

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE FLORIDA
RULES OF APPELLATE PROCEDURE** **Case No.: SC06-159**

**RESPONSE OF THE APPELLATE COURT RULES COMMITTEE
TO COMMENTS ON PROPOSED RULE 9.130(a)(3)(C)(iii)**

Jack Roy Reiter, Chair, Appellate Court Rules Committee (ACRC), and John F. Harkness, Jr., Executive Director, The Florida Bar, file this response to comments concerning proposed Florida Rule of Appellate Procedure 9.130(a)(3)(C)(iii), submitted by the Juvenile Court Rules Committee, through its Chair, Alan Abramowitz, The Legal Aid Society of Palm Beach County, Inc., The Statewide Guardian Ad Litem Office, and Ryan Thomas Truskoski.

Mr. Abramowitz is concerned that the proposed rule will delay permanency for children in the dependency system. The Legal Aid Society agrees with this position, and also adds the rule might flood the appellate courts with litigation.

The ACRC's Family Law Rules Subcommittee extensively discussed these perceived concerns before proposing the amendment to the full ACRC. The ACRC debated these same perceived concerns in depth before adopting the proposed rule amendment as reflected in the ACRC minutes attached to

its Two-Year-Cycle Report as Appendix B, pp. 109-113 (ACRC's 6/24/05 discussion), pp. 140-143 (ACRC's 6/21/05 discussion).

In short, because these orders are presently reviewable under the district court's certiorari jurisdiction, the ACRC found that permitting nonfinal appeals in these proceedings would not delay a child's permanent placement, nor would it necessarily result in increased appellate litigation. Additionally, the ACRC agrees with and adopts the comments of Ryan Thomas Truskoski on these points.

The Guardian Ad Litem Program posits that a petition for writ of certiorari provides sufficient review for child custody orders in dependency and termination of parental rights proceedings. As addressed in the minutes of the ACRC's June 24, 2005 meeting, the ACRC thinks that these child custody orders should be subject to the same standard of review as child custody orders in family law proceedings. Thus, the ACRC disagrees with the Guardian ad Litem's position on this point.

Concerning the Guardian Ad Litem's remarks about the specificity of proposed rule 9.130(a)(3)(C)(iii) and its interaction with proposed rule 9.146(b), the ACRC thinks that the two rules are sufficiently specific to establish which orders are appealable. The Guardian Ad Litem's suggestion

concerning rule 9.130(a)(4) has not been previously presented to the ACRC, therefore, the ACRC takes no position as to that suggestion.

WHEREFORE, the Appellate Court Rules Committee respectfully requests the Court to amend the Florida Rules of Appellate Procedure as proposed in its Two-Year-Cycle Report.

Dated: _____

Respectfully submitted

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