

## **RULE 2.120. DEFINITIONS**

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

**(a) Court Rule:** A rule of practice or procedure adopted to facilitate the uniform conduct of litigation applicable to all proceedings, all parties, and all attorneys.

**(b) Local Court Rule:**

(1) A rule of practice or procedure for circuit or county application only that, because of local conditions, supplies an omission in or facilitates application of a rule of statewide application and does not conflict therewith.

(2) A rule that addresses other matters that are required by the Florida Constitution, general law, rules of court, or a supreme court opinion to be adopted by or in a local rule.

**(c) Administrative Order:** A directive necessary to administer properly the court's affairs but not inconsistent with the constitution or with court rules and administrative orders entered by the supreme court.

**(d) Attorney of Record.** An attorney who is appearing in a court case as lead counsel, additional counsel, or limited representation counsel in accordance with rule 2.505.

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## **RULE 2.505. ATTORNEYS**

**(a) Scope and Purpose.** All persons in good standing as members of The Florida Bar shall be permitted to practice in Florida. Attorneys of other states who are not members of The Florida Bar in good standing shall not engage in the practice of law in Florida except to the extent permitted by rule 2.510.

**(b) Persons Employed by the Court.** Except as provided in this subdivision, no full-time employee of the court shall practice as an attorney in any court or before any agency of government while continuing in that position. Any attorney designated by the chief justice or chief judge may represent the court, any court employee in the employee's official capacity, or any judge in the judge's official capacity, in any proceeding in which the court, employee, or judge is an interested party. An attorney formerly employed by a court shall not represent anyone in connection with a matter in which the attorney participated personally and substantially while employed by the court, unless all parties to the proceeding consent after disclosure.

**(c) Attorney Not to Be Surety.** No attorneys or other officers of court shall enter themselves or be taken as bail or surety in any proceeding in court.

**(d) Stipulations.** No private agreement or consent between parties or their attorneys concerning the practice or procedure in an action shall be of any force unless the evidence of it is in writing, subscribed by the party or the party's attorney against whom it is alleged. Parol agreements may be made before the court if promptly made a part of the record or incorporated in the stenographic notes of the proceedings, and agreements made at depositions that are incorporated in the transcript need not be signed when signing of the deposition is waived. This rule shall not apply to settlements or other substantive agreements.

**(e) ~~Appearance of Attorney.~~** ~~An attorney may appear in a proceeding in any of the following ways:~~

~~(1) By serving and filing, on behalf of a party, the party's first pleading or paper in the proceeding.~~

~~(2) — By substitution of counsel, but only by order of court and with written consent of the client, filed with the court. The court may condition substitution upon payment of, or security for, the substituted attorney's fees and expenses, or upon such other terms as may be just.~~

~~(3) — By filing with the court and serving upon all parties a notice of appearance as counsel for a party that has already appeared in a proceeding pro se or as co-counsel for a party that has already appeared in a proceeding by non-withdrawing counsel.~~

**Lead Counsel.** Lead counsel is the attorney principally responsible for the representation of a party in a court case and will continue to be lead counsel until changed by order of court or termination of the court case. The attorney who first appears for a party will be deemed lead counsel. Attorneys holding constitutional or statutory offices will be deemed lead counsel unless another attorney is designated. This subdivision does not apply in capital cases as defined in Rule of Criminal Procedure 3.112(b). Counsel in a capital case may appear as provided by rule 3.112(e), (i), (l). Counsel's representation in a capital case may be terminated or modified by a court order.

**(1) Appearance.** Lead counsel may appear in a court case in any of the following ways:

**(A) First appearance.** By filing and serving on behalf of a party, the party's first pleading or document in the court case. If more than one attorney is listed on the pleading or document, then the first attorney named shall be lead counsel unless a different attorney is so designated on the same pleading or document.

**(B) Stipulation for Substitution.** By substitution, but only by order of court and with written consent of the client, filed with the court. The court may condition substitution upon payment of, or security for, the substituted attorney's fees and expenses, or upon such other terms as may be just.

**(C) Notice of Appearance.** By filing and serving a notice of appearance as counsel for a party who is unrepresented at that time.

**(2) Termination or Modification.** Lead counsel's appearance in a court case may be terminated or modified in any of the following ways:

**(A) Order of Withdrawal.** By order of court, where the court case is continuing and there is no substitution of lead counsel, upon motion and hearing, on notice to all parties and the client, with such motion setting forth the reasons for withdrawal and the client's address, telephone number, including area code, and e-mail address.

**(B) Order of Substitution of Lead Counsel.** By substitution as lead counsel, but only by order of court and with written consent of the client, filed with the court. The order of substitution should indicate whether the attorney who seeks to be substituted as the lead counsel will remain as an additional counsel.

**(C) Termination of Court Case.** Automatically, without order of court, upon the termination of a court case, whether by final order of dismissal, by final adjudication, or otherwise, and following the expiration of any applicable time for appeal when no appeal is taken.

**(f) Termination of Appearance of Attorney.** The appearance of an attorney for a party in a proceeding shall terminate only in one of the following ways:

**(1) Withdrawal of Attorney.** By order of court, where the proceeding is continuing, upon motion and hearing, on notice to all parties and the client, such motion setting forth the reasons for withdrawal and the client's last known address, telephone number, including area code, and email address.

**(2) Substitution of Attorney.** By order of court, under the procedure set forth in subdivision (e)(2) of this rule.

**(3) Termination of Proceeding.** Automatically, without order of court, upon the termination of a proceeding, whether by final order of dismissal, by final adjudication, or otherwise, and following the expiration of any applicable time for appeal, where no appeal is taken.

**(4) Filing of Notice of Completion.** For limited representation proceedings under Florida Family Law Rule of Procedure

~~12.040, automatically, by the filing of a notice of completion titled “Termination of Limited Appearance” pursuant to rule 12.040(e).~~

**Additional Counsel.** Additional counsel is an attorney other than lead counsel or limited representation counsel. Attorneys who are acting under the authority of a constitutional or statutory officer will be deemed additional counsel unless designated otherwise as permitted by subdivision (e). This subdivision does not apply in capital cases as defined in Rule of Criminal Procedure 3.112(b). Counsel in a capital case may appear as provided by rule 3.112(e), (i), (l). Counsel’s representation in a capital case may be terminated or modified by a court order.

**(1) Appearance.** Additional counsel may appear in a court case in any of the following ways:

**(A) Initial Pleading or Document.** By being listed on the first pleading or document without being designated lead counsel.

**(B) Subsequent Pleading or Document.** By filing, serving, and signing a subsequent pleading or document. To ensure service by the court or clerk, a notice of appearance must be filed.

**(C) Notice of Appearance.** By filing and serving a notice of appearance.

**(D) Appearance Before the Court.** By entering such appearance in the court record or notifying the court of such appearance during a court proceeding and filing and serving a notice of appearance thereafter. The court may waive the requirement of filing a written notice of appearance but only for an attorney who appears at a court proceeding solely to provide representation during that court proceeding and who does not want to thereafter receive service by the court or clerk.

**(2) Termination.** Additional counsel’s appearance may be terminated in a court case in any of the following ways:

**(A) Order of Withdrawal.** By order of court after serving and filing on all parties a motion to withdraw as attorney for a party. The motion shall clearly identify the attorney who continues as the lead counsel. The order can condition the withdrawal upon such terms as may be just.

**(B) Notice of Withdrawal.** By serving and filing on all parties a notice of withdrawal as attorney for a party. The notice shall clearly identify the attorney who continues as the lead counsel.

**(C) Termination of a Court Case.** Automatically, without order of court, upon the termination of a court case, whether by final order of dismissal, by final adjudication, or otherwise, and following the expiration of any applicable time for appeal when no appeal is taken.

**(D) Verbal Leave of Court.** By verbal leave of court at the conclusion of the court proceeding when appearing solely to provide coverage for a single court proceeding and the court waived the requirement of filing a notice of appearance, as described in subdivision (f)(1)(D).

**(g) Limited Representation Counsel.** Limited representation counsel is an attorney for a party or non-party who provides limited representation. An appearance by limited representation counsel may be limited or prohibited by an appropriate rule of court. No limited representation will be permitted in capital cases as defined by Rule of Criminal Procedure 3.112(b).

**(1) Appearance.** Limited representation counsel may appear in a court case after receiving informed consent in writing by the party or non-party and by filing and serving a notice titled “Notice of Limited Representation,” either prior to or immediately after making an appearance in a court case. The notice of limited representation will identify each aspect of the court case or the time period to which the notice pertains. An attorney must file a new notice of limited representation before undertaking representation for any additional aspect of the court case or for an additional time period. A form notice of limited representation accompanies this rule and will be utilized unless otherwise modified by an appropriate rule of court.

**(2) Termination.** Limited representation counsel’s appearance shall be terminated in a court case as follows:

**(A) Notice of Termination of Limited Representation.** Without leave of court by filing a notice titled “Notice of Termination of Limited Representation” under the following circumstances:

(i) at the conclusion of each aspect of the court case for which an attorney has appeared pursuant to a notice of limited representation, or

(ii) at the expiration of the time period set forth in the notice of limited representation.

The notice of termination of limited representation shall include the names, addresses, telephone numbers, including area codes, and e-mail addresses of the person(s) represented by the withdrawing attorney, which shall be served on each party including the party or non-party represented. In the notice of termination of limited representation, the attorney shall certify either that the attorney has conferred in good faith with the client and that the client has no objection to the termination of limited representation or that the attorney has made reasonable efforts to confer with the client but has been unable to do so. If the attorney is not able to certify either that the client has no objection to the termination of limited scope representation or that the attorney has made reasonable efforts to confer with the client but has been unable to do so, the attorney must seek leave of court permitting the attorney's withdrawal. A form notice of termination of limited representation accompanies this rule and shall be utilized unless otherwise modified by an appropriate rule of court.

**(B) Order of Withdrawal. By order of court:**

(i) upon motion and hearing, on notice to all parties and the client, with such motion setting forth the reasons for withdrawal and the names, addresses, telephone numbers, including area codes, and e-mail addresses of the person(s) represented by the withdrawing attorney. A hearing will be held on this motion unless the limited representation was provided in the appellate court.

(ii) when limited representation counsel is not able to certify either that the client has no objection to the termination of limited representation or that the limited representation counsel has made reasonable efforts to confer with the client but has been unable to do so. The court must allow the limited representation counsel to withdraw unless the court expressly finds that the limited representation counsel has not completed the representation specified in the notice of limited

representation. A hearing will be held on this motion unless the limited representation was provided in the appellate court.

**(3) Conduct During Limited Representation.** Limited representation counsel shall be deemed an attorney of record for each aspect of the court case or the time period to which the notice pertains.

(A) Any pleading or other document filed by limited representation counsel shall state in bold type on the signature page of that pleading or other document: “Attorney for [insert party or non party] for the limited purpose of [insert subject matter or proceeding]” to be followed by the name of party or non-party represented and the address, telephone number, including area code, and e-mail address of that party or non-party.

(B) A pro se party who files a pleading or other document in a court case 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, telephone number, including area code, and e-mail address of the party shall appear on all pleadings or other documents filed with the court.

(C) During an attorney’s limited representation, all documents filed in the court case shall be served upon the limited representation counsel and the party or non-party. Unless the notice of limited representation filed in the case identifies the specific proceedings at which the limited representation counsel will appear, if limited representation counsel receives notice of a hearing that is not within the scope of the limited representation, limited representation counsel shall notify the court and the opposing party that the attorney will not attend the court proceeding because it is outside the limited representation.

**(h) Law Student Participation.** Eligible law students shall be permitted to participate as provided under the conditions of chapter 11 of the Rules Regulating The Florida Bar as amended from time to time.

**(hi) Attorney as Agent of Client.** In all matters concerning the prosecution or defense of ~~any proceeding in the court, the~~ a court case, any attorney of record ~~while appearing for a party~~ shall be the agent of the ~~client~~ party, and any notice by or to the attorney or act by ~~the~~ that attorney in the proceeding shall be accepted as the act of or notice to ~~the client~~ that party.



and the attorney shall be bound by any subject to all applicable Rules Regulating The Florida Bar.

### **Committee Notes**

**20 Amendments.** The prior version of rule 2.505 permitted the appearance of an attorney only upon the filing of the first pleading or document, a filing of a notice of appearance, or by the entry of an order of substitution of counsel. The rule did not anticipate or permit the appearance of attorneys for limited purposes, such as to handle a single court proceeding in an on-going case being handled by another lawyer.

The amendments to rule 2.505 now identify three types of attorneys who may appear in a case: lead counsel, additional counsel, and limited representation counsel. Each type of attorney has different responsibilities to the court, to the clerk, and to the client.

“Lead counsel” is the attorney principally responsible to the court and to the client. The manner in which lead counsel enters and leaves a court case is the same as the prior version of the rule. As with the prior version of the rule, lead counsel cannot withdraw from a case without court approval and notice to the client. Lead counsel will be classified as an attorney of record for the clerk’s case maintenance systems and for remote access to case files. In the private sector, lead counsel would be the attorney who has the ultimate responsibility for the case. In the public sector it is the appointed or elected statutory or constitutional officer although such officers have the ability to delegate this “lead counsel” status to another attorney working under his or her supervision. This option was provided because some elected or appointed constitutional or statutory officers may not want the responsibilities that are connected to lead counsel in a particular case.

“Additional counsel” is an attorney who is involved in a case, but has responsibilities to the court that are different from those of “lead counsel.” The requirements for additional counsel to enter and leave a court case are less stringent. Additional counsel does not need permission of the court to withdraw from a case so long as the designated lead counsel remains in the case. Additional counsel will be classified as an attorney of record for the clerk’s case maintenance systems and for remote access to case files as long as the additional counsel has signed the first pleading or document or has filed a separate notice of appearance. In the private sector, an additional

attorney is a secondary attorney on the case, whether in the same firm as lead counsel or in a different firm. The additional counsel is required to file a notice of appearance, unless leave of court is obtained excusing the filing and the attorney does not want to receive service of court documents. In the public sector, an “additional counsel” could be an assistant state attorney, assistant public defender, assistant attorney general, assistant attorney with the office of regional counsel, or an assistant city or county attorney. These attorneys would not need leave of court to withdraw from a case as long as another attorney remains as “lead counsel.”

“Limited representation counsel” is an attorney who is hired to represent a client on a limited basis in a court proceeding. The concept of “limited representation counsel” has been used previously in both the family and probate rules of procedure. Limited representation counsel may represent a litigant in specific parts of the client’s case, unless otherwise limited or prohibited by another rule of court. A form Notice of Limited Representation and a form Notice of Termination of Limited Representation are made a part of this rule. During the limited representation, limited representation counsel is classified as an attorney of record for the clerk’s case maintenance systems and for remote access to case files.

Subdivision (i) of the rule clarifies that attorneys who cover hearings as additional counsel represent the client and not lead counsel.

### **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.

**2003 Amendment.** Rule Regulating the Florida Bar 4-1.12(c), which addresses the imputed disqualification of a law firm, should be looked to in conjunction with the rule 2.060(b) [renumbered as 2.505(b) in 2006] restriction on representation by a former judicial staff attorney or law clerk.

## Appendix

IN THE  
CIRCUIT/COUNTY  
COURT OF THE

[Plaintiff/Petitioner]

v.

[Defendant/Respondent]

### NOTICE OF LIMITED REPRESENTATION

1. A attorney, .....(attorney's name)....., and the client, .....(client's name)....., have entered into a written agreement dated .....(date)..... providing that the attorney will provide limited representation to the client in the above-captioned case in accordance with paragraphs 3 and 4 below.

2. The Client is (check one):

Plaintiff/Petitioner in this case.  
Defendant/Respondent in this case.  
Non-Party in this case.

3. The attorney appears pursuant to Florida Rule of Judicial Administration 2.505(g). This appearance is limited in scope to the following matter(s) or proceedings in which the attorney will represent the client (check and complete all that apply):

In the court proceeding (identify) on the following date: .....(date).....  
And in any continuance of that proceeding  
At the trial on the following date: .....(date).....  
And in any continuance of that trial  
And until judgment  
At the following deposition(s):  
Other (specify the scope and limits of representation):

4. If this appearance does not extend to all matters to be considered at the proceeding(s) above, identify the discrete issues within each proceeding covered by this appearance:

5. The limited representation attorney may withdraw following completion of the limited representation specified in this appearance by filing a notice titled "Notice of Termination of Limited Representation." The notice shall include the names, addresses, telephone numbers, including area codes, and e-mail addresses of the

person(s) represented by the withdrawing attorney and must be served on each of the parties, including the attorney's client. In the notice of termination of limited representation, the attorney shall certify either: (A) that the attorney has conferred in good faith with the client and that the client has no objection to the notice of termination of limited representation; or (B) that the attorney has made reasonable efforts to confer with the client but has been unable to do so. If the attorney is not able to certify to either 5(A) or 5(B), the attorney must notice a hearing on the notice termination of limited representation unless the limited representation was provided in the appellate court.

6. Service of pleadings on the attorney and party named above shall be made in accordance with Florida Rule of Judicial Administration 2.516(c).

7. The client being represented under this limited representation:

a. agrees to the delivery of all court papers to the addresses specified below; and

b. agrees to inform the court, all counsel of record, and all parties not represented by counsel of any changes to the party's address information listed below during the limited scope representation.

\_\_\_\_\_  
.....(name of attorney).....  
Limited Representation Counsel  
\_\_\_\_\_  
.....(address).....  
\_\_\_\_\_  
.....(city, state, zip code).....  
\_\_\_\_\_  
.....(phone number).....  
\_\_\_\_\_  
.....(e-mail address).....  
Florida Bar No. \_\_\_\_\_

### **CERTIFICATE OF SERVICE**

I certify that a copy of this Notice of Limited Representation was (check all used):  
( ) e-mailed; ( ) mailed; ( ) faxed; ( ) hand delivered on  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Other party or his/her attorney:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address(es): \_\_\_\_\_

Client party:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
E-mail Address(es): \_\_\_\_\_

\_\_\_\_\_  
.....(name of attorney).....  
Limited Representation Counsel  
.....(address).....  
.....(city, state, zip code).....  
.....(phone number).....  
.....(e-mail address).....  
Florida Bar No. \_\_\_\_\_

**IN THE**  
**CIRCUIT/COUNTY**  
**COURT OF THE**

[Plaintiff/Petitioner]

v.

[Defendant/Respondent]

**NOTICE OF TERMINATION OF LIMITED REPRESENTATION**

.....(Attorney's name)..... files this notice of termination of limited representation on behalf of the (check one only):

.....(Plaintiff/Petitioner).....

.....(Defendant/Respondent).....

Non-Party: .....(name).....

and certifies that the representation for which the limited representation counsel was to provide is concluded. Copies of all future court documents should be served on (check one only)

.....(Plaintiff/Petitioner).....

.....(Defendant/Respondent).....

Non-Party: .....(name).....

At: .....(address).....

I certify that (check one):

I have conferred in good faith with the client and that the client has no objection to the Notice of Termination of Limited Representation.

I have made reasonable efforts to confer with the client but have been unable to do so.

I have not been able to confer in good faith nor have I been able to make reasonable efforts to confer with the client. I am seeking leave of court for termination of the limited representation. Unless limited representation was provided in the appellate court, a hearing will be noticed on this motion.

**CERTIFICATE OF SERVICE**

I certify that a copy of this Notice of Termination of Limited Representation was (check all used): ( ) e-mailed; ( ) mailed; ( ) faxed; ( ) hand delivered on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Other party or his/her attorney:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address(es): \_\_\_\_\_

Client party:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address(es): \_\_\_\_\_

\_\_\_\_\_  
.....(name of attorney).....

Limited Representation Counsel

.....(address).....

.....(city, state, zip code).....

.....(phone number).....

.....(e-mail address).....

Florida Bar No. \_\_\_\_\_



**RULE 2.515. SIGNATURE AND CERTIFICATES OF ATTORNEYS AND PARTIES**

**(a) Attorney's Signature and Certificates.** ~~Every~~Except for documents filed outside of the scope of limited representation counsel's representation, every document of a party represented by an attorney shall be signed by at least 1 attorney of record in that attorney's individual name whose current record Florida Bar address, telephone number, including area code, primary e-mail address and secondary e-mail addresses, if any, and Florida Bar number shall be stated, and who shall be duly licensed to practice law in Florida or who shall have received permission to appear in the particular case as provided in rule 2.510. The attorney may be required by the court to give the address of, and to vouch for the attorney's authority to represent, the party. Except when otherwise specifically provided by an applicable rule or statute, documents need not be verified or accompanied by affidavit. The signature of an attorney shall constitute a certificate by the attorney that:

- (1) the attorney has read the document;
- (2) to the best of the attorney's knowledge, information, and belief there is good ground to support the document;
- (3) the document is not interposed for delay; and
- (4) the document contains no confidential or sensitive information, or that any such confidential or sensitive information has been properly protected by complying with the provisions of rules 2.420 and 2.425. If a 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 document had not been served.

**(b) Pro Se Litigant Signature.** A party who is not represented by an attorney shall sign any document and state the party's address and telephone number, including area code.

**(c) Form of Signature.**

- (1) The signatures required on documents by subdivisions (a) and (b) of this rule may be:

(A) original signatures;

(B) original signatures that have been reproduced by electronic means, such as on electronically transmitted documents or photocopied documents;

(C) an electronic signature indicator using the “/s/,” “s/,” or “/s” [name] formats authorized by the person signing a document electronically served or filed; or

(D) any other signature format authorized by general law, so long as the clerk where the proceeding is pending has the capability of receiving and has obtained approval from the Supreme Court of Florida to accept pleadings and documents with that signature format.

(2) By serving a document, or by filing a document by electronic transmission using an attorney’s assigned electronic filing credentials:

(A) that attorney certifies compliance with subdivision (a)(1) through (a)(4) and accepts responsibility for the document for all purposes under this rule;

(B) that attorney certifies compliance with all rules of procedure regarding service of the document on attorneys and parties;

(C) that attorney certifies that every person identified as a signer in the document as described in subdivision (c)(1)(C) has authorized such signature; and

(D) every signing attorney is as responsible for the document as if that document had been served by such signing attorney or filed using the assigned electronic filing credentials of such signing attorney.

**(d) Signature on Document Drafted with Assistance of Attorney.** When an attorney and client agree to limit the objective or scope of the representation pursuant to Rules Regulating The Florida Bar 4-1.2 and the attorney assists a client who is a pro se litigant in drafting a document to be submitted to a court, the pro se party shall sign the document as provided in subdivision (b). Under such circumstances, the attorney is not obligated to

sign the document but the attorney must indicate “Prepared with the assistance of counsel” on the document delivered to the pro se litigant.

## **RULE 2.516. SERVICE OF PLEADINGS AND DOCUMENTS**

**(a) Service; When Required.** Unless the court otherwise orders, or a statute or supreme court administrative order specifies a different means of service, every pleading subsequent to the initial pleading and every other document filed in any court proceeding, except applications for witness subpoenas and documents served by formal notice or required to be served in the manner provided for service of formal notice, must be served in accordance with this rule 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 must 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 must be made upon the attorney unless service upon the party is ordered by the court.

**(1) Service by Electronic Mail (“e-mail”).** All documents required or permitted to be served on another party must be served by e-mail, unless the parties otherwise stipulate or this rule otherwise provides. A filer of an electronic document has complied with this subdivision if the Florida Courts e-filing Portal (“Portal”) or other authorized electronic filing system with a supreme court approved electronic service system (“e-Service system”) served the document by e-mail or provided a link by e-mail to the document on a website maintained by a clerk (“e-Service”). The filer of an electronic document must verify that the Portal or other e-Service system uses the names and e-mail addresses provided by the parties pursuant to subdivision (b)(1)(A).

**(A) Service on Attorneys.** Upon appearing in a proceeding, an attorney must designate a primary e-mail address and may designate no more than two secondary e-mail addresses and is responsible for the accuracy of and changes to that attorney’s own e-mail addresses maintained by the Portal or other e-Service system. Thereafter, service must be directed to all designated e-mail addresses in that proceeding. Every document filed or served by an attorney thereafter must include the primary e-mail address of that attorney and any secondary e-mail addresses. If an attorney does not designate any e-mail address for service, documents may be served on that attorney at the e-mail address on record with The Florida Bar.

**(B) Exception to E-mail Service on Attorneys.** Upon motion by an attorney demonstrating that the attorney has no e-mail account and lacks access to the Internet at the attorney's office, the court may excuse the attorney from the requirements of e-mail service. Service on and by an attorney excused by the court from e-mail service must be by the means provided in subdivision (b)(2) of this rule.

**(C) Service on and by Parties Not Represented by an Attorney.** Any party not represented by an attorney may serve a designation of a primary e-mail address and also may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding by the means provided in subdivision (b)(1) of this rule. If a party not represented by an attorney does not designate an e-mail address for service in a proceeding, service on and by that party must be by the means provided in subdivision (b)(2) of this rule.

**(D) Time of Service.** Service by e-mail is complete on the date it is sent.

(i) If, however, the e-mail is sent by the Portal or other e-Service system, service is complete on the date the served document is electronically filed.

(ii) If the person required to serve a document learns that the e-mail was not received by an intended recipient, the person must immediately resend the document to that intended recipient by e-mail, or by a means authorized by subdivision (b)(2) of this rule.

(iii) E-mail service, including e-Service, is treated as service by mail for the computation of time.

**(E) Format of E-mail for Service.** Service of a document by e-mail is made by an e-mail sent to all addresses designated by the attorney or party with either (a) a copy of the document in PDF format attached or (b) a link to the document on a website maintained by a clerk.

(i) All documents served by e-mail must be sent by an e-mail message containing a subject line beginning with the words "SERVICE OF COURT DOCUMENT" in all capital letters, followed by the case number of the proceeding in which the documents are being served.

(ii) The body of the e-mail must identify the court in which the proceeding is pending, the case number, the name of the initial party on each side, the title of each document served with that e-mail, and the name and telephone number of the person required to serve the document.

(iii) Any document served by e-mail may be signed by any of the “/s/,” “/s,” or “s/” formats.

(iv) Any e-mail which, together with its attached documents, exceeds five megabytes (5MB) in size, must be divided and sent as separate e-mails, no one of which may exceed 5MB in size and each of which must be sequentially numbered in the subject line.

**(F) Service in Limited Appearance Cases.** All pleadings or other documents shall be served upon the limited representation counsel and the party during the attorney’s limited representation as defined in rule 2.505(g). Unless the Notice of Limited Appearance filed in the case identifies the specific proceedings at which the limited representation counsel will appear, if limited representation counsel receives notice of a hearing that is not within the scope of the limited representation, limited representation counsel shall notify the court and the opposing party that the attorney will not attend the court proceeding because it is outside the limited representation.

**(2) Service by Other Means.** In addition to, and not in lieu of, service by e-mail, service may also be made upon attorneys by any of the means specified in this subdivision. If a document is served by more than one method of service, the computation of time for any response to the served document shall be based on the method of service that provides the shortest response time. Service on and by all parties who are not represented by an attorney and who do not designate an e-mail address, and on and by all attorneys excused from e-mail service, must be made by delivering a copy of the document or by mailing it to the party or attorney at their last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail is complete upon mailing. Delivery of a copy within this rule is complete upon:

(A) handing it to the attorney or to the party,

(B) leaving it at the attorney's or party's office with a clerk or other person in charge thereof,

(C) if there is no one in charge, leaving it in a conspicuous place therein,

(D) 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

(E) 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 must also be served by any other method permitted by this rule. Facsimile service occurs when transmission is complete.

(F) Service by delivery shall be deemed complete on the date of delivery.

**(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 own initiative in such manner as may be found to be just and reasonable.

**(d) Filing.** All documents must be filed with the court either before service or immediately thereafter, unless otherwise provided for by general law or other rules. If the original of any bond or other document required to be an original is not placed in the court file or deposited with the clerk, a certified copy must be so placed by the clerk.

**(e) Filing Defined.** The filing of documents with the court as required by these rules must be made by filing them with the clerk in accordance with rule 2.525, except that the judge may permit documents to be filed with the judge, in which event the judge must note the filing date before him or her on the documents and transmit them to the clerk. The date of filing is that shown on the face of the document by the judge's notation or the clerk's time stamp, whichever is earlier.

**(f) Certificate of Service.** When any attorney certifies in substance:

“I certify that the foregoing document has been furnished to (here insert name or names, addresses used for service, and mailing addresses) by (e-mail) (delivery) (mail) (fax) on ..... (date) .....

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Attorney”

the certificate is taken as prima facie proof of such service in compliance with this rule.

**(g) Service by Clerk.** When the clerk is required to serve notices and other documents, the clerk may do so by e-mail as provided in subdivision (b)(1) or by any other method permitted under subdivision (b)(2). Service by a clerk is not required to be by e-mail.

**(h) Service of Orders.**

(1) A copy of all orders or judgments must 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 and final judgments that must 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. The court may serve any order or judgment by e-mail to all attorneys who have not been excused from e-mail service and to all parties not represented by an attorney who have designated an e-mail address for service.

(2) When a final judgment is entered against a party in default, the court must mail a conformed copy of it to the party. The party in whose favor the judgment is entered must furnish the court with a copy of the judgment, unless it is prepared by the court, with 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, its finality, or any proceedings arising in the action.

## **RULE 3.010. SCOPE**

These rules shall govern the procedure in all criminal proceedings in state courts including proceedings involving direct and indirect criminal contempt, proceedings under rule 3.850, and vehicular and pedestrian traffic offenses insofar as these rules are made applicable by the Florida Rules of ~~Practice and Procedure for~~ Traffic Courts. These rules shall not apply to direct or indirect criminal contempt of a court acting in any appellate capacity. These rules shall not apply to rules 3.811 and 3.812. Florida Rule of Judicial Administration 2.505(g) will not apply to proceedings governed under these rules if defendant is represented by the office of the public defender, conflict counsel, or appointed private counsel. A defendant not represented by court-appointed counsel may retain private counsel on a limited appearance basis for first appearances held pursuant to rule 3.130, applications to set bond, applications to modify bond, and motions for pretrial release filed pursuant to rule 3.131, or upon motion, by leave of court with notice to, and consent of, lead counsel. These rules shall be known as the Florida Rules of Criminal Procedure and may be cited as Fla. R. Crim. P.

### **Committee Notes**

**1968 Adoption.** These rules are not intended to apply to municipal courts, but are intended to apply to all state courts where “crimes” are charged.

**1972 Amendment.** Amended to provide for applicability of rules to vehicular traffic offenses, when made so by the traffic court rules.

**1992 Amendment.** The rule is amended to refer to “Florida Rules of Criminal Procedure” and “Fla. R. Crim. P.” rather than to “Rules of Criminal Procedure” and “R. Crim. P.” Although the Florida Bar Rules of Criminal Procedure already contains this language, the West publications, Florida Rules of Court (1991) and Florida Criminal Law and Rules (1991), do not. The published version of rule 3.010, In re Florida Rules of Criminal Procedure, 272 So. 2d 65 (Fla. 1973), and the single published amendment to the rule, In re Amendments to the Florida Rules of Criminal Procedure, 518 So. 2d 256 (Fla. 1987), also do not contain these additions. The Florida Bar publication, Florida Criminal Rules and Practice, in a commentary to rule 3.010, indicates that the Florida Supreme Court changed the citation form in an order effective January 1, 1977. The commentary indicates that

the order stated in pertinent part:

In order to provide the clarity of citations in briefs filed in this court and other legal writings, the following amendments to the procedural rules adopted by this court pursuant to Article V, Section 2(a), of the Florida Constitution are hereby adopted.

\* \* \*

The last sentence of Rule 3.010 of the Florida Rules of Criminal Procedure is amended as follows: “These Rules shall be known as the Florida Rules of Criminal Procedure and may be cited as Fla. R. Crim. P.”

However, these changes were apparently inadvertently omitted when the 1987 amendments were published. The proposed 1992 amendments again incorporate into the rule the language set out in the court’s 1977 order.

The amendments would enable clearer identification of the rules and achieve consistency of style with other sets of court rules, in particular, rule 9.800(i), Fla.R.App.P., which provides that the proper citation to the Florida Rules of Criminal Procedure is Fla.R.Crim.P.

## **RULE 9.440. ATTORNEYS**

**(a) Appearance of Attorneys.** The provisions in Florida Rule of Judicial Administration 2.505(e)–(g) do not apply in proceedings governed by these rules. To appear in a proceeding governed by these rules, an attorney shall:

(1) appear in the signature block or certificate of service of the initial filing that invokes, or seeks to invoke, the original or appellate jurisdiction of the court under rule 9.030; or

(2) file a notice of appearance that includes a designation of e-mail address(es).

**(ab) Foreign Attorneys.** An attorney who is an active member in good standing of the bar of another state may be permitted to appear in a proceeding upon compliance with Florida Rule of Judicial Administration 2.510.

**(bc) Withdrawal of Attorneys.** An attorney shall not be permitted to withdraw unless the withdrawal is approved by the court. The attorney shall file a motion for that purpose stating the reasons for withdrawal and the client’s address. A copy of the motion shall be served on the client and adverse parties.

### **Committee Notes**

**1977 Amendment.** This rule replaces former rule 2.3 with unnecessary subdivisions deleted. The deletion of former rule 2.3(c) was not intended to authorize the practice of law by research aides or secretaries to any justice or judge or otherwise approve actions inconsistent with the high standards of ethical conduct expected of such persons.

Subdivision (a) permits foreign attorneys to appear on motion filed and granted at any time. See Fla. Bar Integr. Rule By-Laws, art. II, § 2. There is no requirement that the foreign attorney be from a jurisdiction giving a reciprocal right to members of The Florida Bar. This rule leaves disposition of motions to appear to the discretion of the court.

Subdivision (b) is intended to protect the rights of parties and

attorneys, and the needs of the judicial system.

This rule does not affect the right of a party to employ additional attorneys who, if members of The Florida Bar, may appear at any time.

**2002 Amendment.** The amendments to subdivision (a) are intended to make that subdivision consistent with Florida Rule of Judicial Administration 2.061, which was adopted in 2001, and the amendments to subdivision (b) are intended to make that subdivision consistent with Florida Rule of Judicial Administration 2.060(i).

**20 Amendment.** Subdivision (a) is new and is intended to clarify the ways in which an attorney can appear in a proceeding governed by these rules. Former subdivisions (a) and (b) were renumbered as subdivisions (b) and (c).