

**IN THE SUPREME COURT OF FLORIDA**

IN RE: AMENDMENTS TO

**CASE NO. SC08-1141**

***THE FLORIDA RULES OF  
CIVIL PROCEDURE – MANAGEMENT  
OF CASES INVOLVING COMPLEX LITIGATION.***

**COMMENT ON REMOVAL OF FAMILY LAW ACTIONS  
FROM THE CIVIL COVER SHEET AS RECOMMENDED  
BY THE PETITION**

THE UNDERSIGNED files this COMMENT to proposed Amendments to the *Florida Rules of Civil Procedure – Management of Cases Involving Complex Litigation*, and states specifically the suggested removal of family law actions from the Civil Cover Sheet.

**ISSUE. Whether family law actions should be removed from the Civil Cover Sheet filing requirements as recommended by the Petition?**

Actions governed by the *Florida Family Law Rules of Procedure* are and remain civil law and therefore should continue to be encompassed within the Civil Cover Sheet filing requirement currently embodied in *Rule 1.100 (c)(2)* which is the *Rule* that requires the use of the civil cover sheet. At this time there is not a corresponding *Rule* in *12.000* series of the *Florida Family Law Rules of Procedure* which

comports with **Rule 1.100** of the **Florida Rules of Civil Procedure**. If the Petition's proposed removal of family law actions, title IV-D cases, and domestic violence cases is approved, that removal would be detrimental to family cases throughout the State. In essence, the tracking of these cases by the Clerks of Circuit Court would be left in "limbo"; and would thus necessitate the creation of a new cover sheet to address the areas removed, as well as the creation of a new rule in the **Family Law Rules of Procedure**. Unfortunately, since the proposal makes no provision for a replacement, but would create a gap in the reporting requirement in family law cases currently imposed upon the Clerks of the Circuit Courts of this State by **Florida Statutes Section 25.075** and **Rule 2.245 (a)** of the **Rules of Judicial Administration**.

Why is this significant? As the Supreme Court is well aware, the third branch of government – the judicial branch – is, like much the rest of the nation experiencing a negative impact from the downturn in the economy. Article V, Revision 7 and chronic, inadequate funding of the court system, compounded by the fiscal crisis afflicting our State government has made placed the judicial branch in budget crisis mode, with threatened furloughs, layoffs, and reduction in services.

Unified family court cases are unique and different from other civil actions because they have longer "lives" than civil cases, require substantial and on-going judicial labor, quasi-judicial labor, case management, alternative dispute resolution and other ancillary services which in large part are furnished by salaried staff.

The Civil Cover Sheet and the companion Case Disposition Sheet are used by the Clerks of the Circuit Courts to monitor judicial labor and file activity through SRS reporting requirements. Those reporting requirements are, in turn, used for a variety of statistical purposes, such as tracking judicial caseloads; observing trends in certain case type filings; adjusting necessary support staff/ancillary services connected with the different types of family law case filings {i.e. dissolution of marriage actions, support actions, paternity, domestic violence to be domestic violence, repeat violence, dating violence and sexual violence, etc.}; and certifying the necessity for additional judicial positions within a circuit, etc.

Unlike other civil law cases, family law actions can have case activity for decades through modification and enforcement proceedings. Every time a modification action is filed in the initial case a new Civil Cover Sheet is filed reflecting case activity in the form of a "reopened" case. When that modification action is "closed" then the Case Disposition Form reflects that "disposed of" status. The "reopened" status triggers the charge of a reopening fee, together with the assessment of a modification and/or counterpetition filing fees. These fees result in revenue that fund the Clerks and Courts of this State.

Moreover, I would suggest that the Civil Cover Sheet and Case Disposition Form in family law cases should not be limited to just to new or modification proceedings, but, due to the unique nature of family law cases which {unlike tort or contract actions} can require civil contempt, enforcement and other on-going court activity for decades, a

second level of Civil Cover Sheet and Case Disposition Form be created to track matters requiring Clerk and Court labor but which are not new "actions." The Sheet and Form would have the same essential purpose, most crucially to facilitate reopening and closing of the family law case file and the proper assessment of fees.

I support the Family Law Section's assertion that in order to reach the goals expressed in the petition, family law cases should be returned to the form and expanded as proposed for other civil cases. For example, the addition of paternity as a type of family case as well as dividing up domestic violence to be domestic violence, repeat violence, dating violence and sexual violence would better serve the goals presented in the petition than their removal, especially in the absence of an alternative form for the use in the deleted matters.

WHEREFORE, I respectfully file this Comment, opposing the removal of family law matters from the Civil Cover Sheet as recommended by the Petition and further urge the Supreme Court to expand the scope of the Civil Cover Sheet and Case Disposition Form for the reasons above recited.

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that the original and nine copies of the foregoing Comment has been furnished to the Clerk of the Supreme Court and that a true and correct copy of the foregoing has been served upon The Honorable Thomas H. Bateman, III, Task Force Chair, Leon County Courthouse, Room 365C, 301 South Monroe Street, Tallahassee, Florida 32301-1861, and to Robyn Vines, Esquire, Chair, Family Law Rules Committee, Ruden McClosky, 200 East Broward Boulevard, Fort Lauderdale, Florida 33301-1963, by U.S. mail this **17<sup>th</sup>** day of **September, 2008** and further that on the same day a copy has been emailed to [e-file@flcourts.org](mailto:e-file@flcourts.org).

**Respectfully submitted,**

By: \_\_\_\_\_

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