

IN THE SUPREME COURT OF FLORIDA

CASE NO, 81,638

FILED

JOE L. WHITE

MAY 31 1996

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN RE: ELECTRONIC TRANSMISSION
AND FILING OF DOCUMENTS

**RESPONSE AND SUBMITTAL OF COMMENTS ON BEHALF OF
THE FLORIDA ASSOCIATION OF COURT CLERKS AND COMPTROLLERS**

The Florida Association of Court Clerks and Comptrollers, Inc. (hereafter **the** "Association") in response to the Emergency Petition filed by the Florida Bar's Rules of Judicial Administration Committee herein submits its general support of the amendments to Rules 2.090, **2.075**, and 2.060, Rules of Judicial Administration, and states as follows:

1. The Association has polled its membership and reports a majority of Clerks of the Circuit Court support the intent and general content of the proposed amendments.

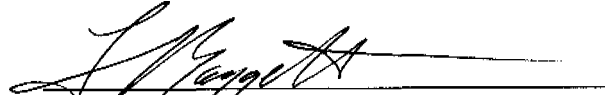
2. While supporting the proposed amendment, a number of Clerks have raised various individual questions and issues of operations that may be of benefit to the Court in its consideration of this matter. A copy of the individual comments received by the Association **are** attached hereto.

3. The Association's support of the proposed amendment is based upon, and subject to, its understanding that implementation of the process **and** procedures of electronic transmission and filing of documents with the Clerk as set forth in the proposed amendment is voluntary and within the sole discretionary acceptance of each individual **Clerk**. The language in the proposed amendment to Rule 2.090(b) that "any Court or Clerk of the Court may accept the electronic transmission of documents for filing.." and such other similar language contained elsewhere in

4

the amendment is understood to mean that only the Clerk can authorize or direct acceptance of electronic filing by the Clerk's office.

Respectfully submitted,



Fred W. Baggett
Fla. ~~Bar~~ No. 125961
General Counsel
Florida Association of **Court**
Clerks **and** Comptrollers, Inc.
P. O. Drawer 1838
Tallahassee, FL **32302**
904/222-6891

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been served via U.S. Mail to the following individuals this 31st day of May, 1996.

✓ John A. DeVault, III
President, The Florida **Bar**
101 E. Adams Street
Jacksonville, FL
904/353-0211

✓ John W. Frost, II
President-elect, The Florida **Bar**
P.O. Box **2188**
Bartow, FL
914/533-0314

✓ John F. Harkness, Jr.
Executive Director
The Florida **Bar**
650 Apalachee Parkway
Tallahassee, FL
904/561-5600

✓ Manuel Menendez, Jr.
Circuit Judge
Chair, Rules of Judicial
Administration Committee
419 Pierce Street
Suite 370
Tampa, FL
813/272-6990

✓ Henry P. Trawick, Jr.
P. O. Box 4019
Sarasota, FL
941/366-0660

SUPREME COURT OF FLORIDA

CASE NO. 81,638

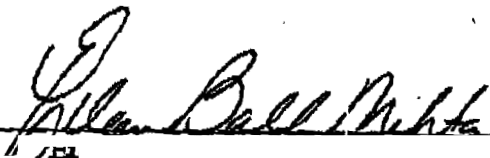
**IN RE: ELECTRONIC TRANSMISSION AND
FILING OF DOCUMENTS**

**COMMENTS SUPPORTING EMERGENCY PETITION TO AMEND
RULES 2.090, 2.075 AND 2.060**

Harvey Ruvin, as Clerk of the Circuit and County Courts for the Eleventh Judicial Circuit, hereby files his support for the Florida Bar's Rules of Judicial Administration Committee's Emergency Petition to Amend Rules 2.090, 2.075 and 2.060, and respectfully requests that this court adopt the proposed Amendments to said Rules.

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT
701 Brickell Avenue, Suite 1850
Miami, Florida 33131

By: 
/s/

Bar No. 239127

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Comments was this 30th day of May, 1996, mailed to Paul R. Regensdorf, Esq., P.O. Drawer 7028, Fort

IN THE SUPREME COURT OF FLORIDA

CASE NO. 81,638

IN RE: ELECTRONIC TRANSMISSION
AND FILING OF DOCUMENTS

**SARASOTA COUNTY CLERK OF THE CIRCUIT COURT COMMENTS TO THE
EMERGENCY PETITION TO AMEND RULES 2.090, 2.075, AND 2.060 WITH
RESPECT TO THE ELECTRONIC TRANSMISSION AND FILING OF DOCUMENTS**

Please accept *for* consideration, the following comments which are respectfully submitted in response to the Florida Bar's Emergency **P**etition to amend Florida Rules of Judicial Administration 2.090, 2,075 and 2.060 relating to the electronic transmission and filing of documents.

Although the use of electronic signatures is not presently precluded by law, same may be reluctant to accept their use until the law gives them the same force and effect as manual signatures. The state's interest in economic development and in creating a more efficient and effective court system by encouraging the transition to electronic filing requires that the legal basis *for* the use of electronically affixed signatures, including digital signatures, be explicitly established. Specifically, it is recommended that the committee clarify further the procedural handling of electronically transmitted documents containing a signature which has been electronically affixed. The proposed amendments to Rule 2.090 and Rule 2.060 are intended to address several considerations. The proposed amendment to Rule



JED PITTMAN

CLERK OF CIRCUIT COURT, PASCO COUNTY, DADE CITY, FLORIDA 33525

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May 24, 1996

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MEMO TO: Roger H. Alderman, Executive Director
Florida Association of Court Clerks & Comptrollers

FROM: Jed Pittman, Clerk of the Circuit Court
Linda Skorczewski, Chief Deputy Clerk

SUBJECT: Emergency Petition to Amend Rules 2.090, 2.075, and 2.040
Re: Electronic Transmission and Filing of Documents
Cast No. 81,638

The following addresses issues we intend to submit to the Clerk of the Supreme Court. It is not necessarily all inclusive and we will send any additional comments to you before the May 31, 1996, deadline. We welcome *the* expansion of the use of electronic transmission as one of several processes available for transmitting and filing documents. There are, however, several major areas of concern:

1. Retention of Documents Requiring Original Signatures.

Rule 2.060.(f)(2) and Rule 2.090(d)(3)

An attorney or party who files a document that does not contain the original signature of that attorney or party represents that the original physically signed document will be retained by that attorney (or successor attorney) . . . *for the duration of that proceedings and of any subsequent appeals . . . in that cause. The custodian of the original document shall produce it upon the request of any other party.

It is recommended that attorneys or party(s) required to retain the original document be required to follow the same standards as those adopted by the Library and Information Services of the Department of State for court records and subject to the same records retention requirements for court records rather than simply the duration of the proceedings or subsequent proceedings.

All filings where an original signature *must* be retained should also require on the document, the bar number or some other specific identifier of the attorney or party responsible for retaining the original so that over periods of time the originator could be located. Where parties other than an attorney are filing documents requiring original signatures, i.e., pro se litigants, the retention and location of the original may be more difficult. *What* are their obligations?

Page 2. Emergency Petition to Amend Rules 2,090, 2.075, and 2.060
Pasco Clerk Response

2. Original Document To Be Filed Immediately After Electronic
Transmission

Rule 2.090(c). Documents Affected.

"....When general law requires an original document to be filed in the court records the original shall be filed immediately after electronic transmission."

Both *the* electronically transmitted filing and the original of that document (which would be received subsequently) would require *the* Clerk to handle *and* maintain two records to establish the timely filing of one document thereby increasing work load *and* reducing efficiency.

The requirement for the original to be filed "immediately" after electronic transmission leaves the question of how "immediate" is determined and the process of further documentation that may be required to verify and record the receipt of *the* original. This increases workload to the Clerk.

At what point *is* it determined that an original has not been filed in accordance with general law? When it comes before *the* court or does the Clerk have to scrutinize each electronic transmission to determine whether the document type requires that an original must also be received? Does the lack of the original document in the file in any way impede the processing or scheduling of the case by the Court or the Clerk? In an automated *filing* system with high volumes of filings being transmitted, the workload and liability to the Clerk for this level of review would be prohibitive. IN 1995, THERE WERE 686,452 PAPERS FILED IN COURT CASES WITH THE OFFICE OF CLERK OF THE CIRCUIT COURT IN PASCO COUNTY.

Further liability exists where the Clerk's docket shows *that* the document was received based on acknowledgement of *the* electronically transmitted document but the original is not in *the* file- The original may not be in *the* file because of a Clerk's misfiling; however, the original may also not be in *the* file because the attorney or pro se litigant did not recognize the document as one that met the standard of an original signature being required under general law. Consequently, once *it* was transmitted electronically, they may consider *they* had met their obligation, The Clerk would have no way of establishing that *the* original had not been submitted.

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Pasco Clerk Response

3. Service by Electronic Transmission and Transmission
Difficulties

Rule 2.090(e)(1) Service.

Electronic transmission may be used by a court for the service of all orders of whatever nature. All other requirements for the service of such an order shall be met.

Is the Clerk required to determine that the delivery of orders have really taken place? The transmission may be complete, but the recipient's equipment of line interference may have produced an unreadable or partially unreadable format. Service can be verified electronically by the initiation and completion of the transmission- The readability format of the service cannot be verified without further confirmation from the recipient. Is this necessary? If so, it presents another level of confirmation and workload to the Clerk.

Additionally, postal service is made at an address associated with the party being served. To effect electronic transmission to any attorney or other party, the number/electronic address of that party must be acknowledged by both the Clerk and the party, to provide the Clerk and the Court assurance that the appropriate party is receiving service. The Clerk in Pasco requires a formal agreement with parties conducting business electronically with the Office of Clerk which includes those numbers to assure the integrity of all transmissions and communications.

Rule 2.090(f) Transmission Difficulties.

Any attorney, party, or other person who elects to file any document by electronic transmission shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the Clerk as a result.

This section provides the Clerk with relief when an electronically transmitted document is not successfully completed. It does not address the readability of the document. Facsimile (fax) transmissions are subject to wavy lines, overlay of print, smudges, extended vertical lining, etc. If those imperfections exist should it be considered to have been received?

That lack of quality will be the basis for the "permanently recorded" court record which will be used by the court and the public. The quality of the court record will be limited by the quality of the original electronic transmission.

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Pasco Clerk Response

If enhancements to the readability of a document are possible it would only increase the workload of the Clerk and have a detrimental affect on case processing.

The sender may have electronic confirmation of the document being transmitted successfully but the lack of readability could still exist which would be a problem for the court in later court proceedings,

The attorney or other party may call the Clerk to verify that the document was received and readable. This would be very work intensive and create workload and inefficiency problems, particularly in larger Clerk's offices, where the recipient of the phone call would probably not be the recipient of the fax. IN 1995, THERE WERE 686,452 COURT PAPERS FILED IN THE OFFICE OF CLERK OF THE CIRCUIT COURT IN PASCO COUNTY,

4. Receiving and Acknowledgment of Documents Transmitted Electronically.

Rule 2.090(g)(1)(A) Administration.

Any clerk of the court who accepts for filing documents that have been electronically transmitted shall: provide electronic or telephonic access to its equipment during regular business hours;

Alternate language is recommended which states that "Any clerk of the court who accepts for filing, documents that have been electronically transmitted shall establish the hours for electronic transmission or telephone access for that clerk's office. The clerk must inform the court and any attorneys or party(s) who desire to access the electronic equipment of the hours of access and the mechanisms for access."

In Pasco County, electronic access to the official Records index is available 24 hours a day, seven days a week. This is viewing access to a record that has already been processed and permanently recorded. Access to records and an index or docket already established is less work intensive than access as part of the creation of a complete court record. When receiving a document for the purpose of making it a part of a court record, processing must occur which requires staff time. Each clerk will have to evaluate the capability of staff resources and the level of technology in the individual office to handle the volume of electronic filings and the associated workload. The range throughout the State might be from Clerk's offices with one thermal pager fax machine for general administrative uses which would also receive filings which are considered confidential to very sophisticated electronic filing and distribution systems where no paper document is ever created other than on request,. Rather than discourage

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Pasco Clerk Response

clerks because of limited resources in equipment and staff, allow them to accommodate this resource with their existing resources, To do that they should be able to determine the hours of electronic access for the purpose of filing documents for court.

Rule 2.090(g)(2)

all attorneys, parties, or other persons using this rule to file documents are required to make arrangements with the court or clerk of the court for the payment of any charges authorized by general law prior to filing any document by electronic transmission.

Regardless of the arguments presented on page 13 about simplification of the judicial system, savings sufficient to cover the costs of hardware and programming, and the complication of processing a per page charge, our review of this amended rule does not support any of these broad conclusions. Savings would appear to accrue to the sender, i.e., an attorney or other party, but not to the clerk or potentially the court. Complications and increased workload due to questionable quality and transmission, the need for original signatures by general law and the very real expense in equipment and phone lines of supporting the increased volume of electronically transmitted documents is an increased cost-

A fax machine is a type of copy machine and in fact where the fax is the mode of receipt of an electronic transmission, the clerk is generating a copy of a court record. Would this be subject to the \$1.00 per page charge on behalf of the sender? Our current fax machines could not accommodate electronic transmissions for filing court documents. They are already committed to administrative purposes, not the least of which is providing movement of court documents between remote locations of branch offices, records centers and files management locations for review by the court or to conduct administrative business of the Clerk. Consequently, additional fax machines, paper supplies, maintenance agreements and phone lines will have to be provided at an increased cost to the clerk. The savings is to the sender of the transmission who eliminates postage or a special courier,

Pasca County Clerk is currently using a software package which counts the numbers of pages faxed (sent by our office) to the requesting agency all via electronic access. The billing is handled by a pre-established escrow account with the party receiving the fax or using the dial-up access provided through a contract with the Clerk's office. This system is used by several other counties as well. An automated billing system could be applied to the receipt of electronically filed transmissions as well.

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If an attorney wants to use electronic filing to open cases, an escrow account would have to have been established to make processing timely. We do not want to receive documents electronically to open a case unless the filing fee is paid simultaneously. Therefore, it is recommended that this portion of the rule be revised to state "...make arrangements with the court or clerk of the court for the payment of any charges (delete, 'authorized by general law') prior to filing any document by electronic transmission,

Rule 2.090(g)(3) Administratioa.

The filing date for an electronically transmitted document shall be the date the last page thereof is received by the court or clerk of the court.

This is a major and significant deviation from the Florida Statute 28.30(5) which states in part that "... a document that is submitted to the clerk of the circuit court by electronic transmission is deemed filed when the document is received and the date and time are acknowledged by the clerk, as opposed to the date and time of transmission. The clerk is not liable for malfunctions or errors occurring in the transmission of documents for filing by electronic means."

IT IS ESSENTIAL THAT THE RULES ADOPTED RELATIVE TO THE FILING OF COURT DOCUMENTS VIA ELECTRONIC TRANSMISSION FULLY INCORPORATE THE INTENT AND LANGUAGE OF F.S. 28.30(5).

To let the transmission date of the last page serve as the filing date will add to the complications of processing electronically filed documents for both the clerk and the court. If the last page is not "satisfactorily received" , i.e., readable, does the court consider the document to have been received? Does the court have time to not only review the content but also the readability documents filed? The speed and ease sought by the sender could negatively impact the clerk and the court if the current statute is not left intact with the "...electronic transmission deemed filed when the document is received and the date and time are acknowledged by the clerk, as opposed to the date and time of transmission.. ."

Further, if an attorney were to electronically transmit a filing to the court as opposed to the clerk, the clerk could not be considered to have received it until the date and time are acknowledged by the clerk.

Thank you for the opportunity to comment on the emergency amendments that have been proposed. We are looking forward to being able to participate in the opportunities that electronic transmissions present to all parties of the judicial system. The transitions that each court and each clerk will have to accommodate

Page 7. Emergency Petition to Amend Rules 2.090, 2.075, and 2.060
Pasco Clerk Response

as we move further into this technology, require: careful consideration of the quality of the court record, access to the court record and the cost of providing and maintaining quality and access. The Clerk of the Circuit Court recognizes the responsibility of the Office to maintain the record and provide access and raises *the* concerns outlined in view of *that* responsibility.

Inherent in these comments, is the understanding *that* increased technology in all clerks offices will facilitate the processing of documents electronically. To further advance the equipment and technology in clerks offices to accept and expand electronic access at a level more advanced than facsimile machines may require the expansion of fees paid for the Records Modernization Trust Fund to include documents filed in the court records in addition to documents filed in the Official Records.

M E M O R A N D U M

MARYANNE MORSE

Clerk of the Circuit Court - Seminole County

Date: May 22, 1996

To: Roger H. Alderman, Executive Director
Florida Association of Court Clerks & Comptrollers

From: Maryanne Morse, Clerk of the Circuit Court

Subject: Emergency Petition to Amend Rules 2.090, 2.075, and
2.040 With Respect to the Electronic Transmission and
Filing of Documents, Case No. 81,638.

I appreciate the preview.

My only concern with proposed Rule 2.090(g)(2) is not having lawful authorization to charge for the receipt of a document electronically. I recognize the fact that the proposal authorizes such a charge, should the Legislature impose one; however, how do we recoup costs of hardware and programming in the meantime? I must therefore recommend the Association's General Counsel seek legislative action to impose such a charge,

Richard Ake
Clerk of the Circuit Court
Hillsborough County, Florida



P.O. Box 1110
Tampa, Florida 33601
Telephone (813) 2788160

May 22, 1996

Roger H. Alderman, Executive Director
FLORIDA ASSN. OF COURT CLERKS & COMPTROLLERS
3375 Capital circle N.E.
Suite I
Tallahassee, Florida 32308

Re: Emergency Petition to Amend Rules 2.090, 2.075 and 2.060 of
the Florida Bar Rules of Judicial Administration,

Dear Roger:

My staff and I have reviewed the new proposed Rules of Judicial Administration as they relate to electronic filing (the "Proposed Rules") and we support adoption of the Proposed Rules. However, there are certain areas covered by the Proposed Rules which we feel need clarification and/or minor changes. I have taken the liberty of outlining the areas of concern below.

Proposed Rule 2.075: defines "permanently recorded" in subparagraph (a)(3) to include any document recorded onto an electronic record keeping system or an optically imaged document. In subparagraph (c) the Proposed rule provides for the destruction or disposal of court records which have been "permanently recorded" by the clerk of the court at any time after a judgment has become final. These sections need to be read consistently with proposed rule 2.090 (d) which allows for the "originally" filed paper document to be stored in bulk and not retained in the court file.

Clearly, proposed rule 2.075 is intended to address the destruction of the paper court file once it has been electronically recorded and judgment is final. However, there are no guidelines for the clerk of court under the Proposed Rules regarding destruction or retention of those "originally filed" paper documents retained in bulk. If the clerk has no obligation for retention of those documents stored in bulk, then that should be set forth under the proposed rules. Once a document is filed in bulk, we will not want to have to review any of those documents for any reason.

Roger Alderman

May 22, 1996

Page 2

Proposed Rule 2.090: Subparagraph (c) specifies that when general law requires an "original document" to be filed, the original shall be filed after electronic transmission. Yet, subparagraph (d)(2) provides that the electronically transmitted document: will be treated for all purposes as the originally filed document. This needs clarification. If what is intended is that certain documents must be kept in paper form, then that should be made clear. It is confusing for the term "original" to be used in this contradictory manner.

There is the potential for another problem. Namely, if a party were to bring in an "original" document for imaging into the electronic recordkeeping system maintained by the clerk, and it was thereafter filed in bulk, but the document was one which was to be kept in paper form; then the proposed rules are silent as to whose responsibility it is to identify such a document for permanent paper retention. We would not like to see the counter clerks obligated to make such a determination at the time of filing; but rather, have the filing party charged with that obligation.

Subparagraph (c)(1) allows for electronic transmission by a court for service of all orders "of whatever nature". We would like clarification as to whether this is intended to include the civil summons and subpoena as well as the criminal notice to appear and *capias*. If so, this would relieve the clerk of the court of promulgating the paper copy and allow electronic transmission to the sheriffs of the state and certified process servers.

Subparagraph (g)(2) enables the clerk of the court to collect charges as authorized by general law; however, there are currently no charges authorized to cover the increased start-up costs associated with implementing a paperless system. As an aside, we would be in favor of an amendment to Chapter 28 providing for a nominal additional filing charge for each new case filed to cover these advances in technology. We recognize that increased costs should level-off after the initial implementation period; therefore, any increase could be for a predetermined limited time to be revisited in the future.

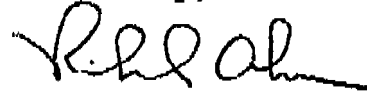
Subparagraph (g)(2) also requires that the filing party make arrangements with the court or the clerk of the court for the payment of charges; however, we believe that more explicit language is needed in this area. In the event that a party has attempted to make such arrangements, but is unaware at the time of electronic filing that said attempt has been unsuccessful; the filing party may seek to hold the clerk responsible for damages suffered as a result of non-filing. We believe that inserting language substantially similar to the following may remedy any potential

Roger Alderman
May 22, 1996
Page 3

problem? "No documents will be filed unless the filing party makes arrangements with the court or the clerk of the court for the payment of any charges authorized by general law prior to filing any document by electronic transmission. Any damages suffered as a result of the filing party's failure to make said arrangements in accordance with the administrative procedures set forth by the court or the clerk of the court shall be the responsibility of the filing party."

These concerns are in no way to be construed as a challenge or deterrent to the adoption of the Proposed Rules; but rather, as our collective effort to provide the solicited input on the subject. If you have any questions, or would care to discuss this further, I invite you to contact Helene Marks, Esquire, our legal counsel at (813) 276-2029 x7459.

Sincerely,



Richard Ake
CLERK OF THE CIRCUIT COURT

RA:HEM:jh



KARLEEN F. De BLAKER

CLERK OF THE CIRCUIT COURT • PINELLAS COUNTY, FLORIDA

CLERK OF THE COUNTY COURT
RECORDER OF DEEDS
CLERK OF BOARD OF COUNTY COMMISSIONERS
CLERK OF WATER AND NAVIGATION CONTROL AUTHORITY
COUNTY AUDITOR

315 COURT STREET
CLEARWATER, FLORIDA 34616
PHONE: (813) 464-3341

MEMO TO: Sid J. White
Clerk Supreme Court

FROM: Karleen F. De Blaker *K. F. De Blaker*
Clerk of the Circuit Court

DATE: May 23, 1996

RE: Emergency Petition To Amend Rules 2.090, 2.075 And 2.060 With
Respect To The Electronic Transmission And Filing Of Documents,
Case No. 81,638

Thank you for allowing Clerks of Courts to submit comments on the proposed amendments to the above referenced Rules of Judicial Administration. We fully support the proposed rule changes and would encourage the Supreme Court to vote favorably on all the amendments contained in the Emergency Petition as proposed by the Florida Bar's Rules of Judicial Administration Committee. As per your instructions in your memo dated May 8, 1996, an original and seven copies of our comments relating to the proposed amendments are enclosed.

Our office is heavily involved in automation efforts. Currently we are in the process of releasing a Request for Proposal for a Probate Imaging System with the hopes of expanding forward into the Criminal Justice area. In light of these and other automation efforts, we are very interested in having rules which are consistent with the automation path that has been charted for the office.

We have been involved with the review of these proposed rules for some time to ensure that the provisions would allow us to move forward while simultaneously not being negatively impacted by the new requirements.

While all of the provisions of the proposed rules taken as a whole meet the needs of the Clerk for the foreseeable future and we would recommend their adoption, there are some areas of the rules which from the Clerk's perspective are critical. These areas are the need to keep the rule optional on the part of the Clerks so as to assist us in the transition from where we are today to the implementation of full electronic filing. Also, the elimination of the need to follow up the electronic filing with the original documents is critical, as otherwise it would only create a cumbersome, duplicated filing system for Clerks' offices. The requirement to have the filing party retain their own original is an excellent idea, as it can be reproduced if there is ever a need to verify the original signature.

Memo to Sid J. White
May 23, 1996
Page 2

We strongly support the portion of *the* proposed rule which places the responsibility on the sender for transmission difficulties, as this would limit the Clerk's liability for transmission errors which may result in statute of limitation Issues. Additionally, it is important to us that electronic access be provided during regular business hours, thereby giving us the ability to determine if a 24-hour access would be feasible in the future. Also, defining the receipt date as being the last page of the document which has been transmitted electronically is very important to our work.

Finally, we support the proposed revision to Rule of Judicial Administration 2.075 for retention of records to include the term "permanently recorded" as this is critical for Clerks to move from the microfilm age to the electronic record keeping age.

Again, thank you for the opportunity for comments. We strongly support and encourage the passage of all proposed amendments to the captioned rules,

KFD/MI/ss

cc: Fred W. Baggett, General Counsel, Florida Association of Court Clerks
Roger H. Alderman, Executive Director, Florida Association of Court Clerks

CHARLOTTE COUNTY CLERK OF THE CIRCUIT COURT'S OFFICE
18500 Murdock Circle, Room 423
Port Charlotte, Florida 33948-1094
tel 941-743-1537
fax 941-743-1530

fax t r a n s m i t t a l

to: Roger H. Alderman

fax #: 904-921-4119

from: Carmen Favara, Director, Court
Services, Criminal Division

date: May 24, 1996

re: Comments re: Electronic Transmission
& Filing of Documents

pages: 1, including this cover sheet

NOTES: If facsimile copy is not legible whose responsibility will it be to contact the sender of the pleading as to the illegibility?

Whose responsibility will it be to make sure that all pertinent copies are received?

Will there be any fees involved for sending and/or receiving faxed or electronically transmitted copies? If so, how much?

In order to handle the volume, departments affected, will require more than one fax machine.

Will the date the facsimile is received serve as the official file stamp date or will we need a new certification stamp for faxed and/or electronically submitted copies?



Clerk Of The Circuit And County Court

Brevard County, Florida

700 S. PARK AVENUE, P. O. BOX H, TITUSVILLE, FL 32781-0239

May 14, 1996

*Sandy,
Please FAX
2 - to me.*

*[Signature]
5-14-96*

SANDY CRAWFORD, Clerk

Mr. Sid J. White, Clerk Supreme Court
500 South Duval Street
Tallahassee, Florida 32399-1927

Re: An emergency petition to amend Rules 2.090, 2.075, and 2.060 with respect to
the electronic transmission and filing of documents, Case No. 81,368

Dear Mr. White:

This to submit my comments regarding the proposed amendments as presented in your memo dated May 8, 1996. It is my understanding that, under proposed amended Rule 2.075 (c), no original paper document need be filed as a follow-up to an electronically-filed document, unless general law requires that the original of a document be in the court file (such as a will).

If my understanding of these proposed amendments is correct, I strongly endorse the Supreme Court's adoption of them.

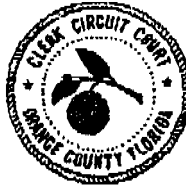
Sincerely,

[Signature: Sandy Crawford]
Sandy Crawford
Clerk of the circuit Court
Brevard County, Florida

Enclosures: Seven (7) additional copies of this letter

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 1	
To <i>ROGER ALDERMAN</i>	From <i>JIM GILES</i>		
Co. <i>FACC.</i>	Co. <i>BREVARD</i>		
Dept.	Phone # <i>407.264.5278</i>		
Fax # <i>904.921.4119</i>	Fax # <i>407.264.5270</i>		

RURAL ACCESS



FRAN CARLTON
CLERK OF THE CIRCUIT AND COUNTY COURTS
ORANGE COUNTY

TO: Roger H. Alderman
Executive Director, Florida Association of Court Clerks & Comptrollers

FROM: Fran Carlton *Frank* 
Orange County Clerk of the Circuit and County Courts

DATE: May 15, 1996

RE: Emergency Petition to Amend Rules 2.090, 2.075, and 2.060 With Respect to
the Electronic Transmission and Filing of Documents, Case No. 81,638

I wanted to voice my support of the proposed changes to Rules 2.090, 2.075, and 2.060 of the Florida Rules of Judicial Administration. We have been aware of these changes since January of 1995, when my office was contacted by Paul Regensdorf, the Subcommittee Chair for the Florida Rules of Judicial Administration Committee. Additionally, we received a copy of a letter sent to you by Mr. Regensdorf on January 17, 1995, in which he sought input from clerks.

Mr. Regensdorf and my legal counsel, Carol Shamin, corresponded often about this subject throughout 1995. In fact, Carol gave a presentation about the proposed changes at the Clerks' meeting last fall in Tampa on September 14, 1995.

I hope that everyone will realize that the proposed rules would not *require* any clerk to begin accepting electronically transmitted documents. The rules simply *allow* a clerk to do so. Further, the rules implicate court records only; they do not implicate official records. I hope, too, that no one will be alarmed by the fact that the proposals were submitted as an "emergency" petition. This was done simply because the rules committee voted to submit the changes to the Supreme Court out of sequence from its usual four-year cycle of proposals.

I think that it is important to have the proposed rules in place so that there is no question of the legality of accepting electronic documents for filing once we are capable of doing so. I encourage the Association to support the proposed rule changes. Please don't hesitate to contact me if you have any questions or concerns.