

**SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO FLORIDA RULE OF  
JUDICIAL ADMINISTRATION 2.420**

**SC20-1765**

**COMMENT OF  
RULES OF JUDICIAL ADMINISTRATION COMMITTEE**

Michael J. Korn, Chair of the Rules of Judicial Administration Committee, and Joshua E. Doyle, Executive Director of The Florida Bar, file this comment in support of the amendments to Florida Rule of General Practice and Judicial Administration 2.420 adopted by the Court in this case on January 21, 2021.

The Committee recognizes that in the past, documents in circuit civil, county civil, and small claims cases were filed in paper format, and often placed in an in-box on the clerk's counter. Anyone—particularly the media—was able to go through and examine the pile of papers waiting for docketing and filing by the clerk. Now that the filing of legal papers has substantially moved to electronic submissions and docketing, unanticipated delays in the availability of public records for inspection are now occurring.

Though the Committee continues to express concern about the protection of protected or sensitive personal information as described within Rule 2.420, Rule 2.425 and other pertinent Florida Statutes, the Committee also recognizes the essential nature of Florida's open government and the accessibility of public records. The Committee had previously reviewed concerns raised by the Media Coalition, but did not agree to a rule amendment to subdivision (d)(1)(A) of Rule 2.420 in response to the Coalition's arguments. The Committee's underlying concern is to maintain appropriate protection for information included in the listed exceptions.

The Committee appreciates the Court's approach by creating new subdivision (d)(1)(C), which emphasizes principles of open government and immediate access to court documents by judicial officers, clerks, practitioners, filers, and the citizens of Florida. The Court's approach removes a burden from clerks and may also help remind all filers of their obligations to ensure what they file does not contain confidential or protected information.

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The Committee would like to share some concerns that were recently discussed by its reviewing subcommittee. In particular, while not changing the law, this rule change imposes sanctions for non-compliance. When considering that added significance, the Committee respectfully suggests that the Court support and encourage efforts by The Florida Bar to ensure that enhanced education and training for practitioners is expeditiously developed and made readily available. The Committee also recognizes that some civil cases (including marital and family, landlord-tenant and small claims cases) also involve a large number of *pro se* filers, who may be unaware of their full responsibilities to protect personal and sensitive information. The Committee also suggests that the Court direct the appropriate entity, such as the Florida Court Clerks and Comptrollers or the Office of State Courts Administration, to create and share pamphlets, web videos, or other tools for educating Bar members, their staff, and *pro se* filers about the document review requirement (including the minimization of protected or sensitive information), and the sanctions that may be imposed if something containing confidential information is filed.

Additionally, there are two extra actions that the Committee respectfully suggests may help prevent the inclusion of inappropriate information within a civil filing. The Court may consider drafting or editing a rule to require a filer to supply a certificate of compliance with Rule 2.420 within each pleading, in conjunction with the existing certificate of service and font compliance, and also having a pop-up box appear within the Florida Courts E-filing Portal that requires the filer to affirmatively state, before filing, that each filing is in compliance with Rule 2.420. Though this requirement is shared as information within the portal, requiring an affirmative action immediately before tapping “Confirm and Submit All Now” on the E-filing Portal would provide the filer with one last protective step before any protected information is inappropriately made accessible to anyone, and before the filer is subject to sanctions. A similar requirement could also be considered for those filers who are still permitted to file in paper format under the rules.

The Committee appreciates the opportunity to share its views about the Court’s revisions to Rule 2.420, and stands ready to assist the Court in any necessary and appropriate way.

Respectfully submitted this 6th day of April 2021.

/s/ Michael Jeffrey Korn

Michael Jeffrey Korn  
Chair  
Rules of Judicial Administration Comm.  
501 Riverside Ave., Ste. 903  
Jacksonville, FL 32202-4940  
(904) 356-5500 x230  
mkorn@kornzehmer.com  
Florida Bar No. 296295

/s/ Joshua E. Doyle

Joshua E. Doyle  
Executive Director  
The Florida Bar  
651 E. Jefferson Street  
Tallahassee, FL 32399-6584  
(850) 561-5600  
jdoyle@floridabar.org  
Florida Bar No. 25902

#### CERTIFICATE OF COMPLIANCE

I certify that this Comment complies with the font size and type requirements of *Fla. R. App. P.* 9.045.

#### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Comment was served, via the Florida Courts E-Filing Portal, on this 6th day of April 2020 to:

Rebecca E. Lober  
Brevard County Clerk  
Post Office 999  
Titusville, FL 32399  
Rebecca.lober@brevardclerk.us  
legalteam@brevardclerk.us  
Florida Bar No. 91336

/s/ Krys Godwin

Krys Godwin, Director  
Legal Publications  
Staff Liaison  
Rules of Jud. Admin. Comm.

651 E. Jefferson Street  
Tallahassee, FL 32399-6584  
(850) 561-5706  
kgodwin@floridabar.org  
Florida Bar No. 2305