

RJA and Criminal Procedure Rules amendments concerning electronic filing and service advancements

The Florida Bar's Rules of Judicial Administration Committee (RJA Committee) and The Florida Bar's Criminal Procedure Rules Committee (CPR Committee) have submitted to the Florida Supreme Court a joint out-of-cycle report proposing amendments to the Florida Rules of Judicial Administration and Florida Rules of Criminal Procedure. The proposed amendments are both in reaction to electronic filing and service advancements within the courts and legal profession and in response to this Court's February 11, 2019, referral regarding *Wheaton v. Wheaton*, 261 So. 3d 1236 (Fla. 2019).

The Court invites all interested persons to comment on the proposed amendments, which are summarized by the committees below and reproduced in full online at <https://www.floridasupremecourt.org/Case-Information/Rules-Cases-Proposed-Amendments>. All comments must be filed with the Court on or before April 1, 2020, with a certificate of service verifying that a copy has been served on the Committee Chairs, Honorable Josephine Gagliardi, Chair, Rules of Judicial Administration Committee, Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida 33901-3071, jgagliardi@ca.cjis20.org, and Jane Allie McNeill, Chair, Criminal Procedure Rules Committee, Office of Public Defender, Tenth Circuit, 255 N Broadway Avenue, Fl 3, Bartow, Florida 33830-3912, jmcneill@pd10.org, and on the Bar Staff Liaison to the Committees, Krys Godwin, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300, kgodwin@floridabar.org, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Committee Chairs have until April 22, 2020, to file a response to any comments filed with the Court. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with *In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal*, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the Portal. Comments filed via the Portal must be submitted in Microsoft Word 97 or higher. *See In re Electronic Filing in the Florida Supreme Court*, Fla. Admin. Order No. AOSC17-27 (May 9, 2017). Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

IN THE SUPREME COURT OF FLORIDA
IN RE: AMENDMENTS TO THE FLORIDA RULES OF JUDICIAL
ADMINISTRATION AND FLORIDA RULE OF CRIMINAL PROCEDURE
3.030 – ELECTRONIC FILING AND SERVICE, CASE NO. SC19-2163

Rule Number	Explanation
Rule 2.345 (Electronic Signature of Court Official)	This new rule defines the manner in which a court official may perform an electronic signature.
Rule 2.511 (Florida Courts E-Filing Portal)	This new rule defines the Florida Courts E-Filing Portal, the credentials necessary for access to the Portal, and the Florida Courts E-Filing Authority that manages the Portal.
Rule 2.514 (Computing and Extending Time)	<p>Subdivision (a)(4)(A) is amended to substitute “midnight” with “11:59:59 p.m., eastern time.”</p> <p>Subdivision (a)(6)(B) is amended by adding “chief justice or” as a person who may designate a legal holiday.</p> <p>Editorial amendments are made in subdivisions (a)(1)(C) and (a)(2)(C).</p>
Rule 2.515 (Signature and Representations to Court)	<p>The title is amended to “Signature and Representations to Court.”</p> <p>Subdivision (a) is retitled “Signature Required” and rewritten to require that all documents that are filed or served must be signed by the attorney, self-represented litigant, or other authorized person. If a document is not signed, it may be stricken by the court.</p> <p>Subdivision (b) is retitled “Acts Constituting a Signature” and rewritten to detail two manners in which a document may be signed: the act of filing and the signature of each person in the signature block; and the act of serving the document and the</p>

	<p>signature of each person in the signature block.</p> <p>Subdivision (c) is rewritten to require a document signed under this rule to contain a signature block and details the requirements within a signature block for either electronic or paper documents.</p> <p>New subdivision (d), titled “Representation to Court,” has three parts. Subdivision (d)(1), titled “Representation by Filer,” establishes that, by filing an electronic or paper document, the filer certifies compliance with all rules and each person identified by signature accepts responsibility for the filing. Subdivision (d)(2), titled “Representation by Signer,” defines that the signer has read the document, there are good grounds to support the document, the document is not interposed for delay, and the document’s information is in compliance with rules 2.420 and 2.425. Subdivision (d)(3), titled “Representations by Person Serving,” states that a person serving a document under rule 2.516 makes the same representations contained in subdivisions (d)(1) and (d)(2).</p>
<p>Rule 2.516 (Service)</p>	<p>The proposed amendment is a complete rewrite of this rule. The title of the rule is amended to “Service.”</p> <p>Subdivision (a) is retitled “Service of Filed Documents” and itemizes exceptions to the requirement that all filed documents be served on all parties.</p> <p>Subdivision (b) maintains the current title of “Service; How Made,” however the text is rewritten. Subdivision (b)(1) explains the manners in which e-service may be performed; <i>i.e.</i>, via the E-Filing Portal, e-mail, link if the document is oversized, or in compliance with the Florida Supreme Court Standards for Electronic Access to the Courts. Subdivision (b)(2) explains how a document is to be</p>

e-mail served if it is not filed via the Portal or if it is served but not filed; *i.e.*, which e-mail address, title of the e-mail, and the requirements within the e-mail message. (This subdivision also addresses the Court’s referral in reaction to *Wheaton v. Wheaton*.) Subdivision (b)(3) explains service if the document is too large. Subdivision (b)(4) explains the requirement of complying with the Standards for Electronic Access to the Court.

Subdivision (c) is retitled “Service of Paper Documents” and details the when paper service is necessary: pro se party who chooses not to participate in Portal service. Paper service is ineffective for attorneys or parties who have agreed to participate in e-service. It also specifies that not all parties need receive service in the same manner.

Subdivision (d) is retitled “Documents Issued by Justices, Judges, Magistrates, Clerks, or Other Court Officials” and details the manner of service for paper copies of orders, notices or other documents issued by a judge, clerk, or other court official, paper copies of final judgments, and orders setting the action for trial or final judgment when a default has been entered against a party. Subdivision (d)(4) specifies that failure to comply with subdivision (d) does not affect the validity of an order or judgment.

Subdivision (e) is retitled “Service on Judge or Other Court Official” and is rewritten to clarify that service on a judge or court official is not permitted unless required by law and, if permitted, service must be performed electronically in compliance with subdivision (b) and the Standards.

Subdivision (f) is amended to change “attorney” to “lawyer” and the certificate of service example is updated by removing “(fax)” and adding “(portal).”

	<p>Current subdivisions (g) and (h) are deleted.</p> <p>Committee Note is added.</p>
<p>Rule 2.520 (Documents)</p>	<p>The proposed amendment is a complete rewrite of this rule, however, the rule name is the same.</p> <p>Subdivision (a) is retitled “Documents Prepared for Filing” and rewritten to itemize the specifications of filed documents generated by attorneys or represented parties.</p> <p>Subdivision (b) is retitled “Electronic Documents” and rewritten to detail the requirements for PDF filings.</p> <p>Subdivision (c) is retitled “Paper Documents” and rewritten to detail the requirements for paper document filings.</p> <p>Subdivision (d) is retitled “Exhibits.” The initial text of that subdivision explains this applied to documents not generated by an attorney or represented party. Subdivision (d)(1) is retitled “Exhibits to Electronic Document” and rewritten to require bookmarking and compliance with the Standards. Subdivision (d)(2) is retitled “Exhibits Submitted for Filing with a Paper Document” and rewritten permitting exhibits or attachments to paper documents to be attached in original size.</p> <p>Subdivision (e) is retitled “Verification Not Required” and rewritten defining that documents need not be sworn unless required by rule or statute.</p> <p>Current subdivision (f) (Noncompliance) is deleted.</p> <p>Committee Note is added.</p>
<p>Rule 2.525 (Filing)</p>	<p>The proposed amendment is a complete rewrite of this rule. The title is amended by deleting “Electronic.”</p>

Subdivision (a) is retitled “Official Court File” and rewritten to define the official court file as electronic unless otherwise defined by statute or rule.

Subdivision (b) is retitled “Portal Filing” and rewritten to require attorneys to file electronically, permit pro se parties to file electronically, and to restrict other types of filings.

Subdivision (c) is retitled “Clerk Filing” and rewritten to define that paper documents may be filed and then converted if filed by a pro se party, if filed prior to January 1, 2020, if submitted in open court or chambers, or if ordered by the court. The rule also states that paper documents will be destroyed, disposed of, or returned to the filer.

Subdivision (d) is retitled “Notarized and Verified Documents” and rewritten to address the manner in which documents that must be sworn, notarized, or verified may be filed either electronically or with a cover sheet.

Subdivision (e) is retitled “Filed Date and Time” and rewritten to define the manners in which the filed date and time are determined.

Subdivision (f) is retitled “Docketing by Clerk; Unsuccessful Filing Attempt; Noncompliance Electronic Documents” and rewritten into three subdivisions. Subdivision (f)(1) requires docketing of filed document unless it contains an incorrect or missing case number or case style, consists of multiple documents filed as one, a multi-page document is filed as separate documents, it is a proposed order or correspondence to the court, it contains illegible, corrupt, or blank content, or is barred by order of the court. Subdivision (f)(2)

	<p>establishes the procedure for documents that cannot be docketed: the document will be held for 10 days so the party can file a new document, file a motion for review of the clerk’s action, or abandon the document. Subdivision (f)(3) establishes the authority for clerks or the Portal to docket but seek review by the respective court of filed documents that appear to be noncompliant.</p> <p>Current subdivision (g) is stricken.</p> <p>Committee note is added.</p>
<p>Rule 3.030 (Service and Filing of Pleadings, Papers, and Documents)</p>	<p>Subdivision (c) (Deposit with the Clerk) is amended by adding a sentence that excludes documents filed pursuant to rules 3.121, 3.125, 3.160, 3.190, 3.240, 3.692, 3.811, 3.840, and 3.984 from the requirement of a sworn or notarized document being filed and deposited with the clerk.</p> <p>The last sentence of current subdivision (c) is separated to create subdivision (d) (Maintenance of Deposited Documents), which requires paper documents to be maintained in accordance with <i>Fla. R. Jud. Admin.</i> 2.430.</p>