

# Service by E-Mail, E-Filing and E-Discovery

Why do you care?

## Mandatory Rules

# Setting the Stage



Service by E-Mail: SC10-2101

E-Filing: SC11-399

E-Discovery: SC11-1542

# Setting the Stage: Bonus Round

ADA Compliance: SC11-52

Confidentiality: SC07-2050

Minimization: SC08-2443

Computation of Time: SC10-2299

# Bonus Round #1

## ADA Compliance: SC11-52

**RULE 2.526. ACCESSIBILITY OF INFORMATION AND TECHNOLOGY** Any document that is or will become a **judicial branch record**, as defined in rule 2.420(b)(1), and that is **transmitted in an electronic form**, as defined in rule 2.525, must be formatted in a manner that complies with all state and federal laws requiring that electronic judicial records be **accessible** to persons with disabilities, including without limitation the **Americans with Disabilities Act** and Section 508 of the federal Rehabilitation Act of 1973 as incorporated into Florida law by section 282.603(1), Florida Statutes (2010), and any related federal or state regulations or administrative rules.

## Bonus Round #2

### Confidentiality: SC07-2050

#### **RULE 2.420(d). Procedures for Determining Confidentiality of Court Records.**

- Notice of Confidential Information Within Court Filing
- Motion to Determine Confidentiality of Court Records

## Bonus Round #3

### Minimization: SC08-2443

#### **Rule 2.425 Minimization of the Filing of Sensitive Information**

- Limitation on contents of court filings
- Exceptions
- Remedies

# Bonus Round #4

Opinion Issued

by

Florida Supreme Court

on

July 12, 2012

Computation of Time: SC10-2299

**New Rule: 2.514**

Modified Rules: 1.090, 3.040, 4.090,  
5.042, 6.350, 6.370, 8.085, 8.180,  
8.240, 8.630, 9.420, 12.090

Back to the Main Event

Opinions Issued  
by  
Florida Supreme Court  
on  
June 21, 2012

Service by E-Mail: [SC10-2101\\*](#)

E-Filing: [SC11-399](#)

[\\*Amended on August 30, 2012](#)

and on  
July 5, 2012

E-Discovery: [SC11-1542](#)



# Effective Dates

## Service by E-Mail:

- **Mandatory** as of September 1, 2012,\* for:
  - Trial court divisions:
    - Civil
    - Probate
    - Small Claims
    - Family
  - Appellate cases\*\*
- **APPLIES TO ALL CASES, EVEN THOSE PENDING AS OF SEPTEMBER 1, 2012**

\* The effective date announced by the court was July 1, 2012 in its opinion issued on June 21, 2012. A corrected opinion later changed July 1, 2012 to September 1, 2012 throughout the opinion.

\*\* References to “appellate” includes the Supreme Court and the District Courts of Appeal, as well as the Circuit Court when sitting as an appellate court.

# Effective Dates

## Service by E-Mail:

- **Mandatory**\* on October 1, 2013, for:
  - Trial court divisions
    - Criminal
    - Traffic
    - Juvenile
- **APPLIES TO ALL CASES, EVEN THOSE PENDING AS OF OCTOBER 1, 2013**

\* Attorneys may voluntarily serve and receive documents by e-mail in these divisions for 13 months, from September 1, 2012, to October 1, 2013, if both attorneys agree.

# Effective Dates

## E-Filing:

- **Mandatory** as of December 1, 2012
  - Supreme Court
- **Mandatory** as of April 1, 2013
  - District Courts of Appeal
- **Mandatory\*** as of July 1, 2013
  - Clerks electronically transmit record on appeal

\* This requirement is for the appellate clerks, not for counsel. Clerks are encouraged to transmit the record electronically before January 1, 2013.

# Effective Dates

## E-Filing:

- **Mandatory** as of April 1, 2013, for:
  - Trial court divisions:
    - Civil
    - Probate
    - Small Claims
    - Family
  - Appeals to Circuit Courts for these types of cases

# Effective Dates

## E-Filing:

- **Mandatory** as of October 1, 2013 for:
  - Trial court divisions:
    - Criminal
    - Traffic
    - Juvenile\*
  - Appeals to Circuit Courts for these types of cases

\* Juvenile includes juvenile delinquency proceedings, dependency and termination of parental rights proceedings, and proceedings for families and children in need of services.

# Effective Dates

## Summary of **Mandatory** Dates

- September 1, 2012: **Service by e-mail** for non-criminal trial court and appellate cases
- December 1, 2012: **E-filing** for Supreme Court
- January 1, 2013: Clerks must transmit record electronically
- April 1, 2013: **E-filing** for non-criminal trial court and non-criminal appeals to circuit court
- April 1, 2013: **Service by e-mail** for District Court of Appeal
- October 1, 2013: **Service by e-mail** for criminal trial court
- October 1, 2013: **E-filing** for criminal trial court and criminal appeals to circuit court

# Service by E-Mail

## New and Changed Rules

### SC10-2101

#### Rules with Significant Changes

- Rule 2.515\* Signature of Attorneys and Parties
- Rule 2.516\*\* Service of Pleadings and Papers

Many rules with conforming and minor changes

#### Get to know the Rules of Judicial Administration

\* Changes to an existing rule

\*\* New rule

# Signature of Attorneys and Parties

## Rule 2.515

### An Overview

- Before these changes, all pleadings and other papers filed by a party represented by counsel required a signature of at least one attorney of record.
  - The rule also required the attorney’s:
    - individual name
    - address
    - telephone number, including area code and
    - Florida Bar number
- Those requirements continue and the rule now also requires:
  - primary e-mail address and secondary e-mail addresses, if any,
- The rule clarifies the address to be provided is to be the address on record with The Florida Bar. The addition of “current record Florida Bar” only modifies “address,” not the other required information.
  - Therefore, the e-mail address provided in the official bar record does not need to be one of the e-mail address(es) provided as part of the signature of an attorney under Rule 2.515.



# Signature of Attorneys and Parties

## Rule 2.515

### The Rule As Changed

(a) Attorney Signature. 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 current record Florida Bar address, telephone number, including area code, primary e-mail address and secondary e-mail addresses, if any, 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 2.510. 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.

# Signature of Attorneys and Parties

## Rule 2.515

### Considerations Regarding E-Mail Addresses – Page 1

#### Primary and Secondary E-Mail Addresses

- Primary e-mail address:
  - Primary e-mail address of attorney under Rule 2.515 need not be same as the business e-mail address as part of official record\*
  - Best practice will be to provide the attorney’s official bar e-mail address\*\* as the primary Rule 2.515 e-mail address
  - Primary e-mail address should be the e-mail address of an attorney
- Secondary e-mail address(es):
  - Not required
  - A secondary e-mail address provided for a particular matter could be:
    - Standardized e-mail address for all filings for the law firm established solely for receiving service, *i.e.*, [Service@LairdALile.com](mailto:Service@LairdALile.com)
      - Similar to a mail clerk’s desk prior to the e-world
    - An e-mail address for legal assistants, paralegals, Residents At Law, associates
    - The Client’s e-mail address: possible, but not necessarily a good practice

\* A business e-mail address is required to be provided as part of official bar record if the member has one.  
Rule 1-3.3 of Rules Regulating The Florida Bar

\*\* The Florida Bar requirement to provide a business e-mail address as part of an attorney’s official bar record is distinct from the requirements under Rule 2.515. The e-mail address provided for the official bar record may or may not be the same as the primary or one of the secondary e-mail addresses for a particular proceeding.

# Signature of Attorneys and Parties

## Rule 2.515

[Considerations Regarding E-Mail Addresses – Page 2](#)

### Primary and Secondary E-Mail Addresses

- Both the primary e-mail address and the secondary e-mail address(es) can vary from one case to another
- If more than one attorney appears in a proceeding, the rules regarding e-mail addresses described above apply to each attorney
  - More than one attorney, typically at the same firm, may combined designation of e-mail addresses in one filing
- Designation for a law firm not permitted

# Signature of Attorneys and Parties

## Rule 2.515

### Considerations Regarding Signatures

#### Format of the signature of the attorney

- Traditional format still acceptable
  - Print a hard copy, sign with a pen and scan the signed document
- New formats also acceptable
  - /s/
    - Type “/s/” followed by the attorney’s name, in place of the actual signature
      - Example: /s/ Laird A. Lile
    - Electronic version can be created without the need to print a hard copy
    - Referred to in Rule 2.516(b)(1)(E)(ii), authorized for document served by e-mail
  - s/ and /s alternatives
    - s/ was adopted for electronic signatures in Administrative Order 09-30
    - /s is referred to by Office of State Court Administrator as preferred format
  - Practically, any of these new formats (/s/,s/,/s) should be sufficient

# Service of Pleadings and Documents

## Rule 2.516

### An Overview

- New Rule, modeled on former Rule of Civil Procedure 1.080
- Structure of Rule 2.516
  - (a) Service; When Required
  - (b) Service; How Made
    - (1) Service by Electronic Mail (“e-mail”)
      - (A) Service on Attorneys
      - (B) Exception to E-mail Service\* on Attorneys
      - (C) Service on and by Parties Not Represented by an Attorney
      - (D) Time of Service
      - (E) Format of E-mail for Service
    - (2) Service by Other Means
  - (c) Service; Numerous Defendants
  - (d) Filing
  - (e) Filing Defined
  - (f) Certificate of Service
  - (g) Service by Clerk
  - (h) Service of Orders

\* The type of service anticipated by this Rule is best referred to as “service by e-mail.” The term “E-Mail Service” is used interchangeably with this preferred term throughout the opinion and Rule 2.516. The term “e-service” is something different and may be offered through the e-portal at some point in the future.

# Service of Pleadings and Documents

## Rule 2.516

(g) AS AMENDED ON AUGUST 30, 2012

- Subdivision (g) refers to service by **clerks**.

“(g) Service by Clerk. When the clerk is required to serve notices and other documents, the clerk may do so by e-mail as provided in subdivision (b)(1) or by any other method permitted under subdivision (b)(2). Service by a clerk is not required to be by e-mail.”

- E-mail is permissive, not required, when clerks serve.
- Amended subdivision (g) clarifies original intention for service by e-mail to be optional for clerks.

“[Subdivision (g) and (h)] authorize, but do not require, the clerks and the courts to utilize e-mail service if they are equipped to do so.”

# Service of Pleadings and Documents

## Rule 2.516

### (a) Service; When Required

- Service\* required in accordance with this new rule nearly all of the time
- Limited Exceptions:
  - Unless the court otherwise orders (same as in former Rule 1.080)
  - Unless a statute or Supreme Court administrative order specifies a different means of service
  - Not required for applications for witness subpoenas (same as in former Rule 1.080)
  - Not required for documents served by formal notice or required to be served in the manner provided for service of formal notice (a concept carried over from special probate rules)
  - No service need be made on parties against whom a default has been entered, except that pleadings asserting new or additional claims against them must be served in the manner provided for service of summons (same as in former Rule 1.080)

\* This subsection only requires service, not necessarily e-mail. The manner in which service is made is addressed in subsection(b).

# Service of Pleadings and Documents

## Rule 2.516

### (b) Service; How Made

#### (b)(1) Service by Electronic Mail (“e-mail”)

- Service to be made upon a party represented by an attorney must be made upon the attorney unless court orders otherwise. (same as in former Rule 1.080)
- Service by e-mail is mandated for attorneys when serving all documents required or permitted to be served on another party, unless this rule otherwise provides.
- A document may, in addition to being served by e-mail, be served by another means provided for in this rule.
  - Any different time limits and other provisions applicable to that other means of service control over the time limits established by the service by e-mail.
  - The other means of service must be in addition to, not in place of, service by e-mail.



# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(A) Service on Attorneys

- An attorney appearing in a proceeding must serve a designation of a primary e-mail address
  - Although not required, the best practice will be to utilize the attorney's official bar e-mail address as the designated primary e-mail address
- An attorney appearing in a proceeding may designate no more than two secondary e-mail addresses
  - These secondary e-mail addresses may vary from matter to matter. See discussion of Rule 2.515(a).

# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(A) Service on Attorneys

- The rules do not specify any particular format for the designations.
  - In existing matters, the designation could be in a separate filing or incorporated in a filing prior to the relevant effective date.
  - In new matters, the designation could be included in the initial filing by the attorney.
- Changes in e-mail addresses should be handled in the same manner as changes in mailing addresses have been handled.

# Service of Pleadings and Documents

## Rule 2.516

### Sample Form of Designation

[CASE CAPTION]

#### **DESIGNATION OF E-MAIL ADDRESSES PURSUANT TO RULE 2.516**

Laird A. Lile, as attorney for Justin Brenner, in his capacity as personal representative of the Estate of Jane Doe, hereby designates, pursuant to Rule 2.516 (effective September 1, 2012), the following e-mail addresses for the purpose of service of all documents required to be served pursuant to Rule 2.516 in this proceeding:

Primary E-Mail Address: [LLile@LairdLile.com](mailto:LLile@LairdLile.com)

Secondary E-Mail Addresses: [Assistant@LairdLile.com](mailto:Assistant@LairdLile.com) and [Service@LairdLile.com](mailto:Service@LairdLile.com)

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**Laird A. Lile, Esq.**

*Attorney for Justin Brenner as personal representative of the Estate of Jane Doe*

Florida Bar Number 443141

Laird A. Lile, P.A.

3033 Riviera Drive, Suite #104

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**[CERTIFICATE OF SERVICE]**

E-Things Laird A. Lile©

# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(A) Service on Attorneys

- All subsequent filings must include the primary and any secondary e-mail addresses of that attorney.
- Failing to designate an e-mail address in a filing does not let the attorney avoid service by e-mail.
  - Documents may be served on that attorney at the e-mail address on record with The Florida Bar.\*
  - If an attorney in a proceeding fails to make an e-mail address available (i.e., none designated and none on record with The Florida Bar), a telephone call to the attorney with reference to these new rules should suffice. Hopefully court intervention will not be necessary.

\* Select Find a Lawyer at [www.FlaBar.org](http://www.FlaBar.org) .

# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(B) Exception to E-Mail Service on Attorneys

- Can an attorney avoid the new mandatory service by e-mail rules?
  - Yes, but only by court order, in each proceeding.
- The court may excuse an attorney from service by e-mail rules, if the attorney demonstrates that:
  - The attorney has no\* e-mail account; and
  - The attorney lacks access to Internet at the attorney's office.
- If an exception is granted, then the attorney will neither be required to serve by e-mail nor receive service by e-mail.
- The other service rules (see 2.516(b)(2)) will then apply.

\* The bar rules refer to a business e-mail account. This rule does not include the modifier of "business." Therefore, if an attorney has any e-mail account, the attorney may not be exempted from service by e-mail.

# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(B) Exception to E-Mail Service on Attorneys

- For an attorney attempting to avoid the mandatory service by e-mail rules, a motion will be required for each proceeding.
- The requirement is in the conjunctive – both parts must be met.
  - An attorney with any e-mail address, even a personal one, will not be permitted to avoid the new rules.
  - An attorney with any access to Internet at the attorney's office, even if only used sporadically, will not be permitted to avoid the new rules.
- The court is permitted, but not required, to excuse the attorney from service by e-mail rules.
- Of the 93,000+ members of The Florida Bar, very, very few are expected to qualify to seek this exception.

# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(C) Service on and by Parties Not Represented by Attorneys

- A party not represented by an attorney (“unrepresented party”) may, at the party’s election, participate in service by e-mail.
  - Optional, not mandatory.
- To participate in service by e-mail, an unrepresented party must serve a designation of a primary e-mail address.
  - The designation may include up to two secondary e-mail addresses.
- If an unrepresented party does not chose to participate in service by e-mail, then service (on and by) must be made by means other than e-mail (see subdivision (b)(2)).

# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(D) Time of Service

- Service by e-mail is complete when the e-mail is sent.
  - “Sent” is not specifically defined in the rules.
  - From the sender’s viewpoint, the clicking of “Send” will likely be treated as when the e-mail is “sent.”
  - Depending upon the sender’s computer system, clicking “Send” may or may not cause the e-mail to be transmitted to the Internet for delivery to the recipient.
    - Some systems include internal e-mail servers that may require internal processing before releasing the e-mail to the Internet for delivery to the recipient.
  - Attorneys using delayed sending or other e-mail management features do so at their own peril if the feature results in the e-mail not being sent as anticipated.



# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(D) Time of Service

- Sometimes the sender of an e-mail is notified\* of a issue that has precluded the e-mail from reaching the recipient.
- If that occurs, the sender of the e-mail is required to immediately send another copy:
  - by e-mail or
  - by a means other than e-mail as authorized in this rule at subdivision (b)(2).
- Service by e-mail is treated as service by regular mail for purposes of computing time.
  - Including for purposes of allowing an additional 5 days.\*\*

\* Notice might be from the sender's system indicating a delay in delivery or a rejection notice from an Internet Service Provider (ISP). The source of the notice is not relevant. If the sender is on notice of a delivery issue, the sender is required to take action.

\*\* Court rules (i.e., Rule 1.090(e) and 5.042(d)) have traditionally allowed an additional 5 days for a party to act after being served by mail. The 5 additional days is, effective October 1, 2012, provided for in Rule 2.514. See SC10-2299

# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(E) Format of E-Mail for Service

- The document being served must be attached in a “pdf” format.
  - PDF stands for “portable document format.”
  - Universally recognized format.
  - Originally proprietary format by Adobe Systems.
    - Since at least 2001, free readers of PDF documents available from Adobe.
    - Free writers now also available on the internet.
  - Most word processors now include a print to PDF function.
  - Most scanners default to creating a document in PDF.

# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(E) Format of E-Mail for Service

- The e-mail by which the document is served must be sent to all addresses designated by the attorney or party.
  - A single e-mail to all those being served is expected, instead of separate e-mails to each attorney or party.
- The subject line of the e-mail must:
  - begin with “SERVICE OF COURT DOCUMENT”
    - All capital letters are required
  - followed by the case number of the proceeding in which the document is being served
    - The format of the case number is not specified in the rule
      - A format utilized in local practice should be sufficient.
      - An alternative is the uniform case number (UCN)\*. This number consists of 20 characters consisting of:
        - 2 digit numeric county designation (i.e., 01, 11, 67)
        - 4 digit numeric year in which case was opened (i.e., 2012)
        - 2 alpha code for court type (i.e., CA, CP, SC)
        - 6 digit sequential number assigned by the clerk
        - 6 characters available for use by clerks for internal management

\* When e-filing through the e-portal, the UCN is required. The e-portal interface has been updated to include a simpler interface for completing the UCN. This format will likely become the preferred format as e-things continue to develop.

# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(E) Format of E-Mail for Service

- The body of the e-mail by which the document is served must identify:
  - The court in which the proceeding is pending.
  - The case number.\*
  - The name of the initial party on each side of the case.
  - The title of each document served with that e-mail.
    - More than one document may be serve in a single e-mail.
  - The sender's name and telephone number.

\* The requirement for the case number is in addition to the requirement for the case number to also be in the subject line of the e-mail.

# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(E) Format of E-Mail for Service

- The document being served may be signed using a /s/ format
  - However, the original document filed with the clerk must be signed “in accordance with the applicable rule of procedure.”
- An e-mail and attachment may not exceed 5 megabytes (5 MB)
  - If more than 5 MB\* is to be served, then attachments must be served by separate e-mails, none of which exceed 5 MB and all of which are numbered sequentially in the subject line.
    - Try compressing the attachments to reduce size.
  - If the size is in doubt, the sender could first save the e-mail and check the size in the draft folder.

\* The size limitation applies to the size of the e-mail, not the size of an attachment to the e-mail.

# Service of Pleadings and Documents

## Rule 2.516

### (b)(1)(E) Format of E-Mail for Service

#### Summary of Format Requirements


- Each e-mail must be addressed to all e-mail addresses designated by each person being served.
- Only attach PDFs.
- Subject line: SERVICE OF COURT DOCUMENT – followed by case number.
- Body: court; case number; the name of the initial party on each side; title of each attached document; sender's name and telephone number.
- 5 MB Limit on size of e-mail.

# Service of Pleadings and Documents

## Rule 2.516

(b)(1)(E) Format of E-Mail for Service

### Example

- To: [GAYoung@CarltonFields.com](mailto:GAYoung@CarltonFields.com); [EKPetttis@haliczperpettis.com](mailto:EKPetttis@haliczperpettis.com)
- Attachment:  PDF icon showing the Adobe logo.
- Subject: SERVICE OF COURT DOCUMENT 112012CA000070xxxxxx
- Body: Hi, Gwynne and Gene. Attached is the Defendant's Motion to Dismiss that I have filed in Coleman v. Cohen, 112012CA000070xxxxxx in the Circuit Court. You can reach me at my office number 239.649.7778.  
Laird A. Lile

# Service of Pleadings and Documents

## Rule 2.516

### (b)(2) Service by Other Means

- In addition to serving by e-mail, a document may also be served by other means.
- Substance of this part of Rule 2.516 is from former Rule 1.080
- Service by other means will be utilized in two situations:
  - (i) When service by e-mail is not allowed:
    - Parties not represented by an attorney who have not designated an e-mail address.
    - An attorney who has obtained an order exempting from service by e-mail.
  - (ii) As an additional means of service.



# Service of Pleadings and Documents

## Rule 2.516

### (b)(2) Service by Other Means

- Service by one of these other means in addition to service by e-mail might be beneficial to:
  - Shorten a response period
    - For instance, service by hand or fax of a document that commences a period within which a response is required will shorten the response period by 5 days.
  - Eliminate dispute over receipt of the document by the intended recipient.
    - An attorney may wish to also mail a document to an attorney who demonstrates a pattern of asserting documents served by e-mail are not received.

# Service of Pleadings and Documents

## Rule 2.516

(c), (d), (e), and (f)

- The following subdivisions of Rule 2.516 are not changed from former Rule 1.080:
  - (c) Service; Numerous Defendants
  - (d) Filing.
  - (e) Filing Defined
- Subdivision (f) is similar to former Rule 1.080 and adds a reference to e-mail in the form Certificate of Service.

# Service of Pleadings and Documents

## Rule 2.516

(g) AS AMENDED ON AUGUST 30, 2012

- Subdivision (g) refers to service by **clerks**.

“(g) Service by Clerk. When the clerk is required to serve notices and other documents, the clerk may do so by e-mail as provided in subdivision (b)(1) or by any other method permitted under subdivision (b)(2). Service by a clerk is not required to be by e-mail.”

- E-mail is permissive, not required, when clerks serve.
- Amended subdivision (g) clarifies original intention for service by e-mail to be optional for clerks.

“[Subdivision (g) and (h)] authorize, but do not require, the clerks and the courts to utilize e-mail service if they are equipped to do so.”

# Service of Pleadings and Documents

## Rule 2.516

### (h)

- Subdivision (h) refers to service by the court.
  - Most of (h) is from former Rule 1.080(h) .
  - One new sentence at the end of (h)(1):

“The court may serve any order or judgment by e-mail to all attorneys who have not been excused from e-mail service and to all parties not represented by an attorney who have designated an e-mail address for service.”

- E-mail is permissive, not required, for the court.
- Opinion clearly makes service by e-mail optional for clerks.

“[Subdivision (g) and (h)] authorize, but do not require, the clerks and the courts to utilize e-mail service if they are equipped to do so.”

# Practical Considerations – page 1

## Rules 2.515 and 2.516

- Must the attorney who is serving the document personally send the e-mail by which service is effected?
  - Although not addressed in the rule, the answer should be no different than the answer to the question of whether the attorney must hand a document served by U.S. mail to the postperson.
- Must the attorney who is serving the document personally “sign” the document being filed?
  - The requirement for the attorney to “sign” is not dependent upon the manner of signing (i.e., traditional signing and then scanning or signing by typing an “s” with one or more “/”). Ethics opinion 87-11 concludes a nonlawyer should not sign an attorney’s name. Although not issued in an e-context, strict compliance with this opinion suggests only an attorney should type the /s/, s/, or /s.
- Should a copy of the e-mail be sent to the judge or judicial assistant?
  - ONLY if you would copy the judge or judicial assistant with a paper filing, which presumably would be very unusual.
    - Even then some judges and judicial assistants are not accepting e-mails.

## Practical Considerations – page 2

### Rules 2.515 and 2.516

- Can I automate the handling of e-mail that I receive with service of documents?
  - You could implement a rule in your e-mail program (i.e., Microsoft® Outlook) (See appendix 1.)
  - Test the rule once established.
- How can I manage e-mail addresses for matters with multiple attorneys and multiple e-mail addresses for those attorneys?
  - A group e-mail address could be established with all e-mail addresses for a particular matter. (See appendix 2.)
  - E-mails could then be sent to the group, instead of to the individual e-mail addresses.
    - When using the group e-mail address, consider expanding the list to show its members for proof of the members of the group at the time being sent.

## Practical Considerations – page 3

### Rules 2.515 and 2.516

- How can I be sure the intended document is attached?
  - Open each document after attaching to the e-mail and prior to sending
  - Utilize naming protocols that are descriptive of the contents of the document.
    - Personal Representative Kelley’s Motion for Reconsideration.pdf instead of csxrbzy42.pdf.
- On whom should the designations be served?
  - Rule 2.516(a) requires every document to be served on each party with limited exceptions:
    - Applications for witness subpoenas.
    - Documents served by formal notice or in manner provided for service of formal notice. (Rule 5.040)
  - In probate, an interested person is a party. (Rule 5.041)

## Practical Considerations – page 4

### Rules 2.515 and 2.516

- Should party not represented by an attorney be encouraged to designation e-mail address?
  - Simplify service by attorneys.
  - Encourage extraneous communications.
- Must the Designation of E-Mail Addresses be filed, as well as served?
  - Yes. See Rule 2.516(d)
    - (d) Filing. All original documents must be filed with the court either before service or immediately thereafter, unless otherwise provided for by general law or other rules. ...
  - From Rule 1.080(d)
- Can the Designation of E-Mail Addresses be filed generically for all cases, perhaps by e-mail to all members of the local bar association?
  - NO!



# E-Filing

## New and Changed Rules

### SC11-399

- Rules with Significant Changes
  - 2.520 Documents
  - 2.525 Electronic Filing
- Many rules with conforming and minor changes.

# E-Filing

## An Overview

- Rule 2.520(a) requires all documents filed in any court to be filed by electronic transmission as provided in rule 2.525.
- Rule 2.525(a) defines electronic transmission of documents to include filing through the centralized e-portal.
- Although not effective until April 1, 2013 for civil divisions and October 1, 2013 for criminal divisions, the e-portal is available now.

# E-Filing

- **Rule 2.520. DOCUMENTS**
  - (a) **Electronic Filing Mandatory.** All documents filed in any court shall be filed by electronic transmission in accordance with rule 2.525. “Documents” means pleadings, motions, petitions, memoranda, briefs, notices, exhibits, declarations, affidavits, orders, judgments, decrees, writs, opinions, and any other paper or writing submitted to a court.

# E-Filing

- Rule 2.520. DOCUMENTS

**(f) Noncompliance.** No clerk of court shall refuse for filing any document or paper because of noncompliance with this rule. However, upon request of the clerk of court, noncomplying documents shall be resubmitted in accordance with this rule.

# E-Filing

- Rule 2.525 ELECTRONIC FILING

**(a) Definition.** “Electronic transmission of documents” means the transmission by electronic signals, to or from a court or clerk of the court, of information which when received can be transformed and stored or reproduced on paper, microfilm, magnetic storage device, optical imaging system, or other electronic record keeping system authorized by the Supreme Court of Florida in a format sufficient to communicate the information on the original document in a readable format.

## Practical Considerations – Page 1

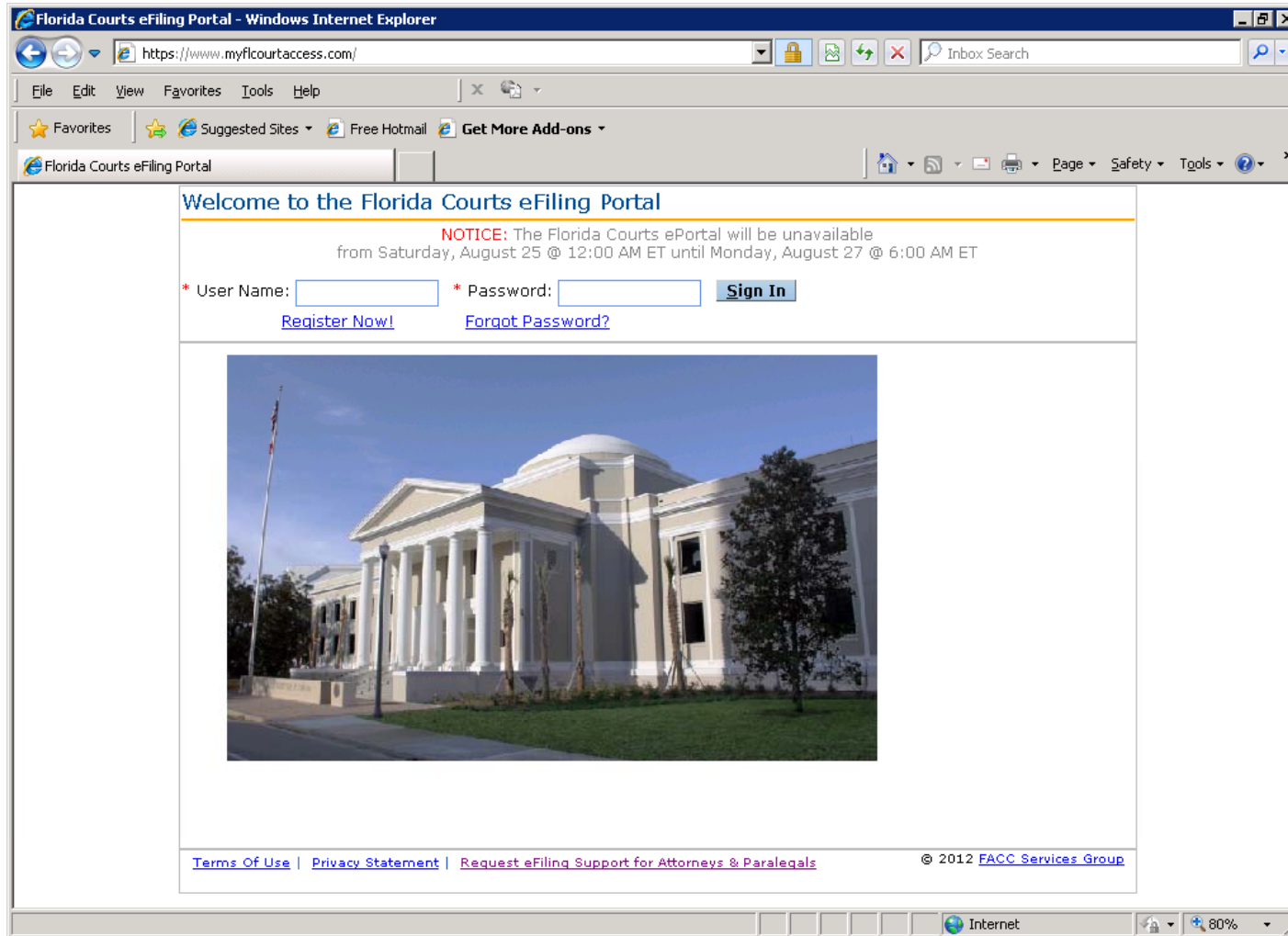
- Can I e-file by attaching the document to an e-mail that I send to the clerk's office?
  - NO!
- How can I e-file, if not by e-mail?
  - The e-portal at [www.myFLcourtaccess.com](http://www.myFLcourtaccess.com)
- Can I still file through the clerk's system instead of the e-portal?
  - Yes, at least for now

## Practical Considerations – Page 2

- How can I file through the e-portal?
  - Obtain your credentials now at the e-portal.
  - Credentials are for attorneys only, not staff.
  - No prohibition on sharing credentials with staff.

# E-Filing

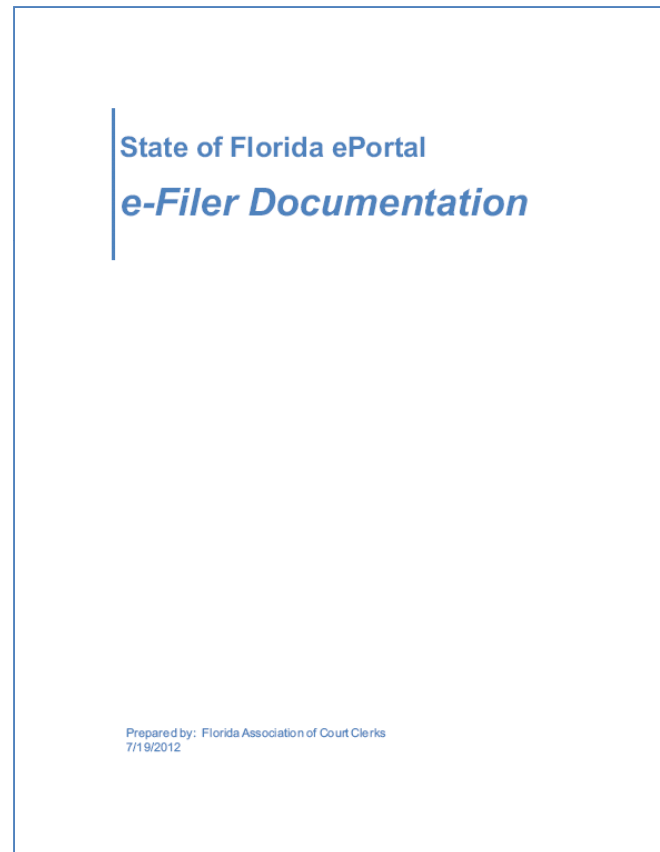
Access to the e-portal: [www.myflcourtagency.com](http://www.myflcourtagency.com)





# E-Filing

Access to the e-Filer Documentation – 47 page manual  
[https://www.myflcourtaaccess.com/Docs/Filer\\_072012.pdf](https://www.myflcourtaaccess.com/Docs/Filer_072012.pdf)



# E-Discovery

## An Overview

- No change to Rules of Judicial Administration
- Amendments to Rules of Civil Procedure
- Rule 1.280 GENERAL PROVISIONS GOVERNING DISCOVERY
  - **(b)(3) Electronically Stored Information.** A party may obtain discovery of electronically stored information in accordance with these rules.
  - **(d) Limitations on Discovery of Electronically Stored Information.**

# Conclusion

## Summary of **Mandatory** Dates

### Service by e-mail

- September 1, 2012 for non-criminal trial court and appellate cases
- April 1, 2013 for District Court of Appeal
- October 1, 2013 for criminal trial court

### E-filing

- December 1, 2012 for Supreme Court
- April 1, 2013 for non-criminal trial court and non-criminal appeals to circuit court
- October 1, 2013 for criminal trial court and criminal appeals to circuit court

### Transmitting Appellate Records

- July 1, 2013 Clerks must transmit record electronically