

Florida Rule of Judicial Administration 2.420, Public Access To Judicial Branch Records, Became Fully Effective October 1, 2010

October 27, 2010

The following is a brief summary of the procedures lawyers must now follow when filing any documents with the clerk of the court. However, you should familiarize yourself with the Rule. **1.** Every document an attorney files with the clerk of court must be reviewed to determine whether any of the 19 specifically recognized exemptions to the public right of access contained in Rule 2.420(d)(1)(B) are applicable. **2.** If the document being filed contains information falling into one of the 19 categories of automatically exempt information, the person filing the document shall, at the time of filing, file with the clerk a Notice of Confidential Information Within Court Filing, and send a copy of the notice to any “affected non-party.” The Rule defines an “affected non-party” as a person whose confidential information appears in the document. A sample of the Notice and the information required is contained in the Rule. **3.** The Notice of Confidential Information Within Court Filing must:

- (a) indicate that confidential information described in subdivision (d)(1)(B) is included within the document being filed; (b) identify the provision of subdivision (d)(1)(B) of the rule that applies to the identified information; and (c) identify the precise location of the confidential information within the document being filed.

The Notice is not confidential, so make sure it does not reveal the confidential information. **4.** If the confidential information is not an exemption set forth in Rule 2.420(d)(1)(B), and the filer has a good faith belief the document contains confidential information, then the filer must file a Motion To Determine Confidentiality of Court Records. The movant must give notice of the Motion to all affected non-parties. **5.** Rule 2.420(e) applies in civil matters. The Motion must:

- (a) identify the particular court records that the movant seeks to have determined confidential with as much specificity as possible without revealing the information; (b)

specify the bases for determining the records are confidential; (c) set forth the specific legal authority and any applicable legal standards for determining the records are confidential; (d) include a signed certification by the party or the attorney for the party that the motion is made in good faith and supported by a sound factual and legal basis.

The clerk is required to maintain confidentiality pending the Court's ruling on the Motion. **6.** Rule 2.420(f) is for criminal matters. It contains the same requirements as Motions filed in civil matters. However, once filed, the procedures for handling and determining the Motion differ from those in civil matters. **7.** Rule 2.420(g) is for noncriminal appellate matters. The Motion must contain the same information as Motions filed in civil matters. However, the Motions may be directed to a record presented or presentable to the trial court if the trial court did not make a confidentiality determination, or to a record presented to an appellate court in an original proceeding. **8.** Rule 2.420 requires lawyers to know the law regarding confidential information and the right of public access. Failure to comply with the Rule may result in sanctions.

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