

IN THE SUPREME COURT OF FLORIDA

**IN RE: OUT OF CYCLE REPORT
OF THE FLORIDA RULES OF
JUDICIAL ADMINISTRATION**

CASE NO.: SC12-764

**COMMENTS OF THE SIXTH JUDICIAL CIRCUIT
IN SUPPORT OF PROPOSED
RULE OF JUDICIAL ADMINISTRATION 2.451**

In accordance with the Court's invitation for comments on proposed Rule of Judicial Administration 2.451, J. Thomas McGrady, Chief Judge of the Sixth Judicial Circuit, files these comments on behalf of the Sixth Judicial Circuit in support of the proposed rule.

The proposed rule addresses both the removal of electronic devices from jurors and the use of electronic devices by others in the courtroom and court facilities. The proposed rule does so in a manner that reflects the trial court's inherent authority to control the conduct of proceedings before the court. It also recognizes the Chief Judge's authority in Article V, §2, Florida Constitution and Rule of Judicial Administration 2.215 to control activities in the courthouse and court facilities. The proposed rule is also consistent with existing Rule of Judicial Administration 2.450 on the media's use of electronic devices and equipment in the courtroom and courthouse facilities. Codifying the inherent authority of the

court reinforces that authority for trial judges and chief judges, and helps inform the public of that authority.

The Sixth Judicial Circuit has encountered problems with misuse of electronic devices. For instance, individuals have used electronic devices to photograph and identify law enforcement officers; gang members have sent texts to each other in the courtroom creating a security concern; and witnesses have attempted to violate the rule of sequestration by receiving information about other witnesses' testimony. In these instances, the trial judge or the Chief Judge, in conjunction with court security, has taken steps to eliminate these problems. Having a specific rule will reinforce the court's authority to control court proceedings, ensure decorum, prevent distractions, ensure the fair administration of justice, and preserve court security.

Proposed Rule 2.451 addresses these security and fair-trial concerns by restating the judges' authority to prohibit jurors' use of electronic devices in courtrooms and during deliberations. The rule balances the needs of the court with the possible needs of jurors to communicate with their family members or others on matters unrelated to their jury service. A harsher rule limiting the use of electronic devices by jurors may discourage jury service.

Proposed Rule 2.451 also allows judges necessary flexibility to allow the use of electronic devices by others in the courtroom. Others in the courtroom may have

a legitimate need to use electronic devices in the courtroom. For instance, in a civil motion hearing where only attorneys are present, the judge may wish to allow the attorneys to access an electronic device to aid in scheduling subsequent hearings.

The proposed rule may help prevent costly and time consuming mistrials due to misuse of electronic devices. This would benefit both the parties and the court system by saving the time, money, and other resources required to retry such cases.

The Sixth Judicial Circuit supports the adoption of proposed Rule of Judicial Administration 2.451 for several reasons: the rule reinforces the court's inherent authority to control court proceedings, emphasizes Chief Judge's authority to control court facilities, ensures decorum, guarantees the fair administration of justice, helps avoid security concerns, and reduces the danger of costly mistrials.

Respectfully Submitted,

J. Thomas McGrady, Chief Judge
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Alexandra E. Rieman, Florida Rules of Judicial Administration Committee Chair, Broward County Courthouse, 201 SE 6th Street, Room 880A, Ft. Lauderdale, FL 33301-3372; Jodi Jennings, Bar Staff Liaison, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-6584; John F. Harkness, Jr., Executive Director, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300; and Keith H. Park, Chair, Florida Rules of Judicial Administration Committee, P.O. Box 3563, West Palm Beach, FL 33402-3563, this _____ day of September 2012.

CERTIFICATE OF COMPLIANCE

Pursuant to Rule of Appellate Procedure 9.100(l) I certify that this computer generated response is prepared in Times New Roman 14 point font and complies with the Rule's font requirements.

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