

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE FLORIDA
RULES OF JUDICIAL ADMINISTRATION

CASE NO.:

REPORT OF THE FLORIDA RULES OF JUDICIAL ADMINISTRATION
COMMITTEE

Peter D. Webster, Chair, Florida Rules of Judicial Administration Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this biannual report with the Court pursuant to Florida Rule of Judicial Administration 2.130(c)(1), as amended effective September 19, 2002. *See Amendment to Florida Rule of Judicial Administration 2.130*, 828 So. 2d 994, 996-97 (Fla. 2002).

The Committee proposes amendments to the rules as shown on the attached Table of Contents. The voting record for the Committee on each amendment is shown on the Table of Contents, as is the voting record of The Florida Bar Board of Governors. The Appendix includes copies of all comments submitted to the Committee, a copy of the proposed changes in full-page legislative format and a two-column chart setting forth the proposed changes in legislative format in the first column and a brief explanation of each change in the second column.

The amendments are proposed for the following reasons:

Rule 2.060. Attorneys

The proposed amendments to subdivision (b) are in response to a request from the Court that the Committee consider “updating” the titles by which court employees were identified, and whether “other positions, such as central staff attorneys, . . . should be included in the rule.” *See* Sept. 21, 2000, Letter, Justice Shaw to Judge Kahn, in Appendix. The proposal to liberalize somewhat matters in which former court employees might appear as attorneys is a result of the Committee’s belief that the current provision prohibiting former employees from “participat[ing] in any

manner in any proceeding that was docketed in the court during the term of service or prior thereto” was unduly restrictive. The proposal to permit attorneys designated by the court to represent the court or its judges in certain circumstances was intended to make clear that such a practice, widely followed in both trial and appellate courts, is permissible. A slight change in the wording of that proposal was made in response to a comment received from Ninth Circuit Chief Judge Belvin Perry, Jr. *See* Oct. 30, 2002, Letter, Judge Perry to Judge Webster and Nov. 21, 2002, Letter, Judge Webster to Judge Perry, in Appendix. Substantial amendments to subdivisions (h) and (i) are proposed. These amendments were initially suggested in correspondence received from Raymond T. Elligett, Jr., and Robert S. Korschun. *See* Sept. 29, 2000, Letter, Raymond T. Elligett, Jr., to Judge Kahn; Oct. 17 and Oct. 31, 2000, Letters, Raymond T. Elligett, Jr., to Craig Shaw; Oct. 10, 2000, and Jan. 22, 2001, Letters, Robert S. Korschun to Judge Kahn, in Appendix. They are intended to clarify how an attorney may appear and terminate an appearance in a proceeding. Subdivision (j) has been deleted, and the remaining subdivisions adjusted accordingly.

Rule 2.070. Court Reporting

The proposed amendments are in response to a request from the Court to “update” the language to conform with computer-age practices. *See* Sept. 21, 2000, Letter, Justice Shaw to Judge Kahn, in Appendix.

Rule 2.071. Use of Communication Equipment

The proposed amendment to subdivision (a) is intended to conform that subdivision to subdivision (d)(4). The proposed amendment to subdivision (d)(1) was initially suggested in correspondence received from Judge John C. Lenderman in his capacity as Chair of The Florida Bar Family Rules Committee. *See* Sept. 17, 2001, Letter, Judge Lenderman to Judge Khouzam, in Appendix. The intent of the proposal is to make the presentation of testimony by communication equipment permissible, in the trial court’s discretion, over objection by a party, subject to the provisions in other parts of the subdivision.

Rule 2.085. Time Standards for Trial and Appellate Courts

The proposed amendments were initially suggested in correspondence received

from The Florida Bar staff liaison to the Juvenile Court Rules Committee. See Mar. 26, 2001, Memorandum, Ellen Sloyer to Craig Shaw, in Appendix. They are intended to conform trial court time standards in certain juvenile and family law matters to current practice.

Rule 2.160. Disqualification of Trial Judges

The proposed amendment to subdivision (c) would require a party filing a motion to disqualify a trial judge simultaneously to provide a copy of the motion to the judge. The proposal to amend subdivision (e) by changing the word “made” in the first sentence to “filed” was initially suggested in correspondence received from Marjorie Gadarian Graham. See Mar. 22, 2001, Letter, Marjorie Gadarian Graham to Phillip J. Jones, in Appendix. It is intended to resolve any ambiguity, and to make the rule consistent with *HIP Health Plan of Florida, Inc. v. Griffin*, 757 So. 2d 1272 (Fla. 4th DCA 2000), and *Asay v. State*, 769 So. 2d 974, 980 (Fla. 2000), where the Court said, “Rule of Judicial Administration 2.160(e) requires that a motion to disqualify be filed ‘within a reasonable time not to exceed 10 days after discovery of the facts constituting the grounds for the motion.’” Adding a reference to motions made orally at hearings is intended to conform the rule to the decisions in *Roy v. Roy*, 687 So. 2d 956 (Fla. 5th DCA 1997), and *Stockstill v. Stockstill*, 770 So. 2d 191 (Fla. 5th DCA 2000). The remaining proposed changes are merely stylistic.

Rule 2.170. Standards of Conduct and Technology Governing Electronic Media and Still Photography Coverage of Judicial Proceedings

The proposed amendment to subdivision (a) would merely add a title. The proposed amendments to subdivision (b) would eliminate references to outdated technology and give courts discretion regarding the number of cameras permitted in the courtroom. The proposed amendments to subdivision (c) would also eliminate references to outdated technology, and delete reference to the Appendix to the rule, which the proposal would also delete because most of the equipment mentioned in it is obsolete. The Committee also voted in favor of a proposed new subdivision (b) which would have permitted a trial judge, in the exercise of discretion and without a hearing, to prohibit the photographing of faces of prospective or seated jurors. However, in response to comments received from attorneys representing members of the media upon publication of the proposal, the Committee voted to

recommend to the Board of Governors that the proposal (and an accompanying Committee Note) be deleted from this submission so that the Committee might consider the proposal further. *See* Oct. 31, 2002, Letter, Gregg D. Thomas to Judge Webster; Oct. 31, 2002, Letter, George K. Rahdert to Judge Webster; Nov. 1, 2002, Letter, Jonathan D. Kaney, Jr., to Judge Webster; and Nov. 21, 2002, Letters, Judge Webster to Messrs. Thomas, Rahdert and Kaney, in Appendix. The Board of Governors adopted this recommendation.

Respectfully submitted,

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FLORIDA RULES OF JUDICIAL ADMINISTRATION

2.010.	EFFECTIVE DATE AND SCOPE	[NO CHANGE]
2.020.	DEFINITIONS	[NO CHANGE]
2.030.	THE SUPREME COURT	[NO CHANGE]
2.035.	DETERMINATION OF NEED FOR ADDITIONAL JUDGES	[NO CHANGE]
2.040.	DISTRICT COURTS OF APPEAL	[NO CHANGE]
2.050.	TRIAL COURT ADMINISTRATION	[NO CHANGE]
2.051.	PUBLIC ACCESS TO JUDICIAL BRANCH RECORDS	[NO CHANGE]
2.052.	CALENDAR CONFLICTS	[NO CHANGE]
2.053	TRIAL COURT BUDGET COMMISSION	[NO CHANGE]
2.054	DISTRICT COURT OF APPEAL BUDGET COMMISSION	[NO CHANGE]
2.055.	PAPER	[NO CHANGE]
2.060.	ATTORNEYS <u>Committee vote:</u> As to (b) 26-0; (h) 24-0; (i) 23-1 <u>Board of Governors vote:</u> 43-0	[AMENDED]
2.061	FOREIGN ATTORNEYS	[NO CHANGE]
2.065.	NOTICES TO PERSONS WITH DISABILITIES	[NO CHANGE]

2.070.	COURT REPORTING <u>Committee vote:</u> 28-0 <u>Board of Governors vote:</u> 43-0	[AMENDED]
2.071.	USE OF COMMUNICATION EQUIPMENT <u>Committee vote:</u> 22-1 <u>Board of Governors vote:</u> 43-0	[AMENDED]
2.072.	POSSESSION OF COURT RECORDS	[NO CHANGE]
2.075.	RETENTION OF COURT RECORDS	[NO CHANGE]
2.076.	RETENTION OF JUDICIAL BRANCH ADMINISTRATIVE RECORDS	[NO CHANGE]
2.080.	UNIFORM CASE REPORTING SYSTEM FOR TRIAL COURTS	[NO CHANGE]
2.085.	TIME STANDARDS FOR TRIAL AND APPELLATE COURTS <u>Committee vote:</u> 19-0 <u>Board of Governors vote:</u> 43-0	[AMENDED]
2.090.	ELECTRONIC FILING OF MATTERS IN ALL PROCEEDINGS WITHIN THE STATE COURTS SYSTEM	[NO CHANGE]
2.100.	STATEWIDE GRAND JURY: COMPILATION OF LISTS; EXCUSAL OF PROSPECTIVE JURORS	[NO CHANGE]
2.110.	ADMINISTRATION OF MUNICIPAL ORDINANCE VIOLATIONS	[NO CHANGE]
2.120.	CONFERENCE OF COUNTY COURT JUDGES	[NO CHANGE]
2.125.	JUDICIAL MANAGEMENT COUNCIL	[NO CHANGE]
2.130.	PROCEDURE FOR AMENDING RULES	[NO CHANGE]

- 2.135. PRIORITY OF CONFLICTING APPELLATE RULES [NO CHANGE]
- 2.140. JUDICIAL DISCIPLINE, REMOVAL, RETIREMENT, AND
SUSPENSION [NO CHANGE]
- 2.150. CONTINUING JUDICIAL EDUCATION [NO CHANGE]
- 2.160. DISQUALIFICATION OF TRIAL JUDGES [AMENDED]
Committee vote: As to (c) 11-0; (e) 22-0
Board of Governors vote: 43-0
- 2.170. STANDARDS OF CONDUCT AND TECHNOLOGY
GOVERNING ELECTRONIC MEDIA AND STILL
PHOTOGRAPHY COVERAGE OF JUDICIAL PROCEEDINGS [AMENDED]
Committee vote: 27-0
Board of Governors vote: 43-0
- 2.180. CHANGE OF VENUE PROCEDURES [NO CHANGE]

RULE 2.060. ATTORNEYS

(a) **Generally.** All persons in good standing as members of The Florida Bar shall be permitted to practice in Florida. Attorneys of other states who are not members of The Florida Bar in good standing shall not engage in the practice of law in Florida except to the extent permitted by rule 2.061.

(b) **~~Clerks and Secretaries~~ Staff Attorneys, Law Clerks, and Judicial Assistants Not to Practice.** No one serving as a ~~research aide or secretary~~ staff attorney, law clerk, or judicial assistant to a justice or judge of any court shall practice as an attorney in any court or before any agency of government while continuing in that position, ~~nor participate in any manner in any proceeding that was docketed in the court during the term of service or prior thereto.~~ Any attorney designated by the court may represent the court, or any judge in the judge's official capacity, in any proceeding in which the court or judge is an interested party. An attorney shall not represent anyone in connection with a matter in which the attorney participated personally and substantially as a judicial staff attorney, law clerk, or judicial assistant.

(c) **Pleadings to Be Signed.** Every pleading and other paper of a party represented by an attorney shall be signed by at least 1 attorney of record in that attorney's individual name whose address, telephone number, including area code, and Florida Bar number shall be stated, and who shall be duly licensed to practice law in Florida or who shall have received permission to appear in the particular case as provided in rule 2.061. The attorney may be required by the court to give the address of, and to vouch for the attorney's authority to represent, the party. Except when otherwise specifically provided by an applicable rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney shall constitute a certificate by the attorney that the attorney has read the pleading or other paper; that to the best of the attorney's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken and the action may proceed as though the pleading or other paper had not been served.

(d) **Party Not Represented by Attorney to Sign.** A party who is not represented by an attorney shall sign any pleading or other paper and state the party's address and telephone number, including area code.

(e) **Form of Signature of Attorney, Party, or Other Person.**

(1) The signatures required on pleadings and papers by subdivisions (c) and (d) of this rule may be:

(A) original signatures;

(B) original signatures that have been reproduced by electronic means, such as on electronically transmitted documents or photocopied documents; or

(C) any other signature format authorized by general law, so long as the clerk where the proceeding is pending has the capability of receiving and has obtained approval from the Supreme Court of Florida to accept pleadings and papers with that signature format.

(2) An attorney, party, or other person who files a pleading or paper by electronic transmission that does not contain the original signature of that attorney, party, or other person shall file that identical pleading or paper in paper form containing an original signature of that attorney, party, or other person (hereinafter called the follow-up filing) immediately thereafter. The follow-up filing is not required if the Supreme Court of Florida has entered an order directing the clerk of court to discontinue accepting the follow-up filing.

(f) **Attorney Not to Be Surety.** No attorneys or other officers of court shall enter themselves or be taken as bail or surety in any proceeding in court.

(g) **Stipulations.** No private agreement or consent between parties or their attorneys concerning the practice or procedure in an action shall be of any force unless the evidence of it is in writing, subscribed by the party or the party's attorney against whom it is alleged. Parol agreements may be made before the court if promptly made a part of the record or incorporated in the stenographic notes of the proceedings, and agreements made at depositions that are incorporated in the transcript need not be signed when signing of the deposition is waived. This rule shall not apply to settlements or other substantive agreements.

(h) ~~**Substitution of Attorneys.** Attorneys for a party may be substituted~~

~~at any time by order of court. No substitute attorney shall be permitted to appear in the absence of an order.~~**Appearance of Attorney.** An attorney may appear in a proceeding in any of the following ways:

(1) By serving and filing, on behalf of a party, the party's first pleading or paper in the proceeding.

(2) By substitution of counsel, but only by order of court and with written consent of the client, filed with the court. The court may condition substitution upon payment of, or security for, the substituted attorney's fees and expenses, or upon such other terms as may be just. ~~The client shall be notified in advance of the proposed substitution and shall consent in writing to the substitution. The written consent shall be filed with the court.~~

(3) By filing with the court and serving upon all parties a notice of appearance as counsel for a party that has already appeared in a proceeding pro se or as co-counsel for a party that has already appeared in a proceeding by non-withdrawing counsel.

(i) **Withdrawal of Attorney.** ~~An attorney shall not be permitted to withdraw from an action unless the withdrawal is approved by the court. The attorney shall file a motion for that purpose stating the reasons for withdrawal and the client's address. A copy of the motion shall be served on the client and adverse parties. The motion shall be set for hearing and notice of hearing shall be served on the client and adverse parties.~~**Termination of Appearance of Attorney.** The appearance of an attorney for a party in a proceeding shall terminate only in one of the following ways:

(1) **Withdrawal of Attorney.** By order of court, where the proceeding is continuing, upon motion and hearing, on notice to all parties and the client, such motion setting forth the reasons for withdrawal and the client's last known address.

(2) **Substitution of Attorney.** By order of court, under the procedure set forth in subdivision (h)(2) of this rule.

(3) **Termination of Proceeding.** Automatically, without order of court, upon the termination of a proceeding, whether by final order of dismissal, by final adjudication, or otherwise, and following the expiration of any applicable time for appeal, where no appeal is taken.

~~(j) **Addition of Attorneys.** After a proceeding has been filed in a court, additional attorneys may appear without securing permission of the court. All additional attorneys so appearing shall file a notice of appearance with the court and shall serve a copy of the notice of appearance on all parties in the proceeding.~~

(kj) **Law Student Participation.** Eligible law students shall be permitted to participate as provided under the conditions of chapter 11 of the Rules Regulating The Florida Bar as amended from time to time.

(~~k~~) **Attorney as Agent of Client.** In all matters concerning the prosecution or defense of any proceeding in the court, the attorney of record shall be the agent of the client, and any notice by or to the attorney or act by the attorney in the proceeding shall be accepted as the act of or notice to the client.

[Court] Commentary

1997 Amendment. Originally, the rule provided that the follow-up filing had to occur within ten days. In the 1997 amendment to the rule, that requirement was modified to provide that the follow-up filing must occur “immediately” after a document is electronically filed. The “immediately thereafter” language is consistent with language used in the rules of procedure where, in a somewhat analogous situation, the filing of a document may occur after service. *See, e.g.*, Florida Rule of Civil Procedure 1.080(d) (“All original papers shall be filed with the court either before service or *immediately thereafter*.”) (emphasis added). “Immediately thereafter” has been interpreted to mean “filed with reasonable promptness.” *Miami Transit Co. v. Ford*, 155 So. 2d 360 (Fla. 1963).

The use of the words “other person” in this rule is not meant to allow a nonlawyer to sign and file pleadings or other papers on behalf of another. Such conduct would constitute the unauthorized practice of law.

RULE 2.070. COURT REPORTING

(a) **Definition.** “Court reporting” means the act of making a verbatim record of the spoken word, whether by the use of written symbols, stenomask equipment, or electronic devices, in any proceedings pending in any of the courts of this state, including all discovery proceedings conducted in connection therewith, and all proceedings required by statute to be reported by a certified or official court reporter. It does not mean either the act of taking witness statements not intended for use in court as substantive evidence, or the act of electronic recording and transcription of proceedings as provided for in subdivision (g)(3).

(b) **When Court Reporting Required.** Any proceeding shall be reported on the request of any party. The party so requesting shall pay the reporting fees, but this requirement shall not preclude the taxation of costs as authorized by law.

(c) **Record.** When trial proceedings are being reported, no part of the proceedings shall be omitted unless all of the parties agree to do so and the court approves the agreement. When a deposition is being reported, no part of the proceedings shall be omitted unless all of the parties and the witness so agree. When a party or a witness seeks to terminate or suspend the taking of a deposition for the time necessary to seek a court order, the court reporter shall discontinue reporting the testimony of the witness.

(d) **Fees.** The chief judge shall have the discretion to adopt an administrative order establishing maximum fees for court reporting services not covered in the plan adopted pursuant to subdivision (g). Any such order must make a specific factual finding that the setting of such maximum fees is necessary to ensure access to the courts. Such finding shall include consideration of the number of court reporters in the county or circuit, any past history of fee schedules, and any other relevant factors.

(e) **Transcripts.** Transcripts of all judicial proceedings, including depositions, shall be uniform in and for all courts throughout the state. The form, size, spacing, and method of ~~typing~~printing transcripts are as follows:

- (1) All proceedings shall be ~~typed or~~ printed on paper 8 ½ inches

by 11 inches in size, prepared for binding at the top or and bound on the left margin.

~~(2) All margins, measured from the edge of the paper, shall be no more than 1 inch from the top, no more than 1 1/8 inches at the left side and 3/8 inch at the right side for type or print of 9 characters to the inch, and no more than 1 3/4 inches at the left side and 1/2 inch at the right side for type or print of 10 characters to the inch.~~

(32) There shall be no fewer than 25 ~~typed or printed~~ lines per page and all typing or printing shall be double spaced, with all lines numbered 1 through 25, respectively, and with no more than a double space between ~~paragraphs~~lines.

(43) ~~Type~~Font size or print shall be 9 or 10 pica, 12-point courier, or comparable type or print of no fewer than 9 or 10 characters to the inch 12-point Times New Roman print with no less than 56 characters per line on questions and answers unless the text of the speaker ends short of marginal requirements.

(54) Colloquy material shall begin on the same line following the identification of the speaker, with no more than 2 spaces between the identification of the speaker and the commencement of the colloquy. The identification of the speaker in colloquy shall begin no more than 10 spaces from the left margin, and carry-over colloquy shall be indented no more than 5 spaces from the left margin.

(65) Each question and answer shall begin on a separate line no more than 5 spaces from the left margin with no more than 5 spaces from the "Q" or "A" to the text. Carry-over question and answer lines shall be brought to the left margin.

(76) Quoted material shall begin no more than 10 spaces from the left margin with carry-over lines beginning no more than 10 spaces from the left margin.

(87) Indentations of no more than 10 spaces may be used for paragraphs, and all spaces on a line as herein provided shall be used unless the testimony~~text~~ of the speaker ends short of marginal requirements.

(98) One-line parentheticals may begin at any indentation.

Parentheticals exceeding 1 line shall begin no more than 10 spaces from the left margin, with carry-over lines being returned to the left margin.

(~~109~~) Individual volumes of a transcript, including depositions, shall be no more than 200 pages in length, inclusive of the index.

(~~110~~) Deviation from these standards shall not constitute grounds for limiting use of transcripts in the trial or appellate courts.

(f) **Reporter as Officer of Court.** A court reporter is an officer of the court for all purposes while acting as a reporter in a judicial proceeding or discovery proceeding. The court reporter shall comply with all rules and statutes governing the proceeding that are applicable to court reporters.

(g) **Court Reporting Services Provided in Mental Health Proceedings or at Public Expense.**

(1) **When Reporting Required.** All criminal and juvenile proceedings, and any other judicial proceedings required by law or court rule to be reported at public expense, shall be reported.

(2) **Circuit Plan.** The chief judge, after consultation with the circuit court and county court judges in the circuit, shall enter an administrative order developing and implementing a circuit-wide plan for the court reporting of all proceedings required to be reported at public expense using either full or part time court employees or independent contractors. The plan shall ensure that all court reporting services are provided by qualified persons. This plan may provide for multiple service delivery strategies if they are necessary to ensure the efficient provision of court reporting services. Each circuit's plan for court reporting services shall be developed after consideration of guidelines issued by the Office of the State Courts Administrator.

(3) **Electronic Recording and Transcription of Proceedings Without Court Reporters.** A chief judge may enter a circuit-wide administrative order, which shall be recorded, authorizing the electronic recording and subsequent transcription by persons other than court reporters, of any judicial proceedings, including depositions, that are otherwise required to be reported by a court

reporter. Appropriate procedures shall be prescribed in the order which shall:

(A) set forth responsibilities for the court's support personnel to ensure a reliable record of the proceedings;

(B) provide a means to have the recording transcribed, either in whole or in part, when necessary for an appeal or for further use in the trial court; and

(C) provide for the safekeeping of such recordings.

The presiding judge in a specific case, however, may require a court reporter, if available, or either party may provide and pay for the cost of a court reporter. Such court reporter shall be subject to the orders of the court and directions to transcribe the record from all parties.

(4) **Grand Jury Proceedings.** Testimony in grand jury proceedings shall be reported by a court reporter, but shall not be transcribed unless required by order of court. Other parts of grand jury proceedings, including deliberations and voting, shall not be reported. The court reporter's work product, including stenographic notes, electronic recordings, and transcripts, shall be filed with the clerk of the court under seal.

(h) **Court Reporting Services in Capital Cases.** On or before January 1, 2001, the chief judge, after consultation with the circuit court judges in the circuit, shall enter an administrative order developing and implementing a circuit-wide plan for court reporting in all trials in which the state seeks the death penalty and in capital postconviction proceedings. The plan shall require the use of all measures necessary to expedite the preparation of the transcript, including but not limited to:

(1) where available, the use of a court reporter who has the capacity to provide real-time transcription of the proceedings;

(2) if real-time transcription services are not available, the use of a computer-aided transcription qualified court reporter;

(3) the use of scopists, text editors, alternating court reporters, or other means to expedite the finalization of the certified transcript; and

(4) the imposition of reasonable restrictions on work assignments by employee or contract court reporters to ensure that transcript production in capital cases is given a priority.

RULE 2.071. USE OF COMMUNICATION EQUIPMENT

(a) **Definition.** Communication equipment means a conference telephone or other electronic device that permits all those appearing or participating to hear and speak to each other, provided that all conversation of all parties is audible to all persons present.

(b) **Use by All Parties.** A county or circuit court judge may, upon the court's own motion or upon the written request of a party, direct that communication equipment be used for a motion hearing, pretrial conference, or a status conference. A judge must give notice to the parties and consider any objections they may have to the use of communication equipment before directing that communication equipment be used. The decision to use communication equipment over the objection of parties will be in the sound discretion of the trial court, except as noted below.

(c) **Use Only by Requesting Party.** A county or circuit court judge may, upon the written request of a party upon reasonable notice to all other parties, permit a requesting party to participate through communication equipment in a scheduled motion hearing; however, any such request (except in criminal, ~~delinquency~~juvenile, and appellate proceedings) must be granted, absent a showing of good cause to deny the same, where the hearing is set for not longer than 15 minutes.

(d) **Testimony.**

(1) **Generally.** A county or circuit court judge may, ~~if all the parties consent,~~ allow testimony to be taken through communication equipment. The decision to use communication equipment over the objections of parties will be in the sound discretion of the trial court, subject to the provisions below.

(2) **Procedure.** Any party desiring to present testimony through communication equipment shall, prior to the hearing or trial at which the testimony is to be presented, contact all parties to determine whether each party consents to this form of testimony. The party seeking to present the testimony shall move for permission to present testimony through communication equipment, which motion

shall set forth good cause as to why the testimony should be allowed in this form.

(3) **Oath.** Testimony may be taken through communication equipment only if a notary public or other person authorized to administer oaths in the witness's jurisdiction is present with the witness and administers the oath consistent with the laws of the jurisdiction.

(4) **Confrontation Rights.** In juvenile and criminal proceedings the defendant must make an informed waiver of any confrontation rights that may be abridged by the use of communication equipment.

(5) **Video Testimony.** If the testimony to be presented utilizes video conferencing or comparable two-way visual capabilities, the court in its discretion may modify the procedures set forth in this rule to accommodate the technology utilized.

(e) **Burden of Expense.** The cost for the use of the communication equipment is the responsibility of the requesting party unless otherwise directed by the court.

(f) **Petition to Override Family Violence Indicator.** Communications equipment may be used for a hearing on a petition to override a family violence indicator under Florida Family Law Rule of Procedure 12.650.

RULE 2.085. TIME STANDARDS FOR TRIAL AND APPELLATE COURTS

(a) **Purpose.** Judges and lawyers have a professional obligation to conclude litigation as soon as it is reasonably and justly possible to do so. However, parties and counsel shall be afforded a reasonable time to prepare and present their case.

(b) **Case Control.** The trial judge shall take charge of all cases at an early stage in the litigation and shall control the progress of the case thereafter until the case is determined. The trial judge shall take specific steps to monitor and control the pace of litigation, including the following:

- (1) assuming early and continuous control of the court calendar;
- (2) identifying priority cases as assigned by statute, rule of procedure, case law, or otherwise;
- (3) implementing such docket control policies as may be necessary to advance priority cases to ensure prompt resolution;
- (4) identifying cases subject to alternative dispute resolution processes;
- (5) developing rational and effective trial setting policies; and
- (6) advancing the trial setting of priority cases, older cases, and cases of greater urgency.

(c) **Priority Cases.**

(1) In all noncriminal cases assigned a priority status by statute, rule of procedure, case law, or otherwise, any party may file a notice of priority status explaining the nature of the case, the source of the priority status, any deadlines imposed by law on any aspect of the case, and any unusual factors that may bear on meeting the imposed deadlines.

(2) If, in any noncriminal case assigned a priority status by statute, rule

of procedure, case law, or otherwise, a party is of the good faith opinion that the case has not been appropriately advanced on the docket or has not received priority in scheduling consistent with its priority case status, that party may seek review of such action by motion for review to the chief judge or to the chief judge's designee. The filing of such a motion for review will not toll the time for seeking such other relief as may be afforded by the Florida Rules of Appellate Procedure.

(d) **Continuances.** All judges shall apply a firm continuance policy. Continuances should be few, good cause should be required, and all requests should be heard and resolved by a judge. All motions for continuance shall be in writing unless made at a trial and, except for good cause shown, shall be signed by the party requesting the continuance. All motions for continuance in priority cases shall clearly identify such priority status and explain what effect the motion will have on the progress of the case.

(e) **Time Standards.** The following time standards are hereby established as a presumptively reasonable time period for the completion of cases in the trial and appellate courts of this state. It is recognized that there are cases that, because of their complexity, present problems that cause reasonable delays. However, most cases should be completed within the following time periods:

(1) **Trial Court Time Standards.**

(A) Criminal.

Felony — 180 days (arrest to final disposition)

Misdemeanor — 90 days (arrest to final disposition)

(B) Civil.

Jury cases — 18 months (filing to final disposition)

Non-jury cases — 12 months (filing to final disposition)

Small claims — 95 days (filing to final disposition)

(C) Domestic Relations.

Uncontested — 90 days (filing to final disposition)

Contested — 180 days (filing to final disposition)

~~Temporary support and enforcement of support hearings — 14 days (from day of request)~~

(D) Probate.

Uncontested, no federal estate tax return — 12 months (from issuance of letters of administration to final discharge)

Uncontested, with federal estate tax return — 12 months (from the return's due date to final discharge)

Contested — 24 months (from filing to final discharge)

(E) Juvenile Delinquency.

~~Detention hearings — 24 hours (arrest to hearing)~~

~~Adjudicatory hearing (dependency) — 180 days (filing of petition to final disposition)~~

~~Adjudicatory hearing (delinquency) — 90 days (filing of petition or child being taken into custody to final disposition)~~
~~hearing~~

Adjudicatory hearing (child detained) — 21 days (~~filing of petition~~date of detention to hearing)

(F) Juvenile Dependency.

Disposition hearing (child sheltered) — 88 days (shelter hearing to disposition)

Disposition hearing (child not sheltered) — 180 days

(2) **Supreme Court and District Courts of Appeal Time**

Standards: Rendering a decision — within 180 days of either oral argument or the submission of the case to the court panel for a decision without oral argument

(3) **Florida Bar Referee Time Standards:** Report of referee —

within 180 days of being assigned to hear the case

(4) **Circuit Court Acting as Appellate Court:**

Ninety days from submission of the case to the judge for review

(f) **Reporting of Cases.** The time standards require that the following monitoring procedures be implemented:

All pending cases in circuit and district courts of appeal exceeding the time standards shall be listed separately on a report submitted quarterly to the chief justice. The report shall include for each case listed the case number, type of case, case status (active or inactive for civil cases and contested or uncontested for domestic relations and probate cases), the date of arrest in criminal cases, and the original filing date in civil cases. The Office of the State Courts Administrator will provide the necessary forms for submission of this data. The report will be due on the 15th day of the month following the last day of the quarter.

RULE 2.160. DISQUALIFICATION OF TRIAL JUDGES

(a) **Application.** This rule applies only to county and circuit judges in all matters in all divisions of court.

(b) **Parties.** Any party, including the state, may move to disqualify the trial judge assigned to the case on grounds provided by rule, by statute, or by the Code of Judicial Conduct.

(c) **Motion.** A motion to disqualify shall be in writing and specifically allege the facts and reasons relied on to show the grounds for disqualification and shall be sworn to by the party by signing the motion under oath or by a separate affidavit. The attorney for the party shall also separately certify that the motion and the client's statements are made in good faith. In addition to filing with the clerk, the movant shall immediately send a copy of the motion to the subject judge.

(d) **Grounds.** A motion to disqualify shall show:

(1) that the party fears that he or she will not receive a fair trial or hearing because of specifically described prejudice or bias of the judge; or

(2) that the judge before whom the case is pending, or some person related to said judge by consanguinity or affinity within the third degree, is a party thereto or is interested in the result thereof, or that said judge is related to an attorney or counselor of record in the cause by consanguinity or affinity within the third degree, or that said judge is a material witness for or against one of the parties to the cause.

(e) **Time.** A motion to disqualify shall be ~~made~~filed within a reasonable time not to exceed 10 days after discovery of the facts constituting the grounds for the motion and shall be promptly presented to the court for an immediate ruling. Any motion for disqualification made during a hearing or trial must be based on facts discovered during the hearing or trial and may be stated on the record ~~and shall, provided that it is also be filed promptly reduced to writing in compliance with subdivision (c), and filed.~~ Such trial motions A motion made during hearing or trial may be ruled on immediately.

(f) **Determination — Initial Motion.** The judge against whom an initial motion to disqualify under subdivision (d)(1) is directed shall determine only the legal

sufficiency of the motion and shall not pass on the truth of the facts alleged. If the motion is legally sufficient, the judge shall immediately enter an order granting disqualification and proceed no further in the action. If any motion is legally insufficient, an order denying the motion shall immediately be entered. No other reason for denial shall be stated, and an order of denial shall not take issue with the motion.

(g) **Determination — Successive Motions.** If a judge has been previously disqualified on motion for alleged prejudice or partiality under subdivision (d)(1), a successor judge shall not be disqualified based on a successive motion by the same party unless the successor judge rules that he or she is in fact not fair or impartial in the case. Such a successor judge may pass on the truth of the facts alleged in support of the motion.

(h) **Prior Rulings.** Prior factual or legal rulings by a disqualified judge may be reconsidered and vacated or amended by a successor judge based upon a motion for reconsideration, which must be filed within 20 days of the order of disqualification, unless good cause is shown for a delay in moving for reconsideration or other grounds for reconsideration exist.

(i) **Judge's Initiative.** Nothing in this rule limits the judge's authority to enter an order of disqualification on the judge's own initiative.

RULE 2.170. STANDARDS OF CONDUCT AND TECHNOLOGY GOVERNING ELECTRONIC MEDIA AND STILL PHOTOGRAPHY COVERAGE OF JUDICIAL PROCEEDINGS

(a) **Electronic and Still Photographic Coverage Allowed.** Subject at all times to the authority of the presiding judge to: (i) control the conduct of proceedings before the court; (ii) ensure decorum and prevent distractions; and (iii) ensure the fair administration of justice in the pending cause, electronic media and still photography coverage of public judicial proceedings in the appellate and trial courts of this state shall be allowed in accordance with the following standards of conduct and technology promulgated by the Supreme Court of Florida.

(b) **Equipment and Personnel.**

(1) ~~Not more than~~At least 1 portable television camera ~~(film camera — 16mm sound on film (self blimped) or videotape electronic camera)~~, operated by not more than 1 camera person, shall be permitted in any trial or appellate court proceeding. ~~Not more than 2 television cameras, operated by not more than 1 camera person each, shall be permitted in any appellate court proceeding.~~The number of permitted cameras shall be within the sound discretion and authority of the presiding judge.

(2) Not more than 1 still photographer, using not more than 2 still cameras ~~with not more than 2 lenses for each camera and related equipment for print purposes~~, shall be permitted in any proceeding in a trial or appellate court.

(3) Not more than 1 audio system for radio broadcast purposes shall be permitted in any proceeding in a trial or appellate court. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court facility. If no technically suitable audio system exists in the court facility, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the chief judge of the judicial circuit or district in which the court facility is located.

(4) Any “pooling” arrangements among the media required by these

limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the presiding judge to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the presiding judge shall exclude all contesting media personnel from a proceeding.

(c) Sound and Light Criteria.

(1) Only television photographic and audio equipment that does not produce distracting sound or light shall be used to cover judicial proceedings. ~~Specifically, such photographic and audio equipment shall produce no greater sound or light than the equipment designated in the Appendix to this rule, when such designated equipment is in good working order.~~ No artificial lighting device of any kind shall be used in connection with the television camera.

(2) Only still camera equipment that does not produce distracting sound or light shall be used to cover judicial proceedings. ~~Specifically, such still camera equipment shall produce no greater sound or light than a 35mm Leica "M" Series Rangefinder camera, and n~~No artificial lighting device of any kind shall be used in connection with a still camera.

(3) It shall be the affirmative duty of media personnel to demonstrate to the presiding judge adequately in advance of any proceeding that the equipment sought to be used meets the sound and light criteria enunciated in this rule. A failure to obtain advance judicial approval for equipment shall preclude its use in any proceeding.

(d) Location of Equipment Personnel.

(1) Television camera equipment shall be positioned in such location in the court facility as shall be designated by the chief judge of the judicial circuit or district in which such facility is situated. The area designated shall provide reasonable access to coverage. If and when areas remote from the court facility that permit reasonable access to coverage are provided, all television camera and audio equipment shall be positioned only in such area. Videotape recording equipment that is not a component part of a television camera shall be located in an area remote from the court facility.

(2) A still camera photographer shall position himself or herself in such location in the court facility as shall be designated by the chief judge of the judicial circuit or district in which such facility is situated. The area designated shall provide reasonable access to coverage. Still camera photographers shall assume a fixed position within the designated area and, once established in a shooting position, shall act so as not to call attention to themselves through further movement. Still camera photographers shall not be permitted to move about in order to obtain photographs of court proceedings.

(3) Broadcast media representatives shall not move about the court facility while proceedings are in session, and microphones or taping equipment once positioned as required by subdivision (a)(3) shall not be moved during the pendency of the proceeding.

(e) **Movement during Proceedings.** News media photographic or audio equipment shall not be placed in or removed from the court facility except before commencement or after adjournment of proceedings each day, or during a recess. Neither television film magazines nor still camera film or lenses shall be changed within a court facility except during a recess in the proceeding.

(f) **Courtroom Light Sources.** With the concurrence of the chief judge of a judicial circuit or district in which a court facility is situated, modifications and additions may be made in light sources existing in the facility, provided such modifications or additions are installed and maintained without public expense.

(g) **Conferences of Counsel.** To protect the attorney-client privilege and the effective right to counsel, there shall be no audio pickup or broadcast of conferences that occur in a court facility between attorneys and their clients, between co-counsel of a client, or between counsel and the presiding judge held at the bench.

(h) **Impermissible Use of Media Material.** None of the film, videotape, still photographs, or audio reproductions developed during or by virtue of coverage of a judicial proceeding shall be admissible as evidence in the proceeding out of which it arose, in any proceeding subsequent or collateral thereto, or upon retrial or appeal of such proceedings.

(i) **Appellate Review.** Review of an order excluding the electronic media from access to any proceeding, excluding coverage of a particular participant, or upon

any other matters arising under these standards shall be pursuant to Florida Rule of Appellate Procedure 9.100(d).

[Court] Commentary

1994 Amendment. This rule was copied from Canon 3A(7) of the Code of Judicial Conduct. Canon 3A(7) represented a departure from former Canon 3A(7) [ABA Canon 35]. The former canon generally proscribed electronic media and still photography coverage of judicial proceedings from within and in areas immediately adjacent to the courtroom, with three categories of exceptions — (a) use for judicial administration, (b) coverage of investitive, ceremonial, and naturalization proceedings, and (c) use for instructional purposes in educational institutions. Subject to the limitations and promulgation of standards as mentioned therein, the revised canon constituted a general authorization for electronic media and still photography coverage for all purposes, including the purposes expressed as exceptions in the former canon. Limited only by the authority of the presiding judge in the exercise of sound discretion to prohibit filming or photographing of particular participants, consent of participants to coverage is not required. The text of the rule refers to public judicial proceedings. This is in recognition of the authority reposing in the presiding judge, upon the exercise of sound discretion, to hold certain judicial proceedings or portions thereof in camera, and in recognition of the fact that certain proceedings or portions thereof are made confidential by statute. The term “presiding judge” includes the chief judge of an appellate tribunal.

APPENDIX

FILM CAMERAS			16mm Sound on Film
			(self blimped)
1:	Cinema Products	CP-16A-R	Sound
2:	Arriflex	16mm-16BL Model	Sound
3:	Frezzolini	16mm (LW16)	Sound on
4:	Auricon	“Cini-Voice”	Sound
5:	Auricon	“Pro-600”	Sound
6:	General Camera	SS-III	Sound
7:	Eclair	Model ACL	Sound
8:	General Camera	DGX	Sound

9: Wilcam Reflex 16mm Sound

~~VIDEOTAPE ELECTRONIC CAMERAS~~

1. Ikegami ~~HL-77 HL-33 HL-35 HL-34 HL-51~~
2. RCA ~~TK-76~~
3. Sony ~~DXC-1600 Tricon~~
4. ASACA ~~ACC-2006~~
5. Hitachi ~~SK-80 SK-90~~
6. Hitachi ~~FP-3030~~
7. Philips ~~LDK-25~~
8. Sony BVP-200 ~~ENG Camera~~
9. Fernseh ~~Video Camera~~
10. JVC-8800u ~~ENG Camera~~
11. AKAI ~~CVC-150 VTS-150~~
12. Panasonic ~~WV-3085 NV-3085~~
13. JVC ~~GC-4800u~~

~~VIDEOTAPE RECORDERS/used with video cameras~~

1. Ikegami 3800
2. Sony 3800
3. Sony BVU-100
4. Ampex Video Recorder
5. Panasonic 1 inch Video Recorder
6. JVC 4400
7. Sony 3800H