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Florida Supreme Court Amends Rule 1.280(f): Timing and Sequence of Discovery

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The Florida Supreme Court amended Florida Rule of Civil Procedure 1.280(f) (Timing and Sequence of Discovery) to resolve an ambiguity in the Rule that practitioners had been unreasonably using to thwart or delay the commencement of legitimate discovery on June 19, 2025. The amendment replaces the prior requirement that a party's initial disclosure obligations be "satisfied" before engaging in discovery with the requirement that such disclosures merely be "served on the other party."

What Does This Mean for You?

The Florida Bar's Civil Procedure Rules Committee observed a growing issue in litigation practice where some parties were refusing to respond to discovery requests by claiming that the opposing party's initial disclosures were not satisfactory, even when those disclosures had already been served. This created unnecessary delays and allowed litigants to take advantage of vague language in the rule to stall litigation and gain a strategic edge. The recent amendment to Rule 1.280(f) directly addresses this concern by clarifying that the right to seek discovery begins once a party has served its initial disclosures. It is no longer open to interpretation whether those disclosures are sufficient. This change promotes efficiency, fairness, and cooperation throughout the litigation process. By eliminating ambiguity, the amendment helps ensure that parties engage in discovery in a timely and orderly manner and reduces the potential for disputes based on procedural technicalities, which could later lead to motions for continuance based on a party's claim that it lacks necessary discovery.

Of course, if an adversary's initial disclosures are so woefully lacking in substance and compliance, the objecting party could – and should – raise the issue with the court for resolution. However, the Florida Supreme Court's clarification shows a lack of tolerance for gamesmanship and a directive to litigants to take their discovery obligations seriously. And, as discovery is generally considered a liberal enterprise, specious or highly technical objections remain disfavored.

Key Takeaways

The amended rule now makes clear that discovery may proceed once a party has served its initial disclosures, not when the opposing side deems those disclosures sufficient. This change eliminates an unfortunate delay tactic strategically employed by litigants to stonewall legitimate efforts at engaging in discovery and restores the rule's original purpose of promoting efficient litigation. Attorneys should not wait passively for disclosures to be perfected. If an opposing party has not yet served their disclosures, the proper and ethical course of action is to confer and cooperate, not to exploit the omission for strategic advantage. Courts expect litigants to work collaboratively to move cases forward, not to create procedural roadblocks which could lead to trial delays and further clog the court's docket.

While there may be limited circumstances where delaying discovery is necessary to protect a client's interest, the revised rule reinforces that discovery should not be used as leverage based on technicalities. Attorneys must strike a balance between zealous advocacy and representation and their duty to support the fair and

timely resolution of disputes. Additionally, if a party fails to serve its disclosures within 60 days of being served with the complaint, as required under Rule 1.280(a), the other (or non-receiving) party should consider objecting, seeking enforcement, or bringing the matter before the court.

Indeed, considering last year's enactment of Rule 1.202 (Duty to Confer), amended Rule 1.280(f) highlights the Supreme Court's mandate for trial courts to move cases forward expeditiously and not grant trial continuances absent exceptional circumstances. Ultimately, if a party fails to "satisfy" its initial disclosure obligations, there is a remedy available to the objecting party – that remedy, however, is not obstinance.

If you have questions about the new and amended rules and how this may affect your company, please reach out to David B. Levin or any member of Baker Donelson's Litigation Group.

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