

2022-013 Supreme Court Rule 51

Subcommittee Report

Date: 11/30/2022

Subcommittee: Justice Patrick E. Donovan, Hon. Michael Garner, Attorney Abigail Albee

The proposed amendments to Supreme Court Rule 51 are intended to remove redundant and unnecessary language in an effort to clarify and streamline the Court's rulemaking and amendment process. For example, language in Rule 51(d)(2)(B) has been stricken because it imposes obligations that appear to be beyond the Committee's mission or capacity. Because proposed rule amendments are posted on the Judicial Branch website, the Advisory Committee should not be tasked with the obligation to "identify, and solicit comment from, those who are likely to be most affected by, or interested in a suggested rule or rule amendment." Posting the proposed amendments and invitations for comment on the website ensures that members of the bar and public will be notified as to any proposed rule or rule amendment and that the rulemaking process remains transparent.

In addition, the formality of distributing copies of proposed rules or rule amendments together with an invitation for comments to legislative leaders is unnecessary given that members of the legislature are, and will remain, standing members of the Advisory Committee. Regardless, members of the committee cannot recall receiving comments from these parties in recent memory. Accordingly, the proposed amendment seeks to reduce the administrative resources needed to comply with the current mandate.

Finally, the proposed amendments enhance the current rule docketing process employed by the Court for seeking and accepting comments on the Court's website.