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January 12, 2009

The Honorable Thomas D. Hall
 Clerk, Supreme Court of Florida
 Supreme Court Building
 500 South Duval Street
 Tallahassee, Fl. 32300-1900

Federal Express # 8639 1381 1710

IN RE: AMENDMENTS TO FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.420
 Case No. SC07-2050

Dear Mr. Hall:

The following comments are submitted with regard to the above referenced as it relates to amendments to Rule of Judicial Administration 2.420, Public Access to Judicial Branch Records.

Proposed rule 2.420 (d) (1), Procedures for Filing Records, states that;

The clerk of the court shall designate and maintain the confidentiality of any information contained within a court record that is described in subdivision (d)(1)(A) or (d)(1)(B) of this rule. A filer at the time of filing shall: indicate whether any confidential information described in subdivision (d)(1)(B) of this rule is included within the document being filed; identify the provision of subdivision (d)(1)(B) of this rule that applies to the identified information; and identify the precise location of the confidential information within the document being filed. The clerk of court shall review filings identified by filers as containing confidential information to determine whether the purported confidential information is facially subject to confidentiality under the identified provision in subdivision (d)(1)(B). In the event the clerk determines that such information is not subject to confidentiality under the identified provision, the clerk shall notify the filer in writing within 5 days of filing and shall maintain the information as confidential for 7 days from the day such notice is served.

It is suggested that the clerk not be responsible for the task of determining if a filing is facially subject to confidentiality because that review goes beyond the ministerial duties performed by the clerk. Possible language to reflect this applicability follows with suggestion in bold.

Comptroller/Auditor • Civil Division • Criminal Division • Family Division • Juvenile Division • Traffic Division • District Courts Division • Technical Services Division • Central Depository • Clerk of the Board and County Commissioners • Marriage License Parking Violations • Recording • Records/Archives Management • Code Enforcement Support • Value Adjustment Board • Human Resources and Administrative Services Division

The clerk of the court shall designate and maintain the confidentiality of any information contained within a court record that is described in subdivision (d)(1)(A) or (d)(1)(B) of this rule. A filer at the time of filing shall: indicate whether any confidential information described in subdivision (d)(1)(B) of this rule is included within the document being filed; identify the provision of subdivision (d)(1)(B) of this rule that applies to the identified information; and identify the precise location of the confidential information within the document being filed. **The clerk shall maintain the information as confidential until otherwise directed by the court.**

Proposed rule 2.420 (f) (2) (b), Request to Determine the Confidentiality of Circuit and County Court Records in Criminal Cases, states that;

Except when the motion filed under this subdivision represents that both the movant and any other party subject to the motion agree to all of the relief requested, as evidence by all such parties signing the motion, the court shall hold a hearing on a motion filed under this subdivision within 15 days of the filing of the motion, but such hearing shall be a closed session held in camera. The court shall issue a ruling on motions filed under this subdivision within 10 days of the hearing on contested motions or within 10 days of the filing of agreed motions.

It is suggested that the language be changed from "The court shall issue a ruling on motions..." to "The court shall issue a written ruling on motions...". By adding the word "written", the ruling on the motion will be better documented. Possible language to reflect this applicability follows with suggestion in bold.

Except when the motion filed under this subdivision represents that both the movant and any other party subject to the motion agree to all of the relief requested, as evidence by all such parties signing the motion, the court shall hold a hearing on a motion filed under this subdivision within 15 days of the filing of the motion, but such hearing shall be a closed session held in camera. The court shall issue a **written** ruling on motions filed under this subdivision within 10 days of the hearing on contested motions or within 10 days of the filing of agreed motions.

Sincerely,



Harvey Ruvin
Clerk of Courts,
Miami-Dade County

cc: Honorable Joseph P. Farina
Chief Judge, Eleventh Judicial Circuit

Luis Montaldo, Esq.
Counsel to the Clerk

CERTIFICATE OF SERVICE

Date: January 12, 2009

Certified Mail # 7006 0810 0000 7011 3411

I HEREBY CERTIFY that a copy of the foregoing has been mailed by United States mail to the following persons on January 12, 2009:

Honorable Judith L. Kreeger
Chair, Committee on Access to Court Records
c/o Steve Henley, Office of the State Court Administrator
Supreme Court Building
500 South Duval Street
Tallahassee, Florida 32399-1900

Harvey Ruvin, Clerk
Circuit and County Courts

By 
Mark Martinez, Chief
Family Court Division