

>> ALL RISE.

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

LET ALL WHO HAVE CALLS TO PLEA DRAW NEAR.

GIVE ATTENTION AND YOU WILL BE HEARD.

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

LADIES AND GENTLEMEN, THE FLORIDA SUPREME COURT, PLEASE BE SEATED.

>> GOOD MORNING.

OUR FIRST CASE TODAY IS NUMBER 2024 00662 FLORIDA RULE CIVIL PROCEDURE 1.2510 NEW FLORIDA RULE CIVIL PROCEDURE 1.202.

>> GOOD MORNING.

MAY IT PLEASE THE COURT.

CIVIL RULES OF PROCEDURE COMMITTEE.

>> WITH THE COURT'S PERMISSION I WILL ADDRESS 1.510 FIRST THAN 1.202.

AS I UNDERSTAND IT THE GENESIS TO THE COURTS AMENDMENT TO 1.510 WAS AN INEFFICIENCY FOR PROBLEM THAT WHERE APPARENTLY LITIGANTS WOULD FILE A MOTION FOR SUMMARY JUDGMENT WITH THE CURRENT RULES THAT EXIST TODAY THERE IS NO RESPONSE TIME TIED TO THE FILING OF THE MOTION SO WHAT HAPPENS IS THAT THE LITIGANT COULDN'T GET THE NON MOVEMENT HEARING SET THE MOTION WOULD LINGER AND SIT OUT THERE TO POTENTIALLY CAUSE ISSUES WITH THE TRIAL JUDGE IN SETTING THE CASE FOR TRIAL ET CETERA.

WITH THE COURT DID WAS IN RESPONSE IT DRAFTED A RULE THAT TIED THE RESPONSE TIME TO THE FILING OF THE MOTION AND THAT DOES FIX AND SHOULD FIX THE PROBLEM THAT WE ARE.

WHEN THE COMMITTEE LOVE PUT END UP HAPPENING WAS THAT IT ELIMINATES THE COUPLING OR TETHERING OF THE MOTION TO THE HEARING. AND WHEN WE LOOK AT THE CONSEQUENCES THAT CAN FLOW FROM IS WHEN YOU ELIMINATE THE LINK TO THE HEARING FROM THE MOTION YOU HAVE A SITUATION WHERE THE MOVEMENT CAN POTENTIALLY SET THE HEARING VERY CLOSE IN TIME OR WITHIN THE RESPONSE TIME.

THE RULE AS PROPOSED DOES NOT ACTUALLY PROHIBIT THAT.

SO YOU HAVE A SITUATION WHERE YOU CAN HAVE A MOVEMENT FILING A MOTION FOR SUMMARY JUDGMENT TODAY AS PROPOSED IN THE COURTS RULE AND THE NON MOVEMENT HAS THE 60 DAYS TO RESPOND TO WHAT ENDS UP HAPPENING IS THE MOVEMENT SETS THE HEARING AND A 61 OR 62.

>> I HAVE A QUESTION AND THIS MAY BE SILLY BUT HOW DO THEY SET THE HEARING WITHOUT CONFIRMING?

HOW DID THEY UNILATERALLY SET THE HEARING WITHOUT THE OTHER SIDE REALIZING?

>> SADLY, IT HAPPENS.

IT IS NOT PROFESSIONAL CONDUCT WITH THESE TYPES OF THINGS HAPPEN.

>> WOULDN'T THAT BE GROUNDS FOR THAT HEARING TO NOT GO FORWARD?
>> IT WOULD BE AND THAT'S WHERE YOU GET TO SOME CONSEQUENCES THE COMMITTEE WAS WORRIED ABOUT WHICH IS MOTION PRACTICE DEALING WITH PREMATURELY SET HEARINGS, PRACTICE DEALING WITH FOLKS CONFERRING ABOUT SETTING THE HEARING AND WHAT WE DON'T WANT TO DO IS HAVE TRIAL JUDGE'S BURDENED WITH THIS SORT OF COLLATERAL LITIGATION ABOUT OR THESE COLLATERAL HEARINGS ABOUT MATTERS DEALING WITH THE SCHEDULING OF THE HEARINGS.

>> WHY NOT?

>> IT IS A WASTE OF TIME.

>> I DO NOT THINK SO.

ALL THE TRIAL COURT JUDGE HAS TO DO IS DENY THE MOTION TO SET THE HEARING FOR FAILURE TO INCLUDE A CONFERRAL STATEMENT.

IF THERE IS NO MEET AND CONFER STATEMENT IT IS DENIED.

>> THE PROBLEM THAT HAPPENS WITH THE SCHEDULE OF THE SUMMARY JUDGMENT HEARING IS SOMEONE PREMATURELY SCHEDULES AT I HAVE TO BRING IT TO THE ATTENTION OF THE TRIAL JUDGE AND IN THAT PROCESS YOU ARE TALKING ABOUT GETTING THE TRIAL JUDGE AND GAYS AND A MOTION CALENDAR HEARING SENT THE EMERGENCY COMMUNICATIONS TO THE JUDGE.

>> WHAT IS THAT ANY PROPOSED HEARING THAT IS NOT ACCOMPANIED FOR A MEET AND CONFER STATEMENT IS SUBJECT TO SUMMARILY SUMMARY DISMISSAL OR SUMMARY DENIAL.

>> THE CONTROL RULE?

>> IF YOU WANT TO SET A HEARING FOR A DISPOSITIVE MOTION AND YOU DON'T WANT TO SET A MEET AND CONFER STATEMENT YOU GET DENIED AND YOU DON'T GET A HEARING.

>> AS A PENALTY?

YOU'RE TALKING ONLY WITHIN THE 1.51.0?

>> YES FOR TODAY.

>> I MEAN THAT IS POTENTIALLY SOMETHING THAT COULD BE ADDED BUT I THINK IT FITS BETTER WITH IN THE CONTROL RULE HONESTLY BECAUSE AS PART OF THAT PROCESS.

WHAT THE COMMITTEE PROPOSED ON THE 1.510 IN THE 60 DAYS, BY THE WAY I THINK MANY PEOPLE FELT IT WAS TOO LONG A PERIOD OF TIME BECAUSE SOMETIMES YOU HAVE THESE MOTIONS BACKING UP INTO THE TRIAL OR THE CALENDAR CALL AND SO ALL OF THIS IS OBVIOUSLY GOVERNED BY THE CASE MANAGEMENT ORDER.

IF YOU HAVE A 60 DAY RESPONSE WINDOW NOW YOU ARE EXPANDING THE AMOUNT OF TIME FOR THE CASE MANAGEMENT AND SO PER THE COURT'S DECISION TO IMPLEMENT THE DIFFERENTIATED CASE MANAGEMENT PROCESS WE WANT TO MOVE THE CASES QUICKLY AND THE 60 DAYS WAS SEEN AS TOO LONG.

>> I HAVE A QUICK QUESTION I WANT TO MAKE SURE YOU GET TO

CONFERRAL.

I DON'T WANT DRUG DO YOU.

A LOT OF THE COMMENTS I THINK RIGHTLY FLAG THIS PROBLEM POTENTIALLY US NOT HAVING THOUGHT IT OUT WITH SCHEDULING AND HEARINGS THIS WAY AND ONE OF THE OTHER APPROACHES WAS TO MAKE THE RESPONSE 30 TO 40 TO 60 DAYS WHATEVER AND THEN SAY THE HEARING HAS TO BE AT LEAST TEN DAYS OR WHATEVER AFTER THAT.

DOES THE COMMITTEE HAVE ANY PROBLEM WITH THAT LANGUAGE?

>> THAT IS THE APPROACH THAT WE HAVE.

>> YOU GUYS DID IT TWO SEPARATE PLACES BUT IF WE JUST SAID MOTION GETS FILED IN RESPONSE IS DUE AND HOWEVER MANY DAYS IN THE HEARING CANNOT BE LESS THAN TEN DAYS AFTER THAT YOU WOULD BE OKAY WITH THAT?

>> YES.

THAT'S EXACTLY THE CONCEPT OF COMMITTEE PROPOSES.

I THINK IT WORKS TO TIGHTEN THE TIME FRAMES AND ENSURE THAT THE TRIAL ULTIMATELY HAS ENOUGH TIME TO REVIEW WHATEVER THEY NEED TO REVIEW AND PREPARATION OF THE MOTION.

>> CAN YOU ADDRESS THAT.

>> 1.020 I WILL JUST START BY SAYING IT IS A GREAT RULE.

EVERYONE IS IN FAVOR OF IT.

NO QUESTION EVERYONE WANTS MORE CONFERRAL AND MORE TRANSPARENCY IN THE PROCESS NO DOUBT.

WHEN WE LOOKED AT THE RULE AS A COMMITTEE WHAT WE WERE CONCERNED ABOUT BASICALLY WERE THREE CONCEPTS AND ONE WAS ARE THERE CERTAIN SET OF MOTIONS THAT SHOULD BE EXEMPT FROM THE CONFERRAL PROCESS? AND NUMBER TWO, HOW TO AND TREAT UNREPRESENTED FOLKS AND WHAT ABOUT SANCTIONS IF IT'S NONCOMPLIANCE WITH THE HEARING.

I KNOW IT IS SOMETHING THAT WE SPOKE ABOUT.

BUT WITH REGARD TO SELF REPRESENTED LITIGANTS GENERALLY SPEAKING THERE WAS WIDE CONSENSUS THAT UNFORTUNATELY FOLKS THAT ARE PRO SE ARE GOING TO STRUGGLE WITH THIS CONCEPT.

THEY DON'T UNDERSTAND IS WHAT IT MEANS TO CONFER.

>> DO YOU KNOW HOW THE FEDERAL DISTRICT COURTS IN FLORIDA ADDRESS THAT IN STANDARD OPERATING PROCEDURES OR RULES?

>> THE SOUTHERN DISTRICT DOESN'T HAVE PRO SE LITIGANTS CONFERRING. I BELIEVE THE MIDDLE DISTRICT DOES NOT APPLY TO FOLKS IN CUSTODY OF I'M NOT MISTAKEN.

I CAN'T RECALL ALL THE TOP OF MY HEAD THE NORTHERN DISTRICT.

BUT THERE ARE SOME LEVEL OF VARIABILITY IN IT.

AND IN TERMS OF WHAT WE PROPOSE LET'S EXEMPT OUT THE PRO SE LITIGANTS AND IF THE MOVEMENT IS AN ATTORNEY THEY WILL SOAK AND CONFER OR ATTEMPT TO CONFER WITH THE PRO SE LITIGANT.

HOW SUCCESSFUL THAT WILL BE WE DON'T KNOW BUT THEY WILL ATTEMPT TO

DO SO.

>> LET ME ASK YOU THIS, IT SEEMS LIKE WHEN I WAS IN TRIAL COURT IN THE CIVIL DISTRICT THAT MOST OF THE CASES THAT OR UNIFORM MOST MOTION CALENDAR CASES WHERE YOU NOTICE OF HEARING TO AN OPPOSING COUNSEL AND GO OUTSIDE AND YOU SIGN UP OUTSIDE THE COURTROOM AND THE JUDGE HEARS YOU.

IT SEEMS LIKE THAT'S THE BULK OF WHAT I DID EVERY MORNING.

I WASN'T TRYING TO GET THROUGH ALL THE CASES BECAUSE THEY HAD A TRIAL GOING AND I WANTED TO START AT TEN OR NINE EXPERT THAT WAS PUT ON THE DAY BEFORE AND ALL THAT PRESSURE IS GOING ON.

MY CONCERN IN DEALING WITH ALL THESE RULES HERE IS THAT WE ARE SEEMING TO BE USING THE FEDERAL SYSTEM AS A MODEL AS HOW WE SHOULD DO THE STATE COURT SYSTEM AND IS A COMPLETELY DIFFERENT WORLD.

TREMENDOUS RESOURCES.

THEY DON'T HAVE UNIFORM MOTION CALENDAR HEARINGS.

YOU FILE A MOTION AND YOU SEND IT TO THE JUDGE ALONG WITH YOUR MEMO AND AT THE JUDGE WANTS TO HEAR FROM YOU HE OR SHE WILL LET YOU KNOW.

BUT THAT JUDGE DOESN'T SIT UP THERE FROM 8:30 A.M. UNTIL 10:00 HEARING CASE AFTER CASE AFTER CASE WITH LAWYERS COMING IN THE CASE LOADS OBVIOUSLY WHEN I LEFT I THINK I HAD 800 CASES TO MY NAME.

NOW WE ARE TALKING THOUSANDS OF CASES TO MY NAME.

AND EVERY SINGLE DAY LAWYERS ARE NOT GETTING ANSWERS TO INTERROGATORIES OR REQUESTS AND THEY WANT TO OBJECT TO ANSWERS AND THEY WANT TO DO THIS AND THAT.

EVERY SINGLE DAY.

WE HAVE TO DEAL WITH THAT.

AND ALL I KEEP HEARING IS HOW DO WE DO IN THE FEDERAL SYSTEM.

I WISH WE COULD DO THAT IN OUR COURTS.

YOU COULD JUST SAY WRITE ME A MEMO.

I HAVE FIVE LAW CLERKS BACK THERE AND THEY WILL LOOK AT IT AND I WILL LET YOU KNOW IF I WANT TO HEAR FROM YOU.

BUT WE DO NOT HAVE THAT HERE.

AND WE ARE THESE DEADLINES AND MODUS CONFERRAL OF THE OTHER SIDE AND THAT'S NICE BUT WHEN YOU ARE IN A HURRY TO GET THESE DONE AND GET DISCOVERY THIS HOLDS UP THE CASE AND IS NOT FEASIBLE IN THE STATE COURT SYSTEM AND THAT'S PROBABLE HAVING ALL THESE REVAMPING RULES.

WE COULD GO TO THE FEDERAL RULES BUT WHAT CAN YOU TELL ME ABOUT THAT?

>> WHAT I CAN SAY JUSTICE WHEN WE LOOKED AT THESE RULES WE ARE VERY COGNIZANT OF THE RESOURCE ISSUES AND THE DIFFERENCES BETWEEN THE STATE COURT TRIAL JUDGES AND WHAT RESOURCES THEY HAVE AND THE FEDERAL COURT AND WE TRY TO STRIKE A BALANCE IN TERMS OF HOW TO

APPROACH IT WITH OUR CONFERRAL RULE OF THINK WE HAVE DONE IT.
WE LOOKED AT OUR STATE COURT CONFERRAL AND HOW THE STATE DOES IT
AND WE LOOK TO THE FEDERAL COURT AND HOW THEY DO IT AND WE TRY TO
COME UP WITH A BALANCE THAT WORKS.
BUT TO ADDRESS YOUR CONCERN ON THE CONFERRAL RULE I THINK IT
SHOULD FACILITATE AND HELP DISCOVERY DISPUTE IT'S NOT UNCOMMON
THAT PEOPLE DON'T CONFER AND THEN A LAST MINUTE THE DAY BEFORE THE
HEARING THEY REALIZE WE CAN ACTUALLY RESOLVE SOME OF THESE ISSUES.
WE HOPE THAT THIS IS WHAT IT DOES.
WE HOPE TO EXEMPT CERTAIN TYPES OF MOTIONS THAT ARE NOT PART OF
THE REFERRAL AND THOSE ARE THE ONES THAT ARE ON THE NEXT PARTY
BASIS WITHOUT NOTICE OR HAVE SOME KIND OF EMERGENCY COMPONENT TO
THEM LIKE INJUNCTION OR THAT IS PART OF WHAT WE PUT TOGETHER AND
THEN WE HAVE AN IN TERMS OF SANCTIONS THE COMMITTEE FELT
SANCTIONS WERE NOT APPROPRIATE BECAUSE ALL IT WOULD DO REALLY IS
JUST IT IS THE ENGENDERED LITIGATION ABOUT SANCTIONS IN TERMS OF
THE REFERRAL THERE IS A PLACE AND TIME FOR LITIGATING ABOUT
SANCTIONING MISCONDUCT AND WHAT WE DON'T WANT TO DO IS SPEND
JUDICIAL TIME AND EFFORT DEALING WITH CONFERRAL ISSUES.
THE TRIAL JUDGE COULD OVERSEE THE DIVISION AND IT REALLY IS MORE
OF A PROFESSIONALISM ISSUE.
>> DON'T THINK THE TRIAL COURT HAS THE DISCRETION ON SANCTIONS
ISSUES AND ALSO SORT OF RELATED AS THE GOOD FAITH ISSUE.
SOME COMMENTS HAVE SUGGESTED THAT THE GOOD FAITH REQUIREMENT AND
THE CONFERRAL OF SECTION SHOULD BE GIVEN MORE TEETH.
DO YOU HAVE A RESPONSE THAT?
>> I AGREE 100 PERCENT.
I THINK THE TRIAL JUDGE HAS THE DISCRETION TO OVERSEE THEIR
DIVISION OF LAWYERS BEFORE THEM.
IT IS PART OF THAT WHAT I THINK JUDGES DO AND TO HAVE A HEARING OR
SOME LITIGANTS SHOW UP AND FIGHT ABOUT A CONFERRAL AND TAKE UP THE
JUDGES TIME TO HAVE SANCTIONS ENTERED AGAINST EACH OTHER ONE OR
BOTH IS REALLY NOT -
>> WHAT I AM NOT FOLLOWING IS WHY IS IT NOT THE NATURAL SANCTION
THAT WHATEVER THE MOVEMENT SEEKS IS DENIED WITHOUT PREJUDICE UNTIL
IT IS RE FILED AS A CERTIFICATE CONFERRAL.
>> I MEAN IT COULD BE ADDED ASSUMING IT IS THE MOVEMENT WHO IS THE
PARTY THAT IS NOT CONFERRING IN GOOD FAITH.
YOU STILL WILL GET INTO ISSUES ABOUT DEALING WITH WHETHER THERE
WAS CONFERRAL OR PEOPLE MADE EFFORTS BUT, YES, YOU CERTAINLY COULD
ADD IT.
IT WOULDN'T CHANGE THE DYNAMICS.
I THINK THE DEFERRAL RULE IS A GAME AND WHAT IT WANTS TO I
THINK IT SHOULD WORK AND IT SHOULD HELP.

I ASKED THE COURT ADOPTS THE COMMITTEE'S VERSION.
WE WENT TO QUITE A BIT OF DETAIL IN TERMS OF WHAT SHOULD BE LEFT
OUT AND IT IS A GOOD RULE.

>> I HAVE A QUICK QUESTION.

WAS THERE A GENERAL CONSENSUS THAT 40 DAYS WAS SUFFICIENT FOR A
RESPONSE IN THE SUMMARY JUDGMENT VERSUS 60.

IT IS PRETTY RARE WE SEE LAWYERS SAY WE NEED LESS TIME TO RESPOND.

>> I THINK A LOT OF THE DISCUSSION THAT OCCURRED HAD TO DO WITH
HOW DOES THIS TIME FRAMEWORK WITHIN THE BROADER CASE MANAGEMENT
PICTURE IN TERMS OF THE TRIAL SETTING AND THEN WORKING BACKWARDS.

I THINK THAT'S WHERE THE IMPETUS CAME TO CHANGE FROM 60 TO 30.

ARE YOU GOING TO HAVE PROBLEMS CHANGING THE TIME FRAME AND
SHORTENING IT?

WILL YOU HAVE ISSUES WITH PREMATURE MOTIONS FOR SOME JUDGMENT TO
HOW TO DEAL WITH THOSE?

I THINK SO.

BUT THAT WOULD HAPPEN UNDER THE COURT'S VERSION OF 60 DAYS.

SOMEONE FILES A PERIMETER MOTION YOU WILL HAVE THE ISSUES ANYWAY.

>> OKAY THANK YOU VERY MUCH.

>> I APPRECIATE IT.

>> GOOD MORNING.

MAY PLEASE THE COURT I AM MEGGAN LUCA.

THANK YOU FOR INVITING US BACK.

I WILL FOLLOW THE LEAD AND START WITH 1.51 I THINK THAT YOU HAVE
TO SAY THAT THE DEADLINE FOR FILING A MOTION MUST BE SET BY COURT
ORDER.

IT WAS SOMETHING OF A POST IN MY ROLE IN THE VERSION THE COURT
PROPOSE SAID IT MUST BE FILED WITH THE DEADLINE IN THE CASE
MANAGEMENT ORDER IN THE CASE MANAGEMENT ORDER THAT THE COURT
SELECTED TRACK A DOES NOT HAVE A MOTION FOR SUMMARY JUDGMENT
DEADLINE SO I THINK THE THAT IT WILL BE IMPLIED THAT THE COURT HAS
TO SET THE DATE.

FOR EXAMPLE IN HILLSBOROUGH COUNTY THE CASE MANAGEMENT CONFERENCE
ORDERS ARE AUTOMATED.

IT DOESN'T HAVE IT BUT IT DOESN'T MEAN THE JUDGE WON'T PUT IT IN
AN ORDER AND COME OUT IN HILLSBOROUGH'S TRIAL ORDER WHICH COMES A
FEW MONTHS AFTER THE CASE MANAGEMENT ORDER AND HERE'S YOUR
DEADLINE FOR SUMMARY JUDGMENT.

I THINK IT IS A KNIT PICK THING BUT AN IMPORTANT THING.

I THINK THE MAJORITY OF COMMENTERS AGREED THAT YOU NEED TO HAVE A
TEN DAY BUFFER BETWEEN THE RESPONSE AND THE HEARING AND JUSTICE,
IT IS TRUE THAT LITIGANTS DO ON PROFESSIONALLY MANAGED TO SET
HEARING SOMETIMES AND THEN IT BECOMES A PAIN FOR THE JUDGE BECAUSE
NOW THE JUDGE HAS TO DEAL WITH AN EMERGENCY MOTION TO STRIKE A

HEARING.

>> LITIGATION IS A PAIN IN THE NECK FOR EVERYONE INVOLVED.
PAIN IN THE NECK DOES NOT MOVE MY NEEDLE.

>> I'M HOPING THE OTHER FACTOR MIGHT MOVE THE NEEDLE WHICH IS PART OF THE REASON THE COURT CHANGE THE SUMMARY JUDGMENT RULE IN THE FIRST PLACE IS BECAUSE IT USED TO BE AT THE PARTIES COULD FILE THE MATERIALS TO BUSINESS DAYS BEFORE HEARING IF YOU WERE A TRIAL JUDGE AND YOU HAD A MASSIVE MOTION FOR SUMMARY JUDGMENT TWO DAYS WAS NOT SUFFICIENT TO REVIEW THE MATERIALS.
THIS WAS PART OF WHAT THE COURT WAS MOVING TOWARD WAS A SITUATION WHERE THE TRIAL JUDGE WASN'T GOING TO GET PANTS TO BY A LAST MINUTE FILING.

SO THIS IS FOR THE PROTECTION OF THE TRIAL JUDGE TO GIVE THE TRIAL JUDGE TIME AND IN MY SUGGESTED ROLE THE TRIAL JUDGE COULD WAIVE IT BUT IT'S MEANT TO PROTECT THEM SO THEY HAVE TIME TO REVIEW MATERIALS HONESTLY SO THE MOVING PARTY HAS TIME TO REVIEW THE MATERIALS.

BECAUSE OF THE MOVING PARTY FILES THERE IS A RESPONSE ON THE TEN DAY BUFFER MEANS THE JUDGE AND THE PARTY HAS TIME SO IT IS A HEARING WHERE EVERYONE IS PREPARED.

THIS IS WHEN I FEEL SO STRONGLY ABOUT.

YOU HAVE TO HAVE A TOLLING PROVISION AND RULE 1.510.

IT SAYS THAT IF THE MOVING PARTY FILES A SUMMARY JUDGMENT MOTION AND YOU THINK IT IS PREMATURE BECAUSE NOT ENOUGH DISCOVERY HAS BEEN COMPLETED YOU CAN FILE A MOTION WITH THE COURT IT MUST INCLUDE AN AFFIDAVIT AND EXPLAIN WHAT DISCOVERY YOU BELIEVE IS NECESSARY AND WHY YOU THINK IT WOULD CHANGE THE OUTCOME OF THE PROBLEM THAT I FORESEE IS THAT THE RULE CURRENTLY SAYS NOTHING ABOUT WHAT HAPPENS WHEN YOU FILE THE MOTION IN TODAY'S VERSION OF THE RULE IF I FILED A MOTION FOR SUMMARY JUDGMENT AND THAT MY OPPONENT FILED A MOTION FOR 1.51 D THERE WOULD NEVER BE IN AGREEMENT I WANT HEARING WOULD BE SAT AND NOTHING WOULD HAPPEN.
I WOULDN'T HAVE MY OPPOSING PARTY RESPONSE DO SO UNTIL THE COURT RULED ON THIS MOTION BECAUSE OF DISCOVERY NEEDS.

UNDER THE NEW VERSION OF THE RULE MY OPPOSING PARTY FILES A MOTION FOR SUMMARY JUDGMENT AND I SAY WAIT A MINUTE THE CASE IS 30 DAYS OLD NO ONE HAS CONDUCTED DISCOVERY, YOUR HONOR, HERE IS MY MOTION I NEED TO TAKE THESE THREE DEFINITIONS THEY ARE DETERMINATIVE ON THE ISSUE PLEASE TOLD THE DEADLINE FOR FILING.

OKAY.

IF I CONFERRED ABOUT IT I HAD 40 DAYS LET'S PRETEND TO RESPOND NOW I ONLY HAVE 36 DAYS BECAUSE I CONFERRED ON THREE SEPARATE DAYS AND IN MOST OF FLORIDA'S JURISDICTIONS THE ODDS OF YOU GETTING HURT BY A JUDGE WITHIN 36 DAYS ARE SLIM TO NONE WHICH MEANS I HAVE A

MOTION SITTING OUT THERE ASKING THE COURT TO ASSIST IN THE DEADLINE WHILE MY DEADLINE RUNS.

YOU NEED TOLLING WHEN THE COURT REACHES THE MOTION ON DAY 50 IF THE JUDGE GRANTS IT THEN THEY WILL PUT A NEW DEADLINE IN THERE AND IF THE JUDGE DOES NOT GRANT IT THAN YOUR TIME FOR FILING THE RESPONSE WAS TOLD AND NOW YOU HAVE WHATEVER TIME PASSED BETWEEN WHEN YOU FILED YOUR MOTION AND WHEN IT WAS RULED UPON IN ORDER TO FILE YOUR RESPONSE.

THAT SOUNDED LIKE A LOT OF WORDS AND I'M GETTING A LOT OF BLANK LOOKS.

DOES ANY OF THAT MAKE SENSE.

THIS IS SO IMPORTANT.

AND HONESTLY IT'S HOW IT WORKS IN THE DC ALL LINES ARE HELD UNTIL THE COURT RULES UPON IT.

YOU CAN MAKE SENSE BUT I GUESS IT HAS A WHIFF OF POTENTIALLY CREATING ANOTHER SORT OF BLACK HOLE TYPE SITUATION.

>> THE BLACK HOLE IS UNAVOIDABLE DUE TO LACK OF HEARING TIME BUT THAT IS NOT THE FAULT OF THE PARTY HE WAS SAYING YOU NEED TO CONDUCT MORE DISCOVERY AND WHAT WILL HAPPEN IF THERE IS NO TOLLING PROVISION IS THAT TRIAL JUDGES WILL BE FACED WITH A SITUATION WHERE THEY NOW HAVE TO DECIDE WHAT DID IT WHEN THEY FILED THE MOTION.

I COULD NOT GIVE THEM THE HEARING TIME AND NOW UNDER THE RULE THERE DEADLINE FOR RESPONDING HAS RUN.

THE RULE WILL NOT FUNCTION PROPERLY.

>> I GUESS MY BLANK STARE IS A LITTLE BIT ABOUT SO WHAT.

LIKE IF THE PARTY HAS TO ASSUME THEY'RE NOT GETTING THE RELIEF THEY SOUGHT AND HAS TO JUST LIVE WITH THE ASSUMPTION THAT THERE MOTION WILL BE DENIED WHICH, BY THE WAY I FIND IS A HEALTHY ASSUMPTION TO GO ABOUT ANY MOTION THEN SO WHAT?

THE PARTY IS JUST SUPPOSED TO BE READY FOR THE DATE THE COURT HAS

>> JUSTICE, WHEN SOMEONE FILES A MOTION FOR SUMMARY JUDGMENT 45 DAYS AFTER THE CASE HAS BEEN FILED AND NO DEPOSITION HAS BEEN TAKEN YET IF YOU ARE THE NONMOVING PARTY SO WHAT IS A HORRIFYING QUESTION.

IT IS CASE DISPOSITIVE.

IF YOU HAVE NOT BEEN ABLE TO TAKE A DEPOSITION IN THE DEPOSITION OF THE DEFENDANT'S CORPORATE REPRESENTATIVE IS DESIGNED TO ELICIT THE TESTIMONY THAT WILL DESTROY THEIR MOTION FOR SUMMARY JUDGMENT YOU SHOULD ABSOLUTELY BE ALLOWED TO TAKE THE DEPOSITION.

THE FEDERAL RULES CONTEMPLATE IT.

IT HAPPENS ALL THE TIME IN FEDERAL COURT IN STATE COURT.

SO IT'S CRITICAL.

>> WOULDN'T IT BE OBVIOUS IF SOMEONE IS NOT CONFERRING IN GOOD

FAITH IF THERE IS NO SORT OF STATEMENT THAT THE PARTIES HAVE WORKED ON A DEPOSITION SCHEDULE TO ACCOMMODATE THE SUMMARY JUDGMENT SCHEDULE?

WANT TO BE OBVIOUS TO THE TRIAL COURT THAT SOMEONE IS STONEWALLING AND THAT THE REASON?

>> YOUR HONOR THERE IS NO CONFERRAL REQUIREMENT IN ANY STATE COURT OR FEDERAL COURT OF WHICH I AM AWARE FOR A DISPOSITIVE MOTION.

>> NOT FOR THE SUMMARY JUDGMENT SCHEDULE FOR THE DISCOVERY SCHEDULE.

YOU ARE TALKING ABOUT I CAN'T TAKE A DEPOSITION BECAUSE I DON'T HAVE ENOUGH TIME IN MY SUMMARY JUDGMENT WINDOW BUT I WOULD EXPECT THAT THE PARTIES WOULD HAVE MET AND CONFERRED ABOUT THE DEPOSITION SCHEDULE AND THE DISCOVERY, JURISDICTIONAL DISCOVERY AND I WOULD EXPECT TO SEE THAT IF I'M A TRIAL JUDGE BEFORE THE SUMMARY JUDGMENT DEADLINE AM I WRONG?

>> YOUR HONOR, CURRENTLY NO CASE MANAGEMENT ORDER IS REQUIRED TO BE ISSUED UNTIL 120 DAYS AFTER THE COMPLAINT IS FILED.

IF SOMEONE FILES A MOTION FOR SUMMARY JUDGMENT WHICH THEY ARE ALLOWED TO DO 20 DAYS AFTER THE CASE IS FILED YOU HAVE A 100 DAY WINDOW BEFORE YOU EVEN NEED TO CASE MANAGEMENT ORDER.

SO I AM TALKING AND THIS IS DIRECTLY PRIMARILY TO CASES WHERE THERE PREMATURE MOTIONS FOR SUMMARY JUDGMENT FILED AND IF I AM THE TRIAL JUDGE AND I AM LOOKING AT IT AND I AM LIKE OKAY THEY COMPLIED WITH THE RULE AND FILED THEIR MOTION FOR SUMMARY JUDGMENT 30 DAYS AFTER THE CASE WAS FILED AND NO DISCOVERY HAS BEEN TAKEN AND A RESPONSE IS DUE WITHIN 40 DAYS THEY FILED A MOTION AND ASKED ME TOO EXTEND THE DEADLINE SO THEY COULD TAKE THE DEPOSITIONS SO I COULD NOT GET TO IT IN TIME'S NOW I WILL GRANT SUMMARY JUDGMENT AGAINST THEM BECAUSE THEY WERE NOT ABLE TO GET THE DEPOSITION TAKEN.

>> YOU WOULD DENY WITHOUT PREJUDICE.

>> WHY HAVE THIS ROLE IF WHAT YOU ARE PROPOSING IS THE METHOD FOR IT TO BE HANDLED?

1.510 D SAYS IF I WANT TO OPPOSE A MOTION FOR SUMMARY JUDGMENT BY SAYING WE HAVE NOT HAD AN OPPORTUNITY THE OTHER SIDE IS STONEWALLING ME THE MECHANISM THAT THE COURT CREATED IN RULE 1.510 IS SUBSECTION D.

YOU HAVE TO COME FORWARD WITH AN AFFIDAVIT AND MAKE A MOTION. YOUR RESPONSE TO A SUMMARY JUDGMENT MOTION THAT IS FILED TOO EARLY CAN'T BE I AM JUST GOING TO TELL THE JUDGE THAT I AM NOT READY YET AND THE OTHER SIDE IS STONEWALLING ME.

I DO NOT DISAGREE WITH YOU.

THE JUDGE SHOULD BE ABLE TO DENY IT UNDER THOSE CIRCUMSTANCES AND 1.510 GIVES THEM THAT.

IT'S ONE OF THE THREE TO FOUR REMEDIES THAT'S OFFERED IN THE RULE AND WHAT I AM TELLING YOU IT IS YOU HAVE CREATED THE MECHANISM ALREADY.

IT'S 1.51 D IT HAS AFFIDAVIT AND PROCEDURES AND TO BE CONSISTENT AND MAKE THE RULE EFFECTIVE IT NEEDS A TOTAL DEFINITION.

I THINK THE RESPONSE TIME SHOULD STAY 40 DAYS.

PEOPLE ARE USED TO 40 DAYS.

IF THEY NEED MORE TIME THEY CAN ASK FOR IT UNDER 1.090.

IF IT IS JUST A MATTER OF I HAVE A TRIAL AND THEY DON'T HAVE ENOUGH TIME TO WRITE IT WHICH IS DIFFERENT THAN I HAVE HAD ENOUGH DISCOVERY YET I JUST NEED TEN TO 20 DAYS MORE BECAUSE OF SCHEDULE CONFLICTS THAT IS A MOTION UNDER 1.090.

FORTY DAYS MEANS THAT PEOPLE WHO ARE PAYING ATTENTION AND NEEDED DEPOSITION AND CAN GET IT SCHEDULED DON'T HAVE TO PAY FOR EXPEDITED TRANSCRIPT.

I HAVE TO TELL YOU FROM THE TRENCHES AND EXPEDITED TRANSCRIPT IS EXPENSIVE.

IT IS TWICE AS MUCH A LITERALLY SOMETIMES THREE DEPENDING UPON WHO YOU'RE COURT REPORTER IS TO GET IT THAT FAST.

AND THE RULES ARE SUPPOSED TO BE INTERPRETED TO DELIVER JUST SPEEDY AND INEXPENSIVE JUSTICE AND, SO, IT'S ACTUALLY A PRACTICAL REQUIREMENT.

IF YOU MAKE IT SHORTER THAN 40 DAYS I THINK IT WILL JUST LEAD TO INCREASED MOTION PRACTICE ASKING FOR EXTENSIONS AND THERE IS ANOTHER PRACTICAL CONSIDERATION A LOT OF PEOPLE FILE MOTIONS FOR SUMMARY AND IT'S KIND OF THE ABOUT WHAT THEIR POSITION IS BECAUSE THEY WANT TO GO TO MEDIATION AND THEY WANT IT TO STILL BE SITTING OUT THERE SO IT IS A METHOD OF INTIMIDATION.

AND YOU DON'T WANT THEIR RESPONSE TO BE DUE YET AND YOU NEED THE 40 DAYS IN ORDER TO MAKE THAT STRATEGY STILL FUNCTION.

AND IN MY OPINION IT FUNCTIONS >> BUT YOU THINK THE 40 DAYS IS BETTER THAN THE 60 THAN WE ORIGINALLY HAD AND THIS PROPOSED RULE?

>> I AM AN APPELLATE LAWYER AND I LOVE EXTENSIONS OF TIME.

LITERALLY.

I WOULD PROBABLY BE THE ONE WHO WRITES THE MOTION UNDER ONE POINT O 90 FIVE, IF YOU ARE TRYING TO MOVE THINGS AT THE SPEED WITH WHICH YOU ARE TRYING TO MOVE THEM AND YOU WANT TO BE ABLE TO HAVE MOTIONS FOR SUMMARY JUDGMENT RESOLVED YOU HAVE TO DO THE MATH AND WORK BACKWARDS.

IF THE MOTION FOR SUMMARY JUDGMENT NEEDS TO BE RESOLVED BEFORE TRIAL AND YOU WANT TO GIVE PARTIES 40 DAYS AND YOU HAVE TO HAVE TEN DAYS BEFORE HEARING IT NOW YOU ARE 50 DAYS OUT FROM TRIAL WHICH IS ALMOST TWO MONTHS AND IN MY MIND I'M THINKING IF I WANT TO GIVE SOMEONE THE ABILITY TO ASK FOR TEN TO 15 DAY EXTENSION OF

TIME NOW YOU ARE TWO MONTHS OUT AND IT IS ABOUT WORKING BACKWARDS THE TIME THAT THEY NEED TO BE ABLE TO GET THE MOTION FOR SUMMARY JUDGMENT RULED ON BUT ALSO GETTING IT CLOSE ENOUGH TO TRIAL SO YOU DON'T HAVE TO FILE THE MOTION UNDER 1.510 D AND YOU ACTUALLY HAVE TAKEN THE DISCOVERY.

THERE IS A SWEET SPOT AND IT IS HARD TO FIND.

THE LAST THING I WOULD SAY IS PLEASE TELL US HOW IT WORKS IF THE RULE GOES INTO EFFECT ON JANUARY 1st AND SOMEONE FILES A MOTION ON DECEMBER 15th HOW DOES IT WORK?

I WOULD ARGUE IT IS PROCEDURAL THIS PROCEDURE ROLE AND ONLY PLACE TO AND THERE ARE NEW TIMING REQUIREMENTS ONLY APPLY TO MOTIONS FILED ON JANUARY 1st OR LATER.

BUT I AM BEGGING YOU, WRITE SOMETHING BECAUSE OTHERWISE IT'S GOING TO BE CHAOS AND YOU WILL GET JUDGES INTERPRETING IT VERY DIFFERENTLY AND IT WILL CAUSE DELAY BECAUSE IT WILL TAKE A YEAR FOR THE DCA TO DECIDE IF IT IS EVEN A FINAL JUDGMENT.

>> WE WANT TO LIMIT OUR CHAOS CAUSING TO BE UNKNOWN.

>> I WENT LONG ON THAT AND I AM SORRY.

I WILL GO AS QUICKLY AS I CAN FOR 1.202.

JUSTICE, I HEAR YOU ON THE FEDERAL RULES AND I AGREE WITH YOU ON A LOT OF IT.

ON THE CONFERRAL RULE I ACTUALLY SUPPORT THAT ONE BECAUSE OFTEN TIMES PEOPLE CAN BE PAPER TIGERS.

THEY ARE JUST OBSTINATE AND IN THEIR WRITTEN PRODUCT IF YOU'RE E MAILING ABOUT IT BUT IT HAPPENED TO ME LAST WEEK IT WAS A FIGHT OVER REPRESENTATIVE TOPICS AND ON PAPER HE WOULD NOT BUDGE BUT WE GOT ON THE PHONE AND WE HAD NO DISPUTES LEFT.

WE AGREED ON EVERY SINGLE TOPIC.

SO THE MOTION TO COMPEL I FILED BECAME MOOT.

>> YOU'RE OPPOSING COUNSEL DOES NOT RESPOND WHEN YOU'RE CALLING AND ASKING TO CONFER?

WHAT HAPPENS IF HE OR SHE DOES NOT RESPOND?

>> I ABSOLUTELY ANTICIPATED THAT MY VERSION.

YOU GET TO WRITE IN YOUR CERTIFICATE OF CONFERRAL THAT I ATTEMPTED TO CONFER WITH THEM.

I SUGGESTED THAT IT SHOULD BE THREE TIMES THAT YOU SHOULD HAVE TO. TWICE BY WRITING BUT HONESTLY E MAIL IS EASY TO MISS A ONE SHOULD BE A PHONE CALL AND AT THREE TIMES YOU GET TO YOUR RIGHT I TRIED EMAILING THEM ON MONDAY AND TUESDAY AND LEFT A VOICEMAIL WITH THE RECEPTIONIST ON WEDNESDAY AND NO ONE RESPONDED TO ANY OF MY ATTEMPTS SO I'M STILL FILING MY MOTION.

THE JUDGE DOES NOT GET TO DENY IT AT THAT POINT BUT IN MY OPINION THE JUDGE SHOULD BE ABLE TO CALL THE OPPOSING PARTY TO THE MAT AND SAY I'M ABOUT TO SANCTION YOU UNLESS YOU CAN EXPLAIN TO ME.

>> HOW DO THE TRIAL JUDGES DO THAT?

A HEARING WITH OPPOSING COUNSEL IN YOU COMING IN?

>> LET'S SAY YOU FILE YOUR MOTION AND YOU HAVE TO HAVE A CERTIFICATE OF CONFERRAL AND YOUR CERTIFICATE SAYS I TRIED THREE TIMES AND THEY WERE NOT TALK TO ME.

I AM THE JUDGE AND IN THE STATE'S MOTION TO COMPEL GOOD SET FOR HEARING AND ON THE JUDGE AND I'M READING IT AND I GET FLIPPED BACK AND I SEE ANOTHER SIDE THEY DID NOT RESPOND I HAVE TO ADDRESS THE MERITS OF THE MOTION TO COMPEL AND THEN AT THE BEGINNING OR THE END I DON'T KNOW IT'S UP TO THE JUDGE BUT MR. LABARBERA EXPLAINED TO ME WHY IT WAS THAT YOU DO NOT RESPOND TO THIS MOTION.

EXPLAIN WHY I SHOULD NOT JUST GRANT FOR YOUR FAILURE TO RESPOND.

>> WHY SHOULDN'T IT BE TREATED AS UNOPPOSED?

>> IT SHOULD BE LEFT TO THE COURT'S DISCRETION BUT I ABSOLUTELY THINK THAT IF YOU FAILED TO RESPOND TO THREE ATTEMPTS TO CONFER IT IS SOMETHING THE JUDGE SHOULD KNOW ABOUT AND SOMETHING THE JUDGE SHOULD HAVE THE DISCRETION TO DEAL WITH HOW THEY SEE BEST.

>> YOU DON'T SEE THAT THE FAILURE FOR NON MOVEMENT MOVEMENT WOULD CAUSE ANY MORE HEARINGS?

BECAUSE IT WOULD JUST BE PART OF THE MAIN MOTION?

>> YES YOUR HONOR.

>> BUT FOR THE OTHER WAY, FOR THE FAILURE TO EVEN ATTEMPT BY THE MOVING PARTY WAS KIND OF ADDITIONAL WORK.

DO YOU SEE THAT CREATING IT FOR A TRIAL JUDGE.

>> I WOULD SUGGEST A CEE JAY EITHER RECOMMENDS THE JUDGES THAT THEY THEMSELVES THROUGH HOWEVER OR WHATEVER THE FUNCTION IS IN THEIR INDIVIDUAL CHAMBER WHETHER IT IS A JA OR A CASE MANAGER OR WHATEVER THAT THE FIRST THING THEY SHOULD DO IS LOOK AT THE CERTIFICATE OF CONFERRAL AND IF IT IS NOT THERE THEN DISMISS IT AND DENY WITHOUT PREJUDICE.

DON'T EVEN REACH IT.

THEN ALL OF A SUDDEN YOU HAVE TEN MORE MINUTES ON YOUR HEARING CALENDAR AND I THINK THAT I PERSONALLY LOVE RULE 1.202.

I HAVE TWO TEENAGE DAUGHTERS AND I'M ALWAYS READING.

I HAVE SURVIVORS IN MY BACKPACK RIGHT NOW I'M READING THE ANXIOUS GENERATION AND THE OBJECTIVE DATA EXISTS THAT THE MORE TIME PEOPLE SPEND ON DEVICES THE LESS CONNECTED THEY BECOME WITH HUMAN BEINGS.

WE HAVE LOST THE CONNECTION BECAUSE WE DON'T SIT IN THE PEWS OUTSIDE JUDGES COURTROOMS ANYMORE AND WE DON'T HAVE TO TALK TO EACH OTHER.

I LOVE THE CONFERRAL RULE BECAUSE IT REQUIRES YOU TO TALK TO EACH OTHER AND I THINK THAT IT IS SUPER IMPORTANT AND I THINK IT IS IMPORTANT THAT WE GET IT RIGHT AND I PERSONALLY DISAGREE WITH A

LOT OF WHAT THE CIVIL RULES COMMITTEE PROPOSED.

I WAS UNABLE TO BE THERE FOR THE MEETING WHEN THEY DISCUSSED IT. NOT THAT ME BEING THERE WOULD HAVE CHANGE THE OUTCOME BUT IT WAS DONE VERY QUICKLY IN ORDER TO BE READY.

YOU HAVE A PROCEDURE YOU HAVE TO GO TO THE BOARD OF GOVERNORS IT TAKES I WOULD REQUEST THAT YOU ANSWER EIGHT QUESTIONS AND I WILL TELL YOU WHAT THEY ARE I WILL PUT THEM IN WRITING AND SEND THEM TO YOU AFTER THE ORAL ARGUMENT IF YOU WANT AND I THINK YOU NEED TO ANSWER A QUESTION AND I THINK YOU NEED TO SEND IT BACK TO THE COMMITTEE AND YOU NEED TO ASK THEM TO RESPOND WITH A PROPOSAL ON AN EXPEDITED BASIS BE PROVEN TO YOU THAT WE CAN DO IT.

AND I THINK THAT THAT WILL ALLOW US TO GET THE RULE RIGHT AND I WON'T AND AS OUR CHAIR HE HAD ALL THE VICE CHAIRS REACH OUT TO EVERY CHIEF JUDGE AND WE ASKED ALL OF THEM I DON'T KNOW IF YOU WATCH THE HERBERGER GAMES BUT WE ASKED THE BIG ATTRIBUTE AND ONE IS ABLE TO SERVE AS AD HOC HONOR COMMITTEE FOR ISSUES LIKE THIS WE GET JUDICIAL INPUT IN THE INPUT OF LAWYERS WHO ARE IN EVERY WALK OF PRACTICE AND YOU NEED THAT KIND OF VETTING AND THAT KIND OF THOROUGH ANALYSIS IN ORDER TO GET THIS RIGHT.

>> THIS WHOLE PROCESS HAS BEEN GOING ON ABOUT FIVE YEARS.

>> THIS ONE ONLY CAME UP WHEN YOU SUBMITTED IT.

IT WAS CREATED BY YOU AND I THINK IT WENT OUT IN JULY IF I AM NOT WRONG.

THIS ONE IS A BABY.

>> THAT'S THE FIRST TIME THIS ISSUE CAME UP?

>> THIS CONFERRAL RULE YES YOUR HONOR.

>> SO WHAT ARE THE QUESTIONS?

>> NUMBER ONE, ARE YOU OKAY WITH A LONG LIST OF EXEMPTIONS BECAUSE I THINK THERE ARE THINGS THAT NEED TO BE EXEMPTED.

I DON'T THANK YOU SHOULD SAY IT ONLY APPLIES TO DISCOVERY MOTIONS. I PERSONALLY THANK YOU NEED A LONG DO YOU WANT ALL MOTIONS TO DISMISS TO BE ON A LIST I PERSONALLY DON'T THINK ALL MOTIONS TO DISMISS BELONG ON THEIR I THINK THREE DO AND I THANK YOU SHOULD CONSIDER IT.

THERE ARE SIX.

DO YOU WANT TO CIVIL RULES COMMITTEE TO IDENTIFY ALL THE PLACES IN OTHER RULES THAT ARE IMPACTED BY CREATING A CONFERRAL RULE FOR EXAMPLE THERE IS A CONFERRAL REQUIREMENT AND RULE 1.201 AND THERE IS A CONFERRAL REQUIREMENT AND 1.38 I DID NOT WRITE THEM ALL DOWN.

>> WE GET THE POINT.

>> YES.

IF YOU SEND IT BACK TO THE COMMITTEE THE COMMITTEE CAN PROVIDE YOU WITH A FULL PACKAGE THAT CREATES BOTH 1.202 THAT HAS BEEN

THOROUGHLY VETTED PLUS A SUGGESTION FOR HOW TO ADDRESS SO THERE IS NO COMPETING PROVISIONS.

NUMBER THREE, DO YOU WANT TO DELINEATE MINIMAL CONFERRAL REQUIREMENTS OR DO YOU WANT TO LEAVE IT TO THE DISCRETION OF THE LAWYERS?

>> TYPICALLY I AM IN FAVOR OF SHORTER LESS COMPLICATED RULES BUT I AM AFRAID THAT MY IDEA OF A CONFERRAL REQUIREMENT AND SOMEONE ELSE'S IDEA OF A CONFERRAL REQUIREMENT WILL NOT BE THE SAME. I PERSONALLY AM IN FAVOR OF MINIMUM REQUIREMENTS.

DO YOU WANT TO REQUIRE A REFERRAL OF UNREPRESENTED PARTIES.

THE CIVIL RULES COMMITTEE SUGGESTED WHAT I WOULD GIVE THE EXAMPLE OF IF I FILED A MOTION AND WANTED TO SUBPOENA MEDICAL RECORDS FROM AND THE OPPOSING PARTY OPPOSED TO THAT AND THE DOCTOR IS UNREPRESENTED AND HAS NO DOG IN THE FIGHT THEY JUST TELL ME WHETHER AT THIS IN THE RECORDS ARE NOT UNDER THE CIVIL RULES COMMITTEE PROPOSAL THE PERSON TO WANT TO THE RECORDS WOULD HAVE TO CALL THE DOCTOR'S OFFICE TO CONFER WITH THEM AND IF THE DOCTOR'S OFFICE HIRES A LAWYER WHO ENTERS AN APPEARANCE YOU HAVE TO CONFER WITH THE LAWYER BUT OTHERWISE, WHO ARE YOU TALKING TO AT THE DOCTOR'S OFFICE AND WHAT WILL THEY SAY I THINK IT'S A NECESSARY. DO YOU WANT TO SAY THE RULE IS A FOUR IN THE TRIAL COURTS CAN MAKE ADDITIONAL REQUIREMENTS?

I THINK THAT YOU DO WANT TO SAY THAT.

I DON'T THINK THAT YOU WANT IT TO BE THE CEILING THE FLOOR I DON'T THINK YOU WANT TO SAY IT IS THE CEILING IN THE TRIAL JUDGE HAS A SPECIFIC METHOD THAT HAS BEEN WORKING FOR THEM THAT THEY CAN'T GET IT INCLUDE ANOTHER DETAIL.

NUMBER SIX DO YOU WANT TO RULE TO HAVE A CERTIFICATE OF CONFERRAL FORM?

THE CIVIL RULES COMMITTEE SAID NO.

I PERSONALLY THINK THAT WHEN YOU GIVE LAWYERS A FORM AND TELL THEM THESE ARE THE WORDS YOU HAVE TO USE THEY ARE GRATEFUL.

THEY ARE BUSY.

JUST TELL THEM WHAT HAS TO SAY.

THE JUDGES WILL GET USED TO SEEING THE FORM AND I AM PRO FORM.

DO YOU WANT YOUR CERTIFICATE TO INDICATE WHAT WAS AGREED UPON?

THE CIVIL RULES COMMITTEE WANTED IN IT IS TO FORGET WHAT WAS AGREED UPON.

I THINK THAT'S BUSY WORK AND IF I AM A TRIAL JUDGE I'M LOOKING AT THAT I'M LOOKING AT THE MOTION AND I HAVE TEN MINUTES AND JUST TELL ME WHAT YOU ARE FIGHTING ABOUT.

IT'S AWESOME THAT YOU FIGURED IT OUT ON SOME STUFF.

I DON'T WANT TO KNOW WHAT YOU FIGURED OUT JUST TELL HIM WHAT YOU DID NOT FIGURE OUT.

AND DO YOU WANT THE MOTION TO INDICATE THAT NO CONFERRAL WAS NECESSARY?

BECAUSE IT WAS AN EXEMPTION?

I THANK YOU ABSOLUTELY DO WANT IT.

JUSTICE, I THANK YOU WOULD SUPPORT THAT ALSO BECAUSE YOU WANT THE JUDGE WHEN THEY FLIP TO THE END IF THEY DON'T SEE A CONFERRAL REQUIREMENT THEY DON'T SEE SOMETHING THAT SAYS NO CONFERRAL WAS UNDERTAKEN BECAUSE THIS THE JUDGE MIGHT DENY YOUR MOTION SO I THANK YOU SHOULD REQUIRE THE PARTIES TO SAY THEY WERE EXEMPTED. NUMBER SEVEN, DO YOU WANT TO SANCTION FOR FAILURE TO CONFER?

I THINK THAT YOU DO.

JUSTICE, I THINK SANCTION IS YOU ARE FOREWARNED.

YOU HAVE TO DO THIS AND IF YOU DON'T THEN YOUR MOTION WILL GET DISMISSED WITHOUT PREJUDICE AND YOU HAVE TO GET BACK IN LINE. MAKE IT CLEARER SO THE LAWYERS WHO CHOOSE NOT TO FOLLOW THE RULE DO SO AT THEIR OWN PERIL.

NUMBER EIGHT, DO YOU WANT COMMENTS TO GET PARAMETERS TO THE MEANING OF THE WORD GOOD FAITH?

I ATTACHED TO MY COMMENT IN THE ARTICLE THAT COLLECTED ALL THREE OF THE FEDERAL RULES AND AS MANY CIRCUIT RULES AS THE ARTHUR COULD FIND AND THE COMMON THREAD SEEMS TO BE THAT THEY SAID TO CONFER IN GOOD FAITH REQUIRES A SUBSTANTIVE CONVERSATION WITH AN EXCHANGE OF IDEAS AND EXCHANGE OF ULTIMATUMS BY E MAIL TEXT OR LETTER DOES NOT SATISFY THE REQUIREMENTS OF THE I DON'T KNOW THAT THAT BELONGS IN THE TEXT BUT I THINK THIS MAY BE THE RARE INSTANCE WHERE THE COMMENT MAKE >> OKAY, THESE ARE ALL WELL TAKEN AND OBVIOUSLY WILL WE WILL THINK ABOUT YOUR IDEA ABOUT SENDING IT BACK.

ALL OF THESE THINGS ARE WORK IN PROGRESS.

WE MAY JUST ORDER TAKE A STAB BUT A LOT OF THESE THINGS THAT YOU ARE IDENTIFYING AS QUESTIONS ARE THINGS THAT WE'VE GOTTEN DIFFERENT APPROACHES ON IN THE COMMENTS SO WE MAY TAKE A STAB AT RESOLVING SOME OF THIS STUFF IF WE DO IT IN A THAT COULD BE IMPROVED THAN THE COMMITTEE WILL ALWAYS BE THERE TO CONTINUE TO SUGGEST BUT EVERYTHING YOU HAVE SAID MAKES SENSE AND WE DO APPRECIATE THIS.

>> THANK YOU YOUR HONOR.

>> MAY IT PLEASE THE COURT, GOOD MORNING, I AM RUSSELL AND I HERE ON BEHALF OF THE BUSINESS LAW SECTION OF THE FLORIDA BAR THEY HAVE ELEGANTLY STOLEN MY THUNDER.

BUT AS A SECTION WE DO SUPPORT A DEADLINE.

IS 60 DAYS DEADLINE IS FINE.

FORTY MIGHT BE FINE.

ROW K WITH 60 BUT WE DO FIND IT IMPORTANT THAT THE MOTION AND THE RESPONSE ARE TIED TO THE HEARING DEADLINE BECAUSE YOU DO RUN INTO

SITUATIONS WHERE BOTH MOTIONS OR OUR RESPONSES CAN BE SURPRISES FOR THE PARTIES AND THE COURT AND THESE ARE IMPORTANT MOTIONS AND THEY NEED TIME TO CONSIDER THE AUTHORITY IN THE CASE LAW AND ALL OF THESE THINGS.

THE WAY THAT WE PROPOSE THIS IN OUR RULE IS THAT IT IS ATTACHED IN EARLIER OF 40 DAYS OF THE MOTION OR CASE MANAGEMENT PROVIDES THE COURT AN OPPORTUNITY TO BE FLEXIBLE WITH HOW THEY PREFER IT IF WE WANT TO INCLUDE IN THE CASE MANAGEMENT ORDER.

AND IN THIS RESPONSE AT LEAST 60 DAYS OR TEN DAYS BEFORE THE HEARING IT STILL WORKS AS A BACK STOP TO THE CONCERNS THAT WE RAN EARLIER ABOUT MOTIONS HANGING OUT AND IT ALSO GIVES FLEXIBILITY AND TIME FOR PEOPLE TO DO THINGS.

THANK YOU.

>> THANK YOU SO MUCH.

WE APPRECIATE IT.

>> GOOD MORNING.

I AM KEVIN WITH THE FLORIDA HOUSING UMBRELLA GROUP.

WE MADE A NARROW COMMENT REGARDING RULE 1.202 MUCH OF WHAT WE WOULD HAVE LIKED TO SAY HAS ALREADY BEEN TAKEN UP SO I WILL KEEP THE SHORT AND BRIEF.

MOST OF OUR MEMBERS PRACTICE IN COUNTY COURT AND IN EVICTION AND SUMMARY PROCEDURE ACTIONS.

WE WANTED TO MAKE SURE THE COURT WAS AWARE OF THE IMPACTS THAT THIS RULE MAY HAVE ON SUMMARY PROCEDURE.

THERE ARE TWO SPECIFIC PIECES OF THE PUZZLE WE WANT THE COURT TO KEEP IN MIND.

THE FLORIDA RESIDENTIAL LANDLORD AND TENANT ACT IMPOSES UPON TENANTS THIS REQUIREMENT TO EITHER DEPOSIT RENT OR FILE A MOTION TO DETERMINE RENT IMPOSING THIS KIND OF CONFERRAL REQUIREMENT TO FILE THAT MOTION ESPECIALLY FOR MANY SELF REPRESENTED TENANTS WILL SERVE AS A BARRIER TO DETER THEM FROM ACCESSING THE COURT.

IT IS REQUIRED BY STATUTE IN ORDER TO AVOID DEFAULT JUDGMENT AGAINST THEM AND SINCE THEY ARE OFTEN TRIED TO FILE THIS AS QUICKLY AS THEY CAN ESPECIALLY IN A PROCEDURE THEY DO NOT UNDERSTAND VERY WELL IMPOSING THIS ADDITIONAL CONFERRAL REQUIREMENT TO CALL AN ATTORNEY THAT REPRESENTS THE PLAINTIFF LANDLORD IS A STRUGGLE AND WILL LEAD TO A LOT MORE TENANTS THAT WILL BE POTENTIALLY EVICTED SIMPLY BECAUSE THEY DID NOT UNDERSTAND THIS REQUIREMENT TO CONFER.

ALSO APPLIES TO UNLAWFUL CONTAINER ACTIONS.

AGAIN THIS IS AN AREA IN WHICH SUMMARY PROCEDURE APPLIES AND THE LIGHT OF THE COURTS ADMIRABLE CASE MANAGEMENT GOALS AND MOTION CONFERRAL RULES IS ULTIMATELY MEANT TO ADDRESS AND REDUCE THE AMOUNT OF LITIGIOUS MOTION PRACTICE.

WE DON'T THINK IT WOULD NECESSARILY MAKE MUCH SENSE IN A SUMMARY PROCEDURE CASE TO BEGIN WITH AS MOST GO FROM INITIATION TO CASE DISPOSITION IN ABOUT TWO MONTHS AND WE ASSUME THAT THIS WOULD BE A GOOD EXEMPTION TO MAKE SURE THAT RULE WOULD NOT APPLY TO THE. ALSO WE POINT TO THE COURT THAT WE DO APPRECIATE THE RECENT CREATION OF FORM 1.947 SUBSECTION E THE EVICTION ANSWER FORMED. IT INCLUDED A CHECK BOX MOTION TO DETERMINE RENT BUT THE FORM DOES NOT CURRENTLY INCLUDE A MOTION CONFERRAL STATEMENT. OBVIOUSLY, WE WANT TO POINT OUT THAT WOULD BE A BIT OF A CONCERN. WE KNOW A LOT OF THE CLERKS OFFICES WERE VERY GRATEFUL TO RECEIVE THAT FORM AND PROVIDE SELF REPRESENTED LITIGANTS AND WE WANT TO MAKE SURE THAT IF THE COURT DOES USE IT'S CURRENT RULE WE WOULD MAKE SURE THE FORM IS UPDATED AS WELL TO INCLUDE THE CERTIFICATION.

WE APPRECIATE THE COURTS ATTENTION TO CONFERRAL AND WE AGREE THAT CONFERRAL WITH OPPOSING COUNSEL IS OFTEN A GREAT WAY TO RESOLVE ANY TYPE OF MOTION BUT WE ALSO RECOMMEND THE COURT TO THE JUSTICE'S POINT, START WITH A NARROW FOCUS OF TRYING TO ADDRESS SOME OF THE MOST CONTENTIOUS TYPES OF DISCOVERY MOTIONS FIRST AND THEN BEGIN TO BROADEN OUT FROM THAT PERSPECTIVE. THE CIVIL RULES COMMITTEE'S PROPOSAL IS VERY GOOD.

WE LIKE THE EXEMPTIONS.

THERE'S ALSO A LOT OF THEM.

SO WE SUGGEST RATHER THAN START WITH A LIST THAT HAS SO MANY EXEMPTIONS THAT COULD SWALLOW THE RULE THAT THE RULE STARTS MORE NARROWLY AND EXPAND FROM THERE.

>> OKAY THANK YOU SO MUCH WE APPRECIATE IT.