

Supreme Court of Florida

No. 71,312

RULES OF CIVIL PROCEDURE

IN RE: PROPOSED RULES FOR
IMPLEMENTATION OF
FLORIDA STATUTES SECTIONS
44.301 - .306.

[November 23, 1988]

PER CURIAM.

This Court recently adopted Florida Rules of Civil Procedure 1.700 - 1.830 implementing chapter 87-173, Laws of Florida (codified at sections 44.301-.306, Florida Statutes (1987)) which deals with arbitration and mediation. In re: Proposed Rules for Implementation of Florida Statutes Sections 44.301 - .306, 518 So.2d 908 (Fla. 1987). In light of the January 1, 1988 effective date of the act, we adopted the proposed rules as an interim measure. Interested parties were invited to submit comments and suggestions regarding the rules as adopted on or before March 1, 1988.

After reviewing the comments submitted, we find two of the suggestions offered merit adoption. A technical amendment is made to rule 1.700(b). Rule 1.700(c) is amended to ensure that motions to defer or forego mediation or arbitration will be

brought to the court's attention prior to the time that the mediation or arbitration hearing is scheduled. The attached amendments to rule 1.700 shall become effective upon the filing of this opinion.

It is so ordered.

EHRlich, C.J., and OVERTON, McDONALD, SHAW, BARKETT, GRIMES and KOGAN, JJ., Concur

NO MOTION FOR REHEARING WILL BE ALLOWED.

Rule 1.700

(a) No Change

(b) A party may move, within 15 days after service of the order of referral, to dispense with mediation and with arbitration, respectively, if the issue to be considered has been previously mediated or arbitrated between the same parties pursuant to Florida law.

(c) Waiver or deferral of mediation or arbitration. Within 15 days of the court order assigning the case to mediation or arbitration, any party may file a motion with the court to defer or forego the process and shall set such motion for hearing prior to the date that mediation or arbitration has been ordered with notice to all interested parties, including any mediator or arbitrator that has been appointed. Such motion shall set forth, in detail, the facts and circumstances supporting the motion. Mediation or arbitration shall be tolled until disposition of the motion.

Original Proceeding - Rules of Civil Procedure

David U. Strawn, Chairman, Mediation and Arbitration Committee, Orlando, Florida; Richard Doelker, President, Florida Association of Professional Family Mediators, and Peter O. Brick, Vice-President, Port Richey, Florida,

for Petitioner

Carole S. Priede, Director, Family Court Services, Hillsborough County Courthouse, Tampa, Florida; Maurice Jay Kutner, Chairman, Family Law Section, Miami, Florida; Ira Abrams of Abrams & Abrams, P.A., Co-Chairman, Family Law Section Rules Committee, Coconut Grove, Florida; Cynthia Green, Chairman, Family Law Section Amicus Committee, Miami, Florida; Joseph R. Boyd and William H. Branch of Boyd and Branch, P.A.; Tallahassee, Florida and Chriss Walker, Tallahassee, Florida, for the State of Florida, Department of Health and Rehabilitative Services; John F. Harkness, Jr., Executive Director, The Florida Bar; and Terrence Russell, Chairman, Fort Lauderdale, Florida, Alan T. Dimond, Miami, Florida and Ben H. Hill, III, Tampa, Florida, on behalf of the Board of Governors; Gerald T. Wetherington, Chief Judge, and Leslie Ratliff and Donald Pollock, Eleventh Judicial Circuit Administrative Office of the Court Legal Division, Miami, Florida; Rene Grafals, Regional Vice-President, American Arbitration Association, Miami, Florida; Gilbert A. Smith, Chief Judge, Twelfth Judicial Circuit, The Association of Retired Attorneys, Inc., Sarasota, Florida; D. T. K. Hurley, Chairperson, M. Cadwell, Court Mediator and Susan D. Ferrante, Court Administrator, Fifteenth Judicial Circuit, West Palm Beach, Florida; Michael P. McMahon, Chairman, Citizens Dispute Settlement Center, Orange County Bar Association, Orlando, Florida; Melvin A. Rubin, South Florida Counsel on Divorce Mediation, Miami, Florida; Geraldine Lee Waxman, Plantation, Florida; Theodore Babbitt of Babbitt and Hazouri, P.A., West Palm Beach, Florida; and other Florida Bar members,

Responding to Petition