

IN THE SUPREME COURT OF FLORIDA

IN RE: IMPLEMENTATION OF
COMMITTEE ON PRIVACY AN COURT
RECORDS RECOMMENDATIONS –
AMENDMENTS TO THE FLORIDA RULES
OF CIVIL PROCEDURE; THE FLORIDA RULES
OF CRIMINAL PROCEDURE; THE FLORIDA
PROBATE RULES; THE FLORIDA SMALL
CLAIMS RULES; THE FLORIDA RULES OF
APPELLATE PROCEDURE; AND THE FLORIDA
FAMILY LAW RULES

CASE NO: SC08-2443

**COMMENT OF THE
APPELLATE COURT RULES COMMITTEE**

The Florida Appellate Court Rules Committee (“ACRC”), through John G. Crabtree, Chair, and John F. Harkness, Jr., Executive Director of The Florida Bar, file this response to the Court’s April 1, 2010 Administrative Order in the above-styled case seeking “clarification and input from The Florida Bar rules committees and The Florida Court Technology Commission Subcommittee on Access to Court Records on several issues of concern to the Court.” In its April 1, 2010, Administrative Order, this Court asked *inter alia* whether “the lists of personal information that must be truncated or redacted under proposed rules 1.191(a), 1.280(f), 9.050(a), 12.130(c), and 12.280(a) should be consistent?” *See* Administrative Order, p.1.

On April 28, 2010, the ACRC’s Record on Appeal Subcommittee met to discuss whether amendments should be made to Rule 9.050(a) in light of the Court’s Administrative Order. Based on the recommendations of the Subcommittee, and the consideration of this matter by the entire ACRC, the ACRC adopts the following comments:

The ACRC has examined the provisions of rules 1.191(a), 1.280(f), 9.050(a), 12.130(c), and 12.280(a) (which has been amended and replaced by proposed rule 12.191). *See* Chart Outlining Differences Between the Redaction Requirements of the Proposed

Rules, attached as Exhibit A. The ACRC recognizes that Rule 9.050(a) contains a more comprehensive list of the type of personal identifying data that must be truncated or redacted from court records when compared to the other rules of procedure. Specifically, proposed rule 9.050(a)(2) directs that practitioners should exclude dates of birth, home addresses, social security numbers, driver's license numbers, passport numbers, telephone numbers, email addresses, computer user names, passwords, and financial, bank, brokerage, and credit card account numbers. The ACRC notes that this list, while not identical, is similar to the full list of personal identifying data the Eleventh Circuit Court of Appeals considered sensitive in 11th Cir. R. 25-5 Maintaining Privacy of Personal Data.

The ACRC is of the view that the more comprehensive list in the proposed rule assists practitioners in identifying what data should be removed from documents filed with the lower tribunal. Moreover, proposed rule 9.050(a) reflects that all personal identifying data, including non-financial or government-issued data, should be redacted to maintain an individual's privacy interests and protect against identity theft. Of importance, the ACRC feels that personal identifying data such as email addresses, computer user names, and passwords are worthy of the same protection afforded to other types of personal identifying data due to the increased use of e-mail scams and spam in today's society. For these reasons, the ACRC does not believe that any modifications should be made to proposed rule 9.050(a).

However, the ACRC recognizes this Court's concern regarding consistency among the various rules of procedure. The ACRC is in agreement that a uniform treatment of personal identifying data would be beneficial to practitioners and citizens. To accomplish this goal, the ACRC recommends that the Court adopt a new Rule of Judicial Administration that would uniformly list the personal identifying data that should be redacted from court records. The ACRC further recommends that this Court adopt as the uniform list the comprehensive list of excluded personal identifying data contained in proposed rule 9.050(a). To the extent that individual rules of procedure require deviations from the uniform rule, each rule

committee can propose rules excluding certain documents from the uniform rule as needed. This approach should eliminate any unnecessary inconsistencies that may be present among the various rules of procedure.

Respectfully submitted this 12th day of May, 2010 by

/s/ John G. Crabtree

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was furnished by United States mail to:

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this 12th day of May, 2010.

CERTIFICATE OF COMPLIANCE

I certify that this report was prepared in accordance with the font requirements of Fla. R. App. P. 9.210(a)(2).

/s/ Krys Godwin

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