

UPDATE-2005 Amendments to the Florida Rules of Civil Procedure  
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In 2005 the Florida Supreme Court made significant changes to the Florida Rules of Civil Procedure. For example under the new Rule 1.380, before filing a motion to compel discovery, counsel in Florida state court actions must now confer with opposing counsel to attempt to resolve any discovery disputes. This procedure was adopted from Federal Rule of Civil Procedure 37.

In order to enforce the amendment to Rule 1.380, the Florida Supreme Court has limited the remedies available to moving parties and could instead sanction a movant for failing to comply. Also, a moving party who fails to include a good-faith certification on a Rule 1.380 motion is not allowed to recover attorney's fees.

Under the new Rule 1.420 (e), after a ten (10) month period of inactivity notice must be given to the claimant granting sixty (60) days to conduct some form of record activity to keep the action alive. The former rule permitted the court to, *sua sponte*, involuntarily dismiss an action after one (1) year of inactivity without notice to the claimant.

The procedure for the selection of juries was also affected with the 2005 amendments. Potential jurors related within the 3<sup>rd</sup> degree to any person alleged to share liability in the pleadings can now be challenged for cause. The amendment allows challenges for cause based on a defendant's allegation of joint and several liability in accordance with the seminal case of *Fabre v. Marin*, 623 So.2d 1182 (Fla. 1993).

Also, amendments to Rule 1.510 now permit a court to rely on "all other materials as would be admitted into evidence" including general discovery documents when ruling on a summary judgment motion. However, all evidence to be considered by the court must be served along with the motion, ensuring proper notice and limiting surprises at a

subsequent hearing.

Florida lawyers should be fully aware of the substantive changes made to the rules of civil procedure as failure to comply could limit the recovery of sanctions or hinder counsel's efforts when moving for summary judgment. Adherence to the amended rules will assure that counsel's attempt to move an action toward trial will be efficient and effective as well as ensuring a successful result.