

IN THE SUPREME COURT OF FLORIDA**IN RE: AMENDMENTS TO THE
FLORIDA PROBATE RULES****CASE NO: SC13 -****OUT-OF-CYCLE REPORT OF THE
FLORIDA PROBATE RULES COMMITTEE**

James R. George, Chair, Florida Probate Rules Committee (“Committee”) and John F. Harkness, Jr., Executive Director, The Florida Bar, file this out-of-cycle report under *Fla. R. Jud. Admin.* 2.140(f). All rule amendments have been approved by the full Committee and reviewed by The Florida Bar Board of Governors. The voting records of the Committee and the Board of Governors are shown on the attached Table of Contents (*see* Appendix A).

Because these amendments are the result of a referral from the court, notice of the amendments was not published in *The Florida Bar News* prior to filing this report.

Appendix A:	Table of Contents
Appendix B:	Committee’s proposed rule amendments in legislative format
Appendix C:	Committee’s proposed rule in two column format
Appendix D:	Minutes from Florida Probate Rules Committee Meetings

SUMMARY AND RATIONALE FOR PROPOSED AMENDMENTS:

In *In Re: Implementation of Committee on Privacy and Court Records Recommendations*, 78 So. 3d 1045, 1055 (Fla. 2011), the Court asked all rules committees to review their rule sets and, if necessary, amend the rules to conform to *Fla. R. Jud. Admin.* 2.425. The Florida Probate Rules Committee determined that several rules require amendments to comply with the minimization standards set forth in *Rule* 2.425.

RULE 5.120. ADMINISTRATOR AD LITEM AND GUARDIAN AD LITEM

The Committee proposes amending *Rule* 5.120(b)(1) to substitute initials

and year of birth in place of name and date of birth. Rule references and committee notes are updated accordingly (*see* Appendix D-2–D-3, D-8).

RULE 5.200. PETITION FOR ADMINISTRATION

The Committee proposes amending *Rule 5.200(c)* to substitute year of birth for date of birth of minors who are beneficiaries. Rule references and committee notes are updated accordingly (*see* Appendix D-3, D-8).

RULE 5.210. PROBATE OF WILLS WITHOUT ADMINISTRATION

The Committee proposes amending *Rule 5.210(a)(3)* to substitute the name and year of birth instead of the date of birth of any beneficiaries who are minors. Rule references and committee notes are updated accordingly (*see* Appendix D-3, D-8).

RULE 5.385. DETERMINATION OF BENEFICIARIES AND SHARES

The Committee proposes updating the committee notes and rules references (*see* Appendix D-3–D-4).

RULE 5.405. PROCEEDINGS TO DETERMINE PROTECTED HOMESTEAD REAL PROPERTY

The Committee proposes amending *Rule 5.405(b)(3)* to require a statement as to whether the decedent had any minor children and identifies them by name and year of birth, instead of date of birth. The Committee also recommends amending subdivision (c) to require the order to identify the person entitled to protected homestead real property by name. Committee notes and rule references are updated accordingly (*see* Appendix D-4).

RULE 5.406. PROCEEDINGS TO DETERMINE EXEMPT PROPERTY

The Committee proposes amending *Rule 5.406(b)(2)* to require the year of birth instead of the date of birth of any of the decedent's children who are minors. Rule references and committee notes are updated accordingly (*see* Appendix D-4).

RULE 5.407. PROCEEDINGS TO DETERMINE FAMILY ALLOWANCE

The Committee recommends amending *Rule 5.407(b)(1)* to require the initials, address, and year of birth of the decedent's lineal heirs who are minors, instead of the date of birth. Additionally, the Committee suggests amending subdivision (b)(2) to require the name of the adult person or initials of the minor child to determine family allowance. Committee notes and rule references are updated accordingly (*see* Appendix D-4–D-5).

RULE 5.530. SUMMARY ADMINISTRATION

The Committee proposes amending *Rule 5.530(a)(3)* to require the year of birth instead of the date of birth of any minor beneficiaries. An editorial change is proposed to subdivision (a)(9)(B)(iv). Committee notes and rule references are updated accordingly (*see* Appendix D-8).

RULE 5.550. PETITION TO DETERMINE INAPACITY

The Committee recommends amending *Rule 5.550(a)(7)* to substitute year of birth for the date of birth of minor children of the incapacitated person. Committee notes and rule references are updated accordingly (*see* Appendix D-5, D-8, D-9).

RULE 5.555. GUARDIANSHIPS OF MINORS

The Committee proposes updating the committee notes and rules references (*see* Appendix D-5).

RULE 5.560. PETITION FOR APPOINTMENT OF GUARDIAN OF AN INCAPACITATED PERSON

The Committee proposes updating the committee notes and rules references (*see* Appendix D-7).

RULE 5.590. APPLICATION FOR APPOINTMENT AS GUARDIAN; DISCLOSURE STATEMENT; FILING

The Committee recommends amending *Rule 5.590(a)(1)(B)* and *5.590(b)(1)(B)* to require the initials of any ward who is a minor. Committee notes and rule references are updated accordingly (*see* Appendix D-5)

RULE 5.636. SETTLEMENT OF MINORS' CLAIMS

The Committee proposes amending *Rule 5.636(b)(1)* to provide for the initials and year of birth of the minor. Committee notes and rule references are updated accordingly (*see* Appendix D-5, D-6).

RULE 5.646. STANDBY GUARDIANS

The Committee recommends amending *Rule 5.646(c)(1)(B)* to require the initials, year of birth, and residence address of the minor. Committee notes and rule references are updated accordingly (*see* Appendix D-6).

Respectfully submitted on May 17, 2013.

s/ James Raymond George

James Raymond George, Chair
Florida Probate Rules Committee
Greenberg Traurig, P.A.
401 E. Las Olas Blvd. Suite 2000
Fort Lauderdale, FL 33301-4223
954/768-8280
Florida Bar No. 359556
georgej@gtlaw.com

s/ John F. Harkness, Jr.

John F. Harkness, Jr.
Executive Director
The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300
850/561-5600
Florida Bar No. 123390
jharkness@flabar.org

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was furnished by e-mail, on May 17, 2013, to:

Marsha Madorsky
mmadorsky@carltonfields.com

CERTIFICATION OF COMPLIANCE

I certify that these rules were read against *West's Florida Rules of Court – State* (2013).

I certify that this report was prepared in compliance with the font requirements of *Fla. R. App. P. 9.210(a)(2)*.

s/ Heather S. Telfer

Heather Telfer, Staff Liaison
Florida Probate Rules Committee
The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300
Florida Bar No. 139149
htelfer@flabar.org