IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE FLORIDA RULES OF CIVIL PROCEDURE, FLORIDA RULES OF JUDICIAL ADMINISTRATION, FLORIDA RULES OF CRIMINAL PROCEDURE, FLORIDA PROBATE RULES, FLORIDA SMALL CLAIMS RULES, FLORIDA RULES OF JUVENILE PROCEDURE, FLORIDA RULES OF APPELLATE PROCEDURE, FLORIDA FAMILY LAW RULES OF PROCEDURE

CASE NO. SC11-

JOINT OUT-OF-CYCLE REPORT OF THE RULES OF CIVIL PROCEDURE COMMITTEE, RULES OF JUDICIAL ADMINISTRATION COMMITTEE, RULES OF CRIMINAL PROCEDURE COMMITEE, PROBATE RULES COMMITTEE, SMALL CLAIMS RULES COMMITTEE, TRAFFIC COURT RULES COMMITTEE, JUVENILE COURT RULES COMMITTEE, APPELLATE COURT RULES COMMITTEE, FAMILY LAW RULES COMMITTEE, AND CODE AND RULES OF EVIDENCE COMMITTEE ON ELECTRONIC FILING

John G. Crabtree, Chair, Appellate Court Rules Committee, Donald E. Christopher, Chair, Civil Procedure Rules Committee, Robert Eschenfelder, Chair, Code and Rules of Evidence Committee, Robert T. Strain, Chair, Criminal Procedure Rules Committee, Steven P. Combs, Chair, Family Law Rules Committee, William W. Booth, Chair, Juvenile Court Rules Committee, Jeffrey S. Goethe, Chair, Probate Rules Committee, Katherine E. Giddings, Chair, Rules of Judicial Administration Committee, Michele A. Cavallaro, Chair, Small Claims Rules Committee, John J. Anastasio, Chair, Traffic Court Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, pursuant to Fla. R. Jud. Admin. 2.140(f), file this Joint Out-Of-Cycle Report on electronic filing and respectfully request that this Court approve the attached proposed rules.

These proposals were approved by the Executive Committee of The Board of Governors whose vote, along with those of the committees on their various proposals, are shown in Appendix A.

The following appendixes are attached to this report:

Appendix A: Table of Contents
Appendix B: Rules in legislative format
Appendix C: Rules in two-column format
Appendix D: Referral letter from the court

Due to time constraints, these proposals have not been published for comment.

This matter was referred to the ten court rules committees by letter dated August 4, 2010, from Thomas D. Hall. *See* Appendix D. The referral requested that the committees "propose rule amendments necessary to implement recent recommendations of the Appellate Court Technology Committee (ACTC) concerning electronic appellate court records and filings and further to accommodate the advent of electronic court records and filings in Florida courts." The referral further requested that this matter be considered under the committees' fast-track procedures and submitted as a comprehensive report coordinated by the Rules of Judicial Administration Committee (RJA). The comprehensive report was to be filed with Mr. Hall's office by January 2, 2011. Based on a joint motion for extension of time filed by the committees, that deadline was extended to March 1, 2011, by letter from Thomas D. Hall dated December 9, 2010.

Summaries of the proposals follow.

Rules of Civil Procedure Committee

Fla. R. Civ P. 1.030, Nonverification of Pleadings, has been amended to delete the word "written" and change the word "paper" to "document." Both changes reflect new procedures under e-filing.

Rule 1.080, Service and Filing of Pleadings~~, and Papers~~Orders, and Documents, has also been amended to define "writing" and "written" to conform to new procedures under e-filing. Amendments to this rule are also pending before the Court in the e-service case. *See In re Amendments to the Florida Rules of Judicial Administration, the Florida Rules of Civil Procedure, the Florida Rules of Criminal Procedure, the Florida Probate Rules, the Florida Rules of Traffic Court, the Florida Small Claims Rules, the Florida Rules of Juvenile Procedure, and the Florida Rules of Appellate Procedure – Email Service Rule*, Case number SC10-2101. The amendments proposed in this case are shown in the attached rule by single strike-throughs and underlines. The additions proposed for e-filing are shown by double underlines.

Rules of Judicial Administration Committee

Overview

The RJA proposals were developed before the proposals of the other committees so that the other committees could make proposals consistent with those of the RJA. The RJA proposals were developed by a subcommittee chaired by Judge Jon Morgan.

Prior to the August 2010 referral of this matter, the RJA was already reviewing the rules of judicial administration for any changes necessary to implement AOSC09-30 and the *Florida Supreme Court Standards for Electronic Access to the Courts June 2009*, and at its June 24, 2010, meeting, the RJA voted to approve amendments to Rule 2.525. The RJA subcommittee used these amendments as a starting point for further amendments. The RJA subcommittee met on August 19th, August 26th, September 2nd, and September 16th in advance of the September 23rd meeting of the full RJA committee to prepare a submission to the full committee. At the September 23rd meeting of the RJA, the subcommittee presented its proposed amendments to the RJA, which were approved in concept with some suggested additions and modifications. Thereafter, the subcommittee met on October 13th and December 3rd prior to the RJA meeting on January 20, 2011.

In order to facilitate the submission of a comprehensive report of all proposed rule amendments "across the board," an ad hoc committee of representatives of all rules committee was formed and met on several occasions, including September 7 and October 28. Interim drafts of the RJA subcommittee's proposed changes to the rules of judicial administration were circulated to the ad hoc committee members for comment during the process.

In addition to input from members of the subcommittee, the full RJA, and the ad hoc committee, the subcommittee received input from the Manatee Clerk of Court and reviewed the decision of the District Court of Appeal, Second District, in *State v. Hon. R.B. "Chips" Shore, Clerk, Manatee County*, 41 So. 3d 966 (Fla. 2d DCA 2010), as well as the e-filing standards proposed by the Florida Courts Technology Commission (FCTC).

Several of the rules committees participating in the ad hoc committee were waiting to see the final RJA revisions before determining what amendments would

be required within their sections of the rules. As a result, an extension of the January 2nd deadline was requested and approved by the Court.

Proposed amendments to the Rules of Judicial Administration

The subcommittee ultimately proposed the following amendments to the rules of judicial administration:

Rule 2.430(b)

(1) Court records, except exhibits, that have been permanently recorded may be destroyed or otherwise disposed of by the clerk at any time after a judgment has become final.

(2) Any physical media submitted to the clerk for the purpose of filing information contained in the media may be destroyed, retained, or otherwise disposed of by the clerk once the contents of the media have been made part of the court record.

Subdivision (2) was included at the suggestion of clerk's representatives and Tom Hall, who asked that it be made clear that clerks are not responsible for returning or maintaining media (such as CD's, flash drives, etc.) submitted to them for the purpose of filing any information contained within the media.

Rule 2.510 (form)

I HEREBY CERTIFY that a true and correct copy of the foregoing motion was ~~furnished by U.S. mail~~served on (insert the name or names and addresses used for service) by (email) (delivery) (mail) (fax) to PHV Admissions, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2333 accompanied by payment of the $250.00 filing fee made payable to The Florida Bar and to _____.

The proposed amendment is to the certificate of service. The inserted language was proposed to reflect electronic, versus mail, service. At the September 23rd RJA meeting**,** it was suggested that the word "served" be substituted for the word "furnished" to make the form more consistent with rule 2.516. Other technical amendments are made throughout the form.

Rule 2.520

~~PAPER~~DOCUMENTS

(a) ~~**Type and Size**~~**Electronic Filing Mandatory.** All ~~pleadings, motions, petitions, briefs, notices, orders, judgments, decrees, opinions, and other papers and official~~ documents filed in any court shall be filed by electronic transmission in accordance with rule 2.525. "Documents" means pleadings, motions, petitions, memoranda, briefs, notices, exhibits, declarations, affidavits, orders, judgments, decrees, writs, opinions, and any other paper or writing submitted to a court.

(b) Type and Size. Documents subject to the exceptions set forth in Rule 2.525(d) shall be filed on recycled paper measuring 8 1/2 by 11 inches. For purposes of this rule, paper is recycled if it contains a minimum content of 50 percent waste paper. Xerographic reduction of legal-size (8 1/2 by 14 inches) documents to letter size (8 1/2 by 11 inches) is prohibited. All other documents filed by electronic transmission shall be filed in a format capable of being printed in a format consistent with the provisions of this rule.

This amendment clarifies that all documents are to be electronically filed unless they fall within an exception to the electronic filing requirements set forth in Rule 2.525. The subcommittee, at the suggestion of Judge Richard Nielsen of the Civil Procedure Rules Committee, decided it would be best to define "documents" and substitute the word "documents" in the title while maintaining the provisions regulating the manual (paper) filing of documents falling within an exception to 2.525. Additional technical changes to the rule are proposed as shown in Appendix B and Appendix C.

Rule 2.525(a)

(a) Definition. "Electronic transmission of documents" means the transmission by electronic signals, to or from a court or clerk ~~of the court~~, of information which when received can be transformed and stored or ~~reproduced~~transmitted on paper, microfilm, magnetic storage device, optical imaging system, CD ROM, flash drive, other electronic data storage system, server, case maintenance system ("CM"), electronic court filing ("ECF") system, statewide or local electronic portal ("E-Portal"), or other electronic record keeping system authorized by the ~~S~~supreme ~~C~~court ~~of Florida~~ in a format sufficient to communicate the information on the original document in a readable format. Electronic transmission of documents includes electronic mail ("email") and any internet-based transmission procedure, and may include procedures allowing for documents to be signed or verified by electronic means.

The rule was amended to clarify that electronic documents can be stored and subsequently transmitted by the clerk in electronic format. Additional language was inserted to suggest, but not limit, the types of electronic storage and transmission that may be used. "Case maintenance system" was substituted for "case management system" at the suggestion of RJA members who pointed out the clerks are not permitted to have "case management systems."

Rule 2.525(b)

(b) Application. Any court or clerk ~~of the court~~ may accept the electronic transmission of documents for filing and may send documents by electronic transmission after the clerk, together with input from the chief judge of the circuit, has obtained approval of ~~the~~ procedures, ~~and~~ programs, and standards for electronic filing ~~for doing so~~ from the ~~S~~supreme ~~C~~court ~~of Florida~~("ECF Procedures"). All ECF Procedures must comply with the then-current E-Filing standards, as promulgated by the supreme court in Administrative Order No. AOSC09-30, or subsequent administrative order.

The Clerk of Court for Manatee County suggested the language "and may send documents by electronic transmission" be added to clarify that the clerk is allowed to send documents electronically. A recent court opinion, relying on prior rule language, held that the clerk could not provide CD's or electronic copies of transcripts to the offices of the attorney general and public defender's in appeals, but had to provide paper transcripts. *State v. Hon. R.B. "Chips" Shore, Clerk, Manatee County*, 41 So. 3d 966 (Fla. 2d DCA 2010). The subcommittee agreed that the previous rule language compelled the conclusion reached by the court, and the language suggested by the Clerk would be more consistent with the direction of the Supreme Court to transition to a paperless court system. The last sentence is intended to insure standardized ECF procedures until the statewide portal becomes fully operational.

Rule 2.525(c)

This subdivision contains technical corrections as shown in Appendix B and Appendix C to conform to changes in the other subdivisions of the rule.

Rule 2.525(d)

(d) ~~Service.~~Exceptions. Paper documents or other submissions may be manually submitted to the clerk for filing:

(1) ~~Electronic transmission may be used by a court for the service of all orders of whatever nature provided the clerk, together with input from the chief judge of the circuit, has obtained approval from the Supreme Court of Florida of the specific procedures and program to be used in transmitting the orders. All other requirements for the service of such an order shall be met.~~when the clerk does not have the ability to accept and retain documents by electronic filing or has not had ECF Procedures approved by the supreme court;

(2) ~~Any document electronically transmitted to a court or clerk of the court shall also be served on all parties and interested persons in accordance with the applicable rules of court.~~by self-represented litigants, third parties, or non-litigants, unless specific ECF Procedures provide a means for such self-represented litigants, third parties, or non-litigants to file documents electronically;

(3) by attorneys excused from email service in accordance with rule 2.516(b)(2);

(4) when the filing involves non-electronic documents or exhibits, such as trial or hearing exhibits, court approved forms, executed wills, non-documentary items such as cassettes, video tapes, DVDs, weapons, drugs, original exhibits or other original attachments to filings, etc.;

(5) when the filing involves documents in excess of 25 megabytes (25MB) in size. For such filings, documents may be transmitted using an electronic storage device or system that the clerk has the ability to accept, which may include a CD-ROM, flash drive, or similar storage system;

(6) when filed in open court, as permitted by the court;

(7) when the document is required by any statute or other rule of procedure to be an original document, including surety bonds, criminal plea agreements, documents required to be notarized, etc;

(8) when paper filing is permitted by any approved statewide or local ECF procedures; and

(9) if any court determines that justice so requires.

Rule 2.525(d) is the section that generated the most discussion and suggested changes from the ad hoc committee members. After much discussion, the subcommittee unanimously felt the above language best walked the fine line between being overly inclusive and overly specific as to which documents are excluded from the electronic filing requirement. The majority of the ad hoc committee members also favored the language suggested above. There was a suggestion that it be provided that documents in excess of 25 MB could be submitted piecemeal, each part being less than 25 MB, but the subcommittee members unanimously agreed that the issue was too technical to be included within the rule and would be better addressed in the local ECF procedures and, ultimately, the statewide portal procedures.

Rule 2.525(e)

(e) ~~Transmission Difficulties~~Service. ~~Any attorney, party, or other person who elects to file any document by electronic transmission shall be responsible for any delay, disruption, interruption of the electronic signals, and readability of the document, and accepts the full risk that the document may not be properly filed with the clerk as a result.~~

(1) Electronic transmission may be used by a court or clerk for the service of all orders of whatever nature, pursuant to rule 2.516(h), and for the service of any documents pursuant to any ECF Procedures, provided the clerk, together with input from the chief judge of the circuit, has obtained approval from the supreme court of ECF Procedures containing the specific procedures and program to be used in transmitting the orders and documents. All other requirements for the service of such orders must be met.

(2) Any document electronically transmitted to a court or clerk must also be served on all parties and interested persons in accordance with the applicable rules of court.

This proposed amendment deletes the language relating to responsibility for problems in transmission by persons “electing” to file electronically as electronic filing will no longer be elective. This proposed amendment makes it clear that the clerk is permitted to transmit orders by electronic transmission and makes the subsection more consistent with references to “documents” throughout the rules.

Rule 2.525(f)(1)(B) and (C)

(B) accept electronic transmission of documents up to 25 megabytes (25MB) in size, or until E-Filing has been fully implemented, accept facsimile transmissions of documents up to 10 pages in length; and

(C) accept filings in excess of 25 megabytes (25MB) in size by electronic storage device or system, which may include a CD-ROM, flash drive, or similar storage system.

Subdivision (C) was added to allow submission of documents in excess of 25 MB when provided by an electronic storage system that would not be subject to size limitations inherent in some e-mail systems.

Other technical corrections are proposed to subdivision (f) as shown in Appendix B and Appendix C.

NOTE: The proposed amendment to subdivision (g) of this rule that is shown in Appendix B and Appendix C is currently pending in case number SC11-52.

Rule 2.535(a)(6)

(6) "Official record" means the transcript which is the written or electronically stored record of court proceedings and depositions prepared in accordance with the requirements of subdivision (f).

The words "or electronically stored" were included to clarify that electronically stored documents constitute the official record and may be transmitted by the clerk in lieu of paper documents when the clerk is charged with transmitting the record to a court or party.

Rule 2.535(f)

(f) Transcripts. Transcripts of all judicial proceedings, including depositions, shall be uniform in and for all courts throughout the state and shall be stored in an electronic format sufficient to communicate the information contained in proceedings in a readable format, and capable of being transmitted electronically as set forth in rule 2.525. Any transcripts stored in electronic form must be capable of being printed in accordance with this rule. The form, size, spacing, and method of printing transcripts are as follows:

The proposed amendment clarifies that transcripts need not be maintained in paper form and may be stored and transmitted electronically.

The proposed amendments set out above were approved by the full Rules of Judicial Administration Committee by an e-mail vote of 25-2 in favor on December 29, 2010.

There was discussion among the subcommittee members with respect to whether a rule should be drafted to define "writing," clarifying that "writing" includes an electronically stored or transmitted instrument. The consensus was that such a rule is unnecessary.

One subcommittee member expressed concerns regarding how a clerk is to handle the filing of certain *ex parte* filings. The concern being that, if a party is authorized to obtain relief without notice to the other party, the filing of a request for such *ex parte* relief might become accessible on the clerk's public web site before an order can be obtained and served. The consensus of the subcommittee was that the issue did not fall within the purview of the referral, but is a matter that could be mentioned in the RJA's written submission to the Court.

The subcommittee and the RJA, in proposing the amendments, recognize that the rules will continue to require attention and further amendment as the statewide portal comes into use. There will almost certainly be issues that have not been anticipated that will arise as we enter the implementation of electronic records and e-filing.

Criminal Procedure Rules Committee

In order to accommodate e-filing, Fla. R. Crim. P. 3.030 needs to be rewritten. Previously, the full committee voted on changes to Rule 3.030 to accommodate e-service; that proposal is currently pending with the Supreme Court in case number SC10-2101. The pending changes to Rule 3.030 eliminated every paragraph after subdivision (a), and are shown in the Appendix B and Appendix C with single strikethrough. The proposed additional changes to Rule 3.030 in this report are shown in double underline and double strikethrough. Paragraph (b) of the proposed Rule 3.030 refers to the RJA Rule on e-filing and paragraph (c) defines an "original document."

The proposed amendments are to make the rule consistent with the proposed amendments to Rule 2.525, which requires all court records to be e-filed, but then allows certain documents to be filed in paper form. While certain documents are allowed to be filed with the clerks in paper format, it is not mandatory. In

reviewing the federal criminal rules for the Middle and Southern Districts of Florida, it was determined that certain documents are required to be filed with the federal clerks in paper format and not electronically. The committee determined that the criminal rules should likewise require certain documents to be filed in the conventional format. Following the discretion that Rule 2.525 allows for filing "original documents," the proposed amendments to Rule 3.030(c) defines "original documents" and requires them to be filed in paper format with the clerk.

Because e-filing has not been tested and challenged, and because original documents must be retained to defend against potential future challenges, such as authenticity, it seems prudent to require certain documents to be preserved in paper format. It is possible that this will no longer be necessary in the future. Charging documents should be retained by the clerks as they are a neutral party to any future challenges.

The proposed changes to Rule 3.070 add language to allow service by mail "when permitted." A similar change to this is pending in case number SC 10-2101.

Additional technical corrections are made to Rules 3.070, 3.080, 3.090, 3.240, and 3.851.

Probate Rules Committee

The Florida Probate Rules Committee has significant concerns about the procedures for handling certain documents in probate and guardianship proceedings. The most immediate concern is the handling of original wills and codicils. The members of the Probate Rules Committee respectfully submit that the draft of Rule 2.525 submitted with this joint report does not adequately address the unique aspects of many other original documents filed in probate and guardianship proceedings.

After the Rules of Judicial Administration Committee completed the difficult task of drafting and approving a final version of Rule 2.525, there was insufficient time for the Probate Rules Committee to follow its Internal Operating Procedures with regard to voting procedures. Although an emergency vote was conducted, a clear consensus could not be reached in such a short period of time, with many concerns unresolved.

Initial Vote on a Broader Rule. Votes to consider the matter on an emergency basis were 18 in favor and 0 against. The text of the broader rule submitted for vote was as follows:

Rule 5.043. Filing of Original Documents

Notwithstanding any general rule to the contrary, and unless the court orders otherwise, in all proceedings under these rules, the following original documents shall be filed with the court and shall be retained by the clerk as court records in accordance with Florida Rule of Judicial Administration 2.430:

(a) executed wills and codicils;

(b) executed trusts and amendments;

(c) certified copies of birth certificates, death certificates, judgments of adoption, dissolutions of marriage, or any other vital records, whether from Florida or any other state;

(d) certified or authenticated documents, such as authenticated documents from other jurisdictions for ancillary probate proceedings, transferred guardianships, and foreign guardianships where a Florida guardian of the property is required;

(e) records from foreign countries such as birth records, marriage records, and death records together with their certified translations, seals, ribbons, and Apostilles;

(f) original Powers of Attorney, including those executed in foreign jurisdictions, together with their certified translations and Apostilles;

(g) commissions appointing commissioners to take the oath of a witness to a will or codicil;

(h) oaths of guardians, personal representatives, administrators ad litem; conservators, curators, and guardians ad litem;

(i) oaths of witnesses to wills and codicils; and

(j) bonds;

(k) any other paper documents or other submissions which are permitted to be manually filed with the court in accordance with Florida Rule of Judicial Administration 2.525(d).

The committee vote on this proposal was 15 in favor and 11 against.

Second Emergency Vote on a Narrower Rule. The Probate Rules Committee then considered a very limited rule within the Probate Rules, addressing only wills and codicils.

Rule 5.043. Deposit of Wills and Codicils.

Notwithstanding any rule to the contrary, and unless the court orders otherwise, any original executed will or codicil deposited with the court shall be retained by the clerk in its original form and may not be destroyed or disposed of by the clerk for 20 years after submission regardless of whether the will or codicil has been permanently recorded as defined by Rule 2.430, Florida Rules of Judicial Administration.

The proposal reflects the committee members' concern that an original will or codicil could be destroyed in accordance with the rules governing other filed documents. The committee vote to consider this proposal on an emergency basis was 10 in favor and 0 against. The committee voted on whether the narrower rule should be submitted instead of the broader rule. This passed by a vote of 9 to 5.

Pending Rules of Judicial Administration. The Rules of Judicial Administration Committee is considering amendments to Rule 2.430, which has an impact on the records retention rules for original wills and codicils. In addition, there are other rules within the Rules of Judicial Administration that impact the handling of certain original documents.

Under the present draft, Rule 2.430(b)(1) provides that "any court records, except exhibits, that have been permanently recorded may be destroyed or otherwise disposed of by the clerk at any time after a judgment has become final." Further, subdivision (b)(2) of the rule provides that any "physical media" submitted to the clerk for the purpose of filing information contained in the media may be destroyed, retained, or otherwise disposed of by the clerk once the contents of the media have been made a part of the court record by scanning them into the electronic record keeping system. A record is "permanently recorded" when it has been "recorded onto an electronic record keeping system in accordance with the standards adopted by the Supreme Court of Florida." Fla. R. Jud. Admin. 2.430(a)(3). Court records not permanently recorded in a probate, guardianship, or mental health proceeding, except exhibits, may not be destroyed for 10 years after the final judgment. Rule 2.430(c)(1)(D) provides that exhibits have to be maintained only until 90 days after the final judgment, after which the clerk may destroy or dispose of the exhibit after notice to the attorneys. Fla. R. Jud. Admin. 2.430(f)(2).

It appears that the proposed amendments allow the clerk to scan original documents that have been filed, store the scanned copies within the electronic record keeping system, and then destroy the originals. It is crucial, from an

evidentiary standpoint, that the original will or codicil be maintained as provided in Rule 2.430(e)(d) as a court record that is not permanently recorded.

Deposit of Wills and Codicils. Wills and codicils are "deposited," rather than "filed." § 732.901, Fla. Stat. However, the will or codicil is removed from safe keeping and then filed in the court file once a probate proceeding is initiated. Under the current system, the clerk's retention of records is governed by Rule 2.430 and the General Records Schedules for all agencies, which are posted on the Department of State's Division of Library Services website. The Clerk's Schedule is GS-11 and provides in item #72 that a will deposited for safe keeping is added to the court file once a probate proceeding is initiated. The item also calls for the retention of the original will for 20 years. This procedure should continue and original wills should not be destroyed, even after they are added to the court file and scanned into the electronic record keeping system.

Probate and Guardianship Rules and Statutes Involving Filing of Other Documents. The following statutes and rules relate to the use of various documents that have evidentiary value in a probate or guardianship proceeding. Since these documents are often submitted *ex parte*, the evidentiary value of the actual document, which often includes authenticating features, is important and may be compromised by scanning a document and submitting a copy of the document in PDF format.

§ 731.103, Fla. Stat. Evidence as to death or status.
§ 731.201(1), Fla. Stat. General definitions. [Definition of "authenticated"]
§ 731.201(16), Fla. Stat. General definitions. [Definition of "file"]
§ 733.201, Fla. Stat. Proof of wills.
§ 733.205, Fla. Stat. Probate of notarial will.
§ 733.206, Fla. Stat. Probate of will of resident after foreign probate.
§ 734.101, Fla. Stat. Foreign personal representative.
§ 734.1025, Fla. Stat. Nonresident decedent's testate estate with property not exceeding $50,000 in this state; determination of claims.
§ 734.104, Fla. Stat. Foreign wills; admission to record; effect on title.
§ 734. 201, Fla. Stat. Jurisdiction by act of foreign personal representative.
§ 744.306, Fla. Stat. Foreign guardians.
§ 744.307, Fla. Stat. Foreign guardian may manage the property of nonresident ward.
§ 744.308, Fla. Stat. Resident guardian of the property of nonresident ward.
§ 744.347, Fla. Stat. Oath of guardian.
§ 744.351, Fla. Stat. Bond of guardian.

Fl. Prob. R. 5.171 Evidence of death.
Fl. Prob. R. 5.125 Authenticated copy of will.
Fl. Prob. R. 5.205 Filing evidence of death.
Fl. Prob. R. 5.210 Probate of wills without administration.
Fl. Prob. R. 5.215 Authenticated copy of will.
Fl. Prob. R. 5.216 Will written in foreign language.
Fl. Prob. R. 5.230 Commission to prove will.
Fl. Prob. R. 5.235 Issuance of letters; bond.
Fl. Prob. R. 5.320 Oath of personal representative.
Fl. Prob. R. 5.470 Ancillary administration.
Fl. Prob. R. 5.475 Ancillary administration, short form.
Fl. Prob. R. 5.647 Management of property of nonresident ward by foreign guardian.
Fl. R. Jud. Admin. 2.430 Retention of court records.
Fl. R. Jud. Admin. 2.525 Electronic filing.

By a vote of 9 to 2, the committee voted to include a general discussion of probate and guardianship documents filed with the court.

Trusts and Amendments. Because the authenticity of a trust instrument can depend upon the physical features of the original, executed document, the committee proposes that original trusts and amendments be filed in their original format. Several members of the Probate Rules Committee did not feel that the filing of the original trust and/or trust amendments with the court should be required. By a vote of 9 to 2, the committee voted to include concerns about the handling of original trusts and trust amendments filed with the court.

Certified Copies. Because certified copies have independent evidentiary value and copies of those documents lose the authenticating features that permit their use, many committee members felt that the certified copy should be filed within the court file. These documents include birth certificates, death certificates, judgments of adoption, judgments evidencing dissolutions of marriage, or any other vital records, whether from Florida or any other state. Certified copies from foreign jurisdictions raise additional concerns, as they contain additional features such as certified translations, seals, ribbons, and Apostilles. By a vote of 9 to 2, the committee voted to express the concern about the handling of certified copies filed with the court.

Authenticated Copies. Probate and guardianship proceedings, in some instances, rely upon court documents from other jurisdictions. Rather than relitigate issues,

such as the incapacity of the ward or the validity of a last will and testament, authenticated copies can be filed with the Florida court. The authenticated copies include seals in various forms, fasteners to prevent the separation of the documents, and other forms to insure the authenticity of the copies provided by the foreign jurisdiction. By a vote of 9 to 2, the committee voted to comment on the importance of authenticated copies filed with the court.

Original Powers of Attorney. Under some circumstances, an original power of attorney may be filed within a probate or guardianship proceeding. Because an original may later be required for purposes such as the conveyance of real property, the original should be filed with the court. In addition, there are instances in which the original is filed with the court to prevent the use of the power of attorney by the agent appointed in it. The committee voted 6 to 5 in favor of including concerns for powers of attorney within its report.

Commissions. When a will or codicil is not self-proving, and it is not possible or reasonably practical for the witness to appear before the court or the clerk to prove the will, the Florida Probate Code and the probate rules permit the administration of an oath by a commissioner appointed by the court. § 733.201(3), Fla. Stat.; Fla. Prob. R. 5.230. The attorney requesting the commission presents the original commission signed by the Florida court to the appointed commissioner, who then takes the witness's oath, returns the original commission and oath, and then files the original with the court. Under current practices, there is no independent record of the judge's signature on the commission that leaves the courthouse and is later returned to be filed with the court. The committee vote was 9 to 2 in favor of expressing concern for original commissions filed with the court.

Oath of Witness to Will or Codicil. The oath of a witness to a will and or codicil is evidentiary in nature and usually signed in the clerk's office, before a judge, or before a commissioner. Fla. Prob. R. 5.230; § 733.201, Fla. Stat. The oath may not be administered during a court proceeding, but still frequently occurs within the courthouse. The committee voted to include concerns about witness oaths by a vote of 6 to 5.

Bonds. When a bond is required in a probate or guardianship proceeding, an agent signs on behalf of the surety and ordinarily attaches a power of attorney to the bond as evidence of the agent's authority. The power of attorney often contains a crimp seal, a foil seal, or some other authenticating feature that would be lost if the signed bond were simply scanned and e-filed. The committee voted 9 to 2 to bring concerns regarding bonds to the court's attention.

The Probate Rules Committee respectfully requests that the Court adopt the narrower version of Rule 5.043 as included in Appendix B and Appendix C.

Traffic Court Rules Committee

Criminal traffic cases are largely governed by the Florida Rules of Criminal Procedure, pursuant to Rule 6.160, Florida Rules of Traffic Court. Therefore, e-filing amendments proposed for the Rules of Criminal Procedure would apply to criminal traffic cases as well. The Traffic Court Rules Committee proposes no additional amendments to the criminal portion of the traffic rules.

Regarding civil traffic infraction cases, the Florida Traffic Court Rules contain no provisions related to filing or service of documents. Therefore, the civil portion of the rules will not be affected by e-filing and the committee proposes no amendments to the civil portion of the traffic rules at this time.

The committee recommends holding in abeyance further proposals for rule amendments related to e-filing, until the statewide e-filing portal comes into widespread use. The committee agrees that additional issues are likely to arise as the portal becomes fully functional and the courts proceed with implementation of electronic records and e-filing.

Small Claims Rules Committee

The committee proposes technical amendments to Rule 7.080 to conform to the proposed changes to the Rules of Judicial Administration.

Juvenile Court Rules Committee

The Juvenile Court Rules Committee proposes to create a new rule, placed at the beginning of the rules set, to govern e-filing and electronic service of orders. As with other joint rules projects, the Committee's preference is to place a rule in the Florida Rules of Juvenile Procedure, rather than rely on a cross-reference to a Rule of Judicial Administration. Proposed Fla. R. Juv. P. 8.004 is based on Fla. R. Jud. Admin. 2.525.

To accommodate creation of these two new rules of general application, a new Part I., Rules of General Application, has been created, and the remaining

parts of the rules renumbered accordingly. An amended table of contents reflecting these changes is provided.

In Rules 8.205, 8.217, and 8.230, “papers” has been changed to “documents” in accordance with the inception of e-filing.

In Rule 8.217, an additional change has been made in subdivision (a) to reflect that an attorney ad litem may be appointed after a child has been found dependent. *See*, *e.g.*, Rule 8.350. The rule has also been amended to state that the attorney must provide, as well as receive, service. *See*, *e.g.*, Rule 8.225(c)(4).

Rule 8.690 has been amended to correct the part designation.

Appellate Court Rules Committee

The Appellate Court Rules Committee determined that its rules should make a general cross-reference to the Rules of Judicial Administration for all matters relating to e-filing and concluded that Rule 2.525 should control e-filing in appellate courts, unless otherwise provided in the Rules of Appellate Procedure. Proposed new subdivision (h) in Rule 9.020 implements this decision. The remaining subdivisions of that rule are renumbered accordingly. Other technical conforming changes to the appellate rules are as follows.

Rule 9.110 is amended to remove references to filing an “original and 1 copy of” or “original,” and several subdivisions are amended by adding the term “electronically” before “transmit.”

Rule 9.120(b) is amended to remove the reference to filing “2 copies of” and (e) is amended to add “electronically” before “transmit.”

Rule 9.125(g) is amended to add the term “electronically transmit.”

Rule 9.130(b) is amended to remove the reference to filing “2 copies of.”

Rule 9.140(b)(2)(B)(ii) and (d)(1)(E) are amended by adding the term “electronically” before “transmitted,” and subdivision (f)(2) is amended by adding references to the electronic mail service rule within the Florida Rules of Judicial Administration, removing references to copies or originals, and other technical changes.

Rule 9.141(a)(2)(A) and (b)(2) are amended by adding “electronically” before “transmit” and deleting “copies of” and “original” before “transcript.”

Rule 9.142(a)(1)(B) is amended by adding “electronically” before “transmit”; subdivision (a)(2) is amended to remove reference to paper copy submissions; and subdivision (c)(2) is amended to removes “2 copies of” and insert “electronically transmit.”

Rule 9.145(e) is amended to clarify the sealing of filed documents in juvenile delinquency cases.

Rule 9.146(f) is amended to clarify the sealing of filed documents in dependency and termination of parental rights cases, and subdivision (g)(2)(B) and (g)(2)(C) are amended to provide for electronic filing and to specify an exemption from the Florida Rules of Judicial Administration electronic mail service rule.

Rule 9.160(b) is amended to remove references to filing copies.

Rule 9.180(b)(3) is amended to remove the reference to filing “two copies of.”

Rule 9.200 is amended to add subdivision (a)(5) to define formats of acceptable electronic court records. Subdivision (b)(2) is amended to remove a sentence about paper copies and to rephrase the organization of transcripts; subdivision (b)(3) is amended to account for different methods of service and filing; subdivision (d)(1)(B) is amended to include “organized” and to add a sentence for defining the bindings of a paper record; subdivision (d)(1)(C) is added to define the requirements of a PDF file; subdivision (d)(3) is amended to remove the clause determining the procedure when an original record remains with the lower tribunal clerk.

Rules 9.210(a)(1), (a)(2), and (a)(3) are amended to provide specific requirements when a paper brief must be filed, and subdivision (g) is deleted as no longer necessary. Subdivisions (h) is renumbered to (g).

Rule 9.220(b) is amended to remove a sentence about dividers and tabs that is no longer necessary. Subdivision (c) is created to define the format of the computer appendix and brings down from original subdivision (b) the specifics of paper format appendixes.

Rule 9.360(a) is amended to remove the reference to filing “original and 1 copy.”

Rule 9.500(a) is amended to remove the reference to filing “original and 7 copies.”

Rule 9.510(a) is amended to remove the reference to filing “original and 7 copies.”

Rule 9.900(h) is amended by removing “an original and ___ copies of” and to include directions for an electronic service exemption.

Family Law Rules Committee

The Family Law Rules Committee has adopted the following amendments to its rules to conform to e-filing by a vote of 17-0. New Fla. Fam. L. R. P. 12.025 has been created. Subdivision (a) incorporates by reference Fla. R. Jud. Admin. 2.525. Subdivision (b) creates an exception to e-filing for documents in cases under Chapter 63, Florida Statutes. It is the committee’s position that for documents such as consents for adoption and affidavits of nonpaternity, like wills, the original, with the original signatures, should be filed.

Other amendments have been made in Rules 12.010, 12.040, 12.080, and 12.200 to change “papers” to “documents” to conform to e-filing.

Proposed amendments to Rules 12.040 and 12.080 are pending in the e-service case, Case Number SC10-2101. Amendments pending in that case are shown by single underlines. Amendments in this case are shown with double underlines.

Code and Rules of Evidence Committee

The committee does not propose any changes to the Code and Rules of evidence.

Each of the committee chairs listed below has authorized the Chair of the Rules of Judicial Administration Committee to sign and submit this response on his or her behalf.

Respectfully submitted on this ____ day of _____, 2011, by

_____

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CERTIFICATE OF SERVICE

I certify that a copy of this Joint Out-of-cycle Report has been sent, via U.S. Mail, to Justice Ricky Polston, Liaison for the Rules of Judicial Administration Committee, Justice Barbara J. Pariente, Liaison to the Appellate Court Technology Committee and Florida Courts Technology Commission, and Deborah Meyer, Director, Central Staff, at the Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1925, this ____ day of _____, 2011.

CERTIFICATION OF COMPLIANCE

I certify that this report was prepared in compliance with the font requirements of *Fla. R. App. P.* 9.210(a)(2).

I certify that these rules were read against *West's Florida Rules of Court* (2010 Revised Edition).

_____

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Committee vote: 17-0
Board of Governors Executive Committee vote: 12-0

RULE 1.030. NONVERIFICATION OF PLEADINGS

Except when otherwise specifically provided by these rules or an applicable statute, every ~~written~~ pleading or other ~~paper~~document of a party represented by an attorney need not be verified or accompanied by an affidavit.

Committee Notes

1976 Amendment. Subdivisions (a)–(b) have been amended to require the addition of the filing party's telephone number on all pleadings and papers filed.

RULE 1.080. SERVICE AND FILING OF PLEADINGS, ~~AND PAPERS~~ORDERS, AND DOCUMENTS

~~**(a) Service; When Required.** Unless the court otherwise orders, every pleading subsequent to the initial pleading, and every other paper filed in the action, except applications for witness subpoena, shall be served on each party. No service need be made on parties against whom a default has been entered, except that pleadings asserting new or additional claims against them shall be served in the manner provided for service of summons.~~

~~**(b) Service; How Made.** When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. Service on the attorney or party shall be made by delivering a copy or mailing it to the attorney or the party at the last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail shall be complete upon mailing. Delivery of a copy within this rule shall be complete upon: (1) handing it to the attorney or to the party, (2) leaving it at the attorney's or party's office with a clerk or other person in charge thereof, (3) if there is no one in charge, leaving it in a conspicuous place therein, (4) if the office is closed or the person to be served has no office, leaving it at the person's usual place of abode with some person of his or her family above 15 years of age and informing such person of the contents, or (5) transmitting it by facsimile to the attorney's or party's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, and the number of pages transmitted. When service is made by facsimile, a copy shall also be served by any other method permitted by this rule. Facsimile service occurs when transmission is complete. Service by delivery after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday, or legal holiday.~~

~~**(c) Service; Numerous Defendants.** In actions when the parties are unusually numerous, the court may regulate the service contemplated by these rules on motion or on its initiative in such manner as may be found to be just and reasonable.~~

~~**(d) Filing.** All original papers shall be filed with the court either before service or immediately thereafter. If the original of any bond or other paper is not placed in the court file, a certified copy shall be so placed by the clerk.~~

~~**(e) Filing Defined.** The filing of papers with the court as required by these rules shall be made by filing them with the clerk, except that the judge may permit~~

~~papers to be filed with the judge, in which event the judge shall note the filing date before him or her on the papers and transmit them to the clerk. The date of filing is that shown on the face of the paper by the judge's notation or the clerk's time stamp, whichever is earlier.~~

~~**(f) Certificate of Service.** When any attorney shall certify in substance:~~

~~"I certify that a copy hereof has been furnished to (here insert name or names) by (delivery) (mail) (fax) on .....(date).....~~

~~_____~~
~~Attorney"~~

~~the certificate shall be taken as prima facie proof of such service in compliance with these rules.~~

~~**(g) Service by Clerk.** If a party who is not represented by an attorney files a paper that does not show service of a copy on other parties, the clerk shall serve a copy of it on other parties as provided in subdivision (b).~~

~~(h) Service of Orders.~~

~~(1) A copy of all orders or judgments shall be transmitted by the court or under its direction to all parties at the time of entry of the order or judgment. No service need be made on parties against whom a default has been entered except orders setting an action for trial as prescribed in rule 1.440(c) and final judgments that shall be prepared and served as provided in subdivision (h)(2). The court may require that orders or judgments be prepared by a party, may require the party to furnish the court with stamped, addressed envelopes for service of the order or judgment, and may require that proposed orders and judgments be furnished to all parties before entry by the court of the order or judgment.~~

~~(2) When a final judgment is entered against a party in default, the court shall mail a conformed copy of it to the party. The party in whose favor the judgment is entered shall furnish the court with a copy of the judgment, unless it is prepared by the court, and the address of the party to be served. If the address is unknown, the copy need not be furnished.~~

~~(3) This subdivision is directory and a failure to comply with it does not affect the order or judgment or its finality or any proceedings arising in the action.~~

~~Committee Notes~~

~~**1971 Amendment.** Subdivision (g) is added to cover the situation when a party responds by a letter to the clerk and the letter may constitute the party's answer. The clerk is then required to furnish copies to parties who have appeared in the action and who are not shown to have received copies. It is not intended to apply to those litigious persons appearing in proper person who are familiar with the requirements of the rules. Subdivision (h) is added and the first part regulates the service of copies of orders. When a party is charged with preparation of an order, it requires service of the proposed form on other parties and delivery of sufficient copies to the court to be conformed and furnished to all parties after entry. The second part is intended to notify defendant whose address is known of the determination of the action by the court. Failure to comply with either part of subdivision (h) does not affect the order or judgment in any manner.~~

~~**1972 Amendment.** Subdivision (h) is amended because confusion has resulted in its application. Use of the term "party" has been misconstrued. It must be read in conjunction with subdivision (b) of the rule. When service can be made on an attorney, it should be made on the attorney. The term "party" is used throughout the rules because subdivision (b) makes the necessary substitution of the party's attorney throughout the rules. No certificate of service is required. The notation with the names of the persons served with a proposed form is not to be signed. The committee intended for the court to know who had been served only. Otherwise, the committee would have used the form of certificate of service in subdivision (f). Submission of copies and mailing of them by the court has proved cumbersome in practice and so it is deleted. The purpose of the rule was to ensure that all parties had an opportunity to see the proposed form before entry by the court.~~

~~**1976 Amendment.** The amendment made to this rule on July 26, 1972, was intended according to the committee notes "[t]o assure that all parties had an opportunity to see the proposed form before entry by the Court." This change followed on the heels of the 1971 amendment, which the committee felt had been confusing.~~

~~Two changes have been made to subdivision (h)(1), which have resulted in a wholesale redrafting of the rule. First, the provision requiring the submission of proposed orders to all counsel prior to entry by the court has been deleted, any inaccuracies in an order submitted to the court being remediable either by the~~

~~court's own vigilance or later application by an interested party. Secondly, the rule now requires that conformed copies of any order entered by the court must be mailed to all parties of record in all instances (and to defaulted parties in 2 specified instances), for purposes of advising them of the date of the court's action as well as the substance of such action. Nothing in this new rule is meant to limit the power of the court to delegate the ministerial function of preparing orders.~~

~~**1992 Amendment.** Subdivisions (b) and (f) are amended to allow service pursuant to this rule to be made by facsimile. "Facsimile" or "fax" is a copy of a paper transmitted by electronic means to a printer receiving the transmission at a designated telephone number. When service is made by facsimile or fax, a second copy must be served by any other method permitted by this rule to ensure that a legible copy is received.~~

~~Court Commentary~~

~~**1984 Amendment.** The committee is recommending an amendment to rule 1.530(b) to cure the confusion created by *Casto v. Casto*, 404 So. 2d 1046 (Fla. 4th DCA 1980). That recommendation requires an amendment to rule 1.080(e) specifying that the date of filing is that shown on the face of the paper.~~

(a) Service. Every pleading subsequent to the initial pleading, all orders, and any other documents filed in the action must be served in conformity with the requirements of Florida Rule of Judicial Administration 2.516.

(b) Writing and written defined. Writing or written means a document containing information, an application, or a stipulation.

RULE 2.430. RETENTION OF COURT RECORDS

(a) Definitions. The following definitions apply to this rule:

(1) "Court records" mean the contents of the court file, including the progress docket and other similar records generated to document activity in a case, transcripts filed with the clerk, documentary exhibits in the custody of the clerk, and electronic records, video tapes, or stenographic tapes of depositions or other proceedings filed with the clerk, and electronic records, videotapes or stenographic tapes of court proceedings.

(2) "After a judgment has become final" means:

(A) when a final order, final judgment, final docket entry, final dismissal, or nolle prosequi has been entered as to all parties, no appeal has been taken, and the time for appeal has expired; or

(B) when a final order, final judgment, or final docket entry has been entered, an appeal has been taken, the appeal has been disposed of, and the time for any further appellate proceedings has expired.

(3) "Permanently recorded" means that a document has been microfilmed, optically imaged, or recorded onto an electronic record keeping system in accordance with standards adopted by the Supreme Court of Florida.

(b) Permanently Recorded Records.

(1) Court records, except exhibits, that have been permanently recorded may be destroyed or otherwise disposed of by the clerk at any time after a judgment has become final.

(2) Any physical media submitted to the clerk for the purpose of filing information contained in the media may be destroyed, retained, or otherwise disposed of by the clerk once the contents of the media have been made a part of the court record.

(c) Records Not Permanently Recorded. No court records under this subdivision shall be destroyed or disposed of until the final order, final docket entry, or final judgment is permanently recorded for, or recorded in, the public records. The time periods shall not apply to any action in which the court orders

the court records to be kept until the court orders otherwise. When an order is entered to that effect, the progress docket and the court file shall be marked by the clerk with a legend showing that the court records are not to be destroyed or disposed of without a further order of court. Any person may apply for an order suspending or prohibiting destruction or disposition of court records in any proceeding. Court records, except exhibits, that are not permanently recorded may be destroyed or disposed of by the clerk after a judgment has become final in accordance with the following schedule:

(1) For trial courts

(A) 60 days — Parking tickets and noncriminal traffic infractions after required audits have been completed.

(B) 2 years — Proceedings under the Small Claims Rules, Medical Mediation Proceedings.

(C) 5 years — Misdemeanor actions, criminal traffic violations, ordinance violations, civil litigation proceedings in county court other than those under the Small Claims Rules, and civil proceedings in circuit court except marriage dissolutions and adoptions.

(D) 10 years — Probate, guardianship, and mental health proceedings.

(E) 10 years — Felony cases in which no information or indictment was filed or in which all charges were dismissed, or in which the state announced a nolle prosequi, or in which the defendant was adjudicated not guilty.

(F) 75 years — Juvenile proceedings containing an order permanently depriving a parent of custody of a child, and adoptions, and all felony cases not previously destroyed.

(G) Juvenile proceedings not otherwise provided for in this subdivision shall be kept for 5 years after the last entry or until the child reaches the age of majority, whichever is later.

(H) Marriage dissolutions — 10 years from the last record activity. The court may authorize destruction of court records not involving alimony, support, or custody of children 5 years from the last record activity.

(2) For district courts of appeal

(A) 2 years — noncriminal court records.

(B) 5 years — Criminal court records.

(3) For the Supreme Court

(A) 5 years — All cases disposed of by order not otherwise provided for in this rule.

(B) 10 years — Cases disposed of by order involving individuals licensed or regulated by the court and noncriminal court records involving the unauthorized practice of law.

(d) Records to Be Retained Permanently. The following court records shall be permanently recorded or permanently retained:

(1) progress dockets, and other similar records generated to document activity in a case, and

(2) court records of the supreme court in which the case was disposed of by opinion.

(e) Court Reporters' Notes. Court reporters or persons acting as court reporters for judicial or discovery proceedings shall retain the original notes or electronic records of the proceedings or depositions until the times specified below:

(1) 2 years from the date of preparing the transcript — Judicial proceedings, arbitration hearings, and discovery proceedings when an original transcript has been prepared.

(2) 10 years — Judicial proceedings in felony cases when a transcript has not been prepared.

(3) 5 years — All other judicial proceedings, arbitration hearings, and discovery proceedings when a transcript has not been prepared.

When an agreement has been made between the reporter and any other person and the person has paid the reasonable charges for storage and retention of the notes, the notes or records shall be kept for any longer time agreed on. All reporters' notes shall be retained in a secure place in Florida.

(f) Exhibits.

(1) Exhibits in criminal proceedings shall be disposed of as provided by law.

(2) All other exhibits shall be retained by the clerk until 90 days after a judgment has become final. If an exhibit is not withdrawn pursuant to subdivision (i) within 90 days, the clerk may destroy or dispose of the exhibits after giving the parties or their attorneys of record 30 days' notice of the clerk's intention to do so. Exhibits shall be delivered to any party or attorney of record calling for them during the 30-day time period.

(g) Disposition Other Than Destruction. Before destruction or disposition of court records under this rule, any person may apply to the court for an order requiring the clerk to deliver to the applicant the court records that are to be destroyed or disposed of. All parties shall be given notice of the application. The court shall dispose of that court record as appropriate.

(h) Release of Court Records. This rule does not limit the power of the court to release exhibits or other parts of court records that are the property of the person or party initially placing the items in the court records. The court may require copies to be substituted as a condition to releasing the court records under this subdivision.

(i) Right to Expunge Records. Nothing in this rule shall affect the power of the court to order records expunged.

(j) Sealed Records. No record which has been sealed from public examination by order of court shall be destroyed without hearing after such notice as the court shall require.

(k) Destruction of Jury Notes. At the conclusion of the trial and promptly following discharge of the jury, the court shall collect all juror notes and immediately destroy the juror notes.

RULE 2.510. FOREIGN ATTORNEYS

(a) Eligibility. Upon filing a verified motion with the court, an attorney who is an active member in good standing of the bar of another state and currently eligible to practice law in a state other than Florida may be permitted to appear in particular cases in a Florida court upon such conditions as the court may deem appropriate, provided that a member of The Florida Bar in good standing is associated as an attorney of record. In determining whether to permit a foreign attorney to appear pursuant to this rule, the court may consider, among other things, information provided under subdivision (b)(3) concerning discipline in other jurisdictions. No attorney is authorized to appear pursuant to this rule if the attorney (1) is a Florida resident, unless the attorney has an application pending for admission to The Florida Bar and has not previously been denied admission to The Florida Bar; (2) is a member of The Florida Bar but is ineligible to practice law; (3) has previously been disciplined or held in contempt by reason of misconduct committed while engaged in representation permitted pursuant to this rule provided, however, the contempt is final and has not been reversed or abated; (4) has failed to provide notice to The Florida Bar or pay the filing fee as required in subdivision (b)(7); or (5) is engaged in a "general practice" before Florida courts. For purposes of this rule, more than 3 appearances within a 365-day period in separate representations shall be presumed to be a "general practice." In cases involving indigent clients, the court may waive the filing fee for good cause shown.

(b) Contents of Verified Motion. A form verified motion accompanies this rule and shall be utilized by the foreign attorney. The verified motion required by subdivision (a) shall include:

(1) a statement identifying all jurisdictions in which the attorney is an active member in good standing and currently eligible to practice law including all assigned bar numbers and attorney numbers;

(2) a statement identifying by date, case name, and case number all other matters in Florida state courts in which pro hac vice admission has been sought in the preceding 5 years, and whether such admission was granted or denied;

(3) a statement identifying all jurisdictions in which the attorney has been disciplined in any manner in the preceding 5 years and the sanction imposed,

or in which the attorney has pending any disciplinary proceeding, including the date of the disciplinary action and the nature of the violation;

(4) a statement identifying the date on which the legal representation at issue commenced, and the party or parties represented;

(5) a statement that all applicable provisions of these rules and the Rules Regulating The Florida Bar have been read, and that the verified motion complies with those rules;

(6) the name, record bar address, and membership status of the Florida Bar member or members associated for purposes of the representation;

(7) a certificate indicating service of the verified motion upon all counsel of record in the matter in which leave to appear pro hac vice is sought and upon The Florida Bar at its Tallahassee office accompanied by a nonrefundable $250.00 filing fee made payable to The Florida Bar or notice of the waiver of the fee; and

(8) a verification by the attorney seeking to appear pursuant to this rule and the signature of the Florida Bar member or members associated for purposes of the representation.

IN THE _____ COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____, COUNTY, FLORIDA

_____ Case No._____
Plaintiff

Division _____

vs.

_____
Defendant

VERIFIED MOTION FOR ADMISSION TO APPEAR *PRO HAC VICE* PURSUANT TO FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.510

Comes now_____, Movant herein, and respectfully represents the following:

1. [ ] Movant resides in _____, _____. Movant
(City) (State)
is not a resident of the State of Florida.

[ ] Movant is a resident of the State of Florida and has an application pending for admission to The Florida Bar and has not previously been denied admission to The Florida Bar.

2. Movant is an attorney and a member of the law firm of (or practices law under the name of) _____, with offices at _____, _____,
(Street Address) (City)
_____, _____, _____, _____.
(County) (State) (Zip Code) (Telephone)

3. Movant has been retained personally or as a member of the above named law firm on _____ by _____
(Date Representation Commenced) (Name of Party or Parties)
_____
to provide legal representation in connection with the above-styled matter now pending before the above-named court of the State of Florida.

4. Movant is an active member in good standing and currently eligible to practice law in the following jurisdiction(s): Include attorney or bar number(s). (Attach an additional sheet if necessary.)

JURISDICTION ATTORNEY/BAR NUMBER

_____
_____
_____
_____
_____

5. There are no disciplinary proceedings pending against Movant, except as provided below (give jurisdiction of disciplinary action, date of disciplinary action, nature of the violation and the sanction, if any, imposed): (Attach an additional sheet if necessary.)

_____
_____
_____
_____
_____

6. Within the past five (5) years, Movant has not been subject to any disciplinary proceedings, except as provided below (give jurisdiction of disciplinary action, date of disciplinary action, nature of the violation and the sanction, if any, imposed): (Attach an additional sheet if necessary.)

_____
_____
_____
_____
_____

7. Movant has never been subject to any suspension proceedings, except as provided below (give jurisdiction of disciplinary action, date of disciplinary action, nature of the violation and the sanction, if any, imposed):
(Attach an additional sheet if necessary.)

_____
_____
_____
_____
_____

8. Movant has never been subject to any disbarment proceedings, except as provided below (give jurisdiction of disciplinary action, date of disciplinary action, nature of the violation and the sanction, if any, imposed):
(Attach an additional sheet if necessary.)

_____
_____
_____
_____
_____

9. Movant, either by resignation, withdrawal, or otherwise, never has terminated or attempted to terminate Movant's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings.

10. Movant is not an inactive member of The Florida Bar.

11. Movant is not now a member of The Florida Bar.

12. Movant is not a suspended member of The Florida Bar.

13. Movant is not a disbarred member of The Florida Bar nor has Movant received a disciplinary resignation from The Florida Bar.

14. Movant has not previously been disciplined or held in contempt by reason of misconduct committed while engaged in representation pursuant to Florida Rule of Judicial Administration 2.510, except as provided below (give date of disciplinary action or contempt, reasons ~~there for~~therefor, and court imposing contempt): (Attach an additional sheet if necessary.)

_____
_____
_____
_____
_____

15. Movant has filed motion(s) to appear as counsel in Florida state courts during the past five (5) years in the following matters: (~~a~~Attach an additional sheet if necessary.)

Date of Motion Case Name Case Number Court Date MotionGranted/Denied

_____
_____
_____
_____
_____

16. Local counsel of record associated with Movant in this matter is _____
(Name and Florida Bar Number)
who is an active member in good standing of The Florida Bar and has offices at
_____, _____, _____, _____
(Street Address) (City) (State) (Zip Code)
_____.
(Telephone with area code)
(If local counsel is not an active member of The Florida Bar in good standing, please provide information as to local counsel's membership status._____)

17. Movant has read the applicable provisions of Florida Rule of Judicial Administration 2.510 and Rule 1-3.10 of the Rules Regulating The Florida Bar and certifies that this verified motion complies with those rules.

18. Movant agrees to comply with the provisions of the Florida Rules of Professional Conduct and consents to the jurisdiction of the courts and the Bar of the State of Florida.

WHEREFORE, Movant respectfully requests permission to appear in this court for this cause only.

DATED this _____ day of _____, 20____.

_____
Movant

_____
Address

_____
Address

_____
City, State, Zip Code

_____
Telephone Number

STATE OF _____

COUNTY OF _____

I, _____, do hereby swear or affirm under penalty of perjury that I am the Movant in the above-styled matter; that I have read the foregoing Motion and know the contents thereof, and the contents are true of my own knowledge and belief.

_____
Movant

I hereby consent to be associated as local counsel of record in this cause pursuant to Florida Rule of Judicial Administration 2.510.

DATED this _____ day of _____, 20____.

_____
Local Counsel of Record

_____
Address

_____
Address

_____
City, State, Zip Code

_____
Telephone Number

_____
Florida Bar Number

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing motion was ~~furnished by U.S. mail~~served on (insert the name or names and addresses used for service) by (email) (delivery) (mail) (fax) to PHV Admissions, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2333 accompanied by payment of the $250.00 filing fee made payable to The Florida Bar and to _____
_____

Name and Address of All Counsel of Record and of Parties Not Represented by Counsel this _____ day of _____, 20____.

_____
Movant

RULE 2.520. ~~PAPER~~DOCUMENTS

(a) ~~Type and Size~~Electronic Filing Mandatory. All ~~pleadings, motions, petitions, briefs, notices, orders, judgments, decrees, opinions, and other papers and official~~ documents filed in any court shall be filed by electronic transmission in accordance with rule 2.525. "Documents" means pleadings, motions, petitions, memoranda, briefs, notices, exhibits, declarations, affidavits, orders, judgments, decrees, writs, opinions, and any other paper or writing submitted to a court.

(b) Type and Size. Documents subject to the exceptions set forth in rule 2.525(d) shall be filed on recycled paper measuring 8 1/2 by 11 inches. For purposes of this rule, paper is recycled if it contains a minimum content of 50 percent waste paper. Xerographic reduction of legal-size (8 1/2 by 14 inches) documents to letter size (8 1/2 by 11 inches) is prohibited. All other documents filed by electronic transmission shall be filed in a format capable of being printed in a format consistent with the provisions of this rule.

(~~b~~c) Exhibits. Any exhibit or attachment filed with pleadings or papers may be filed in its original size.

(~~c~~d) Recording Space. On all papers and documents prepared and filed by the court or by any party to a proceeding which are to be recorded in the public records of any county, including but not limited to final money judgments and notices of lis pendens, a 3-inch by 3-inch space at the top right-hand corner on the first page and a 1-inch by 3-inch space at the top right-hand corner on each subsequent page shall be left blank and reserved for use by the clerk of court.

(~~d~~e) Exceptions to Recording Space. Any papers or documents created by persons or entities over which the filing party has no control, including but not limited to wills, codicils, trusts, or other testamentary documents; documents prepared or executed by any public officer; documents prepared, executed, acknowledged, or proved outside of the State of Florida; or documents created by State or Federal government agencies, may be filed without the space required by this rule.

(~~e~~f) Noncompliance. No clerk of court shall refuse for filing any document or paper because of noncompliance with this rule. However, upon request of the clerk of court, noncomplying documents shall be resubmitted in accordance with this rule.

Court Commentary

1989 Adoption. Rule 2.055 is new. This rule aligns Florida's court system with the federal court system and the court systems of the majority of our sister states by requiring in subdivision (a) that all pleadings, motions, petitions, briefs, notices, orders, judgments, decrees, opinions, or other papers filed with any Florida court be submitted on paper measuring 8 1/2 by 11 inches. Subdivision (e) provides a 1-year transition period from the effective date of January 1, 1990, to January 1, 1991, during which time filings that traditionally have been accepted on legal-size paper will be accepted on either legal- or letter-size paper. The 1-year transition period was provided to allow for the depletion of inventories of legal-size paper and forms. The 1-year transition period was not intended to affect compliance with Florida Rule of Appellate Procedure 9.210(a)(1), which requires that typewritten appellate briefs be filed on paper measuring 8 1/2 by 11 inches. Nor was it intended that the requirement of Florida Rule of Appellate Procedure 9.210(a)(1) that printed briefs measure 6 by 9 inches be affected by the requirements of subdivision (a).

Subdivision (b), which recognizes an exception for exhibits or attachments, is intended to apply to documents such as wills and traffic citations which traditionally have not been generated on letter-size paper.

Subdivision (c) was adopted to ensure that a 1 1/2 inch square at the top right-hand corner of all filings is reserved for use by the clerk of court. Subdivision (d) was adopted to ensure that all papers and documents submitted for filing will be considered filed on the date of submission regardless of paper size. Subdivision (d) also ensures that after the 1-year transition period of subdivision (e), filings that are not in compliance with the rule are resubmitted on paper measuring 8 1/2 by 11 inches.

This rule is not intended to apply to those instruments and documents presented to the clerk of the circuit court for recording in the Official Records under section 28.222, Florida Statutes (1987). It is also not intended to apply to matters submitted to the clerk of the circuit court in the capacity as ex officio clerk of the board of county commissioners pursuant to article VIII, section (1)(d), Florida Constitution.

1996 Amendment. Subdivision (c) was amended to make the blank space requirements for use by the clerk of the court consistent with section 695.26,

Florida Statutes (1995). Subdivision (e) was eliminated because the transition period for letter-size and recycled paper was no longer necessary.

RULE 2.525. ELECTRONIC FILING

(a) Definition. "Electronic transmission of documents" means the transmission by electronic signals, to or from a court or clerk~~ of the court~~, of information which when received can be transformed and stored or ~~reproduced~~transmitted on paper, microfilm, magnetic storage device, optical imaging system, CD ROM, flash drive, other electronic data storage system, server, case maintenance system ("CM"), electronic court filing ("ECF") system, statewide or local electronic portal ("E-Portal"), or other electronic record keeping system authorized by the ~~S~~supreme ~~C~~court ~~of Florida~~ in a format sufficient to communicate the information on the original document in a readable format. Electronic transmission of documents includes electronic mail ("email") and any internet-based transmission procedure, and may include procedures allowing for documents to be signed or verified by electronic means.

(b) Application. Any court or clerk ~~of the court~~ may accept the electronic transmission of documents for filing and may send documents by electronic transmission after the clerk, together with input from the chief judge of the circuit, has obtained approval of ~~the~~ procedures, ~~and~~ programs, and standards for electronic filing ~~for doing so~~ from the ~~S~~supreme ~~C~~court ~~of Florida~~("ECF Procedures"). All ECF Procedures must comply with the then-current E-Filing standards, as promulgated by the supreme court in Administrative Order No. AOSC09-30, or subsequent administrative order.

(c) Documents Affected.

(1) All documents that are court records, as defined in rule 2.430(a)(1), ~~may~~must be filed by electronic transmission, provided that:

(A) the clerk ~~of court~~ has the ability to accept and retain such documents;

(B) the clerk ~~of court~~ or the chief judge of the circuit has requested permission to accept documents filed by electronic transmission; and

(C) the ~~S~~supreme ~~C~~court ~~of Florida~~ has entered an order granting permission to the clerk ~~of court~~ to accept documents filed by electronic transmission.

~~Any attorney, party, or other person who files a document by electronic transmission shall, immediately thereafter, file the identical document, in paper form, with an original signature of the attorney, party, or other person if a signature is otherwise required by these rules (hereinafter called the follow-up filing).~~

(2) ~~The follow-up filing of any document that has previously been filed by electronic transmission may be discontinued if:~~

~~(A) after a 90-day period of accepting electronically filed documents, the clerk of court or the chief judge of the circuit certifies to the Supreme Court of Florida that the electronic filing system is efficient, reliable, and meets the demands of all parties;~~

~~(B) the clerk of court or the chief judge of the circuit requests permission to discontinue that portion of the rule requiring a follow-up filing of documents in paper form, except as otherwise required by general law, statute, or court rule; and~~

~~(C) the Supreme Court of Florida enters an order directing the clerk of court to discontinue accepting the follow-up filing.~~

All documents filed by electronic transmission under this rule satisfy any requirement for the filing of an original, except where the court, law, or rule of procedure otherwise provides for the submittal of an original.

(d) ~~Service.~~Exceptions. Paper documents or other submissions may be manually submitted to the clerk for filing:

(1) ~~Electronic transmission may be used by a court for the service of all orders of whatever nature provided the clerk, together with input from the chief judge of the circuit, has obtained approval from the Supreme Court of Florida of the specific procedures and program to be used in transmitting the orders. All other requirements for the service of such an order shall be met.~~when the clerk does not have the ability to accept and retain documents by electronic filing or has not had ECF Procedures approved by the supreme court;

(2) ~~Any document electronically transmitted to a court or clerk of the court shall also be served on all parties and interested persons in accordance with the applicable rules of court.~~by self-represented litigants, third parties, or non-

litigants, unless specific ECF Procedures provide a means for such self-represented litigants, third parties, or non-litigants to file documents electronically;

(3) by attorneys excused from email service in accordance with rule 2.516(b)(2);

(4) when the filing involves non-electronic documents or exhibits, such as trial or hearing exhibits, court approved forms, executed wills, non-documentary items such as cassettes, video tapes, DVDs, weapons, drugs, original exhibits, or other original attachments to filings, etc.;

(5) when the filing involves documents in excess of 25 megabytes (25MB) in size. For such filings, documents may be transmitted using an electronic storage device or system that the clerk has the ability to accept, which may include a CD-ROM, flash drive, or similar storage system;

(6) when filed in open court, as permitted by the court;

(7) when the document is required by any statute or other rule of procedure to be an original document, including surety bonds, criminal plea agreements, documents required to be notarized, etc;

(8) when paper filing is permitted by any approved statewide or local ECF procedures; and

(9) if any court determines that justice so requires.

(e) ~~Transmission Difficulties~~Service. ~~Any attorney, party, or other person who elects to file any document by electronic transmission shall be responsible for any delay, disruption, interruption of the electronic signals, and readability of the document, and accepts the full risk that the document may not be properly filed with the clerk as a result.~~

(1) Electronic transmission may be used by a court or clerk for the service of all orders of whatever nature, pursuant to rule 2.516(h), and for the service of any documents pursuant to any ECF Procedures, provided the clerk, together with input from the chief judge of the circuit, has obtained approval from the supreme court of ECF Procedures containing the specific procedures and

program to be used in transmitting the orders and documents. All other requirements for the service of such orders must be met.

(2) Any document electronically transmitted to a court or clerk must also be served on all parties and interested persons in accordance with the applicable rules of court.

(f) Administration.

(1) Any clerk ~~of the court~~ who, after obtaining ~~S~~supreme ~~C~~court ~~of Florida~~ approval, accepts for filing documents that have been electronically transmitted ~~shall~~must:

(A) provide electronic or telephonic access to its equipment, whether through an E-Portal or otherwise, during regular business hours, and all other times as practically feasible; and

(B) accept electronic transmission of documents up to 25 megabytes (25MB) in size, or until E-Filing has been fully implemented, accept facsimile transmissions of documents up to 10 pages in length; and

(C) accept filings in excess of 25 megabytes (25MB) in size by electronic storage device or system, which may include a CD-ROM, flash drive, or similar storage system.

(2) All attorneys, parties, or other persons using this rule to file documents are required to make arrangements with the court or clerk ~~of the court~~ for the payment of any charges authorized by general law or the ~~S~~supreme ~~C~~court ~~of Florida~~ before filing any document by electronic transmission.

(3) The filing date for an electronically transmitted document ~~shall be~~is the date and time that such filing is acknowledged by an electronic stamp or otherwise, pursuant to any procedure set forth in any ECF Procedures approved by the supreme court, or the date the last page ~~thereof~~of such filing is received by the court or clerk ~~of the court~~.

(4) Any court or clerk ~~of the court~~ may extend the hours of access or increase the page or size limitations set forth in this subdivision.

(g) Accessibility. All documents referred to in subdivision (c) that are transmitted to a court in any electronic form must be formatted in a manner that complies with all state and federal laws requiring that electronic judicial records be accessible to persons with disabilities, including without limitation the Americans with Disabilities Act and Section 508 of the federal Rehabilitation Act of 1973 as incorporated into Florida law by section 282.603(1), Florida Statutes (2009), and any related federal or state regulations or administrative rules.

Court Commentary

1997 Amendment. Originally, the rule provided that the follow-up filing had to occur within ten days. In the 1997 amendment to the rule, that requirement was modified to provide that the follow-up filing must occur "immediately" after a document is electronically filed. The "immediately thereafter" language is consistent with language used in the rules of procedure where, in a somewhat analogous situation, the filing of a document may occur after service. *See*, *e.g.*, Florida Rule of Civil Procedure 1.080(d) ("All original papers shall be filed with the court either before service or *immediately thereafter*.") (emphasis added). "Immediately thereafter" has been interpreted to mean "filed with reasonable promptness." *Miami Transit Co. v. Ford*, 155 So.2d 360 (Fla. 1963).

The use of the words "other person" in this rule is not meant to allow a nonlawyer to sign and file pleadings or other papers on behalf of another. Such conduct would constitute the unauthorized practice of law.

RULE 2.535. COURT REPORTING

(a) Definitions.

(1) "Approved court reporter" means a court employee or contractor who performs court reporting services, including transcription, at public expense and who meets the court's certification, training, and other qualifications for court reporting.

(2) "Approved transcriptionist" means a court employee, contractor, or other individual who performs transcription services at public expense and who meets the court's certification, training, and other qualifications for transcribing proceedings.

(3) "Civil court reporter" means a court reporter who performs court reporting services in civil proceedings not required to be reported at public expense, and who meets the court's certification, training, and other qualifications for court reporting.

(4) "Court reporting" means the act of making a verbatim record of the spoken word, whether by the use of written symbols, stenomask equipment, stenographic equipment, or electronic devices, in any proceedings pending in any of the courts of this state, including all discovery proceedings conducted in connection therewith, any proceedings reported for the court's own use, and all proceedings required by statute to be reported by an approved court reporter or civil court reporter. It does not mean the act of taking witness statements not intended for use in court as substantive evidence.

(5) "Electronic record" means the audio, analog, digital, or video record of a court proceeding.

(6) "Official record" means the transcript, which is the written <u>or electronically stored</u> record of court proceedings and depositions prepared in accordance with the requirements of subdivision (f).

(b) When Court Reporting Required. Any proceeding shall be reported on the request of any party. The party so requesting shall pay the reporting fees, but this requirement shall not preclude the taxation of costs as authorized by law.

(c) Record. When trial proceedings are being reported, no part of the proceedings shall be omitted unless all of the parties agree to do so and the court approves the agreement. When a deposition is being reported, no part of the proceedings shall be omitted unless all of the parties and the witness so agree. When a party or a witness seeks to terminate or suspend the taking of a deposition for the time necessary to seek a court order, the court reporter shall discontinue reporting the testimony of the witness.

(d) Ownership of Records. The chief judge of the circuit in which a proceeding is pending, in his or her official capacity, is the owner of all records and electronic records made by an official court reporter or quasi-judicial officer in proceedings required to be reported at public expense and proceedings reported for the court's own use.

(e) Fees. The chief judge shall have the discretion to adopt an administrative order establishing maximum fees for court reporting services. Any such order must make a specific factual finding that the setting of such maximum fees is necessary to ensure access to the courts. Such finding shall include consideration of the number of court reporters in the county or circuit, any past history of fee schedules, and any other relevant factors.

(f) Transcripts. Transcripts of all judicial proceedings, including depositions, shall be uniform in and for all courts throughout the state and shall be stored in an electronic format sufficient to communicate the information contained in proceedings in a readable format, and capable of being transmitted electronically as set forth in rule 2.525. Any transcripts stored in electronic form must be capable of being printed in accordance with this rule. The form, size, spacing, and method of printing transcripts are as follows:

(1) All proceedings shall be printed on paper 8 1/2 inches by 11 inches in size and bound on the left.

(2) There shall be no fewer than 25 printed lines per page with all lines numbered 1 through 25, respectively, and with no more than a double space between lines.

(3) Font size or print shall be 9 or 10 pica, 12-point courier, or 12-point Times New Roman print with no less than 56 characters per line on questions and answers unless the text of the speaker ends short of marginal requirements.

(4) Colloquy material shall begin on the same line following the identification of the speaker, with no more than 2 spaces between the identification of the speaker and the commencement of the colloquy. The identification of the speaker in colloquy shall begin no more than 10 spaces from the left margin, and carry-over colloquy shall be indented no more than 5 spaces from the left margin.

(5) Each question and answer shall begin on a separate line no more than 5 spaces from the left margin with no more than 5 spaces from the "Q" or "A" to the text. Carry-over question and answer lines shall be brought to the left margin.

(6) Quoted material shall begin no more than 10 spaces from the left margin with carry-over lines beginning no more than 10 spaces from the left margin.

(7) Indentations of no more than 10 spaces may be used for paragraphs, and all spaces on a line as herein provided shall be used unless the text of the speaker ends short of marginal requirements.

(8) One-line parentheticals may begin at any indentation. Parentheticals exceeding 1 line shall begin no more than 10 spaces from the left margin, with carry-over lines being returned to the left margin.

(9) Individual volumes of a transcript, including depositions, shall be no more than 200 pages in length, inclusive of the index.

(10) Deviation from these standards shall not constitute grounds for limiting use of transcripts in the trial or appellate courts.

(g) Officers of the Court. Approved court reporters, civil court reporters, and approved transcriptionists are officers of the court for all purposes while acting as court reporters in judicial proceedings or discovery proceedings or as transcriptionists. Approved court reporters, civil court reporters, and approved transcriptionists shall comply with all rules and statutes governing the proceeding that are applicable to court reporters and approved transcriptionists.

(h) Court Reporting Services at Public Expense.

(1) When Reporting Is Required. All proceedings required by law, court rule, or administrative order to be reported shall be reported at public expense.

(2) When Reporting May Be Required. Proceedings reported for the court's own use may be reported at public expense.

(3) Circuit Plan. The chief judge, after consultation with the circuit court and county court judges in the circuit, shall enter an administrative order developing and implementing a circuit-wide plan for the court reporting of all proceedings required to be reported at public expense using either full or part time court employees or independent contractors. The plan shall ensure that all court reporting services are provided by approved court reporters or approved transcriptionists. This plan may provide for multiple service delivery strategies if they are necessary to ensure the efficient provision of court reporting services. Each circuit's plan for court reporting services shall be developed after consideration of guidelines issued by the Office of the State Courts Administrator.

(4) Electronic Recording and Transcription of Proceedings Without Court Reporters. A chief judge may enter a circuit-wide administrative order, which shall be recorded, authorizing the electronic recording and subsequent transcription by approved court reporters or approved transcriptionists, of any judicial proceedings, including depositions, that are otherwise required to be reported by a court reporter. Appropriate procedures shall be prescribed in the order which shall:

(A) set forth responsibilities for the court's support personnel to ensure a reliable record of the proceedings;

(B) provide a means to have the recording transcribed by approved court reporters or approved transcriptionists, either in whole or in part, when necessary for an appeal or for further use in the trial court; and

(C) provide for the safekeeping of such recordings.

(5) Safeguarding Confidential Communications When Electronic Recording Equipment Is Used in the Courtroom.

(A) Court personnel shall provide notice to participants in a courtroom proceeding that electronic recording equipment is in use and that they should safeguard information they do not want recorded.

(B) Attorneys shall take all reasonable and available precautions to protect disclosure of confidential communications in the courtroom. Such precautions may include muting microphones or going to a designated location that is inaccessible to the recording equipment.

(C) Participants have a duty to protect confidential information.

(6) Grand Jury Proceedings. Testimony in grand jury proceedings shall be reported by an approved court reporter, but shall not be transcribed unless required by order of court. Other parts of grand jury proceedings, including deliberations and voting, shall not be reported. The approved court reporter's work product, including stenographic notes, electronic recordings, and transcripts, shall be filed with the clerk of the court under seal.

(i) Court Reporting Services in Capital Cases. The chief judge, after consultation with the circuit court judges in the circuit, shall enter an administrative order developing and implementing a circuit-wide plan for court reporting in all trials in which the state seeks the death penalty and in capital postconviction proceedings. The plan shall require the use of all measures necessary to expedite the preparation of the transcript, including but not limited to:

(1) where available, the use of an approved court reporter who has the capacity to provide real-time transcription of the proceedings;

(2) if real-time transcription services are not available, the use of a computer-aided transcription qualified court reporter;

(3) the use of scopists, text editors, alternating court reporters, or other means to expedite the finalization of the certified transcript; and

(4) the imposition of reasonable restrictions on work assignments by employee or contract approved court reporters to ensure that transcript production in capital cases is given a priority.

(j) Juvenile Dependency and Termination of Parental Rights Cases. Transcription of hearings for appeals of orders in juvenile dependency and termination of parental rights cases shall be given priority, consistent with rule 2.215(g), over transcription of all other proceedings, unless otherwise ordered by the court based upon a demonstrated exigency.

Committee Note

The definitions of "electronic record" in subdivision (a)(5) and of "official record" in subdivision (a)(6) are intended to clarify that when a court proceeding is electronically recorded by means of audio, analog, digital, or video equipment, and is also recorded via a written transcript prepared by a court reporter, the written transcript shall be the "official record" of the proceeding to the exclusion of all electronic records. While the term "record" is used within Rule 2.535 and within Fla. R. App. P. 9.200, it has a different meaning within the unique context of each rule. Accordingly, the meaning of the term "record" as defined for purposes of this rule does not in any way alter, amend, change, or conflict with the meaning of the term "record" as defined for appellate purposes in Fla. R. App. P. 9.200(a).

RULE 3.030. SERVICE AND FILING OF PLEADINGS, ~~AND~~ PAPERS, AND DOCUMENTS

(a) Service; ~~When Required~~. Every pleading subsequent to the initial indictment or information on which a defendant is to be tried unless the court otherwise orders, and every order not entered in open court, every written motion unless it is one about which a hearing ex parte is authorized, and every written notice, demand, and similar ~~paper~~document shall be served on each party in conformity with rule 2.516, Florida Rules of Judicial Administration; however, nothing herein shall be construed to require that a plea of not guilty shall be in writing.

(b) ~~Same; How Made.~~ ~~When service is required or permitted to be made on a party represented by an attorney, the service shall be made on the attorney unless service on the party is ordered by the court. Service on the attorney or on a party shall be made by delivering a copy to the party or by mailing it to the party's last known address, or, if no address is known, by leaving it with the clerk of the court who shall place it in the court file. Delivery of a copy within this rule shall mean:~~

~~(1) handing it to the attorney or to the party; or~~

~~(2) leaving it at the attorney's office with the secretary or other person in charge; or~~

~~(3) if there is no one in charge, leaving it in a conspicuous place therein; or~~

~~(4) if the office is closed or the person to be served has no office, leaving it at the person's usual place of abode with a family member above 15 years of age and informing that person of the contents. Service by mail shall be considered complete upon mailing; or~~

~~(5) transmitting it electronically to each party with a cover sheet indicating the sender's name, bar number, firm, address, telephone number, facsimile or modem number, and the number of pages transmitted. Electronic service occurs when transmission of the last page is complete. Service by delivery or electronic transmission after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday, or legal holiday.~~

~~**(c)**~~ Filing. ~~All original papers, copies of which are required to be served on parties, must be filed with the court either before service or immediately thereafter.~~ All documents that are "court records" as defined in the Florida Rules of Judicial Administration must be filed with the clerk by electronic transmission in accordance with rules 2.520 and 2.525, Florida Rules of Judicial Administration, provided that an original is not required to be filed in paper format. All documents which are required or permitted to be served on parties must be filed with the court either before service or immediately thereafter.

(c) Submitting Originals. Originals which must be filed in paper format with the clerk include: charging documents, indictments, informations, petitions, affidavits, plea agreements, documents filed under seal, ex parte documents, and any documents which are required to be sworn or notarized. Original charging documents must be kept by the clerk in accordance with the Florida Rules of Judicial Administration. All other original documents filed in paper format must be scanned by the clerk and provided to the prosecuting authority to determine whether or not the original is kept. If permitted by approved statewide or local ECF procedures, original documents may be submitted electronically for purposes of a filing date; however, the original document must also be filed in paper format in accordance with this rule. All original documents under this rule must certify that they were filed in paper format to the clerk.

~~**(d) Filing with the Court Defined.** The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him or her, in which event the judge shall note thereon the filing date and transmit them to the office of the clerk. Unless any rule expressly provides to the contrary, filing of pleadings and other papers with the court may be made by electronic transmission provided for and in accordance with the Florida Rules of Judicial Administration.~~

~~**(e) Certificate of Service.** When any attorney shall in substance certify:~~

~~I do certify that a copy (copies) hereof (has) (have) been furnished to (here insert name or names) by (delivery) (mail) on .....(date).....~~

~~_____~~

~~Attorney~~

~~the certificate shall be taken as prima facie proof of service in compliance with all rules of court and law.~~

Committee Notes

1968 Adoption. Taken from the Florida Rules of Civil Procedure.

1972 Amendment. Same as prior rule; (a) amended by deleting reference to trial on affidavit.

2000 Amendment. Fraudulent manipulation of electronically transmitted service should be considered contemptuous and dealt with by appropriate sanctions by the court.

RULE 3.070. ADDITIONAL TIME AFTER SERVICE BY MAIL WHEN PERMITTED

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other ~~paper~~document on the party and the notice or ~~paper~~document is served on the party by mail when permitted, 3 days shall be added to the prescribed period.

Committee Notes

1968 Adoption. This is the same as rule 1.6(e), Florida Rules of Civil Procedure, except for the omission of subdivision (c) of the civil rules, which appears to be inapplicable to criminal cases.

1972 Amendment. Same as prior rule.

RULE 3.080. NONVERIFICATION OF PLEADINGS

Except when otherwise specifically provided by these rules or an applicable statute, every written pleading or other ~~paper~~document of a party represented by an attorney need not be verified or accompanied by an affidavit.

Committee Notes

1968 Adoption. Taken from rules of civil procedure.

1972 Amendment. Same as prior rule.

RULE 3.090. PLEADING CAPTIONS

Every pleading, motion, order, judgment, or other ~~paper~~document shall have a caption containing the name of the court, the file number, the name of the first party on each side with an appropriate indication of other parties, and a designation identifying the party filing it and its nature or the nature of the order, as the case may be. All ~~papers~~documents filed in the action shall be styled in such a manner as to indicate clearly the subject matter of the ~~paper~~document and the party requesting or obtaining relief.

RULE 3.240. CHANGE OF VENUE

(a) Grounds for Motion. The state or the defendant may move for a change of venue on the ground that a fair and impartial trial cannot be had in the county where the case is pending for any reason other than the interest and prejudice of the trial judge.

(b) Contents of Motion. Every motion for change of venue shall be in writing and be accompanied by:

(1) affidavits of the movant and 2 or more other persons setting forth facts on which the motion is based; and

(2) a certificate by the movant's counsel that the motion is made in good faith.

(c) Time for Filing. A motion for change of venue shall be filed no less than 10 days before the time the case is called for trial unless good cause is shown for failure to file within such time.

(d) Action on Motion. The court shall consider the affidavits filed by all parties and receive evidence on every issue of fact necessary to its decision. If the court grants the motion it shall make an order removing the cause to the court having jurisdiction to try such offense in some other convenient county where a fair and impartial trial can be had.

(e) Defendant in Custody. If the defendant is in custody, the order shall direct that the defendant be forthwith delivered to the custody of the sheriff of the county to which the cause is removed.

(f) Transmittal of Documents. The clerk shall enter on the minutes the order of removal and transmit to the court to which the cause is removed a certified copy of the order of removal and of the record and proceedings and of the undertakings of the witnesses and the accused.

(g) Attendance by Witnesses. When the cause is removed to another court, witnesses who have been lawfully subpoenaed or ordered to appear at the trial shall, on notice of such removal, attend the court to which the cause is

removed at the time specified in the order of removal. A witness who refuses to obey a duly served subpoena may be adjudged in contempt of court.

(h) Multiple Defendants. If there are several defendants and an order is made removing the cause on the application of one or more but not all of them, the other defendants shall be tried and all proceedings had against them in the county in which the cause is pending in all respects as if no order of removal had been made as to any defendant.

(i) Action of Receiving Court. The court to which the cause is removed shall proceed to trial and judgment therein as if the cause had originated in that court. If it is necessary to have any of the original pleadings or other ~~papers~~documents before that court, the court from which the cause is removed shall at any time on application of the prosecuting attorney or the defendant order such ~~papers~~documents or pleadings to be transmitted by the clerk, a certified copy thereof being retained.

(j) Prosecuting Attorney's Obligation. The prosecuting attorney of the court to which the cause is removed may amend the information, or file a new information, and such new information shall be entitled in the county in which the trial is had, but the allegations as to the place of commission of the crime shall refer to the county in which the crime was actually committed.

Committee Notes

1968 Adoption. (a) through (d) substantially same as sections 911.02 through 911.05, Florida Statutes. Language is simplified and requirement pertaining to cases in criminal courts of record that removal be to adjoining county is omitted. Modern communications and distribution of television and press makes old requirements impractical. Designation of county left to discretion of the trial judge.

(e) through (i) same as corresponding sections 911.06 through 911.10, Florida Statutes.

1972 Amendment. Same as prior rule.

RULE 3.851. COLLATERAL RELIEF AFTER DEATH SENTENCE HAS BEEN IMPOSED AND AFFIRMED ON DIRECT APPEAL

(a) Scope. This rule shall apply to all motions and petitions for any type of postconviction or collateral relief brought by a prisoner in state custody who has been sentenced to death and whose conviction and death sentence have been affirmed on direct appeal. It shall apply to all postconviction motions filed on or after October 1, 2001, by prisoners who are under sentence of death. Motions pending on that date are governed by the version of this rule in effect immediately prior to that date.

(b) Appointment of Postconviction Counsel.

(1) Upon the issuance of the mandate affirming a judgment and sentence of death on direct appeal, the Supreme Court of Florida shall at the same time issue an order appointing the appropriate office of the Capital Collateral Regional Counsel or directing the trial court to immediately appoint counsel from the Registry of Attorneys maintained by the Commission on Capital Cases. The name of Registry Counsel shall be filed with the Supreme Court of Florida.

(2) Within 30 days of the issuance of the mandate, the Capital Collateral Regional Counsel or Registry Counsel shall file a notice of appearance in the trial court or a motion to withdraw based on a conflict of interest or some other legal ground. Motions to withdraw filed more than 30 days after the issuance of the mandate shall not be entertained unless based on a specific conflict of interest as set forth in section 27.703, Florida Statutes.

(3) Within 15 days after Capital Collateral Regional Counsel or Registry Counsel files a motion to withdraw, the chief judge or assigned judge shall rule on the motion and appoint new postconviction counsel if necessary. The appointment of new collateral counsel shall be from the Registry of attorneys maintained by the Commission on Capital Cases unless the case is administratively transferred to another Capital Collateral Regional Counsel.

(c) Preliminary Procedures.

(1) Judicial Assignment. Within 30 days of the issuance of mandate affirming a judgment and sentence of death on direct appeal, the chief judge shall

assign the case to a judge qualified under the Rules of Judicial Administration to conduct capital proceedings.

(2) Status Conferences. The assigned judge shall conduct a status conference not later than 90 days after the judicial assignment, and shall hold status conferences at least every 90 days thereafter until the evidentiary hearing has been completed or the motion has been ruled on without a hearing. The attorneys, with leave of the trial court, may appear electronically at the status conferences. Requests to appear electronically shall be liberally granted. Pending motions, disputes involving public records, or any other matters ordered by the court shall be heard at the status conferences.

(3) Prisoner's Presence Not Required. The prisoner's presence shall not be required at any hearing or conference held under this rule, except at the evidentiary hearing on the merits of any claim and at any hearing involving conflict with or removal of collateral counsel.

(4) Duties of Defense Counsel. Within 45 days of appointment of postconviction counsel, the defendant's trial counsel shall provide to postconviction counsel all information pertaining to the defendant's capital case which was obtained during the representation of the defendant. Postconviction counsel shall maintain the confidentiality of all confidential information received.

(d) Time Limitation.

(1) Any motion to vacate judgment of conviction and sentence of death shall be filed by the prisoner within 1 year after the judgment and sentence become final. For the purposes of this rule, a judgment is final:

(A) on the expiration of the time permitted to file in the United States Supreme Court a petition for writ of certiorari seeking review of the Supreme Court of Florida decision affirming a judgment and sentence of death (90 days after the opinion becomes final); or

(B) on the disposition of the petition for writ of certiorari by the United States Supreme Court, if filed.

(2) No motion shall be filed or considered pursuant to this rule if filed beyond the time limitation provided in subdivision (d)(1) unless it alleges:

(A) the facts on which the claim is predicated were unknown to the movant or the movant's attorney and could not have been ascertained by the exercise of due diligence, or

(B) the fundamental constitutional right asserted was not established within the period provided for in subdivision (d)(1) and has been held to apply retroactively, or

(C) postconviction counsel, through neglect, failed to file the motion.

(3) All petitions for extraordinary relief in which the Supreme Court of Florida has original jurisdiction, including petitions for writs of habeas corpus, shall be filed simultaneously with the initial brief filed on behalf of the death-sentenced prisoner in the appeal of the circuit court's order on the initial motion for postconviction relief filed under this rule.

(4) The time limitation in subdivision (d)(1) is established with the understanding that each death-sentenced prisoner will have counsel assigned and available to begin addressing the prisoner's postconviction issues within the time specified in this rule. Should the governor sign a death warrant before the expiration of the time limitation in subdivision (d)(1), the Supreme Court of Florida, on a defendant's request, will grant a stay of execution to allow any postconviction relief motions to proceed in a timely and orderly manner. Furthermore, this time limitation shall not preclude the right to amend or to supplement pending pleadings under these rules.

(5) An extension of time may be granted by the Supreme Court of Florida for the filing of postconviction pleadings if the prisoner's counsel makes a showing of good cause for counsel's inability to file the postconviction pleadings within the 1-year period established by this rule.

(e) Contents of Motion.

(1) Initial Motion. A motion filed under this rule is an initial postconviction motion if no state court has previously ruled on a postconviction motion challenging the same judgment and sentence. An initial motion and memorandum of law filed under this rule shall not exceed 75 pages exclusive of the attachments. Attachments shall include, but are not limited to, the judgment and sentence. The memorandum of law shall set forth the applicable case law

supporting the granting of relief as to each separately pled claim. This rule does not authorize relief based upon claims that could have or should have been raised at trial and, if properly preserved, on direct appeal of the judgment and sentence. If claims that were raised on appeal or should have been raised on appeal are contained in the motion, the memorandum of law shall contain a brief statement explaining why these claims are being raised on postconviction relief. The motion shall be under oath and shall include:

(A) a description of the judgment and sentence under attack and the name of the court that rendered the same;

(B) a statement of each issue raised on appeal and the disposition thereof;

(C) the nature of the relief sought;

(D) a detailed allegation of the factual basis for any claim for which an evidentiary hearing is sought; and

(E) a detailed allegation as to the basis for any purely legal or constitutional claim for which an evidentiary hearing is not required and the reason that this claim could not have been or was not raised on direct appeal.

(2) Successive Motion. A motion filed under this rule is successive if a state court has previously ruled on a postconviction motion challenging the same judgment and sentence. A successive motion shall not exceed 25 pages, exclusive of attachments, and shall include:

(A) all of the pleading requirements of an initial motion under subdivision (e)(1);

(B) the disposition of all previous claims raised in postconviction proceedings and the reason or reasons the claim or claims raised in the present motion were not raised in the former motion or motions;

(C) if based upon newly discovered evidence, Brady v. Maryland, 373 U.S. 83 (1963), or Giglio v. United States, 405 U.S. 150 (1972), the following:

(i) the names, addresses, and telephone numbers of all witnesses supporting the claim;

(ii) a statement that the witness will be available, should an evidentiary hearing be scheduled, to testify under oath to the facts alleged in the motion or affidavit;

(iii) if evidentiary support is in the form of documents, copies of all documents shall be attached, including any affidavits obtained; and

(iv) as to any witness or document listed in the motion or attachment to the motion, a statement of the reason why the witness or document was not previously available.

(f) Procedure; Evidentiary Hearing; Disposition.

(1) Filing and Service. All pleadings in the postconviction proceeding shall be filed with the clerk of the trial court and served on the assigned judge, opposing party, and the attorney general. Upon the filing of any original court ~~paper~~document in the postconviction proceeding, the clerk of the trial court shall determine that the assigned judge has received a copy. All motions other than the postconviction motion itself shall be accompanied by a notice of hearing.

(2) Duty of Clerk. A motion filed under this rule shall be immediately delivered to the chief judge or the assigned judge along with the court file.

(3) Answer.

(A) Answer to the Initial Motion. Within 60 days of the filing of an initial motion, the state shall file its answer. The answer and accompanying memorandum of law shall not exceed 75 pages, exclusive of attachments and exhibits. The answer shall address the legal insufficiency of any claim in the motion, respond to the allegations of the motion, and address any procedural bars. As to any claims of legal insufficiency or procedural bar, the state shall include a short statement of any applicable case law.

(B) Answer to a Successive Motion. Within 20 days of the filing of a successive motion, the state shall file its answer. The answer shall not exceed 25 pages, exclusive of attachments and exhibits. The answer shall

specifically respond to each claim in the motion and state the reason(s) that an evidentiary hearing is or is not required.

(4) Amendments. A motion filed under this rule may be amended up to 30 days prior to the evidentiary hearing upon motion and good cause shown. The trial court may in its discretion grant a motion to amend provided that the motion sets forth the reason the claim was not raised earlier and attaches a copy of the claim sought to be added. Granting a motion under this subdivision shall not be a basis for granting a continuance of the evidentiary hearing unless a manifest injustice would occur if a continuance was not granted. If amendment is allowed, the state shall file an amended answer within 20 days after the amended motion is filed.

(5) Case Management Conference; Evidentiary Hearing.

(A) Initial Postconviction Motion. No later than 90 days after the state files its answer to an initial motion, the trial court shall hold a case management conference. At the case management conference, both parties shall disclose all documentary exhibits that they intend to offer at the evidentiary hearing, provide an exhibit list of all such exhibits, and exchange a witness list with the names and addresses of any potential witnesses. All expert witnesses shall be specifically designated on the witness list, and copies of all expert reports shall be attached. At the case management conference, the trial court shall:

(i) schedule an evidentiary hearing, to be held within 90 days, on claims listed by the defendant as requiring a factual determination;

(ii) hear argument on any purely legal claims not based on disputed facts; and

(iii) resolve disputes arising from the exchange of information under this subdivision.

(B) Successive Postconviction Motion. Within 30 days after the state files its answer to a successive motion for postconviction relief, the trial court shall hold a case management conference. At the case management conference, the trial court also shall determine whether an evidentiary hearing should be held and hear argument on any purely legal claims not based on disputed facts. If the motion, files, and records in the case conclusively show that the movant is entitled to no relief, the motion may be denied without an evidentiary hearing. If the trial court determines that an evidentiary hearing should be held, the court shall schedule the

hearing to be held within 60 days. If a death warrant has been signed, the trial court shall expedite these time periods in accordance with subdivision (h) of this rule.

(C) Extension of Time to Hold Evidentiary Hearing. The trial court also may for good cause extend the time for holding an evidentiary hearing for up to 90 days.

(D) Procedures After Evidentiary Hearing. Immediately following an evidentiary hearing, the trial court shall order a transcript of the hearing which shall be filed within 30 days. Within 30 days of receipt of the transcript, the court shall render its order, ruling on each claim considered at the evidentiary hearing and all other claims raised in the motion, making detailed findings of fact and conclusions of law with respect to each claim, and attaching or referencing such portions of the record as are necessary to allow for meaningful appellate review. The order issued after the evidentiary hearing shall resolve all the claims raised in the motion and shall be considered the final order for purposes of appeal. The clerk of the trial court shall promptly serve upon the parties and the attorney general a copy of the final order, with a certificate of service.

(6) Mental Health Expert. If the defendant intends to offer expert testimony of his or her mental status, the state shall be entitled to have the defendant examined by its own mental health expert. If the defendant fails to cooperate with the state's expert, the trial court may, in its discretion, proceed as provided in rule 3.202(e). Reports provided to either party by an expert witness shall be disclosed to opposing counsel upon receipt.

(7) Rehearing. Motions for rehearing shall be filed within 15 days of the rendition of the trial court's order and a response thereto filed within 10 days thereafter. The trial court's order disposing of the motion for rehearing shall be rendered not later than 15 days thereafter.

(g) Incompetence to Proceed in Capital Collateral Proceedings.

(1) A death-sentenced prisoner pursuing collateral relief under this rule who is found by the court to be mentally incompetent shall not be proceeded against if there are factual matters at issue, the development or resolution of which require the prisoner's input. However, all collateral relief issues that involve only matters of record and claims that do not require the prisoner's input shall proceed in collateral proceedings notwithstanding the prisoner's incompetency.

(2) Collateral counsel may file a motion for competency determination and an accompanying certificate of counsel that the motion is made in good faith and on reasonable grounds to believe that the death-sentenced prisoner is incompetent to proceed. The motion and certificate shall replace the signed oath by the prisoner that otherwise must accompany a motion filed under this rule.

(3) If, at any stage of a postconviction proceeding, the court determines that there are reasonable grounds to believe that a death-sentenced prisoner is incompetent to proceed and that factual matters are at issue, the development or resolution of which require the prisoner's input, a judicial determination of incompetency is required.

(4) The motion for competency examination shall be in writing and shall allege with specificity the factual matters at issue and the reason that competent consultation with the prisoner is necessary with respect to each factual matter specified. To the extent that it does not invade the lawyer-client privilege with collateral counsel, the motion shall contain a recital of the specific observations of, and conversations with, the death-sentenced prisoner that have formed the basis of the motion.

(5) If the court finds that there are reasonable grounds to believe that a death-sentenced prisoner is incompetent to proceed in a postconviction proceeding in which factual matters are at issue, the development or resolution of which require the prisoner's input, the court shall order the prisoner examined by no more than 3, nor fewer than 2, experts before setting the matter for a hearing. The court may seek input from the death-sentenced prisoner's counsel and the state attorney before appointment of the experts.

(6) The order appointing experts shall:

(A) identify the purpose of the evaluation and specify the area of inquiry that should be addressed;

(B) specify the legal criteria to be applied; and

(C) specify the date by which the report shall be submitted and to whom it shall be submitted.

(7) Counsel for both the death-sentenced prisoner and the state may be present at the examination, which shall be conducted at a date and time convenient for all parties and the Department of Corrections.

(8) On appointment by the court, the experts shall examine the death-sentenced prisoner with respect to the issue of competence to proceed, as specified by the court in its order appointing the experts to evaluate the prisoner, and shall evaluate the prisoner as ordered.

(A) The experts first shall consider factors related to the issue of whether the death-sentenced prisoner meets the criteria for competence to proceed, that is, whether the prisoner has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and whether the prisoner has a rational as well as factual understanding of the pending collateral proceedings.

(B) In considering the issue of competence to proceed, the experts shall consider and include in their report:

(i) the prisoner's capacity to understand the adversary nature of the legal process and the collateral proceedings;

(ii) the prisoner's ability to disclose to collateral counsel facts pertinent to the postconviction proceeding at issue; and

(iii) any other factors considered relevant by the experts and the court as specified in the order appointing the experts.

(C) Any written report submitted by an expert shall:

(i) identify the specific matters referred for evaluation;

(ii) describe the evaluative procedures, techniques, and tests used in the examination and the purpose or purposes for each;

(iii) state the expert's clinical observations, findings, and opinions on each issue referred by the court for evaluation, and indicate specifically those issues, if any, on which the expert could not give an opinion; and

(iv) identify the sources of information used by the expert and present the factual basis for the expert's clinical findings and opinions.

(9) If the experts find that the death-sentenced prisoner is incompetent to proceed, the experts shall report on any recommended treatment for the prisoner to attain competence to proceed. In considering the issues relating to treatment, the experts shall report on:

(A) the mental illness or mental retardation causing the incompetence;

(B) the treatment or treatments appropriate for the mental illness or mental retardation of the prisoner and an explanation of each of the possible treatment alternatives in order of choices; and

(C) the likelihood of the prisoner attaining competence under the treatment recommended, an assessment of the probable duration of the treatment required to restore competence, and the probability that the prisoner will attain competence to proceed in the foreseeable future.

(10) Within 30 days after the experts have completed their examinations of the death-sentenced prisoner, the court shall schedule a hearing on the issue of the prisoner's competence to proceed.

(11) If, after a hearing, the court finds the prisoner competent to proceed, or, after having found the prisoner incompetent, finds that competency has been restored, the court shall enter its order so finding and shall proceed with a postconviction motion. The prisoner shall have 60 days to amend his or her rule 3.851 motion only as to those issues that the court found required factual consultation with counsel.

(12) If the court does not find the prisoner incompetent, the order shall contain:

(A) findings of fact relating to the issues of competency;

(B) copies of the reports of the examining experts; and

(C) copies of any other psychiatric, psychological, or social work reports submitted to the court relative to the mental state of the death-sentenced prisoner.

(13) If the court finds the prisoner incompetent or finds the prisoner competent subject to the continuation of appropriate treatment, the court shall follow the procedures set forth in rule 3.212(c), except that, to the extent practicable, any treatment shall take place at a custodial facility under the direct supervision of the Department of Corrections.

(h) After Death Warrant Signed.

(1) Judicial Assignment. The chief judge of the circuit shall assign the case to a judge qualified under the Rules of Judicial Administration to conduct capital cases as soon as notification of the death warrant is received.

(2) Calendar Advancement. Proceedings after a death warrant has been issued shall take precedence over all other cases. The assigned judge shall make every effort to resolve scheduling conflicts with other cases including cancellation or rescheduling of hearings or trials and requesting senior judge assistance.

(3) Schedule of Proceedings. The time limitations in this rule shall not apply after a death warrant has been signed. All motions shall be heard expeditiously considering the time limitations set by the date of execution and the time required for appellate review.

(4) Location of Hearings. The location of hearings after a death warrant is signed shall be determined by the trial judge considering the availability of witnesses or evidence, the security problems involved in the case, and any other factor determined by the trial court.

(5) Postconviction Motions. All motions filed after a death warrant is issued shall be considered successive motions and subject to the content requirement of subdivision (e)(2) of this rule.

(6) Case Management Conference. The assigned judge shall schedule a case management conference as soon as reasonably possible after receiving notification that a death warrant has been signed. During the case management conference the court shall set a time for filing a postconviction

motion and shall schedule a hearing to determine whether an evidentiary hearing should be held and hear argument on any purely legal claims not based on disputed facts. If the motion, files, and records in the case conclusively show that the movant is entitled to no relief, the motion may be denied without an evidentiary hearing. If the trial court determines that an evidentiary hearing should be held, the court shall schedule the hearing to be held as soon as reasonably possible considering the time limitations set by the date of execution and the time required for appellate review.

(7) Reporting. The assigned judge shall require the proceedings conducted under death warrant to be reported using the most advanced and accurate technology available in general use at the location of the hearing. The proceedings shall be transcribed expeditiously considering the time limitations set by the execution date.

(8) Procedures After Hearing. The court shall obtain a transcript of all proceedings and shall render its order in accordance with subdivision (f)(5)(D) of this rule as soon as possible after the hearing is concluded. A copy of the final order shall be electronically transmitted to the Supreme Court of Florida and to the attorneys of record.

(9) Transmittal of Record. The record shall be immediately delivered to the clerk of the Supreme Court of Florida by the clerk of the trial court or as ordered by the assigned judge. The record shall also be electronically transmitted if the technology is available. A notice of appeal shall not be required to transmit the record.

(i) Dismissal of Postconviction Proceedings.

(1) This subdivision applies only when a prisoner seeks both to dismiss pending postconviction proceedings and to discharge collateral counsel.

(2) If the prisoner files the motion pro se, the Clerk of the Court shall serve copies of the motion on counsel of record for both the prisoner and the state. Counsel of record may file responses within ten days.

(3) The trial judge shall review the motion and the responses and schedule a hearing. The prisoner, collateral counsel, and the state shall be present at the hearing.

(4) The judge shall examine the prisoner at the hearing and shall hear argument of the prisoner, collateral counsel, and the state. No fewer than two or more than three qualified experts shall be appointed to examine the prisoner if the judge concludes that there are reasonable grounds to believe the prisoner is not mentally competent for purposes of this rule. The experts shall file reports with the court setting forth their findings. Thereafter, the court shall conduct an evidentiary hearing and enter an order setting forth findings of competency or incompetency.

(5) If the prisoner is found to be incompetent for purposes of this rule, the court shall deny the motion without prejudice.

(6) If the prisoner is found to be competent for purposes of this rule, the court shall conduct a complete (Durocher/Faretta) inquiry to determine whether the prisoner knowingly, freely and voluntarily wants to dismiss pending postconviction proceedings and discharge collateral counsel.

(7) If the court determines that the prisoner has made the decision to dismiss pending postconviction proceedings and discharge collateral counsel knowingly, freely and voluntarily, the court shall enter an order dismissing all pending postconviction proceedings and discharging collateral counsel. But if the court determines that the prisoner has not made the decision to dismiss pending postconviction proceedings and discharge collateral counsel knowingly, freely and voluntarily, the court shall enter an order denying the motion without prejudice.

(8) If the court grants the motion:

(A) a copy of the motion, the order, and the transcript of the hearing or hearings conducted on the motion shall be forwarded to the Clerk of the Supreme Court of Florida within 30 days; and

(B) discharged counsel shall, within 10 days after issuance of the order, file with the clerk of the circuit court 2 copies of a notice seeking review in the Supreme Court of Florida, and shall, within 20 days after the filing of the transcript, serve an initial brief. Both the prisoner and the state may serve responsive briefs. Briefs shall be served as prescribed by rule 9.210.

(9) If the court denies the motion, the prisoner may seek review as prescribed by Florida Rule of Appellate Procedure 9.142(b).

(j) Belated Appeals. Pursuant to the procedures outlined in Florida Rule of Appellate Procedure 9.142(d), a petitioner may seek a belated appeal upon the allegation that the petitioner timely requested counsel to appeal the order denying petitioner's motion for postconviction relief and counsel, through neglect, failed to do so.

Court Commentary

1993 Adoption. This rule is consistent with the recommendation of the Supreme Court Committee on Postconviction Relief in Capital Cases, which was created because of the substantial delays in the death penalty postconviction relief process. The committee was created because of the inability of the capital collateral representative to properly represent all death penalty inmates in post-conviction relief cases and because of the resulting substantial delays in those cases. That committee recognized that, to make the process work properly, each death row prisoner should have counsel available to represent him or her in postconviction relief proceedings. The committee found that one of the major problems with the process was that the triggering mechanism to start or assure movement of the postconviction relief proceedings was the signing of a death warrant. In a number of instances, the courts were not aware of the problems concerning representation of a defendant until a death warrant was signed. In other instances, the committee found that, when postconviction relief motions had been filed, they clearly had not moved at an orderly pace and the signing of a death warrant was being used as a means to expedite the process. The committee recommended that specific named counsel should be designated to represent each prisoner not later than 30 days after the defendant's judgment and sentence of death becomes final. To assure that representation, the committee's report noted that it was essential that there be adequate funding of the capital collateral representative and sought temporary assistance from The Florida Bar in providing pro bono representation for some inmates.

There is a justification for the reduction of the time period for a capital prisoner as distinguished from a noncapital prisoner, who has two years to file a postconviction relief proceeding. A capital prisoner will have counsel immediately available to represent him or her in a postconviction relief proceeding, while counsel is not provided or constitutionally required for noncapital defendants to whom the two-year period applies.

In the event the capital collateral representative is not fully funded and available to provide proper representation for all death penalty defendants, the

reduction in the time period would not be justified and would necessarily have to be repealed, and this Court will forthwith entertain a petition for the repeal of the rule. In this context, it is important to emphasize that the governor agrees that absent the circumstance where a competent death-sentenced individual voluntarily requests that a death warrant be signed, no death warrants will be issued during the initial round of federal and state review, provided that counsel for death penalty defendants is proceeding in a timely and diligent manner. This Court agrees that the initial round of postconviction proceedings should proceed in a deliberate but timely manner without the pressure of a pending death warrant. Subdivision 3.851(b)(4) above addresses concerns of The Florida Bar and The Florida Bar Foundation.

The provisions of the present rule 3.851 providing for time periods where a 60-day warrant is signed by the governor are abolished because they are unnecessary if the guidelines are followed. The proceedings and grounds for postconviction relief remain as provided under Florida Rule of Criminal Procedure 3.850, which include, as one of the grounds, the opportunity for a defendant to present newly discovered evidence in accordance with *Scott v. Dugger*, 604 So.2d 465 (Fla. 1992), *Jones v. State*, 591 So.2d 911 (Fla. 1991), and *Richardson v. State*, 546 So.2d 1037 (Fla. 1989).

1996 Amendment. Subdivision (c) is added to make the Court's decision in *Huff v. State*, 622 So.2d 982 (Fla. 1993), applicable to all rule 3.850 motions filed by a prisoner who has been sentenced to death. Florida Rule of Judicial Administration 2.071(b) allows for telephonic and teleconferencing communication equipment to be utilized "for a motion hearing, pretrial conference, or a status conference." Teleconferencing sites have been established by the Department of Management Services, Division of Communications at various metropolitan locations in the state. The "Shevin Study" examined, at this Court's request, the issue of delays in capital postconviction relief proceedings and noted that travel problems of counsel cause part of those delays. The Court strongly encourages the use of the new telephonic and teleconferencing technology for postconviction relief proceedings that do not require evidentiary hearings, such as the hearing required under subdivision (c) of this rule. Only the attorneys need be involved in a hearing held under subdivision (c) of this rule; attendance of the postconviction defendant is not required.

2001 Amendment. Several new procedures are added to rule 3.851. New subdivision (b), Appointment of Postconviction Counsel, is added to ensure appointment of postconviction counsel upon the Supreme Court of Florida's issuance of mandate on direct appeal. New subdivision (c), Preliminary

Procedures, provides for, among other things, the assignment of a qualified judge within 30 days after mandate issues on direct appeal and status conferences every 90 days after the assignment until the evidentiary hearing has been completed or the motion has been ruled on without a hearing. These status conferences are intended to provide a forum for the timely resolution of public records issues and other preliminary matters. New subdivision (f), Procedure; Evidentiary Hearing; Disposition, sets forth general procedures. Most significantly, that subdivision requires an evidentiary hearing on claims listed in an initial motion as requiring a factual determination. The Court has identified the failure to hold evidentiary hearings on initial motions as a major cause of delay in the capital postconviction process and has determined that, in most cases, requiring an evidentiary hearing on initial motions presenting factually based claims will avoid this cause of delay. See *Amendments to Florida Rules of Criminal Procedure 3.851, 3.852 and 3.993*, 772 So.2d 488, 491 (Fla. 2000).

2006 Amendment. The amendments provide for the appointment of Registry Counsel in areas of the state that are not served by a Capital Collateral Regional Counsel. Counsel are allowed to appear at status conferences electronically to authorize both telephonic and video appearances.

RULE 5.043. DEPOSIT OF WILLS AND CODICILS

Notwithstanding any rule to the contrary, and unless the court orders otherwise, any original executed will or codicil deposited with the court must be retained by the clerk in its original form and must not be destroyed or disposed of by the clerk for 20 years after submission regardless of whether the will or codicil has been permanently recorded as defined by rule 2.430, Florida Rules of Judicial Administration.

Committee Notes

Rule 2.525, Fla. R. Jud. Admin., requires that all documents be filed with the court electronically. Although the Florida Statutes direct the deposit of a will, rather than the filing of the will, the committee believes that original wills and codicils should be retained in their original form longer than other documents filed with the court due to the unique evidentiary aspects of the actual document. These unique aspects could be lost forever if the original document were converted to electronic form and the original destroyed.

Rule History

2011 Revision: New Rule.

Statutory References

§ 731.201(16), Fla. Stat. General definitions.
§ 732.901, Fla. Stat. Production of wills.

Rule References

Fla. R. Jud. Admin. 2.430 Retention of court records.
Fla. R. Jud. Admin. 2.525 Electronic filing.

RULE 7.080. ~~SERVICE~~FILING OF PLEADINGS AND ~~PAPERS~~DOCUMENTS OTHER THAN STATEMENT OF CLAIM

(a) When Required. Copies of all pleadings and papers subsequent to the notice to appear, except applications for witness subpoenas and orders and judgments entered in open court, shall be served on each party. One against whom a default has been entered is entitled to be served only with pleadings asserting new or additional claims.

(b) How Made. When a party is represented by an attorney, service of papers other than the statement of claim and notice to appear shall be made on the attorney unless the court orders service to be made on the party. Service shall be made by delivering the paper to the party or the party's attorney, as the case may be, or by mailing it to the party's last known address.

(c) Filing. All original pleadings and papers shall be filed with the court either before service or immediately thereafter. The court may allow a copy to be substituted for the original of any document.

(d) Filing with the Court Defined. The filing of ~~papers~~documents with the court as required by these rules is made by filing them with the clerk, except that the judge may permit the ~~papers~~documents to be filed with the judge, in which event the judge shall note thereon the filing date and transmit them to the clerk, and the clerk shall file them as of the same date they were filed with the judge. Parties represented by an attorney must file documents in compliance with the electronic filing (e-filing) requirements set forth in the Florida Rules of Judicial Administration. Parties not represented by an attorney may file documents in compliance with the e-filing requirement if permitted by the Florida Rules of Judicial Administration.

(e) Certificate of Service.

(1) When any party or attorney in substance certifies:

"I certify that a copy hereof has been furnished to (here insert name or names and address or addresses) by (delivery) (mail) on .....(date).....

_____
Party or party's attorney"

the certificate is prima facie proof of such service in compliance with all rules of court and law.

(2) When any paper is served by the clerk, a docket entry shall be made showing the mode and date of service. Such entry is sufficient proof of service without a separate certificate of service.

(f) When Unrepresented Party Fails to Show Service. If a party who is not represented by an attorney files a paper that does not show service of a copy on all other parties, the clerk shall serve a copy of it on all other parties.

Court Commentary

1972 Amendment. Subdivisions (a), (b), (c), (d), and (e) are substantially the same as Florida Rule of Civil Procedure 1.080(a), (b), (d), (e), and (f).

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RULE 8.000. SCOPE AND PURPOSE

These rules shall govern the procedures in the juvenile division of the circuit court in the exercise of its jurisdiction under Florida law.

Part ~~I~~II of these rules governs the procedures for delinquency cases in the juvenile court. Part ~~III~~IV governs the procedures for families and children in need of services cases in the juvenile court. The Department of Juvenile Justice shall be referred to as the "department" in these parts.

Part ~~II~~III of these rules governs the procedures for dependency cases in the juvenile court. The Department of Children and Family Services shall be referred to as the "department" in that part.

These rules are intended to provide a just, speedy, and efficient determination of the procedures covered by them and shall be construed to secure simplicity in procedure and fairness in administration.

They shall be known as the Florida Rules of Juvenile Procedure and may be cited as Fla. R. Juv. P.

When appropriate the use of singular nouns and pronouns shall be construed to include the plural and the use of plural nouns and pronouns shall be construed to include the singular.

Committee Notes

1991 Amendment. All rules have been edited for style and to remove gender bias. The rules have been reorganized and renumbered to correspond to the types and stages of juvenile proceedings. Cross-references have been changed accordingly.

1992 Amendment. Scope and Purpose, previously found in rules 8.000, 8.200, 8.600, and 8.700, has been consolidated into one rule. Designations of subparts within the delinquency part of the rules have been changed accordingly. Reference to the civil rules, previously found in rule 8.200, has been removed because the rules governing dependency and termination of parental rights proceedings are self-contained and no longer need to reference the Florida Rules of Civil Procedure.

RULE 8.003. FAMILY LAW COVER SHEET

The party opening or reopening a case under Part ~~I, II, III, or IV~~II, III, IV, or V of these rules shall file with the clerk of the circuit court Florida Family Law Rules of Procedure Form 12.928, Cover Sheet for Family Law Cases.

RULE 8.004. ELECTRONIC FILING

(a) All documents that are court records, as defined in Fla. R. Jud. Admin 2.430(a)(1), are to be filed by electronic transmission, consistent with the requirements of Fla. R. Jud. Admin 2.525, provided that:

(1) the clerk has the ability to accept and retain such documents;

(2) the clerk or the chief judge of the circuit has requested permission to accept documents filed by electronic transmission; and

(3) the supreme court has entered an order granting permission to the clerk to accept documents filed by electronic transmission.

(b) All documents filed by electronic transmission under this rule satisfy any requirement for the filing of an original, except where the court, law, or these rules otherwise provide for the submittal of an original.

(c) The following paper documents or other submissions may be manually submitted to the clerk for filing under the following circumstances:

(1) when the clerk does not have the ability to accept and retain documents by electronic filing or has not had electronic court filing procedures (ECF Procedures) approved by the supreme court;

(2) by self-represented litigants, third parties, or nonlitigants, unless specific ECF Procedures provide a means for such self-represented litigants, third parties, or nonlitigants to file documents electronically;

(3) by attorneys excused from e-mail service pursuant to these rules or Fla. R. Jud. Admin. 2.516;

(4) when the filing involves nonelectronic documents or exhibits, such as trial or hearing exhibits, court approved forms, executed wills, nondocumentary items such as cassettes, videotapes, DVDs, weapons, drugs, original exhibits, or other original attachments to filings, etc.;

(5) when the filing involves documents in excess of 25 megabytes (25 MB) in size. For such filings, documents may be transmitted using an electronic

storage device or system that the clerk has the ability to accept, which may include a CD-ROM, flash drive, or similar storage system;

(6) when filed in open court, as permitted by the court;

(7) when the document is required by any statute or these rules to be an original document;

(8) when paper filing is permitted by any approved statewide or local ECF procedures; and

(9) if any court determines that justice so requires.

(d) The filing date for an electronically transmitted document is the date and time that such filing is acknowledged by an electronic stamp, or otherwise, pursuant to any procedure set forth in any ECF Procedures approved by the supreme court, or the date the last page of such filing is received by the court or clerk.

(e) Where these rules are silent, Fla. R. Jud. Admin. 2.525 controls.

(f) Electronic transmission may be used by a court for the service of all orders, pursuant to Fla. R. Jud. Admin 2.516, and for the service of filings pursuant to any electronic court filing procedures (ECF Procedures), provided the clerk, together with input from the chief judge of the circuit, has obtained approval from the supreme court of ECF Procedures containing the specific procedures and program to be used in transmitting the orders and filings.

RULE 8.205. TRANSFER OF CASES

(a) Transfer of Cases Within Circuit Court. If it should appear at any time in a proceeding initiated in a division other than the division of the circuit court assigned to handle dependency matters that facts are alleged that essentially constitute a dependency or the termination of parental rights, the court may upon consultation with the administrative judge assigned to dependency cases order the transfer of action and the transmittal of all relevant ~~papers~~documents to the division assigned to handle dependency matters. The division assigned to handle dependency matters shall then assume jurisdiction only over matters pertaining to dependency, custody, visitation, and child support.

(b) Transfer of Cases Within the State of Florida. The court may transfer any case after adjudication, when adjudication is withheld, or before adjudication where witnesses are available in another jurisdiction, to the circuit court for the county in which is located the domicile or usual residence of the child or such other circuit as the court may determine to be for the best interest of the child and to promote the efficient administration of justice. The transferring court shall enter an order transferring its jurisdiction and certifying the case to the proper court, furnishing all parties, the clerk, and the attorney's office handling dependency matters for the state in the receiving court a copy of the order of transfer within 5 days. The clerk shall also transmit a certified copy of the file to the receiving court within 5 days.

(c) Transfer of Cases Among States. If it should appear at any time that an action is pending in another state, the court may transfer jurisdiction over the action to a more convenient forum state, may stay the proceedings, or may dismiss the action.

Committee Notes

1992 Amendment. Plans under rule 8.327 were deleted in the 1991 revision to the rules, but are being reinstated as "stipulations" in the 1992 revisions. This change corrects the cross-reference.

RULE 8.217. ATTORNEY AD LITEM

(a) Request. At any stage of the proceedings, any party may request or the court may consider whether an attorney ad litem is necessary to represent any child alleged, or found, to be dependent, if one has not already been appointed.

(b) Appointment. The court may appoint an attorney ad litem to represent the child in any proceeding as allowed by law.

(c) Duties and Responsibilities. The attorney ad litem shall be an attorney who has completed any additional requirements as provided by law. The attorney ad litem shall have the responsibilities provided by law.

(d) Service. An attorney ad litem shall be entitled to receive and must provide service of pleadings and ~~papers~~documents as provided by rule 8.225.

RULE 8.230. PLEADINGS TO BE SIGNED

(a) Pleading to Be Signed by Attorney. Every written ~~paper~~document or pleading of a party represented by an attorney shall be signed in the attorney's individual name by such attorney, whose Florida Bar number, address, and telephone number, including area code, shall be stated and who shall be duly licensed to practice law in Florida. The attorney may be required by an order of court to vouch for the authority to represent such party and to give the address of such party. Except when otherwise specifically provided by these rules or applicable statute, pleadings as such need not be verified or accompanied by affidavit.

(b) Pleading to Be Signed by Unrepresented Party. A party who has no attorney but who represents himself or herself shall sign a written pleading or other ~~paper~~document to be filed and state his or her address and telephone number, including area code.

(c) Effect of Signing Pleading. The signature of a person shall constitute a certificate that the ~~paper~~document or pleading has been read; that to the best of the person's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading or ~~paper~~document is not signed, or is signed with intent to defeat the purpose of this rule, it may be stricken and the action may proceed as though the pleading or ~~paper~~document had not been filed.

Committee Notes

1991 Amendment. The current rule implies that a written pleading must be filed. No written pleadings are required.

1992 Amendments. (a) and (c) The language from (a) was moved to create this new subdivision. The current rule only applies to attorneys. These requirements also should apply to nonattorneys who sign and file papers. This change conforms to proposed changes for rules 8.085 and 8.640.

RULE 8.690. DISPOSITION HEARINGS

(a) Information Available to Court. At the disposition hearing the court, after establishing compliance with the dispositional considerations, determinations, and discussions required by law, may receive any relevant and material evidence helpful in determining the proper disposition to be made. It shall include written reports required by law and may include evaluations of the child or the parent or custodian that may be obtained and that are relevant and material. Such evidence may be received by the court and may be relied upon to the extent of its probative value even though not competent in an adjudicatory hearing.

(b) Disclosure to Parties. All parties shall be entitled to disclosure of all information in all reports submitted to the court.

(c) Orders of Disposition. The court shall in its written order of disposition include:

(1) the placement or custody of the child;

(2) special conditions of placement and visitation;

(3) evaluation, counseling, treatment activities, and other actions to be taken by the parties where ordered;

(4) supervising or monitoring agencies and continuation or discharge of the guardian ad litem, when appropriate;

(5) the period of time or date for subsequent case review when required by law; and

(6) such other requirements deemed necessary to protect the health, safety, and well-being of the child.

(d) Out-of-Home Placement. If the court places the child in out-of-home placement, subsequent proceedings shall be governed by part ~~II~~III D of these rules.

RULE 9.020. DEFINITIONS

The following terms have the meanings shown as used in these rules:

(a) Administrative Action. Administrative action shall include:

(1) final agency action as defined in the Administrative Procedure Act, chapter 120, Florida Statutes;

(2) non-final action by an agency or administrative law judge reviewable under the Administrative Procedure Act;

(3) quasi-judicial decisions by any administrative body, agency, board or commission not subject to the Administrative Procedure Act; and

(4) administrative action for which judicial review is provided by general law.

(b) Clerk. The person or official specifically designated as such for the court or lower tribunal; if no person or official has been specifically so designated, the official or agent who most closely resembles a clerk in the functions performed.

(c) Court. The supreme court; the district courts of appeal; and the circuit courts in the exercise of the jurisdiction described by rule 9.030(c), including the chief justice of the supreme court and the chief judge of a district court of appeal in the exercise of constitutional, administrative, or supervisory powers on behalf of such courts.

(d) Family Law Matter. A matter governed by the Florida Family Law Rules of Procedure.

(e) Lower Tribunal. The court, agency, officer, board, commission, judge of compensation claims, or body whose order is to be reviewed.

(f) Order. A decision, order, judgment, decree, or rule of a lower tribunal, excluding minutes and minute book entries.

(g) Parties.

(1) Appellant. A party who seeks to invoke the appeal jurisdiction of a court.

(2) Appellee. Every party in the proceeding in the lower tribunal other than an appellant.

(3) Petitioner. A party who seeks an order under rule 9.100 or rule 9.120.

(4) Respondent. Every other party in a proceeding brought by a petitioner.

(h) Applicability of Florida Rules of Judicial Administration. The Florida Rules of Judicial Administration are applicable in all proceedings governed by these rules, except as otherwise provided in these rules. These rules shall govern where in conflict with the Florida Rules of Judicial Administration.

(~~h~~i) **Rendition (of an Order).** An order is rendered when a signed, written order is filed with the clerk of the lower tribunal. However, unless another applicable rule of procedure specifically provides to the contrary, if a final order has been entered and there has been filed in the lower tribunal an authorized and timely motion for new trial, for rehearing, for certification, to alter or amend, for judgment in accordance with prior motion for directed verdict, for arrest of judgment, to challenge the verdict, to correct a sentence or order of probation pursuant to Florida Rule of Criminal Procedure 3.800(b)(1), to withdraw a plea after sentencing pursuant to Florida Rule of Criminal Procedure 3.170(*l*), or to vacate an order based upon the recommendations of a hearing officer in accordance with Florida Family Law Rule of Procedure 12.491, the following exceptions apply:

(1) If such a motion or motions have been filed, the final order shall not be deemed rendered with respect to any claim between the movant and any party against whom relief is sought by the motion or motions until the filing of a signed, written order disposing of all such motions between such parties.

(2) If such a motion or motions have been filed, a signed, written order granting a new trial shall be deemed rendered when filed with the clerk, notwithstanding that other such motions may remain pending at the time.

(3) If such a motion or motions have been filed and a notice of appeal is filed before the filing of a signed, written order disposing of all such motions, all

motions filed by the appealing party that are pending at the time shall be deemed abandoned, and the final order shall be deemed rendered by the filing of the notice of appeal as to all claims between parties who then have no such motions pending between them. However, a pending motion to correct a sentence or order of probation or a motion to withdraw the plea after sentencing shall not be affected by the filing of a notice of appeal from a judgment of guilt. In such instance, the notice of appeal shall be treated as prematurely filed and the appeal held in abeyance until the filing of a signed, written order disposing of such motion.

(~~i~~j) Rendition of an Appellate Order. If any timely and authorized motion under rule 9.330 or 9.331 is filed, the order shall not be deemed rendered as to any party until all of the motions are either abandoned or resolved by the filing of a written order.

Committee Notes

1977 Amendment. This rule supersedes former rule 1.3. Throughout these rules the defined terms have been used in their technical sense only, and are not intended to alter substantive law. Instances may arise in which the context of the rule requires a different meaning for a defined term, but these should be rare.

The term “administrative action” is new and has been defined to make clear the application of these rules to judicial review of administrative agency action. This definition was not intended to conflict with the Administrative Procedure Act, chapter 120, Florida Statutes (1975), but was intended to include all administrative agency action as defined in the Administrative Procedure Act. The reference to municipalities is not intended to conflict with article VIII, section 1(a), Florida Constitution, which makes counties the only political subdivisions of the state.

The term “clerk” retains the substance of the term “clerk” defined in the former rules. This term includes the person who in fact maintains records of proceedings in the lower tribunal if no person is specifically and officially given that duty.

The term “court” retains the substance of the term “court” defined in the former rules, but has been modified to recognize the authority delegated to the chief justice of the supreme court and the chief judges of the district courts of appeal. This definition was not intended to broaden the scope of these rules in regard to the administrative responsibilities of the mentioned judicial officers. The term is used in these rules to designate the court to which a proceeding governed by these rules is

taken. If supreme court review of a district court of appeal decision is involved, the district court of appeal is the "lower tribunal."

The term "lower tribunal" includes courts and administrative agencies. It replaces the terms "commission," "board," and "lower court" defined in the former rules.

The term "order" has been broadly defined to include all final and interlocutory rulings of a lower tribunal and rules adopted by an administrative agency. Minute book entries are excluded from the definition in recognition of the decision in *Employers' Fire Ins. Co. v. Continental Ins. Co.*, 326 So.2d 177 (Fla. 1976). It was intended that this rule encourage the entry of written orders in every case.

The terms "appellant," "appellee," "petitioner," and "respondent" have been defined according to the rule applicable to a particular proceeding and generally not according to the legal nature of the proceeding before the court. The term "appellee" has been defined to include the parties against whom relief is sought and all others necessary to the cause. This rule supersedes all statutes concerning the same subject matter, such as section 924.03, Florida Statutes (1975). It should be noted that if a certiorari proceeding is specifically governed by a rule that only refers to "appellant" and "appellee," a "petitioner" and "respondent" should proceed as if they were "appellant" and "appellee," respectively. For example, certiorari proceedings in the supreme court involving the Public Service Commission and Industrial Relations Commission are specifically governed by rule 9.110 even though that rule only refers to "appellant" and "appellee." The parties in such a certiorari proceeding remain designated as "petitioner" and "respondent," because as a matter of substantive law the party invoking the court's jurisdiction is seeking a writ of certiorari. The same is true of rule 9.200 governing the record in such certiorari proceedings.

The term "rendition" has been simplified and unnecessary language deleted. The filing requirement of the definition was not intended to conflict with the substantive right of review guaranteed by the Administrative Procedure Act, section 120.68(1), Florida Statutes (Supp. 1976), but to set a point from which certain procedural times could be measured. Motions that postpone the date of rendition have been narrowly limited to prevent deliberate delaying tactics. To postpone rendition the motion must be timely, authorized, and one of those listed. However, if the lower tribunal is an administrative agency whose rules of practice

denominate motions identical to those listed by a different label, the substance of the motion controls and rendition is postponed accordingly.

The definition of "legal holiday" has been eliminated but its substance has been retained in rule 9.420(e).

The term "bond" is defined in rule 9.310(c)(1).

Terms defined in the former rules and not defined here are intended to have their ordinary meanings in accordance with the context of these rules.

1992 Amendment. Subdivision (a) has been amended to reflect properly that deputy commissioners presently are designated as judges of compensation claims.

Subdivision (g) has been rewritten extensively. The first change in this rule was to ensure that an authorized motion for clarification (such as under rule 9.330) was included in those types of motions that delay rendition.

Subdivision (g) also has been revised in several respects to clarify some problems presented by the generality of the prior definition of "rendition." Although rendition is postponed in most types of cases by the filing of timely and authorized post-judgment motions, some rules of procedure explicitly provide to the contrary. The subdivision therefore has been qualified to provide that conflicting rules shall control over the general rule stated in the subdivision. See *In Re Interest of E. P.*, 544 So.2d 1000 (Fla. 1989). The subdivision also has been revised to make explicit a qualification of long standing in the decisional law, that rendition of non-final orders cannot be postponed by motions directed to them. Not all final orders are subject to postponement of rendition, however. Rendition of a final order can be postponed only by an "authorized" motion, and whether any of the listed motions is an "authorized" motion depends on the rules of procedure governing the proceeding in which the final order is entered. See *Francisco v. Victoria Marine Shipping, Inc.*, 486 So.2d 1386 (Fla. 3d DCA 1986), *review denied* 494 So.2d 1153.

Subdivision (g)(1) has been added to clarify the date of rendition when post-judgment motions have been filed. If there is only 1 plaintiff and 1 defendant in the case, the filing of a post-judgment motion or motions by either party (or both parties) will postpone rendition of the entire final order as to all claims between the parties. If there are multiple parties on either or both sides of the case and less than

all parties file post-judgment motions, rendition of the final order will be postponed as to all claims between moving parties and parties moved against, but rendition will not be postponed with respect to claims disposed of in the final order between parties who have no post-judgment motions pending between them with respect to any of those claims. See, e.g., *Phillips v. Ostrer*, 442 So.2d 1084 (Fla. 3d DCA 1983).

Ideally, all post-judgment motions should be disposed of at the same time. See *Winn-Dixie Stores, Inc. v. Robinson*, 472 So.2d 722 (Fla. 1985). If that occurs, the final order is deemed rendered as to all claims when the order disposing of the motions is filed with the clerk. If all motions are not disposed of at the same time, the final order is deemed rendered as to all claims between a moving party and a party moved against when the written order disposing of the last remaining motion addressed to those claims is filed with the clerk, notwithstanding that other motions filed by co-parties may remain pending. If such motions remain, the date of rendition with respect to the claims between the parties involved in those motions shall be determined in the same way.

Subdivision (g)(2) has been added to govern the special circumstance that arises when rendition of a final order has been postponed initially by post-judgment motions, and a motion for new trial then is granted. If the new trial has been granted simply as an alternative to a new final order, the appeal will be from the new final order. However, if a new trial alone has been ordered, the appeal will be from the new trial order. See rule 9.110. According to the decisional law, rendition of such an order is not postponed by the pendency of any additional, previously filed post-judgment motions, nor can rendition of such an order be postponed by the filing of any further motion. See *Frazier v. Seaboard System Railroad, Inc.*, 508 So.2d 345 (Fla. 1987). To ensure that subdivision (g)(1) is not read as a modification of this special rule, subdivision (g)(2) has been added to make it clear that a separately appealable new trial order is deemed rendered when filed, notwithstanding that other post-judgment motions directed to the initial final order may remain pending at the time.

Subdivision (g)(3) has been added to clarify the confusion generated by a dictum in *Williams v. State*, 324 So.2d 74 (Fla. 1975), which appeared contrary to the settled rule that post-judgment motions were considered abandoned by a party who filed a notice of appeal before their disposition. See *In Re: Forfeiture of $104,591 in U.S. Currency*, 578 So.2d 727 (Fla. 3d DCA 1991). The new subdivision confirms that rule, and provides that the final order is rendered as to the appealing party when the notice of appeal is filed. Although the final order is

rendered as to the appealing party, it is not rendered as to any other party whose post-judgment motions are pending when the notice of appeal is filed.

1996 Amendment. Subdivision (a) was amended to reflect the current state of the law. When the term “administrative action” is used in the Florida Rules of Appellate Procedure, it encompasses proceedings under the Administrative Procedure Act, quasi-judicial proceedings before local government agencies, boards, and commissions, and administrative action for which judicial review is provided by general law.

Addition of language in subdivision (i) is intended to toll the time for the filing of a notice of appeal until the resolution of a timely filed motion to vacate when an order has been entered based on the recommendation of a hearing officer in a family law matter. Under the prior rules, a motion to vacate was not an authorized motion to toll the time for the filing of an appeal, and too often the motion to vacate could not be heard within 30 days of the rendition of the order. This rule change permits the lower tribunal to complete its review prior to the time an appeal must be filed.

2000 Amendment. The text of subdivision (i) was moved into the main body of subdivision (h) to retain consistency in the definitional portions of the rule.

Court Commentary

1996 Amendment. Subdivision (h) was amended to ensure that a motion to correct sentence or order of probation and a motion to withdraw the plea after sentencing would postpone rendition. Subdivision (h)(3) was amended to explain that such a motion is not waived by an appeal from a judgment of guilt.

RULE 9.110. APPEAL PROCEEDINGS TO REVIEW FINAL ORDERS OF LOWER TRIBUNALS AND ORDERS GRANTING NEW TRIAL IN JURY AND NON-JURY CASES

(a) Applicability. This rule applies to those proceedings that

(1) invoke the appeal jurisdiction of the courts described in rules 9.030(a)(1), (b)(1)(A), and (c)(1)(A);

(2) seek review of orders entered in probate and guardianship matters that finally determine a right or obligation of an interested person as defined in the Florida Probate Code;

(3) seek review of administrative action described in rules 9.030(b)(1)(C) and (c)(1)(C); and

(4) seek review of orders granting a new trial in jury and non-jury civil and criminal cases described in rules 9.130(a)(4) and 9.140(c)(1)(C).

(b) Commencement. Jurisdiction of the court under this rule shall be invoked by filing ~~an original and 1 copy of~~ a notice, accompanied by any filing fees prescribed by law, with the clerk of the lower tribunal within 30 days of rendition of the order to be reviewed.

(c) Exception; Administrative Action. In an appeal to review final orders of lower administrative tribunals, the appellant shall file the ~~original~~ notice with the clerk of the lower administrative tribunal within 30 days of rendition of the order to be reviewed, and shall also file a copy of the notice, accompanied by any filing fees prescribed by law, with the clerk of the court.

(d) Notice of Appeal. The notice of appeal shall be substantially in the form prescribed by rule 9.900(a). The caption shall contain the name of the lower tribunal, the name and designation of at least 1 party on each side, and the case number in the lower tribunal. The notice shall contain the name of the court to which the appeal is taken, the date of rendition, and the nature of the order to be reviewed. Except in criminal cases, a conformed copy of the order or orders designated in the notice of appeal shall be attached to the notice together with any order entered on a timely motion postponing rendition of the order or orders appealed.

(e) Record. Within 50 days of filing the notice, the clerk shall prepare the record prescribed by rule 9.200 and serve copies of the index on all parties. Within 110 days of filing the notice, the clerk shall electronically transmit the record to the court.

(f) Briefs. Appellant's initial brief shall be served within 70 days of filing the notice. Additional briefs shall be served as prescribed by rule 9.210.

(g) Cross-Appeal. An appellee may cross-appeal by serving a notice within 10 days of service of the appellant's timely filed notice of appeal or within the time prescribed for filing a notice of appeal, whichever is later. The ~~original and 1 copy of the~~ notice of cross-appeal, accompanied by any filing fees prescribed by law, shall be filed either before service or immediately thereafter in the same manner as the notice of appeal.

(h) Scope of Review. The court may review any ruling or matter occurring before filing of the notice. Multiple final orders may be reviewed by a single notice, if the notice is timely filed as to each such order.

(i) Exception; Bond Validation Proceedings. If the appeal is from an order in a proceeding to validate bonds or certificates of indebtedness, the record shall not be transmitted unless ordered by the supreme court. Appellant's initial brief, accompanied by an appendix as prescribed by rule 9.220, shall be served within 20 days of filing the notice. Additional briefs shall be served as prescribed by rule 9.210.

(j) Exception; Appeal Proceedings from District Courts of Appeal. If the appeal is from an order of a district court of appeal, the clerk shall electronically transmit the record to the court within 60 days of filing the notice. Appellant's initial brief shall be served within 20 days of filing the notice. Additional briefs shall be served as prescribed by rule 9.210.

(k) Review of Partial Final Judgments. Except as otherwise provided herein, partial final judgments are reviewable either on appeal from the partial final judgment or on appeal from the final judgment in the entire case. If a partial final judgment totally disposes of an entire case as to any party, it must be appealed within 30 days of rendition.

(*l*) Premature Appeals. If a notice of appeal is filed before rendition of a final order, the appeal shall be subject to dismissal as premature. However, if a final order is rendered before dismissal of the premature appeal, the premature notice of appeal shall be considered effective to vest jurisdiction in the court to review the final order. Before dismissal, the court in its discretion may permit the lower tribunal to render a final order.

(m) Exception; Insurance Coverage Appeals. Judgments that determine the existence or nonexistence of insurance coverage in cases in which a claim has been made against an insured and coverage thereof is disputed by the insurer may be reviewed either by the method prescribed in this rule or that in rule 9.130.

(n) Exception; Appeal of Final Order Dismissing Petition for Judicial Waiver of Parental Notice of Termination of Pregnancy. If an unmarried minor or another person on her behalf appeals an order dismissing a petition for judicial waiver of parental notice of termination of pregnancy, the clerk of the lower tribunal shall prepare and electronically transmit the record as described in rule 9.200(d) within 2 days from the filing of the notice of appeal. The district court of appeal shall render its decision on the appeal as expeditiously as possible and no later than 10 days from the filing of the notice of appeal. Briefs or oral argument may be ordered at the discretion of the district court of appeal. The minor may move for leave to file a brief and may request oral argument. If no decision is rendered within the foregoing time period, the order shall be deemed reversed, the petition shall be deemed granted, and the clerk shall place a certificate to this effect in the file and provide the minor with a certified copy of the certificate. The appeal and all proceedings thereon shall be confidential so that the minor shall remain anonymous. The file shall remain sealed unless otherwise ordered by the court. Should the dismissal of the petition be reversed on appeal, the clerk shall furnish the petitioner with a certified copy of the decision or the clerk's certificate for delivery to the minor's physician. No filing fee shall be required for any part of an appeal of the dismissal of a petition for a waiver of parental notice of termination of pregnancy.

Committee Notes

1977 Amendment. This rule replaces former rules 3.1, 3.5, 4.1, 4.3, 4.4, and 4.7. It applies when (1) a final order has been entered by a court or administrative agency; (2) a motion for a new trial in a jury case is granted; or (3) a motion for rehearing in a non-jury case is granted and the lower tribunal orders new testimony. It should be noted that certain other non-final orders entered after the

final order are reviewable under the procedure set forth in rule 9.130. This rule does not apply to review proceedings in such cases.

Except to the extent of conflict with rule 9.140 governing appeals in criminal cases, this rule governs: (1) appeals as of right to the supreme court; (2) certiorari proceedings before the supreme court seeking direct review of administrative action (for example, Industrial Relations Commission and Public Service Commission); (3) appeals as of right to a district court of appeal, including petitions for review of administrative action under the Administrative Procedure Act, section 120.68, Florida Statutes (Supp. 1976); (4) appeals as of right to a circuit court, including review of administrative action if provided by law.

This rule is intended to clarify the procedure for review of orders granting a new trial. Rules 9.130(a)(4) and 9.140(c)(1)(C) authorize the appeal of orders granting a motion for new trial. Those rules supersede *Clement v. Aztec Sales*, Inc., 297 So.2d 1 (Fla. 1974), and are consistent with the decision there. Under subdivision (h) of this rule the scope of review of the court is not necessarily limited to the order granting a new trial. The supreme court has held that "appeals taken from new trial orders shall be treated as appeals from final judgments to the extent possible." *Bowen v. Willard*, 340 So.2d 110, 112 (Fla. 1976). This rule implements that decision.

Subdivisions (b) and (c) establish the procedure for commencing an appeal proceeding. Within 30 days of the rendition of the final order the appellant must file 2 copies of the notice of appeal, accompanied by the appropriate fees, with the clerk of the lower tribunal; except that if review of administrative action is sought, 1 copy of the notice and the applicable fees must be filed in the court. Failure to file any notice within the 30-day period constitutes an irremediable jurisdictional defect, but the second copy and fees may be filed after the 30-day period, subject to sanctions imposed by the court. See *Williams v. State*, 324 So.2d 74 (Fla. 1975); Fla. R. App. P. 9.040(h).

Subdivision (d) sets forth the contents of the notice and eliminates the requirement of the former rule that the notice show the place of recordation of the order to be reviewed. The rule requires substantial compliance with the form approved by the supreme court. The date of rendition of the order for which review is sought must appear on the face of the notice. See the definition of "rendition" in Florida Rule of Appellate Procedure 9.020, and see the judicial construction of "rendition" for an administrative rule in *Florida Admin. Comm'n v. Judges of the District Court*, 351 So.2d 712 (Fla. 1977), on review of *Riley-Field Co. v. Askew*,

336 So.2d 383 (Fla. 1st DCA 1976). This requirement is intended to allow the clerk of the court to determine the timeliness of the notice from its face. The advisory committee intended that defects in the notice would not be jurisdictional or grounds for disposition unless the complaining party was substantially prejudiced.

This rule works significant changes in the review of final administrative action. The former rules required that a traditional petition for the writ of certiorari be filed if supreme court review was appropriate, and the practice under the Administrative Procedure Act, section 120.68, Florida Statutes (Supp. 1976), has been for the "petition for review" to be substantially similar to a petition for the writ of certiorari. See *Yamaha Int'l Corp. v. Ehrman*, 318 So.2d 196 (Fla. 1st DCA 1975). This rule eliminates the need for true petitions in such cases. Instead, a simple notice is filed, to be followed later by briefs. It is intended that the notice constitute the petition required in section 120.68(2), Florida Statutes (Supp. 1976). There is no conflict with the statute because the substance of the review proceeding remains controlled by the statute, and the legislature directed that review be under the procedures set forth in these rules. Because it is a requirement of rendition that an order be written and filed, this rule supersedes *Shevin ex rel. State v. Public Service Comm'n*, 333 So.2d 9 (Fla. 1976), and *School Bd. v. Malbon*, 341 So.2d 523 (Fla. 2d DCA 1977), to the extent that those decisions assume that reduction of an order to writing is unnecessary for judicial review.

This rule is not intended to affect the discretionary nature of direct supreme court review of administrative action taken under the certiorari jurisdiction of that court set forth in article V, section 3(b)(3), Florida Constitution. Such proceedings remain in certiorari with the only change being to replace wasteful, repetitive petitions for the writ of certiorari with concise notices followed at a later date by briefs. The parties to such actions should be designated as "petitioner" and "respondent" despite the use of the terms "appellant" and "appellee" in this rule. See commentary, Fla. R. App. P. 9.020.

Subdivisions (e), (f), and (g) set the times for preparation of the record, serving copies of the index on the parties, serving briefs, and serving notices of cross-appeal. Provision for cross-appeal notices has been made to replace the cross-assignments of error eliminated by these rules. In certiorari proceedings governed by this rule the term "cross-appeal" should be read as equivalent to "cross-petition." It should be noted that if time is measured by service, rule 9.420(b) requires filing to be made before service or immediately thereafter.

Subdivision (h) permits a party to file a single notice of appeal if a single proceeding in the lower tribunal, whether criminal or civil, results in more than 1 final judgment and an appeal of more than 1 is sought. This rule is intended to further the policies underlying the decisions of the supreme court in *Scheel v. Advance Marketing Consultants, Inc.*, 277 So.2d 773 (Fla. 1973), and Hollimon v. State, 232 So.2d 394 (Fla. 1970). This rule does not authorize the appeal of multiple final judgments unless otherwise proper as to each. If a prematurely filed notice is held in abeyance in accordance with *Williams v. State*, 324 So.2d 74 (Fla. 1975), the date of filing is intended to be the date the notice becomes effective.

Subdivision (i) provides an expedited procedure in appeals as of right to the supreme court in bond validation proceedings. An appendix is mandatory.

Subdivision (j) provides for an expedited procedure in appeals as of right to the supreme court from an order of a district court of appeal.

1980 Amendment. The rule has been amended to incorporate changes in rule 9.030 and to reflect the abolition of supreme court jurisdiction to review, if provided by general law, final orders of trial courts imposing sentences of life imprisonment.

The reference indicated (2) in the second paragraph of this committee note for 1977 amendment should be disregarded. See amended rule 9.030(a)(1)(B)(ii) and accompanying committee note.

1984 Amendment. Subdivision (k) was added to remedy a pitfall in the application of case law under *Mendez v. West Flagler Family Association*, 303 So.2d 1 (Fla. 1974). Appeals may now be taken immediately or delayed until the end of the entire case, under the rationale of *Mendez*.

1992 Amendment. Subdivision (d) was amended to require that the appellant, except in criminal cases, attach to its notice of appeal a conformed copy of any orders designated in the notice of appeal, along with any orders on motions that postponed the rendition of orders appealed. This amendment is designed to assist the clerk in determining the nature and type of order being appealed and the timeliness of any such appeal.

Subdivision (m) was added to clarify the effect of a notice of appeal filed by a party before the lower court renders a final appealable order. Under this subdivision, such a notice of appeal is subject to dismissal as premature, but a final order rendered before the dismissal of the appeal will vest the appellate court with

jurisdiction to review that final order. It further provides that the appellate court may relinquish jurisdiction or otherwise allow the lower court to render such a final order before dismissal of the appeal. If the only motion that is delaying rendition has been filed by the party filing the notice of appeal, under rule 9.020(g)(3), such motion is deemed abandoned and the final order is deemed rendered by the filing of a notice of appeal.

1996 Amendment. The addition of new subdivision (a)(2) is a restatement of former Florida Rule of Probate Procedure 5.100, and is not intended to change the definition of final order for appellate purposes. It recognizes that in probate and guardianship proceedings it is not unusual to have several final orders entered during the course of the proceeding that address many different issues and involve many different persons. An order of the circuit court that determines a right, an obligation, or the standing of an interested person as defined in the Florida Probate Code may be appealed before the administration of the probate or guardianship is complete and the fiduciary is discharged.

Subdivision (c) was amended to reflect that in appeals of administrative orders, the appellate court filing fees should be filed in the appellate court, not the administrative tribunal.

Subdivision (n) was added by the committee in response to the opinion in *Canal Insurance Co. v. Reed*, 666 So.2d 888 (Fla. 1996), suggesting that the Appellate Court Rules Committee consider an appropriate method for providing expedited review of these cases to avoid unnecessary delays in the final resolution of the underlying actions. Expedited review in the manner provided in rule 9.130 is available for such judgments in cases where a claim against the insured is pending and early resolution of the coverage issue is in the best interest of the parties. The notice of appeal should identify whether a party is seeking review pursuant to the procedure provided in this rule or in rule 9.130.

2006 Amendment. Rule 9.110(n) has been amended to clarify that the word “clerk” in the first sentence of the rule refers to the clerk of the lower tribunal. The amendment also permits the minor to ask for leave to file a brief or to request oral argument. The amendment clarifies that the district court does not grant the minor’s petition, but rather may reverse the circuit court’s dismissal of the petition.

2010 Note. As provided in Rule 9.040, requests to determine the confidentiality of appellate court records are governed by Florida Rule of Judicial Administration 2.420.

Court Commentary

2003 Amendment. Subdivision (*l)* was deleted to reflect the holding in *North Florida Women's Health & Counseling Services, Inc. v. State*, 28 Fla. L. Weekly S549 (Fla. July 10, 2003).

RULE 9.120. DISCRETIONARY PROCEEDINGS TO REVIEW DECISIONS OF DISTRICT COURTS OF APPEAL

(a) Applicability. This rule applies to those proceedings that invoke the discretionary jurisdiction of the supreme court described in rule 9.030(a)(2)(A).

(b) Commencement. The jurisdiction of the supreme court described in rule 9.030(a)(2)(A) shall be invoked by filing ~~2 copies of~~ a notice, accompanied by the filing fees prescribed by law, with the clerk of the district court of appeal within 30 days of rendition of the order to be reviewed.

(c) Notice. The notice shall be substantially in the form prescribed by rule 9.900. The caption shall contain the name of the lower tribunal, the name and designation of at least 1 party on each side, and the case number in the lower tribunal. The notice shall contain the date of rendition of the order to be reviewed and the basis for invoking the jurisdiction of the court.

(d) Briefs on Jurisdiction. Petitioner's brief, limited solely to the issue of the supreme court's jurisdiction and accompanied by an appendix containing only a conformed copy of the decision of the district court of appeal, shall be served within 10 days of filing the notice. Respondent's brief on jurisdiction shall be served within 20 days after service of petitioner's brief. Formal requirements for both briefs are specified in rule 9.210. No reply brief shall be permitted. If jurisdiction is invoked under rule 9.030(a)(2)(A)(v) (certifications of questions of great public importance by the district courts to the supreme court), no briefs on jurisdiction shall be filed.

(e) Accepting or Postponing Decision on Jurisdiction; Record. If the ~~S~~supreme ~~C~~court accepts or postpones decision on jurisdiction, the court shall so order and advise the parties and the clerk of the district court of appeal. Within 60 days thereafter or such other time set by the court, the clerk shall electronically transmit the record.

(f) Briefs on Merits. Within 20 days of rendition of the order accepting or postponing decision on jurisdiction, the petitioner shall serve the initial brief on the merits, accompanied by an appendix that must include a conformed copy of the decision of the district court of appeal. Additional briefs shall be served as prescribed by rule 9.210.

Committee Notes

1977 Amendment. This rule replaces former rule 4.5(c) and governs all certiorari proceedings to review final decisions of the district courts. Certiorari proceedings to review interlocutory orders of the district courts if supreme court jurisdiction exists under article V, section 3(b)(3), Florida Constitution are governed by rule 9.100.

Subdivision (b) sets forth the manner in which certiorari proceedings in the supreme court are to be commenced. Petitions for the writ are abolished and replaced by a simple notice to be followed by briefs. Two copies of the notice, which must substantially comply with the form approved by the supreme court, are to be filed with the clerk of the district court within 30 days of rendition along with the requisite fees. Failure to timely file the fees is not jurisdictional.

Subdivision (c) sets forth the contents of the notice. The requirement that the notice state the date of rendition, as defined in rule 9.020, is intended to permit the clerk of the court to determine timeliness from the face of the notice. The statement of the basis for jurisdiction should be a concise reference to whether the order sought to be reviewed (1) conflicts with other Florida appellate decisions; (2) affects a class of constitutional or state officers; or (3) involves a question of great public interest certified by the district court.

Subdivision (d) establishes the time for filing jurisdictional briefs and prescribes their content. If supreme court jurisdiction is based on certification of a question of great public interest, no jurisdictional briefs are permitted. Briefs on the merits in such cases are to be prepared in the same manner as in other cases. Briefs on the merits are to be served within the time provided after the court has ruled that it will accept jurisdiction or has ruled that it will postpone decision on jurisdiction.

The jurisdictional brief should be a short, concise statement of the grounds for invoking jurisdiction and the necessary facts. It is not appropriate to argue the merits of the substantive issues involved in the case or discuss any matters not relevant to the threshold jurisdictional issue. The petitioner may wish to include a very short statement of why the supreme court should exercise its discretion and entertain the case on the merits if it finds it does have certiorari jurisdiction. An appendix must be filed containing a conformed copy of the decision of the district court. If the decision of the district court was without opinion, or otherwise does not set forth the basis of decision with sufficient clarity to enable the supreme court to determine whether

grounds for jurisdiction exist, a conformed copy of the order of the trial court should also be included in the appendix.

Subdivisions (e) and (f) provide that within 60 days of the date of the order accepting jurisdiction, or postponing decision on jurisdiction, the clerk of the district court must transmit the record to the court. The petitioner has 20 days from the date of the order to serve the initial brief on the merits. Other briefs may then be served in accordance with rule 9.210. Briefs that are served must be filed in accordance with rule 9.420.

It should be noted that the automatic stay provided by former rule 4.5(c)(6) has been abolished because it encouraged the filing of frivolous petitions and was regularly abused. A stay pending review may be obtained under rule 9.310. If a stay has been ordered pending appeal to a district court, it remains effective under rule 9.310(e) unless the mandate issues or the district court vacates it. The advisory committee was of the view that the district courts should permit such stays only when essential. Factors to be considered are the likelihood that jurisdiction will be accepted by the supreme court, the likelihood of ultimate success on the merits, the likelihood of harm if no stay is granted, and the remediable quality of any such harm.

1980 Amendment. The rule has been amended to reflect the 1980 revisions to article V, section 3, Florida Constitution creating the additional categories of certifications by the district courts to the supreme court enumerated in rule 9.030(a)(2)(A).

District court decisions that (a) expressly declare valid a state statute, (b) expressly construe a provision of the state or federal constitution, (c) expressly affect a class of constitutional or state officers, (d) expressly and directly conflict with a decision of another district court or the supreme court on the same point of law, (e) pass upon a question certified to be of great public importance, or (f) are certified to be in direct conflict with decisions of other district courts, are reviewed according to the procedures set forth in this rule. No jurisdictional briefs are permitted if jurisdiction is based on certification of a question of great public importance or certification that the decision is in direct conflict with a decision of another district court.

The mandatory appendix must contain a copy of the district court decision sought to be reviewed and should be prepared in accordance with rule 9.220.

Supreme court review of trial court orders and judgments certified by the district court under rule 9.030(a)(2)(B) is governed by the procedures set forth in rule 9.125.

Reply briefs from petitioners are prohibited, and the court will decide whether to accept the case for review solely on the basis of petitioner's initial and respondent's responsive jurisdictional briefs.

1992 Amendment. Subdivision (d) was amended to provide that jurisdictional briefs must conform to the same requirements set forth in rule 9.210.

RULE 9.125. REVIEW OF TRIAL COURT ORDERS AND JUDGMENTS CERTIFIED BY THE DISTRICT COURTS OF APPEAL AS REQUIRING IMMEDIATE RESOLUTION BY THE SUPREME COURT

(a) Applicability. This rule applies to any order or judgment of a trial court that has been certified by the district court of appeal to require immediate resolution by the supreme court because the issues pending in the district court are of great public importance or have a great effect on the proper administration of justice throughout the state. The district court of appeal may make such certification on its own motion or on suggestion by a party.

(b) Commencement. The jurisdiction of the supreme court is invoked on rendition of the certificate by the district court of appeal.

(c) Suggestion. Any party may file with the district court and serve on the parties a suggestion that the order to be reviewed should be certified by the district court to the supreme court. The suggestion shall be substantially in the form prescribed by this rule and shall be filed within 10 days from the filing of the notice of appeal.

(d) Response. Any party may file a response within 5 days of the service of the suggestion.

(e) Form. The suggestion shall be limited to 5 pages and shall contain all of the following elements:

(1) A statement of why the appeal requires immediate resolution by the supreme court.

(2) A statement of why the appeal

(A) is of great public importance, or

(B) will have a great effect on the proper administration of justice throughout the state.

(3) A certificate signed by the attorney stating:

I express a belief, based on a reasoned and studied professional judgment, that this appeal requires immediate resolution by the supreme court and (a) is of great public importance, or (b) will have a great effect on the administration of justice throughout the state.

/s/ _____
Attorney for .....(name of party).....
.....(address and phone number).....
Florida Bar No. .....

(4) An appendix containing a conformed copy of the order to be reviewed.

(f) Effect of Suggestion. The district court shall not be required to rule on the suggestion and neither the filing of a suggestion nor the rendition by the district court of its certificate shall alter the applicable time limitations or place of filing. If an order is rendered granting or denying certification, no rehearing shall be permitted.

(g) Procedure When Supreme Court Accepts Jurisdiction. The jurisdiction of the supreme court attaches on rendition of the order accepting jurisdiction. If the supreme court accepts jurisdiction, it shall so order and advise the parties, the clerk of the district court, and the clerk of the lower tribunal. The clerk of the district court shall ~~transfer~~electronically transmit the record in the case to the supreme court within 10 days thereafter. The time limitations of the applicable jurisdictional rule will continue in effect, except that all papers formerly required to be filed in the district court shall be filed in the supreme court.

Committee Notes

1980 Amendment. This rule is entirely new and governs all discretionary proceedings to review trial court orders or judgments that have been certified by the district court under rule 9.030(a)(2)(B) to require immediate resolution by the supreme court and to be of great public importance or to have a great effect on the proper administration of justice throughout the state. Final and non-final orders are covered by this rule. Discretionary review of other district court decisions if supreme court jurisdiction exists under rule 9.030(a)(2)(A) is governed by rule 9.120.

Subdivision (b) makes clear that certification by the district court is self-executing.

Subdivision (c) sets forth the manner in which a party may file a suggestion that the order to be reviewed should be certified by the district court to the supreme court and requires the suggestion be filed within 10 days from the filing of the notice of appeal. It is contemplated that suggestions under this rule will be rare. A suggestion should be filed only if, under the peculiar circumstances of a case, all the elements contained in subdivision (e) of the rule are present.

Subdivision (d) provides that any other party may file a response to a suggestion within 5 days of the service of the suggestion.

Subdivision (e) provides for the form of the suggestion. All suggestions must be substantially in this form. The suggestion is limited to 5 pages and must contain (1) a statement of why the appeal requires immediate resolution by the supreme court, and (2) a statement of why the appeal either is of great public importance or will have a great effect on the proper administration of justice throughout the state. The suggestion must be accompanied by an appendix containing a copy of the order to be reviewed. The suggestion also must include a certificate signed by the attorney in the form appearing in the rule.

To ensure that no proceeding is delayed because of this rule, subdivisions (f) and (g) provide that the filing of a suggestion will not alter the applicable time limitations or the place of filing. The district court shall not be required to rule on a suggestion. The parties should follow the time limitations contained in the rule through which jurisdiction of the district court was invoked. See rules 9.100, 9.110, 9.130, and 9.140.

RULE 9.130. PROCEEDINGS TO REVIEW NON-FINAL ORDERS AND SPECIFIED FINAL ORDERS

(a) Applicability.

(1) This rule applies to appeals to the district courts of appeal of the non-final orders authorized herein and to appeals to the circuit court of non-final orders when provided by general law. Review of other non-final orders in such courts and non-final administrative action shall be by the method prescribed by rule 9.100.

(2) Appeals of non-final orders in criminal cases shall be as prescribed by rule 9.140.

(3) Appeals to the district courts of appeal of non-final orders are limited to those that

(A) concern venue;

(B) grant, continue, modify, deny, or dissolve injunctions, or refuse to modify or dissolve injunctions;

(C) determine

(i) the jurisdiction of the person;

(ii) the right to immediate possession of property, including but not limited to orders that grant, modify, dissolve or refuse to grant, modify, or dissolve writs of replevin, garnishment, or attachment;

(iii) the right to immediate monetary relief or child custody in family law matters;

(iv) the entitlement of a party to arbitration, or to an appraisal under an insurance policy;

(v) that, as a matter of law, a party is not entitled to workers' compensation immunity;

(vi) that a class should be certified;

(vii) that, as a matter of law, a party is not entitled to absolute or qualified immunity in a civil rights claim arising under federal law; or

(viii) that a governmental entity has taken action that has inordinately burdened real property within the meaning of section 70.001(6)(a), Florida Statutes;

(D) grant or deny the appointment of a receiver, and terminate or refuse to terminate a receivership.

(4) Non-final orders entered after final order on motions that suspend rendition are not reviewable; provided that orders granting motions for new trial in jury and non-jury cases are reviewable by the method prescribed in rule 9.110. Other non-final orders entered after final order on authorized motions are reviewable by the method prescribed by this rule.

(5) Orders entered on an authorized and timely motion for relief from judgment are reviewable by the method prescribed by this rule. Motions for rehearing directed to these orders will not toll the time for filing a notice of appeal.

(6) Orders that deny motions to certify a class may be reviewed by the method prescribed by this rule.

(b) Commencement. The jurisdiction to seek review of orders described in subdivisions (a)(3)–(a)(6) shall be invoked by filing ~~2 copies of~~ a notice, accompanied by the filing fees prescribed by law, with the clerk of the lower tribunal within 30 days of rendition of the order to be reviewed.

(c) Notice. The notice, designated as a notice of appeal of non-final order, shall be substantially in the form prescribed by rule 9.900(c). Except in criminal cases, a conformed copy of the order or orders designated in the notice of appeal shall be attached to the notice.

(d) Record. A record shall not be transmitted to the court unless ordered.

(e) Briefs. Appellant's initial brief, accompanied by an appendix as prescribed by rule 9.220, shall be served within 15 days of filing the notice. Additional briefs shall be served as prescribed by rule 9.210.

(f) Stay of Proceedings. In the absence of a stay, during the pendency of a review of a non-final order, the lower tribunal may proceed with all matters, including trial or final hearing; provided that the lower tribunal may not render a final order disposing of the cause pending such review.

(g) Review on Full Appeal. This rule shall not preclude initial review of a non-final order on appeal from the final order in the cause.

(h) Scope of Review. Multiple non-final orders that are listed in rule 9.130(a)(3) may be reviewed by a single notice if the notice is timely filed as to each such order.

Committee Notes

1977 Amendment. This rule replaces former rule 4.2 and substantially alters current practice. This rule applies to review of all non-final orders, except those entered in criminal cases, and those specifically governed by rules 9.100 and 9.110.

The advisory committee was aware that the common law writ of certiorari is available at any time and did not intend to abolish that writ. However, because that writ provides a remedy only if the petitioner meets the heavy burden of showing that a clear departure from the essential requirements of law has resulted in otherwise irreparable harm, it is extremely rare that erroneous interlocutory rulings can be corrected by resort to common law certiorari. It is anticipated that because the most urgent interlocutory orders are appealable under this rule, there will be very few cases in which common law certiorari will provide relief. See *Taylor v. Board of Pub. Instruction*, 131 So. 2d 504 (Fla. 1st DCA 1961).

Subdivision (a)(3) designates certain instances in which interlocutory appeals may be prosecuted under the procedures set forth in this rule. Under these rules there are no mandatory interlocutory appeals. This rule eliminates interlocutory appeals as a matter of right from all orders “formerly cognizable in equity,” and provides for review of certain interlocutory orders based on the necessity or desirability of expeditious review. Allowable interlocutory appeals from orders in actions formerly cognizable as civil actions are specified, and are essentially the same as under former rule 4.2. Item (A) permits review of orders concerning venue. Item (C)(i) has been limited to jurisdiction over the person because the writ of prohibition provides an adequate remedy in cases involving jurisdiction of the subject matter. Because the purpose of these items is to

eliminate useless labor, the advisory committee is of the view that stays of proceedings in lower tribunals should be liberally granted if the interlocutory appeal involves venue or jurisdiction over the person. Because this rule only applies to civil cases, item (C)(ii) does not include within its ambit rulings on motions to suppress seized evidence in criminal cases. Item (C)(ii) is intended to apply whether the property involved is real or personal. It applies to such cases as condemnation suits in which a condemnor is permitted to take possession and title to real property in advance of final judgment. See ch. 74, Fla. Stat. (1975). Item (C)(iii) is intended to apply to such matters as temporary child custody or support, alimony, suit money, and attorneys' fees. Item (C)(iv) allows appeals from interlocutory orders that determine liability in favor of a claimant.

Subdivision (a)(4) grants a right of review if the lower tribunal grants a motion for new trial whether in a jury or non-jury case. The procedures set forth in rule 9.110, and not those set forth in this rule, apply in such cases. This rule has been phrased so that the granting of rehearing in a non-jury case under Florida Rule of Civil Procedure 1.530 may not be the subject of an interlocutory appeal unless the trial judge orders the taking of evidence. Other non-final orders that postpone rendition are not reviewable in an independent proceeding. Other non-final orders entered by a lower tribunal after final order are reviewable and are to be governed by this rule. Such orders include, for example, an order granting a motion to vacate default.

Subdivision (a)(5) grants a right of review of orders on motions seeking relief from a previous court order on the grounds of mistake, fraud, satisfaction of judgment, or other grounds listed in Florida Rule of Civil Procedure 1.540.

Subdivision (a)(6) provides that interlocutory review is to be in the court that would have jurisdiction to review the final order in the cause as of the time of the interlocutory appeal.

Subdivisions (b) and (c) state the manner for commencing an interlocutory appeal governed by this rule. Two copies of the notice must be filed with the clerk of the lower tribunal within 30 days of rendition of the order. Under rule 9.040(g) the notice and fee must be transmitted immediately to the court by the clerk of the lower tribunal.

Subdivision (d) provides for transmittal of the record only on order of the court. Transmittal should be in accordance with instructions contained in the order.

Subdivision (e) replaces former rule 4.2(e) and governs the service of briefs on interlocutory appeals. The time to serve the appellant's brief has been reduced to 15 days so as to minimize interruption of lower tribunal proceedings. The brief must be accompanied by an appendix containing a conformed copy of the order to be reviewed and should also contain all relevant portions of the record.

Subdivision (f) makes clear that unless a stay is granted under rule 9.310, the lower tribunal is only divested of jurisdiction to enter a final order disposing of the case. This follows the historical rule that trial courts are divested of jurisdiction only to the extent that their actions are under review by an appellate court. Thus, the lower tribunal has jurisdiction to proceed with matters not before the court. This rule is intended to resolve the confusion spawned by *De la Portilla v. De la Portilla*, 304 So. 2d 116 (Fla. 1974), and its progeny.

Subdivision (g) was embodied in former rule 4.2(a) and is intended to make clear that the failure to take an interlocutory appeal does not constitute a waiver of any sort on appeal of a final judgment, although an improper ruling might not then constitute prejudicial error warranting reversal.

1992 Amendment. Subdivisions (a)(3)(C)(vii) and (a)(6) were added to permit appeals from non-final orders that either granted or denied a party's request that a class be certified. The committee was of the opinion that orders determining the nature of an action and the extent of the parties before the court were analogous to other orders reviewable under rule 9.130. Therefore, these 2 subdivisions were added to the other limited enumeration of orders appealable by the procedures established in this rule.

Subdivision (a)(3)(D) was added by the committee in response to the decision in *Twin Jay Chambers Partnership v. Suarez*, 556 So. 2d 781 (Fla. 2d DCA 1990). It was the opinion of the committee that orders that deny the appointment of receivers or terminate or refuse to terminate receiverships are of the same quality as those that grant the appointment of a receiver. Rather than base the appealability of such orders on subdivision (a)(3)(C)(ii), the committee felt it preferable to specifically identify those orders with respect to a receivership that were non-final orders subject to appeal by this rule.

Subdivision (c) was amended to require the attachment of a conformed copy of the order or orders designated in the notice of appeal consistent with the amendment to rule 9.110(d).

1996 Amendment. The amendment to subdivision (a)(3)(C)(vi) moves the phrase "as a matter of law" from the end of the subdivision to its beginning. This is to resolve the confusion evidenced in *Breakers Palm Beach v. Gloger*, 646 So. 2d 237 (Fla. 4th DCA 1994), *City of Lake Mary v. Franklin*, 668 So. 2d 712 (Fla. 5th DCA 1996), and their progeny by clarifying that this subdivision was not intended to grant a right of nonfinal review if the lower tribunal denies a motion for summary judgment based on the existence of a material fact dispute.

Subdivision (a)(3)(C)(viii) was added in response to the supreme court's request in *Tucker v. Resha*, 648 So. 2d 1187 (Fla. 1994). The court directed the committee to propose a new rule regarding procedures for appeal of orders denying immunity in federal civil rights cases consistent with federal procedure. Compare *Johnson v. Jones*, 115 S.Ct. 2151, 132 L.Ed.2d 238 (1995), with *Mitchell v. Forsyth*, 472 U.S. 511, 105 S.Ct. 2806, 86 L.Ed.2d 411 (1985). The Florida Supreme Court held that such orders are "subject to interlocutory review to the extent that the order turns on an issue of law."

2000 Amendment. The title to this rule was amended to reflect that some of the review proceedings specified in this rule may involve review of final orders.

Subdivision (a)(1) was amended to reflect that the appellate jurisdiction of circuit courts is prescribed by general law and not by this rule, as clarified in *Blore v. Fierro*, 636 So. 2d 1329 (Fla. 1994).

Subdivision (a)(3)(C)(iv) allowing review of orders determining "the issue of liability in favor of a party seeking affirmative relief" was deleted so that such orders are not appealable until the conclusion of the case.

Subdivision (a)(7) was deleted because it is superseded by proposed rule 9.040(b)(2), which determines the appropriate court to review non-final orders after a change of venue.

2008 Amendment. Subdivision 9.130(a)(3)(C)(ii) was amended to address a conflict in the case law concerning whether orders granting, modifying, dissolving, or refusing to grant, modify, or dissolve garnishments are appealable under this subdivision. Compare *Ramseyer v. Williamson*, 639 So. 2d 205 (Fla. 5th DCA 1994) (garnishment order not appealable), with *5361 N. Dixie Highway Inc. v. Capital Bank*, 658 So. 2d 1037 (Fla. 4th DCA 1995) (permitting appeal from garnishment order and acknowledging conflict). The amendment is not intended to

limit or expand the scope of matters convered under this rule. In that vein, replevin and attachment were included as examples of similar writs covered by this rule.

Subdivision (a)(3)(C)(iv) has been amended to clarify that nonfinal orders determining a party's entitlement to an appraisal under an insurance policy are added to the category of nonfinal orders appealable to the district courts of appeal.

Subdivision 9.130(a)(5) is intended to authorize appeals from orders entered on motions for relief from judgment that are specifically contemplated by a specific rule of procedure (e.g., the current version of Florida Rule of Civil Procedure 1.540, Small Claims Rule 7.190, Florida Family Law Rule of Procedure 12.540, and Florida Rule of Juvenile Procedure 8.150 and 8.270).

Subdivision (a)(5) has been amended to recognize the unique nature of the orders listed in this subdivision and to codify the holdings of all of Florida's district courts of appeal on this subject. The amendment also clarifies that motions for rehearing directed to these particular types of orders are unauthorized and will not toll the time for filing a notice of appeal.

RULE 9.140. APPEAL PROCEEDINGS IN CRIMINAL CASES

(a) Applicability. Appeal proceedings in criminal cases shall be as in civil cases except as modified by this rule.

(b) Appeals by Defendant.

(1) Appeals Permitted. A defendant may appeal

(A) a final judgment adjudicating guilt;

(B) a final order withholding adjudication after a finding of guilt;

(C) an order granting probation or community control, or both, whether or not guilt has been adjudicated;

(D) orders entered after final judgment or finding of guilt, including orders revoking or modifying probation or community control, or both, or orders denying relief under Florida Rule of Criminal Procedure 3.800(a), 3.850, or 3.853;

(E) an unlawful or illegal sentence;

(F) a sentence, if the appeal is required or permitted by general law; or

(G) as otherwise provided by general law.

(2) Guilty or Nolo Contendere Pleas.

(A) Pleas. A defendant may not appeal from a guilty or nolo contendere plea except as follows:

(i) Reservation of Right to Appeal. A defendant who pleads guilty or nolo contendere may expressly reserve the right to appeal a prior dispositive order of the lower tribunal, identifying with particularity the point of law being reserved.

(ii) Appeals Otherwise Allowed. A defendant who pleads guilty or nolo contendere may otherwise directly appeal only

a. the lower tribunal's lack of subject matter jurisdiction;

b. a violation of the plea agreement, if preserved by a motion to withdraw plea;

c. an involuntary plea, if preserved by a motion to withdraw plea;

d. a sentencing error, if preserved; or

e. as otherwise provided by law.

(B) Record.

(i) Except for appeals under subdivision (b)(2)(A)(i) of this rule, the record for appeals involving a plea of guilty or nolo contendere shall be limited to:

a. all indictments, informations, affidavits of violation of probation or community control, and other charging documents;

b. the plea and sentencing hearing transcripts;

c. any written plea agreements;

d. any judgments, sentences, scoresheets, motions, and orders to correct or modify sentences, orders imposing, modifying, or revoking probation or community control, orders assessing costs, fees, fines, or restitution against the defendant, and any other documents relating to sentencing;

e. any motion to withdraw plea and order thereon;

f. notice of appeal, statement of judicial acts to be reviewed, directions to the clerk, and designation to the approved court reporter or approved transcriptionist.

(ii) Upon good cause shown, the court, or the lower tribunal before the record is electronically transmitted, may expand the record.

(3) Commencement. The defendant shall file the notice prescribed by rule 9.110(d) with the clerk of the lower tribunal at any time between rendition of a final judgment and 30 days following rendition of a written order imposing sentence. Copies shall be served on the state attorney and attorney general.

(4) Cross-Appeal. A defendant may cross-appeal by serving a notice within 10 days of service of the state's notice or service of an order on a motion pursuant to Florida Rule of Criminal Procedure 3.800(b)(2). Review of cross-appeals before trial is limited to related issues resolved in the same order being appealed.

(c) Appeals by the State.

(1) Appeals Permitted. The state may appeal an order

(A) dismissing an indictment or information or any count thereof or dismissing an affidavit charging the commission of a criminal offense, the violation of probation, the violation of community control, or the violation of any supervised correctional release;

(B) suppressing before trial confessions, admissions, or evidence obtained by search and seizure;

(C) granting a new trial;

(D) arresting judgment;

(E) granting a motion for judgment of acquittal after a jury verdict;

(F) discharging a defendant under Florida Rule of Criminal Procedure 3.191;

(G) discharging a prisoner on habeas corpus;

(H) finding a defendant incompetent or insane;

(I) finding a defendant mentally retarded under Florida Rule of Criminal Procedure 3.203;

(J) granting relief under Florida Rule of Criminal Procedure 3.853;

(K) ruling on a question of law if a convicted defendant appeals the judgment of conviction;

(L) withholding adjudication of guilt in violation of general law;

(M) imposing an unlawful or illegal sentence or imposing a sentence outside the range permitted by the sentencing guidelines;

(N) imposing a sentence outside the range recommended by the sentencing guidelines;

(O) denying restitution; or

(P) as otherwise provided by general law for final orders.

(2) Non-Final Orders. The state as provided by general law may appeal to the circuit court non-final orders rendered in the county court.

(3) Commencement. The state shall file the notice prescribed by rule 9.110(d) with the clerk of the lower tribunal within 15 days of rendition of the order to be reviewed; provided that in an appeal by the state under rule 9.140(c)(1)(K), the state's notice of cross-appeal shall be filed within 10 days of service of defendant's notice or service of an order on a motion pursuant to Florida Rule of Criminal Procedure 3.800(b)(2). Copies shall be served on the defendant and the attorney of record. An appeal by the state shall stay further proceedings in the lower tribunal only by order of the lower tribunal.

(d) Withdrawal of Defense Counsel after Judgment and Sentence or after Appeal by State.

(1) The attorney of record for a defendant in a criminal proceeding shall not be relieved of any professional duties, or be permitted to withdraw as defense counsel of record, except with approval of the lower tribunal on good cause

shown on written motion, until either the time has expired for filing an authorized notice of appeal and no such notice has been filed by the defendant or the state, or after the following have been completed:

(A) a notice of appeal or cross-appeal has been filed on behalf of the defendant or the state;

(B) a statement of judicial acts to be reviewed has been filed if a transcript will require the expenditure of public funds;

(C) the defendant's directions to the clerk have been filed, if necessary;

(D) designations to the approved court reporter or approved transcriptionist have been filed for transcripts of those portions of the proceedings necessary to support the issues on appeal or, if transcripts will require the expenditure of public funds for the defendant, of those portions of the proceedings necessary to support the statement of judicial acts to be reviewed; and

(E) in publicly funded defense and state appeals, the lower tribunal has appointed the public defender for the local circuit court, who shall initially remain counsel for the appeal until the record is electronically transmitted to the appellate court. In publicly funded state appeals, defense counsel shall additionally file in the appellate court a copy of the order appointing the local public defender. In non-publicly funded defense and state appeals, retained appellate counsel shall file a notice of appearance in the appellate court, or defense counsel of record shall file a motion to withdraw in the appellate court, with service on the defendant, that states what the defendant's legal representation on appeal, if any, is expected to be. Documents filed in the appellate court shall be served on the attorney general (or state attorney in appeals to the circuit court).

(2) Orders allowing withdrawal of counsel are conditional and counsel shall remain of record for the limited purpose of representing the defendant in the lower tribunal regarding any sentencing error the lower tribunal is authorized to address during the pendency of the direct appeal pursuant to Florida Rule of Criminal Procedure 3.800(b)(2).

(e) Sentencing Errors. A sentencing error may not be raised on appeal unless the alleged error has first been brought to the attention of the lower tribunal:

(1) at the time of sentencing; or

(2) by motion pursuant to Florida Rule of Criminal Procedure 3.800(b).

(f) Record.

(1) Service. The clerk of the lower tribunal shall prepare and serve the record prescribed by rule 9.200 within 50 days of the filing of the notice of appeal.

(2) Transcripts.

(A) If a defendant's designation of a transcript of proceedings requires expenditure of public funds, trial counsel for the defendant (in conjunction with appellate counsel, if possible) shall serve, within 10 days of filing the notice, a statement of judicial acts to be reviewed, and a designation to the approved court reporter or approved transcriptionist requiring preparation of only so much of the proceedings as fairly supports the issue raised.

(B) Either party may file motions in the lower tribunal to reduce or expand the transcripts.

(C) Except as permitted in subdivision (f)(2)(D) of this rule, the parties shall designate the approved court reporter or approved transcriptionist to file with the clerk of the lower tribunal the ~~original~~ transcripts for the court and sufficient paper copies for ~~the state and all indigent defendants~~ all parties exempt from service by electronic mail as set forth in the Florida Rules of Judicial Administration.

(D) Non-indigent defendants represented by counsel may designate the approved court reporter or approved transcriptionist to prepare ~~only original~~the transcripts. Counsel adopting this procedure shall, within 5 days of receipt of the ~~original~~ transcripts from the approved court reporter or approved transcriptionist, file the ~~original~~ transcripts ~~along with securely bound copies for the state and all defendants~~. Counsel shall serve notice of the use of this procedure on the attorney general (or the state attorney in appeals to circuit court) and the clerk of the lower tribunal. Counsel shall attach a certificate to each ~~copy~~transcript certifying that it is ~~an~~ accurate and complete ~~copy of the original transcript~~. When this procedure is used, the clerk of the lower tribunal upon conclusion of the appeal shall retain the ~~original~~ transcript(s) for use as needed by the state in any collateral

proceedings and shall not ~~destroy~~dispose of the transcripts without the consent of the Office of the Attorney General.

(E) In state appeals, the state shall designate the approved court reporter or approved transcriptionist to prepare and file with the clerk of the lower tribunal the ~~original~~ transcripts and sufficient copies for all ~~separately represented defendants~~parties exempt from service by electronic mail as set forth in the Florida Rules of Judicial Administration. Alternatively, the state may elect to use the procedure specified in subdivision (f)(2)(D) of this rule.

(F) The lower tribunal may by administrative order in publicly-funded cases direct the clerk of the lower tribunal rather than the approved court reporter or approved transcriptionist to prepare the necessary ~~copies of the original~~ transcripts.

(3) Retention of Documents. Unless otherwise ordered by the court, the clerk of the lower tribunal shall retain ~~all~~any original documents ~~except the original transcripts designated for appeal which shall be included in the record transmitted to the court~~.

(4) Service of Copies. The clerk of the lower tribunal shall serve copies of the record to the court, attorney general (or state attorney in appeals to circuit court), and all counsel appointed to represent indigent defendants on appeal. The clerk of the lower tribunal shall simultaneously serve copies of the index to all non-indigent defendants and, upon their request, copies of the record or portions thereof at the cost prescribed by law.

(5) Return of Record. Except in death penalty cases, the court shall return the record to the lower tribunal after final disposition of the appeal.

(6) Supplemental Record for Motion to Correct Sentencing Error Pursuant to Florida Rule of Criminal Procedure 3.800(b)(2).

(A) The clerk of circuit court shall automatically supplement the appellate record with any motion pursuant to Florida Rule of Criminal Procedure 3.800(b)(2), any response, any resulting order, and any amended sentence. The clerk shall electronically transmit the supplement to the appellate court within 5 days of the filing of the order ruling on the motion. If an order is not filed within 60 days from the filing of the motion, this time shall run from the

expiration of the 60 day period, and the clerk shall supplement the record with the motion and a statement that no order was timely filed.

(B) If any appellate counsel determines that a transcript of a proceeding relating to such a motion is required to review the sentencing issue, appellate counsel shall, within 5 days from the transmittal of the supplement described in subdivision (A), designate those portions of the proceedings not on file deemed necessary for transcription and inclusion in the record. A copy of the designation shall be filed with the appellate court. The procedure for this supplementation shall be in accordance with this subdivision, except that counsel is not required to file a revised statement of judicial acts to be reviewed, the approved court reporter or approved transcriptionist shall deliver the transcript within 15 days, and the clerk shall supplement the record with the transcript within 5 days of its receipt.

(g) Briefs. Initial briefs shall be served within 30 days of service of the record or designation of appointed counsel, whichever is later. Additional briefs shall be served as prescribed by rule 9.210.

(h) Post-Trial Release.

(1) Appeal by Defendant. The lower tribunal may hear a motion for post-trial release pending appeal before or after a notice is filed; provided that the defendant may not be released from custody until the notice is filed.

(2) Appeal by State. An incarcerated defendant charged with a bailable offense shall on motion be released on the defendant's own recognizance pending an appeal by the state, unless the lower tribunal for good cause stated in an order determines otherwise.

(3) Denial of Post-Trial Release. All orders denying post-trial release shall set forth the factual basis on which the decision was made and the reasons therefor.

(4) Review. Review of an order relating to post-trial release shall be by the court on motion.

(i) Scope of Review. The court shall review all rulings and orders appearing in the record necessary to pass upon the grounds of an appeal. In the interest of justice, the court may grant any relief to which any party is entitled.

Committee Notes

1977 Amendment. This rule represents a substantial revision of the procedure in criminal appeals.

Subdivision (a) makes clear the policy of these rules that procedures be standardized to the maximum extent possible. Criminal appeals are to be governed by the same rules as other cases, except for those matters unique to criminal law that are identified and controlled by this rule.

Subdivision (b)(1) lists the only matters that may be appealed by a criminal defendant, and it is intended to supersede all other rules of practice and procedure. This rule has no effect on either the availability of extraordinary writs otherwise within the jurisdiction of the court to grant, or the supreme court's jurisdiction to entertain petitions for the constitutional writ of certiorari to review interlocutory orders. This rule also incorporates the holding in *State v. Ashby*, 245 So. 2d 225 (Fla. 1971), and is intended to make clear that the reservation of the right to appeal a judgment based on the plea of no contest must be express and must identify the particular point of law being reserved; any issues not expressly reserved are waived. No direct appeal of a judgment based on a guilty plea is allowed. It was not intended that this rule affect the substantive law governing collateral review.

Subdivision (b)(2) replaces former rule 6.2. Specific reference is made to rule 9.110(d) to emphasize that criminal appeals are to be prosecuted in substantially the same manner as other cases. Copies of the notice, however, must be served on both the state attorney and the attorney general. The time for taking an appeal has been made to run from the date judgment is rendered to 30 days after an order imposing sentence is rendered or otherwise reduced to writing. The former rule provided for appeal within 30 days of rendition of judgment or within 30 days of entry of sentence. The advisory committee debated the intent of the literal language of the former rule. Arguably, under the former rule an appeal could not be taken by a defendant during the "gap period" that occurs when sentencing is postponed more than 30 days after entry of judgment. The advisory committee concluded that no purpose was served by such an interpretation because the full case would be reviewable when the "gap" closed. This modification of the former rule promotes the policies underlying *Williams v. State*, 324 So. 2d 74 (Fla. 1975), in which it was held that a notice of appeal prematurely filed should not be dismissed, but held in abeyance until it becomes effective. This rule does not specifically address the issue of whether full review is available if re-sentencing

occurs on order of a court in a collateral proceeding. Such cases should be resolved in accordance with the underlying policies of these rules. *Compare Wade v. State*, 222 So. 2d 434 (Fla. 2d DCA 1969), with *Neary v. State*, 285 So. 2d 47 (Fla. 4th DCA 1973). If a defendant appeals a judgment of conviction of a capital offense before sentencing and sentencing is anticipated, the district court of appeal (as the court then with jurisdiction) should hold the case in abeyance until the sentence has been imposed. If the death penalty is imposed, the district court of appeal should transfer the case to the supreme court for review. See § 921.141(4), Fla. Stat. (1975); Fla. R. App. P. 9.040(b).

Subdivision (b)(3) governs the service of briefs. Filing should be made in accordance with rule 9.420.

Subdivision (c)(1) lists the only matters that may be appealed by the state, but it is not intended to affect the jurisdiction of the supreme court to entertain by certiorari interlocutory appeals governed by rule 9.100, or the jurisdiction of circuit courts to entertain interlocutory appeals of pretrial orders from the county courts. See *State v. Smith*, 260 So. 2d 489 (Fla. 1972). No provision of this rule is intended to conflict with a defendant's constitutional right not to be placed twice in jeopardy, and it should be interpreted accordingly. If there is an appeal under item (A), a motion for a stay of the lower tribunal proceeding should be liberally granted in cases in which there appears to be a substantial possibility that trial of any non-dismissed charges would bar prosecution of the dismissed charges if the dismissal were reversed, such as in cases involving the so-called "single transaction rule." Item (E) refers to the popularly known "speedy trial rule," and items (F), (G), and (H) track the balance of state appellate rights in section 924.07, Florida Statutes (1975).

Subdivision (c)(2) parallels subdivision (b)(2) regarding appeals by defendants except that a maximum of 15 days is allowed for filing the notice. An appeal by the state stays further proceedings in the lower tribunal only if an order has been entered by the trial court.

Subdivision (c)(3) governs the service of briefs.

Subdivision (d) applies rule 9.200 to criminal appeals and sets forth the time for preparation and service of the record, and additional matters peculiar to criminal cases. It has been made mandatory that the original record be held by the lower tribunal to avoid loss and destruction of original papers while in transit. To meet the needs of appellate counsel for indigents, provision has been made for

automatic transmittal of a copy of the record to the public defender appointed to represent an indigent defendant on appeal, which in any particular case may be the public defender either in the judicial circuit where the trial took place or in the judicial circuit wherein the appellate court is located. See § 27.51(4), Fla. Stat. (1975). Counsel for a non-indigent defendant may obtain a copy of the record at the cost prescribed by law. At the present time, section 28.24(13), Florida Statutes (1975), as amended by chapter 77-284, § 1, Laws of Florida, prescribes a cost of $1 per page.

To conserve the public treasury, appeals by indigent defendants, and other criminal defendants in cases in which a free transcript is provided, have been specially treated. Only the essential portions of the transcript are to be prepared. The appellant must file a statement of the judicial acts to be reviewed on appeal and the parties are to file and serve designations of the relevant portions of the record. (This procedure emphasizes the obligation of trial counsel to cooperate with appellate counsel, if the two are different, in identifying alleged trial errors.) The statement is necessary to afford the appellee an opportunity to make a reasonable determination of the portions of the record required. The statement should be sufficiently definite to enable the opposing party to make that determination, but greater specificity is unnecessary. The statement of judicial acts contemplated by this rule is not intended to be the equivalent of assignments of error under former rule 3.5. Therefore, an error or inadequacy in the statement should not be relevant to the disposition of any case. In such circumstances, the appropriate procedure would be to supplement the record under rule 9.200(f) to cure any potential or actual prejudice. Either party may move in the lower tribunal to strike unnecessary portions before they are prepared or to expand the transcript. The ruling of the lower tribunal on such motions is reviewable by motion to the court under rule 9.200(f) if a party asserts additional portions are required.

Subdivision (e) replaces former rule 6.15. Subdivision (e)(1) governs if an appeal is taken by a defendant and permits a motion to grant post-trial release pending appeal to be heard although a notice of appeal has not yet been filed. The lower tribunal may then grant the motion effective on the notice being filed. This rule is intended to eliminate practical difficulties that on occasion have frustrated the cause of justice, as in cases in which a defendant's attorney has not prepared a notice of appeal in advance of judgment. Consideration of such motions shall be in accordance with section 903.132, Florida Statutes (Supp. 1976), and Florida Rule of Criminal Procedure 3.691. This rule does not apply if the judgment is based on a guilty plea because no right to appeal such a conviction is recognized by these rules.

Subdivision (e)(2) governs if the state takes an appeal and authorizes release of the defendant without bond, if charged with a bailable offense, unless the lower tribunal for good cause orders otherwise. The “good cause” standard was adopted to ensure that bond be required only in rare circumstances. The advisory committee was of the view that because the state generally will not be able to gain a conviction unless it prevails, the presumed innocent defendant should not be required to undergo incarceration without strong reasons, especially if a pre-trial appeal is involved. “Good cause” therefore includes such factors as the likelihood of success on appeal and the likelihood the defendant will leave the jurisdiction in light of the current status of the charges against the defendant.

Subdivision (e)(3) retains the substance of former rules 6.15(b) and (c). The lower tribunal’s order must contain a statement of facts as well as the reasons for the action taken, in accordance with *Younghans v. State*, 90 So. 2d 308 (Fla. 1956).

Subdivision (e)(4) allows review only by motion so that no order regarding post-trial relief is reviewable unless jurisdiction has been vested in the court by the filing of a notice of appeal. It is intended that the amount of bail be reviewable for excessiveness.

Subdivision (f) interacts with rule 9.110(h) to allow review of multiple judgments and sentences in 1 proceeding.

Subdivision (g) sets forth the procedure to be followed if there is a summary denial without hearing of a motion for post-conviction relief under Florida Rule of Criminal Procedure 3.850. This rule does not limit the right to appeal a denial of such a motion after hearing under rule 9.140(b)(1)(C).

1980 Amendment. Although the substance of this rule has not been changed, the practitioner should note that references in the 1977 committee notes to supreme court jurisdiction to review non-final orders that would have been appealable if they had been final orders are obsolete because jurisdiction to review those orders no longer reposes in the supreme court.

1984 Amendment. Subdivision (b)(4) was added to give effect to the administrative order entered by the supreme court on May 6, 1981 (6 Fla. L. Weekly 336), which recognized that the procedures set forth in the rules for criminal appeals were inappropriate for capital cases.

1992 Amendment. Subdivision (b)(3) was amended to provide that, in cases in which public funds would be used to prepare the record on appeal, the attorney of record would not be allowed to withdraw until substitute counsel has been obtained or appointed.

Subdivision (g) was amended to provide a specific procedure to be followed by the courts in considering appeals from summary denial of Florida Rule of Criminal Procedure 3.800(a) motions. Because such motions are in many respects comparable to Florida Rule of Criminal Procedure 3.850 motions, it was decided to use the available format already created by existing subdivision (g) of this rule. Because a Florida Rule of Criminal Procedure 3.800(a) motion does not have the same detailed requirements as does a Florida Rule of Criminal Procedure 3.850 motion, this subdivision also was amended to require the transmittal of any attachments to the motions in the lower court.

1996 Amendment. The 1996 amendments are intended to consolidate and clarify the rules to reflect current law unless otherwise specified.

Rule 9.140(b)(2)(B) was added to accurately reflect the limited right of direct appeal after a plea of guilty or nolo contendere. See *Robinson v. State*, 373 So. 2d 898 (Fla. 1979), and *Counts v. State*, 376 So. 2d 59 (Fla. 2d DCA 1979).

New subdivision (b)(4) reflects *Lopez v. State*, 638 So. 2d 931 (Fla. 1994). A defendant may cross-appeal as provided, but if the defendant chooses not to do so, the defendant retains the right to raise any properly preserved issue on plenary appeal. It is the committee's intention that the 10-day period for filing notice of the cross-appeal should be interpreted in the same manner as in civil cases under rule 9.110(g).

Rule 9.140(b)(6)(E) adopts Florida Rule of Criminal Procedure 3.851(b)(2) and is intended to supersede that rule. See Fla. R. Jud. Admin. 2.135. The rule also makes clear that the time periods in rule 9.140(j) do not apply to death penalty cases.

The revised rules 9.140(e)(2)(D) and 9.140(e)(2)(E) are intended to supersede *Brown v. State*, 639 So. 2d 634 (Fla. 5th DCA 1994), and allow non-indigent defendants represented by counsel, and the state, to order just the original transcript from the court reporter and to make copies. However, the original and copies for all other parties must then be served on the clerk of the lower tribunal for inclusion in the record. The revised rule 9.140(e)(2)(F) also allows chief judges

for each circuit to promulgate an administrative order requiring the lower tribunal clerk's office to make copies of the transcript when the defendant is indigent. In the absence of such an administrative order, the court reporter will furnish an original and copies for all parties in indigent appeals.

Rule 9.140(j)(3) imposes a two-year time limit on proceedings to obtain delayed appellate review based on either the ineffectiveness of counsel on a prior appeal or the failure to timely initiate an appeal by appointed counsel. The former was previously applied for by a petition for writ of habeas corpus in the appellate court and the latter by motion pursuant to Florida Rule of Criminal Procedure 3.850 in the trial court. Because both of these remedies did not require a filing fee, it is contemplated that no fee will be required for the filing of petitions under this rule. Subdivision (j)(3)(B) allows two years "after the conviction becomes final." For purposes of the subdivision a conviction becomes final after issuance of the mandate or other final process of the highest court to which direct review is taken, including review in the Florida Supreme Court and United States Supreme Court. Any collateral review shall not stay the time period under this subdivision. Subdivision (j)(3)(C) under this rule makes clear that defendants who were convicted before the effective date of the rule will not have their rights retroactively extinguished but will be subject to the time limits as calculated from the effective date of the rule unless the time has already commenced to run under rule 3.850.

Rule 9.140(j)(5) was added to provide a uniform procedure for requesting belated appeal and to supersede *State v. District Court of Appeal of Florida, First District*, 569 So. 2d 439 (Fla. 1990). This decision resulted in there being two procedures for requesting belated appeal: Florida Rule of Criminal Procedure 3.850 when the criminal appeal was frustrated by ineffective assistance of trial counsel, id.; and habeas corpus for everything else. See *Scalf v. Singletary*, 589 So. 2d 986 (Fla. 2d DCA 1991). Experience showed that filing in the appellate court was more efficient. This rule is intended to reinstate the procedure as it existed prior to *State v. District Court of Appeal, First District*. See *Baggett v. Wainwright*, 229 So. 2d 239 (Fla. 1969); *State v. Meyer*, 430 So. 2d 440 (Fla. 1983).

In the rare case where entitlement to belated appeal depends on a determination of disputed facts, the appellate court may appoint a commissioner to make a report and recommendation.

2000 Amendment. Subdivision (b)(1)(B) was added to reflect the holding of *State v. Schultz*, 720 So. 2d 247 (Fla. 1998). The amendment to renumber

subdivision (b)(1)(D), regarding appeals from orders denying relief under Florida Rules of Criminal Procedure 3.800(a) or 3.850, reflects current practice.

The committee added language to subdivision (b)(6)(B) to require court reporters to file transcripts on computer disks in death penalty cases. Death penalty transcripts typically are lengthy, and many persons review and use them over the years. In these cases, filing lengthy transcripts on computer disks makes them easier to use for all parties and increases their longevity.

The committee deleted the last sentence of subdivision (b)(6)(E) because its substance is now included in rule 9.141(a). The committee also amended and transferred subdivisions (i) and (j) to rule 9.141 for the reasons specified in the committee note for that rule.

2005 Amendment. New subdivision (L) was added to (c)(1) in response to the Florida legislature's enactment of section 775.08435(3), Florida Statutes (2004), which provides that "[t]he withholding of adjudication in violation of this section is subject to appellate review under chapter 924."

Court Commentary

1996. Rule 9.140 was substantially rewritten so as to harmonize with the Criminal Appeal Reform Act of 1996 (CS/HB 211). The reference to unlawful sentences in rule 9.140(b)(1)(D) and (c)(1)(J) means those sentences not meeting the definition of illegal under *Davis v. State*, 661 So. 2d 1193 (Fla. 1995), but, nevertheless, subject to correction on direct appeal.

RULE 9.141. REVIEW PROCEEDINGS IN COLLATERAL OR POST-CONVICTION CRIMINAL CASES; BELATED APPEALS; BELATED DISCRETIONARY REVIEW; INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

(a) Death Penalty Cases. This rule does not apply to death penalty cases.

(b) Appeals from Post-Conviction Proceedings Under Florida Rule of Criminal Procedure 3.800(a), 3.850, or 3.853.

(1) Applicability of Civil Appellate Procedures. Appeal proceedings under this subdivision shall be as in civil cases, except as modified by this rule.

(2) Summary Grant or Denial of Motion Without Evidentiary Hearing.

(A) When a motion for post-conviction relief under rule 3.800(a), 3.850, or 3.853 is granted or denied without an evidentiary hearing, the clerk of the lower tribunal shall electronically transmit to the court, as the record, ~~copies of~~ the motion, response, reply, order on the motion, motion for rehearing, response, reply, order on the motion for rehearing, and attachments to any of the foregoing, together with the certified copy of the notice of appeal.

(B) Unless directed otherwise by the court, the clerk of the lower tribunal shall not index or paginate the record or send copies of the index or record to the parties.

(C) No briefs or oral argument shall be required, but any appellant's brief shall be filed within 15 days of the filing of the notice of appeal. The court may request a response from the appellee before ruling.

(D) On appeal from the denial of relief, unless the record shows conclusively that the appellant is entitled to no relief, the order shall be reversed and the cause remanded for an evidentiary hearing or other appropriate relief.

(3) Grant or Denial of Motion after Evidentiary Hearing.

(A) Transcription. In the absence of designations to the court reporter, the notice of appeal filed by an indigent pro se litigant in a rule 3.850 or

3.853 appeal after an evidentiary hearing shall serve as the designation to the court reporter for the transcript of the evidentiary hearing. Within 5 days of receipt of the notice of appeal, the clerk of the lower tribunal shall request the appropriate court reporter to transcribe the evidentiary hearing and shall send the court reporter a copy of the notice, the date of the hearing to be transcribed, the name of the judge, and a copy of this rule.

(B) Record.

(i) When a motion for post-conviction relief under rule 3.850 or 3.853 is granted or denied after an evidentiary hearing, the clerk of the lower tribunal shall index, paginate, and electronically transmit to the court as the record, within 50 days of the filing of the notice of appeal, ~~copies of~~ the notice of appeal, motion, response, reply, order on the motion, motion for rehearing, response, reply, order on the motion for rehearing, and attachments to any of the foregoing, as well as the ~~original~~ transcript of the evidentiary hearing.

(ii) Appellant may direct the clerk to include in the record any other documents that were before the lower tribunal at the hearing. If the clerk is directed to include in the record a previously prepared appellate record involving the appellant, the clerk need not reindex or repaginate it.

(iii) The clerk of the lower tribunal shall serve copies of the record on the attorney general (or state attorney in appeals to the circuit court), all counsel appointed to represent indigent defendants on appeal, and any pro se indigent defendant. The clerk of the lower tribunal shall simultaneously serve copies of the index on all nonindigent defendants and, at their request, copies of the record or portions of it at the cost prescribed by law.

(C) Briefs. Initial briefs shall be served within 30 days of service of the record or its index. Additional briefs shall be served as prescribed by rule 9.210.

(c) Petitions Seeking Belated Appeal or Belated Discretionary Review or Alleging Ineffective Assistance of Appellate Counsel.

(1) Treatment as Original Proceedings. Review proceedings under this subdivision shall be treated as original proceedings under rule 9.100, except as modified by this rule.

(2) Forum. Petitions seeking belated appeal or alleging ineffective assistance of appellate counsel shall be filed in the appellate court to which the appeal was or should have been taken. Petitions seeking belated discretionary review or belated appeal of a decision of a district court of appeal shall be filed in the supreme court.

(3) Contents. The petition shall be in the form prescribed by rule 9.100, may include supporting documents, and shall recite in the statement of facts

(A) the date and nature of the lower tribunal's order sought to be reviewed;

(B) the name of the lower tribunal rendering the order;

(C) the nature, disposition, and dates of all previous court procedings;

(D) if a previous petition was filed, the reason the claim in the present petition was not raised previously;

(E) the nature of the relief sought; and

(F) the specific acts sworn to by the petitioner or petitioner's counsel that constitute the alleged ineffective assistance of counsel or basis for entitlement to belated appeal or belated discretionary review, including in the case of a petition for belated appeal whether the petitioner requested counsel to proceed with the appeal.

(4) Time Limits.

(A) A petition for belated appeal or belated discretionary review shall not be filed more than 2 years after the expiration of time for filing the notice of appeal or notice to invoke discretionary jurisdiction from a final order, unless it alleges under oath with a specific factual basis that the petitioner

(i) was unaware a notice of appeal or a notice to invoke discretionary jurisdiction had not been timely filed or was not advised of the right to an appeal or to seek discretionary review pro se; and

(ii) should not have ascertained such facts by the exercise of reasonable diligence.

(B) A petition alleging ineffective assistance of appellate counsel on direct review shall not be filed more than 2 years after the judgment and sentence becomes final on direct review unless it alleges under oath with a specific factual basis that the petitioner was affirmatively misled about the results of the appeal by counsel.

(C) Time periods under this subdivision shall not begin to run prior to January 1, 1997.

(5) Procedure.

(A) The petitioner shall serve copies of the petition on the attorney general and state attorney.

(B) The court may by order identify any provision of this rule that the petition fails to satisfy and, pursuant to rule 9.040(d), allow the petitioner a specified time to serve an amended petition.

(C) The court may dismiss a second or successive petition if it does not allege new grounds and the prior determination was on the merits, or if a failure to assert the grounds was an abuse of procedure.

(D) An order granting a petition for belated appeal shall be filed with the lower tribunal and treated as the notice of appeal, if no previous notice has been filed. An order granting a petition for belated discretionary review or belated appeal of a decision of a district court of appeal shall be filed with the district court and treated as a notice to invoke discretionary jurisdiction or notice of appeal, if no previous notice has been filed.

Committee Notes

2000 Amendment. Rule 9.141 is a new rule governing review of collateral or post-conviction criminal cases. It covers topics formerly included in rules 9.140(i) and (j). The committee opted to transfer these subjects to a new rule, in part because rule 9.140 was becoming lengthy. In addition, review proceedings for collateral criminal cases are in some respects treated as civil appeals or as extraordinary writs, rather than criminal appeals under rule 9.140.

Subdivision (a) clarifies that this rule does not apply to death penalty cases. The Supreme Court has its own procedures for these cases, and the committee did not attempt to codify them.

Subdivision (b)(2) amends former rule 9.140(i) and addresses review of summary grants or denials of post-conviction motions under Florida Rules of Criminal Procedure 3.800(a) or 3.850. Amended language in subdivision (b)(2)(A) makes minor changes to the contents of the record in such cases. Subdivision (b)(2)(B) addresses a conflict between *Summers v. State*, 570 So. 2d 990 (Fla. 1st DCA 1990), and *Fleming v. State*, 709 So. 2d 135 (Fla. 2d DCA 1998), regarding indexing and pagination of records. The First District requires clerks to index and paginate the records, while the other district courts do not. The committee determined not to require indexing and pagination unless the court directs otherwise, thereby allowing individual courts to require indexing and pagination if they so desire. Subdivision (b)(2)(B) also provides that neither the state nor the defendant should get a copy of the record in these cases, because they should already have all of the relevant documents. Subdivision (b)(2)(D) reflects current case law that the court can reverse not only for an evidentiary hearing but also for other appropriate relief.

Subdivision (b)(3) addresses review of grants or denials of post-conviction motions under rule 3.850 after an evidentiary hearing. Subdivision (b)(3)(A) provides for the preparation of a transcript if an indigent pro se litigant fails to request the court reporter to prepare it. The court cannot effectively carry out its duties without a transcript to review, and an indigent litigant will usually be entitled to preparation of the transcript and a copy of the record at no charge. See *Colonel v. State*, 723 So. 2d 853 (Fla. 3d DCA 1998). The procedures in subdivisions (b)(3)(B) and (C) for preparation of the record and service of briefs are intended to be similar to those provided in rule 9.140 for direct appeals from judgments and sentences.

Subdivision (c) is a slightly reorganized and clarified version of former rule 9.140(j). No substantive changes are intended.

RULE 9.142. PROCEDURES FOR REVIEW IN DEATH PENALTY CASES

(a) Procedure in Death Penalty Appeals.

(1) Record.

(A) When the notice of appeal is filed in the supreme court, the chief justice will direct the appropriate chief judge of the circuit court to monitor the preparation of the complete record for timely filing in the supreme court. Transcripts of all proceedings conducted in the lower tribunal shall be included in the record under these rules.

(B) The complete record in a death penalty appeal shall include all items required by rule 9.200 and by any order issued by the supreme court. In any appeal following the initial direct appeal, the record that is electronically transmitted shall begin with the most recent mandate issued by the supreme court, or the most recent filing not already electronically transmitted in a prior record in the event the preceding appeal was disposed of without a mandate, and shall exclude any materials already transmitted to the supreme court as the record in any prior appeal.

(C) The supreme court shall take judicial notice of the appellate records in all prior appeals and writ proceedings involving a challenge to the same judgment of conviction and sentence of death. Appellate records subject to judicial notice under this subdivision shall not be duplicated in the record transmitted for the appeal under review.

(2) Briefs; Transcripts. After the record is filed, the clerk will promptly establish a briefing schedule allowing the defendant 60 days from the date the record is filed, the state 45 days from the date the defendant's brief is served, and the defendant 30 days from the date the state's brief is served to serve their respective briefs. On appeals from orders ruling on applications for relief under Florida Rule of Criminal Procedure 3.851 or 3.853, and on resentencing matters, the schedules set forth in rule 9.140(g) will control. ~~In addition to filing paper copies of transcripts, the court reporter shall file with the clerk of the lower tribunal, on clearly labeled computer disks in a format approved by the supreme court, sufficient copies of these transcripts for the clerk of the lower tribunal to include the disks in the record transmitted to the court and to the parties.~~

(3) Sanctions. If any brief is delinquent, an order to show cause may issue under Florida Rule of Criminal Procedure 3.840, and sanctions may be imposed.

(4) Oral Argument. Oral argument will be scheduled after the filing of the defendant's reply brief.

(5) Petitions for Extraordinary Relief. In death penalty cases, all petitions for extraordinary relief over which the supreme court has original jurisdiction, including petitions for writ of habeas corpus, shall be filed simultaneously with the initial brief in the appeal from the lower tribunal's order on the defendant's application for relief under Florida Rule of Criminal Procedure 3.851.

(6) Scope of Review. In death penalty cases, whether or not insufficiency of the evidence or proportionality is an issue presented for review, the court shall review these issues and, if necessary, remand for the appropriate relief.

(b) Petition Seeking Review of Nonfinal Orders in Death Penalty Postconviction Proceedings.

(1) Applicability. This rule applies to proceedings that invoke the jurisdiction of the supreme court for review of nonfinal orders issued in post-conviction proceedings following the imposition of the death penalty.

(2) Treatment as Original Proceedings. Review proceedings under this subdivision shall be treated as original proceedings under rule 9.100 unless modified by this subdivision.

(3) Commencement; Parties.

(A) Jurisdiction of the supreme court shall be invoked by filing a petition with the clerk of the supreme court within 30 days of rendition of the nonfinal order to be reviewed. A copy of the petition shall be served on the opposing party and furnished to the judge who issued the order to be reviewed.

(B) Either party to the death penalty postconviction proceedings may seek review under this rule.

(4) Contents. The petition shall be in the form prescribed by rule 9.100, and shall contain

(A) the basis for invoking the jurisdiction of the court;

(B) the date and nature of the order sought to be reviewed;

(C) the name of the lower tribunal rendering the order;

(D) the name, disposition, and dates of all previous trial, appellate, and postconviction proceedings relating to the conviction and death sentence that are the subject of the proceedings in which the order sought to be reviewed was entered;

(E) the facts on which the petitioner relies, with references to the appropriate pages of the supporting appendix;

(F) argument in support of the petition, including an explanation of why the order departs from the essential requirements of law and how the order may cause material injury for which there is no adequate remedy on appeal, and appropriate citations of authority; and

(G) the nature of the relief sought.

(5) Appendix. The petition shall be accompanied by an appendix, as prescribed by rule 9.220, which shall contain the portions of the record necessary for a determination of the issues presented.

(6) Order to Show Cause. If the petition demonstrates a preliminary basis for relief or a departure from the essential requirements of law that may cause material injury for which there is no adequate remedy by appeal, the court may issue an order directing the respondent to show cause, within the time set by the court, why relief should not be granted.

(7) Response. No response shall be permitted unless ordered by the court.

(8) Reply. Within 20 days after service of the response or such other time set by the court, the petitioner may serve a reply, which shall not exceed 15 pages in length, and supplemental appendix.

(9) Stay.

(A) A stay of proceedings under this rule is not automatic; the party seeking a stay must petition the supreme court for a stay of proceedings.

(B) During the pendency of a review of a nonfinal order, unless a stay is granted by the supreme court, the lower tribunal may proceed with all matters, except that the lower tribunal may not render a final order disposing of the cause pending review of the nonfinal order.

(10) Other pleadings. The parties shall not file any other pleadings, motions, replies, or miscellaneous papers without leave of court.

(11) Time Limitations. Seeking review under this rule shall not extend the time limitations in rule 3.851 or 3.852.

(c) Review of Dismissal of Postconviction Proceedings and Discharge of Counsel in Florida Rule of Criminal Procedure 3.851(i) Cases.

(1) Applicability. This rule applies when the circuit court enters an order dismissing postconviction proceedings and discharging counsel under Florida Rule of Criminal Procedure 3.851(i).

(2) Procedure Following Rendition of Order of Dismissal and Discharge.

(A) Notice to Court. Within 10 days of the rendition of an order granting a prisoner's motion to discharge counsel and dismiss the motion for postconviction relief, discharged counsel shall file with the clerk of the circuit court ~~2 copies of~~ a notice seeking review in the supreme court.

(B) Transcription. The circuit judge presiding over any hearing on a motion to dismiss and discharge counsel shall order a transcript of the hearing to be prepared and filed with the clerk of the circuit court no later than 25 days from rendition of the final order.

(C) Record. Within 30 days of the granting of a motion to dismiss and discharge counsel, the clerk of the circuit court shall ~~forward~~electronically transmit a copy of the motion, order, and transcripts of all hearings held on the motion to the clerk of the supreme court.

(D) Proceedings in Supreme Court. Within 20 days of the filing of the record in the supreme court, discharged counsel shall serve an initial brief. Both the state and the prisoner may serve responsive briefs. All briefs must be served and filed as prescribed by rule 9.210.

(d) Petitions Seeking Belated Appeal. A petition for belated appeal shall not be filed more than 1 year after the expiration of time for filing the notice of appeal from a final order denying rule 3.851 relief, unless it alleges under oath with a specific factual basis that the petitioner

(1) was unaware an appeal had not been timely filed or was not advised of the right to an appeal; and

(2) should not have ascertained such facts by the exercise of reasonable diligence.

Committee Notes

2009 Amendment. Subdivision (a)(1) has been amended to clarify what is meant by the phrase "complete record" in any death penalty appeal. A complete record in a death penalty appeal includes all items required by rule 9.200 and by any order issued by the supreme court, including any administrative orders such as *In Re: Record in Capital Cases* (Fla. July 6, 1995). It is necessary for transcripts of all hearings to be prepared and designated for inclusion in the record in all death penalty cases under rules 9.200(b), 9.140(f)(2), and 9.142(a)(2), to ensure completeness for both present and future review. The supreme court permanently retains the records in all death penalty appeals and writ proceedings arising from a death penalty case. See rule 9.140(f)(5); Florida Rule of Judicial Administration 2.430(e)(2). These records are available to the supreme court when reviewing any subsequent proceeding involving the same defendant without the need for inclusion of copies of these records in the record for the appeal under review. Subdivision (a)(1) does not limit the ability of the parties to rely on prior appellate records involving the same defendant and the same judgment of conviction and sentence of death. Subdivision (a)(1)(B) is intended to ensure, among other things, that all documents filed in the lower tribunal under Florida Rule of Criminal Procedure 3.852 are included in the records for all appeals from final orders disposing of motions for postconviction relief filed under rule 3.851. This rule does not limit the authority to file directions under rule 9.200(a)(3), or to correct or supplement the record under rule 9.200(f).

RULE 9.145. APPEAL PROCEEDINGS IN JUVENILE DELINQUENCY CASES

(a) Applicability. Appeal proceedings in juvenile delinquency cases shall be as in rule 9.140 except as modified by this rule.

(b) Appeals by Child. To the extent adversely affected, a child or any parent, legal guardian, or custodian of a child may appeal

(1) an order of adjudication of delinquency or withholding adjudication of delinquency, or any disposition order entered thereon;

(2) orders entered after adjudication or withholding of adjudication of delinquency, including orders revoking or modifying the community control;

(3) an illegal disposition; or

(4) any other final order as provided by law.

(c) Appeals by the State.

(1) Appeals Permitted. The state may appeal an order

(A) dismissing a petition for delinquency or any part of it, if the order is entered before the commencement of an adjudicatory hearing;

(B) suppressing confessions, admissions, or evidence obtained by search and/or seizure before the adjudicatory hearing;

(C) granting a new adjudicatory hearing;

(D) arresting judgment;

(E) discharging a child under Florida Rule of Juvenile Procedure 8.090;

(F) ruling on a question of law if a child appeals an order of disposition;

(G) constituting an illegal disposition;

(H) discharging a child on habeas corpus; or

(I) finding a child incompetent pursuant to the Florida Rules of Juvenile Procedure.

(2) Non-Final State Appeals. If the state appeals a pre-adjudicatory hearing order of the trial court, the notice of appeal must be filed within 15 days of rendition of the order to be reviewed and before commencement of the adjudicatory hearing.

(A) A child in detention whose case is stayed pending state appeal shall be released from detention pending the appeal if the child is charged with an offense that would be bailable if the child were charged as an adult, unless the lower tribunal for good cause stated in an order determines otherwise. The lower tribunal retains discretion to release from detention any child who is not otherwise entitled to release under the provisions of this rule.

(B) If a child has been found incompetent to proceed, any order staying the proceedings on a state appeal shall have no effect on any order entered for the purpose of treatment.

(d) References to Child. The appeal shall be entitled and docketed with the initials, but not the name, of the child and the court case number. All references to the child in briefs, other papers, and the decision of the court shall be by initials.

(e) Confidentiality. All documents that are filed in paper~~s~~ format under seal shall remain sealed in the office of the clerk of court when not in use by the court, and shall not be open to inspection except by the parties and their counsel, or as otherwise ordered.

Committee Notes

1996 Adoption. Subdivision (c)(2) is intended to make clear that in non-final state appeals, the notice of appeal must be filed before commencement of the adjudicatory hearing. However, the notice of appeal must still be filed within 15 days of rendition of the order to be reviewed as provided by rule 9.140(c)(3). These two rules together provide that when an adjudicatory hearing occurs within

15 days or less of rendition of an order to be reviewed, the notice of appeal must be filed before commencement of the adjudicatory hearing. This rule is not intended to extend the 15 days allowed for filing the notice of appeal as provided by rule 9.140(c)(3).

Subdivision (d) requires the parties to use initials in all references to the child in all briefs and other papers filed in the court in furtherance of the appeal. It does not require the deletion of the name of the child from pleadings or other papers transmitted to the court from the lower tribunal.

RULE 9.146. APPEAL PROCEEDINGS IN JUVENILE DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS CASES AND CASES INVOLVING FAMILIES AND CHILDREN IN NEED OF SERVICES

(a) Applicability. Appeal proceedings in juvenile dependency and termination of parental rights cases and cases involving families and children in need of services shall be as in civil cases except to the extent those rules are modified by this rule.

(b) Who May Appeal. Any child, any parent, guardian ad litem, or any other party to the proceeding affected by an order of the lower tribunal, or the appropriate state agency as provided by law may appeal to the appropriate court within the time and in the manner prescribed by these rules.

(c) Stay of Proceedings.

(1) Application. Except as provided by general law and in subdivision (c)(2) of this rule, a party seeking to stay a final or non-final order pending review shall file a motion in the lower tribunal, which shall have continuing jurisdiction, in its discretion, to grant, modify, or deny such relief, after considering the welfare and best interest of the child.

(2) Termination of Parental Rights. The taking of an appeal shall not operate as a stay in any case unless pursuant to an order of the court, except that a termination of parental rights order with placement of the child with a licensed child-placing agency or the Department of Children and Family Services for subsequent adoption shall be suspended while the appeal is pending, but the child shall continue in custody under the order until the appeal is decided.

(d) Retention of Jurisdiction. Transmittal of the record to the appellate court does not remove the jurisdiction of the lower tribunal to conduct judicial reviews or other proceedings related to the health and welfare of the child pending appeal.

(e) References to Child or Parents. When the parent or child is a party to the appeal, the appeal shall be docketed and any papers filed in the court shall be titled with the initials, but not the name, of the child or parent and the court case number. All references to the child or parent in briefs, other papers, and the decision of the court shall be by initials.

(f) Confidentiality. All documents that are filed in paper~~s~~ format under seal shall remain sealed in the office of the clerk of the court when not in use by the court, and shall not be open to inspection except by the parties and their counsel, or as otherwise ordered.

(g) Special Procedures and Time Limitations Applicable to Appeals of Final Orders in Dependency or Termination of Parental Rights Proceedings.

(1) Applicability. This subdivision applies only to appeals of final orders to the district courts of appeal.

(2) The Record.

(A) Contents. The record shall be prepared in accordance with rule 9.200, except as modified by this subdivision.

(B) Transcripts of Proceedings. The appellant shall file a designation to the court reporter, including the name(s) of the individual court reporter(s), if applicable, with the notice of appeal. The designation shall be served on the court reporter on the date of filing and shall state that appeal is from a final order of termination of parental rights or of dependency, and that the court reporter shall provide the transcript(s) designated within 20 days of the date of service. Within 20 days of the date of service of the designation, the court reporter shall transcribe and file with the clerk of the lower tribunal the ~~original~~ transcripts and sufficient copies for ~~the Department of Children and Family Services, the guardian ad litem, and all indigent parties~~all parties exempt from service by electronic mail as set forth in the Florida Rules of Judicial Administration. If extraordinary reasons prevent the reporter from preparing the transcript(s) within the 20 days, the reporter shall request an extension of time, shall state the number of additional days requested, and shall state the extraordinary reasons that would justify the extension.

(C) Directions to the Clerk, Duties of the Clerk, Preparation and Transmittal of the Record. The appellant shall file directions to the clerk with the notice of appeal. The clerk shall electronically transmit the record to the court within 5 days of the date the court reporter files the transcript(s) or, if a designation to the court reporter has not been filed, within 5 days of the filing of the notice of appeal. When the record is electronically transmitted to the court, the clerk shall simultaneously ~~serve copies of~~electronically transmit the record to the

Department of Children and Family Services, the guardian ad litem, ~~the indigent parties or~~ counsel appointed to represent any indigent parties, and shall simultaneously serve copies of the index to all non-indigent parties, and, upon their request, copies of the record or portions thereof ~~at the cost prescribed by law~~. The clerk shall provide the record in paper form to all parties exempt from service by electronic mail as set forth in the Florida Rules of Judicial Administration.

(3) Briefs.

(A) In General. Briefs shall be prepared and filed in accordance with rule 9.210(a)–(e), (g), and (h).

(B) Times for Service. The initial brief shall be served within 20 days of service of the record on appeal or the index to the record on appeal. The answer brief shall be served within 20 days of service of the initial brief. The reply brief, if any, shall be served within 10 days of the service of the answer brief.

(4) Motions.

(A) Motions for Appointment of Appellate Counsel; Authorization of Payment of Transcription Costs. A motion for the appointment of appellate counsel, when authorized by general law, and a motion for authorization of payment of transcription costs, when appropriate, shall be filed with the notice of appeal. The motion and a copy of the notice of appeal shall be served on the presiding judge in the lower tribunal. The presiding judge shall promptly enter an order on the motion.

(B) Motions to Withdraw as Counsel. If appellate counsel seeks leave to withdraw from representation of an indigent parent, the motion to withdraw shall be served on the parent and shall contain a certification that, after a conscientious review of the record, the attorney has determined in good faith that there are no meritorious grounds on which to base an appeal. The parent shall be permitted to file a brief pro se, or through subsequently retained counsel, within 20 days of the issuance of an order granting the motion to withdraw.

(C) Motions for Extensions of Time. An extension of time will be granted only for extraordinary circumstances in which the extension is necessary to preserve the constitutional rights of a party, or in which substantial evidence exists to demonstrate that without the extension the child's best interests will be harmed. The extension will be limited to the number of days necessary to

preserve the rights of the party or the best interests of the child. The motion shall state that the appeal is from a final order of termination of parental rights or of dependency, and shall set out the extraordinary circumstances that necessitate an extension, the amount of time requested, and the effect an extension will have on the progress of the case.

(5) Oral Argument. A request for oral argument shall be in a separate document served by a party not later than the time when the first brief of that party is due.

(6) Rehearing; Rehearing En Banc; Clarification; Certification. Motions for rehearing, rehearing en banc, clarification, and certification shall be in accordance with rules 9.330 and 9.331, except that no response to these motions is permitted unless ordered by the court.

(7) The Mandate. The clerk shall issue such mandate or process as may be directed by the court as soon as practicable.

(h) Expedited Review. The court shall give priority to appeals under this rule.

Committee Notes

1996 Adoption. The reference in subdivision (a) to cases involving families and children in need of services encompasses only those cases in which an order has been entered adjudicating a child or family in need of services under chapter 39, Florida Statutes.

Subdivision (c) requires the parties to use initials in all references to the child and parents in all briefs and other papers filed in the court in furtherance of the appeal. It does not require the deletion of the names of the child and parents from pleadings and other papers transmitted to the court from the lower tribunal.

2006 Amendment. The title to subdivision (b) was changed from "Appeals Permitted" to clarify that this rule addresses who may take an appeal in matters covered by this rule. The amendment is intended to approve the holding in *D.K.B. v. Department of Children & Families,* 890 So. 2d 1288 (Fla. 2d DCA 2005), that non-final orders in these matters may be appealed only if listed in rule 9.130.

2009 Amendment. The rule was substantially amended following the release of the Study of Delay in Dependency/Parental Termination Appeals Supplemental Report and Recommendations (June 2007) by the Commission on District Court of Appeal Performance and Accountability. The amendments are generally intended to facilitate expedited filing and resolution of appellate cases arising from dependency and termination of parental rights proceedings in the lower tribunal. Subdivision (g)(4)(A) authorizes motions requesting appointment of appellate counsel only when a substantive provision of general law provides for appointment of appellate counsel. Section 27.5304(6), Florida Statutes (2008), limits appointment of appellate counsel for indigent parents to appeals from final orders adjudicating or denying dependency or termination of parental rights. In all other instances, section 27.5304(6), Florida Statutes, requires appointed trial counsel to prosecute or defend appellate cases arising from a dependency or parental termination proceeding in the lower tribunal.

RULE 9.160. DISCRETIONARY PROCEEDINGS TO REVIEW DECISIONS OF COUNTY COURTS

(a) Applicability. This rule applies to those proceedings that invoke the discretionary jurisdiction of the district courts of appeal to review county court orders described in rule 9.030(b)(4).

(b) Commencement. Any appeal of an order certified by the county court to be of great public importance must be taken to the district court of appeal. Jurisdiction of the district court of appeal under this rule shall be invoked by filing ~~2 copies of~~ a notice and ~~a copy of~~ the order containing certification, accompanied by the filing fees prescribed by law, with the clerk of the lower tribunal. The time for filing the appeal shall be the same as if the appeal were being taken to the circuit court.

(c) Notice. The notice shall be in substantially the form prescribed by rule 9.900(a) or rule 9.900(c), depending on whether the order sought to be appealed is a final or a non-final order, except that such notice should refer to the fact of certification. Except in criminal cases, a conformed copy of the order or orders designated in the notice of appeal shall be attached to the notice together with any order entered on a timely motion postponing rendition of the order or orders appealed.

(d) Method of Certification. The certification may be made in the order subject to appeal or in any order disposing of a motion that has postponed rendition as defined in rule 9.020(h). The certification shall include (1) findings of fact and conclusions of law and (2) a concise statement of the issue or issues of great public importance.

(e) Discretion.

(1) Any party may suggest that an order be certified to be of great public importance. However, the decision to certify shall be within the absolute discretion of the county court and may be made by the court on its own motion.

(2) The district court of appeal, in its absolute discretion, shall by order accept or reject jurisdiction. Until the entry of such order, temporary jurisdiction shall be in the district court of appeal.

(f) Scope of Review.

(1) If the district court of appeal accepts the appeal, it will decide all issues that would have been subject to appeal if the appeal had been taken to the circuit court.

(2) If the district court declines to accept the appeal, it shall transfer the case together with the filing fee to the circuit court that has appellate jurisdiction.

(g) Record. The record shall be prepared and filed in accord with rule 9.110(e) or 9.140(f), depending on the nature of the appeal.

(h) Briefs. The form of the briefs and the briefing schedule shall be in accord with rules 9.110(f), 9.140, 9.210, and 9.220, depending on the nature of the appeal.

(i) Cross-Appeal. Cross-appeals shall be permitted according to the applicable rules only in those cases in which a cross-appeal would have been authorized if the appeal had been taken to circuit court.

(j) Applicability of Other Rules. All other matters pertaining to the appeal shall be governed by the rules that would be applicable if the appeal had been taken to circuit court.

Committee Notes

1984 Amendment. This rule was added to implement the amendments to sections 26.012 and 924.08 and the adoption of section 34.195 by the 1984 Legislature. Section 34.195 authorizes only the certification of final judgments, but section 924.08 authorizes the certification of non-final orders in criminal cases. Therefore, this rule does not provide for appeals from non-final orders in civil cases. Under the rationale of *State v. Smith*, 260 So. 2d 489 (Fla. 1972), the authority to provide for appeals from non-final orders may rest in the supreme court rather than in the legislature. However, in keeping with the spirit of the legislation, the rule was drafted to permit certification of those non-final orders in criminal cases that would otherwise be appealable to the circuit court.

Sections 26.012 and 924.08 authorize only the certification of orders deemed to be of great public importance. However, section 34.195 refers to the certification of questions in final judgments if the question may have statewide application and

is of great public importance or affects the uniform administration of justice. The committee concluded that any order certified to be of great public importance might have statewide application and that any order that would affect the uniform administration of justice would also be of great public importance. Therefore, the additional statutory language was deemed to be surplusage, and the rule refers only to the requirement of certifying the order to be of great public importance.

The district court of appeal may, in its discretion, decline to accept the appeal, in which event it shall be transferred to the appropriate circuit court for disposition in the ordinary manner. Except as stated in the rule, the procedure shall be the same as would be followed if the appeal were being taken to circuit court. The rule does not authorize review of certified orders by common law certiorari.

It is recommended that in those cases involving issues of great public importance, parties should file suggestions for certification before the entry of the order from which the appeal may be taken. However, parties are not precluded from suggesting certification following the entry of the order except that such suggestion, by itself, will not postpone rendition as defined in rule 9.020(h).

1992 Amendment. Subdivision (c) was amended to require that the appellant, except in criminal cases, attach to its notice of appeal a conformed copy of any orders designated in the notice of appeal, along with any orders on motions that postponed the rendition of orders appealed.

RULE 9.180. APPEAL PROCEEDINGS TO REVIEW WORKERS' COMPENSATION CASES

(a) Applicability. Appellate review of proceedings in workers' compensation cases shall be as in civil cases except as specifically modified in this rule.

(b) Jurisdiction.

(1) Appeal. The First District Court of Appeal (the court) shall review by appeal any final order, as well as any nonfinal order of a lower tribunal that adjudicates

(A) jurisdiction;

(B) venue; or

(C) compensability, provided that the order expressly finds an injury occurred within the scope and course of employment and that claimant is entitled to receive causally related benefits in some amount, and provided further that the lower tribunal certifies in the order that determination of the exact nature and amount of benefits due to claimant will require substantial expense and time.

(2) Waiver of Review: Abbreviated Final Orders. Unless a request for findings of fact and conclusions of law is timely filed, review by appeal of an abbreviated final order shall be deemed waived. The filing of a timely request tolls the time within which an abbreviated final order becomes final or an appeal may be filed.

(3) Commencement. Jurisdiction of the court shall be invoked by filing ~~two copies of~~ a notice of appeal with the lower tribunal, accompanied by the filing fee prescribed by law unless a verified petition for relief from payment of the fee has been filed with the lower tribunal within 30 days of the date the order to be reviewed is mailed by the lower tribunal to the parties, which date shall be the date of rendition.

(4) Notice of Appeal. The notice shall be substantially in the form prescribed by rule 9.900(a), and shall contain a brief summary of the type of bene-

fits affected, including a statement setting forth the time periods involved which shall be substantially in the following form:

I hereby certify that this appeal affects only the following periods and classifications of benefits and medical treatment:

1. Compensation for .....(TTD, TPD, wage loss, impairment benefits, PTD, funeral benefits, or death benefits)..... from .....(date)..... to .....(date).....

2. Medical benefits.

3. Rehabilitation.

4. Reimbursement from the SDTF for benefits paid from .....(date)..... to .....(date).....

5.Contribution for benefits paid from .....(date)..... to .....(date).....

(c) Jurisdiction of Lower Tribunal.

(1) Substantive Issues. The lower tribunal retains jurisdiction to decide the issues that have not been adjudicated and are not the subject of pending appellate review.

(2) Settlement. At any time before the record on appeal is filed with the court, the lower tribunal shall have the authority to approve settlements or correct clerical errors in the order appealed.

(3) Relinquishment of Jurisdiction by Court to Consider Settlement. If, after the record on appeal is filed, settlement is reached, the parties shall file a joint motion stating that a settlement has been reached and requesting relinquishment of jurisdiction to the lower tribunal for any necessary approval of the settlement. The court may relinquish jurisdiction for a specified period for entry of an appropriate order. In the event the Division of Workers' Compensation has advanced the costs of preparing the record on appeal or the filing fee, a copy of the joint motion shall be furnished to the division by the appellant.

(A) Notice. On or before the date specified in the order relinquishing jurisdiction, the parties shall file a joint notice of disposition of the settlement with a conformed copy of any order entered on the settlement.

(B) Costs. Any order approving a settlement shall provide where appropriate for the assessment and recovery of appellate costs, including any costs incurred by the division for insolvent appellants.

(d) Benefits Affected. Benefits specifically referenced in the notice of appeal may be withheld as provided by law pending the outcome of the appeal. Otherwise, benefits awarded shall be paid as required by law.

(1) Abandonment. If the appellant or cross-appellant fails to argue entitlement to benefits set forth in the notice of appeal in the appellant's or cross-appellant's initial brief, the challenge to such benefits shall be deemed abandoned. If there is a dispute as to whether a challenge to certain benefits has been abandoned, the court upon motion shall make that determination.

(2) Payments of Benefits When Challenged Benefits Are Abandoned. When benefits challenged on appeal have been abandoned under sub-division (d)(1) above, benefits no longer affected by the appeal are payable within 30 days of the service of the brief together with interest as required under section 440.20, Florida Statutes, from the date of the order of the lower tribunal making the award.

(3) Payment of Benefits After Appeal. If benefits are ordered paid by the court on completion of the appeal, they shall be paid, together with interest as required under section 440.20, Florida Statutes, within 30 days after the court's mandate. If the order of the court is appealed to the supreme court, benefits determined due by the court may be stayed in accordance with rule 9.310. Benefits ordered paid by the supreme court shall be paid within 30 days of the court's mandate.

(e) Intervention by Division of Workers' Compensation.

(1) District Court. Within 30 days of the date of filing a notice or petition invoking the jurisdiction of the court the Division of Workers' Compensation may intervene by filing a notice of intervention as a party appellant/petitioner or appellee/respondent with the court and take positions on any relevant matters.

(2) Supreme Court. If review of an order of the court is sought in the supreme court, the division may intervene in accordance with these rules. The

clerk of the supreme court shall provide a copy of the pertinent papers to the division.

(3) Division Not a Party Until Notice to Intervene Is Filed. Until the notice of intervention is filed, the division shall not be considered a party.

(f) Record Contents: Final Orders.

(1) Transcript, Order, and Other Documents. The record shall contain the claim(s) or petition(s) for benefits, notice(s) of denial, pretrial stipulation, pretrial order, depositions or exhibits admitted into evidence, transcripts of any hearings before the lower tribunal and the order appealed. The parties may designate other items for inclusion in or omission from the record in accordance with rule 9.200.

(2) Proffered Evidence. Evidence proffered but not introduced into evidence at the hearing shall not be considered unless its admissibility is an issue on appeal and the question is properly designated for inclusion in the record by a party.

(3) Certification and Transmittal. The lower tribunal shall certify and transmit the record to the court as prescribed by these rules.

(4) Stipulated Record. The parties may stipulate to the contents of the record. In such a case the record shall consist of the stipulated statement and the order appealed which the lower tribunal shall certify as the record on appeal.

(5) Costs.

(A) Notice of Estimated Costs. Within 5 days after the contents of the record have been determined under these rules, the lower tribunal shall notify the appellant of the estimated cost of preparing the record. The lower tribunal also shall notify the Division of Workers' Compensation of the estimated record costs if the appellant files a verified petition to be relieved of costs and a sworn financial affidavit.

(B) Deposit of Estimated Costs. Within 15 days after the notice of estimated costs is served, the appellant shall deposit a sum of money equal to the estimated costs with the lower tribunal.

(C) Failure to Deposit Costs. If the appellant fails to deposit the estimated costs within the time prescribed, the lower tribunal shall notify the court, which may dismiss the appeal.

(D) State Agencies: Waiver of Costs. Any self-insured state agency or branch of state government, including the Division of Workers' Compensation and the Special Disability Trust Fund, need not deposit the estimated costs.

(E) Costs. If additional costs are incurred in correcting, amending, or supplementing the record, the lower tribunal shall assess such costs against the appropriate party. If the Division of Workers' Compensation is obligated to pay the costs of the appeal due to appellant's indigency, it must be given notice of any proceeding to assess additional costs. Within 15 days after the entry of the order assessing costs, the assessed party must deposit the sums so ordered with the lower tribunal. The lower tribunal shall promptly notify the court if costs are not deposited as required.

(6) Preparation of Record.

(A) Selection of Reporter by Lower Tribunal. The lower tribunal shall supervise the preparation of the record. The lower tribunal or chief judge of compensation claims shall select the reporter or transcriber to prepare the record. The judge who makes the selection shall give the parties notice of the selection.

(B) Objection to Reporter or Transcriber Selected. Any party may object to the reporter or transcriber selected by filing written objections with the judge who made the selection within 15 days after service of notice of the selection. Within 5 days after filing the objection, the judge shall hold a hearing on the issue. In such a case, the time limits mandated by these rules shall be appropriately extended.

(C) Certification of Record by Court Reporter or Transcriber. The reporter or transcriber designated by the lower tribunal or chief judge of compensation claims shall transcribe, certify, and deliver all necessary copies of the record to the lower tribunal as required under these rules. The record shall be delivered in sufficient time for the lower tribunal to review the record and

send it to the court. The reporter or transcriber shall promptly notify all parties in writing when the record is delivered to the lower tribunal.

(D) Certification and Transmittal by Lower Tribunal. The lower tribunal shall review the original record, certify that it was prepared in accordance with these rules, and within 60 days of the notice of appeal being filed transmit the record to the court.

(E) Copies. The lower tribunal shall provide a copy of the record to all counsel of record and all unrepresented parties.

(7) Extensions. For good cause, the lower tribunal may extend by no more than 30 days the time for filing the record with the court. Any further extension of time may be granted by the court.

(8) Applicability of Rule 9.200. Rules 9.200(a)(3), (c), and (f) shall apply to preparation of the record in appeals under this rule.

(g) Relief From Filing Fee and Costs: Indigency.

(1) Indigency Defined. Indigency for the purpose of this rule is synonymous with insolvency as defined by section 440.02, Florida Statutes.

(2) Filing Fee.

(A) Authority. An appellant may be relieved of paying filing fees by filing a verified petition or motion of indigency under section 57.081(1), Florida Statutes, with the lower tribunal.

(B) Time. The verified petition or motion of indigency must be filed with the lower tribunal together with the notice of appeal.

(C) Verified Petition: Contents. The verified petition or motion shall contain a statement by the appellant to be relieved of paying filing fees due to indigency and appellant's inability to pay the charges. The petition shall request that the lower tribunal enter an order or certificate of indigency. One of the following shall also be filed in support of the verified petition or motion:

(i) If the appellant is unrepresented by counsel, a financial affidavit; or

(ii) If the appellant is represented by counsel, counsel shall certify that counsel has investigated (a) the appellant's financial condition and finds appellant indigent; and (b) the nature of appellant's position and believes it to be meritorious as a matter of law. Counsel shall also certify that counsel has not been paid or promised payment of a fee or other remuneration for such legal services except for the amount, if any, ultimately approved by the lower tribunal to be paid by the employer/carrier if such entitlement is determined by the court.

(D) Service. Appellant shall serve a copy of the verified petition or motion of indigency, including appellant's financial affidavit or counsel's certificate, whichever is applicable, on all interested parties and the clerk of the court.

(E) Order or Certificate of Indigency. The lower tribunal shall review the verified petition or motion for indigency and supporting documents without a hearing, and if the lower tribunal finds compliance with section 57.081(1), Florida Statutes, may issue a certificate of indigency or enter an order granting said relief, at which time appellant may proceed without further application to the court and without payment of any filing fees. If the lower tribunal enters an order denying relief, appellant shall deposit the filing fee with the lower tribunal within 15 days from the date of the order unless timely review is sought by motion filed with the court.

(3) Costs of Preparation of Record.

(A) Authority. An appellant may be relieved in whole or in part from the costs of the preparation of the record on appeal by filing with the lower tribunal a verified petition to be relieved of costs and a copy of the designation of the record on appeal. The verified petition to be relieved of costs shall contain a sworn financial affidavit as described in subdivision (D).

(B) Time. The verified petition to be relieved of costs must be filed within 15 days after service of the notice of estimated costs. A verified petition filed prior to the date of service of the notice of estimated costs shall be deemed not timely.

(C) Verified Petition: Contents. The verified petition shall contain a request by appellant to be relieved of costs due to insolvency. The petition also shall include a statement by the appellant's attorney or the appellant, if

not represented by an attorney, that the appeal was filed in good faith and the court reasonably could find reversible error in the record and shall state with particularity the specific legal and factual grounds for that opinion.

(D) Sworn Financial Affidavit: Contents. With the verified petition to be relieved of costs, the appellant shall file a sworn financial affidavit listing income and assets, including marital income and assets, and expenses and liabilities.

(E) Verified Petition and Sworn Financial Affidavit: Service. The appellant shall serve a copy of the verified petition to be relieved of costs, including the sworn financial affidavit, on all interested parties, including the Division of Workers' Compensation, the office of general counsel of the Department of Financial Services, and the clerk of the court.

(F) Hearing on Petition to Be Relieved of Costs. After giving 15 days' notice to the Division of Workers' Compensation and all parties, the lower tribunal shall promptly hold a hearing and rule on the merits of the petition to be relieved of costs. However, if no objection to the petition is filed by the division or a party within 20 days after the petition is served, the lower tribunal may enter an order on the merits of the petition without a hearing.

(G) Extension of Appeal Deadlines: Petition Granted. If the petition to be relieved of the entire cost of the preparation of the record on appeal is granted, the 60-day period allowed under these rules for the preparation of the record shall begin to run from the date of the order granting the petition.

(H) Extension of Appeal Deadlines: Petition Denied. If the petition to be relieved of the cost of the record is denied or only granted in part, the petitioner shall deposit the estimated costs with the lower tribunal within 15 days from the date the order denying the petition is entered. The 60-day period allowed under these rules for the preparation of the record shall begin from the date the estimated cost is deposited with the lower tribunal.

(I) Payment of Cost for Preparation of Record by Administration Trust Fund. If the petition to be relieved of costs is granted, the lower tribunal may order the Workers' Compensation Administration Trust Fund to pay the cost of the preparation of the record on appeal pending the final disposition of the appeal. The lower tribunal shall provide a copy of such order to

all interested parties, including the division, general counsel of the Department of Financial Services, and the clerk of the court.

(J) Reimbursement of Administration Trust Fund If Appeal Is Successful. If the Administration Trust Fund has paid the costs of the preparation of the record and the appellant prevails at the conclusion of the appeal, the appellee shall reimburse the fund the costs paid within 30 days of the mandate issued by the court or supreme court under these rules.

(h) Briefs and Motions Directed to Briefs.

(1) Briefs: Final Order Appeals. Within 30 days after the lower tribunal certifies the record to the court, the appellant shall serve the initial brief. Additional briefs shall be served as prescribed by rule 9.210.

(2) Briefs: Non-Final Appeals. Appellant's initial brief, accompanied by an appendix as prescribed by rule 9.220, shall be served within 15 days of filing the notice. Additional briefs shall be served as prescribed by rule 9.210.

(3) Motions to Strike. Motions to strike a brief or portions of a brief will not be entertained by the court. However, a party, in its own brief, may call to the court's attention a breach of these rules. If no further responsive brief is authorized, noncompliance may be brought to the court's attention by filing a suggestion of noncompliance. Statements in briefs not supported by the record shall be disregarded and may constitute cause for imposition of sanctions.

(i) Attorneys' Fees and Appellate Costs.

(1) Costs. Appellate costs shall be taxed as provided by law. Taxable costs shall include those items listed in rule 9.400 and costs for a transcript included in an appendix as part of an appeal of a nonfinal order.

(2) Attorneys' Fees. A motion for attorneys' fees shall be served in accordance with rule 9.400(b).

(3) Entitlement and Amount of Fees and Costs. If the court determines that an appellate fee is due, the lower tribunal shall have jurisdiction to conduct hearings and consider evidence regarding the amount of the attorney fee and costs due at any time after the mandate is issued.

(4) Review. Review shall be in accordance with rule 9.400(c).

Committee Notes

1996 Adoption. Rule 9.180 is intended to supersede rules 4.160, 4.161, 4.165, 4.166, 4.170, 4.180, 4.190, 4.220, 4.225, 4.230, 4.240, 4.250, 4.260, 4.265, 4.270, and 4.280 of the Rules of Workers' Compensation Procedure. In consolidating those rules into one rule and incorporating them into the Rules of Appellate Procedure, duplicative rules have been eliminated. The change was not intended to change the general nature of workers' compensation appeals. It is contemplated there still may be multiple "final orders." See 1980 Committee Note, Fla. R. Work. Comp. P. 4.160.

The orders listed in rules 9.180(b)(1)(A), (B), and (C) are the only nonfinal orders appealable before entry of a final order in workers' compensation cases.

Rule 9.180(b)(2) now limits the place for filing the notice of appeal to the lower tribunal that entered the order and not any judge of compensation claims as the former rule provided.

Rule 9.180(f)(6)(E) provides that the lower tribunal shall provide a copy of the record to all counsel of record and all unrepresented parties. It is contemplated that the lower tribunal can accomplish that in whatever manner the lower tribunal deems most convenient for itself, such as, having copies available that counsel or the parties may pick up.

RULE 9.200. THE RECORD

(a) Contents.

(1) Except as otherwise designated by the parties, the record shall consist of the original documents, all exhibits that are not physical evidence, and any transcript(s) of proceedings filed in the lower tribunal, except summonses, praecipes, subpoenas, returns, notices of hearing or of taking deposition, depositions, and other discovery. In criminal cases, when any exhibit, including physical evidence, is to be included in the record, the clerk of the lower tribunal shall not, unless ordered by the court, transmit the original and, if capable of reproduction, shall transmit a copy, including but not limited to copies of any tapes, CDs, DVDs, or similar electronically recorded evidence. The record shall also include a progress docket.

(2) In family law, juvenile dependency, and termination of parental rights cases, and cases involving families and children in need of services, the record shall include those items designated in subdivision (a)(1) except that the clerk of the lower tribunal shall retain the original orders, reports and recommendations of magistrates or hearing officers, and judgments within the file of the lower tribunal and shall include copies thereof within the record.

(3) Within 10 days of filing the notice of appeal, an appellant may direct the clerk to include or exclude other documents or exhibits filed in the lower tribunal. The directions shall be substantially in the form prescribed by rule 9.900(g). If the clerk is directed to transmit less than the entire record or a transcript of trial with less than all of the testimony, the appellant shall serve with such direction a statement of the judicial acts to be reviewed. Within 20 days of filing the notice, an appellee may direct the clerk to include additional documents and exhibits.

(4) The parties may prepare a stipulated statement showing how the issues to be presented arose and were decided in the lower tribunal, attaching a copy of the order to be reviewed and as much of the record in the lower tribunal as is necessary to a determination of the issues to be presented. The parties shall advise the clerk of their intention to rely on a stipulated statement in lieu of the record as early in advance of filing as possible. The stipulated statement shall be

filed by the parties and transmitted to the court by the clerk of the lower tribunal within the time prescribed for transmittal of the record.

(5) Where any court record, as defined in Rule 2.420(b)(1)(A), Florida Rules of Judicial Administration, of proceedings in the lower tribunal has been made or maintained in one of the following electronic formats: fully searchable indexed PDF; fully searchable non-indexed PDF; or, PDF, but not searchable

(A) the record, as defined in subdivision (a)(1) through (a)(3), shall be comprised of the electronic form of those items described in subdivision (a)(1) that were created or maintained in the aforementioned electronic formats; or

(B) where the parties elect to prepare a stipulated statement in accordance with subdivision (a)(4), the stipulated statement and its attachment shall be filed electronically in one of the aforementioned electronic formats.

(b) Transcript(s) of Proceedings.

(1) Within 10 days of filing the notice, the appellant shall designate those portions of the proceedings not on file deemed necessary for transcription and inclusion in the record. Within 20 days of filing the notice, an appellee may designate additional portions of the proceedings. Copies of designations shall be served on the approved court reporter, civil court reporter, or approved transcriptionist. Costs of the ~~original and all copies of the~~ transcript(s) so designated shall be borne initially by the designating party, subject to appropriate taxation of costs as prescribed by rule 9.400. At the time of the designation, unless other satisfactory arrangements have been made, the designating party must make a deposit of 1/2 of the estimated transcript costs, and must pay the full balance of the fee on delivery of the completed transcript(s).

(2) Within 30 days of service of a designation, or within the additional time provided for under subdivision (b)(3) of this rule, the approved court reporter, civil court reporter, or approved transcriptionist shall transcribe and file with the clerk of the lower tribunal the designated proceedings and shall serve copies as requested in the designation. ~~In addition to the paper copies, the approved court reporter, civil court reporter, or approved transcriptionist shall file with the clerk of the lower tribunal and serve on the designated parties an electronic copy of the designated proceedings in a format approved by the supreme court.~~ If a designating party directs the approved court reporter, civil court reporter, or approved transcriptionist to furnish the transcript(s) to fewer than all parties, that designating

party shall serve a copy of the designated transcript(s)~~, in both electronic and paper form,~~ on the parties within 5 days of receipt from the approved court reporter, civil court reporter, or approved transcriptionist. The transcript of the trial shall be ~~securely bound~~organized in consecutively numbered volumes not to exceed 200 pages each, and each page shall be numbered consecutively. Each volume shall be prefaced by an index containing the names of the witnesses, a list of all exhibits offered and introduced in evidence, and the pages where each may be found.

(3) On service of a designation, the approved court reporter, civil court reporter, or approved transcriptionist shall acknowledge at the foot of the designation the fact that it has been received and the date on which the approved court reporter, civil court reporter, or approved transcriptionist expects to have the transcript(s) completed and shall ~~transmit~~serve the so-endorsed designation~~, so endorsed, to~~ on the parties and ~~to~~file it with the clerk of the appellate court within 5 days of service. If the transcript(s) cannot be completed within 30 days of service of the designation, the approved court reporter, civil court reporter, or approved transcriptionist shall request such additional time as is reasonably necessary and shall state the reasons therefor. If the approved court reporter, civil court reporter, or approved transcriptionist requests an extension of time, the court shall allow the parties 5 days in which to object or agree. The appellate court shall approve the request or take other appropriate action and shall notify the reporter and the parties of the due date of the transcript(s).

(4) If no report of the proceedings was made, or if the transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement shall be served on the appellee, who may serve objections or proposed amendments to it within 10 days of service. Thereafter, the statement and any objections or proposed amendments shall be ~~submitted to~~filed with the lower tribunal for settlement and approval. As settled and approved, the statement shall be included by the clerk of the lower tribunal in the record.

(c) Cross-Appeals. Within 20 days of filing the notice, a cross-appellant may direct that additional documents, exhibits, or transcript(s) be included in the record. If less than the entire record is designated, the cross-appellant shall serve, with the directions, a statement of the judicial acts to be reviewed. The cross-appellee shall have 10 days after such service to direct further additions. The time for preparation and transmittal of the record shall be extended by 10 days.

(d) Duties of Clerk; Preparation and Transmittal of Record.

(1) The clerk of the lower tribunal shall prepare the record as follows:

(A) The clerk of the lower tribunal shall not be required to verify and shall not charge for the incorporation of any transcript(s) into the record. The transcript of the trial shall be incorporated at the end of the record, and shall not be renumbered by the clerk. The progress docket shall be incorporated into the record immediately after the index.

(B) The remainder of the record, including all supplements and any transcripts other than the transcript of the trial, shall be consecutively numbered. The record shall be ~~securely bound~~organized in consecutively numbered volumes not to exceed 200 pages each. The cover sheet of each volume shall contain the name of the lower tribunal and the style and number of the case. Any volume of the record that is prepared in paper format shall be securely bound.

(C) The record, or portions of the record, prepared in accordance with subdivision (a)(5) shall be organized, numbered, and formatted in accordance with subdivision (d)(1)(A)–(d)(1)(B), except that each such volume shall be prepared in electronic format as a PDF file having the indexing and searching characteristics of the electronic items comprising that volume of the record. The index and progress docket shall also be included as a separate indexed, fully searchable PDF file.

(2) The clerk of the lower tribunal shall prepare a complete index to the record and shall attach a copy of the progress docket to the index.

(3) The clerk of the lower tribunal shall certify and transmit the record to the court as prescribed by these rules~~; provided that if the parties stipulate or the lower tribunal orders that the original record be retained, the clerk shall prepare and transmit a certified copy~~.

(e) Duties of Appellant or Petitioner. The burden to ensure that the record is prepared and transmitted in accordance with these rules shall be on the petitioner or appellant. Any party may enforce the provisions of this rule by motion.

(f) Correcting and Supplementing Record.

(1) If there is an error or omission in the record, the parties by stipulation, the lower tribunal before the record is transmitted, or the court may correct the record.

(2) If the court finds the record is incomplete, it shall direct a party to supply the omitted parts of the record. No proceeding shall be determined, because of an incomplete record, until an opportunity to supplement the record has been given.

(g) Return of Record. In civil cases, the record shall be returned to the lower tribunal after final disposition by the court.

Committee Notes

1977 Amendment. This rule replaces former rule 3.6 and represents a complete revision of the matters pertaining to the record for an appellate proceeding. References in this rule to “appellant” and “appellee” should be treated as equivalent to “petitioner” and “respondent,” respectively. See Commentary, Fla. R. App. P. 9.020. This rule is based in part on Federal Rule of Appellate Procedure 10(b).

Subdivision (a)(1) establishes the content of the record unless an appellant within 10 days of filing the notice directs the clerk to exclude portions of the record or to include additional portions, or the appellee within 20 days of the notice being filed directs inclusion of additional portions. In lieu of a record, the parties may prepare a stipulated statement, attaching a copy of the order that is sought to be reviewed and essential portions of the record. If a stipulated statement is prepared, the parties must advise the clerk not to prepare the record. The stipulated statement is to be filed and transmitted within the time prescribed for transmittal of the record. If less than a full record is to be used, the initiating party must serve a statement of the judicial acts to be reviewed so that the opposing party may determine whether additional portions of the record are required. Such a statement is not intended to be the equivalent of assignments of error under former rule 3.5. Any inadequacy in the statement may be cured by motion to supplement the record under subdivision (f) of this rule.

Subdivision (a) interacts with subdivision (b) so that as soon as the notice is filed the clerk of the lower tribunal will prepare and transmit the complete record of the case as described by the rule. To include in the record any of the items automatically omitted, a party must designate the items desired. A transcript of the proceedings in the lower tribunal will not be prepared or transmitted unless already

filed, or the parties designate the portions of the transcript desired to be transmitted. Subdivision (b)(2) imposes on the reporter an affirmative duty to prepare the transcript of the proceedings as soon as designated. It is intended that to complete the preparation of all official papers to be filed with the court, the appellant need only file the notice, designate omitted portions of the record that are desired, and designate the desired portions of the transcript. It therefore will be unnecessary to file directions with the clerk of the lower tribunal in most cases.

Subdivision (b)(1) replaces former rule 3.6(d)(2), and specifically requires service of the designation on the court reporter. This is intended to avoid delays that sometimes occur when a party files the designation, but fails to notify the court reporter that a transcript is needed. The rule also establishes the responsibility of the designating party to initially bear the cost of the transcript.

Subdivision (b)(2) replaces former rule 3.6(e). This rule provides for the form of the transcript, and imposes on the reporter the affirmative duty of delivering copies of the transcript to the ordering parties on request. Such a request may be included in the designation. Under subdivision (e), however, the responsibility for ensuring performance remains with the parties. The requirement that pages be consecutively numbered is new and is deemed necessary to assure continuity and ease of reference for the convenience of the court. This requirement applies even if 2 or more parties designate portions of the proceedings for transcription. It is intended that the transcript portions transmitted to the court constitute a single consecutively numbered document in 1 or more volumes not exceeding 200 pages each. If there is more than 1 court reporter, the clerk will renumber the pages of the transcript copies so that they are sequential. The requirement of a complete index at the beginning of each volume is new, and is necessary to standardize the format and to guide those preparing transcripts.

Subdivision (b)(3) provides the procedures to be followed if no transcript is available.

Subdivision (c) provides the procedures to be followed if there is a cross-appeal or cross-petition.

Subdivision (d) sets forth the manner in which the clerk of the lower tribunal is to prepare the record. The original record is to be transmitted unless the parties stipulate or the lower court orders the original be retained, except that under rule 9.140(d) (governing criminal cases), the original is to be retained unless the court orders otherwise.

Subdivision (e) places the burden of enforcement of this rule on the appellant or petitioner, but any party may move for an order requiring adherence to the rule.

Subdivision (f) replaces former rule 3.6(*l)*. The new rule is intended to ensure that appellate proceedings will be decided on their merits and that no showing of good cause, negligence, or accident is required before the lower tribunal or the court orders the completion of the record. This rule is intended to ensure that any portion of the record in the lower tribunal that is material to a decision by the court will be available to the court. It is specifically intended to avoid those situations that have occurred in the past when an order has been affirmed because appellate counsel failed to bring up the portions of the record necessary to determine whether there was an error. See *Pan American Metal Prods. Co. v. Healy*, 138 So. 2d 96 (Fla. 3d DCA 1962). The rule is not intended to cure inadequacies in the record that result from the failure of a party to make a proper record during the proceedings in the lower tribunal. The purpose of the rule is to give the parties an opportunity to have the appellate proceedings decided on the record developed in the lower tribunal. This rule does not impose on the lower tribunal or the court a duty to review on their own the adequacy of the preparation of the record. A failure to supplement the record after notice by the court may be held against the party at fault.

Subdivision (g) requires that the record in civil cases be returned to the lower tribunal after final disposition by the court regardless of whether the original record or a copy was used. The court may retain or return the record in criminal cases according to its internal administration policies.

1980 Amendment. Subdivisions (b)(1) and (b)(2) were amended to specify that the party designating portions of the transcript for inclusion in the record on appeal shall pay for the cost of transcription and shall pay for and furnish a copy of the portions designated for all opposing parties. See rule 9.420(b) and 1980 committee note thereto relating to limitations of number of copies.

1987 Amendment. Subdivision (b)(3) above is patterned after Federal Rule of Appellate Procedure 11(b).

1992 Amendment. Subdivisions (b)(2), (d)(1)(A), and (d)(1)(B) were amended to standardize the lower court clerk's procedure with respect to the placement and pagination of the transcript in the record on appeal. This

amendment places the duty of paginating the transcript on the court reporter and requires the clerk to include the transcript at the end of the record, without repagination.

1996 Amendment. Subdivision (a)(2) was added because family law cases frequently have continuing activity at the lower tribunal level during the pendency of appellate proceedings and that continued activity may be hampered by the absence of orders being enforced during the pendency of the appeal.

Subdivision (b)(2) was amended to change the wording in the third sentence from “transcript of proceedings” to “transcript of the trial” to be consistent with and to clarify the requirement in subdivision (d)(1)(B) that it is only the transcript of trial that is not to be renumbered by the clerk. Pursuant to subdivision (d)(1)(B), it remains the duty of the clerk to consecutively number transcripts other than the transcript of the trial. Subdivision (b)(2) retains the requirement that the court reporter is to number each page of the transcript of the trial consecutively, but it is the committee’s view that if the consecutive pagination requirement is impracticable or becomes a hardship for the court reporting entity, relief may be sought from the court.

2006 Amendment. Subdivision (a)(2) is amended to apply to juvenile dependency and termination of parental rights cases and cases involving families and children in need of services. The justification for retaining the original orders, reports, and recommendations of magistrate or hearing officers, and judgments within the file of the lower tribunal in family law cases applies with equal force in juvenile dependency and termination of parental rights cases, and cases involving families and children in need of services.

RULE 9.210. BRIEFS

(a) Generally. In addition to briefs on jurisdiction under rule 9.120(d), the only briefs permitted to be filed by the parties in any one proceeding are the initial brief, the answer brief, a reply brief, and a cross-reply brief. All briefs required by these rules shall be prepared as follows:

(1) When not filed in electronic format, b~~B~~riefs shall be printed, typewritten, or duplicated on opaque, white, unglossed ~~8½-by-11 inch~~ paper. The dimensions of each page of a brief, regardless of format, shall be 8 ½ inches by 11 inches.

(2) The lettering in briefs shall be black and in distinct type, double-spaced, with margins no less than 1 inch. Lettering in script or type made in imitation of handwriting shall not be permitted. Footnotes and quotations may be single spaced and shall be in the same size type, with the same spacing between characters, as the text. Computer-generated briefs shall be ~~submitted~~filed in either Times New Roman 14-point font or Courier New 12-point font. All computer-generated briefs shall contain a certificate of compliance signed by counsel, or the party if unrepresented, certifying that the brief complies with the font requirements of this rule. The certificate of compliance shall be contained in the brief immediately following the certificate of service.

(3) Paper copies of b~~B~~riefs shall be securely bound in book form and fastened along the left side in a manner that will allow them to lie flat when opened or be securely stapled in the upper left corner. Headings and subheadings shall be at least as large as the brief text and may be single spaced.

(4) The cover sheet of each brief shall state the name of the court, the style of the cause, including the case number if assigned, the lower tribunal, the party on whose behalf the brief is filed, the type of brief, and the name and address of the attorney filing the brief.

(5) The initial and answer briefs shall not exceed 50 pages in length, provided that if a cross-appeal has been filed, the answer brief/initial brief on cross-appeal shall not exceed 85 pages. Reply briefs shall not exceed 15 pages in length; provided that if a cross-appeal has been filed, the reply brief shall not exceed 50 pages, not more than 15 of which shall be devoted to argument replying to the answer portion of the appellee/cross-appellant's brief. Cross-reply briefs

shall not exceed 15 pages. Briefs on jurisdiction shall not exceed 10 pages. The tables of contents and citations of authorities, and certificates of service and compliance, shall be excluded from the computation. Longer briefs may be permitted by the court.

(b) Contents of Initial Brief. The initial brief shall contain the following, in order:

(1) A table of contents listing the issues presented for review, with references to pages.

(2) A table of citations with cases listed alphabetically, statutes and other authorities, and the pages of the brief on which each citation appears. See rule 9.800 for a uniform citation system.

(3) A statement of the case and of the facts, which shall include the nature of the case, the course of the proceedings, and the disposition in the lower tribunal. References to the appropriate volume and pages of the record or transcript shall be made.

(4) A summary of argument, suitably paragraphed, condensing succinctly, accurately, and clearly the argument actually made in the body of the brief. It should not be a mere repetition of the headings under which the argument is arranged. It should seldom exceed 2 and never 5 pages.

(5) Argument with regard to each issue including the applicable appellate standard of review.

(6) A conclusion, of not more than 1 page, setting forth the precise relief sought.

(c) Contents of Answer Brief. The answer brief shall be prepared in the same manner as the initial brief; provided that the statement of the case and of the facts may be omitted. If a cross-appeal has been filed, the answer brief shall include the issues in the cross-appeal that are presented for review, and argument in support of those issues.

(d) Contents of Reply Brief. The reply brief shall contain argument in response and rebuttal to argument presented in the answer brief.

(e) Contents of Cross-Reply Brief. The cross-reply brief is limited to rebuttal of argument of the cross-appellee.

(f) Times for Service of Briefs. The times for serving jurisdiction and initial briefs are prescribed by rules 9.110, 9.120, 9.130, and 9.140. Unless otherwise required, the answer brief shall be served within 20 days after service of the initial brief; the reply brief, if any, shall be served within 20 days after service of the answer brief; and the cross-reply brief, if any, shall be served within 20 days thereafter.

~~**(g) Filing with Courts.** The filing requirements of the courts are as follows:~~

~~**(1) Circuit Courts.** Original and 1 copy.~~

~~**(2) District Courts of Appeal.** Original and 3 copies.~~

~~**(3) Supreme Court.** Original and 7 copies; except that 5 copies only shall accompany the original jurisdictional briefs prescribed in rule 9.120(d).~~

(~~**h**~~**g) Citations**. Counsel are requested to use the uniform citation system prescribed by rule 9.800.

Committee Notes

1977 Amendment. This rule essentially retains the substance of former rule 3.7. Under subdivision (a) only 4 briefs on the merits are permitted to be filed in any 1 proceeding: an initial brief by the appellant or petitioner, an answer brief by the appellee or respondent, a reply brief by the appellant or petitioner, and a cross-reply brief by the appellee or respondent (if a cross-appeal or petition has been filed). A limit of 50 pages has been placed on the length of the initial and answer briefs, 15 pages for reply and cross-reply briefs (unless a cross-appeal or petition has been filed), and 20 pages for jurisdictional briefs, exclusive of the table of contents and citations of authorities. Although the court may by order permit briefs longer than allowed by this rule, the advisory committee contemplates that extensions in length will not be readily granted by the courts under these rules. General experience has been that even briefs within the limits of the rule are usually excessively long.

Subdivisions (b), (c), (d), and (e) set forth the format for briefs and retain the substance of former rules 3.7(f), (g), and (h). Particular note must be taken of the requirement that the statement of the case and facts include reference to the record.

The abolition of assignments of error requires that counsel be vigilant in specifying for the court the errors committed; that greater attention be given the formulation of questions presented; and that counsel comply with subdivision (b)(5) by setting forth the precise relief sought. The table of contents will contain the statement of issues presented. The pages of the brief on which argument on each issue begins must be given. It is optional to have a second, separate listing of the issues. Subdivision (c) affirmatively requires that no statement of the facts of the case be made by an appellee or respondent unless there is disagreement with the initial brief, and then only to the extent of disagreement. It is unacceptable in an answer brief to make a general statement that the facts in the initial brief are accepted, except as rejected in the argument section of the answer brief. Parties are encouraged to place every fact utilized in the argument section of the brief in the statement of facts.

Subdivision (f) sets forth the times for service of briefs after service of the initial brief. Times for service of the initial brief are governed by the relevant rule.

Subdivision (g) authorizes the filing of notices of supplemental authority at any time between the submission of briefs and rendition of a decision. Argument in such a notice is absolutely prohibited.

Subdivision (h) states the number of copies of each brief that must be filed with the clerk of the court involved — 1 copy for each judge or justice in addition to the original for the permanent court file. This rule is not intended to limit the power of the court to require additional briefs at any time.

The style and form for the citation of authorities should conform to the uniform citation system adopted by the Supreme Court of Florida, which is reproduced in rule 9.800.

The advisory committee urges counsel to minimize references in their briefs to the parties by such designations as “appellant,” “appellee,” “petitioner,” and “respondent.” It promotes clarity to use actual names or descriptive terms such as “the employee,” “the taxpayer,” “the agency,” etc. See Fed. R. App. P. 28(d).

1980 Amendment. Jurisdictional briefs, now limited to 10 pages by subdivision (a), are to be filed only in the 4 situations presented in rules 9.030(a)(2)(A)(i), (ii), (iii), and (iv).

A district court decision without opinion is not reviewable on discretionary conflict jurisdiction. See *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980); *Dodi*

Publishing Co. v. Editorial Am., S.A., 385 So. 2d 1369 (Fla. 1980). The discussion of jurisdictional brief requirements in such cases that is contained in the 1977 revision of the committee notes to rule 9.120 should be disregarded.

1984 Amendment. Subdivision (b)(4) is new; subdivision (b)(5) has been renumbered from former (b)(4); subdivision (b)(6) has been renumbered from former (b)(5). Subdivision (g) has been amended.

The summary of argument required by (b)(4) is designed to assist the court in studying briefs and preparing for argument; the rule is similar to rules of the various United States courts of appeals.

1992 Amendment. Subdivision (a)(2) was amended to bring into uniformity the type size and spacing on all briefs filed under these rules. Practice under the previous rule allowed briefs to be filed with footnotes and quotations in different, usually smaller, type sizes and spacing. Use of such smaller type allowed some overly long briefs to circumvent the reasonable length requirements established by subdivision (a)(5) of this rule. The small type size and spacing of briefs allowed under the old rule also resulted in briefs that were difficult to read. The amended rule requires that all textual material wherever found in the brief will be printed in the same size type with the same spacing.

Subdivision (g) was amended to provide that notices of supplemental authority may call the court's attention, not only to decisions, rules, or statutes, but also to other authorities that have been discovered since the last brief was served. The amendment further provides that the notice may identify briefly the points on appeal to which the supplemental authorities are pertinent. This amendment continues to prohibit argument in such notices, but should allow the court and opposing counsel to identify more quickly those issues on appeal to which these notices are relevant.

1996 Amendment. Former subdivision (g) concerning notices of supplemental authority was transferred to new rule 9.225.

Court Commentary

1987. The commission expressed the view that the existing page limits for briefs, in cases other than those in the Supreme Court of Florida, are tailored to the "extraordinary" case rather than the "ordinary" case. In accordance with this view, the commission proposed that the page limits of briefs in appellate courts other

than the supreme court be reduced. The appellate courts would, however, be given discretion to expand the reduced page limits in the “extraordinary” case.

2000. As to computer-generated briefs, strict font requirements were imposed in subdivision (a)(2) for at least three reasons:

First and foremost, appellate briefs are public records that the people have a right to inspect. The clear policy of the Florida Supreme Court is that advances in technology should benefit the people whenever possible by lowering financial and physical barriers to public record inspection. The Court’s eventual goal is to make all public records widely and readily available, especially via the Internet. Unlike paper documents, electronic documents on the Internet will not display properly on all computers if they are set in fonts that are unusual. In some instances, such electronic documents may even be unreadable. Thus, the Court adopted the policy that all computer-generated appellate briefs be filed in one of two fonts — either Times New Roman 14-point or Courier New 12-point—that are commonplace on computers with Internet connections. This step will help ensure that the right to inspect public records on the Internet will be genuinely available to the largest number of people.

Second, Florida’s court system as a whole is working toward the day when electronic filing of all court documents will be an everyday reality. Though the technology involved in electronic filing is changing rapidly, it is clear that the Internet is the single most significant factor influencing the development of this technology. Electronic filing must be compatible with Internet standards as they evolve over time. It is imperative for the legal profession to become accustomed to using electronic document formats that are most consistent with the Internet.

Third, the proliferation of vast new varieties of fonts in recent years poses a real threat that page-limitation rules can be circumvented through computerized typesetting. The only way to prevent this is to establish an enforceable rule on standards for font use. The subject font requirements are most consistent with this purpose and the other two purposes noted above.

Subdivision (a)(2) was also amended to require that immediately after the certificate of service in computer-generated briefs, counsel (or the party if unrepresented) shall sign a certificate of compliance with the font standards set forth in this rule for computer-generated briefs.

RULE 9.220. APPENDIX

(a) Purpose. The purpose of an appendix is to permit the parties to prepare and transmit copies of those portions of the record deemed necessary to an understanding of the issues presented. It may be served with any petition, brief, motion, response, or reply but shall be served as otherwise required by these rules. In any proceeding in which an appendix is required, if the court finds that the appendix is incomplete, it shall direct a party to supply the omitted parts of the appendix. No proceeding shall be determined until an opportunity to supplement the appendix has been given.

(b) Contents. The appendix shall contain an index and a conformed copy of the opinion or order to be reviewed and may contain any other portions of the record and other authorities. ~~It shall be separately bound or separated from the petition, brief, motion, response, or reply by a divider and appropriate tab.~~ Asterisks should be used to indicate omissions in documents or testimony of witnesses.

(c) Format. Unless otherwise authorized by court order or court rule, the appendix shall be prepared and filed electronically with the clerk as an independent PDF file or series of independent PDF files. When a paper appendix is authorized, it shall be separately bound or separated from the petition, brief, motion, response, or reply by a divider and appropriate tab, and the following additional requirements shall apply: (1) i~~I~~f the appendix includes documents filed before January 1991 on paper measuring 8 ½ by 14 inches, the documents should be reduced in copying to 8 ½ by 11 inches, if practicable~~.~~; and (2) i~~I~~f reduction is impracticable, the appendix may measure 8 ½ by 14 inches, but it should be bound separately from the document that it accompanies.

Committee Notes

1977 Adoption. This rule is new and has been adopted to encourage the use of an appendix either as a separate document or as a part of another matter. An appendix is optional, except under rules 9.100, 9.110(i), 9.120, and 9.130. If a legal size (8 1/2 by 14 inches) appendix is used, counsel should make it a separate document. The term “conformed copy” is used throughout these rules to mean a true and accurate copy. In an appendix the formal parts of a document may be omitted if not relevant.

1980 Amendment. The rule has been amended to reflect the requirement that an appendix accompany a suggestion filed under rule 9.125.

1992 Amendment. This amendment addresses the transitional problem that arises if legal documents filed before January 1991 must be included in an appendix filed after that date. It encourages the reduction of 8 ½ by 14 inch papers to 8 ½ by 11 inches if practicable, and requires such documents to be bound separately if reduction is impracticable.

RULE 9.360. PARTIES

(a) Joinder. A party to the cause in the lower tribunal who desires to join in a proceeding as a petitioner or appellant shall serve a notice to that effect no later than the latest of the following: (i) within 10 days of service of a timely filed petition or notice of appeal; (ii) within the time prescribed for filing a notice of appeal; or (iii) within the time prescribed in rule 9.100(c). The ~~original and 1 copy of the~~ notice of joinder, accompanied by any filing fees prescribed by law, shall be filed either before service or immediately thereafter in the same manner as the petition or notice of appeal.

(b) Attorneys, Representatives, and Guardians Ad Litem. Attorneys, representatives, and guardians ad litem in the lower tribunal shall retain their status in the court unless others are duly appointed or substituted; however, for limited representation proceedings under Florida Family Law Rule of Procedure 12.040, representation terminates upon the filing of a notice of completion titled "Termination of Limited Appearance" pursuant to rule 12.040(c).

(c) Substitution of Parties.

(1) If substitution of a party is necessary for any reason, the court may so order on its own motion or that of a party.

(2) Public officers as parties in their official capacities may be described by their official titles rather than by name. Their successors in office shall be automatically substituted as parties.

(3) If a party dies while a proceeding is pending and that party's rights survive, the court may order the substitution of the proper party on its own motion or that of any interested person.

(4) If a person entitled to file a notice dies before filing and that person's rights survive, the notice may be filed by the personal representative, attorney of record, or, if none, by any interested person. Following filing, the proper party shall be substituted.

Committee Notes

1977 Amendment. This rule is intended as a simplification of the former rules with no substantial change in practice.

Subdivision (a) is a simplification of the provisions of former rule 3.11(b), with modifications recognizing the elimination of assignments of error.

Subdivision (b) retains the substance of former rule 3.11(d).

Subdivision (c)(1) substantially simplifies the procedure for substituting parties. This change is in keeping with the overall concept of this revision that these rules should identify material events that may or should occur in appellate proceedings and specify in general terms how that event should be brought to the attention of the court and how the parties should proceed. The manner in which these events shall be resolved is left to the courts, the parties, the substantive law, and the circumstances of the particular case.

Subdivision (c)(2) is new and is intended to avoid the necessity of motions for substitution if the person holding a public office is changed during the course of proceedings. It should be noted that the style of the case does not necessarily change.

Subdivision (c)(4) is new, and is intended to simplify the procedure and avoid confusion if a party dies before an appellate proceeding is instituted. Substitutions in such cases are to be made according to subdivision (c)(1).

RULE 9.500. ADVISORY OPINIONS TO GOVERNOR

(a) Filing. A request by the governor for an advisory opinion from the justices of the supreme court on a question affecting gubernatorial powers and duties shall be in writing. The ~~original and 7 copies~~request shall be filed with the clerk of the supreme court.

(b) Procedure. As soon as practicable after the filing of the request, the justices shall determine whether the request is within the purview of article IV, section 1(c), Florida Constitution, and proceed as follows:

(1) If 4 justices concur that the question is not within that purview, the governor shall be advised forthwith in writing and a copy shall be filed in the clerk's office.

(2) If the request is within that purview, the court may permit persons whose substantial interests may be affected to be heard on the questions presented through briefs, oral argument, or both. If the court determines to receive briefs or hear oral argument, it shall set the time for filing briefs, the date of argument, and the time allotted. The court may appoint amicus curiae and prescribe their duties.

(3) The justices shall file their opinions in the clerk's office. Copies shall be delivered to the governor.

Committee Notes

1977 Amendment. This rule simplifies former rule 2.1(h) without material change.

RULE 9.510. ADVISORY OPINIONS TO ATTORNEY GENERAL

(a) Filing. A request by the attorney general for an advisory opinion from the justices of the supreme court concerning the validity of an initiative petition for the amendment of the Florida Constitution shall be in writing. The ~~original and 7 copies~~request shall be filed with the clerk of the supreme court.

(b) Contents of Request. In addition to the language of the proposed amendment, the request referenced in subdivision (a) must contain the following information:

(1) the name and address of the sponsor of the initiative petition;

(2) the name and address of the sponsor's attorney, if the sponsor is represented;

(3) a statement as to whether the sponsor has obtained the requisite number of signatures on the initiative petition to have the proposed amendment put on the ballot;

(4) if the sponsor has not obtained the requisite number of signatures on the initiative petition to have the proposed amendment put on the ballot, the current status of the signature-collection process;

(5) the date of the election during which the sponsor is planning to submit the proposed amendment to the voters;

(6) the last possible date that the ballot for the target election can be printed in order to be ready for the election;

(7) a statement identifying the date by which the Financial Impact Statement will be filed, if the Financial Impact Statement is not filed concurrently with the request; and

(8) the names and complete mailing addresses of all of the parties who are to be served.

(c) Procedure. The justices must initially determine whether the request is within the purview of article V, section 3(b)(10), Florida Constitution, and proceed as follows:

(1) If 4 justices concur that the request is not within that purview, the attorney general will be advised immediately in writing and a copy will be filed in the clerk's office.

(2) If the request is within the purview, the court may permit the attorney general and other interested persons to be heard on the questions presented through briefs, oral argument, or both. If the court decides to receive briefs or hear oral argument, it will establish the time for filing briefs, the date of argument, and the time allotted.

Committee Notes

1980 Amendment. This rule has been replaced in its entirety by new Rules 9.150.

RULE 9.900. FORMS

(a) Notice of Appeal.

IN THE .....(NAME OF LOWER TRIBUNAL WHOSE ORDER IS TO BE REVIEWED).....

Case No. _____

_____,	)	
Defendant/Appellant,	)	
	)	
v.	)	NOTICE OF APPEAL
	)	
_____,	)	
Plaintiff/Appellee.	)	
_____	)	

NOTICE IS GIVEN that _____, Defendant/Appellant, appeals to the .....(name of court that has appellate jurisdiction)....., the order of this court rendered [see rule 9.020(h)] .....(date)..... [Conformed copies of orders designated in the notice of appeal shall be attached in accordance with rules 9.110(d), and 9.160(c).] The nature of the order is a final order .....(state nature of the order).....

_____
Attorney for .....(name of party).....
.....(address and phone number).....
Florida Bar No. .....

(b) Notice of Cross-Appeal.

IN THE .....(NAME OF LOWER TRIBUNAL WHOSE ORDER IS TO BE REVIEWED).....

Case No. _____

_____,	)	
Defendant/Appellant,	)	
Cross-Appellee,	)	
	)	
v.	)	NOTICE OF
	)	CROSS-APPEAL
_____,	)	
Plaintiff/Appellee,	)	
Cross-Appellant.	)	
_____	)	

NOTICE IS GIVEN that _____, Plaintiff/Cross-Appellant, appeals to the .....(name of court that has appellate jurisdiction)....., the order of this court rendered [see rule 9.020(h)] .....(date)..... The nature of the order is a final order .....(state nature of the order).....

_____
Attorney for .....(name of party).....
.....(address and phone number).....
Florida Bar No. .....

(c) Notice of Appeal of Non-Final Order.

IN THE .....(NAME OF LOWER TRIBUNAL WHOSE NON-FINAL ORDER IS TO BE REVIEWED).....

Case No. _____

_____,	)	
Defendant/Appellant,	)	
	)	
v.	)	NOTICE OF APPEAL
	)	OF A NON-FINAL
_____	)	ORDER
Plaintiff/Appellee.	)	
_____	)	

NOTICE IS GIVEN that _____, Defendant/Appellant, appeals to the .....(name of court that has appellate jurisdiction)....., the order of this court rendered [see rule 9.020(h)] .....(date)..... [Conformed copies of orders designated in the notice of appeal shall be attached in accordance with rules 9.110(d), 9.130(c), and 9.160(c).] The nature of the order is a non-final order .....(state nature of the order).....

_____
Attorney for .....(name of party).....
.....(address and phone number).....
Florida Bar No. .....

(d) Notice to Invoke Discretionary Jurisdiction of Supreme Court.

IN THE DISTRICT COURT OF
APPEAL OF FLORIDA,
_____ DISTRICT

Case No. _____

_____,	)	
Defendant/Petitioner,	)	
	)	
v.	)	NOTICE TO INVOKE
	)	DISCRETIONARY
_____,	)	JURISDICTION
Plaintiff/Respondent.	)	
_____	)	

NOTICE IS GIVEN that _____, Defendant/Petitioner, invokes the discretionary jurisdiction of the supreme court to review the decision of this court rendered [see rule 9.020(h)] .....(date)..... The decision .....(state why the decision is within the supreme court's jurisdiction).....[1]

_____
Attorney for .....(name of party).....
.....(address and phone number).....
Florida Bar No. .....

[1.] The choices are:

a. expressly declares valid a state statute.
b. expressly construes a provision of the state or federal constitution.
c. expressly affects a class of constitutional or state officers.
d. expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law.
e. passes on a question certified to be of great public importance.
f. is certified to be in direct conflict with decisions of other district courts of appeal.

See rule 9.030(a)(2)(A).

(e) Notice of Administrative Appeal.

IN THE .....(NAME OF AGENCY, OFFICER, BOARD, COMMISSION, OR BODY WHOSE ORDER IS TO BE REVIEWED).....

Case No. _____

_____,	)	
Defendant*/Appellant,	)	
	)	
v.	)	NOTICE OF
	)	ADMINISTRATIVE
_____,	)	APPEAL
Plaintiff*/Appellee.	)	
_____	)	

NOTICE IS GIVEN that _____, Appellant, appeals to the .....(name of court that has appellate jurisdiction)....., the order of this .....(name of agency, officer, board, commission, or body whose order is to be reviewed)..... rendered [see rule 9.020(h)] .....(date)..... [Conformed copies of orders designated in the notice of appeal shall be attached in accordance with rules 9.110(d) and 9.130(c).] The nature of the order is .....(state nature of the order).....

_____
Attorney for .....(name of party).....
.....(address and phone number).....
Florida Bar No. .....

*or other appropriate designation.

(f) Notice of Appeal of an Order Dismissing a Petition for a Judicial Waiver of Parental Notice of Termination of Pregnancy and Advisory Notice to Minor.

IN THE CIRCUIT COURT FOR THE
_____ JUDICIAL CIRCUIT
(NUMERICAL DESIGNATION OF THE CIRCUIT)
IN AND FOR _____ COUNTY, FLORIDA

Case No. _____

In re: Petition for a Judicial Waiver of Parental Notice of Termination of Pregnancy.	)
_____	)
(Your pseudonym or initials)	)
Appellant.	)
_____	)

NOTICE IS GIVEN that _____ (your pseudonym or initials), appeals to the _____ (District Court with appellate jurisdiction), the order of this court rendered _____ (enter the date that the order was filed on the clerk's docket) [See rule 9.020(h)]. The nature of the order is a final order dismissing a petition for a judicial waiver of parental notice of termination of pregnancy.

Signature:_____
(As signed on your petition for judicial waiver if you are representing yourself)

Date:_____

OR

Attorney for _____ (pseudonym or initials of appellant)

(address and phone number of attorney)
Florida Bar No. _____

ADVISORY NOTICE TO THE MINOR
YOU ARE NOTIFIED AS FOLLOWS:

1. You are entitled to appeal the order dismissing your petition for a judicial waiver of parental notice of termination of pregnancy. You do not have to pay a filing fee for the appeal.

2. If you wish to appeal, you must file a notice of appeal. A form for the notice of appeal (Fla. R. App. P. 9.900(f)) will be provided to you with the order dismissing your petition. You must fill in every blank on the form with the information requested. If you need assistance with the form, the clerk of the circuit court will help you complete it.

3. You must file the notice of appeal with the clerk of the circuit court where your case was heard. The notice of appeal must be filed within thirty (30) days of the date when the judge's written order dismissing your petition was filed with the clerk of the circuit court. If you do not file your notice of appeal within this time period your appeal will not be heard.

4. The notice of appeal is the only document you need to file in connection with your appeal. You may file a motion to seek permission to file a brief in your case, or to request oral argument of your case. These motions or any other motions or documents you file concerning your appeal, except the notice of appeal, must be mailed or delivered to the appellate court for filing. The appellate court that will be reviewing your case is:

The _____ District Court of Appeal
_____
_____
(address of the District Court)

Telephone number: _____

(Note: The clerk of the circuit court will fill in the blanks above with the appropriate court information).

5. You may request a lawyer to represent you in your appeal. You must tell the judge who heard your petition for a judicial waiver of parental notification of termination of pregnancy that you wish to have a lawyer appointed.

(g) Directions to Clerk.

IN THE .....(NAME OF LOWER TRIBUNAL WHOSE ORDER IS TO BE REVIEWED).....

Case No. _____

_____,	)	
Plaintiff/Appellant,	)	
	)	
v.	)	DIRECTIONS
	)	TO CLERK
_____,	)	
Defendant/Appellee.	)	
_____	)	

Plaintiff/Appellant, _____, directs the clerk to .....(include/exclude)..... the following items .....(in/from)..... the ~~original~~ record described in rule 9.200(a)(1):

ITEM DATE FILED

1.

[List of Desired Items]

2.

Note: This form is necessary only if a party does not wish to rely on the record that will be automatically prepared by the clerk under rule 9.200(a)(1).

(h) Designation to Approved Court Reporter, Civil Court Reporter, or Approved Transcriptionist.

IN THE .....(NAME OF LOWER TRIBUNAL WHOSE ORDER IS TO BE REVIEWED).....

Case No. _____

_____,	)	
Plaintiff/Appellant,	)	
	)	DESIGNATION TO APPROVED
	)	COURT REPORTER, CIVIL
v.	)	COURT REPORTER, OR
	)	APPROVED TRAN SCRIPTIONIST,
	)	AND REPORTER'S OR
	)	APPROVED TRANSCRIPTIONIST'S
	)	ACKNOWLEDGMENT
_____,	)	
Defendant/Appellee.	)	
_____	)	

I. DESIGNATION

Plaintiff/Appellant, _____, files this Designation to Approved Court Reporter, Civil Court Reporter, or Approved Transcriptionist and directs .....(name of approved court reporter, civil court reporter, or approved transcriptionist)..... to transcribe ~~an original and _____ copies of~~ the following portions of the trial proceedings to be used in this appeal [for cases where a party is exempt from service by electronic mail as set forth in the Florida Rules of Judicial Administration, state the following: and to provide paper copies of the transcript(s)]:

1. The entire trial proceedings recorded by the reporter on .....(date)....., before the Honorable .....(judge)....., except _____ _____.

2. [Indicate all other portions of reported proceedings.]

3. The approved court reporter, civil court reporter, or approved transcriptionist is directed to file the original with the clerk of the lower tribunal and to serve one copy on each of the following:

1.

2.

3.

I, counsel for Appellant, certify that satisfactory financial arrangements have been made with the approved court reporter, civil court reporter, or approved transcriptionist for preparation of the transcript.

_____
Attorney for .....(name of party).....
.....(address and phone number).....
Florida Bar No. .....

II. APPROVED COURT REPORTER'S, CIVIL COURT REPORTER'S, OR APPROVED TRANSCRIPTIONIST'S ACKNOWLEDGMENT

1. The foregoing designation was served on .....(date)....., and received on .....(date).....

2. Satisfactory arrangements have ( ) have not ( ) been made for payment of the transcript cost. These financial arrangements were completed on .....(date).....

3. Number of trial or hearing days ____.

4. Estimated number of transcript pages ____.

5a. The transcript will be available within 30 days of service of the foregoing designation and will be filed on or before .....(date).....

OR

5b. For the following reason(s) the approved court reporter, civil court reporter, or approved transcriptionist requests an extension of time of ____ days for preparation of the transcript that will be filed on or before .....(date).....

6. Completion and filing of this acknowledgment by the approved court reporter, civil court reporter, or approved transcriptionist constitutes submission to the jurisdiction of the court for all purposes in connection with these appellate proceedings.

7. The undersigned approved court reporter, civil court reporter, or approved transcriptionist certifies that the foregoing is true and correct and that a copy has been furnished by mail ( ) hand delivery ( ) on .....(date)....., to each of the parties or their counsel.

_____
Approved Court Reporter, Civil Court Reporter, or Approved Transcriptionist
.....(address).....

Note: The foregoing approved court reporter's, civil court reporter's, or approved transcriptionist's acknowledgment to be placed "at the foot of" or attached to a copy of the designation, shall be properly completed, signed by the approved court reporter, and filed with the clerk of the appellate court within 5 days of service of the designation on the approved court reporter, civil court reporter, or approved transcriptionist. A copy shall be served on all parties or their counsel, who shall have 5 days to object to any requested extension of time. See Fla. R. App. P. 9.200(b)(1), (2), & (3).

(i) Civil Supersedeas Bond.

.....(Title of Court).....

Case No. _____

_____,	)	
Plaintiff,	)	
	)	
v.	)	CIVIL SUPERSEDEAS
	)	BOND
_____,	)	

Defendant.)
_____)

We, _____ as Principal, and _____ as Surety, are held and firmly bound unto _____ in the principal sum of $_____, for the payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

The condition of this obligation is: the above-named Principal has entered an appeal to the .....(court)..... to review the .....(judgment or order)..... entered in the above case on .....(date)....., and filed in the records of said court in book _____ at page_____.

NOW THEREFORE, if the Principal shall satisfy any money judgment contained in the judgment in full, including, if allowed by law, costs, interest, and attorneys' fees, and damages for delay in the event said appeal is dismissed or said judgment is affirmed, then this obligation shall be null and void; otherwise to remain in full force and effect.

Signed on .....(date)....., at .....(place).....

/s/ _____
Principal

Signed on .....(date)....., at .....(place).....

/s/ _____
Surety

Committee Notes

1980 Amendment. Forms 9.900(a) and (b) under the 1977 rules are modified, and additional forms are provided.

1992 Amendment. Forms 9.900(a), (c), and (e) were revised to remind the practitioner that conformed copies of the order or orders designated in the notice of appeal should be attached to the notice of appeal as provided in rules 9.110(d), 9.130(c), and 9.160(c).

RULE 12.010. SCOPE, PURPOSE, AND TITLE

(a) Scope.

(1) These rules apply to all actions concerning family matters, including actions concerning domestic, repeat, dating, and sexual violence, except as otherwise provided by the Florida Rules of Juvenile Procedure or the Florida Probate Rules. “Family matters,” “family law matters,” or “family law cases” as used within these rules include, but are not limited to, matters arising from dissolution of marriage, annulment, support unconnected with dissolution of marriage, paternity, child support, an action involving a parenting plan for a minor child or children (except as otherwise provided by the Florida Rules of Juvenile Procedure), adoption, proceedings for emancipation of a minor, declaratory judgment actions related to premarital, marital, or post-marital agreements (except as otherwise provided, when applicable, by the Florida Probate Rules), injunctions for domestic, repeat, dating, and sexual violence, and all proceedings for modification, enforcement, and civil contempt of these actions.

(2) The form, content, procedure, and time for pleading in all special statutory proceedings shall be as prescribed by the statutes governing the proceeding unless these rules or the Florida Rules of Civil Procedure, where applicable, specifically provide to the contrary. All actions governed by these rules shall also be governed by the Florida Evidence Code, which shall govern in cases where a conflict with these rules may occur.

(b) Purpose.

(1) These rules are intended to facilitate access to the court and to provide procedural fairness to all parties, to save time and expense through active case management, setting timetables, and the use of alternatives to litigation, and to enable the court to coordinate related cases and proceedings to avoid multiple appearances by the same parties on the same or similar issues and to avoid inconsistent court orders.

(2) Nothing shall prohibit any intake personnel in family law divisions from assisting in the preparation of ~~papers~~documents or forms to be filed in any action under these rules.

(c) Title. These rules shall be known as the Florida Family Law Rules of Procedure and abbreviated as Fla. Fam. L. R. P.

RULE 12.025. APPLICABILITY OF RULES OF JUDICIAL ADMINISTRATION

(a) Electronic Filing. Florida Rules of Judicial Administration 2.520 and 2.525 are applicable in all family law matters except as otherwise provided in these rules.

(b) Exceptions. Any document filed pursuant to any proceeding under Chapter 63, Florida Statutes, which may be relied upon by the court to terminate parental rights, including consent for adoption or affidavit of nonpaternity, shall be exempt from the requirements of Rule of Judicial Administration 2.525(c).

RULE 12.040. ATTORNEYS

(a) Limited Appearance. An attorney of record for a party, in a family law matter governed by these rules, shall be the attorney of record throughout the same family law matter, unless at the time of appearance the attorney files a notice, signed by the party, specifically limiting the attorney's appearance only to the particular proceeding or matter in which the attorney appears.

(b) Withdrawal or Limiting Appearance.

(1) Prior to the completion of a family law matter or prior to the completion of a limited appearance, an attorney of record, with approval of the court, may withdraw or partially withdraw, thereby limiting the scope of the attorney's original appearance to a particular proceeding or matter. A motion setting forth the reasons must be filed with the court and served upon the client and interested persons.

(2) The attorney shall remain attorney of record until such time as the court enters an order, except as set forth in subdivision (c) below.

(c) Scope of Representation.

(1) If an attorney appears of record for a particular limited proceeding or matter, as provided by this rule, that attorney shall be deemed "of record" for only that particular proceeding or matter. Any notice of limited appearance filed shall include the name, address, email address(es), and telephone number of the attorney and the name, address, and telephone number of the party. If the party designates email address(es) for service on and by that party, the party's email address(es) shall also be included. At the conclusion of such proceeding or matter, the attorney's role terminates without the necessity of leave of court, upon the attorney filing a notice of completion of limited appearance. The notice, which shall be titled "Termination of Limited Appearance," shall include the names and last known addresses of the person(s) represented by the withdrawing attorney.

(2) An attorney for the State's Title IV-D child support enforcement agency who appears in a family law matter governed by these rules shall file a notice informing the recipient of Title IV-D services and other parties to the case that the IV-D attorney represents only the Title IV-D agency and not the recipient of IV-D services. The notice must state that the IV-D attorney may only address issues concerning determination of paternity, and establishment, modification, and

enforcement of support obligations. The notice may be incorporated into a pleading, motion, or other ~~paper~~document filed with the court when the attorney first appears.

(d) Preparation of Pleadings or Other Documents. A party who files a pleading or other document of record pro se with the assistance of an attorney shall certify that the party has received assistance from an attorney in the preparation of the pleading or other document. The name, address, and telephone number of the party shall appear on all pleadings or other documents filed with the court. If the party designates email address(es) for service on and by that party, the party's email address(es) shall also be included.

(e) Notice of Limited Appearance. Any pleading or other document filed by a limited appearance attorney shall state in bold type on the signature page of that pleading or other document: "Attorney for [Petitioner] [Respondent] [attorney's address, email address(es), and telephone number] for the limited purpose of [matter or proceeding]" to be followed by the name of the petitioner or respondent represented and the current address and telephone number of that party. If the party designates email address(es) for service on and by that party, the party's email address(es) shall also be included.

(f) Service. During 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.

Committee Notes

2010 Amendment. Subdivisions (c), (d), and (e) are amended to provide email addresses in accordance with Florida Rule of Judicial Administration 2.516.

RULE 12.080. SERVICE OF PLEADINGS AND FILING OF ~~PAPERS~~DOCUMENTS

(a) Service.

(1) Family Law Actions Generally. Service of pleadings and ~~papers~~documents after commencement of all family law actions except domestic, repeat, dating, and sexual violence shall be as set forth in Florida Rule of ~~Civil Procedure 1.080~~Judicial Administration 2.516, except that rule ~~1.080~~2.516 shall also apply to service on the party during the attorney's limited appearance as provided in rule 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.

(2) Domestic, Repeat, Dating, and Sexual Violence Actions. Service of pleadings and ~~papers~~documents regarding domestic, repeat, dating, and sexual violence actions shall be governed by Florida Family Law Rule of Procedure 12.610, where it is in conflict with this rule.

(b) Service and Preparation of Orders and Judgments. A copy of all orders or judgments involving family law matters except domestic, repeat, dating, and sexual violence shall be transmitted by the court or under its direction to all parties at the time of entry of the order or judgment. The court may require that recommended orders, orders, or judgments be prepared by a party. If the court requires that a party prepare the recommended order, order, or judgment, the party shall furnish the court with stamped, addressed envelopes to all parties for service of the recommended order, order, or judgment. The court may also require that any proposed recommended order, order, or judgment that is prepared by a party be furnished to all parties no less than 24 hours before submission to the court of the recommended order, order, or judgment.

(c) Defaulted Parties. No service need be made on parties against whom a default has been entered, except that:

(1) Pleadings asserting new or additional claims against defaulted parties shall be served in the manner provided for service of summons contained in Florida Rule of Civil Procedure 1.070.

(2) Notice of final hearings or trials and court orders shall be served on defaulted parties in the manner provided for service of pleadings and

~~papers~~documents contained in Florida Rule of ~~Civil Procedure 1.080~~Judicial Administration 2.516.

(3) Final judgments shall be served on defaulted parties as set forth in Florida Rule of ~~Civil Procedure 1.080(h)(2)~~Judicial Administration 2.516(h).

Commentary

1995 Adoption. This rule provides that the procedure for service shall be as set forth in Florida Rule of Civil Procedure 1.080 with the following exceptions or additions to that rule. First, subdivision (b) corresponds to and replaces subdivision (h)(1) of rule 1.080 and expands the rule to include recommended orders. Second, this rule expands items that must be served on defaulted parties to ensure that defaulted parties are at least minimally advised of the progress of the proceedings. This rule is not intended to require the furnishing of a proposed recommended order, proposed order, or proposed final judgment to a defaulted party.

Committee Notes

2010 Amendment. Subdivision (a)(1) is amended to provide for service on the party during the attorney's limited appearance. Subdivisions (a)(1), (c)(2), and (c)(3) are amended to provide for service in accordance with Florida Rule of Judicial Administration 2.516.

RULE 12.200. CASE MANAGEMENT AND PRETRIAL CONFERENCES

(a) Case Management Conference.

(1) Family Law Proceedings, Generally. A case management conference may be ordered by the court at any time on the court's initiative. A party may request a case management conference 30 days after service of a petition or complaint. At such a conference the court may:

(A) schedule or reschedule the service of motions, pleadings, and other ~~papers~~documents;

(B) set or reset the time of trials, subject to rule 12.440;

(C) coordinate the progress of the action if complex litigation factors are present;

(D) limit, schedule, order, or expedite discovery;

(E) schedule disclosure of expert witnesses and the discovery of facts known and opinions held by such experts;

(F) schedule or hear motions related to admission or exclusion of evidence;

(G) pursue the possibilities of settlement;

(H) require filing of preliminary stipulations if issues can be narrowed;

(I) refer issues to a magistrate for findings of fact, if consent is obtained as provided in rules 12.490 and 12.492 and if no significant history of domestic, repeat, dating, or sexual violence that would compromise the process is involved in the case;

(J) refer the parties to mediation if no significant history of domestic, repeat, dating, or sexual violence that would compromise the mediation process is involved in the case and consider allocation of expenses related to the referral; or refer the parties to counseling if no significant history of domestic,

repeat, dating, or sexual violence that would compromise the process is involved in the case and consider allocation of expenses related to the referral;

(K) coordinate voluntary binding arbitration consistent with Florida law if no significant history of domestic, repeat, dating, or sexual violence that would compromise the process is involved in the case;

(L) appoint court experts and allocate the expenses for the appointments;

(M) refer the cause for a parenting plan recommendation, social investigation and study, home study, or psychological evaluation and allocate the initial expense for that study;

(N) appoint an attorney or guardian ad litem for a minor child or children if required and allocate the expense of the appointment; and

(O) schedule other conferences or determine other matters that may aid in the disposition of the action.

(2) Adoption Proceedings. A case management conference shall be ordered by the court within 60 days of the filing of a petition when

(A) there is a request for a waiver of consent to a termination of parental rights of any person required to consent by section 63.062, Florida Statutes;

(B) notice of the hearing on the petition to terminate parental rights pending adoption is not being afforded a person whose consent is required but who has not consented;

(C) there is an objection to venue, which was made after the waiver of venue was signed;

(D) an intermediary, attorney, or agency is seeking fees, costs, or other expenses in excess of those provided under section 63.097 or 63.212(5), Florida Statutes;

(E) an affidavit of diligent search and inquiry is filed in lieu of personal service under section 63.088(4), Florida Statutes; or

(F) the court is otherwise aware that any person having standing objects to the termination of parental rights pending adoption.

(b) Pretrial Conference. After the action is at issue the court itself may or shall on the timely motion of any party require the parties to appear for a conference to consider and determine:

(1) proposed stipulations and the simplification of the issues;

(2) the necessity or desirability of amendments to the pleadings;

(3) the possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;

(4) the limitation of the number of expert witnesses; and

(5) any matters permitted under subdivision (a) of this rule.

(c) Notice. Reasonable notice shall be given for a case management conference, and 20 days' notice shall be given for a pretrial conference. On failure of a party to attend a conference, the court may dismiss the action, strike the pleadings, limit proof or witnesses, or take any other appropriate action. Any documents that the court requires for any conference shall be specified in the order. Orders setting pretrial conferences shall be uniform throughout the territorial jurisdiction of the court.

(d) Case Management and Pretrial Order. The court shall make an order reciting the action taken at a conference and any stipulations made. The order shall control the subsequent course of the action unless modified to prevent injustice.

Commentary

1995 Adoption. This rule addresses issues raised by decisions such as *Dralus v. Dralus*, 627 So. 2d 505 (Fla. 2d DCA 1993); *Wrona v. Wrona*, 592 So. 2d 694 (Fla. 2d DCA 1991); and *Katz v. Katz*, 505 So. 2d 25 (Fla. 4th DCA 1987), regarding the cost of marital litigation. This rule provides an orderly method for the just, speedy, and inexpensive determination of issues and promotes amicable resolution of disputes.

This rule replaces and substantially expands Florida Rule of Civil Procedure 1.200 as it pertained to family law matters. Under this rule, a court may convene a case management conference at any time and a party may request a case management conference 30 days after service of a petition or complaint. The court may consider the following additional items at the conference: motions related to admission or exclusion of evidence, referral of issues to a master if consent is obtained pursuant to the rules, referral of the parties to mediation, referral of the parties to counseling, coordination of voluntary binding arbitration, appointment of court experts, referral of the cause for a home study psychological evaluation, and appointment of an attorney or guardian ad litem for a minor child.

Committee Note

1997 Amendment. In *In re Adoption of Baby E.A.W.*, 658 So. 2d 961 (Fla. 1995), and other cases involving protracted adoption litigation, it becomes clear that the earlier the issue of notice is decided by the court, the earlier the balance of the issues can be litigated. Because both parents' constitutional standing and guarantees of due process require notice and an opportunity to be heard, this rule amendment will help solve the problems of adoption litigation lasting until a child's third, fourth, or even fifth birthday. Furthermore, this rule will encourage both parents to be more candid with intermediaries and attorneys involved in the adoption process.

In *E.A.W.*, 658 So. 2d at 979, Justice Kogan, concurring in part and dissenting in part, stated: "I personally urge the Family Law Rules Committee . . . to study possible methods of expediting review of disputes between biological and adoptive parents." This rule expedites resolution of preliminary matters concerning due process in difficult adoption disputes. This rule also mandates early consideration of the child's rights to due process at early stages of adoption litigation.

Noncompliance with subdivision (a)(2) of this rule shall not invalidate an otherwise valid adoption.

Proposed rule	Reasons for change
RULE 1.030. NONVERIFICATION OF PLEADINGS	
Except when otherwise specifically provided by these rules or an applicable statute, every ~~written~~ pleading or other ~~paper~~document of a party represented by an attorney need not be verified or accompanied by an affidavit.	Amended to conform to e-filing procedures.
Committee Notes	
[No change]	

Proposed rule

RULE 1.080. SERVICE AND FILING OF PLEADINGS, ~~AND PAPERS~~ORDERS, AND DOCUMENTS

~~**(a) Service; When Required.** Unless the court otherwise orders, every pleading subsequent to the initial pleading, and every other paper filed in the action, except applications for witness subpoena, shall be served on each party. No service need be made on parties against whom a default has been entered, except that pleadings asserting new or additional claims against them shall be served in the manner provided for service of summons.~~

~~**(b) Service; How Made.** When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. Service on the attorney or party shall be made by delivering a copy or mailing it to the attorney or the party at the last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail shall be complete upon mailing. Delivery of a copy within this rule shall be complete upon: (1) handing it to the attorney or to the party, (2) leaving it at the attorney's or party's office with a clerk or other person in charge thereof, (3) if there is no one in charge, leaving it in a conspicuous place therein, (4) if the office is closed or the person to be served has no office, leaving it at the person's usual place of abode with some person of his or her family above 15 years of age and informing such person of the contents, or (5) transmitting it~~

Reasons for change

NOTE: Strike-throughs and single underlines are amendments pending in Case No. SC10-2101. Double-underlines are changes proposed in this case.

~~by facsimile to the attorney's or party's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, and the number of pages transmitted. When service is made by facsimile, a copy shall also be served by any other method permitted by this rule. Facsimile service occurs when transmission is complete. Service by delivery after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday, or legal holiday.~~

~~**(c) Service; Numerous Defendants.** In actions when the parties are unusually numerous, the court may regulate the service contemplated by these rules on motion or on its initiative in such manner as may be found to be just and reasonable.~~

~~**(d) Filing.** All original papers shall be filed with the court either before service or immediately thereafter. If the original of any bond or other paper is not placed in the court file, a certified copy shall be so placed by the clerk.~~

~~**(e) Filing Defined.** The filing of papers with the court as required by these rules shall be made by filing them with the clerk, except that the judge may permit papers to be filed with the judge, in which event the judge shall note the filing date before him or her on the papers and transmit them to the clerk. The date of filing is that shown on the face of the paper by the judge's notation or the clerk's time stamp, whichever is earlier.~~

~~**(f) Certificate of Service.** When any attorney shall certify in substance:~~

~~"I certify that a copy hereof has been furnished to (here insert name or names) by (delivery) (mail) (fax) on .....(date).....~~

~~Attorney"~~

~~the certificate shall be taken as prima facie proof of such service in compliance with these rules.~~

~~**(g) Service by Clerk.** If a party who is not represented by an attorney files a paper that does not show service of a copy on other parties, the clerk shall serve a copy of it on other parties as provided in subdivision (b).~~

~~**(h) Service of Orders.**~~

~~(1) A copy of all orders or judgments shall be transmitted by the court or under its direction to all parties at the time of entry of the order or judgment. No service need be made on parties against whom a default has been entered except orders setting an action for trial as prescribed in rule 1.440(c) and final judgments that shall be prepared and served as provided in subdivision (h)(2). The court may require that orders or judgments be prepared by a party, may require the party to furnish the court with stamped, addressed envelopes for service of the order or judgment, and may require that proposed orders and judgments be furnished to all parties before entry by the court of the order or judgment.~~

~~(2) When a final judgment is entered against a party in default, the court shall mail a conformed copy of~~

~~it to the party. The party in whose favor the judgment is entered shall furnish the court with a copy of the judgment, unless it is prepared by the court, and the address of the party to be served. If the address is unknown, the copy need not be furnished.~~

~~(3) This subdivision is directory and a failure to comply with it does not affect the order or judgment or its finality or any proceedings arising in the action.~~

~~Committee Notes~~

~~1971 Amendment.~~ ~~Subdivision (g) is added to cover the situation when a party responds by a letter to the clerk and the letter may constitute the party's answer. The clerk is then required to furnish copies to parties who have appeared in the action and who are not shown to have received copies. It is not intended to apply to those litigious persons appearing in proper person who are familiar with the requirements of the rules. Subdivision (h) is added and the first part regulates the service of copies of orders. When a party is charged with preparation of an order, it requires service of the proposed form on other parties and delivery of sufficient copies to the court to be conformed and furnished to all parties after entry. The second part is intended to notify defendant whose address is known of the determination of the action by the court. Failure to comply with either part of subdivision (h) does not affect the order or judgment in any manner.~~

~~1972 Amendment.~~ ~~Subdivision (h) is amended because confusion has resulted in its application. Use of the term "party" has been misconstrued. It must be read in~~

~~conjunction with subdivision (b) of the rule. When service can be made on an attorney, it should be made on the attorney. The term "party" is used throughout the rules because subdivision (b) makes the necessary substitution of the party's attorney throughout the rules. No certificate of service is required. The notation with the names of the persons served with a proposed form is not to be signed. The committee intended for the court to know who had been served only. Otherwise, the committee would have used the form of certificate of service in subdivision (f). Submission of copies and mailing of them by the court has proved cumbersome in practice and so it is deleted. The purpose of the rule was to ensure that all parties had an opportunity to see the proposed form before entry by the court.~~

~~**1976 Amendment.** The amendment made to this rule on July 26, 1972, was intended according to the committee notes "[t]o assure that all parties had an opportunity to see the proposed form before entry by the Court." This change followed on the heels of the 1971 amendment, which the committee felt had been confusing.~~

~~Two changes have been made to subdivision (h)(1), which have resulted in a wholesale redrafting of the rule. First, the provision requiring the submission of proposed orders to all counsel prior to entry by the court has been deleted, any inaccuracies in an order submitted to the court being remediable either by the court's own vigilance or later application by an interested party. Secondly, the rule now requires that conformed copies of any order entered by the court must be mailed to all parties of record in all instances (and to defaulted parties in 2 specified instances), for purposes of advising them of the date of the court's action~~

~~as well as the substance of such action. Nothing in this new rule is meant to limit the power of the court to delegate the ministerial function of preparing orders.~~

~~**1992 Amendment.** Subdivisions (b) and (f) are amended to allow service pursuant to this rule to be made by facsimile. "Facsimile" or "fax" is a copy of a paper transmitted by electronic means to a printer receiving the transmission at a designated telephone number. When service is made by facsimile or fax, a second copy must be served by any other method permitted by this rule to ensure that a legible copy is received.~~

~~**Court Commentary**~~

~~**1984 Amendment.** The committee is recommending an amendment to rule 1.530(b) to cure the confusion created by *Casto v. Casto*, 404 So. 2d 1046 (Fla. 4th DCA 1980). That recommendation requires an amendment to rule 1.080(e) specifying that the date of filing is that shown on the face of the paper.~~

(a) Service. Every pleading subsequent to the initial pleading, all orders, and any other documents filed in the action must be served in conformity with the requirements of Florida Rule of Judicial Administration 2.516.

Subdivision title added to conform to Rules of Procedure Style Guide.

(b) Writing and written defined. Writing or written means a document containing information, an application, or a stipulation.

Definition added to conform to procedures under e-filing.

Proposed rule	Reasons for change
RULE 2.430. RETENTION OF COURT RECORDS	
(a) [No change]	
(b) Permanently Recorded Records.	
(1) Court records, except exhibits, that have been permanently recorded may be destroyed or otherwise disposed of by the clerk at any time after a judgment has become final.	Amended to provide for handling of physical media by the clerk.
(2) Any physical media submitted to the clerk for the purpose of filing information contained in the media may be destroyed, retained, or otherwise disposed of by the clerk once the contents of the media have been made a part of the court record.	
(c)–(k) [No change]	

Proposed rule	Reason for change
RULE 2.510. FOREIGN ATTORNEYS	
(a)–(b) [No change]	
Form amended. See full-page format.	

Proposed rule	Reason for change
RULE 2.520. ~~PAPER~~DOCUMENTS	Amended title to include documents filed in other than paper format.
(a) ~~Type and Size~~Electronic Filing Mandatory. All ~~pleadings, motions, petitions, briefs, notices, orders, judgments, decrees, opinions, and other papers and official~~ documents filed in any court shall be filed by electronic transmission in accordance with rule 2.525. "Documents" means pleadings, motions, petitions, memoranda, briefs, notices, exhibits, declarations, affidavits, orders, judgments, decrees, writs, opinions, and any other paper or writing submitted to a court.	Amended to provide for mandatory electronic filing of documents.
(b) Type and Size. Documents subject to the exceptions set forth in rule 2.525(d) shall be filed on recycled paper measuring 8 1/2 by 11 inches. For purposes of this rule, paper is recycled if it contains a minimum content of 50 percent waste paper. Xerographic reduction of legal-size (8 1/2 by 14 inches) documents to letter size (8 1/2 by 11 inches) is prohibited. All other documents filed by electronic transmission shall be filed in a format capable of being printed in a format consistent with the provisions of this rule.	Amended to provide formatting requirements for electronic documents.
(~~b~~c) Exhibits. Any exhibit or attachment filed with pleadings or papers may be filed in its original size.	Technical corrections to conform to renumbering of (a) and (b).
(~~c~~d) Recording Space. On all papers and documents prepared and filed by the court or by any party to a proceeding which are to be recorded in the public records of any county, including but not limited to final money	

judgments and notices of lis pendens, a 3-inch by 3-inch space at the top right-hand corner on the first page and a 1-inch by 3-inch space at the top right-hand corner on each subsequent page shall be left blank and reserved for use by the clerk of court.

(~~d~~e) Exceptions to Recording Space. Any papers or documents created by persons or entities over which the filing party has no control, including but not limited to wills, codicils, trusts, or other testamentary documents; documents prepared or executed by any public officer; documents prepared, executed, acknowledged, or proved outside of the State of Florida; or documents created by State or Federal government agencies, may be filed without the space required by this rule.

(~~e~~f) Noncompliance. No clerk of court shall refuse for filing any document or paper because of noncompliance with this rule. However, upon request of the clerk of court, noncomplying documents shall be resubmitted in accordance with this rule.

Court Commentary

[No change]

Proposed rule	Reason for change
RULE 2.525. ELECTRONIC FILING	
(a) Definition. "Electronic transmission of documents" means the transmission by electronic signals, to or from a court or clerk~~ of the court~~, of information which when received can be transformed and stored or ~~reproduced~~transmitted on paper, microfilm, magnetic storage device, optical imaging system, CD ROM, flash drive, other electronic data storage system, server, case maintenance system ("CM"), electronic court filing ("ECF") system, statewide or local electronic portal ("E-Portal"), or other electronic record keeping system authorized by the ~~S~~supreme ~~C~~court ~~of Florida~~ in a format sufficient to communicate the information on the original document in a readable format. Electronic transmission of documents includes electronic mail ("email") and any internet-based transmission procedure, and may include procedures allowing for documents to be signed or verified by electronic means.	Amended to define electronic documents and define electronic transmission of documents and to make technical corrections.
(b) Application. Any court or clerk ~~of the court~~ may accept the electronic transmission of documents for filing and may send documents by electronic transmission after the clerk, together with input from the chief judge of the circuit, has obtained approval of ~~the~~ procedures, ~~and~~ programs, and standards for electronic filing ~~for doing so~~ from the ~~S~~supreme ~~C~~court ~~of Florida~~("ECF Procedures"). All ECF Procedures must comply with the then-current E-Filing standards, as promulgated by the supreme court in Administrative Order No. AOSC09-30, or subsequent	Amended to provide for clerk to send documents via electronic transmission and define clerks' standards for electronic filing and to make technical corrections.

administrative order.

(c) Documents Affected.

(1) All documents that are court records, as defined in rule 2.430(a)(1), ~~may~~must be filed by electronic transmission, provided that:

Amended to provide that documents which are court records must be filed electronically.

(A) the clerk ~~of court~~ has the ability to accept and retain such documents;

(B) the clerk ~~of court~~ or the chief judge of the circuit has requested permission to accept documents filed by electronic transmission; and

Technical corrections made to (A) and (B).

(C) the ~~S~~supreme ~~C~~court ~~of Florida~~ has entered an order granting permission to the clerk ~~of court~~ to accept documents filed by electronic transmission.

Technical corrections to conform to amendments to other rule sections.

~~Any attorney, party, or other person who files a document by electronic transmission shall, immediately thereafter, file the identical document, in paper form, with an original signature of the attorney, party, or other person if a signature is otherwise required by these rules (hereinafter called the follow-up filing).~~

(2) ~~The follow-up filing of any document that has previously been filed by electronic transmission may be discontinued if:~~

~~(A) after a 90-day period of accepting electronically filed documents, the clerk of court or the chief judge of the circuit certifies to the Supreme Court of Florida~~

~~that the electronic filing system is efficient, reliable, and meets the demands of all parties;~~

~~(B) the clerk of court or the chief judge of the circuit requests permission to discontinue that portion of the rule requiring a follow-up filing of documents in paper form, except as otherwise required by general law, statute, or court rule; and~~

~~(C) the Supreme Court of Florida enters an order directing the clerk of court to discontinue accepting the follow-up filing.~~

All documents filed by electronic transmission under this rule satisfy any requirement for the filing of an original, except where the court, law, or rule of procedure otherwise provides for the submittal of an original.

(d) ~~Service.~~Exceptions. Paper documents or other submissions may be manually submitted to the clerk for filing:

(1) ~~Electronic transmission may be used by a court for the service of all orders of whatever nature provided the clerk, together with input from the chief judge of the circuit, has obtained approval from the Supreme Court of Florida of the specific procedures and program to be used in transmitting the orders. All other requirements for the service of such an order shall be met.~~when the clerk does not have the ability to accept and retain documents by electronic filing or has not had ECF Procedures approved by the supreme court;

Subdivision (d) amended to provide exceptions for the filing of paper documents.

(2) ~~Any document electronically transmitted to a court or clerk of the court shall also be served on all parties and interested persons in accordance with the applicable rules of court.~~by self-represented litigants, third parties, or non-litigants, unless specific ECF Procedures provide a means for such self-represented litigants, third parties, or non-litigants to file documents electronically;

(3) by attorneys excused from email service in accordance with rule 2.516(b)(2);

(4) when the filing involves non-electronic documents or exhibits, such as trial or hearing exhibits, court approved forms, executed wills, non-documentary items such as cassettes, video tapes, DVDs, weapons, drugs, original exhibits, or other original attachments to filings, etc.;

(5) when the filing involves documents in excess of 25 megabytes (25MB) in size. For such filings, documents may be transmitted using an electronic storage device or system that the clerk has the ability to accept, which may include a CD-ROM, flash drive, or similar storage system;

(6) when filed in open court, as permitted by the court;

(7) when the document is required by any statute or other rule of procedure to be an original document, including surety bonds, criminal plea agreements, documents required to be notarized, etc;

(8) when paper filing is permitted by any approved statewide or local ECF procedures; and

(9) if any court determines that justice so requires.

(e) ~~Transmission Difficulties~~Service. ~~Any attorney, party, or other person who elects to file any document by electronic transmission shall be responsible for any delay, disruption, interruption of the electronic signals, and readability of the document, and accepts the full risk that the document may not be properly filed with the clerk as a result.~~

Subdivision (e) amended to provide procedures for electronic filing of documents.

(1) Electronic transmission may be used by a court or clerk for the service of all orders of whatever nature, pursuant to rule 2.516(h), and for the service of any documents pursuant to any ECF Procedures, provided the clerk, together with input from the chief judge of the circuit, has obtained approval from the supreme court of ECF Procedures containing the specific procedures and program to be used in transmitting the orders and documents. All other requirements for the service of such orders must be met.

(2) Any document electronically transmitted to a court or clerk must also be served on all parties and interested persons in accordance with the applicable rules of court.

(f) Administration.

(1) Any clerk ~~of the court~~ who, after

Technical corrections.

obtaining ~~S~~supreme ~~C~~court ~~of Florida~~ approval, accepts for filing documents that have been electronically transmitted ~~shall~~must:

(A) provide electronic or telephonic access to its equipment, whether through an E-Portal or otherwise, during regular business hours, and all other times as practically feasible; and

Subdivision (1)(A)–(1)(C) amended to provide requirements for the acceptance of electronic documents by clerks.

(B) accept electronic transmission of documents up to 25 megabytes (25MB) in size, or until E-Filing has been fully implemented, accept facsimile transmissions of documents up to 10 pages in length; and

(C) accept filings in excess of 25 megabytes (25MB) in size by electronic storage device or system, which may include a CD-ROM, flash drive, or similar storage system.

(2) All attorneys, parties, or other persons using this rule to file documents are required to make arrangements with the court or clerk ~~of the court~~ for the payment of any charges authorized by general law or the ~~S~~supreme ~~C~~court ~~of Florida~~ before filing any document by electronic transmission.

Technical corrections.

(3) The filing date for an electronically transmitted document ~~shall be~~is the date and time that such filing is acknowledged by an electronic stamp or otherwise, pursuant to any procedure set forth in any ECF Procedures approved by the supreme court, or the date the last page ~~thereof~~of such filing is received by the court or clerk ~~of the court~~.

Amended to make technical corrections and define the filing date and time for electronic documents.

(4) Any court or clerk ~~of the court~~ may extend the hours of access or increase the page or size limitations set forth in this subdivision.

Technical corrections.

(g) Accessibility. All documents referred to in subdivision (c) that are transmitted to a court in any electronic form must be formatted in a manner that complies with all state and federal laws requiring that electronic judicial records be accessible to persons with disabilities, including without limitation the Americans with Disabilities Act and Section 508 of the federal Rehabilitation Act of 1973 as incorporated into Florida law by section 282.603(1), Florida Statutes (2009), and any related federal or state regulations or administrative rules.

This change is currently pending in the cycle report of the Rules of Judicial Administration Committee, case number SC11-52.

Court Commentary

1997 Amendment. Originally, the rule provided that the follow-up filing had to occur within ten days. In the 1997 amendment to the rule, that requirement was modified to provide that the follow-up filing must occur "immediately" after a document is electronically filed. The "immediately thereafter" language is consistent with language used in the rules of procedure where, in a somewhat analogous situation, the filing of a document may occur after service. *See*~~,~~, *e.g.*, Florida Rule of Civil Procedure 1.080(d) ("All original papers shall be filed with the court either before service or *immediately thereafter*.") (emphasis added). "Immediately thereafter" has been interpreted to mean "filed with reasonable promptness." *Miami Transit Co. v. Ford*, 155 So.2d 360 (Fla. 1963).

Technical correction.

The use of the words “other person” in this rule is not meant to allow a nonlawyer to sign and file pleadings or other papers on behalf of another. Such conduct would constitute the unauthorized practice of law.

Proposed rule	Reason for change

RULE 2.535. COURT REPORTING

(a) Definitions.

(1) "Approved court reporter" means a court employee or contractor who performs court reporting services, including transcription, at public expense and who meets the court's certification, training, and other qualifications for court reporting.

(2) "Approved transcriptionist" means a court employee, contractor, or other individual who performs transcription services at public expense and who meets the court's certification, training, and other qualifications for transcribing proceedings.

(3) "Civil court reporter" means a court reporter who performs court reporting services in civil proceedings not required to be reported at public expense, and who meets the court's certification, training, and other qualifications for court reporting.

(4) "Court reporting" means the act of making a verbatim record of the spoken word, whether by the use of written symbols, stenomask equipment, stenographic equipment, or electronic devices, in any proceedings pending in any of the courts of this state, including all discovery proceedings conducted in connection therewith, any proceedings reported for the court's own use, and all proceedings required by statute to be reported by an

approved court reporter or civil court reporter. It does not mean the act of taking witness statements not intended for use in court as substantive evidence.

(5) "Electronic record" means the audio, analog, digital, or video record of a court proceeding.

(6) "Official record" means the transcript, which is the written or electronically stored record of court proceedings and depositions prepared in accordance with the requirements of subdivision (f).

Amended to include electronically stored records in definition of official record.

(b)–(e) [No change]

(f) Transcripts. Transcripts of all judicial proceedings, including depositions, shall be uniform in and for all courts throughout the state and shall be stored in an electronic format sufficient to communicate the information contained in proceedings in a readable format, and capable of being transmitted electronically as set forth in rule 2.525. Any transcripts stored in electronic form must be capable of being printed in accordance with this rule. The form, size, spacing, and method of printing transcripts are as follows:

Amended to provide for electronic storage of transcripts.

(1)–(10) [No change]

(g)–(j) [No change]

Committee Note

[No change]

Proposed rule	Reasons for change
RULE 3.030. SERVICE AND FILING OF PLEADINGS, ~~AND~~ PAPERS, AND DOCUMENTS	Amends title to include a filing option and documents.
(a) Service~~; When Required~~. Every pleading subsequent to the initial indictment or information on which a defendant is to be tried unless the court otherwise orders, and every order not entered in open court, every written motion unless it is one about which a hearing ex parte is authorized, and every written notice, demand, and similar ~~paper~~document shall be served on each party in conformity with rule 2.516, Florida Rules of Judicial Administration; however, nothing herein shall be construed to require that a plea of not guilty shall be in writing.	Changes "paper" to "document" to conform to adoption of e-filing. Adds a reference to Rule 2.516, Florida Rules of Judicial Administration.
(b) ~~Same; How Made.~~ ~~When service is required or permitted to be made on a party represented by an attorney, the service shall be made on the attorney unless service on the party is ordered by the court. Service on the attorney or on a party shall be made by delivering a copy to the party or by mailing it to the party's last known address, or, if no address is known, by leaving it with the clerk of the court who shall place it in the court file. Delivery of a copy within this rule shall mean:~~	Deletes the specific requirements for service.
~~(1) handing it to the attorney or to the party; or~~	
~~(2) leaving it at the attorney's office with the secretary or other person in charge; or~~	

~~(3) if there is no one in charge, leaving it in a conspicuous place therein; or~~

~~(4) if the office is closed or the person to be served has no office, leaving it at the person's usual place of abode with a family member above 15 years of age and informing that person of the contents. Service by mail shall be considered complete upon mailing; or~~

~~(5) transmitting it electronically to each party with a cover sheet indicating the sender's name, bar number, firm, address, telephone number, facsimile or modem number, and the number of pages transmitted. Electronic service occurs when transmission of the last page is complete. Service by delivery or electronic transmission after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday, or legal holiday.~~

~~**(c)**~~ Filing. ~~All original papers, copies of which are required to be served on parties, must be filed with the court either before service or immediately thereafter.~~ All documents that are "court records" as defined in the Florida Rules of Judicial Administration must be filed with the clerk by electronic transmission in accordance with rules 2.520 and 2.525, Florida Rules of Judicial Administration, provided that an original is not required to be filed in paper format. All documents which are required or permitted to be served on parties must be filed with the court either before service or immediately thereafter.

Removes the existing text and creates new subdivision (b) which establishes filing requirements of all documents.

(c) Submitting Originals. Originals which must be filed in paper format with the clerk include: charging

Creates subdivision (c) that defines procedure for management of certain original documents filed with the

documents, indictments, informations, petitions, affidavits, plea agreements, documents filed under seal, ex parte documents, and any documents which are required to be sworn or notarized. Original charging documents must be kept by the clerk in accordance with the Florida Rules of Judicial Administration. All other original documents filed in paper format must be scanned by the clerk and provided to the prosecuting authority to determine whether or not the original is kept. If permitted by approved statewide or local ECF procedures, original documents may be submitted electronically for purposes of a filing date; however, the original document must also be filed in paper format in accordance with this rule. All original documents under this rule must certify that they were filed in paper format to the clerk.

court.

~~**(d) Filing with the Court Defined.** The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him or her, in which event the judge shall note thereon the filing date and transmit them to the office of the clerk. Unless any rule expressly provides to the contrary, filing of pleadings and other papers with the court may be made by electronic transmission provided for and in accordance with the Florida Rules of Judicial Administration.~~

Removes subdivision (d)-(e) as unnecessary.

~~**(e) Certificate of Service.** When any attorney shall in substance certify:~~

~~I do certify that a copy (copies) hereof (has) (have) been furnished to (here insert name or names) by (delivery)~~

~~(mail) on .....(date).....~~

~~Attorney~~

~~the certificate shall be taken as prima facie proof of service in compliance with all rules of court and law.~~

Committee Notes

[No change]

Proposed rule	Reasons for change
RULE 3.070. ADDITIONAL TIME AFTER SERVICE BY MAIL WHEN PERMITTED	Amended title to establish an option of service by mail.
Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other ~~paper~~document on the party and the notice or ~~paper~~document is served on the party by mail when permitted, 3 days shall be added to the prescribed period.	Changes “paper” to “document” to conform to adoption of e-filing. Amended to permit an option of service by mail.

Committee Notes

[No change]

Proposed rule	Reasons for change
RULE 3.080. NONVERIFICATION OF PLEADINGS Except when otherwise specifically provided by these rules or an applicable statute, every written pleading or other ~~paper~~document of a party represented by an attorney need not be verified or accompanied by an affidavit.	Changes “paper” to “document” to conform to adoption of e-filing.
Committee Notes [No change]	

Proposed rule	Reasons for change
RULE 3.090. PLEADING CAPTIONS	
Every pleading, motion, order, judgment, or other ~~paper~~document shall have a caption containing the name of the court, the file number, the name of the first party on each side with an appropriate indication of other parties, and a designation identifying the party filing it and its nature or the nature of the order, as the case may be. All ~~papers~~documents filed in the action shall be styled in such a manner as to indicate clearly the subject matter of the ~~paper~~document and the party requesting or obtaining relief.	Changes “paper(s)” to “document(s)” to conform to adoption of e-filing.

Proposed rule	Reasons for change
RULE 3.240. CHANGE OF VENUE	
(a)–(h) [No change]	
(i) Action of Receiving Court. The court to which the cause is removed shall proceed to trial and judgment therein as if the cause had originated in that court. If it is necessary to have any of the original pleadings or other ~~papers~~documents before that court, the court from which the cause is removed shall at any time on application of the prosecuting attorney or the defendant order such ~~papers~~documents or pleadings to be transmitted by the clerk, a certified copy thereof being retained.	Changes “papers” to “documents” to conform to adoption of e-filing.
(j) [No change]	
Committee Notes	
[No change]	

Proposed rule	Reasons for change
RULE 3.851. COLLATERAL RELIEF AFTER DEATH SENTENCE HAS BEEN IMPOSED AND AFFIRMED ON DIRECT APPEAL	
(a)–(e) [No change]	
(f) Procedure; Evidentiary Hearing; Disposition.	
(1) Filing and Service. All pleadings in the postconviction proceeding shall be filed with the clerk of the trial court and served on the assigned judge, opposing party, and the attorney general. Upon the filing of any original court ~~paper~~document in the postconviction proceeding, the clerk of the trial court shall determine that the assigned judge has received a copy. All motions other than the postconviction motion itself shall be accompanied by a notice of hearing.	Changes “paper” to “document” to conform to adoption of e-filing.
(2)–(7) [No change]	
(g)–(j) [No change]	
Court Commentary	
[No change]	

Proposed rule	Reasons for change
RULE 5.043. DEPOSIT OF WILLS AND CODICILS	
Notwithstanding any rule to the contrary, and unless the court orders otherwise, any original executed will or codicil deposited with the court must be retained by the clerk in its original form and must not be destroyed or disposed of by the clerk for 20 years after submission regardless of whether the will or codicil has been permanently recorded as defined by Rule 2.430, Florida Rules of Judicial Administration.	Creates the specific exception from e-filing for certain probate documents.
Committee Notes	
Rule 2.525, Fla. R. Jud. Admin., requires that all documents be filed with the court electronically. Although the Florida Statutes direct the deposit of a will, rather than the filing of the will, the committee believes that original wills and codicils should be retained in their original form longer than other documents filed with the court due to the unique evidentiary aspects of the actual document. These unique aspects could be lost forever if the original document were converted to electronic form and the original destroyed.	Creates a committee note to explain this probate exception to the e-filing requirement of Rule 2.525, Florida Rules of Judicial Administration.
Rule History	
2011 Revision: New Rule.	Creates rule history.
Statutory References	Provides statutory references supporting this new rule.

§ 731.201(16), Fla. Stat. General definitions.
§ 732.901, Fla. Stat. Production of wills.

Rule References

Fla. R. Jud. Admin. 2.430 Retention of court records.
Fla. R. Jud. Admin. 2.525 Electronic filing.

Provides rule references supporting this new rule.

Proposed rule	Reasons for change
RULE 7.080. ~~SERVICE~~FILING OF PLEADINGS AND ~~PAPERS~~DOCUMENTS OTHER THAN STATEMENT OF CLAIM	Changes "Service" to "Filing" and "papers" to "documents" to conform to adoption of e-filing.
(a)–(c) [No change]	
(d) Filing with the Court Defined. The filing of ~~papers~~documents with the court as required by these rules is made by filing them with the clerk, except that the judge may permit the ~~papers~~documents to be filed with the judge, in which event the judge shall note thereon the filing date and transmit them to the clerk, and the clerk shall file them as of the same date they were filed with the judge.	Changes "papers" to "documents" to conform to adoption of e-filing.
Parties represented by an attorney must file documents in compliance with the electronic filing (e-filing) requirements set forth in the Florida Rules of Judicial Administration.	Creates a requirement for attorneys to comply with proposed Rule 2.520, Florida Rules of Judicial Administration,
Parties not represented by an attorney may file documents in compliance with the e-filing requirement if permitted by the Florida Rules of Judicial Administration.	Creates an option for pro se litigants to voluntarily "opt in" to e-filing.
(e)–(f) [No change]	
Court Commentary	
[No change]	

Proposed rule	Reasons for change
RULE 8.000. SCOPE AND PURPOSE	
These rules shall govern the procedures in the juvenile division of the circuit court in the exercise of its jurisdiction under Florida law.	
Part ~~I~~II of these rules governs the procedures for delinquency cases in the juvenile court. Part ~~III~~IV governs the procedures for families and children in need of services cases in the juvenile court. The Department of Juvenile Justice shall be referred to as the “department” in these parts.	Amends rule to conform to creation of new Part I in the Florida Rules of Judicial Procedure.
Part ~~II~~III of these rules governs the procedures for dependency cases in the juvenile court. The Department of Children and Family Services shall be referred to as the “department” in that part.	
These rules are intended to provide a just, speedy, and efficient determination of the procedures covered by them and shall be construed to secure simplicity in procedure and fairness in administration.	
They shall be known as the Florida Rules of Juvenile Procedure and may be cited as Fla. R. Juv. P.	
When appropriate the use of singular nouns and pronouns shall be construed to include the plural and the use of plural nouns and pronouns shall be construed to include the singular.	

Committee Notes

[No change]

Proposed rule	Reasons for change
RULE 8.003. FAMILY LAW COVER SHEET	
The party opening or reopening a case under Part ~~I, II, III, or IV~~II, III, IV, or V of these rules shall file with the clerk of the circuit court Florida Family Law Rules of Procedure Form 12.928, Cover Sheet for Family Law Cases.	Amends rule to conform to creation of new Part I in Florida Rules of Juvenile Procedure.

Proposed rule	Reasons for change
RULE 8.004. ELECTRONIC FILING (a) All documents that are court records, as defined in Fla. R. Jud. Admin 2.430(a)(1), are to be filed by electronic transmission, consistent with the requirements of Fla. R. Jud. Admin 2.525, provided that: (1) the clerk has the ability to accept and retain such documents; (2) the clerk or the chief judge of the circuit has requested permission to accept documents filed by electronic transmission; and (3) the supreme court has entered an order granting permission to the clerk to accept documents filed by electronic transmission. (b) All documents filed by electronic transmission under this rule satisfy any requirement for the filing of an original, except where the court, law, or these rules otherwise provide for the submittal of an original. (c) The following paper documents or other submissions may be manually submitted to the clerk for filing under the following circumstances: (1) when the clerk does not have the ability to accept and retain documents by electronic filing or has not had electronic court filing procedures (ECF Procedures)	Creates new rule to govern electronic filing, in accordance with proposed Fla. R. Jud. Admin. 2.525, in cases governed by the Florida Rules of Juvenile Procedure.

approved by the supreme court;

(2) by self-represented litigants, third parties or nonlitigants, unless specific ECF Procedures provide a means for such self-represented litigants, third parties, or nonlitigants to file documents electronically;

(3) by attorneys excused from e-mail service pursuant to these rules or Fla. R. Jud. Admin. 2.516;

(4) when the filing involves nonelectronic documents or exhibits, such as trial or hearing exhibits, court approved forms, executed wills, nondocumentary items such as cassettes, videotapes, DVDs, weapons, drugs, original exhibits, or other original attachments to filings, etc.;

(5) when the filing involves documents in excess of 25 megabytes (25 MB) in size. For such filings, documents may be transmitted using an electronic storage device or system that the clerk has the ability to accept, which may include a CD-ROM, flash drive, or similar storage system;

(6) when filed in open court, as permitted by the court;

(7) when the document is required by any statute or these rules to be an original document;

(8) when paper filing is permitted by any approved statewide or local ECF procedures; and

(9) if any court determines that justice so requires.

(d) The filing date for an electronically transmitted document is the date and time that such filing is acknowledged by an electronic stamp, or otherwise, pursuant to any procedure set forth in any ECF Procedures approved by the supreme court, or the date the last page of such filing is received by the court or clerk.

(e) Where these rules are silent, Fla. R. Jud. Admin. 2.525 controls.

(f) Electronic transmission may be used by a court for the service of all orders, pursuant to Fla. R. Jud. Admin 2.516, and for the service of filings pursuant to any electronic court filing procedures (ECF Procedures), provided the clerk, together with input from the chief judge of the circuit, has obtained approval from the supreme court of ECF Procedures containing the specific procedures and program to be used in transmitting the orders and filings.

Proposed rule	Reason for change
RULE 8.205. TRANSFER OF CASES	
(a) Transfer of Cases Within Circuit Court. If it should appear at any time in a proceeding initiated in a division other than the division of the circuit court assigned to handle dependency matters that facts are alleged that essentially constitute a dependency or the termination of parental rights, the court may upon consultation with the administrative judge assigned to dependency cases order the transfer of action and the transmittal of all relevant ~~papers~~documents to the division assigned to handle dependency matters. The division assigned to handle dependency matters shall then assume jurisdiction only over matters pertaining to dependency, custody, visitation, and child support.	Changes “papers” to “documents” to conform to adoption of e-filing.
(b)–(c) [No change]	
Committee Notes	
[No change]	

Proposed rule	Reasons for change
RULE 8.217. ATTORNEY AD LITEM	
(a) Request. At any stage of the proceedings, any party may request or the court may consider whether an attorney ad litem is necessary to represent any child alleged, or found, to be dependent, if one has not already been appointed.	An attorney ad litem may also be appointed after a child is found to be dependent.
(b)–(c) [No change]	
(d) Service. An attorney ad litem shall be entitled to receive and must provide service of pleadings and ~~papers~~documents as provided by rule 8.225.	An attorney ad litem must provide, as well as receive, service. Changes “paper” to “documents” to conform to adoption of e-filing.

Proposed rule	Reasons for change
RULE 8.230. PLEADINGS TO BE SIGNED	
(a) Pleading to Be Signed by Attorney. Every written ~~paper~~document or pleading of a party represented by an attorney shall be signed in the attorney's individual name by such attorney, whose Florida Bar number, address, and telephone number, including area code, shall be stated and who shall be duly licensed to practice law in Florida. The attorney may be required by an order of court to vouch for the authority to represent such party and to give the address of such party. Except when otherwise specifically provided by these rules or applicable statute, pleadings as such need not be verified or accompanied by affidavit.	Changes "paper" to "document" to conform to adoption of e-filing.
(b) Pleading to Be Signed by Unrepresented Party. A party who has no attorney but who represents himself or herself shall sign a written pleading or other ~~paper~~document to be filed and state his or her address and telephone number, including area code.	Changes "paper" to "document" to conform to adoption of e-filing.
(c) Effect of Signing Pleading. The signature of a person shall constitute a certificate that the ~~paper~~document or pleading has been read; that to the best of the person's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading or ~~paper~~document is not signed, or is signed with intent to defeat the purpose of this rule, it may be stricken and the action may proceed as though the pleading or ~~paper~~document had not been filed.	Changes "paper" to "document" to conform to adoption of e-filing.

Committee Notes

[No change]

Proposed rule	Reasons for change
RULE 8.690. DISPOSITION HEARINGS	
(a)–(c) [No change]	
(d) Out-of-Home Placement. If the court places the child in out-of-home placement, subsequent proceedings shall be governed by part ~~II~~III D of these rules.	Corrects numbers of part.

Proposed rule	Reasons for change
RULE 9.020. DEFINITIONS	
The following terms have the meanings shown as used in these rules:	
(a)–(g) [No change]	
(h) Applicability of Florida Rules of Judicial Administration. The Florida Rules of Judicial Administration are applicable in all proceedings governed by these rules, except as otherwise provided in these rules. These rules shall govern where in conflict with the Florida Rules of Judicial Administration.	Creates a definition for the applicability of the Florida Rules of Judicial Administration.
(~~h~~i) Rendition (of an Order). An order is rendered when a signed, written order is filed with the clerk of the lower tribunal. However, unless another applicable rule of procedure specifically provides to the contrary, if a final order has been entered and there has been filed in the lower tribunal an authorized and timely motion for new trial, for rehearing, for certification, to alter or amend, for judgment in accordance with prior motion for directed verdict, for arrest of judgment, to challenge the verdict, to correct a sentence or order of probation pursuant to Florida Rule of Criminal Procedure 3.800(b)(1), to withdraw a plea after sentencing pursuant to Florida Rule of Criminal Procedure 3.170(*l*), or to vacate an order based upon the recommendations of a hearing officer in accordance with Florida Family Law Rule of Procedure 12.491, the following exceptions apply:	Technical amendments to previous subdivisions (h) and (i) due to renumbering of subdivisions.

(1)–(3) [No change]

(~~i~~j) **Rendition of an Appellate Order.** If any timely and authorized motion under rule 9.330 or 9.331 is filed, the order shall not be deemed rendered as to any party until all of the motions are either abandoned or resolved by the filing of a written order.

Committee Notes

[No change]

Court Commentary

[No change]

Proposed rule	Reasons for change
RULE 9.110. APPEAL PROCEEDINGS TO REVIEW FINAL ORDERS OF LOWER TRIBUNALS AND ORDERS GRANTING NEW TRIAL IN JURY AND NON-JURY CASES	
(a) [No change]	
(b) Commencement. Jurisdiction of the court under this rule shall be invoked by filing ~~an original and 1 copy of~~ a notice, accompanied by any filing fees prescribed by law, with the clerk of the lower tribunal within 30 days of rendition of the order to be reviewed.	Amended to remove paper quantity filing requirements.
(c) Exception; Administrative Action. In an appeal to review final orders of lower administrative tribunals, the appellant shall file the ~~original~~ notice with the clerk of the lower administrative tribunal within 30 days of rendition of the order to be reviewed, and shall also file a copy of the notice, accompanied by any filing fees prescribed by law, with the clerk of the court.	Amended to remove reference to “original” document. Amended to require the filing of notice with the clerk of the court.
(d) [No change]	
(e) Record. Within 50 days of filing the notice, the clerk shall prepare the record prescribed by rule 9.200 and serve copies of the index on all parties. Within 110 days of filing the notice, the clerk shall electronically transmit the record to the court.	Amended to specify electronic transmission of the court record.

(f) [No change]

(g) Cross-Appeal. An appellee may cross-appeal by serving a notice within 10 days of service of the appellant's timely filed notice of appeal or within the time prescribed for filing a notice of appeal, whichever is later. The ~~original and 1 copy of the~~ notice of cross-appeal, accompanied by any filing fees prescribed by law, shall be filed either before service or immediately thereafter in the same manner as the notice of appeal.

Amended to remove paper quantity filing requirements.

(h)–(i) [No change]

(j) Exception; Appeal Proceedings from District Courts of Appeal. If the appeal is from an order of a district court of appeal, the clerk shall electronically transmit the record to the court within 60 days of filing the notice. Appellant's initial brief shall be served within 20 days of filing the notice. Additional briefs shall be served as prescribed by rule 9.210.

Amended to specify electronic transmission of the court record.

(k)–(m) [No change]

(n) Exception; Appeal of Final Order Dismissing Petition for Judicial Waiver of Parental Notice of Termination of Pregnancy. If an unmarried minor or another person on her behalf appeals an order dismissing a petition for judicial waiver of parental notice of termination of pregnancy, the clerk of the lower tribunal shall prepare and electronically transmit the record as described in rule 9.200(d) within 2 days from the filing of the notice of appeal. The district court of appeal shall render its decision on the appeal as expeditiously as possible and no later than

Amended to specify electronic transmission of the court record.

10 days from the filing of the notice of appeal. Briefs or oral argument may be ordered at the discretion of the district court of appeal. The minor may move for leave to file a brief and may request oral argument. If no decision is rendered within the foregoing time period, the order shall be deemed reversed, the petition shall be deemed granted, and the clerk shall place a certificate to this effect in the file and provide the minor with a certified copy of the certificate. The appeal and all proceedings thereon shall be confidential so that the minor shall remain anonymous. The file shall remain sealed unless otherwise ordered by the court. Should the dismissal of the petition be reversed on appeal, the clerk shall furnish the petitioner with a certified copy of the decision or the clerk's certificate for delivery to the minor's physician. No filing fee shall be required for any part of an appeal of the dismissal of a petition for a waiver of parental notice of termination of pregnancy.

Committee Notes

[No change]

Court Commentary

[No change]

Proposed rule	Reasons for change
RULE 9.120. DISCRETIONARY PROCEEDINGS TO REVIEW DECISIONS OF DISTRICT COURTS OF APPEAL	
(a) [No change]	
(b) Commencement. The jurisdiction of the supreme court described in rule 9.030(a)(2)(A) shall be invoked by filing ~~2 copies of~~ a notice, accompanied by the filing fees prescribed by law, with the clerk of the district court of appeal within 30 days of rendition of the order to be reviewed.	Amended to remove paper quantity filing requirements.
(c)–(d) [No change]	
(e) Accepting or Postponing Decision on Jurisdiction; Record. If the supreme court accepts or postpones decision on jurisdiction, the court shall so order and advise the parties and the clerk of the district court of appeal. Within 60 days thereafter or such other time set by the court, the clerk shall electronically transmit the record.	Amended to specify electronic transmission of the court record.
(f) [No change]	
Committee Notes	
[No change]	

Proposed rule	Reasons for change
RULE 9.125. REVIEW OF TRIAL COURT ORDERS AND JUDGMENTS CERTIFIED BY THE DISTRICT COURTS OF APPEAL AS REQUIRING IMMEDIATE RESOLUTION BY THE SUPREME COURT	
(a)–(f) [No change]	
(g) Procedure When Supreme Court Accepts Jurisdiction. The jurisdiction of the supreme court attaches on rendition of the order accepting jurisdiction. If the supreme court accepts jurisdiction, it shall so order and advise the parties, the clerk of the district court, and the clerk of the lower tribunal. The clerk of the district court shall ~~transfer~~electronically transmit the record in the case to the supreme court within 10 days thereafter. The time limitations of the applicable jurisdictional rule will continue in effect, except that all papers formerly required to be filed in the district court shall be filed in the supreme court.	Amended to specify electronic transmission of the court record.
Committee Notes	
[No change]	

Proposed rule	Reasons for change
RULE 9.130. PROCEEDINGS TO REVIEW NON-FINAL ORDERS AND SPECIFIED FINAL ORDERS	
(a) [No change]	
(b) Commencement. The jurisdiction to seek review of orders described in subdivisions (a)(3)–(a)(6) shall be invoked by filing ~~2 copies of~~ a notice, accompanied by the filing fees prescribed by law, with the clerk of the lower tribunal within 30 days of rendition of the order to be reviewed.	Amended to remove paper quantity filing requirements.
(c)–(h) [No change]	
Committee Notes	
[No change]	

Proposed rule	Reasons for change

RULE 9.140. APPEAL PROCEEDINGS IN CRIMINAL CASES

(a) [No change]

(b) Appeals by Defendant.

(1) [No change]

(2) Guilty or Nolo Contendere Pleas.

(A) Pleas. A defendant may not appeal from a guilty or nolo contendere plea except as follows:

(i) Reservation of Right to Appeal. A defendant who pleads guilty or nolo contendere may expressly reserve the right to appeal a prior dispositive order of the lower tribunal, identifying with particularity the point of law being reserved.

(ii) Appeals Otherwise Allowed. A defendant who pleads guilty or nolo contendere may otherwise directly appeal only

a. the lower tribunal's lack of subject matter jurisdiction;

b. a violation of the plea agreement, if preserved by a motion to withdraw plea;

c. an involuntary plea, if preserved by a motion to withdraw plea;

d. a sentencing error, if preserved; or

e. as otherwise provided by law.

(B) Record.

(i) Except for appeals under subdivision (b)(2)(A)(i) of this rule, the record for appeals involving a plea of guilty or nolo contendere shall be limited to:

a. all indictments, informations, affidavits of violation of probation or community control, and other charging documents;

b. the plea and sentencing hearing transcripts;

c. any written plea agreements;

d. any judgments, sentences, scoresheets, motions, and orders to correct or modify sentences, orders imposing, modifying, or revoking probation or community control, orders assessing costs, fees, fines, or restitution against the defendant, and any

other documents relating to sentencing;

e. any motion to withdraw plea and order thereon;

f. notice of appeal, statement of judicial acts to be reviewed, directions to the clerk, and designation to the approved court reporter or approved transcriptionist.

(ii) Upon good cause shown, the court, or the lower tribunal before the record is electronically transmitted, may expand the record.

Amended to specify electronic transmission of the court record.

(3)–(4) [No change]

(c) [No change]

(d) Withdrawal of Defense Counsel after Judgment and Sentence or after Appeal by State.

(1) The attorney of record for a defendant in a criminal proceeding shall not be relieved of any professional duties, or be permitted to withdraw as defense counsel of record, except with approval of the lower tribunal on good cause shown on written motion, until either the time has expired for filing an authorized notice of appeal and no such notice has been filed by the defendant or the state, or after the following have been completed:

(A) a notice of appeal or cross-appeal has been filed on behalf of the defendant or the state;

(B) a statement of judicial acts to be reviewed has been filed if a transcript will require the expenditure of public funds;

(C) the defendant's directions to the clerk have been filed, if necessary;

(D) designations to the approved court reporter or approved transcriptionist have been filed for transcripts of those portions of the proceedings necessary to support the issues on appeal or, if transcripts will require the expenditure of public funds for the defendant, of those portions of the proceedings necessary to support the statement of judicial acts to be reviewed; and

(E) in publicly funded defense and state appeals, the lower tribunal has appointed the public defender for the local circuit court, who shall initially remain counsel for the appeal until the record is electronically transmitted to the appellate court. In publicly funded state appeals, defense counsel shall additionally file in the appellate court a copy of the order appointing the local public defender. In non-publicly funded defense and state appeals, retained appellate counsel shall file a notice of appearance in the appellate court, or defense counsel of record shall file a motion to withdraw in the appellate court, with service on the defendant, that states what the defendant's legal representation on appeal, if any, is expected to be. Documents filed in the appellate court shall be served on the attorney general (or state attorney in appeals to the circuit court).

Amended to specify electronic transmission of the record.

(2) Orders allowing withdrawal of counsel

are conditional and counsel shall remain of record for the limited purpose of representing the defendant in the lower tribunal regarding any sentencing error the lower tribunal is authorized to address during the pendency of the direct appeal pursuant to Florida Rule of Criminal Procedure 3.800(b)(2).

(e) [No change]

(f) Record.

(1) Service. The clerk of the lower tribunal shall prepare and serve the record prescribed by rule 9.200 within 50 days of the filing of the notice of appeal.

(2) Transcripts.

(A) If a defendant's designation of a transcript of proceedings requires expenditure of public funds, trial counsel for the defendant (in conjunction with appellate counsel, if possible) shall serve, within 10 days of filing the notice, a statement of judicial acts to be reviewed, and a designation to the approved court reporter or approved transcriptionist requiring preparation of only so much of the proceedings as fairly supports the issue raised.

(B) Either party may file motions in the lower tribunal to reduce or expand the transcripts.

(C) Except as permitted in subdivision (f)(2)(D) of this rule, the parties shall designate the approved court reporter or approved transcriptionist to file with the clerk of the lower tribunal the ~~original~~

Amended to provide an exception to the e-filing

transcripts for the court and sufficient paper copies for ~~the state and all indigent defendants~~ all parties exempt from service by electronic mail as set forth in the Florida Rules of Judicial Administration.

requirement.

(D) Non-indigent defendants represented by counsel may designate the approved court reporter or approved transcriptionist to prepare ~~only original~~the transcripts. Counsel adopting this procedure shall, within 5 days of receipt of the ~~original~~ transcripts from the approved court reporter or approved transcriptionist, file the ~~original~~ transcripts ~~along with securely bound copies for the state and all defendants~~. Counsel shall serve notice of the use of this procedure on the attorney general (or the state attorney in appeals to circuit court) and the clerk of the lower tribunal. Counsel shall attach a certificate to each ~~copy~~transcript certifying that it is ~~an~~ accurate and complete ~~copy of the original transcript~~. When this procedure is used, the clerk of the lower tribunal upon conclusion of the appeal shall retain the ~~original~~ transcript(s) for use as needed by the state in any collateral proceedings and shall not ~~destroy~~dispose of the transcripts without the consent of the Office of the Attorney General.

Amended to remove references to “original” transcripts and distribution.

(E) In state appeals, the state shall designate the approved court reporter or approved transcriptionist to prepare and file with the clerk of the lower tribunal the ~~original~~ transcripts and sufficient copies for all ~~separately represented defendants~~parties exempt from service by electronic mail as set forth in the Florida Rules of Judicial Administration. Alternatively, the state may elect to use the procedure specified in subdivision (f)(2)(D) of this

Amended to specify an exemption to electronic documents.

rule.

(F) The lower tribunal may by administrative order in publicly-funded cases direct the clerk of the lower tribunal rather than the approved court reporter or approved transcriptionist to prepare the necessary ~~copies of the original~~ transcripts.

Amended to remove references to copies.

(3) Retention of Documents. Unless otherwise ordered by the court, the clerk of the lower tribunal shall retain ~~all~~any original documents ~~except the original transcripts designated for appeal which shall be included in the record transmitted to the court~~.

Amended to remove references to original documents.

(4)–(5) [No change]

(6) Supplemental Record for Motion to Correct Sentencing Error Pursuant to Florida Rule of Criminal Procedure 3.800(b)(2).

(A) The clerk of circuit court shall automatically supplement the appellate record with any motion pursuant to Florida Rule of Criminal Procedure 3.800(b)(2), any response, any resulting order, and any amended sentence. The clerk shall electronically transmit the supplement to the appellate court within 5 days of the filing of the order ruling on the motion. If an order is not filed within 60 days from the filing of the motion, this time shall run from the expiration of the 60 day period, and the clerk shall supplement the record with the motion and a statement that no order was timely filed.

Amended to provide for electronic transmission of the record.

(B) [No change]

(g)–(i) [No change]

Committee Notes

[No change]

Court Commentary

[No change]

Proposed rule	Reasons for change
RULE 9.141. REVIEW PROCEEDINGS IN COLLATERAL OR POST-CONVICTION CRIMINAL CASES; BELATED APPEALS; BELATED DISCRETIONARY REVIEW; INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL	
(a) [No change]	
(b) Appeals from Post-Conviction Proceedings Under Florida Rule of Criminal Procedure 3.800(a), 3.850, or 3.853.	
(1) Applicability of Civil Appellate Procedures. Appeal proceedings under this subdivision shall be as in civil cases, except as modified by this rule.	
(2) Summary Grant or Denial of Motion Without Evidentiary Hearing.	
(A) When a motion for post-conviction relief under rule 3.800(a), 3.850, or 3.853 is granted or denied without an evidentiary hearing, the clerk of the lower tribunal shall electronically transmit to the court, as the record, ~~copies of~~ the motion, response, reply, order on the motion, motion for rehearing, response, reply, order on the motion for rehearing, and attachments to any of the foregoing, together with the certified copy of the notice	Amended to include a reference to electronic transmission of documents.

of appeal.

(B)–(D) [No change]

(3) Grant or Denial of Motion after Evidentiary Hearing.

(A) Transcription. In the absence of designations to the court reporter, the notice of appeal filed by an indigent pro se litigant in a rule 3.850 or 3.853 appeal after an evidentiary hearing shall serve as the designation to the court reporter for the transcript of the evidentiary hearing. Within 5 days of receipt of the notice of appeal, the clerk of the lower tribunal shall request the appropriate court reporter to transcribe the evidentiary hearing and shall send the court reporter a copy of the notice, the date of the hearing to be transcribed, the name of the judge, and a copy of this rule.

(B) Record.

(i) When a motion for post-conviction relief under rule 3.850 or 3.853 is granted or denied after an evidentiary hearing, the clerk of the lower tribunal shall index, paginate, and electronically transmit to the court as the record, within 50 days of the filing of the notice of appeal, ~~copies of~~ the notice of appeal, motion, response, reply, order on the motion, motion for rehearing, response, reply, order on the motion for rehearing, and attachments to any of the foregoing, as well as the ~~original~~ transcript of the evidentiary hearing.

(ii)–(iii) [No change]

(C) [No change]

(c) [No change]

Amended to include electronic transmission of documents and remove reference to copies and "original."

Committee Notes

[No change]

Proposed rule	Reasons for change
RULE 9.142. PROCEDURES FOR REVIEW IN DEATH PENALTY CASES	
(a) Procedure in Death Penalty Appeals.	
(1) Record.	
(A) When the notice of appeal is filed in the supreme court, the chief justice will direct the appropriate chief judge of the circuit court to monitor the preparation of the complete record for timely filing in the supreme court. Transcripts of all proceedings conducted in the lower tribunal shall be included in the record under these rules.	
(B) The complete record in a death penalty appeal shall include all items required by rule 9.200 and by any order issued by the supreme court. In any appeal following the initial direct appeal, the record that is electronically transmitted shall begin with the most recent mandate issued by the supreme court, or the most recent filing not already electronically transmitted in a prior record in the event the preceding appeal was disposed of without a mandate, and shall exclude any materials already transmitted to the supreme court as the record in any prior appeal.	Amended to include a reference to electronic transmission of documents.
(C) The supreme court shall take judicial notice of the appellate records in all prior appeals and writ proceedings involving a challenge to the same judgment of conviction and sentence of death. Appellate	

records subject to judicial notice under this subdivision shall not be duplicated in the record transmitted for the appeal under review.

(2) Briefs; Transcripts. After the record is filed, the clerk will promptly establish a briefing schedule allowing the defendant 60 days from the date the record is filed, the state 45 days from the date the defendant's brief is served, and the defendant 30 days from the date the state's brief is served to serve their respective briefs. On appeals from orders ruling on applications for relief under Florida Rule of Criminal Procedure 3.851 or 3.853, and on resentencing matters, the schedules set forth in rule 9.140(g) will control. ~~In addition to filing paper copies of transcripts, the court reporter shall file with the clerk of the lower tribunal, on clearly labeled computer disks in a format approved by the supreme court, sufficient copies of these transcripts for the clerk of the lower tribunal to include the disks in the record transmitted to the court and to the parties.~~

Removes procedure for filing computer disk copies of transcripts.

(3)–(6) [No change]

(b) [No change]

(c) Review of Dismissal of Postconviction Proceedings and Discharge of Counsel in Florida Rule of Criminal Procedure 3.851(i) Cases.

(1) Applicability. This rule applies when the circuit court enters an order dismissing postconviction proceeding and discharging counsel under Florida Rule of Criminal Procedure 3.851(i).

(2) Procedure Following Rendition of Order of Dismissal and Discharge.

(A) Notice to Court. Within 10 days of the rendition of an order granting a prisoner's motion to discharge counsel and dismiss the motion for postconviction relief, discharged counsel shall file with the clerk of the circuit court ~~2 copies of~~ a notice seeking review in the supreme court.

Amended to remove reference to copies.

(B) Transcription. The circuit judge presiding over any hearing on a motion to dismiss and discharge counsel shall order a transcript of the hearing to be prepared and filed with the clerk of the circuit court no later than 25 days from rendition of the final order.

(C) Record. Within 30 days of the granting of a motion to dismiss and discharge counsel, the clerk of the circuit court shall ~~forward~~electronically transmit a copy of the motion, order, and transcripts of all hearings held on the motion to the clerk of the supreme court.

Amended to include a reference to electronic transmission of documents.

(D) [No change]

(d) [No change]

Committee Notes

[No change]

Proposed rule	Reasons for change
RULE 9.145. APPEAL PROCEEDINGS IN JUVENILE DELINQUENCY CASES	
(a)–(d) [No change]	
(e) Confidentiality. All documents that are filed in paper~~s~~ format under seal shall remain sealed in the office of the clerk of court when not in use by the court, and shall not be open to inspection except by the parties and their counsel, or as otherwise ordered.	Amended to maintain the confidentiality of paper documents for juvenile delinquents.
Committee Notes	
[No change]	

Proposed rule	Reason for change
RULE 9.146. APPEAL PROCEEDINGS IN JUVENILE DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS CASES AND CASES INVOLVING FAMILIES AND CHILDREN IN NEED OF SERVICES	
(a)–(e) [No change]	
(f) Confidentiality. All documents that are filed in paper~~s~~ format under seal shall remain sealed in the office of the clerk of the court when not in use by the court, and shall not be open to inspection except by the parties and their counsel, or as otherwise ordered.	Amended to maintain the confidentiality of paper documents for juvenile dependents and termination of parental rights cases.
(g) Special Procedures and Time Limitations Applicable to Appeals of Final Orders in Dependency or Termination of Parental Rights Proceedings.	
(1) Applicability. This subdivision applies only to appeals of final orders to the district courts of appeal.	
(2) The Record.	
(A) Contents. The record shall be prepared in accordance with rule 9.200, except as modified by this subdivision.	
(B) Transcripts of Proceedings. The appellant shall file a designation to the court reporter, including the name(s) of the individual court reporter(s), if	

applicable, with the notice of appeal. The designation shall be served on the court reporter on the date of filing and shall state that appeal is from a final order of termination of parental rights or of dependency, and that the court reporter shall provide the transcript(s) designated within 20 days of the date of service. Within 20 days of the date of service of the designation, the court reporter shall transcribe and file with the clerk of the lower tribunal the ~~original~~ transcripts and sufficient copies for ~~the Department of Children and Family Services, the guardian ad litem, and all indigent parties~~all parties exempt from service by electronic mail as set forth in the Florida Rules of Judicial Administration. If extraordinary reasons prevent the reporter from preparing the transcript(s) within the 20 days, the reporter shall request an extension of time, shall state the number of additional days requested, and shall state the extraordinary reasons that would justify the extension.

Amended to clarify an exception to electronic mail service.

(C) Directions to the Clerk, Duties of the Clerk, Preparation and Transmittal of the Record. The appellant shall file directions to the clerk with the notice of appeal. The clerk shall electronically transmit the record to the court within 5 days of the date the court reporter files the transcript(s) or, if a designation to the court reporter has not been filed, within 5 days of the filing of the notice of appeal. When the record is electronically transmitted to the court, the clerk shall simultaneously ~~serve copies of~~electronically transmit the record to the Department of Children and Family Services, the guardian ad litem, ~~the indigent parties or~~ counsel appointed to represent any indigent parties, and shall simultaneously serve copies of the index to all non-indigent parties, and, upon their request, copies of the record or portions thereof ~~at~~

Amended to clarify the requirement of and an exception to electronic transmittal of the record.

~~the cost prescribed by law~~. The clerk shall provide the record in paper form to all parties exempt from service by electronic mail as set forth in the Florida Rules of Judicial Administration.

(3)–(7) [No change]

(h) [No change]

Committee Notes

[No change]

Proposed rule	Reasons for change
RULE 9.160. DISCRETIONARY PROCEEDINGS TO REVIEW DECISIONS OF COUNTY COURTS	
(a) [No change]	
(b) Commencement. Any appeal of an order certified by the county court to be of great public importance must be taken to the district court of appeal. Jurisdiction of the district court of appeal under this rule shall be invoked by filing ~~2 copies of~~ a notice and ~~a copy of~~ the order containing certification, accompanied by the filing fees prescribed by law, with the clerk of the lower tribunal. The time for filing the appeal shall be the same as if the appeal were being taken to the circuit court.	Amended to remove reference to copies.
(c)–(j) [No change]	
Committee Notes	
[No change]	

Proposed rule	Reasons for change

RULE 9.180. APPEAL PROCEEDINGS TO REVIEW WORKERS' COMPENSATION CASES

(a) [No change]

(b) Jurisdiction.

(1) Appeal. The First District Court of Appeal (the court) shall review by appeal any final order, as well as any nonfinal order of a lower tribunal that adjudicates

(A) jurisdiction;

(B) venue; or

(C) compensability, provided that the order expressly finds an injury occurred within the scope and course of employment and that claimant is entitled to receive causally related benefits in some amount, and provided further that the lower tribunal certifies in the order that determination of the exact nature and amount of benefits due to claimant will require substantial expense and time.

(2) Waiver of Review: Abbreviated Final Orders. Unless a request for findings of fact and conclusions of law is timely filed, review by appeal of an abbreviated final order shall be deemed waived. The filing of a timely request tolls the time within which an

abbreviated final order becomes final or an appeal may be filed.

(3) Commencement. Jurisdiction of the court shall be invoked by filing ~~two copies of~~ a notice of appeal with the lower tribunal, accompanied by the filing fee prescribed by law unless a verified petition for relief from payment of the fee has been filed with the lower tribunal within 30 days of the date the order to be reviewed is mailed by the lower tribunal to the parties, which date shall be the date of rendition.

Amended to remove reference to copies.

(4) [No change]

(c)–(i) [No change]

Committee Notes

[No change]

Proposed rule	Reason for change

RULE 9.200. THE RECORD

(a) Contents.

(1) Except as otherwise designated by the parties, the record shall consist of the original documents, all exhibits that are not physical evidence, and any transcript(s) of proceedings filed in the lower tribunal, except summonses, praecipes, subpoenas, returns, notices of hearing or of taking deposition, depositions, and other discovery. In criminal cases, when any exhibit, including physical evidence, is to be included in the record, the clerk of the lower tribunal shall not, unless ordered by the court, transmit the original and, if capable of reproduction, shall transmit a copy, including but not limited to copies of any tapes, CDs, DVDs, or similar electronically recorded evidence. The record shall also include a progress docket.

(2) In family law, juvenile dependency, and termination of parental rights cases, and cases involving families and children in need of services, the record shall include those items designated in subdivision (a)(1) except that the clerk of the lower tribunal shall retain the original orders, reports and recommendations of magistrates or hearing officers, and judgments within the file of the lower tribunal and shall include copies thereof within the record.

(3) Within 10 days of filing the notice of appeal, an appellant may direct the clerk to include or exclude other documents or exhibits filed in the lower tribunal. The directions shall be substantially in the form

prescribed by rule 9.900(g). If the clerk is directed to transmit less than the entire record or a transcript of trial with less than all of the testimony, the appellant shall serve with such direction a statement of the judicial acts to be reviewed. Within 20 days of filing the notice, an appellee may direct the clerk to include additional documents and exhibits.

(4) The parties may prepare a stipulated statement showing how the issues to be presented arose and were decided in the lower tribunal, attaching a copy of the order to be reviewed and as much of the record in the lower tribunal as is necessary to a determination of the issues to be presented. The parties shall advise the clerk of their intention to rely on a stipulated statement in lieu of the record as early in advance of filing as possible. The stipulated statement shall be filed by the parties and transmitted to the court by the clerk of the lower tribunal within the time prescribed for transmittal of the record.

(5) Where any court record, as defined in Rule 2.420(b)(1)(A), Florida Rules of Judicial Administration, of proceedings in the lower tribunal has been made or maintained in one of the following electronic formats: fully searchable indexed PDF; fully searchable non-indexed PDF; or, PDF, but not searchable

Creates subdivision (a)(5) to clarify the specifics of an electronic record.

(A) the record, as defined in subdivision (a)(1) through (a)(3), shall be comprised of the electronic form of those items described in subdivision (a)(1) that were created or maintained in the aforementioned electronic formats; or

(B) where the parties elect to prepare a stipulated statement in accordance with subdivision (a)(4), the stipulated statement and its attachment shall be filed electronically in one of the aforementioned electronic formats.

(b) Transcript(s) of Proceedings.

(1) Within 10 days of filing the notice, the appellant shall designate those portions of the proceedings not on file deemed necessary for transcription and inclusion in the record. Within 20 days of filing the notice, an appellee may designate additional portions of the proceedings. Copies of designations shall be served on the approved court reporter, civil court reporter, or approved transcriptionist. Costs of the ~~original and all copies of the~~ transcript(s) so designated shall be borne initially by the designating party, subject to appropriate taxation of costs as prescribed by rule 9.400. At the time of the designation, unless other satisfactory arrangements have been made, the designating party must make a deposit of 1/2 of the estimated transcript costs, and must pay the full balance of the fee on delivery of the completed transcript(s).

Amended to remove references to copies.

(2) Within 30 days of service of a designation, or within the additional time provided for under subdivision (b)(3) of this rule, the approved court reporter, civil court reporter, or approved transcriptionist shall transcribe and file with the clerk of the lower tribunal the designated proceedings and shall serve copies as requested in the designation. ~~In addition to the paper copies, the approved court reporter, civil court reporter, or approved transcriptionist shall file with the clerk of the lower tribunal~~

Amended to remove the rule reference to paper copies as the primary record.

~~and serve on the designated parties an electronic copy of the designated proceedings in a format approved by the supreme court.~~ If a designating party directs the approved court reporter, civil court reporter, or approved transcriptionist to furnish the transcript(s) to fewer than all parties, that designating party shall serve a copy of the designated transcript(s)~~, in both electronic and paper form,~~ on the parties within 5 days of receipt from the approved court reporter, civil court reporter, or approved transcriptionist. The transcript of the trial shall be ~~securely bound~~organized in consecutively numbered volumes not to exceed 200 pages each, and each page shall be numbered consecutively. Each volume shall be prefaced by an index containing the names of the witnesses, a list of all exhibits offered and introduced in evidence, and the pages where each may be found.

Removes the reference to both electronic and paper style transcripts.

Removes reference to bindings of paper documents.

(3) On service of a designation, the approved court reporter, civil court reporter, or approved transcriptionist shall acknowledge at the foot of the designation the fact that it has been received and the date on which the approved court reporter, civil court reporter, or approved transcriptionist expects to have the transcript(s) completed and shall ~~transmit~~serve the so-endorsed designation~~, so endorsed, to~~ on the parties and ~~to~~file it with the clerk of the appellate court within 5 days of service. If the transcript(s) cannot be completed within 30 days of service of the designation, the approved court reporter, civil court reporter, or approved transcriptionist shall request such additional time as is reasonably necessary and shall state the reasons therefor. If the approved court reporter, civil court reporter, or approved transcriptionist requests an extension of time, the court shall allow the parties 5 days in

Amended to clarify the transcript service requirement placed on the court reporter or transcriptionist.

which to object or agree. The appellate court shall approve the request or take other appropriate action and shall notify the reporter and the parties of the due date of the transcript(s).

(4) If no report of the proceedings was made, or if the transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement shall be served on the appellee, who may serve objections or proposed amendments to it within 10 days of service. Thereafter, the statement and any objections or proposed amendments shall be ~~submitted to~~filed with the lower tribunal for settlement and approval. As settled and approved, the statement shall be included by the clerk of the lower tribunal in the record.

Amendment of the verb so it is more compatible with electronic document filings.

(c) [No change]

(d) Duties of Clerk; Preparation and Transmittal of Record.

(1) The clerk of the lower tribunal shall prepare the record as follows:

(A) The clerk of the lower tribunal shall not be required to verify and shall not charge for the incorporation of any transcript(s) into the record. The transcript of the trial shall be incorporated at the end of the record, and shall not be renumbered by the clerk. The progress docket shall be incorporated into the record immediately after the index.

(B) The remainder of the record, including all supplements and any transcripts other than the transcript of the trial, shall be consecutively numbered. The record shall be ~~securely bound~~organized in consecutively numbered volumes not to exceed 200 pages each. The cover sheet of each volume shall contain the name of the lower tribunal and the style and number of the case. Any volume of the record that is prepared in paper format shall be securely bound.

Amended to remove the reference to paper document binding.

Amended to retain requirements for document filing as an alternative.

(C) The record, or portions of the record, prepared in accordance with subdivision (a)(5) shall be organized, numbered, and formatted in accordance with subdivision (d)(1)(A)–(d)(1)(B), except that each such volume shall be prepared in electronic format as a PDF file having the indexing and searching characteristics of the electronic items comprising that volume of the record. The index and progress docket shall also be included as a separate indexed, fully searchable PDF file.

Created to establish the requirements of the electronic record.

(2) The clerk of the lower tribunal shall prepare a complete index to the record and shall attach a copy of the progress docket to the index.

(3) The clerk of the lower tribunal shall certify and transmit the record to the court as prescribed by these rules~~; provided that if the parties stipulate or the lower tribunal orders that the original record be retained, the clerk shall prepare and transmit a certified copy~~.

Removes the party's or lower court's option to require the clerks to retain the original record.

(e)–(g) [No change]

Committee Notes

[No change]

Proposed rule	Reasons for change
RULE 9.210. BRIEFS	
(a) Generally. In addition to briefs on jurisdiction under rule 9.120(d), the only briefs permitted to be filed by the parties in any one proceeding are the initial brief, the answer brief, a reply brief, and a cross-reply brief. All briefs required by these rules shall be prepared as follows:	
(1) When not filed in electronic format, b~~B~~riefs shall be printed, typewritten, or duplicated on opaque, white, unglossed ~~8½ by 11 inch~~ paper. The dimensions of each page of a brief, regardless of format, shall be 8 ½ inches by 11 inches.	Amended to define the specific requirements for paper briefs if electronic filing is not performed.
(2) The lettering in briefs shall be black and in distinct type, double-spaced, with margins no less than 1 inch. Lettering in script or type made in imitation of handwriting shall not be permitted. Footnotes and quotations may be single spaced and shall be in the same size type, with the same spacing between characters, as the text. Computer-generated briefs shall be ~~submitted~~filed in either Times New Roman 14-point font or Courier New 12-point font. All computer-generated briefs shall contain a certificate of compliance signed by counsel, or the party if unrepresented, certifying that the brief complies with the font requirements of this rule. The certificate of compliance shall be contained in the brief immediately following the certificate of service.	Changes “submitted” to “filed” to allow for e-filing.
(3) Paper copies of b~~B~~riefs shall be securely bound in book form and fastened along the left side	Amended to clarify the binding of paper documents.

in a manner that will allow them to lie flat when opened or be securely stapled in the upper left corner. Headings and subheadings shall be at least as large as the brief text and may be single spaced.

(4)–(5) [No change]

(b)–(f) [No change]

~~**(g) Filing with Courts.** The filing requirements of the courts are as follows:~~

Removes the number requirements for paper document submissions to be courts.

~~**(1) Circuit Courts.** Original and 1 copy.~~

~~**(2) District Courts of Appeal.** Original and 3 copies.~~

~~**(3) Supreme Court.** Original and 7 copies; except that 5 copies only shall accompany the original jurisdictional briefs prescribed in rule 9.120(d).~~

(~~h~~g) Citations. Counsel are requested to use the uniform citation system prescribed by rule 9.800.

Technical correction due to the removal of previous subdivision (g).

Committee Notes

[No change]

Court Commentary

[No change]

Proposed rule	Reasons for change
RULE 9.220. APPENDIX	
(a) [No change]	
(b) Contents. The appendix shall contain an index and a conformed copy of the opinion or order to be reviewed and may contain any other portions of the record and other authorities. ~~It shall be separately bound or separated from the petition, brief, motion, response, or reply by a divider and appropriate tab.~~ Asterisks should be used to indicate omissions in documents or testimony of witnesses.	Removes the binding requirements of paper documents.
(c) Format. Unless otherwise authorized by court order or court rule, the appendix shall be prepared and filed electronically with the clerk as an independent PDF file or series of independent PDF files. When a paper appendix is authorized, it shall be separately bound or separated from the petition, brief, motion, response, or reply by a divider and appropriate tab, and the following additional requirements shall apply: (1) i~~I~~f the appendix includes documents filed before January 1991 on paper measuring 8 ½ by 14 inches, the documents should be reduced in copying to 8 ½ by 11 inches, if practicable~~.~~; and (2) i~~I~~f reduction is impracticable, the appendix may measure 8 ½ by 14 inches, but it should be bound separately from the document that it accompanies.	Amended to define the electronic file formatting requirements of the appendix.
Committee Notes	
[No change]	

Proposed rule	Reasons for change
RULE 9.360. PARTIES	
(a) Joinder. A party to the cause in the lower tribunal who desires to join in a proceeding as a petitioner or appellant shall serve a notice to that effect no later than the latest of the following: (i) within 10 days of service of a timely filed petition or notice of appeal; (ii) within the time prescribed for filing a notice of appeal; or (iii) within the time prescribed in rule 9.100(c). The ~~original and 1 copy of the~~ notice of joinder, accompanied by any filing fees prescribed by law, shall be filed either before service or immediately thereafter in the same manner as the petition or notice of appeal.	Amended to remove the requirement for paper documents.
(b)–(c) [No change]	
Committee Notes	
[No change]	

Proposed rule	Reasons for change
RULE 9.500. ADVISORY OPINIONS TO GOVERNOR	
(a) Filing. A request by the governor for an advisory opinion from the justices of the supreme court on a question affecting gubernatorial powers and duties shall be in writing. The ~~original and 7 copies~~request shall be filed with the clerk of the supreme court.	Amended to remove the requirement for paper documents.
(b) [No change]	
Committee Notes	
[No change]	

Proposed rule	Reasons for change
RULE 9.510. ADVISORY OPINIONS TO ATTORNEY GENERAL	
(a) Filing. A request by the attorney general for an advisory opinion from the justices of the supreme court concerning the validity of an initiative petition for the amendment of the Florida Constitution shall be in writing. The ~~original and 7 copies~~request shall be filed with the clerk of the supreme court.	Amended to remove the requirement for paper documents.
(b)–(c) [No change]	
Committee Notes	
[No change]	

Proposed rule	Reasons for change
RULE 12.010. SCOPE, PURPOSE, AND TITLE	
(a) [No change]	
(b) Purpose.	
(1) These rules are intended to facilitate access to the court and to provide procedural fairness to all parties, to save time and expense through active case management, setting timetables, and the use of alternatives to litigation, and to enable the court to coordinate related cases and proceedings to avoid multiple appearances by the same parties on the same or similar issues and to avoid inconsistent court orders.	
(2) Nothing shall prohibit any intake personnel in family law divisions from assisting in the preparation of ~~papers~~documents or forms to be filed in any action under these rules.	Changes “papers” to “documents” to conform to adoption of e-filing.
(c) [No change]	

Proposed rule	Reasons for change
RULE 12.025. APPLICABILITY OF RULES OF JUDICIAL ADMINISTRATION	Creates new rule to incorporate e-filing rule by reference.
(a) Electronic Filing. Florida Rules of Judicial Administration 2.520 and 2.525 are applicable in all family law matters except as otherwise provided in these rules.	
(b) Exceptions. Any document filed pursuant to any proceeding under Chapter 63, Florida Statutes, which may be relied upon by the court to terminate parental rights, including consent for adoption or affidavit of nonpaternity, shall be exempt from the requirements of Rule of Judicial Administration 2.525(c).	Creates exception for documents under Chapter 63, Florida Statutes, such as affidavits of nonpaternity and consents for adoption.

Proposed rule

RULE 12.040. ATTORNEYS

(a)–(b) [No change]

(c) Scope of Representation.

(1) If an attorney appears of record for a particular limited proceeding or matter, as provided by this rule, that attorney shall be deemed "of record" for only that particular proceeding or matter. Any notice of limited appearance filed shall include the name, address, email address(es), and telephone number of the attorney and the name, address, and telephone number of the party. If the party designates email address(es) for service on and by that party, the party's email address(es) shall also be included. At the conclusion of such proceeding or matter, the attorney's role terminates without the necessity of leave of court, upon the attorney filing a notice of completion of limited appearance. The notice, which shall be titled "Termination of Limited Appearance," shall include the names and last known addresses of the person(s) represented by the withdrawing attorney.

(2) An attorney for the State's Title IV-D child support enforcement agency who appears in a family law matter governed by these rules shall file a notice informing the recipient of Title IV-D services and other parties to the case that the IV-D attorney represents only the Title IV-D agency and not the recipient of IV-D services. The notice must state that the IV-D attorney may only

Reasons for change

Amendments to this rule are also pending in the e-service case, which are indicated by single underlines. Changes in this case are in subdivision (c)(2) and are indicated by double underlining. Changes "papers" to "documents" to conform to adoption of e-filing.

address issues concerning determination of paternity, and establishment, modification, and enforcement of support obligations. The notice may be incorporated into a pleading, motion, or other ~~paper~~document filed with the court when the attorney first appears.

(d) Preparation of Pleadings or Other Documents. A party who files a pleading or other document of record pro se with the assistance of an attorney shall certify that the party has received assistance from an attorney in the preparation of the pleading or other document. The name, address, and telephone number of the party shall appear on all pleadings or other documents filed with the court. If the party designates email address(es) for service on and by that party, the party's email address(es) shall also be included.

(e) Notice of Limited Appearance. Any pleading or other document filed by a limited appearance attorney shall state in bold type on the signature page of that pleading or other document: "Attorney for [Petitioner] [Respondent] [attorney's address, email address(es), and telephone number] for the limited purpose of [matter or proceeding]" to be followed by the name of the petitioner or respondent represented and the current address and telephone number of that party. If the party designates email address(es) for service on and by that party, the party's email address(es) shall also be included.

(f) [No change]

Committee Notes

2010 Amendment. Subdivisions (c), (d), and (e) are amended to provide email addresses in accordance with Florida Rule of Judicial Administration 2.516.

Proposed rule	Reasons for change
RULE 12.080. SERVICE OF PLEADINGS AND FILING OF ~~PAPERS~~DOCUMENTS	Amendments to this rule are also pending in the e-service case, which are indicated by single underlines. Changes in this case are in subdivisions (a)(1), (a)(2), and (c)(2) and are indicated by double underlining. Changes "papers" to "documents" to conform to adoption of e-filing.
(a) Service.	
(1) Family Law Actions Generally. Service of pleadings and ~~papers~~documents after commencement of all family law actions except domestic, repeat, dating, and sexual violence shall be as set forth in Florida Rule of ~~Civil Procedure 1.080~~Judicial Administration 2.516, except that rule ~~1.080~~2.516 shall also apply to service on the party during the attorney's limited appearance as provided in rule 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.	
(2) Domestic, Repeat, Dating, and Sexual Violence Actions. Service of pleadings and ~~papers~~documents regarding domestic, repeat, dating, and sexual violence actions shall be governed by Florida Family Law Rule of Procedure 12.610, where it is in conflict with this rule.	
(b) Service and Preparation of Orders and Judgments. A copy of all orders or judgments involving family law matters except domestic, repeat, dating, and sexual violence shall be transmitted by the court or under its direction to all parties at the time of entry of the order or judgment. The court may require that recommended orders, orders, or judgments be prepared by a party. If the court requires that a	Grammatical correction.

party prepare the recommended order, order, or judgment, the party shall furnish the court with stamped, addressed envelopes to all parties for service of the recommended order, order, or judgment. The court may also require that any proposed recommended order, order, or judgment that is prepared by a party be furnished to all parties no less than 24 hours before submission to the court of the recommended order, order, or judgment.

(c) Defaulted Parties. No service need be made on parties against whom a default has been entered, except that:

(1) Pleadings asserting new or additional claims against defaulted parties shall be served in the manner provided for service of summons contained in Florida Rule of Civil Procedure 1.070.

(2) Notice of final hearings or trials and court orders shall be served on defaulted parties in the manner provided for service of pleadings and ~~papers~~documents contained in Florida Rule of ~~Civil Procedure 1.080~~Judicial Administration 2.516.

(3) Final judgments shall be served on defaulted parties as set forth in Florida Rule of ~~Civil Procedure 1.080(h)(2)~~Judicial Administration 2.516(h).

Commentary

[No change]

Committee Notes

2010 Amendment. Subdivision (a)(1) is amended to provide for service on the party during the attorney's limited appearance. Subdivisions (a)(1), (c)(2), and (c)(3) are amended to provide for service in accordance with Florida Rule of Judicial Administration 2.516.

Proposed rule	Reasons for change
RULE 12.200. CASE MANAGEMENT AND PRETRIAL CONFERENCES	
(a) Case Management Conference.	
(1) Family Law Proceedings, Generally. A case management conference may be ordered by the court at any time on the court's initiative. A party may request a case management conference 30 days after service of a petition or complaint. At such a conference the court may:	
(A) schedule or reschedule the service of motions, pleadings, and other ~~papers~~documents;	Changes "papers" to "documents" to conform to e-filing.
(B)–(O) [No change]	
(2) [No change]	
(b)–(d) [No change]	
Commentary	
[No change]	
Committee Note	
[No change]	

Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

CHARLES T. CANADY
CHIEF JUSTICE
BARBARA J. PARIENTE
R. FRED LEWIS
PEGGY A. QUINCE
RICKY POLSTON
JORGE LABARGA
JAMES E. C. PERRY
JUSTICES

THOMAS D. HALL
CLERK OF COURT

KEVIN WHITE
ACTING MARSHAL

August 4, 2010

Ms. Katherine Eastmoore Giddings
Chair, Rules of Judicial Administration Committee
Akerman Senterfitt
106 E. College Avenue, Suite 1200
Tallahassee, Florida 32301-7741

Mr. John G. Crabtree
Chair, Appellate Court Rules Committee
Crabtree & Associates, P.A.
240 Crandon Boulevard, Suite 234
Key Biscayne, Florida 33149-1624

Mr. Donald E. Christopher
Chair, Civil Procedure Rules Committee
390 North Orange Avenue, Suite 2200
PO Box 1549
Orlando, Florida 32802-1549

Mr. Robert Michael Eschenfelder
Chair, Code and Rules of Evidence Committee
Manatee County Attorney's Office
1112 Manatee Avenue West, Suite 969
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Mr. Robert T. Strain
Chair, Criminal Procedure Rules Committee
3801 Corporex Park Drive, Suite 210
Tampa, Florida 33619-1136

Mr. Steven Patrick Combs
Chair, Family Law Rules Committee
3217 Atlantic Boulevard
Jacksonville, Florida 32207-8901

Mr. William W. Booth
Chair, Juvenile Court Rules Committee
Legal Aid Society of Palm Beach County
423 Fern Street, Suite 200
West Palm Beach, Florida 33401-5839

Mr. Jeffrey Scott Goethe
Chair, Probate Rules Committee
Barnes, Walker, & Goethe, Chartered
3119 Manatee Avenue W
Bradenton, Florida 34205-3350

Ms. Michele A. Cavallaro
Chair, Small Claims Rules Committee
Fidelity National Title Group, Inc.
6600 N Andrews Avenue, Suite 300
Fort Lauderdale, Florida 33309-2189

Mr. John J. Anastasio
Chair, Traffic Court Rules Committee
3601 SE Ocean Boulevard, Suite 203
Stuart, Florida 34996-6737

Re: Electronic Court Records and Filings

Dear Committee Chairs:

At the request of the court I am writing to you as Chairs of the various Florida Bar rules committees to ask your committees to propose rule amendments necessary to implement recent recommendations of the Appellate Court Technology Committee (ACTC) concerning electronic appellate court records and filings and further to accommodate the advent of electronic court records and filings in all Florida courts.

The ACTC unanimously recommended that 1) court records of proceedings in a lower tribunal that are made or maintained in electronic form should be accepted by appellate courts, and 2) lawyers should be required to submit case filings to appellate courts in electronic format. The Florida Courts Technology Commission (FCTC) concurred in these recommendations. The Court approved the ACTC's recommendations, as well as the enclosed interim policy implementing the recommendations. See Enclosure A.

Because electronic records and filings in Florida's courts are no longer something that may occur in the future, but rather a current reality, time is of the essence. In addition to the recent activity regarding appellate courts, dozens of electronic initiatives have already been approved and are being implemented at the trial court level. See Enclosure B. The Court requests that all the Florida rules of court be reviewed to determine what rules need to be changed to accommodate electronic records and filings throughout Florida's court system.

Uniformity will of course be critical, so the Court tasks the Rules of Judicial Administration with coordinating this effort and requests submission of a single comprehensive report of proposed rule amendments across the board in this regard. This matter should be considered under the fast-track procedures for proposing rule amendments. The comprehensive report and proposed amendments should be filed with my office by January 2, 2011, with a copy to Justice Ricky Polston, as liaison for the Rules of Judicial Administration Committee, Justice Barbara J. Pariente, as liaison to the ACTC and FCTC, as well as to the director of central staff, Deborah Meyer. The Court recognizes this may require more time than the suggested deadline for submission, so if you should determine that more time is actually required to address this matter, please file a motion for extension of

time with my office. The Court would caution, however, that it wants proposed changes as soon as possible because of the rapid rate at which the transition to electronic records is taking place.

Should you have any questions, please do not hesitate to contact me or Justice Pariente, the Court's liaison to the ACTC and the FCTC.

Most cordially,

Chief Deputy Clerk

Thomas D. Hall

TDH/gp/dm/sb

Enclosures

cc: Chief Justice Charles T. Canady, Liaison to App. Court Rules Committee
Justice Barbara J. Pariente, Liaison to ACTC, FCTC, & Traffic Court Rules Committee
Justice R. Fred Lewis, Liaison to Juv. Court Rules Committee
Justice Peggy A. Quince, Liaison to Probate Rules & Small Claims Rules Committees
Justice Ricky L. Polston, Liaison to Code and Rules of Evidence & Jud. Admin. Rules Committees
Justice Jorge Labarga, Liaison to Crim. P. Rules Committee
Justice James E. C. Perry, Liaison to Civ. P. Rules & Family Law Rules Committees
Judge Judith Kreeger, Chair, Florida Courts Technology Commission
Judge Stevan Northcutt, Chair, Appellate Courts Technology Committtee
Mr. John F. Harkness, Jr., Executive Director, The Florida Bar
Ms. Lisa Goodner, State Court Administrator
Ms. Jodi Jennings, Bar Staff Liaison to Crim. P. Rules & Jud. Admin. Rules Committees
Ms. Krys Godwin, Bar Staff Liaison to App. Court Rules, Small Claims Rules, Traffic Court Rules, & Probate Rules Committees
✓Ms. Ellen Sloyer, Bar Staff Liaison to Family Law Rules, Civ. P. Rules, Code and Rules of Evidence & Juv. Court Rules Committees
Ms. Deborah Meyer, Director of Central Staff

Supreme Court of Florida

No. AOSC10-32

IN RE: INTERIM POLICY ON ELECTRONIC APPELLATE COURT RECORDS

ADMINISTRATIVE ORDER

The purpose of the Appellate Court Technology Committee, which is a standing committee of the Florida Courts Technology Commission, is to provide technical guidance and consultation to the Florida Courts Technology Commission and the Office of the State Courts Administrator regarding information systems development and operational policies and procedures relating to automation in Florida's district courts of appeal.

Based on recommendations of the Florida Courts Technology Commission, this Court has approved various applications of electronic technology for use in Florida's trial and appellate courts. Approved applications of technology in various Florida trial courts have enabled the clerks of those tribunals to make and maintain some court records in electronic form. These electronic court records are available for use in the appellate courts, to the advantage of the litigants, counsel, and appellate court personnel, thereby resulting in potential savings for the expense of using and storing the court records in paper form.

However, current rules of court procedure do not authorize appellate courts to utilize these electronic trial court records as the Record on Appeal, thereby necessitating the duplicative transmission and use of both paper and electronic records. The Appellate Court Technology Committee has recommended that court records of proceedings in a lower tribunal that are made or maintained in electronic form should be accepted by Florida appellate courts. The Florida Courts Technology Commission concurs in that recommendation.

Accordingly, it is hereby ordered that:

1. Any court record, as defined in rule 2.420(b)(1)(A), Florida Rules of Judicial Administration, of proceedings in a lower tribunal that is made or maintained in one of the following electronic formats shall be deemed sufficient to satisfy the requirements of rule 9.200(d), Florida Rules of Appellate Procedure, when transmitted to an appellate court of this State by the clerk of the lower tribunal:

   - indexed, fully searchable PDF;
   - fully searchable PDF, not indexed; or
   - PDF, but not searchable.

   Because the format for the record to be provided to appellate courts in Florida in the future is likely to be a fully indexed, fully searchable

PDF document, trial court clerks are encouraged to start creating that type of record as soon as possible.

2. When determined to be feasible by the Chief Justice of the Supreme Court or the chief judge of a district court of appeal, the Chief Justice or chief judge may exercise his or her administrative authority to dispense with the requirement for a paper copy of the Record on Appeal to be submitted with the electronic version transmitted to the appellate court by the clerk of the lower tribunal.

3. Effective February 1, 2011, any filing by an attorney in one of the district courts of appeal or the Supreme Court of Florida shall be in digital format as well as in paper. The clerk of the respective appellate court shall publish instructions on the manner in which these electronic documents will be submitted.

4. When determined to be feasible by the Chief Justice of the Supreme Court of Florida or the chief judge of a district court of appeal, the Chief Justice or chief judge may exercise his or her administrative authority to dispense with the requirement for a paper copy to be submitted with the digital document filed by an attorney.

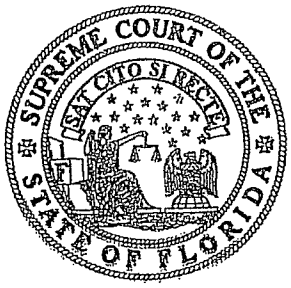
Nothing in this order is intended to impact upon the judicial processing of cases at the trial court level. Trial court clerks must continue to provide paper to the judiciary until the circuit court chief judge authorizes the elimination of paper files. At such time, the clerk of court must convert all documents to searchable PDFs.

DONE AND ORDERED at Tallahassee, Florida, on June 29, 2010.

Chief Justice Peggy A. Quince

ATTEST:

Thomas D. Hall, Clerk of Court



Electronic Initiatives as of June 30, 2010

(Initiatives listed in alphabetical order by county with most current application listed first)

FYI - This chart is as of June 30th.
Red font indicates a pending request (the reason/status will be listed in the far right column).
Pages 1-13 are for e-filing systems.
Pgs.14-17 are e-process (digital signatures, doc portals, etc.).

Electronic Filing System

County	Level of Complexity	Scope of Plan	Venue Type	Approval Document/ Admin Order # Approval Date
Alachua	High	Request to implement an electronic filing system in Alachua County – 8th Judicial Circuit	Probate	AOSC10-22 05-21-2010
Baker	High	Request to implement an electronic filing system in Baker County – 8th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Bradford	High	Request to implement an electronic filing system in Bradford County – 8th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Broward	High	Request approval to accept documents filed by electronic transmission utilizing business model that provides e-filing hosted by BearingPoint (e-filing manger) • Request approval for permission to discontinue paper required in pilot authorized by AOSC07-19	Probate and Guardianship	AOSC07-19 04-23-2007 AOSC09-18 05-06-2009
Calhoun	High	Request approval to implement an electronic filing system in Calhoun, Gulf, Holmes, Jackson, and Washington counties in the 14th Judicial Circuit	Probate	AOSC10-20 05-05-2010
Charlotte	High	Request approval to implement an electronic filing system in Charlotte County – 20th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Clay	Moderate	Request approval to implement e-filing to allow off site filing of civil cases by private attorneys; allows case acceptance 24 hrs/day by the clerk's office; initiation with probate files for the 90-day test period • Request approval to discontinue follow-up paper filing requirements, per AOSC07-20	County Civil	AOSC07-20 04-23-2007 AOSC08-15 05-12-2008

Clay	High	Request to implement an electronic filing system in Clay County – 4th Judicial Circuit	Circuit Criminal County Criminal Delinquency Criminal Traffic Circuit Civil County Civil Civil Traffic Probate Family Dependency	Plan received on 5/25/10 5/26: Spoke with Clerk's office. Requested revised letter from Chief Judge as well as additional information regarding responses. Will resubmit application. 6/3: received modified letter/application. Emailed Clerk's office regarding changes to letter (request should be to implement e-filing, not discontinue paper case follow-up). Response received by Clerk on 6/3. Would like to request BOTH implementation of e-filing in all divisions and discontinuance of paper follow-up filing. Sent to E-Filing Committee for review/approval on 6/11/10. *Noted dual request. Approved by EFC on 6/15/10. Sent to FCTC on 6/16/10. FCTC approval received on 6/23/10. Will prepare packet for SC.
Collier	High	Request to implement an electronic filing system in Collier County – 20th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Columbia	High	Request to implement an electronic filing system in Columbia County – 3rd Judicial Circuit	Probate	AOSC10-22 05-21-2010

Desoto	High	Request to implement an electronic filing system in DeSoto County – 12th Judicial Circuit. Approved by the chief judge subject to the following: (1) The DeSoto County Clerk must continue to follow Administrative Order 2005-2.2, Court Records and Paper Court Files, until either the Florida Supreme Court or this court approves the discontinuation of paper court files. (2) The DeSoto County Clerk must work with the Court to further develop the delivery of electronic documents to the court so that the level of functionality for the electronic delivery system is better than the paper file delivery system.	Probate	AOSC10-31 06-21-2010
Dixie	**High**	**Request to implement an electronic filing system in Dixie County – 3rd Judicial Circuit**	**All Divisions; begin with Probate**	**Plan received on 6/29/2010 by Chief Justice Quince's office; ISS received plan on 6/30/10.** **6/30: Emailed Clerk additional questions in v6.0, as plan was submitted using v1.0. Requested signed copy of the ADA certification statement.** **Awaiting Response.**
Duval	Moderate	Request approval to implement an electronic filing system for small claims/eviction cases.	General Civil	AOSC04-24 07-21-2004
Duval	**High**	**Request to implement an electronic filing system in Duval County – 4th Judicial Circuit**	**Probate**	**Plan received on 05/12/2010 by SC Clerk's office. ISS received plan on 5/13/10** **Sent to E-Filing Committee for review/approval on 6/11/10. Approved by EFC on 6/15/10.** **Sent to FCTC on 6/16/10. FCTC approval received on 6/23/10.** **Will prepare packet for SC.**

Escambia	High	Request for permission to accept documents filed by electronic transmission in Escambia County – 1st Judicial Circuit. Approved by the chief judge subject to the following: (1) The Okaloosa Clerk will follow the implementation schedule as developed by FCTC and coordinate the implementation with the chief judge of the 1st circuit (2) Prior to implementation of any change in paper transmissions which will affect the judiciary, communication must occur with the chief judge, administrative judge, and the clerk to develop an understanding of the changes and a date certain the change will occur.	Probate	AOSC10-22 05-21-2010
Flagler	High	Request to implement an electronic filing system in Flagler County – 7th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Franklin	High	Request to implement an electronic filing system in Franklin County – 2nd Judicial Circuit. Application approved by Chief Judge subject to the following conditions: (1) follow the implementation schedule as developed by the FCTC and coordinate with the chief judge (2) provide the court with direct unrestricted access to the local court data and images (3) electronic file provided to the court should meet or exceed capabilities and ease of use currently provided by a paper case file, for both in and out of court processing and use. (4) application shall not have a negative operational impact on the court. (5) the court shall be provided and approve in advance any business process that impacts court operations.	Probate	AOSC10-22 05-21-2010
Gadsden	**High**	**Request to implement an electronic filing system in Gadsden County – 2nd Judicial Circuit. Application approved by Chief Judge subject to the following conditions:** **(1) follow the implementation schedule as developed by the FCTC and coordinate with the chief judge** **(2) provide the court with direct unrestricted access to the local court data and images** **(3) electronic file provided to the court should meet or exceed capabilities and ease of use currently provided by a paper case file, for both in and out of court processing and use.** **(4) application shall not have a negative operational impact on the court.** **(5) the court shall be provided and approve in advance any business process that impacts court operations.**	**All divisions; to begin in Probate**	**Plan received by SC Clerk's office on 6/30/2010. Received by ISS on 6/30/10.** **6/30: Emailed Clerk additional questions in v6.0; application completed on earlier version. Awaiting response.**

Gilchrist	High	Request to implement an electronic filing system in Gilchrist County – 8th Judicial Circuit. Application approved by Chief Judge subject to the following: (1) The Gilchrist County Clerk will provide the 8th circuit direct, unrestricted access to the local court data and images. (2) The Gilchrist County Clerk will follow the implementation schedule as developed by the FCTC and coordinate implementation with the Chief Judge.	Probate	AOSC10-22 05-21-2010
Gulf	High	Request approval to implement an electronic filing system in Calhoun, Gulf, Holmes, Jackson, and Washington counties in the 14th Judicial Circuit	Probate	AOSC10-20 05-05-2010
Hamilton	High	Request to implement an electronic filing system in Hamilton County – 3rd Judicial Circuit	Probate	AOSC10-31 06-21-2010
Hardee	High	Request to implement an electronic filing system in Hardee County – 10th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Hendry	High	Request to implement an electronic filing system in Hendry County – 20th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Hernando	High	Request to implement an electronic filing system in Hernando County – 5th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Hillsborough	Moderate	Request approval to implement an e-filing system in General Civil, Division L, Complex Civil Litigation Division (Business Court) • Request for amendment to AOSC08-12 (authorization to implement e-filing system in General Civil, Division L, in the Complex Business Litigation Division)	General Civil, Division L	AOSC08-12 04-21-2008 AOSC09-29 06-23-2009
Hillsborough	High	Request approval to implement an e-filing system in Hillsborough County – 13th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Holmes	High	Request approval to implement an electronic filing system in Calhoun, Gulf, Holmes, Jackson, and Washington counties in the 14th Judicial Circuit	Probate	AOSC10-20 05-05-2010
Jackson	High	Request approval to implement an electronic filing system in Calhoun, Gulf, Holmes, Jackson, and Washington counties in the 14th Judicial Circuit	Probate	AOSC10-20 05-05-2010
Lafayette	High	Request approval to implement an e-filing system in Lafayette County – 3rd Judicial Circuit	Probate	AOSC10-19 05-05-2010

Lake	High	Request permission to accept documents filed by electronic transmission in Lake County – 5th Judicial Circuit.	All divisions; will begin in Probate	Plan received 2/26/2010 Email with 4 additional questions (contained in v6) sent to Clerk's office on 3/25/10. **CTO/Chief Judge to meet on 3/16/10 to review plan. Follow up email sent on 4/30/10. 05/06/10 – Will revise and resubmit updated plan to chief judge. Revised application received on 5/13/10. Sent to E-Filing Committee for review/approval on 6/11/10. Approved by EFC on 6/15/10. Sent to FCTC on 6/16/10. FCTC approval received on 6/23/10. Will prepare packet for SC.
Lee	High	Request to implement an electronic filing system in Lee County – 20th Judicial Circuit	Probate	AOSC10-21 05-05-2010
Leon	Moderate	Request to implement e-filing for misdemeanor cases in the Leon County Court Criminal Division • Request approval to implement Electronic Citation System • Request to discontinue paper citations as authorized by AOSC08-8	Criminal Circuit Civil	AOSC05-14 04-27-2005 AOSC08-8 03-19-2008 AOSC09-12 03-27-2009

Leon	High	Request to implement electronic filing in Leon County – 2nd Judicial Circuit. Application approved by Chief Judge subject to the following conditions: (1) follow the implementation schedule as developed by the FCTC and coordinate with the chief judge (2) provide the court with direct unrestricted access to the local court data and images (3) electronic file provided to the court should meet or exceed capabilities and ease of use currently provided by a paper case file, for both in and out of court processing and use. (4) application shall not have a negative operational impact on the court. (5) the court shall be provided and approve in advance any business process that impacts court operations.	Probate	AOSC10-22 05-21-2010
Leon	High	**Request to implement electronic filing in Leon County – 2nd Judicial Circuit. Application is approved in all circuit and county divisions, subject to the following conditions:** **(1) PDF Searchable** **(2) Continuing Paper** **(3) Supreme Court Approval**	**Circuit Criminal County Criminal Juv. Delinquency Criminal Traffic Circuit Civil County Civil Civil Traffic Family Juv. Dependency**	**Letter from Chief Judge received on 6/22/10. Request to use the application submitted for Probate Division for all other divisions. Will send to EFC as part of next set.**
Levy	High	**Request to implement electronic filing in Levy County – 8th Judicial Circuit. Application is approved subject to the following:** **(1) The Levy County Clerk will follow the implementation schedule as developed by the Florida Courts Technology Commission and coordinate the implementation with the Chief Judge of the Eighth Judicial Circuit**	**Didn't specify division – probate or all?**	**Application received 6/25/2010; under staff review. Emailed additional questions in v6 to Clerk's office. Requested clarification regarding divisions. Awaiting Response. 6/30: Emailed for clarification re q.2 and q.4 re "hot" site availability. Awaiting response.**
Madison	High	Request to implement an electronic filing system in Madison County – 3rd Judicial Circuit	Probate	AOSC10-22 05-21-2010

Manatee	Moderate	Request approval to accept electronic filings [PDF] • Request approval to discontinue paper files approved under specific terms and conditions • Request to amend AOSC05-91, condition (e), to provide an exemption so the Manatee County Clerk's Office can alternatively house its backups in the Manatee County Public Safety Center	Civil Criminal	AOSC01-4 01-26-2001 AOSC05-91 12-28-2005 AOSC05-91 Amended 03-04-2009
Marion	High	Request to implement electronic filing in Marion County – 5th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Martin	High	Request to implement electronic filing in Martin County – 19th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Miami-Dade	Moderate	Request to implement electronic filing system for traffic cases [Accenture XML]	Traffic	AOSC03-47 11-12-2003
Monroe	**High**	**Request to implement electronic filing in Monroe County – 16th Judicial Circuit**	**Circuit Criminal County Criminal Juv. Delinquency Criminal Traffic Circuit Civil County Civil Civil Traffic Probate Family Juv. Dependency**	**Plan received 05/27/2010; revised plan received 6/23/2010. Email with additional 4 questions (contained in v6) sent to Clerk's office on 6/3/10. Responses received on 6/23/10. Clarification requested regarding divisions (if all, revised chief judge letter necessary) and "hot" site availability re question 2 under security and continuity of operations section. Revised Chief Judge letter and clarification received via email on 6/23/10. Will be sent to EFC as part of next set.**

Nassau	High	Request to implement electronic filing in Nassau County – 4th Judicial Circuit	Probate	AOSC10-22 05-21-2010
Okaloosa	High	Request to implement electronic filing in Okaloosa county – 1st Judicial Circuit. Application approved by chief judge subject to the following: (1) The Okaloosa Clerk will follow the implementation schedule as developed by FCTC and coordinate the implementation with the chief judge of the 1st circuit (2) Prior to implementation of any change in paper transmissions which will affect the judiciary, communication must occur with the chief judge, administrative judge, and the clerk to develop an understanding of the changes and a date certain the change will occur.	Probate	AOSC10-31 06-21-2010
Okeechobee	High	Request to implement electronic filing in Okeechobee county – 19th Judicial Circuit	Probate	AOSC10-31 06-21-2010
Orange	Moderate	Request to implement electronic filing in the Complex Litigation Division [Tybera XML] • Request approval to suspend follow-up filing requirement in Complex Business Litigation Division (original plan approved per AOSC05-2) • Request to expand the currently approved Complex Business Litigation e-filing system into the remainder of the Circuit Civil Division • Request to discontinue paper follow up filings in Circuit Civil Division per AOSC08-13 • Request approval to suspend the follow-up paper filing requirement, as well as the monthly reporting requirement in Circuit Civil Division	Business Court Circuit Civil Circuit Civil	AOSC05-02 02-02-2005 AOSC07-22 04-23-2007 AOSC08-13 04-21-2008 AOSC09-24 06-01-2009 AOSC09-24 06-01-2009
Orange	High	Request to implement electronic filing in Orange County – 9th Judicial Circuit	Probate **Need to clarify that Orange County still needs to provide paper; only approved to be paperless in Circuit Civil and Complex Civil – Business. Sent email to confirm understanding	AOSC10-31 06-21-2010

Orange	High	Request to implement electronic filing in Orange County – 9th Judicial Circuit	Circuit Criminal County Criminal Delinquency Criminal Traffic Circuit Civil County Civil Civil Traffic Family Dependency	Plan received by SC Clerk's office on 5/24/10 Sent to E-Filing Committee for review/approval on 6/11/10. Approved by EFC on 6/15/10. Sent to FCTC on 6/16/10. FCTC approval received on 6/23/10. Will prepare packet for SC.
Osceola	High	Request to implement electronic filing in Osceola County – 9th Judicial Circuit	They stated they will do all divisions. Clarification needed; county needs to start with Probate and submit applications when they are ready to move to other divisions.	Plan received 3/01/2010; under staff review Email with additional 4 questions (contained in v6) sent to Clerk's office on 3/19/10. Clarification regarding division also requested. Follow up email sent on 4/30/10. Responses received on 5/17/10. Additional follow up regarding archiving process requested via email on 5/19/10. Awaiting response.
Palm Beach	High	Request to implement electronic filing in Palm Beach County – 15th Judicial Circuit	Criminal followed by Probate and Civil	Plan received by SC Clerk's office on 5/13/10. ISS received 5/14/10; Under staff review 5/17/10 - Emailed Clerk additional questions (contained in version 6.0). Awaiting Response.

Pasco	High	Request to implement electronic filing in probate and guardianship cases in the Sixth Judicial Circuit Court [LexisNexis, XML] • Request to discontinue paper follow-up filings in Probate/Guardianship cases; upon approval by the Supreme Court, Pasco plans to submit an amended plan to move forward into the Civil Division (original plan approved per AOSC05-15)	Probate Guardianship	AOSC05-15 04-27-2005 AOSC07-23 04-23-2007
Polk	High	Request for permission to accept documents filed by electronic transmission – Polk County, 10th circuit.	Probate	AOSC10-7 2-17-10
Polk	**High**	**Request for permission to accept documents filed by electronic transmission – Polk County, 10th circuit.** ****Implementation will only occur AFTER division is approved and data elements are identified by the data elements workgroup and approved by the FCTC****	**Circuit Civil Circuit Criminal County Civil Delinquency Dependency**	**Plans received on 3/10/2010** **call with Jannet Lewis scheduled for 3/15/10.** **Email with additional 4 questions (contained in v6) sent to Clerk's office on 3/22/10. Responses received on 3/25/10.** **Will resubmit one application for all remaining divisions. Awaiting revised application.**
Putnam	High	Request to implement electronic filing in Putnam County – 7th Judicial Circuit.	Probate	AOSC10-31 06-21-2010
Santa Rosa	High	Request to implement electronic filing in Santa Rosa County – 1st Judicial Circuit. Approved by the chief judge subject to the following: (1) The Santa Rosa Clerk will follow the implementation schedule as developed by FCTC and coordinate the implementation with the chief judge of the 1st circuit (2) Prior to implementation of any change in paper transmissions which will affect the judiciary, communication must occur with the chief judge, administrative judge, and the clerk to develop an understanding of the changes and a date certain the change will occur.	Probate	AOSC10-22 05-21-2010

Sarasota	Moderate	Request approval to accept electronic filings [PDF] • Amended plan to implement Internet Commerce Server to accept filings via e-mail, to be printed and placed in the case file [PDF] • Request approval to discontinue paper case filing requirement per AOSC03-9	Civil, Probate, Small Claims Family	AOSC09-9 4-29-09 AOSC03-9 02-13-2003
Seminole	**High**	**Request to implement e-filing in Seminole County – 18th Judicial Circuit**	**Circuit Criminal County Criminal Delinquency Criminal Traffic Circuit Civil County Civil Civil Traffic Probate Family Dependency**	**Plan received 6/15/10. Will send to EFC as part of next set.**
St. Johns	**High**	**Request permission to accept documents filed by electronic transmission – St. Johns County, 7th Judicial Circuit.**	**Probate**	**Plan received 3/01/2010 Email with additional 4 questions (contained in v6) sent to Clerk's office on 3/19/10. Responses received on 3/26/10. Sent to E-filing Committee for review/approval on 4/21/10. Approved by EFC on 4/23/10. Sent to FCTC on 4/23/10. FCTC approval received on 4/25/10. Packet sent to SC for approval on 4/26/10. **Packet pulled – follow up regarding back up facility needed. Email sent to Clerk's office on 4/29/10.****
Suwannee	High	Request for permission to accept documents filed by electronic transmission – Suwannee County, 3rd circuit.	Probate	AOSC10-22 05-21-2010
Taylor	High	Request to implement electronic filing in Taylor County – 3rd Judicial Circuit	Probate	AOSC10-31 06-21-2010

Union	High	Request to implement electronic filing in Union County – 8th Judicial Circuit. Approved by Chief Judge subject to the following: (1) The Union County Clerk of Court will provide the Eighth Judicial Circuit direct, unrestricted access to the local court data and images. (2) The Union County Clerk of Court will follow the implementation schedule as developed by the Florida Courts Technology Commission and coordinate the implementation with the Chief Judge of the Eighth Judicial Circuit.	Probate* *States in cover letter from Clerk that they agree to follow the implementation schedule as developed by the FCTC and coordinate implementation with Chief Judge.	AOSC10-31 06-21-2010
Volusia	Moderate	Request approval to implement system for submission of electronic filings of uniform traffic citations		AOSC09-2 01-27-2009
Volusia	High	Request to implement electronic filing in Volusia County – 7th Judicial Circuit.	Probate	AOSC10-31 06-21-2010
Wakulla	High	Request to implement electronic filing in Wakulla County – 2nd Judicial Circuit. Application approved by Chief Judge subject to the following conditions: (1) follow the implementation schedule as developed by the FCTC and coordinate with the chief judge (2) provide the court with direct unrestricted access to the local court data and images (3) electronic file provided to the court should meet or exceed capabilities and ease of use currently provided by a paper case file, for both in and out of court processing and use. (4) application shall not have a negative operational impact on the court. (5) the court shall be provided and approve in advance any business process that impacts court operations.	Probate	AOSC10-31 06-21-2010
Walton	High	Request to implement electronic filing in Walton County – 1st Judicial Circuit. Approved by the chief judge subject to the following: (1) The Walton Clerk will follow the implementation schedule as developed by FCTC and coordinate the implementation with the chief judge of the 1st circuit (2) Prior to implementation of any change in paper transmissions which will affect the judiciary, communication must occur with the chief judge, administrative judge, and the clerk to develop an understanding of the changes and a date certain the change will occur.	Probate	AOSC10-22 05-21-2010
Washington	High	Request approval to implement an electronic filing system in Calhoun, Gulf, Holmes, Jackson, and Washington counties in the 14th Judicial Circuit	Probate	AOSC10-20 05-05-2010

Electronic Process

ELECTRONIC DISTRIBUTION (EMAIL FILINGS, FAX FILINGS, IMAGING, ETC.)				
County	**Level of Complexity**	**Scope of Plan**	**Venue Type**	**Approval Document/ Admin Order # Approval Date**
Alachua	Low	Electronic delivery of dependency orders	Dependency	AOSC08-14 05-12-2008
Alachua	Low	Request to discontinue follow up facsimile filing [original request to accept fax filing approved in 1993 prior to creation of the Electronic Filing Committee]	All	AOSC00-39 10-06-2000
Flagler	Moderate	Request approval to accept documents scanned and sent by email		AOSC09-28 06-23-2009
County	**Level of Complexity**	**Scope of Plan**	**Venue Type**	**Approval Document/ Admin Order # Approval Date**
Flagler	Low	Request approval to accept facsimile		FCTC Approval Letter 01-21-2009
Hillsborough	Low	Request approval to scan orders to counsel and parties via email in Probate, Guardianship & Trust Division	Probate, Guardianship & Trust	FCTC Approval Letter 05-20-2009
Hillsborough	Low	Request approval to scan orders to counsel and parties via email in General Civil and Unified Family Court Divisions	Civil Unified Family Court	FCTC Approval Letter 03-05-2009
Leon	Low	Request to discontinue practice of accepting fax follow up filings of documents in paper form	All	AOSC03-48 11-12-2003

ELECTRONIC/DIGITAL SIGNATURE				
County	**Level of Complexity**	**Scope of Plan**	**Venue Type**	**Approval Document/ Admin Order # Approval Date**
Alachua, Baker, Bradford, Gilchrist, Levy, and Union (joint plan)	Low	Request approval for implementation of electronic order generation and signature system for all counties in the 8th judicial circuit	All divisions; initial implementation for Civil Traffic, Domestic Violence, Dependency and Criminal	FCTC Approval Letter 04-05-2010

Baker	Low	Request approval for implementation of electronic order generation and signature system for all counties in the 8th judicial circuit	All divisions; initial implementation for Civil Traffic, Domestic Violence, Dependency and Criminal	FCTC Approval Letter 04-05-2010
Bradford	Low	Request approval for implementation of electronic order generation and signature system for all counties in the 8th judicial circuit	All divisions; initial implementation for Civil Traffic, Domestic Violence, Dependency and Criminal	FCTC Approval Letter 04-05-2010
Charlotte	Low	Request approval to implement use of Slash S (/S) electronic signature method for in court disposition process		FCTC Approval Letter 12-11-2008
Clay	Low	Request approval to implement use of Slash S (/S) electronic signature method for E-filing	County Civil	FCTC Approval Letter 10-05-2009
Collier	Low	Request approval to implement use of Slash S on Judgment & Sentence Orders		FCTC Approval Letter 12-11-2008
Gilchrist	Low	Request approval for implementation of electronic order generation and signature system for all counties in the 8th judicial circuit	All divisions; initial implementation for Civil Traffic, Domestic Violence, Dependency and Criminal	FCTC Approval Letter 04-05-2010
Levy	Low	Request approval for implementation of electronic order generation and signature system for all counties in the 8th judicial circuit	All divisions; initial implementation for Civil Traffic, Domestic Violence, Dependency and Criminal	FCTC Approval Letter 04-05-2010
Manatee	Low	Request approval to implement electronic signature application "judge sign"		FCTC Approval Letter 02-20-2008
Manatee & Sarasota	Low	Request approval to adopt the use of Slash S (/S) electronic signature method for all electronic filers in Manatee & Sarasota Counties (joint request)		AOSC07-21 04-23-2007
Osceola	Low	Request to implement electronic signature procedures for county judges	Civil County Criminal	Approval Letter 02-26-2003
Pinellas	Low	Request approval for use of e-signatures by judges in Pinellas County.		FCTC Approval Letter 01-21-2009

Union	Low	Request approval for implementation of electronic order generation and signature system for all counties in the 8th judicial circuit	All divisions; initial implementation for Civil Traffic, Domestic Violence, Dependency and Criminal	FCTC Approval Letter 04-05-2010
County	**Level of Complexity**	**Scope of Plan**	**Venue Type**	**Approval Document/ Admin Order # Approval Date**
Polk	Low	Request approval to implement digitized signatures in court records to the imaging database application in the Civil Division.	Proposal in all divisions with the exception of criminal	Supreme Court Approval Letter 05-18-2004
Sarasota	Low	Request approval to implement electronic signature application "judge sign"		AOSC07-24 04-23-2007
Sarasota & Manatee (joint plan)	Low	Request approval for electronic signature method, Slash S (/S) to expedite the submission of child support enforcement matters between the court and the Attorney General's Office		AOSC07-21 04-23-2007
Seminole	Low	Expansion of Digital Judge Signature Project to eliminate wands and bar codes; affix judicial signatures by point-and-click technology from a laptop on the bench; expanding the program from county criminal to include circuit criminal cases • Request to implement electronic signature procedures for county judges	County Criminal	AOSC07-18 04-23-2007 Approval Letter 02-19-2003
Volusia	Low	Implement e-signatures for arrest affidavits		FCTC Approval Letter 01-20-2009

OTHER INITIATIVES				
County	**Level of Complexity**	**Scope of Plan**	**Venue Type**	**Approval Document/ Admin Order # Approval Date**
Charlotte	Moderate	Request approval to implement CJISNotify Document Portal		FCTC Approval Letter 06-09-10
Collier	Moderate	Request approval to implement CJISNotify Document Portal		FCTC Approval Letter 06-09-10
Glades	Moderate	Request approval to implement CJISNotify Document Portal		FCTC Approval Letter 06-09-10
Hendry	Moderate	Request approval to implement CJISNotify Document Portal		FCTC Approval Letter 06-09-10
Lee	Moderate	Request approval to implement CJISNotify Document Portal		AOSC08-90 11-19-2008
Lee	Low	Request approval to implement E-First Appearance Court Order		FCTC Approval Letter 09-09-2008

Miami-Dade	Moderate	Request approval to implement the CourtNOTIFY system for electronic noticing of law enforcement officers for case-related matters	Multiple Divisions	AOSC08-6 02-12-2008

OTHER AUTOMATED SYSTEMS – APPROVED UNDER AOSC03-16				
County	**Level of Complexity**	**Scope of Plan**	**Venue Type**	**Approval Document/ Admin Order # Approval Date**
Osceola	Moderate	Request to implement document management system	All	Approval Letter 07-01-2005
Osceola	CMS (not e- filing)	Request for authorization to upgrade to the Maximus Courtview Case Maintenance System	N/A	Approval Letter 03-27-2006
Volusia	Moderate	Request to implement CJIS Case Management System		FCTC approval 6-23-09

Bold/Red indicates pending submission(s)

LOW COMPLEXITY: Submissions that are defined as Low complexity are a) the use of digital signatures on a document, i.e. Slash S (/s) as an electronic signature method; and b) the printing of e-mailed .PDF or other file formats to place in a case file; and *c) electronic distribution, outside of the court, of orders in parties in a case.

MODERATE COMPLEXITY: Submissions that are defined as Moderate complexity are formal electronic filing systems which: a) includes the electronic receipt and storage of the .PDF document; b) may include the submission of a pre-formatted cover sheet; c) the cover sheet may include eXtensible Markup Language (.XML), which is the standard language to ensure that the data incorporated in the cover sheet form can be manipulated or extracted for use in another application, such as a case management system; and d) provides the option to eliminate paper filing submissions.

HIGH COMPLEXITY: Submissions that are defined as High complexity are systems that may include the components of both the Low and Moderate complexity levels noted above, but it also involves a third party service provider. There may also be a service charge payable to the vendor and/or clerk. These systems include embedded "tagged" (.XML) information in the electronic filing submission which is used to populate case management or other automated systems.

**Amended and approved by the Florida Supreme Court on February 25, 2009.*