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March 13, 2018

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Rules Comments
Hughes Justice Complex
PO Box 037
Trenton, NJ 08625-0037

Dear Judge Grant,

Please accept this comment to the proposed amendments to Rule 1:5-1. I am a Fellow of the American Academy of Matrimonial Lawyers, Certified by the Supreme Court of New Jersey as a Matrimonial Law Attorney, and board certified by the National Board of Trial Advocacy as a Family Law attorney. I am also certified as an arbitrator by the AAML and a court approved economic mediator.

The Supreme Court Rules Committee Report has made the follow proposal with regard to Rule 1:5-1:

> Proposed Amendments to R. 1:5-1 – Service: When Required The Advisory
> Committee on eCourts Civil-Law proposes amending paragraph (a) of Rule 1:5-1

to address electronic filing. Specifically, the Advisory Committee suggests that the Rule be amended to reflect that service of an order is only necessary for those parties who are not electronically served through eCourts. This proposal has been endorsed by the Conference of Civil Presiding Judges. The Committee agreed, and recommends the proposed amendments to Rule 1:5-1(a). The proposed amendments to Rule 1:5-1(a) follow.

Please note that this rule has not been amended since 1994. Therefore, I commend the committee for the proposed change. However, as a practical matter in the family part this amendment does not go far enough. My comments are therefore confined to the implications of this rule on family practice.

In many (if not most) instances, we do not receive orders on motions in court on the day of the hearing from Family Part judges. The same is true for trial decisions. The current practice is for the court to send the orders via facsimile to both attorneys. Sometimes we receive orders via regular mail, but this is an exception. The rule amendment only provides for an exception to the general requirement of service, if the parties are served via eCourts. Currently most of the family part is not on eCourts. The rule also puts the onus on both parties. Therefore, if two attorneys receive an order via facsimile from the court, on both a motion and a cross-motion, are both attorneys still obligated to serve each other with the orders? Even if we know that the other side has received same via facsimile from the court?

I suggest that a better approach would be to require the court to designate one side to serve the other when the court is generating and serving the order. I suggest that if the court does not issue an order at the conclusion of the proceedings that it be the burden of the court to serve counsel, rather than having an order served upon counsel and then having counsel serve counsel again. I'm sure that reading this is almost as annoying as having to actually do this.

I also note that generally in cases where there are two lawyers then service of orders is not an issue. However, when there is a pro se then service is an issue. I would also suggest that the requirement of service be placed on the party that is represented by counsel if one party is so represented and the other is not.

While the civil practice committee is charged with making suggestions on the Part 1 rules, there appears to be a lack of recognition as to the day to day issues faced in the family part. In particular, I would note that in any given divorce case there may be 10-15 orders generated. This includes: case management orders; pre-trial orders; orders of referral to economic mediation; orders on motions; orders granting and denying adjournment requests (yes this is happening); scheduling orders; etc. The court may receive a Case Management Order by mail and then send a copy back to both attorneys

after it is signed. Are we to then also send copies to each other? If we appear for ESP and an order referring the parties to economic mediation is drafted, but we do not have a date for the mediation the court will wait to send out the order until after we provide a date. Then the order would be faxed to both counsel. Are we to then also send copies to each other? I can provide additional examples, but I believe that the point is manifest. If both counsel was obliged to have to serve all of these orders (again) on opposing counsel there would be an unnecessary waste of time and paper on service and re-service of orders.
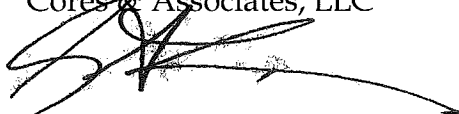
Finally, I would note that after a discussion with several other attorneys who primarily practice family law, the bar does not seem to be in strict compliance with this rule when the court is serving the parties. This means that if attorneys are handed orders in court, they are not serving their adversary who is also present in court. If attorneys are receiving orders via facsimile, then are not serving the adversary who is also receiving the order directly from the court.

I have copies Judge Sabatino on this communication as he is chair of the committee. If my comments are not considered this cycle I would hope that his committee will consider them next time. I have the pleasure of knowing Judge Sabatino since law school and I am happy to speak with him about my concerns if he deems same appropriate.

Thank you for your time and consideration of my comments.

Respectfully submitted,

Cores & Associates, LLC

Amy Sara Cores, Esq.

Cc   Hon. Jack M. Sabatino, P.J.A.D., Chair