

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE
FLORIDA SUPREME COURT APPROVED
FAMILY LAW FORMS**

CASE NO. SC13-532

**COMMENTS OF THE FAMILY LAW RULES AND FORMS COMMITTEE
OF THE FAMILY LAW SECTION OF THE FLORIDA BAR**

Lori Caldwell-Carr and Elizabeth Blackburn, Co-Chairs, Family Law Section Rules and Forms Committee, and Elisha Roy, Chair, Family Law Section of the Florida Bar, file these comments to proposed Amendments to the Florida Supreme Court Family Law Forms, Case No. SC13-532, which would revise Florida Family Law Supreme Court Approved Forms 12.902(f)(1), 12.902(f)(2), 12.990(c)(1), and 12.990(c)(2).

Because the new forms were not published for comment prior to adoption, interested persons have been given 60 days from the date of the opinion (September 4, 2013) in which to file comments with the Court. The Family Law Section Rules and Forms Committee of the Florida Bar created a sub-committee to identify issues and propose changes to the new forms and accompanying Florida Supreme Court instructions. The Co-Chairs of the Family Law Section Rules and Forms Committee unanimously voted to support the sub-committee's recommendations which were in turn approved by the Executive Committee of the Family Law Section of the Florida Bar.

I. Forms 12.902(f)(1) and 12.902(f)(2)

a. First Paragraph (unnumbered) of Section D

There appears to be a typographical error in the first paragraph (unnumbered) in Section D of each of these forms (on Pages 24 and 38 of the Supreme Court Opinion). The Section respectfully suggests "deceased's party" be changed to "deceased party's".

b. Paragraph 1 (numbered) of Section D

The Section has concerns about the wording of the second sentence in Paragraph 1 (first numbered paragraph) of Section D of each of these forms (Pages 24 and 38 of the Supreme Court Opinion). The Section is unclear as to what the last phrase of the second sentence means where it states, “and unless precluded by statute”. The Section asks for clarification as to the intent of this language and would suggest this sentence be clarified if there is no clear intent.

c. Paragraph 2 (numbered) of Section D

The Section has concerns about the wording of the first sentence in Paragraph 2 (second numbered paragraph) of Section D of each of these forms (pages 24 and 38 of the Supreme Court Opinion). The Section proposes a change to the language as follows:

| <u>Currently</u> | <u>Proposed new language</u> |
|--|--|
| “...shall not unilaterally terminate or modify the ownership of the following assets, or their disposition upon his/her death” | “... shall not unilaterally terminate or modify the ownership or disposition of the following assets upon his/her death” |

d. Proposed Paragraph 3 (new) of Section D

The Section suggests that a new Paragraph 3 (third numbered paragraph) be added to Section D of each of these forms with “Other” and a series of blank lines to provide parties an opportunity to articulate a provision of their own.

II. Forms 12.990(c)(1) and 12.990(c)(2)

a. First Paragraph (unnumbered) of Section F

There appears to be a typographical error in the first paragraph (unnumbered) in the Section F of each of these forms (on Pages 47 and 62 of the Supreme Court Opinion). The Section respectfully suggests “deceased’s party” and “deceased’s party’s” be changed to “deceased party’s”.

b. Paragraph 1 (numbered) of Section F

The Section has concerns about the wording of the second sentences in Paragraph 1 (first numbered paragraph) of Section F of each of these forms (Pages 47 and 62 of the Supreme Court Opinion). The Section is unclear as to what the last phrase of the second sentence means by “and unless precluded by statute”. The Section asks for clarification as to the intent of this language and would suggest this sentence be clarified if there is no clear intent.

c. Paragraph 2 (numbered) of Section F

The Section has concerns about the wording of the first sentence in Paragraph 2 (second numbered paragraph) of Section F of each of these forms (pages 48 and 62 of the Supreme Court Opinion). The Section proposes a change to the language as follows:

| <u>Currently</u> | <u>Proposed new language</u> |
|--|--|
| “...shall not unilaterally terminate or modify the ownership of the following assets, or their disposition upon his/her death” | “... shall not unilaterally terminate or modify the ownership or disposition of the following assets upon his/her death” |

d. Proposed Paragraph 3 (new) of Section F

The Section suggests that a new Paragraph 3 (third numbered paragraph) be added to Section F of each of these forms with “Other” and a series of blank lines to provide the court an opportunity to articulate a provision of its own.

Section Summary

In Summary, the Section requests and recommends the following:

Form 12.902(f)(1)

- Supreme Court correction of a typographical error (deceased’s party) appearing in the first paragraph (unnumbered) in Section D of *Form 12.902(f)(1)*.
- Supreme Court clarification of the last phrase of the second sentence in Paragraph 1 (numbered) in Section D of *Form 12.902(f)(1)* which reads “and unless precluded by statute”.

- Supreme Court clarification of the language “...shall not unilaterally terminate or modify the ownership of the following assets, or their disposition upon his/her death” in the first sentence in Paragraph 2 (second numbered paragraph) of Section D of *Form 12.902(f)(1)*.
- Supreme Court addition of a Paragraph 3 (third numbered paragraph) to Section D of *Form 12.902(f)(1)* with “Other” and a series of blank lines.

Form 12.902(f)(2)

- Supreme Court correction of a typographical error (deceased’s party) appearing in the first paragraph (unnumbered) in Section D of *Form 12.902(f)(2)*.
- Supreme Court clarification of the last phrase of the second sentence in Paragraph 1 (numbered) in Section D of *Form 12.902(f)(2)* which reads “and unless precluded by statute”.
- Supreme Court clarification of the language “...shall not unilaterally terminate or modify the ownership of the following assets, or their disposition upon his/her death” in the first sentence in Paragraph 2 (second numbered paragraph) of Section D of *Form 12.902(f)(2)*.
- Supreme Court addition of a Paragraph 3 (third numbered paragraph) to Section D of *Form 12.902(f)(2)* with “Other” and a series of blank lines.

Form 12.990(c)(1)

- Supreme Court correction of a typographical error (deceased’s party) appearing in the first paragraph (unnumbered) in Section F of *Form 12.990(c)(1)*.
- Supreme Court clarification of the last phrase of the second sentence in Paragraph 1 (numbered) in Section F of *Form 12.990(c)(1)* which reads “and unless precluded by statute”.
- Supreme Court clarification of the language “...shall not unilaterally terminate or modify the ownership of the following assets, or their disposition upon his/her death” in the first sentence in Paragraph 2 (second numbered paragraph) of Section F of *Form 12.990(c)(1)*.
- Supreme Court addition of a Paragraph 3 (third numbered paragraph) to Section F of *Form 12.990(c)(1)* with “Other” and a series of blank lines.

Form 12.990(c)(2)

- Supreme Court correction of a typographical error (deceased's party's) appearing in the first paragraph (unnumbered) in Section F of *Form 12.990(c)(2)*.
- Supreme Court clarification of the last phrase of the second sentence in Paragraph 1 (numbered) in Section F of *Form 12.990(c)(2)* which reads "and unless precluded by statute".
- Supreme Court clarification of the language "...shall not unilaterally terminate or modify the ownership of the following assets, or their disposition upon his/her death" in the first sentence in Paragraph 2 (second numbered paragraph) of Section F of *Form 12.990(c)(2)*.
- Supreme Court addition of a Paragraph 3 (third numbered paragraph) to Section F of *Form 12.990(c)(2)* with "Other" and a series of blank lines.

The Family Law Section respectfully requests that the Supreme Court address and provide clarification on the issues addressed herein.

Respectfully submitted October ____, 2013

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CERTIFICATE OF SERVICE

I certify that a copy of these comments were provided by U.S. Mail on October 28th, 2013 to Committee Chair, Mary Louise Miller Wagstaff, Wagstaff Law Office PA, 161 14th St NW, Largo FL 33770 and Bar Staff Liaison to the Committee, Ellen Sloyer, 651 East Jefferson Street, Tallahassee, Florida 32399-2300.

/s/ Lori Caldwell-Carr
LORI CALDWELL-CARR