

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE FLORIDA RULES
OF JUDICIAL ADMINISTRATION, THE FLORIDA RULES OF
JUVENILE PROCEDURE, AND THE FLORIDA RULES OF
APPELLATE PROCEDURE — IMPLEMENTATION OF THE
COMMISSION ON DISTRICT COURT OF APPEAL
PERFORMANCE AND ACCOUNTABILITY
RECOMMENDATIONS**

CASE NO: SC08-1724

**RESPONSE OF DAVID SILVERSTEIN TO COMMENTS OF THE
GUARDIAN AD LITEM PROGRAM**

David Silverstein, individually, files this response to comments of the Guardian Ad Litem Program to the Report of the Appellate Court Rules, Juvenile Court Rules, and Rules of Judicial Administration Committees filed in the above case.

In its Comments, the Guardian Ad Litem Program claims that the Juvenile Rules Committee elected not to devote substantive consideration to what types of non final orders could be reviewable on direct appeal and “instead, passed on cursory judgment after the ACRC’s work was complete.” Comments of the Guradian Ad Litem Program, page 8. In Footnote 5, the Guardian Ad Litem Program indicates that members of the Juvenile Rules Committee including David Silverstein, as Chair of the Juvenile Rules Committee, participated in one or more conference calls with the Appellate Rules Committee regarding the rules proposals of the Commission on District Court of Appeal Performance and Accountability Recommendations (DCA & P Recommendations). *Id.* The Footnote also asserts that David Silverstein represents the Department of Children and

Family Services through the Attorney General's office in Hillsborough County. *Id.*

These Comments of the Guardian Ad Litem Program are mischaracterizations of the role of David Silverstein and the role of the Juvenile Rules Committee in the process of formulating rule proposals from the DCA & P Recommendations. The Juvenile Rules Committee chose to work on the DCA & P Recommendations which concerned the Florida Rules of Juvenile Procedure and to allow the other rules committees to consider proposals related to their committees. The Committee decided to consider proposals in conjunction with the Appellate Rules Committee so each committee could provide input on the other's proposals and ensure that there were no conflicts in proposals.

To this end, David Silverstein attended several conference calls with the Appellate Rules Committee to review each committee's proposals. David Silverstein appeared on these calls as a member and representative of the Juvenile Rules Committee as Vice-Chair, not as a representative of the Office of the Attorney General or the Department of Children and Family Services. The Guardian Ad Litem Program, in Footnote 5, implies that David Silverstein represented the Office of the Attorney General and the Department of Children and Family Services in the formulation of the Appellate Rules Committee's proposal regarding a list of non-final orders reviewable on direct appeal. This proposition is incorrect.

The Guardian Ad Litem Program also implies that David Silverstein provided input to the Appellate Rules Committee's recommendation regarding its proposed list of non-final orders reviewable on direct appeal. This proposition is also incorrect. David Silverstein was not present on any calls or meetings in which a proposed list of non-final orders was discussed.

The Juvenile Rules Committee did not pass “only cursory judgment” on the Appellate Rules Committee’s proposed list of non-final orders. The Committee considered the proposed list at a full committee meeting, and after full discussion, voted not to accept the proposal. Some of the Committee members argued that the list should have additional types of non-final orders. Some argued that there should be no list at all, and the issue should be determined by the appellate courts in each particular case.

David Silverstein does not support the proposed list of non-final orders reviewable on direct appeal. This list will significantly slow the trial court and appellate court process in achieving permanency for children. This is contrary to the laudable intent of the DCA & P Recommendations.

Respectfully submitted December 12, 2008.

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CERTIFICATE OF SERVICE

I certify that a copy of this response was provided to the persons listed below by U.S. Mail on December 12, 2008.

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