

NOTIFICATION OF PARTIES

Background & Analysis:

Notifying parties and attorneys that related cases have been identified and will be coordinated is an essential initial step to effectively managing family court cases. In In re Amendments to Florida Rules of Judicial Admin., 132 So.3d 1114 (Fla., 2014), the court adopted Fla. Fam. L.R.P. 12.003 which provides that all related cases must be handled before one judge unless impractical. Fla. Fam. L.R.P. 12.003(a)(2) provides that the judges may confer to coordinate the cases. It also provides that “Notice and communication shall comply with Canon 3.B(7) of the Code of Judicial Conduct. Either the party who filed the notice of related cases or the court may coordinate a case management conference under Fla. Fam. L.R.P. 12.200 between the parties and the judges hearing the related cases. In addition to the issues that may be considered, pursuant to Fla. Fam. L.R.P. 12.003(a)(2), the court shall:

- (A) consolidate as many issues as is practical to be heard by one judge;
- (B) coordinate the progress of the remaining issues to facilitate the resolution of the pending actions and to avoid inconsistent rulings;
- (C) determine the attendance or participation of any minor child in the proceedings if the related cases include a juvenile action; and
- (D) determine the access of the parties to court records if a related case is confidential pursuant to Fla. R. Jud. Admin. 2.420.

Likewise, Fla. Fam. L.R.P. 12.003(b)(1) allows the court to “order joint hearings or trials of any issues in related family cases.” Fla. Fam. L.R.P. 12.003(b)(2) requires notice for the hearings or trials to either be provided by the court, the moving party, or another party as ordered by the court. The required notification should notify the parties of what cases have been coordinated, the division to which the cases are being assigned or reassigned, and the procedures for filing subsequent notices of hearing.

Fla. Fam. L.R.P. 12.004(a) authorizes a judge hearing a family case to access and review the files of any related case, whether pending or closed. Authorized court staff are also permitted to access and review related family case files. Fla. Fam. L.R.P. 12.004(b) refers to Fla. R. Jud. Admin. 2.545(d)(2) which defines family cases as:

dissolution of marriage, annulment, support unconnected with dissolution of marriage, paternity, child support, UIFSA, custodial care of and access to children, proceedings for temporary or concurrent time-sharing of minor children by extended family, adoption, name change, declaratory judgment actions related to premarital, marital, or post-marital agreements, civil domestic, repeat violence, dating violence, stalking, and sexual violence injunctions, juvenile dependency, termination of parental rights, juvenile delinquency, emancipation of a minor, CINS/FINS, truancy, and modification and enforcement of orders entered in these cases.

Fla. Fam. L.R.P. 12.004(d) provides that authorized court staff may advise the court of related legal proceedings, the legal issues involved, and administrative information about such cases.

To reduce the possibility of judges issuing conflicting orders and to ensure that the files in each case contains the relevant orders, the court adopted Fla. Fam. L.R.P. 12.006, which provides that the court may file copies of orders in related cases that involve the same parties. Fla. Fam. L.R.P. 12.007 and 12.271 also address how confidential files and hearings should be handled.

Providing the initial notification of case coordination to parties is similar to the regular requirements of notice for hearings and other proceedings. For example, Fla. R. Juv. P. 8.225(f)(3) indicates, “Any pre-adoptive parents, all participants, including foster parents and relative caregivers, and parties whose identity and address are known must be notified of all proceedings and hearings, unless otherwise provided by law.” Section 39.502(1), Florida Statutes provides that “all parents must be notified of all proceedings or hearings involving the child” in dependency cases. Both the rule and statute are specific to notice of hearings, but it is clear that written notice from the court about case coordination is also warranted. The principles of clearly identifying the matters before the court and providing parties an opportunity to prepare in a meaningful way for those matters are very much the same in either instance.

Likewise, Fla. R. Civ. P. 1.080 and Fla. R. Jud. Admin. 2.516 provide that every pleading subsequent to the initial pleading and every other paper filed in a case must be served on each party. This rule is directly related to Fla. Fam. L.R.P. 12.080(a)(1) which states that service of pleadings and papers after commencement of all family law actions - with certain specific exceptions in domestic and repeat violence cases - shall be as set forth in Fla. R. Jud. Admin. 2.516. The rule adds that “rule 2.516 shall also apply to service on the party during the attorney’s limited appearance as provided in Fla. Fam. L.R.P. 12.040(f) and be expanded as set forth in subdivisions (b) and (c) to include additional requirements for service of recommended orders and for service on defaulted parties.” Fla. Fam. L.R.P. 12.040(f) states,

(d)uring the attorney's limited appearance, all pleadings or other documents and all notices of hearing shall be served upon both the attorney and the party. If the attorney receives notice of a hearing that is not within the scope of the limited representation, the attorney shall notify the court and the opposing party that the attorney will not attend the court proceeding or hearing because it is outside the scope of the representation.

Lastly, Fla. Fam. L.R.P. 12.080(b) requires that service of all orders or judgments involving family law matters (with some exceptions for domestic, repeat, dating and sexual violence and stalking cases) must be transmitted by the court or under its direction to all parties at the time of entry. It could be argued that the initial notification by the court that cases will be coordinated is really an "order" of coordination and therefore, must be in writing and transmitted to all parties.

For family court proceedings to truly be coordinated, all of the necessary parties and attorneys need to be aware of the scope of the proceedings and who will be involved. With the court taking the lead by informing the parties that related cases will be coordinated, the parties will be aware of the full nature of the legal matters to be heard, will be able to determine the proper scope of their representation, and should be in a position to resolve as many matters as possible in the shortest amount of time.

In Practice...

Here is one example of a promising practice: when cases are identified as related cases to be coordinated, a letter notifying all parties of this identification is sent out. The letter indicates that the cases have been designated as companion cases in family court, and it also informs parties as to which division the cases are now assigned. A notice of hearing, if applicable, is also sent to all parties. Further, in dissolution of marriage cases, an Order of Reassignment is prepared and then signed by the administrative judge. That order is also sent to all parties.

This is merely one example of a process that may be used to notify parties that related cases are being coordinated. Other circuits may develop different methods to accomplish the same goal.