

Supreme Court of Florida

No. SC19-2104

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

January 28, 2021

PER CURIAM.

The Court has for consideration comments filed in this case addressing the amendments to Florida Rule of Judicial Administration 2.140 (Amending Rules of Court) the Court adopted, on its own motion,¹ to allow The Florida Bar's rules committees to propose and the Court to adopt procedural rule changes in a more efficient, timely manner. *See In re Amendments to Florida Rule of Judicial Administration 2.140*, 289 So. 3d 1264 (Fla. 2020). The Court now further amends rule 2.140 as suggested in the comment filed by The Florida Bar's Rules of Judicial Administration (RJA Committee).²

1. *See* Fla. R. Jud. Admin. 2.140(d).

2. We have jurisdiction. *See* art. V, § 2(a), Fla. Const.

Background

As relevant here, in the February 6, 2020, opinion in this case, the Court amended rule 2.140 to do away with the set schedule for Bar rules committee reports and to allow the committees to file rules proposals with the Court whenever a committee determines rules changes are needed. *Id.* The amendments became effective June 1, 2020. *Id.* Because the amendments were not published for comment prior to their adoption, interested persons were given an opportunity to file comments on them with the Court. *Id.* at 1265. The Court specifically sought comments and any suggested additional amendments to rule 2.140 from the RJA Committee. *Id.* Two comments were filed supporting the Court's streamlining of the rulemaking process. One of the supportive comments urges further amendments to rule 2.140(a)(2), under which the Clerk of this Court refers rule changes suggested by the public to the appropriate Bar rules committee. The other supportive comment was filed by the RJA Committee and suggests several additional amendments to rule 2.140. The RJA Committee's suggested amendments were unanimously approved by the Executive Committee of the Board of Governors of The Florida Bar (Board).

After considering the comments and suggested rule amendments, the Court declines to further amend subdivision (a)(2) of rule 2.140, but adopts the additional amendments to several subdivisions of the rule suggested by the RJA Committee.

Amendments

First, as suggested by the RJA Committee, we remove the requirement from subdivision (b)(2) of rule 2.140 that a rules committee submit its proposals to the Board before the proposals are ready for the Board's vote under subdivision (b)(3) of the rule. As explained in the RJA Committee's comment, because a rules committee must publish its proposals for comment, under subdivision (b)(2), before finally approving them, the Board or any Board member will have an opportunity to comment on the published proposals. We also adopt the RJA Committee's suggested amendment to subdivision (b)(3), which clarifies that the Board considers and votes on a committee's proposals after the comments are reviewed and before the committee files its report with the Court. According to the RJA Committee's report, these changes will minimize duplication of review by the Board and the confusion that has been caused when a committee's proposals are submitted to the Board for comment only under subdivision (b)(2).

As previously amended, subdivision (b)(7) of rule 2.140 provides January 1 of the year following adoption as a standard effective date for rule changes and recognizes that the Court may make a rule change effective on such other date as may be requested by the committee or set by the Court. As suggested by the RJA Committee, we further amend subdivision (b)(7) to provide July 1 of the year of adoption as an additional standard effective date for rule changes.

Finally, we adopt the various grammatical and technical changes to rule 2.140 suggested by the RJA Committee.

Conclusion

Accordingly, the Florida Rules of Judicial Administration are amended as reflected in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The amendments shall become effective immediately upon the release of this opinion.

It is so ordered.

CANADY, C.J., and POLSTON, LABARGA, LAWSON, MUÑIZ, COURIEL, and GROSSHANS, JJ., concur.

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

Original Proceeding – Florida Rules of Judicial Administration

George N. Meros, Jr. and Tiffany A. Roddenberry of Holland & Knight LLP, Tallahassee, Florida, and William W. Large, on behalf of the Florida Justice Reform Institute, Tallahassee, Florida; and Michael Jeffrey Korn, Chair, Jacksonville, Florida, Josephine Gagliardi, Past Chair, Florida Rules of Judicial Administration Committee, Fort Myers, Florida, Joshua E. Doyle, Executive Director, and Krys Godwin, Staff Liaison, The Florida Bar, Tallahassee, Florida,

Responding with comments

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 reporting committee shall submit the proposed rule changes to the board of governors with the committee's final numerical voting record on each proposal. Contemporaneously with reporting proposed rule changes to the board of governors,~~ 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 published on the website of The Florida Bar and in *The Florida Bar News*. Any person desiring to comment upon proposed rule changes shall submit written comments to the appropriate committee chair(s) as provided in the notice. The committee shall consider any comments submitted ~~and thereafter report to the board of governors any revisions to the proposed rule changes. Contemporaneously with reporting any revisions to the board of governors, the committee's revised proposed rule~~ 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 published on the website of The Florida Bar and in ~~The Florida Bar~~ *The Florida Bar News*. Any person desiring to comment thereafter shall submit written comments to the supreme court in accordance with subdivision (b)(6).

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

(4) [No Change]

(5) 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~~ 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.

(6) [No Change]

(7) 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) - (d) [No Change]

(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)(6). Notice of the oral argument, if scheduled, shall also be published on the website of the supreme court.

(f) – (h) [No Change]

Committee Notes

[No Change]