

Supreme Court of Florida

No. SC12-619

IN RE: AMENDMENTS TO FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.140.

[February 7, 2013]
CORRECTED OPINION

PER CURIAM.

The Florida Bar's Rules of Judicial Administration Committee (RJA Committee) has filed an out-of-cycle report proposing amendments to Florida Rule of Judicial Administration 2.140 (Amending Rules of Court).¹ We adopt the amendments as proposed by the RJA Committee and further amend rule 2.140 on our own motion. See Fla. R. Jud. Admin. 2.140(d), (e).

As proposed by the RJA Committee, we add new subdivision (a)(7) to rule 2.140. The new subdivision provides a procedure for addressing rules referrals from the Court asking the RJA Committee to coordinate the submission of a joint report of proposed rule amendments from multiple committees. Under the new

1. We have jurisdiction. See art. V, § 2(a), Fla. Const.

procedure, an ad hoc committee comprised of the subcommittee chairs handling the referral for the affected rules committees will be created. The ad hoc committee will be responsible for preparing the joint report and distributing the report to the various committees for review and comment. The RJA Committee will be responsible for filing the final comprehensive report with the Court. Also, as proposed by the RJA Committee, the order of existing subdivisions (a)(5) and (a)(6) is reversed.

On our own motion, we amend subdivisions (b) (Schedule for Rules Proposals), (e) (Emergency Recommendations by Committee), and (f) (Request by Court) of rule 2.140 to require committee reports and proposed rule changes to conform to the Guidelines for Rules Submissions approved by administrative order.² We also amend subdivision (b)(4) to emphasize that, consistent with the requirements set forth in the Guidelines, a report proposing rule amendments must contain “a narrative description of how each amendment changes the language of the rule and a thorough discussion of the reason for each change.”

It is crucial that The Florida Bar rules committees provide the Court with thorough, comprehensive reports that adequately explain each proposed rule amendment. The Court can adopt proposed amendments more quickly when it can

2. Currently, the Guidelines for Rules Submissions, as approved by the Court, can be found in In re Guidelines for Rules Submissions, Fla. Admin. Order No. AOSC06-14 (June 14, 2006).

readily understand how each rule is being changed and the reasons for each change. If the Court has a clear understanding of proposed rule amendments, it also can better ensure the overall quality of the rules of court. Central to this effort are The Florida Bar staff liaisons to the rules committees who work closely with the committees in drafting proposed amendments and with the committee chairs in preparing reports to the Court. We take this opportunity to thank the Bar staff liaisons for their invaluable role in ensuring that the committees' submissions comply with the Guidelines for Rules Submissions. And, we counsel all committee chairs to look to the Bar staff liaisons for guidance on the procedural requirements for rules submissions.

Accordingly, we amend Florida Rule of Judicial Administration 2.140 as reflected in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. These amendments shall become effective immediately upon the release of this opinion.

It is so ordered.

POLSTON, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, LABARGA,
and PERRY, JJ., concur.

**THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE
EFFECTIVE DATE OF THESE AMENDMENTS.**

Original Proceeding – Rules of Judicial Administration Committee

Alexandra V. Rieman, Chair, Rules of Judicial Administration Committee, Fort Lauderdale, Florida, and Keith H. Park, Past Chair, Rules of Judicial Administration Committee, West Palm Beach, Florida; John F. Harkness, Jr., Executive Director, and Jodi Jennings, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

APPENDIX

RULE 2.140. AMENDING RULES OF COURT

(a) **Amendments Generally.** The following procedure shall be followed for consideration of rule amendments generally other than those adopted under subdivisions (d), (e), (f), and (g):

(1) – (4) [No Change]

(5) ~~The Rules of Judicial Administration Committee shall also serve as a rules coordinating committee. Each rules committee shall have at least 1 of its members appointed to the Rules of Judicial Administration Committee to serve as liaison. All committees shall provide a copy of any proposed rules changes to the Rules of Judicial Administration Committee within 30 days of a committee's affirmative vote to recommend the proposed change to the supreme court. The Rules of Judicial Administration Committee shall then refer all proposed rules changes to those rules committees that might be affected by the proposed change. The committees shall consider and vote on each proposal. The committees may originate proposals and are charged with the duty of regular review and reevaluation of the rules to advance orderly and inexpensive procedures in the administration of justice. The committees may accept or reject proposed amendments or may amend proposals. The committees shall keep minutes of their activities, which minutes shall reflect the action taken on each proposal. Copies of the minutes shall be furnished to the clerk of the supreme court, to the board of governors of The Florida Bar, and to the proponent of any proposal considered at the meeting.~~

(6) ~~The committees shall consider and vote on each proposal. The committees may originate proposals and are charged with the duty of regular review and reevaluation of the rules to advance orderly and inexpensive procedures in the administration of justice. The committees may accept or reject proposed amendments or may amend proposals. The committees shall keep minutes of their activities, which minutes shall reflect the action taken on each proposal. Copies of the minutes shall be furnished to the clerk of the supreme court, to the board of governors of The Florida Bar, and to the proponent of any proposal considered at the meeting. The Rules of Judicial Administration Committee shall also serve as a rules coordinating committee. Each rules committee shall have at least 1 of its~~

members appointed to the Rules of Judicial Administration Committee to serve as liaison. All committees shall provide a copy of any proposed rules changes to the Rules of Judicial Administration Committee within 30 days of a committee's affirmative vote to recommend the proposed change to the supreme court. The Rules of Judicial Administration Committee shall then refer all proposed rules changes to those rules committees that might be affected by the proposed change.

(7) Whenever the Rules of Judicial Administration Committee receives a request to coordinate the submission of a single comprehensive report of proposed rule amendments on behalf of multiple rules committees, the general procedure shall be as follows:

(A) The subcommittee chairs handling the matter for each committee will constitute an ad hoc committee to discuss the various committees' recommendations and to formulate time frames for the joint response. The chair of the ad hoc committee will be the assigned Rules of Judicial Administration Committee subcommittee chair.

(B) At the conclusion of the work of the ad hoc committee, a proposed joint response will be prepared by the ad hoc committee and distributed to the committee chairs for each committee's review and final comments.

(C) The Rules of Judicial Administration Committee shall be responsible for filing the comprehensive final report.

(b) Schedule for Rules Proposals.

(1) – (3) [No Change]

(4) No later than February 1 of each reporting year, each committee shall file a report of its proposed rule changes with the supreme court. Each committee may amend its recommendations to coincide with the recommendations of the board of governors or may decline to do so or may amend its recommendations in another manner. Any such amendments shall also be reported to the supreme court. The report and proposed rule changes must conform to the Guidelines for Rules Submissions approved by administrative order and posted on the Internet websites of the supreme court and The Florida Bar. Consistent with the requirements that are fully set forth in the Guidelines, the report shall include:

(A) a list of the proposed changes, together with a detailed explanation of each proposal that includes a narrative description of how each

~~amendment changes the language of the rule and a thorough discussion of the reason for each change and the name and address of the proponent of each change if other than the rules committee;~~

(B) the final numerical voting record of the proposals in the committee;

(C) the name and address of the proponent of each change, if other than the rules committee;

~~(D)~~ a report of the action taken by the committee on comments submitted in accordance with subdivision (b)(2);

~~(E)~~ a report of the action and voting record of the board of governors;

~~(F)~~ any dissenting views of the committee and, if available, of the board; and

(G) an appendix containing all comments submitted to the committee, all relevant background documents, and a two-column chart setting forth the proposed changes in legislative format in the first column and a brief explanation of each change in the second column.

The report and the proposed rule changes shall be filed with the supreme court, in legislative format, both on paper and in an electronic format approved by the supreme court.

(5) - (7) [No Change]

(c) – (d) [No Change]

(e) Emergency Recommendations by Committee. If, in the opinion of a committee, a proposal is of an emergency nature, and the board of governors concurs, proposals may be made at any time to the supreme court. The report and proposed rule changes must conform to the Guidelines for Rules Submissions approved by administrative order and posted on the Internet websites of the supreme court and The Florida Bar. If the court agrees that an emergency exists, the court may set a time for oral argument and consideration of the proposal. Notice of the hearing on the proposals and a copy of the proposals shall be furnished to the affected committee chair and vice chair, the executive director of

The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The clerk may provide the notice electronically. The recommendations or a resume of them shall be published on the Internet websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News before the hearing. Notice of the hearing shall also be published on the Internet websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News.

(f) Request by Court. The supreme court may direct special consideration of a proposal at times other than those specified in this rule and may require a committee to report its recommendation with the recommendations of the board of governors. All requests or submissions by a rules committee made in connection with a request under this subdivision shall be filed with the clerk of the supreme court. The report and proposed rule changes must conform to the Guidelines for Rules Submissions approved by administrative order and posted on the Internet websites of the supreme court and The Florida Bar. The supreme court may set oral argument on the report at any time. Notice of the hearing on the proposals and a copy of the proposals shall be furnished to the affected committee chair and vice chair, the executive director of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The clerk may provide the notice electronically. The recommendations or a resume of them shall be published on the Internet websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News before the hearing. Notice of the hearing shall also be published on the Internet websites of the supreme court and The Florida Bar, and in the Florida Bar Journal or Florida Bar News.

(g) – (h) [No Change]

Committee Notes

[No Change]