT IT IS GENERALLY CONSIDERED THAT YOU HAVE A PANEL OF THREE OR MORE AND THAT YOU GET A BETTER, YOU KNOW, GENERALLY SPEAKING RATHER THAN HAVING ONE JUDGE TUT FOR ANOTHER. SUBSTITUTE FOR ANOTHER.

AND, AGAIN, MAYBE YOU DON'T WANT TO ANSWER THAT, BUT YOU WERE A COMMERCIAL LITIGATOR, YOU KNOW DO YOU SEE THAT THERE IS A QUALITATIVE DIFFERENCE THAN BETWEEN HOW SOMETHING IS BEING ADJUDICATED DOWN IN ONE COUNTY VERSUS ANOTHER?

>> JUSTICE, I THINK THE CONSTITUTION AND THE JURISDICTIONAL STATUTE GET IT ABOUT RIGHT.

AND THE REASON I SAY THAT IS BECAUSE IN OUR CONSTITUTIONAL STRUCTURE, THERE IS A CAREFUL BALANCE THAT'S MADE TO GRANT A TRIAL COURT ANY APPELLATE JURISDICTION AT ALL.

THERE IS GREAT VALUE IN CIRCUIT APPELLATE JURISDICTION.

FIRST OF ALL, IT SAVES THE TIME AND ATTENTION OF THE DISTRICT COURTS OF APPEAL FOR MORE CONSEQUENTIAL MATTERS, THIS COURT'S TIME AND ATTENTION FOR MORE CONSEQUENTIAL MATTERS.

THE LEGISLATURE HAS EXCLUDED CASES OF GREAT PUBLIC

IMPORTANCE.

IT'S EXCLUDED CASES IN WHICH A COUNTY JUDGE INVALIDATED A STATE STATUE--

>> SO I GUESS YOU'RE NOT GOING TO ANSWER YES OR NO.

>> I AM GOING TO ANSWER.

THE ANSWER'S NO, I DON'T THINK THAT-- AS LONG AS TRIAL JUDGES ARE RIDE TO RECONCILE-- ARE REQUIRED TO RECONCILE APPELLATE JURISDICTION WITH--

>> HERE'S MY, LET ME JUST GO BACK TO THIS.

YOU GAVE SOME NUMBERS AT THE SECOND CIRCUIT, AND YOU ALSO SAID FRANKLIN COUNTY IS A SMALL COUNTY.

BUT DO YOU AGREE THAT YOU WOULDN'T, FOR AN APPELLATE JURISDICTION, YOU DON'T HAVE TO HAVE JUDGES RESTRICTED TO FRANKLIN COUNTY.

I MEAN, YOU'VE GOT A MULTI-COUNTY CIRCUIT.

I MEAN, WOULD THAT BE-- NUMBER ONE.

>> YES.

>> OKAY.

SECOND OF ALL, DO YOU SEE THAT THERE'S A DIFFERENCE BETWEEN COUNTY TO CIRCUIT APPEALS, COMMON LAW CERT IN ZONING CASES VERSUS YOU WERE TALKING ABOUT A WHOLE LOT OF WRITS THAT THE SECOND CIRCUIT GETS, THE DEPARTMENT OF CORRECTIONS IS THERE.

DO YOU SEE-- CAN YOU GIVE NUMBERS ON, FOR YOUR CIRCUIT, COUNTY TO CIRCUIT AND COMMON LAW CERT FROM ZONING DECISIONS VERSUS THE WRITS FROM PRISONERS IN THE DEPARTMENT OF CORRECTIONS?

>> ON COUNTY APPEALS IT'S ABOUT 35-40 CASES A YEAR FOR US.

ON ZONING APPEALS, I CAN'T GIVE YOU A NUMBER.

I DON'T KNOW IT, I HAVEN'T, I

HAVEN'T INQUIRED.

>> AND HOW MANY ARE FROM FRANKLIN COUNTY OF THE 35-40?

>> PROBABLY, I'M GOING TO EXTRAPOLATE FROM MY EXPERIENCE IN LIBERTY COUNTY WHICH IS THE SMALLEST COUNTY IN THE STATE. MY EXPERIENCE IN LIBERTY COUNTY IS ONE OR TWO A YEAR.

>> OKAY.

>> IN GADSDEN COUNTY MAYBE FIVE A YEAR.

>> SO RIGHT NOW THERE'S ONE CIRCUIT JUDGE HEARS IT.

DO THEY HAVE ORAL ARGUMENT?

>> IF THE, IF A MOTION IS MADE-- AND I'M GOING TO TELL YOU FROM MY EXPERIENCE.

I HAVE NEVER FAILED TO GRANT A MOTION FOR ORAL ARGUMENT--

>> YOU'RE REALLY, I MEAN, AGAIN, YOU ARE, AND WE ALL, YOU KNOW, YOU'RE A, YOU'RE THE KIND OF CIRCUIT JUDGE AND CHIEF JUDGE THAT WE ALL ASPIRE TO BE, AND I MEAN THAT SINCERELY.

>> IF I WERE SO GOOD, PERHAPS I'D HAVE BEEN PROMOTED BY NOW.

[LAUGHTER]

>> ANYWAY, BUT SO--

>> I'M NOT SURE IT WOULD BE CONSIDERED A PROMOTION.

[LAUGHTER]

>> WHAT ABOUT THE IDEA THAT, FIRST OF ALL, A PARTY SHOULD MAYBE HAVE TO MOVE TO REQUEST A THREE-JUDGE PANEL, NUMBER ONE, THAT THAT WOULD BE-- RATHER THAN IT'S AUTOMATIC.

HAS ANY, YOU KNOW, AS ONE COMPROMISE.

AND, TWO, THAT, OF COURSE, AT ORAL ARGUMENT THE ISSUE IS SHOULD THE PARTY MOVE FOR IT, YOU KNOW?

SHOULD WE BE ABLE TO GIVE ORAL ARGUMENT, BECAUSE THAT'S-- I AGREE WITH WHAT JUSTICE LEWIS SAID.

AND ALSO THAT IF IN A-- THE

ONES THAT I'M REALLY CONCERNED ABOUT ARE THE ZONING CASES, BECAUSE WE'VE, THROUGH A SERIES OF DECISIONS, HAVE SAID THAT VIRTUALLY WHEN IT GOES TO A CIRCUIT JUDGE FROM THIS MAJOR ZONING CASE, IT'S VIRTUALLY UNREVIEWABLE BY THE APPELLATE COURT.

AND I THINK THAT THAT IS A HUGE ISSUE OF JUSTICE FOR THE LITIGANTS RATHER THAN THE CONVENIENCE OF THE JUDGES.

SO GIVE ME THE REASON WHY I SHOULDN'T BE CONCERNED ABOUT AT LEAST THOSE TWO CATEGORIES OF CASES, THE COMMON LAW CERT FOR THE ZONING CASES AND THE CIRCUIT, THE COUNTY TO CIRCUIT APPEALS.

>> I THINK THE SAFETY VALVE IS THE LITIGANTS' ABILITY TO ASK FOR, ASK THE COUNTY COURT FOR A CERTIFICATION OF GREAT PUBLIC IMPORTANCE.

>> NO.

THE CERT-- THE PETITIONS FOR COMMON LAW CERT GO DIRECTLY FROM, AS I UNDERSTAND IT, FROM ZONING TO THE CIRCUIT COURT.

>> OH, FAIR ENOUGH.

FAIR ENOUGH.

I CAN'T DISPEL THAT.

>> I MEAN, THAT'S, THAT'S A HUGE ONE.

I MEAN, WE THOUGHT IN SNIDER, OR THE COURT DID, THAT WE WERE GIVING SOMEHOW MORE JUSTICE. AND TO ME, I DON'T KNOW HOW IT'S GONE IN THE LAST 20 YEARS, BUT THAT'S A REAL, TO ME, A REAL ISSUE.

SO MAYBE OUR LAW NEEDS TO CHANGE TO SAY THAT IT'S NOT DEFERENTIAL, THAT THE APPELLATE COURT, THE REGULAR APPELLATE COURT GETS TO REVIEW IT NOT WITH THIS VERY RESTRICTIVE VIEW.

>> AND, JUSTICE, I'LL BE PERFECTLY CANDID, I SPENT MY

TIME MOSTLY RESPONDING-- I  
PROBABLY MADE A MISTAKE.  
I SPENT MY TIME MOSTLY  
RESPONDING TO THE WORK THAT THE  
COMMITTEE DID, THEIR REPORTS AND  
THEIR RESPONSE TO MY COMMENTS,  
AND THEY REALLY DIDN'T--

>> I WISH WE COULD--

>>-- RAISE THAT ISSUE, BUT IT  
MAKES A BETTER, A POINT THAT I  
REALLY WANT TO MAKE TO YOU WHICH  
IS THAT THE COMMITTEE'S PROCESS  
REALLY BYPASSED SOME OF OUR  
STRUCTURES FOR BRANCH  
GOVERNANCE.

WHEN THIS COURT, WHEN I  
INITIALLY RESPONDED TO THE  
COMMITTEE, I SAID, WELL,  
SHOULDN'T THIS HAVE BEEN  
CONSIDERED BY THE RULES OF  
JUDICIAL ADMINISTRATION  
COMMITTEE?

IT SEEMED A MORE APPROPRIATE  
PLACE, AND THE COMMITTEE'S  
RESPONSE WAS THAT THE PROPOSED  
RULE PRESENTS AN ISSUE UNIQUE TO  
APPELLATE PROCEEDINGS.

I DON'T THINK THAT'S ACCURATE.  
WHAT IS UNIQUE ABOUT THIS IS  
ATTEMPTING TO INTEGRATE  
APPELLATE JURISDICTION INTO THE  
WORK OF A TRIAL COURT.

AND WHAT I WOULD SUGGEST TO YOU  
IS, AND I DON'T THINK IT'S  
CORRECT TO SAY THAT THE CHIEF  
JUDGES HAVE A CLOSED MIND ON  
THIS SUBJECT.

THE DEVELOPMENT IN THE LAW IS  
THAT AS CHIEFS HAVE THOUGHT  
ABOUT IN THIS, MANY OF THE  
CIRCUITS HAVE, IN FACT, GONE TO  
THREE-JUDGE PANELS.

THEY'VE TRIED TO SET THAT  
PRIORITY, EVALUATED THEIR  
RESOURCES, AND CAN THEY'VE DONE  
THAT.

BUT THE CONSTITUTION GIVES TO  
THE CHIEF JUDGES THE  
RESPONSIBILITY DELEGATED FROM  
THE CHIEF JUSTICE TO ASSIGN

JUDGES AND TO SUPERVISE,  
ADMINISTRATIVELY SUPERVISE THE  
RESOURCES.

AND THE FUNDAMENTAL RESOURCE  
THAT IS AT STAKE IS THE TIME AND  
ATTENTION OF THE CIRCUIT JUDGE.  
IT'S A VERY DIFFERENT MATTER TO  
DIVIDE THAT TIME AMONG 80  
CIRCUIT JUDGES THAN IT IS TO  
DIVIDE THAT TIME AMONG FOUR  
CIRCUIT JUDGES.

THE UNIQUENESS OF THE 16TH  
CIRCUIT NOT JUST FOUR CIRCUIT  
JUDGES, OF COURSE.

THEY'VE GOT THEIR-- WHEN THE  
CONSTITUTION ACTUALLY ENACTED  
THIS PROVISION, THEY HAD TWO  
CIRCUIT JUDGES, SO A THREE-JUDGE  
PANEL WAS NOT POSSIBLE THERE.  
THEY GOT THEIR THIRD JUDGE IN  
'74 AND THEIR FOURTH JUDGE IN  
'82.

AND WHAT IS REALLY UNIQUE ABOUT  
THAT IS 113 MILES OF THE MOST  
CONGESTED TWO-LANE HIGHWAY  
PROBABLY ANYWHERE IN THE PLANET,  
WHICH IS THE OVERSEAS HIGHWAY.

THE BALANCE THAT THE  
CONSTITUTION STRIKES IS A  
PRACTICAL BALANCE.

IT SECURES THE BENEFIT OF  
APPELLATE JURISDICTION IN THE  
CIRCUIT COURT, AND THAT BENEFIT  
IS TIME AND MONEY AND--

[INAUDIBLE]

FOR THE LITIGANTS.

JUSTICE DELAYED IS JUSTICE  
DENIED, AND IN THESE ROUTINE  
APPELLATE MATTERS WHICH MAKE UP  
THE BULK OF WHAT WE DO, THE--  
AND THE COMMITTEE WAS RIGHT IN  
RESPONDING TO ME AND SAYING, I  
THINK, SOME OF THE WRITS ARE  
CIRCUIT COURT JURISDICTION.

>> LET ME ASK YOU SOMETHING.  
YOU TALKED ABOUT THE DIFFERENCE  
BETWEEN DIVIDING THESE CASES  
AMONG FOUR CIRCUIT JUDGES VERSUS  
80 AND A MUCH LARGER CIRCUIT.  
BUT DO THE NUMBERS BEAR OUT THAT

PROPORTIONALLY THESE 80 ARE DEALING WITH PROPORTIONALLY THE SAME NUMBER OF CASES AS THE FOUR WOULD BE DEALING WITH?

>> ABOUT THE-- I THINK I UNDERSTAND.

AND ABOUT THE BEST RESPONSE TO THAT WAS CHIEF JUDGE JONES' RESPONSE FOR THE 16TH.

HE SAID THAT THEY GET SOMETHING BETWEEN 35 AND 50 CASES A YEAR, IS MY MEMORY OF WHAT HE SAID IN HIS COMMENT.

>> IN THE 16TH CIRCUIT.

>> IN THE 16TH CIRCUIT.

>> OKAY.

AND SO WHAT WOULD A CIRCUIT LIKE MIAMI, FOR EXAMPLE, WHICH YOU MAY HAVE, YOU KNOW, 100 JUDGES, CIRCUIT COURT JUDGES, WHAT KIND OF COST COURT APPEALS DO THEY GET?

WHAT NUMBERS?

>> I DON'T KNOW THE ANSWER TO THAT.

>> YOU SEE, THAT'S THE THING THAT'S RUNNING THROUGH MY MIND IS PROPORTIONALLY THEY COULD HAVE THE SAME SORT OF NUMBER OF CASES.

>> WELL, THE NUMBER IS ON APPEALS FROM COUNTY COURT THE 16TH GETS, AT LEAST IN WHATEVER YEAR, 15, AND THE--

[INAUDIBLE]

GETS 208.

SO I THINK WHAT JUSTICE QUINCE IS SAYING IS THAT 80 JUDGES, THEY HAVE 80 JUDGES BECAUSE IT'S MIAMI-DADE.

>> OF COURSE.

>> AND I HATE TO SAY IT, BUT IT'S PROBABLY A MORE LITIGIOUS AREA.

WELL, I DON'T HATE TO SAY-- IT'S PROBABLY MORE, THERE ARE MORE LAWYERS THERE.

AND MAYBE MORE DUIS THERE AND EVERYTHING ELSE.

IT'S, I MEAN, I THINK THAT WE

GET BACK TO THIS ABOUT WORKLOAD.  
I STILL GO TO THE QUALITY OF  
JUSTICE AND THE DEFERENCE PAID  
TO, AT THE APPELLATE LEVEL TO  
WHAT THIS SINGLE JUDGE DOES.  
AND IF ALL-- WHAT CIRCUIT?  
ONE CIRCUIT SAYS IF EITHER JUDGE  
VOTES TO AFFIRM, THE DECISION IS  
AFFIRMED.

THAT'S THE SEVENTH.  
THAT SEEMS BIZARRE.

NOW ALL-- MAYBE-- IT'S LIKE, I  
MEAN, ONE JUST SAYS OKAY, SO THE  
OTHER JUDGE HAS TO SAY OKAY TOO?

>> WELL, JUSTICE, IT BRINGS ME  
TO ANOTHER POINT THAT I WANTED  
TO MAKE WHICH IS THE CONTENTION  
THAT THE COMMITTEE MADE THAT TO  
THE EXTENT-- THEY RESPONDED TO  
MY CRITICISM AND MY COMMENT THAT  
THEY SHOULD HAVE ASKED MORE  
CHIEFS, THEY SHOULD HAVE ASKED  
THE ADMINISTRATIVE COMMITTEE IN  
THE CONFERENCE OF CIRCUIT JUDGES  
FOR DIRECT INPUT X. WHAT THEY  
SAID WAS THAT TO THE EXTENT  
INFORMATION WAS REASONABLY  
AVAILABLE TO THE COMMITTEE, THE  
COMMITTEE SOUGHT OUT THAT  
INFORMATION AND CONSIDERED IT.  
IF YOU LOOK AT WHAT THEY FILED  
LAST WEEK, LAST FRIDAY, THERE'S  
A LETTER FROM THE RJA CHAIR TO  
CHIEF JUDGE, CHIEF JUSTICE IN  
2001-- I'M SORRY, IN 2000.

AT THAT TIME UNTIL RJA  
CONSIDERED EXTENSIVE SURVEY DATA  
FROM EACH OF THE CIRCUITS,  
CONSIDERED AN AMICUS BRIEF, A  
MEMORANDUM.

TWO ORDERS DENYING MOTION TO  
DESIGNATE THREE-JUDGE REVIEW  
PANELS--

>> I JUST-- YOU'RE SAYING THAT  
YOU THINK THE PROCESS SHOULD  
HAVE BEEN MUCH MORE FULSOME, AND  
HERE'S MY QUESTION.

IF WE DECIDED AFTER THIS TO  
DISMISS THIS PARTICULAR RULE  
WITHOUT PREJUDICE, AND I DON'T

KNOW WHO'S DOWN AT THE FLORIDA  
BAR CONVENTION WHEN THE  
APPELLATE RULES COMMITTEE MEETS,  
DO YOU GO TO--

>> I DID NOT.

>> IT'S COMING UP.

BUT WHERE WE CAN HAVE A  
DISCUSSION ABOUT THE ISSUES  
YOU'RE RAISING TO TRY TO GET  
MORE UNIFORMITY IN THESE RULES  
AMONG THE CIRCUITS SO THAT EACH  
CHIEF JUDGE JUST DOESN'T DECIDE,  
AND WE CAN MAYBE ANSWER SOME OF  
THESE QUESTIONS WITHOUT HAVING  
THIS ORAL ARGUMENT STRUCTURE.  
WHAT WOULD-- HOW WOULD THAT  
WORK?

>> I THINK THAT WOULD BE  
ENTIRELY APPROPRIATE, JUSTICE.  
I THINK THAT WOULD BE ENTIRELY  
APPROPRIATE.

>> COULD I ASK YOU A QUESTION?  
IT'S A LITTLE FAR AFIELD HERE,  
BUT IN THE APPELLATE PROCESS IN  
THE DISTRICT COURTS WE HAVE  
RULES THAT ARE DESIGNED TO  
INSURE CONSISTENCY IN THE  
DECISIONS THAT ARE MADE.  
SO IF SOMEBODY'S GOT AN ISSUE IN  
A PARTICULAR CASE AND IT'S BEEN  
DECIDED, THEN SUBSEQUENT PANELS  
OF THAT COURT ARE GOING TO  
DECIDE THAT ISSUE IN THE SAME  
WAY.

ASSUMING THE FACTS ARE NOT THAT  
DIFFERENT.

AM I CORRECT IN UNDERSTANDING  
THAT UNDER THE FRAMEWORK WE HAVE  
NOW FOR APPEALS FROM THE COUNTY  
COURT AND THE CIRCUIT COURT, WE  
DON'T HAVE ANYTHING LIKE THAT.

>> THAT'S CORRECT, JUSTICE.

>> ISN'T THAT A REAL PROBLEM?

>> I THINK IT IS.

>> THAT'S A PROBLEM THAT'S ONLY  
SOMETHING THAT WOULD BE SOLVABLE  
BY MOVING ALL THE APPEALS FROM  
THE COUNTY COURT TO THE DCAs.  
THERE MAY BE SOME OTHER WAY TO  
SOLVE THAT, BUT THAT SEEMS TO ME

TO BE A REALLY SIGNIFICANT  
PROBLEM THAT WHEN WE'RE LOOKING  
AT THESE ISSUES, WE SHOULD BE  
FOCUSED ON AS WELL AS THIS  
THREE-JUDGE THING.

>> MY TIME IS UP, MR. CHIEF  
JUSTICE.

MAY I RESPOND?

>> SURE.

>> SO I THINK IT'S, I THINK  
CIRCUIT APPELLATE JURISDICTION  
IS AN AREA THAT COULD STAND SOME  
ATTENTION, AND IT'S NOT  
SOMETHING THAT I'M PREPARED TO  
RESPOND TO.

I CAN THINK OF A LOT OF WAYS  
THAT WE COULD DO BETTER.

I DON'T THINK THAT THE PROPOSAL  
FOR THREE-JUDGE PANELS SOLVES  
THAT PROBLEM.

MR. CHIEF JUSTICE, IF THERE ARE  
NO MORE QUESTIONS, MY TIME IS  
UP, AND I THANK SO MUCH THE  
OPPORTUNITY TO BE HEARD.

>> AND THANK YOU FOR COMING.

>> I WILL BE BRIEF, AND I WILL  
ANSWER YOUR QUESTION, JUSTICE  
CANADY.

IT IS AN ENORMOUS PROBLEM, AND I  
DO BELIEVE THIS IS ONE SOLUTION  
OF MANY THAT THE APPELLATE RULES  
COMMITTEE IS CONSIDERING TO TRY  
TO SOLVE THIS REALLY DIFFICULT  
PROBLEM.

HAVING THREE JUDGES TOGETHER  
ESPECIALLY IN SMALL CIRCUITS  
LEADS TO THE SORT OF CONSISTENCY  
THAT WE'RE TALKING ABOUT, THAT  
ONE DECISION IS CONSISTENT WITH  
ANOTHER.

BUT IF YOU HAVE 16 MINDS IN A  
SMALL CIRCUIT DECIDING 16  
DIFFERENT APPEALS OF THE SAME  
EXACT ISSUE AND NEITHER IS BOUND  
BY THE OTHERS, YOU ARE MORE  
LIKELY TO HAVE LACK OF  
UNIFORMITY.

THAT'S ONE WAY, WE THINK, TO  
SOLVE THE PROBLEMS.

I HAVE SOME OTHER ONES, THERE

ARE SOME OTHER SOLUTIONS THAT I  
THINK ARE OUT THERE.

I WANT TO ADDRESS JUST TWO QUICK  
MATTERS.

I KEEP HEARING ABOUT  
CONSEQUENTIAL MATTERS BEING AT  
THE DCA AND NOT AT THE CIRCUIT  
COURT AND ABOUT ROUTINE MATTER  
BEING THE AT THE CIRCUIT COURT.  
THIS GOES TO THE PERCEPTION OF  
JUSTICE.

IF YOU WERE CHARGED WITH A DUI,S  
THAT IS CONSEQUENTIAL TO YOU.

IF YOU HAVE A PIP CASE, THAT IS  
CONSEQUENTIAL TO YOU.

IF YOU ARE FACING A  
MULTI-MILLION DOLLAR PROPERTY  
THAT'S BEING REZONE INSIDE YOUR  
NEIGHBORHOOD, THAT IS  
CONSEQUENTIAL TO YOU.

AND TO STATE WE'RE JUST NOT  
GOING TO DEAL WITH THOSE AT A  
DIFFERENT LEVEL, WE'RE GOING TO  
PUT THOSE AT THE DISTRICT COURT,  
AND AS YOU STATED, ALL THE  
ADMINISTRATIVE NOT JUST  
MUNICIPAL BODY, THERE IS NO  
PUBLIC IMPORTANCE YOU COULD USE  
TO JUMP TO THE COURT OF APPEALS.

>> LET ME-- WHAT I FOUND  
LACKING IN THE PRESENTATION  
WAS--

>> I HOPE NOT IN MINE.

>> WELL, I MEAN, ANYTHING FROM  
LITIGANTS OR ATTORNEYS WHO  
PRACTICE IN THESE AREAS SAYING  
THAT THEY PERCEIVE THAT JUSTICE  
ISN'T BEING SERVED BY THE SYSTEM  
THAT WE HAVE.

AND YOU'RE, WE'RE TALKING ABOUT  
JUSTICE DOING IT AND HAVING IT  
PERCEIVED TO BE DONE CORRECTLY.  
DID YOU JUST NOT GET ANY INPUT  
LIKE THAT?

>> WELL, I CAN TELL YOU THIS  
CAME FROM A PRACTICING ATTORNEY  
WHO PRACTICES IN THIS VERY  
FIELD.

THAT'S WHERE THIS ALL STARTED  
FROM.

THIS WASN'T JUST DRIVEN BY  
SOMEBODY'S WHIM.  
AND I CAN TELL YOU THAT AMONG  
THE 40 MEMBERS WHO WENT BACK AND  
HAVE THEIR OWN PERSONAL  
EXPERIENCE, AND I CAN SPEAK FOR  
MYSELF, AND WENT BACK TO THEIR  
COMMUNITIES AND ASKED, THAT'S  
EXACTLY THE FEEDBACK WE GOT  
ABOUT THE UNFAIRNESS AND THE  
LACK OF UNIFORMITY THAT'S THERE.  
LET ME ALSO STATE THIS, JUSTICE  
LAWSON.  
I'LL LET THIS BE MY LAST POINT.  
IT WAS THIS COURT IN 2000 THAT  
RAISED THIS ISSUE.  
IT WASN'T ANYBODY ELSE.  
THIS COURT STATED THAT THERE'S A  
UNIFORMITY PROBLEM WITH REGARD  
TO COUNTY TO CIRCUIT APPEALS,  
AND THAT WAS THAT STARTED THE  
STUDY.  
IT WAS THE WITHOUT PREJUDICE  
THAT BROUGHT THIS BACK UP IN  
2012.  
THAT'S WHY WE'RE HERE TODAY.  
THANK YOU.  
>> THANK YOU FOR YOUR ARGUMENTS.