

FLORIDA SUPREME COURT ADOPTS MORE LIBERAL FEDERAL SUMMARY JUDGMENT STANDARD

Last month the Florida Supreme Court left decades of precedent behind when it formally abandoned its state standard for evaluating a party's entitlement to summary judgment under Florida Rule of Civil Procedure 1.510 in favor of the more liberal federal standard. *In re Amendments to Florida Rule of Civil Procedure 1.510*, SC20-1490, 2020 WL 7778179 (Fla. Dec. 31, 2020). The procedure outlined in both the federalⁱ and stateⁱⁱ summary judgment rules contain similar wording and provide a summary procedure for obtaining judgment without a full trial.ⁱⁱⁱ Under both rules, the movant for summary judgment must establish the lack of a dispute as to a material fact or genuine issue and a legal basis for entry of judgment. As the Florida Supreme Court explained the rules are "materially indistinguishable" and share the same purpose of securing "the just, speedy, and inexpensive determination of every action."

Despite the rule's similarities, the Court noted federal and Florida jurisprudence differed significantly when applying the summary judgment standard established by their respective procedural rules. The Court discussed three primary differences, but noted its discussion was "not intended to limit the scope of the rule amendment..." Firstly, the Court pointed out that federal courts recognized the similarities between moving for a directed verdict and moving for summary judgment under Rule 56.^{iv} Under the federal standard, a movant who can prove that a claim is "so one-sided that one party must prevail as a matter of law" would be entitled to a directed verdict (at trial) or summary judgment (prior to trial). Florida jurisprudence rejected such a comparison requiring a heightened standard of proof on summary judgment.

Secondly, federal courts acknowledged a lack of proof on an essential element of a *non-movant's* claim could form the basis for a summary judgment for the movant.^v Said differently, there is no affirmative duty on the movant to negate an opponents claim if the non-movant fails to provide evidence to support his claim.^{vi} The Court elaborated that under this standard, the movant's burden on summary judgment will change depending on the material issues and which party carries the burden of proof on those issues. In comparison, Florida courts required "the moving party [to] conclusively...disprove the nonmovant's theory of the case in order to eliminate any issue of fact" and prevail on summary judgment.^{vii}

Thirdly, under the federal standard, summary judgment should not be granted if "the evidence is such that a reasonable jury could return a verdict for the nonmoving party."^{viii} The Court explained that when "opposing parties tell two different stories, one of which is blatantly contradicted by the record so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment." Florida courts on the other hand, "adopted an expansive understanding of what constitutes a genuine (i.e., triable) issue of material fact." Under that standard, Florida courts were required to deny

summary judgment if there was the “slightest doubt” of a factual issue created by “any competent evidence..., however credible or incredible, substantial or trivial.”

The Court reconciled the differences between the federal and state summary judgment standards by amending Florida’s Rule 1.510. The Court did not make any substantive changes to the text of Rule 1.510, but added a notation within subsection 1.510(c) indicating the rule would “be construed and applied in accordance with the federal summary judgment standard articulated in *Celotex...*, *Anderson...* and *Matsushita Elec. Indus...*”^{ix} The amendment aligns Florida courts with federal courts and 38 other U.S. jurisdictions which already adopted the federal standard for summary judgment.^x

The Court noted its intended purpose for amending Rule 1.510 was to further its goals of (1) improving “the fairness and efficiency of Florida’s civil justice system,” (2) relieving “parties from the expense and burden of meritless litigation,” and (3) saving “the work of juries for cases where there are real factual disputes that need resolution.” The amendment to Rule 1.510 will take effect May 1, 2021 and is sure to increase the number of summary judgment motions by both plaintiffs and defendants. Since there is a plethora of precedent applying the federal summary judgment standard, the amendments should be easily adopted and applied by Florida courts and promptly accomplish the Court’s stated goals.

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1. Last month the Florida Supreme Court left decades of precedent behind when it formally abandoned its state standard for evaluating a party’s entitlement to summary judgment under Florida Rule of Civil Procedure 1.510 in favor of the more liberal federal standard. *In re Amendments to Florida Rule of Civil Procedure 1.510*, SC20-1490, 2020 WL 7778179 (Fla. Dec. 31, 2020). The procedure outlined in both the federal and state summary judgment rules contain similar wording and provide a summary procedure for obtaining judgment without a full trial. Both rules share the same purpose of securing “the just, speedy, and inexpensive determination of every action.”
2. Despite the rule’s similarities, the Court noted federal and Florida jurisprudence differed significantly when applying the summary judgment standard established by their respective procedural rules. With the amendment to rule 1.510 (effective May 1, 2021), Florida courts will be required to (1) evaluate motions for summary judgment and motions for directed verdict under the same standard, (2) grant summary judgment to the movant if the non-movant fails to support its claims with evidence, eliminating Florida’s requirement that each claim of the non-movant be disproved regardless of evidentiary support, and (3) grant summary judgment if no reasonable jury could interpret the evidence to support a claim for the non-movant.
3. The Court noted its intended purpose for amending Rule 1.510 was to further its goals of (1) improving “the fairness and efficiency of Florida’s civil justice system,” (2) relieving

“parties from the expense and burden of meritless litigation,” and (3) saving “the work of juries for cases where there are real factual disputes that need resolution.” Since there is a plethora of precedent applying the federal summary judgment standard, the amendments should be easily adopted and applied by Florida courts and promptly accomplish the Court’s stated goals.

ⁱ Federal Rules Civil Procedure 56 (“Rule 56”).

ⁱⁱ Florida Rules of Civil Procedure 1.510 (“Rule 1.510”).

ⁱⁱⁱ *In re Amendments to Florida Rule of Civil Procedure 1.510*, SC20-1490, at *1. All references and citations are to this cite unless indicated otherwise.

^{iv} See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986).

^v *In re Amendments to Florida Rule of Civil Procedure 1.510*, SC20-1490, at *2 (*emphasis provided*).

^{vi} See *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

^{vii} *Id.*, at *1 quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

^{viii} *In re Amendments to Florida Rule of Civil Procedure 1.510*, SC20-1490, at *2. References and citations that follow are to this cite unless indicated otherwise. See also *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 585 (1986)

^{ix} *In re Amendments to Florida Rule of Civil Procedure 1.510*, SC20-1490, at *4.

^x *In re Amendments to Florida Rule of Civil Procedure 1.510*, SC20-1490, at *1.