

>> ALL RISE.
HEAR YE, HEAR YE, HEAR YE, THE
SUPREME COURT OF FLORIDA IS NOW
IN SESSION, ALL WHO HAVE CAUSE
TO PLEAD, DRAW NEAR, GIVE
ATTENTION YOU SHALL BE HEARD.
GOD SAVE THESE UNITED STATES,
THE GREAT STATE OF FLORIDA AND
THIS HONORABLE COURT.

LADIES AND GENTLEMEN, THE
SUPREME COURT OF FLORIDA.
PLEASE BE SEATED.

>> GOOD MORNING, WELCOME TO THE
FLORIDA SUPREME COURT.
BEFORE WE BEGIN, LET ME ANNOUNCE
THAT THE WE HAVE PRESENT
WATCHING TODAY THE STUDENTS FROM
THE ST. PETERSBURG COLLEGE.
IF YOU WOULD STAND PLEASE.
THANK YOU.

AND WELCOME TO THE SUPREME
COURT.

THANK YOU.

THE FIRST CASE ON THE DOCKET IS
AMENDMENTS TO THE FLORIDA BAR, I
MEAN THE FLORIDA RULES OF
JUDICIAL ADMINISTRATION.
SO LET'S HEAR IT.

>> MR. CHIEF JUSTICE, MAY IT
PLEASE THE COURT, MY NAME IS AMY
SINGER BORMAN.

I'M GENERAL COUNSEL AT THE
15th JUDICIAL CIRCUIT IN
WEST PALM BEACH AND I'M HERE
TODAY IN MY ROLE AS THE
IMMEDIATE PAST CHAIR OF THE
RULES OF JUDICIAL ADMINISTRATION
ON THE JOINT PETITION OF THE
RJAC, THE CRIMINAL RULES
COMMITTEE AND THE APPELLATE
COURT RULES COMMITTEE ON THE
PROPOSED REVISIONS TO RULE
2.505, SUBSECTIONS E, F, AND G.
WITH THE IMPLEMENTATION OF THIS
PROPOSED RULE THE RJAC ATTEMPTS
TO RESOLVE TWO ISSUES.
FIRST, THE PROPOSED RULE PUTS
MORE IN LINE THE CURRENT
PRACTICE OF HOW ATTORNEYS ENTER
AND LEAVE CASES.

THIS IS ADDRESSED IN SUBSECTION F, ADDITIONAL COUNSEL. IS BEING, THE PROPOSED AMENDMENT INCREASE ACCESS TO THE COURTS THROUGH THE UNBUNDLING OF LEGAL SERVICES IN ALL DIVISIONS OF THE COURT AND THAT IS ADDRESSED IN SUBSECTION G, LIMITED REPRESENTATION COUNSEL. THE RULE SETS FORTH THREE TYPES OF ATTORNEYS. LEAD COUNSEL, ADDITIONAL COUNSEL, AND LIMITED REPRESENTATION COUNSEL. BECAUSE LEAD COUNSEL, THE RESPONSIBILITIES OF LEAD COUNSEL HAVE NOT CHANGED WITH THE PROPOSED AMENDMENTS I WOULD LIKE TO FOCUS MY TIME ON ORAL ARGUMENT WITH CHANGES WITH ADDITIONAL COUNSEL AND LIMITED REPRESENTATION COUNSEL. ADDITIONAL COUNSEL PRIMARILY COVERS TWO GROUPS OF ATTORNEYS. THOSE THAT WORK FOR OR UNDER ANOTHER ATTORNEY, SUCH AS AN ATTORNEY THAT WORKS IN A LAW FIRM AS AN ASSOCIATE, AN ATTORNEY THAT WOULD BE BROUGHT IN AS CO-COUNSEL, OR EVEN ATTORNEYS THAT HAVE ASSISTANT PUBLIC DEFENDERS, ASSISTANT STATE ATTORNEYS OR ASSISTANTS IN OTHER GOVERNMENTAL AGENCIES. >> BEFORE YOU, JUST CONTEXT, IS THE REASON THAT THIS IS-- I UNDERSTAND THE LIMITED REPRESENTATION ISSUE IS AN ATTEMPT TO HELP UNREPRESENTED LITIGANTS WHO, FOR A SPECIFIC ISSUE ALTHOUGH, AS YOU PROBABLY KNOW IN FAMILY WE'VE HAD THAT FOR MANY YEARS, VERY LITTLE OF THAT ACTUALLY OCCURS BUT IS THE REASON FOR THESE OTHER RULES SO THAT THE, WE MAKE SURE WITH ELECTRONIC FILING THAT SOMEONE KNOWS WHERE TO SEND THE PLEADINGS, OR IS THIS SOMETHING MORE, EVEN THOUGH IT'S A

PROCEDURAL, SOMETHING MORE
SUBSTANTIVE?

YOU SEE WHAT I'M-- I'M TRYING
TO UNDERSTAND THE, YOU KNOW,
LAWYERS GETTING IN AND OUT OF
CASES OR STAYING ON OR COVERAGE
ATTORNEYS, WHAT ARE WE TRYING TO
ACHIEVE WITH THESE AMENDMENTS?

>> WITH REGARD TO THE FIRST
GROUP OF ATTORNEYS, WHAT WE'RE
TRYING TO ACHIEVE, WORK IN THE
LAW FIRM OR ASSISTANT PUBLIC
DEFENDERS TO ASSURE, CREATING
THREE GROUPS THAT ARE ADDITIONAL
COUNSEL UNDERSTAND THEY SHOULD
BE FILING A NOTICE OF
APPEARANCE.

A STRICT READING OF THE CURRENT
RULE REQUIRES THAT.

TO APPEAR IN A CASE THERE ARE
THREE WAYS.

RIGHT NOW THOSE ATTORNEYS MAY
NOT BE AWARE OF THAT.

>> SO IF A LAW FIRM SENDS, OF
COUNSEL, AND THERE IS A LEAD
COUNSEL, IN EVERY HEARING
ANOTHER ATTORNEY COMES, EACH OF
THOSE-- SAY THERE IS 10
ADDITIONAL ATTORNEYS AND THEN
THERE IS A COVERAGE ATTORNEY,
EACH THEM NEEDS TO FILE A NOTICE
OF APPEARANCE AND YOU HAVE TO
HAVE A CERTIFICATE OF SERVICE
HAVE TO SEND COPIES OF THE
PLEADINGS TO LIKE 11 PEOPLE FROM
ONE LAW FIRM?

>> WELL CURRENTLY THOSE
ATTORNEYS SHOULD BE FILING A
NOTICE OF APPEARANCE.

WHAT WE'RE TRYING TO DO IS ALLOW
IF THEY FILE ANY ADDITIONAL
PLEADING, THEY DON'T HAVE TO
FILE A NOTICE OF APPEARANCE, AS
LONG AS THEY ARE NOT-- SERVICE
BY THE CLERK.

>> I DON'T GET, I GUESS I'M
HAVING TROUBLE, IT HAS BEEN A
WHILE SINCE I'VE BEEN
LITIGATING, FROM THE POINT OF
VIEW OF WITHIN LAWYER SENDING A

CERTIFICATE OF SERVICE DO THEY HAVE TO SEND THEM, IS IT OKAY YOU SEND IT TO THE LEE COUNSEL AND YOU DON'T HAVE TO SEND TO IT ADDITIONAL COUNSEL?

>> BY FILING SOMETHING YOU WILL BE ADDED TO THE SERVICE LIST ON THE E-PORTAL.

A ATTORNEY CHECKS IT OFF. YOU CAN ADD UP ONE TO THREE EMAIL ADDRESSES.

>> YOU SAID IF YOU FILE ANOTHER PLEADING, IF WHO FILES ANOTHER PLEADING?

>> IF AN ADDITIONAL COUNSEL, SAY YOU HAVE A PARTNER IN A LAW FIRM AND YOU HAVE AN ASSOCIATE COMES IN, YOU KNOW, MAYBE ONE ATTORNEY WAS ON IT AND THEY LEFT THE FIRM AND ANOTHER ATTORNEY COMES IN.

>> SUPPOSE THE LEAD ATTORNEY IS SILL THERE BUT FOR SOME REASON HE SENDS ANOTHER, HE OR SHE SEND ANOTHER ATTORNEY FROM THEIR FIRM.

THEY HAVE TO DO A NOTICE OF APPEARANCE.

AND THEN THEY ARE FOREVER IN THE CHAIN OF WHO GETS NOTICE OF ADDITIONAL PLEADINGS?

>> ACTUALLY, YOUR HONOR, THAT IS WHAT WE'RE TRYING TO RESOLVE.

SO SUBSECTION F-1-D, WOULD ALLOW THOSE ATTORNEYS THAT WOULD BE COVERING FOR A PARTNER IN THE LAW FIRM, SAY A PARTNER IS SICK, THEY ASK AN ASSOCIATE TO COVER, THEY COULD GO IN, WITH A LEAVE OF COURT BE APPEAR GOING INTO THAT HEARING, THEN BE EXCUSED FROM FILING A NOTICE OF APPEARANCE BECAUSE UNDER A STRICT READING OF THE CURRENT RULE THEY SHOULD BE FILING A NOTICE OF APPEARANCE NOW.

WE'RE TRYING TO MAKE THAT--

[INAUDIBLE]

>> NOT HAVING TO FILE A NOTICE OF APPEARANCE AND WOULD NOT BE ON FUTURE DISTRIBUTION OF

PLEADINGS?

>> THAT'S CORRECT.

>> LET ME ASK YOU ABOUT A NEW THING I'VE BEEN READING IN THE BAR NEWS.

THERE ARE LAWYERS WHO APPARENTLY MAKE A PRACTICE OF COVERING HEARINGS AND APPARENTLY THEY ADVERTISE, I WILL COVER YOUR HEARING ANYWHERE, WITHIN A PARTICULAR TERRITORY OF THE STATE OF FLORIDA.

SOME MUCH THEM THE ENTIRE STATE. WHERE DO THEY FIT IN ON THIS?

IF I'M ONE OF THOSE LAWYERS IN YOUR FIRM HIRES ME TO GO COVER YOUR DISCOVERY MOTION BEFORE, IN MIAMI, WHERE DO I FIT IN AND WHAT NOTICE DO I HAVE TO GIVE TO A JUDGE AND THAT KIND OF THING?

>> YOUR HONOR, THAT WOULD BE THE SAME WHAT I JUST DISCUSSED WITH JUSTICE QUINCE AND F-1-B FOR APPEARANCE AND REMOVAL.

IN THAT HEARING THE ATTORNEY GOES INTO THE COURT PROCEEDING, YOUR HONOR, I'M COVERING FOR MISS NORSE MAY BE EXCUSED FROM FILING NOTICE OF APPEARANCE.

IF THE JUDGE DETERMINES YOU WOULD BE EXCUSED FROM FILING NOTICE OF APPEARANCE.

ANYBODY THAT COVERS, WHETHER AN ASSOCIATE IN A LAW FIRM THAT IS NOT ACTIVELY INVOLVED IN THE CASE OR PAID COVERAGE COUNSEL OR STAND-IN COUNSEL WITH THE ASSISTANT STATE ATTORNEY STANDING IN FOR ANOTHER ASSISTANT STATE ATTORNEY.

>> SO YOU'RE GOING TO MAKE IT DISCRETIONARY ON THE PART OF THE JUDGE TO EITHER ALLOW IT OR NOT ALLOW IT?

>> UNDER, YOUR HONOR, WHAT WE'RE TRYING TO DO ALLOW FOR THE DISCRETION SO IT MOVES THE COURT PROCEEDINGS.

LITERAL READING OF THE RULE NOW WOULD REQUIRE IT AND ATTORNEYS

ARE NOT FILING THEM.
EITHER BECAUSE THEY DON'T KNOW
OF THE RULE OR THEY DON'T
BELIEVE THE RULE APPLIES TO
THEM.

>> THEY NEVER HAVE AS A
PRACTICAL MATTER.

>> THAT'S CORRECT.

>> IT MAY BE BECOMING LESS AND
LESS OF A TRADITIONAL PRACTICE
FOR YEARS IN URBAN SETTINGS WAS
TO HAVE APPELLATE COUNSEL BE
AVAILABLE TO ARGUE PARTS OF
TRIAL MOTIONS BUT WE'RE NEVER,
NEVER REQUIRED TO FILE NOTICE OF
APPEARANCE BECAUSE THEY WERE NOT
APPEARING AS COUNSEL FOR THE
GENERAL PURPOSES OF THE CASE AND
THEY DIDN'T WANT TO GET
PLEADINGS AS A MATTER OF FACT.
THEY'RE THERE FOR THE SPECIAL
PURPOSE.

IT WAS LONG BEFORE THE DOMESTIC
LIMITED APPEARANCE BUT THAT'S
WHAT IT WAS FOR, TO ARGUE THE
MOTIONS.

YOU BRING IN APPELLATE COUNSEL
TO ARGUE MOTIONS FOR SUMMARY
JUDGMENT AND I AM NOT IN FAVOR
OF ALLOWING A TRIAL JUDGE TO
HAVE THE DISCRETION TO ALLOW
THAT OR NOT ALLOW IT.

I THINK PARTY HAS THE RIGHT TO,
WITHOUT THE JUDGE'S DISCRETION,
YOU HAVE A FLORIDA BAR LAWYER TO
COME INTO THE CASE TO ARGUE
SPECIFIC POINTS AND I DON'T
THINK THE RULES HAVE EVER
PRECLUDED-- YOU'RE APPROACHING
THIS SAYING IT WAS ALWAYS
DEMANDED.

I DON'T THINK IT WAS.

>> YOUR HONOR, WHAT I'M, WHAT
WE'RE TRYING TO ADDRESS, WHAT
I'M CONCERNED ABOUT IN THE
SUPPLEMENTAL CASE LAW WE
PROVIDED THERE IS ONE CASE,
THERE ARE FOUR CASES THAT WE
FILED, AND IN THE ONE CASE THAT
CAME OUT OF THE NORTHERN

DISTRICT OF FLORIDA, THE HARTLEY CASE, THAT SAID IN THAT INSTANCE THAT THE ASSISTANT ATTORNEY GENERAL WHO FILED A NOTICE OF REMOVAL TO FEDERAL COURT HAD NOT FILED A NOTICE OF APPEARANCE IN THE TRIAL COURT AND WHEN THE, WHEN THE PETITIONER IN THE FEDERAL CASE ON APPEAL SAID, THAT IT WAS A NULLITY BASED ON THE QUAIL HOLLOW CASE OUT OF THE STATE COURT, AND SAID BECAUSE THEY DID NOT FILE A NOTICE OF APPEARANCE THEREFORE IT SHOULD NOT BE RECOGNIZED.

THE COURT SAID ONCE YOU FILED THE NOTICE OF APPEARANCE WE CAN GO BACK IN TIME AND SAY EVERYTHING YOU'VE DONE IS CORRECT.

WHAT WE'RE CONCERNED ABOUT, IF SOMEBODY WERE TO TAKE THAT ARGUMENT SAY IN A CRIMINAL CONTEXT SOMEBODY IS COVERING ON A PLEA HEARING AND THAT COVERAGE ATTORNEY ENTERS INTO THE PLEA REPRESENTING THE DEFENDANT, COULD SOMEBODY THEN COME BACK AND SAY YOU NEVER FILED A NOTICE OF APPEARANCE, THEREFORE IT WAS A NULLITY, I WANT TO WITHDRAW MY PLEA?

>> YOU'RE REALLY SAYING THAT THE JUDGE'S DISCRETION IS NOT WHETHER YOU CAN APPEAR AT THAT HEARING, IT IS WHETHER YOU HAVE TO FILE THE NOTICE OF A APPEARANCE AT THAT HEARING?

>> CORRECT.

YES, YOUR HONOR, THAT'S CORRECT. BY ALLOWING THEM TO COME IN WITHOUT FILING A NOTICE OF APPEARANCE THE RULE WOULD PERMIT IT-- THE ISSUE THAT THE HARTLEY CASE RAISED.

THEY ARE LAWFULLY OR UNDER THE RULES PERMITTED TO BE THERE.

>> CAN YOU EXPLAIN, WE'RE USING THE WORD COVERAGE ATTORNEY, IF A ASSISTANT PUBLIC DEFENDER COMES

IN FOR ANOTHER ASSISTANT PUBLIC DEFENDERS THAT IS NOT UNDER THE RULE A COVERAGE ATTORNEY OR IS IT?

>> UNDER THE PROPOSED RULE, ALTHOUGH WE DO NOT USE COVERAGE IF SOMEBODY IS STANDING IN FOR ANOTHER--

>> IS THAT DIFFERENT WHAT JUSTICE LABARGA ASKED YOU ABOUT, SOMEONE NOT ASSOCIATED IN A CIVIL CASE WITH A LAW FIRM WHO COMES IN AS, ALMOST LIKE A CONTRACT ATTORNEY, THAT A COVERAGE ATTORNEY?

>> WE WOULD ARGUE UNDER THE COMMITTEE ALL OF THOSE ATTORNEYS WOULD BE COVERAGE COUNSEL OR STAND-IN COUNSEL BECAUSE YOU'RE NOT ATTORNEY OF RECORD. WE WANT TO CLARIFY WHO IS ATTORNEY OF RECORD, THAT INVOLVES THE SECURITY MATRIX AND ACCESS TO COURT RECORDS.

>> I GUESS MY PROBLEM, MAYBE I'M MISSING SOMETHING HERE, IF IT IS A PUBLIC DEFENDER'S OFFICE, WHEN THEY SEE, IF THEY HAVE A CONFLICT OF INTEREST, IF THEY SEEK TO WITHDRAW, NOT LIKE, THE OFFICE THEN WITHDRAWS.

IT'S NOT-- IS IT ONE ATTORNEY BEING SUBSTITUTED FOR ANOTHER?

>> THAT IS AN INTERESTING QUESTION AND WE ACTUALLY EXPLORED THAT IN THE COMMITTEE. AND WE CALLED THE FLORIDA BAR, WE TALKED ABOUT CAN YOU HAVE A LAW FIRM OF RECORD LIKE THE PUBLIC DEFENDER'S OFFICE.

THE BAR SAID NO.

THEY HAVE ONLY JURISDICTION OVER ATTORNEYS.

ONLY ATTORNEYS APPEAR NOT LAW FIRMS.

WE HAD THE DISCUSSION THERE WOULD BE A LAW FIRM OF RECORD AND DISSOLVE ALL THE ISSUES.

>> THE PROBLEM IF YOU'VE BEEN IN A TRIAL COURT, AND I'VE BEEN

THERE, THE WAY IT HAPPENS, IT
HAPPENS VERY QUICKLY.
HERE IS WHAT HAPPENS.
HERE IS THE SCENARIO.
JUDGE I'M HERE COVERING THIS
PLEA FOR MR.SO-AND-SO GOT
CALLED TO TRIAL IN FRONT OF
JUDGE SO-AND-SO, I'M HERE
COVERING A PLEA FOR HIM.
THE DEFENDANTS, FIRST TIME I
EVER SEEN THIS GUY, JUDGE.
THEN I ASK THE JUDGE, WOULD YOU
LIKE ME TO RESCHEDULE THIS PLEA
FOR ANOTHER TIME WHEN
MR.SO-AND-SO CAN BE HERE.
BUT JUDGE, MY CLIENT IS GETTING
TIME SERVED AND MY EYES ARE OPEN
TO ME.
GOOD JUDGE, GO INTO THE JURY BOX
AND TALK, CALL YOUR CASE BACK
AGAIN.
THAT IS WHAT HAPPENS.
NO TIME TO FILE NOTICE OF
APPEARANCE OR NO TIME TO FILE
PROCEDURE.
THINGS GOT, IF YOU'RE IN,
JUSTICE PARIENTE WAS TRIAL
LAWYER AND JUSTICE LEWIS IN PALM
BEACH COUNTY, WE WORK IN FIRMS,
ONE HOUR CALL, TIME IN OUR LIVES
SOMEWHERE IN THE STATE, YOU GET
CALLED TO TRIAL AND GOT ALL
HEARINGS SCHEDULED, YOU CALL
PEOPLE.
THERE IS NO TIME TO DO THIS,
FILE A NOTICE AND THINGS LIKE
THAT, YOU HAVE TO ACT QUICKLY.
THIS WOULD REALLY CAUSE A
PROBLEM.
>> YOUR HONOR, WHY UNDER F-1-D
AND F-2-D THEY WOULD NOT ARE
HAVE TO FILE NOTICE OF
APPEARANCE, JUDGE I'M HERE
COVERING OR JUDGE HAS STANDING
ORDER DON'T NEED TO DO WITH
ASSISTANT PUBLIC DEFENDER.
>> THE PROBLEM IS JUST LIKE IN
JUSTICE LABARGA AS COURTROOM
THIS IS WHAT HAPPENS BUT IN
SOMEBODY ELSE'S COURTROOM

SOMETHING ELSE HAPPENS.
AGAIN I SEE TWO ISSUES, MAYBE IT
HAS ALL BEEN EXPLORED.

ONE IS THIS COMPLICATING
SOMETHING THAT NEVER SEEM THAT
COMPLICATED, WHICH IS AN
ATTORNEY COMING IN TO COVER A
HEARING.

EVERYONE KNOWS IT IS STILL
ATTORNEY OF RECORD WHO IS THE
RESPONSIBLE ATTORNEY.

SO FROM THE POINT OF VIEW WHO
YOU HAVE TO SEND THE CERTIFICATE
TO IT'S STILL THE LEAD PERSON.

THE OTHER ISSUE REALLY IS THAT
IF IT'S A QUESTION OF
CERTIFICATE OF SERVICE BUT IF
IT'S A QUESTION OF WHO IS
RESPONSIBLE I DON'T THINK THAT,
ARE WE NOW GETTING OURSELVES
INTO AN IN JUSTICE LABARGA'S
CHAMBERS OR COURTROOM THE, EVERY
ATTORNEY THAT COMES IN WILL BE
THE RESPONSIBLE ATTORNEY?

AND IN JUDGE SMITH'S CHAMBERS
SOMETHING ELSE?

SO IF IT IS DISCRETIONARY, DON'T
YOU END UP WITH DIFFERENT
PROCEDURES AND A PROBLEM THERE?

>> WELL UNDER F-1-D AND F-2-D
THEY WOULD STILL ALL BE TREATED
SAME AND APPEARING IN THE
COURTROOM WOULD GIVE THEM
AUTHORITY TO BE THERE BUT AS
JUSTICE QUINCE HAD MENTIONED IT
IS ISSUE OF DISCRETION NOT
HAVING TO FILE THE ACTUAL
DOCUMENT.

>> ONCE YOU HAVE ACTUALLY FILED,
IF JUDGE A SAYS, YOU HAVE TO
FILE A NOTICE OF APPEARANCE
BEFORE YOU CAN ARGUE THIS
MOTION.

AND THEY FILE IT, THEN ARE THEY
THEN A PART OF THE GROUP THAT IS
GOING TO BE SERVED WITH ALL THE
NEXT PLEADINGS?

>> YES.

THEY WOULD THEN HAVE TO FILE A
MOTION TO WITHDRAW OR GET ORDER

OF SUBSTITUTION WHY WE'RE TRYING
TO AVOID THAT UNDER SUBSECTION
D.

I SEE I HAVE A MINUTE--

>> IS THIS ALL DIRECTED TOWARD,
YOU MENTIONED SECURITY MATRIX OF
ELECTRONIC FILINGS AND THINGS,
IS THAT WHAT THIS IS DIRECTED
TO.

>> DIRECTED TO THE SECOND GROUP
OF ATTORNEYS, SO THE CLERK'S
OFFICE KNOWS WHO ATTORNEY OF
RECORD IS SO THEY INSURE THEY
HAVE GREAT ARE ACCESS TO REMOTE
ELECTRONIC RECORDS BUT ALSO
DEALING WITH THOSE THAT ARE
COVERING.

SO WITH REGARD--

>> BUT MY CONCERN IS, IF THAT IS
WHAT THE ISSUE IS, WHO GETS
ACCESS TO THE FILE AND THE
SECURITY, IT SEEMS TO ME WOULD
BE A WHOLE LOT EASIER IF YOU
WANT ACCESS TO IT, THEN THAT IS
WHAT YOU DO, IF YOU HAVE TO FILE
SOMETHING, NOT TO COME IN AND
REPRESENT, IN THESE, COVERAGE
SO-CALLED SITUATIONS, IF THE
PERSON WHO HAS MADE THAT LIMITED
APPEARANCE, REALLY DOESN'T WANT
OR NEED FURTHER ACCESS TO THE
FILE OR FURTHER CAN'T WITH IT,
SEEMS TO ME WE'RE FORCING THEM
TO START FILING STUFF AND THEN,
FILING TO GET OUT OF FILING.
I FEEL LIKE WE'RE CHASING OUR
TAILS IN THIS SITUATION.

>> HOPEFULLY WITH REGARD, WITH
REGARD TO THE ABILITY OF
SUBSECTION D I WOULD AVOID THAT
I SEE YOUR POINT, YOUR HONOR.
I ACTUALLY HAVE 20 SECONDS LEFT.
I'M OVER 20 SECONDS.

>> GIVE YOU A COUPLE MINUTES IN
REBUTTAL.

YOU USED UP ALL YOUR TIME.

>> THANK YOU, JUDGE.

>> GOOD MORNING.

MAY IT PLEASE THE COURT, KRISTIN
NORSE ON BEHALF OF THE A

APPELLATE COURT RULES COMMITTEE.
THE APPELLATE COURT RULES
COMMITTEE APPRECIATES THE
EFFORTS OF THE RJAC PUTTING
TOGETHER PROPOSALS AND WORKING
WITH VISION 2016 INITIATIVE TO
FIND WAYS TO INCREASE ACCESS TO
JUSTICE.

SO WE'VE, WE STAND IN SUPPORT OF
THE PROPOSALS TODAY.

>> WHAT DOES THIS RULE HAVE TO
DO WITH ACCESS TO JUSTICE?

>> WELL, I THINK THAT WHAT THEY
WERE TRYING TO DO IS ALLOW THE
UNBUNDLING OF LEGAL SERVICES,
ALLOW DIFFERENT ATTORNEYS TO
MOVE IN AND OUT--

>> WE ALREADY HAD A RULE ON THAT
AS JUSTICE PARIENTE HAS SAID.
LAWYERS AREN'T USING IT.

>> RIGHT, AND I THINK THAT, I
THINK WHAT POLICE BORMAN IS
TALKING ABOUT IS THE CONCERN A
LAWYER NOT USING THAT RULE COULD
HAVE COLLATERAL EFFECT DOWN THE
LINE BECAUSE THEY HAD NOT
APPEARED AND THEY DID NOT APPEAR
TO BE RESPONSIBLE.

I THINK ANOTHER POINT--

>> I DIDN'T HEART, I THOUGHT
WHAT WE WERE REALLY TALKING
ABOUT THE TRADITIONAL IDEA AS
JUSTICE LABARGA AND JUSTICE
LEWIS WAS TALKING ABOUT,
SOMEBODY COMING IN TO COVER, NOT
TO REPRESENT-- WHERE YOU HAVE,
LIMITED REPRESENTATION WHERE YOU
HAVE NO LAWYER.

>> RIGHT.

>> THEN THEY COME IN.
THAT UNREPRESENTED LITIGANT IS
STILL GOING TO GET NOTICE
BECAUSE THIS IS LIMITED
REPRESENTATION ATTORNEY, RIGHT.
YOU WOULDN'T HAVE--

>> RIGHT.

>> THAT NOTICE, THAT PERSON
COMING IN DOESN'T SUPERSEDE
PROSAY LITIGANTS GET NOTICE?

>> THAT MAY BE TRUE.

I THINK WHAT THE RJAC WAS TRYING TO DO IS BALANCE DIFFERENT INTERESTS.

TO MAKE SURE PRACTICE CONFIRMED TO THE RULE THAT WAS IN EXISTENCE.

>> THE SITUATION WHAT JUSTICE LEWIS SAID, WITH THE APPELLATE LAWYER COMING IN TO HELP WITH JURY INSTRUCTIONS OR WHERE THEY'RE COMING IN FOR A SPECIFIC PURPOSE, IS IT YOUR VIEW THAT THEY SHOULD HAVE TO FILE A NOTICE OF APPEARANCE?

>> I WOULD SAY THAT OUR PERSONAL EXPERIENCE IS THAT WE DO FILE NOTICES OF APPEARANCE IN--

>> WHEN DID YOU START DOING THAT?

I DIDN'T REALIZE I HAVE BEEN UP HERE THAT LONG.

NOBODY EVER DID IT 20 YEARS AGO, EVER, EVER.

>> I ALWAYS FILE A NOTICE OF APPEARANCE IN THE TRIAL COURT, UNDERSTANDABLY WITH SOME APPREHENSION I WILL NOW BE CONSIDERED RESPONSIBLE FOR THE REST OF THE CASE.

>> THAT'S RIGHT.

>> THIS RULE I THINK MET OUR CONCERN.

>> SECURITY REQUIREMENTS IMPOSED BY THE FCTC ON THE CLERKS IN TERMS OF THEIR SYSTEM?

SO YOU CAN'T GET ACCESS TO THE RECORDS UNLESS YOU APPEAR?

THAT IS THE WAY THE SYSTEM WORKS.

>> CORRECT.

I ACTUALLY HAVE A CASE NOW PENDING WHERE I WOULD LIKE TO GET ACCESS BUT I DO NOT WANT TO BE COUNSEL OF RECORD IN A VERY CONTENTIOUS DIVORCE CASE.

SO I'M HAVING TO TRY TO GO THROUGH THE TRIAL ATTORNEY TO GET ACCESS.

SO--

>> WHY NOT THE EXCEPTION RATHER

THAN THE RULE, IF YOU WANT TO
BET ACCESS AND BE MAINTAINED IN
THAT FILE, THEN YOU COULD FILE
SOMETHING BUT IF YOU DON'T WANT
TO, I'M MISSING WHY SOMEBODY
DOES NOT WANT TO BE CONTINUING
RESPONSIBILITY IN THE FILE?

>> WELL, FOR, LIKE FOR IN MY
EXAMPLE, IT IS A CONTINUE SCHUSS
DIVORCE CASE.

THERE IS ONGOING ENFORCEMENT
PROCEEDINGS, ETCETERA AND I
REALLY ONLY WANT TO BECOME
COUNSEL POTENTIALLY TO JUST GET
ACCESS TO THE RECORDS, OR, I
MIGHT BE JUST WORKING ON ONE
REHEARING MOTION OR SOMETHING OF
LIMITED EFFECT.

>> LET ME ASK YOU THIS.
IT SEEMS LIKE THE PROBLEMS WITH
BEING THE LEAD COUNSEL OR THE
OTHER ADDITIONAL COUNSEL, I
UNDERSTAND, IN YOUR SITUATION.

>> RIGHT.

>> THE LIMITED REPRESENTATION
COUNSEL IS DESIGNED TO ADDRESS A
DIFFERENT PROBLEM AND YOU DON'T
ZOOM TO FIT WELL IN THERE.

>> RIGHT. BUT THAT IS WHERE YOU
HAVE GOTTEN IN ORDER TO AVOID
PROBLEMS GETTING THE CLIENT TO
SIGN OFF ON ENTRY AND OTHER
PROBLEMS, DID YOU CONSIDER--
MAKING IT MORE COMPLICATED MAY
NOT MAKE IT A GREAT THING,
SPECIAL ADDITIONAL COUNSEL,
SOMEONE COMES IN YOUR SITUATION
ONLY WITH SIGNATURE OF LEAD OR
ADDITIONAL COUNSEL AND YOUR
SIGNATURE AND COULD WITHDRAW
WITH EITHER SIGNATURE?

YOU COULD WITHDRAW ON YOUR OWN
WITHOUT LEAVE OF THE COURT.
YOU WOULD BE JUST DONE WITH THE
CASE?

THAT SEEMS LIKE IT MIGHT BE A
BETTER WAY TRYING TO FIT YOU
INTO A CATEGORY YOU DON'T FIT
INTO.

>> RIGHT.

WE FIT-- MISS BORMAN CAN BETTER ANSWER WHERE WE EXACTLY FIT IN, I THINK IT WAS INTENDED WE COULD WITHDRAW MORE EASILY THAN WE COULD CURRENTLY.

SO I'M NOT, I THINK YOU MAY BE RIGHT, WE MAY NOT EXACTLY FIT IN, BUT I THINK TO A CERTAIN EXTENT THIS IS, A REAL LARGE PROCESS TO TRY TO GET ALL OF THESE INTERESTS INTO THIS RULE AND MAKE IT FIT.

SO I THINK WE'RE AT LEAST, OUR, MY RULES COMMITTEE IS A LITTLE BIT COMFORTABLE WITH A WAIT-AND-SEE HOW THIS WORKS.

WE CAN TWEAK LATER IF IT IS NOT WORKING EXACTLY CORRECTLY.

OUR PROPOSAL HERE THOUGH, APPELLATE RULES, IN THE APPELLATE PROCESS WE DON'T HAVE A PUSH FOR ADDITIONAL COUNSEL OR THESE THINGS.

SO OUR PROPOSAL IS TO CLARIFY HOW YOU MAKE AN APPEARANCE IN APPELLATE COURT AND OTHERWISE LEAVE OUR RULES SEPARATE AND APART, NOT HAVE DISTINCTIONS AND APPEALS.

I SEE MY TIME IS UP.

THANK YOU, YOUR HONORS.

>> MISS CHARBULA.

IT HAS BEEN A WHILE.

>> ONE COULD SAY TOO LONG.

MAY IT PLEASE THE COURT.

I AM MEREDITH CHARBULA, I'M AN ASSISTANT STATE ATTORNEY IN THE FOURTH JUDICIAL CIRCUIT APPEARING ON BEHALF OF SCOTT FINGERHUNT, THE CURRENT CHAIR OF THE RULES COMMITTEE AND I'M IMMEDIATE PAST CHAIR OF THE COMMITTEE.

WE ARE HERE TO PROPOSE AN AMENDMENT TO RULE 3.010 TO COMPORT WITH PROPOSED CHANGES TO RULE 2.05.

WE CONSIDERED ATTEMPTING TO OPT OUT OF THIS RULE IN ITS ENTIRETY BUT BECAUSE WE DIDN'T FEEL LIKE

THAT IT FIT NEATLY WITHIN THE
CRIMINAL RULES.

I THINK JUSTICE PARIENTE AND
JUSTICE LABARGA, YOU SORT OF
BOTH HIT ON ISSUE WE HAD
CONCERNS WITH PRIMARILY.
IN TERMS OF ADDITIONAL COUNSEL
AND LIMITED REPRESENTATION
COUNSEL.

I THINK WE CURED THE LIMITED
REPRESENTATION COUNSEL WITHIN
OUR AMENDMENT BUT I THINK IN
REALITY ASSISTANT PDs AND
ASAs AND ASSISTANT REGIONAL
CONFLICT COUNSELS ARE DEEMED
FUNGIBLE.

>> LET ME ASK YOU THIS.
HOW WOULD IT WORK IN SOME PLACES
I SEE AN ASSISTANT ATTORNEY
GENERAL FOR EXAMPLE, MIGHT COME
AND SIT WITH THE STATE,
ASSISTANT STATE ATTORNEY DURING
A TRIAL, AND WHAT WOULD THAT
PERSON, WHAT WOULD THE ASSISTANT
ATTORNEY GENERAL BE CONSIDERED?
IS THAT AN ADDITIONAL COUNSEL OR
LIMITED REPRESENTATION-- WHO IS
THAT?

>> I THINK BECAUSE THEY COME IN
FOR A SPECIFIC PART OF THE
TRIAL, ONE COULD ARGUE THEY'RE
LIMITED REPRESENTATION COUNSEL
BUT I THINK THEY PROBABLY MORE
FIT NEATLY WITH THE ADDITIONAL
COUNSEL.

AS FAR AS THE STATE, IF THEY
COME IN ASSISTANT ATTORNEY
GENERAL WITH THE STATE I DON'T
THINK THERE IS A REAL ISSUE WITH
THE CONFLICT OF THE RULE.

I THINK WHAT THE PROBLEM IS FOR
ADDITIONAL COUNSEL HOW THEY GET
IN AND OUT OF THE CASE, IT IS
VERY COMMON AS JUSTICE LABARGA
NOTED, WHEN YOU HAVE A PUBLIC
DEFENDER APPOINTED, DEFENDANT,
MIGHT HAVE THREE, FOUR, FIVE,
SIX, PUBLIC DEFENDERS DURING
COURSE OF REPRESENTATION BETWEEN
ARRAIGNMENT AND TRIAL AND A

PLEA.

TO REQUIRE A NOTICE OF APPEARANCE TO BE FILED OR MOTION TO WITHDRAW TO BE FILED WOULD BE SOMEWHAT AWKWARD.

NOW WHAT WE HAVE ADDRESSED IN OUR RULE WAS PLEA-- PRECLUDING LIMITED REPRESENTATION COUNSEL IN CASES WHERE PD, RJAC OR REGISTRY COUNSEL IS APPOINTED. FOR UNREPRESENTED DEFENDANT WHERE WE ENVISION THIS MOSTLY AT FIRST APPEARANCE.

>> FROM YOUR PERSPECTIVE DO THESE RULES FIX SOME KIND OF A PROBLEM THAT YOU PERCEIVE TO EXIST?

>> AS FAR AS CRIMINAL PRACTICE, NO, BECAUSE THE SERVICE, THE MAIN ISSUE ABOUT SERVICE, PDs, ASAs, RCC THEY DESIGNATE A EMAIL ADDRESS THAT SERVICE DOESN'T COME TO THE INDIVIDUAL ATTORNEY.

IT COMES TO DESIGNATED EMAIL ADDRESS IN THE PD'S OFFICE AND STATE ATTORNEY'S OFFICE.

>> SO THE SECURITY, SO AT THAT POINT THEN, EVERYONE IN THE PD'S OFFICE HAS ACCESS TO THE FILE.

>> ABSOLUTELY.

>> OKAY.

MY CONCERN IS THAT THIS USE OF LIMITED REPRESENTATION COUNSEL IS A BIG DIFFERENCE BETWEEN THE JUSTICE LEWIS SCENARIO OF AN APPELLATE LAWYER COMING IN TO ASSIST A LEAD COUNSEL WHO HAS THE WHOLE CASE, THE LAWYER, THERE IS NO PRO SE LITIGANT OR ASSISTANT ATTORNEY GENERAL, THIS ACCESS TO JUSTICE ISSUE WHERE THE PERSON IS UNREPRESENTED BUT SOMEONE COMES IN AGAIN, THEORETICALLY, DISSOLUTION OF MARRIAGE TO HELP ON, YOU KNOW ALIMONY ISSUES.

WHERE THEY ARE LIMITED TO WHAT THEY ARE, THEY SAY I'M NOT IN THE WHOLE CASE.

I'M JUST COMING IN TO HELP THIS LITIGANT AND IT IS SUPPOSED TO BE A BETTER WAY TO INSURE THERE IS SOME MODICUM OF JUSTICE FOR THESE UNREPRESENTED LITIGANTS. ARE WE CONFUSING THE TERMS IF WE USE LIMITED REPRESENTATION TO REFER TO THE SCENARIO OF THE APPELLATE LAWYER, ASSISTANT AG, VERSUS WHERE SOMEONE IS REPRESENTED FULLY BY ANOTHER, BY THE LAWYER OR THE PD AND THE SITUATION WHERE THE PRO SE LITIGANT NEEDS HELP ON ONE HEARING AND THAT LAWYER, YOU KNOW, LOOKING AT HIS MALPRACTICE CARRIER WHATEVER OR HER, COMES IN AND SAYS I'M FILING THIS LIMITED NOTICE OF APPEARANCE?

>> WELL I THINK, AGAIN IN THE SCENARIO OF THE FIRST, THE AG OPINION, OR OUR SITUATION THAT WILL BE AN ADDITIONAL COUNSEL AND THAT WILL COME IN WITH-- YOU KNOW, IF, FOR INSTANCE A PD, ADDITIONAL COUNSEL IS GOING TO BE WITH THE PD'S OFFICE OR ANOTHER DEFENSE REPRESENTATION. OTHERWISE THE DEFENDANT WON'T BE INDIGENT.

LIMITED REPRESENTATION HOW WE SAW THAT IS, A PERSON GETS ARRESTED. THEY COME, THEY HIRE A FAMILY FRIEND OR THEIR PARENTS FRANTICALLY CALL A LAWYER FOR THEM TO REPRESENT THEM AT FIRST APPEARANCE.

>> THEY'RE IN, THEY HAVE TO FILE A NOTICE OF WITHDRAWAL. THEY CAN'T JUST GO, OH, I JUST CAME FOR THIS.

I DON'T SEE THAT AS BEING WHAT WE CONSIDER A LIMITED REPRESENTATION.

IF WE CONFUSE THOSE TERMS, WE'RE GOING TO BE, YOU KNOW, NOT GOING TO BE HELPING THE FAMILY FRIEND OUT OR THE DEFENDANT?

>> I BELIEVE, IF I CAN FINISH

ANSWERING THIS QUESTION.

>> SURE.

>> I BELIEVE WHAT THE RJA HAS ENVISIONED THAT PERSON WILL BE ALLOWED TO COME IN, ANNOUNCE A VERY LIMITED PURPOSE.

THEN WITHDRAW.

THEREAFTER IN A CRIMINAL CASE IF THE DEFENDANT AS INDIGENT, COUNSEL WOULD BE APPOINTED.

IF NOT THEY WOULD HIRE LEAD COUNSEL GO FROM THERE.

>> SURE.

>> HELP ME UNDERSTAND EXACTLY HOW YOU READ THIS TO IMPACT THE CRIMINAL PRACTICE WITH EACH TIME THAT A DIFFERENT ASSISTANT STATE ATTORNEY OR A DIFFERENT DEPUTY ATTORNEY GENERAL COMES TO SOMETHING IN THE CASE THAT THEY HAVE TO FILE SOMETHING TO GET IN AS THE RULE WAS INTENDED, AND FILE SOMETHING TO GOT OUT, IS THAT HOW THIS OPERATES?

>> I THINK THAT'S WHAT WE STRUGGLE A LITTLE BIT.

IN ACTUAL PRACTICE WHAT HAPPENS IS, IS THAT, UNLIKE PERHAPS IN A CIVIL ACTION, THE TRIAL JUDGES TREAT PDs, THE RCCs, STATE ATTORNEYS AS FUNGIBLE.

>> RIGHT.

>> AN ATTORNEY COMES IN AND NOT REQUIRE A NOTICE OF APPEARANCE. I GUESS ONE COULD ARGUE AND ONE WOULD SAY THAT WOULD BE A TECHNICAL VIOLATION OF THIS RULE.

>> THAT IS THE WAY I'M LOOKING AT IT.

SEEMS TO ME THAT IS WHAT IT'S SAYING AND IT IS CONTRARY TO YOUR NORMAL, YOUR EXPERIENCE OVER THE YEARS OF PRACTICE OF LAW IN THAT CONTEXT.

>> CERTAINLY.

I DISCUSSED THIS WITH MISS BORMAN.

THAT IS PROBABLY THE THING THAT DOESN'T MEET-- UNLESS THE

OFFICE WHICH, IS REALLY
ADDITIONAL COUNSEL AND--
>> IS THAT REALLY DIFFERENT?
BECAUSE I THOUGHT MISS BORMAN
SAID THE TRIAL JUDGE COULD ALLOW
YOU TO DO THAT, OR, THE TRIAL
JUDGE COULD EITHER TELL YOU YOU
HAVE TO FILE THE NOTICE OF
APPEARANCE?
THAT YOU COULD COME IN AND FILE
ONE OR NOT FILE ONE AT THE TRIAL
JUDGE'S DISCRETION.
I THOUGHT THAT IS WHAT SHE WAS
SAYING THIS RULE WOULD ALLOW?
>> IT APPEARS WHAT THE RULE
PROVIDES A PERSON COULD COME IN
AS ADDITIONAL COUNSEL AND NOT
FILE A NOTICE OF APPEARANCE.
>> RIGHT.
>> HOWEVER, THEY WOULD BE COMING
IN ONLY FOR A PARTICULAR COURT
PROCEEDINGS.
IN OTHER WORDS, NOT A PARTICULAR
ISSUE LIKE LIMITED
REPRESENTATION COUNSEL BUT A
PARTICULAR COURT PROCEEDINGS
LIKE A PRETRIAL PROCEEDING
AND--
>> THE ONLY, AGAIN, THINK OF MY
EXAMPLE OF SOMEBODY WHOSE
GETTING TIME SERVED.
>> OF COURSE.
>> THAT PERSON IS GETTING OUT
TODAY AND THE LAWYER ASSIGNED TO
REPRESENT THEM, PUBLIC DEFENDER
GETS CALLED TO TRIAL BEFORE
ANOTHER JUDGE WHO DOESN'T WANT
TO LET HIM COME BACK BECAUSE HE
WANTS TO START PICKING A JURY.
NOW WE HAVE THIS PERSON WHO
HASN'T FILED A NOTICE.
SO UNDER THIS RULE JUDGE SAYS
NO, I WANT A NOTICE BEFORE THIS
CAN BE DONE, THAT MY GUY MAY DO
ANOTHER DAY OR COUPLE DAYS IN
JAIL TO ACCOMPLISH THIS.
>> WE DON'T WANT THAT TO HAPPEN.
ALSO JUST TO YOUR QUESTION, SIR,
BRINGS UP ANOTHER ISSUE WHETHER
THAT PLEA WOULD BE SUBJECT TO

COLLATERAL ATTACK WAS A NULLITY
BECAUSE ALL THE ATTORNEY'S
ACTIONS WERE A NULLITY.

>> AS YOU KNOW WE'LL GET THE
COLLATERAL ATTACK NO MATTER
WHAT.

YOU CAN'T WIN.

>> THAT IS VERY TRUE.

>> SEEMS THIS RULE, IT IS GOING
AGAINST THE PRACTICAL ASPECTS OF
PRACTICE OF LAW AS IT HAS BEEN
CONDUCTED FOR YEARS.

I UNDERSTAND THERE MAY BE A
TECHNOLOGY ISSUE BUT THIS TO ME
SEEMS WE'RE PLACING TECHNOLOGY
ISSUE, SECURITY AND ACCESS TO
FILES, ABOVE HOW CASES ARE
ACTUALLY PROCESSED THROUGH THE
COURTS OF THIS STATE AND HAVE
BEEN APPARENTLY SAT FACT-- IS
THERE A PROBLEM LETTING
DIFFERENT PUBLIC DEFENDERS
APPEAR OR STATE ATTORNEYS?

>> I DON'T THINK SO.

>> I DON'T THINK SO EITHER.
JUST SORT OF A RHETORICAL
QUESTION.

>> LET US MOVE ON.

>> THANK YOU.

>> FIVE MINUTES OFFER YOUR TIME
THERE.

JUST ABOUT.

>> THANK YOU FOR THE COURTS'S--

>> WE HAVE SOME OTHER CASES
TODAY.

>> GOOD MORNING MR. CHIEF
JUSTICE, MEMBERS OF THE COURT.
I AM WARD METZGER I'M CHAIR OF
THE JUVENILE COURT RULES
COMMITTEE.

IF I CAN FOLLOW UP WITH, I
BELIEVE WHAT JUSTICE POLSTON AND
WHAT JUSTICE LEWIS ASKED, OUR
POSITION AS JUVENILE
PRACTITIONERS IS, THIS RULE DOES
NOT SOLVE ANY PROBLEM THAT WE
SEE.

IN FACT, IT CREATES FOR US
TREMENDOUS PROBLEMS BECAUSE OF
THE USUAL PRACTICE OF LAW.

AS THE COURT IS WELL AWARE, BOTH CASE, BOTH TYPES OF CASES IN JUVENILE, DEPENDENCY AND DELINQUENCY CASES PRIMARILY BEGIN WITH A SHELTER HEARING OR A DETENTION HEARING.

AT THOSE HEARINGS SOMEONE'S FILED A PETITION, USUALLY LAWYER FOR THE DEPARTMENT, IT MAY BE IN A DEPENDENCY CASE, IT MAY BE LAWYER FOR THE GAL WHO FILED A SHELTER PETITION IN A DELINQUENCY CASE.

IT IS USUALLY THE STATE ATTORNEY AS OFFICE BUT THE DEPARTMENT OF JUVENILE JUSTICE MAY ALSO FILE THOSE PETITIONS.

HEARINGS ARE SCHEDULED, EVERYONE GOES TO COURT.

THE VAST OVERWHELMING MAJORITY OF LAWYERS IN THE COURTROOM ARE GOVERNMENT LAWYERS.

NOW WE RECOGNIZE WHAT THE COMMITTEE IS ATTEMPTING TO DO IS ADDRESS IT-- PRIMARILY RELATED TO LAW FIRMS VERSUS LAW FIRMS, LAWYERS VERSUS LAWYERS IN SITUATIONS WHERE YOU HAVE PRO SE INDIVIDUALS THAT MAY NEED TO BRING SOMEONE IN BUT WE DON'T FIT.

SO WE TOOK THE POSITION AS JUVENILE PRACTITIONERS, WE GAVE YOU, PROPOSED THREE DIFFERENT OPTIONS HOW TO ADDRESS THE SITUATION OF JUVENILE COURT BUT ALL THREE HAVE ONE UNIFORM COMMON FACTOR, KEEP US OUT.

WE DON'T WANT TO BE SUBJECT TO THE PARTICULAR PARAMETERS OF THESE RULES BECAUSE OF ALL OF THE PROBLEMS THAT THEY CREATE.

>> COULD I ASK YOU A QUESTION?

>> YES, SIR.

>> DO YOU BELIEVE THAT THE PRACTICE WITHIN THE THIS, THE AREA R TALKING ABOUT-- YOU'RE TALKING ABOUT, AS IT HAPPENS TODAY, IS CONSISTENT WITH THE EXISTING RULES STRUCTURE?

OR IS THERE SOME-- ARE THINGS
DONE INFORMALLY IN A WAY THAT,
WHERE THEY DO NOT ACTUALLY
COMPLY WITH WHAT THE RULES
CURRENTLY REQUIRE?

>> I WOULD SAY ON THE DEPENDENCY
SIDE I DOUBT THAT WE FOLLOW THE
RULES STRUCTURE IN THE SENSE
THAT WHEN AN ATTORNEY MAKES AN
APPEARANCE IN COURT, YOU FILE A
NOTICE OF APPEARANCE.

I DOUBT THAT'S DONE STATEWIDE.

>> DON'T YOU SEE THAT IS
PROBABLY NOT A GOOD THING?

>> I AGREE COMPLETELY.

>> SO SEEMS TO ME EVERYBODY
OUGHT TO AGREE THAT OUR, THE
RULES STRUCTURE AND THE PRACTICE
SHOULD BE CONSISTENT?

>> I AGREE WITH THAT.

>> THAT WE FIGURE OUT HOW TO DO
THAT AND SO THAT'S WHAT I'M
STRUGGLING WITH.

BUT I'M HEARING YOU SAY WE DON'T
WANT ANY CHANGES BUT WHAT WE'RE
DOING IS NOT ENTIRELY CONSISTENT
WITH THE RULES.

SO THAT CAUSES ME TO THINK WELL,
WHAT IS GOING ON HERE?

>> JUSTICE CANADY THERE IS
ANOTHER PART AS WELL, WE DID
TAKE THE POSITION WE WANTED TO
BE EXCLUDED FROM THESE RULES.
IN RESPONSE TO THAT THE RJAC
COMMITTEE THEN LOOKED AT OUR
CONCERNS AND RECOGNIZED THAT WE
DO HAVE CONCERNS, AND THAT
PERHAPS WE NEED TO BE TREATED A
LITTLE BIT DIFFERENTLY.

SO WHAT YOU YOU HAVE IN YOUR
PACKET, WHAT HAS BEEN PROPOSED
IS WHAT I'M REFERRING TO IS THE
COMPROMISE POSITION, WHICH
CHANGES THE DYNAMICS OF HOW THE
RULE APPLIES IN JUVENILE COURT.
WE'RE FINE WITH WHAT IT IS THAT
WAS PROPOSED.

>> I KNOW THIS IS, YOU'RE OUT OF
TIME, BUT I HAVE TO ASK THIS
QUESTION.

JUVENILE DELINQUENCY,
ESSENTIALLY, THOUGH IT SHOULD BE
SIMPLIFIED IT IS SIMILAR TO A
CRIMINAL CASE.

YOU'VE GOT THE STATE ATTORNEY
AND YOU'VE GOT THE PUBLIC
DEFENDER.

DEPENDENCY YOU'VE GOT ANYONE
THAT HAS BEEN IN THE COURTROOM
FOR A DEPENDENCY CASE, YOU HAVE
THE ATTORNEY FOR GUARDIAN
ADLITEM WHO IS CONSIDERED A
PARTY AND THAT ATTORNEY MAY VARY
FROM DAY-TO-DAY.

YOU HAVE AN ATTORNEY FOR EACH
PARENT.

YOU'VE GOT AN ATTORNEY, AND
SOMETIMES, IN 15th JUDICIAL
CIRCUIT YOU HAVE AN ATTORNEY FOR
THE CHILD.

AND NOW THEN, YOU MAY HAVE IT
MAY BE A UNIFIED CASE.

NOW YOU HAVE A FAMILY CASE.
YOU HAVE DOMESTIC VIOLENCE.

THOSE SITUATIONS ABOUT WHO HAS
TO DO WHAT I THINK THERE YOU
NEED SOME COURT MANAGEMENT WHO
SHOULD FILE AN APPEARANCE.

YOU KNOW, WHO IS RESPONSIBLE.

WOULD YOU AGREE IN THOSE
SITUATIONS WHERE THE CASE IS
UNIFIED, THAT THERE MAY BE
DIFFERENT CONSIDERATIONS?

>> ABSOLUTELY.

I THINK IT NEEDS TO BE CLEAR WHO
THE LEAD LAWYER IS, WHO IS
RESPONSIBLE FOR THE CASE.

THE WAY WE HAVE, I HOPE I'M
ADDRESSING YOUR QUESTION HERE,
BUT WHAT WE HAVE DONE WITH THE
PROPOSED COMPROMISE IS, ALLOW
THE GOVERNMENT AGENCIES TO BRING
IN LAWYERS TO PARTICIPATE, TO
COVER HEARINGS, TO SIT AT SECOND
CHAIR, WHATEVER IT IS.

THE OTHER ONES THAT HAVE OTHER
INDIVIDUAL LAWYERS THAT MAY BE
ATTACHED, THE, GUARDIAN ADLITEM
PERHAPS FOR THE CHILD, IT'S
STILL COVERED UNDER THE PROPOSED

COMPROMISED RULES HOW THEY FILE
NOTICES OF APPEARANCES AND GET
IN AND GET OUT OF CASES.

I HOPE I ANSWERED YOUR QUESTION.

>> WELL IT SHOWS IT IS
ANOTHER-- THAT MAY BE MORE
COMPLEX FOR OTHER REASONS WHO
ALL THE ATTORNEYS ARE AND WHO
NEEDS TO BE NOTICED.

SO I APPRECIATE THAT, THANK YOU.

>> I SEE MY TIME IS UP.

THANK YOU VERY MUCH.

>> IF IT PLEASE THE COURT,
THOMASINA MOORE FOR THE
STATEWIDE GUARDIAN ADLITEM
OFFICE.

AS THE CONCERNS RAISED IN THE
GUARDIAN ADLITEM'S ITEMS WERE
ADDRESSED BY THE JOINT RESPONSE
AND ADDRESSED VERY WELL BY
MR. METZGER HERE TODAY AS WE
SHARE SIMILAR CONCERNS, I WOULD
LIKE TO CEDE MY TIME TO MISS
BORMAN FOR REBUTTAL UNLESS THE
COURT HAS QUESTIONS?

THANK YOU.

>> JUST FOUR POINTS IF I MAY TO
ADDRESS SOME OF CONCERNS RAISED
DURING THE DISCUSSION.

WITH REGARD TO SUBSECTION G,
THAT WAS PROPOSED BY VISION 2016
WITH ACCESS TO COURT IN SYSTEM.
IT WAS BROUGHT TO THE RJA.

WE REALIZED THERE WAS A RULE IN
FAMILY AND A RULE IN PROBATE.
YOU NOW THERE WOULD BE A RULE IN
CIVIL.

SO AS THE RULES OF, GENERAL
APPLICABILITY WE THOUGHT PERHAPS
IT SHOULD BELONG IN THE RJA
RATHER THAN HAVING THREE
SEPARATE LIMITED APPEARANCES.
THAT WOULD BE FOR UNBUNDLING OF
LEGAL SERVICES FOR SELF-
REPRESENTED LITIGANTS.

WITH REGARD TO JUSTICE LABARGA'S
QUESTION ABOUT THE SITUATION
WHERE YOU HAVE SOMEBODY THAT
NEEDS TO GET TIME SERVED, UNDER
THE RULE AS PROPOSED, F--D, YOU

DON'T HAVE TO FILE A NOTICE OF APPEARANCE THEN.

IF THE COURT DOES CRIER YOU TO FILE A NOTICE OF APPEARANCE YOU COULD FILE IT AFTER THE FACT. NOTHING WOULD BE A NULLITY.

>> IT ALSO ALLOWS THE COURT TO WAIVE REQUIREMENT, COVER THE HEARING AND LEAVE?

>> THAT'S CORRECT.

WITH REGARD TO COVERAGE COUNSEL ONE OF THE REASONS WE WERE WANTING TO MAKE SURE THERE WAS A NOTICE OF APPEARANCE OR AT LEAST BE EXCUSED FROM IT FOR THOSE THAT ARE PAID COVERAGE COUNSEL IS BECAUSE ESPECIALLY IN THE CIVIL AREA, IF THERE IS NO TRANSCRIPT, WE DO NOT HAVE A PAPER FILE ANYMORE.

THERE MAY NOT BE A WAY FOR THE COURT TO RECALL WHO WAS ACTUALLY THERE AS COVERAGE OR STAND-IN COUNSEL THAT DAY.

THAT WAS THE OTHER POINT.

LASTLY FOR JUSTICE CANADY.

YES WE'RE GETTING RULE IN LINE WITH PRACTICE.

ALTHOUGH THE RULE SAYS YOU SHOULD BE FILING A NOTICE OF APPEARANCE.

THAT IS WHY WE CREATED THAT SUBSECTION D TO LET PEOPLE IN AND OUT WITHOUT HAVING TO FILE A NOTICE OF APPEARANCE AND THEREBY AVOIDING THE NULLITY ISSUE.

>> I APPRECIATE THE COMMITTEE'S EFFORTS DOING THIS WORK TO TRY TO COME UP WITH THE CATEGORIES THAT WOULD FIT ALL THE CIRCUMSTANCES BUT PERHAPS MAYBE THAT IS ASKING TOO MUCH.

WOULD IT MAKE MORE SENSE TO HAVE IN THE INDIVIDUAL SETS OF RULES PERHAPS, SEPARATE DEFINITIONS OF WHAT FITS THAT PARTICULAR PRACTICE MORE SPECIFICALLY LIKE FOR THE APPELLATE, FOR THE CRIMINAL AND ALL THOSE DIFFERENT?

>> JUSTICE, THAT IS THE BIG QUESTION IS WHETHER OR NOT TO KEEP THESE RULES SOMETHING OF A COMMON ISSUE IN RJA, OR SO DIFFERENT IT SHOULD BE IN EACH OF DIFFERENT RULE SETS. THAT I BELIEVE IS A POLICY DECISION THAT I WOULD, IF THIS COURT WANTS TO ADDRESS BUT WHAT WE WERE TRYING TO DO IS TAKE INTO ACCOUNT EVERY SINGLE SITUATION OR ATTEMPT TO, BUT YET MAKE THIS RULE FLEXIBLE ENOUGH TO COVER SITUATIONS.

>> HOW MANY, YOU'RE GOING TO COME UP AGAIN, SO I WILL ASK QUESTION FOR NEXT--

>> THIS IS IT.
ASK THE QUESTION NOW.

>> JUDGE STEVENS IS ARGUING THE NEXT ONE.

>> THEN I WILL ASK HIM.

>> UNLESS YOU NEED ME TO COVER FOR HIM?

>> NEED TO FILE THE NOTICE OF APPEARANCE.
[LAUGHTER].

>> THANK YOU VERY MUCH.

>> THANK YOU.