

**IN THE SUPREME COURT OF FLORIDA**

**IN RE AMENDMENTS TO THE  
FLORIDA RULES OF CRIMINAL  
PROCEDURE (RULE 3.113)**

**SC13-552**

**COMMENT OF THE CRIMINAL PROCEDURE RULES COMMITTEE**

Melanie L. Casper, Chair, Criminal Procedure Rules Committee (“Committee”), and John F. Harkness, Jr., Executive Director, The Florida Bar, file this comment on the Criminal Court Steering Committee’s proposed new Rule 3.113. The Criminal Procedure Rules Committee voted 32-3-1 in favor of the comment. The Committee proposes an amendment to the proposed rule. The Executive Committee of The Florida Bar Board of Governors voted 11-0 in favor of the Committee’s proposed amendment.

There is a split within the Committee as to whether the proposed continuing legal education (CLE) requirement is needed. However, the vast majority of the Committee members feel that this new CLE requirement does not belong in the Florida Rules of Criminal Procedure. Instead, any CLE requirements should be contained within the Rules of Professional Conduct, and not the rules of court procedure.

The Committee is also concerned about the impact of this new requirement on small counties with only two prosecutors, one for misdemeanors and one for felony cases. Because it would be routine for one attorney to stand in for the other, cases could be delayed pending completion of the CLE requirement.

Another concern of the Committee is the lack of sanctions for failure to abide by this proposed rule. A provision dealing with sanctions should also be adopted, should the Court choose to keep this rule within the Florida Rules of Criminal Procedure.

If the Court chooses to adopt this rule as part of the Florida Rules of Criminal Procedure, the Committee proposes an amendment to the proposed CLE requirement that would allow for discretion in situations in which “the trial court determines that exceptional circumstances require the appointment of counsel not meeting the requirements of the rule,” Fla. R. Crim. P. 3.112(k). The Committee

proposes including the entirety of subdivision 3.112(k) in the proposed new rule as 3.113(b).

Respectfully submitted on September 10, 2013.

/s/ Melanie L. Casper

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### **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was furnished by e-mail, on September 10, , 2013 to:

Honorable Kevin Emas  
Chair, Criminal Court Steering  
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### **CERTIFICATION OF COMPLIANCE**

I certify that this comment was prepared in compliance with the font requirements of Fla. R. App. P. 9.210(a)(2).

/s/ Heather S. Telfer

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