

RULES OF JUDICIAL ADMINISTRATION COMMITTEE 2020 REGULAR-CYCLE REPORT

The Rules of Judicial Administration Committee invites comments on the proposed rule amendments anticipated to be included in the Committee’s regular-cycle report. Click [here](#) for the full text of the proposals. Interested persons have until **August 15, 2019**, to submit any comments, electronically, to Judge Josephine Gagliardi, Incoming Chair of the Rules of Judicial Administration Committee, at jgagliardi@ca.cjis20.org, and to Bar attorney liaison, Krys Godwin, at kgodwin@floridabar.org.

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| Rule 2.110 (Scope and Purpose) | 39-0-0 | This amendment alters the name of this rule chapter to “Florida Rules of General Practice and Judicial Administration,” to be abbreviated as “Fla. R. Gen. Prac. & Jud. Admin.,” and makes grammar corrections to correspond with the amendment. |
| Rule 2.265 (Municipal Ordinance Violations) | 31-0-0 | This amendment deletes subdivision (d) (Judicial Notice of Municipal Ordinances) as unnecessary and renumbers subdivision (e) as (d). |
| Rule 2.330 (Disqualification of Trial Judges) | 26-4-0 | <p>Subdivision (a) is amended to clarify to which judges this rule applies.</p> <p>Subdivision (b) is amended to include “general law” as a ground for seeking to disqualify a judge as provided within this rule.</p> <p>Subdivision (c)(2) is amended to require identification of the specific date when the facts constituting the grounds for disqualification were discovered by the movant. Subdivision (c)(3) is amended to allow affirmation to serve as a means of supporting a motion and to require that any separate supporting affidavit be attached. Subdivision (c)(4) is amended merely to add a conjunction.</p> <p>The first sentence in the stand-alone paragraph at the end of subdivision (c) is renumbered as subdivision (c)(5) and its language is amended to conform with its inclusion in the numbered list. The last sentence in the stand-alone paragraph is renumbered as subdivision (d), the time for service is changed from “immediately” to “promptly,” and the cross-reference is updated.</p> <p>Previous subdivision (d) is renumbered as subdivision (e) and is amended to further clarify the non-exclusive grounds on which a motion to disqualify may be raised and to require the</p> |

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| | <p>inclusion of all specific and material facts in that motion. Subdivision (e)(1) is amended to add “reasonably.” Subdivision (e)(2) is stricken and rewritten to identify persons whose relationships to the judge may form a basis for a disqualification motion and the nature of the interests and roles of those persons that support disqualification. New subdivision (e)(3) recognizes that a judge is subject to disqualification if the judge was previously an attorney in the matter, was previously associated in practice with an attorney while that attorney served as a lawyer in the matter, or served as a lower court judge in the matter. New subdivision (e)(4) recognizes that a judge is subject to disqualification if the judge has prior personal knowledge of or bias regarding disputed evidentiary facts.</p> <p>New subdivision (f) seeks to eliminate the ability to create grounds for disqualification through the appearance of substitute or additional counsel.</p> <p>Subdivision (e) is renumbered as (g) and is amended by changing the deadline from 10 to 20 days after discovery by the party or the party’s attorney. A sentence is added to clarify and cross-reference the requirement of prompt service on the judge.</p> <p>Subdivision (f) is renumbered as (h) and is amended to update cross-references and language per AOSC06-14, <i>In re: Guidelines for Rule Submissions</i>. The second sentence is moved to become the fourth sentence to improve clarity. A new fifth sentence is added to clarify that the disqualification order does not constitute acknowledgement that a motion’s allegations are true.</p> <p>Subdivision (g) is renumbered as subdivision (i). The cross-reference within this subdivision is updated and the language is updated, per AOSC06-14, <i>Guidelines for Rule Submissions</i>.</p> <p>Subdivision (h) is renumbered as (j), and it is amended to require a motion for reconsideration be filed within 30 days, instead of the current 20 days, of the order of disqualification.</p> <p>Subdivision (i) is renumbered as subdivision (k), the title is changed to “Recusal Upon Judge’s Initiative,” and the rule is amended by deleting</p> |
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| | | <p>“disqualification on the judge’s own initiative” and substituting “recusal.”</p> <p>Subdivision (j) is renumbered as (l) and amended to require the judge against whom a motion has been filed to take action immediately. The reference at the end of the first sentence is updated. The second sentence is amended to clarify that a motion is deemed granted if not denied within 30 days of service.</p> |
| <p>Rule 2.420 (Public Access to and Protection of Judicial Branch Records)</p> | <p>35-1-0</p> | <p>This rule was substantially reorganized for greater ease of understanding and use.</p> <p>Subtitles are added to break the rule into understandable parts.</p> <p>Subdivision (a) is amended to clarify that access to public records within the court system is based on Art. I, Sec. 24(a), Fla. Const. The last sentence of this subdivision is deleted and a new last sentence that directs filers to omit unnecessary confidential or exempt information within filings is added.</p> <p>Subdivision (b) is amended to move the definition of “Judicial branch” as the first definition. Subdivision (b)(2)(A) updates the definition of “court records” and subdivision (b)(2)(B) is amended to define who holds administrative records. Subdivision (b)(4) clarifies the confidential and exempt information that may be restricted and in what manner. Subdivision (b)(5) is amended to clarify the definition of “non-party.” Subdivision (b)(6) is amended to clarify the definition of “filer.”</p> <p>The title subdivision (c) is amended to remove “and Exempt” and to add “of the Judicial Branch.” The first sentence is rewritten and a second sentence is added to clearly explain what documents are confidential when filed in a manner pursuant to this subdivision. In subdivision (c)(3) a conjunction is added for grammatical clarification. Throughout this subdivision, periods are substituted for semi-colons for grammatical clarification. In subdivision (c)(9)(A)(vi) a conjunction is added for grammatical clarification.</p> <p>The title of subdivision (d) is changed to “Court Records” the subdivisions (1), (1)(A), and (1)(B) are combined for ease of understanding by the reader. The list of “22 categories” of confidential</p> |

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| | <p>documents is renumbered as 1–22 for greater clarification by readers and clearer citation use by practitioners.</p> <p>Current subdivision (d)(2) is renumbered as subdivision (e) and titled “Filer’s Obligation to Protect Confidential Information.” This subdivision details the responsibility of a filer of confidential information and the opportunity for the filing of a notice of confidential information (found as an appendix to the rule). Subdivision (e)(1) explains that a notice of confidentiality is not required if the whole file is confidential. Subdivision (e)(2) explains the obligation of the filer for a notice of confidential information when the document is confidential. Subdivision (e)(3) explains the obligation of a filer when a portion of a document is confidential.</p> <p>Current (d)(2)(B) is renumbered as subdivision (f) and titled “Clerk Review of Notice of Confidential Information.” This subdivision is reworded to clarify the obligation of the clerk to confirm filings of a notice of confidentiality actually contain confidential information as defined within this rule.</p> <p>Current subdivision (e) is renumbered (g) and retitled “Motion to Determine Confidentiality of Court Records in the Trial Court.” This subdivision is redesigned to include all trial court records except those that may reveal the identity of confidential informants or active criminal investigations. This subdivision expresses the authority to file a motion to determine confidentiality of court records. Subdivisions (g)(1)(A)–(g)(1)(D) itemize the requirements for such a motion. Subdivision (g)(2) states the motion will be held confidential by the clerk for up to 30 days, unless there is an order extending such. Subdivision (g)(3) requires a response to a motion be served within 15 days of service. Subdivision (g)(4) establishes the requirements for a hearing. Subdivision (g)(5) recognizes the public nature of these hearings unless requested otherwise and places the burden of creating the record of a non-criminal case is on the filer. Subdivision (g)(6) establishes the requirements for a notice of the hearing by the filer and the clerk, and the notice posting requirements on the chief judge. Subdivision (g)(7) requires a ruling within 30 days of the hearing. Subdivisions (g)(8)(A)–(g)(8)(H)</p> |
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| | <p>itemize the required details in a court order that grants, in whole or in part, confidentiality. Subdivision (g)(9) excludes case numbers, docket numbers or other clerk office numbers from confidentiality. Subdivisions (g)(10)(A)–(g)(10)(B) describe the manner in which the written order granting confidentiality must be publicly noticed.</p> <p>Current subdivision (f) is renumbered as subdivision (h) and the title is amended to: Motions to Determine Confidentiality of Plea Agreements, Substantial Assistance Agreements, Documents Identifying Confidential Informants, or Documents that Pertain to Active Criminal Investigations in the Trial Court. Subdivision (h)(1) rewrites the ability and requirements a party has for such a motion. Subdivision (h)(2) amends the deadline for a hearing on the motion to 10 days. Subdivision (h)(3) eliminated unnecessary words and cross references. Subdivision (h)(4) sets the time for a ruling as 10 days from the hearing or filing of an agreed motion. Subdivision (h)(5) requires a motion granting any confidentiality be in compliance with subdivision (g)(8). Subdivision (h)(6) establishes the length of time in which an order may be issued under this subdivision. Subdivision (h)(7) eliminated unnecessary words and cross references. Subdivision (h)(8) restates the current rule that there is no authorization for the falsification of court records or progress dockets.</p> <p>Current subdivision (g) is renumbered subdivision (i) and retitled “Motions to Determine Confidentiality of Appellate Court Records.” Subdivision (i)(1) establishes the title, authority, and procedure by the clerk for motions within an appellate court case. Subdivision (i)(2) establishes the timing and requirements of an order regarding confidentiality of appellate court records. Subdivisions (i)(3) and (i)(4) are simply the renumbering of current subdivisions (g)(6) and (g)(8), respectively.</p> <p>Current subdivision (h) is deleted as incorporated elsewhere.</p> <p>Proposed subdivision (j), titled “Motions to Vacate or Unseal Records by Non-party,” establishes the requirements that must be followed for a non-party to access a confidential court record. Specifically, subdivision (j)(1) details the requirements within a</p> |
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| | <p>written motion; subdivision (j)(2) establishes the timing for a hearing or a waiver of such; subdivision (j)(3) establishes the hearing will be open unless requested to be held in camera; and subdivision (j)(4) establishes the deadline for a ruling by the court.</p> <p>Proposed subdivision (k), titled Notice to Non-parties,” details the notice requirements. Subdivision (1)(A)–(1)(D) lists the contents required within the notice. Subdivision (2)(A)–(2)(B) lists the exceptions within this subdivision’s requirements.</p> <p>Proposed subdivision (l), titled “Filing of Confidential Information by Judicial Officers,” requires judges, magistrates, or hearing officers to file the notice of confidentiality if they file any document containing confidential information in a case that is not maintained as confidential.</p> <p>Current subdivision (i) is renumbered as (m) and deletes unnecessary language regarding the procedure of courts to impose sanctions for violations.</p> <p>Current subdivision (j) is renumbered as (n) and retitled as: Accessing Confidential Court Records. Subdivision (n)(1) is very similar with the amendment of changing “law” to “court rule” and deleting “any person authorized by”. Subdivision (n)(2) text is the same except subdivision (n)(2)(C) is deleted so subdivision (n)(2)(D) is renumbered. Subdivision (n)(3) is rewritten to better explain to whom service must be performed and requiring the hearing within 30 days. Subdivision (4) is mostly unchanged with only the phrase “upon presentation of proper identification to the clerk” added at the end of subdivisions (n)(4)(B) and (n)(4)(C). Subdivision (n)(5) clarifies who has access to the confidential records.</p> <p>Current subdivisions (k) is deleted as incorporated elsewhere.</p> <p>Current subdivision (m) is renumbered as subdivision (o), but the title and text did not change.</p> |
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| | | <p>Current subdivision (l) is renumbered as subdivision (p), but the title and text did not change.</p> |
| <p>Rule 2.505 (Attorneys)</p> | <p>35-1-1</p> | <p>Subdivision (e), addressing the manner in which an attorney may appear for a party, is redesigned to harmonize the rule with existing practice and to clarify, with descriptions and subdivision titles, the manner in which attorneys are permitted to appear in actions and proceedings. Subdivision (e)(1) is titled “First Pleading or Document” and establishes an attorney’s appearance through the signing of the first pleading or document filed for a party. Subdivision (e)(2) is titled “Notice of Appearance” and establishes an attorney’s appearance through the filing of such notice on behalf of a party. Subdivision (e)(3) is titled “Order on Substitution of Counsel” and allows an attorney’s appearance when a court enters an order replacing an attorney, with the caveat that such an order may include conditions such as that outstanding attorneys’ fees and expenses be paid. New subdivision (e)(4) is titled “Notice of Substitution of Counsel” and allows attorneys to replace attorneys within the same law firm, company, or government agency by filing a notice. Subdivision (e)(5), titled “Notice of Limited Appearance,” allows limited appearances when permitted by another rule. Subdivision (e)(6), titled “Appearance as Stand-In Counsel,” establishes this option for an attorney appearance in accordance with subdivision (g).</p> <p>Subdivision (f), Termination of Appearance of Attorneys, is rewritten for clarification. Subdivision (f)(1) is streamlined by removing the first part of the subdivision and stating that a withdrawal of an attorney may occur by a “written order of the court after hearing upon a motion.” Subdivision (f)(2) is amended to allow termination of an appearance by substitution of counsel pursuant to subdivision (e)(3) or (e)(4). Subdivision (f)(3) terminates representation at the time an action or proceeding terminates or when the time for appeal expires. Subdivision (f)(4) is retitled to “Termination of Post-Judgment Appearance” and sets forth the distinct ways in which a post-judgment appearance terminates in a non-criminal case versus in a criminal or juvenile case. Subdivision (f)(5), titled “Termination of Limited Appearance”, permits the filing of a termination of appearance if the attorney has appeared pursuant to a notice of limited</p> |

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| | | <p>appearance. Subdivision (f)(6) provides for the automatic conclusion of stand-in counsel representation in a new subdivision titled “Termination of Hearing.”</p> <p>Current subdivision (g) is renumbered as subdivision (j), and a new subdivision, titled “Stand-in Counsel,” takes its place as subdivision (g). This new subdivision establishes the procedure by which an attorney may appear as stand-in counsel (by filing a notice of stand-in counsel or having the appearance reflected in a record kept by the court or clerk), but exempts stand-in attorneys from the same law firm, company, or government agency from those requirements.</p> <p>Subdivision (h) is rewritten to redefine how an attorney is the agent of the client.</p> <p>New subdivision (i) is titled as and defines what constitutes an “Attorney of Record.”</p> <p>The title of the newly renumbered subdivision (j) is amended to include “and Certified Legal Intern.”</p> |
| Rule 2.510 (Foreign Attorneys) | 32-0-1 | <p>Subdivision (b) is amended by adding three sentences that require the foreign attorney to submit a supplement to the previously-filed motion to appear pro hac vice if information different from what is contained in the motion is found. The supplement must be filed with the court and the Bar, and the obligation to supplement persists until the motion is denied or the foreign attorney is not longer active in the case. Some grammar edits are made to the subdivision. Subdivision (b)(3) is amended by adding “judicial officer or the entity responsible for attorney regulation” and breaking the latter part of the subdivision into two subparts: The existing part is numbered as subdivision (b)(3)(A) and is grammatically updated; and a new subdivision, (b)(3)(B), is added to require disclosure of the date and nature of any discipline, suspensions, disbarments, or contempt incurred by the applicant in the preceding 5 years.</p> <p>Within the form Verified Motion for Admission to Appear Pro Hac Vice Pursuant to Florida Rule of Judicial Administration 2.510, the first sentence of paragraph 5 is replaced with language that corresponds with the amended language of subdivision (b)(3).</p> |