

By Senator Gaetz

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1 A bill to be entitled

2 An act relating to appellate procedure; creating s.
3 59.075, F.S.; providing a right of appeal from an order
4 denying a motion for summary judgment; providing for
5 simultaneous jurisdiction by the trial and appellate
6 courts; requiring the trial court to issue a written order
7 when denying a motion for summary judgment; requesting the
8 Supreme Court to adopt rules; providing an effective date.
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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Section 59.075, Florida Statutes, is created to
13 read:

14 Section 59.075, Florida Statutes, is created to read:

15 59.075 Appeal from denial of summary judgment.--Upon
16 application made within the time and in the manner provided by
17 the Florida Rules of Appellate Procedure, a party may appeal an
18 order of a trial court in a civil action which denies a motion
19 for summary judgment if the motion was made upon proper notice.

20 (1) The trial court and the appellate court shall maintain
21 simultaneous jurisdiction over the matter until the appellate
22 court issues an order to show cause to appellee, at which time
23 the trial court shall lose jurisdiction pending disposition of
24 the appeal.

25 (2) The trial court shall issue a written order denying a
26 motion for summary judgment which states with specificity the
27 legal basis for the denial and enumerates the specific disputed
28 facts deemed material to the trial court.

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29 Section 2. The Legislature requests that the Supreme Court
30 adopt rules providing:

31 (1) For the submission of evidence into the record of the
32 trial court in support of or opposition to the motion for summary
33 judgment;

34 (2) For the matter to be transmitted to the appellate court
35 solely on the basis of the summary judgment motion;

36 (3) For the appellant to submit a brief in support of the
37 appeal which addresses matters overlooked or misapplied by the
38 trial court but does not reargue matters discussed in the trial
39 court order; and

40 (4) For the party opposing the appeal not to submit a
41 responsive brief until the appellate court enters an order to
42 show cause after determining that the appeal presents a prima
43 facie case for relief.

44 Section 3. This act shall take effect July 1, 2008, and
45 applies to any order denying summary judgment which is entered on
46 or after that date.