

The Florida Bar's Civil Procedure Rules Committee (Committee) has submitted to the Florida Supreme Court its regular-cycle report proposing amendments to the Florida Rules of Civil Procedure. The Committee proposes amendments to rules 1.120 (Pleading Special Matters); 1.140 (Defenses); 1.210 (Parties); 1.221 (Condominium Associations); 1.280 (General Provisions Governing Discovery); 1.310 (Depositions Upon Oral Examination); 1.351 (Production of Documents and Things Without Deposition); 1.360 (Examination of Persons); 1.410 (Subpoena); 1.470 (Exceptions Unnecessary); 1.650 (Medical Malpractice Presuit Screening Rule); 1.820 (Hearing Procedures For Non-Binding Arbitration); 1.902 (Summons); 1.910 (Subpoena For Trial); 1.911 (Subpoena Duces Tecum For Trial); 1.912 (Subpoena For Deposition); 1.913 (Subpoena Duces Tecum For Deposition); 1.922 (Subpoena Duces Tecum Without Deposition); and 1.982 (Contempt Notice). The Committee also proposes new rule 1.526 (Expert Opinion Testimony on Costs and Attorneys' Fees).

The Court invites all interested persons to comment on the Committee's proposed amendments, which are summarized below and reproduced in full online at <http://www.floridasupremecourt.org/decisions/proposed.shtml>. An original and nine paper copies of all comments must be filed with the Court on or before April 2, 2007, with a certificate of service verifying that a copy has been served on the Committee Chair, Keith H. Park, P.O. Box 3563, West Palm Beach, Florida 33402-3563, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument which may be scheduled in this case in June 2007. Further, if comments are directed toward the proposed amendment to rule 1.221 (Condominium Associations), the certificate of service shall also verify that a copy has been served on the proponent of the amendment, Rohan Kelley, Chair of the Real Property, Probate, and Trust Law Section of The Florida Bar, 5100 N. Federal Hwy, Suite 405, Fort Lauderdale, Florida 33308. If comments are directed toward the proposed amendment to rule 1.351 (Production of Documents and Things Without Deposition), the certificate of service shall also verify that a copy has been served on the proponent of the amendment, Michael Dickey, P.O. Box 2467, Panama City, Florida 32402-2467. If comments are directed toward proposed new rule 1.526 (Expert Opinion Testimony On Costs and Attorneys' Fees), the certificate of service shall also verify that a copy has been service on the proponent of the rule, Robert J. Hauser, Flagler Beach Center, Suite 1400, West Palm Beach, Florida 33401. Finally, if comments are directed toward the proposed amendments to rule 1.820 (Hearing Procedures For Non-Binding Arbitration), the certificate of service shall also verify that a copy has been served on the proponent of the amendment, Pamela S. Leslie, General Counsel, Florida Department of Transportation, 605 Suwannee St., Tallahassee, Florida 32399-

0450. The committee chair has until April 16, 2007, to file a response to any comments filed with the Court. Electronic copies of all comments also must be filed in accordance with the Court's administrative order In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE FLORIDA RULES OF CIVIL PROCEDURE,
SC07-173**

RULE	CHANGE TO RULE
Rule 1.120. Pleading Special Matters	(a) is amended to require that initial pleadings on behalf of a minor party note the minority status of that party. This is part of the changes to the civil procedure rules proposed to protect the rights of minors in legal proceedings.
Rule 1.140. Defenses	(a) is amended to conform the rules to statutory requirements regarding service on the state, an agency of the state, or an officer or employee of the state sued in an official capacity. Those parties have 40 days after service of a complaint or crossclaim to answer, except when sued under F.S. 768.28, in which case they have 30 days.
1.210. Parties	(b) is amended as part of the changes to the civil procedure rules to protect the rights of minors in legal proceedings. The changes simply substitute “minor” for “infant” in 6 instances.
1.221. Condominium Associations	Rule 1.221, concerning condominium association standing is amended to add homeowners’ associations in light of F.S. 720.303(1), concerning homeowner association standing.
1.280. General Provisions Governing Discovery	A technical correction to (a) is necessary to take into consideration the 2003 amendment to 1.370, which limited the number of requests for admission. Because rule 1.370 now limits the number of requests for admissions, it should be added to the list of exceptions to unlimited use of discovery methods.

1.310. Depositions Upon Oral Examination	(b)(8) is added so minors subpoenaed for testimony have the right to be accompanied by a parent or guardian under most circumstances.
1.351. Production of documents and things without deposition	(b) and (d) are amended to permit a party seeking nonparty discovery to have other parties' objections resolved by the court.
1.360. Examination of Persons	(a)(1)(C) is added so minors subpoenaed for testimony have the right to be accompanied by a parent or guardian under most circumstances.
1.410. Subpoena	(h) is added so minors subpoenaed for testimony have the right to be accompanied by a parent or guardian under most circumstances.
1.470. Exceptions Unnecessary	"Jury Instructions" is added to the title of this rule to more accurately reflect its subject matter.
1.526. Expert Opinion Testimony on Costs and Attorneys' Fees	This rule is added to provide that expert opinion is not required to support or oppose a claim or an award of costs, attorneys' fees, or both, unless required by prior order of the court.
1.650. Medical Malpractice Presuit Screening Rule	(c)(2)(A) and (c)(2)(C) are amended to implement changes in rule 1.310(b)(8), protecting rights of minors in trial proceedings.

<p>1.820. Hearing Procedures for Non-Binding Arbitration</p>	<p>(h) is amended to add: “If a motion for trial is filed by any party, any party having a third-party claim at issue at the time of arbitration may file a motion for trial within 10 days of service of the first motion for trial.” This is to avoid the unintended consequences for defendants with third-party claims who prevailed at arbitration but could not pursue those claims in a circuit court action because no motion for trial was filed, despite a plaintiff or plaintiffs having filed a motion for trial that covered those claims.</p>
<p>1.902. Summons</p>	<p>A footnote is added to the summons stating that, as noted in the proposed amendments to 1.140(a)(2), the state, agencies of the state, and officers and employees of the state sued in an official capacity have 40 days after service of a complaint or crossclaim to answer, except when sued under F.S. 768.28, in which case they have 30 days.</p>
<p>1.910. Subpoena For Trial</p>	<ol style="list-style-type: none"> 1. A notice is added to (a) and (b) concerning the right of minors subpoenaed for testimony to be accompanied by a parent or guardian during the taking of testimony under most circumstances. 2. A notice regarding accommodation for persons with disabilities is added to (a) and (b).
<p>1.911. Subpoena Duces Tecum For Trial</p>	<ol style="list-style-type: none"> 1. A notice is added to (a) and (b) concerning the right of minors subpoenaed for testimony to be accompanied by a parent or guardian during the taking of testimony under most circumstances. 2. A notice regarding accommodation for persons with disabilities is added to (a) and (b).
<p>1.912. Subpoena For Deposition</p>	<ol style="list-style-type: none"> 1. A notice is added to (a) and (b) concerning the right of minors subpoenaed for testimony to be accompanied by a parent or guardian during the taking of testimony under most circumstances. 2. A notice regarding accommodation for persons with disabilities is added to (a) and (b).

<p>1.913. Subpoena Duces Tecum For Deposition</p>	<p>1. A notice is added to (a) and (b) concerning the right of minors subpoenaed for testimony to be accompanied by a parent or guardian during the taking of testimony under most circumstances.</p> <p>2. A notice regarding accommodation for persons with disabilities is added to (a) and (b).</p>
<p>1.922. Subpoena Duces Tecum Without Deposition</p>	<p>A notice is added to (a)–(d) regarding accommodation for persons with disabilities.</p>
<p>1.982. Contempt Notice</p>	<p>A notice is added regarding accommodation for persons with disabilities.</p>