

Palm Beach County Bar Association's Town Hall Discussion on the Florida Rules of Civil Procedure Amendments

Presented by the Palm Beach County Bar Association's
Judicial Relations and Civil Practice Committees

Presenters: The Honorable G. Joseph Curley
The Honorable Sarah Shullman

Moderator: Bridget Berry, Esq., Greenberg Traurig



“People are going to have to understand that when they come to court...they need to be ready to go, if they’re not ready to do that, then they probably shouldn’t be filing a complaint.”

-Chief Justice Charles Canady

Key “New” Revisions to the Civil Rules

changes effective January 1, 2025

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- **Rule 1.200:** Certain cases are to be designated on a case management track.
- **Rule 1.202:** Creates a duty to confer before filing any non-dispositive motion and a detailed certification requirement.
- **Rule 1.280:** Added the “Federal” proportionality rule for discovery, a duty to provide initial disclosures and a duty to supplement discovery.
- **Rule 1.440:** “At issue” rule is gone. Cases get set for a trial period or date and don’t move absent a continuance.
- **Rule 1.460:** Continuances are “disfavored and should rarely be granted and then only upon good cause shown.”
- **Rule 1.510:** The deadline to file a motion for summary judgment set by the case management order, and the response is due no later than 60 days from service of the motion (and is no longer tied to the hearing date).

Rewrite of Rule 1.200 (Case Management):

Overview

(a) Applicability/exemptions



(b) Case track Assignment



(c) Changes in Track Assignment



(d) Case Management Order



(e) Extensions & Modifications



(j) Case Management Conferences



(k) Pretrial Conference

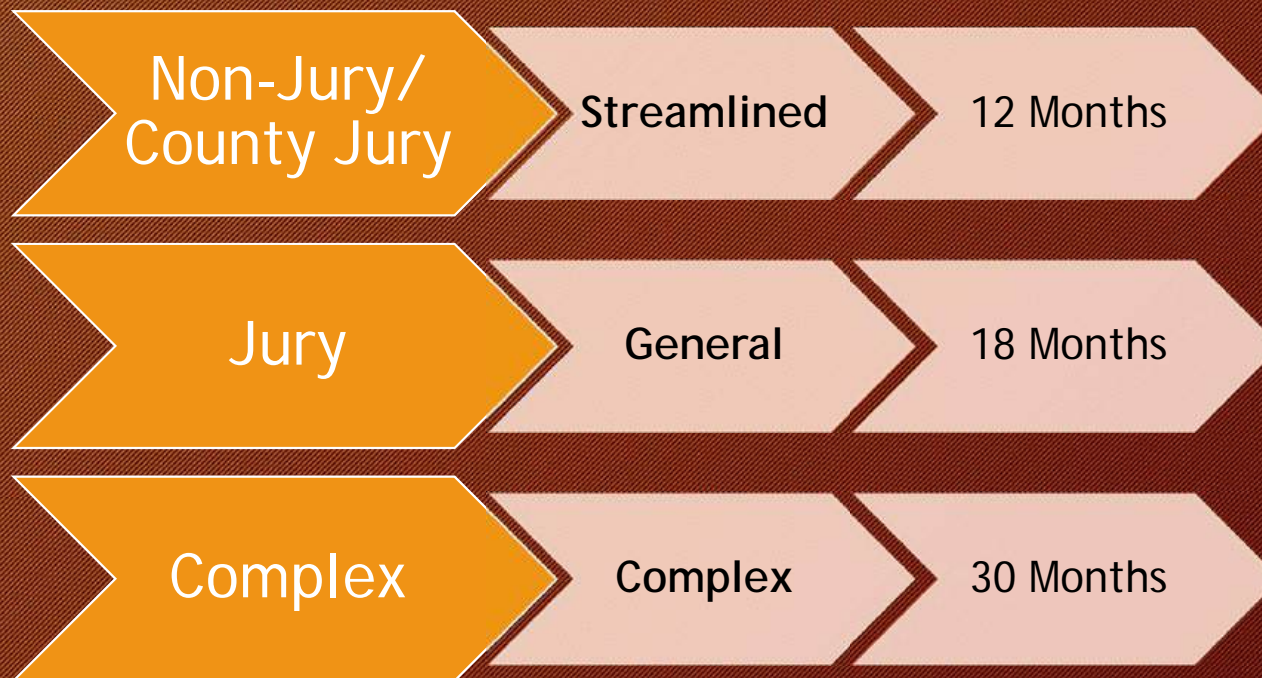
Rewrite of Rule
1.200 (Case
Management):

*(d) The Case
Management Order
(DCMO)*

- In streamlined and general cases, the court must issue a case management order that specifies the projected or actual trial period based on the case track assignment. 1.200(d)(2)
- The deadlines must be differentiated based on whether the case is streamlined or general and consistent with the time standards specified in Florida Rules of General Practice and Judicial Administration (i.e. 18 months time to disposition for jury cases and 12 months time to disposition for non-jury).

Case Track = Time to Disposition Standards

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IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION: "DIV"
CASE NO.: 50-20XX-CA-000000-XXXX-MB

Plaintiff/Petitioner

vs.

Defendant/Respondent.

**ORDER IMPLEMENTING DIFFERENTIATED CASE MANAGEMENT PLAN,
DESIGNATING CASE TO THE GENERAL TRACK,
ORDER SETTING CALENDAR CALL AND CASE MANAGEMENT CONFERENCE
AND DIRECTING PRETRIAL AND MEDIATION PROCEDURES
(DCMGJT)**

THIS MATTER is a Circuit Civil case calling for a jury trial. Accordingly, it is

ORDERED AND ADJUDGED that pursuant to Administrative Order 3.110 (as amended), this case is designated to the **GENERAL TRACK**. The deadlines established by this Order are to ensure the case is **disposed of within 18 months from the date of filing**. To that end, the following procedures and deadlines shall be strictly observed:

Rewrite of Rule 1.200 (Case Management): *(d) The Case Management Order (DCMO)*

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Service of
complaints

Service under
extensions

Adding new parties

Completion of fact
discovery

Completion of
expert discovery

Resolution of all
objections to
pleadings

Resolution of all
pretrial motions
(summary judgment
and Daubert)

Completion of
alternative dispute
resolution

	EVENTS	DESCRIPTION	COMPLETION DEADLINE
1.	Service of Complaint	See Part III.A, infra	120 days from filing; Service under extension is only by court order.
2.	Pleading Amendments/ Adding parties	See Part III.B, infra	180 days from filing
3.	Resolution of all motions/objections directed to the pleadings (<i>i.e. to dismiss or strike</i>) and pleadings closed *	See Part III.B, infra	250 days from filing
4.	Expert Witnesses and Compulsory Examinations	See Part III.D, infra	120 days before Calendar Call
5.	Witness & Exhibit Lists	See Part III.C, infra	120 days before Calendar Call
6.	Rebuttal Witness Lists	See Part III.E, infra	100 days before Calendar Call
7.	Filing Summary Judgment & <i>Daubert</i> Motions	See Part III.J, infra	90 days before Calendar Call
8.	Discovery Cut-Off	See Part III.H, infra	90 days before Calendar Call
9.	Pre-Trial Meet & Confer	See Part III.I, infra	30 days before Calendar Call
10.	Deposition Designations	See Part III.G, infra	20 days before Calendar Call

Rewrite of Rule 1.200 (Case Management)



Track change requests must be promptly filed 1.200(c)



Includes a detailed procedure for modifying the deadlines set forth in case management orders. 1.200(e)



Deadlines in CMOs "must be strictly enforced unless changed by court order."
1.200(e)(1)

Rewrite of Rule
1.200 (Case
Management):

*(e) Extensions &
Modifications*

- Parties 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 case management order.” 1.200(e)(1).

Rewrite of Rule
1.200 (Case
Management):

*(e) Extensions &
Modifications*

- Parties' requests for modifications of actual trial periods are governed by rule 1.460. 1.200(e)(2)

Rewrite of Rule 1.200 (Case Management):

(e) Extensions & Modifications

Any motion to extend a deadline, amend a case management order, or alter a projected trial period must specify:

- a) The basis of the need for the extension, including when the basis became known to the movant;
- b) Whether the motion is opposed;
- c) The specific date to which the movant is requesting the deadline or projected trial period to be extended, and whether that date is agreed by all parties; and
- d) The action and specific dates for the action that will enable the movant to meet the proposed new deadline or projected trial period, including, but not limited to, confirming the specific date any required participants such as third-party witnesses or experts are available.

1.200(e)(3)

Rewrite of Rule 1.200 (Case Management)

"If any party is unable to meet the deadlines set forth in the case management order for any reason, including due to the unavailability of hearing time, the affected party may promptly set a case management conference and alert the court. The notice of case management conference must identify the issues to be addressed in the case management conference." 1.200(g)

"If a trial is not reached during the trial period set by court order, the court must enter an order setting a new trial period that is as soon as practicable, given the needs of the case and resources of the court." 1.200(h)

Rewrite of Rule 1.200 (Case Management):

(j) The Case Management Conference



A “court may set case management conferences at any time on its own notice or on proper notice by a party.” But “if noticed by a party, the notice itself must identify the specific issues to be addressed during the case management conference and must also provide a list of all pending motions.” 1.200(j)



Court can address all scheduling issues.



With reasonable notice and available time, the court may elect to hear any pending motion (other than motions for summary judgment and motions requiring evidentiary hearings).

Rewrite of Rule 1.200 (Case Management)

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- (j)(5) Proposed orders -At the conclusion of the Case Management Conference, the Court must give deadlines to submit orders, and if parties disagree, must submit competing orders and explain objections.
- (j)(6) Failure to Appear. On failure of a party to attend a conference, the court may dismiss the action, strike the pleadings, limit proof or witnesses, or take any other appropriate action against a party failing to attend.

1.200(k) Pre-Trial Conference

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Jury Instructions

Length of Voir
Dire, Openings,
Closings

Timing of
Witnesses

Demonstrative
Aids

Exhibit Exchange

Court Reporter

Technology

Experts &
Daubert

Amendment to Rule 1.201 (Complex Litigation)

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Amended to provide that a court may (but is not required to) hold a hearing to determine whether a case should be designated as complex. Also amended to provide that "the parties must notify the court immediately if a case management conference or hearing time becomes unnecessary."

Amendment to Rule 1.201 (Complex Litigation)

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Amended to include that within 10 days after completion of the initial case management conference, the court must enter a case management order.

Rule 1.201

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(a) Complex Litigation Defined. At any time after all defendants have been served, and an appearance has been entered in response to the complaint by each party or a default entered, any party, or the court on its own motion, may move to declare an action complex. However, any party may move to designate an action complex before all defendants have been served subject to a showing to the court why service has not been made on all defendants. The court shall convene a hearing to determine whether the action requires the use of complex litigation procedures and enter an order within 10 days of the conclusion of the hearing.

1) A “complex action” is one that is likely to involve complicated legal or case management issues and that may require extensive judicial management to expedite the action, keep costs reasonable, or promote judicial efficiency.



RULE 1.202. CONFERRAL PRIOR TO FILING MOTIONS

(a) Duty. Before filing a motion, except for a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, or to involuntarily dismiss an action, the movant must confer with the opposing party in a good-faith effort to resolve the issues raised in the motion.

(b) Certificate of Conferral. When conferral is required, the movant must file with the motion a certificate of conferral that must be substantially in the following form:

“I certify that prior to filing this motion, I discussed the relief requested in this motion by [method of communication and date] with the opposing party and [the opposing party (agrees or disagrees) on the resolution of all or part of the motion] OR [the opposing party did not respond (describing with particularity all of the efforts undertaken to accomplish dialogue with the opposing party prior to filing the motion)].”

New Rule 1.202 (Conferral Prior to Filing Motions)

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a) The movant must confer with the opposing party prior to filing a non-dispositive motion and b) file a statement certifying that the movant has conferred with the opposing party and stating whether the opposing party agrees on the resolution of the motion.

New Rule 1.202 (Conferral Prior to Filing Motions)

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A certification that the opposing party was unavailable for a conference before filing the motion should describe all efforts undertaken to accomplish dialogue with the opposing party prior to filing the motion.

Allows trial judges to be better positioned to address problems between parties at a hearing. With constraints on hearing time, parties are expected to confer and attempt to resolve the issues raised in a motion before reserving hearing time.

Amendment to Rule 1.280 (General Provisions Governing Discovery)



1) The Court incorporates into the scope of discovery subdivision the proportionality language of Federal Rule of Civil Procedure 26(b)(1).



2) Rule 1.280 is further amended to require certain initial discovery disclosures "within 60 days after the service of the complaint or joinder, unless a different time is set by court order."



3) Also amended to impose a duty to supplement discovery.



Disclosure

Amendment to Rule 1.280 (General Provisions Governing Discovery)

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a) Amended to require a certain *initial* discovery disclosure within 60 days after the service of the complaint or joinder, unless a different time is set by court order.

Initial Discovery Disclosures (Rule 1.280)(a)

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a) The name and, if known, the address, telephone number, and e-mail address of each individual likely to have discoverable information - along with the subjects of that information - that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

Initial Discovery Disclosures (Rule 1.280)(a)

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b) A copy - or a description by category and location - of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control (or, if not in the disclosing party's possession, custody, or control, a description by category and location of such information) and may use to support its claims or defenses, unless the use would be solely for impeachment.

Initial Discovery Disclosures (Rule 1.280)(a)

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c) A computation for each category of damages claimed by the disclosing party and a copy of the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; provided that a party is not required to provide computations as to noneconomic damages, but the party must identify categories of damages claimed and provide supporting documents.

Initial Discovery Disclosures (Rule 1.280)(a)

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d) A copy of any insurance policy or agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Initial Discovery Disclosures (Rule 1.280)(a)

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(4) Basis for Initial Discovery Disclosure; Unacceptable Excuses; Objections. A party must make its initial discovery disclosures based on the information then reasonably available to it. A party is not excused from making its initial discovery disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's initial discovery disclosures or because another party has not made its initial discovery disclosures. A party who formally objects to providing certain information is not excused from making all other initial discovery disclosures required by this rule in a timely manner.

Proportionality



Amendment to Rule 1.280 (General Provisions Governing Discovery)

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Incorporates proportionality into the scope of discovery subdivision, the proportionality language of Federal Rule of Civil Procedure 26(b)(1).

(1) *In General.* Parties may obtain discovery regarding any nonprivileged matter, not privileged, that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

(See Federal Authority, Cases Attached)



Amendment to Rule 1.280 (General Provisions Governing Discovery)

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c) Amended to impose a duty to supplement discovery where disclosure or response is discovered to be incomplete or incorrect.

A party who has made a disclosure under this rule or who has responded to an interrogatory, a request for production, or a request for admission must supplement or correct its disclosure or response:

- (1) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or
- (2) as ordered by the court.

*“...Unlike fine wine,
litigation rarely gets
better with the
passage of time”*

*Wanda Dipaola
Stephen Rinko General
Partnership v. Beach
Terrace Ass'n, Inc.,
173 So. 3d 1014 (Fla.
2nd DCA 2015)*

RULE 1.440

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Eliminates the “at issue” requirement:

Previously, “An action is at issue after any motions directed to the last pleading served have been disposed of or, if no such motions are served, 20 days after service of the last pleading. The party entitled to serve motions directed to the last pleading may waive the right to do so by filing a notice for trial at any time after the last pleading is served.”

RULE 1.440

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Now, provides that:

“The failure of the pleadings to be closed will not preclude the court from setting a case for trial.”

- No Stalling



Amendment to Rule 1.440 (Setting Action for Trial)

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(b) For any case exempt from Rule 1.200 or party seeking earlier trial, party may serve a motion to set the action for trial (must be served on judge). (~~Deletes "notice" for trial~~)

(c)(1) Court - or party upon motion - may set for earlier trial period than specified in CMC order.

(c)(2) For any case subject to rule 1.200 with a projected trial period, the court must enter an order fixing the trial period no later than 45 days before any projected trial period.

Amendment to Rule 1.440 (Setting Action for Trial)

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(c)(3) For any case not subject to rule 1.200 or 1.201 - if the court finds the action ready to be set for trial, the court must enter an order fixing the trial period at least 30 days out, unless otherwise agreed.

e.g., (1) Declaratory relief, (2) Injunctions, (3) Evictions.
See 1.200(a).

Rewrite of Rule 1.460 (Motions to Continue Trial)

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- “Motions to continue trials are disfavored and should rarely be granted and then only upon good cause shown.”
- Requirements for a motion for trial continuance are included.
- Rule states that “if a continuance is granted based on the dilatory conduct of an attorney of named party, the court may impose sanctions.”

Rewrite of Rule 1.460 (Motions to Continue Trial)

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Motion must:

- Be in writing and signed by party
- Be promptly filed after good cause
- Certify counsel conferred about need to continue
- State the basis for need and when first known
- State if opposed
- State action and dates for action needed to be trial ready and include dates for third-party witnesses' or experts' availability
- Date for trial and if all agree to that
- Failure to confer may result in sanctions.

Rewrite of Rule 1.460 (Motions to Continue Trial)

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To avoid continuances, the court should use all appropriate methods to address delays—deposition use, remote appearances, resolve other judge conflicts, etc. 1.460(e)

Rewrite of Rule 1.460 (Motions to Continue Trial)

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When ruling on a motion to continue, the court must state, either on the record or in a written order, the factual basis for the ruling. An order granting must either set a new trial period or set a CMC. The new trial must be set for the earliest date practical. Must reflect what further activity will or will not be permitted. 1.460(h)

Summary Judgment Rule 1.510

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- Amended to “align Florida’s summary judgment standard with that of the federal courts and of the supermajority of states that have already adopted the federal summary judgment standard.” In re Amends. to Fla. Rule of Civ. Pro. 1.510, 309 So. 3d 192, 192 (Fla. 2020).
- We are persuaded that the best way for Florida to adopt the federal summary judgment standard is to adopt the text of the federal summary judgment rule itself. In re Amends. to Fla. Rule of Civ. Pro. 1.510, SC20-1490 (Fla. 2021).

Amendment to Rule 1.510 (Summary Judgment)

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Amended to tie the deadline to respond to a motion for summary judgment to the date of service of the motion rather than to the hearing date. In any event, response is due no later than 60 days after service of the motion for summary judgment. Ensures adherence to the deadlines set forth in the case management orders required under Rule 1.200.

Amendment to Rule 1.510 (Summary Judgment)

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The Supreme Court of Florida deleted the requirement that the motion be served at least 40 days before the hearing and replaced with the motion must be served consistent with the deadlines specified in the case management order.

Reminder: Rule 1.420(B)

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Don't Forget

Any party may move for dismissal of an action or of any claim against that party for failure of an adverse party to comply with these rules or any order of the court.