

Proposed amendments to various rules concerning remote proceedings

The Workgroup on the Continuity of Court Operations and Proceedings During and After COVID-19 (Workgroup) has submitted to the Florida Supreme Court a petition proposing amendments to Florida Rules of Civil Procedure, Florida Rules of General Practice and Judicial Administration, Florida Rules of Criminal Procedure, Florida Probate Rules, Florida Rules of Traffic Court, Florida Small Claims Rules, and Florida Rules of Appellate Procedure. The proposed amendments would implement the Workgroup's recommendations for certain proceedings that, due to efficiencies beneficial to stakeholders, could continue to be conducted remotely when COVID-19 no longer presents a significant risk to public health and safety.

The Court invites all interested persons to comment on the proposed amendments, which are summarized by the Workgroup 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 August 31, 2021, with a certificate of service verifying that a copy has been served on the Workgroup Chair, the Judge Lisa T. Munyon, Ninth Judicial Circuit, Orange County Courthouse, 425 N. Orange Avenue, Orlando, Florida 32801, and on the OSCA Staff Liaison to the Workgroup, Tina White, 500 S. Duval Street, Tallahassee, Florida 32399, whitet@flcourts.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 Workgroup Chair has until September 21, 2021 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. 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 FLORIDA RULES OF CIVIL PROCEDURE, FLORIDA RULES OF GENERAL PRACTICE AND JUDICIAL ADMINISTRATION, FLORIDA RULES OF CRIMINAL PROCEDURE, FLORIDA PROBATE RULES, FLORIDA RULES OF TRAFFIC COURT, FLORIDA SMALL CLAIMS RULES, AND FLORIDA RULES OF APPELLATE PROCEDURE, CASE NO. SC21-990

Rule	Explanation
Rule 1.310 (Depositions upon Oral Examination)	Updates terminology for the recording and remote conduct of depositions to reflect today's technology. Revises the requirements for: (i) a notice and a subpoena for a deposition that will be audiovisually recorded or taken by communication technology; and (ii) the custody of an audiovisual recording of a deposition. Authorizes a court to require a deposition to be taken by communication technology on its own motion. Authorizes remote administration of the oath for a witness under specified circumstances. Requires a party who intends to offer a recording of testimony at a hearing or trial to transcribe the testimony and file a

	copy with the court.
Rule 1.320 (Depositions upon Written Questions)	Makes a conforming amendment for the changes to rule 1.310.
Rule 1.430 (Demand for Jury Trial; Waiver)	Adds authority for juror participation via audio-video communication technology in civil proceedings if stipulated by the parties and authorized by the judge.
Rule 1.440 (Setting Action for Trial)	Requires the notice for trial to indicate, if applicable, that the court has authorized juror participation through audio-video communication technology.
Rule 1.451 (Taking Testimony)	Repeals the rule to allow proposed rule 2.530 to govern the presentation of testimony through communication technology.
Rule 1.700 (Rules Common to Mediation and Arbitration)	Adds authority for mediation and arbitration to be conducted through communication technology when ordered by the court or stipulated by the parties.
Rule 1.720 (Mediation Procedures)	Adds authority for representatives of certain public entities to appear at a mediation conference through communication technology.
Rule 1.730 (Completion of Mediation)	Clarifies that the signatures on a mediation agreement may be original, electronic, or facsimile and in counterparts. Prohibits parties from objecting to the

	enforceability of a civil mediation agreement if certain requirements are met.
Rule 1.750 (County Court Actions)	Adds authority for a party to appear at county court civil mediation through communication technology. Clarifies that signatures on a small claims mediation agreement may be original, electronic, or facsimile and in counterparts.
Rule 2.256 (Juror Time Management)	Amends the rule to refer to reporting for jury duty, rather than reporting to the courthouse, to accommodate the possibility of prospective juror participation in voir dire through audio-video communication technology.
Rule 2.451 (Use of Electronic Devices)	Creates procedures that govern the use of electronic devices by prospective and empaneled jurors who participate through audio-video communication technology.
Rule 2.515 (Signature and Certificates of Attorneys and Parties)	Requires unrepresented parties to provide an e-mail address when signing a document.
Rule 2.516 (Service of Pleadings and Documents)	Requires unrepresented parties to provide an e-mail address for service unless excused. Specifies procedures for serving unrepresented parties who are excused.
Rule 2.530 (Communication)	Significantly rewrites the rule.

Equipment)	Creates new definitions. Indicates that communication technology may be used in trial court proceedings as provided in the rule unless governed by another rule of procedure or law. Establishes procedures for a court official in the official's discretion, or on motion of a party, to authorize the use of communication technology for the presentation of testimony or for other participation in a proceeding. Authorizes remote administration of the oath. Authorizes the participation of prospective and empaneled jurors in court proceedings under specified circumstances. Revises provisions relating to the cost of communication technology.
Rule 3.116 (Use of Communication Technology)	Creates a new rule of procedure to govern the use of communication technology in criminal proceedings. Creates new definitions. Adds provisions that mirror the procedures in existing rule 2.530, except that the new rule authorizes remote administration of the oath.
Rule 3.130 (First Appearance)	Makes conforming amendments for the new definitions in proposed rule 2.530.
Rule 3.160 (Arraignment)	Makes a conforming amendment for the new definitions in proposed rule 2.530.

Rule 3.180 (Presence of Defendant)	Adds authority to conduct plea and sentencing proceedings through audio-video communication technology when a defendant's waiver of physical attendance at such proceedings is accepted by the court.
Rule 3.191 (Speedy Trial)	Updates a cross-reference and makes a technical change to clarify that the exceptional circumstances listed in subdivision (l) are non-exclusive.
Rule 3.220 (Discovery)	Makes a conforming amendment for the new definitions in proposed rule 2.530.
Rule 3.851 (Collateral Relief after Death Sentence Has Been Imposed and Affirmed on Direct Appeal)	Makes conforming amendments for the new definitions in proposed rule 2.530. Adds authority for remote administration of the oath at an evidentiary hearing.
Rule 5.080 (Discovery, Subpoena, and Taking Testimony)	Deletes reference to rule 1.451, which results in proposed rule 2.530 governing the taking of testimony in probate and guardianship proceedings.
Rule 6.140 (Conduct of Trial)	Repeals the rule, thereby clarifying that the use of communication technology for: (i) noncriminal traffic infraction proceedings is governed by proposed rule 2.530; and (ii) criminal traffic proceedings is governed by proposed rule 3.116.

<p>Rule 6.340 (Affidavit of Defense or Admission and Waiver of Appearance)</p>	<p>Clarifies that an appearance at trial may be in person or using communication technology.</p>
<p>Rule 7.090 (Appearance; Defensive Pleadings; Trial Date)</p>	<p>Authorizes appearance at a pretrial conference in a small claims case to be in person or using communication technology under proposed rule 2.530. Authorizes appearance at mediation in a small claims case to be in person or using communication technology under specified circumstances. Clarifies that signatures on a small claims settlement agreement may be original, electronic, or facsimile and in counterparts.</p>
<p>Rule 7.100 (Counterclaims; Setoffs; Third-Party Complaints; Transfer when Jurisdiction Exceeded)</p>	<p>Authorizes certain third parties to appear at a supplemental pretrial conference in a small claims case in person or using communication technology under proposed rule 2.530.</p>
<p>Rule 7.140 (Trials)</p>	<p>Adds authority to use communication technology for the presentation of testimony or other participation in a small claims trial under proposed rule 2.530.</p>
<p>Rule 7.150 (Jury Trials)</p>	<p>Adds authority to allow prospective jurors to participate in voir dire and empaneled jurors to participate in a trial through audio-video communication technology in small claims cases</p>

	under specified circumstances.
Rule 9.320 (Oral Argument)	Establishes procedures for the use of communication technology at oral argument.
Rule 9.700 (Mediation Rules)	Adds authority for the court to order participation at appellate mediation through communication technology on the court's own motion or on motion of a party.
Rule 9.720 (Mediation Procedures)	Makes conforming changes for the proposed amendments to rule 9.700.
Rule 9.740 (Completion of Mediation)	Clarifies that signatures on an appellate mediation agreement may be original, electronic, or facsimile and in counterparts.