



73,263

THE FLORIDA BAR

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February 17, 1989

FILED

SID J. WHITE

FEB 20 1989

CLERK, SUPREME COURT

By _____
Deputy Clerk

The Honorable Raymond Ehrlich
Chief Justice, Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32399-1925

RE: Case #73,263 - Amendment to
Rule 1.442, Offer of Judgment

Dear Mr. Chief Justice Ehrlich:

On November 1, 1988, The Florida Bar filed a petition on behalf of the Civil Procedure Rules Committee to amend Rule 1.442, the Offer of Judgment rule, with the Supreme Court of Florida. At that time, we advised that the Board of Governors had agendaed the committee's proposed amendment for its November meeting and that we would report to the Court the Board's vote following that meeting. The Board was unable to agree on its position in November. President Liles appointed a study committee, chaired by William F. Blews, which reported back to the Board of Governors at its January 26, 1989 meeting.

After due consideration, the Board of Governors unanimously voted on the following position:

- 1) That the Board of Governors joins with the Civil Procedure Rules Committee in asking the Supreme Court of Florida to declare Florida Statutes 768.79 and 45.061 unconstitutional.
- 2) That the Board of Governors recommends to the Supreme Court of Florida that it amend Rule 1.442 to make it applicable to all parties and make no further changes regarding the offer of judgment procedure.
- 3) That the Board of Governors supports the recommendation of the Trial Lawyers Section that there be no sanctions other than costs provided for in the current rule.

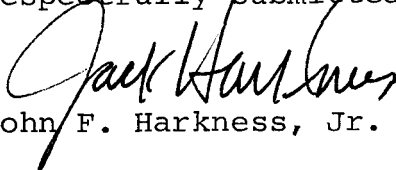
However, the Board agreed that in the event the Court is inclined to substantially alter the current rule, then the Board would ask that the Court consider the enclosed amendment drafted by the special committee chaired by Mr. Blews relating to sanctions.

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Please advise when oral argument has been set in this matter.

Respectfully submitted,


John F. Harkness, Jr.

Enclosure

cc: Mr. Bruce J. Berman
Mr. William F. Blews
Mr. John A. DeVault III
Mr. William A. Gillen
Mr. Sid J. White
Mr. Rutledge R. Liles
Mr. Stephen N. Zack
Mr. Gerry B. Rose