

Proposed rule

**RULE 2.130. PRIORITY OF ~~CONFLICTING~~
~~APPELLATE RULES~~ FLORIDA RULES OF
APPELLATE PROCEDURE**

The Florida Rules of Appellate Procedure shall control all proceedings in the supreme court and the district courts, and all proceedings in which the circuit courts exercise their appellate jurisdiction, notwithstanding any conflicting rules of procedure.

Reasons for change

Scrivener's change to title of rule to clarify the intent of the rule and avoid any implication of conflicts within the appellate rules.

Proposed rule

Reasons for change

RULE 2.140. AMENDING RULES OF COURT

(a) Amendments Generally. The following procedure shall be followed for consideration of rule amendments generally other than those adopted under subdivisions (d), (e), (f), and (g):

- (1) Proposals for court rules, amendments to them, or abrogation of them may be made by any person.
- (2) Proposals shall be submitted to the clerk of the supreme court in writing and shall include a general description of the proposed rule change or a specified proposed change in content. The clerk of the supreme court shall refer proposals to the appropriate committee under subdivision (a)(3).
- (3) The Florida Bar shall appoint the following committees to consider rule proposals: Civil Procedure Rules Committee, Criminal Procedure Rules Committee, Small Claims Rules Committee, Traffic Court Rules Committee, Appellate Court Rules Committee, Juvenile Court Rules Committee, Code and Rules of Evidence Committee, Rules of Judicial Administration Committee, Probate Rules Committee, and Family Law Rules Committee.
- (4) Each committee shall be composed of attorneys and judges with extensive experience and training in the area of practice of the committee calling for regular, frequent use of

the rules. The members of the committee shall serve for 3-year staggered terms. The president of The Florida Bar shall appoint the chair and vice chair of each committee.

(5) The Rules of Judicial Administration Committee shall also serve as a rules coordinating committee. Each rules committee shall have at least 1 of its members appointed to the Rules of Judicial Administration Committee to serve as liaison. All committees shall provide a copy of any proposed rules changes shall be submitted to the Rules of Judicial Administration Committee within 30 days of a committee's affirmative vote to recommend the proposed change to the supreme court. The Rules of Judicial Administration Committee, which shall then refer all proposed rules changes to those rules committees that might be affected by the proposed change. ~~All proposed changes shall be submitted by June 15 of each year of the rules cycle.~~

(6) The committees shall consider and vote on each proposal. The committees may originate proposals and are charged with the duty of regular review and reevaluation of the rules to advance orderly and inexpensive procedures in the administration of justice. The committees may accept or reject proposed amendments or may amend proposals. The committees shall keep minutes of their activities, which minutes shall reflect the action taken on each proposal. Copies of the minutes shall be furnished to the clerk of the supreme court, to the board of governors of The Florida Bar, and to the proponent of any proposal considered at the meeting.

(b) Schedule for Rules Proposals. [NO CHANGE]

Change in (a)(5) requires rules committees to furnish copies of proposed rule changes to the Rules of Judicial Administration Committee within 30 days of committee approval so that the RJA Committee can coordinate with other affected rules committees as approvals occur, rather than once a year.

(c) Rejected Proposals. [NO CHANGE]

(d) Emergency Amendments by Court. [NO CHANGE]

(e) Emergency Recommendations by Committee. [NO CHANGE]

(f) Request by Court. [NO CHANGE]

(g) Amendments to the Rules of Judicial Administration.
[NO CHANGE]

(h) Local Rules Proposed by Trial Courts. [NO CHANGE]

Proposed rule

Reasons for change

RULE 2.215. TRIAL COURT ADMINISTRATION

(a) **Purpose.** [NO CHANGE]

(b) **Chief Judge.** [NO CHANGE]

(c) **Selection.** [NO CHANGE]

(d) **Circuit Court Administrator.** [NO CHANGE]

(e) **Local Rules and Administrative Orders.** [NO CHANGE]

(f) **Duty to Rule within a Reasonable Time.** [NO CHANGE]

(g) **Duty to Expedite Priority Cases.** Every judge has a duty to expedite priority cases to the extent reasonably possible. Priority cases are those cases that have been assigned a priority status or assigned an expedited disposition schedule by statute, rule of procedure, case law, or otherwise. Particular attention shall be given to all juvenile dependency and termination of parental rights cases, ~~and to~~ cases involving families and children in need of services, and challenges involving elections and proposed constitutional amendments.

Change in (g) would encourage prompt judicial attention to election matters, including the wording of ballot language summarizing proposed constitutional amendments.

(h) **Neglect of Duty.** [NO CHANGE]

(i) Status Conference after Compilation of Record in Death Case. [NO CHANGE]

Court Commentary

1996 Court Commentary. Rule 2.050(h) [renumbered as 2.215(h) in 2006] should be read in conjunction with Florida Rule of Appellate Procedure 9.140(b)(4)(A).

1997 Court Commentary. [Rule 2.050(b)(10), renumbered as 2.215(b)(10) in 2006]. The refresher course may be a six-hour block during any Florida Court Education Council approved course offering sponsored by any approved Florida judicial education provider, including the Florida College of Advanced Judicial Studies or the Florida Conference of Circuit Judges. The block must contain instruction on the following topics: penalty phase, jury selection, and rule 3.850 proceedings.

Failure to complete the refresher course during the three-year judicial education reporting period will necessitate completion of the original “Handling Capital Cases” course.

2002 Court Commentary. Recognizing the inherent differences in trial and appellate court dockets, the last sentence of subdivision (g) is intended to conform to the extent practicable with appellate rule 9.146(g), which requires appellate courts to give priority to appeals in juvenile dependency and termination of parental rights cases, and in cases involving families and children in need of services.

Committee Notes

2008 Amendment. The provisions in subdivision (g) of this rule should be read in conjunction with the provisions of rule 2.545(c) governing priority cases.

Proposed rule

Reasons for change

RULE 2.330. DISQUALIFICATION OF TRIAL JUDGES

(a) Application. [NO CHANGE]

(b) Parties. [NO CHANGE]

(c) Motion. A motion to disqualify shall:

(1) be in writing;

(2) allege specifically the facts and reasons upon which the movant relies as the grounds for disqualification; ~~and~~

(3) be sworn to by the party by signing the motion under oath or by a separate affidavit; and

(4) include the dates of all previously granted motions to disqualify filed under this rule in the case and the dates of the orders granting those motions.

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 serve a copy of the motion on the subject judge as set forth in Florida Rule of Civil Procedure 1.080.

(d) Grounds. [NO CHANGE]

(e) Time. [NO CHANGE]

Change in (c) would give any judge a party seeks to disqualify the full history of any prior disqualification in the case. Without this requirement, the court might not be aware that the disqualification motion is a second or subsequent motion, allowing the court to invoke the provisions of subdivision (g) of this rule rather than subdivision (f).

(f) Determination — Initial Motion. [NO CHANGE; TEXT INCLUDED TO PROVIDE CONTEXT FOR EXPLANATION OF PROPOSED AMENDMENT TO SUBDIVISION (c)] 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. [NO CHANGE; TEXT INCLUDED TO PROVIDE CONTEXT FOR EXPLANATION OF PROPOSED AMENDMENT TO SUBDIVISION (c)] 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 rule on the truth of the facts alleged in support of the motion.

(h) Prior Rulings. [NO CHANGE]

(i) Judge's Initiative. [NO CHANGE]

(j) Time for Determination. [NO CHANGE]

Proposed rule

Reasons for change

RULE 2.510. FOREIGN ATTORNEYS

(a) **Eligibility.** Upon filing a verified motion with the court, an attorney who is an active member in good standing of the bar of another state and currently eligible to practice law in a state other than Florida may be permitted to appear in particular cases in a Florida court upon such conditions as the court may deem appropriate, provided that a member of The Florida Bar in good standing is associated as an attorney of record. In determining whether to permit a foreign attorney to appear pursuant to this rule, the court may consider, among other things, information provided under subdivision (b)(3) concerning discipline in other jurisdictions. No attorney is authorized to appear pursuant to this rule if the attorney (1) is a Florida resident, unless the attorney has an application pending for admission to The Florida Bar and has not previously been denied admission to The Florida Bar; (2) is a member of The Florida Bar but is ineligible to practice law; (3) has previously been disciplined or held in contempt by reason of misconduct committed while engaged in representation permitted pursuant to this rule provided, however, the contempt is final and has not been reversed or abated; (4) has failed to provide notice to The Florida Bar or pay the filing fee as required in subdivision (b)(7); or (5) is engaged in a “general practice” before Florida courts. For purposes of this rule, more than 3 appearances within a 365-day period in separate representations shall be presumed to be a “general practice.” In cases involving

Change in (a) would permit a lawyer residing but not licensed in Florida to appear pro hac vice, but only if the lawyer has an application pending for admission to The Florida Bar and only if the lawyer has never been denied admission to The Florida Bar.

indigent clients, the court may waive the filing fee for good cause shown.

(b) Contents of Verified Motion. [NO CHANGE]

Proposed rule

Reasons for change

RULE 2.545. CASE MANAGEMENT

(a) Purpose. [NO CHANGE]

(b) Case Control. [NO CHANGE]

(c) Priority Cases. [NO CHANGE; TEXT INCLUDED TO PROVIDE CONTEXT FOR NEW COMMITTEE NOTE]

(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) Related Cases. [NO CHANGE]

(e) **Continuances.** [NO CHANGE]

Committee Notes

The provisions in subdivision (c) of this rule governing priority cases should be read in conjunction with the provisions of rule 2.215(g), governing the duty to expedite priority cases.

Note is designed to make clear that subdivision (c) of the rule is not intended to weaken Rule 2.215(g) in any way (see APPX C-5).