

# Supreme Court of Florida

No. AOSC06-27

IN RE: COMMITTEE ON ACCESS TO COURT RECORDS

## ADMINISTRATIVE ORDER

The Committee on Privacy and Court Records was established in November of 2003 and charged with providing recommendations regarding the electronic release of court records in Florida.<sup>1</sup> In August 2005 the committee submitted its report.<sup>2</sup> The committee's overall conclusion was that while remote electronic access to court records should be a goal of the Florida judicial branch, numerous obstacles exist that do not allow for responsible provision of such access at this time. The committee therefore made a number of recommendations directed to addressing those obstacles and developing the necessary conditions for responsible electronic access to court records.

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<sup>1</sup>See In re: Comm. on Privacy and Court Records, Fla. Admin. Order No. AOSC03-49 (Nov. 25, 2003) and In re: Comm. on Privacy and Court Records, Fla. Admin. Order No. AOSC04-4 (Feb. 12, 2004).

<sup>2</sup>See Committee on Privacy and Court Records, Privacy, Access and Court Records; the Report and Recommendations of the Committee on Privacy and Court Records (2005) (hereinafter Report).

The Court supports the goal of remote electronic access to court records and agrees with the Committee on Privacy and Court Records that at present the necessary conditions do not exist to permit a general, unrestricted distribution of court records. To assist in developing the necessary policies for electronic access, the Committee on Access to Court Records (hereinafter the Committee) is hereby established for a term to expire on July 1, 2008.

The primary purpose of the Committee is to review Florida Rule of Judicial Administration 2.051 and develop proposed revisions to the rule with regard to the following matters:<sup>3</sup>

1. Recommendation Two: Scope of Confidentiality. Review and explore revisions of rule 2.051 to narrow its application to a finite set of exemptions that are appropriate in the court context and are identifiable. The Committee should note that the Supreme Court has not made a decision as to whether the absorption doctrine<sup>4</sup> applies.

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<sup>3</sup> These tasks refer to recommendations by the Committee on Privacy and Court Records as set forth in the Report and as modified in Implementation of Report and Recommendations of the Committee on Privacy and Court Records, Fla. Admin Order No. AOSC06-20 (June 30, 2006) (hereinafter AOSC06-20).

<sup>4</sup> See Report, supra note 1, at 29 (“The question is whether the rule incorporates, or absorbs, state exemptions and federal confidentiality, thus making them confidentiality under court rule.”).

2. Recommendation Eight: Unauthorized Filings. Study court rules to prohibit the filing of documents that are not authorized by court rule or statute, or seeking relief by the court. The responsibility for identifying unauthorized filings cannot be placed on the clerks of court. It is understood that the current rules already provide for sanctions against those who are responsible for unauthorized filings; accordingly, the rules should be studied to determine whether any sanctions need to be strengthened to further the goal of preventing gratuitous publication of extraneous and potentially damaging information.
3. Recommendation Twelve: Conditions for Electronic Access. Propose amendments to rule 2.051 to allow remote access to court records in electronic form to the general public in jurisdictions where conditions are met.
4. Recommendation Thirteen: Confidential Information. Propose revisions to rule 2.051 to clarify that those records defined in the rule are confidential and may not be released except as provided. Because this requirement is already established in existing law, the Committee



is directed to propose a rule amendment or committee note that is consistent with the recognition of the current legal requirements.

5. Recommendation Sixteen: Unsealing of Records. Propose revisions to rule 2.051 to provide a clear and effective mechanism through which a preliminary determination that a record is exempt or confidential can be challenged and reviewed.
6. Recommendation Seventeen: Responsibility of Filer. Propose revisions to rule 2.051 to provide for certain responsibilities of the filer of court documents regarding confidential information.

In addition, the Committee is directed to advise the Florida Courts Technology Commission and the Office of the State Courts Administrator regarding the terms and conditions the Committee finds advisable in the implementation of the pilot program authorized in Administrative Order AOSC06-20. The Committee is also directed to advise the Chief Justice, by June 1, 2007, of the advisability of alteration to the interim policy on electronic release of court records set out in Administrative Order AOSC06-21. The Committee may make other recommendations it deems appropriate.

The following persons are hereby appointed to serve on the Committee for a term that expires on July 1, 2008:

The Honorable Judith L. Kreeger, Chair  
Circuit Judge, Eleventh Judicial Circuit

Ms. Sharon Abrams  
Court Technology Officer, Eleventh Judicial Circuit

Ms. Kristin Adamson  
Attorney, Tallahassee

Ms. Robin Berghorn  
General Counsel, Ninth Judicial Circuit

The Honorable David Ellsperman  
Clerk of Court, Marion County

The Honorable Mel Grossman  
Circuit Court Judge, Seventeenth Judicial Circuit

Mr. Jonathan Kaney, Jr.  
Attorney, Ormond Beach

The Honorable Melanie May  
Appellate Court Judge, Fourth District Court of Appeal

Mr. Timothy McLendon  
Attorney, Gainesville

Mr. Paul Regensdorf  
Attorney, Ft. Lauderdale

Mr. Murray B. Silverstein  
Attorney, St. Petersburg

The Honorable Kim A. Skievaski  
Chief Judge, First Judicial Circuit

The Honorable Elijah Smiley  
County Judge, Bay County

Mr. Walt Smith  
Court Administrator, Twelfth Judicial Circuit

The Honorable Charles Williams  
Circuit Judge, Twelfth Judicial Circuit

Judge Judith Kreeger shall serve as Chair and Justice Barbara J. Pariente shall serve as Supreme Court liaison to the Committee. Staff support for the Steering Committee shall be provided by the Office of the State Courts Administrator.

The Committee is directed to submit a progress report by June 1, 2007, and a final report by June 1, 2008. The Committee is authorized to propose amendments to rules of court procedure on issues addressed in this administrative order, for consideration by the Court. Recommended amendments to the rules of court procedure or forms shall be filed in petition form with the Clerk of the Florida Supreme Court. Mr. Paul Regensdorf shall serve as the liaison between the Committee and The Florida Bar Rules of Judicial Administration Committee.

Should the Committee make recommendations that require additional funding or resources to implement, the Committee is directed to establish the necessary liaison relationship with the District Court of Appeal Budget Commission or the Trial Court Budget Commission, as appropriate. At a

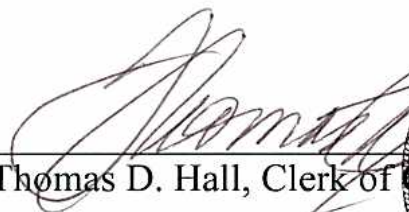
minimum, the Committee shall provide the chair of the respective budget commission with copies of Committee reports and recommendations that reference the need for additional court funding or resources.

DONE AND ORDERED at Tallahassee, Florida, on August 21, 2006.



Chief Justice R. Fred Lewis

ATTEST:



Thomas D. Hall, Clerk of Court

