

Family Law Rules Committee Agenda

Friday, August 28, 2020 at 12:00 p.m.

Zoom Conference

I. Approval of the February and June 2020 Minutes [Page 2](#)

II. Old Business

A. First Reading: **Form 12.911 (a), (b), (c), and (e)** [Page 16](#)

Identical changes were made to Form 12.911(d) at the June meeting. However, the changes were not approved to all of the forms.

B. First Reading: **Form 12.902 (High- and Low-Income Child Support Worksheet)** [Page 41](#)

C. 12.490 and 12.491 Magistrates/Recommended Orders [Page 57](#)

D. Second Reading: **Rule 12.100 (Gender Neutral)** [Page 104](#)

III. New Business

A. Referral Appellate Proceedings and Children's Appearance [Page 110](#)

B. Newly Formed Subcommittees need more members:

- Requiring mediation in post judgment matters
- Covid-19 issues
- Impact of expert interrogatories 12.340 (b)
- Widespread issues with Forms

C. **Subcommittee Update** Open Discussion

D. Next Meeting Dates

October 7, 2020 @ 9 a.m.-1:30 p.m.

December 2, 2020 @ 12:00 p.m.-1:30 p.m.

January 13, 2021 @ 9:00 a.m.-1:00 p.m.

March 10, 2021 @ 12:00 p.m.-1:30 p.m.

May 4, 2021 @ 12:00 p.m.-1:30 p.m.

June 23, 2021 @ 9:00 a.m.-1:30 p.m.

I. Call to Order

- Present – Mary Lou Cuellar-Silo, Mikalla Davis, Helen Torres, Charis Campbell, TJ Bryant, Cory Brandfon, Ashley Taylor, Mikalla Davis, Nadja Prias, Mark Sawicki, Norbert Katz, Michael Adriano, Joan Koch
- On the phone - Trish Armstrong, Robert Merlin, Ariel Cappano, Matt Capstraw, Latoya Williams, Evan Marks, Roberta Walton, Linda Clark, Magistrate Rebecca Hunt, Lisa Klineberg, Shayna Kavanaugh, Victoria Adkins Snell
- Table the approval of the minutes. Corrections to be made.

II. Old Business

A. Magistrate Rules and Form

- Norbert Katz moved to approve agenda, TJ Bryant – 2nd. Agenda approved.
- Family Law Section is working on the product and Trish Armstrong moved to table the magistrate proposal. Magistrate Hunt is also seeking to have the written comments if this is tabled until June so that efforts are not duplicated.
- Norberto Katz reminded them that we can extend it for a little longer but that this needs to be resolved and therefore, we need to have a deadline set. Mary Lou, said Jack had asked us to table this last year in Boca Raton. There needs to be communication between the Section and the Committee and there are concerns of tabling this since it has been 7 months. Cory asked if we are able to vote on a deadline. Mikalla stated that we are approved on 2nd reading, and that it was published in the Bar news, and that we received a comment but it seems that there are more concerns than what was made on the comment.
- The motion to table was not 2nd. Magistrate Hunt understands that we can move forward but even if this popped up at the June meeting, further discussions will not assist in finalizing the product. Mary Lou once again asked for unity and no further delay, since the committee did its work and we are asked to table this orally, but that we need to finalize. Norbert, asked if there are any new written comments. Trisha Armstrong said that Matthew Capstraw asked for some changes and that the request has been pending. Norbert asked if revisions were made, or if there is anything in writing that is new that we need to look at. Trisha advised that the Section wants to make new comments.
- To finalize, Norbert asked about what are we doing here today, and why are we tabling this if there is nothing for us to look at? Norbert asked Mikalla, about where we are in the process. Mikalla stated that we are not done. Trish confirmed that even after 2nd reading, Magistrate Hunt has to come back and recommend changes to the section's comments.
- Cory differs to GM Hunt as to how to proceed.
- Mikalla explained that the next step for us, is to put it on the Board of Governor's agenda and until they meet, we can make changes and they can also say sorry we heard there are concerns and send it back. Likely they will talk to individuals from the Board of Governors, and therefore not approve it. Cory asked whether we should give them more time, since the next Board of Governor's meeting is in March. Mary Lou- agreed to table it but that it needs to be heard before the Board of Governor's meeting.

- Norbert moved to table this, contingent to receive a written report by on or before February 26, 2020 in order to hear Magistrate Hunt's suggestions and to schedule a vote first week of March. As such a friendly amendment to make an electronic vote by email and Cory second the motion.
- Vote – No Oppose

B. Fox v Fox Rehearing 12.530

- Mary Lou - 2nd reading to approve rule 12.530, urgency committee to address whether the rule should be amended and whether a motion for rehearing is required if judge does not make statutorily required findings. The proposed language is on page 30 of the agenda, move on behalf of the subcommittee, to approve the changes attached in the agenda.
- No need to 2nd – vote, 19 favor, passes
- Trish – before we move on, move to take it out of cycle, Ashley 2nd.
- Vote – 1 abstain, 16 agreed, passes

C. Collaborative Law Amendments

- Mikalla stated that the next step for that rule is to be published. Mary Lou indicated that Bob Merlin would address a comment that was received by ADR rules and the policy of the Supreme Court that basically echoed comments filed by Greg Firestone. Apparently that the subcommittee voted to reject changes as proposed, and that Bob was drafting a response to the supreme court to be delivered by Feb 17. With respect to the use in the forms of the word facilitator, Firestone believes the use of some words were confusing but the subcommittee felt there was no need to define every word that is used or to adopt the suggested revisions.
- Mikalla – we can approve by acclamation since we are not asking for any changes to take place.
- Everyone agrees that there will be no amendments.

III. OLD BUSINESS

A. New Notary Law – Evan Marks states that the subcommittee met on October, in connection with the new notarial certificate. We have received comments with changing the firms and those changes are in effect. Report is on page 32 of the agenda.

B. Review of financial affidavits by Cory Brandfon – There was difficulty getting quorum at meeting and even though there is a work product and proposed changes, there is still a need to figure out a way to vote on it. Therefore, unable to provide any new reports.

C. Remote Testimony, by GM Rebecca Hunt – There have been weekly meetings and each rule committee has made their own proposals and the rules of judicial administration has made its own changes. Can't move forward until Judicial Review is finalized. Revisit at the next meeting.

D. Timesharing – Susan Giacoleto. No response from Susan Giacoleto. Mikalla requested re-assignment, since there has been no action on this. After DOR establishes child support, they are saying that there is need for a form to establish. Adriano agreed to take charge of the committee.

E. Email Designation – by Ramona Chaplin. She reported subcommittee met and there should be another meeting soon to finalize.

F. Gender neutral forms by Shayna Cavanaugh – Mikalla reported on her behalf, that only 12.100, had some pending issues, not sure if to consider today. We already approved the form. Evan Marks summarized, that basically it is a change from father and mother to petitioner and respondent. This is 1st reading an on agenda for 2nd reading. Evan Marks seeks to waive 2nd reading.

Mikalla confirmed that subcommittee never met on this and that it has not formally been made part of the agenda for vote.

- Mark Evans motioned to vote that Subcommittee doesn't need a 2nd reading. 16 in favor, approved.
- Motion to dispense 2nd reading by Mark Sawicki, Cory 2nd. 15 in favor, passed
- Cory's motion to move out of cycle, 2nd by Mark Sawicki. 15 in favor, passed

G. Petition to establish parentage, by Susan Giacoleto. No response from her and no subcommittee met, so Mikalla suggests to re-assign. Mark Sawicki, motioned to discussion. He is also on the Family Bar Rules Committee and the LGBT committee, which also deals with gender neutral, adoption and other related issues. Suggests that the committee include more than just parentage. Norberto says its more statutory and case law derivative which means that we cannot accomplish anything. However, Mark agreed to chair to encompass a broader view.

H. Rule 12.410(d)(2) by Ashley Taylor – background is that there an issue with notice of the service of a subpoena. There is need for an immediate notification from the sheriff's office as to when parties are being served because failure to receive the notice results in violation of the current rule. However, the rules of civil procedure we changed our rules once upon a time to mimic the rules of civil procedure and how they did service, but since then they changed their rule and corrected this issue but we have not so therefore we need to have our rule changed to match the rule to match the rules of civil procedure and not have the issue any longer.

All in favor to amending the rule to the exact language of the civil rules of procedure

Vote, 14 all in favor

I. 12.351 and 5-day rules opinion, Tabled, Trisha Armstrong no longer on the line

J. 12.911(d) and 12.407 (Minor child being subpoenaed) – by Ashley Taylor. Proposing the rule as it reads now is incorrect. Proposed the form 12.922(d) mirror 12.407.

Vote, Favor – 13, Abstain – 1, passed

K. Parties Appearance Simplified Dissolution – by Latoya Shelton Williams. Unavailable, however an additional meeting is necessary to bring a final suggestion to the committee, as per her email.

L. Children's In Camera Testimony – by Michael Adriano. children should testify, Michael Adriano, received a recommendation to incorporate rule for Juvenile Procedure 8.255(d) into our rule 12.047 because our rule does not explain how a child should testify. Judge Pollack disagrees with any changes. Cory asked to join subcommittee. Rule just changed so judges are trying to figure out what constitutes reasonable cause to testify. Subcommittee needs to regroup and address what the recommendations will be. Move to the next issue.

M. Disqualification of Magistrates and Hearing Officers, Norberto Katz asked recently to handle. Will report at the next meeting.

Before moving to New Business, Cory Brandfon asked to revisit section (I) because it is a straightforward change and that even though Trisha Armstrong was not on the call, he inquired to discuss pursuant to the material provided in the agenda. The subcommittee had already concluded its recommendation. Problem arose when the rule of judicial administration was changed to do away with 5 extra days. Mary Lou agreed to discuss but then it was decided based on Trisha Armstrong's email that we should circulate an update by email and vote that way. Cory asked that it be placed out of cycle if we would be proceeding that way and it was agreed to do so.

IV. New Business

A. Jodi Terracina's Concern regarding 12.285 Page 48; this was addressed last time and we had agreed not to proceed on it.

B. Volunteers for a fast-track subcommittee – to have a committee that always can be reached to expedite, to be chaired by Ashley Taylor, Nadja Prias, Michael Adriano, Cory Brandfon

C. Child Support Guidelines- Low income and high income – We had recommended changes to the child support worksheet re income parents with income below the poverty guidelines. Then the section suggested we should also address parents who make more than 10K but we need to take a look at the statute and see how to fit these parties into the child support worksheet. We need a subcommittee; Ashley Taylor, Roberta Walton, Micheal Adriano and TJ Bryant will chair. It was clarified that a proposal was ready to go but because of the errors, amendment was pulled.

D. Victim of Domestic Violence Confidential Address – This is a follow up from the cycle report. Currently, only a victim of domestic violence can request for address to be confidential. However, the Section believes there are other types of victims that should be allowed to make the address confidential and therefore they are seeking we include victims of all other categories. It is agreed that there is a basis for a subcommittee to address all other categories in the instructions to the forms. Roberta will chair, Helen Torres, Adriano, and Charis

E. 2020 Legislation (Open Discussion) – Mikalla asked if there was anything that we need to pay attention to, but no one believed that there was a need to.

V. INFORMATIONAL

A. Supreme Court Update by Chair Mary Lou Cuellar-Stilo

1. 2020 Regular Cycle Report was filed. Mikalla said it would be published for comments.
2. IWO/IDO Amendments to 12.996 (A) and 12.996 (D) SC18-1908 Received opinion December 5, 2019. Nothing else to add.

3. Service amendment to 12.080 was filed as a joint report on December 31, 2019 in SC19-2163. – Nothing else to add.

B. Family Law Section Report

Need a volunteer to be the FLRC Family Law Section Liaison – It was confirmed that Trisha Armstrong is the liaison and Mark Sawicki agreed to work with her.

C. Judicial Administration Rules Committee Liaison Report. Presenter: Rebecca Hunt, committee meeting is on Friday and one issue is remote testimony and 2.425, case management. The subcommittee that she is on has been looking at proposals that would require both petitioner and respondent in a family law case to file a notice of related cases and confirm whether the cases are opened or closed; and additional details as to what type of cases to include. Interested in any comments before she goes to the meeting. No additional comments were made.

D. Joint Assignment from Court Preserving Challenge to Trial Court's Findings, to be addressed at the next meeting.

VI. ANNOUNCEMENTS

A. List of Active Subcommittee Matters Page 40 – Mikalla advised that parties are being evaluated to determine who will be allowed to stay or who should be removed based on attendance. If interested in leadership roles, please let Mikalla know.

B. Next Meeting Dates for Annual Meeting was confirmed:

June 17-20, 2020 at the Hilton Orlando Bonnet Creek – Friday morning.

Fall Meeting- October 7-10, 2020 Tampa Airport Marriott , Friday

Adjourned 3:31 pm.

June 19, 2020 – Meeting began at 8:05 am

I. CALL TO ORDER by Madam Chair Mary Lou Cuellar-Stilo

- A. October 2019 minutes approved. February 2020 minutes recently received and need to be reviewed. Tabled until next meeting.
- B. Agenda is Approved.

II. Old Business (Discussion and/or First Vote)

- A. Mediation Rule Changes – Presenter: Robert Merlin

What is proposed, we are responding to their Petition, to change the rules so that basically anybody who is mediating will have to meet the ethical standards and be subject to discipline by DRC. Even if they are not already certified by the Florida Supreme Court. This is a proposed addition to Rule 12.741, Mediation rules for Family. The committee notes are as follows: The amendment is intended to provoke public trust and confidence in the judicial system mediators and the mediator process by ensuring that ALL mediators are subject to discipline. Period missing at the end of the comment and Mikalla confirmed that she advised, and correction would be made. There is question as to jurisdiction on this issue. There is no underlying statute to regulate non-certified people, so there may be an ongoing movement as to that and this is also addressed on the website. There may be a 60-day extension on the discussion but that is still pending. Mikalla recommends that since the subcommittee has already reviewed this and said that we support it, let's vote on it and if an extension is confirmed, we can reconsider this. We have a draft, but a comment has not been filed because the subcommittee approved but not the whole committee.

Cory Brandfon moved to vote, and a Doodle Poll was completed. *Results not announced**

- B. Fox v Fox Rehearing 12.530/Rehearing Subcommittee – Presenter: Ashley Taylor

Ashley stated that she was still working with the main committee and that an update was not available as to what is being approved. However, Mikalla indicated that the Supreme Court had asked all committees to consider the process of re-hearings. All committee memos agree that they don't need to make any rule changes. However, we had made rule changes pursuant to Fox v Fox, to address the issue that motions for rehearing are not required. All the other subject matters are different, so they are thinking of writing a no action report. Family had already passed the changes with a second reading; all we have left to do is to respond to the court by filing the approved amendment.

- C. Remote Testimony – Presenter Magistrate Rebecca Hunt

We had sent our proposed rule amendments and the Board of Governor had looked at them but unbeknownst to us, there had been some legislation passed by the Florida Legislature HB409 that addressed Remote Online Notarization. As a result, the Board of Governors asked that we revisit this issue and asked that there be some changes to an RJA, specifically to Rule 2.530. There was a joint committee formed to work on the rules together, but it has been laborious because making changes to one rule, impacts the others. The RJA rule has been the main rule to tackle first because it deals with definitions. As such, the Family Law Rules 12.310 and 12.451, include definitions/terms taken from RJA.

Also, the word stenographer had been removed because we thought it was outdated but the Court Reporter's Association confirmed otherwise. So that language has been put back in at their request.

Regarding the actual Oaths, the language looks strange, but it had to be broadened from Chapter 117 because Notaries are normally not in the courtroom administering the Oaths. Mikalla indicated that the language is consistent with procedures during Covid-19.

Mikalla sent Voting Poll – Reached Quorum – Passed all in Favor

D. Magistrate Rules and Form – Presenter: Magistrate Rebecca Hunt

After she submitted her report, she received a revised draft of 12.490 from the Family Law Section. In emails with Mikalla and Trisha Armstrong, it is recommended that there be a sub-committee formed to review the most recent draft.

Previously, a subcommittee was formed including GM Rebecca Hunt, Robert, Raisa and 2 ad hoc members. However, GM Rebecca Hunt is rotating off so Trisha Armstrong was added to chair the committee and another member volunteered to participate in the committee as well.

E. Gender Neutral Forms – Presenter: Mary Lou Cuellar-Stilo

Mikalla had sent Mary Lou a recommended amendment back in February and Mary Lou indicated that she had the following comments: Section C "Caption" should include the party that files each pleading or motion to be part of the document rather than in the caption of the case. Cory made a friendly amendment, that the line of information as to who filed, that it should indicate "identification of who has filed a pleading or motion" and that same should be part of the document rather than in the caption of case. Subject to that, Cory moved to vote. Mary Lou agreed to also move up an instructional paragraph to the top as to avoid confusion.

Changing the party identifier from Husband and Wife to Petitioner and Respondent is agreed to and that has been already voted on and passed. However, Evan Marks addressed concerns about confidentiality and the ability for a court to change the caption to use initials when necessary and appropriate to maintain privacy. It was agreed that there is protection so Evan suggested that the rule should provide for privacy when necessary. As a result, Mary Lou recommended a sub-committee to review this concern and it was agreed.

Michael Andriano volunteered to chair the sub-committee. Evan Marks, Cory Brandfon and Roberta Walton volunteered to participate on the committee

F. Review of the Financial Affidavit Forms – Presenter: Cory Brandfon

Subcommittee has addressed the form revision as well as confidentiality issues and appropriateness of current filing requirement. Consequently, the last year and a half has explored these concerns in revising 12.285 to allow parties to collectively agree not to file financial affidavits to be exempt from the current filing requirement. Robert Merlin, has proposed that the sub-committee recommend that rule 2.420 of the Rules of Judicial Administration be revised to specifically include Financial Affidavits among confidential information. Cory, presented on reading 3 items:

1. A proposed revision to Rule 2.420 of the Rules of Judicial Administration

2. A proposed revision to Family Law Rule 12.285, exempting those parties who knowingly and voluntarily choose not to voluntarily file their Financial Affidavits to be exempt from the current filing requirement

3. A proposed revised Long Financial Affidavit, Rule 12.4902(c)

These proposals were approved by a Quorum of the sub-committee members in attendance to the meetings addressing these proposals. An email was also sent to the remaining members for them to review and inviting oppositions, but none was received. Given the sub-committee's attendance challenge, Cory proposes that the first 2 proposals regarding 2.420 and 12.285, be addressed today and advanced if approved. However, he recommends that the sub-committee continue its work regarding 12.4902(c) with a new chair if necessary.

Robert Merlin further discussed that under the Rules of Judicial Administration, 2.140, any person has the ability to oppose an amendment to the Rules of Judicial Administration. Rule 2.420 addresses public access to the protection of judicial branch records. In sub paragraph D, there are several items that are identified as being exempt from public disclosure in our judicial system. We are proposing that a new sub section 24 be added, to make Financial Affidavits automatically confidential. The current rules mandate the Financial Affidavits be made public. By amending rule 2.420, we can avoid the problems that the judges have with Florida Family Law Rules of Procedure, in that we automatically make Financial Affidavits confidential. By making this amendment, Financial Affidavits will continue to be files, courts will have access to same, but the financial information is confidential.

Both Robert Merlin and Cory Brandfon asked that this proposal be approved on first reading. Cory further explained that he has discussed this issue with judges, pro se parties etc. Based on those conversations, in coming to embrace the proposals to 12.285, it should be noted that both parties must agree and understand that any future legal proceeding that may affect their positions as a result of their decision not to file their financial affidavit is solely their responsibility. In addition, nothing in the changes proposed requires that only one party be forced to file their financial affidavit.

Mikalla commented that we are unable to vote to change the rule of judicial administration. Instead we have to send them a proposal first and then present it to them. As such, we would be voting to propose the amendments.

Roberta wanted to know, how the court would follow the "child's best interest" standard if parties are allowed to not consent to file their financial affidavit. If the amendment to RJA will make the filing confidential, then why should parties be allowed not to file? If the document is filed as a confidential document then the document is not public and only judges and attorneys on the case would have access. If the parties are quarreling about assets then allowing them to not file a financial affidavit, disregards the child's best interest.

Cory responded by indicating that the child support guidelines would still be filed. And that not filing the Financial Affidavit would only be allowed if consented to by both parties. If the parties are quarreling, then there is no joint agreement and both parties will have to file their Financial Affidavit.

Roberta insisted that there is no need for parties not to file their Financial Affidavit if in fact the issue is confidentiality. It would be better to push for the document to be added as the 24th confidential document under the RJA.

Judge Pollack commented that nothing really alleviates the parties from completing and exchanging the affidavits with one another. The question is whether the document is compelled to be filed.

Nonetheless, there are concerns because the existing child support guidelines worksheet does not provide any breakdown for allowable deductions, and there have been recent appellate decisions where judge's rulings have been reversed because they expressed the gross and net but didn't explain the breakdown of allowable deductions.

Cory acknowledged that the judge's comments, indicate how subpart 2(b) includes the acknowledgment of parties to keep their records even if not filed and served upon each other. If approved, Cory proposed the he or the incoming chair draft a proposal to RJA setting forth the recommendation and then it would be brought back to the committee for a vote. Mikalla agreed that same would be emailed to either the chair or incoming chair of the RJA for their review of the proposal.

Cory moved for a motion on amendment to rule 2.420. Bob Merlin, 2nd. Poll was sent by Mikalla, 17 participants, 15 in favor 2 abstaining. Vote passes.

Cory moved for a motion on amendment to rule 12.285. Mark Evans made friendly amendment to change the language to still enforce parties to file financial affidavits but that they are confidential so that Simplified Dissolution proceedings which will be addressed next, is not excluded from requiring the filing of the Financial Affidavits.

Cory indicated that the only change to the rule is to strike out "and" and making it "or". Everything else in the rule remains the same. Mark withdrew his friendly amendment. Roberta then addressed that there is an opportunity to make changes to the language so that the affidavits are filed confidentiality but disagreed that the parties should not be allowed to decide whether they should file a Financial Affidavit.

Once again, Cory moved for a motion to vote on proposed amendment to 12.285, re the current requirement to file the Financial Affidavit. Robert Merlin 2nd. Mikalla sent poll, 14 approved, 3 against. It passes on first read. We will have a 2nd read and it was agreed that the changes would include language that the parties acknowledge they have made full and frank disclosures.

As to the revision for the Long Form Financial Affidavit, Cory asked for opinions and the following was addressed:

1. Arielle Capanuo Terming off but she agreed to join sub-committee ad hoc. In the net worth section, do you want to consider making a marital net worth column? And under contingent assets and liabilities, it was listed stock options and other. What about also enumerating other areas like PI Settlements, Liabilities that occur because of active litigation, etc.
2. Robert Merlin encouraged more volunteers to the sub-committee to assist with the forms.
3. Mary Lou also encouraged more people to get involved.
4. Roberta Walton volunteered to join the sub-committee.

Cory asked for emails from members with ideas and if interested in joining the subcommittees.

G. Parties Appearance Simplified Dissolution – Presenter: Latoya Williams

All members in sub-committee participated and there was a conversation with Judge Tibbals in Tampa. First thought process is that both parties should be present for Final Hearing in a Simplified Dissolution. However, all parties agreed that in keeping the matter simplified, parties should not have to have this requirement. However, Evan Marks had concerns and suggested that a call be made to Judge Tibbals and again he insisted that both parties needed to be present. As such, additional language is being proposed in 12.105(b), to grant parties to appear by other avenues, not just in person.

Evan Marks indicated the reasons why the parties should appear in front of the court include the interest of the Court to be satisfied with decisions being equitable and not under duress, etc. Simplified Dissolution should be simple and therefore, we are trying to allow pro se litigants to be allowed to simplify the process by allowing the parties to request the court to excuse the appearance of one or both of the parties, leaving the burden on the Court to waive their appearance overall or allow them to appear by phone or video.

Latoya moved for a motion to approve changes to 12.105. Evan 2nd. Mikalla sent poll, 16 in favor. 1 against. It passes.

H. SB590 Timesharing – Presenter: Michael Andriano

Whether committee should have a statewide form when filing circuit court to supersede the administrative order that was entered regarding child support in timesharing?

Several meetings have taken place and the sub-committee reviewed 2 forms from the 13th and the 9th Circuit. The sub-committee approved the 13th Circuit form. Mikalla advised that this is the 1st reading and since Joan had a few comments, she asked her to email her the comments for review.

Mikalla sent a poll to vote on moving forward with the form from Circuit 13. In Favor 16, 2 abstain, so it passes.

I. Children's In Camera Testimony – Presenter: Michael Andriano

It had been recommended that Juvenile Rule Procedure 8.255, regarding In Camera examination be incorporated into the Family Law Rules of Procedure. The subcommittee reviewed rule 12.407, statute section 92.554 and 8.255. It was unanimously decided that no amendment was necessary as it would be redundant pursuant to the recent changes. It will be reported to original presenter that no action was taken.

J. Child Support Guidelines – Low income and high income – Presenter: T.J. Bryan

This had received a comment from the Family Law Section, requesting that high income information in the worksheet should be reviewed since it had been discussed to add low income information to the worksheet pursuant to the statute. Thus, it was referred to the subcommittee. However, upon review, it was found that making those changes were not helpful. Moreover, any changes would apply to those individuals whose combined income would be below \$800 or more than \$10,000. Making changes in

the form that would apply fairly to a small number of people was more cumbersome than helpful and because of that, the subcommittee unanimously voted to only make changes in the instructions section. Special notes would include language that indicates, "If you fall into this category of low/high income outside of the table, then refer to the statute".

Cory Brandfon had issues with citing the statute during the creation of the form because as explained by Judge Pollack, that should not be done. Judge Pollack further stated that the current form is really meant to give the court a discretionary amount to assign a child support amount and even that interpretation applied to poverty guidelines, or more of a legislative issue because the statute has a glitch in the statute. With that said, he would suggest that the instructions that maybe it should indicate that "if the parties combined income falls under the low/high income, that the parties calculate child support pursuant to the current law vs the statute."

Cory Brandfon moved to have this go back to the subcommittee to discuss the proposed language or possible new suggestions that don not refer to the statute/current law. Norberto Katz 2nd the motion. Committee voted via thumbs and it was sent back to the subcommittee.

K. Fast Track – Presenter: Ashley Taylor

Reviewed bills 1082, 124 and the changes in the bill alone do not require changes to our rules directly. However, Bill 124 may affect Custody Petitions. However, there is no rule re custody petitions at all. So it is suggested that maybe there is a subcommittee on whether there should be a Rule to address custody of minor children by extended family.

Ashley moved to form a subcommittee to address same and to chair it. Nadja Prias, 2nd the motion. Committee voted via thumbs up and the subcommittee volunteers are Nadja Prias, Michael Andriano, Shayna Cavanaugh and Helen Torres.

L. Victim of Domestic Violence Confidential Address - Presenter: Roberta Walton

Referral from Family Law Committee because the language needed to be revised in forms 12.902(b) and (c), Financial Affidavit both short and long forms as to address confidentiality pursuant to Statute 741.28. Subcommittee agrees with revising the language. Currently, the forms require that if you have NOT been found by a judge to be a victim of DV that you need to file a motion with the court to keep your address confidential". The recommendation is to amend that language to add, "sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery or domestic violence."

Cory Brandfon finds it redundant to have to make the change to include the aforementioned list when Domestic Violence in the statute already includes the list.

Shayna Cavanaugh was concerned with Marsy's Law and the effects that it would also have on confidentiality. Judge Pollack stated that RJA is tasked with addressing Marsy's Law and all related concerns. Cory Brandfon, suggested a friendly amendment to the first line of the existing form. That Domestic Violence be listed last instead of first as in the proposal, to mirror the language that is already there.

Roberta moved to accept the subcommittee's recommendation with Corey's friendly amendment. Nadja 2nd the motion. Mikalla sent out a poll. 15 in favor. 1 against. 1 abstain. Passed.

III. Old Business (Second Reading)

A. Rule 12.410 (d)(2) – Presenter: Ashley Taylor

No new questions or concerns were addressed. Ashley moved to approve proposed amendments as indicated in the agenda from 1st reading. Nadja 2nd. Mikalla sent out poll for voting. 14 in favor. 1 abstain. Passed.

B. 12.911(d) and 12.407 (Minor Child being subpoenaed)

No new questions or concerns were addressed. Nadja moved to approve proposed amendments as indicated in the agenda from 1st reading. Ashley 2nd. Mikalla sent out poll for voting. 15 in favor. Passed unanimously.

IV. Old Business (Status Reports)

A. Email Designation for Pro Se Litigants Subcommittee – Presenter: Ramona. However, Mikalla advised that she never received material on this subcommittee, but Ramona was no longer logged into the online meeting to advise in status.

B. LGBTQ concerns - Presenter: Mark Sawicki.

Group is scheduling a phone conference in the next 2 weeks and would be reporting results at the next meeting.

C. 12.351 and 5-day rules opinion – Presenter: Trisha Armstrong.

Trisha Armstrong moved to have this issue heard before the Committee's next meeting. Cory 2nd.

D. Disqualification of Magistrates and Hearing Officers – Presenter: Norberto Katz

Proposes that language should be added to 12.940 and 12.941 to hold all judicial officers to the same standard. The language should state "All grounds for disqualification of a judge are applied to general magistrate or hearing officers." It is further proposed that a chair be appointed for next year to finalize this and move forward for reconsideration. RJA should also be reviewing this or at least be alerted that we are looking at one of their rules. Judge Pollack said he would bring it up to RJA.

V. New Business

A. Rules of Judicial Administration (Ex Parte Filing)

Cory Brandfon moved to form a subcommittee to address whether this RJA rule is sufficiently applicable to a circumstance where in Family law, someone would be filing an ex parte motion. The subcommittee needs to figure out whether the rule is sufficiently applicable to the Family Law Rules where no changes are necessary or whether we need to create our own ex parte filing rule that may be consistent with the RJA rule. Subcommittee was formed for recommendation. Nadja Prias will chair. Volunteers, Michael Andriano, Roberta Walton, Cory Brandfon.

B. Revision to 12.200(c)

Judge Pollack submitted a request to amend 12.200. Cory Brandfon moved to form a subcommittee. Roberta Walton 2nd. Subcommittee was formed. Ashley Taylor will chair. Volunteers, Cory Brandfon, Charis Campbell, Helen Torres and Francesca Corallo. Judge Pollack said that he would make himself accessible to explain his request.

VI. Informational

A. Supreme Court Update – Presenter: Mikalla

Cycle report is still pending. We did the response to comment on 4/9/2020.

We filed an Amendment to 12.080. We published it for comment. No comment was received. There is a companion case, that was filed by RJA that has a lot of comments, so maybe the court is waiting on that to proceed.

We have the Collaborative Law amendments. Those were forms we created. Case was accepted without oral arguments. Just waiting for opinion.

B. Family Law Section Report – Presenters: Trisha Armstrong and Mark Sawicki

Both agreed to act as a liaison to the Family Law Section and to let the Florida Rules Committee know of anything, they felt would be important. Trisha indicated that 12.490 is under review and would advise on updates. Nothing else to report.

C. Judicial Administration Rules Committee Liaison Report – Presenter: Rebecca Hunt

Remote Testimony is being addressed with RJA. Also, there is still before RJA changes to case management in 2.545, pertaining to what is a related case under (D).

VII. Announcements

Next meeting dates on October 7, 2020. Winter meeting scheduled for January 13-16, 2021 in Orlando.

Thank you to the members who volunteered on the committee for 6 years and to Mary Lou Cuellar-Stilo for leading us the last year.

New leaders: Cory Brandfon is Chair. Ashley Taylor, Michael Andriano and Nadja Prias as Vice-Chair.

Thank you to Mikalla for being indispensable and so awesome!

Meeting Ended at 11:01 am.

Respectfully Submitted by Nadja A. Prias

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE FORM
12.911(a)
SUBPOENA FOR HEARING OR TRIAL (ISSUED BY CLERK)
(03/17)

When should this form be used?

This form is used to require the appearance of witnesses at a trial or a hearing and also to notify the other party(ies) of those witnesses you have subpoenaed as required by Florida Family Law Rule of Procedure 12.410. This form should be typed or printed in black ink. After you complete the form, you will need to take it to the clerk of the circuit court's office to obtain the clerk or deputy clerk's signature. The party issuing the subpoena should also sign it.

NOTE: Under Florida Family Law Rule of Procedure 12.407, a minor child may not be brought to court to testify or appear at a hearing or be subpoenaed to appear at a hearing without prior order of the court on good cause shown unless it is an emergency situationunless otherwise provided by law or another rule of procedure, children who are witnesses, potential witnesses, or related to a family law case, are prohibited from being subpoenaed to appear at any family law proceeding, or from attending any family law proceedings without prior order of the court based on good cause shown. See Forms 12.944(a)–(b).

What should I do next?

The form must be served on the other party/parties and witness(es) in accordance with Florida Rule of Judicial Administration 2.516.

This form must be served on the witness(es) in accordance with Florida law and notice must also be given to the other parties in accordance with Florida Family Law Rule of Procedure 12.410 and with Florida Rule of Judicial Administration 2.516.

Where can I look for more information?

Before proceeding, you should read General Information for Self-Represented Litigants found at the beginning of these forms. The words that are in **bold underline** in these instructions are defined there. For further information, see Florida Family Law Rule of Procedure 12.410.

Nonlawyer: Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of a **Disclosure from Nonlawyer**, Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms also **must** put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

In re: _____

_____,
Petitioner,
and

_____,
Respondent.

SUBPOENA FOR HEARING OR TRIAL (ISSUED BY CLERK)

THE STATE OF FLORIDA:

TO _____,

YOU ARE COMMANDED to appear before the Honorable {name} _____,
Judge of the Court, at the _____ County Courthouse in {city}
_____, Florida, on {date} _____, at {time} _____, to
testify in this action. If you fail to appear you may be held in contempt of court.

You are subpoenaed to appear by the following party, and unless you are excused from this subpoena
by the party, or court, you must respond to this subpoena as directed.

DATE: _____

DEPUTY CLERK

{Print, type, or stamp the name of the deputy clerk}

{Party}: _____
{Address}: _____

{Telephone Number}: _____
{E-mail address(es)}: _____

CERTIFICATE OF SERVICE

I certify that a copy of this document was [choose only one] () mailed () faxed and mailed () hand
delivered to the person(s) listed below on {date} _____.

Other party or his/her attorney:

Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

E-mail Address(es): _____

Other party or his/her attorney:

Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

E-mail Address(es): _____

Other party or his/her attorney:

Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

E-mail Address(es): _____

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this document and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Signature of Party or his/her Attorney

Printed Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

E-mail Address(es): _____

STATE OF FLORIDA

COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____.

NOTARY PUBLIC or DEPUTY CLERK

{Print, type or stamp commissioned name of notary or deputy
clerk}

Personally known

Produced identification

Type of identification produced _____

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact:

{identify applicable court personnel by name, address, and telephone number}
at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW:

[fill in all blanks] This form was prepared for the {choose only one} () Petitioner () Respondent
This form was prepared with the assistance of:

{name of individual} _____,

{name of business} _____,

{address} _____,

{city} _____, {state} _____, {telephone number} _____.

**INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE
FORM 12.911(b)
SUBPOENA FOR HEARING OR TRIAL (ISSUED BY ATTORNEY)
(03/17)**

When should this form be used?

This form is used to require the appearance of witnesses at a trial or a hearing and also to notify the other party(ies) of those witnesses you have subpoenaed as required by Florida Family Law Rule of Procedure 12.410. This form should be typed or printed in black ink. The attorney issuing the subpoena should sign it.

NOTE: Under Florida Family Law Rule of Procedure 12.407, a minor child may not be brought to court to testify or appear at a hearing or be subpoenaed to appear at a hearing without prior order of the court on good cause shown unless it is an emergency situation unless otherwise provided by law or another rule of procedure, children who are witnesses, potential witnesses, or related to a family law case, are prohibited from being subpoenaed to appear at any family law proceeding, or from attending any family law proceedings without prior order of the court based on good cause shown. See Forms 12.944(a)–(b).

What should I do next?

The form must be served on the witness(es) in accordance with Florida law and notice must also be given to the other parties in accordance with Florida Family Law Rule of Procedure 12.410 and with Florida Rule of Judicial Administration 2.516.

IN THE CIRCUIT COURT OF _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

In re: _____

Petitioner,
and

Respondent.

SUBPOENA FOR HEARING OR TRIAL

THE STATE OF FLORIDA
TO {name(s)}_____

YOU ARE COMMANDED to appear before the Honorable {name} _____,
Judge of the Court, at the _____ County Courthouse in {city}
_____, Florida, on {date} _____ at {time} _____, to
testify in this action. If you fail to appear, you may be in contempt of court.

You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by the attorney you must respond to the subpoena as directed.

DATE: _____

ATTORNEY for {party}
FOR THE COURT

[Print or type the name of the attorney]
{Address}: _____

{Telephone Number}: _____
{Florida Bar No.}: _____
{E-mail address(es)}: _____

CERTIFICATE OF SERVICE

I certify that a copy of this document was *[choose only one]* () mailed () faxed and mailed () hand delivered to the person(s) listed below on *{date}* _____.

Other party or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
E-mail Address(es): _____

Other party or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
E-mail Address(es): _____

Other party or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
E-mail Address(es): _____

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this document and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Signature of Party or his/her Attorney
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
Email _____ Address(es): _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____.

NOTARY PUBLIC or DEPUTY CLERK

[Print, type, or stamp commissioned name of notary or deputy clerk.]

____ Personally known
____ Produced identification
Type of identification produced _____

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact:

{Identify applicable court personnel by name, address, and telephone number}
at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

**INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE
FORM 12.911(c), SUBPOENA DUCES TECUM FOR HEARING OR TRIAL
(ISSUED BY CLERK)
(03/17)**

When should this form be used?

This form is used to require the appearance of witnesses at a trial or a hearing and also to notify the other party(ies) of those witnesses you have subpoenaed as required by Florida Family Law Rule of Procedure 12.410. It also requires that they bring specified items with them. This form should be typed or printed in black ink. After you complete the form, you will need to take it to the clerk of the circuit court's office to obtain the clerk or deputy clerk's signature. The party issuing the subpoena should also sign it.

NOTE: Under Florida Family Law Rule of Procedure 12.407, a minor child may not be brought to court to testify or appear at a hearing or be subpoenaed to appear at a hearing without prior order of the court on good cause shown unless it is an emergency situationunless otherwise provided by law or another rule of procedure, children who are witnesses, potential witnesses, or related to a family law case, are prohibited from being subpoenaed to appear at any family law proceeding, or from attending any family law proceedings without prior order of the court based on good cause shown. See Forms 12.944(a)–(b).

What should I do next?

The form must be served on the other party/parties and witness(es) in accordance with Florida Rule of Judicial Administration 2.516. The form must be served on the witness(es) in accordance with Florida law and notice must also be given to the other parties in accordance with Florida Family Law Rule of Procedure 12.410 and with Florida Rule of Judicial Administration 2.516.

Where can I look for more information?

Before proceeding, you should read General Information for Self-Represented Litigants found at the beginning of these forms. The words that are in bold underline in these instructions are defined there. For further information, see Florida Family Law Rule of Procedure 12.410.

Nonlawyer: Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of a Disclosure from Nonlawyer, Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms also **must** put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

In re: _____

Petitioner,
and

Respondent.

**SUBPOENA DUCES TECUM FOR HEARING OR TRIAL
(ISSUED BY CLERK)**

THE STATE OF FLORIDA:

TO _____,

YOU ARE COMMANDED to appear before the Honorable {name} _____, Judge of the Court, at the _____ County Courthouse in {city} _____, Florida, on {date} _____ at {time} _____ to testify in this action and to have with you at that time and place the following: _____.

If you fail to appear you may be held in contempt of court.

You are subpoenaed to appear by the Clerk of the Court on behalf of the party indicated below, and unless you are excused from this subpoena by the party indicated below, or court, you must respond to this subpoena as directed.

DATE: _____

DEPUTY CLERK

[Print, type, or stamp the name of the deputy clerk]

{Party}: _____
{Address}: _____

{Telephone Number}: _____
{E-mail address(es)}: _____

CERTIFICATE OF SERVICE

I certify that a copy of this document was [choose only one] () mailed () faxed and mailed () hand delivered to the person(s) listed below on {date} _____.

Other party or his/her attorney:

Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

E-mail Address(es): _____

Other party or his/her attorney:

Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

E-mail Address(es): _____

Other party or his/her attorney:

Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

E-mail Address(es): _____

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this document and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Signature of Party or his/her Attorney
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
Email Address(es): _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____.

NOTARY PUBLIC or DEPUTY CLERK

[Print, type, or stamp commissioned name of notary or deputy clerk.]

Personally known
 Produced identification
Type of identification produced _____

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact:

{Identify applicable court personnel by name, address, and telephone number}
at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW:
[fill in all blanks] This form was prepared for the {choose only one} () Petitioner () Respondent
This form was prepared with the assistance of:

{name of individual} _____,

{name of business} _____,

{address} _____,

{city} _____, {state} _____ {telephone number} _____.

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE
FORM 12.911(d)
SUBPOENA DUCES TECUM FOR HEARING OR TRIAL
(ISSUED BY ATTORNEY)
(03/17)(--/--)

When should this form be used?

This form is used to require the appearance of witnesses at a trial or a hearing and also to notify the other party(ies) of those witnesses you have subpoenaed as required by Florida Family Law Rule of Procedure 12.410. It also requires that they bring specified items with them. This form should be typed or printed in black ink. The attorney party issuing the subpoena should sign it.

NOTE: Under Florida Family Law Rule of Procedure 12.407, a minor child may not be brought to court to testify or appear at a hearing or be subpoenaed to appear at a hearing without prior order of the court on good cause shown unless it is an emergency situation unless otherwise provided by law or another rule of procedure, children who are witnesses, potential witnesses, or related to a family law case, are prohibited from being subpoenaed to appear at any family law proceeding, or from attending any family law proceedings without prior order of the court based on good cause shown.

What should I do next?

The form must be served on the witness(es) in accordance with Florida law and notice must also be given to the other parties in accordance with Florida Family Law Rule of Procedure 12.410 and with Florida Rule of Judicial Administration 2.516.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

In re: _____

_____,
Petitioner,
and

_____,
Respondent.

SUBPOENA DUCES TECUM FOR HEARING OR TRIAL

THE STATE OF FLORIDA:

TO _____,

YOU ARE COMMANDED to appear before the Honorable {name} _____,
Judge of the Court, at the _____ County Courthouse in {city} _____,
Florida, on {date} _____, at {time} _____, to testify in this action and to
have _____ with _____ you _____ at _____ that _____ time _____ and _____ place _____ the _____ following:

_____. If you fail to appear you may be held in contempt of court.

You are subpoenaed to appear by the Clerk of the Court on behalf of the party indicated below, and unless you are excused from this subpoena by the party indicated below, or court, you must respond to this subpoena as directed.

DATE: _____

{Name of Attorney} _____
FOR THE COURT

Attorney for {party} _____
{Address}: _____

{Telephone Number}: _____

{Florida Bar No.}: _____

{E-mail address(es)}: _____

CERTIFICATE OF SERVICE

I certify that a copy of this document was [choose only one] () mailed () faxed and mailed () hand delivered to the person(s) listed below on {date} _____.

Other party or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
E-mail Address(es): _____

Other party or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
E-mail Address(es): _____

Other party or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
E-mail Address(es): _____

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this document and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Signature of Party or his/her Attorney
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
Email Address(es): _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____.

NOTARY PUBLIC or DEPUTY CLERK

[Print, type, or stamp commissioned name of notary or deputy clerk.]

Personally known
 Produced identification
Type of identification produced _____

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact:

{identify applicable court personnel by name, address, and telephone number}
at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

**INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE
FORM 12.911(e)
SUBPOENA FOR DEPOSITION (ISSUED BY CLERK)
(03/17)**

When should this form be used?

This form is used to require the appearance of witnesses at a deposition and also to notify the other party(ies) of those witnesses you have subpoenaed as required by the Florida Family Law Rule of Procedure 12.410. This form should be typed or printed in black ink. The party issuing the subpoena should sign it and then take it to the clerk of the circuit court's office to obtain the deputy clerk's signature.

NOTE: Under Florida Family Law Rule of Procedure 12.407, a minor child may not be brought to court to testify or appear at a hearing or be subpoenaed to appear at a hearing without prior order of the court on good cause shown unless it is an emergency situationunless otherwise provided by law or another rule of procedure, children who are witnesses, potential witnesses, or related to a family law case, are prohibited from being subpoenaed to appear at any family law proceeding, or from attending any family law proceedings without prior order of the court based on good cause shown.

What should I do next?

The form must be served on the witness(es) in accordance with Florida law and notice must also be given to the other parties in accordance with Florida Family Law Rule of Procedure 12.410 and with Florida Rule of Judicial Administration 2.516.

Where can I look for more information?

Before proceeding, you should read General Information for Self-Represented Litigants found at the beginning of these forms. The words that are in **bold underline** in these instructions are defined there. For further information, see Florida Family Law Rule of Procedure 12.410.

Nonlawyer: Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of a **Disclosure from Nonlawyer**, Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms also **must** put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

In re: _____

Petitioner,
and

Respondent.

**SUBPOENA FOR DEPOSITION
(ISSUED BY CLERK)**

THE STATE OF FLORIDA:

TO _____

YOU ARE COMMANDED to appear before a person authorized to take depositions at {address} _____

If you fail to appear you may be held in contempt of court.

You are subpoenaed to appear by the clerk of the circuit court on behalf of the party indicated below, and unless you are excused from this subpoena by the party indicated below or the court, you must respond to this subpoena as directed.

DATE: _____

DEPUTY CLERK

[Print, type, or stamp the name of the deputy clerk]

{Party}: _____

{Address}: _____

{Telephone Number}: _____

{E-mail address(es)}: _____

CERTIFICATE OF SERVICE

I certify that a copy of this document was [choose only one] () mailed () faxed and mailed () hand delivered to the person(s) listed below on {date} _____.

Other party or his/her attorney:

Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

E-mail Address(es): _____

Other party or his/her attorney:

Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

E-mail Address(es): _____

Other party or his/her attorney:

Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

E-mail Address(es): _____

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this document and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Signature of Party or his/her Attorney
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
Email _____ Address(es): _____

STATE OF FLORIDA

COUNTY OF _____

Sworn to or affirmed and signed before me on by _____

NOTARY PUBLIC or DEPUTY CLERK

[Print, type, or stamp commissioned name of notary or deputy clerk.]

_____ Personally known

_____ Produced identification

Type of identification produced _____

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact:

{identify applicable court personnel by name, address, and telephone number}
at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW:

[fill in all blanks]

This form was prepared for the {choose only one} () Petitioner () Respondent

This form was prepared with the assistance of:

{name of individual} _____,

{name of business} _____,

{address} _____,

{city} _____, {state} _____, {telephone number} _____.

SUBCOMMITTEE REPORT FORM

(Subcommittee Name/Subject)

Date: August 20, 2020

Chair: T. J. Bryant

Members Attending: Michael Andriano, Joan Koch, Ashley Taylor, Roberta Walton, Mikalla Davis

Meeting dates: April 7, 2020 and May 11, 2020, July 16, 2020

I. History/Background: The Committee received a comment from the Family Law Section regarding a proposed change to Family Law Form 12.902(e), which stated in pertinent part: "The form includes calculations for those below poverty guidelines; however, did not address the calculations for those with incomes above \$10,000. We recommend including this information within the worksheet consistent with Florida Statute section 61.30(6)(a)(2)." This subcommittee was formed to address the above quoted comment.

II. Summary of the Issues: The current worksheet in form 12.902(e) does not address making child support calculations when income is below \$800 or above \$10,000.

III. Factors Considered by the Subcommittee: Whether to include high- and low-income information in the worksheet form. Whether including such information would only serve to confuse the majority of the form users while providing limited guidance only in potentially extreme or rare cases. Limitations of the guidance provided by the Statute and staying within the authority of the Statute.

IV. Majority Position: The Subcommittee unanimously voted to withdraw the previously proposed addition of calculations for those below poverty guidelines and declined to address calculations for those above \$10,000. Instead the sub-committee unanimously voted to address both high- and low-income guidelines in the Special notes... section of the instructions for the form referring those with low- or high-income to Florida Statute 61.30(6)(a).

Rationale. For low income guidelines Florida Statute 61.30(6)(a) has an internal inconsistency. In pertinent part for low income, the Statute states:

- (a) If the obligor parent's net income is less than the amount in the guidelines schedule:
 1. The parent should be ordered to pay a child support amount, determined on a case-by-case basis, to establish the principle of payment and lay the basis for increased support orders should the parent's income increase.
 2. The obligor parent's child support payment shall be the lesser of the obligor parent's actual dollar share of the total minimum child support amount, as determined in subparagraph 1., and 90 percent of the difference between the obligor

parent's monthly net income and the current poverty guidelines as periodically updated in the Federal Register by the United States Department of Health and Human Services pursuant to 42 U.S.C. s. 9902(2) for a single individual living alone.

This states that the child support obligation (not the “minimum child support need” for entry on line 2 of the worksheet form) should be the lesser of the amount determined in subparagraph 1 and 90 percent of the difference between the poverty level and the obligor parent’s net income. However, if combined net income is less than \$800 then there is no way to determine the obligor parent’s minimum child support amount since the table does not go any lower than \$800 and thus there is no statutory guidance for what to put on line 2 of the worksheet form in the event the combined net monthly income is less than \$800. For greater than \$10,000 sub paragraph (b) outlines how the table scales up from \$10,000, but the sub-committee did not find any reference on how minimum child support need would scale down.

As the inconsistency was within the Statute, it was determined this committee could not address it as part of the form and stay within the parameter of the Statute. Further it was determined that adding low- and high-income calculations would only cause additional confusion for the vast majority of people using these forms. Thus, the sub-committee determined that the best course of action was to reference the statutory guidance for low- and high-income guidelines in Florida Statute 61.30(6)(a) in the Instructions section of the form and withdraw other proposed changes to the worksheet itself regarding low- or high-income guidelines. The Subcommittee voted unanimously in favor of this proposal. Proposal was submitted to committee at large at the June 19, 2020 meeting. Committee voted to send back to the subcommittee to reconsider use of a direct cite to the statute. On July 16, 2020, the sub-committee unanimously voted to replace the direct cite to the statute with language of as provided by law.

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE FORM 12.902(e), CHILD SUPPORT GUIDELINES WORKSHEET (09/12)(--/-)

When should this form be used?

You should complete this worksheet if child support is being requested in your case. If you know the income of the other party, this worksheet should accompany your financial affidavit. If you do not know the other party's income, this form must be completed after the other party files his or her financial affidavit, and serves a copy on you.

This form should be typed or printed in black ink. You should file the original this document with the clerk of the circuit court in the county where your case is filed and keep a copy for your records.

What should I do next?

A copy of this form must be served on the other party in your case. A copy of this form must be filed electronically with the court and served on the other party or his or her attorney. The copy you are providing serving to the other party must be either mailed, e-mailed, or hand-delivered to the opposing party or his or her attorney on the same day indicated on the certificate of service. If it is mailed, it must be postmarked on the date indicated in the certificate of service. Service must be in accordance with Florida Rules of Judicial Administration 2.516. Service must be in accordance with Florida Rule of Judicial Administration 2.516.

IMPORTANT INFORMATION REGARDING E-FILING

The Florida Rules of Judicial Administration now require that all petitions, pleadings, and documents be filed electronically except in certain circumstances. Self-represented litigants may file petitions or other pleadings or documents electronically; however, they are not required to do so. If you choose to file your pleadings or other documents electronically, you must do so in accordance with Florida Rule of Judicial Administration 2.525, and you must follow the procedures of the judicial circuit in which you file. The rules and procedures should be carefully read and followed.

IMPORTANT INFORMATION REGARDING E-SERVICE ELECTION

After the initial service of process of the petition or supplemental petition by the Sheriff or certified process server, the Florida Rules of Judicial Administration now require that all documents required or permitted to be served on the other party must be served by electronic mail (e-mail) except in certain circumstances. **You must strictly comply with the format requirements set forth in the Florida Rules of Judicial Administration.** If you elect to participate in electronic service, which means serving or receiving pleadings by electronic mail (e-mail), or through the Florida Courts E-Filing Portal, you must review Florida Rule of Judicial Administration 2.516. You may find this rule at www.flcourts.org through the link to the Rules of Judicial Administration provided under either Family Law Forms: Getting Started, or Rules of Court in the A-Z Topical Index.

Instructions for Florida Family Law Rules of Procedure Form 12.902(e), Child Support Guidelines Worksheet (09/12)(--/-)

SELF-REPRESENTED LITIGANTS MAY SERVE DOCUMENTS BY E-MAIL; HOWEVER, THEY ARE NOT REQUIRED TO DO SO. If a self-represented litigant elects to serve and receive documents by e-mail, the procedures must always be followed once the initial election is made.

To serve and receive documents by e-mail, you must designate your e-mail addresses by using the **Designation of Current Mailing and E-mail Address**, Florida Supreme Court Approved Family Law Form 12.915, and you must provide your e-mail address on each form on which your signature appears. Please **CAREFULLY** read the rules and instructions for: Certificate of Service (General), Florida Supreme Court Approved Family Law Form 12.914; **Designation of Current Mailing and E-mail Address**, Florida Supreme Court Approved Family Law Form 12.915; and Florida Rule of Judicial Administration 2.516.

Where can I look for more information?

Before proceeding, you should read "General Information for Self-Represented Litigants" found at the beginning of these forms. The words that are in "**bold underline**" in these instructions are defined there. For further information, see section 61.30, Florida Statutes.

Special notes...

If you want to keep your address confidential because you are the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery or domestic violence, do not enter the address, telephone, and fax information at the bottom of this form. Instead, file **Request for Confidential Filing of Address**, Florida Supreme Court Approved Family Law Form 12.980(h).

The chart below contains the guideline amounts that you should use when calculating child support. This amount is based on the number of children and the combined income of the parents, and it is divided between the parents in direct proportion to their income or earning capacity. From time to time, some of the amounts in the child support guidelines chart will change. Be sure you have the most recent version of the chart before using it.

If the parties combined monthly net income is not listed on the below chart, then calculate child support as provided by law.

Because the guidelines are based on monthly amounts, it may be necessary to convert some income and expense figures from other frequencies to monthly. You should do this as follows:

If payment is twice per month	Payment amount	x 2 =	Monthly amount
If payment is every two weeks	Payment amount Yearly amount	x 26 = o 12 =	Yearly amount due Monthly amount
If payment is weekly	Weekly amount Yearly amount	x 52 = o 12 =	Yearly amount due Monthly amount

Instructions for Florida Family Law Rules of Procedure Form 12.902(e), Child Support Guidelines Worksheet (09/12)(--/-)

If you or the other parent request that the court award an amount that is different than the guideline amount, you must also complete and attach a **Motion to Deviate from Child Support Guidelines**, Florida Supreme Court Approved Family Law Form 12.943.

Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of a **Disclosure from Nonlawyer**, Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms also **must** put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

Instructions for Florida Family Law Rules of Procedure Form 12.902(e), Child Support Guidelines Worksheet
(09/12)(--/-)

CHILD SUPPORT GUIDELINES CHART

Combined Monthly Available Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
800.00	190	211	213	216	218	220
850.00	202	257	259	262	265	268
900.00	213	302	305	309	312	315
950.00	224	347	351	355	359	363
1000.00	235	365	397	402	406	410
1050.00	246	382	443	448	453	458
1100.00	258	400	489	495	500	505
1150.00	269	417	522	541	547	553
1200.00	280	435	544	588	594	600
1250.00	290	451	565	634	641	648
1300.00	300	467	584	659	688	695
1350.00	310	482	603	681	735	743
1400.00	320	498	623	702	765	790
1450.00	330	513	642	724	789	838
1500.00	340	529	662	746	813	869
1550.00	350	544	681	768	836	895
1600.00	360	560	701	790	860	920
1650.00	370	575	720	812	884	945
1700.00	380	591	740	833	907	971
1750.00	390	606	759	855	931	996
1800.00	400	622	779	877	955	1022
1850.00	410	638	798	900	979	1048
1900.00	421	654	818	923	1004	1074
1950.00	431	670	839	946	1029	1101
2000.00	442	686	859	968	1054	1128
2050.00	452	702	879	991	1079	1154
2100.00	463	718	899	1014	1104	1181
2150.00	473	734	919	1037	1129	1207
2200.00	484	751	940	1060	1154	1234
2250.00	494	767	960	1082	1179	1261
2300.00	505	783	980	1105	1204	1287
2350.00	515	799	1000	1128	1229	1314
2400.00	526	815	1020	1151	1254	1340
2450.00	536	831	1041	1174	1279	1367
2500.00	547	847	1061	1196	1304	1394
2550.00	557	864	1081	1219	1329	1420

Instructions for Florida Family Law Rules of Procedure Form 12.902(e), Child Support Guidelines Worksheet (09/12)(--/-)

Combined Monthly Available Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
2600.00	568	880	1101	1242	1354	1447
2650.00	578	896	1121	1265	1379	1473
2700.00	588	912	1141	1287	1403	1500
2750.00	597	927	1160	1308	1426	1524
2800.00	607	941	1178	1328	1448	1549
2850.00	616	956	1197	1349	1471	1573
2900.00	626	971	1215	1370	1494	1598
2950.00	635	986	1234	1391	1517	1622
3000.00	644	1001	1252	1412	1540	1647
3050.00	654	1016	1271	1433	1563	1671
3100.00	663	1031	1289	1453	1586	1695
3150.00	673	1045	1308	1474	1608	1720
3200.00	682	1060	1327	1495	1631	1744
3250.00	691	1075	1345	1516	1654	1769
3300.00	701	1090	1364	1537	1677	1793
3350.00	710	1105	1382	1558	1700	1818
3400.00	720	1120	1401	1579	1723	1842
3450.00	729	1135	1419	1599	1745	1867
3500.00	738	1149	1438	1620	1768	1891
3550.00	748	1164	1456	1641	1791	1915
3600.00	757	1179	1475	1662	1814	1940
3650.00	767	1194	1493	1683	1837	1964
3700.00	776	1208	1503	1702	1857	1987
3750.00	784	1221	1520	1721	1878	2009
3800.00	793	1234	1536	1740	1899	2031
3850.00	802	1248	1553	1759	1920	2053
3900.00	811	1261	1570	1778	1940	2075
3950.00	819	1275	1587	1797	1961	2097
4000.00	828	1288	1603	1816	1982	2119
4050.00	837	1302	1620	1835	2002	2141
4100.00	846	1315	1637	1854	2023	2163
4150.00	854	1329	1654	1873	2044	2185
4200.00	863	1342	1670	1892	2064	2207
4250.00	872	1355	1687	1911	2085	2229
4300.00	881	1369	1704	1930	2106	2251
4350.00	889	1382	1721	1949	2127	2273
4400.00	898	1396	1737	1968	2147	2295
4450.00	907	1409	1754	1987	2168	2317

Instructions for Florida Family Law Rules of Procedure Form 12.902(e), Child Support Guidelines Worksheet (09/12)(--/-)

Combined Monthly Available Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
4500.00	916	1423	1771	2006	2189	2339
4550.00	924	1436	1788	2024	2209	2361
4600.00	933	1450	1804	2043	2230	2384
4650.00	942	1463	1821	2062	2251	2406
4700.00	951	1477	1838	2081	2271	2428
4750.00	959	1490	1855	2100	2292	2450
4800.00	968	1503	1871	2119	2313	2472
4850.00	977	1517	1888	2138	2334	2494
4900.00	986	1530	1905	2157	2354	2516
4950.00	993	1542	1927	2174	2372	2535
5000.00	1000	1551	1939	2188	2387	2551
5050.00	1006	1561	1952	2202	2402	2567
5100.00	1013	1571	1964	2215	2417	2583
5150.00	1019	1580	1976	2229	2432	2599
5200.00	1025	1590	1988	2243	2447	2615
5250.00	1032	1599	2000	2256	2462	2631
5300.00	1038	1609	2012	2270	2477	2647
5350.00	1045	1619	2024	2283	2492	2663
5400.00	1051	1628	2037	2297	2507	2679
5450.00	1057	1638	2049	2311	2522	2695
5500.00	1064	1647	2061	2324	2537	2711
5550.00	1070	1657	2073	2338	2552	2727
5600.00	1077	1667	2085	2352	2567	2743
5650.00	1083	1676	2097	2365	2582	2759
5700.00	1089	1686	2109	2379	2597	2775
5750.00	1096	1695	2122	2393	2612	2791
5800.00	1102	1705	2134	2406	2627	2807
5850.00	1107	1713	2144	2418	2639	2820
5900.00	1111	1721	2155	2429	2651	2833
5950.00	1116	1729	2165	2440	2663	2847
6000.00	1121	1737	2175	2451	2676	2860
6050.00	1126	1746	2185	2462	2688	2874
6100.00	1131	1754	2196	2473	2700	2887
6150.00	1136	1762	2206	2484	2712	2900
6200.00	1141	1770	2216	2495	2724	2914
6250.00	1145	1778	2227	2506	2737	2927
6300.00	1150	1786	2237	2517	2749	2941
6350.00	1155	1795	2247	2529	2761	2954

Instructions for Florida Family Law Rules of Procedure Form 12.902(e), Child Support Guidelines Worksheet (09/12)(--/-)

Combined Monthly Available Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
6400.00	1160	1803	2258	2540	2773	2967
6450.00	1165	1811	2268	2551	2785	2981
6500.00	1170	1819	2278	2562	2798	2994
6550.00	1175	1827	2288	2573	2810	3008
6600.00	1179	1835	2299	2584	2822	3021
6650.00	1184	1843	2309	2595	2834	3034
6700.00	1189	1850	2317	2604	2845	3045
6750.00	1193	1856	2325	2613	2854	3055
6800.00	1196	1862	2332	2621	2863	3064
6850.00	1200	1868	2340	2630	2872	3074
6900.00	1204	1873	2347	2639	2882	3084
6950.00	1208	1879	2355	2647	2891	3094
7000.00	1212	1885	2362	2656	2900	3103
7050.00	1216	1891	2370	2664	2909	3113
7100.00	1220	1897	2378	2673	2919	3123
7150.00	1224	1903	2385	2681	2928	3133
7200.00	1228	1909	2393	2690	2937	3142
7250.00	1232	1915	2400	2698	2946	3152
7300.00	1235	1921	2408	2707	2956	3162
7350.00	1239	1927	2415	2716	2965	3172
7400.00	1243	1933	2423	2724	2974	3181
7450.00	1247	1939	2430	2733	2983	3191
7500.00	1251	1945	2438	2741	2993	3201
7550.00	1255	1951	2446	2750	3002	3211
7600.00	1259	1957	2453	2758	3011	3220
7650.00	1263	1963	2461	2767	3020	3230
7700.00	1267	1969	2468	2775	3030	3240
7750.00	1271	1975	2476	2784	3039	3250
7800.00	1274	1981	2483	2792	3048	3259
7850.00	1278	1987	2491	2801	3057	3269
7900.00	1282	1992	2498	2810	3067	3279
7950.00	1286	1998	2506	2818	3076	3289
8000.00	1290	2004	2513	2827	3085	3298
8050.00	1294	2010	2521	2835	3094	3308
8100.00	1298	2016	2529	2844	3104	3318
8150.00	1302	2022	2536	2852	3113	3328
8200.00	1306	2028	2544	2861	3122	3337
8250.00	1310	2034	2551	2869	3131	3347

Instructions for Florida Family Law Rules of Procedure Form 12.902(e), Child Support Guidelines Worksheet (09/12)(--/-)

Combined Monthly Available Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
8300.00	1313	2040	2559	2878	3141	3357
8350.00	1317	2046	2566	2887	3150	3367
8400.00	1321	2052	2574	2895	3159	3376
8450.00	1325	2058	2581	2904	3168	3386
8500.00	1329	2064	2589	2912	3178	3396
8550.00	1333	2070	2597	2921	3187	3406
8600.00	1337	2076	2604	2929	3196	3415
8650.00	1341	2082	2612	2938	3205	3425
8700.00	1345	2088	2619	2946	3215	3435
8750.00	1349	2094	2627	2955	3224	3445
8800.00	1352	2100	2634	2963	3233	3454
8850.00	1356	2106	2642	2972	3242	3464
8900.00	1360	2111	2649	2981	3252	3474
8950.00	1364	2117	2657	2989	3261	3484
9000.00	1368	2123	2664	2998	3270	3493
9050.00	1372	2129	2672	3006	3279	3503
9100.00	1376	2135	2680	3015	3289	3513
9150.00	1380	2141	2687	3023	3298	3523
9200.00	1384	2147	2695	3032	3307	3532
9250.00	1388	2153	2702	3040	3316	3542
9300.00	1391	2159	2710	3049	3326	3552
9350.00	1395	2165	2717	3058	3335	3562
9400.00	1399	2171	2725	3066	3344	3571
9450.00	1403	2177	2732	3075	3353	3581
9500.00	1407	2183	2740	3083	3363	3591
9550.00	1411	2189	2748	3092	3372	3601
9600.00	1415	2195	2755	3100	3381	3610
9650.00	1419	2201	2763	3109	3390	3620
9700.00	1422	2206	2767	3115	3396	3628
9750.00	1425	2210	2772	3121	3402	3634
9800.00	1427	2213	2776	3126	3408	3641
9850.00	1430	2217	2781	3132	3414	3647
9900.00	1432	2221	2786	3137	3420	3653
9950.00	1435	2225	2791	3143	3426	3659
10000.00	1437	2228	2795	3148	3432	3666

Instructions for Florida Family Law Rules of Procedure Form 12.902(e), Child Support Guidelines Worksheet (09/12)(--/-)

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

Petitioner,
and

Respondent.

NOTICE OF FILING CHILD SUPPORT GUIDELINES WORKSHEET

PLEASE TAKE NOTICE, that {name} _____, is filing his/her Child Support Guidelines Worksheet attached and labeled Exhibit 1.

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing with the Child Support Guidelines Worksheet was [check all used]: () e-mailed () mailed () faxed () hand delivered to the person(s) listed below on {date} _____.

Other party or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
E-mail Address(es): _____

Signature of Party or his/her Attorney
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____
E-mail Address(es): _____
Florida Bar Number: _____

CHILD SUPPORT GUIDELINES WORKSHEET			
	A. <u>FATHERPETITI ONER</u>	B. <u>MOTHERRESP ONDENT</u>	TOTAL
1. Present Net Monthly Income Enter the amount from line 27, Section I of Florida Family Law Rules of Procedure Form 12.902(b) or (c), Financial Affidavit.			
2. Basic Monthly Obligation There is (are) {number} minor child(ren) common to the parties. Using the total amount from line 1, enter the appropriate amount from the child support guidelines chart.			
3. Percent of Financial Responsibility Divide the amount on line 1A by the total amount on line 1 to get <u>FatherPetitioner's</u> percentage of financial responsibility. Enter answer on line 3A. Divide the amount on line 1B by the total amount on line 1 to get <u>MotherRespondent's</u> percentage of financial responsibility. Enter answer on line 3B.	%	%	
4. Share of Basic Monthly Obligation Multiply the number on line 2 by the percentage on line 3A to get <u>FatherPetitioner's</u> share of basic obligation. Enter answer on line 4A. Multiply the number on line 2 by the percentage on line 3B to get <u>MotherRespondent's</u> share of basic obligation. Enter answer on line 4B.			
Additional Support — Health Insurance, Child Care & Other			
5. a. 100% of Monthly Child Care Costs [Child care costs should not exceed the level required to provide quality care from a licensed source. See section 61.30(7), Florida]			

CHILD SUPPORT GUIDELINES WORKSHEET			
	A. FATHERPETITI <u>ONER</u>	B. MOTHERRESP <u>ONDENT</u>	TOTAL
b. Total Monthly Child(ren)'s Health Insurance Cost [This is only amounts actually paid for]			
c. Total Monthly Child(ren)'s Noncovered Medical, Dental and Prescription Medication Costs			
d. Total Monthly Child Care & Health Costs [Add lines 5a + 5b +5c].			
6. Additional Support Payments Multiply the number on line 5d by the percentage on line 3A to determine the <u>FatherPetitioner</u> 's share. Enter answer on line 6A. Multiply the number on line 5d by the percentage on line 3B to determine the <u>MotherRespondent</u> 's share. Enter answer on line 6B.			
Statutory Adjustments/Credits			
7. a. Monthly child care payments actually made.			
b. Monthly health insurance payments actually made.			
c. Other payments/credits actually made for any noncovered medical, dental and prescription medication expenses of the child(ren) not ordered to be separately paid on a percentage basis. (See section 61.30 (8), Florida Statutes.)			
8. Total Support Payments actually made (Add 7a though 7c.)			
9. MINIMUM CHILD SUPPORT OBLIGATION FOR EACH PARENT [Line 4 plus line 6; minus line 8.]			
Substantial Time-Sharing (GROSS UP METHOD) If each parent exercises time-sharing at least 20 percent of the overnights in the year (73 overnights in the year), complete Nos. 10 through 21			

CHILD SUPPORT GUIDELINES WORKSHEET			
	A. <u>FATHERPETITI ONER</u>	B. <u>MOTHERRESP ONDENT</u>	TOTAL
	A. <u>PETITIONER</u>	B. <u>RESPONDENT</u>	TOTAL
10. Basic Monthly Obligation x 150% [Multiply line 2 by 1.5]			
11. Increased Basic Obligation for each parent. Multiply the number on line 10 by the percentage on line 3A to determine the <u>FatherPetitioner</u> 's share. Enter answer on line 11A. Multiply the number on line 10 by the percentage on line 3B to determine the <u>MotherRespondent</u> 's share. Enter answer on line 11B.			
12. Percentage of overnight stays with each parent. The child(ren) spend(s) _____ overnight stays with the <u>FatherPetitioner</u> each year. Using the number on the above line, multiply it by 100 and divide by 365. Enter this number on line 12A. The child(ren) spend(s) _____ overnight stays with the <u>MotherRespondent</u> each year. Using the number on the above line, multiply it by 100 and divide by 365. Enter this number on line 12B.	%	%	
13. Parent's support multiplied by other Parent's percentage of overnights. [Multiply line 11A by line 12B. Enter this number in 13A. Multiply line 11B by line 12A. Enter this number in 13B.]			
Additional Support — Health Insurance, Child Care & Other			
14. a. Total Monthly Child Care Costs [Child care costs should not exceed the level required to provide quality care from a licensed source. See section 61.30(7), Florida Statutes, for more information.]			
b. Total Monthly Child(ren)'s Health Insurance Cost [This is only amounts actually paid for health insurance on the child(ren).]			

CHILD SUPPORT GUIDELINES WORKSHEET			
	A. FATHERPETITI ONER	B. MOTHERRESP ONDENT	TOTAL
c. Total Monthly Child(ren)'s Noncovered Medical, Dental and Prescription Medication Costs.			
d. Total Monthly Child Care & Health Costs [Add lines 14a + 14b + 14c.]			
15. Additional Support Payments. Multiply the number on line 14d by the percentage on line 3A to determine the <u>FatherPetitioner</u> 's share. Enter answer on line 15A. Multiply the number on line 14d by the percentage on line 3B to determine the <u>MotherRespondent</u> 's share. Enter answer on line 15B.			
Statutory Adjustments/Credits			
16. a. Monthly child care payments actually made.			
b. Monthly health insurance payments actually made.			
c. Other payments/credits actually made for any noncovered medical, dental and prescription medication expenses of the child(ren) not ordered to be separately paid on a percentage basis. [See section 61.30(8), Florida Statutes.]			
17. Total Support Payments actually made [Add 16a though 16c]			
18. Total Additional Support Transfer Amount [Line 15 minus line 17; enter any negative number as zero)			
19. Total Child Support Owed from <u>FatherPetitioner</u> to <u>MotherRespondent</u> [Add line 13A plus line 18A]			
20. Total Child Support Owed from <u>MotherRespondent</u> to <u>FatherPetitioner</u> -[Add line 13B plus line 18B]			

CHILD SUPPORT GUIDELINES WORKSHEET			
	A. FATHER <u>PETITI ONER</u>	B. MOTHER <u>RESP ONDENT</u>	TOTAL
21. Actual Child Support to Be Paid. [Comparing lines 19 and 20, Subtract the smaller amount owed from the larger amount owed and enter the result in the column for the parent that owes the larger amount of support]	\$		

ADJUSTMENTS TO GUIDELINES AMOUNT. If you or the other parent is requesting the Court to award a child support amount that is more or less than the child support guidelines, you must complete and file Motion to Deviate from Child Support Guidelines, Florida Supreme Court Approved Family Law Form 12.943.

[check one only]

- a. Deviation from the guidelines amount is requested. The Motion to Deviate from Child Support Guidelines, Florida Supreme Court Approved Family Law Form 12.943, is attached.
- b. Deviation from the guidelines amount is NOT requested. The Motion to Deviate from Child Support Guidelines, Florida Supreme Court Approved Family Law Form 12.943, is not attached.

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW:

[fill in all blanks] This form was prepared for the: {choose only one} () Petitioner () Respondent
This form was completed with the assistance of:

{name of individual} _____,

{name of business} _____,

{address} _____,

{city} _____, {state} _____ {telephone number} _____.

SUBCOMMITTEE REPORT FORM
SUBCOMMITTEE FOR PROPOSED CHANGES TO RULE 12.490-REVISITED

Rule Involved: Fla. Fam. L. R. 12.490

Other Rules Involved: Fla. Fam. L. R. 12.491

Date of Report: June 5, 2020

Chair: Rebecca L. Hunt

a. Proposal by Subcommittee-Family Law Section: At the February 2020 Full Committee Meeting, we were prepared to vote on proposed changes to Rule 12.490. We received a request from the Subcommittee on Rule 12.490 of the General Magistrates and Hearing Officers Committee of the Family Law Section of The Florida Bar to permit additional time to provide additional amendments for the Rules Committee to consider. The Rules Committee agreed.

Since that time, two meetings were coordinated by Mikalla Davis so that the Family Law Section Subcommittee could present its proposals. The meetings were constructive. The proposed rule by the Family Law Subcommittee is attached, as well as an email from Trisha Armstrong explaining the further amendments.

During the two meetings, concerns were raised and the Rules Subcommittee asked that some matters be addressed and a re-write be resubmitted for consideration. This did not occur.

The Subcommittee did not vote on the Family Law Subcommittee proposal because it was understood that further revisions would be made.

b. Family Law Rule Committee Proposal-Approved by Subcommittee August 26, 2019 (after revisions to proposed rule)

Subcommittee Conference Call-August 26, 2019—Members present on Conference Call:

Rebecca Hunt, Chair
Mary Lou Cuellar-Stilo
Roberta Walton
Matthew Capstraw, ad hoc

Other participant: Mikalla Davis, Attorney Liaison, Rules, The Florida Bar

Referral to Subcommittee.

Proposed revisions to Rule 12.490 originated with the Family Law Section. In June 2018, the General Magistrates and Hearing Officer Committee drafted proposed amendments to the Rule so that it would be uniform with Rule 12.491. The Family Law Rules Committee then reviewed the recommendations and took action.

Prior Approval of Proposed Rule Amendment and Publication

1. The Full Rules Committee previously voted to approve a prior rule amendment for Rule 12.490.
2. This proposed rule 12.490 was published in the June 2019 *Florida Bar News*.

Comments Received Following Publication

1. Honorable Jessica Ticktin, Circuit Judge
2. Family Law Section of The Florida Bar, Chair and Co-Chairs of the Rules and Forms Committee, Family Law Section of The Florida Bar.
3. Honorable Frederick Pollack, Circuit Judge, Sixth Judicial Circuit
4. Maxine Williams, Administrative Magistrate

Revised, Proposed Rule Amendment to Fla. Fam. L. R. P. 12.490

At the subcommittee meeting on August 26, 2019, the subcommittee unanimously voted to recommend changes to the proposed rule based upon the comments received. The subcommittee recommends the adoption of the attached proposed rule amendment.

PROPOSED AMENDMENT TO
RULE 12.490
FAMILY LAW RULES COMMITTEE
DISCUSSED AT FEB 2020 MTG

RULE 12.490. GENERAL MAGISTRATES

(a) **General Magistrates.** Judges of the circuit court may appoint as many general magistrates from among the members of The Florida Bar in the circuit as the judges find necessary, and the general magistrates will continue in office until removed by the court. The order making an appointment must be recorded. Every person appointed as a general magistrate must take the oath required of officers by the constitution and the oath must be recorded before the magistrate discharges any duties of that office.

(b) **Reference.**

(1) No matter shall be heard by a general magistrate without an appropriate order of reference and the consent to the referral of all parties. Consent, as defined in this rule, to a specific referral, once given, cannot be withdrawn without good cause shown before the hearing on the merits of the matter referred. Consent may be express or may be implied in accordance with the requirements of this rule.

(A) A written objection to the referral to a general magistrate must be filed within 10 days of the service of the order of referral.

(B) If the time set for the hearing is less than 10 days after service of the order of referral, the objection must be filed before commencement of the hearing.

(C) If the order of referral is served within the first 20 days after the service of the initial process, the time to file an objection is extended to the time within which to file a responsive pleading.

(D) Failure to file a written objection within the applicable time period is deemed to be consent to the order of referral.

(2) The order of referral ~~shall~~must be in substantial conformity with Florida Family Law Rules of Procedure Form 12.920(b), and ~~shall~~must contain the following language in bold type:

A REFERRAL TO A GENERAL MAGISTRATE REQUIRES THE CONSENT OF ALL PARTIES. YOU ARE ENTITLED TO HAVE THIS

MATTER HEARD BEFORE A JUDGE. IF YOU DO NOT WANT TO HAVE THIS MATTER HEARD BEFORE THE GENERAL MAGISTRATE, YOU MUST FILE A WRITTEN OBJECTION TO THE REFERRAL WITHIN 10 DAYS OF THE TIME OF SERVICE OF THIS ORDER. IF THE TIME SET FOR THE HEARING IS LESS THAN 10 DAYS AFTER THE SERVICE OF THIS ORDER, THE OBJECTION MUST BE MADE BEFORE THE HEARING. IF THIS ORDER IS SERVED WITHIN THE FIRST 20 DAYS AFTER SERVICE OF PROCESS, THE TIME TO FILE AN OBJECTION IS EXTENDED TO THE TIME WITHIN WHICH A RESPONSIVE PLEADING IS DUE. FAILURE TO FILE A WRITTEN OBJECTION WITHIN THE APPLICABLE TIME PERIOD IS DEEMED TO BE A CONSENT TO THE REFERRAL.

~~REVIEW OF THE REPORT AND RECOMMENDATIONS
RECOMMENDED ORDER MADE BY THE GENERAL MAGISTRATE
SHALLMUST BE BY EXCEPTIONSA MOTION TO VACATE AS
PROVIDED IN RULE 12.490(fe), FLA. FAM. L. R. P. A RECORD,
WHICH INCLUDES A TRANSCRIPT OF PROCEEDINGS, MAY BEIS
REQUIRED TO SUPPORT THE EXCEPTIONSMOTION TO VACATE.~~

(3) The order of referral must state with specificity the matter or matters being referred and the name of the specific general magistrate to whom the matter is referred. The order of referral must also state whether electronic recording or a court reporter is provided by the court, or whether a court reporter, if desired, must be provided by the litigants.

(4) When a reference is made to a general magistrate, any party or the general magistrate may set the action for hearing.

(c) **General Powers and Duties.** Every general magistrate ~~shallmust~~ perform all of the duties that pertain to the office according to the practice in chancery and rules of court and under the direction of the court except those duties related to injunctions for protection against domestic, repeat, dating, and sexual violence, and stalking. A general magistrate is empowered to administer oaths and conduct hearings, which may include the taking of evidence. All grounds for disqualification of a judge ~~shallmust~~ apply to general magistrates.

(d) **Hearings.**

(1) The general magistrate must assign a time and place for proceedings as soon as reasonably possible after the reference is made and give notice to each of the parties either directly or by directing counsel to file and serve a notice of hearing. If any party fails to appear, the general magistrate may proceed ex parte or may adjourn the proceeding to a future day, giving notice to the absent party of the adjournment. The general magistrate must proceed with reasonable diligence in every reference and with the least delay practicable. Any party may apply to the court for an order to the general magistrate to speed the proceedings and to make the report and to certify to the court the reason for any delay.

(2) The general magistrate must take testimony and establish a record which may be by electronic means as provided by Florida Rule of Judicial Administration 2.535(h)(4) or by a court reporter. The parties may not waive this requirement.

(3) The general magistrate has the authority to examine under oath the parties and all witnesses upon all matters contained in the reference, to require production of all books, documents, writings, vouchers, and other documents applicable to it, and to examine on oath orally all witnesses produced by the parties. The general magistrate may take all actions concerning evidence that can be taken by the circuit court and in the same manner. The general magistrate has the same powers as a circuit judge to utilize communications equipment as defined and regulated by Florida Rule of Judicial Administration 2.530.

(4) The notice or order setting the cause for hearing must be in substantial conformity with Florida Family Law Rules of Procedure Form 12.920(c) and must contain the following language in bold type:

SHOULD YOU WISH TO SEEK REVIEW OF THE REPORT
~~AND RECOMMENDATION~~RECOMMENDED ORDER
MADE BY THE GENERAL MAGISTRATE, YOU MUST
~~FILE EXCEPTIONS~~A MOTION TO VACATE IN
ACCORDANCE WITH RULE 12.490(~~fe~~), FLA. FAM. L. R. P.
YOU WILL BE REQUIRED TO PROVIDE THE COURT
WITH A RECORD SUFFICIENT TO SUPPORT YOUR
~~EXCEPTIONS OR YOUR EXCEPTIONS~~MOTION TO
VACATE OR YOUR MOTION WILL BE DENIED. A
RECORD ORDINARILY INCLUDES A WRITTEN

TRANSCRIPT OF ALL RELEVANT PROCEEDINGS. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED IF NECESSARY FOR THE COURT'S REVIEW.

(5) The notice or order setting a matter for hearing must state whether electronic recording or a court reporter is provided by the court. If the court provides electronic recording, the notice shall also state that any party may provide a court reporter at that party's expense.

(e) ~~General Magistrate's Report. The general magistrate shall file a report that includes findings of fact and conclusions of law, together with recommendations. If a court reporter was present, the report shall contain the name and address of the reporter.~~

(f) ~~Filing Report; Notice; Exceptions. The general magistrate shall file the report and recommendations and serve copies on all parties. The parties may file exceptions to the report within 10 days from the time it is served on them. Any party may file cross exceptions within 5 days from the service of the exceptions, provided, however, that the filing of cross exceptions shall not delay the hearing on the exceptions unless good cause is shown. If no exceptions are filed within that period, the court shall take appropriate action on the report. If exceptions are filed, they shall be heard on reasonable notice by either party or the court.~~

Entry of Order and Relief From Order.

(1) ~~The general magistrate must submit a recommended order to the court that includes findings of fact and conclusions of law.~~

(2) ~~The general magistrate must retain jurisdiction over the subject matter of any motion for clarification and/or motion for reconsideration and shall rule on same prior to the court hearing any motion to vacate.~~

(3) ~~Upon receipt of a recommended order, the court must review the recommended order and must enter the order promptly unless good cause appears to amend the order, conduct further proceedings, or refer the matter back to the general magistrate to conduct further proceedings.~~

(42) If a court reporter was present, the recommended order must contain the name and address of the reporter.

(5) Any party affected by the order may move to vacate the order by filing a motion to vacate within 10 days from the date of rendition. Any party may file a cross-motion to vacate within 5 days of service of a motion to vacate, provided, however, that the filing of a cross-motion to vacate must not delay the hearing on the motion to vacate unless good cause is shown.

(3) Upon receipt of a recommended order, the court shall review the recommended order and shall enter an order promptly unless good cause appears to amend the order, conduct further proceedings, or refer the matter back to the hearing officer to conduct further proceedings. Any party affected by the order may move to vacate the order by filing a motion to vacate within 10 days from the date of entry. Any party may file a cross-motion to vacate within 5 days of service of a motion to vacate, provided, however, that the filing of a cross-motion to vacate shall not delay the hearing on the motion to vacate unless good cause is shown.

(64) A motion to vacate the order must be heard within 30 days after the movant applies for the hearing on the motion.

(gf) Record. For the purpose of the hearing on exceptions a motion to vacate, a record, substantially in conformity with this rule, must be provided to the court by the party seeking review if necessary for the court's review.

(1) The record must consist of the court file, including the transcript of the relevant proceedings before the general magistrate and all depositions and evidence presented to the general magistrate.

(2) The transcript of all relevant proceedings, if any, must be delivered to the judge and provided to all other parties not less than 48 hours before the hearing on exceptions a motion to vacate. If less than a full transcript of the proceedings taken before the general magistrate is ordered prepared by the excepting moving party, that party must promptly file a notice setting forth the portions of the transcript that have been ordered. The responding parties must be permitted to designate any additional portions of the transcript necessary to the

adjudication of the issues raised in the ~~exceptionsmotion to vacate~~ or cross-
~~exceptionsmotion to vacate~~.

(3) The cost of the original and all copies of the transcript of the proceedings is borne initially by the party seeking review, subject to appropriate assessment of suit monies. Should any portion of the transcript be required as a result of a designation filed by the responding party, the party making the designation bears the initial cost of the additional transcript.

Court Commentary

1995 Adoption. This rule is a modification of Florida Rule of Civil Procedure 1.490. That rule governed the appointment of both general and special masters. The appointment of special masters is now governed by Florida Family Law Rule of Procedure 12.492. This rule is intended to clarify procedures that were required under rule 1.490, and it creates additional procedures. The use of general masters should be implemented only when such use will reduce costs and expedite cases in accordance with *Dralus v. Dralus*, 627 So.2d 505 (Fla. 2d DCA 1993), *Wrona v. Wrona*, 592 So.2d 694 (Fla. 2d DCA 1991), and *Katz v. Katz*, 505 So.2d 25 (Fla. 4th DCA 1987).

Committee Notes

2004 Amendment. In accordance with Chapter 2004-11, Laws of Florida, all references to general master were changed to general magistrate.

2015 Amendment. Subdivision (b)(3) has been amended to clarify that the order of referral must include the name of the specific general magistrate to whom the matter is being referred and who will conduct the hearing and that concurrent referrals to multiple general magistrates is inappropriate.

**FOUR COMMENTS DISCUSSED
AT FEB. 2020 RULES MTG
PERTAINING TO 12.490 RULE
AMENDMENT**

**COMMENT OF THE RULES AND FORMS COMMITTEE
OF THE FAMILY LAW SECTION OF THE FLORIDA BAR
TO PROPOSED OUT-OF-CYCLE RULE AMENDMENTS
OF THE FAMILY LAW RULES COMMITTEE**

Anthony M. Genova and K. Beth Luna, Co-Chairs of the Rules and Forms Committee, and Amy Hamlin, Chair, of the Family Law Section of The Florida Bar, pursuant to the Notice published in the Florida Bar News on May 15, 2019, submit the following Comment regarding the proposed amendments to Fla. Fam. L.R.P. 12.490 (General Magistrates) and to related Forms 12.920(a) Motion for Referral to General Magistrate, 12.920(b) Order of Referral to General Magistrate, and 12.920(c), Notice of Hearing Before General Magistrate.

The proposed revisions to Rule 12.490 originated with the Family Law Section, and particularly, the General Magistrates and Hearing Officers Committee. In June 2018, the Committee drafted amendments to the rule that would bring it into line with Rule 12.491, governing practice before Child Support Hearing Officers.

The Section thanks the Committee for its quick action in proposing these revisions and in seeking to file them out-of-cycle. However, upon further analysis by various members of the Section, it is apparent that some further revisions to the rule, particularly subparagraph (e), are warranted. For example, proposed subparagraph (e)(3) states, "The general magistrate must retain jurisdiction over the subject matter of any motion for clarification and/or motion for reconsideration and shall rule on same prior to the court hearing any motion to vacate." This language is concerning for several reasons. Firstly, the subparagraph omits any reference to motions for rehearing. Further, the existing language makes no distinction between temporary orders and final orders. Finally, it is conceivable that, as written, the proposed rule may have the unintended consequence of prolonging entry of the ultimate recommended order by the circuit

judge. For these reasons, the Section respectfully requests that the Florida Bar Rules Committee table this matter until such time as the Section can revise the proposed rule and resubmit it for further consideration and approval by the Committee. If the revised proposed rule necessitates any further revisions of Forms 12.920(a), (b), and/or (c), those proposed forms revisions will be addressed and included in the Section's amended request as well.

Respectfully submitted this 1st day of July 2019.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to
Mary Lou Cuellar-Stilo, Chair of the Family Law Rules Committee (stiloml@fljud13.org) and to
Mikalla Davis, The Florida Bar Staff Liaison to the Family Law Rules Committee
(mdavis@floridabar.org), on July 1, 2019.

//s// Anthony M. Genova

ANTHONY M. GENOVA
Co-Chair
Rules and Forms Committee
Family Law Section, The Florida Bar
44 West Flagler Street, Suite 2075
Miami, Florida 33130-6822
FLORIDA BAR NO. 637130

//s// K. Beth Luna

K. BETH LUNA
Co-Chair
Rules and Forms Committee
Family Law Section, The Florida Bar
Post Office Box 380047
Jacksonville, Florida 32204-2952
FLORIDA BAR NO. 244340

//s/ Amy Hamlin

AMY HAMLIN
Chair
Family Law Section, The Florida Bar
115 Maitland Avenue
Altamonte Springs, Florida 32701-4901
FLORIDA BAR NO. 255830

From: Jessica Ticktin
To: Cuellar-Stilo, Mary L.
Cc: Davis, Mikalla
Subject: Comment on Proposed Changes to Rule 12.490
Date: Friday, June 28, 2019 3:09:31 PM

Dear Ms. Cuellar-Stilo and Ms. Davis:

Please accept this correspondence as my comment in support of the proposed changes to Rule 12.490. It is likely that these changes will help Florida's families by providing a faster and more efficient resolution of the issues and controversies brought before the Magistrates.

In my experience, the majority of cases set before the Magistrates do not come back to court for exceptions hearings. Therefore, the proposed changes will benefit families waiting for resolution, by eliminating the need for the Court to wait 10 – 15 days before an order can be entered. Moreover, the Magistrates may be able to address even more issues and may face less objections to the magistrate if the participants can be assured that the Court will enter an order sooner, rather than having to wait for the exceptions period on a report and recommendation to expire.

Thank you kindly, for the opportunity to comment.

Best regards,

Judge Jessica Ticktin
Family Division "FZ" and Probate Division "IZ"
Fifteenth Judicial Circuit of Florida
Palm Beach County Courthouse, South Branch
200 W. Atlantic Avenue
Delray Beach, FL 33444
(561) 274-1420

Please be advised that Florida has a broad public records law, and all correspondence to me via email may be subject to disclosure. Under Florida records law (SB80 effective 7-01-06), email addresses are public records. If you do not want your email address released in response to a public records request, do not send emails to this entity. Instead, contact this office by phone or in writing.

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

Mary Lou

***Mary Lou Cuellar-Stilo
General Magistrate
Family Law Division
800 E. Twiggs Street, Room 404
Tampa, FL 33602
Stiloml@fljud13.org***

From: Pollack, Judge Fred [<mailto:fpollack@jud6.org>]
Sent: Sunday, June 30, 2019 9:31 AM
To: Obradovich, Maria L <mobradovich@bals.org>; Cuellar-Stilo, Mary Lou <cuellaml@fljud13.org>
Subject: Proposed revisions to Rule 12.490, Fla. Fam. L. R. P.

General Magistrate Cuellar-Stilo and Ms. Obradovich:

I am writing to you in your respective capacities as incoming and outgoing Chair of the Family Law Procedure Rules Committee regarding the proposed amendment/revision of Rule 12.490, Fla. Fam. L. R. P. pursuant to the notice of Out-of-Cycle Amendments published in the May 15, 2019 Florida Bar News. I apologize, in advance, if any of the remarks herein are duplicative of those shared by Mr. Moring (during his report from the Section) during the FLRC meeting on June 28, 2019, however as I had already began drafting this e-mail prior to that meeting and I had concerns beyond those voiced by Mr. Moring, I felt compelled to go ahead and send this comment before the deadline expires tomorrow. I am writing to request the Committee consider some changes to the proposed new language, specifically with subparagraphs (e)(2) and (3) prior to filing with the Court.

With regard to subparagraph (e)(2), the language only appears to address motions for clarification and/or reconsideration. The proposed language is silent as to any permitted Motion for Rehearing (which would be necessary for any otherwise “final” ruling recommended by the Magistrate) as opposed to mere reconsideration (which applies to temporary/interlocutory rulings). Additionally, although practitioners commonly file motions for clarification at the trial court level in the Family Law arena, the Family Law Rules themselves are silent to such an animal, as are the Civil rules. There is a mechanism for motions for reconsideration under the Appellate Rules (rule 9.330), so if we’re going to include such an animal as an available option, then the FLRC may want to develop a rule specifically addressing requests for clarification in order to enable the filing and consideration of same in a uniform manner.

Additionally, I believe the language of this subparagraph would need to be cleaned up to explain whom is to consider any such motion (presumptively the General Magistrate who heard the matter sought to be clarified, reconsidered, or reheard).

The proposed rule language is also silent as to any permitted motion to stay enforcement, which presumptively could be filed after rendition of the order approving the recommended order, along with a motion to vacate. I do not know if this is something that was considered by the FLRC or the Family Law Section in the development of the proposed rule. If not, the committee (or section) may wish to consider addressing same.

With regard to subparagraph (e)(3), I would ask to change “the” to “an” in the newly proposed language for proposed section (e)(3) of the rule in the following manner:

Existing proposed language:

(3) Upon receipt of a recommended order, the court must review the recommended order and must enter the order promptly unless good cause appears to amend the order, conduct further proceedings, or refer the matter back to the general magistrate to conduct further proceedings.

Suggested revised language:

(3) Upon receipt of a recommended order, the court must review the recommended order and must enter an order promptly unless good cause appears to amend the order, conduct further proceedings, or refer the matter back to the general magistrate to conduct further proceedings.

This change would not only allow the new proposed rule to align with the existing language of Rule 12.491, Fla. Fam. L. R. P., upon which the proposed rule change is based, but also the reviewing judge to potentially remand the matter to the General Magistrate to address any necessary scrivener errors in the recommended order without need of further proceedings, to clarify a question of the Court upon same, or otherwise address a potential insufficiency that could be cured without need of further proceedings. During the past year I have personally remanded (albeit a small number of) orders to the General Magistrate in order to clarify a recommended order when the recommended order only addressed 3 of the 4 children in the case, had conflicting dates recited in a recommended order, or failed to include a step-down schedule of a child support obligation and did not specifically address the reason for not including same, etc. There were occasional other such "remands" where I drafted an order denying to ratify the recommended order (even without exceptions having been filed) if I did not believe the order was appropriate to enter without correction/addressing the issue, but did not believe the General Magistrate would necessarily have needed to conduct additional proceedings if s/he was able to resolve the Court's concern by issuance of an Amended Report/Recommended Order bases upon a review of his/her notes (although I typically included a provision in such an order instance, enabling the Magistrate to conduct further proceedings should s/he feel the same was necessary to resolve the discrepancy).

I appreciate all of the time and effort that the FLRC (and the Family Law Section) has put into this potential rule revision and hope these comments are found helpful. Should the committee (or acting subcommittee) have any questions or desire my further input upon same, please feel free to contact me. I thank you, in advance, for your courtesies and consideration.

Sincerely,
-Fred

Frederick L. Pollack
Circuit Judge, Family Law Section 14
Sixth Judicial Circuit
Pinellas County Courthouse
315 Court Street, Room 473
Clearwater, FL 33756
Tel: (727) 464-3594

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From: Maxine Williams
To: Davis, Mikalla
Subject: Comments In support of Changes to Rule 12.490
Date: Wednesday, June 12, 2019 11:32:16 AM

Good morning Ms. Davis,

I fully support the proposed changes to Rule 12.490. These changes serve to help Florida's families by providing a faster and more efficient resolution of the issues and controversies before the Magistrate. Since exceptions are not filed in the vast majority of cases after Magistrate issues a report and recommendation, removal of the additional delay of 10-15 days will be life changing for the families waiting for final decisions regarding timesharing, passports, relocation, alimony, and many other non-child support matters. For example, many times the immediate enforcement of alimony, for a former spouse, living on the edge financially, is delayed by the report and recommendation process, the changes to the Rule will eliminate that problem.

Moreover, The Magistrate may be able to address even more issues and may face less objections to the magistrate if the participants can be assured an order, sooner, rather than having to wait for the exceptions period on a report and recommendation to expire.

Thank you kindly, for the opportunity to comment.

Thank you.

Maxine A. M. Williams
Administrative/Chief Magistrate
Judge Daniel T. K. Hurley Courthouse
205 N. Dixie Highway, West Palm Beach, FL 33401; 6th floor
561-355-3842 Office
561-252-2410 Work Cellphone

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RULE 12.490. GENERAL MAGISTRATES

(a) General Magistrates. Judges of the circuit court may appoint as many general magistrates from among the members of The Florida Bar in the circuit as the judges find necessary, and the general magistrates will continue in office until removed by the court. The order making an appointment must be recorded. Every person appointed as a general magistrate must take the oath required of officers by the constitution and the oath must be recorded before the magistrate discharges any duties of that office.

(b) Reference.

(1) No matter shall be heard by a general magistrate without an appropriate order of reference and the consent to the referral of all parties. Consent, as defined in this rule, to a specific referral, once given, cannot be withdrawn without good cause shown before the hearing on the merits of the matter referred. Consent may be express or may be implied in accordance with the requirements of this rule.

(A) A written objection to the referral to a general magistrate must be filed within 10 days of the service of the order of referral.

(B) If the time set for the hearing is less than 10 days after service of the order of referral, the objection must be filed before commencement of the hearing.

(C) If the order of referral is served within the first 20 days after the service of the initial process, the time to file an objection is extended to the time within which to file a responsive pleading.

(D) Failure to file a written objection within the applicable time period is deemed to be consent to the order of referral.

(2) The order of referral shallmust be in substantial conformity with the Florida Family Law Rules of Procedure Form 12.920(b), and shallmust contain the following language in **bold** type:

A REFERRAL TO A GENERAL MAGISTRATE REQUIRES THE CONSENT OF ALL PARTIES. YOU ARE ENTITLED TO HAVE THIS MATTER HEARD BEFORE A JUDGE. IF YOU DO NOT

WANT TO HAVE THIS MATTER HEARD BEFORE THE GENERAL MAGISTRATE, YOU MUST FILE A WRITTEN OBJECTION TO THE REFERRAL WITHIN 10 DAYS OF THE TIME OF SERVICE OF THIS ORDER. IF THE TIME SET FOR THE HEARING IS LESS THAN 10 DAYS AFTER THE SERVICE OF THIS ORDER, THE OBJECTION MUST BE MADE BEFORE THE HEARING. IF THIS ORDER IS SERVED WITHIN THE FIRST 20 DAYS AFTER SERVICE OF PROCESS, THE TIME TO FILE AN OBJECTION IS EXTENDED TO THE TIME WITHIN WHICH A RESPONSIVE PLEADING IS DUE. FAILURE TO FILE A WRITTEN OBJECTION WITHIN THE APPLICABLE TIME PERIOD IS DEEMED TO BE A CONSENT TO THE REFERRAL.

REVIEW OF THE REPORT AND RECOMMENDATIONS**RECOMMENDED ORDER MADE BY THE GENERAL MAGISTRATE SHALL****MUST BE BY EXCEPTIONS****A MOTION TO VACATE AS PROVIDED IN RULE 12.490(fe), FLA.**
FAM. L. R. P. A RECORD, WHICH INCLUDES A TRANSCRIPT OF PROCEEDINGS, MAY BE IS REQUIRED TO SUPPORT THE EXCEPTIONS**MOTION TO VACATE UNLESS WAIVED BY ORDER OF THE COURT PRIOR TO ANY HEARING.**

(3) The order of referral must state with specificity the matter or matters being referred and the name of the specific general magistrate to whom the matter is referred. The order of referral must also state whether electronic recording or a court reporter is provided by the court, or whether a court reporter, if desired, must be provided by the litigants.

(4) When a reference is made to a general magistrate, any party or the general magistrate may set the action for hearing.

(c) **General Powers and Duties.** Every general magistrate shallmust perform all of the duties that pertain to the office according to the practice in chancery and rules of court and under the direction of the court except those duties related to injunctions for protection against domestic, repeat, dating, and sexual violence, and stalking. A general magistrate is empowered to administer oaths and conduct hearings, which may include the taking of evidence. All grounds for disqualification of a judge shallmust (no need to strike “shall” as it is not in the current Rule 12.490) apply to general magistrates.

(d) Hearings.

(1) The general magistrate must assign a time and place for proceedings as soon as reasonably possible after the reference is made and give notice to each of the parties either directly or by directing counsel to file and serve a notice of hearing. If any party fails to appear, the general magistrate may proceed ex parte or may adjourn the proceeding to a future day, giving notice to the absent party of the adjournment. The general magistrate must proceed with reasonable diligence in every reference and with the least delay practicable. Any party may apply to the court for an order to the general magistrate to speed the proceedings and to make the report and to certify to the court the reason for any delay.

(2) The general magistrate must take testimony and establish a record which may be by electronic means as provided by Florida Rule of Judicial Administration 2.535(h)(4) or by a court reporter. The parties may not waive this requirement.

(3) The general magistrate has the authority to examine under oath the parties and all witnesses upon all matters contained in the reference, to require production of all books, documents, writings, vouchers, and other documents applicable to it, and to examine on oath orally all witnesses produced by the parties. The general magistrate may take all actions concerning evidence that can be taken by the circuit court and in the same manner. The general magistrate has the same powers as a circuit judge to utilize communications equipment as defined and regulated by Florida Rule of Judicial Administration 2.530.

(4) The notice or order setting the cause for hearing must be in substantial conformity with Florida Family Law Rules of Procedure Form 12.920(c) and must contain the following language in **bold** type: [\(revise to bold the word "bold" and bold the required language below\)](#)

SHOULD YOU WISH TO SEEK REVIEW OF THE REPORT AND RECOMMENDATION RECOMMENDED ORDER MADE BY THE GENERAL MAGISTRATE, YOU MUST FILE EXCEPTIONS A MOTION TO VACATE IN ACCORDANCE WITH RULE 12.490(fe), FLA. FAM. L. R. P. YOU WILL BE REQUIRED TO PROVIDE THE COURT WITH A RECORD SUFFICIENT TO SUPPORT YOUR EXCEPTIONS OR YOUR EXCEPTIONS MOTION TO VACATE OR YOUR MOTION WILL BE DENIED. A RECORD ORDINARILY INCLUDES A WRITTEN TRANSCRIPT OF ALL

RELEVANT PROCEEDINGS. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED IF NECESSARY FOR THE COURT'S REVIEW.

(5) The notice or order setting a matter for hearing must state whether electronic recording or a court reporter is provided by the court. If the court provides electronic recording, the notice must also state that any party may provide a court reporter at that party's expense.

(e) General Magistrate's Report. The general magistrate must file a report that includes findings of fact and conclusions of law, together with recommendations. If a court reporter was present, the report must contain the name and address of the reporter.

(f) Filing Report; Notice; Exceptions. The general magistrate must file the report and recommendations and serve copies on all parties. The parties may file exceptions to the report within 10 days from the time it is served on them. Any party may file cross-exceptions within 5 days from the service of the exceptions, provided, however, that the filing of cross-exceptions must not delay the hearing on the exceptions unless good cause is shown. If no exceptions are filed within that period, the court must take appropriate action on the report. If exceptions are filed, they must be heard on reasonable notice by either party or the court.

(e) Entry of Order and Relief from Order.

(1) The general magistrate must submit a recommended order to the court that includes findings of fact and conclusions of law.

(2) The general magistrate must retain jurisdiction over the subject matter of any motion for clarification and/or motion for reconsideration and shall rule on same prior to the court hearing any motion to vacate.

(3) Upon receipt of a recommended order, the court must review the recommended order and must enter the order promptly unless good cause appears to amend the order, conduct further proceedings, or refer the matter back to the general magistrate to conduct further proceedings.

(42) If a court reporter was present, the recommended order must contain the name, telephone number, and e-mail address of the court reporter.

~~(5) Any party affected by the order may move to vacate the order by filing a motion to vacate within 10 days from the date of rendition. Any party may file a cross-motion to vacate within 5 days of service of a motion to vacate, provided, however, that the filing of a cross-motion to vacate must not delay the hearing on the motion to vacate unless good cause is shown.~~

~~(3) Upon receipt of a recommended order, the court must review the recommended order and must enter the order promptly unless good cause appears to amend, conduct further proceedings, or refer the matter back~~ the court finds that the recommended order is facially or legally deficient, in which case, it shall identify the deficiency by written order and remand to the ~~hearing officer~~ general magistrate to address and, if necessary, conduct further proceedings without the necessity of a new order of referral to general magistrate. Any party affected by the recommended order may move to vacate the recommended order by filing a motion to vacate within 10 days from the date of entry. Any party may file a cross-motion to vacate within 5 days of service of a motion to vacate, provided, however, that the filing of a cross-motion to vacate shall not delay the hearing on the motion to vacate unless good cause is shown.

~~(64) A motion to vacate the order must be heard and ruled upon within 30 days after the movant applies for the hearing on the motion to vacate occurs.~~

~~(5) The party seeking review shall seek to schedule a hearing date at the same time that the motion to vacate is filed with the Court. Failure to seek a hearing date in conformity herewith may result in a denial of the motion to vacate.~~

~~(6) A timely filed motion to vacate stays the enforcement of the recommended order rendered by the Court until after the Court has conducted a hearing on the motion to vacate and renders an order granting or denying the motion to vacate.~~

~~(g) (f) **Record.** For the purpose of the hearing on exceptions, a record, substantially in conformity with this rule, must be provided to the court by the party seeking review if necessary for the court's review.~~

~~(1) The record must consist of the court file, including the transcript of the relevant proceedings before the general magistrate and all depositions and evidence presented to the general magistrate.~~

(2) The transcript of all relevant proceedings, if any, must be delivered to the judge and provided to all other parties not less than 48 hours before the hearing on ~~exceptions~~a motion to vacate. If less than a full transcript of the proceedings taken before the general magistrate is ~~ordered prepared furnished~~ by the ~~excepting~~moving party, that party must promptly file a notice setting forth the portions of the transcript that have been ordered. The responding parties must be permitted to designate any additional portions of the transcript necessary to the adjudication of the issues raised in the ~~exceptions~~motion to vacate or cross-~~exceptions~~motion to vacate.

(3) The cost of the original and all copies of the transcript of the proceedings is borne initially by the party seeking review, subject to appropriate assessment of suit monies. Should any portion of the transcript be required as a result of a designation filed by the responding party, the party making the designation bears the initial cost of the additional transcript.

Commentary

1995 Adoption. This rule is a modification of Florida Rule of Civil Procedure 1.490. That rule governed the appointment of both general and special masters. The appointment of special masters is now governed by Florida Family Law Rule of Procedure 12.492. This rule is intended to clarify procedures that were required under rule 1.490, and it creates additional procedures. The use of general masters should be implemented only when such use will reduce costs and expedite cases in accordance with *Dralus v. Dralus*, 627 So.2d 505 (Fla. 2d DCA 1993), *Wrona v. Wrona*, 592 So.2d 694 (Fla. 2d DCA 1991), and *Katz v. Katz*, 505 So.2d 25 (Fla. 4th DCA 1987).

Committee Notes

2004 Amendment. In accordance with Chapter 2004-11, Laws of Florida, all references to general master were changed to general magistrate.

2015 Amendment. Subdivision (b)(3) has been amended to clarify that the order of referral must include the name of the specific general magistrate to whom the matter is being referred and who will conduct the hearing and that concurrent referrals to multiple general magistrates is inappropriate.

Rebecca Hunt

From: Trisha P. Armstrong <tarmstrong@sasserlaw.com>
Sent: Wednesday, February 19, 2020 12:44 PM
To: Rebecca Hunt; Cuellar-Stilo, Mary Lou; Davis, Mikalla
Cc: Amy Hamlin; Greenbaum, Douglas (douggreenbaum@earthlink.net)
Subject: RE: Magistrates Rule
Attachments: v-4 2-19-20 Rule 12.490 Fla. Bar Rules Committee Feb. 5, 2020 w FLS edits.pdf

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Good afternoon,

First, the Subcommittee on Rule 12.490 out of the General Magistrates and Hearing Officers Committee of the Family Law Section of the Florida Bar thanks the Family Law Rules Committee for providing additional time for the Subcommittee to finalize its proposed amendments to Rule 12.490.

The Subcommittee on Rule 12.490 hereby submits its proposed further revisions to Rule 12.490 and respectfully requests that the Family Law Rules Committee adopt its proposed further revisions to Rule 12.490. The Subcommittee's proposed further revisions were added in redline to the Family Law Rules Committee's Revised Proposed Rule Amendment to Fla. Fam. Law. R. P. 12.490 attached to the February 5, 2020 Committee meeting agenda. The Subcommittee's redlined revisions are attached to this email.

In proposing the further amendments to Rule 12.490 as redlined, the Subcommittee respectfully requests that the Family Law Rules Committee ensure that a corresponding appellate rule change is made to provide that a motion to vacate should be treated as a motion for rehearing for the purposes of tolling an appeal. While the Subcommittee's proposed redline changes include language that a timely filed motion to vacate stays the enforcement of the recommended order rendered by the Court until after the Court has conducted a hearing on the motion to vacate and renders an order granting or denying the motion to vacate, inclusion of this language in Rule 12.490 alone is insufficient. The corresponding appellate rule change should be passed in connection with the amendments to Rule 12.490 to correct the conflict between the further revised Rule 12.490 and the appellate rules. The Subcommittee is ready and willing to assist the Family Law Rules Committee in this process, if requested.

In submitting the Subcommittee's proposed further revisions to the Family Law Rules Committee's Revised Proposed Rule Amendment to Fla. Fam. Law. R. P. 12.490, I want to thank Amy Hamlin, Chair, of the Family Law Section of the Florida Bar, Magistrate Diane Kirigin, Jack Moring, Thomas Sasser, Magistrate Temi Zeitenberg, and Magistrate Barbara Goiran for their work on this matter.

Should Magistrate Hunt's Subcommittee need further information or clarification, please let me know and we will make ourselves available. Thank you again.

Regards,

Trisha P. Armstrong, Esq.
Sasser, Cestero & Sasser, P.A.
1800 Australian Avenue South, Suite 203
West Palm Beach, FL 33409
Phone: (561) 689-4378, Ext. 207
E-mail: TArmstrong@sasserlaw.com
E-service: TPAService@sasserlaw.com
Website: www.sasserlaw.com



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From: Rebecca Hunt [mailto:RHunt@jud12.flcourts.org]
Sent: Friday, February 14, 2020 8:23 AM
To: Cuellar-Stilo, Mary Lou <cuellaml@fljud13.org>; Davis, Mikalla <midavis@floridabar.org>
Cc: Trisha P. Armstrong <tarmstrong@sasserlaw.com>
Subject: RE: Magistrates Rule

Yes. Thanks for keeping in touch with us Mikalla.

From: Cuellar-Stilo, Mary Lou <cuellaml@fljud13.org>
Sent: Friday, February 14, 2020 5:57 AM
To: Davis, Mikalla <midavis@floridabar.org>
Cc: Armstrong, Trisha P <tarmstrong@sasserlaw.com>; Rebecca Hunt <RHunt@jud12.flcourts.org>
Subject: Re: Magistrates Rule

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Thank you so much Mikalla.

Sent from my iPhone

Davis, Mikalla

From: Trisha P. Armstrong <tarmstrong@sasserlaw.com>
Sent: Monday, June 8, 2020 12:50 PM
To: Hunt, Rebecca L
Cc: Cuellar-Stilo, Mary L; Brandfon, Cory; Kleinberg, Lisa J; Davis, Mikalla; Kirigin, Diane; Williams, Maxine; Moring, Jack A
Subject: FW: Rule 12.490 and Rule 12.491
Attachments: RULE 12.491 Change.doc; AMENDED FLRC comments to v-4 proposed 2-19-20 Rule 12.490 Fla. Bar Rules (DRAFT)[3].docx

Magistrate Hunt,

I hope you are well. Attached please find the final proposed edits to 12.490, as well as corresponding proposed edits to 12.491. The final proposed edits incorporated the Subcommittee's comments during the February 24, 2020 call. I am forwarding the below email from Magistrate Diane Kirigin explaining further edits. Magistrate Maxine Williams and Magistrate Kirigin have worked very hard to finalize the attached proposed 12.490. I would like to move forward and take a vote on the final proposed edits at the Committee meeting on June 19th. If the Subcommittee would like to have a call to discuss any of the edits in advance, please let me know.

Thank you.

Regards,

Trisha P. Armstrong, Esq.
Sasser, Cestero & Sasser, P.A.
1800 Australian Avenue South, Suite 203
West Palm Beach, FL 33409
Phone: (561) 689-4378, Ext. 203
E-mail: TArmstrong@sasserlaw.com
E-service: TPAService@sasserlaw.com
Website: www.sasserlaw.com



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From: Magistrate Diane Kirigin <DKirigin@pbcgov.org>
Date: Monday, June 8, 2020 at 11:41 AM
To: "Trisha P. Armstrong" <tarmstrong@sasserlaw.com>, Jack Moring <jmoring@moringlaw.com>
Cc: Maxine Williams <MAWilliams@pbcgov.org>
Subject: Rule 12.490 and Rule 12.491

Trisha and Jack

First of all on behalf of General Magistrate Williams, myself and all the GMs and CSHOs statewide we want to thank both of you (and Tom Sasser as well) for your help in revising Rule 12.490. We agree with Trisha's recommendations on going forward with the changes as if to the Rule as now attached. After our meeting Maxine and I agreed to the changes and further "tweaked" Rule 12.490 to conform with our group discussion.

You will also note that we changed the term "reference" used throughout Rule 12.490 to referral since what the Court is doing in 12.490 is a referral. As a corollary to that specific change we believe that Rule 12.491 should be revised to eliminate the use of the word "reference" as self-represented litigants and attorneys get that confused with referral under 12.490. We have changed the word to "assignment" which is consistent with our Circuit's A.O. and eliminates any confusion or misimpression that an order of referral is required under 12.491.

Maxine, myself and other members of the Association are prepared to appear at any meeting that the Rules Committee may have on this matter later this month or call any Committee members in advance. We can prepare a letter from the Association in support of the changes and also get various family judges around the State to support the change, just let us know what you need to help push this through.

With gratitude,

Diane

Please be advised that Florida has a broad public records law, and all correspondence to me via email may be subject to disclosure. Under Florida records law (SB80 effective 7-01-06), email addresses are public records. If you do not want your email address released in response to a public records request, do not send emails to this entity. Instead, contact this office by phone or in writing.

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

Rule 12.490 (v-4 2-19-20 Family Law Section Subcommittee edits to Fla. Bar Rules Committee Feb. 5, 2020)

RULE 12.490. GENERAL MAGISTRATES

(a) **General Magistrates.** Judges of the circuit court may appoint as many general magistrates from among the members of The Florida Bar in the circuit as the judges find necessary, and the general magistrates will continue in office until removed by the court. The order making an appointment must be recorded. Every person appointed as a general magistrate must take the oath required of officers by the constitution and the oath must be recorded before the magistrate discharges any duties of that office.

(b) **Referralenee.**

(1) No matter shall be heard by a general magistrate without an appropriate order of referralenee and the consent to the referral of all parties. Consent, as defined in this rule, to a specific referral, once given, cannot be withdrawn without good cause shown before the hearing on the merits of the matter referred. Consent may be express or may be implied in accordance with the requirements of this rule.

(A) A written objection to the referral to a general magistrate must be filed within 10 days of the service of the order of referral.

(B) If the time set for the hearing is less than 10 days after service of the order of referral, the objection must be filed filed before commencement of the hearing.

(C) If the order of referral is served within the first 20 days after the service of the initial process, the time to file an objection is extended to the time within which to file a responsive pleading.

(D) Failure to file a written objection within the applicable time period is deemed to be consent to the order of referral.

(2) The order of referral shallmust be in substantial conformity with the Florida Family Law Rules of Procedure Form 12.920(b), and shallmust contain the following language in **bold** type:

A REFERRAL TO A GENERAL MAGISTRATE REQUIRES THE CONSENT OF ALL PARTIES. YOU ARE ENTITLED TO HAVE THIS MATTER HEARD BEFORE A JUDGE. IF YOU DO NOT

Commented [DK1]: The word "referral" has been substitute for "reference" since the name of the document that invests a general magistrate with jurisdiction to hear this matter is an order of referral.

Commented [TPA2]: Comment # 1 (not a comment to a FLS proposed edit): Cory Brandfonbrenner commented that this section is inconsistent with the 1st bold paragraph under (b)(2) concerning making an objection before the hearing. I believe this concern could be addressed by changing the word "made" to "filed" and adding the words "commencement of" before "the hearing". This would allow both sections to read in relevant part: "the objection must be filed before commencement of the hearing."

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Rule 12.490 (v-4 2-19-20 Family Law Section Subcommittee edits to Fla. Bar Rules Committee Feb. 5, 2020)

WANT TO HAVE THIS MATTER HEARD BEFORE THE GENERAL MAGISTRATE, YOU MUST FILE A WRITTEN OBJECTION TO THE REFERRAL WITHIN 10 DAYS OF THE TIME OF SERVICE OF THIS ORDER. IF THE TIME SET FOR THE HEARING IS LESS THAN 10 DAYS AFTER THE SERVICE OF THIS ORDER, THE OBJECTION MUST BE FILEDMADE BEFORE COMMENCEMENT OF THE HEARING. IF THIS ORDER IS SERVED WITHIN THE FIRST 20 DAYS AFTER SERVICE OF PROCESS, THE TIME TO FILE AN OBJECTION IS EXTENDED TO THE TIME WITHIN WHICH A RESPONSIVE PLEADING IS DUE. FAILURE TO FILE A WRITTEN OBJECTION WITHIN THE APPLICABLE TIME PERIOD IS DEEMED TO BE A CONSENT TO THE REFERRAL.

Commented [TPA3]: See Comment #1 (not a comment to a FLS proposed edit)

REVIEW OF THE REPORT AND RECOMMENDATIONSRECOMMENDED ORDER MADE BY THE GENERAL MAGISTRATE ~~SHALL~~MUST BE BY EXCEPTIONSA MOTION TO VACATE AS PROVIDED IN RULE 12.490(fe), FLA. FAM. L. R. P. A RECORD, WHICH INCLUDES A TRANSCRIPT OF PROCEEDINGS, ~~MAY BE~~IS REQUIRED TO SUPPORT THE EXCEPTIONSMOTION TO VACATE UNLESS WAIVED BY ORDER OF THE COURT PRIOR TO ANY HEARING ON THE MOTION TO VACATE.

Commented [TPA4]: Comment #2: Magistrate Hunt expressed concern that this addition will create confusion as to when there should be a waiver. Example of where there may be a facially deficient order was given. Subcommittee still has concerns.

(3) The order of referral must state with specificity the matter or matters being referred and the name of the specific general magistrate to whom the matter is referred. The order of referral must also state whether electronic recording or a court reporter is provided by the court, or whether a court reporter, if desired, must be provided by the litigants.

(4) When a refer~~ralenee~~ is made to a general magistrate, any party or the general magistrate may set the action for hearing.

(c) **General Powers and Duties.** Every general magistrate ~~shall~~must perform all of the duties that pertain to the office according to the practice in chancery and rules of court and under the direction of the court except those duties related to injunctions for protection against domestic, repeat, dating, and sexual violence, and stalking. A general magistrate is empowered to administer oaths and conduct hearings, which may include the taking of evidence. All grounds for

Rule 12.490 (v-4 2-19-20 Family Law Section Subcommittee edits to Fla. Bar Rules Committee Feb. 5, 2020)

disqualification of a judge ~~shall~~must (*no need to strike “shall” as it is not in the current Rule 12.490*) apply to general magistrates.

(d) Hearings.

(1) The general magistrate must assign a time and place for proceedings as soon as reasonably possible after the refer~~ralenee~~ is made and give notice to each of the parties either directly or by directing counsel to file and serve a notice of hearing. If any party fails to appear, the general magistrate may proceed ex parte or may adjourn the proceeding to a future day, giving notice to the absent party of the adjournment. The general magistrate must proceed with reasonable diligence in every refer~~ralenee~~ and with the least delay practicable. Any party may apply to the court for an order to the general magistrate to speed the proceedings and to make the ~~recommended order~~report and to certify to the court the reason for any delay.

Commented [TPA5]: Comment #2 (not a comment to a FLS proposed edit): Cory Brandfond recommended changing the word “report” to “recommended order”. I agree with this edit.

(2) The general magistrate must take testimony and establish a record which may be by electronic means as provided by Florida Rule of Judicial Administration 2.535(h)(4) or by a court reporter. The parties may not waive this requirement.

(3) The general magistrate has the authority to examine under oath the parties and all witnesses upon all matters contained in the refer~~ralenee~~, to require production of all books, documents, writings, vouchers, and other documents applicable to it, and to examine on oath orally all witnesses produced by the parties. The general magistrate may take all actions concerning evidence that can be taken by the circuit court and in the same manner. The general magistrate has the same powers as a circuit judge to utilize communications equipment as defined and regulated by Florida Rule of Judicial Administration 2.530.

(4) The notice or order setting the cause for hearing must be in substantial conformity with Florida Family Law Rules of Procedure Form 12.920(c) and must contain the following language in **bold** type: (*revise to bold the word “bold” and bold the required language below*)

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SHOULD YOU WISH TO SEEK REVIEW OF THE REPORT AND RECOMMENDATIONRECOMMENDED ORDER** MADE BY THE GENERAL MAGISTRATE, YOU MUST FILE EXCEPTIONS A MOTION TO VACATE IN ACCORDANCE WITH RULE 12.490(fe),**

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Rule 12.490 (v-4 2-19-20 Family Law Section Subcommittee edits to Fla. Bar Rules Committee Feb. 5, 2020)

FLA. FAM. L. R. P. YOU WILL BE REQUIRED TO PROVIDE THE COURT WITH A RECORD SUFFICIENT TO SUPPORT YOUR EXCEPTIONS OR YOUR EXCEPTIONSMOTION TO VACATE OR YOUR MOTION WILL BE DENIED. A RECORD ORDINARILY INCLUDES A WRITTEN TRANSCRIPT OF ALL RELEVANT PROCEEDINGS UNLESS WAIVED BY ORDER OF THE COURT PRIOR TO ANY HEARING ON THE MOTION TO VACATE. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED IF NECESSARY FOR THE COURT'S REVIEW.

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(5) The notice or order setting a matter for hearing must state whether electronic recording or a court reporter is provided by the court. If the court provides electronic recording, the notice must also state that any party may provide a court reporter at that party's expense.

(e) **General Magistrate's Report.** The general magistrate must file a report that includes findings of fact and conclusions of law, together with recommendations. If a court reporter was present, the report must contain the name and address of the reporter.

(f) **Filing Report; Notice; Exceptions.** The general magistrate must file the report and recommendations and serve copies on all parties. The parties may file exceptions to the report within 10 days from the time it is served on them. Any party may file cross exceptions within 5 days from the service of the exceptions, provided, however, that the filing of cross exceptions must not delay the hearing on the exceptions unless good cause is shown. If no exceptions are filed within that period, the court must take appropriate action on the report. If exceptions are filed, they must be heard on reasonable notice by either party or the court.

(e) Entry of Order and Relief from Order.

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(1) The general magistrate must submit a recommended order to the court that includes findings of fact and conclusions of law.

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(2) The general magistrate must retain jurisdiction over the subject matter of any motion for clarification and/or motion for reconsideration and shall rule on same prior to the court hearing any motion to vacate.

Rule 12.490 (v-4 2-19-20 Family Law Section Subcommittee edits to Fla. Bar Rules Committee Feb. 5, 2020)

~~(3) Upon receipt of a recommended order, the court must review the recommended order and must enter the order promptly unless good cause appears to amend the order, conduct further proceedings, or refer the matter back to the general magistrate to conduct further proceedings.~~

~~(42) If a court reporter was present, the recommended order must contain the name, telephone number, and e-mail address of the court reporter.~~

~~(5) Any party affected by the order may move to vacate the order by filing a motion to vacate within 10 days from the date of rendition. Any party may file a cross motion to vacate within 5 days of service of a motion to vacate, provided, however, that the filing of a cross motion to vacate must not delay the hearing on the motion to vacate unless good cause is shown.~~

~~(3) Upon receipt of a recommended order, the court must review the recommended order and must enter the order promptly unless good cause appears to amend, conduct further proceedings, or refer the matter back the court finds that the recommended order is facially or legally deficient, in which case, it must shall identify the deficiency by written order and remand to the hearing officer general magistrate to address and, if necessary, conduct further proceedings without the necessity of a new order of referral to general magistrate. Any party affected by the recommended order may move to vacate the recommended order by filing a motion to vacate within 10 days from the date of entry. Any party may file a cross-motion to vacate within 5 days of service of a motion to vacate, provided, however, that the filing of a cross-motion to vacate shall not delay the hearing on the motion to vacate unless good cause is shown.~~

Commented [TPA6]: Comment #3: Magistrate Hunt recommended the word "must" instead of "shall".

~~(64) A motion to vacate the order must be heard and ruled upon within 30 days from the date the motion is filed, unless the time frame is extended by court order. Thereafter, the judge must enter an order rendering a ruling no later than 30 days after hearing on the motion to vacate after the movant applies for the hearing on the motion to vacate occurs.~~

Commented [TPA7]: Comment #4: Subcommittee would like to see this split into 2 sentences, each detailing a time frame. If the FLS Subcommittee is so inclined, I suggest making the following edit (acknowledging serious concerns about inserting these time limits):

"A motion to vacate the recommended order must be heard within 30 days after it is filed. A ruling on the hearing must be made within 30 days of the hearing." If this Subcommittee is inclined to suggest these or similar edits with time frames, there should be language about what happens if/when the event does not occur within the stated time frame.

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~~(5) The party seeking review shall seek to schedule a hearing date at the same time that the motion to vacate is filed with the Court. Failure to seek a hearing date in conformity herewith may result in a denial of the motion to vacate.~~

~~(6) A timely filed motion to vacate stays the enforcement of the recommended order rendered by the Court until after the Court has conducted a~~

Rule 12.490 (v-4 2-19-20 Family Law Section Subcommittee edits to Fla. Bar Rules Committee Feb. 5, 2020)

hearing on the motion to vacate and renders an order granting or denying the motion to vacate.

(f) **Record.** For the purpose of the hearing on the motion to vacate~~exceptions~~, a record, substantially in conformity with this rule, must be provided to the court by the party seeking review if necessary for the court's review.

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(1) The record must consist of the court file, all depositions and documentary and other evidence presented at hearing, including the transcript of the relevant proceedings before the general magistrate. However, the transcript may be waived by order of the court prior to any hearing on the motion to vacate. ~~s before the general magistrate and all depositions and evidence presented to the general magistrate.~~

(2) Unless waived by order of the court prior to any hearing on the motion to vacate, ~~t~~The transcript of all relevant proceedings, if any, must be delivered to the judge and provided to all other parties not less than 48 hours before the hearing on exceptions~~a motion to vacate~~. If less than a full transcript of the proceedings taken before the general magistrate is ordered prepared furnished by the ~~excepting~~moving party, that party must promptly file a notice setting forth the portions of the transcript that have been ordered. The responding parties must be permitted to designate any additional portions of the transcript necessary to the adjudication of the issues raised in the ~~exceptions~~motion to vacate or cross-~~exceptions~~motion to vacate.

(3) The cost of the original and all copies of the transcript of the proceedings is borne initially by the party seeking review, subject to appropriate assessment of suit monies. Should any portion of the transcript be required as a result of a designation filed by the responding party, the party making the designation bears the initial cost of the additional transcript.

Commentary

1995 Adoption. This rule is a modification of Florida Rule of Civil Procedure 1.490. That rule governed the appointment of both general and special masters. The appointment of special masters is now governed by Florida Family Law Rule of Procedure 12.492. This rule is intended to clarify procedures that were required under rule 1.490, and it creates additional procedures. The use of general masters should be implemented only when such use will reduce costs and

Rule 12.490 (*v-4 2-19-20 Family Law Section Subcommittee edits to Fla. Bar Rules Committee Feb. 5, 2020*)

expedite cases in accordance with *Dralus v. Dralus*, 627 So.2d 505 (Fla. 2d DCA 1993), *Wrona v. Wrona*, 592 So.2d 694 (Fla. 2d DCA 1991), and *Katz v. Katz*, 505 So.2d 25 (Fla. 4th DCA 1987).

Committee Notes

2004 Amendment. In accordance with Chapter 2004-11, Laws of Florida, all references to general master were changed to general magistrate.

2015 Amendment. Subdivision (b)(3) has been amended to clarify that the order of referral must include the name of the specific general magistrate to whom the matter is being referred and who will conduct the hearing and that concurrent referrals to multiple general magistrates is inappropriate.

RULE 12.491. CHILD SUPPORT ENFORCEMENT

(a) Limited Application. This rule shall be effective only when specifically invoked by administrative order of the chief justice for use in a particular county or circuit.

(b) Scope. This rule shall apply to proceedings for

- (1) the establishment, enforcement, or modification of child support, or
- (2) the enforcement of any support order for the parent or other person entitled to receive child support in conjunction with an ongoing child support or child support arrearage order,

when a party seeking support is receiving services pursuant to Title IV-D of the Social Security Act (42 U.S.C. §§ 651 et seq.) and to non-Title IV-D proceedings upon administrative order of the chief justice.

(c) Support Enforcement Hearing Officers. The chief judge of each judicial circuit shall appoint such number of support enforcement hearing officers for the circuit or any county within the circuit as are necessary to expeditiously perform the duties prescribed by this rule. A hearing officer shall be a member of The Florida Bar unless waived by the chief justice and shall serve at the pleasure of the chief judge and a majority of the circuit judges in the circuit.

(d) Referral. Assignment. Upon the filing of a cause of action or other proceeding for the establishment, enforcement, or modification of support to which this rule applies, the court or clerk of the circuit court shall ~~assign~~refer such proceedings to a support enforcement hearing officer, pursuant to procedures to be established by administrative order of the chief judge.

(e) General Powers and Duties. The support enforcement hearing officer shall be empowered to issue process, administer oaths, require the production of documents, and conduct hearings for the purpose of taking evidence. A support enforcement hearing officer does not have the authority to hear Family Law Rules of Procedure August 28, 2019 119

contested paternity cases. Upon the receipt of a support proceeding, the support enforcement hearing officer shall:

- (1) ~~assign designate~~ a time and place for an appropriate hearing and give notice to each of the parties as may be required by law;
 - (2) take testimony and establish a record, which record may be by electronic means as provided by Florida Rule of Judicial Administration 2.535(h);
 - (3) accept voluntary acknowledgment of paternity and support liability and stipulated agreements setting the amount of support to be paid; and
 - (4) evaluate the evidence and promptly make a recommended order to the court.
- Such order shall set forth findings of fact.

(f) Entry of Order and Relief from Order. Upon receipt of a recommended order, the court shall review the recommended order and shall enter an order promptly unless good cause appears to amend the order, conduct further proceedings, or ~~reassignrefer~~ the matter back to the hearing officer to conduct further proceedings. Any party affected by the order may move to vacate the order by filing a motion to vacate within 10 days from the date of entry. Any party may file a cross-motion to vacate within 5 days of service of a motion to vacate, provided, however, that the filing of a cross-motion to vacate shall not delay the hearing on the motion to vacate unless good cause is shown. A motion to vacate the order shall be heard within 10 days after the movant applies for hearing on the motion.

(g) Modification of Order. Any party affected by the order may move to modify the order at any time.

(h) Record. For the purpose of hearing on a motion to vacate, a record, substantially in conformity with this rule, shall be provided to the court by the party seeking review.

(1) The record shall consist of the court file, including the transcript of the proceedings before the hearing officer, if filed, and all depositions and evidence presented to the hearing officer.

(2) The transcript of all relevant proceedings shall be delivered to the judge and provided to opposing counsel not less than 48 hours before the hearing on the motion to vacate. If less than a full transcript of the proceedings taken before the hearing officer is ordered prepared by the moving party, that party Family Law Rules of Procedure August 28, 2019 120

shall promptly file a notice setting forth the portions of the transcript that have been ordered. The responding party shall be permitted to designate any additional portions of the transcript necessary to the adjudication of the issues raised in the motion to vacate or cross-motion to vacate.

(3) The cost of the original and all copies of the transcript of the proceedings shall be borne initially by the party seeking review, subject to appropriate assessment of suit monies. Should any portion of the transcript be required as a result of a designation filed by the responding party, the party making the designation shall bear the initial cost of the additional transcript.

Commentary

1995 Adoption. Previously, this rule was contained in Florida Rule of Civil Procedure 1.491. The new rule is substantially the same as previous rule 1.491, with the following additions.

It is intended that any administrative order issued by the chief justice of the Florida Supreme Court under rule 1.491(a) shall remain in full force and effect as though such order was rendered under this rule until changed by order of that same court. Subdivision (e) now makes clear that contested paternity cases are not to be heard by support enforcement hearing officers.

Subdivision (h) has been added to provide requirements for a record.

1988 Adoption. Title: The terminology “hearing officer” is used rather than “master” to avoid confusion or conflict with rule 1.490.

Subdivision (a): The rule is intended as a fall back mechanism to be used by the chief justice as the need may arise.

Subdivision (b): The expedited process provisions of the applicable federal regulations apply only to matters which fall within the purview of Title IV-D. The committee recognizes, however, that the use of hearing officers could provide a useful case flow management tool in non-Title IV-D support proceedings.

It is contemplated that a circuit could make application to the chief justice for expansion of the scope of the rule upon a showing of necessity and good cause. It is the position of the representative of the Family Law Section of The Florida Bar that reference of non-Title IV-D proceedings should require the consent of the parties as is required by rule 1.490(c). Family Law Rules of Procedure August 28, 2019 121

Subdivision (c): It is the position of the committee that hearing officers should be members of the Bar in that jurisdictional and other legal issues are likely to arise in proceedings of this nature. The waiver provision is directed to small counties in which it may be difficult or impossible to find a lawyer willing to serve and to such other special circumstances as may be determined by the chief justice.

Subdivision (d): This paragraph recognizes that the mechanics of reference and operation of a program are best determined at the local level.

Subdivision (e): This paragraph is intended to empower the hearing officer to fully carry out his or her responsibilities without becoming overly complicated. The authority to enter defaults which is referred to in the federal regulations is omitted, the committee feeling that the subject matter is fully and adequately covered by rule 1.500.

The authority to accept voluntary acknowledgments of paternity is included at the request of the Department of Health and Rehabilitative Services. Findings of fact are included in the recommended order to provide the judge to whom the order is referred basic information relating to the subject matter.

Subdivision (f): Expedited process is intended to eliminate or minimize delays which are perceived to exist in the normal processing of cases. This paragraph is intended to require the prompt entry of an order and to guarantee due process to the obligee.

General Note: This proposed rule, in substantially the same form, was circulated to each of the chief judges for comment. Five responses were received. Two responding endorsed the procedure, and 3 responding felt that any rule of this kind would be inappropriate. The committee did not address the question of funding, which included not only salaries of hearing officers and support personnel, but also capital outlay for furniture, fixtures, equipment and space, and normal operating costs. The committee recognizes that the operational costs of such programs may be substantial and recommends that this matter be addressed by an appropriate body.

Committee Note

1998 Amendment. This rule shall not apply to proceedings to establish or modify alimony. Family Law Rules of Procedure August 28, 2019 122

RULE 12.492. SPECIAL MAGISTRATES

RULE 12.490. GENERAL MAGISTRATES

(a) General Magistrates. Judges of the circuit court may appoint as many general magistrates from among the members of The Florida Bar in the circuit as the judges find necessary, and the general magistrates will continue in office until removed by the court. The order making an appointment must be recorded. Every person appointed as a general magistrate must take the oath required of officers by the constitution and the oath must be recorded before the magistrate discharges any duties of that office.

(b) Reference Referral.

(1) No matter shall be heard by a general magistrate without an appropriate order of reference referral and the consent to the referral of all parties. Consent, as defined in this rule, to a specific referral, once given, cannot be withdrawn without good cause shown before the hearing on the merits of the matter referred. Consent may be express or may be implied in accordance with the requirements of this rule.

(A) A written objection to the referral to a general magistrate must be filed within 10 days of the service of the order of referral.

(B) If the time set for the hearing is less than 10 days after service of the order of referral, the objection must be filed before commencement of the hearing.

(C) If the order of referral is served within the first 20 days after the service of the initial process, the time to file an objection is extended to the time within which to file a responsive pleading.

(D) Failure to file a written objection within the applicable time period is deemed to be consent to the order of referral.

(2) The order of referral shallmust be in substantial conformity with the Florida Family Law Rules of Procedure Form 12.920(b), and shallmust contain the following language in **bold** type:

A REFERRAL TO A GENERAL MAGISTRATE REQUIRES THE CONSENT OF ALL PARTIES. YOU ARE ENTITLED TO HAVE THIS MATTER HEARD BEFORE A JUDGE. IF YOU DO NOT

WANT TO HAVE THIS MATTER HEARD BEFORE THE GENERAL MAGISTRATE, YOU MUST FILE A WRITTEN OBJECTION TO THE REFERRAL WITHIN 10 DAYS OF THE TIME OF SERVICE OF THIS ORDER. IF THE TIME SET FOR THE HEARING IS LESS THAN 10 DAYS AFTER THE SERVICE OF THIS ORDER, THE OBJECTION MUST BE MADEFILED BEFORE COMMENCEMENT OF THE HEARING. IF THIS ORDER IS SERVED WITHIN THE FIRST 20 DAYS AFTER SERVICE OF PROCESS, THE TIME TO FILE AN OBJECTION IS EXTENDED TO THE TIME WITHIN WHICH A RESPONSIVE PLEADING IS DUE. FAILURE TO FILE A WRITTEN OBJECTION WITHIN THE APPLICABLE TIME PERIOD IS DEEMED TO BE A CONSENT TO THE REFERRAL.

REVIEW OF THE REPORT AND RECOMMENDATIONS**RECOMMENDED ORDER MADE BY THE GENERAL MAGISTRATE SHALL****MUST BE BY EXCEPTIONS****A MOTION TO VACATE AS PROVIDED IN RULE 12.490(fe), FLA.**
FAM. L. R. P. A RECORD, WHICH INCLUDES A TRANSCRIPT OF PROCEEDINGS, MAY BE**IS REQUIRED TO SUPPORT THE EXCEPTIONS****MOTION TO VACATE UNLESS WAIVED BY ORDER OF THE COURT PRIOR TO ANY HEARING ON THE MOTION TO VACATE.**

(3) The order of referral must state with specificity the matter or matters being referred and the name of the specific general magistrate to whom the matter is referred. The order of referral must also state whether electronic recording or a court reporter is provided by the court, or whether a court reporter, if desired, must be provided by the litigants.

(4) When a ~~reference~~referral is made to a general magistrate, any party or the general magistrate may set the action for hearing.

(c) **General Powers and Duties.** Every general magistrate shallmust perform all of the duties that pertain to the office according to the practice in chancery and rules of court and under the direction of the court except those duties related to injunctions for protection against domestic, repeat, dating, and sexual violence, and stalking. A general magistrate is empowered to administer oaths and conduct hearings, which may include the taking of evidence. All grounds for disqualification of a judge apply to general magistrates.

(d) Hearings.

(1) The general magistrate must assign a time and place for proceedings as soon as reasonably possible after the ~~reference~~referral is made and give notice to each of the parties either directly or by directing counsel to file and serve a notice of hearing. If any party fails to appear, the general magistrate may proceed ex parte or may adjourn the proceeding to a future day, giving notice to the absent party of the adjournment. The general magistrate must proceed with reasonable diligence in every ~~reference~~referral and with the least delay practicable. Any party may apply to the court for an order to the general magistrate to speed the proceedings and to make the ~~report~~recommended order and to certify to the court the reason for any delay.

(2) The general magistrate must take testimony and establish a record which may be by electronic means as provided by Florida Rule of Judicial Administration 2.535(h)(4) or by a court reporter. The parties may not waive this requirement.

(3) The general magistrate has the authority to examine under oath the parties and all witnesses upon all matters contained in the ~~reference~~referral, to require production of all books, documents, writings, vouchers, and other documents applicable to it, and to examine on oath orally all witnesses produced by the parties. The general magistrate may take all actions concerning evidence that can be taken by the circuit court and in the same manner. The general magistrate has the same powers as a circuit judge to utilize communications equipment as defined and regulated by Florida Rule of Judicial Administration 2.530.

(4) The notice or order setting the cause for hearing must be in substantial conformity with Florida Family Law Rules of Procedure Form 12.920(c) and must contain the following language in **bold** type:

SHOULD YOU WISH TO SEEK REVIEW OF THE ~~REPORT AND RECOMMENDATION~~RECOMMENDED ORDER MADE BY THE GENERAL MAGISTRATE, YOU MUST FILE ~~EXCEPTIONS A MOTION TO VACATE~~ IN ACCORDANCE WITH RULE 12.490(fe), FLA. FAM. L. R. P. YOU WILL BE REQUIRED TO PROVIDE THE COURT WITH A RECORD SUFFICIENT TO SUPPORT YOUR ~~EXCEPTIONS OR YOUR EXCEPTIONS~~MOTION TO VACATE

OR YOUR MOTION WILL BE DENIED. A RECORD ORDINARILY INCLUDES A WRITTEN TRANSCRIPT OF ALL RELEVANT PROCEEDINGS UNLESS WAIVED BY ORDER OF THE COURT PRIOR TO ANY HEARING ON THE MOTION TO VACATE. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED IF NECESSARY FOR THE COURT'S REVIEW.

(5) The notice or order setting a matter for hearing must state whether electronic recording or a court reporter is provided by the court. If the court provides electronic recording, the notice must also state that any party may provide a court reporter at that party's expense.

(e) **General Magistrate's Report.** The general magistrate must file a report that includes findings of fact and conclusions of law, together with recommendations. If a court reporter was present, the report must contain the name and address of the reporter.

(f) **Filing Report; Notice; Exceptions.** The general magistrate must file the report and recommendations and serve copies on all parties. The parties may file exceptions to the report within 10 days from the time it is served on them. Any party may file cross exceptions within 5 days from the service of the exceptions, provided, however, that the filing of cross exceptions must not delay the hearing on the exceptions unless good cause is shown. If no exceptions are filed within that period, the court must take appropriate action on the report. If exceptions are filed, they must be heard on reasonable notice by either party or the court.

(e) Entry of Order and Relief from Order.

(1) The general magistrate must submit a recommended order to the court that includes findings of fact and conclusions of law.

(2) The general magistrate must retain jurisdiction over the subject matter of any motion for clarification and/or motion for reconsideration and shall rule on same prior to the court hearing any motion to vacate.

(3) Upon receipt of a recommended order, the court must review the recommended order and must enter the order promptly unless good cause appears to amend the order, conduct further proceedings, or refer the matter back to the general magistrate to conduct further proceedings.

(42) If a court reporter was present, the recommended order must contain the name, telephone number, and e-mail address of the court reporter.

(5) Any party affected by the order may move to vacate the order by filing a motion to vacate within 10 days from the date of rendition. Any party may file a cross-motion to vacate within 5 days of service of a motion to vacate, provided, however, that the filing of a cross-motion to vacate must not delay the hearing on the motion to vacate unless good cause is shown.

(3) Upon receipt of a recommended order, the court must review the recommended order and must enter the order promptly unless good cause appears to amend, conduct further proceedings, or refer the matter back the court finds that the recommended order is facially or legally deficient, in which case, it must identify the deficiency by written order and remand to the general magistrate to address and, if necessary, conduct further proceedings without the necessity of a new order of referral to general magistrate. Any party affected by the recommended order may move to vacate the recommended order by filing a motion to vacate within 10 days from the date of entry. Any party may file a cross-motion to vacate within 5 days of service of a motion to vacate, provided, however, that the filing of a cross-motion to vacate shall not delay the hearing on the motion to vacate unless good cause is shown.

(64) A motion to vacate the order must be heard within 30 days from the date the motion is filed, unless the time frame is extended by court order. Thereafter, the judge must enter an order rendering a ruling no later than 30 days after hearing on the motion to vacate.

(5) The party seeking review shall seek to schedule a hearing date at the same time that the motion to vacate is filed with the Court. Failure to seek a hearing date in conformity herewith may result in a denial of the motion to vacate.

(6) A timely filed motion to vacate stays the enforcement of the recommended order rendered by the Court until after the Court has conducted a hearing on the motion to vacate and renders an order granting or denying the motion to vacate.

(f) Record. For the purpose of the hearing on the exceptionsmotion to vacate, a record, substantially in conformity with this rule, must be provided to the court by the party seeking review if necessary for the court's review.

(1) The record must consist of the court file, all depositions and documentary and other evidence presented at hearing, including the transcript of the relevant proceedings before the general magistrate and all depositions and evidence presented to the general magistrate. However, the transcript may be waived by order of the court prior to any hearing on the motion to vacate.

(2) Unless waived by order of the court prior to any hearing on the motion to vacate, ~~t~~The transcript of all relevant proceedings, if any, must be delivered to the judge and provided to all other parties not less than 48 hours before the hearing ~~on exceptions~~. If less than a full transcript of the proceedings taken before the general magistrate is ~~ordered prepared furnished~~ by the ~~excepting moving~~ party, that party must promptly file a notice setting forth the portions of the transcript that have been ordered. The responding parties must be permitted to designate any additional portions of the transcript necessary to the adjudication of the issues raised in the ~~exceptions~~motion to vacate or cross-~~exceptions~~motion to vacate.

(3) The cost of the original and all copies of the transcript of the proceedings is borne initially by the party seeking review, subject to appropriate assessment of suit monies. Should any portion of the transcript be required as a result of a designation filed by the responding party, the party making the designation bears the initial cost of the additional transcript.

Commentary

1995 Adoption. This rule is a modification of Florida Rule of Civil Procedure 1.490. That rule governed the appointment of both general and special masters. The appointment of special masters is now governed by Florida Family Law Rule of Procedure 12.492. This rule is intended to clarify procedures that were required under rule 1.490, and it creates additional procedures. The use of general masters should be implemented only when such use will reduce costs and expedite cases in accordance with *Dralus v. Dralus*, 627 So.2d 505 (Fla. 2d DCA 1993), *Wrona v. Wrona*, 592 So.2d 694 (Fla. 2d DCA 1991), and *Katz v. Katz*, 505 So.2d 25 (Fla. 4th DCA 1987).

Committee Notes

2004 Amendment. In accordance with Chapter 2004-11, Laws of Florida, all references to general master were changed to general magistrate.

2015 Amendment. Subdivision (b)(3) has been amended to clarify that the order of referral must include the name of the specific general magistrate to whom the matter is being referred and who will conduct the hearing and that concurrent referrals to multiple general magistrates is inappropriate.

RULE 12.491. CHILD SUPPORT ENFORCEMENT

(a) Limited Application. This rule shall be effective only when specifically invoked by administrative order of the chief justice for use in a particular county or circuit.

(b) Scope. This rule shall apply to proceedings for

(1) the establishment, enforcement, or modification of child support, or

(2) the enforcement of any support order for the parent or other person entitled to receive child support in conjunction with an ongoing child support or child support arrearage order, when a party seeking support is receiving services pursuant to Title IV-D of the Social Security Act (42 U.S.C. §§ 651 et seq.) and to non-Title IV-D proceedings upon administrative order of the chief justice.

(c) Support Enforcement Hearing Officers. The chief judge of each judicial circuit shall appoint such number of support enforcement hearing officers for the circuit or any county within the circuit as are necessary to expeditiously perform the duties prescribed by this rule. A hearing officer shall be a member of The Florida Bar unless waived by the chief justice and shall serve at the pleasure of the chief judge and a majority of the circuit judges in the circuit.

(d) Referral Assignment. Upon the filing of a cause of action or other proceeding for the establishment, enforcement, or modification of support to which this rule applies, the court or clerk of the circuit court shall referassign such proceedings to a support enforcement hearing officer, pursuant to procedures to be established by administrative order of the chief judge.

(e) General Powers and Duties. The support enforcement hearing officer shall be empowered to issue process, administer oaths, require the production of documents, and conduct hearings for the purpose of taking evidence. A support enforcement hearing officer does not have the authority to hear contested paternity cases. All grounds for disqualification of a judge apply to support enforcement hearing officers. Upon the receipt of a support proceeding, the support enforcement hearing officer shall:

(1) ~~assign~~designate a time and place for an appropriate hearing and give notice to each of the parties as may be required by law;

(2) take testimony and establish a record, which record may be by electronic means as provided by Florida Rule of Judicial Administration 2.535(h);

(3) accept voluntary acknowledgment of paternity and support liability and stipulated agreements setting the amount of support to be paid; and

(4) evaluate the evidence and promptly make a recommended order to the court. Such order shall set forth findings of fact.

(f) Entry of Order and Relief from Order. Upon receipt of a recommended order, the court shall review the recommended order and shall enter an order promptly unless good cause appears to amend the order, conduct further proceedings, or ~~refer~~reassign the matter back to the hearing officer to conduct further proceedings. Any party affected by the order may move to vacate the order by filing a motion to vacate within 10 days from the date of entry. Any party may file a cross-motion to vacate within 5 days of service of a motion to vacate, provided, however, that the filing of a cross-motion to vacate shall not delay the hearing on the motion to vacate unless good cause is shown. A motion to vacate the order shall be heard within 10 days after the movant applies for hearing on the motion.

(g) Modification of Order. Any party affected by the order may move to modify the order at any time.

(h) Record. For the purpose of hearing on a motion to vacate, a record, substantially in conformity with this rule, shall be provided to the court by the party seeking review.

(1) The record shall consist of the court file, including the transcript of the proceedings before the hearing officer, if filed, and all depositions and evidence presented to the hearing officer.

(2) The transcript of all relevant proceedings shall be delivered to the judge and provided to opposing counsel not less than 48 hours before the hearing on the motion to vacate. If less than a full transcript of the proceedings taken before the hearing officer is ordered prepared by the moving

party, that party shall promptly file a notice setting forth the portions of the transcript that have been ordered. The responding party shall be permitted to designate any additional portions of the transcript necessary to the adjudication of the issues raised in the motion to vacate or cross-motion to vacate.

(3) The cost of the original and all copies of the transcript of the proceedings shall be borne initially by the party seeking review, subject to appropriate assessment of suit monies. Should any portion of the transcript be required as a result of a designation filed by the responding party, the party making the designation shall bear the initial cost of the additional transcript.

Commentary

1995 Adoption. Previously, this rule was contained in Florida Rule of Civil Procedure 1.491. The new rule is substantially the same as previous rule 1.491, with the following additions.

It is intended that any administrative order issued by the chief justice of the Florida Supreme Court under rule 1.491(a) shall remain in full force and effect as though such order was rendered under this rule until changed by order of that same court.

Subdivision (e) now makes clear that contested paternity cases are not to be heard by support enforcement hearing officers.

Subdivision (h) has been added to provide requirements for a record.

1988 Adoption. Title: The terminology “hearing officer” is used rather than “master” to avoid confusion or conflict with rule 1.490.

Subdivision (a): The rule is intended as a fall back mechanism to be used by the chief justice as the need may arise.

Subdivision (b): The expedited process provisions of the applicable federal regulations apply only to matters which fall within the purview of Title IV-D. The committee recognizes, however, that the use of hearing officers could provide a useful case flow management tool in non-Title IV-D support proceedings.

It is contemplated that a circuit could make application to the chief justice for expansion of the scope of the rule upon a showing of necessity and good cause. It is the position of the representative of the Family Law Section of The Florida Bar that reference of non-Title IV-D proceedings should require the consent of the

parties as is required by rule 1.490(c).

Subdivision (c): It is the position of the committee that hearing officers should be members of the Bar in that jurisdictional and other legal issues are likely to arise in proceedings of this nature. The waiver provision is directed to small counties in which it may be difficult or impossible to find a lawyer willing to serve and to such other special circumstances as may be determined by the chief justice.

Subdivision (d): This paragraph recognizes that the mechanics of reference and operation of a program are best determined at the local level.

Subdivision (e): This paragraph is intended to empower the hearing officer to fully carry out his or her responsibilities without becoming overly complicated. The authority to enter defaults which is referred to in the federal regulations is omitted, the committee feeling that the subject matter is fully and adequately covered by rule 1.500.

The authority to accept voluntary acknowledgments of paternity is included at the request of the Department of Health and Rehabilitative Services. Findings of fact are included in the recommended order to provide the judge to whom the order is referred basic information relating to the subject matter.

Subdivision (f): Expedited process is intended to eliminate or minimize delays which are perceived to exist in the normal processing of cases. This paragraph is intended to require the prompt entry of an order and to guarantee due process to the obligee.

General Note: This proposed rule, in substantially the same form, was circulated to each of the chief judges for comment. Five responses were received. Two responding endorsed the procedure, and 3 responding felt that any rule of this kind would be inappropriate. The committee did not address the question of funding, which included not only salaries of hearing officers and support personnel, but also capital outlay for furniture, fixtures, equipment and space, and normal operating costs. The committee recognizes that the operational costs of such programs may be substantial and recommends that this matter be addressed by an appropriate body.

Committee Note

1998 Amendment. This rule shall not apply to proceedings to establish or modify alimony.

SUBCOMMITTEE REPORT FORM

Rule 12.100

Date: August 25, 2020

Chair: Michael Andriano

Subcommittee Members:

Cory Brandfon

Roberta Walton

Evan Marks

Meeting dates: July 29, 2020 (Approvals of the new “Comment” language were approved over email)

I. History/Background:

The matter was referred to the Committee to address needed gender-neutral changes in pleadings and motions filed under Rule 12.100 and to address the constant and unchanging nature of trial level nomenclature, i.e., the case caption.

II. Summary of the Issues: Rule 12.100 remained unchanged for some time and still referred to the parties as “Husband” and “Wife,” which does not account for the diversity of Florida’s litigants. Additionally, concerns were raised about the requirement that trial level nomenclature remain constant and unchanged throughout the case and whether a trial court should have the authority to override this requirement upon a showing of good cause.

III. Factors Considered by the Subcommittee: Regarding the gender-neutral designation, the subcommittee agreed that Rule 12.100 needed to be amended to provide a gender-neutral designation in order to reflect the diversity of Florida’s litigants and to bring Rule 12.100 in line with other rules of procedures and forms that have already been amended to reflect gender-neutral designations. Regarding trial level nomenclature, concerns were raised about protecting litigants’ privacy in cases where a party mistakenly or inadvertently files a case listing the parties’ names without privacy concerns in mind, with no way for the court to amend the case caption and honor those privacy requests.

IV. Majority Position: The subcommittee unanimously decided that Rule 12.100 needed to be amended to provide a gender-neutral designation to parties filing pleadings and motions in an effort to better recognize the diversity of litigants in court. Additionally, the subcommittee unanimously agreed that trial level nomenclature should remain constant and unchanged, unless there has been a judicial determination of good cause shown. The language in Rule 12.100 was amended to reflect the aforementioned and a new comment was added under the Committee Notes section to provide clarification of the issues.

V. Proposed Amendment Must be in Legislative Format: N/A

VI. Minority Position(s): N/A

A. Rationale.

B. Alternative proposed amendments in legislative format.

VII. Time Considerations for Adopting Proposal: N/A

RULE 12.100. PLEADINGS AND MOTIONS

(a) Pleadings. There must be a petition or, when so designated by a statute or rule, a complaint, and a response or answer to it; a response or answer to a counterclaim denominated as such; an answer to a crossclaim if the answer contains a crossclaim; a third-party petition if a person who was not an original party is summoned as a third-party respondent or defendant; and a third-party response or answer if a third-party complaint is served. If a response or answer contains an affirmative defense and the opposing party seeks to avoid it, the opposing party shall file a reply containing the avoidance. In a post-judgment case, there are a supplemental petition and a response or an answer and a counter-supplemental petition and a response or an answer to it, if applicable. In those cases in which there is a related civil action that is not otherwise specifically addressed in the Family Law Rules of Procedure, then the Rules of Civil Procedure governs those pleadings. No other pleadings are allowed unless otherwise provided by law.

(b) Motions. An application to the court for an order must be by motion which must be made in writing unless made during a hearing or trial, must state with particularity the grounds therefor, and must set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion. All notices of hearings must specify each motion or other matter to be heard.

(c) Caption.

(1) Trial level nomenclature used in the caption should be simple, clear and constant, regardless of who files a petition, counter-petition, motion, or a supplemental action. Even upon filing a supplemental petition or counter-petition, the trial level nomenclature must remain unchanged. Information as to who files a pleading or motion should be part of the document rather than in the caption of the case. Notwithstanding the foregoing, a court, for good cause shown, may change a caption.

(2) Every pleading, motion, order, judgment, or other document must have a caption containing the name of the court, the file number, and except for in rem proceedings, the name of the first party on each side with an appropriate indication of other parties, and a designation identifying the party filing it and its nature or the nature of the order, as the case may be. In any in rem proceeding, every pleading, motion, order, judgment, or other document must have a caption

containing the name of the court, the file number, the style “In re” (followed by the name or general description of the property), and a designation of the person or entity filing it and its nature or the nature of the order. All documents filed in the action must be styled in such a manner as to indicate clearly the subject matter of the document and the party requesting or obtaining relief. Specific captions for family law cases are as follows:

(A) Matters Arising From Dissolution of Marriage.

(i) Original Dissolution of Marriage: In re the Marriage of, HusbandPetitioner and, WifeRespondent, regardless of ~~who files first and whether there is a counter-petition~~.

(ii) Modification of Final Judgment of Dissolution of Marriage: In the Former Marriage of, Former HusbandPetitioner, and, Former WifeRespondent, regardless of ~~who files first and the supplemental petition~~ and whether there is a supplemental counter-petition.

(B) Annulment.

(i) Original Annulment: In re the Marriage of, HusbandPetitioner and, WifeRespondent, regardless of ~~who files first and whether a counter-petition for annulment or any other pleading in the alternative for dissolution of marriage is filed~~.

(ii) Supplemental or Enforcement Proceedings. The caption must remain the same, regardless of whether an annulment or a dissolution of marriage was ultimately granted in the original proceeding.

(C) Support Unconnected With Dissolution of Marriage: In re the Marriage of, HusbandPetitioner and, WifeRespondent, regardless of ~~who files first and whether there is a counter-petition~~.

(D) Paternity.

(i) Original Paternity Proceeding when Paternity is not Admitted Before Filing:, Putative FatherPetitioner, and, MotherRespondent, regardless of ~~who files first and whether there is a counter-petition~~.

(ii) Original Paternity Proceedings when Paternity has been Admitted Before Filing:, FatherPetitioner, and, MotherRespondent, regardless of who files first and whether there is a counter-petition.

(iii) Paternity Modification:, FatherPetitioner, and, MotherRespondent, regardless of who files the supplemental petition and whether there is a supplemental counter-petition.

(iv) Disestablishment of Paternity Proceeding:, FatherPetitioner, and, MotherRespondent.

(E) Proceedings for Temporary or Concurrent Custody of Minor Children by Extended Family: In the interest of, Child(ren).

(F) Adoption.

(i) In re: Termination of Parental Rights for Proposed Adoption of(name on child's birth certificate)...., Minor Child(ren).

(ii) In re: Adoption of(name to be given child(ren))...., Adoptee(s).

(iii) Stepparent Adoption Proceedings: In re: the Adoption of(name to be given child(ren))...., Adoptee(s).

(G) Proceedings for Emancipation of a Minor: In re: Emancipation of, Minor.

(H) Title IV-D Cases: State, Dept. of Revenue, Child Support Program ex rel., Petitioner, and, Respondent.

(I) ~~In all supplemental proceedings for modification or actions to enforce, the caption must remain the same as indicated in this rule.~~

(2) ~~Trial level nomenclature used in the caption should be simple, clear, constant, and, to the extent possible, unchanging, regardless of who files a petition, counter petition, or a supplemental action. The trial level nomenclature expressed herein is intended to meaningfully identify the parties by role, such as Wife, Husband, Former Wife, Former Husband, Putative Father, Father, and~~

~~Mother. Information as to who files a pleading or motion should be part of the document rather than in the caption of the case.~~

(3) A cover sheet for family court cases (form 12.928) must be completed and filed with the clerk at the time a complaint or petition is filed by the party initiating the action. If the cover sheet is not filed, the clerk must accept the complaint or petition for filing; but all proceedings in the action must be abated until a properly executed cover sheet is completed and filed. The clerk must complete the cover sheet for a party appearing pro se.

(4) A final disposition form (form 12.999) must be filed with the clerk at the time of the filing of the order or judgment which disposes of the action. If the action is settled without a court order or judgment being entered, or dismissed by the parties, the plaintiff or petitioner must immediately file a final disposition form with the clerk. The clerk must complete the final disposition form for a party appearing pro se, or when the action is dismissed by court order for lack of prosecution under rule 12.420(d).

(d) Notice of Related Cases. A notice of related cases, form 12.900(h), must be filed in conformity with Florida Rule of Judicial Administration 2.545(d).

Commentary

1995 Adoption. This rule provides that pleadings and motions are to be governed by Florida Rule of Civil Procedure 1.100. The cover sheets and disposition forms described in that rule shall be the same cover sheets and disposition forms used in family law proceedings.

Committee Notes

202 Amendments. This rule is amended to provide a gender-neutral designation to parties filings pleadings and motions under Rule 12.100, in an effort to better recognize the diversity of litigants who appear in court. Additionally, these amendments clarify that trial level nomenclature should remain constant even upon the filing of a post-judgment motion or supplemental action, unless there has been a judicial determination of good cause shown.

Davis, Mikalla

From: Moring, Jack <JMoring@moringlaw.com>
Sent: Tuesday, August 18, 2020 8:23 AM
To: Davis, Mikalla
Cc: Lazzara, Belinda; Douglas Greenbaum
Subject: FW: 45 FLW D1881
Attachments: a.v. vs. t.l.l.pdf

Good morning Mikalla

I attach a recent 2nd DCA opinion brought to my attention by my colleague, Belinda Lazzara. Could you please look at whether 12.407 should be amended to explicitly reference appellate proceedings, given the discussion in the concurring opinion? Thanks and hope you are doing well and are safe.

Jack

-- Jack A. Moring

7655 West Gulf to Lake Highway, Suite 12 Crystal River, Florida 34429
Phone: 352.795.1797
Fax: 352.795.5424

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On 8/17/20, 8:37 PM, "Belinda Lazzara" <blazzara@mslbb-law.com> wrote:

There is an opinion in this week's FLW where judge Kelly wrote a concurrence requesting the legislature consider extending rule 12.407(a) to appellate proceedings after a mother brought her 6 year old child to oral argument. Worth a read and thought to see if there is anything we could add it onto along with the Doupe amendment. Makes sense

Sent from my iPhone

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

A.V.,)
)
Appellant,)
)
v.) Case No. 2D19-530
)
T.L.L.,)
)
Appellee.)
)

Opinion filed August 7, 2020.

Appeal from the Circuit Court for Pasco
County; Alicia Polk, Judge.

Windy L. Wilkerson of Wilkerson Law
Firm, P.A., Brandon, for Appellant.

Joyce A.G. Evans, Tampa, and Mark A.
Neumaier, Tampa, for Appellee.

PER CURIAM.

In this paternity action, A.V., the father, appeals from the final judgment and challenges the trial court's determination of time-sharing, the parenting plan, the decision to grant T.L.L., the mother, ultimate decision-making authority over educational issues, and the award of child support. We agree with the father that the final hearing was rife with errors, not the least of which was the magistrate's decision to allow the

telephonic testimony of the mother's medical expert over the father's objection and without a determination of good cause as required by Florida Family Law Rule of Procedure 12.451(b). This error was compounded when the magistrate allowed the telephonic witness to testify without being properly sworn. See Fla. Fam. L. R. P. 12.451(d). This testimony was central to the magistrate's findings, and the mother has not convinced us that its admission was harmless. Accordingly, the final judgment must be reversed.¹

Because this case must be remanded for a new final hearing, we briefly address two of the father's claims of error in the final judgment. First, we remind the trial court that its determination regarding child support must be supported by competent substantial evidence, and that includes any decision to include in kind payments in a party's monthly income. See Dep't of Rev. ex rel. Shorter v. Amico, 265 So. 3d 681, 683 (Fla. 5th DCA 2019) ("[I]n kind payments should not be included in a party's monthly income for purposes of calculating income 'unless the receipt of that money is shown to reduce personal living expenses.' " (quoting Valentine v. Van Sickle, 42 So. 3d 267, 273 (Fla. 2d DCA 2010))).

Decisions regarding parental responsibility must also be supported by competent substantial evidence, including decisions regarding ultimate decision making over education and medical care. See Musgrave v. Musgrave, 290 So. 3d 536, 541-44

¹The father, who appeared pro se at the final hearing, raises a handful of additional procedural errors occurring at the hearing, most of which are unpreserved. He contends that cumulatively they resulted in a violation of due process. We need not reach this issue. However, we do not want to leave the impression that we approve of the manner in which trial counsel for the mother took advantage of the situation, nor do we condone the magistrate's complicity to the extent that she allowed counsel's conduct to go unchecked even when the pro se litigant attempted to challenge it.

(Fla. 2d DCA 2019) (reviewing whether competent, substantial evidence supported the trial court's decisions regarding shared parental responsibilities). While there may have been evidence to support giving the mother ultimate decision making over the child's medical care, there was no evidence regarding educational decision making. See Fazzaro v. Fazzaro, 110 So. 3d 49, 51 (Fla. 2d DCA 2013) (holding that the trial court's order awarding the parents shared parental responsibility for the child, but granting the mother ultimate responsibility for all decisions affecting the child's education, was an abuse of discretion where there was scant evidence to support the decision). Although there was record support for the trial court's finding that the child's school should be near the mother for medical reasons, the choice of the geographical location of the child's school is a separate issue from the host of other important decisions related to a child's education.

Accordingly, we reverse and remand for further proceedings consistent with this opinion.

Reversed and remanded.

CASANUEVA and LUCAS, JJ., Concur.
KELLY, J., Concurs specially with opinion.

KELLY, J., Concurring specially.

I find it necessary to address what transpired at the oral argument of this case. Both the mother and the father were present with counsel. It is evident from the record that the parties' relationship is not amicable. The mother, apparently with counsel Mark Neumaier's acquiescence, brought the parties' six-year-old son with her to

the oral argument.² Although counsel for the father brought the child's presence to our attention, we believed we had no legal basis to require the mother and child to leave the courtroom. As a result, the child was exposed to a discussion about the parents' conduct to which no child should be privy.

Florida Family Law Rule of Procedure 12.407(a) prohibits children who are "related to a family law case" from attending any family law proceedings without prior order of the court based on good cause shown. One purpose of the rule is to protect children who may be harmed by unnecessary involvement in family law proceedings.

See Fla. Fam. L. R. P. 12.407 committee note to 2018 amendment. Rule 12.010(a) provides that the Florida Family Law Rules "apply to all actions concerning family matters," but in context I cannot conclude that rule 12.407(a) extends to appellate proceedings. Nevertheless, the underlying policy of protecting children is no less imperative. If common sense, common decency, and professionalism are inadequate to put counsel and parents on notice that a small child should not be in attendance under these circumstances, the existence of this rule ought to make it clear to counsel that the child should not be there.³

²Attorney Mark Neumaier filed a notice of appearance as co-counsel for the mother shortly before the oral argument. Attorney Joyce Evans prepared the mother's brief but did not participate in the oral argument.

³When questioned at oral argument, counsel for the mother had no explanation for the child's presence other than to say the mother wanted to be there and she brought the child because he was sick. Counsel acknowledged that he knew our oral argument proceedings are livestreamed as well as archived. Thus, the mother had no reason to bring a sick six-year-old child to the oral argument if she wanted to see what transpired.

Given all that, one would think a specific rule addressed to appellate proceedings would be unnecessary. This case, however, shows otherwise. Such a rule would have prevented this from occurring and it would have given this court a basis to require the child to be taken from the courtroom had counsel failed to secure permission for the child to attend. I encourage the Appellate Court Rules Committee to consider the advisability of adopting a rule comparable to rule 12.407(a) which would prohibit the attendance of children at oral arguments in the appellate courts.⁴

⁴The wisdom of a rule prohibiting the attendance of children at family law proceedings was further borne out as the parties departed the building. The deputy escorting them out witnessed the child attempting to go to see his father and the mother restraining him from doing so. Granted, this occurred outside of the courtroom, but this unfortunate interaction could have been avoided had the child not been in attendance.