



"J. Kevin Carey"
<CAREYJK@gmail.fjud13.org>

12/21/2004 06:27 PM

To <rclarke@ausley.com>, <cshaw@flabar.org>, <mhorwich@flabar.org>, "Claudia R. Isom" <ISOMCR@gmail.fjud13.org>, <william.mccormick@ruden.com>

cc

bcc

Subject RJA Committee Agenda Item pertaining to

Claudia and Craig,

Thanks for passing along a draft for our upcoming RJA Committee Meeting. I wanted to make a brief comment regarding the new business agenda item noted as "proposed change to Fla. R. Civ. P 1.997 (Civil Cover Sheet). I probably wasn't particularly clear in my e-mail to Claudia about this. The Civil Rules Committee has already approved the revised civil cover sheet to add the category "Challenge to Proposed Constitutional Amendment."

Related to that, we suggested that the RJA Committee consider adopting a rule creating a procedure (possibly expedited) for handling constitutional challenges once filed. By way of background, the Supreme Court requested that the Civil Rules Committee consider changes to the rules to provide for a more streamlined and expedited handling of challenges to voter initiated constitutional amendments. Ultimately, our committee decided that such a task was beyond the authority of our committee.

However, because the Supreme Court specifically requested that this issue be addressed, we decided that we would revise the civil cover sheet to provide a box for this type of challenge. The thought was that by adding this category to the cover sheet, it would highlight the nature of the action for the clerk of court at the time of filing. At this point, we contemplated that the RJA Committee could adopt a rule setting setting forth an expedited trial schedule or, at a minimum, requiring a case management conference within a certain number of days after the action is filed to establish a discovery/briefing/hearing schedule. It is this type of rule that the Civil Rules Committee is suggesting the RJA Committee consider.

I look forward to raising this issue at our meeting on Thursday, January 20, and thanks for placing on the agenda. Thanks.

Kevin



State of Florida
Ninth Judicial Circuit of Florida

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JAMES C. HAUSER
CIRCUIT JUDGE

KATHLEEN OLSON
JUDICIAL ASSISTANT
(407) 836-2036

Judge Winifred Sharp
300 South Beach Street
Daytona Beach, Florida 32114

November 24th, 2005

Re: Amendment to Fla.R.Jud.Ad. 2.160

Dear Judge Sharp:

I recently had a case where a party filed a motion to recuse, but failed to inform the court that a prior judge had previously been recused from the case. Since the standard for recusal for a subsequent trial judge is substantially different, Fla.R.Jud.Ad. 2.160(g), than the recusal of the initial trial judge, Fla.R.Jud.Ad. 2.160(f), I believe that it is important that the moving party disclose this to the subsequent trial judge. I also believe that the moving party should disclose the dates of any previous motions to recuse. This becomes very important in complex litigation cases that span multiple volumes, since a subsequent trial judge might not be aware that a prior judge had been recused.

Propose rule change Fla.R.Jud.Ad. 2.160(c)

A motion to disqualify shall be in writing and specifically allege the facts and reasons relied on to show the grounds for disqualification and shall be sworn to by the party signing the motion under oath or by separate affidavit. If a judge has previously been disqualified on motion for alleged prejudice or partiality under subsection (d)(1), the date

and order of the recusal must be disclosed to the subsequent trial judge. The party making the motion to recuse must disclose the dates of all previous motions to recuse and whether such motions were granted or denied....

Sincerely,


Jim Hauser



Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1925

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March 14, 2007

Mr. Gary D. Fox, Chair
Rules of Judicial Administration Committee
Suntrust International Center
1 Southeast Third Avenue, Suite 3000
Miami, Florida 33131-1711

Re: Proposal to Amend Florida Rules of Judicial Administration

Dear Mr. Fox:

Enclosed please find a letter from Frank Morreale, which I am forwarding to you pursuant to Rules of Judicial Administration 2.140(a)(2). Although Rule 1-310 of the Rules Regulating The Florida Bar is referenced, Mr. Morreale seeks to amend Rule of Judicial Administration 2.510.

Most cordially,

A handwritten signature in black ink, appearing to read "Thomas D. Hall", written over a circular stamp or seal.

Thomas D. Hall

TDH/vm

Enclosure

cc: Frank Morreale, Esquire
David Jones, Esquire
J. Craig Shaw, Bar Liaison

FRANK MORREALE
(904) 798-7327
frank.morreale@hklaw.com
*Admitted only in New York,
supervision by principals of the firm
who are members of the Florida Bar

October 4, 2006

Thomas D. Hall
Clerk of the Florida Supreme Court
Supreme Court Building
500 South Duval Street
Tallahassee, Florida 32399-1927

Re: Proposed Rule Revision for Consideration by RJA Committee

Dear Mr. Hall:

I write to propose a revision to Rule 1-310 of the Rules Regulating the Florida Bar ("Appearance by non-Florida Lawyer in Florida Court") for consideration by the RJA Committee. My understanding of Rule 1-310 is that a practicing lawyer of another state may, under certain circumstances, be permitted to make up to three appearances in Florida courts within a 365-day period. *See* R. 1-310(a)(2). I also understand, however, that a practicing lawyer of another state who resides in Florida cannot make any appearances until he or she becomes a member of the Florida bar. *See* R. 1-310(b)(2).

A practicing lawyer of another state who resides in Florida with no intention of becoming a member of the Florida bar should be prohibited from engaging in practice in Florida altogether to avoid the risk that such lawyer will appear in three or fewer matters for many years in order to avoid the requirement of becoming a member of the Florida bar. This general prohibition for Florida residents does, however, have an unintended effect on a practicing lawyer of another state who relocates to Florida and intends to become a member of the Florida bar. Because of the amount of time it takes to become admitted as a member of the Florida bar (e.g., the bar exam is offered only twice per year and a proper background check typically takes at least six months), this type of lawyer will likely be prevented from appearing in any Florida cases for approximately one year even though that very same lawyer would have been permitted to appear in up to three matters had he or she not relocated to Florida. The Rule's effect on "new" Florida residents is demonstrated by comparing two non-Florida lawyers' ability to practice in Florida courts:

Lawyer A is admitted in another jurisdiction and accepts a position with a Florida law firm. Lawyer A moves to Florida in April and starts working out of the law firm's Florida office under the daily supervision of members of the Florida bar. Lawyer A has every intention of permanently residing in Florida and becoming a member of the Florida bar as soon as possible. Lawyer A registers to vote in Florida, receives a Florida driver's license, and purchases a house in Florida to use as a permanent residence. Lawyer A timely submits a bar application in May, pays the \$1,600 application fee, takes the bar exam at the first opportunity (July), and receives notice of passing the bar exam in September. Lawyer A's background check is not expected to be completed until December. Given the commitment Lawyer A has demonstrated to becoming a member of the Florida bar, there is little risk that Lawyer A is attempting to abuse the rules prohibiting a lawyer from another state from engaging in general practice. Nonetheless, until Lawyer A's background check is completed, Lawyer A cannot appear in a Florida court or take a deposition.

Lawyer B is admitted in another jurisdiction and maintains an office in that jurisdiction. Lawyer B has no intention of moving to Florida or taking the Florida bar exam, but is permitted to make appearances in three Florida cases within a year without being considered to be in general practice. As a practical matter, it is likely that Lawyer B's legal services in those cases are provided without significant oversight by a member of the Florida bar. It is likely that Lawyer B will continue to practice with this type of limited Florida case load and never even attempt to become a member of the Florida bar.

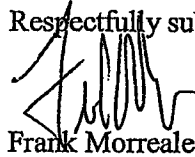
A more fair rule could be designed by creating an exception for "new" Florida residents to Rule 1-310(b)(2)'s absolute prohibition for Florida residents to appear in Florida courts. For example "new Florida residents" could be limited to those attorneys: (1) who are members of another state's bar; (2) who have become associated with a Florida law firm and have relocated to Florida within the past six months; (3) who have applied to take the Florida bar exam; and (4) who can demonstrate an intention to permanently remain in Florida through objective evidence such as voter registration. These "new Florida residents" could be treated the same as other non-Florida lawyers appearing in a Florida court. That is, upon proper motion, they could be permitted to appear in up to three cases while their bar application is being processed. This exception should be allowed for only a limited time (such as one year) to prevent a relocating attorney from merely applying to become a member of the Florida bar, but never completing the application process.

Under this proposal, the existing prohibition for Florida residents who do not meet the criteria set forth above for "new Florida Residents" would remain. This distinction is fair because, unlike "new Florida Residents", other Florida residents may not be providing legal services under the close, daily supervision of members of the Florida bar and have not demonstrated that they are attempting to become members of the Florida bar.

Thomas D. Hall
October 4, 2006
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I became aware of this distinction in the Rules because I recently moved back to Florida after practicing in New York since 1998. ("Lawyer A" in the example above is based upon my experience.) While any rule change will not affect my status because I expect to be admitted by the end of this year, I believe that a revision could help ease the transition of other "new" Florida residents in the future.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Frank Morreale', written over the typed name.

Frank Morreale

cc: David Jones, Esq. (by electronic mail)

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