

SUPREME COURT OF FLORIDA

IN RE: REPORT AND
RECOMMENDATIONS OF THE
WORKGROUP ON IMPROVED
RESOLUTION OF CIVIL CASES /

CASE NO. SC22-122

COMMENT OF WASHINGTON LEGAL FOUNDATION

Washington Legal Foundation is a nonprofit, public-interest law firm and policy center dedicated to defending the economic freedoms that are the bedrock of America's free-enterprise system. WLF supports efforts, in Florida and nationwide, to improve the resolution of civil cases and provides this comment to support specific discovery rule changes recommended by the International Association of Defense Counsel (IADC) to better accomplish the goals of the Workgroup on Improved Resolution of Civil Cases.

As the Workgroup's report recognizes, civil discovery in Florida is "an area needing extensive rule revision" to improve efficiency and reduce litigation costs. The IADC's April 20, 2022 recommended discovery rule changes, which include requiring proportionality and other more defined limits on discovery, propose to directly address significant sources of delay and high costs. These rule reforms would align Florida with other jurisdictions that have updated their civil

discovery rules in recent years to incorporate proportional discovery and other mainstream discovery rules. See Mark A. Behrens & Christopher E. Appel, [States Are Embracing Proportional Discovery, Moving Into Alignment With Federal Rules](#), Legal Opinion Letter 29:5 (Wash. Legal Found. July 17, 2020); see also John J. Jablonski, [Two Years In, New E-Discovery Rules Take Root, Albeit Slowly](#), Legal Backgrounder 33:6 (Wash. Legal Found. Apr. 20, 2018). The IADC’s recommendations would also bring Florida practice into closer alignment with federal rules, much like other recent rule changes adopted by the Court.

WLF has had a longstanding interest in discovery rule reform, particularly for proportionality. See [Public Comment of the Washington Legal Foundation to the Advisory Committee on Civil Rules Concerning Proposed Amendments to the Federal Rules of Civil Procedure](#) (Oct. 7, 2013), at 6 (“proportionality considerations are crucial in helping the court and the litigants to maintain a grounded, pragmatic perspective on the practical limits of discovery”). We remain convinced that proportionality and other reasonable discovery limits “provide a much-needed step toward decreasing the costs and delay of litigation for all parties.” Tony Rospert & Rob Ware,

Curbs For Costly Discovery?: Federal Rules Reform Aims At Electronic Document Burdens, Working Paper No. 186 (Wash. Legal Found. June 2014), at 15.

We appreciate the Workgroup's study of inefficiencies in Florida civil litigation. In our view though, specific discovery rule reforms, as recommended by the IADC, will better achieve the Workgroup's goals to curb inefficiencies and improve fairness. We respectfully urge the Court to consider adopting them.

Dated: May 2, 2022

Sincerely,

/s/ Cory L. Andrews

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CERTIFICATE OF COMPLIANCE

I certify that this comment was prepared in Bookman Old Style 14-point font and complies with the font requirements in Florida Appellate Rule of Procedure 9.045.

/s/ Cory L. Andrews
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CERTIFICATE OF SERVICE

I certify that on May 2, 2022, the foregoing was electronically filed via the Florida Courts E-Filing Portal and a copy was sent by first class U.S. Mail, postage prepaid, addressed to the following:

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