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MINUTES OF THE FLORIDA RULES OF JUDICIAL ADMINISTRATION
FRIDAY, January 22, 2016; 1:00-6:00 P.M.

I. CALL TO ORDER: Chair Amy S. Borman called the meeting to order at 1:09 p.m.

A. Members Appearing in Person (and by Phone):
Amy Borman, Chair
Sandy Solomon, Vice Chair
Judge Stephens, Vice Chair
Andrew Sasso (via phone)
Don Christopher
Woody Clermont
Judson Cohen
Michael Debski
Robert Eschenfelder
Jose Florez
Judge Galiardi (via phone)
Cynthia Guerra (via phone)
Tom Hall
Marynelle Hardee
Corinne Hodak
David Jones
Michael Korn
Craig Leen
James McKee
Judge Menendez
Ashley Myers
Judge Nielsen
Anita Paoli (via phone)
Judge Ray
Paul Regensdorf
Alexandra Rieman
John Roman
Mark Romance
Judge Ruiz
Eduardo Sanchez
Michael Sasso
Judge Small (via phone)
Bill Vose (via phone)

Probate is working on looking at a services rule for "In Rem" proceedings.

Appellate Citation Rule 9.800: We use same citation system. Should RJA reference appellate or should RJA take over the rule and appellate reference RJA.

F. New Ad Hoc Committee

1. Rule 2.330: Disqualification of Trial Judges: Judge Ruiz working on this one.

2. Rule 2.520: Addressing Font Size & Filing of Exhibits: Murray Silverstein, Chair: Alexandra Rieman, Ed Sanchez, Anita Paoli, Marynelle Hardee, Stephanie Zimmerman

3. New Ad Hoc 2.130: Tom Hall Chair, Michael Korn, Sandy Solomon, Judge Ray, Stephanie Zimmerman, Woody Clermont, Michael Sasso, Paul Regensdorf

III. SUBCOMMITTEE REPORTS:

A. Subcommitte A - Mark Romance is Chair but Judson Cohen presented.

1. 15-RJA-14: Rule 2.110. This referral from the Chair relates to whether the name of this section of rules should be changed.

2. 15-RJA-33: Proposed Rule 2.565. Parental Leave: Proposed by Craig Leen. Concept is to give judges discretion to grant continuances based upon parental leave.

   Majority View: Favor of concept, but concerned.
   Minority View: Favor of concept, however, no need for a rule on it because a rule would hamstring judges.

   Craig Leen spoke further on it: He sponsored this proposed rule. Women have a need for parental leave. He learned from talking to women that it sets back their careers. Cases get

reassigned to other attorneys in the office and clients have to accept it. This got him thinking about solo practitioners. Women solo practitioners shouldn't have to give up their cases. FAWL supports concept but has some concerns about the need to be discretionary. The Diversity and Inclusion Committee is discussing it as well.

Other points made by Craig Leen:
The view from the bench is that someone else from the office can do it.
Difficult for men to request.
Family Medical Leave Act is a good guide: 3 months;
Should always be granted unless there is substantial prejudice.
There is stress when having a baby and about having a baby.
It is a good policy statement for the Bar and the Supreme Court to adopt, *i.e.*, attorneys are valuable, their families are valuable.

Amy Borman: what are you asking RJA to do right now?
Mark Romance is asking if concept is good enough to proceed with further work.

Opened up for Discussion on proposed rule 2.565 on Parental Leave

Cori Hodak: Sympathize with issue and problem; The law of the State of Florida is judge has discretion. This would be substantive.

Bill Vose: This rule would be stepping all over judicial discretion.

Mark Romance: Good policy but 3 reasons why it shouldn't be a rule:

1. People could game the system.
2. Multiple lawyers are suggesting continuances.
3. Not in favor of handcuffing judge's discretion. An ill spouse, ill child- one could argue those are additional reasons a continuance should be granted.

Don Christopher: Proponent of less rules
We should place priority on needs of litigants not the needs of attorneys.
Any type of rule is not wise because it would be necessary to include many reasons in the rule.

Stephanie Zimmerman: Caveats to the rule? Raises concerns about dependency issues/concerns.

Paul Regensdorf: wonderful idea but bad idea for a rule.
Wants vote to reflect if vote no.

Craig Leen reminded that: "discretionary" is the revised proposal. Initially it was "shall" read proposed rule into the "record." The subcommittee did discuss the gaming the system issue. Basically, it forces attorney to give up a case or don't take a leave.

Sandy Solomon: Is there an alternative to a rule to establish that great policy?

MOTION by Rob Eschenfelder: to table the request / in the alternative to authorize the chair to write a letter to conference of circuit court judges. Judge Manny Melendez seconds the motion (later clarifies only seconded the first part of the motion). Outcome of first part of motion: 19-14 in favor of tabling the discussion, 1 abstention

Rob Eschenfelder refers to Robert's Rules and explains them.
Craig Leen moves to amend the motion to table the discussion to take a straw vote.
Motion to not move forward and send a letter not authorized.

Amy Borman: wants to get to straw vote for motion on the floor to table the discussion and for Amy to write a letter

Judge Manny Menendez clarified he only seconded the motion to table the discussion.
19-14 in favor of Tabling the discussion, 1 abstention.

MOTION by David Jones: to authorize chair to send a letter to judicial conference appropriately worded.
Seconded by Rob Eschenfelder.
(Vote on Motion to Send a Letter 29-7 it passes.)

Debate ensured about whether can send a letter since tabled the discussion.

FRIENDLY AMENDMENT by Tom Hall: to David Jones' motion to send a letter. Send a letter to FSC instead of to Judicial Conference of Circuit Court Judges. David Jones accepts friendly amendment.

Judge Menendez: This issue is one of policy. RJA is a rules committee. This committee should not be commenting on policy.

MOTION by the subcommittee to call the question (no second) V*ote on Motion to Send a Letter 29-7 it passes.*

Amy Borman to draft a letter and send to FSC.

2. 15-RJA-28-Rule 2.530, page 30-31 of agenda. Digital Testimony: Discretion already there. Subcommittee recommends no action be taken. 15-RJA-28: Rule 2.530. Mr. Alvan Balent requested the committee review and modernize this rule. The matter is ready for discussion. The Report may be seen on pages 30–31.

   - Sworn in remotely: Sub A. discussed, concluded not in best position to evaluate issues of swearing in witnesses remotely.

   - Sub A recommends that other rules committees consider the issues so send the issue to liaison subcommittee. No motion needed to approve subcommittee recommendation.

3. 15-RJA-31: Rule 2.510(a): Eligibility (page 31 of agenda; issue raised by Tom Hall) Suggest adding a sentence at the end as noted on page 32 of agenda. Mr. Tom Hall requested that