

>> NEXT CASE IN RE AMENDMENTS TO FLORIDA RULES OF CIVIL PROCEDURE CASE NUMBER SC2023 0962.

NOW WE GET TO THE EASY STUFF.

>> MR. CHIEF JUSTICE MAY IT PLEASE THE COURT, TOM EDWARDS I AM HERE INDIVIDUALLY I'M THE PRIOR MEMBER OF THE WORKGROUP AND NOW A MEMBER OF THE RULES OF CIVIL PROCEDURE.

I RAISED CONCERNS IN MY COMMENT ABOUT THE NEED FOR ENFORCEMENT MECHANISMS WHICH ARE NOT INCLUDED IN THE ORIGINAL VERSION OF THE MOST OF THESE ARE NOW REMEDIED WITH THE NEW PROPOSED 1.380 BUT NOT 100 PERCENT.

AND WE HAVE NOW INCORPORATED INTO 1.380 SOME OF THE ADDITIONAL PROVISIONS FROM THE FEDERAL RULES THAT WOULD MIMIC WHAT IS IN 437.

THE ONE OUTSTANDING ISSUE RELATES TO RULE 1.280 AND IT IS THE CERTIFICATION AND SANCTIONS IF THE LAWYER IS CERTIFYING DISCOVERY WITH THEIR SIGNATURE AND IF DONE IMPROPERLY EITHER PARTY OR THE LAWYER THEN THAT IS ACTUALLY UNDERWAY WITH THE COMMITTEE AND HAS ALREADY BEEN VOTED ON ONCE AND CONFERRED WITH THE CHAIR AND THAT CAN BE EXPEDITED AND WE WILL SPEAK TO THAT IN A FEW MOMENTS.

SO IT IS ON THE CUSP OF BEING PASSED AND THAT WOULD ADDRESS ALL OF THESE SUBSTANTIVE CONCERNS THAT I RAISE ON THE NEED FOR RULE CHANGES.

THERE ARE A COUPLE OF ADDITIONAL ISSUES.

NUMBER ONE, I DO THINK IT IS VERY IMPORTANT TO HAVE THESE ENFORCEMENT MECHANISMS.

I AM NOT A FAN OF SANCTIONS.

I DON'T THINK LAWYERS SHOULD BE SANCTIONED FOR DOING THEIR JOBS AND ADVOCATING FOR THINGS BUT THERE ARE INSTANCES WHERE SANCTIONS ARE NEEDED WHEN PEOPLE ARE NOT PROVIDING DISCOVERY AS THEY ARE EXPECTED TO UNDER OUR RULES.

ON PAGE 18 OF MY COMMENT I GAVE CASE LAW THAT DATES BACK TO 1947 FROM THE U.S. SUPREME COURT FROM THIS COURT THAT EXPLAINS WHY OPEN AND PROPER EXCHANGE OF DISCOVERY IS ESSENTIAL TO THE EFFICIENT PROGRESS OF CASES THROUGHOUT COURT SYSTEM AND IT HELPS THE EFFICIENCY OF CASES RESOLVING WHEN THEY SHOULD AND COULD BE DONE EARLIER IN THE PROCESS. THESE IMPORTANT MECHANISMS THAT ARE NOW IN THE WORKS ARE REALLY IMPORTANT. THE ONE OTHER ISSUE I WAS GOING TO TOUCH ON IS SOMEWHAT CONTROVERSIAL. THE ADVISORY FROM THE FEDERAL RULES AS IT RELATES TO DISCOVERY WHEN WE ARE NOW CHANGING THE BASIS FOR DISCOVERY IN OUR RULES AND SOME OF THE ENFORCEMENT MECHANISMS. TRADITIONALLY, I WILL RULES OF CIVIL PROCEDURE COMMITTEE OPPOSES HAVING COMMENTS AND ADVISORY NOTES BECAUSE THEY ARE NOT THE LAW. THE LAW IS SET BY THE COURT AND RULES. IF WE AREN'T WORKING ON THIS AND WE ARE EMBARKING ON THIS SANCTION RULES AND NEW RULES FOR WHAT CAN BE DISCOVERED AND PROPORTIONALITY, IT IS IMPORTANT FOR LAWYERS AND JUDGES AS QUICKLY AS POSSIBLE TO BE ABLE TO GET UP TO SPEED ON WHAT THEIR OBLIGATIONS ARE AND WHAT THE STANDARDS ARE.

THE ADVISORY NOTES THAT ARE IN THE FEDERAL RULES THEY ARE IN SOME INSTANCES EXTENSIVE.

IN RULE 26 NOTES SPAN 34 OF 36 PAGES AND THEY ARE SINGLE SPACED AND DENSE BUT ALSO HELPFUL.

IN GIVING GUIDANCE TO JUDGES AND LAWYERS.

AND, I GAVE EXAMPLES OF THIS IN MY COMMENT IT WAS PAGE 14 WHERE I GIVE AN

EXAMPLE OF A VERY IMPORTANT CHANGE IN THE RULE THAT OMITTS LANGUAGE THAT USED TO BE IN THE RULE, RULE 26 THAT WE ARE NOW ADOPTING. AND THE REASON IT WAS OMITTED WAS NOT BECAUSE THESE THINGS ARE NO LONGER DISCOVERABLE.

FOR EXAMPLE I GAVE ON PAGE 14 OF MY COMMENT EXPLAINS THAT THIS IS NOW SO EMBEDDED IN THE LAW THAT WE DON'T NEED TO HAVE INSTRUCTION IN THE RULE ANYMORE THAT THIS STUFF MUST BE PROVIDED BUT IT IS STUFF THAT IS SUPPOSED TO BE PROVIDED.

BECAUSE THERE IS LOTS AND LOTS OF CASE LAW THAT SAYS THAT IN THE FEDERAL SYSTEM AND, SO, IF YOU LOOK AT THE EXAMPLE THAT I AM GIVING IT'S ONLY ONE EXAMPLE OF MANY OTHER INSTRUCTOR DEVICES THAT ARE IN THE ADVISORY NOTES AND HOW WE DO THINGS PROPERLY AND EFFICIENTLY IN OUR SYSTEM. I THINK I ALSO GIVE AN EXAMPLE ON PAGE 12 OF MY COMMENT WHERE WHEN YOU PASS THE SUMMARY JUDGMENT RULE RECENTLY YOU ADDED A COMMENT THAT REFERENCED SOME OF THE FEDERAL LAW.

YOU COULD DO THE SAME AS IT RELATES TO CHANGES IN RULE 26 AND THE CHANGES TO RULE 26 OR NOT 26 PER 1.280 AND TO RULE 1.380 SO THAT LAWYERS IN OUR STATE HAVE THAT AS A DEVICE AND JUDGES IN OUR STATE HAVE IT AS ADVICE TO HELP THEM UNDERSTAND WHAT THEIR OBLIGATIONS ARE AND CAN BE MADE THAT IT IS NOT THE LAW BUT IT IS THERE AS AN ASSISTIVE DEVICE.

I HAVE REALLY COVERED THESE ISSUES THAT I NEEDED TO COVER BASED ON MY COMMENT.

I DO WANT TO TELL YOU THAT I KNOW IN THE PAST THERE HAVE BEEN TIMES IN THE COURT PERHAPS FELT THE RULES OF CIVIL PROCEDURE ARE NOT LIVING THINGS EFFICIENTLY OR QUICKLY AS THE COURT NEEDED WE HAVE MEETINGS AFTER MEETINGS AS WE GET THIS DONE EFFICIENTLY AND I KNOW THE LEADERSHIP IS STRESSED TO GET THINGS DONE EFFICIENTLY AND THE CONVERSATION I HAD THIS MORNING IS THAT THEY CAN GET THIS DONE WITH THIS ONE ADDITIONAL PIECE OF THIS RULE.

>> I HAVE A COMMON AND A QUESTION.

I APPRECIATE THE WORK THAT YOU HAVE DONE AND I APPRECIATE THE COURT'S INVOLVEMENT IN CREATING THE RULE AND THE AND IT THE WAY LITIGATION TAKES PLACE IN TODAY'S LEGAL WORLD BUT ONE THING THAT YOU MENTION IN YOUR COMMENT STRUCK ME ON THE ISSUE OF PROPORTIONALITY AND TO BE EXPECTED I BELIEVE THAT IF MY EXPERIENCE TELLS ME THAT WE WILL GET OUT A BOILERPLATE OF OBJECTIONS.

YOU SUGGEST THE ONLY WAY TO STOP THAT IS SANCTIONS AND YOU MENTIONED THAT WE COVERED THE SANCTIONS IN THE RULE ALREADY BUT I THANK YOU SUGGEST THAT THERE SHOULD BE A SPECIFIC SANCTION FOR PROPORTIONALITY RULE.

FOR SUCH TYPE OF BEHAVIOR WHERE WOULD MAKE AN OBJECTION BECAUSE IF YOU THINK ABOUT IT IF OUR PURPOSE IS MOVING THINGS ALONG I SEE IN PROPORTIONALITY A BIG BLACK HOLE WHERE AND I'M TRYING TO FIGURE OUT HOW DOES THE JUDGE HANDLE IT?

WHEN YOU COME BEFORE ME AND THERE IS AN OBJECTION HOW DO I DECIDE WHETHER IT IS BASICALLY YOU'RE ASKING TOO MUCH FOR THIS LITTLE CASE.

AND NOW YOU WANT THE FINANCIAL RECORDS OF THE CORPORATION AND I MEAN HOW DO I DECIDE AS A JUDGE WHETHER SOMETHING IS NOT PROPORTIONATE TO THE CASE?

>> IT REQUIRES DIGGING INTO THE ADVISORY NOTES AND IT IS THE EXISTING CASE IF YOU'RE GOING TO DO SOMETHING SIMILAR TO WHAT YOU DID IN THE SUMMARY JUDGMENT RULE ON THESE ISSUES.

THE FEDERAL JUDGES BEEN CONSERVATIVE IN APPLYING THE PERSONALITY RULE AND THERE ARE DEVICES INCLUDING WHAT I REFERENCE IN PAGE 14 OF MY COMMENT THAT RECOMMENDS METHODOLOGY FOR DEALING WITH THIS SUCH AS ELECTRONIC DISCOVERY WHICH WE ARE FINDING MORE AND MORE AND MORE NOW WE HAVE ELECTRONIC RECORDS AND THINGS OF THAT NATURE.

BUT THE PARTICULAR COMMENT I REFERENCED EVEN THOUGH THIS IS BEEN TAKEN OF THE RULE RECOMMENDS THAT THERE SHOULD BE INITIAL DISCOVERY ON WHAT IS THE AUDIT TRAIL MECHANISM AND GIVE US A LIST OF ALL THE MATERIALS THAT ARE AVAILABLE.

GIVE US THE INITIAL INFORMATION ABOUT WHAT IS THERE SO THAT THE JUDGE AND THE OPPOSING ATTORNEY CAN NOW LOOK AT HOW WE NARROW IT AND WHAT IS LEGITIMATE RELATED TO THE CASE.

>> IN FEDERAL COURT, THE JUDGE WOULD DEAL WITH THAT BACK IN HIS OFFICE. AND THE TRIAL COURT MY CONCERN IS THE HEARING.

>> I DON'T WANT TO BLOW BY THIS.

THIS IS IN THE WORK GROUPS REPORT I AM CONCERNED THAT WE DON'T HAVE THESE PROBLEMS AND THIS BECOMES DISCOVERY.

FEDERAL COURT DISTRICT COURT JUDGE HAS TWO OR THREE LAW CLERKS AND THERE IS A MAGISTRATE TYPICALLY IN A FEDERAL COURT DISCOVERY DISPUTE REFERRING IMMEDIATELY TO THE MAGISTRATE DEALING WITH THAT WITHIN A MONTH.

AS SOON AS THE BRIEFING IS DONE YOU CALL THEM AND IT'S DEALT WITH IN THE STATE COURT TAKES THREE TO SIX MONTHS DEPENDING UPON WHAT JUDGE YOU ARE IN FRONT OF TO GET THE HEARING ON THESE TYPES OF THINGS.

AND THAT WILL PLAY HAVOC WITH THE TRIAL ORDER AND IMPACT.

>> THIS PROPORTIONALITY OBJECTION THEY COME UP IN THE MIDDLE OF THE DEPOSITION?

>> I SUSPECT WE WILL BE SEEING THE SAME KINDS OF THINGS THAT WE SEE A LOT OF TIME IN THE REQUEST FOR PRODUCTION AND THAT IS STANDARDIZED AND IT WILL BE LISTED IN THERE.

I JUST HAD THIS HAPPEN TO ME IN THE LAST TWO TO THREE WEEKS.

THEY LISTED A STRING OF STANDARDIZED OBJECTIONS IN A FEDERAL COURT CASE AND LISTEN FOR SURE WITH NO EXPLANATION OF WHAT PROPORTIONALITY OBJECTION WAS AND I THEN RESPOND IN A FEDERAL COURT AND THEY FILED THEIR OBJECTIONS AND I HAVE TO THEN, MOTION TO COMPEL AND THEY GIVE ME NO INFORMATION ON WHAT THE PROPORTIONALITY OF OBJECTION IS OR WHAT IS BASED UPON AND THEY HAVE THEN RESPONDED TO IT AND ATTACHED THE AND IN THE FEDERAL COURT NOW I DON'T HAVE THE RIGHT TO REPLY.

NOW I HAVE TO ASK FOR THE REPLIED TO DEAL WITH PROPORTIONALITY TO DEAL WITH WHAT THE REAL OBJECTION IS.

THAT IS WHAT I FEEL WE WILL SEE IN THE NEAR FUTURE WITH THIS KIND OF STUFF.  
>> OKAY SO IN STATE COURT INSTEAD OF ALL THE BACK AND FORTH YOU WOULD JUST SCHEDULE HEARINGS?

>> YOU WOULD HAVE TO.

>> AND IF IT HAPPENS FREQUENTLY LIKE HAPPENS NOW YOU GET A LONG LIST OF OBJECTIONS WITH NO TRUE EXPLANATION BUT THERE SHOULD BE A BASIS PROVIDED WITHIN THE OBJECTION.

>> SO WHAT HAPPENS WITH YOUR CASE AS FAR AS MOVING ALONG TO GET TO YOUR FILE IF YOU GET CAUGHT UP IN ONE OF THESE PROPORTION OBJECTIONS IN THE MIDDLE OF LITIGATION?

>> IF YOU'RE NOT GETTING THE DOCUMENTS THAT ARE NECESSARY TO MOVE FORWARD WITH YOUR DEPOSITION IT WILL IMPACT ALL THINGS.

>> THERE YOU GO.

>> I'M HAPPY TO ANSWER QUESTIONS IF THERE ANY FURTHER BUT THAT REALLY COVERED IT.

I DO WANT TO ADD ONE THING.

THIS IS ABOUT THIS IT HAPPENED BEFORE WE STARTED BUT I'M SEEING SOME OF THE SAME PROBLEMS.

KEEP THANK YOU A LOT.

WE APPRECIATE IT.

>> I AM HERE ON BEHALF OF THE COMMITTEE.

I QUICKLY WANT TO TOUCH ON THIS ISSUE IT IS TRUE THAT WE ARE MOVING QUICKER THESE DAYS AND JUST AS A HOUSEKEEPING MATTER THE COMMITTEE HAS VOTED TO ELIMINATE THE TWO VOTE REQUIREMENTS SO THAT WE CAN MOVE THROUGH MORE QUICKLY.

THAT IS ALL A WORK IN PROGRESS.

I MENTIONED WHAT MR. EDWARDS SUGGESTED IN THE CURRENT RULE 1.280 K AS DRAFTED BY THE COURT IN ITS OPINION BASICALLY HAS THIS AND IS MISSING CERTAIN COMPONENTS.

THIS CAME UP FROM THE COMMENTERS THE COMMITTEE WENT BACK ON THE EXPEDITED FASHION LOOKED AT IT AND SAID IT REALLY SHOULD BELONG THERE. LET'S GO AHEAD AND DO THAT.

AND WE HAVE ONE THAT'S READY TO GO.

WE COULD PROVIDE THIS TO THE COURT ON AN EXPEDITED BASIS WITH THE LANGUAGE OF THE FIRST VOTE THAT SHOWS WHAT IT SHOULD LOOK LIKE.

BASICALLY IT TAKES THE LANGUAGE FROM 26 G AND APPLIES IT TO THE CROSS REFERENCE AND HAS EVERYTHING CORRECT FOR THE RULE TO MAKE IT HAPPEN QUICKLY.

WITH RESPECT TO THE ADVISORY COMMITTEE NOTE I KNOW IT IS WELL INTENTIONED BUT IT REALLY HAS NO PLACE IN OUR RULES.

CAN YOU HAVE A COMMENT LIKE YOU DO IN THE 1.5, TEN REFERENCE THAT SAYS WE ARE ADOPTING FOR THE FEDERAL SUMMARY JUDGMENT STANDARD YOU CAN LOOK AT THE CASE LAW DEALING WITH THAT FOR THAT PARTICULAR STANDARD. SURE.

I WOULD SAY TRINE AT TO ADD LANGUAGE INTO THE COMMENTS BECAUSE DIFFERENT JUDGES LOOK AT THIS DIFFERENTLY.

SOME OF THEM DON'T SEE IT IS BINDING SOME OF THEM DO I WANT TO MENTION THAT THEY ARE USEFUL AND THEY DO PROVIDE GUIDANCE 26 G IN 1970 AND 1972 TO RECENTLY YOU'RE TALKING ABOUT 10,000 TO 20,000 WORDS OF CONTENT. THEY GET USED FOR GUIDANCE ANYWAY WITHIN OUR SYSTEM EVERYONE KNOWS THE RULES ARE MODELED ON THE FEDERAL RULES.

JUDGES EVERYDAY DEAL WITH ARGUMENTS BASED ON ADVISORY COMMITTEE NOTES.

I WOULD URGE THE COURT NOT TO ADOPT OR TRANSFER COMMITTEE NODES FROM RULE 26 INTO 1.680.

ULTIMATELY IT WILL CAUSE MORE PROBLEMS AND MORE CONFUSION AND YOU ALSO THE ISSUE OF IF YOU HAVE THOSE NOTES IN 26 FROM 26 AND 1.280 BUT YOU DON'T HAPPEN TO KNOW THE RULES OR THE ADVISORY COMMITTEE NOTES FOR OTHER RULES SOMEHOW NOT HAVING ANY THEN I THINK IT IS NOT A GOOD IDEA FOR THE COMMITTEE DOES NOT VIEW THEM AS THIS IDEA >> I'M TALKING ABOUT WHAT TOOLS WILL IMPLEMENT THE HELP IT'S RIGHT HERE THE PROPORTIONALITY IN THE FEDERAL SYSTEM GENERALLY ENCOMPASSES DISCOVERY DISPUTES INVOLVING TREMENDOUS AMOUNTS OF DATA AND INFORMATION YOU'RE TALKING PROPORTIONALITY THAT COMES UP IN DISPUTES AS WRITTEN IT WILL REPLY TO SMALL CASES AND CASES THAT MAY BE THEY SHOULDN'T BE AN ISSUE.

WE CREATE TOOLS THAT HELP FACILITATE THE PROCESS.

SPECIFICALLY WE FILE THE CORE IS A SEPARATE REPORT TO THE COURT THIS WAS CASE 2024, 1385, THE COURT RECHARACTERIZED IT AS A RESPONSE TO COMMON IN THIS COMMONALITY IN THIS COURT AND WHAT WE PROPOSED WERE TO BRING IN RULE 1.340 INTERROGATORY RULE BRING INTO A 1.35 THE LANGUAGE FROM THE FEDERAL RULES 33 AND 34 THAT REQUIRE SPECIFICITY AND WE DON'T HAVE ANALOG RIGHT NOW BUT I URGE THE COURT TO ADOPT THOSE.

WE ALSO IMPLEMENTED INTO THE PROPOSED AMENDMENT INTO 1.350 THAT REQUIRES WHEN A RESPONDING PARTY IS GOING TO WITHHOLD DOCUMENTS BASED UPON THE OBJECTION THEY HAVE TO SAY THAT THEY ARE DOING IT. AS OPPOSED TO JUST KEEPING EVERYONE IN A LIMBO STATE.

THIS WILL PROVIDE TRANSPARENCY AND FACILITATE THE REFERRAL PROCESS GREATER TRANSPARENCY AND OBJECTIONS IS BETTER FOR REFERRAL.

I WOULD URGE THE COURT THAT IF YOU DO ADOPT THOSE I'VE STRONGLY RECOMMEND THAT YOU DO THOSE THAT IT GOES UNANIMOUS WITH THE COMMITTEE.

WE HAVE JUDICIAL INPUT SUBCOMMITTEE THAT I HAVE APPOINTED SEVENTEEN AND HOPEFULLY WE CAN GET FOLKS TO JOIN IN.

IT WAS UNANIMOUS WITH THOSE FOLKS.

EVERYONE WANTS THE SPIRIT URGE THE COURT THAT IF YOU DO ADOPT TO PUT IN YOUR OPINION, STRONG LANGUAGE THAT GENERALIZED THE OBJECTIONS AND THEY ARE NOT SUFFICIENT AND THEY ARE NOT WHAT SHOULD BE DONE.

I THINK THAT IS WHAT WOULD HELP THE PROCESS WITH RESPECT TO 1.380 WE ALSO BROUGHT IN FROM RULE 37 THE PROVISIONS DEALING WITH WHAT HAPPENS WHEN SOMEONE DOESN'T COMPLY WITH THE INITIAL DISCLOSURE OBLIGATION AND WHAT DOESN'T HAPPEN WHEN SOMEONE DOESN'T SUPPLEMENT DISCOVERY WHICH ARE NOW PART OF 1.280 AND WHAT THEY HAVE.

THAT NEEDS TO BE THERE.

HONESTLY, I THINK WHAT HAPPENS IN THE PROCESS OF DRAFTING ALL THIS IS 1.380 AND 1.3405 O WE ARE NOT PART OF THE PORTION FOR ALL WE ARE OUTSIDE THE SCOPE OF THE COMMITTEE AND WE MAY HAVE JUST FALLEN OUTSIDE THE MOVEMENT.

WE WENT BACK AND LOOKED AT IT AND REALIZED BASED ON A LOT OF THE COMMENTS AND FOLKS LOOKING AT THIS THAT IS APPROPRIATE TO ADD THE PROVISIONS AND I THINK THAT IT WORKS HAND IN HAND WITH THESE OBLIGATIONS OF THE COURT IS IMPOSING WITH THE INITIAL DISCLOSURES AND SUPPLEMENTATION.

WE URGE THE COURT TO ADOPT THESE CHANGES OF THE COMMITTEE PROPOSES SPECIFICALLY THE ONES FROM OUR COURT AND 224 1385 WHICH ARE NOW PART OF THIS CASE.

I ALSO URGE THE COURT AS MENTIONED ONE HAS A REQUIREMENT AS EVERYONE KNOWS WITHIN THE MOTION TO COMPEL A SECTION OF THIS RULE.

NOW THAT IS NOT GOING TO BE SO.

THE CONFERRAL REQUIREMENT SHOULD BE ELIMINATED IN FAVOR OF JUST LEAVING THE ONE CONFERRAL REQUIREMENT FROM 202 SO YOU DON'T HAVE INCONSISTENCY.

THE SAME IS TRUE FOR 1.460 CONTINUOUS RULE THAT HAS A CONFERRAL COMPONENT.

I MENTIONED IN NOW.

I KNOW IT'S OUT OF THE SCOPE OF THIS BUT IT NEEDS TO BE ELIMINATED TO SO THERE IS CONSISTENCY.

THANK YOU.

>> WE REALLY DO APPRECIATE ALL THE WORK THE COMMITTEE HAS BEEN DOING. WE KNOW THAT WE HAVE BEEN GENERATING A LOT OF WORK FOR YOU GUYS ON TOP OF EVERYTHING ELSE THAT YOU ARE DOING AND WE DO APPRECIATE THE SPIRIT OF COOPERATION AND THOUGHTFULNESS OF THE COMMENTS AND EVERYTHING.

>> WE ARE HERE TO SERVE.

WHATEVER WE CAN DO.

>> MAY PLEASE THE COURT I HAVE A COUPLE QUICK THOUGHTS ON MULTIPLE PROVISIONS.

I WILL GO IN ORDER OF THE RULES.

1.200 D3 AND E ONE HAVE A THEORETICAL CONFLICT I FEEL STRONGLY THAT THE WAY TO RESOLVE IT IS TO DELETE 1.200 D3 IN FAVOR OF JUST HAVING EE ONE WHICH SAYS DEADLINES IN THE CASE MANAGEMENT ORDER MUST BE STRICTLY ENFORCED UNLESS CHANGED BY COURT ORDER.

I THINK THAT IS THE MOST DISTINCT AND CORRECT WAY TO STATE THIS.

ACCORDING TO 1.200 D TO AND 2.003 I THINK A COMMENT FILED BY DAVID AND BRAXTON HAS A VERY GOOD POINT WHICH IS THAT 1.200 B SAYS THAT COURT HAS 120 DAYS AFTER A COMPLAINT TINT IS ASSIGNED TO ASSIGN A CASE TRACK BUT 1.200 D TWO SAYS THE COURT HAS TO ISSUE A CASE MANAGEMENT ORDER WHICH HAS TO INCLUDE THE ASSIGNMENT WITHIN 120 DAYS OF FILING OR 30 DAYS OF SERVICE WHICH IS EARLIER.

SO, B SAYS YOU HAVE TO ASSIGN THE TRACK WITHIN 120 DAYS BUT D TWO SAYS YOU HAVE TO ISSUE A CASE MANAGEMENT ORDER THEORETICALLY WITHIN 30 BUT YOU CANNOT DO THAT UNLESS YOU ASSIGN THE TRACK. BASICALLY YOU HAVE MORE TIME TO ASSIGN A TRACK THAN YOU DO TO ISSUE A CASE MANAGEMENT ORDER WITH THE CASE MANAGEMENT ORDER HAS TO INCLUDE THE ASSIGNMENT TRACK.

THAT IS INCONSISTENT I THINK.

THIS SUGGESTION IS NOT MY SUGGESTION.

MINE IS THAT THE REALISTIC THING TO DO IS TO MAKE IT 120 DAYS FROM FILING BECAUSE I DON'T SEE A UNIVERSE IN WHICH JUDGES HAVE THE CAPACITY TO BABYSIT THEIR DOCKETS TO LOOK FOR A NOTICE OF SERVICE.

THEY DON'T KNOW IN 30 DAYS HAS PASSED.

JUST MAKE IT 100.

AND OTHER CIRCUITS ARE WORKING ON AUTOMATED PROCEDURES.

LEFT TO STRIVE REALISM.

THIS WAS A GOOD POINT I BELIEVE THAT THE CASE MANAGEMENT FOR EXTENDING A DEADLINE COULD BE READ TO CONFLICT WITH 1.090 B.

THIS IS THE ONE WHERE I SAY, YOUR HONOR, I HAVE A VERY HEAVY TRIAL LOAD AND I TEN EXTRA DAYS TO RESPOND TO A MOTION FOR SUMMARY JUDGMENT.

THE CASE MANAGEMENT EXTENSION RULE IS WHERE YOU HAVE TO EXPLAIN WHAT THE DATE IS THAT YOU NEED TO HAVE MOVED AND WHAT YOU'RE GOING TO DO TO MAKE IT HAPPEN AND MY EXPERT GOT SICK THEREFORE WE NEED THE DISCLOSURES EXTENDED AND WE HAVE CONFIRMED THAT HE IS ON THE X DATE OPPOSING COUNSEL DOES NOT OPPOSE THIS MOTION.

THEY ARE SPECIFIC REQUIREMENTS.

TO ENSURE THERE IS NO CONFLICT AND NO CONFUSION I WOULD PROPOSE THAT IN 1.09 B THAT YOU CREATE A SECTION LETTER THREE AND HAVE IT SAY APPLICABILITY THIS RULE DOES NOT APPLY TO MOVING DEADLINES AND CASE MANAGEMENT ORDER PROPER PROCEDURE FOR EXTENDING SUCH DEADLINES IS CONTAINED IN RULE 1.200 E.

VERY QUICK.

I ALSO AGREE THAT A THIS IS PAGE TEN AND 11 BUT JUDGES SHOULD BE ABLE TO HEAR A MOTION FOR SUMMARY JUDGMENT AT A CASE MANAGEMENT CONFERENCE IF THERE IS TIME AND BOTH PARTIES STIPULATE.

THAT IS THE KEY.

WHEN THE SUMMARY JUDGMENT WHEN THE COMMITTEE CREATED THE RULE THAT SAID THAT IF YOU WANT A CASE MANAGEMENT CONFERENCE THE PRICE OF ADMISSION IS THAT YOU HAVE TO GIVE THE JUDGE A LIST OF ALL OF THE PENDING MOTIONS EVEN IF IT'S NOT WHY YOU'RE THERE FOR THE CASE MANAGEMENT CONFERENCE.

IT IS A CASE MANAGEMENT TOOL FOR THE JUDGE SO THEY CAN LOOK AT IT AND SAY THIS CASE IS A HUNDRED 20 DAYS OLD WISE THEIR MOTION TO DISMISS THAT IS STILL PENDING LET'S GET IT HEARD.

THE RULE SAYS THAT IF THERE IS TIME TO JUDGE CAN ORDER THE PARTIES TO COME TO THE CASE MANAGEMENT PREPARED FOR ARGUMENT.

YOU HAVE TO GIVE THEM NOTICE TO PROCESS.

BUT WE SAID THAT EVIDENTIARY HEARINGS AND SUMMARY JUDGMENT HEARINGS OR MOTIONS COULD NOT BE RULED ON AT A CASE MANAGEMENT CONFERENCE BECAUSE THOSE TEND TO BE MORE INVOLVED.

I SEE THE POINT WHICH IS IF THE PARTIES REALLY WANT THE COURT TO RULE ON IT AND BOTH PARTIES AGREE AND THERE IS TIME THAN THE JUDGE SHOULD BE ABLE TO.

I SUGGEST THAT YOU CONSIDER MAKING THAT CHANGE.

1.201 WHICH IS THE COMPLEX CASE RULE I THINK THAT THAT YOU NEED TO REORDER.

I THANK YOU NEED TO HAVE COMPLEX LITIGATION TO FIND K AND I THANK YOU NEED TO CHANGE B SO THAT IT IS MOVING TO A DESIGNATED CASE AS COMPLEX. IT'S WAY TOO COMPLICATED TO TRY TO EXPLAIN IN WORDS.

IT IS IN MY COMMENT ON PAGE 11.

THAT IS WHERE ACTUALLY, PAGE TEN OF MY COMMENT IS WHERE THAT SECTION STARTS AND I STRONGLY ENCOURAGE YOU TO CONSIDER IT.

1.280 A IS SOMETHING I CAUGHT THE TYPOGRAPHICAL ERROR IN MY COMMENT BUT I ACTUALLY HAD AN ERRORS SO I'M FLAGGING IT.

PLEASE THIS IS IMPORTANT.

THE CIVIL RULES COMMITTEE AFTER I FILED MY COMMENT WE MET AND WE SAW AND WE AGREED THIS IS SOMETHING THAT NEEDS TO BE CHANGED SO WE AFTER IT GETS APPROVAL FROM THE BOARD BUT WHAT IT NEEDS TO SAY IS THAT EVERY DISCLOSURE NOT JUST DISCOVERY DISCLOSURE BUT EVERY DISCLOSURE UNDER SUBDIVISION LETTER NEEDS TO BE SUPPLEMENTED.

THAT IS ON PAGE 16 OF MY COMMENT.

>> WHAT IS THAT RULING?

THE SUBDIVISION?

>> 1.2 K.

>> THANK YOU JUSTICE.

ON PROPORTIONALITY, I WOULD ASK THAT IF YOU ARE GOING TO ADOPT IT THAT YOU I HAVE NO IDEA HOW THE SAUSAGE GETS MADE OF THIS ONE BUT WHO LOOKS AT YOUR FLORIDA SUPREME COURT STANDARD INTERROGATORIES BUT THESE RULES APPLIED TO COUNTY COURT CASES AND IF IN COUNTY COURT YOU HAVE SOMEBODY WHO HAD A SLIP AND FALL AND THEY ARE LOOKING FOR \$10,000 TO COVER MEDICAL BILLS I WOULD WANT 2.22 EXAMPLES.

FOR EXAMPLE INTERROGATORY LIST THE NAME AND ADDRESS OF EVERY PHYSICIAN MEDICAL FACILITY OR HEALTHCARE PROVIDER WHO YOU HAVE SEEN IN THE LAST TEN YEARS IN STATE YOUR DATES OF EXAMINATION AND TREATMENT OF THE CONDITION FOR WHICH YOU ARE EXAMINED IN THAT CASE IF WE WILL HAVE PROPORTIONALITY THAT WOULD NOT BE PROPORTIONATE BUT BECAUSE IT IS A FLORIDA STANDARD INTERROGATORY THAN IT IS PRETTY MUCH RUBBER STAMPED THAT YOU NEED TO BE ANSWERING IT.

FOOD FOR THOUGHT THAT PERHAPS YOU WANT TO RE EXAMINE OR SOMEHOW SOFTEN WHETHER THOSE ARE STANDARD FOR ALL CASES.

I ALSO WANT TO ADDRESS A COMMENT BY JUDGE HUGHEY RE: 1.280.

I AGREE WITH HIM THAT WE NEED TO ADD THE WORD ECONOMIC AS A QUALIFIER IN RULE 1.280.

ARE YOU READY, A ONE C.

I THINK THAT'S A MEDITATION.

IT SAYS THAT THE PARTIES HAVE TO DISCLOSE A COMPUTATION FOR EACH CATEGORY OF ECONOMIC DAMAGES CLAIMED BY THE DISCLOSING PARTY.

HIS POINT IS PLEASE JUST MAKE MY LIFE EASIER BUT THE WORD ECONOMIC THEY ARE SO I DON'T HAVE PEOPLE COMING IN AND ARGUING THAT THEY HAVE TO DO NONECONOMIC AS WELL.

THERE IS JUST NO WAY TO QUANTIFY IN AN INITIAL DISCLOSURE WHAT NONECONOMIC DAMAGES ARE.

JUDGE YOU WE ALSO ASKED THAT EXPERT OPINIONS HAVE TO BE SUPPLEMENTED WITHIN TEN DAYS OF THE EXPERT PROVIDING THE OPINION.

I WOULD RECOMMEND AGAINST THAT BECAUSE STATE COURT IS NOT LIKE FEDERAL COURT WHERE YOU HAVE TO SUBMIT A REPORT.

IT WILL TURN INTO A GAME ABOUT WHEN YOU'RE EXPERT GAVE YOU THE OPINION.

I UNDERSTAND WORD THE JUDGE IS COMING FROM.

IS TRYING TO OF THE PROCESS ALONG BUT I DON'T SEE THAT ONE BEING BENEFICIAL.

JUDGE SHE WE ALSO ASK THAT ALL VIDEOS AND PHOTOS TAKEN BY A PARTY OR AGENT AT THE ACCIDENT OR INCIDENT SCENE REGARDLESS OF WHEN THEY WERE TAKEN OR BY BE REQUIRED TO BE DISCLOSED AND OF THE INPUT I WOULD WRITE ON THAT IS THAT IF I HIRE A CONSULTING EXPERT AND ASKED THE CONSULTING EXPERT TO GO TO THE SCENE THE CONSULTING EXPERT IS MY AGENT BUT ANYTHING THE CONSULTING EXPERT DOES IS PRIVILEGE SO UNDER THIS PROPOSAL I WOULD HAVE TO TURN OVER PRIVILEGED INFORMATION.

SO, I DON'T RECOMMEND ADOPTING THAT PARTICULAR ONE.

AGAIN I DO UNDERSTAND WHERE HE IS COMING FROM BUT I THINK THE WAY THAT HE PROPOSED IT WOULD WORK A LOT OF MISCHIEF AND WIND UP IN SOME INSTANCES BEING CONTRARY TO THE LAW. I AGREE WITH MR. EDWARDS THAT IT IS USEFUL FOR PEOPLE TO KNOW AND I THINK ADDRESS THESE CONCERNS PERHAPS THE COURT COULD ADD A COMMENT TO RULE 1.280 THAT SAYS SOMETHING TO THE EFFECT OF WHEN THE COURT ADOPT A FEDERAL RULE IT INTENDS TO ADOPT THE CASE LAW AND BODY OF CASE LAW THAT ACCOMPANIES THE ROLE.

SHORT, SIMPLE, AND THAT IS EXACTLY WHY YOU ASK TO USE THE FEDERAL RULES. DEBROH INGRAHAM ASKED TO USE THE HIPAA RELEASE FOR EVERY HEALTHCARE PROVIDER AS PART OF THE INITIAL DISCLOSURES.

IF YOU LISTED A HEALTHCARE PROVIDER IN RESPONSE TO INTERROGATORY SHE WANTED A HIPAA RELEASE TO BE REQUIRED AND PROVIDED.

I WOULD POINT TO THE INTERROGATORY THAT I JUST READ TO YOU.

IF EVERY ACA IN THE STATE AS IF IT COMES TO THIS IT IS PROTECTED BY FLORIDA'S CONSTITUTIONAL RIGHT TO PRIVACY.

IF I HAVE TO TELL YOU EVERY DOCTOR I'VE SEEN IN THE LAST TEN YEARS AND THEY HAVE NOTHING TO DO WITH MY INJURIES IN THIS CASE YOU SHOULD NOT BE ALLOWED TO HAVE A HIPPER WAIVER THAT SHOULD GIVE YOU THESE MEDICAL RECORDS.

I UNDERSTAND HER GOAL BUT I DO NOT THINK IT IS A GOOD IDEA.

I RESERVED THREE MINUTES AND AS USUAL I WENT TO LONG.

ON RULE 2.160 I KNOW JUDGE MO IS GOING TO TALK TO YOU ABOUT THIS AND YOU WILL BE ABLE TO HEAR FROM A JUDGE IN THE TRENCHES BUT I AM WORRIED ABOUT JURISPRUDENCE BECAUSE I PERSONALLY APPEARED IN FRONT OF MULTIPLE JUDGES AND HAVE HER TRIAL LAWYERS TELL ME THAT THEY ARE APPEARING IN FRONT OF JUDGES WHO ARE SAYING THE SUPREME COURT SAYS I CANNOT GRANT A CONTINUANCE.

AND SO AT THIS I WANT TO SCREAM NO, I CHAIRED THE COMMITTEE THAT WROTE THAT RULE THAT'S NOT WHAT IT SAYS THAT'S NOT WHAT THE SUPREME COURT SAYS.

I WOULD STRONGLY ENCOURAGE YOU TO MUCH LIKE YOU DID WITH THE ETHICS RULE FOR ATTORNEYS CREATED MANDATORY CJD AND JUSTICE IF YOU ARE STILL IN CHARGE OF CJD.

>> NO MORE.

>> NOT YOUR SEARCH NOT YOUR MONKEY.

>> NO MORE.

>> I DON'T KNOW WHO'S DOING IT BUT WHICHEVER ONE MAKE THAT ONE AVAILABLE AS ZOOM.

SOMETHING THEY HAVE TO TAKE WITHIN A CERTAIN NUMBER OF DAYS OF THE CASE OF THE RULE BECOMING ACTIVE IF WE ARE GOING TO POTENTIALLY MOVE THE ACTIVE DATE MAKE IT SOMETHING THEY HAVE TO DO BUT, PLEASE HAVE IT TAUGHT BY A DCA A JUDGE WHO IS A FORMER TRIAL JUDGE BECAUSE THEY WILL BE THE ONES INTERPRETING WHAT THE JUDGES DO WHEN THEY ARE PEELED AND HAVING SERVED AS A TRIAL JUDGE THEMSELVES THEY CAN EMPATHIZE WITH WHAT IT FEELS LIKE I THINK THAT YOU WANT TO HAVE A MANDATORY CJD SO THE JUDGES WHO THINK THAT YOU ARE SAYING THAT YOU CANNOT GRANT A CONTINUANCE KNOW THAT WHAT YOU'RE REALLY SAYING IS IF YOU ARE LAZY AND YOU HAVE NOT TOUCHED HER CASE IN 18 MONTHS YOU DON'T GET 18 MORE MONTHS.

IF THERE ARE SOME REASON THAT YOUR CASE CAN I GET TO TRIAL AND YOU HAVE BEEN WORKING DILIGENTLY AND THAT A DIFFERENT SCENARIO AND THE JUDGES NEED TO USE THEIR DISCRETION.

>> THANK YOU I APPRECIATE IT.

ANY THOUGHT I HAD ABOUT PRACTICING LAW IN MY AFTERLIFE HAS BEEN EXTINGUISHED TODAY.

>> MAY IT PLEASE THE COURT.

IT'S A PLEASURE TO BE HERE.

I THINK THAT PERFECT IS THE ENEMY OF DONE ON SOME OF THESE RULES AND I THINK THAT IF THERE WAS EVER A DAY IN WHICH THE BOND VALIDATION CASE WOULD SEEM EXCITING AND EASY TO UNDERSTAND THEN I THINK WE HAVE PROVIDED THAT FOR YOU AND THEY CAN THINK IS LATER.

BUT ULTIMATELY I DO AGREE WITH WHAT MS. LUCAS SAID.

WE ALL KNOW THAT THIS COURT IS PROMULGATING RULE .1.0.

NOT A ROLE BEFORE THE COURT.

IT SAYS THAT ALL THE RULES ARE INTENDED TO BE CONSTRUED TO AFFECT A JUST SPEEDY AND INEXPENSIVE RESULT IN A CASE.

WE KNOW THAT AND WE APPRECIATE THAT.

I THINK SOME COMMENTS ALMOST ASSUME THAT WE WOULD NOT DO THAT AND I

THINK FOR THAT REASON SOME COMMENTS MAY BE ARE VALID CONCERNS BUT THEY'RE OVERBLOWN AND MAY THEY DON'T REMEMBER THAT WE HAVE COMMON SENSE BUT I WANTED TO TALK BRIEFLY ABOUT 1.5.0.

THANK YOU FOR DOING THAT RULE IT WILL I BELIEVE THAT THIS IS MORE GENEROUS THAN NECESSARY.

BUT FOR TRIAL COURTS, IF YOU WERE LOOKING AT SOMETHING OTHER THAN 16 AND WERE WILLING TO CONSIDER THAT I PROPOSE THAT IT WOULD BE 20 AND TEN AND THERE ARE TWO REASONS FOR THIS.

ONE REASON IS IF I WERE TO ASK YOU TO CALCULATE A DEADLINE IN THE NEXT FIVE SECONDS AND THE DEADLINE IS 30 DAYS FROM TODAY I THANK YOU COULD HIT THE NAIL QUICKLY BUT ADDING TEN DAYS TO IT WHAT IS 40 DAYS FROM TODAY THAT EVERYONE WILL HAVE TO DO IT.

I THINK IT WOULD BE EASIER FOR JA AND JUDGES AND LAWYERS AND EVERYONE TO KNOW WHEN THEY CAN SET THE HEARING IF THEY UNDERSTAND IT 30 DAYS INSTEAD OF 40.

IT MAY SEEM LIKE A SMALL THING BUT ALL YOU HAVE TO DO IS GIVE YOURSELF A SERIES OF DATES THAN OFF OFF THE CUFF THINK OF 40 DAYS AND THAT'S JUST HARD.

THE 20 DAYS WE ALLOW THEM TO HAVE TIME FOR THE RESPONSE.

THERE IS NO NUMBER OF DAYS THAT YOU CAN COME UP WITH THAT YOU'RE NOT CAN HAVE THE RESULT OF SOMEONE SAYING I DON'T HAVE ENOUGH TIME.

YOU CAN TAKE IT OFF THE TABLE AS A MATTER OF CONCERN BECAUSE YOU ALREADY HAVE A RULE THAT SAYS THAT THE MOTION WAS PREMATURELY FILED YOU HAVE IT IN THEIR AND IT MAY BE MORE THAN WHAT YOU HAVE NOW BUT THE REALITY IS IT WILL BE INVOKED ONE WAY OR THE OTHER SO YOU HAVE A GOOD RULE AND A GOOD PROCEDURE IN 20 DAYS SHOULD ULTIMATELY IF AT THE TRIAL COURT LEVEL IF WE DO NOT GET COMMITTED TO THE IDEA OF SEQUENCING AND SPACING DEADLINES THROUGHOUT THE COURSE OF THE KEYS THAN A LOT OF US WE ARE JUST DESTINE FOR FRUSTRATION AND INEFFICIENCY IF WE DON'T GET COMMITTED TO THIS IDEA.

BUT I THINK THIS COURT KNOWS THAT ALREADY.

IS PROBABLY IN THE WORKS ARE READY TO HAVE A CJD FOR JUDGES TO TALK ABOUT ORDERS AND I THINK OVER TIME EVEN IF YOU DON'T DO THAT WE ALL HAVE COMMON SENSE AND WE ALL BENEFIT FROM THE EXPERIENCE OF WHAT IT FEELS LIKE THAT TO DO CASE MANAGEMENT WHEN WE DON'T SEEK THIS SPACE AND THAT'S EXERCISE IN FRUSTRATION FOR EVERYONE.

>> WHAT IS YOUR OPINION ON THE TOLLING SUGGESTION MS. LUCA HAD?

>> MY OPINION IS THAT IT'S PROBABLY NOT NECESSARY BECAUSE WE HAVE THE ABILITY AS HUMAN BEINGS TO EXERCISE COMMON SENSE.

IF SOMEONE COMES IN AND SAYS THIS MOTION FOR SUMMARY JUDGMENT WAS FILED 20 OR 30 DAYS AFTER THE CASE WAS THEN INSTINCTIVELY THE JUDGES GOING TO KNOW THAT THERE IS A DECENT CHANCE IN THAT SITUATION THAT IT'S PREMATURELY FILED AND ON WHAT PLANET IS SOMEONE GOING TO SAY, YOU KNOW, I KNOW YOU FILED THAT AND YOU NEEDED TO GET THE DEPOSITION AND YOU NEVER GOT IT AND I AGREE THAT YOU SHOULD HAVE IT BUT YET WERE IN MOVE FORWARD ON THAT HEARING.

I JUST DON'T THINK THAT IS LIKELY TO HAPPEN.

>> I THINK HER THING WAS ON THE RESPONSE TIME.

>> THE TOLLING OF THE RESPONSE TIME.

>> YES.

>> WELL, I THINK THAT IT IN PRACTICAL OF FACT I JUST LAST WEEK BY THE WAY ONE OF THE BENEFITS OF THE CONFERRAL RULE IS THAT NOW MY HEARING TIME IS SPENT AND I HAD A DAY LAST WEEK WHERE I SPENT ALL DAY LONG AND SUMMARY JUDGMENT HEARINGS.

THAT IS BECAUSE I DO NOT HAVE TO HAVE NEARLY AS MANY HEARINGS AND ALL THE THINGS THAT JUST WHEN YOU'RE AT THE TRIAL COURT LEVEL THIS HAS CHANGED OUR LIVES THE REALITY IS WHEN SOMEONE FILES THAT MOTION SEEKING ADDITIONAL TIME FREQUENTLY THAT WILL MEAN THAT THE OPPONENT WILL SAY OKAY, I GET IT, YOU'VE MADE A GOOD POINT, YOU SAY YOU NEED THAT I WILL GO AHEAD AND HAVE THE DEPOSITION SO WE RESCHEDULED A HEARING.

BUT FOR THE MOST PART, WHAT WE SEE IN TAMPA BECAUSE OF THE SEQUENCING AND SPACING WE DON'T HAVE PEOPLE FILING MOTIONS FOR SUMMARY JUDGMENT UNTIL AFTER THE FACT OF DISCOVERY BECAUSE THAT IS HOW THE SEQUENCE OF BASES THE DEADLINE.

SO WHEN SOMEONE FILES A MOTION IN TAMPA 95 PERCENT OF THE TIME THEY FILED A MOTION IN A SAYING I NEED MORE TIME.

WHO IT IS THE FROM NOT HAVING THE SUMMARY JUDGMENT GRANT AND THE REALITY IS THAT YOU CAN JUST GET OUT YOUR CASE MANAGEMENT ORDER THEY SAY THEY NEED MORE TIME FOR FACT DISCOVERY BUT FACT DISCOVERY CLOSE SIX MONTHS AGO.

SO THE ANSWER IS THE MOTION IS DENIED LET'S TALK ABOUT SUMMARY JUDGMENT.

THERE IS AN INTERPLAY BETWEEN ALL OF THESE RULES AND I THINK THE COURT WELL UNDERSTANDS IT AND I THINK THE TRIAL COURTS ARE WELL ON THE WAY TO UNDERSTANDING I AGREE THAT THAT JUDICIAL EDUCATION WOULD BE MORE HELPFUL AND THAT SHOULD ALWAYS BE ON THE TABLE BUT I DON'T NECESSARILY KNOW THE PROBLEM WITH I THINK THE PROBLEM WITH ANY IDEA THAT THERE IS A MECHANISM BY WHICH YOU CAN STOP THE TRAIN FROM MOVING SIMPLY BY FILING A MOTION INTRODUCES JUST AS MANY PROBLEMS AS IT SOLVES.

SO, WITH 1.460 YOU HAVE A PREVIEW THAT I WANTED TO TALK TO YOU ABOUT AND IT IS A BEAUTIFULLY WRITTEN RULE IT IS THE OBJECTIVES OF THE RULE A VERY GOOD AND VERY LAUDABLE AND THERE ARE TWO THINGS, NUMBER ONE, I AGREE THAT THERE IS A WIDESPREAD PERCEPTION THAT THE AMENDMENT TO RULE 1.460 MEAN THE TRIAL COURTS NO LONGER HAVE THE DISCRETION TO CONTINUE A CASE THAT SHOULD BE CONTINUED.

IT IS A REAL PROBLEM AND THAT WHEN YOU HEAR SOMEONE SAY I WANT YOU TO KNOW FROM ME THAT I SEE EXACTLY THE SAME THING AND I HEAR THE SAME THING AND I THINK IT IS A REAL CONCERN PARTICULARLY WHEN WE CONSIDER RULE 1.010 AND THE NEED FOR OUR RULES TO BE CONSTRUED TO BE JUST BEING THE FIRST ONE, JUST SPEEDY AND INEXPENSIVE.

AND THAT IS I DON'T KNOW EXACTLY HOW THIS COURT WILL GO ABOUT REMEDYING THAT.

JUDICIAL EDUCATION IS IMPORTANT.

BUT I SUSPECT THAT THE ORIGIN STORY OF THE REASON WHY JUDGES HAD THAT PERCEPTION IS THAT WHEN THE ADMINISTRATIVE ORDER CAME OUT ABOUT DIFFERENTIATING CASE MANAGEMENT THAT WAS A NECESSARY, OR WONDERFUL SHOCK TO THE SYSTEM.

WE THEN HAD THE WORLD ARGUMENT ABOUT THE ENTIRETY OF THE WORKGROUP PROPOSAL SOMETIME LATER BEFORE THE ORAL ARGUMENT THERE WAS A VERY COMPREHENSIVE BROAD EFFORT TO EDUCATE LAWYERS AND JUDGES THAT THERE WAS MORE TO THIS WORKGROUP PROPOSAL OUT THERE AND THAT THE COURT WANTED EVERYONE'S FEEDBACK.

AS PART OF THE EDUCATION EFFORT I THINK THAT THERE WAS DISCUSSION ABOUT A DIFFERENT CONTINUANCE POLICY THAN THIS COURT HAS ACTUALLY ADOPTED. AND I THINK IT IS THE RESIDUAL OF THAT THAT HAS CAUSED THERE TO BE A MISPERCEPTION SEEING THAT WE CANNOT EVER GRANT A CONTINUANCE.

>> THE TEXT OF THE RULE DOES NOT SAY THAT.

>> IT DOES NOT YOU'RE ACTUALLY RIGHT.

>> AT SOME POINT PEOPLE HAVE TO READ.

>> I 100 PERCENT AGREE WITH YOU JUSTICE.

I COULD NOT AGREE MORE BUT I WILL SAY THIS, THE REASON WHY I AM CONCERNED YOU ARE ABSOLUTELY RIGHT.

YOU CANNOT IF PEOPLE ARE NOT DILIGENT ENOUGH TO READ A RULE THERE IS NO FIX FOR THAT EXCEPT HOPEFULLY WE CAN GET THEM WHAT THEY ARE IN KINDERGARTEN AND TEACH THEM TO READ SOONER BUT ULTIMATELY THE PROBLEM WE HAVE IS A PRACTICAL ONE AND IN MARCH 2023 IN RESPONSE OR ANTICIPATION OF A TORT REFORM BILL THAT WAS PASSED HERE IN TALLAHASSEE THERE WAS A SURGE OF FILINGS ACROSS THE STATE AS A RESULT, FOR EXAMPLE, THE 13<sup>th</sup> CIRCUIT.

THE CIRCUIT CIVIL DOCKET IN TAMPA WAS DOUBLED IN A TEN DAY PERIOD.

IN A DOCKET THAT TOOK CONTROL OF IT HAS NOT ENDED UP BEING THE BIGGER PROBLEM.

BUT HAVE NO DOCKET CONTROL MECHANISMS TAKE IT AND PUT INTO PLACE WHAT THAT MEANS IS THAT ALL OF THOSE CASES MATURED IN SEPTEMBER OF 2024.

AND AS THE EFFECT OF THAT COUPLED WITH THE IDEA THAT CASES CANNOT BE CONTINUED IS THAT WE HAVE IF YOU WERE TO ASK ANY OF THE LAWYERS WHO HAVE A PERSONAL INJURY PRACTICE BECAUSE THOSE ARE THE ONES THAT WERE AFFECTED, ASK ANYONE OF THEM WHAT IS HAPPENING TO YOU?

AND YOU WILL FIND INVARIABLY THAT THERE ARE LAWYERS WHO ARE IN NEXT WEEK'S SET ON 23 TRIAL DOCKETS ACROSS THE STATE AND IN THE 23 TRIAL DOCKETS THEY HEAR FROM THE JUDGES IN A CERTAIN PERCENTAGE OF THEM I WILL NOT CONTINUE YOUR CASE BECAUSE THE SUPREME COURT SO THEY CANNOT CONTINUE YOUR CASE.

THAN THEY SHOW UP ON MONDAY MORNING TO TRY TO CASE AND OF COURSE THE JUDGE HAS 50 CASES THAT ARE SET FOR TRIAL BECAUSE THEY ARE ALL THE ONES THAT MATURED FROM MARCH OF 2023 AND THE JUDGE CANNOT TRIAL THOSE CASES AND SO THEN THEY GET RULED THE NEXT MONTH.

ALL BUT THE ONE THAT GOT TRIED THIS MONTH GETS RULED.

THAT IS CATASTROPHIC I THINK.

>> HELP ME UNDERSTAND WHY IT'S NOT THE JUDGES SELF INTEREST TO AVOID THAT CATASTROPHE BY ACTUALLY OPENING THE BOOK AND READING THE RULE? AND THEN GRANTING SOME CONTINUANCES?

I AM NOT UNDERSTANDING WHY THE CATASTROPHE IT IS IN EVERYONE'S SELF INTEREST TO AVOID IT SO WISE AND NOT BEING AVOIDED?

>> I CANNOT ANSWER THE QUESTION JUSTICE BUT WHAT I CAN TELL YOU IS THAT WHATEVER THE REASONS FOR IT ARE THE EXPERIENCE IS WHAT I HAVE DESCRIBED. AND, SO, AGAIN, TO YOUR POINT WE SHOULD ALL BE READING.

THERE IS NEVER A SUBSTITUTE FOR ACTUALLY READING WHAT LAW WE ARE SUPPOSED TO FOLLOW AND I DON'T MEAN TO SUGGEST THAT ANYONE IS NOT READING ARE NOT CAPABLE OF READING BUT THE OTHER ASPECT OF THIS IS THAT WHILE I DON'T THINK THAT THERE SHOULD BE THIS PERVASIVE CONCERN THAT TRIAL JUDGES CAN'T HANDLE THEIR LIFE BECAUSE WE CAN ALL BLOCK OFF AND DO WHAT WE NEED TO DO BUT THE REALITY IS THE SAME DYNAMIC THAT IS SO DIFFICULT FOR LAWYERS IS VERY DIFFICULT FOR TRIAL JUDGES RIGHT AND SO TO SAY WHILE UNDER NORMAL CIRCUMSTANCES YOU WOULD SAY A CHANGE IN THE RULE, JUST COUNT THE RULE BOOK BUT THE REALITY IS THAT THOSE JUDGES ARE ALSO ABSOLUTELY STRUGGLING WITH THE FACT THAT ALL THE CASES FILED IN MARCH 2023 MATURED AT EXACTLY THE SAME PACE.

SO THEY ARE WHAT IT MEANS FOR ALL OF US IS EVEN TAMPA WE ARE NOT WE CAN HANDLE IT BUT THE REALITY IS WE GET MORE REQUESTS TO AMEND CASE MANAGEMENT ORDER BECAUSE THEY ARE NOT ALL SET FOR TRIAL AT THE SAME TIME BUT SET FOR TRIAL EVERYWHERE ELSE AND CANNOT GET OUR STUFF OR DISCOVERY.

WE ARE JUST WHAT I WANT TO COMMUNICATE TO YOU IS WE ARE JUST IN THE SITUATION THAT I THINK IS A DIFFERENT ENVIRONMENT THAN WAS CONTEMPLATED AT THE TIME THAT THIS RULE FIRST EXPLODED.

I THINK JUDICIAL EDUCATION BUT SECONDARILY POTENTIALLY THE IDEA OF DELAYING THE EFFECTIVE DATE OF 1.460.

OR SIMPLY HAVING AN ALL HANDS ON DECK MEETING TO EXPLAIN THAT THIS IS A RULE THAT EVERYONE REALLY NEEDS TO UNDERSTAND IN THE SUPREME COURT. THERE MAY BE A MISPERCEPTION.

>> WE WILL GO WITH PLAN B.

>> I HAVE TWO SMALL THINGS.

BUT THEY ARE NOT SMALL AND PRACTICAL EFFECT.

1.200 D TO F AND G THERE IS REFERENCE TO TWO DEADLINES THAT ARE CONCURRENTLY PHRASED AS THE DEADLINE TO RESOLVE OBJECTIONS TO PLEADINGS OF THE DEADLINE TO RESOLVE ALL PRETRIAL MOTIONS.

DEADLINE TO RESOLVE AS DEADLINE FOR THE JUDGE.

THAT IS WHAT THE 13<sup>th</sup> CIRCUIT INTERPRETS THAT IS THE DEADLINE TO RULE WE RULE ON THINGS THAT SOMEONE SETS FOR HEARING THAT MAY BE DIFFICULT RULE FOR US TO ENFORCE.

IF THAT WERE TOO WEAK TO SAY THAT THE DEADLINE IS FOR THE DEADLINE TO FILE OBJECTIONS TO PLEADINGS AND TO FILE PRETRIAL MOTIONS THAT IS EASIER TO RESOLVE EASIER TO ACTUALLY ENFORCE IT.

IT PROVIDES FOR THINGS NEED TO CUT OFF AND ALSO WHERE THERE IS POTENTIAL FOR AMBIGUITY THE COURT AGREES IS THERE IS CONFUSION ABOUT WHAT THE WORD RESOLUTION MEANS AND IS AT THE SAME THING AS FILING OR THE SAME THING AS DECIDING?

IMPACT AND IMPORTANCE OF THAT IS THAT THERE IS A 60 TO 90 DAYS SWING OF WHERE THE DEADLINE SHOULD FALL LOGICALLY.

DEADLINE TO FILE SHOULD FALL SOONER THAN A DEADLINE TO RESOLVE.

THAT WAS 1.200 D TWO SUBSECTIONS F AND G BOTH HAVE THE SAME THING.

AND I THINK WITH REGARDS TO OBJECTIONS TO PLEADINGS WE HAD A LONGER DEBATE THAN YOU COULD IMAGINE ABOUT WHAT IS AN OBJECTION TO PLEADING.

I THINK WHAT IT MEANS IS A MOTION TO DISMISS OR STRIKE IF WHAT WAS INTENDED WAS MOTIONS DIRECTED TO PLEADINGS IF THAT IS WHAT OBJECTIONS TO PLEADING IS INTENDED TO SAY I THINK IT WOULD BE WORTH CONSIDERING WHETHER OR NOT JUST A SAYING MOTIONS DIRECTED TO PLEADING INSTEAD OF OBJECTIONS TO PLEADINGS.

THANK YOU SO MUCH FOR YOUR TIME I DO APPRECIATE YOUR PATIENCE THANK YOU.

>> THANK YOU.

>> MAY IT PLEASE THE COURT BUSINESS LAW SECTION FILED A SHORT NARROW MOTION SUPPORTING THE INCLUSION OF PROPORTIONALITY IN MODIFIED SCOPE DISCOVERY AND I'M HERE TO ANSWER ANY QUESTIONS IF NECESSARY.

I WILL VERY BRIEFLY TOUCH ON A COUPLE THINGS THAT ARE HELPING WITH THE OFFICIAL RESOLUTION OF THESE CASES.

WE ALL HAVE TREPIDATION ABOUT CHANGE.

THAT'S PART OF THE CONCERN ABOUT PROPORTIONALITY BUT FEDERAL COURTS HAVE BEEN APPLYING THE THIS SUCCESSFULLY FOR TEN YEARS AND THERE'S A GREAT BODY OF CASE LAW ABOUT THAT THAT FLORIDA PRACTITIONERS CAN READ AND USE FOR THE COURTS TO MAKE THESE DECISIONS.

THIS IS JUST A TOOL TO RESOLVE THE CASE DISPUTES THAT ARE ALREADY HAPPENING.

AND THE BENEFIT OF HAVING THIS YEAR IS THE PRACTITIONERS WHEN DRAFTING THE DISCOVERY REQUESTS HAVE TO DO SO WITH PROPORTIONALITY IN MIND DO SOME OF THE DISGUST OR SOME OF THE DISPUTES BECAUSE YOU'RE WORKING ON IT ON THE FRONT AND NOT THE BACKEND.

AGAIN, THIS IS THE METHOD FOR HOW THESE ARE BEING DECIDED.

JUSTICE, IF THERE IS A BOILERPLATE OBJECTION, THE SANCTION FOR THAT IS MOST LIKELY GOING TO GET THE NIGHT AS BEING UNSUPPORTED.

SO, IF ALONG THOSE LINES THE COMMITTEE HAS PROPOSED A SECTION AND THE PROPOSED CHANGES ARE REQUIRING SPECIFICITY AND ONE BEST AND 1.340 IF THAT HELPS AND REDUCES THE OCCURRENCE OF BOILERPLATE, WITH THAT OTHER QUESTIONS?

WE SUPPORT THIS.

>> THANK YOU VERY MUCH.

>> GOOD MORNING YOUR HONORS.

I AM KAREN GABERS AND TODAY IS THE 46<sup>th</sup> ANNIVERSARY OF MY BECOMING AN ATTORNEY.

I CANNOT BELIEVE THE TIME HAS GONE SO QUICKLY AND THANK YOU FOR LETTING ME MENTION THAT.

I AM HERE THIS MORNING ON BEHALF OF THE FLORIDA JUSTICE ASSOCIATION ESSENTIALLY THE PLAINTIFFS BAR.

OUR MEMBERS HAVE CASES IN ALL 67 OF FLORIDA'S COUNTIES AND ALL 20 OF THE CIRCUITS.

AND I HAVE ALSO HAD THE EXTREME PRIVILEGE TO SERVE AS A CIRCUIT JUDGE HERE IN THE SECOND JUDICIAL CIRCUIT FOR A LITTLE OVER EIGHT YEARS. FROM 2011 UNTIL LIKE CAGED OUT IN APRIL OF 2019.

I SERVE IT IN ALL THE DIFFERENT DIVISIONS DURING THE TIME I WAS ON THE BENCH AND SAW FROM THE JUDICIAL TRENCHES HOW LIFE DIFFERS FOR TRIAL JUDGES IN A RURAL CITY OR COUNTY VERSUS A BIG CITY AND THE EXPECTATIONS WE HAVE. BECAUSE, GENERALLY, PEOPLE IN THE TRIAL BENCH DON'T COME FROM A SINGULAR WE ARE STATE ATTORNEYS, PUBLIC DEFENDERS, PEOPLE THAT IN FAMILY LAW.

THAT'S GENERALLY RARE.

BUT VERY FEW OF THE BACKGROUNDS INCLUDED ANYTHING TO DO WITH THE FEDERAL PRACTICE.

SO, FAMILIARITY WITH FEDERAL RULES AND CASE LAW AND ET CETERA IS SOMETHING THAT IS NOT PART OF THIS THIS ACQUIRED KNOWLEDGE.

EVEN IN A SMALL COUNTY LIKE JEFFERSON THERE COULD BE AN EVENT SUCH AS WHERE A TOURIST GETS MURDERED AT A REST STOP ON I -10 THAT BECOMES ALL CONSUMING AND THERE'S ONLY ONE CIRCUIT JUDGE ASSIGNED AS A PART TIME ASSIGNMENT TO HANDLE EVERY DIVISION AT THE CIRCUIT COURT LEVEL AND JEFFERSON COUNTY.

THAT JUDGE DOES NOT HAVE TIME ON HIS OR HER HANDS TO BE LOOKING I HAD CIVIL PROCEDURE RULE CHANGES THAT WILL AFFECT THE CIRCUIT CIVIL CASES IN THAT EVERYTHING IS THE RESPONSIBILITY OF THE JUDGE AND WHEN YOU HAVE A HIGH PROFILE EVENT THAN EVERYTHING SUFFERS.

ANOTHER THING THAT OUR TRIAL JUDGES DO NOT HAVE IS A SINGLE LAW CLERK LAWYER DEDICATED TO THEM.

EACH CIRCUIT HAS SOME USUALLY FOUR OR FIVE THAT OR HABEAS CORPUS ISSUES OR PRISONER PETITIONS BUT NO CIRCUIT JUDGE THAT IS IN A CIRCUIT CIVIL DIVISION THAT I HAVE FOUND HAS THEIR OWN DEDICATED LAW CLERK.

AND THE CONCERNS THAT THE FLORIDA JUSTICE ASSOCIATION HAS SOME MEMBERS OF COURSE WOULD PREFER NOT TO ADD PROPORTIONALITY AS THE COMMENT MENTIONED BUT IF WE ARE GOING TO BRING IN A FEDERAL CONCEPT THEN WE SHOULD HAVE THE RESOURCES THAT THE FEDERAL SYSTEM HAS SO THAT WE ARE NOT OVERBURDENING OUR ALREADY OVERBURDENED DO DUE TO COVID AND LEGISLATIVE ACTION OR WHATEVER OUR CIRCUIT JUDGES WORK HARD TRYING TO DO THE JOBS THEY ARE TO DO AND THEY OFTEN INVOLVE MORE THAN ONE ASSIGNMENT IN MORE THAN ONE DIVISION.

I KNOW THOSE JUDGES THAT GET ASSIGNED TO A DIVISION LIKE DEPENDENCY OR MAYBE THEY HAD NO EXPERIENCE THEY GET THE CISTERN PREPARED BENCH CALL. IT LEAVES IT ALL OUT.

EASY READING HELPS THEM UNDERSTAND WHAT THEY ARE SUPPOSED TO BE

DOING AS THEY HANDLE THE SOCIAL WORK DIVISION AND HELP TRY TO GET FAMILIES REUNIFIED OR TERMINATE PARENTAL RIGHTS AND GET CHILDREN ADOPTED.

EACH DIVISION HAS DIFFERENT RULES.

YOU ALL ARE AMAZING TO BE ABLE TO HANDLE ALL THE DIFFERENT RULES AND MAKE SURE EVERYTHING FLOWS SEAMLESSLY.

BUT IN THE STANDPOINT OF THE FLORIDA JUSTICE ASSOCIATION MEMBERS AND THE OTHERS WHO HAVE SPOKEN ALL OF US HAVE ONE THING IN COMMON WHICH IS WE WANT OUR TRIAL JUDGES HANDLING CIRCUIT CIVIL CASES TO BE ABLE TO GIVE THEM THE TIME AND THE ATTENTION THAT THEY NEED AND THIS INCLUDES TAKING TIME.

IT SHOULD INCLUDE TIME TO READ EVERY MEMORANDUM OF LAW THAT IS WRITTEN ON A MOTION TO COMPEL OR SOMETHING AND THEN THE RESPONSE AND HAVE A LAW CLERK OR SOMEHOW TIME TO SEE IF IN THESE CASES ARE GOD HELP US IF WE CAN TO ARTIFICIAL INTELLIGENCE AND FIND OUT THE ARTIFICIAL INTELLIGENCE IS MANUFACTURING CASES THAT DON'T EXIST THAT HAS HAPPENED IN AN INCIDENT THAT HAS BEEN WIDELY REPORTED ON IN SOME ATTORNEY SEMINARS.

WE HAVE TO BE VIGILANT.

WE HAVE TO PROVIDE JUSTICE TO THE LITIGANTS IN FRONT OF US.

EVERYONE NEEDS TO BE TREATED I DON'T KNOW HOW YOU PUT THE EXTRA BURDEN OF THAT ON THE DISCOVERY IN THIS MOTION OF PRACTICE THAT INEVITABLY WILL FOLLOW THE PROPORTIONALITY IF THERE AREN'T TWO THINGS THAT HAPPEN.

NUMBER ONE, THERE NEEDS TO BE A PROACTIVE EDUCATION OUTREACH TO THE TRIAL JUDGES THAT WILL BE RESPONSIBLE FOR HANDLING THIS SO THAT ON WHATEVER DAY THE NEW RULES BECOME EFFECTIVE THEY KNOW WITH THE SUMMARY JUDGMENT RULE WHEN YOU SWITCH TO THE FEDERAL STANDARD IN 2021 THAT YOU ARE SWITCHING TO THE FEDERAL STANDARD IN WHICH CASE THEY SHOULD LOOK AT IT AND IF YOU'RE NOT COMFORTABLE ADOPTING THE FEDERAL ADVISORY THE COMMITTEE NOTES THEN YOU SHOULD AT LEAST PREPARE A BENCH BOOK BECAUSE THOSE TRIAL JUDGES THAT ARE IN THE COURTROOMS RIGHT NOW ARE HAVING THEIR ASSISTANCE TRYING TO FIND HEARING TIME FOR SOMEBODY TO HAVE SOMETHING HEARD THEN THEY DON'T HAVE TIME TO BE LOOKING AT ALL THE CASELAW THAT INTERPRETED THE FEDERAL RULES AND ADVISORY NOTES AND THERE IS JUST NOT THAT TIME AND UNLIKE THE MAGISTRATES THEY DON'T HAVE MAGISTRATES.

AND THE FEDERAL MAGISTRATES HAVE A CLERKS.

AND ANYHOW, YOU GET THE POINT.

BUT THERE IS NO REASON THAT WE CANNOT ALL WORK TOGETHER IF WE ARE TRYING TO BECOME MORE LIKE THE FEDERAL SYSTEM.

WE CAN WORK TOGETHER TO GET THE LEGISLATURE TO FUND AN AID OF A FEDERAL TYPE SYSTEM.

BUT IF YOU ARE GOING TO OVERLOAD THE JUDGES THEN NONE OF THE PARTIES THAT ARE GOING TO BE PRACTICING IN FRONT OF THEM EVERYONE TRYING TO COMPLY WITH THE NEW RULES WILL BE IN A POSITION TO MEET YOUR TIMESTAMP. THE SECOND THING, RESOURCES.

THE OTHER THING IS SANCTIONS.

BECAUSE WITHOUT SANCTIONS AND A MEANS OF ENFORCEMENT WHETHER IT IS AN ADMISSION OF AN ACT OR MONETARY SANCTIONS ON A PARTY OR LAWYERS PEOPLE HAVE TO SEE THAT YOU THINK THE RULES HAVE MEANING.

THERE IS A GAME THAT MANY OF US PLAY AS CHILDREN CALLED TELEPHONE.

IF LINE UP A BUNCH OF CHILDREN AND WHISPER SOMETHING TO THE FIRST PERSON AND PASS IT DOWN THE LINE AND BY THE TIME THE LAST PERSON HERE IS THEY HAVE NO RELATIONSHIP TO WHAT WAS INCLUDED OR WHAT WAS SAID AT THE BEGINNING.

I THINK IN A WAY THE PANIC THAT WAS REFERRED TO REGARDING THE JUDGES CAN'T GRANT CONTINUANCES ANYMORE, THIS COMES FROM PEOPLE THAT DON'T HAVE TIME TO READ AND THINK ABOUT THE RULE CHANGE AND THEY DON'T UNDERSTAND WHAT BECAUSE MEANS AND THERE IS JUST NO TIME FOR ANYTHING IT SEEMS LIKE BECAUSE WE HAVE GOTTEN MORE REMOTE FROM EACH OTHER FIRST BECAUSE OF COVID.

WE DO SAVE A LOT OF TIME NOT HAVING TO DRIVE FROM ONE END OF THE STATE TO ANOTHER FOR A HALF HOUR HEARING.

IT'S A BIG HELP NOT BEING ON THE ROAD ALL THAT TIME.

>> MORE TIME YOU WOULD THINK TO READ THE RULES.

>> THERE IS THAT AS WELL.

BUT I JUST DON'T KNOW HOW.

I HAVE NOT SEEN CRITERIA FOR FOLKS TO PASS A COMPETENCY TEST IN A PARTICULAR DIVISION BEFORE AN ASSIGNMENT IS GIVEN BUT IT SOUNDS LIKE IT WOULD REQUIRE RULES.

>> WE DON'T PICK THE JUDGES.

THE PEOPLE GET TO ELECT THEM.

>> EXACTLY, I UNDERSTAND THAT AND JUST TRYING TO FIGURE OUT A WAY OR A SUGGESTION HAVING BEEN UNDER THE PRESSURES THAT GO WITH IT.

I AM BOARD CERTIFIED AS A CIRCUIT CIVIL TRIAL ATTORNEY FOR ALMOST 40 YEARS. NEXT YEAR WILL BE MY 40<sup>th</sup> YEAR AS A BOARD CERTIFIED ATTORNEY.

YOU WOULD THINK I WOULD HAVE NO TROUBLE HANDLING A CIRCUIT CIVIL DOCKET.

LAST FOUR YEARS I WAS ON THE BENCH I HAD CIRCUIT CIVIL DOCKET AND OCCASIONALLY DOING SOME OTHER THINGS AND THERE WERE STILL THINGS I'M FINDING NOW THAT ELECTRONIC LAWYER AND NOT LETTING MY LAW DEGREE GO TO WASTE BUT RULES ARE INTERPRETED SO DIFFERENTLY BY SO MANY DIFFERENT PEOPLE BECAUSE THEY ARE INTERPRETING THEM WITH THEIR BACKGROUND AND THEY COME FROM DIFFERENT BACKGROUNDS AND THEY PRACTICED IN DIFFERENT SIZED FIRMS AND THEY WENT TO DIFFERENT MENTORS AND THEY LEARN DIFFERENT THINGS SO THE MORE CLEAR THE RULES ARE THE BETTER FOR ALL OF US AND ONE LAST LITTLE PIECE, AN EFFECTIVE DATE.

I CHECKED ONE AT THE MAJOR REWRITE OCCURRED AND I THOUGHT IT WAS THE 60s BUT TURNS OUT IT WAS THE 50s.

I STARTED LOOKING AT IN 1952 AND IT TOOK THEM UNTIL 54, JUNE 1<sup>st</sup> TO 54 TO GO FROM 141 RULES TO 82 RULES.

WHAT THEY DID WAS THEY MADE THE NEW ONES APPLICABLE TO THE CASES FILED ON OR AFTER THAT EFFECTIVE DATE AND LET THE OLD RULES IN EFFECT FOR THE

ONES THAT HAD ALREADY BEEN HANDED.

IT WORKS ON SOME BUT I DON'T KNOW IF YOU WANT TO MAKE THE INITIAL DISCLOSURES SOMETHING THAT HAPPENS IMMEDIATELY BUT THE DUTY TO SUPPLEMENT PROBABLY COULD BE MADE EFFECTIVE IMMEDIATELY.

HOWEVER YOU ARE GOING TO DO IT ON I THINK THE MORE PRECISE YOU CAN IN THE RULE OF LANGUAGE AND MORE ATTENTIVE TO THE EDUCATION AND INEVITABLY THAT ANYONE WHO IS A CIRCUIT CIVIL ASSIGNMENT WILL UNDERSTAND.

DID I MENTION JUDICIAL ROTATIONS EVERY FEW YEARS?

>> I'M SORRY, CAN YOU TAKE 30 SECONDS TO RAP IT UP.

>> YES THANK YOU.

ANYHOW, THE FACT THAT JUDGES DON'T STICK IN THE SAME ASSIGNMENT AND THAT THEY ROTATE MEANING YOU WILL HAVE TO REEDUCATE NEW PEOPLE THE MORE CLEAR THE RULES THE BETTER AND THANK YOU FOR THE TIME AND THANK YOU FOR LETTING ME SPEAK.

>> THANK YOU.

CONGRATULATIONS ON YOUR ANNIVERSARY.

>> DID YOU HAVE REBUTTAL?

NOT A REBUTTAL BUT YOU KNOW.

>> I HAD THE PRIVILEGE TO SPEAK TO JUDGE MEL BEFOREHAND A CONFERRAL SOURCE AND SHE MADE KNOWN THE CONCERN SHE HAD ABOUT THE ISSUE WITH CONTINUANCES AND THE COMMITTEE HAD CONSIDERED IT.

I THINK THAT THE COURT IS NOT INCLINED TO DELAY BUT OBVIOUSLY ADDITIONAL EDUCATION AND PERHAPS THE FINAL MAY BE COULD BE AS SIMPLE AS READ THE RULE WHEN THAT SOMEWHAT WERE SAYING BUT A SMALL WORD MAY GO A LONG WAY WITH THIS ISSUE TO HELP GIVE A LITTLE BIT OF GUIDANCE.

>> THANK YOU SO MUCH.

WE APPRECIATE IT.

>> I PROMISE I WILL BE BRIEF.

JUDGE, I THINK YOU ARE THE AUDIENCE.

A LOOK AT YOU A LOT.

20 DAYS IS NOT SUFFICIENT TO RESPOND TO A MOTION FOR SUMMARY JUDGMENT IN A COMPLEX CASE. THERE IS NOTHING ABOUT RULE 1.5.10 THAT MAKES IT SPECIAL FOR COMPLEX VS GENERAL VS STREAMLINED.

20 DAYS DEFEATS WHAT I SAID ABOUT USING SUMMARY JUDGMENT AS A TOOL TO BRING ABOUT SETTLEMENTS.

SETTLEMENT IS THE HIGHEST AND BEST OUTCOME FOR ANY CASE.

IT IS OFF THE JUDGES DOCKET, THERE'S A MOVIE SHARK TALE ARE YOU HAPPY?

NO, ARE YOU HAPPY?

NO.

GREAT.

THAT'S THE BEST RESOLUTION.

AND IS A TOOL I SEE USED SO OFTEN.

FORTY DAYS AIN'T BROKE PLEASE DON'T FIX IT.

I STRONGLY ADVOCATE FOR 40.

AS FOR RULE 1510 D. IF FILING UNDER 1.150 D DOESN'T STOP THE TRAIN WHAT IS THE POINT OF HAVING 1.150 D.

IF NONMOVEMENT SHOWS BY AFFIDAVIT OR DECLARATION FOR SPECIFIED

REASONS IT BRING THE FACTS TO JUSTIFY THE OPPOSITION THE COURT MADE TO FURTHER THE MOTION, DENIED THE MOTION, ALLOW TIME TO OBTAIN AFFIDAVITS FOR DECLARATION TO TAKE DISCOVERY, OR ISSUE ANY OTHER APPROPRIATE ORDER.

IF FILING A MOTION TO ASK FOR RELIEF DOESN'T STOP THE SUMMARY JUDGMENT TRAIN THEN WHY DID YOU CREATE THE RULE?

YOU HAVE TO HAVE THE TOLLING PROVISION OTHERWISE THE RULE DOESN'T MAKE SENSE AND, JUSTICE, TO YOUR POINT, THE SAME LAWYERS WHO DON'T DO A GOOD JOB READING BECOME THE SAME JUDGES WHO DON'T DO A GOOD JOB READING AND, I SPECIFICALLY WROTE DOWN.

>> I PROBABLY SHOULDN'T SAY THIS BUT I'M GOING I WONDER AND THIS IS NOT AN ACCUSATION BUT I WONDER HOW MUCH OF THIS COULD BE SORT OF PASSIVE RESISTANCE.

FROM FOLKS THAT REALLY DON'T LIKE CHANGE AND DON'T LIKE THE NEW RULES AND DON'T LIKE THE PRESSURE WHICH IS THERE AND SOMETIMES PEOPLE WHO DON'T LIKE RULES WILL IMPLEMENT THEM IN A WAY THAT IS LIKELY TO MAKE THEM UNSUCCESSFUL.

>> SOMETIMES PEOPLE DON'T TAKE THE TIME TO DO THE CONTINUING EDUCATION AND READ THE ARTICLES OR STAY ON TOP OF THINGS.

SOME PEOPLE LIKE THE EASY WAY TO CLEAR THE DOCKET.

IF I DON'T GRANT A CONTINUOUS IT WOULD TO SQUEEZE IN THE LAWYERS AND THEY WILL HAVE TO RESOLVE IT OR WE'LL MOVE OFF MY DOCKET.

THE MOTIVATIONS CAN BE WIDE AND JUSTICE, WHEN YOU ASKED JUDGE MO IF THERE NEEDS TO BE A TOLLING PROVISION SHE SAID IT PROBABLY IS NOT NECESSARY AND INSTINCTIVELY A COURT SHOULD KNOW AND MY RESPONSE TO YOU IS PROBABLY NOT AND INSTINCTIVELY ARE WORDS WE USE AS LAWYERS IF WE AND YOU CANNOT HAVE AN ABSOLUTE HERE BECAUSE ALL JUDGES WILL INTERPRET THINGS DIFFERENTLY AND, LIKE I SAID, YOU CREATED 1.510 D FOR A REASON IF YOU'RE GOING TO GIVE EFFECT TO IT NEEDS TO STOP THE TRAIN. AND MY QUESTION TO YOU IS WHERE IS THE HARM IN MAKING THAT CLEAR? IT IS UNFORTUNATE IF IT TAKES TOO MUCH TIME.

SOME JURISDICTIONS YOU CAN GET FIVE MINUTES IN THE MORNING AND YOU CAN ASK THE JUDGE TO CALL TO THEIR ATTENTION THAT YOU HAVE A 1.51 AD PENDING IN OTHER JURISDICTIONS.

YOU CANNOT.

IT VARIES WILDLY.

BUT I FEELS STRONGLY THAT THERE WILL YOU BASE THIS OFF OF DIFFERENT INTERPRETATIONS BY DIFFERENT JUDGES IN DIFFERENT LOCATIONS IF YOU DON'T CREATE UNIFORMITY.

LASTLY, THIS IS ON FUNDING.

I HAVE SPOKEN TO JUDGES AND LAWYERS AND I'M TRYING TO PREPARE THEM THAT THE RULES ARE COMING AND THAT THEY NEED TO BE ADJUSTING PRACTICES AND HOW THEIR THINKING AND I HAVE ASKED JUDGES BECAUSE THEY ARE STRESSED OUT WHAT WOULD MAKE IT POSSIBLE FOR YOU TO IMPLEMENT THESE RULES THE WAY THE COURT IS ENVISIONING?

AND THE TWO THINGS I HEAR OVER AND OVER AGAIN OUR CASE MANAGERS, AND

LAW CLERKS, AND THEY DON'T NECESSARILY AGREE.

I SPOKE TO JUDGES YESTERDAY AND THEY SAID LAW CLERKS.

WE NEED LAW CLERKS.

IF WE HAD LAW CLERKS THEN WE COULD ADMINISTER THINK SO MUCH MORE EFFICIENTLY.

BUT THEN JUDGES IN SEMINOLE COUNTY SAID THE CASE MANAGERS ARE WHAT WE NEED.

THERE WAS A JUDGE WHO SAID I HAVE 300 ORDER SITTING ON MY DESK THAT NEED TO BE SIGNED AND I DON'T KNOW WHEN I CAN GET THEM DONE.

>> THE THING ABOUT IT IS THAT OUR CLERKS CANNOT SIGN THOSE ORDERS.

>> THAT IS ACTUALLY RIGHT. I DON'T THINK THEY'RE SUGGESTING THAT.

I THINK WHAT SHE WAS SUGGESTING IS IF I HAD LAW CLERKS THAT WERE DOING OTHER THINGS IT WOULD FREE UP MY TIME.

>> I DO UNDERSTAND THE ARGUMENT DEFINITELY.

I WISH EVERYONE COULD HAVE A LAW CLERKS AS GREAT AS MINE BUT, I THINK PART OF THE COLLOQUY ABOUT RESOURCES AND I DON'T WANT TO LAY THIS ANY LONGER BUT I DO THINK IT IS AN IMPORTANT POINT IS THAT I DON'T THINK IT'S FAIR TO SAY, WELL, FEDERAL RULES MEANS FEDERAL RESOURCES I THINK THAT IF THERE IS A BETTER MOUSE TRAP I DON'T CARE WHETHER IT'S FEDERAL OR WHEN WE CAME UP WITH, IT SHOULD ACTUALLY LOWER THE DEMAND FOR RESOURCES. WE SHOULD BE IN THIS POSTURE THINKING OF RULES THAT MINIMIZE THE DEMAND ON RESOURCES AND I THINK FEDERAL RULE HAPPENS TO EFFECTUATE THAT THEN THAT'S GREAT.

AND AT THE STATE RULED HAPPENS THEN WE CAN COME UP WITH WHAT EFFECTUATE.

I THINK IN OUR CONSIDERATION OF THIS I THINK WE SHOULD BREAK DOWN THIS IDEA THAT, YOU KNOW, IF THE FEDERAL RULES OF COME UP WITH A BETTER MOUSETRAP THE MOST WILL ONLY WORK IF EVERYONE HAS FOR LAW CLERKS AND LIFETIME TENURE.

>> I AM NOT ADVOCATING FOR FOUR LAW CLERKS AND LIFETIME TENURE.

WHAT I AM ADVOCATING FOR IS THAT I BELIEVE RIGHT NEIL IS THE TIME TO ASK THE LEGISLATURE AND THE FLORIDA BAR THAT HAS ALMOST 100,000 LAWYERS LAST TIME I LOOK, LET'S SAY 50 PERCENT OF THEM ARE IMPACTED BY THESE RULES YOU ARE TALKING ABOUT TENS OF THOUSANDS OF EMPLOYERS IF THE SECTIONS OF THE FLORIDA BAR THAT TOUCH CIVIL JUSTICE UNITED I THAT THE SJA IS ON BOARD AND I AM POSITIVE THAT THE FDL THEY WILL BE ON BOARD BECAUSE WHAT WE ALL. IT IS BIPARTISAN IT IS NOT REPUBLICAN OR DEMOCRATIC OR PLAINTIFF OR DEFENDANT IT IS WE WANT THE CIVIL JUSTICE SYSTEM IN FLORIDA STATE BOARD TO OPERATE SMOOTHLY AND I THINK THAT A REQUEST LIKE THAT HITS THE LEGISLATURE DIFFERENTLY WHEN IT IS SUPPORTED BY THE FLORIDA SUPREME COURT.

I THINK THIS MOMENT IN TIME IS LIGHTING AND A BOTTLE.

WE HAVE A NEWLY ELECTED SET OF STATE LEGISLATORS AND SENATORS, WE HAVE COMMITTEES THAT ARE REALIGNING AND WE SHOULD PROBABLY KNOW WITHIN THE NEXT TWO WEEKS TO THE MEMBERS OF THE COMMITTEES ARE GOING TO BE AND THIS IS AN ISSUE THAT MAKES EVERYONE LOOK GOOD.

WHICH LEGISLATURE WANTS TO SAY I OPPOSE HELPING THE CIVIL JUSTICE SYSTEM. AND SO IT ONLY TAKES A SPARK TO START A FIRE AND I AM HANDING OUT SPARKLERS TO ANY GROUP THAT WILL LISTEN TO ME WHEN I GO TRY TO TALK TO THEM ABOUT THESE RULES AND HOW THEY WILL IMPACT PRACTICES AND WHAT YOU NEED TO DO TO PREPARE. I BELIEVE THAT WITH YOUR SUPPORT WE CAN CREATE THE FIRE THAT BURNED SO GREATLY THAT THE LEGISLATURE CANNOT IGNORE IT AND I WOULD ASK THAT WHEN THE REQUEST IS MADE THAT YOU STRONGLY CONSIDER SUPPORTING THIS REQUEST TO GIVE FUNDING TO THE INDIVIDUAL CIRCUIT SO THAT THEY CAN DETERMINE WHAT BEST SUITS THEIR CIRCUIT TO IMPLEMENT THE RULES BECAUSE WE ALL WANT THE SAME THING.

>> THANK YOU SO MUCH.

THANK YOU FOR YOUR WORK ON THIS.

YOU HAVE GONE ABOVE AND BEYOND THE CALL OF DUTY.

WE APPRECIATE IT.

WE WILL TAKE A TEN MINUTE RECESS.

>> ALL RISE.