Supreme Court of Florida

AMENDMENTS TO THE FLORIDA FAMILY LAW RULES OF PROCEDURE.

No. 89,955
[October 29, 1998]

OVERTON, J.

In February 1998, this Court issued an opinion in which we amended a number of the Florida Family Law Rules and completely amended the Florida Family Law Forms. See Amendments to the Family Law Rules of Procedure, 713 So. 2d 1 (Fla. 1998)(Family Law Opinion). In that opinion, we also rejected a number of rule amendment proposals. In doing so, however, we stated that:

> [W]e believe that many of the proposed changes that we have declined to approve in this opinion may have merit. As such, we will allow revisions to the proposed changes and/or additional comments to the matters discussed in this opinion to be submitted to this Court no later than May 1, 1998. This Court may set any of those issues on which comment is received for oral argument during the Court's June 1998 oral argument calendar.

Id. at 9-10. Both the Family Law Rules Committee (rules committee) and the Family Court Steering Committee (steering committee) filed petitions prior to the May 1 deadline asking that we readdress a number of issues. The committees also asked that we change some of the rules and forms for clarification purposes or to correct errors or omissions in the forms. After hearing oral argument and reviewing other comments received we address below each of the issues raised by the committees.

Rule Regulating the Florida Bar 10-2.1

Under Rule Regulating the Florida Bar 10-2.1, certain information must be disclosed any time a nonlawyer assists a person in the completion of a form. In our Family Law Opinion, this Court concluded that this information need not be disclosed on domestic and repeat violence petition forms because such disclosure might place the preparer at risk. Although we amended the family law forms accordingly, we did not amend rule 10-2.1 to reflect this exception to the disclosure requirement. In its petition, the steering committee has requested that we modify the rule to reflect this

exception. We approve this request and modify rule 10-2.1 as set forth in appendix A to this opinion.

Florida Family Law Rule 12.170 - Counterclaims and Crossclaims

The steering committee also asks that we amend Florida Family Law Rule 12.170 to clarify that the rule governs both counterclaims and crossclaims. Although this Court's opinion in In re Family Law Rules of Procedure, No. 84,337 (Fla. Nov. 22, 1995), provided that the rule governed both counterclaims and crossclaims, apparently, when West Group published the opinion, it erroneously omitted counterclaims from the rule. See In re Family Law Rules of Procedure, 663 So. 2d 1049, 1063 (Fla. 1995). To eliminate any confusion regarding this issue, we restate in this opinion that rule 12.170 governs both crossclaims and counterclaims. In appendix A we restate the rule in full to ensure that counterclaims are included in the rule.

Rule 12.280 - General Provisions Governing Discovery and Rule 12.400 - Confidentiality of Records and Proceedings

Both committees ask that we find, as a matter of public policy, that any financial information filed in a family law case may be sealed by the court at the request of one or both of the parties. Currently, the sealing of court records in family law cases is governed by article I, section 24, of the Florida Constitution; Rule of Judicial Administration 2.051; and Barron v. Florida Freedom Newspapers, Inc., 531 So. 2d 113 (Fla. 1988). See Fla. Fam. L. R. 12.280, 12.400. According to the committees, the application of the principles set forth in those provisions and in Barron are too restrictive. Because financial affidavits must be filed with the court, the committees assert that parties will be reluctant to reveal information knowing that the information will be contained in a document open to the public. Additionally, they contend that, with the advent of new technology and the consequent ability to access court records via computer, third parties will be likely to abuse the system by using the financial information to their advantage.

In Barron, we reiterated that a strong presumption of openness in judicial proceedings exists and we specifically found that such a presumption applies to both civil and criminal proceedings. We noted that public access to court proceedings and records was important to assure testimonial trustworthiness; in providing a wholesome effect on all officers of the court for purposes of moving those officers to a strict conscientiousness in the performance of duty; in allowing nonparties the opportunity of learning whether they

are affected; and in instilling a strong confidence in judicial remedies, which would be absent under a system of secrecy. In other words, as particularly pertinent here, public access to court proceedings and records is essential to ensure that judicial remedies are consistent, that family law files are open for independent review, and that confidence in family law proceedings is not undermined. Were we to allow for the sealing of financial affidavits upon request, we would be eliminating an important factor of government accountability that is necessary to ensure similar treatment for similarly situated litigants.

As we stated in Barron, closure of court proceedings or records should occur only under limited circumstances and in this regard family law proceedings should not be given special consideration. Moreover, we also noted in Barron that the legislature was free to enact legislation limiting public access to family law proceedings, but because it had not done so, family law proceedings must be cloaked with a presumption of openness. Barron was issued in 1988 and the legislature has not provided any additional provisions for closure in family law proceedings since the issuance of that opinion. Moreover, since our decision in Barron, the legislature proposed and the public subsequently enacted article I, section 24, of the Florida Constitution, which provides in pertinent part:

> Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

Art. I, § 24(a). Under this provision, any person has the right to inspect court files unless those files are specifically exempted from public inspection. As indicated above, neither the legislature nor this Court has specifically exempted financial information in family law proceedings

from public inspection. In fact, just prior to the adoption of section 24(a), we adopted rule 2.051 to clarify when court records could be deemed to be confidential. See In re Amendments to the Florida Rules of Judicial Administration–Public Access To Judicial Records, 608 So. 2d 472 (Fla. 1992). In doing so, we expressly approved the principles of Barron by including them in the body of the rule. See Rule 2.051(c)(9). That fact is specifically noted in the 1995 commentary to rule 2.051. We conclude that the committees' request to allow the routine sealing of such records must be denied.

While we understand and are sympathetic to the committees' concerns regarding the loss of privacy inherent in the filing of financial affidavits, we simply cannot find that public policy dictates the regular sealing of this type of information. In fact, as the discussion above illustrates, public policy dictates just the opposite conclusion, that is, that such records are presumed to be public.

We emphasize that, although we have previously stated in other opinions our conclusion that a presumption of openness applies to family law proceedings, this does not mean that financial records in those proceedings can never be sealed. Under the Family Law Rules, the sealing of records is governed by rule 2.051. Under that rule, a court is permitted to seal any court record where, among other things, confidentiality is required to protect trade secrets, to avoid substantial injury to innocent third parties, or to avoid substantial injury to a party by disclosure of matters protected by a common law or privacy right not generally inherent in the specific type of proceeding sought to be closed. Under the rule, it is within the discretion of the trial judge to seal financial records in family law proceedings if the trial judge finds it necessary to do so because it has been shown that third parties are likely to use this information in an abusive manner.

For instance, if it is likely that access to the financial information would subject a party to abuse such as the use of the information by third parties for purposes unrelated to government or judicial accountability or to first amendment rights, then a trial judge has the authority to seal the financial information. In doing so, however, the order sealing the records should be conditional in that the financial information should be disclosed to any person who establishes that disclosure of the information is necessary for government or judicial accountability or has a proper first amendment right to the information. This clarification

should alleviate some of the committees' concerns because it explains that trial judges have the ability to protect the privacy interests of parties that could be adversely affected by new technology.

Rule 12.285 - Mandatory Disclosure

Both committees have requested that we amend rule 12.285 to reflect that a Child Support Guidelines Worksheet must be filed with the court rather than just served on the other party. Currently, the instructions to the forms require the worksheet to be filed with the court but the rule allows it simply to be served on the other party. This creates a conflict between the rule and instructions. We agree that the worksheet should be filed with the court so that the court has the benefit of this information when making its decision regarding the appropriate amount of child support to be awarded. As such, we have amended the rule to require the filing of the worksheet with the court. This amendment also necessitates a change to Family Law Form 12.932, Certificate of Compliance with Mandatory Disclosure.

The committees have also requested another minor change to this rule to reflect that all insurance policies, whether individual or group policies, must be disclosed. We approve this change.

New Rule 12.365 - Expert Witnesses

In our Family Law Opinion, we rejected the adoption of new rule 12.365, which would govern the appointment of experts by the court. We were concerned that the adoption of the rule would increase costs in family law cases. According to the committees, the rule is necessary to establish procedures to follow if experts are used. Further, to address the concerns of this Court, the committees have modified portions of the rule which implied that the appointment of experts was required by the court in certain circumstances. The committees contend that the proposed rule, as revised, may actually reduce costs to the litigants in many cases because it will clarify confusion regarding deposing experts, ex parte communications with the court, when and how a report is to be provided to the court, and the weight to be given to the report.

After having considered the committees' reasons for requesting the rule, we adopt the rule as proposed.

Rule 12.491 - Child Support Enforcement

The committees request this Court to allow child support hearing officers to issue recommended orders establishing paternity in contested paternity cases and determining support issues for a parent with whom a child is living. This request does not apply to contested paternity cases in

which a jury trial has been demanded. All parties acknowledge that a litigant can demand a jury trial in paternity cases and that hearing officers cannot conduct such proceedings. Currently, the rule limits the powers and duties of hearing officers to issues regarding child support. According to the committees, the authority of a hearing officer to hear these issues is necessary to ensure compliance with federal statutes and regulations, which require a state to have an expedited procedure for the determination of paternity and support to receive certain federal funding. See, e.g., 42 U.S.C. § 666(a)(2)(1994); 45 C.F.R. § 303.101(b)(1)(1997). We agree that the support issues to be considered by a hearing officer may be extended to include alimony enforcement issues related to an ongoing child support matter, but, for the reasons expressed below, we decline to allow hearing officers to adjudicate contested paternity cases.

As conceded by the committees, the fact that the federal law requires an expedited process does not mean that a hearing officer is required to hear paternity determinations. To the contrary, the legislation simply requires that an expedited process be provided. Clearly, an expedited process can be implemented under which an Article V judicial officer presides over paternity proceedings.

The committees, however, argue that, because a paternity proceeding is so intricately tied to support and because hearing officers can hear support issues, the hearing officers should be allowed to hear paternity issues. The committees contend that the same procedures in effect for protecting the due process rights of a litigant in child support would be in effect for paternity determinations. Consequently, the committees see no need for an initial determination regarding paternity to be conducted by an article V judicial officer. The committees also assert that a contrary holding will overload the judiciary. We disagree.

First, hearing officers are only prohibited from presiding over contested paternity cases. Hearing officers are authorized to accept "voluntary acknowledgment of paternity and support liability and stipulated agreements setting the amount of support to be paid." Fla. Fam. L. R. 12.491(e)(3).

Second, chapter 742, Florida Statutes (1997), is the exclusive remedy for establishing paternity, P.N.V. v. Washington, 654 So. 2d 1274 (Fla. 2d DCA 1995), and provides that any determination of paternity also involves a determination of custody. Section 742.031, Florida Statutes (1997), governs hearings in paternity proceedings. That section, in pertinent

part, provides:

> (1) Hearings for the purpose of establishing or refuting the allegations of the complaint and answer shall be held in the chambers and may be restricted to persons, in addition to the parties involved and their counsel, as the judge in his or her discretion may direct. The court shall determine the issues of paternity of the child and the ability of the parents to support the child. . . . The court may also make a determination as to the parental responsibility and residential care and custody of the minor children in accordance with chapter 61.
>
> (2) If a judgment of paternity contains no explicit award of custody, the establishment of a support obligation or of visitation rights in one parent shall be considered a judgment granting primary residential care and custody to the other parent without prejudice. If a paternity judgment contains no such provisions, custody shall be presumed to be with the mother.

(Emphasis added.) In essence, in making a determination of paternity, a court, of necessity, is making a custody determination; that is, even when custody is not an issue, a paternity judgment containing no explicit award of custody is granting custody to the mother. We find that hearing officers have no constitutional or statutory authorization to make recommendations regarding custody and visitation, and we accordingly conclude that they are not authorized to hear contested paternity proceedings.

Rule 12.610 - Injunctions for Domestic and Repeat Violence

The rules committee requests that we modify several rules to clarify the procedure for serving a motion to modify a domestic or repeat violence injunction. Currently, rule 12.610(c)(6) states that such motions are governed by the rules of civil procedure; however, the civil rules do not directly address modification of such injunctions. Additionally, rule 12.610(b)(2)(C) provides that service of pleadings in cases of domestic or repeat violence other than the petition and orders granting injunctions are governed by rules 12.070 and 12.080. However, those rules specifically exclude domestic and repeat violence. We agree that clarification is needed.

Under the committee's proposal, three rules would be modified: rule 12.610(c)(6) would be amended to delete any reference to the rules of civil procedure; rule 12.610(b)(2)(C) would be amended to delete reference to rule

12.070, which governs initial service of process; and rule 12.080(a)(2) would be amended to provide that service of pleadings and papers in domestic and repeat violence cases would be governed by rule 12.610 where rule 12.080 is in conflict with rule 12.610. Under this proposal, service of a motion to modify an injunction could be by mail rather than personal service. See rule 12.080 (service of pleadings and papers after commencement of all family law actions is governed by rule 1.080, which allows service by mail). In our Family Law Opinion, we disapproved service by mail for injunction petitions due to concerns about enforcement of the injunctions and prosecution of injunction violations when service of those injunctions were by mail. Notably, a motion to modify or vacate an injunction is actually in the nature of a supplemental petition rather than a motion. See, e.g., Fla. Fam. L. Form 12.980(k) (supplemental petition for modification of injunction for protection against domestic violence or repeat violence). Under rule 12.610(a)(2), personal service by a law enforcement agency is required for all domestic and repeat violence petitions. Accordingly, we have modified the committee's proposal as set forth in appendix A to clarify that motions to modify domestic or repeat violence injunctions are supplemental petitions and that such supplemental petitions must be served in the same manner as initial petitions under rule 12.610; service of pleadings other than petitions and orders granting injunctions shall be governed by rule 12.080. Given that we are modifying the committee's proposal, we direct that this rule change be published in The Florida Bar News and we will allow comments to be filed within thirty days from the date of publication, which we will consider prior to the effective date of the change.

Rule 12.615 - Civil Contempt

Both of the committees ask that we adopt a rule governing civil contempt in family law proceedings given the considerable confusion that exists in this area of the law. The proposals of the two committees, however, are quite different. For example, the steering committee's proposal is limited to support, whereas the rules committee's proposal governs other matters as well. Other distinctions also are apparent, which we do not list here. We agree that a rule governing civil contempt should be adopted, but we conclude that neither of the committees' proposals is completely acceptable. As such, we have drafted a modified version that we believe addresses much of the confusion concerning contempt proceedings and is consistent with constitutional principles. To properly understand the procedures set forth in

the rule as adopted, it is necessary to examine the law of contempt generally and the problems inherent in contempt proceedings in family law cases.

We have noted on numerous occasions that there are two distinct types of contempt proceedings: (1) criminal contempt proceedings, and (2) civil contempt proceedings. Bowen v. Bowen, 471 So. 2d 1274 (Fla. 1985); Pugliese v. Pugliese, 347 So. 2d 418 (Fla. 1977).

Criminal contempt is used to punish intentional violations of court orders or to vindicate the authority of the court, and "potential criminal contemnors are entitled to the same constitutional due process protections afforded criminal defendants in more typical criminal proceedings." Bowen, 471 So. 2d at 1277 (emphasis added). See also Hicks v. Feiock, 485 U.S. 624 (1988).

On the other hand, the primary purpose of a civil contempt proceeding is to compel future compliance with a court order. International Union, United Mine Workers v. Bagwell, 512 U.S. 821 (1994). A civil contempt sanction is coercive in nature and is avoidable through obedience. Id. at 827.

In Bowen, we noted that a present ability to purge the contempt sanction is an essential prerequisite to incarceration for civil contempt. In Johnson v. Bednar, 573 So. 2d 822 (Fla. 1991), we further concluded that the necessity of a purge provision in imposing a civil contempt sanction is only required where incarceration is ordered. However, after we issued Bednar, the United States Supreme Court concluded that any coercive sanction ordered in a civil contempt proceeding must afford the contemnor an opportunity to purge; otherwise, the contempt is criminal in nature and requires that all of the constitutional due process requirements inherent in criminal cases be provided to the contemnor, including, in some cases, the right to counsel and to a jury trial. See Bagwell, 512 U.S. at 829. Only if the fine is compensatory is it appropriate to dispense with a purge provision. Id. Thus, Bagwell effectively overruled our conclusion in Bednar that a purge provision is required only when incarceration is ordered.

In addition to discussing the distinct types of contempt, in Bowen we also set forth the procedures to be followed in civil contempt proceedings involving support in family law matters. First, an initial order directing that support or alimony be paid is entered. Because such an order is based on a finding that the alleged contemnor has the ability to pay, the initial order creates a presumption in subsequent proceedings that there is an ability to pay. Second, in a subsequent proceeding, the movant has the

obligation to show that a prior order of support has been entered and that the alleged contemnor has failed to pay all or part of that support. The burden then shifts to the alleged contemnor, who must establish that he or she no longer has the ability to pay the support. The court must then evaluate the evidence and determine whether the alleged contemnor has the present ability to pay the support and has willfully refused to do so. If the court finds in the affirmative, then the court must determine the appropriate sanctions to obtain compliance. Under Bagwell, regardless of whether the sanction is incarceration, garnishment of wages, additional employment, the filing of reports, additional fines, the delivery of certain assets, the revocation of a driver's license, or other type of sanction, the court must provide the contemnor with the ability to purge the contempt; that is, if the contemnor satisfies the underlying support obligation, the sanctions must be lifted.

If the court finds that the contemnor's conduct is serious enough to warrant punishment, then the appropriate remedy is a criminal contempt proceeding under which the contemnor is entitled to the appropriate due process protections available in criminal cases.

While these principles appear to be fairly straightforward, cases reflect that courts often fail to apply the principles properly.[1] Additionally, several problems frequently arise that create confusion in the application of these principles. The first is the situation in which the alleged contemnor fails to attend the hearing on the movant's motion for contempt. In this situation, problems arise as to the proper procedure for determining whether the alleged contemnor has ability to pay. This situation was addressed in detail by the Fourth District Court of Appeal's well-reasoned opinion in Pompey v. Cochran, 685 So. 2d 1007 (Fla. 4th DCA 1997).

In Pompey, the alleged contemnor, Pompey, failed to attend the hearing on why he should not be held in contempt for failing to pay support. After the hearing, the hearing officer recommended, and the trial court approved, an order finding that Pompey was in willful contempt of court; that he had the present ability to comply; and that he was to be incarcerated for a period of 179 days unless he paid the support arrearage in the amount of $22,100 within a set period of time.

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[1] See, e.g., Gregory v. Rice, No. 92,471 (habeas corpus petition filed with this Court based on improper determination of present ability to pay; procedure allowed hearing officer's assistant to run down hall to obtain judge's signature on recommended order); Aloisi v. Bacon, No. 92,854 (habeas corpus petition filed with this Court based on improper incarceration of seventy-seven year-old-man diagnosed with dementia who was found to have present ability to pay $205,000 alimony purge amount solely on former wife's attorney's statement that he had paid no alimony since 1994).

Pompey failed to pay the purge amount and an order of arrest and commitment was issued. Pompey appealed, contending that there was no evidence in the record to support a finding that he had the present ability to pay the purge amount set by the court.

The district court first noted that "[t]he ability to comply is the linchpin of civil contempt." Pompey, 685 So. 2d at 1013. The district court then applied our decision in Bowen, concluding that Pompey's failure to appear and failure to rebut the presumption of his ability to pay was sufficient to find that he willfully failed to pay support; however, the court concluded that some affirmative evidence of Pompey's present ability to pay was required before he could be incarcerated. Because there was no evidence of his present ability to pay, the district court found that Pompey had been wrongfully incarcerated. The court noted its lack of sympathy for recalcitrant parents who fail to pay support, but concluded that the constitutional rights of individuals required its conclusion.

In analyzing this issue, the district court suggested a procedure to ensure that the constitutional rights of alleged contemnors are protected. Under the suggested procedure, a court is allowed to issue a writ of bodily attachment for a non-appearing contemnor at a support enforcement hearing; then, when the contemnor is brought before the court, a hearing is held immediately on whether the contemnor has the present ability to pay the purge amount. Because a hearing on the contemnor's ability to pay is held immediately after the writ of bodily attachment is executed, we agree that such a procedure is constitutional and would permit the subsequent incarceration of the contemnor if a finding is made that the contemnor does have the present ability to pay the purge. Accordingly, we have provided for such a procedure in the rule.

The second situation in which problems arise is when the alleged contemnor appears and is found to be in contempt and incarceration is imposed, but the incarceration is deferred for a period of time to provide the contemnor with the opportunity to comply. Under this situation, a dilemma arises as to whether, when the contemnor fails to comply within the deferment period, a second hearing is required to reexamine whether the contemnor still has the present ability to comply.

The district courts of appeal are divided on this issue. For instance, in Haymon v. Haymon, 640 So. 2d 1204 (Fla. 2d DCA 1994), the Second District Court of Appeal concluded that, even when a finding of present ability to pay already has been made, if incarceration is deferred for a period of

time, the contemnor must again be brought before the court prior to incarceration to determine whether the contemnor still has the present ability to pay. Yet, in Hipschman v. Cochran, 683 So. 2d 209, 212 (Fla. 4th DCA 1996), the Fourth District Court of Appeal concluded that, so long as a trial court has already determined that a contemnor has the ability to purge within a short time frame, "due process does not automatically require a second hearing before arrest on the question of whether the contemnor has the ability to pay the purge amount." In so holding, however, the court recognized that under certain circumstances a hearing would still be required. For example, when the payments are to be made directly to the spouse, a court should hold a hearing to determine whether the contemnor has actually complied. Additionally, the court found that other circumstances may warrant a preincarceration hearing, "which we leave to future cases and to the trial courts' discretion to address," id. at 213, and that nothing said by the court was "designed to prevent a contemnor from seeking an additional, preincarceration hearing." Id. at 212 n.2.

Based on the confusion and risk of unwarranted incarceration that have occurred in similar situations, we conclude that a second hearing must always be conducted when incarceration is deferred. Simply too many contingencies may occur between the time a purge is ordered and incarceration is to begin to find to the contrary. As the Fourth District recognized, questions frequently arise as to whether the purge has in fact been satisfied. Moreover, if an asset such as stock is to be sold to pay the purge amount and the market drops, the contemnor may no longer have the present ability to pay. Further, while the contemnor may ask for such a hearing even if not routinely scheduled, many contemnors are unrepresented and are unaware that they may request a hearing. We conclude, however, that such a hearing need not be held before incarceration. As when an alleged contemnor fails to appear at the contempt hearing, immediately upon incarceration, the alleged contemnor must be brought before the court for a determination of whether the alleged contemnor continues to have the present ability to pay. In other words, when incarceration is deferred to afford an alleged contemnor the opportunity to comply and the alleged contemnor fails to comply, the court may issue a writ of bodily attachment directing that the alleged contemnor is to be brought before the court immediately upon execution of the writ.

We acknowledge and are sympathetic to the importance of ensuring that individuals who are

entitled to support receive that support. We must be equally diligent, however, in protecting the rights of those obligated to pay support. As the court noted in Pompey:

> The consequences of a civil contempt in the area of child support enforcement are potentially greater than those of a criminal contempt. Yet there are few procedural safeguards. Many individuals are unrepresented and may be unaware of their rights--such as the right to periodic review of the contempt order and the right to request a hearing to demonstrate that they no longer possess the ability to pay. The consequences are even more dire for an indigent individual caught in a "Catch-22" situation: he cannot afford to hire an attorney, yet he has no right to an attorney because the court indulges in the assumption that no incarceration can take place unless the contemnor possesses the present ability to pay. See Bowen, 471 So. 2d at 1278. Contempt jurisprudence must attempt to balance the need of a court to enforce its orders with the doctrine that a court's power to obtain compliance should be tempered by safeguards that ensure fundamental fairness.

Pompey v. Cochran, 685 So. 2d 1007 (Fla. 4th DCA 1997). We recognize that our decision today will impose the requirement of additional hearings on an already heavily burdened judicial system. However, inconvenience cannot be cited as a reason to deny an individual the due process to which the individual is entitled. Incarceration to obtain compliance with a court order may indeed be warranted when a contemnor has the ability to comply with the order and willfully refuses to do so, but incarceration for the simple failure to pay a debt is clearly prohibited. We will not allow our rules to be modified to serve as the basis for creating a debtor's prison.

The new contempt rule, which is set forth in appendix A of this opinion, modifies the committees' proposals to reflect the procedures to be followed in contempt proceedings based on the above analysis. Because of the significant changes to the proposal, we direct that this rule change be published in The Florida Bar News and we will allow comments to be filed within thirty days from the date of publication, which we will consider

prior to the effective date of the change.

FORMS

Both committees have requested that we amend a number of forms. Some of the suggested changes are to correct errors in the current forms; others are simply technical or are for clarification or stylistic purposes. Some of these changes were implemented in our recent opinion, which changed certain rules and forms to reflect statutory changes enacted during the last legislative session. See Amendments to the Florida Family Law Rules of Procedure, 23 Fla. L. Weekly S367 (Fla. Jun. 25, 1998). Additionally, pursuant to our request, the committees have submitted proposals for alternative methods of making routine amendments to the forms, which we are considering separately from this opinion. At this time, we implement only those proposed changes necessary to correct errors in the forms. The remaining proposed changes should be resubmitted during the quadrennial review process or, if an alternative method of changing the Family Law Forms is adopted by this Court, resubmitted using that alternative amendment method. The following forms and related instructions are amended by this opinion:

Form 12.901(d), Financial Affidavit

Form 12.901(e), Financial Affidavit

Form 12.903(c), Supplemental Petition for Modification of Alimony

Form 12.932, Certificate of Compliance with Mandatory Disclosure

Form 12.941(d), Motion to Modify or Dissolve Temporary Injunction

Form 12.980(b), Petition for Injunction for Protection Against Domestic Violence

Accordingly, we adopt the amendments to the rules and forms[2] as set forth above and as set forth in appendices A and B of this opinion, effective 12:01 a.m., February 1, 1999.

We direct that these changes be published in The Florida Bar News,

[2]To allow for immediate use of the forms via the downloading of this opinion from our Internet site at "www.flcourts.org/courts/supct/rules.html," the forms, as attached in appendix B to this opinion, do not include strike-throughs and underlining to reflect deletions and additions where changes have been made. To view a copy of the forms with strike-throughs and underlining, please see the rules committee's "Comments From the Family Law Rules Committee on the Court's February 26, 1998, Order" located at "www.flcourts.org/courts/supct/proposed.html."

and we will allow comments from interested parties to be filed within thirty days from the date of publication, which we will consider prior to the effective date of the amendments. We specifically encourage comments to be filed regarding our changes to rules 12.610 regarding service in domestic violence cases and rule 12.615 regarding contempt.

It is so ordered.

HARDING, C.J., and SHAW, KOGAN, WELLS, ANSTEAD and PARIENTE, JJ., concur.

Original Proceeding - Florida Family Law Rules of Procedure

Honorable Durand Adams, Chair of the Family Court Steering Committee, Bradenton, Florida, and Honorable George S. Reynolds, III, Chair of the Family Law Rules Committee, and John F. Harkness, Jr., Executive Director of The Florida Bar, Tallahassee, Florida,

for Petitioners