

**SUPREME COURT OF FLORIDA**

In Re: Amendments to Rules  
Regulating The Florida Bar –  
Miscellaneous

Case No. SC2022-1292

---

**COMMENT ON OCTOBER 2, 2023 REPORT  
OF THE FLORIDA BAR**

Pursuant to this Court’s Order dated August 4, 2023, the undersigned member of The Florida Bar files this comment in his individual capacity on the (corrected) Report filed by The Florida Bar on October 2, 2023 (the “Report”) regarding the status of implementation of the amended version of Rule Regulating The Florida Bar 5-1.1(g)(5)(B), as follows:

1. Prior to amended Rule 5-1.1(g)(5)(B), civil justice access programs in Florida struggled for years for adequate funding to assist Florida’s low income citizens. By 2014, Interest On Trust Account (IOTA) revenues had declined due to prevailing low interest rates to the point where The Florida Bar Foundation found it necessary to borrow \$6 million from The Florida Bar. The Foundation repaid that loan in full, with interest, but IOTA revenue remained low in comparison to what it had been in previous decades. The Board of

Governors proposed amended rule 5-1.1(g)(5)(B) to the Court for the specific purpose of generating greater revenue for access to justice initiatives.

2. As shown in The Florida Bar's Report, the amended rule has generated IOTA revenue of approximately \$61 million in just two and one-half months in 2023, more than six times the revenue for the entire year in 2021-22. Report, pp. 3-4. The success of the amended rule thus far in achieving the result intended by the Board of Governors is undeniable.

3. In its March 31, 2023 Motion for Rehearing, etc, the Florida Bankers' Association warned that the amended rule will have "a significant and negative impact on participating banks in Florida" which "will reverberate through Florida law firms by limiting their choice of participating banks . . ." Motion, p. 3. Yet The Florida Bar's Report shows that as of September 8, 2023, "[o]f the approximately 161 banks that held IOTA accounts when the amended rule went into effect, only 3 have stopped providing IOTA accounts, and 1 additional bank has indicated that it intends to stop providing IOTA accounts by November 2023. That is 2.5% of the participating banks." Report, p. 5, Ex. A, pp. 1, 4-5. As of July 2023, "nearly 92% of the total

aggregate balance of funds in Florida IOTA accounts yielded a compliant minimum interest rate” and nearly 80% of participating institutions were “substantially compliant with the new minimum interest rate. . . .” *Id.*, p. 2.

4. Plainly, the “reverberat[ion] through Florida law firms” and the limitation on law firms’ banking choices had not occurred as of September 8, 2023, while the improved financial support for civil justice access is underway, at least thus far. The undersigned therefore urges the Court to keep the amended rule in place, while requiring The Florida Bar to continue to file periodic implementation status reports so that the Court can monitor the benefits and any potential negative effects from the rule.

Dated this 30th day of October, 2023.

Respectfully Submitted

/s Michael G. Tanner  
Michael G. Tanner  
Florida Bar No. 261300  
1 Independent Drive, Suite 2300  
Jacksonville, Florida 32202  
Telephone: (904)354-1980  
Facsimile: (904)354-2170  
mtanner@gunster.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on the 30th day of October, 2023, via electronic transmission through the Florida courts e-filing portal to all counsel of record.

/s/ Michael G. Tanner  
Michael G. Tanner