

Minutes of the Family Law Section  
Family Law Rules and Forms Committee meeting February 4, 2010

Chairs: Matthew Capstraw & Lawrence Datz

1. The attendance sheet was circulated and is attached to these minutes. Guests attending the meeting included Jack Moring, Chair, Florida Bar Family Law Rules Committee and General Magistrate Susan Keith, Chair, Florida Supreme Court Family Law Forms Workgroup.
2. There was an amendment to the agenda to consider the proposed Domestic Violence forms regarding officers' surrender of firearms. The committee was advised that the Section filed comments to the proposed parenting plan forms in SC08-2058 necessitated by recent legislation. Additionally, comments were drafted in SC 09-2039 regarding the Support Summary Sheet rule which essentially stated that if it is changed the section would prefer the that the Court adopt the Section's proposed revisions.
3. Legislation Subcommittee. As of this meeting, there are three members of this committee who are also members of the Section's Legislation Committee, and there are no known legislative changes which require action at this time.
4. Relocation Rules and Forms. The Florida Supreme Court Family Law Forms Workgroup submitted proposed Relocation forms to the Court. They have not yet been published for comment. A subcommittee was appointed to determine whether the Section should prepare any comments in response once the forms are published for comment. Any informal comments prior to the publication by the court may be submitted to Magistrate Keith. Robyn Vines will chair the subcommittee and will be assisted by Scott Rubin, Steve Berzner and Warren Channell.
5. Parenting Coordinator Rule and Forms. Mr. Datz reported that the ad hoc committee went through the rule to identify any problems. There were many issues discussed, however the "hottest" issue appears to be that there are many parenting coordinators that do not meet the requirements of the statute, and the question arose as to what happens to a parenting coordinator who is currently serving, when the parties will not agree to continue to use the parenting coordinator. The question was raised whether a rule should be proposed to address the issue. Upon inquiry of the committee such a proposal was rejected.

Discussion was had concerning whether the form appointing a parenting coordinator should be amended to identify the nature of any domestic violence if domestic violence exists in a case to assist the parenting coordinator. The committee determined that such a change is not necessary insofar as the parenting coordinators would be speaking with the parties and, likely, the attorneys such that this information would become known to the parenting coordinator. Additionally, review of the essential pleadings would reveal whether domestic violence exists or existed in the case.

Discussion was had on whether the sentence indicating that a party has the right to revoke waiver of the privilege should be removed from the form. A motion was made, seconded and

passed with 3 votes in opposition, to recommend to the Section that it file a comment recommending that the second to last sentence be removed (to remove the language 'either party may revoke a waiver of confidentiality...').

6. Collaborative Law Rule. The Florida Bar Family Law Rules and Forms Committee passed a proposed rule regarding Collaborative Law. It will be submitted to the Court as part of the "Big Bar's" three year cycle reporting in January 2011.

7. Support Summary Sheet. A subcommittee was appointed at the request of Magistrate Diane Kirigin to consider the implications of a change in venue. Lori Caldwell-Carr agreed to chair the subcommittee, and Norberto Katz and Barbara Ingram will assist her.

8. Report of Florida Bar Family Law Rules Committee. There was discussion of the proposed changes to the rules of judicial administration which, if passed, would require service of all documents by email. Issues of concern included security of transmission by email, the sensitivity of the kinds of information disclosed in family law cases, and the practitioner's technological ability to transfer large volumes of data (large attachments). Additionally, there was concern that only approximately 10,000 of approximately 70,000 members of the Florida Bar currently have email addresses listed with the Bar. A subcommittee was appointed to work in conjunction with the "Big Bar" subcommittee which is chaired by Robert Rodriguez to review the issues and potentially prepare a draft comment for consideration. Matt Capstraw will chair the subcommittee and Steve Berzner, Cindy Vova, Carolann Mazza and Linda Clark will assist him.

The "Big Bar" committee is looking at whether it is time to propose stand alone Family Law Rules of Procedure apart from the Civil Rules of Procedure. This is only in concept stage at present.

Regarding the parenting plan recommendations, it was reported that the mental health professionals have concerns for those serving as parenting coordinators who are not trained. It was proposed that a subcommittee be formed to look at what should be within the parenting plan. Lawrence Datz will chair the subcommittee and Dr. Barbara Kelly, Dr. Deborah Carter, Robert Merlin, Doug Greenbaum, Avonell Mackerell, and Steven Guinta will assist.

Discussion was had on whether the Guardian Ad Litem Rule should be amended to set forth how hearsay should be treated in a Guardian Ad Litem's report and/or testimony. The Chair appointed a subcommittee to review the issues. Ron Bornstein will chair the subcommittee and will be assisted by Jack Moring, Scott Rubin, Jonathan Schiller, Robert Merlin, Belinda Lazarra, and Steve Berzner.

The meeting adjourned at 2:32 p.m.

Respectfully submitted: Robyn Vines