

12,321

IN THE SUPREME COURT OF FLORIDA

FILED
SID J. WHITE
MAY 5 1989
CLERK SUPREME COURT
By _____
Deputy Clerk

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

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

The Probate and Guardianship Rules Committee of The Florida Bar and the Probate and Guardianship Rules Committee of the Real Property, Probate and Trust Law Section, acting as a joint 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

The Florida Rules of Judicial Administration Rule 2.130 established procedures for the submission of proposed amendments to all rules of court.

PROCEDURE FOLLOWED

The Florida Bar has appointed its committee pursuant to Fla. R. Jud. Admin. 2.130 (b) (3) and (b) (4) each year since the last quadrennial report in 1984. The Real Property, Probate and

Trust Law Section of the Florida Bar has also annually appointed a committee on Probate and Guardianship Rules.

These two committees have met jointly over the past four years and these recommendations are those of the joint committee. Amendments were deemed necessary because of changes in statutory procedures and causes of action, changes brought about by court decisions, and suggestions which were submitted by interested members of the Bar and members of the judiciary. In addition, at the direction of the Supreme Court in its opinion reported at 460 So.2d 906, the committee studied the probate and guardianship statutes and attempted to identify those portions of the Florida Probate Code, the Florida Guardianship Law, and other statutes that contained procedural provisions. Based upon that study, the committee promulgated rules incorporating those procedures into the Probate and Guardianship Rules.

The committee adopted special internal procedures for consideration of all proposed amendments. All interested parties were heard and the committee encouraged wide input and a thorough discussion of all proposed changes. Amendments proposed by the committee required consideration and affirmative approval by the full committee on two separate votes. The first vote approved the proposed change in concept. The second vote of the full committee approved the final wording of the proposal after recommendations by the style subcommittee. In almost all instances the votes were unanimous.

All proposed amendments were then submitted to and approved by 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 recommendations 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 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 the third column appear the committee notes, rule history, statutory references, rule references and the committee final vote. The "Committee Notes" are intended as brief explanations of the rules which the Committee hopes will help the practitioner. They are not intrinsic parts of the rules themselves. The "Rule History" is intended as a brief summary of the changes in that rule. The "Statutory References" are references to the Florida statutes where the rule could be applicable. The "Rule References" are references to other Probate and Guardianship Rules that could be applicable or helpful to the Court and to the practitioner.

The committee requests that the committee notes, rule history, statutory references and rule references be printed with the rules but that they not be adopted by the Court as a formal part of the rules. The committee respectfully requests the court to authorize the committee to correct the committee notes and references, if necessary, separately from any rule changes.

NOTIFICATION OF THE BAR

Before the date of the oral argument on these proposed amendments, 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 any member of the Court desires further explanation of the proposed amendments between the time of this filing and the time of the oral argument on this matter, either of the co-chairmen of the committee will be glad to provide additional information.

Dated: May 4, 1988



JEAN C. COKER
Jean C. Coker, P. A.
Suite 160, Barnett Plaza
6622 Southpoint Drive South
Jacksonville, Florida 32216

Telephone: (904) 733-3344

ROHAN KELLEY
Rohan Kelley, P. A.
3365 Galt Ocean Drive
Ft. Lauderdale, Florida 33308

Telephone: (305) 563-1400

Co-Chairmen