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FILED SID J. WHITE

SEP 20 1998

CLERK, SUPREME COURT

BY Chief Deputy Clerk

TO:

Land Barrier

Honorable Sid J. White Clerk of Supreme Court

FROM:

William A. Haddad War, H.

Second District Court

Appeals Clerk

DATE:

September 16, 1993

RE:

Proposed Amendments to Rules . of Judicial Administration

I have been authorized by the clerks of all the other district courts of appeal to respond to the proposed amendment to the Rules of Judicial Administration concerning electronic transmission and filing of documents. All of the clerks concur in the thoughts expressed in this memo.

The wording of the proposed rule seems to indicate that filing of electronically transmitted documents would not be mandatory because subsection (b) of the amendment uses the word "may." The present rule 9.020 also appears not to be mandatory because it requires designation by each clerk of court and approval by the supreme court. Previously, pursuant to the existing rule, each district court of appeal has elected not to accept routine electronic filing.

The purpose of this memo, in response to the invitation of the Florida Supreme Court, is to explicitly state the probable impact of routine electronic filing on an appellate clerk's office. Such impact would appear to be adverse to the efficient operation of the clerks' offices for the following reasons:

- 1. Documents of more than one page would have to be stapled or appended by clerk's office personnel as the document comes out of the fax machine.
- 2, The quality of the document to be submitted to the court could be inferior to the "hard copies" of documents now filed. In addition to readibility considerations, such documents would be less "file friendly."
- 3. In the event the appellate rules of the court require more than one copy of a particular type of document, either the clerk's office would have to make the additional copies or the attorney would have to follow up the fax with "hard copies" in the mail. Obviously, for the court to make copies would

involve employees' time as well as the expense of the copy machine and paper. If the attorney or litigant is to follow up the fax with a hard copy by mail, this would involve double filing and docketing from the standpoint of the clerk's office. Also, until the required copy was received the clerk's office would have to somehow keep track of the matter. One can envision a situation where the clerk's office would be required by the court to communicate with an attorney's office in the event that the hard copy was not received. The clerks' offices do not presently have fax machines but these are generally located in the other offices in the various district courts of appeal. This would require the presence of a deputy clerk so that faxed material would not fall out on the floor. Additionally, in the limited use of the fax machines at present, the clerks have experienced technical difficulties with the fax machines. For example, in situations where multipage documents are faxed, it sometimes happens that pages are missing or are not completely legible. such case, the clerk's office must telephone the transmitting party. The receipt of faxed documents involves some 6. expense for the receiving party, mainly the cost of the paper. Either this expense will not be recouped or the clerk's office will have to bill for the expense. In the latter case, the expenditure of employee time in billing, collecting and accounting for the expense monies would probably not be worth the amount collected. With the vast amount of filing every day in Florida District Courts of Appeal, it is likely that the fax machine would be tied up for substantial amounts of time and not available for the emergency situations it is now used for. Also, if many attorneys or litigants were trying to fax documents toward the end of the day it is possible that some would not get through before the fax machine was shut down for the day, In short, with the present amount of personnel in each clerk's office, routine fax filing would present substantial difficulties. Balanced against these difficulties, there does not appear to be any pressing need for routine fax filing. - 2 -