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SEP 23 1987

CLERK, SUPREME COURT

By _____
Deputy Clerk

The Supreme Court of
Florida
Tallahassee, Florida

Re: Florida Rules of Civil Procedure
Rule 1.491 (Child Support Enforcement)
Case No. 71,074

Dear Sirs:

These comments are being filed in accordance with official notice published in The Florida Bar News of September 15, 1987. The comments following are personal and do not necessarily represent the views of other members of my firm.

1. As to proposed Rule 1.491:

a. This rule seems to have been prompted by regulations issued by the Social Security Administration under the Social Security Act (42 U.S.C. Section 1302). If this be so, there is little that we can do to oppose the promulgation of proposed Rule 1.491; however, it is not necessary to extend the application of proposed Rule 1.491 to non-Title IV-D proceedings. To do so enables the circuit courts to circumvent the intent of Florida Rule of Civil Procedure 1.490, relating to the appointment of masters.

When the language of present Rule 1.490 was adopted, it was done so only after extensive debate before the Civil Procedure Rules Committee, the Board of Governors of The Florida Bar and the Supreme Court. Rule 1.490 should not be weakened by extending proposed Rule 1.491 to other than Title IV-D proceedings.

b. The Rules of Civil Procedure apply statewide to "all actions of a civil nature" (with some exceptions). This proposed rule is of limited scope; it will be invoked

only in those counties brought within its effect by administrative order of the chief circuit judge. In my opinion this rule has no place in the Rules of Civil Procedure under its limited application.

c. The Rule is deficient from a practical aspect, i.e., its failure to provide for the payment of the costs of the proceeding. Obviously, the costs will be assessed against the parties. That deficiency (which is referred to in the general note under Committee Notes) will, in my opinion, seriously impede the operation of the proceeding. If the parties are required to pay for these costs, litigation expense becomes oppressive, particularly upon parties who probably cannot afford it. The cost of this procedure could be better used for child support.

2. As to Committee Notes:

This Rule was not proposed by the Civil Procedure Rules Committee, but rather by an ad hoc committee as set forth in the notice. I, therefore, respectfully urge that the words "Committee Notes" be changed to read "Ad Hoc Committee Notes", to be followed by an explanation to be inserted before the remainder of the Ad Hoc Committee Notes, i.e.:

This rule was proposed by an ad hoc committee mentioned in In re Florida Rules of Civil Procedure (Rules 1.490 and 1.611), 503 So.2d 894 (Fla. 1987), and is not the product of the Florida Bar Standing Committee on Rules of Civil Procedure.

Respectfully yours,



Wilfred C. Varn

WCV/dm