

# Amendments to Florida Rules of Civil Procedure

EFFECTIVE JULY 1, 2024 & JANUARY 1, 2025

# Presenters and Acknowledgments



## Russell Landy

*Partner, Damian | Valori | Culmo*

Mr. Landy specializes in complex commercial litigation and receiverships and has significant experience navigating procedural matters in state and federal courts throughout Florida.

[rlandy@dvlip.com](mailto:rlandy@dvlip.com) | (305) 371-3960



# Amendments to Florida Rules of Civil Procedure

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The Florida Supreme Court has implemented significant amendments to the Rules of Civil Procedure that will affect civil litigation practice throughout the state. This presentation will deliver an in-depth analysis of recent changes to practice since the amendments, highlighting their practical impact on attorneys and litigants. Attendees will learn how the new rules affect litigation strategy, case management, and procedural compliance, ensuring they are prepared to effectively advise and represent clients under the updated framework.



# Overview of Amendment Decisions

4

## Supreme Court Opinions

Total number of amendment decisions issued by the Florida Supreme Court affecting civil procedure rules

10+

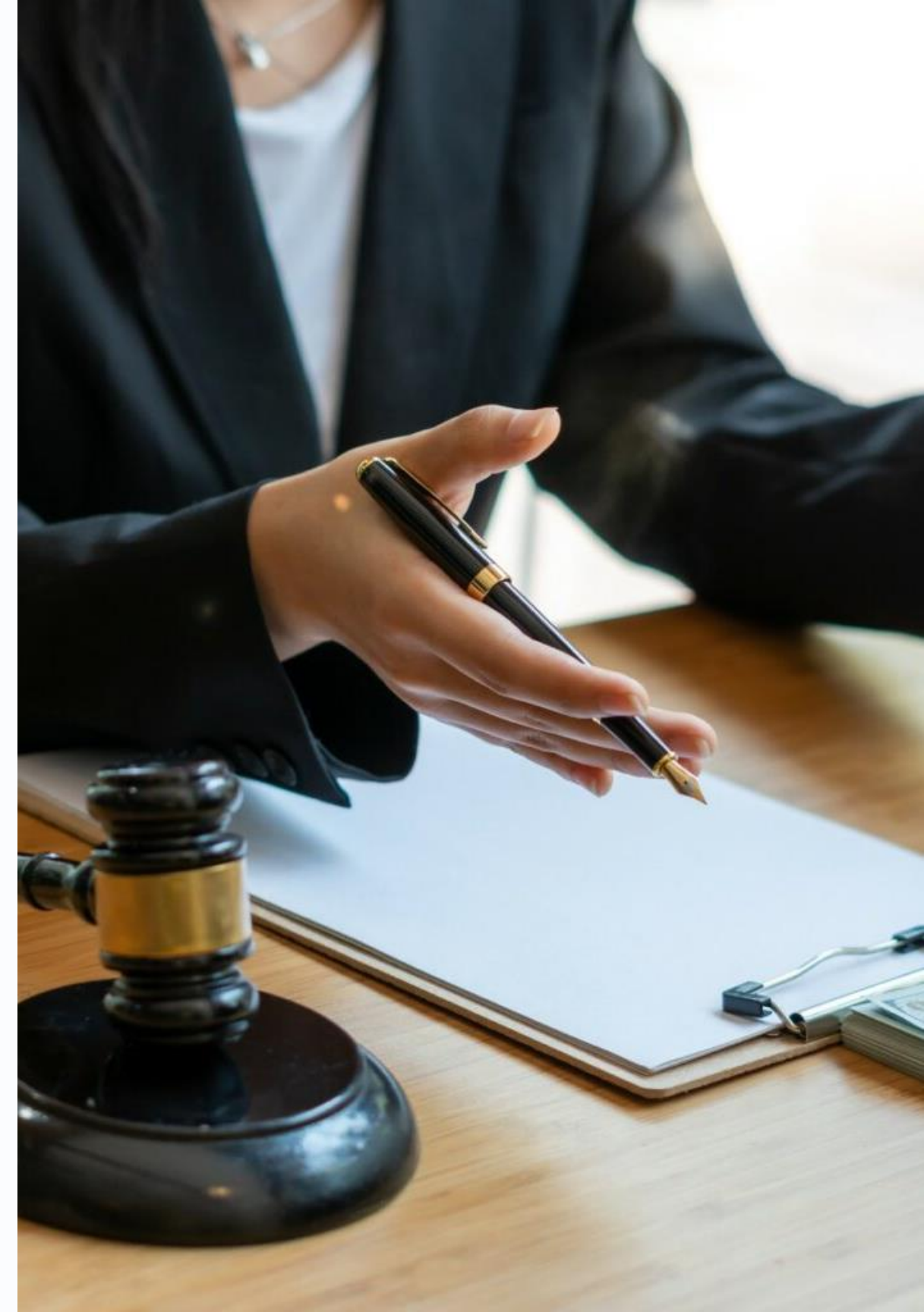
## Rules Affected

Number of civil procedure rules modified or created by these decisions

2

## Effective Dates

Separate implementation dates for different rule changes (July 1, 2024 and January 1, 2025)



# Three Amendments Decisions

# In re: Amendments to the Florida Rules of Civil Procedure, SC2022-1719, 2024 WL 2858716 (Fla. June 6, 2024)

EFFECTIVE JULY 1, 2024

## Rule 1.110(d) - Affirmative Defenses

Imposes new pleading requirements for affirmative defenses, requiring attorneys to provide a "short and plain statement of the ultimate facts" supporting each defense.

## Rule 1.820(h) - Arbitration Decisions

Revises procedures for rejecting non-binding arbitration decisions, clarifying that only the filing of a specific notice of rejection will be deemed a rejection of an arbitration decision.

## Forms 1.923(a), 1.923(b), and 1.947(b)

Updates to landlord-tenant forms to conform with recent statutory changes and ensure proper notice requirements are met in residential and non-residential eviction proceedings.

# In re: Amendments to the Florida Rules of Civil Procedure, SC2023-0962, 2024 WL 2341793 (Fla. May 23, 2024)

EFFECTIVE JANUARY 1, 2025

## Rule 1.200 - Case Management

Comprehensive revisions to pretrial procedure, including mandatory case management conferences and differentiated case tracks based on complexity.

## Rule 1.201 - Complex Litigation

Modified criteria for complex case designation and specialized management procedures for these matters.

## Rule 1.280 - Discovery

Updated general provisions governing discovery to align with case management protocols and encourage proportionality.

## Rules 1.440 & 1.460 - Trial Setting

Revised procedures for setting cases for trial and standards for motions to continue, with stricter requirements for postponements.

# In re: Amendments to the Florida Rules of Civil Procedure 1.510 and New Florida Rule of Civil Procedure 1.202, SC2024-0662, 2024 WL 2338905 (Fla. May 23, 2024)

EFFECTIVE JANUARY 1, 2025\*

## **New Rule 1.202** - Conferral Prior to Filing Motions

Establishes mandatory conferral obligations prior to filing virtually all motions in civil cases. Attorneys must certify good faith efforts to resolve issues without court intervention.

## **Rule 1.510** Revisions - Summary Judgment

Further refines the summary judgment standard previously aligned with the federal approach, with particular emphasis on procedural requirements and standards for determining genuine disputes of material fact.

## **\*Oral Argument – 11/7/24**

Note that oral argument on the summary judgment held on November 7, 2024, which resulted in further modifications.

December 5, 2024 Amendment



## Amended Rule 1.110(d):

“A pleading that sets forth an affirmative defense must contain a short and plain statement of the ultimate facts supporting the avoidance or affirmative defense.”

# Case Management Rule 1.200

# Exemptions to Requirement for Case Management under Rule 1.200

The extensively revised Rule 1.200, effective January 1, 2025, represents perhaps the most significant change to Florida civil procedure in decades. It institutes a comprehensive case management system similar to the federal model, with differentiated case tracks, mandatory conferences, and detailed scheduling orders. These changes will require attorneys to prepare more thoroughly for early case events and adhere strictly to court-imposed deadlines.

## 1.200(a) lists exemptions, including:

- Section 51.011 summary proceedings
- Section 45.075 expedited trials
- Small claims matters
- Eminent domain matters
- Enforcing arbitration awards
- an action or proceeding under chapters 731-736, 738, and 744, FS
- Extraordinary writs; Enforcing foreign judgments
- **Special division matters** (e.g., complex division)
- Others

# Amended Rule 1.200

## Rule 1.200: Rewritten to create new obligations

- **Deadline of 120 days or 30 days after service on last Defendant** to enter case management order.
- Actual or projected trial date (3 tracks)
- Strict enforcement of deadlines.
- Required to file motion to change track
  - Promptly after appearance of good cause
  - *Sua sponte*
- But “[p]arties may submit an agreed order to extend a deadline if the extension does not affect the ability to comply with the remaining dates” in the CMO.
- If extension may affect other CMO dates, “parties must seek an amendment” of the CMO.
- **Rule 1.200(e)(2)**: Once set (not merely projected), trial period can be changed only if requirements of the new version of Rule 1.460 are satisfied.

# Amended Rule 1.200

## Case Management Order

- (A) service of complaints;
- (B) service under extensions;
- (C) adding new parties;
- (D) completion of fact discovery;
- (E) completion of expert discovery;
- (F) filing and service of motions for summary judgment;
- (G) filing and resolution of all objections to pleadings;
- (H) filing and resolution of all pretrial motions;
- (I) completion of alternative dispute resolution.



# Amended Rule 1.200

- 1.200(e)(3): Motion to extend a deadline, amend a CMO, or alter a projected trial period must specify:
  - (a) basis of need for extension and when basis became known to movant; (b) whether motion is opposed; (c) specific new date requested and whether all parties agree to that date; (d) the action and specific dates for the action that will enable movant to meet the proposed new deadline / projected trial period.
- Rules 1.200(f), (g): Notices of Unavailability have no effect on case management deadlines. If a party can't meet a deadline, file an agreed order (if the extension does not affect other deadlines 1.200(e)(1)), ask to modify CMO, or set a CMC.

# Amended Rule 1.200

## ...and there's more

- **Rule 1.200(h):** If trial not reached, court must enter order setting new trial period as soon as practicable; order must reflect what further activity is and is not permitted.

# Amended Rule 1.200

## Rule 1.200(j) – Case Management Conferences

- Court or party may set CMC.
- If set by party, notice must identify specific issues to be addressed & list pending motions.
- Court may, with reasonable notice to the parties, hear all motions except SJ or evidentiary, even if parties have not requested.
- Any hearing may be converted to a CMC by agreement of the parties at time of hearing.
- At end of CMC, Court must set deadlines for any proposed orders arising out of the CMC.
- Sanctions for nonappearance at CMC.

- Case management orders already in effect on January 1, 2025, continue to govern pending actions.
- For actions commenced before January 1, 2025, and in which the court has not issued a case management order by that date, a case management order must be issued by April 4, 2025.

# Meet and Confer Rule 1.202



# Rule 1.202 – Conferral Prior to Filing Motions

## Scope of Application

- Requiring good faith conferral between counsel prior to filing.
- The **certificate of conferral** must appear above the signature block with specific allegations of conferral efforts.

## Exemptions & Sanctions

- Conferral NOT required for: **unrepresented litigants**, nor for motions extending service of process, default, injunctive relief, judgment on pleadings, summary judgment, motion to dismiss for failure to state a claim, to permit class action, involuntary dismissal, directed verdict and 1.530, enforcement of judgment, writs of possession...
- **Sanctions** may include denial without prejudice and penalties for purposeful evasion.

# Rule 1.201 – Complex Litigation



## Optional Hearings

Amendment allows (but does not require) hearings to determine whether a case should be designated as complex.



## Continuances

Provide that motions for trial continuance are governed by rule [1.460](#).



## Notification Requirements

Adds obligation for parties to "notify the court immediately if a case management conference or hearing time becomes unnecessary."



## Expedited Orders

Requires case management orders to be entered within ten days after the initial case management conference, accelerating procedural timelines.

# Discovery

# Initial Discovery Disclosures Requirements

## 1.280(a)(1): Initial Discovery Disclosures

- Without awaiting a discovery request, parties must disclose a specific list of items

## 1.280(a)(3): Disclosure Timing

- Requires initial disclosures within 60 days after service unless court orders otherwise

## 1.280(a)(4): Disclosure Basis

- Mandates disclosures based on reasonably available information; incomplete investigation is not an excuse

## Exemptions

- Rule 1.200(a)(2) provides identical exemptions as in [Rule 1.200\(a\)](#)

## 1.280(f): Disclosure Restrictions

- Prohibits seeking discovery before satisfying initial disclosure obligations, unless authorized by stipulation or court order

# Scope of Discovery; Proportionality

Rule 1.280 (c)(1): Party may obtain any non privileged matter

	<b>Non-Privileged</b> Only non-privileged matter is discoverable
	<b>Relevant</b> Must be relevant to the claims and defenses
	<b>Proportional to the Needs of the Case</b> Considering the importance of issues, amount in controversy, parties' relative access, and resources
	<b>Cost-Benefit Analysis</b> Discovery burden or expense must not outweigh likely benefit

*Commentary adopts almost all of **Federal Rule 26(b)(1)**; Rule to be construed and applied in accordance with federal standard.*



# Supportive Amendments to Discovery Rules

## Interrogatory Objections

[Rule 1.340\(a\)\(8\)](#) requires specific objection grounds with reasons

Untimely objections are waived absent good cause

## Production Objections

[Rules 1.350\(a\)\(4\)](#) and [\(5\)](#) mandate specific objection grounds with reasons

[Rule 1.350\(a\)\(6\)](#) requires stating whether responsive material is being withheld

## Partial Objections

Objections to part of a request must specify the objectionable portion

Must permit inspection of non-objectionable portions

## Sanctions

[Rule 1.380](#) expands sanctions for failure to respond or produce

Creates significant consequences for non-compliance

# Protective Orders and Supplementation

## 1.280 (d)(2): Protective Order Cost Allocation

Now explicitly authorizes courts to allocate expenses when issuing protective orders.

This provision gives courts greater flexibility in fashioning equitable protective orders and may deter unreasonable discovery requests by imposing financial consequences on the requesting party.

## 1.280 (g): Supplementing Responses

Creates an affirmative duty to supplement or correct discovery responses under specific circumstances:

- When new information becomes available
- When the responding party learns prior responses were incorrect
- When ordered by the court

Supplementation must be timely, particularly when the opposing party would not otherwise know about the new information.

# Signing Requirements and Certification

## Signature Requirement

Rule 1.280(k) mandates at least one attorney of record or self-represented litigant must sign all disclosures, requests, responses, and objections

## December 2024 Amendment

Violations without substantial justification will result in sanctions on signer, party, or both, including reasonable expenses and attorney's fees



## Certification Standard

Signature constitutes certification that the document is **complete, correct, consistent with rules and law, in good faith, and not unreasonable or unduly burdensome**

## Unsigned Documents

No party has a duty to act on an unsigned disclosure, request, response, or objection

# 1.380 – Sanctions For Failure to Make Discovery

## December Amendment 1.380(d)

If a party fails to provide information or identify a witness as required by rule 1.280(a) or (g), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the court, on motion and after giving an opportunity to be heard:

- (1) may order payment of the reasonable expenses, including attorneys' fees, caused by the failure;
- (2) may inform the jury of the party's failure; and
- (3) may impose other appropriate sanctions, including any of the orders listed in rule 1.380(b)(2)(A)–(b)(2)(D).

# Rule 1.440 – Setting Action For Trial



# 1.440 – Setting Action For Trial

(a)

Eliminates  
"At Issue" Requirement

"[T]he failure of the pleadings to be closed will not preclude the court from setting a case for trial."

(b)

Motion for Trial  
Instead of Notice For Trial

If a party wants trial set sooner than date in Case Management Order.

(d)

Defaulted  
Parties

Trial order must serve defaulted parties for unliquidated damages actions.

(c)

Trial Period  
Setting

- (1) If court finds action ready earlier than "trial ready" date in CMO, it may enter order setting for earlier trial date.
- (2) For cases with a **projected** trial period, no later than 45 days before the projected trial period, the court must enter an order fixing the trial period.
- (4) 30 days' notice unless agreed otherwise

# Rule 1.460 – Motions to Continue Trial

# Rule 1.460 – Motions To Continue Trial

## NEW RULE



### Standard for Granting

(a) Continuances are “**Disfavored and should be rarely granted.**” Only for good cause. Successive continuances “highly disfavored.” Parental leave subject to Florida Rule of General Practice and Judicial Administration 2.570.

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### Motion Requirements

(b) In writing (unless made at trial) and signed by moving party.

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### Timing Considerations

(c) Filed promptly after appearance of good cause. Failure to promptly request is basis to deny continuance.

# Rule 1.460(d) – Motion To Continue; Contents

## Basis and Timeline

Motion must specify the basis for continuance and when that basis became known to the movant.

## Position of Opposing Parties

The motion must clearly state whether it is opposed by other parties..

## Action Plan and Proposed Dates

Movant must outline specific actions and dates that will enable readiness for trial by the proposed date, along with the suggested new trial date and whether all parties consent to this timeline.

## Conferral Documentation

If prior conferral was not possible, the motion must explain dates and methods of attempted conferral efforts. Failure to document conferral attempts may result in sanctions.

# Rule 1.460 – Motions To Continue Trial

## 1.460(e): Judicial Responsibility

- Judges should avoid continuances by “us[ing] all appropriate methods to address the issues causing delay ....”

## 1.460(g): Dilatory Conduct

- If continuance based on “dilatory conduct” of an attorney or party, court may impose sanctions on attorney, party, or both.

## 1.460(f): Collaborative Rescheduling

- “When possible, continued trial dates must be set in collaboration with attorneys and self-represented litigants ....”

## 1.460(h): Documentation

- Court must state on the record or in written order the factual basis for ruling on motion to continue. Order granting must either set CMC or new trial period “for the earliest date practicable” and must reflect what further activity is and is not permitted.

# Summary Judgment

# Rule 1.510 – Summary Judgement



## (b) Service Deadlines

Consistent with any court ordered deadline.  
Set by Case Management Order



## (c)(5) Response and Factual Position

Response no later than 40 days from service of motion.



## (c)(6) Hearing Timing

Timing for Hearing. “10 days after the deadline for serving a response, unless the parties stipulate or the court orders otherwise.”

- The provisions of amended rule [1.510](#) and new rule [1.202](#) will govern motions filed on or after the effective date, but will not apply to motions filed before that date.



# 11<sup>th</sup> JUDICIAL CIRCUIT PREPARING FOR THE CHANGES?

Modification of standard Case Management Order for consistency with new rules. For example, adding deadlines for Initial Disclosures, Completion of Fact Discovery, and Completion of Expert Discovery; language about strict compliance; and indicating that parties may agree to extend a deadline if doing so doesn't affect other deadlines.



# Questions / Comments

[rlandy@dvlip.com](mailto:rlandy@dvlip.com)

(305) 371-3960