

RECEIVED, 5/7/2013 15:48:35, Thomas D. Hall, Clerk, Supreme Court

Note: *West's Florida Rules of Court – State* (2012) does not capitalize the title of each rule. This Court does, however. See, *In re Florida Rules of Civil Procedure for Involuntary Commitment of Sexually Violent Predators*, 13 So. 3d 1025 (Fla. 2009).

RULE 4.030. NONVERIFICATION OF PLEADINGS

Every ~~written~~-pleading or other ~~paper~~ document of a party represented by an attorney need not be verified or accompanied by an affidavit except when otherwise specifically provided by these rules or an applicable statute.

Rule 4.080. SERVICE AND FILING OF PLEADINGS AND, PAPERS, AND DOCUMENTS

(a) Service; When Required. Unless the court otherwise orders, every pleading subsequent to the initial pleading and every other paper document filed in the action, except applications for a witness subpoena, shall be served on the opposing party.

(b) Service of Subsequent Pleadings Other Than Original Petition; How Made. When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. Service on the attorney or party shall be ~~made by delivering a copy or mailing it to the attorney or the party, or as provided in 4.070(b)~~ as required by Fla. R. Jud. Admin. 2.516.

~~**(c) Service by Electronic Mail.** Service by electronic mail shall be permitted if all parties or their counsel file with the clerk of the court a written agreement that such service is acceptable. The agreement shall set forth the method of service and provide e-mail addresses or facsimile numbers. The original pleadings shall be filed with the clerk with the counsel's attestation of the time of electronic service.~~

(c) Filing. All documents that are “court records” as defined in the Florida Rules of Judicial Administration must be filed with the clerk in accordance with Fla. R. Jud. Admin. 2.520 and 2.525.

(d) Deposit with the Clerk. Any paper document that is a judgment or required by statute or rule to be sworn to or notarized shall be filed and deposited with the clerk immediately thereafter. The clerk shall maintain deposited original paper documents in accordance with Fla. R. Jud. Admin. 2.430, unless otherwise ordered by the court.

RULE 4.100. PLEADINGS AND MOTIONS

(a) Pleadings. There shall be a petition and an answer to it. The answer shall set forth any affirmative defense to the petition, including the failure of the petition to state a cause of action. No other pleadings shall be allowed. All pleadings shall comply with the rules governing pleadings in other civil actions. (Rules 1.100 and 1.110, Fla. R. Civ. P.)

(b) Motions. An application to the court for an order shall be by motion which shall be made in writing unless made during a hearing or trial, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion. All notices of hearing shall specify each motion or other matter to be heard.

(c) Caption. Every pleading, motion, order, judgment, or other ~~paper~~ document shall have a caption containing the name of the court, the uniform case number, the name of the party on each side, and a designation identifying the party filing it and its nature or the nature of the order, as the case may be. All ~~papers~~ documents filed in the action shall be styled in such a manner as to indicate clearly the subject matter of the paper and the party requesting or obtaining relief.

RULE 4.440. RULES OF PROCEDURE AND EVIDENCE

(a) In all commitment proceedings initiated under part V, chapter 394 Florida Statutes and this rule, the following applies:

(1) The Florida Rules of Civil Procedure and Florida Rules of Judicial Administration apply unless otherwise superseded by these rules.

(2) The Florida Rules of Evidence apply unless superseded by these rules.

(3) The psychotherapist-patient privilege under section 90.503, Florida Statutes, does not apply to any communication relevant to an issue pertaining to an involuntary civil commitment proceeding.

(4) Evidence of prior behavior by the person subject to the proceedings, if relevant to prove the person is a sexually violent predator, may be considered by the judge or jury.

(5) Hearsay evidence, including reports of the multidisciplinary team or reports prepared on behalf of the multidisciplinary team, is admissible unless the trial judge finds that the evidence is not reliable. However, hearsay evidence may not serve as the sole basis for the involuntary civil commitment of a person subject to the proceedings.

(b) No rule adopted by the Department of Children and Family Services pursuant to section 394.930, Florida Statutes, as amended, shall constitute (1) an evidentiary predicate for the admission of any testimony of physical evidence; (2) a basis for excluding or limiting the presentation of any testimony or physical evidence; or (3) elements of the cause of action the state must allege or prove, in any proceeding initiated under part V, chapter 394 Florida Statutes, and these rules.

(c) The failure of either party to comply with these rules does not constitute a defense in any proceedings initiated under part V, chapter 394, Florida Statutes.