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Florida's Civil Procedure Rules: Attorneys Foresee More Settlements Amid Time Challenges

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The new year begins with changes to the Rules of Civil Procedure that took effect on Jan. 1.

Florida's trial courts manage more than two million civil case filings annually and to boost the resolution of civil cases, the Supreme Court established a workgroup in charge of reviewing a variety of measures and practices that could curtail cost and delay through process abuse.

And the court entered an opinion amending the Florida Rules of Civil Procedure requiring certain initial discovery disclosures, imposing a duty to supplement and requiring that discovery be proportional to the needs of the case.

“Many of the discovery issues which slowed case progress and wasted attorney fees and judicial time will be curtailed by initial disclosures of known evidence and witnesses,” said former Miami-Dade Circuit Judge Jennifer D. Bailey, now a partner with Bass Law. “Meet and confers have become ceremonial drive-bys with no real effort to discuss issues. The new rules change that.”



Bailey predicted that the new rules would free up hearing time for judges to decide truly contested matters. As a result, the approach of lawyers and litigants will have to change, moving away from the old approach of waiting for a trial date.

“Lawyers will need to plan out a schedule for taking depositions, particularly expert depositions, and block those dates out well in advance and assure that they and their experts are prepared and ready to go,” she said.

Bailey explained that while the new rules do not forbid continuances, they do establish quite clearly that failing to get a case ready on time for a trial date given to the parties a year or more in advance is no longer going to be good grounds for a continuance absent some emergent circumstance.

Manuel Garcia-Linares, a partner with Day Pitney, said that the Florida Supreme Court, in issuing the amendments, is becoming similar to the federal court system, where, when a case is filed, it starts, and there are initial disclosures on Rule 26.

“The Florida Supreme Court is telling the judges we want you to move cases as quickly as you can,” Garcia-Linares said. “The problem is that the judges don’t have time because of the amount of cases that they have. So sometimes it’s going to be hard for the lawyers to be able to comply with some of the deadlines that are going to be imposed.”

Nevertheless, Garcia-Linares is sure these changes will improve the court system. He predicted that the changes would make the system more uniform.

“The changes are that you’ve got to be prepared for all the case management conferences and from what we’re hearing from the judges, the deadlines they give you are going to be real deadlines,” he said. “And that’s where the concern from the bar and the lawyers lies. We understand we have to comply with the deadlines. But if the judge cannot give us hearing dates because they’re too busy, it’s going to be hard for us to comply with the deadlines.”



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[Eric Ostroff](#), the managing partner at Meland Budwick, said there is a good chance that parties will spend more time having their lawyers prepare for trial multiple times.

“I’m concerned that this new framework is not well suited to the realities of the state court system,” he said. “On the other hand, I think it is possible that these new rules will lead to more settlements because deadlines and trial dates often end up leading to settlements. It’ll certainly be interesting to see how it all plays out.”

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