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SID J. WHITE

AUG 27 1998

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IN THE SUPREME COURT OF FLORIDA

CLERK, SUPREME COURT

By Chief Deputy Clerk

IN RE: AMENDMENT TO THE FLORIDA  
FAMILY LAW RULES OF PROCEDURE  
(SELF HELP)

CASE NO. 93,319

**COMMENTS FROM CENTRAL FLORIDA LEGAL SERVICES, INC. ON  
PROPOSED FLORIDA FAMILY LAW RULE OF PROCEDURE 12.750**

**Organizational Statement:** Central Florida Legal Services, Inc., (hereinafter CFLS) is a private not-for-profit organization providing legal advice and representation to low income clients. CFLS in conjunction with the Volusia County Bar Association administers a Volunteer Lawyers Project which has developed extensive self help forms and instructions designed to provide meaningful access to the courts. These forms and instructions, prepared by CFLS attorneys with circuit family law judges, were approved by the Chief Judge of the Seventh Judicial Circuit and differ from Supreme Court approved forms to include local issues, needs and practices. CFLS, after reviewing the proposed language of R. 12.750(c)(3) and the interpretation of this rule offered by the Family Court Steering Committee in its Petition to this Court, has serious concerns, first and foremost, about the intent and scope of the following phrase:

Subdivision (c) Self help personnel may:

- (3) upon written approval by the chief judge, provide additional forms not included in or inconsistent with the Supreme Court approved forms . . . . (emphasis added)

**Summary of First Comment:** The chief judge of each judicial circuit should have the flexibility and autonomy to establish and approve local forms which are consistent with Supreme Court approved forms. Any limitation on this exercise of judicial authority would defeat innovation, intended to increase access to courts, within the court system.

1. The Rule should allow chief judges to develop local forms consistent with and in substantial conformity with Supreme Court approved forms. CFLS recognizes and applauds the Family Court Steering Committee for developing a comprehensive set of forms for use in family court proceedings. However, CFLS contends that for access to courts to be truly meaningful throughout this state, recognition must be made for local practices and local needs. As such, Supreme Court approved forms should serve as *model* forms and not as *exclusive* forms. The rule, as written, appears to limit approval by chief judges to only forms which are not included in the current Supreme Court forms under the proposed rule. A chief judge, for example, could not appear to approve a modified form for dissolution of marriage, or even a final judgment for

dissolution of marriage, because approved Supreme Court forms already exist. This interpretation may not be apparent on the face of the proposed rule but is apparent when reading the interpretation set forth in the Petition to create the Rule.

Staff from the Family Court Steering Committee and the UPL department of The Florida Bar have confirmed our interpretation that any deviation, even a slight one, from a Supreme Court form means the form cannot be considered to be a "Supreme Court approved" form. Accordingly, any assistance given by non-attorney self help personnel with such a form would constitute an unlicensed practice of law and thus impede their ability to provide meaningful access. This ambiguity suggests the need for a rule which clearly authorizes self help personnel to provide assistance with "other locally approved" forms even if those forms are already addressed by Supreme Court approved forms so long as the forms are consistent with Supreme Court forms.

The Rule as proposed would in fact hinder access to the courts in Volusia County. Central Florida Legal Services (CFLS) has worked closely with court personnel, the Court Administrator's office and the family law judges over the past year to develop detailed family law forms packages (consisting of instructions and forms) for pro se litigants, primarily in the areas of dissolution, modification and child support enforcement. These forms packages are sold by the Clerks and at the law libraries. Pro bono attorneys from the Volusia County Bar Association's Volunteer Lawyers Project offer instructional workshops on the use of these forms. The forms have been adopted, for the most part, from Supreme Court forms and were reviewed and approved by the Family Law Judges in this Circuit. All forms, we believe, are in substantial compliance with the Supreme Court forms. Accompanying instructions that differ from the Supreme Court's instructions guide litigants through all stages of the Volusia County Court process; they are in great detail and are tailored to local practice.

If a self help center is established in the Seventh Judicial Circuit, the proposed Rule 12.750 (c) (3) would preclude the self help center from assisting litigants with locally approved forms which were specifically designed to provide meaningful access to the court system in this circuit.

CFLS is aware that the Family Law Rules Committee has submitted comments recommending the deletion of subdivision (c) (3) from Rule 12.750. CFLS opposes the deletion of subdivision (c) (3). This deletion would mandate the use of Supreme Court approved forms in each judicial circuit without regard to local needs or practices and without regard to improved forms developed on a local basis to improve access to the courts. CFLS does support a modified version of subdivision (c) (3) as reflected below.

We understand that the proposed rules were drafted with consideration given to this Court's rulings in UPL cases. However, amending the proposed rule to give chief judges authority to approve forms which are consistent with existing Supreme Court forms should not raise UPL concerns. The new Rule could easily make clear that only self help personnel as defined by the Rule may assist with locally approved forms and that paralegals and other non-lawyers are still prohibited from assisting with anything but Supreme Court approved forms.

The Florida Supreme Court has stated repeatedly that access to the Courts must include a variety of approaches to ensure meaningful access. Restricting the self help center to use of only Supreme Court approved forms will stifle innovation and creativity. We therefore propose that Rule 12.750 (c)(3) be amended to state:

**upon written approval by the chief judge, provide additional forms ~~not included in or inconsistent~~ consistent with the Supreme Court approved forms, copies of which are to be sent to the Chief Justice, the chair of the Family Law Rules Committee of The Florida Bar, the chair of the Family Law Section of the Florida Bar, and the chair of the Family Court Steering Committee. ~~Such additional forms may be utilized until acted on by the Supreme Court;~~**

2. As written the proposed rule is ambiguous. Does the rule only authorize the chief judge to approve additional forms in two situations – when either (a) “not included in” or (b) “inconsistent with” . . . Supreme Court forms? Or, does the Rule authorize the chief judge to approve additional forms only when such forms are “not included in” the Supreme Court forms and are not “inconsistent with Supreme Court approved forms”?

3. Subdivision (a) CFLS has no objection to subdivision (a) as proposed by the Family Court Steering committee. However, CFLS is aware that the Family Law Rules Committee has submitted its comments recommending the deletion of the phrase “under the auspices of the court.” The Family Law Rules Committee has noted that legal services programs may operate some self help programs and that all family law self help programs should be governed by this Rule. CFLS strenuously opposes a Rule which would expand the definition of self help programs to include federally and state funded legal services programs. Rule 12.750 (a), if amended as proposed by the Family Law Rules Committee to apply to legal services offices such as CFLS operating self help programs, would undermine the types of legal advice and assistance which CFLS routinely provides to pro se litigants. CFLS routinely engages, on behalf of pro se litigants utilizing locally approved forms, in the types of services which are prohibited by Rule 12.750 (d) entitled “Limitations on Services.” The inclusion of legal services offices under the definition of a self help program as suggested by the

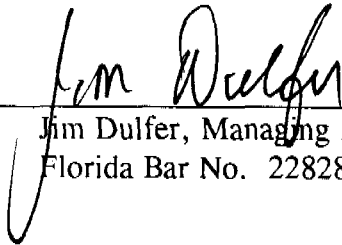
Family Law Rules Committee would severely impact and limit the activities and responsibilities of CFLS and the multitude of other of such legal aid offices assisting pro se litigants with forms and access issues.

4. Subdivision (c) (1) We agree with the Family Law Rules Committee comment recommending deletion of the words "or form."

Respectfully Submitted this 26 day of August, 1998.

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BY: \_\_\_\_\_

  
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I HEREBY CERTIFY that a copy of the foregoing has been furnished to B. Elaine New, Office of the State Courts Administrator, 500 South Duval Street, Tallahassee, Florida 32399.

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Jim Dulfer, Esq.