

IN THE SUPREME COURT OF FLORIDA

FILED

SID J. WHITE

JAN 9 1991

CLERK, SUPREME COURT

By _____
Deputy Clerk

IN RE: PETITION FOR APPROVAL
OF FORMS PURSUANT TO
RULE 10-1.1(b) OF THE
RULES REGULATING THE
FLORIDA BAR

CASE NO.

PETITION FOR APPROVAL OF FORMS PURSUANT TO
RULE 10-1.1(b) OF THE RULES REGULATING
THE FLORIDA BAR

The Board of Governors of The Florida Bar hereby petitions the Supreme Court of Florida, pursuant to Rule 10-1.1(b) of the Rules Regulating The Florida Bar for approval of the following forms and in support thereof says:

1. Rule 10-1.1 of the Rules Regulating The Florida Bar allows "nonlawyers to engage in limited oral communications to assist individuals in the completion of legal forms approved by the Supreme Court of Florida." Pursuant to the rule, oral communication between the nonlawyer and the individual being assisted is restricted to those communications reasonably necessary to elicit factual information to complete the forms.

2. This amendment to Rule 10-1.1(b) was proposed by The Florida Bar (hereinafter the Bar) in 1987 as a way to provide better access to the courts while continuing to protect the public from being advised in legal matters by unqualified persons. In furtherance of that goal, the Bar is attempting to define those areas amenable to a forms practice and develop simplified forms for use by nonlawyers pursuant to Rule 10-1.1(b). The forms will be of a fill-in-the-blank type and require nothing more than the insertion of factual information into a blank on a form. Under the rule, modification of the court-approved form by the lay assistant and/or the drafting of additional language for inclusion by the lay assistant would be prohibited.

3. The Bar began working in September, 1987 to develop simplified forms for use under Rule 10-1.1(b) but the forms did not come easily or quickly. Although a Petition For Approval Of Forms was filed by the Bar on September 15, 1989 requesting the approval of certain forms for use under the rule, the petition was withdrawn by the Bar on September 27, 1989 after it was determined that the forms were not simple enough. (Case No. 74,721)

4. On January 26, 1990 the Board of Governors approved in concept the appointment of a Standing Committee on Simplified Forms (hereinafter Standing Committee) whose sole purpose was to develop simplified forms for use under Rule 10-1.1(b). Appointments to the Standing Committee were made in April 1990 after the Young Lawyers

Division agreed to undertake the project. Immediately thereafter, the committee began its work.

5. The Standing Committee began by focusing on the development of simplified legal forms in the family law area. After hundreds of hours of work and numerous drafts and revisions, the Standing Committee submitted their proposed forms to the Family Law Section of the Bar for the section's review and comment. After reviewing the forms, the Family Law Section responded by forwarding to the Standing Committee a critique of the forms prepared by the Standing Committee, as well as an entirely different set of forms drafted by the Family Law Section.

6. Both sets of forms were submitted to the Board's Committee On Access To The Legal System (hereinafter Access Committee) for review and were considered by the Access Committee on October 4, 1990. After reviewing the two sets of forms, both the Access Committee and the Board of Governors voted to approve in concept the family law forms as proposed by the Standing Committee but requested that the two groups make efforts to reconcile the two sets of forms and report back to the Access Committee at its November, 1990 meeting.

7. Subsequently, representatives of the Standing Committee and the Family Law Section met on three occasions in an attempt to reconcile and improve the forms. Initially, the Standing Committee received comments from the Family Law Section regarding the Standing

Committee's proposed forms. The Family Law Section's comments and suggestions were incorporated into the forms as both groups felt appropriate. The Standing Committee then presented to the Family Law Section the Standing Committee's comments on the individual Family Law Section forms which were not duplicative of the forms proposed by the Standing Committee. Those suggested changes were also made to the forms as both groups felt appropriate. When the review was complete, each individual form had been reviewed for legal sufficiency and completeness and had been simplified and streamlined wherever possible.¹ Several forms had been rejected as inappropriate for use under Rule 10-1.1(b).

8. Through the combined efforts of the Standing Committee and the Family Law Section, a package of fifty-six family law forms was developed. The forms were considered by the Board of Governors at their November, 1990 meeting. At that time the Board voted to submit the forms to this Court for approval. An index to the forms and a complete set of forms is attached as an appendix to this petition. Orders have been drafted and included in the package for illustrative purposes only.

¹ Several forms remain more complicated than the Standing Committee and the Family Law Section would have liked. The Child Support Guidelines Worksheet is one of those forms. However, the drafting committees were restricted by the statutory requirements in this area and unless and until the statute is changed, the form cannot be made less complicated.

9. In addition to recommending the submission of the family law forms to the Court for approval the Board of Governors has approved the recommendation of the Standing Committee that detailed instruction sheets be drafted to assist individuals in using the forms appropriately. Instructions are included on several of the forms, specifically the Petition/Request By Husband And Wife For Simplified Dissolution Of Marriage/Divorce, Marital Settlement Agreement For Dissolution Of Marriage/Divorce, Certificate of Corroborating Witness, Affidavit of Insolvency, Petition/Request To Modify/Change Visitation, Petition/Request To Change Primary Parental/Responsibility/Custody Of Child(ren), Petition/Request For Support Unconnected With Dissolution Of Marriage/Divorce, and Petition/Request For Visitation By Grandparent. The Standing Committee expects to develop instruction sheets to accompany additional forms and will submit them to the Court for approval.

10. The Board of Governors has also recommended that a five-member Standing Committee of the Bar be appointed to review, revise and promote the approved forms. One of the duties of the proposed Standing Committee would be to determine how to provide to the public the best possible access to the forms.

11. The Bar anticipates that the development of forms for use under Rule 10-1.1(b) will be a continuing and ongoing process. Work has already begun to develop forms in the areas of real property, probate, adoption and small claims. As they are developed and

refined, the forms will be submitted to this Court for approval. As a way to indicate to the public which forms may be used pursuant to the Rule, the Bar recommends that all Court approved forms be clearly designated as such on the face of of the form by the language "Approved for use under Rule 10-1.1(b) of the Rules Regulating The Florida Bar.

12. Additionally, in conjunction with this Petition, the Bar would request consideration of its Petition To Amend Rules Regulating The Florida Bar-Chapter 10 (Case No. 74,721) which was filed on September 15, 1989. The petition requests the Court to approve a rule change requiring that a nonlawyer assisting an individual with form completion pursuant to Rule 10-1.1(b) provide the individual with a disclosure statement to be executed by each and requiring that the name, address and telephone number of the nonlawyer assisting in the completion of a form appear on the form. The disclosure statement would inform the individual being assisted that the nonlawyer may not give legal advice, provide court representation, advise on available rights or remedies or advise on how to testify in court. The disclosure statement would also inform the individual being assisted that the nonlawyer may ask questions to help fill out a form.

WHEREFORE petitioner prays as follows:

1. That this Court approve the aforementioned forms for use pursuant to Rule 10-1.1(b) of the Rules Regulating The Florida Bar.

2. That this Court approve the appointment of a five member Bar committee to review, revise and promote the approved family law forms.

3. That this Court require all approved forms to be identified as such on the face of the forms by stating "Approved for use under Rule 10-1.1(b) of the Rules Regulating The Florida Bar."

4. That this Court consider in conjunction with this petition, the Bar's petition in Case No. 74,721 requesting the approval of a disclosure statement for use with court-approved forms.

Respectfully submitted,



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