

TGEGKXGF.; B34235"33-55-5; .Vj qo cu'F0J cm'Ergtm'Uwr tgo g'Eqwtv

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO THE  
FLORIDA RULES OF JUDICIAL  
ADMINISTRATION AND FLORIDA  
RULES OF APPELLATE  
PROCEDURE**

**CASE NO: 13-**

**JOINT FAST-TRACK REPORT OF THE  
RULES OF JUDICIAL ADMINISTRATION COMMITTEE  
AND THE APPELLATE COURT RULES COMMITTEE**

The Honorable Jon Morgan, Chair, Rules of Judicial Administration Committee (“RJA”), Eduardo I. Sanchez, Chair, Appellate Court Rules Committee (“ACRC”), and John F. Harkness, Jr., Executive Director, The Florida Bar, file this fast-track report under Fla. R. Jud. Admin. 2.140. All rule and form amendments have been approved by the full Committees and, as required by Rule 2.140(b)(2), reviewed by The Executive Committee of The Florida Bar Board of Governors. The RJA voted 29-0 in favor of these amendments and to submit them out-of-cycle. The ACRC voted 34-15 in favor of these amendments and to submit them out-of-cycle. The Executive Committee of the Board of Governors voted 11-0 in favor of these amendments.

In order to submit these proposals to the court as soon as possible, the proposed amendments were not published for comment.

The following appendices are attached:

Appendix A:	Rules in legislative format
Appendix B:	Rules in 2-column format
Appendix C:	Referral letter
Appendix D:	Chapter 2013-25, Laws of Florida
Appendix E:	ACRC Ad Hoc Subcommittee Reports

The proposed amendments are in response to Section 10, Chapter 2013-25, Laws of Florida, which created section 43.44, Florida Statutes, which provides:

43.44 Mandate of an appeals court.—An appellate court may, as the

circumstances and justice of the case may require, reconsider, revise, reform, or modify its own opinions and orders for the purpose of making the same accord with law and justice. Accordingly, an appellate court may recall its own mandate for the purpose of allowing it to exercise such jurisdiction and power in a proper case. A mandate may not be recalled more than 120 days after it has been issued.

As explained on page 3 of the House of Representatives Final Bill Analysis for HB 7017, which became Chapter 2013-25, Laws of Florida, “[u]nder current law, a mandate may only be withdrawn during the current term of the appellate court, which leads to the odd result of some appellate court opinions being subject to withdrawal for nearly six months while others may only be subject to withdrawal for a few days.” The new statute provides that an appellate court may withdraw a mandate for up to 120 days after it is issued. Based on this legislation, the Committees recommend that Rule 2.205(b)(5), Rule 2.210(b)(4) and Rule 9.340 be amended as shown in Appendix A to include the new provisions for recall of a mandate.

RJA points out that Rule 2.205 and Rule 2.210 are normally amended by the Court without referral to the Committee. See Rule 2.140(g)(1). Notwithstanding, RJA offers its recommendation on this matter to assist the Court in expediting implementation of legislative amendments.

Chapter 2013–25, Laws of Florida, provides that an appellate court may withdraw a mandate for up to 120 days after it is issued. ACRC proposes amending Rule 9.340 to conform to this recent legislative change. Chapter 2013-25 becomes effective January 1, 2014.

Respectfully submitted on September \_\_\_\_\_, 2013.

/s/ Jon B. Morgan

The Honorable Jon B. Morgan, Chair  
Rules of Judicial Administration Committee  
2 Courthouse Sq., Rm. 6420  
Kissimmee, FL 34741-5487  
407/343-2516  
Florida Bar No. 242020  
ctjujm2@ocnjcc.org

/s/ Eduardo I. Sanchez

Eduardo I. Sanchez, Chair  
Appellate Court Rules Committee  
99 N.E. 4<sup>th</sup> Street, Suite 800  
Miami, FL 33132-2131  
305/961-9057  
Florida Bar No. 877875  
eduardo.i.sanchez@usdoj.gov

/s/ John F. Harkness, Jr.

John F. Harkness, Jr.  
Executive Director  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399-2300  
850/561-5600  
Florida Bar No. 123390  
jharkness@flabar.org

### **CERTIFICATE OF SERVICE**

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

### **CERTIFICATION OF COMPLIANCE**

I certify that these rules were read against *West's Florida Rules of Court – State* (2013 Edition).

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

/s/ Heather S. Telfer

---

Heather S. Telfer, Staff Liaison  
Appellate Court Rules Committee  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399-2300  
Florida Bar No. 139149  
htelfer@flabar.org