

Supreme Court of Florida

ORIGINAL

No. 79,613

IN RE: AMENDMENTS TO THE FLORIDA RULES
OF CIVIL PROCEDURE

[July 16, 1992]

PER CURIAM.

The Civil Procedure Rules Committee of The Florida Bar has submitted its quadrennial report of proposed changes in the Florida Rules of Civil Procedure. After full consideration of the recommendations of the Civil Rules Committee, the action of the Board of Governors, and the comments of interested persons, we amend the rules as set forth in the Appendix.¹ While we have

¹ We have jurisdiction pursuant to article V, section 2(a), Florida Constitution.

adopted in large part the committee's recommendations, we have modified the proposed rules where we have deemed necessary. At this time we do not accept proposed rule 1.070(j) and proposed form 1.902(c) (service by mail); the proposed amendments to rules 1.490 (masters), 1.491 (child support enforcement), and 1.630 (extraordinary remedies); or the committee's proposal to move rules 1.700-1.830, Rules Common to Mediation and Arbitration, to the Rules of Judicial Administration. We delete rule 1.442 pursuant to this Court's opinion in Timmons v. Combs, No. 78,272 (Fla. July 9, 1992).

A brief explanation of additional substantive changes to the rules follows:

Subdivisions (b) and (f) of rule 1.080 are amended to allow service of pleadings and papers by facsimile (fax).

Subdivision (a) of rule 1.200 is amended to allow a party to set a case management conference in the same manner as a party may set a hearing on a motion. Subdivision (c) of the same rule is amended to remove the mandatory language and make the notice requirement for a case management conference the same as that for a hearing on a motion, i.e., reasonable notice.

Subdivision (b)(4)(D) of rule 1.310, Depositions Upon Oral Examination, is amended to clarify an ambiguity in whether the cost of the videotape copy is to be borne by the party requesting the videotaping or by the party requesting the copy. The party requesting the copy must bear the cost of that copy.

Rule 1.400, Publication of Deposition, is repealed to conform with the practice under rule 1.310(f)(3) of not filing depositions as a routine matter.

Subdivision (f) of rule 1.420, Dismissal of Actions, is amended to provide for automatic dissolution of lis pendens on claims that are settled even though the entire action may not have been dismissed.

Subdivision (g)(2) of rule 1.431, Trial Jury, is amended to minimize the inequity in numbers of peremptory challenges allowed in selecting alternate jurors in actions with multiple parties.

Subdivision (c) of rule 1.510, Summary Judgment, is amended to require timely service of opposing affidavits, whether by mail or by delivery, before the day of the hearing on a motion for summary judgment.

In rule 1.530(e), Motions for New Trial and Rehearing; Amendments to Judgments, the reference to assignments of error is eliminated to conform to amendments in the Florida Rules of Appellate Procedure.

In rule 1.540(b), Relief from Judgment, Decrees, or Orders, subdivision (b) is amended to remove the 1-year limitation for a motion based on fraud in financial affidavits used in marital cases.

In rule 1.611, the title is changed from Dissolution of Marriage (Divorce) to Marital and Post-Marital Proceedings. Subdivision (a) is reworded to explain when and how a financial affidavit must be filed.

Rule 1.612, Termination of Pregnancies of Unmarried Minors, is deleted because the related parental consent statute was declared unconstitutional in In re T.W., 551 So. 2d 1186 (Fla. 1989).

In subdivision (b) of form 1.902, Summons, the title is amended to eliminate confusion by the sheriffs in effecting service.

Form 1.907(b), Garnishment, is added to effectuate section 77.0305, Florida Statutes (1991). It provides for a continuing writ of garnishment against salary or wages.

Form 1.931, Jurisdictional Statement--Law; Actions for Damages, is repealed because of the inability to ensure the form's correctness at any given time because of statutory changes in the courts' jurisdictional limits.

Subdivision (b) of form 1.988, Judgment After Default, is amended to clarify that post-judgment interest only applies to the total of the principal, court costs, and attorneys' fees, if applicable.

Standard Interrogatories, Form 7 (Marriage Dissolution--Interrogatories to Party), is extensively modified at the request of the Family Law Section of The Florida Bar.

The appended amended and new provisions of the Florida Rules of Civil Procedure, including new and amended forms, will become effective at midnight on January 1, 1993. Deletions are indicated by the use of struck-through type; new language is indicated by underscoring. Committee comments are included for

explanation and guidance only and are not adopted as an official part of the rules.

It is so ordered.

BARKETT, C.J. and OVERTON, McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE RULES.

Original Proceeding - Florida Rules of Civil Procedure

Benjamin H. Hill, III, President, Tampa, Florida; Alan T. Dimond, President-elect, Miami, Florida; and John F. Harkness, Jr., Executive Director, Tallahassee, Florida, on behalf of The Florida Bar; and Clifford L. Somers, Chair, Civil Procedure Rules Committee, Tampa, Florida,

for Petitioner

Honorable Richard Yale Feder, Circuit Judge, Eleventh Judicial Circuit, Miami, Florida; Honorable John L. Phillips, Circuit Judge, Fifteenth Judicial Circuit, West Palm Beach, Florida; Henry P. Trawick, Jr. of Trawick, Hammersley & Valentine, P.A., Sarasota, Florida; and Anthony C. Musto, Chair, Florida Rules of Judicial Administration Committee, Coral Gables, Florida,

Responding