

Supreme Court of Florida

No. SC2023-1373

IN RE: AMENDMENTS TO FLORIDA RULE OF GENERAL PRACTICE AND JUDICIAL ADMINISTRATION 2.140.

January 9, 2025

PER CURIAM.

The Florida Bar’s Rules of General Practice and Judicial Administration Committee filed a report proposing a complete reorganization of Florida Rule of General Practice and Judicial Administration 2.140 (Amending Rules of Court), as well as changes to the rule amendment process to address two recommendations made by retired State Courts Administrator Elisabeth Kiel in her “Evaluation of Development and Review of Court Rules Proposals by The Florida Bar Rules Committees” (Kiel report).¹ We decline to amend rule 2.140 as proposed and reorganized by the Committee

1. We have jurisdiction. See art. V, § 2(a), Fla. Const.; see also Fla. R. Gen. Prac. & Jud. Admin. 2.140(b).

and instead amend the existing version of the rule to align with the two recommendations from the Kiel report.

AMENDMENTS

In her 2022 report, Kiel thoroughly examined the rule amendment process and identified several factors that either prolong or delay the rule amendment process. She made several recommendations to make the rule amendment process more streamlined and efficient.

One recommendation Kiel made in her report is to alter the publication requirements for proposed rule amendments. Currently, under rule 2.140(b)(2), rules committees are required to publish proposed rule amendments for comment on the Bar's website and in the print edition of *The Florida Bar News* before filing them with the Court. The Court generally republishes proposed rule amendments for comment once they are filed on its website, the Bar's website, and in the print edition of *The Florida Bar News*. See Fla. R. Gen. Prac. & Jud. Admin. 2.140(b)(5). Kiel recommends doing away with publication in the print edition of *The Florida Bar News* and allow, at least at the rules committee level, proposed rule changes to be published only on the Bar's website.

We agree with Kiel's recommendation and amend rule 2.140(b)(2) to make the Bar's website the only place rules committees are required to publish proposed rule amendments before filing their reports with the Court. Under the amended rule, rules committees may continue to publish proposed rule amendments in the print edition of *The Florida Bar News* to obtain as much feedback as possible on a proposal before filing a report with the Court. If a rules committee elects to publish proposed rule amendments in the print edition of *The Florida Bar News*, the deadline for comments in response to the print publication must be the same as the deadline for comments in response to the publication on the Bar's website.

Another recommendation Kiel made in her report is to alter the role of The Florida Bar Board of Governors (Board) in the rule amendment process. Since the 1980 adoption of the current Bar-appointed rules committee system for amending procedural rules, the Board has been required to vote to recommend acceptance, rejection, or amendment of every committee proposal. *See In re Fla. Rules of Jud. Admin.*, 389 So. 2d 202 (Fla. 1980); Fla. R. Gen. Prac. & Jud. Admin. 2.140(b)(3). To expedite the rule amendment

process and to get the Board involved in the process sooner, Kiel recommends doing away with the requirement that the Board vote on each rule proposal. She suggests engaging the Board through the comment process when rule proposals are pending at the rules committee level and before the Court.

We agree with this recommendation, too, and amend rule 2.140 throughout to change the Board's role in the rule amendment process. Under the amended rule, the Board will no longer review and vote on each rule proposal before it is filed with the Court. Instead, the Board will have the option to submit a comment on a proposed rule change when it is pending before a rules committee or the Court. To ensure the Board is made aware of all proposed rule changes, rule 2.140(b)(2) is amended to require the Board to receive a copy of each proposal when it is published for comment by a rules committee, and newly relettered subdivision (b)(3) is amended to require each rules committee to provide the Board with a copy of its report when it is filed with the Court.

Last, we amend rule 2.140(f)(2) (No Action Recommendations) to clarify that rules committees must submit all "no action reports" to the "clerk of the supreme court."

CONCLUSION

Florida Rule of General Practice and Judicial Administration 2.140 is amended as set forth in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The amendments become effective on April 1, 2025, at 12:01 a.m.

It is so ordered.

MUÑIZ, C.J., and CANADY, LABARGA, COURIEL, GROSSHANS, FRANCIS, and SASSO, JJ., concur.

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

Original Proceeding – Florida Rules of General Practice and Judicial Administration

Hon. Santo DiGangi, Chair, Rules of General Practice and Judicial Administration Committee, West Palm Beach, Florida, Kristin A. Norse, Past Chair, Rules of General Practice and Judicial Administration Committee, Tampa, Florida, Joshua E. Doyle, Executive Director, The Florida Bar, Tallahassee, Florida, and Kelly Noel Smith, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

APPENDIX

RULE 2.140. AMENDING RULES OF COURT

(a) [No Change]

(b) **Rules Proposals.**

(1) [No Change]

(2) Before filing a report of proposed rule changes with the supreme court, the committee report shall be furnished to the Speaker of the Florida House of Representatives, the President of the Florida Senate, and the chairs of the House and Senate committees as designated by the Speaker and the President, and The Florida Bar Board of Governors. The proposed rule changes must be published on the website of The Florida Bar, and The proposed rule changes may also be published in the print edition of The Florida Bar News with the same deadline for comment submission as the website publication. Any person desiring to comment upon proposed rule changes ~~shall~~may submit written comments to the appropriate committee chair(s) as provided in the notice. The committee shall consider any comments submitted. Any changes made shall be furnished to the Speaker of the Florida House of Representatives, the President of the Florida Senate, and the chairs of the House and Senate committees as designated by the Speaker and the President, and The Florida Bar Board of Governors. The changes must be published on the website of The Florida Bar, and The proposed rule changes may also be published in the print edition of The Florida Bar News with the same deadline for comment submission as the website publication. Any person desiring to comment thereafter shall submit written comments to the supreme court in accordance with subdivision (b)(~~6~~5).

~~(3) After review of comments received and prior to the filing of a report by a committee, the board of governors shall consider the proposals and shall vote on each proposal to recommend acceptance, rejection, or amendment.~~

(34) The committee and the executive director of The Florida Bar shall will file the report of the proposed rule changes with the supreme court. The committee must provide The Florida Bar Board of Governors with a copy of the report on its filing with the supreme court. ~~The committee may amend its recommendations to coincide with the recommendations of the board of governors or may decline to do so or may amend its recommendations in another manner. Any such amendments also shall be reported to the supreme court.~~ The report and proposed rule changes must conform to the Guidelines for Rules Submissions approved by administrative order and posted on the websites of the supreme court and The Florida Bar. Consistent with the requirements that are fully set forth in the Guidelines, the report shall include:

(A)-(D) [No Change]

~~(E) a report of the action and voting record of the board of governors;~~

~~(F) any dissenting views of the committee and, if available, of the board; and~~

~~(G) an appendix containing all comments submitted to the committee, all relevant background documents, the proposed amendments in legislative format, and a two-column chart setting forth the proposed changes in legislative format in the left column and a brief summary of the explanation of each change given in the report in the right column.~~

The report and the proposed rule changes shall be filed with the supreme court in an electronic format approved by the supreme court.

(45) If oral argument is deemed necessary, the supreme court shall establish a date for oral argument on the proposals. Notice of the oral argument on the proposals and a copy of the proposals shall be furnished to the affected committee chair(s) and vice chair(s), the executive director and staff liaison of The Florida Bar, all members of the Judicial Management Council, the clerk

and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The clerk may provide the notice electronically. The recommendations or a resume of them shall be published on the websites of the supreme court and The Florida Bar and in *The Florida Bar News* before the oral argument or consideration of the proposals without oral argument. Notice of the oral argument, if scheduled, shall also be published on the website of the supreme court.

(56) Within the time allowed for comments set by the supreme court, any person may file comments concerning the proposals. All comments and other submissions by interested persons shall be filed with the clerk of the supreme court and served on the chair(s) of the appropriate rules committee, the Bar staff liaison, and on the proponent of the rule change if other than a member of the rules committee. The chair(s) of the rules committee and the executive director of The Florida Bar shall file a response to all comments within the time period set by the court. All comments and other submissions regarding the rule change proposals shall be filed in an approved electronic format with the supreme court. As soon as practicable after the date of filing, the clerk of the supreme court shall publish on the website of the supreme court all comments and the responses of the chair(s) of the rules committee that have been filed concerning the proposals. All requests or submissions by a rules committee made in connection with a pending rule change proposal shall be filed with the clerk of the supreme court and thereafter published by the clerk of the supreme court on the websites of the supreme court and The Florida Bar.

(67) Rules changes adopted by the court shall be made effective either July 1 of the year of their adoption or January 1 of the year following their adoption or on such other date as may be requested by the committee or set by the court. The supreme court may permit motions for rehearing to be filed on behalf of any person

who filed a comment, The Florida Bar, any bar association, and the affected committee.

(c) Rejected Proposals~~Minority Reports.~~ If a committee rejects a proposal, the proponent may submit the proposed rule to the board of governors and shall notify the chair(s) and vice chair(s) of the affected committee of the submission of the proposed rule to the board of governors. Minority reports of committees are allowed and may be submitted to both the board of governors and the supreme court.

(d) Amendments by Court. The supreme court, with or without notice, may change court rules, on its own motion, at any time without reference to a rules committee for recommendations. The rule changes must conform to the Rules Style Guide contained in the Guidelines for Rules Submissions approved by administrative order and posted on the websites of the supreme court and The Florida Bar. The change may become effective immediately or at a future time. In either event, the court shall give notice of and fix a date for further consideration of the change. Any person may file comments concerning the change, seeking its abrogation or a delay in the effective date, in accordance with the procedures set forth in subdivision (b)(65). The court may allow oral argument on the proposal or change. Notice of the oral argument, if scheduled, on the change and a copy of the change shall be furnished to the affected committee chair(s) and vice chair(s), the executive director and staff liaison of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The clerk may provide the notice electronically. Notice of the change shall be published on the websites of the supreme court and The Florida Bar, and in The Florida Bar News either before or after the change is adopted. Notice of the oral argument, if scheduled, shall also be published on the website of the supreme court.

(e) Expedited Proposals and Proposals in Response to Legislative Changes by Rules Committees. If, in the opinion of a committee, a proposal warrants expedited consideration or a rule amendment is necessary due to changes in legislation, ~~and the board of governors concurs,~~ proposals may be made to the supreme court using the committee's fast-track procedures. The report and proposed rule changes may be filed without prior publication for comment and must conform to the Guidelines for Rules Submissions approved by administrative order and posted on the websites of the supreme court and The Florida Bar. The rules committees' fast-track procedures shall be used to address legislative changes to ensure that ordinarily any resulting proposed rule amendments can be adopted by the court before the effective date of the legislation. If the court agrees that a proposal warrants expedited consideration or a rule change is necessary due to a legislative change, the court may publish the rule amendment for comment after adopting it or may set a time for oral argument or for consideration of the proposal without oral argument. Notice of the oral argument on the proposals, if scheduled before or after adoption, and a copy of the proposals shall be furnished to the affected committee chair(s) and vice chair(s), the executive director and the staff liaison of The Florida Bar, all members of the Judicial Management Council, the clerk and chief judge of each district court of appeal, the clerk and chief judge of each judicial circuit, the Speaker of the Florida House of Representatives, the President of the Florida Senate, the chairs of the House and Senate committees as designated by the Speaker and the President, and any person who has asked in writing filed with the clerk of the supreme court for a copy of the notice. The clerk may provide the notice electronically. Prior to or after their adoption, the recommendations or a resume of them shall be published on the websites of the supreme court and The Florida Bar, and in *The Florida Bar News*. Any person may file comments concerning the changes, in accordance with the procedures set forth in subdivision (b)(65). Notice of the oral argument, if scheduled, shall also be published on the website of the supreme court.

(f) Request by Court. The supreme court may refer a specific rules proposal or issue to a rules committee for consideration and may require the committee to report its recommendation ~~with the recommendations of the board of governors~~. All requests or submissions by a rules committee made in connection with a request under this subdivision shall be filed with or submitted to the clerk of the supreme court as provided in this subdivision.

(1) *Recommended Rule Changes.* A rule change recommended in response to a request under this subdivision shall be reported to the supreme court in accordance with subdivision (b), unless the court directs or the committee determines ~~and the board of governors agrees~~ that a proposed rule change warrants expedited consideration. If a recommended change warrants expedited consideration, the subdivision (e) procedures shall apply. A report filed under this subdivision shall state that it is filed in response to a request by the court under this subdivision.

(2) *No Action Recommendations.* If the court refers a matter to a rules committee for consideration only and does not direct the committee to propose a rule change, and after considering the matter referred the committee determines that no rule change is warranted, the committee shall submit a “no action report” to the clerk of the supreme court explaining its recommendation that no rule change is needed. A no action recommendation should not be included in a report proposing rule changes filed under any other subdivision of this rule. After the court considers the recommendation, the clerk shall notify the rules committee chair(s) and the executive director and the staff liaison of The Florida Bar whether any further action is required of the committee.

(g) Amendments to the Rules of General Practice and Judicial Administration.

(1) *Amendments Without Referral to Rules Committee.* Changes to the Rules of General Practice and Judicial Administration contained in Part II, State Court Administration, of

these rules, and rules 2.310, and 2.320, contained in Part III, Judicial Officers, generally will be considered and adopted by the supreme court without reference to or proposal from the Rules of General Practice and Judicial Administration Committee. The supreme court may amend rules under this subdivision at any time, with or without notice. If a change is made without notice, the court shall fix a date for future consideration of the change and the change shall be published on the websites of the supreme court and The Florida Bar, and in *The Florida Bar News*. Any person may file comments concerning the change, in accordance with the procedures set forth in subdivision (b)(65). The court may hear oral argument on the change. Notice of the oral argument on the change, if scheduled, and a copy of the change shall be provided in accordance with subdivision (d).

(2) [No Change]

(h) [No Change]

Committee Notes

[No Change]