

Supreme Court of Florida

No. SC13-224

IN RE: AMENDMENTS TO FLORIDA RULE OF CIVIL PROCEDURE 1.442.

[April 11, 2013]

PER CURIAM.

Before the Court is an out-of-cycle amendment to Florida Rule of Civil Procedure 1.442 proposed by The Florida Bar's Civil Procedure Rules Committee (Committee), pursuant to Florida Rule of Judicial Administration 2.140(e).¹ We have jurisdiction, see art. V, § 2(a), Fla. Const., and amend rule 1.442 as proposed.

AMENDMENT

Rule 1.442(f)(1) (Proposals for Settlement; Acceptance and Rejection) currently provides that the provisions of recently deleted Florida Rule of Civil Procedure 1.090(e) (Additional Time after Service by Mail),² which allowed an

1. The Florida Bar Board of Governors approved the proposal by a vote of thirty-four to zero.

2. See In re Amends. to Fla. Rules of Jud. Admin., Fla. Rules of Civil Pro., Fla. Rules of Crim. Pro., Fla. Rules of Civil Pro. for Involuntary Commitment of

additional five days for an action to be done after service by mail, does not apply to proposals for settlement. In order to resolve the potential conflict that the Committee believes the reference to rule 1.090(e) may create, we amend rule 1.442(f)(1) to replace the reference to the deleted rule with a reference to new Florida Rule of Judicial Administration 2.514(b) (Computing and Extending Time; Additional Time after Service by Mail or E-mail). The amendment clarifies that a notice of acceptance of a proposal for settlement must be served within thirty days of service of the proposal, and new rule 2.514(b), which allows an additional five days to act after service by mail or e-mail, does not apply.

Accordingly, we amend Florida Rule of Civil Procedure 1.442 as reflected in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The amendment shall become effective immediately upon the release of this opinion. Because the amendment was not published for comment prior to its adoption, interested persons shall have sixty days from the date of this opinion in which to file comments with the Court.³

Sexually Violent Predators, Fla. Probate Rules, Fla. Rules of Traffic Court, Fla. Rules of Juv. Pro., Fla. Rules of App. Pro., & Fla. Family Law Rules of Pro.—
Computation of Time, 95 So. 3d 96 (Fla. 2012) (adopting new uniform computation of time rule and conforming amendments to the various rules of procedure, including the deletion of rule 1.090(e)).

3. All comments must be filed with the Court on or before June 10, 2013, with a certificate of service verifying that a copy has been served on the Committee Chair, the Honorable Richard Allen Nielsen, 800 East Twiggs Street,

It is so ordered.

POLSTON, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, LABARGA,
and PERRY, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE
EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding – Florida Rules of Civil Procedure

Honorable Richard Allen Nielsen, Chair, Civil Procedure Rules Committee,
Tampa, Florida; John F. Harkness, Jr., Executive Director and Ellen H. Sloyer,
Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

Suite 527, Tampa, Florida 33602-3556, nielsera@fljud13.org, and on the Bar Staff Liaison to the Committee, Ellen Sloyer, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, esloyer@flabar.org, 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. The Committee Chair has until July 1, 2013, to file a response to any comments filed with the Court. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Portal in accordance with In re: Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal, Fla. Admin. Order No. AOSC13-7 (Feb 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment must be electronically filed via e-mail in accordance with In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004). Electronically filed documents must be submitted in Microsoft Word 97 or higher. Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

APPENDIX

RULE 1.442. PROPOSALS FOR SETTLEMENT

(a) - (e) [No Change]

(f) Acceptance and Rejection.

(1) A proposal shall be deemed rejected unless accepted by delivery of a written notice of acceptance within 30 days after service of the proposal. The provisions of ~~rule 1.090(e)~~Florida Rule of Judicial Administration 2.514(b) do not apply to this subdivision. No oral communications shall constitute an acceptance, rejection, or counteroffer under the provisions of this rule.

(2) [No Change]

(g)– (j) [No Change]

Committee Notes

1996 Amendment - 2012 Amendment. [No Change]

2013 Amendment. Subdivision (f)(1) was amended to reflect the relocation of the rule regarding additional time after service by mail or e-mail from rule 1.090(e) to Fla. R. Jud. Admin. 2.514(b).