

**IN THE SUPREME COURT OF FLORIDA**

In Re: Amendments to Rules Regulating the Florida Bar Re: Chapter 11 Task Force,  
Case No. 03-122

To The Florida Supreme Court:

My name is Janine L. Peress and I am an Assistant State Attorney presently working in the State Attorney's Office in Miami-Dade County. I am sending these comments in objection to changes proposed to Rule 11-1.9 (c) Termination of Certification.

As you are aware, Chapter 11 in its present form allows qualified law school graduates to serve as Certified Legal Interns for twelve (12) months from the date of graduation. The proposed rule change would terminate certification if the CLI failed "any portion of the Florida bar examination". The practical impact of the existing rule is that most graduates are able to maintain their CLI status even if they fail the Florida Bar on their first try.

I graduated from law school in New York. I took the July 2003 bar exam and started working as a post-graduate CLI in the Miami-Dade County State Attorney's Office on August 11, 2003. The sole purpose for my move to Miami from New York is because of the great opportunity that employment with the Miami-Dade State Attorney's Office would afford me. As an out of state law student with no financial support or ties to Miami, one of the reasons I applied and ultimately accepted this employment was the fact that I would have been able to maintain employment in the event that I did not pass the bar on the first try. In fact, when I was given the offer of employment with the Miami-Dade State Attorney's Office, I was already studying for the NY Bar. I had three weeks before the bar exam to switch my course of study and take the Florida Bar. I would not have accepted employment had I known that I would have been relieved of employment if I failed the Florida Bar on the first try. Fortunately, I passed the bar the first time. However, there are several excellent attorneys that I started with that did not, and it would have been a shame to lose them for failing the Florida Bar on their first try.

In the interim, the people that did not pass on the first try received a great deal of training and experience in criminal prosecution. Our office provided extensive training to the new hires during our first year. They worked right alongside myself and my colleagues who had passed the bar. They did everything sworn attorneys did (called the daily arraignment and trial calendars, interviewed police officers and other witnesses, selected juries, tried bench and jury trials, examined and cross-examined expert witnesses, conducted bond hearings, handled evidentiary motion hearings, researched and wrote appeals from misdemeanor court, and conducted oral arguments on such appeals) and learned a great deal about criminal law, discovery rules, the rules of criminal procedure. They would not have had the benefit of such excellent, practical, hands-on experience if the proposed rule had been in effect when they graduated. The impact of the rule would have de-railed their fledgling legal career approximately one month after it began.

In addition to the impact that this proposed rule would have had on my legal career had I not passed the bar on the first attempt, it would have been devastating financially. In connection with accepting the offer to work in Miami-Dade County I was required to re-locate. I moved down, found a place to live, entered into a Lease Agreement, and incurred all of the attendant expenses to moving into a new place (first month's/last month's rent, security deposits for dwellings, utility deposits, etc.). I took out a loan to be able to move to Miami. These expenses were on top of all my existing debt from college and law school. If I had lost my job (and monthly salary) within a month of moving to South Florida, incurring these expenses **and** starting my new job I would have been in dire straits. As previously stated, the fact that the present rule would have allowed me to keep my job, my salary and to gain invaluable experience would have been a benefit to the office, the community and me.

In comparing the proposed rule to the existing rule governing Certified Legal Interns who are still in law school I must make several observations. Law students have not studied for the bar, taken the bar, nor completed their law school education. Yet, the rules allow them to "practice" as if they are lawyers. If the proposed rule is changed, then what we are saying is that a law student who has taken the requisite courses and is working as a certified legal intern **while in law school** is more qualified to work in this capacity than a law school graduate is. Most respectfully, I would submit that law school graduates are much more qualified than a CLI who is still in law school.

Further, I understand that there is also some concern that other applicants who fail the bar exam are not allowed to practice in court. I would submit that there is a distinct difference between post-graduate CLIs and the applicants who fail the Bar and cannot practice. Post-graduate CLIs - by virtue of the fact that we have completed clinical programs and received specialized training - are more qualified to be in court than those who have not participated in these programs. As such, our actions are not doing anything to harm the public.

Most of us choose to work in these offices and represent the State because of a desire to help protect society and give back to our communities. As stated in Rule 11-1.1, the "bench and bar are primarily responsible for providing competent legal services for all persons". To me, "all persons" also includes the State of Florida. Our charging documents, our Informations and Indictments, all indicate that crimes are committed "against the peace and dignity of the State of Florida". As prosecutors and as public servants we represent the State of Florida and its people. This state also deserves competent legal services. One way to assist in providing these competent legal services is to leave Rule 11-1.9 (c) in its present form. The result will be an office with prosecutors who are more knowledgeable and more experienced. These results will inure to the benefit of the bench, the bar and the residents of this great state. Accordingly, I ask you to not change the Rule.

Respectfully submitted,

KATHERINE FERNANDEZ RUNDLE  
STATE ATTORNEY

By:

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Assistant State Attorney (or CLI)  
Florida Bar #  
E.R. Graham Building  
1350 N.W. 12th Avenue  
Miami, Florida 33136-2111  
(305) 547-0100

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and exact copy of the above comment was served on John F. Harkness, Jr., Executive Director Of the Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300 and William P. White III, Chair, Chapter 11 Task Force, 25 North Market Street, Suite 200, Jacksonville, FL 32202-2802, and electronically submitted via e-mail on this \_\_\_\_ day of September, 2005.

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Assistant State Attorney