

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO THE FLORIDA  
RULES OF CIVIL PROCEDURE – MANAGEMENT  
OF CASES INVOLVING COMPLEX  
LITIGATION**

**CASE NO.: SC08-1141**

**COMMENTS OF FAMILY LAW RULES COMMITTEE  
TO PROPOSALS OF TASK FORCE ON  
COMPLEX LITIGATION**

Robyn L. Vines, Chair, Family Law Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file these comments regarding the proposed amendment to the Florida Rules of Civil Procedure by the Task Force on the Management of Cases Involving Complex Litigation.

In the July 15, 2008, issue of *The Florida Bar News*, notice was published of proposed amendments to the Florida Rules of Civil Procedure related to the management of complex cases. (See Appendix A.) The court specifically requested comments from the Family Law Rules Committee on the proposed removal of family law cases from *Form 1.997*, the civil cover sheet.

The Family Law Rules Committee considered the amendments at its September 12, 2008, meeting and makes the following comments on the proposed amendments. The comments were approved by the Executive Committee of The Florida Bar Board of Governors by a vote of 7-0.

**Fla. R. Civ. P. Form 1.997.** The Task Force proposes to remove domestic relations cases from this form, the Civil Cover Sheet. The Family Law Rules Committee voted 26-0-0 to oppose this amendment.

*Form 1.997* was developed pursuant to section 25.075(1), Florida Statutes, which directed the Florida Supreme Court to “develop a uniform case reporting system, including a uniform means of reporting categories of cases, time required in the disposition of cases, and manner of disposition of cases.” Domestic relations cases comprised 38% of all circuit court filings in 2006-2007.<sup>1</sup> The proposed amendment, if applied to 2006, would have removed almost 40% of all circuit cases filed in 2006-2007 from the reporting. This defeats, rather than serves, the purpose of section 25.075, Florida Statutes.

In addition, failing to report domestic relations cases on the civil cover sheet would deprive the judicial system of important statistical information including the frequency, nature, and diversity of domestic relations actions, and the revenue generated by domestic relations cases whether upon filing the original proceeding or from supplemental proceedings arising thereafter.

Domestic relations cases must be accounted for to fulfill the purposes of section 25.075, Florida Statutes. Domestic relations cases are, by definition, not criminal and, unless reported separately, should remain on the existing Civil Cover Sheet, *Form 1.997*. In so doing, the court system will remain better equipped to manage the heavy volume of new cases and the supplemental disputes arising from domestic relations cases, sometimes years after the initial dispute was resolved.

In sum, the proposed amendment to *Form 1.997* is inconsistent with the purpose of its enabling statute, the proper administration of the court system, and the purposes for which it is otherwise used. While changes represented by the proposed amendments to *Form 1.997* may be desired to

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<sup>1</sup> Based on the Executive Summary to the 2006-2007 Florida Trial Courts Statistical Reference Guide, there were 918,676 circuit court filings compared with more than 356,000 domestic relations cases.

better manage general civil disputes, the changes would deprive the court system of valuable information that it needs to allocate resources and properly manage domestic relations cases within the civil court system.

**Fla. R. Civ. P. 1.100(c)(3).** The proposed amendment states that if an action is settled without a court order or judgment being entered, or if the action is dismissed by the parties, the plaintiff or petitioner must file a final disposition form (*Fla. R. Civ. P. Form 1.998*) with the clerk. The Family Law Rules Committee voted 25-0-1 that this provision should not apply in family law cases. Accordingly, the Committee proposes an amendment to *Fla. Fam. L. R. P. 12.100* stating that this provision does not apply in family law cases. See Appendices B (full page) and C (two-column). First, the language of *Rule 1.100(c)(3)* speaks in terms of a “prevailing party” whereas family law cases generally do not have a “prevailing party” in the traditional use of the word. Additionally, the strict language of the amendment, itself, would preclude its application to family law matters since, with limited exception, a family law matter cannot be settled or resolved absent a dismissal by the parties or entry of a court order. Thus, for purposes of clarity, the Committee proposes an amendment to *Fla. Fam. L. R. P. 12.100* stating that the proposed amendment (or indeed, all of (c)(3)) does not apply in family law cases.

**Fla. R. Civ. P. 1.201.** *Fla. Fam. L. R. P. 12.020* provides that the Florida Rules of Civil Procedure apply in family law matters unless otherwise provided in the Family Law Rules. The Family Law Rules Committee voted 26-0-0 to create *Fla. Fam. L. R. P. 12.201* to provide that *Fla. R. Civ. P. 1.201* does not apply in family law cases. See Appendices B (full page) and C (two-column).

The Committee favors a rule governing the management of complex family law litigation, yet finds the criteria of the proposed *Rule* 1.201 insufficient to identify complex family law cases and manage the specific needs of a complex family court matter including, without limitation, temporary needs for support, custody, injunctions, operation of businesses, etc. Thus, the Committee proposes *Fla. Fam. L. R. P.* 12.201 which provides that *Fla. R. Civ. P.* 1.201 does not apply in family law cases, with the intention that the Committee will soon propose amendments to *Rule* 12.201 that would set forth the criteria for identifying and managing complex family court litigation based on the issues unique to family law cases.

Respectfully submitted \_\_\_\_\_.

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Chair

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Certificate of Service

I certify that a copy of these comments were provided to Hon.  
Thomas H. Bateman, III, Gadsden County Courthouse Annex, 24 North  
Adams Street, Quincy, FL 32351, by U.S. mail on \_\_\_\_\_  
\_\_\_\_\_.

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## **APPENDIX A**

Published in *The Florida Bar News*, July 15, 2008, at page 22

The Task Force on the Management of Cases Involving Complex Litigation (Task Force) has submitted to the Florida Supreme Court a petition to amend the Florida Rules of Civil Procedure to provide procedures to improve the management of complex civil cases.

The Court invites all interested persons to comment on the Task Force's proposed amendments, which are reproduced in full below, as well as online at <http://www.floridasupremecourt.org/decisions/proposed.shtml>. The Court specifically seeks comments from the Civil Procedure Rules Committee on all the proposals and from the Family Law Rules Committee on the proposed removal of family law cases from the civil cover sheet (form 1.997). An original and nine paper copies of all comments must be filed with the Court on or before September 15, 2008, with a certificate of service verifying that a copy has been served on Task Force Chair, The Honorable Thomas H. Bateman 111, Leon County Courthouse, Room 365C, 301 South Monroe Street, Tallahassee, Florida 32301-1861, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Task Force Chair has until October 15, 2008, to file a response to any comments filed with the Court. Electronic copies of all comments also must be filed in accordance with the Court's administrative order *In re Mandatory Submission of Electronic Copies of Documents*, Fla. Admin. Order No. AOSC04- 84 (Sept. 13, 2004).

## **IN THE SUPREME COURT OF FLORIDA**

IN RE: AMENDMENTS TO THE FLORIDA RULES OF CIVIL PROCEDURE -MANAGEMENT OF CASES INVOLVING COMPLEX LITIGATION, CASE NO. SC08-1141.

### **RULE 1.100, PLEADINGS AND MOTIONS**

**(a) -(b) [No Change]**

**(c) Caption.**

(1) Every pleading, motion, order, judgment, or other paper shall have a caption containing the name of the court, the file number, the name of the first party on each side with an appropriate indication of other parties, and a designation identifying the party filing it and its nature or the nature of the order, as the case may be. All papers filed in the action shall be styled in such a manner as to indicate clearly the subject matter of the paper and the party requesting or obtaining relief.

(2) A civil cover sheet (form 1.997) shall be completed and filed with the clerk at the time an initial complaint or petition is filed by the party initiating the action. If the



## **APPENDIX B**

## **RULE 12.100 PLEADINGS AND MOTIONS**

Pleadings and motions shall be governed by Florida Rule of Civil Procedure 1.100, except that the requirement in rule 1.100(c)(3) that parties file a final disposition form with the clerk if the action is settled without a court order or judgment being entered or if the action is dismissed by the parties, shall not apply to proceedings governed by these rules.

### **Commentary**

**1995 Adoption.** This rule provides that pleadings and motions are to be governed by Florida Rule of Civil Procedure 1.100. The cover sheets and disposition forms described in that rule shall be the same cover sheets and disposition forms used in family law proceedings.

**RULE 12.201. COMPLEX LITIGATION**

Florida Rule of Civil Procedure 1.201 shall not apply in proceedings governed by these rules.

## **APPENDIX C**

**Proposed rule**

**Reasons for change**

**RULE 12.100 PLEADINGS AND MOTIONS**

Pleadings and motions shall be governed by Florida Rule of Civil Procedure 1.100, except that the requirement in rule 1.100(c)(3) that parties file a final disposition form with the clerk if the action is settled without a court order or judgment being entered or if the action is dismissed by the parties, shall not apply to proceeding governed by these rules.

This provision of the Civil Rule should not apply in family law cases. Family law cases do not have “prevailing” parties and are not generally resolved without a court order.

**Commentary**

[No change]

**Proposed rule**

**Reasons for change**

**RULE 12.201.COMPLEX LITIGATION**

Florida Rule of Civil Procedure 1.201 shall not apply in proceedings governed by these rules.

The proposed complex litigation rule should not apply because it is not suited to family law cases.

I certify that these rules were read against West's *Florida Rules of Court – State* (2008).

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Ellen H. Sloyer, Associate Editor  
Legal Publications  
The Florida Bar