

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO. 2.303-1/23 *

IN RE: CONFIDENTIALITY/SEALING
OF COURT HEARINGS AND RECORDS

The Florida constitution mandates that the public shall have access to court records, subject only to certain enumerated limitations that are restricted by operation of state law, federal law, or court rule. The Florida Supreme Court has stated that the news media has been the public surrogate on the issue of courtroom closure and must be given an opportunity to be heard prior to a court's ruling on closure. *The Miami Herald Publishing Co. v. Lewis*, 426 So. 2d 1 (Fla. 1982). Florida Rule of **General Practice &** Judicial Administration 2.420 is the rule of procedure governing the confidentiality of court records and must be followed prior to making a record confidential and thus inaccessible by the public (i.e. sealed).

Rule 2.420 addresses categories of court documents that 1) the clerk must maintain as confidential, 2) procedures a party must following when filing a confidential document, 3) procedures a party must follow when seeking to make other court documents confidential, and 4) sanctions for violation of the rule. The rule also requires publication by the Clerk of Court of certain notices and orders.

- Rule 2.420(c) sets forth the types of documents that are confidential and exempt from public view.
- Rule 2.420(d)(1) sets forth the **23** categories of documents that the Clerk of Court must maintain as confidential.
- Rule 2.420 (d)(2) sets forth the obligations of the filer to file a "Notice of Confidential Information Within Court Filing" when the filer submits one of the **23** categories of documents for filing in a case that is not already maintained as confidential. This requires the filer to identify the precise location of the confidential information within the document being filed.
- Rule 2.420(d)(2) further sets forth the clerk's obligation to review such a notice to ensure that it pertains to one of the **23** categories of documents and the procedures the Clerk of Court is to undertake when the notice is improperly filed.

- Rule 2.420(d)(3) sets forth the ability of a filer of a document to file a “Motion to Determine Confidentiality of Court Records” when the filer seeks to have information not contained within the **23** categories of documents treated as confidential and exempt from public view.
- Rule 2.420(e) sets forth the procedure the filer must follow when filing a Motion to Determine Confidentiality of trial court records in non criminal cases, the discretion of the judge to require public notice of the hearing, the time frame within which to hold a hearing, the time frame within which an order must issue, the time frame within which a copy of the order must be published by the clerk both on its website and in a prominent public location in the courthouse, and the time frame within which the order must remain published.
- Rule 2.420(f) sets forth the procedure the filer must follow when filing a Motion to Determine Confidentiality of trial court records in criminal cases, the time frame within which to hold a hearing, the time frame within which an order must issue, and the requirement that the Clerk of Court must be directed by the Court to publish a copy of the order.
- Rule 2.420 (h) sets forth the procedures when a movant seeks to make an oral motion to determine the confidentiality of trial court records.
- Rule 2.420(i) sets forth the sanctions provision of the rule.

NOW, THEREFORE, pursuant to the authority conferred by Florida Rule of **General Practice & Judicial Administration 2.215**, it is **ORDERED** as follows:

1. Confidentiality of Court Records Under Rule of **General Practice & Judicial Administration 2.420**
 - a. Notice of Hearing on Motion to Determine Confidentiality: When the Notice of Hearing on the Motion to Determine Confidentiality of Court Records is to be published, the Notice of Hearing will be sent to the Communications Department at the Clerk and Comptroller’s Office in accordance with paragraph 3 below and within the timeframe provided by the Court.
 - b. Order on Motion to Determine Confidentiality in Non Criminal Cases: Following the issuance of an order on the Motion to Determine Confidentiality of Court Records in non criminal cases, the requesting party must ensure that the Clerk of Court has received a copy of the order for filing and publication in accordance with Rule 2.420(e)(4). The order on the Motion to Determine Confidentiality is to also be sent to the Communications Department at the Clerk and Comptroller’s Office in accordance with paragraph 3 below.

- c. Order on Motion to Determine Confidentiality in Criminal Cases: Following the issuance of an order on the Motion to Determine Confidentiality of Court Records in criminal cases, and at the direction of the Court, the requesting party must ensure that the Clerk of Court is provided with a copy of the order so that it can be filed and published in accordance with the Court's directions. Any order is also to be sent to the Communications Department at the Clerk and Comptroller's Office in accordance with paragraph 3 below.
2. Court Proceedings
 - a. Unless provided otherwise by operation of state law or federal law:
 - i. *The Miami Herald Publishing Co. v. Lewis*, 426 So. 2d 1 (Fla. 1982) applies to the closure of criminal court proceedings and notice to the media. *Barron v. Florida Freedom Newspapers, Inc.*, 531 So. 2d 113 (Fla. 1988) applies to the closure of civil proceedings and notice to the media.
 - ii. The moving party will also provide the "notice to the media" to the Communications Department at the Clerk and Comptroller's Office for publication in accordance with paragraph 3 below.
3. Publication by Clerk's Office: When Rule of **General Practice &** Judicial Administration 2.420 requires, or upon order of court, the moving party will also provide the applicable documents to the Clerk's Office Communication Department for publication.
 - a. The email address to which such documents are to be sent is:
Communications@mypalmbeachclerk.com
 - b. The Clerk and Comptroller's office will publish such documents on its website at <https://www.mypalmbeachclerk.com/sealedcases> and on the bulletin boards located in the respective lobbies of the division in which they are filed (Circuit Civil - Room 3.23; Unified Family Court - Room 3.22; and County Civil - Room 2.22).
4. Opening of Sealed/Confidential file: The Clerk of Court, or a deputy clerk, is hereby authorized to open any paper court file sealed by operation of law or court order, or access any sealed electronic file, for the purpose of filing documents pertinent to the particular file, as well as for microfilming or imaging files, and for preparing a record on appeal. The Clerk, or deputy clerk, shall reseal the file immediately upon completion of the task, with the date and time of the unsealing clearly noted on the docket along with the initials of the deputy clerk.
5. Adult Parties and Attorneys of Record: In all matters except adoption and surrogacy cases, the Clerk of Court will make the contents of a sealed file available to adult parties and their

attorneys of record. The contents of adoption and surrogacy files shall not be made available to any person absent a court order.

6. Sanctions: If a motion to seal/make court records confidential is not made in good faith and is not supported by a sound legal and factual basis, the court may impose sanctions upon the movant.

DONE AND SIGNED in Chambers in West Palm Beach, Palm Beach County, Florida
this 25th day of January 2023.



Glenn D. Kelley
Chief Judge

*supersedes admin. order 2.303-5/19