

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE CODE
OF JUDICIAL CONDUCT; THE
FLORIDA RULES FOR CERTIFIED
AND COURT-APPOINTED
MEDIATORS; THE FLORIDA RULES
OF CIVIL PROCEDURE; THE
FLORIDA RULES OF JUDICIAL
ADMINISTRATION; THE FLORIDA
RULES OF JUVENILE PROCEDURE;
AND THE FLORIDA FAMILY LAW
RULES OF PROCEDURE —SENIOR
JUDGES AS MEDIATORS

CASE NO. SC13-1732

COMMENTS OF THE TRIAL COURT BUDGET COMMISSION

Margaret O. Steinbeck, Circuit Judge and Chair of the Trial Court Budget Commission (Commission), files this response to the Court's invitation for comments on proposed amendments to prohibit senior judges from serving as mediators. The Commission defers to the Judicial Ethics Advisory Committee and others with regard to the ethical implications of such dual service. The Commission's response is limited to the potential impact on trial court budgeting.

In accordance with Rule of Judicial Administration 2.230(b)(4), the Commission is charged with responsibility to make recommendations to the Court on funding allocation formulas and budget implementation and criteria as well as associated accountability mechanisms based on actual legislative appropriations.

In this regard, the Commission has two inter-related concerns about the proposed amendments.

First, the Commission shares the Chief Judges' concerns that the proposed amendments will reduce the number of senior judges available to assist with the trial courts' dockets. In this regard, the Commission is especially concerned about the potential adverse impact on the Foreclosure Backlog Reduction Initiative approved by the Court and funded by the Legislature for FY 2013-2014 and into FY 2014-15. The funding allocation formulas and case management plans developed as part of that Initiative were based in part on the assumption that the trial courts would continue to have an available pool of senior judges, along with other judicial and quasi-judicial resources, to assist with timely case resolution. As the data presented by the Chief Judges in their response demonstrates, the proposed amendments will shrink the pool of judicial resources and contribute to delay. Workload demand presently exceeds available judicial resources. The proposed amendments will only exacerbate this problem.

Second, the proposed amendments may ultimately increase the cost of using senior judges in the trial courts. A senior judge's current rate of compensation of \$350 per day is significantly less compensation than the \$200 to \$600 per hour earned by mediators throughout the State. If forced to directly compete with mediation fees, the trial courts may have to raise the daily compensation rate for

senior judges. This would either reduce the number of senior judge days available within current appropriations, or, alternatively, require an additional appropriation from the Legislature. Even then, it is uncertain whether the trial courts would be able to attract enough senior judges to meet our judicial workload needs.

The Commission respectfully asks the Court to consider these budget impacts in evaluating whether to amend the rules as proposed.

Respectfully submitted on this 14th day of November 2013.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of the Trial Court Budget Commission was furnished by electronic mail on November 14, 2013, to:

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this Comment complies with the requirements of Florida Rule of Appellate Procedure 9.100 and is printed in Times New Roman 14-point font.

/s/ B. Elaine New