

FILED
SID J. WHITE
AUG 28 1998
097

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 THE STAFF ATTORNEYS AT THE FAMILY COURT SELF
HELP PROJECT OF THE 11TH JUDICIAL CIRCUIT AND THE LEGAL AID
SOCIETY OF THE DADE COUNTY BAR ASSOCIATION**

As attorneys for the Family Court Self-Help Project, a joint project of the Eleventh Judicial Circuit and the Legal Aid Society of the Dade County Bar Association, we have first hand knowledge of the problems facing the enactment of the Florida Family Law Rule of Procedure 12.750, Family Self-Help Programs. We would recommend that the Florida Supreme Court postpone the passing of this rule until after the completion and evaluation of the two one-year pilot programs, which begin operation in September 1998. As one of the two designated pilot programs and current Family Court Self Help Project attorneys, we file these comments:

1. Subdivision (a): We recommend deleting "under the auspices of the court" as many of the programs may be independent operations or run by other entities, such as legal services providers or a local bar association.

Also in subdivision (a), we recommend deleting the word "fair" where the rule states "to achieve fair and efficient resolution of their family law case." Stating that the purpose of the program is to achieve "fair" resolution implies a certain level of advocacy on the part of the program. The goal should be to help pro se litigants achieve "efficient" resolution of their cases. The program must remain impartial as to the outcome.

2. Subdivision (b)(1): We recommend that the following be added: "...or child support enforcement proceedings."

3. Subdivision (b)(2): We recommend that the following be added: "...or any litigant whose lawyer has withdrawn by court order."

4. Subdivision (c)(1): This section prevents the staff attorneys and non-attorneys at each unit from making sure that the self-represented litigant is indeed filing the "appropriate" forms/petition. If, after briefly speaking with the self-represented litigant, it is clear that what he/she might think is the appropriate form to file, is indeed not the correct form and we are unable to correctly assist her/him in the filing of the appropriate forms, this restraint on the self help personnel, specifically the attorneys, will not only frustrate the self represented litigant, but will also continue to slow the judicial process for everyone. It is our understanding that the main purpose for the creation of self help programs is to alleviate the strain and congestion of the judicial system.

It is our recommendation that the self-help personnel be allowed to recommend a certain form

if they realize the mistake made by the self represented litigant. The Steering Committee, in its Petition to Create a Florida Family Law Rule of Procedure to Provide Self Help Services, IV. A., cites to the 1978 case of The Florida Bar v. Brumbaugh, 355 So.2d at 1194, where the Florida Supreme Court held that recommending a specific form constitutes the practice of law (p.14 of petition). However, in Section B, the committee defines Self Help Case Management as the "programs necessary to assist the self represented litigant with gaining access to the justice system, initially to file an **"appropriate"** pleading...These functions are controlled by the self help rule." (P.21 of petition). If we are to help the litigant file the "appropriate" pleading, we must be able to recommend a particular form if what he/she initially brought forth was incorrect.

5. Subdivision (c)(1)and(c)(2): We recommend the following: that the words "or forms approved by the Chief Justice" be added after the words "Supreme Court approved forms."

6. Subdivision (c)(5): we recommend deleting from "...only if the self represented litigant..." to "barrier or disability." Our comment on this section is that it is not feasible to create a form for a dissolution of marriage action that would cover all pro se litigants in the jurisdiction since it is sometimes necessary to add information that applies to each particular litigant. Just filling in the blanks for every litigant would not provide the needed relief.

7. Subdivision (c)(6): This section is irrelevant as all forms and definitions available for the self represented litigant will either be Supreme Court approved forms or forms approved by the Chief Judge.

8. Subdivision (c)(7): See comment #7 above. Further, if Self Help personnel point out a particular statute to a particular litigant, it is **only** because that statute is applicable or relevant.

9. Subdivision (c)(14): We recommend that this section state as follows: "inform self represented litigant of their right to seek an attorney and obtain legal advice;."

10. Subdivision (d)(1): See comment #5 above.

11. Subdivision (d)(6): See comment #6 above.

12. Subdivision (d)(7): See comment #6 above.

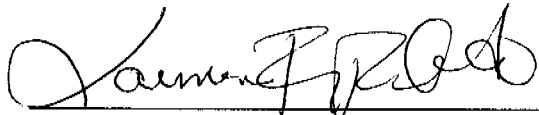
13. Subdivision (f): We recommend adding the following: "except when that information is limited or protected by statute."

14. Subdivision (I): We recommend deleting from "...unless the self help personnel..." to "subdivision (c)(4)." This is unnecessary as each pleading that is reviewed and completed by the Self Help Program is stamped by the unit stamp. No pleading will be accepted by the clerk of the court without this stamp.

15. Subdivision (j): We recommend adding the language, "and child support enforcement cases" after "family law cases."

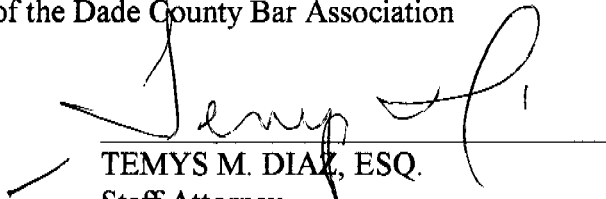
Respectfully submitted this 27 day of August, 1998.

The Family Court Self Help Project of the Eleventh Judicial Circuit
and the Legal Aid Society of the Dade County Bar Association



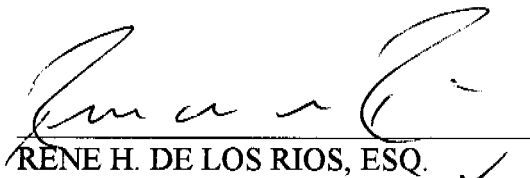
CARMEN R. PINTADO, ESQ. ✓

Supervising Attorney
Family Court Self Help Project
175 N.W. 1st Avenue, 24th Floor
Miami, FL 33128
(305) 372-7951
FLORIDA BAR NO.:0062359



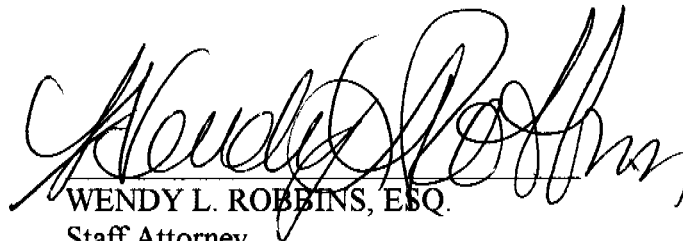
TEMYS M. DIAZ, ESQ.

Staff Attorney
Family Court Self Help Project
175 N.W. 1st Avenue, 24th Floor
Miami, FL 33128
(305) 579-2704
FLORIDA BAR NO.:0134538



RENE H. DE LOS RIOS, ESQ. ✓

Staff Attorney
Family Court Self Help Project
175 N.W. 1st Avenue, 24th Floor
Miami, FL 33128
(305) 579-2705
FLORIDA BAR NO.:0090433



WENDY L. ROBBINS, ESQ.

Staff Attorney
Family Court Self Help Project
175 N.W. 1st Avenue, 24th Floor
Miami, FL 33128
(305) 372-7614
FLORIDA BAR NO.:0138665

WE 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, FL 32399.

