

# The Next Frontier: Florida's *e*-Courts

Everything You Always Wanted to Know  
But Were Afraid to Ask

Amy S. Borman, Fifteenth Judicial Circuit

Murray Silverstein, Greenspoon Marder

---

## **MURRAY B. SILVERSTEIN**

Mr. Silverstein presently serves as a Supreme Court-appointed to the Florida Courts Technology Commission (FCTC), and has been a member since 2006. Additionally, Mr. Silverstein is a former member and chair of The Florida Bar's Rules of Judicial Administration Committee. He also served on the Florida Bar Board of Governors for the Sixth Judicial Circuit during 2003-11. Among other publications, Mr. Silverstein co-authored with Amy Borman (Past Chair, RJAC), "[Technology and Florida's Rules of Judicial Administration](#)" (90 *Florida Bar Journal*, Jan. 2016, No. 1). Mr. Silverstein is board certified in Business Litigation and Civil Trial practice by The Florida Bar and serves as managing partner of the Tampa office of Greenspoon Marder LLP. He represents businesses and financial institutions in commercial/real property litigation and class action defense.



## **AMY S. BORMAN**

Ms. Borman is General Counsel to the Fifteenth Judicial Circuit and sits on various subcommittees of the FCTC. She is a former member and chair of The Florida Bar's Rules of Judicial Administration Committee. Ms. Borman recently argued before the Florida Supreme Court on a proposed rewrite of Rule of Judicial Administration 2.505 and has presented a number of seminars on the topic of the RJA. Ms. Borman co-authored with Murray Silverstein (Past Chair, RJAC), "[Technology and Florida's Rules of Judicial Administration](#)" (90 *Florida Bar Journal*, Jan. 2016, No. 1).



# Interactive Polling

- Computers:

[Pollev.com/AmyBorman749](http://Pollev.com/AmyBorman749)

- Phones:

Text “[AmyBorman749](#)” to [22333](#)

- App: [Poll Everywhere](#)

Join presentation: [AmyBorman749](#)

# How many years have you been practicing law?

- a. 0-2
- b. 3-6
- c. 7-10
- d. More than 10 years

## How many attorneys are in your law firm?

a. 1 - solo  
practitioner

b. 2-5

c. 6-10

d. More  
than 10

# Brief Overview of CLE Presentation

## Supreme Court of Florida

No. AOSC09-30

IN RE: STATEWIDE STANDARDS FOR ELECTRONIC  
ACCESS TO THE COURTS

### ADMINISTRATIVE ORDER

The judicial branch of Florida has long embraced the use of information technologies to increase the effectiveness, efficiency, and accessibility of the courts. Technology holds great promise for both the courts and court users. Technology has and will continue to impact court operations, similar to the way in which technology has changed business practices in other organizations. This Court recognizes that the transition of Florida's courts from paper-based information management to systems that rely primarily on digital records represents a fundamental change in the internal operations of the courts. Accordingly, care must be taken to ensure that this transformation is accomplished

# Supreme Court Administrative Order 09-30

- The judicial branch has long embraced the use of information technologies to increase the effectiveness, efficiency, and accessibility of the courts.
  - Technology holds great promise for both the courts and court users.
  - Technology has and will continue to impact court operations, similar to the ways in which technology has changed business practices in other organizations.
-

# Struggle: Privacy v. Public Access

**Right of Privacy:** Florida's Constitution (Art. I, § 23)

- ensures a right of privacy in “every natural person to be let alone and free from governmental intrusion into the person’s private life, except as otherwise provided herein”

**Right of Access:** Florida's Constitution (Art. I, § 24(a))

- provides that “[e]very person has the right to inspect or copy any public record made or received in connection with the official business of any public body ... [unless exempted by statute].”
-



# How to Resolve the Conflict?

- Standards: Created by the FCTC
  - Rules: Drafted by the Rules of Judicial Administration Committee
  - Court Opinions
-

# Overview of the Technology Players



# What is the acronym for the commission on technology in the Florida court system?

a. FCCC

b. FCTC

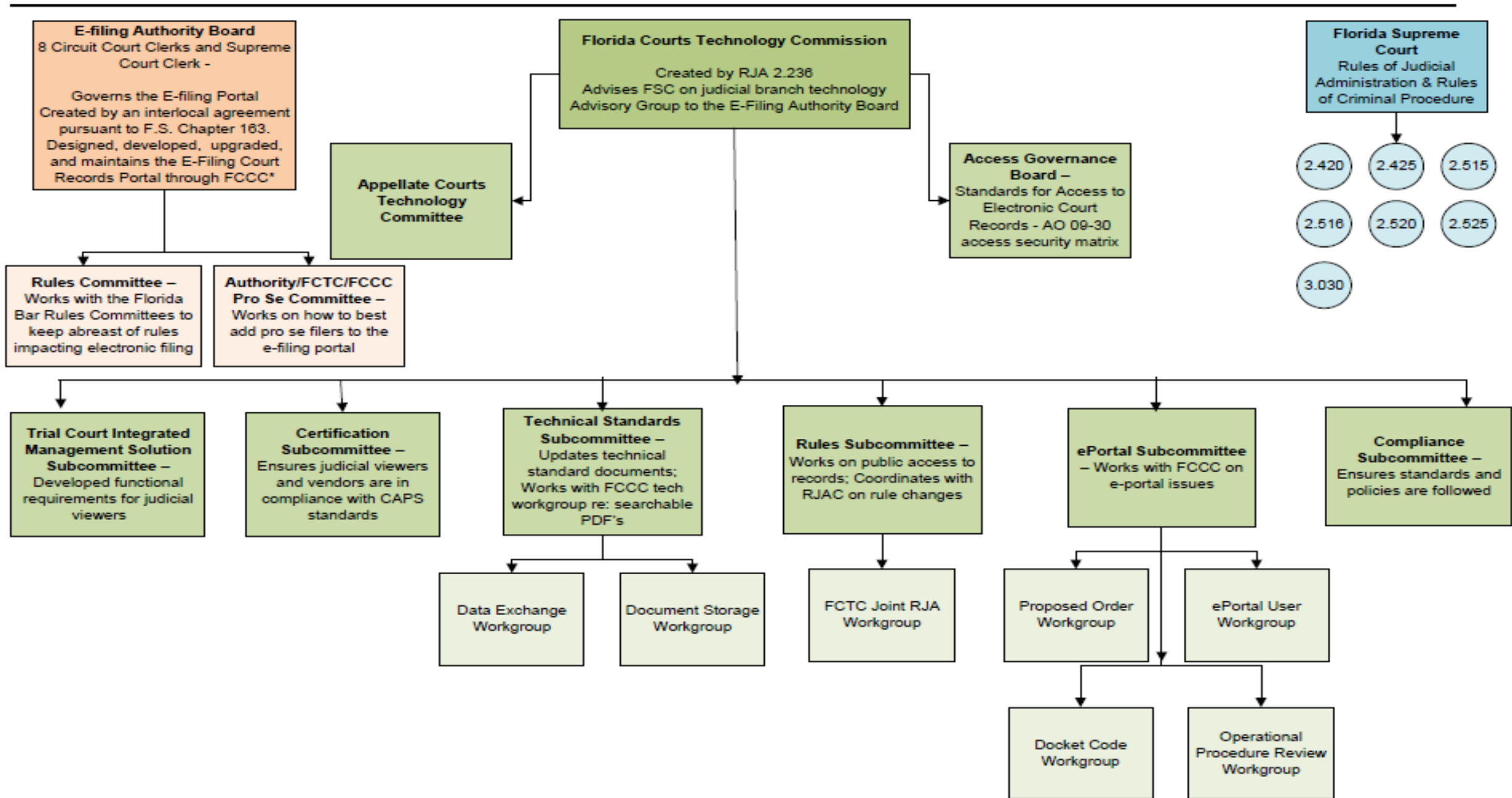
c. TFB

## What rule set governs the e-filing and e-service in Florida?

a. Rules of Technology  
Procedure

b. Rules of Civil  
Procedure

c. Rules of Judicial  
Administration

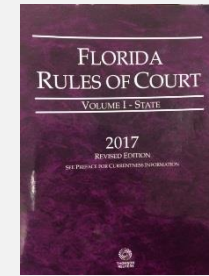


# Florida Courts E-Filing Authority



- 9 Members on the Board of Directors
  - Made up of Clerks of the Circuit Court and the Clerk of the Florida Supreme Court
  - Governing authority over the Florida Courts E-Filing Portal
-

# Florida Supreme Court



- RJA 2.420 – Confidentiality of Court Records
- RJA 2.425 – Minimization of Sensitive Information
- RJA 2.515 – Signature of Attorney
- RJA 2.516 – Service of Pleadings and Documents
- RJA 2.520 – Documents
- RJA 2.525 – Electronic Filing
- Crim Pro. 3.030 – Service of Filing and Pleadings, Papers and Documents

# Florida Courts Technology Commission – Rule of Judicial Administration 2.236



- Purpose and responsibilities of the FCTC includes major policy development and recommendations to the Supreme Court on technology and the courts.
- FCTC recommends court technology changes and updates directly to the Supreme Court for implementation.
- FCTC to establishes, reviews, and updates technical standards for the judicial branch.
- Various subcommittees work on different projects



# FCTC Standards & Matrix



- Size of filings, formatting, e-signatures, storage and archiving and portal updates.
- Security Matrix ([AOSC 17-47](#))
- access to court records are divided into
  - internal users
    - *judges*
    - *court personnel*
  - external users
    - *attorneys of record*
    - *the public*

# Rule 2.505

Attorneys



## Should an associate who just joined your firm, sign a court filing in an ongoing case without first filing a Notice of Appearance?

- a. Yes, the associate is fine to sign.  
A Notice of Appearance is NOT necessary. **A**
- b. Yes, the associate is fine to sign.  
The firm is the “firm of record” so every attorney can sign. **B**
- c. No, the associate should not sign. A Notice of Appearance IS necessary. **C**

## Is there authority in the rules of procedure to permit an attorney to appear in court and "cover" a hearing?

- a. Yes, I just don't know what the authority is.
- b. No, there is no authority but it is okay because everyone does it.
- c. Wow, this is an interesting question that I have never thought of before today.

# APPEARANCE OF ATTORNEY

How you get in the case

---

# Rule 2.505(a) – Appearance of Attorney

Attorneys may appear in a proceeding in any of the following ways

- Serving and filing the first pleading or paper
  - Substitution of Counsel – but only upon order of court
  - Filing and serving a Notice of Appearance
-

# Issues that arise

- New attorney files documents after the first pleading
    - Has the e-portal captured the new attorney's information?
    - Has the local clerk's office captured the new attorney's information?
  - List of attorneys being served with documents – is it current?
  - Is the filing by an additional attorney A NULLITY?
-

# District Courts of Appeal & Federal Court

First and Second DCA's – filings by attorneys “not of record” are **Nullities**.

Fifth DCA and Northern District of Florida– filing by attorneys “not of record” are **Voidable** and subject to correction.

---



## Case Law: Filings by Attorneys not of Record

*Bortz v. Bortz*, 675 So. 2d 622 (Fla. 1st DCA 1996)

- Motion for rehearing filed by attorney was a nullity where no motion requesting substitution of counsel pursuant to Rule 2.060 (*now 2.505*) was filed.
-

## Case Law: Filings by Attorneys not of Record

*Pasco County v. Quail Hollow Properties*, 693 So. 2d 82 (Fla. 2d DCA 1997)

- motion filed by additional attorney was a nullity as attorney did not file notice of appearance nor was it the first pleading or document;
  - additional attorney needs to file a notice of appearance with the court and served on other parties so to be properly “of record”.
-

## Case Law: Filings by Attorneys not of Record

*Hicks v. Hicks*, 715 So. 2d 304 (Fla. 5th DCA 1998)

- Distinguished *Bortz*
  - Held failure of substitute attorney to fully comply with 2.060 makes pleading voidable subject to a motion to strike and upon full compliance, filing is legally effective retroactively or nunc pro tunc.
-

## Case Law: Filings by Attorneys not of Record

*Thomas v. State*, 884 So. 2d 309 (Fla. 2d DCA 2004)

- Two motions to withdraw plea were nullities because they were not filed by an attorney of record and subsequent motions were beyond permitted time.

*Sykes v. State*, 974 So. 2d 1133 (Fla. 1st DCA 2008)

- Dept. of Corrections' motion for rehearing was a legal nullity and disregarded due to attorney not being of record.
-

# Case Law: Filings by Attorneys not of Record

*Hartley v. R. Comerford*, 2014 WL 241759 (N.D. Fla. 2014)

- Because Assistant Attorney General was not an attorney of record in state court proceeding, removal to federal court by the AAG was a nullity that could be cured with the filing of a notice of appearance.
-

# COVERAGE COUNSEL

---

# Coverage Counsel

- There is no rule that permits an attorney to provide “coverage” services.
  - Some judges require covering counsel to file a Notice of Appearance.
  - Actions of coverage counsel is action of counsel of record.
  - Question exists whether **appearing at a proceeding** without filing a notice of appearance is a nullity akin to case law regarding filing of papers without filing notice of appearance.
-

# Case Law – appearing at hearing

*Maestrales v. Flaherty*, 183 So. 3d 1036 (Fla. 5th DCA 2015)

- Attorney did not attend injunction hearing scheduled by him but had “substitute” counsel attend. Injunction entered against client.
  - Client maintains he was denied due process because attorney was not present. Attorney filed unsworn statement that he was unavailable to attend.
  - Appeal filed. Appellate court found appeal to be frivolous and without merit as the sole error claimed is that the trial court conducted the rehearing as requested and scheduled by attorney and client.
-



# Limited Representation Counsel

Currently, only the Family Law Rules and Probate Rules provide for limited representation for matters other than jurisdiction.

Fla. Fam. L. R. P. 12.040(c)

Fla. Prob. R. 5.030

---

# TERMINATION OF APPEARANCE OF ATTORNEY

How you get out of the case

---

**A 7th year associate in your firm is the sole "attorney of record". The associate is leaving the practice of law. Your law firm continues to represent the client. You are now taking over the case. What must be done for you to appear in the case.**

- a. Nothing, my law firm is the law firm of record.
- b. I just need to file any document and that will "enter my appearance".
- c. I just need to file a Notice of Appearance
- d. I should file a motion to substitute counsel.

# Rule 2.505(b) – Termination of Attorney

The appearance of an attorney terminates only in one of the following ways:

- **Withdrawal** – by order of court when proceeding is continuing with notice to client and motion
  - **Substitution of attorney** – by order of court
  - **Termination of proceeding** – automatically upon termination of proceeding and following expiration of time for appeal
  - **Filing a Notice of Completion** - for Limited Representation in Family Law cases.
-

# Issues that arise

**Former associate who was the attorney on the case leaves the firm.**

- Has an order of substitution been obtained? Do you need one?
- Has the attorney been removed from the eportal?
- Has the attorney been removed from the local clerk's office case maintenance system?

**Lack of Prosecution** being issued and sent to former attorney

**List of attorneys** being served with documents – is it current?

---

# I am off of a case but I continue to be served with court filings from both the parties and the judge. Why is this happening?

 When poll is active, respond at **PollEv.com/amyborman749**  Text **AMYBORMAN749** to **22333** once to join

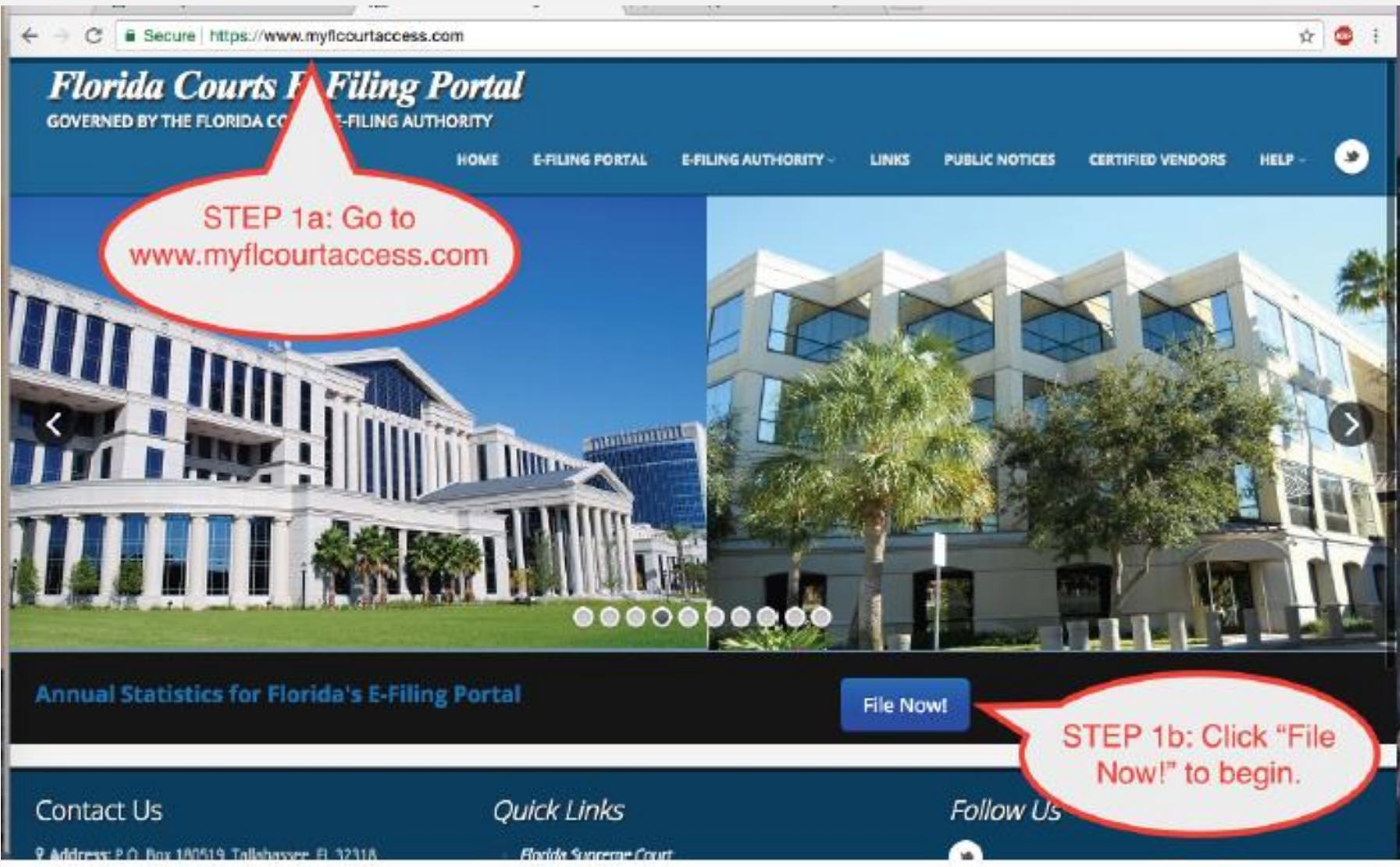
- a. I, or my assistant, have not notified the local clerk's office (via order or other document) that I am no longer on the case.
- b. I, or my assistant, have not removed myself from the e-portal service list.
- c. The Clerk has failed to remove me from the e-portal service list.

You have been removed from the case.

Does that mean you are removed from the  
service lists?

So, how do you get off the e-portal service list  
for that case?

---



STEP 1a: Go to  
[www.myflcourtagency.com](https://www.myflcourtagency.com)

STEP 1b: Click "File  
Now!" to begin.

File Now!

Annual Statistics for Florida's E-Filing Portal

Contact Us

Quick Links

Follow Us

P.O. Box 100519, Tallahassee, FL 32316

Florida Supreme Court





### News & Information

- **02/05/2018** Effective March 2, 2018, the Portal will implement a virus scan of all documents submitted to the Portal. If an issue is detected, the submission will be sent immediately to the Correction Queue with notification to the filer. The affected document will not be file stamped until it has been replaced. For more information on the Correction Queue. [Read More ...](#)

### Welcome to the Florida Courts E-Filing Portal

#### Login

\* Required Field

\* User Name:

Hfischer

\* Password:

.....


Sign In

Forgot User Name?

Forgot Password?

STEP 2: Type in your username and password. Then click "Sign in"




Secure https://www.myflcourta.../Common/UIPages/FIJurisdictionSelection.aspx

 **My Account** **Filing Options** **My Cases** **My Submissions** **Sign Out**  
**Workbench** **My Alerts** **E-Filing Map**

Welcome - Harrison Fischer  
Last signed in on - 02/19/2018 10:19:52 PM

**My Account** ▼  
• My Profile  
• User Details  
• Change Password  
• Payment Accounts  
• User Preferences  
• Email Log  
• Manage My E-service  
• Sign Out

March 2, 2018, the Portal will implement a virus scan of all documents submitted to the Portal. If an issue is detected, the submission will be placed in the Correction Queue with notification to the filer. The affected document will not be file stamped until it has been replaced. For more information, please see the Correction Queue.

**Help**   

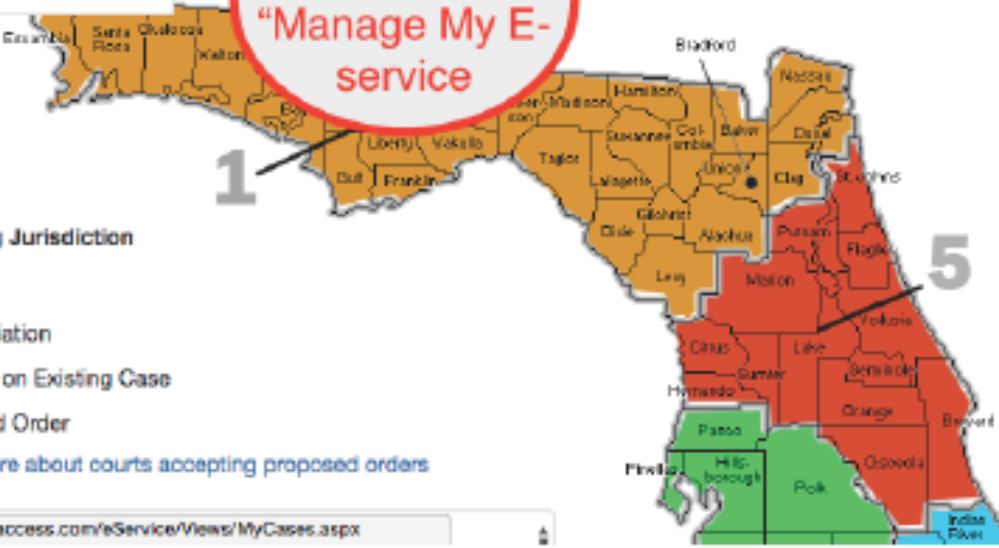
**1** **5**

**Select a Filing Jurisdiction**

**Trial Court**

Case Initiation  
 Pleading on Existing Case  
 Proposed Order  
[Read more about courts accepting proposed orders](#)

[ps://www.myflcourta.../eService/Views/MyCases.aspx](https://www.myflcourta.../eService/Views/MyCases.aspx)



STEP 3a: Click on "My Account" to access the drop down menu

STEP 3b: Click on "Manage My E-service"

## Manage My E-service

### Search Options

Court:

Case Style:

Service lists using my profile email addresses:

I have removed myself from the Service List:

Cases per page:

Include:  Active  Inactive  All

STEP 4a: Search for the cases in which you want to go "inactive" on by selecting the appropriate Trial Court (or scroll further down to search by Circuit or Appellate Jurisdiction)

### Service List Maintenance Actions

Remove me from the E-Service list.

Update designated email Address

Change From:

Change To:

STEP 4b: Click "Search"

Secure | https://www.myflcourtsaccess.com/MyEservice.aspx

Service List Maintenance Actions

- Remove me from the E-Service list.
- Update designated email Address

Change From:  Change To:

- Use my Profile email address... My Profile to change these email addresses.

Primary:  Alternate Email 2:

- Use these e...

Primary:  Alternate Email 2:

**STEP 5a: Select the case(s) that you wish to go "inactive" on. Alternatively, to go "inactive" on all of your cases, check the box next to "select"**

<input type="checkbox"/> Select	Court Case #	Court	Case Title	Removed	Profile	Case-Specific	Email Type	Address
<input type="checkbox"/>	2017CA004325AX	Manatee	UNIVERSAL PROPERTY & CASUALTY VS BAYSHORE ON THE LAKE CONDOMINI	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

1 - 1 of 1 items

**STEP 5b: Select "Remove me from the E-Service list"**

After clicking on "Search", all of your cases in that court that you have selected will appear below, on the same page.

**STEP 5c: Update!**

Update

10 minute break



# Rule 2.515

Signature

/s/

Clara King

**Before I have a document uploaded for filing, I personally review the document to ensure that there is no confidential information that has to be redacted or sensitive information that has to be minimized.**

a. All the time.

b. Some of the time.

c. Another person in the office reviews.

d. I didn't realize I had an obligation to remove confidential information. I thought it was the Clerk's Office responsibility.

# Signature Rule – Rule 2.515

Similar to federal rule 11, which requires good faith basis for filings – by filer's signature, a signer under 2.515 certifies that:

- It's been read;
  - Good grounds to support it;
  - Not being filed to delay the proceedings; and
  - **Filer has complied with the redaction and minimization requirements under rules 2.420 and 2.425.**
-



# What types of signatures are permitted to be used by an attorney on a court filing when filing through the e-portal?

a. /s; s/; /s/

b. Digital  
Signature

c. Wet Ink (or blue  
ink) Signature

d. 1 & 2 but not 3

# Who, besides an attorney, can affix an attorney's signature to court filing in accordance with The Florida Bar Rules?

No one

Anyone working  
at the firm

A trusted non  
lawyer employee

# Signature Rule (cont.)

- Authorized Electronic signature indicators include: /s/, s/, or /s
  - But what is a “signature” – the blue ink, /s/, or pushing “FILE” or “SUBMIT” through the Portal?
  - Who can affix the signature?
  - Florida Bar [Ethics Opinion 12-2](#): lawyer may delegate authority to a “trusted nonlawyer employee” to file court documents through the Portal, so long as reviewed and approved by the lawyer.
  - Note: Portal language: “...the attorney filing, *or directing and authorizing this filing...* certifies...”
-

# Who signs the document

2.515(a): document signed by at least **1 attorney of record**

- in that attorney's individual name
  - with current Florida Bar addresses
  - telephone number including area code
  - primary e-mail address and secondary e-mail addresses, if any
  - Florida Bar number
-

# Rule 2.516

Service



# Service of Court Filings by Attorneys

---

# E-portal for Service

- Since 2013, e-portal serves the filed documents to those whose address is listed in the portal. You no longer need to email if the e-portal has served. **See 2.516(b)(1)**
  - Those not in e-portal must be separately emailed, mailed (pro se) or added to e-portal.
  - Filer is under an obligation to only serve those who are required to be served. You must select who is to be served.
-

# E-portal for Service

- Names and emails addresses listed in the portal:
    - are added by the filer when a document is filed to the case
    - can be added as an additional email address
    - can be added as another party
  - What happens when you are added by someone else?
  - How do you get out when added by someone else?
-



## Pleading on Existing Case

Help   

Type: Trial

County: Orange

Division: Circuit Civil

Total Fee: \$0.00

Case #: 482017CA000123A001OX

Type: Real Property/Mortgage Foreclosure / Non-Homestead Residential  
Foreclosure-\$0-\$50,000

Status: **Closed**

Case Title: JPMORGAN CHASE BANK NATIONAL ASSOCIATIONvs. GARCIA, ALEXANDRO et al.

 Case information

 Case Parties

 Documents

 ServiceList


 Fees and Payments

 Review and Submit

Electronic Service Recipients

My Added Attorney/Interested Parties

My E-service Email Addresses for this Case

<input type="checkbox"/> Serve All?	Name/ID	Recipient Status	Affiliation/Role	Email Status	Email Address	Email Type
 <input type="checkbox"/>	James Stoner FL989	Active	Unaffiliated Users Attorney – Florida Bar		James.Stoner@m yorangeclerk.com	Primary
 <input type="checkbox"/>	Carolyn M Weber	Active	Marquis 2		cweber@fclerks.c om	Primary

Back

Next

Save to Workbench

I notified the local clerk's office that I am no longer on the case. Why am I still on the portal's list?

- The Clerk's Office pulls information from the Portal.
  - The Portal does NOT pull information from the Clerk's Office – it is a one way street.
  - The Portal is simply a gateway for filing with the local clerk's office.
  - You have to go on to the Portal and remove yourself
-

## How Do I Remove Myself from the E-Portal's Service List?

- If you have added yourself, you can follow the steps that were previously discussed
- If someone else added you, you must contact the person to have them remove you.

*You can find this by going into EPortal under “My Cases” and search “Added as Other Attorney”*

---

# Can I add a Judge to the Service List?

- Judges can be served if they have added themselves
  - Judges email address will be hidden
  - With next e-portal enhancement, a judge can notify the e-portal and an administrator will be able to remove judge. Documentation will be made as to the request.
  - Best Practice: Don't add a judge.
-

## If you are no longer an attorney on the case...

- Remove yourself from the E-Portal
  - Ensure that the order includes directions for the Clerk to Change Counsel of Record
  - If still receiving orders, contact the Judicial Assistant to see if you were manually entered in the judge's e-service list.
-

# Legal issues

- 5 day mail rule – currently still applies but is about to go away with amendments to the rule
  - Strict compliance with Rule 2.516(b)(1)(E)
    - **Document:** pdf or link to the document on clerk's website
    - **Subject line:** documents served by email must contain "SERVICE OF COURT DOCUMENT" followed by the case number
    - **Body of email:** Must identify 1) court in which the proceeding is pending; 2) case number 3) initial party on each side, 4) title of each document served with that email and 5) the name and telephone number of the persons required to serve the document
-

# Proposals for Settlement

## Strict Compliance with 2.516 is necessary for proposals for settlement:

- *Wheaton v. Wheaton*, 217 So. 3d 125 (Fla. 3d DCA 2017)

## Strict Compliance with 2.516 is NOT necessary for proposals for settlement:

- *Oldcastle Southern Group, Inc. v. Railworks Track Systems, Inc.* 235 So. 3d 993 (Fla. 1st DCA 2017) (conflict certified)
  - *Boatright v. Philip Morris USA Inc.*, 218 So. 3d 962 (Fla. 2d DCA 2017) (pretrial proposals for settlement).
  - *McCoy v. R.J. Reynolds*, 229 So. 3d 827 (Fla. 4th DCA 2017)
-

# 57.105 Safe Harbor Notice – Strict Compliance

**Fourth District Court of Appeal** requires strict compliance with 2.516 for Safe Harbor letter: *Matte v. Caplan*, 140 So. 3d 686 (Fla. 4th DCA 2014)

- Motion for sanctions denied for failure to strictly comply with 2.516
    - Document was in Word – not PDF
    - Subject line failed to state “SERVICE OF COURT DOCUMENT”
    - Subject line failed to contain a number that matched a case
    - Body of the email simply said “see attached motion”
  - Appellate Court: Affirmed. Strict compliance with 2.516 is required before a court may assess attorney’s fees pursuant to 57.105.
  - *See also Estimable v. Prophete*, 219 So. 3d 1001 (Fla. 4th DCA 2017)
-



# 57.105 Safe Harbor Notice

Second District Court of Appeal does NOT require strict compliance with 2.516 for safe harbor notice. *Denino v. Abbate*, 2D16-2137 (Fla. 2d DCA May 4, 2018) and *Isla Blue Development*, 223 So. 3d 1097 (Fla. 2d DCA 2017)

- Email service requirements of 2.516(b)(1) do not apply to a motion filed as part of the section 57.105(4) safe harbor notice.
  - Strict reading of 2.516 applies only to documents filed in a court case
  - **Certified conflict** with the Fourth District Court of Appeal
-

# Judgment not Void

*Henderson-Bullard v. Lockard*, 204 So. 3d 568 (Fla. 5th DCA 2016)

- Wife filed Amended Petition to Relocate which was served by e-portal on Husband's attorney's primary email address.
  - No objection filed. Order amending relocation entered.
  - Husband argued judgment void because of failure to comply with 2.516 in that not served on **secondary email address**. Attorney had received document.
  - Court held lack of strict compliance with the **service** requirements set forth in rule **2.516 does not render a judgment void**, particularly when a party receives notice of the proceedings.
-

# Rule 2.525

## Electronic Filing



## I have given my efilng log-in credentials to:

My assistant  
and/or paralegal

Another attorney  
in the firm

A company that  
e-files for me

No one. I efile  
myself.

# E-Filing through the Portal

Have you registered?

Attorney – Florida Bar

Attorney – Assistant US Atty

Attorney – State Prosecutor

Creditor

Media

Mental Health Professional

What's your "user role" – pick one:

Attorney – Pro Hac Vice

Attorney – Counsel for a State Agency

Court Reporter

Mediator/Arbitrator

Process Server

Self-Represented Litigant

---

# E-Filing – Rule 2.525

- Mandatory for all attorneys since 2013, when determined that all clerks statewide could accommodate electronic filings;
  - All e-filings, including those converted from paper, must comply with [AOSC09-30](#), and the then-current [Standards for Electronic Access to the Courts](#);
  - The actual process is easy – check out the Portal’s tutorials.
-

## Rule 2.525(b)

“Only the **electronic filing credentials** of an attorney who has **signed** a document may be used **to file** that document by electronic transmission.”

---

# Florida Bar Ethics Opinion 12-2

Florida Bar Ethics Opinion 12-2 provides that

- a lawyer may delegate authority to “trusted non-lawyer employees”
  - to use the lawyer’s login credentials to file through the Portal,
  - so long as the lawyer remains responsible for the filing and his/her certifications about that filing.
-



# **Scam artist creates fake e-filing account in real lawyer's name**

*Makes off with \$130,000*

The Florida Bar News  
March 1, 2018

The scam artist opened an e-filing account through the statewide portal using the real lawyer's name and Bar number.

The real lawyer had never registered for the e-filing portal account under her own Bar number because she uses her firm's account whenever there is a need to e-file.

---

# Changes that have been made to e-portal

- E-portal serves documents
  - More party types can file
    - Mediators
    - Court Reporting
    - Process Servers
  - Only a trusted employee or an approved filing company can use an attorney's credentials to file documents.
-

# How do I create a PDF of my document?

- The FCTC Standards require that the document be made into a PDF from a word processing document.
  - The Standards do not permit sending a scanned document (which also has a .pdf extension to the file name)
  - You should **not** be signing your name and then scanning the document.
  - Affix your electronic signature (/s; s/; /s/) and then convert your Word document into a pdf by saving it as a pdf document.
-

# Why does it make a difference whether it is scanned or saved as a pdf?

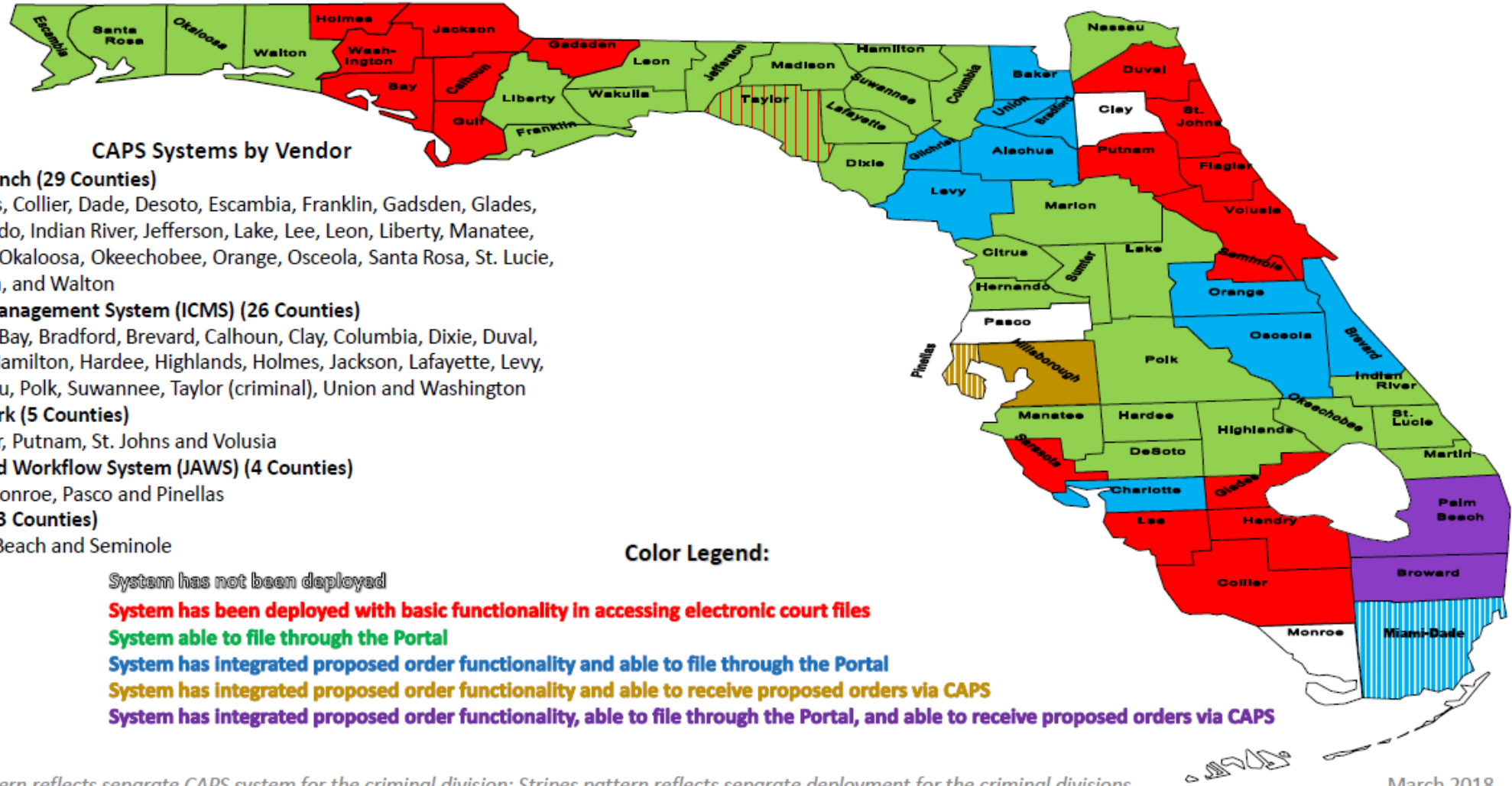
- Half of all the documents that are e-filed are done so incorrectly. They are scanned and then sent to the portal.
  - Scanning is taking a picture of the document increasing the amount of space the document consumes on the servers.
  - The Rules of Judicial Administration are in the process of creating a rule regarding PDF/A documents.
-

## May 2018 Filings

- **58** WordPerfect docs were submitted
  - **111,794** Word documents
  - **1,316,762** - PDF documents but were **scanned** to a PDF format [not searchable]
  - **712,306** - PDF documents and are text based which means they were created by a word processor and converted/printed to PDF [searchable]
-

**Have the judges in your circuit been entering orders using "e-technology"? Please let us know which county/circuit.**

# CAPS Functionality Map by County



## CAPS Systems by Vendor

### Mentis/aiSmartBench (29 Counties)

Charlotte, Citrus, Collier, Dade, Desoto, Escambia, Franklin, Gadsden, Glades, Hendry, Hernando, Indian River, Jefferson, Lake, Lee, Leon, Liberty, Manatee, Marion, Martin Okaloosa, Okeechobee, Orange, Osceola, Santa Rosa, St. Lucie, Sumter, Wakulla, and Walton

### Integrated Case Management System (ICMS) (26 Counties)

Alachua, Baker, Bay, Bradford, Brevard, Calhoun, Clay, Columbia, Dixie, Duval, Gilchrist, Gulf, Hamilton, Hardee, Highlands, Holmes, Jackson, Lafayette, Levy, Madison, Nassau, Polk, Suwannee, Taylor (criminal), Union and Washington

### Pioneer/Benchmark (5 Counties)

Sarasota, Flagler, Putnam, St. Johns and Volusia

### Judicial Automated Workflow System (JAWS) (4 Counties)

Hillsborough, Monroe, Pasco and Pinellas

### In-House System (3 Counties)

Broward, Palm Beach and Seminole

## Color Legend:

System has not been deployed

System has been deployed with basic functionality in accessing electronic court files

System able to file through the Portal

System has integrated proposed order functionality and able to file through the Portal

System has integrated proposed order functionality and able to receive proposed orders via CAPS

System has integrated proposed order functionality, able to file through the Portal, and able to receive proposed orders via CAPS

Cross-hatched pattern reflects separate CAPS system for the criminal division; Stripes pattern reflects separate deployment for the criminal divisions.

March 2018

# E-Portal Manual

For more information, go to:

<https://test.myflcourtaccess.com/authority/trainingmanuals.html>

---

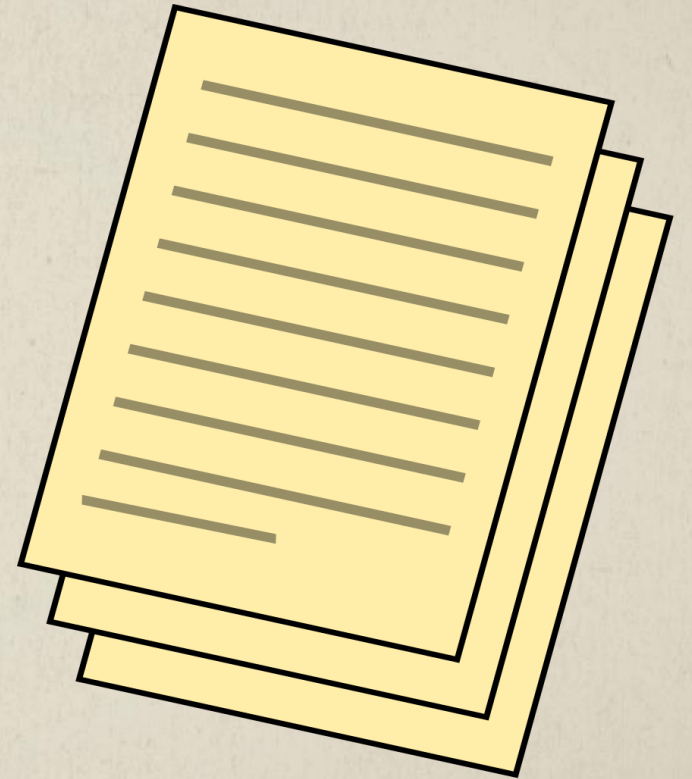


10 minute break



# Rule 2.520

## Documents



# Digital Court File & Searchable Documents

## FCTC Standards provide:

- Docs should be filed in searchable format (3.1.2)
- Clerk must “render” doc images in searchable PDF format (3.1.3)
- Docs should be archived in way preventing degradation, loss of content or software compatibility issues (3.1.4).
- Portal time stamps affixed to filed documents (3.1.7) and embedded hyperlinks used in docs that become part of court file.

Attributes of document like bookmarks are as much a part of document as words and sentence structure.

---

# Digital Court File & Searchable Documents (cont.)

- Tech officers in court system say PDF/A is best standard for creation and retention of digital docs.
  - Many clerks' CMS programs for retention of digital docs in court file use older technology: Tag Image File Format (TIFF).
  - TIFF storage "flattens" docs, reducing storage volume but strips the metadata and with that careful attributes that were part of the document's creation.
-

# Metadata

## What is metadata?

- “Descriptive” (name/date of document or file); or
  - “Structural” (instructions on how the data are used in the document);
-

# Metadata

## Why does it matter?

- There's coding and commentary that may reveal privileged communications or work product (partially secure if converted to PDF);
- Use scrubbing software before filing/emailing;

## Why should it remain in document?

- Creates bookmarks, hyperlinks, graphs, optics, tables, and significant features in your document!
-

# TFB Ethic's Opinion 06-2

- Lawyers sending electronic documents “should take care to ensure the confidentiality of all information contained in the document, including metadata.”
  - A lawyer receiving an electronic document should not try to obtain information from metadata that the lawyer knows or should know is not intended for the receiving lawyer
  - Inadvertent receipt of metadata requires notification to the sender.
-

# Exhibits/Size Limitations

- Rule 2.520 accommodates the Portal's digital date/time stamp.
  - Rule provides that exhibits “may be filed in original size.”
  - [Florida Courts Technology Standards](#), Standard 3.1.14.2, provides that:
    - Each exhibit accompanying a document shall be separately attached and denominated with a title referencing the document to which it relates.
    - Each exhibit shall conform to the filing size limitation in Section 3.1.1.
    - To the extent an exhibit exceeds the size limitation each portion shall be separately described as being a portion of the whole exhibit (e.g., Exhibit A, Part 1 of 5, Part 2 of 5, etc.)
  - Each documentary exhibit marked for identification or admitted into evidence at trial shall be treated in accordance with Florida Rule of Judicial Administration 2.525(d)(4) or (6), and then converted by the clerk and stored electronically in accordance with rule 2.525(a).
-



# The Future

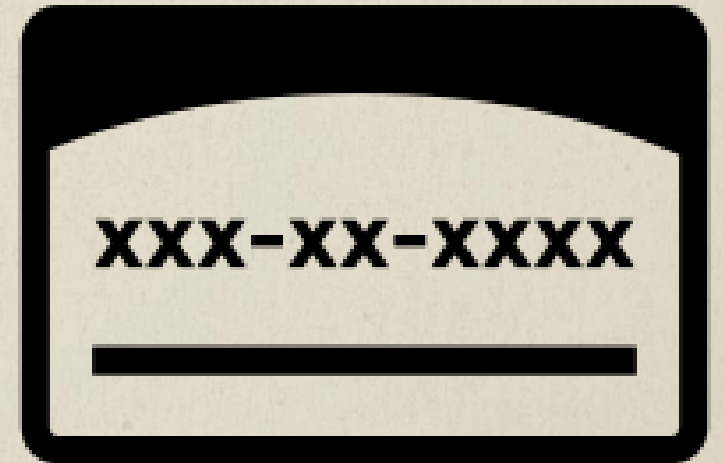


In addition to clerks' CCIS being expanded for use by attorneys and others within Florida's e-courts system, several other initiatives are underway, including:

- True electronic and digital signatures for attorneys and court personnel with embedded security for verification;
- E-notarization being used more regularly in court documents;
- Attorney access to court documents regardless of whether the attorney of record;
- Affixing digital docket numbers to all documents filed in the court file, which would link to the clerk's progress docket, similar to PACER; and,
- Development of a true digital system for the creation and retention of court documents.

# Rule 2.425

Minimization of  
Sensitive Information



# Minimization of Sensitive Information

Unless authorized by the rule statute or court orders otherwise, certain information must be limited per 2.425:

- Initials of a minor
  - Year of birth only
  - No portion of social security numbers and charge/debit/credit card
  - Last four digits of certain numbers
  - Truncated version of emails addresses, computer user name, passwords, PINs
-

# Rule 2.420

## Confidentiality of Court Records



**I am familiar/aware of the 22 categories of confidential information set forth in Fla. R. Jud. Admin. 2.420(d)(1)(B).**

Yes

No

# I know when to file a "Notice of Confidential Information" versus a "Motion to Determine Confidentiality of Court Documents."

Yes

No

# Summary of the Rule (1 of 2)

- 2.420(c) sets forth the types of documents that are confidential and exempt
  - 2.420(d)(1) – sets forth 22 categories of documents held confidential by Clerk
  - 2.420(d)(2) – sets forth obligation of filer to file a Notice of Confidential Information Within Court Filing” when submitting documents with one of 22 categories of information
-

# Summary of the Rule (2 of 2)

- 2.420(d)(2) – sets forth clerk’s obligation to review Notice
  - 2.420(d)(3) – sets forth ability of filer to file a “Motion to Determine Confidentiality of Court Records” if not one of the 22 categories
  - 2.420(e) –sets forth procedure filer is to follow when filing Motion; discretion of court to require public notice of hearing; and the time frame to hold the hearing, issue order, and post order in a non criminal case.
-



# Notice v. Motion

**Notice** required when filing document with one of the 22

- Must list where confidential information is located in document
- Clerk reviews to ensure one of 22
- If so, held confidential
- If not, notice to filer to file a Motion

**Motion** required when

- Filing document with protected information outside of the 22
  - After Clerk notifies filer that document filed with Notice it won't be held confidential because it was not one of the 22 and 10 days to file a Motion
-

APPENDIX TO RULE 2.420

IN THE .....(NAME OF COURT).....,  
FLORIDA  
CASE NO.: .....

\_\_\_\_\_  
Plaintiff/Petitioner,

v.

\_\_\_\_\_  
Defendant/Respondent  
\_\_\_\_\_

**NOTICE OF CONFIDENTIAL INFORMATION  
WITHIN COURT FILING**

Pursuant to Florida Rule of Judicial Administration 2.420(d)(2), I hereby certify:

(1) I am filing herewith a document containing confidential information as described in Rule 2.420(d)(1)(B) and that:

(a) The title/type of document is \_\_\_\_\_,  
and :

(b)  the entire document is confidential, or

the confidential information within the document is precisely located at :

\_\_\_\_\_  
OR

(2) A document was previously filed in this case that contains confidential information as described in Rule 2.420(d)(1)(B), but a Notice of Confidential Information within Court Filing was not filed with the document and the confidential information was not maintained as confidential by the clerk of the court. I hereby notify the clerk that this confidential information is located as follows:

- (a) Title/type of document: \_\_\_\_\_  
(b) Date of filing (if known): \_\_\_\_\_  
(c) Date of document: \_\_\_\_\_  
(d) Docket entry number: \_\_\_\_\_  
(e)  Entire document is confidential, or  
 Precise location of confidential information in document:

\_\_\_\_\_  
Filer's Signature

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by (e-mail) (delivery) (mail) (fax) on: (All parties and Affected Non-Parties. Note: If the name or address of a Party or Affected Non-Party is confidential DO NOT include such information in this Certificate of Service. Instead, serve the State Attorney or request Court Service. See Rule 2.420(k)) \_\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Name .....  
Address .....  
Phone .....  
Florida Bar No. (if applicable).....  
E-mail address .....

Note: The clerk of court shall review filings identified as containing confidential information to determine whether the information is facially subject to confidentiality under subdivision (d)(1)(B). The clerk shall notify the filer in writing within 5 days if the clerk determines that the information is NOT subject to confidentiality, and the records shall not be held as confidential for more than 10 days, unless a motion is filed pursuant to subdivision (d)(3) of the Rule. Fla. R. Jud. Admin. 2.420(d)(2).

v.

CASE No.: 2009-CF-448  
JUDGE: ROBERT E. BELANGER

DALE GLENN MIDDLETON,

Defendant.

---

**NOTICE OF CONFIDENTIAL INFORMATION WITHIN COURT FILING**

Pursuant to Fla. R. Jud. Admin. 2.420(d)(2), I hereby certify that I am filing herewith a document that contains confidential information described in Rule 2.420(d)(1)(B) and that the title of the document is: Notice of Filing Defendant's Demands for Additional Public Records Pursuant to Fla. R. Crim. P. 3.852(g); and the confidential information in the document is located on pages 16, 17, 26, 27, and 28.

Respectfully submitted,

# What about Exhibits at an Evidentiary Hearing or Trial?

Do you admit into evidence?

Do you have opposing counsel agree to filing of redacted version?

---

Questions??

