

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO  
FLORIDA RULE OF JUDICIAL  
ADMINISTRATION 2.425**

**CASE NO:**

**JOINT OUT-OF-CYCLE REPORT OF THE  
CRIMINAL PROCEDURE RULES COMMITTEE, RULES OF  
JUDICIAL ADMINISTRATION COMMITTEE, AND TRAFFIC  
COURT RULES COMMITTEE**

The Honorable Donald E. Scaglione, Chair, Florida Criminal Procedure Rules Committee, Keith H. Park, Chair, Rules of Judicial Administration Committee, Jill M. Hampton, Chair, Traffic Court Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this joint out-of-cycle report under *Fla. R. Jud. Admin.* 2.140(f) to amend Rule 2.425. The rule amendment has been approved by the full committees and, as required by *Rule* 2.140(b)(2), reviewed by The Florida Bar Board of Governors. The voting records of the Committee and the Board of Governors are shown on the attached three-column chart (*see* Appendix C).

The proposed amendment was not published for comment due to time limitations.

The proposed rule is attached in full-page (*see* Appendix D) and two-column (*see* Appendix E) formats.

On June 30, 2011, the Court published an opinion in *In Re: Implementation of Committee on Privacy and Court Records Recommendations — Amendments to the Florida Rules of Civil Procedure; The Florida Rules of Judicial Administration; 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 of Procedure* (SC08-2443), \_\_\_ So. 3d \_\_\_, 36 FLW S331 (Fla. 2011). In pages 11-12 of this opinion and in a letter of assignment (*see* Appendix A), the Court requested the Criminal Procedure Rules Committee, Rules of Judicial Administration Committee, and the Traffic Court Rules Committee to “work together to propose a rule or rules similar to Federal

Rule of Criminal Procedure 49.1 (Privacy Protection for Filings Made with the Court) to govern the filing of sensitive personal information in criminal and traffic proceedings.” The deadline for this report is December 1, 2011.

A Joint Subcommittee was created promptly, conducted research analyzing the federal rule, and drafted an amendment to the newly published *Rule 2.425(b)(8)*, Rules of Judicial Administration. This amendment was then presented to each individual committee and, after discussion, was approved.

In following the style of rule 49.1(b), Federal Rules of Criminal Procedure, subdivision 2.425(b)(8) was rewritten to specify exactly what type of documents in criminal and traffic cases would be exempt from *Rule 2.425(a)*, Rules of Judicial Administration (Minimization of the Filing of Service Information; Limitations for Court Filings). The proposed subdivisions (b)(8)(A)–(b)(8)(D) adopt subdivisions 49.1(b)(6)–(b)(9), Federal Rules of Criminal Procedure, plus three additional subdivisions. (*See Appendix B.*) The specific documents that would be exempt are:

1. pro se filings;
2. court filings that are related to criminal matters or investigations and that are prepared before the filing of criminal charges or are not filed as part of any docketed criminal case;
3. arrest or search warrants or any informations in support thereof;
4. charging documents and affidavits or other documents filed in support of any charging document, including any driving records;
5. statements of particulars;
6. discovery materials introduced into evidence or otherwise filed with the court; and
7. information necessary for the proper issuance and execution of a subpoena duces tecums.

For clarity, federal rule subdivisions 49.1(b)(1)–(b)(4) were previously incorporated into *Rules 2.425(b)(1)–(b)(4)*; subdivision 49.1(b)(5) is federal rule specific and not incorporated.

The Criminal Procedure Rules Committee, Rules of Judicial Administration Committee, and Traffic Court Rules Committee respectfully request that the Court adopt the suggested amendment to rule 2.425(b)(8), Florida Rules of Judicial Administration.

Respectfully submitted on November 3, 2011.

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## CERTIFICATION OF COMPLIANCE

I certify that these rules were read against *West's Florida Rules of Court – State* (2011) and the published opinion for SC08-2443, 36 FLW S331 (2011).

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

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