

Supreme Court of Florida

No. SC09-1358

IN RE: AMENDMENTS TO THE FLORIDA RULES OF CIVIL PROCEDURE.

[October 1, 2009]

SECOND CORRECTED OPINION

PER CURIAM.

The Florida Bar's Civil Procedure Rules Committee (Committee) has filed a fast-track report of proposed amendments to Florida Rules of Civil Procedure in response to recent legislation. We have jurisdiction. See art. V, § 2(a), Fla. Const.; Fla. R. Jud. Admin. 2.140(e).

The Committee proposes amendments to Rule of Civil Procedure Form 1.918 (Lis Pendens). The amendment to the form is in response to recent enactment of section 48.23(1)(c), Florida Statutes, which governs the contents of a notice of lis pendens. See ch. 2009-39, §1, Laws of Fla. The statutory changes went into effect July 1, 2009. See ch. 2009-39, § 2, Laws of Fla. The Committee also proposes the addition of a committee note clarifying that a notice of lis pendens should contain either the date of the institution of the underlying action,

the date of the clerk's receipt of the notice of lis pendens, or the case number of the underlying action. The Florida Bar Board of Governors unanimously approved the proposals.

After considering the Committee's report and reviewing the relevant legislation, we amend form 1.918 as reflected in the appendix to this opinion. New language is underscored, and deleted language is struck through. The committee note is offered for explanation only and is not adopted as an official part of the rules. These amendments shall become effective immediately upon the release of this opinion. Because the amendments were not published for comment prior to their adoption, interested persons shall have sixty days from the date of this opinion in which to file comments with the Court.¹

It is so ordered.

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

1. An original and nine paper copies of all comments must be filed with the Court on or before November 30, 2009, with a certificate of service verifying that a copy has been served on the committee chair, Mark Romance, 201 S. Biscayne Blvd, Suite 1000, Miami, Florida 33131-4327, as well as separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The committee chair has until December 21, 2009, to file a response to any comments filed with the Court. Electronic copies of all comments and responses also must be filed in accordance with the Court's administrative order In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND
IF FILED, DETERMINED.

Original Proceeding – Florida Rules of Civil Procedure Committee

Mark A. Romance, Chair, Civil Procedure Rules Committee, Richman Greer, P.A.,
Miami, Florida, John F. Harkness, Jr., Executive Director, and Madelon Horwich,
Bar Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

Appendix

FORM 1.918. LIS PENDENS

NOTICE OF LIS PENDENS

TO DEFENDANT(S), AND ALL OTHERS WHOM IT MAY CONCERN:

YOU ARE NOTIFIED OF THE FOLLOWING:

(a) The plaintiff has instituted of the institution of this action by the plaintiff against you seeking (“to foreclose a mortgage on” or “to partition” or “to quiet title to” or other type of action) the following property in County, Florida: with respect to the property described below;

(b) The plaintiff(s) in this action is/are:

(1)

(2)

(c) The date of the institution of this action is
OR: the date on the clerk’s electronic receipt for the action’s filing is
OR: the case number of the action is as shown in the caption.

(d) The property that is the subject matter of this action is in County, Florida, and is described as follows:

(legal description of property)

DATED on

Attorney for

.....

.....

Address

Florida Bar No.

NOTE: This form is not to be recorded without the clerk’s case number.

Committee Notes

2009 Amendment. This form was substantially rewritten due to the amendments to section 48.23, Florida Statutes (2009). Section 48.23 provides that the notice must contain the

names of all of the parties, the name of the court in which the action is instituted, a description of the property involved or affected, a description of the relief sought as to the property, and one of the following: the date of the institution of the action, the date of the clerk's electronic receipt, or the case number. If the case number is used to satisfy the requirements of section 48.23, it should be inserted in the case caption of the notice.