

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO
FLORIDA RULE OF JUDICIAL
ADMINISTRATION 2.420 – SEALING
OF COURT RECORDS AND DOCKETS**

CASE NO. SC06-2136

**SUPPLEMENTAL COMMENTS OF THE FLORIDA SUPREME COURT
COMMITTEE ON ACCESS TO COURT RECORDS**

Judith L. Kreeger, Circuit Judge, Eleventh Judicial Circuit, and Chair of the Florida Supreme Court Committee on Access to Court Records (the Committee), respectfully offers these supplemental comments to the proposed amendments to Florida Rule of Judicial Administration 2.420–Sealing of Court Records and Dockets.

The Committee will continue to work in greater depth on this rule, according to the Court’s charge to the Committee. Additional meetings of the Committee are scheduled in March, April and May, so that the Committee can report its proposal to the Court by June 1, according to the charge.

Thus far, the Committee has agreed that the rule should be premised on the following principles:

Burden of Proof for Closure: The burden of proof should be on the proponent of closure, to prove each of the elements that are required to seal a court record.

Notice and the Opportunity to be Heard: The rule should not require notice to non-parties of a request to seal a court record. However, on a later motion to re-open a record:

- a. The judge should first determine whether the closure was accomplished through an adversarial proceeding conducted after notice to interested non-parties and an opportunity to be heard. If it was not, then the burden should remain on the proponent of closure to prove each of the elements. If closure was accomplished through an adversarial proceeding conducted after notice to non-parties giving

them an opportunity to be heard, then the burden of proof should shift to the proponent of re-opening the record.

- b. Non-parties have standing to appear and be heard in proceedings involving sealing or re-opening a court record. They should not be required to formally seek to intervene in the case.

Sanctions: Counsel of record, as well as the parties, should be required to certify to the court that they have a good faith basis to seek closure.

Respectfully submitted on February 27, 2007.

/s/ Judith L. Kreeger
JUDITH L. KREEGER
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the SUPPLEMENTAL COMMENTS OF THE COMMITTEE ON ACCESS TO COURT RECORDS was furnished by U.S. Mail to: Gary D. Fox, Suntrust International Center, One S.E. 3rd Avenue, Suite 3000, Miami, Florida 33131-1711 this 27th day of February, 2007.

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that these Supplemental Comments were prepared using Times New Roman 14 point font, and that the Comments comply with the requirements set forth in Rule 9.210(a)(2), Florida Rules of Appellate Procedure.

LAURA RUSH