Filing # 125515895 E-Filed 04/23/2021 02:56:59 PM

From: Maria Obradovich
To: Davis, Mikalla
Subject: FW: Rule 1.410 of Fla. Fam. L.R.P.
Date: Friday, August 03, 2018 11:25:57 AM

Hi Mikalla.

I received the email below this week. What do you think?

Maria Obradovich, Esq.
Bay Area Legal Services, Inc.

From: Jeff Grabel
Sent: Wednesday, August 01, 2018 1:01 PM
To: Maria Obradovich <mobradovich@bals.org>
Subject: Rule 1.410 of Fla. Fam. L.R.P.

Good morning Maria:

I am writing this e-mail to you in your capacity as the Chair of the Family Law Rules Committee. I wanted to express my concerns to you about Rule 1.410(d)(2) of the Fla. Fam. L.R.P. which requires that notice of issuance of a subpoena must be provided to the opposing party on the **same day** that the subpoena is served. We often rely upon the sheriff's office to serve witness subpoenas in DVI cases and I suppose, the sheriff's office could also be utilized to serve subpoenas for indigent clients. As you know the sheriff's office does not immediately provide proof of service of a subpoena- making it nearly impossible to provide notice of issuance of the subpoena on the same day of service as required by the Rule. The failure to comply with the specific provisions of Rule 1.410(d)(2) can be consequential and devastating as the trial judge may refuse to allow a critical witness to testify in light of such non-compliance. Even in cases where a private process server is utilized, a party may not get the proof of service until the next day. The Rule seems to be unforgiving, The Rule also seems to disfavor litigants who are indigent and who rely upon the sheriff's office for service. The Rule further seems to disfavor smaller firms who may not have a large support staff who can constantly monitor incoming e-mails and e-file documents immediately. I have thought about legal arguments to present if opposing counsel attempts to disqualify one of my witnesses for failure to file a timely notice of issuance of subpoena. Based upon my position that the Rule favors "high-end" law firms and litigants who can afford private process, I think there may be an argument that, as worded and if strictly enforced, the Rule violates the Equal Protection Clause of the 14th Amendment to the US Constitution and the right of access to the Courts as provided for in the Florida Constitution.

Also, I have a concern that there is not an exception to the notice requirements of Rule 12.410(d)(2) Fla. Fam.R.L.P. with respect to injunctions for protection against violence, stalking, etc. As you know the protections of a temporary injunction are not enforceable until the abuser/Respondent is served. Rule 12.410(d)(2) requires that notice of a subpoena be provided to the abuser even though he or she may not have yet been served with the temporary injunction. Once he or she is aware that

RECEIVED, 04/23/2021 02:57:32 PM, Clerk, Supreme Court

there is an injunction, the Respondent/abuser may try to evade service of the temporary injunction or worse, attempt to contact or harm the petitioner without the added protections of the injunction in effect.

Please feel free to share this e-mail or my concerns with the appropriate committee members. Thank you for any feedback which you or the committee may have.

Jeffrey Grabel | Attorney
Bay Area Legal Services, Inc.
37718 Meridian Avenue | Dade City, FL 33525
Phone: (352) 567-9044, ext. 102 | Fax: (352) 567-0681 | Email: jgrabel@bals.org

Preserving Independence, Hope, and Dignity

The contents of this e-mail message and any attachments are intended for the addressee(s) named in this message. This communication is intended to be and to remain confidential and may be subject to applicable attorney/client and/or work product privileges. If you are not the intended recipient of this message, or if this message has been addressed to you in error, please immediately alert the sender by reply e-mail and then delete this message and its attachments. Do not deliver, distribute or copy this message and/or any attachments and, if you are not the intended recipient, do not disclose the contents or take any action in reliance upon the information contained in this communication or any attachments.

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.