

IN THE SUPREME COURT OF FLORIDA

FILED

SID J. WHITE

MAR 28 1984

CLERK, SUPREME COURT.

By _____
Chief Deputy Clerk

In Re:)
)
AMENDMENTS TO FLORIDA RULES)
OF PROBATE AND GUARDIANSHIP)
PROCEDURE)
_____)

PETITION OF THE PROBATE AND GUARDIANSHIP RULES
COMMITTEE SUBMITTING PROPOSED AMENDMENTS TO
PROBATE AND GUARDIANSHIP RULES OF COURT

The Probate and Guardianship Rules Committee, in accordance with the procedures established by this Court in Rule 2.130(c), Florida Rules of Judicial Administration, submits its proposed changes, additions and deletions in a separate volume.

AUTHORITY

Florida Rules of Judicial Administration 2.130 established procedure for submission of proposed amendments to all rules of court.

PROCEDURE FOLLOWED

The Florida Bar appointed its committee pursuant to Fla. R. Jud. Admin. 2.130(b)(3) and (b)(4) each year since the last quadrennial report since 1980. The Real Property, Probate and Trust Law Section of the Florida Bar also appointed a committee on Probate and Guardianship Rules.

These two committees have met jointly over the past four years and the recommendations are those of the joint committee. In certain circumstances amendments were deemed necessary because of changes in statutory procedures and causes of action. In some circumstances amendments were deemed necessary because of changes brought about by court decisions. In some instances proposed amendments or additions were submitted by interested members of the Bar and members of the judiciary.

Procedures for consideration of all proposed amendments were adopted by the committees. The procedures allowed for all interested parties to be heard and for wide input of proposed amendments. Amendments proposed by the Committee required consideration and affirmative approval by the full committee on two

separate votes, first on approval of concept and second, on final approval of the wording of the proposal by a majority vote of those present of the full committee at two separate meetings except by unanimous consent at any one meeting where there is not less than one-third of the entire committee present.

All proposed amendments were then submitted for consideration to the Board of Governors of The Florida Bar and the Executive Council of the Real Property Section of The Florida Bar. In each case, the Board of Governors and the Executive Council joined unanimously in the recommendation of the committee.

FORM OF SUBMISSION

Accompanying the Petition (in nine copies) are the proposed amendments (in nine copies) and a brief in support of the proposed amendments (in nine copies). The proposed amendments are presented in a three column format. In the left column the rule as presently existing is set forth in full. In the center column the proposed amendment to the rule in "legislative format" is presented. This format calls for the striking through of those words or phrases which are being eliminated by the amendment and the underlining of those words or phrases which are being added by the amendment. In situations in which there is a substantial rewording of the rule, the "legislative format" is not followed. In the third column appears Committee Note, Rule History, Statutory Reference and Rule Reference. "Committee Note" is intended as a brief explanation of the rule. The second portion entitled "Rule History" is intended as a brief summary of the changes in the rule. The third portion "Statutory Reference" is reference to statutes where the rule could be applicable. The fourth portion "Rule Reference" is reference to other Probate or Guardianship rules that could be applicable. It is intended that these be printed with the rule. The third and fourth portions were intended to bring together those rules and statutes upon which the rule would affect and in the event the references are inaccurate or incomplete, they could be corrected separately from a change to the rule. It is

further intended the committee notes are informal notes of the committee intended to help the practitioner and not an intrinsic part of the rule.

The committee respectfully requests the court to consider authorizing the committee to correct the committee notes and references separately from any rule changes.

REQUEST FOR ORAL ARGUMENT

This committee requests this Court to set these proposed amendments for oral argument at a time convenient to the Court.

NOTIFICATION OF THE BAR


Between the time of the consideration of these rules by the Board of Governors of The Florida Bar during their September, 1983 meeting and the date of the oral argument on these proposed amendments, either the proposed amendments in their full format or a summary of the proposed amendments will have been published in The Florida Bar News. Members of the Bar and other interested persons are requested to submit written comments to the Court regarding the proposed amendments.

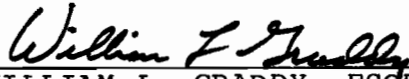
SPECIFIC PERSONAL INQUIRY

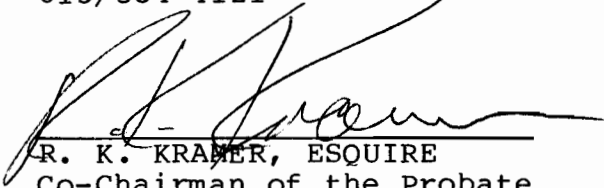
In the event the Court or members of the Court desire further explanation for the proposed amendments between the time of this filing and the time of the oral argument on this matter, it is suggested that the inquiry be directed to the chairman of the specific committee involved, that chairman being identified

on the cover of the brief in support of the amendments.

Dated: March 15, 1984


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Attachments:

Proposed Rules
Brief