

Supreme Court of Florida

CORRECTED OPINION

*- App. Opinion
12-30-88*

No. 72,183

IN RE: AMENDMENTS TO RULES OF
CIVIL PROCEDURE

[October 6, 1988]

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 on each proposed rule change, and comments of interested members of the Bar and of lay persons or organizations, we amend the rules as set forth below. While we have adopted in large part the committee's recommendations, we have modified the proposed rules where necessary and have amended several rules which the committee did not address to conform with other amendments. The committee's recommended change to Rule 1.580 (Writ of Possession) was rejected by the Court.

The most controversial recommendation was the committee's proposed change to Rule 1.360 dealing with physical and mental examination. The rule change, as proposed, not only provided for examination of persons by experts other than physicians, it also allowed examination, upon request, without court order. The Board of Governors was unanimously opposed to the proposed rule

change and submitted its own proposed rule. The Board was opposed to any examination without court order, but recognized a change is needed in the area of personal injury litigation. The Board was particularly concerned about abuse in the area of domestic relations cases and other non-personal injury cases. We share the Board's concerns and adopt its proposed rule with only minor modifications.

A brief explanation of substantive changes follows.

Subsection (j) was added to Rule 1.070 to require plaintiffs to cause service of original summons within 120 days of filing the complaint absent good cause for further delay.

Subsection (a) of Rule 1.140 was amended to fix a time within which amended pleadings, responsive pleadings or more definite statements which are permitted or required by the court and responses to those pleadings or statements must be served when no time is fixed by the court.

Subsection (g) of Rule 1.170 was amended to clarify that cross-claims must be served as initial pleadings only against a party who has not previously entered an appearance in the action.

Subsection (a) of Rule 1.190 was amended to conform with the 10-day time requirement of subsection 1.140(a)(3).

A new subsection (5) has been added to Rule 1.200 to clarify that case management conferences may be used for scheduling the disclosure of expert witnesses and the discovery of the opinion and factual information held by those experts.

Subsection (b)(2) has been added to Rule 1.280 to enable discovery of the existence and contents of indemnity agreements. Subsection (b)(3)(A) (renumbered (b)(4)(A)) of Rule 1.280 was amended to allow, without leave of court, depositions of experts who are expected to be used at trial. Subsection (b)(4)(D) was added to Rule 1.280 to define the term "expert" as used in the rules.

Subsection (b)(4) of Rule 1.310 was amended to provide for depositions by videotape. Subsection (c) of Rule 1.310 was amended to provide for the taking of depositions by telephone.

Subsection (a) of Rule 1.340 was amended to enlarge the total number of interrogatories which may be propounded without leave of court from 25 to 30.

Rule 1.360 was amended to allow for examination of a person by experts other than physicians.

Rule 1.380 was amended to conform with the amendment to Rule 1.360.

Subsection (c) of Rule 1.390 was amended to clarify the procedure to be used in paying an expert witness for his or her appearance at a deposition.

A new subsection (f) of Rule 1.431 was added to assure the right to "back-strike" prospective jurors until the entire panel has been accepted in civil cases.

Subsection (c) of Rule 1.440 was amended to eliminate confusion regarding notice for trial.

Rule 1.460 was amended to conform with Rule 2.085(c), Florida Rules of Judicial Administration.

Subsection (b) of Rule 1.470 was amended to require the court to specifically inform counsel of the charges it intends to give and to encourage the court to furnish written copies of their charges to juries.

Form 1.948 was amended to eliminate the words "third party plaintiff."

Form 1.923 was added to inform those sought to be evicted of the procedure they must follow to resist eviction.

Form 1.902(b) was added as a second form to be used for personal service on individuals. This form notifies defendants or respondents of their obligations to respond.

Form 1.975 was amended to provide a more extensive financial affidavit to be used in dissolution of marriage cases. This change is consistent with the child support guidelines set forth in section 61.30, Florida Statutes (1987). The need for an amendment to this form was brought to the Court's attention in connection with a challenge to Administrative Order 1.830 of the Eighth Judicial Circuit of Florida which directed members of the

Bar, when required by Florida Rule Civil Procedure 1.611(a), to file an affidavit specifying financial circumstances, to use the more extensive form of financial affidavit that we adopt herein.

Administrative Order No. 1,830 - 9th Judicial Circuit, no. 72,682.

The appended amended and new provisions of the Florida Rules of Civil Procedure, including new and amended forms, will become effective at 12:01 a.m., January 1, 1989. 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.

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

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED. THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE RULES.

CIVIL RULES

RULE 1.070. Process

- (a) (NO CHANGE)
- (b) (NO CHANGE)
- (c) (NO CHANGE)
- (d) (NO CHANGE)
- (e) (NO CHANGE)
- (f) (NO CHANGE)
- (g) (NO CHANGE)
- (h) (NO CHANGE)
- (i) (NO CHANGE)

(j) Summons--Time Limit for Service. If service of the summons and the initial pleading is not made upon a defendant within 120 days after the filing of the initial pleading and the party on whose behalf such service is required does not show good cause why such service was not made within that period, the action shall be dismissed without prejudice as to that defendant upon the court's own initiative after notice or upon motion.

Committee Note: Subdivision (j) has been added to require plaintiffs to cause service of original summons within 120 days of filing the complaint absent good cause for further delay.

RULE 1.140. Defenses

(a) When Presented.

(1) A defendant shall serve his answer within 20 days after service of original process and the initial pleading on him, or not later than the date fixed in a notice by publication. A party served with a pleading stating a cross-claim against him shall serve an answer to it within 20 days after service on him. The plaintiff shall serve his answer to a counterclaim within 20 days after service of the counterclaim. If a reply is required, the reply shall be served within 20 days after service of the answer.

(2) The service of a motion under this rule, except a motion for judgment on the pleadings or a motion to strike under subdivision (f), alters these periods of time so that if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleadings shall be served within 10 days after notice of the court's action or if the court grants a motion for a more definite statement, the responsive pleadings shall be served within 10 days after service of the more definite statement unless a different time is fixed by the court in either case.

(3) If the court permits or requires an amended pleading or requires a responsive pleading or a more definite statement, that pleading or statement shall be served within 10 days after notice of the court's action, and responses to such pleadings or statements shall be served within 10 days of service of such pleadings or statements.

(b) (NO CHANGE)

(c) (NO CHANGE)

(d) (NO CHANGE)

(e) (NO CHANGE)

(f) (NO CHANGE)

(g) (NO CHANGE)

(h) (NO CHANGE)

Committee Note: The amendment to subdivision (a) is to fix a time within which amended pleadings, responsive pleadings, or more definite statements required by the court and responses to those pleadings or statements must be served when no time limit is fixed by the court in its order.

RULE 1.170. Counterclaims and Cross-Claims

(a) (NO CHANGE)

(b) (NO CHANGE)

(c) (NO CHANGE)

(d) (NO CHANGE)

(e) (NO CHANGE)

(f) (NO CHANGE)

(g) **Cross-Claim Against Co-Party.** A pleading may state as a cross-claim any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter of either the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. The cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

Service of a cross-claim on a party who has appeared in the action shall be made pursuant to Rule 1.080(b). Service of a cross-claim

against a party who has not appeared in the action shall be made in the manner provided for service of summons.

(h) (NO CHANGE)

(i) (NO CHANGE)

(j) (NO CHANGE)

Committee Note: The last two sentences were added to subdivision (g) to counter the construction of these rules and Section 48.031(1), Florida Statutes, by an appellate court in Fundaro v. Canadiana Corp., 409 So.2d 1099, to require service of all cross-claims with summons pursuant to Rule 1.070. The purpose of this amendment is to make it clear that cross-claims must be served as initial pleadings only against a party who has not previously entered an appearance in the action.

RULE 1.190. Amended and Supplemental Pleadings

(a) Amendments. A party may amend his pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed on the trial calendar, he may so amend it at any time within 20 days after it is served. Otherwise a party may amend his pleading only by leave of court or by written consent of the adverse party. Leave of court shall be given freely when justice so requires. A party shall plead in response to an amended pleading within 20 10 days after service of the amended pleading unless the court otherwise orders.

(b) (NO CHANGE)

(c) (NO CHANGE)

(d) (NO CHANGE)

(e) (NO CHANGE)

RULE 1.200. Pretrial Procedure

(a) Case Management Conferences. At any time after responsive pleadings or motions are due, the court may itself or on motion of a party convene a case management conference. The matter to be considered shall be specified in the order setting the conference. At such a conference the court may:

(1) (NO CHANGE)

(2) (NO CHANGE)

(3) (NO CHANGE)

(4) (NO CHANGE)

(5) schedule disclosure of expert witnesses and the discovery of facts known and opinions held by such experts;

~~(5)~~ (6) (NO CHANGE EXCEPT RENUMBERING)

~~(6)~~ (7) (NO CHANGE EXCEPT RENUMBERING)

~~(7)~~ (8) (NO CHANGE EXCEPT RENUMBERING)

~~(8)~~ (9) (NO CHANGE EXCEPT RENUMBERING)

~~(9)~~ (10) (NO CHANGE EXCEPT RENUMBERING)

(b) (NO CHANGE)

(c) (NO CHANGE)

(d) (NO CHANGE)

Committee Note: The purpose of adding subdivision (5) is to spell out clearly for the bench and bar that case management conferences may be used for scheduling the disclosure of expert witnesses and the discovery of the opinion and factual information held by those experts. Subdivision (5) is not intended to expand discovery.

RULE 1.280. General Provisions Governing Discovery

(a) (NO CHANGE)

(b) Scope of Discovery. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) (NO CHANGE)

(2) Indemnity Agreements. A party may obtain discovery of the existenc and contents of any agreement under which any person or corporation may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or

reimburse for payments made to satisfy the judgment. Information concerning the agreement is not by reason of disclosure admissible in evidence at trial.

~~(2)~~ (3) (NO CHANGE EXCEPT RENUMBERING)

~~(3)~~ (4) Trial Preparation: Experts. Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subdivision (b)(1) of this rule and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(A) By interrogatories a party may require any other party to identify each person whom the other party expects to call as an expert witness at trial and to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. Any person disclosed by interrogatories or otherwise as a person expected to be called as an expert witness at trial may be deposed in accordance with Rule 1.390 without motion or order of court. Upon motion, the court may order further discovery by other means, subject to such restrictions as to scope and ~~such~~ other provisions pursuant to subdivision (b)(3)(C) of this rule concerning fees and expenses as the court may deem appropriate.

(B) (NO CHANGE)

(C) (NO CHANGE)

(D) As used in these rules an expert shall be an expert witness as defined in Rule 1.390(a).

(c) (NO CHANGE)

(d) (NO CHANGE)

(e) (NO CHANGE)

Committee Note: Subdivision (b)(2) has been added to enable discovery of the existence and contents of indemnity agreements and is the result of the enactment of Sections 627.7262 and G27.7264, Florida Statutes, proscribing the joinder of insurers but providing for disclosure. This rule is derived from FR 26(b)(2). Subdivisions (2) and (3) have been redesignated as (3) and (4) respectively.

The purpose of the proposed amendment to subdivision (b)(3)(A) (proposed to be renumbered (b)(4)(A)) is to allow, without leave of court, the depositions of experts **who** have been disclosed as expected to be used at trial. The purpose of the proposed subdivision (b)(3)(D) (proposed to be renumbered (b)(4)(D)) is to define the term "expert" as used in these rules.

RULE 1.310. Depositions Upon Oral Examination

(a) (NO CHANGE)

(b) Notice; Method of Taking; Production at Deposition.

(1) (NO CHANGE)

(2) (NO CHANGE)

(3) (NO CHANGE)

(4) ~~Upon motion, the court shall, subject to the provisions of Rule 1.280(e) and the guidelines provided by Fla. R. Jud. Admin. 2.070(d), order that the testimony at a deposition be recorded on videotape and may order that the testimony at a deposition be recorded by other than stenographic means at the initial cost of the movant. A party may also arrange for a stenographic transcription at his own initial expense. Any deposition taken upon oral~~

examination may be recorded by videotape without leave of the court or stipulation of the parties, provided the deposition is taken in accordance with this subdivision.

(A) Notice. A party intending to videotape a deposition shall, in his notice, state that the deposition is to be videotaped and shall state the name and address of the operator.

(B) Stenographer. Videotaped depositions shall be also recorded stenographically, unless all parties agree otherwise.

(C) Procedure. At the beginning of the deposition, the officer before whom it is taken shall, on camera: (i) identify the style of the action; (ii) state the date; and (iii) swear the witness.

(D) Custody of Tape and Copies. Counsel for the party requesting the videotaping of the deposition shall take custody of and be responsible for the safeguarding of the videotape and shall, upon request, permit the viewing thereof by the opposing party, and if requested, shall provide a copy of the videotape at the expense of the requesting party.

(E) Cost of Videotaped Depositions. The party requesting the videotaping shall bear the initial cost of videotaping.

(5) (NO CHANGE)

(6) (NO CHANGE)

(7) (NO CHANGE)

(c) Examination and Cross-Examination; Record of Examination; Oath; Objections. Examination and cross-examination of witnesses may proceed as permitted at the trial. The officer before

whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness, except that where a deposition is being taken by telephone, the witness shall be sworn by a person present with the witness who is qualified, in that location, to administer an oath. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subdivision (b)(4) of this rule. If requested by one of the parties, the testimony shall be transcribed at the initial cost of the requesting party and prompt notice of the request shall be given to all other parties. All objections made at time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party and any other objection to the proceedings shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. Instead of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and he shall transmit them to the officer, **who** shall propound them to the witness and record the answers verbatim.

(d) (NO CHANGE)

(e) (NO CHANGE)

(f) (NO CHANGE)

(g) (NO CHANGE)

(h) (NO CHANGE)

Committee Note: The amendments to subdivision (b)(4) are to provide for depositions by videotape as a matter of right.

The notice provision is to assure that specific notice is given that the deposition will be videotaped and to disclose the identity of

the operator. It was decided not to make special provision for a number of days' notice.

The requirement that a stenographer be present (who is also the person likely to be swearing the deponent) is to assure the availability of a transcript (although not required). The transcript would be a tool to assure the accuracy of the videotape and thus eliminate the need to establish other procedures aimed at the same objective (like timeclocks in the picture and the like). This does not mean that a transcript must be made. **As** at ordinary depositions, this would be up to the litigants.

Technical videotaping procedures were not included. It is anticipated that technical problems may be addressed by the court on motions to quash or motions for protective orders.

Subdivision (c) has been amended to accommodate the taking of depositions by telephone. The amendment requires the deponent to be sworn by a person authorized to administer oaths in the deponent's location and who is present with the deponent.

RULE 1.340. Interrogatories to Parties

(a) Procedure for Use. Without leave of court, any party may serve upon any other party written interrogatories to be answered (1) by the party to whom the interrogatories are directed or, (2) if that party is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish the information available to that party. Interrogatories may be served on the plaintiff after commencement of the action and on any other party with or after service of the process and initial pleading upon that party. ~~Initial~~ The interrogatories shall not exceed ~~25~~ 30, including all subparts, unless the court permits a larger number on motion and notice and ~~on~~ for good cause. ~~However,~~ If the Supreme Court has approved a form of interrogatories for the type of action, the initial

interrogatories shall be in the form approved by the Court. However, other interrogatories may be added to the approved forms without leave of court, so long as the total of form and additional interrogatories does not exceed ~~25~~ 30, ~~but the burden of showing the necessity of the additional interrogatories is on the proponent.~~ Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to in which event the reasons for objection shall be ~~stated instead of an answer.~~ ~~The answers shall be signed by the person making them and the objections shall be signed by the attorney making them~~ ~~it.~~ The party to whom the interrogatories are directed shall serve the answers and any objections within 30 days after the service of the interrogatories, except that a defendant may serve answers or objections within 45 days after service of the process and initial pleading upon that defendant. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under Rule 1.380(a) on any objection to or other failure to answer an interrogatory.

(b) (NO CHANGE)

(c) (NO CHANGE)

(d) (NO CHANGE)

(e) (NO CHANGE)

Committee Note: The word "initial" in the 1984 amendment to subdivision (a) resulted in some confusion, so **it** has been deleted. Also the total number of interrogatories which may be propounded without leave of court is enlarged to 30 from 25. Form interrogatories which have been approved by the Supreme Court must be used; and those so used, with their subparts, are included in the total number permitted.

RULE 1.360. ~~Physical and Mental~~ Examination of Persons

[Former subdivision (a) is to be deleted and the following substituted.]

(a) ~~Request; Scope.~~

(1) Any party may request any other party to submit to, or to produce a person in his custody or leaal control for, examination by a qualified expert when the condition which is the subject of the requested examination is in controversy.

(A) In cases where the physical condition of a party or other person under subdivision (1) is in controversy, the request may be served on a party plaintiff without leave of court after commencement of the action, and on any other person with or after service of the process and initial pleading on that party. The request shall specify a reasonable time, place, manner, conditions and scope of the examination and the person or persons by whom the examination is to be made. The party to whom the request is directed shall serve a response within 30 days after service of the request, except that a defendant need not serve a response until 45 days after service of the process and initial pleading on that defendant. The court may allow a shorter or longer time. The response shall state that the examination will be permitted as requested unless the request is objected to, in which event the reasons for the objection shall be stated. The party submitting the request may move for an order under Rule 1.380 concerning any objection, failure to respond to the request, or failure to permit examination as requested.

(B) In cases where the condition in controversy is not physical, including domestic relations and bastardy cases where the blood group is in issue, any party may move the court to allow an examination by a qualified expert as set forth in subdivision (1). The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties, and shall specify the time, place, manner, conditions and scope of the examination and the person or persons by whom it is to be made.

(2) An examination under this rule is authorized only when the party submitting the request has good cause for the examination. At any hearing concerning this rule, the party submitting the request shall have the burden of showing aood cause.

(3) Upon reauest of either party requesting the examination, or the party or person to be examined, the court may establish protective rules governing such examination.

(b) Report of ~~Examining Physician~~ Examiner.

(1) If requested by the party to whom a reauest for examination or against whom an order is made under subdivision (a) (A) or (B) or by the person examined, the party causing requesting the examination to be made shall deliver to him a copy of a detailed written report of the ~~examining physician~~ examiner, setting out his findings, including results of all tests made, diagnosis and conclusions, with similar reports of all earlier examinations of the same condition. After delivery of the detailed written report, the party causing requesting examination to be made shall be entitled upon request to receive from the party to whom the request for examination or against whom the order is made a similar report of any examination of the same condition previously or thereafter made, unless in the case of a report of examination of a person not a party the party shows

that he is unable to obtain it. On motion, the court may order delivery of a report on such terms as are just; and if a ~~physician~~ ~~an examiner~~ fails or refuses to make a report, the court may exclude his testimony if offered at the trial.

(2) By requesting and obtaining a report of the examination so ordered ~~or requested~~, or by taking the deposition of the examiner, the party examined waives any privilege he may have in that action or any other involving the same controversy regarding the testimony of every other person who has examined or may thereafter examine him concerning the same ~~mental or physical~~ condition.

(3) This subdivision applies to examinations made by agreement of the parties unless the agreement provides otherwise. This subdivision does not preclude discovery of a report of an ~~examining physician~~ ~~examiner~~ or taking the deposition of the ~~physician~~ ~~examiner~~ in accordance with any other rule.

(c) Examiner as Witness.

The examiner may be called as a witness by any party to the action, but shall not be identified as appointed by the court.

FINANCIAL STATEMENT FOR DISSOLUTION OF MARRIAGE (DIVORCE)

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

IN RE: The Marriage of:)
)
and Husband,) Case No.
) Division:
)
Wife.)
_____)

FINANCIAL AFFIDAVIT

STATE OF FLORIDA)
COUNTY OF _____)

BEFORE ME, this day personally appeared _____, who
being duly sworn, deposes and says that the following information is true and correct
according to his/her best knowledge and belief:

EMPLOYMENT AND INCOME

OCCUPATION . _____
EMPLOYED BY: _____
ADDRESS: _____
SOC. SEC.#: _____
PAY PERIOD: _____
RATE OF PAY: _____

AVERAGE GROSS MONTHLY INCOME FROM EMPLOYMENT \$ _____

Bonuses, commissions, allowances, overtime, tips and similar payments \$ _____
Business income from sources such as self-employment, partnership, close
corporations, and/or independent contracts (gross receipts minus ordinary
and necessary expenses required to produce income) _____
Disability benefits _____
Workers' Compensation _____
Unemployment Compensation _____
Pension, Retirements or Annuity Payments _____
Social Security Benefits _____
Spousal Support Received from Previous Marriage _____
Interest and Dividends _____
Rental Income (gross receipts minus ordinary and necessary expenses
required to produce income) _____
Income from Royalties, trust or estates _____
Reimbursed expenses and in kind payments to the extent that they reduce
personal living expenses _____
Gains derived from dealing in property (not including non-recurring gains) _____
Itemize any other income of a recurring nature _____

TOTAL MONTHLY INCOME \$ _____

LESS DEDUCTIONS:

Federal, state and local income taxes (corrected for filing status and
actual number of withholding allowances) \$ _____
FICA or self-employment tax (annualized) _____
Mandatory union dues _____
Mandatory retirement _____
Health Insurance Payments _____
Court ordered support payments for the children actually paid _____

TOTAL DEDUCTIONS \$ _____

AVERAGE MONTHLY EXPENSES

HOUSEHOLD:

Mtg. or rent payments _____
 Property taxes & Insurance _____
 Electricity _____
 Water, garbage & sewer _____
 Telephone _____
 Fuel Oil or natural gas _____
 Repairs and Maintenance _____
 Lawn and pool care _____
 Pest Control _____
 Misc. Household _____
 Food and grocery items _____
 Meals outside home _____
 Other: _____

INSURANCES:

Health _____
 Life _____
 Other Insurance _____

OTHER EXPENSES NOT LISTED ABOVE

Dry cleaning and laundry _____
 Affiant's clothing _____
 Affiant's medical/dental/ _____
 perscriptions _____
 Affiant's beauty parlor _____
 Affiant's gifts (special holidays) _____

AUTOMOBILE:

Gasoline and oil _____
 Repairs _____
 Auto tags and license _____
 Insurance _____
 Other: _____

Pets:
 Grooming _____
 Veterinarian _____

Membership Dues:
 Professional dues _____
 Social dues _____

Entertainment _____
 Vacations _____
 Publications _____

CHILDREN'S EXPENSES

Nursery or babysitting _____
 School tuition _____
 School supplies _____
 Lunch money _____
 Allowance _____
 Clothing _____
 Medical, dental, perscription _____
 Vitamins _____
 Barber/beauty parlor _____
 Cosmetics/toiletries _____
 Gifts for special holidays _____
 Other expenses: _____

Church and Charities _____
 Miscellaneous _____

OTHER EXPENSES

TOTAL ABOVE EXPENSE _____

PAYMENTS TO CREDITORS:

To WHOM:	BALANCE DUE:	MONTHLY PA
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total Monthly Payments to Creditors: \$ _____

TOTAL MONTHLY EXPENSES: \$ _____

FINANCIAL AFFIDAVIT
Page Three

Item 3 : ASSETS (Ownership: if joint, allocate equally)

Description	Value	Husband	Wife
Cash (on hand or in banks)	_____	_____	_____
Stocks/bonds/notes	_____	_____	_____
Real Estate:			
Home:	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Automobiles:			
_____	_____	_____	_____
_____	_____	_____	_____
Other Personal Property:			
Contents of home	_____	_____	_____
Jewelry	_____	_____	_____
Life Ins./cash surrender value	_____	_____	_____
Other Assets:			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL ASSETS:	\$_____	\$_____	\$_____
ITEM 4:	LIABILITIES		
Creditor	Security	Balance	Husband
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL LIABILITIES	\$_____	\$_____	\$_____

Affiant

SWORN TO and subscribed
before me this _____ day
of _____, 1987.

Notary Public

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above Financial Affidavit has been furnished by U.S. Mail this _____ day of _____, 1987, to

Rule 1.380. Failure to Make Discovery; Sanctions

(a) Motion for Order Compelling Discovery. Upon reasonable notice to other parties and all persons affected, a party may apply for an order compelling discovery as follows:

(1) (NO CHANGE)

(2) Motion. If a deponent fails to answer a question propounded or submitted under Rules 1.310 or 1.320, or a corporation or other entity fails to make a designation under Rule 1.310(b)(6) or 1.320(a), or a party fails to answer an interrogatory submitted under Rule 1.340, or if a party in response to a request for inspection submitted under Rule 1.350 fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, or if a party in response to a request for examination of a person submitted under Rule 1.360(a) objects to the examination, fails to respond that the examination will be permitted as requested, or fails to submit to or to produce a person in his custody or legal control, for examination, the discovering party may move for an order compelling an answer, or a designation or an order compelling inspection, or an order compelling an examination in accordance with the request. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order. If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to rule 1.280(c).

(3) (NO CHANGE)

(4) (NO CHANGE)

(b) Failure to Comply With Order.

(1) (NO CHANGE)

(2) (NO CHANGE)

(A) (NO CHANGE)

(B) (NO CHANGE)

(C) (NO CHANGE)

(D) Instead of any of the foregoing orders or in addition to them, an order treating as a contempt of court the failure to obey any orders except an order to submit to a ~~physical or mental~~ an examination made pursuant to Rule 1.360(a)(1)(B) or subdivision (a)(2) of this Rule;

(E) When a party has failed to comply with an order under Rule ~~1.360(a)(1)(B)~~ requiring him to produce another for examination, the orders listed in paragraphs (A), (B), and (C), of this subdivision, unless the party failing to comply shows that he is unable to produce the person for examination.

(F) (NO CHANGE)

(c) (NO CHANGE)

(d) (NO CHANGE)

RULE i.390. Depositions of Expert Witnesses

(a) (NO CHANGE)

(b) (NO CHANGE)

(c) Fee. An expert or skilled witness whose deposition is taken shall be allowed a witness fee in such reasonable amount as the court may determine ~~and it shall be taxed as costs.~~ The court shall also determine a reasonable time within which payment must be made, if the deponent and party cannot agree. All parties and the deponent shall be served with notice of *ally* hearing to determine the fee. Any reasonable fee paid to an expert or skilled witness may be taxed as costs.

(d) (NO CHANGE)

Committee Note: Subdivision (c) has been amended to clarify the procedure to be used in paying an expert witness for his or her appearance at a deposition.

RULE 1.431. Trial Jury'

(a) (NO CHANGE)

(b) (NO CHANGE)

(c) (NO CHANGE)

(d) (NO CHANGE)

(e) (NO CHANGE)

(f) Swearing of Jurors. No one shall be sworn as a juror until the jury has been accepted by the parties or until all challenges have been exhausted.

~~(f)~~ (g) (NO CHANGE EXCEPT RENUMBERING)

~~(g)~~ (h) (NO CHANGE EXCEPT RENUMBERING)

Committee Note: Subdivision (f) has been added to assure the right to "back-strike" prospective jurors until the entire panel has been accepted in civil cases. This right to back-strike until the jurors have been sworn has been long recognized in Florida. Fla. Rock Ind., Inc. v. United Building Systems, Inc., 408 So.2d 630. However, in the recent case of Valdes v. State, 443 So.2d 223, the court held that it was not error for a court to swear jurors one at a time as they were accepted and thereby prevent retrospective peremptory challenges. The purpose of this subdivision is to prevent the use of individual swearing of jurors in civil cases. Former subdivisions (f) and (g) have been redesignated as (g) and (h) respectively.

RULE 1.440. Setting Action for Trial

(a) (NO CHANGE)

(b) (NO CHANGE)

(c) Setting for Trial. If the court finds the action ready to be set for trial, it shall enter an order fixing a date for trial. Trial shall be set not less than 30 days from the service of the notice ~~specified in subdivision (b)~~ for trial. By giving the same notice the court may set an action for trial. In actions in which the damages are not liquidated, the order setting an action

for trial shall ~~be~~ served on parties who are in default in accordance with Rule 1.080(a).

(d) (NO CHANGE)

Committee Note: Subdivision (c) was amended to clarify a confusion regarding the notice for trial which resulted from a 1968 amendment.

RULE 1.460. Continuances

A motion for continuance shall be in writing unless made at a trial ~~or hearing~~ and, except for good cause shown, shall be signed by the party requesting the continuance. The motion shall state all of the facts that the movant contends entitle him to a continuance. If a continuance is sought on the ground of non-availability of a witness, the motion must show when it is believed the witness will be available.

Committee Note: The Supreme Court, by adopting Rule 2.085(c), Florida Rules of Judicial Administration, effective July 1, 1986, required all motions for continuance to be signed by the litigant requesting the continuance. The amendment conforms Rule 1.460 to Rule 2.085(c); but, by including an exception for good cause, it recognizes that circumstances justifying a continuance may excuse the signature of the party.

RULE 1.470, Exceptions Unnecessary

(a) (NO CHANGE)

(b) Instructions to Jury. Not later than at the close of the evidence, the parties shall file written requests that the court charge the jury on the law set forth in such requests. The court shall then require counsel to appear before it to settle the charges to be given. At such conference all objections shall be made and

ruled upon and the court shall inform counsel of such ~~general~~ charges as it will give. No party may assign as error the giving of any charge unless he objects thereto at such time or the failure to give any charge unless he requested the same. The court shall orally charge the jury after the arguments are completed and, whenever feasible and practicable, also furnish to the jury a written copy or copies of its charges.

(c) (NO CHANGE)

Committee Note: The word "general" in the third sentence of subdivision (b) was deleted to require the court to specifically inform counsel of the charges it intends to give. The last sentence of that subdivision was amended to encourage judges to furnish written copies of their charges to juries.

THIRD PARTY COMPLAINT

Defendant and ~~third party plaintiff~~, C. D. , sues third party defendant, E. F. , and alleges:

1. Plaintiff filed a complaint against defendant, C. D., a copy being attached.

2. (State the cause of action that C. D. has against E. F. for all or part of what A. B. may recover from C. D. as in an original complaint.)

WHEREFORE defendant, C. D., demands judgment against the third party defendant, E. F., for all damages that are adjudged against defendant, C. D., in favor of plaintiff.

EXPLANATION

This change was made to eliminate the words "third party plaintiff."

FORM 1.923. EVICTION SUMMONS/RESIDENTIAL

EVICTION SUMMONS/RESIDENTIAL

TO : _____
Defendant (s)

PLEASE READ CAREFULLY

You are being sued by _____ to require you to move out of the place you are living in for the reasons in the attached complaint.

You are entitled to a trial on whether you can be required to move, but you **MUST** do **ALL** of the things listed below. You must do them within FIVE (5) days (not including Saturday, Sunday, or any legal holiday) after the date these papers were given to you or to a person who lives with you or were posted at your home.

THE THINGS YOU MUST DO ARE AS FOLLOWS:

(1) Write down the reason(s) why you think you should not be forced to move. The written reason(s) must be given to the Court Clerk at _____ County Courthouse

_____, Florida

(2) Mail or take a carbon copy or photocopy of your written reason(s) to:

Plaintiff/Plaintiff's Attorney

Address

(3) Give the Court Clerk the rent that is due. You **MUST** pay the Clerk the rent each time it becomes due until the lawsuit is over. Whether you win or lose the lawsuit, the Judge may pay this rent to the landlord.

(4) If you and the landlord do not agree on the amount of rent owed, give the Court Clerk the money you say you owe. Then before the trial you must ask the Judge to set up a hearing to decide what amount should be given to the Court Clerk.

IF YOU DO NOT DO ALL OF THESE THINGS WITHIN 5 WORKING DAYS
YOU MAY BE EVICTED WITHOUT A HEARING OR FURTHER NOTICE

THE STATE OF FLORIDA:

TO EACH SHERIFF OF THE STATE: You are commanded to serve this Summons and a copy of the complaint in this lawsuit on the above-named Defendant.

DATED ON _____, 19__

Clerk of the County Court

By : _____
Deputy Clerk

EXPLANATION

This form is recommended to inform those sought to be evicted of the procedure they must follow to resist eviction.

FORM 1.902(b)

SUMMONS :
PERSONAL SERVICE
ON AN INDIVIDUAL

IMPORTANT

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached Complaint in this Court. A phone call will not protect you; your written response, including the above case number and named parties, must be filed if you want the Court to hear your case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the Court you must also mail or take a carbon copy or photocopy of your written response to the "Plaintiff/Plaintiff's Attorney" named below.

IMPORTANTE

Usted ha sido demandado legalmente. Tiene veinte (20) días, contados a partir del recibo de esta notificación, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefónica no lo protegerá; si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el número del caso y los nombres de las partes interesadas en dicho caso. Si usted no contesta la demanda a tiempo, podría perder el caso y podría ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guía telefónica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona

denominada abajo como "Plaintiff/Plaintiff's Attorney." (Demandate o Abogado del Demanadante).

IMPORTANT

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour déposer une reponse ecrite a la plainte ci-jointe aupres de ce Tribunal. Un simple coup de telephone est insuffisant pour vous proteger; vous etes oblige de déposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le Tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le relai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du Tribunal. Il y a d'autres obligations juridiques et vous pouvez requerer les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de déposer vous-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie au carbone ou une photocopie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) comme ci-dessous.

Plaintiff/Plaintiff's Attorney

Address

THE STATE OF FLORIDA

TO EACH SHERIFF OF THE STATE: You are commanded to serve this Summons and a copy of the Complaint in this lawsuit on the above-named Defendant.

DATED ON _____ 19 .

(SEAL)

CLERK OF THE CIRCUIT COURT

BY: _____

Deputy Clerk

EXPLANATION

1988 Amendment.

Two forms are now provided: one for personal service on individuals and one for other service by summons. The new form for personal service on individuals is included to ensure awareness by defendants or respondents of their obligations to respond.

The summons form for personal service on individuals is to be used for service on individuals under the following provisions: Florida Statutes 548.031 (service of process generally), §48.041 (service on minors), 548.042 (service on incompetents), 548.051 (service on state prisoners), §48.183 (service of process in action for possession of residential premises), and §48.194 (personal service outside the state).

The former, general summons form is to be used for all other service by summons, including service under Florida Statutes §48.061 (service on partnership), §48.071 (service on agents of nonresidents doing business in the state), §48.081 (service on corporation), 548.101 (service on dissolved corporations), §48.111 (service on public agencies or officers), §48.121 (service on the state), 548.131 (service on alien property custodian), §48.141 (service on labor unions), §48.151 (service on statutory agents for certain purposes), and all statutes providing for substituted service on the Secretary of State.

The form for personal service on individuals contains Spanish and French versions of the English text to ensure effective notice on all Floridians. In the event of space problems in the summons form, the Committee recommends that the non-English portions be placed on the reverse side of the summons.

Original Proceeding - Rules of Civil Procedure

Rutledge R. Liles, President, Jacksonville, Florida; Stephen N. Zack, President-elect, Miami, Florida; and John F. Harkness, Jr., Executive Director, Tallahassee, Florida, of The Florida Bar; and Henry Latimer, Chairman, The Florida Bar, Civil Procedure Rules Committee, Fort Lauderdale, Florida,

for Petitioner

Henry P. Trawick, Jr., Sarasota, Florida; Joseph P. Klock, Jr., Miami, Florida; and Ira Abrams, Co-chairman, Family Law Section Rules Committee, Coconut Grove, Florida,

Responding to Petition