

Supreme Court of Florida

No. SC11-2164

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

[October 4, 2012]

PER CURIAM.

This matter is before the Court for consideration of proposed amendments to the Florida Family Law Rules of Procedure. We have jurisdiction. See art. V, § 2(a), Fla. Const.

On November 7, 2011, the Family Law Rules Committee (Committee) filed an out-of-cycle report proposing several amendments, the majority of which were prompted by recent amendments to the Florida Rules of Civil Procedure. See In re Amend. to Fla. R. Civ. P., 52 So. 3d 579 (Fla. 2010). The proposals were approved by unanimous vote of the Committee and the Board of Governors of The Florida Bar. After submission to the Court, the proposals were published for comment. No comments were received.

Upon consideration, we adopt new Florida Family Law Rules of Procedure 12.071 (Constitutional Challenge to State Statute or County or Municipal Charter, Ordinance, or Franchise; Notice by Party) and 12.281 (Inadvertent Disclosure of Privileged Materials);¹ we amend rule 12.340 (Interrogatories to Parties); and we adopt new rule 12.442 (Proposals for Settlement). New rule 12.071 expressly incorporates into the family law rules the provisions of Florida Rule of Civil Procedure 1.071, governing constitutional challenges to statutes, charters, ordinances, or franchises. New rule 12.281 expressly incorporates the provisions of Florida Rule of Civil Procedure 1.285, governing inadvertent disclosure of privileged materials, into the family law rules. Subdivisions (a)(1) and (a)(2) of rule 12.340 (Interrogatories to Parties) are amended to add a sentence stating that parties may serve fewer than the interrogatories set forth in Florida Family Law Rule of Procedure Forms 12.930(b) and (c). This conforms to a similar amendment to Florida Rule of Civil Procedure 1.340(a).² Finally, the Committee has pointed out that proposals for settlement are not used and are not appropriate in family law matters; accordingly, new rule 12.442 (Proposals for Settlement) is

1. The Committee proposed that this new rule be numbered 12.285(a); however, rule 12.285(a) already exists. Thus, we have numbered this new rule as 12.281.

2. The referenced civil rules were adopted or amended, effective January 1, 2011. See In re Amend. to Fla. R. Civ. P., 52 So. 3d 579, 581 (Fla. 2010).

adopted, specifically stating that Florida Rule of Civil Procedure 1.442 (Proposals for Settlement) does not apply in family law matters.

Accordingly, the Florida Family Law Rules of Procedure are hereby amended as reflected in the appendix to this opinion. New language is indicated by underscoring, and deletions are indicated by struck-through type. The amendments shall become effective immediately upon release of this opinion.

It is so ordered.

POLSTON, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, LABARGA, and PERRY, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceedings – Family Law Rules Committee

Matthew Burns Capstraw, Chair, Family Law Rules Committee, Longwood, Florida; John F. Harkness, Jr., Executive Director, and Ellen H. Sloyer, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

APPENDIX

RULE 12.071. CONSTITUTIONAL CHALLENGE TO STATE STATUTE OR COUNTY OR MUNICIPAL CHARTER, ORDINANCE, OR FRANCHISE; NOTICE BY PARTY

Constitutional challenges to a state statute or county or municipal charter, ordinance, or franchise, and the notice requirements of such challenges shall be governed by Florida Rule of Civil Procedure 1.071.

RULE 12.281. INADVERTENT DISCLOSURE OF PRIVILEGED MATERIALS

Inadvertent disclosure of privileged materials shall be governed by Florida Rule of Civil Procedure 1.285.

RULE 12.340. INTERROGATORIES TO PARTIES

Interrogatories to parties shall be governed generally by Florida Rule of Civil Procedure 1.340, with the following exceptions.

(a) Service of Interrogatories.

(1) Initial Interrogatories. Initial interrogatories to parties in original and enforcement actions shall be those set forth in Florida Family Law Rules of Procedure Form 12.930(b). Parties governed by the mandatory disclosure requirements of rule 12.285 may serve the interrogatories set forth in Florida Family Law Rules of Procedure Form 12.930(b) as set forth in rule 1.340. A party may serve fewer than the interrogatories set forth in Florida Family Law Rules of Procedure Form 12.930(b).

(2) Modification Interrogatories. Interrogatories to parties in cases involving modification of a final judgment shall be those set forth in Florida Family Law Rules of Procedure Form 12.930(c). Parties governed by the mandatory disclosure requirements of rule 12.285 may serve the interrogatories set forth in Florida Family Law Rules of Procedure Form 12.930(c) as set forth in rule 1.340. A party may serve fewer than the interrogatories set forth in Florida Family Law Rules of Procedure Form 12.930(c).

(b) – (c) [No change]

Commentary
[No change]

Committee Note
[No change]

RULE 12.442. PROPOSALS FOR SETTLEMENT

Florida Rule of Civil Procedure 1.442 shall not apply in proceedings governed by these rules.