

**SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO FLORIDA RULES OF JUDICIAL  
ADMINISTRATION AND FLORIDA RULE OF CRIMINAL  
PROCEDURE—ELECTRONIC FILING AND SERVICE**

**SC19-**

**JOINT OUT-OF-CYCLE REPORT OF THE  
RULES OF JUDICIAL ADMINISTRATION AND  
CRIMINAL PROCEDURE RULES COMMITTEES**

The Honorable Josephine Gagliardi, Chair of the Rules of Judicial Administration Committee (RJA Committee), Jane McNeill, Chair of Criminal Procedure Rules Committee (CPR Committee), and Joshua E. Doyle, Executive Director of The Florida Bar, file this joint out-of-cycle report in reaction to the electronic filing and service advancements within the courts and legal profession. Most of the suggested amendments result from the committees' review of rules, however, the Rules of Judicial Administration Committee also reacted to this Court's February 11, 2019, referral regarding *Wheaton v. Wheaton*, 261 So. 3d. 1236 (Fla. 2019), within these rule amendments and are submitted simultaneously with a joint out-of-cycle report of the Civil Procedure Rules, Small Claims Rules, Appellate Court Rules, and Family Law Rules committees.

The votes of the RJA and CPR Committees and the Board of Governors may be seen in Appendix A. The proposed rules and rule amendments may be seen in Appendix B (Full-page) and Appendix C (Two-column). The rules were published for comment (Appendix E), comments were received (Appendix D).

Comments to the proposed rule amendments by the RJA Committee were received by the Civil Procedure Rules Committee, Kimberly Bocelli, the Florida Probate Rules Committee, and the Honorable S. Scott Stephens. Each of these comments were reviewed and several amendments were made in reaction to them, which is explained below.

The Committees request the Court to adopt new Florida Rule of Judicial Administration 2.345, Electronic Signature of Court Official; and Rule 2.511, Florida Courts E-Filing Portal; and adopt amendments to Rule 2.514, Computing and Extending Time; Rule 2.515, Signature and ~~Certificates of Attorneys and Parties~~ Representations to Court; Rule 2.516, ~~Service of Pleadings and Documents~~; Rule 2.520, Documents; Rule 2.525, ~~Electronic Filing~~; and Florida Rule of Criminal Procedure 3.030, Service and Filing of Pleadings Papers, and Documents, for the following reasons:

RECEIVED, 12/31/2019 09:24:27 AM, Clerk, Supreme Court

## **RULE 2.345. ELECTRONIC SIGNATURE OF COURT OFFICIAL**

Proposed Rule 2.345, Electronic Signature of Court Official, is created to define the manner in which a court official may perform an electronic signature. The RJA Committee drafted this rule with the intent of reducing uncertainty about the validity of electronic signatures on court orders. The rule is designed to apply the same criteria to electronic signatures of court orders that are applied to electronic signatures in general law and current-age business. The RJA Committee recognized that the manner in which an electronic document is authorized is a technical matter more appropriately addressed within the standards designed by the Florida Courts Technology Commission and approved by this Court.

A comment was received from the Civil Procedure Rules Committee that raised a concern about the use of “unequivocally” in subdivision (a). (Appendix D-1.) The pertinent part of the rule with the subdivision incorporated into the sentence and the concern in italics would have read “The electronic signature of a document by a justice, judge, magistrate, clerk, or other court official is complete when the document: *unequivocally* indicates the official’s intent to sign it, ...”. After discussion by the subcommittee and within the full committee meeting, the commenter’s concern was acknowledge and it was proposed and approved to remove “unequivocally”.

The new rule would read as:

### **RULE 2.345. ELECTRONIC SIGNATURE OF COURT OFFICIAL**

The electronic signature of a document by a justice, judge, magistrate, clerk, or other court official is complete when the document:

- (a) indicates the official’s intent to sign it; and
- (b) is authenticated according to the Florida Supreme Court Standards for Electronic Access to the Courts.

## **RULE 2.511. FLORIDA COURTS E-FILING PORTAL**

New Rule 2.511, entitled Florida Courts E-Filing Portal, defines the Florida Courts E-Filing Portal. It also defines for the practice and the public the credentials necessary for access to the Portal, and the Florida Courts E-Filing Authority that manages the Portal.

Subdivision (a) defines for readers the portal as the “central electronic court filing facility that accepts court documents for filing in Florida courts, transmits them to the clerks, and can effect automated service via e-mail upon all registered lawyers and parties associated with a case.” The subdivision also considers future advancements in filing and provides—though discourages—the exception to file paper documents when necessary. The complete subdivision would read as:

**(a) Electronic Filing Portal.** The Florida Courts E-Filing Portal (“portal”), accessible on the Internet at <http://myflcourtaccess.com>, is the central electronic court filing facility that accepts court documents for filing in Florida courts, transmits them to the clerks, and can effect automated service via e-mail upon all registered lawyers and parties associated with a case. Use of the portal is required for filing by all participants in all Florida courts except:

(1) when an order of the Chief Justice of the Florida Supreme Court designates a different facility for e-filing in a particular court, that facility must be used instead of the portal and the published requirements of that facility control over the contents of this rule; or

(2) when rule 2.525(c) permits a person to submit a document in paper form for filing, the person may submit the document under that rule unless the person has elected to participate in the case electronically under rule 2.525(d).

Subdivision (b) details the credentials necessary for any user to have access to the portal, prohibits use of false information to obtain access, and complements criminal laws against unauthorized access to computer systems. Specifically, subdivision (b)(1) defines the information necessary to register as a user. Subdivision (b)(2) defines the requirements needed for someone to have access to nonpublic pages on the portal. Subdivision (b)(3) sets the responsibility for protection of user login credentials upon the user. The complete, new subdivision would read as:

**(b) Credentials for Access to Portal.** To use the portal, a person must become a “registered user” and obtain login credentials by registering with the portal according to its instructions. The following conditions apply:

(1) Information provided to obtain credentials must accurately identify the registered user by name, law firm or institution, if any, Florida Bar number, if applicable, and address, telephone number, and

e-mail address at which the account holder will receive notices and service copies of documents.

(2) Access to nonpublic pages of the portal is permitted only if:

(A) a registered user obtains entry with the login credentials issued to the user;

(B) a person uses a registered user's login credentials to obtain entry at the direction of the registered user; or

(C) otherwise expressly permitted by the Portal Authority.

(3) The registered user is responsible for protecting the security of the user's login credentials. The registered user is a filer, and under rule 2.515 a signer, of any document submitted using the account's credentials. Any act done using the credentials is the personal act of the credential holder for all purposes.

Subdivision (c) establishes the governance structure for the portal. It authorizes the Florida Courts E-Filing Authority ("Authority") to make operational decisions, and to publish instructions that registered users must follow to file documents. The Authority is subject to review by the Florida Courts Technology Commission and its actions must comply with the Court's technical standards. The full reading of this proposed subdivision is

**(c) Portal Authority.** The Florida Courts E-Filing Authority, created by an interlocal agreement between each of the trial court clerks of court and the clerk of supreme court operates the portal. The authority must cause the portal to perform the functions required by these rules. The authority may also make operational decisions that facilitate those functions, subject to applicable statutes, rules, administrative orders of the Florida Supreme Court, and the technical standards approved by the Florida Courts Technology Commission or the supreme court. The authority must give 45 days' advance notice to the chair of the Florida Courts Technology Commission before implementing any change to the portal's function or operation. The authority is authorized to publish instructions and instructional materials consistent with the portal's functions. The authority is also authorized to enter into contracts for additional services with

individuals and institutions, including without limitation exposure of Application Program Interfaces, Web Services, and batch filing.

Comments were received by Judge S. Scott Stephens explaining the history and drafting purpose of this rule. The subcommittee worked with Judge Stephens to ensure the concerns of the initially drafting subcommittee were considered and incorporated correctly into the final proposed rule. In so doing, the originally proposed subdivision (b)(2) opening sentence was amended, initially proposed subdivision (b)(2)(A) was deleted, and the remaining subdivisions were renumbered (b)(2)(A)–(b)(2)(C), respectively.

#### **RULE 2.514. COMPUTING AND EXTENDING TIME**

Within Rule 2.514, Computing and Extending Time, the Committee recommends both substantive and editorial amendments. In subdivision (a)(1)(C), the Committee rephrased the beginning of the sentence and the reference to Rule 2.205(a)(2)(B)(iv) is deleted to prevent the need for future amendments in reaction to possible amendments to Rule 2.205. In subdivision (a)(2)(C), an unnecessary “or” and the Rule 2.205 reference is deleted. Pursuant to *In re: Guidelines for Rules Submissions*, SC06-14 (“*Guidelines*”), “shall” is substituted with “must” in subdivision (a)(3).

Subdivision (a)(4)(A) is amended to substitute “11:59:59 p.m., eastern time” for “midnight” to clarify for practitioners electronic filing or service deadlines.

Subdivision (a)(6)(A) is amended grammatically by removing the possessive apostrophe within “Veterans Day” and to change the last comma to a semi-colon, pursuant to the *Guidelines*. Subdivision (a)(6)(B) is amended by adding “chief justice or” as a person who may designate a legal holiday.

#### **RULE 2.515. SIGNATURE AND CERTIFICATES OF ATTORNEYS- AND PARTIES REPRESENTATIONS TO COURT**

Rule 2.515, Signature and Certificates of Attorneys and Parties, is substantially amended; the first of which being the title is amended to “Signature and Representations to Court.”

Subdivision (a) is retitled “Signature Required” and rewritten to require that all documents that are filed or served must be signed by the lawyer, self-represented litigant, or other authorized person. If a document is not signed, it may be stricken by the court. The proposed new subdivision would read as:

**(a) Signature Required.** Every document filed or served must be signed by the lawyer, self-represented litigant, or other person authorized by law to file or serve the document as provided in this rule. If a document is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken by the court and the action may proceed as though the document had not been filed or served.

Subdivision (b) is retitled “Acts Constituting Signature” and rewritten to define how a signature may be constituted within documents. The full Committee originally approved two parts within this subdivisions addressing filing and service, but a comment filed by Judge Stephens revealed the intent of the original subcommittee and previous draft of this rule to recognize the difference between electronic and paper filings. After working in conjunction with Judge Stephens, the current subcommittee amended the subdivision to break this into three parts: electronically filed documents, paper documents, and served documents. The currently proposed subdivision details three manners in which a document may be considered signed: the act of filing and the signature of each person in the signature block; the signing and submission of a paper document; and act of serving the document and the signature of each person in the signature block. The proposed rule would read as:

**(b) Acts Constituting Signature.**

**(1) Electronically Filed Documents.** The act of filing a document constitutes the filer’s signature and the signature of each person who is identified as a signer within the document by placing the electronic signature indicator “/s/” in front of their printed name. A person does not become a signer of the document if the person’s name appears in the document without the adjacent electronic signature indicator.

**(2) Paper Documents.** A person submitting a paper document for filing under rule 2.525(c) must sign the document before submitting it, using any form of signature recognized by law. The person submitting the document becomes its filer for purposes of this rule.

**(3) Served Documents.** For documents served, but not contemporaneously filed, the act of serving constitutes the server’s signature and the signature of each person identified as a signer.

Subdivision (c) was amended several times and extensively over the recent years, with a result that the final approved, published version was nothing like the original creation. Judge Stephens, the original drafter of the rule amendment, submitted a comment explaining the purpose of the original subdivision drafting and how the published version did not meet that purpose. He then worked with the subcommittee to reevaluate this part of the rule. The cooperation resulted in this currently proposed subdivision (c), rewritten and retitled “Signature Block”. It now details the requirements within a signature block for either electronic or paper documents, and would be read as:

**(c) Signature Block.** A document signed under this rule must include a signature block containing each signer’s mailing address, telephone number, e-mail address for service of court documents (if the document is filed or served electronically), and, if the signer is a lawyer, the signer’s Florida Bar number and the party the signer represents.

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”, clarify that documents served under rule 2.516 fall under the same representations as under subdivisions (d)(1) and (d)(2) of this rule.

The initially published version of this rule was slightly different, particularly subdivision (d)(3). After receiving comments from Judge Stephens, the published version was reviewed and the Committee approved the newly amended subdivision that reads:

**(d) Representation to Court.**

**(1) Representation by Filer.** By filing a document pursuant to rule 2.525, the filer certifies that:

(A) the filer has complied with all rules of procedure regarding filing and service of the document; and

(B) every person identified as a signer has authorized such signature, and the filer accepts responsibility for proving such authority if it is later disputed.

**(2) Representation by Signer.** Upon filing, each signer certifies that:

(A) the signer has read the document;

(B) to the best of the signer's knowledge, information, and belief, there are good grounds to support the document;

(C) the document is not interposed for delay; and

(D) the document contains no confidential or sensitive information, or if it does contain confidential or sensitive information, it has all been properly protected by complying with rules 2.420 and 2.425.

**(3) Representations by Person Serving.** A person serving a document under rule 2.516 makes the same representations contained in subdivisions (d)(1) and (d)(2).

## **RULE 2.516. SERVICE OF PLEADINGS AND DOCUMENTS**

The proposed amendments to Rule 2.516, Service of Pleadings and Documents, is a complete rewrite of the rule. The title of the rule is amended to "Service."

Subdivision (a) is retitled "Service of Filed Documents" itemizing exceptions to the requirement that all filed documents be served to all parties. In response to comments received, subdivisions (a)(2) and (a)(3) were amended by removing "an applicable" that was in the published draft. In subdivision (a)(5), the opening phrase is rewritten to "a default has been entered against the party", so the proposed subdivision would read as:

**(a) Service of Filed Documents.** When a document is filed under rule 2.525, the filer must serve it on all other parties as provided in this rule unless:

(1) the document is the first pleading filed in the action and is being served under the statutes and rules applicable to service of summons;

(2) a statute, rule, or administrative order of the supreme court provides for a different method of service and the document is served under that method;

(3) a statute, rule, or court order permits the document to be filed without being served;

(4) the document is an application for a witness subpoena; or

(5) a default has been entered against the party, and the document raises no new or additional claims against the party.

Subdivision (b) maintains the current title of “Service; How Made”, however the text is completely rewritten. Subdivision (b)(1) explains the manners in which e-service may be performed; *i.e.*, 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 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*, 261 So. 3d 1237 (Fla. 2019), that is addressed by the Civil Procedure Rules, Small Claims Rules, Appellate Court Rules, and Family Law Rules Committees in the simultaneously filed joint out-of-cycle report. In response to a comment, subdivision (b)(2)(B) was edited by removing the reference to a docket number and cross reference to Rule 2.515.

Also, in reaction to comments received by the Civil Procedure Rules Committee, the last sentence was added to this subdivision. 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.

Newly proposed and amended subdivision (b) would read:

**(b) Service; How Made.** Service must be made as follows unless the parties otherwise agree:

**(1) Portal Service.** Service of a document filed through the Florida Courts E-Filing Portal (“Portal”) must be made by using the Portal’s E-service function unless the parties have agreed on a different method. The filer must ensure the completeness and accuracy of the portal’s list of designated recipients with e-mail addresses (“service list”) for the case. The portal will transmit a copy of the document to each address on the service list, including the filer, either by e-mail attaching the document or containing a link to it, or by any other method established by agreement between the portal and the recipient. Service on each listed recipient is complete upon filing, but if the filer learns that the document did not reach a person to be served, individual e-mail service must immediately be made.

**(2) E-mail Service.** If a document is to be filed using a court facility other than the portal, or if the document is to be served but not filed, service is made by attaching the document in PDF format to an e-mail message and transmitting it to the recipient’s e-mail address(es). Service by e-mail is complete on the date that it is sent.

**(A)** If a lawyer cannot be served at the e-mail address in the signature block, the lawyer may be served at the lawyer’s e-mail address registered with The Florida Bar.

**(B)** The title of the e-mail message must begin with “SERVICE OF COURT DOCUMENT” and be followed by the case number and a reasonable abbreviation of the style of the case. The body of the e-mail message must contain the style of the case, the title of the document, and the name and telephone number of the person required to serve the document.

**(3) Oversized Documents.** For any document that must be served but is too large for portal or e-mail service, the party may serve a link to the document in compliance with the Florida Supreme Court Standards for Electronic Access to the Courts.

**(4) Technical Standards.** Service must comply with the Florida Supreme Court Standards for Electronic Access to the Courts but noncompliance with technical requirements does not invalidate service unless the noncompliance also constitutes a violation of these rules or the court so orders.

Subdivision (c) is retitled “Service of Paper Documents” and details when paper service is necessary: pro se party who chooses not to participate in portal service. Paper service is ineffective for lawyers or parties who have agreed to participate in e-service. Also specifies that not all parties need receive service in the same manner. In reaction to comments received by the Civil Procedure Rules Committee, the last two sentences in subdivision (c)(1) were added regarding the effective date of service completion. New subdivision (c) will now read:

**(c) Service of Paper Documents.**

(1) An unrepresented person who is not a member of The Florida Bar and who has not chosen to participate electronically under rule 2.525 must be served a paper copy by hand delivery, United States mail, or other commercial delivery service at the address where service of process was effectuated unless a court order or the party designated a different address. Service by mail is complete upon mailing. Service by delivery is complete on the date of delivery.

(2) Service of paper documents on a lawyer, or on a party who has elected to participate electronically in the case, is not permitted and is ineffective unless the party agrees in advance or the court so orders.

(3) Service of documents need not be performed in the same way to all parties unless the court so orders.

Subdivision (d) is retitled “Documents Issued by Justices, Judges, Magistrates, Clerk, 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; or an order 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. In reaction to a comment received by Magistrate Bocelli, “Justices” and “Magistrates” were added to the title of this subdivision, so the subdivision will now read:

**(d) Documents Issued by Justices, Judges, Magistrates, Clerks, or Other Court Officials.**

(1) A paper copy of an order, notice, or other document issued by a judge, clerk, or other court official must be served by hand delivery, United States mail, or other commercial delivery service on all

unrepresented parties who have not elected to participate electronically in the case.

(2) A paper copy of every final judgment must be served by mail on the party against whom the judgment is entered.

(3) If a default has been entered against a party, service on that party under this subdivision is required only for an order setting the action for trial, and for a final judgment.

(4) Failure to comply with this subdivision does not affect the validity of an order or judgment, its finality, or any proceedings arising in the action.

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. This rewritten subdivision would read as:

**(e) Service on Judge or Other Court Official.** Documents filed under rule 2.525 must not be served on the judge or other court official under this rule unless service on the judge is required by a statute, rule, administrative order, or court order. If permitted, service on a judge or other court official must be made electronically under subdivision (b) and the Florida Supreme Court Standards for Electronic Access to the Courts.

In the August 2019 publication, the RJA Committee recommended the deletion of subdivision (f). (Appendix E–15.) A comment was received by the Civil Procedure Rules Committee requesting the RJA Committee retain the requirement of a certificate of service and the fact that it provides “prima facie” proof of service. (Appendix D–2-3.) After discussion within the subcommittee, it was decided that this certification will still be important for those documents not served through the portal; the subcommittee recommended revising the proposed rule to reinstate subdivision (f) but amend the language by adding “(portal)” and removing “(fax)” from the certification of service example. That recommendation was approved by the full Committee.

Lastly, current subdivisions (g) and (h) are deleted as no longer necessary.

## **RULE 2.520. DOCUMENTS**

The proposed amendments to Rule 2.520, Documents, result in a complete rewrite of this rule, however, the rule name is the same. Subdivision (a) is retitled “Documents Prepared for Filing” and rewritten to itemize the specifications of filed documents generated by lawyers or represented parties, with specific document requirements; this new rule will read:

**(a) Documents Prepared for Filing.** Documents generated by lawyers or represented parties for filing under rule 2.525 or service under rule 2.516 must comply with the formatting requirements of this subdivision, but exhibits attached to those documents need only comply with subdivision (d). Documents must be prepared as follows:

- (1) page size must be 8 1/2 by 11 inches (letter size);
- (2) pages must be consecutively numbered;
- (3) pages must have at least a 1-inch margin on all sides, an additional 3-inch by 3-inch blank space at the top right-hand corner on the first page and a 1-inch by 3-inch blank space at the top right-hand corner on each subsequent page must be reserved in accordance with the statutory requirements for documents that will be recorded in the official records; and
- (4) font size must be no less than 12-point.

Subdivision (b) is retitled “Electronic Documents” and rewritten to detail the requirements for PDF filings; reading specifically as:

**(b) Electronic Documents.** Electronic documents submitted for filing must be in PDF format and not be a scanned, printed document. Documents must also be text searchable and otherwise comply with the Florida Supreme Court Standards for Electronic Access to the Courts.

A comment was received by the Florida Probate Rules Committee suggesting the deletion of “and not be a scanned, printed document” as it is no longer necessary. Though originally agreed to by the subcommittee, after great discussion and many examples of why this is still pertinent and necessary, the Committee decided to keep this in until an unknown future date as guidance to practitioners.

Subdivision (c) is retitled “Paper Documents” and rewritten to detail the requirements for paper document filings; it now will read:

**(c) Paper Documents.** Paper documents must be legibly typewritten or printed on only one side on opaque, white, unglossed paper. Documents consisting of multiple pages should be held together with removable paper clips and must not be stapled or bound.

Subdivision (d) is retitled “Exhibits.” The initial text of that subdivision explains this applies to documents not generated by a lawyer or represented party. Subdivision (d)(1) is retitled “Exhibits to Electronic Documents” 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. The other current subdivisions of this piece of the rule are deleted, resulting in this streamlined subdivision (d):

**(d) Exhibits.** A document not generated within the control of a lawyer or represented party may be appended as an exhibit to a document prepared under subdivision (a), but is not itself subject to those requirements. Instead, the following requirements apply:

**(1) Exhibits to Electronic Document.** Exhibits that are attached to an electronic document must be bookmarked and comply with the Florida Supreme Court Standards for Electronic Access to the Courts.

**(2) Exhibits Submitted for Filing with a Paper Document.** Any exhibit or attachment to any paper document may be attached in its original size.

Subdivision (e) is retitled “Verification Not Required” and rewritten defining that documents need not be sworn unless required by rule or statute. In reaction to a comment received by the Florida Probate Rules Committee, the subdivision text was amended to begin with “Unless” and “court” was added prior to “order.” The new rule will read:

**(e) Verification Not Required.** Unless otherwise specifically provided by a court order, rule, or statute, documents need not be sworn, notarized, or verified.

Current subdivision (f), Noncompliance, is deleted.

## **RULE 2.525.      ~~ELECTRONIC FILING~~**

Rule 2.525, Electronic Filing, is a complete rewrite of these proposed amendments. The title is amended by deleting “Electronic”, so it would merely be “Filing”.

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

**(a) Official Court File.** The official court file is a set of electronic documents docketed and stored in a computer system maintained by the clerk under this rule. Documents in the official court file are originals for all purposes except as otherwise provided by statute or rule.

Subdivision (b) is retitled “Portal Filing” and rewritten to require lawyers to file electronically, permit pro se parties to file electronically, and to restrict other types of filings. If adopted, it would read:

**(b) Portal Filing.**

(1) Lawyers must file through the Florida Courts E-Filing Portal (“portal”) or other designated facility according to its instructions.

(2) An unrepresented person who is not a member of The Florida Bar may elect to participate in a case electronically and file through the portal or other designated facility according to its instructions. Once the election is made, it may not be withdrawn without leave of court.

(3) No other method of filing is permitted except as provided in subdivision (c) of this rule or otherwise authorized by the Florida Supreme Court Standards for Electronic Access to the Courts.

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, 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. In reaction to published Rule 2.525(b)(3), the Florida Probate Rules Committee commented that there are many probate case documents that must be maintained and cannot be destroyed once filed. After great discussion, the subcommittee recognized and appreciated this probate concern, but felt it was best

resolved by an amendment to subdivision (c)(2), so the opening clause of that subdivision was amended to read “Unless prohibited by order, rule, or statute,”. The complete subdivision rewrite would read:

**(c) Clerk Filing.**

(1) A paper document may be submitted to the clerk for filing, which the clerk will convert to an electronic format, if:

(A) the document is submitted for filing by an unrepresented party or unrepresented non-party who has not elected to participate electronically in the case in accordance with rule 2.511 or who has obtained leave of court to withdraw the election;

(B) the document is submitted for filing by a judicial officer, clerk, or other court official before January 1, 2020;

(C) the document is accepted for filing by a judicial officer in open court or in chambers, in which case the judicial officer must note the time and date of receipt on the document and submit it to the clerk for filing; or

(D) the court so orders.

(2) Unless prohibited by order, rule, or statute, after conversion to an electronic form, paper documents submitted for filing will be either destroyed or otherwise disposed of by the clerk or returned to the filer if a self-addressed postage prepaid envelope is provided to the clerk at the time of submission.

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. The proposed rule initially began with “When a statute, rule, or court order requires ...” but a comment was received by the Florida Probate Rules Committee that suggested administrative orders should also be itemized in this list. The subcommittee appreciated the comment and, after great discussion, felt this concern would be addressed if the paragraph beginning was amended to “If an order, rule, or statute requires ...”. Therefore, the proposed rule would read:

**(d) Notarized and Verified Documents.** If an order, rule, or statute requires a document to be sworn, notarized, or verified, the jurat or other act of verification may either be electronically created as permitted by law and in accordance with the Florida Supreme Court Standards for Electronic Access to the Courts, or may initially be committed to paper and filed, either as part of an electronically-filed document or with a cover page containing the style of the case, name of the document, and certificate of service.

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

**(e) Filed Date and Time.** A successfully filed document’s file date and time is the earlier of:

(1) the date and time stamp applied to the document by the portal or other designated facility;

(2) the date and time applied to the document by the clerk’s manual stamp for documents filed under subdivision (c)(1)(A) and (c)(1)(B) of this rule; or

(3) the date and time applied to the document pursuant to subdivision (c)(1)(C) of this rule.

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 unsigned, it contains illegible, corrupt or blank content, or is barred by order of the court. Subdivision (f)(2) 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.

The Civil Procedure Rules Committee commented with various concerns about Rule 2.525(f) and the categories of documents it allows a clerk to reject and

refuse to docket. The subcommittee reviewed these concerns and felt that one of the complaints—the provision is (f)(1)(D) that allows a clerk to reject a document filed in the wrong county or court—was contrary to law. The subcommittee believes that this provision was, in fact, intended to be removed before publication and agreed to delete it.

The Civil Procedure Rules Committee was also concerned about a clerk’s ability and discretion to reject filings with “incorrect” case styles or that are “illegible.”

In addition, a RJA Committee member suggested that additional categories of documents should be added: (1) documents the filer asks the clerk to reject before docketing because the filer discovers an error; (2) duplicate filings; (3) documents prohibited by administrative order. This Committee member was also concerned about the relation-back provision.

The subcommittee agreed that some discretion of the clerk regarding illegibility and incorrect styles is merited and the rule should provide an avenue for relief. It was also agreed that permitting a clerk to reject a filing when the filer requests it is well taken, but crafting such language presented complications based on the differences in clerk operations. It was agreed that this question should be researched in greater detail by the RJA Committee and is not ripe as an amendment based on a comment at this time. Concern was also expressed about the relation-back provision. While this may pose some challenges, the Subcommittee believes the proposal is correct and that substantive case law will ultimately decide what a court accepts under the relation-back doctrine.

After great discussion by both the subcommittee and within the RJA Committee meeting, subdivision (f), in reaction to comments, should read:

**(f) Docketing by Clerk; Unsuccessful Filing Attempt; Noncompliant Electronic Documents.** When a document is submitted for filing under subdivision (b) or (c), the clerk is obligated to make it part of the official court file and index it in the progress docket of the case unless subdivision (f)(1) applies.

- (1) A submitted document will not be docketed if it:
  - (A) contains an incorrect or missing case number or case style;
  - (B) consists of multiple documents filed as 1 document;

(C) consists of a multi-page document filed as separate documents;

(D) is a proposed, *i.e.* unsigned, order or correspondence to the court;

(E) contains illegible, corrupt, or blank content; or

(F) is barred by order of court or is otherwise incapable of being filed in the clerk's case maintenance system.

(2) If subdivision (f)(1) applies and the relevant case can be identified, the clerk, portal, or other designated facility will immediately notify all parties on the service list specifying the reason of the unsuccessful filing of the initial submission. The filer will be responsible for notifying a party participating in paper form under subdivision (c) of this rule. If the relevant case cannot be determined, the clerk will notify the person who submitted the document. The clerk, portal, or other designated facility will hold the document for 10 days, during which the person who submitted it may:

(A) file a new document that remedies the reasons stated in the notice but is otherwise substantially identical, which if successfully filed, relates back to the date of the unsuccessful filing attempt;

(B) file a motion for review of the clerk's action, attaching a copy of the document, in which case the clerk, portal, or other designated facility must hold the document until the motion is decided by the court; or

(C) take no action under subdivisions (f)(2)(A) or (f)(2)(B), thereby abandoning the document. An abandoned document may be discarded after 30 additional days unless the court orders otherwise.

(3) Except for the reasons set forth in subdivision (f)(1) of this rule, the clerk will docket all documents submitted for filing and the clerk or portal may note perceived noncompliance in its associated docket entry at which point the noncompliant document may then be stricken by the court.

The court may assess costs in favor of any other party, the clerk, or portal in an amount sufficient to discourage repetition of the noncompliant behavior.

Current subdivision (g) is stricken.

**RULE 3.030. SERVICE AND FILING OF PLEADINGS, PAPERS, AND DOCUMENTS**

The CPR Committee, in reaction to the proposed Florida Rules of Judicial Administration amendments, reviewed and proposes two amendments to Rule 3.030, Service and Filing of Pleadings, Papers, and Documents. Specifically, within subdivision (c), Deposit with the Clerk, the committee suggests adding a sentence that excludes documents filed pursuant to rules 3.121, 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. Additionally, the current last sentence of subdivision (c) is separated to create subdivision (d) with the title Maintenance of Deposited Documents, which requires paper documents to be maintained in accordance with *Fla. R. Jud. Admin.* 2.430. No comments were received regarding this proposed amendment.

WHEREAS, given the reasons stated above, the Rules of Judicial Administration Committee and the Criminal Procedure Rules Committee request the Court to adopt Florida Rule of Judicial Administration 2.345, Electronic Signature of Court Official, and Rule 2.511, Florida Courts E-Filing Portal; and adopt amendments to Rule 2.514, Computing and Extending Time, Rule 2.515, Signature and Representations to Court, Rule 2.516, Service, Rule 2.520, Documents, Rule 2.525, Filing, and Florida Rule of Criminal Procedure 3.030, Service and Filing of Pleadings Papers, and Documents.

Respectfully submitted this 31<sup>st</sup> of December 2019 by

/s/ Judge Josephine Gagliardi  
Judge Josephine Gagliardi, Chair  
Rules of Judicial Administration Comm.  
Lee County Justice Center  
1700 Monroe St.  
Fort Myers, FL 33901-3071  
239-533-8268  
jgagliardi@ca.cjis20.org  
Fla. Bar Number 714569

/s/ Jane Allie McNeill  
Jane Allie McNeill, Chair  
Criminal Procedure Rules Comm.  
Office of Public Defender, 10<sup>th</sup> Cir.  
255 N. Broadway Ave., Fl. 3  
Bartow, FL 33830-3912  
863-534-4000  
jmcneill@pd10.org  
Fla. Bar Number 923761

/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 SERVICE**

I certify that a copy of the foregoing was furnished by e-mail, via the Florida Courts E-filing Portal, on December 31, 2019, to:

Magistrate Kimberly Davis Bocelli  
Twentieth Judicial Circuit Court  
Lee County Justice Center  
1700 Monroe Street  
Fort Myers, FL 33901  
kbocelli@ca.cjis20.org  
Fla. Bar Number 13399

Hon. Steven Scott Stephens  
Thirteenth Judicial Circuit  
Edgecomb Courthouse  
800 E. Twiggs St., Ste. 522  
Tampa, FL 33602-3500  
division1@fljud13.org  
Fla. Bar Number 779441

Ardith Michelle Bronson, Chair  
Civil Procedure Rules Comm.  
DLA Piper LLP  
200 Biscayne Blvd., Fl. 25  
Miami, FL 33132-2219  
Ardith.bronson@diapiper.com  
Fla. Bar Number 423025

Jeffrey Scott Goethe, Chair  
Florida Probate Rules Comm.  
Barnes Walker Goethe Hoonhout et al  
3119 Manatee Ave. W.  
Brandenton, FL 34205-3350  
jgoethe@barneswalker.com  
Fla. Bar Number 861420

## CERTIFICATE OF COMPLIANCE

I certify that this rule was read against *Thomson Reuters' Florida Rules of Court—State* (2019 Rev. Edition). I certify that this report was prepared in compliance with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

/s/ Krys Godwin

Krys Godwin, Staff Liaison  
Rules of Judicial Admin. Comm.  
Criminal Procedure R. Comm.  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399-2300  
850/561-5706  
kgodwin@floridabar.org  
Florida Bar No. 2305