

The New Florida Electronic Discovery Rules Compared to Their Federal Counterparts

July 11, 2012

What Happened?

Seven of the Florida Rules of Civil Procedure have been amended to address Electronically Stored Information (“ESI”). The amendments are generally patterned on the 2006 amendments to the Federal Rules of Civil Procedure, but they are not identical in all respects to the federal rules. **What Rules Were Amended?** The amendments affect the following rules:

- 1.200 (case management conference).
- 1.201 (initial case management report and conference in “complex litigation”).
- 1.280 (limitations on discovery).
- 1.340 (option to produce business records to answer interrogatories).
- 1.350 (production of documents).
- 1.380 (discovery sanctions).
- 1.410 (subpoena for documents).

When Do They Take Effect? The rules do not contain a “grandfather” provision exempting litigation already pending. The Court’s opinion adopting the amendments simply states, “[t]hese amendments shall become effective September 1, 2012, at 12:02 a.m.” **Differences Between New Florida Rules and Federal Rules** The attached chart generally summarizes the differences between the new Florida rules and the existing federal rules governing ESI. The tables do not summarize how the new Florida rules differ from the prior Florida rules. The latter appears in track changes in the July 5, 2012, Florida Supreme Court’s decision adopting the amendments. A copy of the Court’s decision is

available at <http://www.floridasupremecourt.org/decisions/2012/sc11-1542.pdf>. View the new Florida Electronic Discovery Rules and the notable textual differences compared to their federal counterparts.

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