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July 18, 2008

Judge Diane Strickland
809 Oakwood Drive SW
Roanoke, Virginia 24015

Dear Diane:

Enclosed is the Report of our Committee. Although we had a majority for the recommendation, there was a dissent which is primarily based on the concerns of the sitting Juvenile and Domestic Relations Court judges that the rule should not be amended to add depositions. I would expect that this proposal will generate some interest and debate at the Conference.

If you'd like me to e-mail this to you or someone else so that it would be more available for publication or disk, let me know.

Sincerely,

John M. Oakey, Jr.

JMOjr:dc

Enclosure

cc: Members of the Committee

REPORT TO BOYD GRAVES CONFERENCE

JUVENILE COURT DISCOVERY

ASSIGNMENT

This Committee was asked to review and report back to the Conference its recommendations in regard to the following assignment:

> Whether the Juvenile and Domestic Relations Court discovery rules should be amended to permit use of depositions, either as a matter of right or upon good cause shown.

Several members of the Conference and others have recommended that the discovery rules for the Juvenile and Domestic Relations Courts be expanded to allow depositions and also that provision should be made for taking depositions that could be used as evidence during a hearing.

HISTORY

Prior to 1992 there was no rule pertaining to discovery in Juvenile and Domestic Relations Court except in criminal or support cases. Many judges had permitted discovery by interrogatories but there was no official rule for this procedure. It was recommended to the Judicial Council that the practice should be made uniform throughout the state, and the discovery rules were amended to add:

> "In all other proceedings the Court may, upon motion timely made and for good cause, enter such orders in aid of discovery and inspection of evidence as is permitted under Part Four of the Rules, except that no depositions may be taken." Rule 8:15(c) ["Exhibit A"]

The notes to this change state that depositions were not recommended because of the cost involved. This rule has not been changed since it was enacted in 1992.

There is a large body of case law and rules that apply to the taking of depositions in cases before the Circuit Court for discovery and so that the evidence can be used at trial. These rules have developed and been amended over the last 30 years so that the procedure is now well

established and used frequently. Many of the lawyers who practice family law have had the opportunity to follow these procedures.

The only rule or statute that applies to discovery in the Juvenile and Domestic Relations Court is Rule 8:15. The attorneys who practice family law have indicated that some judges allow depositions to be taken and used as evidence. It appears that the use of this procedure is not uniform throughout the state.

ACTION OF THE COMMITTEE

Because of the size of the Committee and the schedules of the attorneys and judges involved, the Chairman decided that the Committee should meet by e-mail, letter and telephone conferences. This was satisfactory to the members of the Committee, and everyone was given the opportunity to comment or to file a dissenting report.

Initially, a two-page e-mail was sent to each of the Committee members outlining the assignment and asking for comments from each of the members. At that time the Chairman had talked to several people about what should be done and although there was some opposition, most of those contacted favored adding depositions to the discovery rule. A copy of this letter is attached to this report as "Exhibit B."

Most of the Committee responded, and it initially appeared that, although there was still some opposition, the Committee Report would probably recommend such a change. Judge Tower submitted the question to the Judges of the Juvenile and Domestic Relations Court through their e-mail system. She received a number of responses, the vast majority of which opposed expanding the discovery to add depositions. The Judges felt that this would make a court not of record more like a circuit court; it might cause them a lot of extra work in an already over-burdened court system; it would not properly protect unrepresented parties; that the cost

would be excessive; and that discovery depositions were a procedure that should be limited only to the Circuit Court. The lawyers on the Committee and other lawyers to whom the Chairman talked seemed to uniformly be in favor of adding discovery depositions. They, of course, represented clients who could afford to pay attorneys and wish to do everything within their means to represent their clients fully and properly.

Any change would have to be accomplished by a change in the current rule. It seemed very unlikely that the Judicial Council would amend the rule with such strong objections from the judges. It also appeared to the Chairman that the lawyers felt much more strongly about having depositions available for use at trial than for discovery.

A second letter was sent to all members of the Committee, and a copy is attached as "Exhibit C." This letter requested a vote on specific actions from members of the Committee. Although initially certain members had recommended adding discovery depositions, a majority of the Committee did not vote for this proposal.

Most, but not all of the Committee, voted to support a new rule which would permit an attorney or party to take a deposition for use during a hearing if a motion was timely made and good cause shown. This is commonly referred to as a de bene esse deposition. No one felt that if such a rule were passed, it should contain more restrictions than that set forth in the current Rule 8:15(c) that contains a requirement that a motion be timely made and good cause shown.

RECOMMENDATION

The Committee recommends to the Boyd Graves Conference that it endorse a new separate rule to be added to the rules of the Juvenile and Domestic Relations Court which would permit an attorney or party to take a deposition for use during a hearing before the court if a motion has been timely made and good cause shown.

The Committee did not prepare such a rule since it felt that the Judicial Council and other agencies more familiar with preparation of rules would know exactly how to prepare the rule so that it would fit into Section 8 of the Rules and what language would be necessary so that it would be properly worded and legally sound.

REASONS FOR RECOMMENDING A RULE CHANGE

There are a number of reasons for recommending that the rule be changed. Most attorneys have had a case where this would have been helpful to them. The Committee will list certain of the reasons stated but there obviously are others:

1. Having all of the testimony available to the Court would result in a fairer decision.

2. Having the opportunity to have all of the evidence may save overall court time because it could possibly reduce the number of appeals.

3. Sometimes it's impossible to get testimony which would be relevant and important unless a deposition can be taken. This would apply in cases where the witness is out of state.

4. The Court can protect unrepresented parties by setting restrictions on how the deposition can be taken.

5. Times have changed since 1992 and cases in the Juvenile and Domestic Relations Court are more complicated, and such a procedure is necessary.

REASONS AGAINST RECOMMENDING DE BENE ESSE DEPOSITIONS

The Committee did not have a member who was an unrepresented party or could speak for such a party. Most of us could state the reasons against allowing such depositions. Judges were concerned about this additional procedure being added to their current rules. Among the reasons against such a procedure the following was expressed:

1. Such a procedure would add an additional burden to an already over-burdened Court.

2. It makes the Juvenile and Domestic Relations Court too much like a court of record.

3. Taking depositions involves more cost than should be allowed in a court not of record.

4. Unrepresented parties may not be properly protected, and there are a large number of unrepresented parties in this Court.

The members of the Committee are as follows:

Lawrence D. Diehl
Hon. Marilynn Goss
Laurie E. Forbes
Hon. Robert P. Frank
Reeves W. Mahoney
Hon. Winship C. Tower
Carol D. Woodward

John M. Oakey, Jr., Chairman

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DISSENT TO REPORT

During the deliberations of our Committee, one of our members, Judge Tower, submitted our question to the sitting Judges on the Juvenile and Domestic Relations Court. Attached to this Dissent are their responses. Approximately 20 Judges responded and only one favored permitting depositions.

This dissent is based on these responses, comments already stated in the Report and concerns of members of the Committee.

Oakey, John M. Jr.

From: WTower@courts.state.va.us
Sent: Friday, April 25, 2008 11:16 AM
To: Oakey, John M. Jr.
Cc: laurie.forbes@verizon.net; LDiehl@BarnesFamilyLaw.com; mahoney@hpmlaw.com; marilynn@cvlas.org; rfrank@courts.state.va.us; woodwardcd@aol.com
Subject: Re: FW: Memo to Committee Members J&DR Disc

I have now heard back from a number of JDRCT judges. Almost all of those responding oppose the use of depositions in JDRCT. Rather than try to speak for the various judges, I will post their comments below. There is a Law Revision Committee of the District Court Conference, which vets all legislation affecting the district courts. I think the comments below probably reflect pretty clearly the opposition that would come from that Committee were Boyd Graves to adopt a proposed rule change allowing the use of depositions in JDRCTs. I hope this input is helpful...it certainly gives you a feel for the practical and fairness concerns of the judges.

1.Connie Frogale, Alexandria J & DR Court

CON: Most of the people in our courts are pro se litigants and will derive no benefit. Costs will be increased significantly to parties with attorneys using discovery. Those with lawyers will gain a significant advantage over the pro se litigants. Interrogatories, Requests for Admissions, and Requests for Production of Documents will more than cover the need to make appropriate rulings in J & DR Court. Authorizing depositions opens an entirely new subject area that will take up the court's time to monitor. There will be more litigation over deposition disputes and very likely more emergency matters regarding deposition issues. This court already has more emergency matters to handle than any other court. Depositions are recorded and under oath as an extension of the courtroom, so the court will be required to provide overall supervision of the fairness of these proceedings. Deposition disputes would likely cause more requests for continuances and extend the time for final case closure in each case. J & DR trials will become longer in cases where depositions have been taken. Using depositions to impeach witnesses at trial is a time consuming and arduous process. The Circuit Court trial de novo will actually change somewhat and become a trial with all or part of a record below. One of the primary uses of depositions in other state courts and in federal courts is to allow for summary judgment. VA law prohibits the use of depositions for summary judgment, so even this key purpose will not be accomplished by allowing depositions.

PRO: In cases where there are lawyers, depositions may frame the issues better and facilitate settlements. This could save court time; however, courts usually set trial dates/times long before depositions would be completed. Therefore, the only savings would be to remove trial time already scheduled. This seems unlikely in light of the de novo appeal system we have.

2. Judge Ronald Bentsen:
Judge Frogale's "cons" are dispositive of this issue for me. If we add more to the burden of district-level case management, we'll next be talking of using commissioners in chancery to keep from having to add additional judges and real estate to house them!

3. James E. Hume, Chief Judge
I have had little experience in the use of depositions. However, I found Judge Bounds' analysis of the issue to be very convincing. I'm not interested in giving up the docket time and organization that the Next Day Docketing System has liberated. Of course I am open to hearing from the proponents. To what degree has encouraging litigants with Attorneys to utilize pre-trial discovery been helpful? I have had mixed results. In hard

fought custody cases some have ignored my encouragements to try to limit the issues for trial.

4. Judge Joseph P. Bounds
Judges, Rule 8:15 refers back to Rule 7C:5 and simply allows pretrial discovery that is mainly "boiler plate". Our courts get these requests all the time, mainly in criminal matters and the CA's office responds to the request in a timely manner. My concern is not to the use of depositions as they were very useful in civil matters when I was in private practice. According to OES information as to judicial workload (2007) the range of hearings is from 13,738 to 5,181 per judicial district. The 23rd Judicial District has an average of 12,149 with four judges. If depositions are permitted at our level, my feeling is that there will an increase in hearings either pretrial or objections at trial which will push our dockets even further behind than they are ready are. I still believe that there should be "live" testimony with the ever present exceptions that we all deal with everyday. I join with Judge Klein in her position.

5. Judith A. Kline, Judge
My initial reaction is to oppose the use of depositions in our courts, although I can foresee some limited situations where they might be appropriate in a civil case (such as support or custody). However, I have taken evidence by telephone, using a speaker phone, in those civil cases where someone lived in another state and it has worked well. Personally I prefer to have some contact w/ the witness, at least voice, if he/she cannot be present in the courtroom.

6. Judge Janice Wellington
I agree with Judy's assessment.

7. Judge Dale Wiley
I oppose such an amendment.

8. Thomas W. Carpenter, Judge
Judges Bounds and Frogale very capably list the reasons why this is not a good idea.

9. Judge Debbie Bryan
I agree - no need to try to once again to turn us into a court of record. Depos would be extremely difficult and expensive for our pro se litigants. I would oppose expanding their use in our courts.

10. Judge Robert B. Wilson, V
I'll put my 2 cents in. I agree with all the other judge's concerns against depositions at our level. They belong in Circuit Court, not District Court.

11. Judge Paul A. Tucker
Thanks for the notice and chance to have input.
I don't run into this issue much, but I find Judge Frogale's con arguments persuasive.
With appreciation

12. Judge Stacey W. Moreau
I concur with Judge Deatherage.

13. Judge Randy M. Blow
I concur with Judge Deatherage, Judge Moreau and anyone else who thinks it's a bad idea.

14. Judge Susan Deatheridge
Judge Frogale summarized the cons very well. If there are attorneys retained early on in a civil case, then the depositions could possibly expedite matters. However, I do pretrials and find that they help narrow the issues. It is rare that I have cases with both parties represented by counsel . I sometimes have situations where a party retains counsel shortly before trial date. I could see the use of depositions delaying cases further based upon a request to continue to take depositions. If the conference supports the use of depositions, I would hope that guidelines and time restrictions be placed in the rules to prevent delays in rescheduling.

15. Judge A. Ellen White
I share some of the concerns that have been raised by our colleagues, particularly as to the expense and impact on pro se litigants. I agree that ample discovery is already available in our courts.

16. JUDGE VALENTINE SOUTHALL
DITTO TO ALL THE COMMENTS WHICH AS FAR AS I CAN TELL ARE UNANIMOUS IN OPPOSING DEPOSITIONS IN OUR COURTS. TO THE EXTENT WE PROVIDE A SERVICE TO THE PUBLIC IT IS IN PROVIDING A LOW COST, RELATIVELY SIMPLE WAY TO RESOLVE DISPUTES. THE MAJOR PORTION OF MY CASELOAD INVOLVES PRO SE LITIGANTS ON AT LEAST ONE SIDE OF THE CASE. DEPOSITIONS ARE BEYOND THE REACH OF THESE PEOPLE, AND IF ALLOWED TO ONE SIDE REPRESENTED BY COUNSEL WOULD CREATE A MORE SEVERE IMBALANCE IN FAVOR OF THE REPRESENTED PARTY. EVEN NOW, WITH THE DISCOVERY THAT IS PRESENTLY ALLOWED I THINK THAT COUNSEL ASKS FOR DISCOVERY JUST A PROPHYLACTIC MEASURE TO AVOID MALPRACTICE LIABILITY RATHER THAN TO GATHER USEFUL INFORMATION. I THINK THIS DEVICE IS INCONSISTENT WITH OUR OVERARCHING GOAL OF EASY ACCESS AND USE OF THE COURT.

17. Judge Joe Ellis
Unlike the majority, I would favor the optional use of depositions. No, I don't think they should be used often, but I want every tool available in my "judicial toolbox". We all know that driving a screw with a hammer is clumsy at best, and the right tool is essential for a good job. Sometimes, depositions are the only tool that might do the job. I do not support the frequent or liberal use of depositions, especially of the parties. However, I have had quite a few cases in which an out-of-state witness could have provided very relevant and material testimony via deposition when they were otherwise unavailable. I agree with the majority of the concerns expressed - but they ignore a fundamental point: that it is within the trial court's discretion as to whether that form of discovery should be granted - and perhaps the court's discretion should be limited to those circumstances in which a material witness is otherwise unavailable. Just some thoughts.

Winship C. Tower
Judge
Virginia Beach Juvenile and Domestic Relations District Court Judicial Complex Bldg. 10A
Virginia Beach, VA 23456

Oakey, John M. Jr.

From: WTower@courts.state.va.us
Sent: Wednesday, April 30, 2008 2:06 PM
To: WTower@courts.state.va.us
Cc: Oakey, John M. Jr.; laurie.forbes@verizon.net; LDiehl@BarnesFamilyLaw.com; mahoney@hpmlaw.com; marilynn@cvlas.org; rfrank@courts.state.va.us; woodwardcd@aol.com
Subject: Re: FW: Memo to Committee Members J&DR Disc

Here are a few more comments:

Judge Avelina Jacob: For all the reasons expressed by all the judges who have already responded to your inquiry, I am opposed to the use of depositions in the Juvenile Court.

Judge Pamela Brooks: For all of the reasons previously stated by my esteemed colleagues, I agree that allowing depositions in JDR Court is a horrible idea.

Judge Phil Trumpeter:
I agree with the sentiment of the other judges, and I feel that expanding this would be burdensome to pro se litigants. Thanks for allowing us to give input.

Winship C. Tower
Judge
Virginia Beach Juvenile and Domestic Relations District Court Judicial Complex Bldg. 10A
Virginia Beach, VA 23456

Rule 8:15. Discovery.

(a) *Adult Criminal Case.* In any cases involving adults charged with crime, the provisions of Rule 7C:5 shall govern discovery.

(b) *Juvenile Delinquency Cases.* In juvenile delinquency cases, when the juvenile is charged with an act that would be a felony if committed by an adult, or in a transfer hearing pursuant to § 16.1-269, the court shall, upon motion timely made by the juvenile or the Commonwealth's Attorney, and for good cause, enter such orders in aid of discovery and inspection of evidence as provided under Rule 3A:11.

In juvenile delinquency cases when the juvenile is charged with an act that would be a misdemeanor if committed by an adult, the court shall, upon motion timely made and for good cause, enter such orders for discovery as provided under Rule 7C:5.

(c) *Other Cases.* In all other proceedings, the court may, upon motion timely made and for good cause, enter such orders in aid of discovery and inspection of evidence as permitted under Part Four of the Rules, except that no depositions may be taken.

(d) In proceedings concerning civil support, the judge may require parties to file a statement of gross income together with documentation in support of the statement.

Comment. — The rule covers discovery in all types of cases in Juvenile and Domestic Relations District Court.

With regard to adult criminal cases, the rule would allow the same discovery that is allowed in the general district courts under Rule 7C:5. This would also be consistent with § 16.1-259(A).

With respect to juvenile delinquency cases, where the juvenile is charged with a felony or is the subject of a transfer hearing, the subcommittee believes that the juvenile should be afforded the same discovery rights as an adult under Rule 3A:11 in view of the potentially serious loss of liberty in such cases. To require less might result in a claim of denial of equal protection of law. However, in misdemeanor cases juveniles would be granted the same, more limited discovery as adults under Rule 7C:5.

In civil cases (c), the subcommittee recommends that all of the forms of discovery authorized by Part Four of the Rules be permitted in Juvenile and Domestic Relations District Court except for the taking of depositions. The subcommittee did not recommend depositions because of the cost involved. However, the other types of discovery, such as interrogatories and motions for production, are already commonly used by many attorneys in Juvenile and Domestic Relations District Court and should be officially sanctioned in order to promote uniform procedure among the courts.

Rule 8:16. Arraignment in Juvenile Delinquency Cases.

Arraignment in a delinquency proceeding shall consist of reading to the juvenile the charge on which the juvenile will be tried and calling on the juvenile to plead thereto, and it shall be conducted in court. Arraignment may be waived by the juvenile in court, or by counsel.

Comment. — The Code is silent on this phase of a juvenile proceeding. It is felt that this gap in the Code should be filled in to have the rules more closely track an actual delinquency case. See Rule 8:18 on the types of pleas by the juvenile.

"EXHIBIT B"

To the Committee Members on Juvenile Court Discovery

Our committee has been directed to make a report and recommendations to the Boyd Graves Conference on the following assignment:

> Whether the Juvenile and Domestic Relations Court discovery rules should be amended to permit use of depositions, either as a matter of right or upon good cause shown. Also, the use of depositions taken in J&DR Court could be used as evidence in de novo appeal hearings in Circuit Court.

I have talked to several of you and several other people who were involved when the rule was initially passed. I will outline what I've been told and my views. I am open to any corrections or additions. Most of you have better knowledge than I in this area.

Apparently, prior to 1992 there had been some discovery allowed in the Juvenile Courts although there was no specific rule allowing it. A subcommittee at that time recommended to the Judicial Council the language which is currently found in Rule 8:15(c). The Rule states: "In all other proceedings, the court may, upon motion timely made and for good cause, enter such orders in aid of discovery and inspection of evidence as is permitted under Part Four of the Rules, except that no depositions may be taken." The notes further state that the subcommittee does not recommend that depositions be available because of the cost involved. There has been no change to this section of Rule 8:15(c) since it was enacted.

At this point I've talked to probably six or seven people and only one had any objection to adding depositions. Several indicated to me that it would save court time in some cases and that they did not think that it would be a problem. They felt that the Juvenile Court Judges would not allow depositions if cost was a problem or if one of the parties was pro se. At least one also indicated to me that things may be a little different in these courts today in contrast to the way these cases are being handled back when the Rule was originally enacted. Everyone felt that good cause should be required.

I also talked to Bob Shepherd who was on the committee that drafted the Rule and he felt that the change would probably be a good thing at this time. I called Lilia Hopper of the Supreme Court but she hasn't been available yet. She was also on the original committee.,

The only concern was expressed by Christy Marra of the Virginia Property Law Center. She first supported it and then said she had some concern because of the cost involved. Her main point was that sometimes there are substitute judges in the Juvenile Court and they may not be as well versed in how to handle such a matter as the regular judges. I told her I would pass her comment along to the committee but I had a question as to whether thinking the judge might do something improper was a legitimate reason not to make the change.

If we vote not to make the change, obviously there would be recommendation as to the language of the Rule. If we vote to make the change, it seems to me that the easiest thing would be to delete the words "except that no depositions may be taken." By doing this the court on a showing of good cause could follow the same discovery rules as exists in the Circuit Courts.

The second charge we have is whether those depositions could be used as evidence in de novo appeals in the Circuit Courts. I really don't know whether other discovery could be used in the appeal but it seems to me that we should not put depositions in a different category than other discovery.

I would ask that each member of the committee respond to this e-mail by an e-mail which is sent to everyone on our committee with your comments, suggestions or recommendations. After I sift through these, I will see whether we need to have some type of formal vote or whether there appears to be a consensus as to our actions. If anyone thinks we should take a different approach than mine, let me know. I want to be sure that we have all alternatives under consideration. If possible, I would appreciate each of you answering this within the next two

weeks so that I can see where we stand and then make a decision as to how we handle this matter further. Thanks in advance for your in-put.

John M. Oakey, Jr.

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"EXHIBIT C"

JOHN M. OAKEY, JR.

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June 9, 2008

Dear Committee Members:

I am sending this by letter rather than e-mail to make sure that everyone receives it, and I ask that you respond either by telephone call, letter or e-mail directly to me so that I can put everything together and decide whether it appears that we can reach any decision. I have gone back over everything and will try to summarize where we are. I will be on vacation until the 20th of June and will be back in touch with each of you by the end of the month. Hopefully, by the time I return, I will have received some answers as to your positions.

The committee is pretty split on my initial suggestion to simply add "depositions" to Rule 8:15(c). Lawyers seem to favor it and judges oppose it. It was significant to me that so many of the Juvenile Court judges opposed this change but I can understand why. I agree that we should not make the discovery rules for the Juvenile Court the same as the discovery rules for the Circuit Court.

In the discussions I have had with several of you, it appeared to me that the lawyers were more concerned about being able to take depositions that they could use at a hearing then they were just using them for discovery. Several cited situations where they had run into problems getting a court to allow depositions for this purpose. I don't believe there's any rule under Section 8 that currently would allow that even though some judges permit it.

Let me give you a bit of history about this situation in the Circuit Court which I believe is correct. Initially, there was no Section 4, but sometime in the fifties or sixties that section was added, and my recollection is that originally it was only a few rules and applied only to discovery. It did permit discovery depositions, and one of the sections required a list of situations under which those depositions could be used as evidence in a court hearing. Section 4 has been amended and expanded, and I notice now that even the title states "Pre-Trial Procedures, Depositions and Production at Trial." I remember early in my career that there were problems using depositions at trial, and I cannot remember how it occurred but at some point de bene esse depositions (those taken for use at trial) became an accepted way of obtaining evidence.

Coming back to the Juvenile Courts, it was interesting to me that when the discovery rule set forth in 8:15(c) was passed in 1992, the note mentioned that the Juvenile and Domestic Relations Courts were allowing such discovery in some cases and the rule was passed so that it would be "officially sanctioned in order to promote uniform procedure among the courts." I assume this was done because there were some courts that did not allow it. From the information some of you have given me, it appears that in some cases judges are allowing de bene esse

depositions even though there is no such rule. I assume there are judges who do not allow it because there is no rule.

Since the judges seem to oppose the expansion of discovery to depositions and lawyers seems more interested in having the right to take de bene esse depositions, I am wondering if our committee could not achieve the best result by not changing Rule 8:15 but adding another rule that would permit a de bene esse deposition where a motion had been timely made and the court had found good cause. I may be over-reaching and if so, please tell me. The problem with such a change would be that there are some costs involved and these courts do have a lot of pro se claimants. I think that the judge could handle cases involving these two situations under the requirement of "good cause."

I appreciate any comments that any of you have about this, but would also like to throw out several questions and get your response to them so that I have a feel for where the committee is going. This is an initial survey, and anyone is permitted to change his position at any time in the future.

Please answer the following questions either "yes" or "no" and feel free to add any comments:

1. Do you favor changing Rule 8:15(c) to add discovery depositions?

2. Do you favor changing Rule 8:15(c) to allow discovery by depositions and also adding certain additional restrictions such as requiring the judge to consider the cost, the inconvenience and the possible inability of a pro se client to properly protect his or her interest?

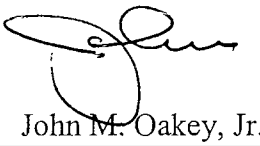
3. Would you support a new Rule which would permit an attorney or party to take a deposition for use during a hearing if a motion was timely made and good cause shown?

4. Would you support a Rule for de bene esse depositions with more restrictions than set forth in the previous question?

5. Do you feel that we should make no change in Section 8 of the Rules either for discovery depositions or de bene esse depositions?

I would appreciate very much if you'd take just a few minutes to respond to these so that I can make a determination as to whether our committee is going to be able to reach any kind of agreement in this area. I appreciate your help.

Sincerely,



John M. Oakey, Jr.

JMOjr:dc

Editor's Note: The Committee's recommendation that a new rule be added to the rules of the Juvenile and Domestic R