

SUPREME COURT OF FLORIDA

In re Amendments to the Florida Rules of Civil Procedure

20 So. 3d 379 (Fla. 2009) · No. SC09-1358 · Decided October 1, 2009

SUMMARY

The Supreme Court of Florida approved amendments to Florida Rule of Civil Procedure Form 1.918, governing notices of lis pendens, in response to amendments to section 48.23(1)(c), Florida Statutes. The amendments became effective immediately, with the court allowing interested persons sixty days to submit comments.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Quince, C.J.; Pariente, J.; Lewis, J.; Canady, J.; Polston, J.; Labarga, J.; Perry, J.
JURISDICTION	Florida
DECIDED	October 1, 2009
DOCKET	SC09-1358
DISPOSITION	other
PROCEDURAL POSTURE	The Florida Bar's Civil Procedure Rules Committee filed a fast-track report proposing amendments to Florida Rule of Civil Procedure Form 1.918 in response to recently enacted legislation. The Supreme Court of Florida reviewed and adopted the proposed amendments.
PRECEDENTIAL VALUE	precedential

TOPICS

- lis pendens
- civil procedure
- real estate

PRACTICE AREAS

- civil procedure
- real estate

QUESTIONS PRESENTED

1. Whether Florida Rule of Civil Procedure Form 1.918 should be amended to conform to recent legislative changes governing notices of lis pendens.

2. Whether the proposed amendments should take effect immediately despite not having been published for prior public comment.

HOLDINGS

1. The court adopted amendments to Florida Rule of Civil Procedure Form 1.918 requiring the notice of lis pendens to include the information specified by the amended statute, including the names of the parties, the court, the property and relief involved, and one of the action's institution date, the clerk's electronic receipt date, or the case number.
2. The amendments to Form 1.918 became effective immediately upon release of the opinion, while the committee note accompanying the form was adopted only as an explanation and not as an official part of the rules.

KEY QUOTATIONS

“These amendments shall become effective immediately upon the release of this opinion.” (379)

“The committee note is offered for explanation only and is not adopted as an official part of the rules.” (379)

FACTUAL BACKGROUND

Recent legislation amended the statutory requirements governing the contents of a notice of lis pendens, effective July 1, 2009. In response, the Florida Bar's Civil Procedure Rules Committee proposed revisions to Form 1.918, including requirements concerning the action's institution date, the clerk's electronic receipt date, or the underlying action's case number.

PROCEDURAL HISTORY

The Civil Procedure Rules Committee proposed revisions to the lis pendens form after legislation amended the statutory requirements for notices of lis pendens. The Florida Bar Board of Governors unanimously approved the proposals, and the Supreme Court adopted the amended form and accompanying explanatory committee note.

DISPOSITION

other

OPINION

PER CURIAM.

20 So. 3d 379 (2009) In re AMENDMENTS TO THE FLORIDA RULES OF CIVIL PROCEDURE. No. SC09-1358. Supreme Court of Florida. October 1, 2009. Mark A. Romance, Chair, Civil Procedure Rules Committee, Richman Greer, P.A., Miami, FL, John F. Harkness, Jr., Executive Director, and Madelon Horwich, Bar Staff Liaison, The Florida Bar, Tallahassee, FL, for Petitioner. PER CURIAM.

The Florida Bar's Civil Procedure Rules Committee (Committee) has filed a fast-track report of proposed amendments to Florida Rules of Civil Procedure in response to recent legislation. We have jurisdiction. See art. V, § 2(a), Fla. Const.; Fla. R. Jud. Admin. 2.140(e).

The Committee proposes amendments to Rule of Civil Procedure Form 1.918 (Lis Pendens). The amendment to the form is in response to recent enactment of section 48.23(1)(c), Florida Statutes, which governs the contents of a notice of lis pendens. See ch.2009-39, § 1, Laws of Fla. The statutory changes went into effect July 1, 2009. See ch.2009-39, § 2, Laws of Fla. The Committee also proposes the addition of a committee note clarifying that a notice of lis pendens should contain either the date of the institution of the underlying action, the date of the clerk's receipt of the notice of lis pendens, or the case number of the underlying action.

The Florida Bar Board of Governors unanimously approved the proposals. After considering the Committee's report and reviewing the relevant legislation, we amend form 1.918 as reflected in the appendix to this opinion. New language is underscored, and deleted language is struck through.

The committee note is offered for explanation only and is not adopted as an official part of the rules. These amendments shall become effective immediately upon the release of this opinion. Because the amendments were not published for comment prior to their adoption, interested persons shall have sixty days from the date of this opinion in which to file comments with the Court.[1] It is so ordered.

QUINCE, C.J., and PARIENTE, LEWIS, CANADY, POLSTON, LABARGA, and PERRY, JJ., concur. APPENDIX FORM 1.918.LIS PENDENS NOTICE OF LIS PENDENS TO DEFENDANT(S)....., AND ALL OTHERS WHOM IT MAY CONCERN: YOU ARE NOTIFIED OF THE FOLLOWING: *380 (a) The plaintiff has institutedof the institution of this action by the plaintiff against you seeking ("to foreclose a mortgage on" or "to partition" or "to quiet title to" or other type of action) the following property in.....

County, Florida: with respect to the property described below; (b) The plaintiff(s) in this action is/are: (1)..... (2).....; (c) The date of the institution of this action is..... OR: the date on the clerk's electronic receipt for the action's filing is..... OR: the case number of the action is as shown in the caption. (d) The property that is the subject matter of this action is in.....

County, Florida, and is described as follows: (legal description of property) DATED on.....
_____ Attorney for..... Address Florida Bar No..... NOTE: This form is not to be recorded without the clerk's case number. Committee Notes 2009 Amendment. This form was substantially rewritten due to the amendments to section 48.23, Florida Statutes (2009).

Section 48.23 provides that the notice must contain the names of all of the parties, the name of the court in which the action is instituted, a description of the property involved or affected, a

description of the relief sought as to the property, and one of the following: the date of the institution of the action, the date of the clerk's electronic receipt, or the case number.

If the case number is used to satisfy the requirements of section 48.23, it should be inserted in the case caption of the notice. NOTES [1] An original and nine paper copies of all comments must be filed with the Court on or before November 30, 2009, with a certificate of service verifying that a copy has been served on the committee chair, Mark Romance, 201 S. Biscayne Blvd, Suite 1000, Miami, Florida XXXXX-XXXX, as well as separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case.

The committee chair has until December 21, 2009, to file a response to any comments filed with the Court. Electronic copies of all comments and responses also must be filed in accordance with the Court's administrative order *In re Mandatory Submission of Electronic Copies of Documents*, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).