

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO FLORIDA      CASE NO.: SC20-1765**  
**RULE OF JUDICIAL**  
**ADMINISTRATION 2.420**

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**COMMENTS OF THE HOUSING UMBRELLA GROUP**

The Housing Umbrella Group (“Housing Umbrella Group”), files this comment pursuant to the Court’s January 21, 2021, notice inviting comments from interested parties.<sup>1</sup> The Housing Umbrella Group requests that this Court amend the proposed Florida Rule of General Practice and Judicial Administration 2.420(d). Specifically, the clerk of courts should be required to continue reviewing filings for confidential information when a *pro se* party files the document.

The Housing Umbrella Group, founded in the 1980s, is an unincorporated statewide association of approximately 175 public interest law attorneys from 18 independent, county, regional, and statewide legal aid organizations. The members of the Housing

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<sup>1</sup> The Housing Umbrella Group would like to thank Danielle Hall, 2L, from the Tenants’ Rights Clinic at the University of Miami School of Law for her assistance in drafting these comments.

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Umbrella Group provide civil legal services to low-income families, victims and survivors of domestic violence, elderly people, and people with disabilities throughout Florida. The attorney members focus on housing matters and regularly represent tenants facing eviction from both privately owned and federally subsidized residential rental properties. As a whole, the Housing Umbrella Group assists thousands of tenants facing eviction every year.

Because our attorneys handle evictions, the Housing Umbrella Group supports the need for timely access to court records. Evictions proceed under summary procedure.<sup>2</sup> Summary procedure requires a tenant to respond to an eviction lawsuit within five days and the cases are advanced on the court's calendar.<sup>3</sup> When the sheriff posts a writ of possession on the tenant's door, the sheriff may return within 24 hours to evict the tenant.<sup>4</sup> The need for the clerk to review eviction filings for redaction and quickly make the filings accessible online is essential for our work because of these short deadlines. Legal aid attorneys regularly rely on the courts'

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<sup>2</sup> § 83.59(2), Fla. Stat. (2020).

<sup>3</sup> § 51.011(1), Fla. Stat. (2020).

<sup>4</sup> § 83.62(1), Fla. Stat. (2020).

online dockets to get copies of filings in evictions. Even before the current pandemic, low-income tenants facing eviction often contacted their local legal aid office over the telephone. These tenants frequently do not have easy access to technology allowing them to scan or fax the eviction pleadings and attachments to their attorney. Legal aid attorneys regularly rely on access to the online docket to obtain pleadings, advise clients, and draft answers. Even a short delay for redaction can cause problems for a tenant's prospective attorney while trying to comply with the short deadlines. Because of this, the Housing Umbrella Group supports the primary goal of the proposed rule: to ensure the public's quick access to court records.

However, the Housing Umbrella Group also recognizes the need to ensure that an individual's sensitive and personal information is not disclosed online. Identity theft can have a long-lasting impact on someone's financial health, including the ability to secure housing or employment.<sup>5</sup> The Federal Trade Commission

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<sup>5</sup> IDENTITY THEFT RESOURCE CENTER, IDENTITY THEFT: THE AFTERMATH 2017 (2017), [https://www.ftc.gov/system/files/documents/public\\_comments/2017/10/00004-141444.pdf](https://www.ftc.gov/system/files/documents/public_comments/2017/10/00004-141444.pdf)

warns that identity thieves may use personal information to pretend to be an individual if they are arrested, use an individual's health insurance to receive medical care, or steal an individual's tax refund.<sup>6</sup> Court filings, especially exhibits and attachments, can contain social security numbers, dates of birth, and other personal identifiers. Criminals have used court records to facilitate identity theft.<sup>7</sup> For tenants living in subsidized housing, it is not unusual for leases and other forms to have personal information, including dates of birth and social security numbers. Many residential leases contain bank account information and routing numbers, as well as the names of minor children.<sup>8</sup> It is critically important that this sensitive, personal information be redacted and unavailable to the public.

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<sup>6</sup> Consumer Information: What to Know About Identity Theft, FEDERAL TRADE COMMISSION (Mar. 2021), <https://www.consumer.ftc.gov/articles/what-know-about-identity-theft>.

<sup>7</sup> *Soroka v. Household Auto. Fin. Corp.*, CV044000300, 2007 WL 1598964, at \*5 n.5 (Conn. Super. Ct. Apr. 30, 2007) (identifying several cases of identity theft facilitated by court records).

<sup>8</sup> See Fla. R. Jud. Admin. 2.425(a)(1) (requiring minor children's names to be minimized to their initials only).

To balance these competing interests, the Housing Umbrella Group proposes that the clerk of court continues to review for redaction any filings made by *pro se* parties. The Housing Umbrella Group recognizes that attorneys should be expected to comply with Rules 2.420 and 2.425 and can be sanctioned if they do not comply with the Rules. But, *pro se* parties are often unaware of the need to redact confidential information within their filings. For example, unrepresented landlords sometimes file leases containing confidential information without making the necessary redactions. Sometimes, *pro se* filers inadvertently disclose information about themselves that should be confidential. All too commonly, *pro se* tenants file responses that include, discuss, or attach confidential medical records or financial records. Without the clerk reviewing for confidential information, the filing will become immediately available to the public and at risk for misuse or appropriation. Most unrepresented parties are unfamiliar with the process to designate information as confidential and may never become aware that confidential information was filed in their case and available online. This proposal would reduce the number of documents the clerk

would have to review for redaction, but still maintain a review when a filing is made without an attorney.

For these reasons, the Housing Umbrella Group respectfully requests that this Court amend the proposed Florida Rule of General Practice and Judicial Administration 2.420 and require the clerk of court to continue the redaction of confidential information for any filing made by a *pro se* party. This will maintain protections from disclosure while still reducing the number of documents requiring review. As a result, the amendment will achieve the efficiency results desired to improve access to court records while also safeguarding against the release of confidential information.

Respectfully Submitted,

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### **CERTIFICATE OF SERVICE**

I certify that a copy of the Comments of the Housing Umbrella Group has been served on the parties identified in the E-filing Portal via notice of electronic filing on April 6, 2021:

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**CERTIFICATE OF COMPLIANCE**

I certify that this document meets the font requirements of Florida Rule of Appellate Procedure 9.045.

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