

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE FLORIDA
FAMILY LAW RULES OF PROCEDURE**

CASE NO.: SC09-1822

**SUPPLEMENTAL PETITION TO AMEND
FLORIDA FAMILY LAW RULE OF PROCEDURE 12.015**

Jack A. Moring, Chair, Family Law Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this supplemental petition to amend *Fla. Fam. L. R. P.* 12.015.

On September 30, 2009, the Family Law Rules Committee filed a legislative fast-track report to create *Rule* 12.742 and *Forms* 12.984 and 12.996. Because these forms were proposed to be created as Florida Family Law Rules of Procedure forms, the petition should also have included an amendment to *Form* 12.015, to include the forms in the list of those considered part of the rules. See *Rule* 12.015(a). This omission has recently been discovered. Therefore, the Committee submits the attached amendment to *Rule* 12.015 (see Appendices A and B) to include these forms.

Additionally, because numbers 12.996 and 12.997 have already been assigned, the Order of Referral to Parenting Coordinator should have been designated as *Form* 12.998. An amended form is also attached in Appendix A.

Amendments to *Rule* 12.015 are also pending before the Court in Case Number SC08-1141, *In re: Amendments to the Florida Rules of Civil Procedure – Management of Cases Involving Complex Litigation*, Case Number SC08-2358, *In re: Amendments to Florida Family Law Rules of Procedure – Forms 12.996(a), 12.996(b), and 12.996(c)*, and the case submitted in March 2009 to create a support summary sheet and rule. The amendments pertinent to this case are double underlined and highlighted in the appendices.

Because of the essentially clerical nature of this amendment, it was not submitted to the Board of Governors of The Florida Bar (although the Board has previously approved the forms) and has not been published for comment.

The Committee respectfully asks that the court amend *Rule* 12.015 as shown in the petition and to substitute *Form* 12.998 for *Form* 12.996 as originally filed.

Respectfully submitted _____.

JACK A. MORING

Chair

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APPENDIX A

RULE 12.015. FAMILY LAW FORMS

(a) Forms Adopted as Rules. The forms listed in this rule shall be adopted by the rulemaking process in Fla. R. Jud. Admin. 2.140. The Family Law Rules Committee of The Florida Bar shall propose amendments to these forms and any associated instructions. These forms shall be designated “Florida Family Law Rules of Procedure Forms.” Forms coming under this provision are:

- (1) 12.900(a), Disclosure From Nonlawyer;
- (2) 12.900(b), Notice of Limited Appearance;
- (3) 12.900(c), Consent to Limited Appearance by Attorney;
- (4) 12.900(d), Termination of Limited Appearance;
- (5) 12.900(e), Acknowledgment of Assistance by Attorney;
- (6) 12.900(f), Signature Block for Attorney Making Limited Appearance;
- (7) 12.900(g), Agreement Limiting Representation;
- (8) 12.900(h), Notice of Related Cases;
- (9) 12.901(a), Petition for Simplified Dissolution of Marriage;
- (10) 12.902(b), Family Law Financial Affidavit (Short Form);
- (11) 12.902(c), Family Law Financial Affidavit;
- (12) 12.902(e), Child Support Guidelines Worksheet;
- (13) 12.902(f)(3), Marital Settlement Agreement for Simplified Dissolution of Marriage;
- (14) 12.910(a), Summons: Personal Service on an Individual;

- (15) 12.913(b), Affidavit of Diligent Search and Inquiry;
- (16) 12.913(c), Affidavit of Diligent Search;
- (17) 12.920(a), Motion for Referral to General Magistrate;
- (18) 12.920(b), Order of Referral to General Magistrate;
- (19) 12.920(c), Notice of Hearing Before General Magistrate;
- (20) 12.928, Family Court Cover Sheet;
- ~~(201)~~ 12.930(a), Notice of Service of Standard Family Law Interrogatories;
- ~~(242)~~ 12.930(b), Standard Family Law Interrogatories for Original or Enforcement Proceedings;
- ~~(223)~~ 12.930(c), Standard Family Law Interrogatories for Modification Proceedings;
- ~~(234)~~ 12.932, Certificate of Compliance with Mandatory Disclosure; ~~and~~
- (25) 12.984, Response by Parenting Coordinator;
- ~~(2456)~~ 12.990(a), Final Judgment of Simplified Dissolution of Marriage; ~~;~~
- (267) 12.996(a), Income Deduction Order;
- (278) 12.996(b), Notice to Payor; ~~and~~
- (289) 12.996(c), Notice of Filing Return Receipt; ~~and~~
- (2930)12.997, Support Summary Sheet; ~~;~~ and
- (31) 12.998, Order of Referral to Parenting Coordinator.

(b) **Other Family Law Forms.** All additional Supreme Court approved forms shall be adopted by opinion of the Supreme Court of Florida and outside of the rulemaking procedures required by rule 2.140. These forms shall be designated “Florida Supreme Court Approved Family Law Forms.”

Commentary

2000 Adoption. To help the many people in family law court cases who do not have attorneys to represent them (pro se litigants), the Florida Supreme Court added simplified forms and directions to the Florida Family Law Rules of Procedure when adopting the rules in 1995. These forms initially had been adopted by the Court in *In re Family Law Rules of Procedure*, 663 So. 2d 1049 (Fla. 1995); *In re Petition for Approval of Forms Pursuant to Rule 10-1.1(b) of the Rules Regulating the Florida Bar—Stepparent Adoption Forms*, 613 So. 2d 900 (Fla. 1992), and *Rules Regulating The Florida Bar—Approval of Forms*, 581 So. 2d 902 (Fla. 1991).

In 1997, in an effort to fulfill the spirit of the Court’s directives to simplify the process of litigation in family law matters, the Family Court Steering Committee completely revised the existing forms and added new forms and instructions. The rules and forms then constituted more than 500 pages.

This rule was adopted in recognition that the forms would require continuous updating and that the rulemaking process was too cumbersome for such an undertaking.

IN THE CIRCUIT COURT OF THE {circuit number} _____ JUDICIAL CIRCUIT,
IN AND FOR {name of county} _____ COUNTY, FLORIDA

Case No.: _____

Division: _____

Petitioner

and

Respondent.

ORDER OF REFERRAL TO PARENTING COORDINATOR

The Court considered the () motion of the court, () joint motion of the parties, () motion of a party, reviewed the court file, and considered the testimony presented. Based on this information, the court **FINDS** that:

A. Appropriateness of Process. This matter is appropriate for parenting coordination and it is in the best interest of the child(ren).

B. Parenting Coordination Process. Parenting coordination is a child-focused alternative dispute resolution process whereby a parenting coordinator assists the parties in creating or implementing their parenting plan by facilitating the resolution of disputes, providing education and making recommendations to the parties; and, with the prior consent of the parties and approval of the court, making limited decisions within the scope of this order of referral.

C. Parenting Coordinator. A parenting coordinator is an impartial third person whose role is to assist the parties in successfully creating or implementing a parenting plan.

D. Selection of Parenting Coordinator. The parenting coordinator was selected by:
[choose one]

 the parties' agreement.

 the court.

E. History of Domestic Violence. Based on testimony and evidence presented and a review of related court records, the court has determined:

[choose all that apply]

 There is no history of domestic violence.

 There has been a history of domestic violence, and:

 Each party has had an opportunity to consult with an attorney or domestic violence advocate before this court has accepted the parties' consent.

Each party has consented to this referral and the consent has been given freely and voluntarily.

It is therefore, **ORDERED**:

1. Parenting Coordinator. The parties are referred to the following parenting coordinator for an initial period of _____ months:

Name: _____

Address: _____

Telephone No. _____

Fax Number: _____

a. The parenting coordinator shall file a response to this Order within 30 days of accepting or declining the appointment. The response to the appointment must be in substantial compliance with Florida Family Law Rules of Procedure Form 12.984.

b. The parties or their attorneys must provide to the parenting coordinator copies of all pleadings and orders related to domestic violence and any other pleadings and orders requested by the parenting coordinator related to parenting coordination.

2. Meetings. Unless prohibited herein as a domestic violence safeguard or by another court order, the parenting coordinator may meet with the parties and/or child(dren) together or separately, in person or by any electronic means.

3. Domestic Violence Safeguards. The parties shall adhere to all provisions of any injunction for protection or conditions of bail, probation, or a sentence arising from criminal proceedings. In addition to any safety measures the parenting coordinator deems necessary, the following domestic violence safeguards must be implemented:

[check all that apply]

 None are necessary.

 No joint meetings

 No direct negotiations

 No direct communications

 Other: _____

4. Role, Responsibility, and Authority of Parenting Coordinator. The parenting coordinator shall have the following role, responsibility, and authority:

a. Assist in the parties in creating and implementing a parenting plan.

b. Facilitating the resolution of disputes regarding the creation or implementation of the Parenting Plan.

c. Recommending to parties strategies for creating or implementing the Parenting Plan. Such recommendations may include that one or both parents avail themselves of accessible and appropriate community resources, including, but not limited to, random drug screens, parenting classes, and individual psychotherapy or family counseling, if there is a history or evidence that such referrals are appropriate.

d. Recommending to the parents changes to the Parenting Plan.

e. Educating the parties to effectively:

i. Parent in a manner that minimizes conflicts;

ii. Communicate and negotiate with each other and their child(ren);

iii. Develop and apply appropriate parenting skills;

iv. Understand principles of child development and issues facing child(ren) when their parents no longer live together;

v. Disengage from the other parent when engagement leads to conflicts and non-cooperation;

vi. Identify the sources of their conflict with each other and work jointly to minimize conflict and lessen its deleterious effects on the child(ren); and,

vii. Allow the child(ren) to grow up free from the threat of being caught in the middle of their parents' disputes.

f. Reporting or communicating with the court concerning nonconfidential matters as provided in paragraph 6 of this order.

g. Communicating with the parties and their child(ren), separately or together, in person or by telephone, unless otherwise prohibited by court order or applicable law.

5. Fees and Costs for Parenting Coordination.

[check all that apply]

 a. The parties have consented to this referral to parenting coordination.

 This order is without the consent of the parties, but the court has determined that the parties have the financial ability to pay the parenting coordination fees and costs.

 b. The court allocates payment of fees and costs for parenting coordination as follows:

 % shall be paid by the Father.

 % shall be paid by the Mother.

 Other: _____

If a party has caused the parenting coordinator to expend an unreasonable and unnecessary amount of time, that party may be solely responsible for payment of the parenting coordinator's fees and costs for such time expended. Failure to pay the parenting coordinator's fees and costs in a timely manner may subject the party to sanctions for contempt of court.

6. **Confidentiality.** All communications made by, between, or among the parties and the parenting coordinator during parenting coordination sessions are confidential. The parenting coordinator and each party may not testify or offer evidence about communications made by a party or the parenting coordinator during the parenting coordination sessions, except if:

a Necessary to identify, authenticate, confirm, or deny a written agreement entered into by the parties during parenting coordination.

b The testimony or evidence is necessary to identify an issue for resolution by the court without otherwise disclosing communications made by any party or the parenting coordinator.

c The testimony or evidence is limited to the subject of a party's compliance with the order of referral to parenting coordination, orders for psychological evaluation, counseling ordered by the court or recommended by a health care provider, or for substance abuse testing or treatment.

d The parenting coordinator reports that the case is no longer appropriate for parenting coordination.

e The parenting coordinator is reporting that he or she is unable or unwilling to continue to serve and that a successor parenting coordinator should be appointed.

f The testimony or evidence is necessary pursuant to section 61.125 (5)(b) or section 61.125(8), Florida Statutes.

g The parenting coordinator is not qualified to address or resolve certain issues in the case and a more qualified coordinator should be appointed.

h The parties agree that the testimony or evidence be permitted.

i The testimony or evidence is necessary to protect any person from future acts that would constitute domestic violence under Chapter 741, Florida Statutes; child abuse, neglect, or abandonment under Chapter 39, Florida Statutes; or abuse, neglect, or exploitation of an elderly or disabled adult under Chapter 825, Florida Statutes.

7. **Agreement on Nonconfidentiality.** The parties can agree to waive confidentiality of a specific communication or all communications. The waiver must be in writing, signed by the parties and their respective counsel. The waiver shall be filed with the court and a copy served on the parenting coordinator. Either party may revoke their waiver of confidentiality by providing written notice signed by the party. The revocation shall be filed with the court and a copy served on the other party and the parenting coordinator.

8. **Scheduling.** Each party shall contact the parenting coordinator within 10 days of the date of this order to schedule the first appointment. The parenting coordinator shall determine the schedule for subsequent appointments.

ORDERED ON {date} _____.

CIRCUIT JUDGE

COPIES TO:

Parenting Coordinator

Address : _____

Name of Party: _____

Counsel for Party: _____

Address of Counsel: _____

Name of Party: _____

Counsel for Party: _____

Address of Counsel: _____

Guardian ad Litem: _____

Address of GAL: _____

APPENDIX B

Proposed rule

Reasons for change

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(1)-(19) [No change]

(20) 12.928, Family Court Cover Sheet;

(201) 12.930(a), Notice of Service of Standard Family Law Interrogatories;

(212) 12.930(b), Standard Family Law Interrogatories for Original or Enforcement Proceedings;

(223) 12.930(c), Standard Family Law Interrogatories for Modification Proceedings;

(234) 12.932, Certificate of Compliance with Mandatory Disclosure; and

(25) 12.984, Response by Parenting Coordinator;

Amendment proposed in Case No. SC08-1141 to add proposed form to Family Law Forms. Subsequent subdivisions renumbered accordingly.

Amendment proposed in Case No.: SC09-1822.

~~(2456)~~ 12.990(a), Final Judgment of Simplified
Dissolution of Marriage;

~~(267)~~ 12.996(a), Income Deduction Order;

~~(278)~~ 12.996(b), Notice to Payor; ~~and~~

~~(289)~~ 12.996(c), Notice of Filing Return
Receipt; ~~and~~

~~(2930)~~12.997, Support Summary Sheet; ~~and~~

~~(31)~~ 12.998, Order of Referral to Parenting
Coordinator.

Amendment proposed in Case No. SC08-2358.

Amendment proposed in this case to add proposed form to
Family Law Forms.

Amendment proposed in Case No.: SC09-1822.

(b) Other Family Law Forms. [No change]

Commentary

[No change]

I certify that these rules and forms were read against West's *Florida Rules of Court – State* (2009 Revised Edition).

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