Supreme Court of Florida

No. SC21-606

IN RE: AMENDMENTS TO FLORIDA FAMILY LAW RULE OF PROCEDURE 12.410.

December 2, 2021

PER CURIAM.

The Florida Bar's Family Law Rules Committee (Committee) proposes amending Florida Family Law Rule of Procedure 12.410 (Subpoena). *See* Fla. R. Gen. Prac. & Jud. Admin. 2.140(b)(1). We have jurisdiction.[1]

The Committee approved the proposed amendments by a vote of 15-0-1, and the Florida Bar Board of Governors recommends adopting the amendments by a vote of 46-1. The Committee filed the proposed amendments with the Court and the Court published the proposal for comment. However, no comments were received.

1. *See* art. V, § 2(a), Fla. Const.

We adopt the amendments to rule 12.410 as proposed by the Committee. First, we delete the number and title of subdivision (d)(1) (Service; Generally). Next, we replace the phrase "if not served by an officer authorized to do so" in subdivision (d)(1) with the phrase "except as applicable under rule 12.351(c) for the production of documents and things by a nonparty without deposition, if not served by an officer authorized by law to do so." Further, we delete subdivision (d)(2) (Service; Notice of Subpoena to Parties)—requiring a party issuing a subpoena to serve notice to each party to a proceeding on the same day the subpoena is served—in its entirety.

Thus, with these amendments, the language of the rule now matches the text of Florida Rule of Civil Procedure 1.410 (Subpoena), which does not require notice of a subpoena to be served on each party to a proceeding on the same day of service.

Accordingly, we amend Florida Family Law Rule of Procedure 12.410 as reflected in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. These amendments shall take effect on January 1, 2022, at 12:01 a.m.

It is so ordered.

CANADY, C.J., and POLSTON, LABARGA, LAWSON, MUÑIZ, COURIEL, and GROSSHANS, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding – Florida Family Law Rules of Procedure

Ashley Elizabeth Taylor, Chair, Family Law Rules Committee, Tampa, Florida, Cory Aaron Brandfon, Past Chair, Family Law Rules Committee, Tampa, Florida, Joshua E. Doyle, Executive Director, and Mikalla Andies Davis, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

APPENDIX

RULE 12.410. SUBPOENA

(a) – (c) [No change]

(d) Service.

~~**(1) Generally**.~~ A subpoena may be served by any person authorized by law to serve process or by any other person who is not a party and who is not less than 18 years of age. Service of a subpoena on a person named in it shall be made as provided by law. Proof of such service shall be made by affidavit of the person making service ~~if not served by an officer authorized by law to do so~~except as applicable under rule 12.351(c) for the production of documents and things by a nonparty without deposition, if not served by an officer authorized by law to do so.

~~**(2) Notice of Subpoena to Parties.** A party issuing a subpoena through an attorney of record or clerk of the court under this rule must, on the same day as the subpoena is served, serve each party to the proceeding with a notice of issuance of subpoena and file this notice with the court. The notice of issuance of subpoena must identify the person or entity subject to the subpoena, the date the subpoena was issued, and the date and time for appearance or production, and must recite that all references to account numbers or personal identifying numbers are in compliance with Florida Rule of Judicial Administration 2.425. An unexecuted copy of the subpoena to be issued must be attached to the Notice of Subpoena.~~

(e) – (h) [No change]

Committee Note

[No change]