

RULE 1.450. EVIDENCE

(a) Record of Excluded Evidence. In an action tried by a jury if an objection to a question propounded to a witness is sustained by the court, the examining attorney may make a specific offer of what the attorney expects to prove by the answer of the witness. The court may require the offer to be made out of the hearing of the jury. The court may add such other or further statement as clearly shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. In actions tried without a jury the same procedure may be followed except that the court upon request shall take and report the evidence in full unless it clearly appears that the evidence is not admissible on any ground or that the witness is privileged.

(b) Filing. When documentary evidence is introduced in an action, the clerk or the judge shall endorse an identifying number or symbol on it and when proffered or admitted in evidence, it shall be filed by the clerk or judge and considered in the custody of the court and not withdrawn except with written leave of court.



Committee Notes

1971 Amendment. Subdivision (d) is amended to eliminate the necessity of a court order for disposal of exhibits. The clerk must retain the exhibits for 1 year unless the court permits removal earlier. If removal is not effected within the year, the clerk may destroy or dispose of the exhibits after giving the specified notice.

1996 Amendment. Former subdivision (a) entitled “Adverse Witness” is deleted because it is no longer needed or appropriate because the matters with which it deals are treated in the Florida Evidence Code.

Court Commentary

1984 Amendment. Subdivision (d) was repealed by the supreme court; see 403 So. 2d 926.

Subdivision (e): This rule was originally promulgated by the supreme court in *Carter v. Sparkman*, 335 So. 2d 802, 806 (Fla. 1976).

In *The Florida Bar, in re Rules of Civil Procedure*, 391 So. 2d 165 (Fla. 1980), the court requested the committee to consider the continued appropriateness of rule 1.450(e). In response, the committee recommended its deletion. After oral argument in *The Florida Bar: In re Rules of Civil Procedure*, 429 So. 2d 311, the court specifically declined to abolish the rule or to adopt a similar rule for other types of actions.

The committee again considered rule 1.450(e) in depth and at length and again recommends its deletion for the reason that no exception should be made in the rule to a particular type of action.

Subdivision (f): The West’s Desk Copy Florida Rules of Court, at page 62, points out:

“The per curiam opinion of the Florida Supreme Court of June 21, 1979 (403 So.2d 926) provides: ‘On March 8, 1979, the Court proposed new Rule 1.450 of the Florida Rules of Civil Procedure which would provide for the disposal of exhibits and depositions in civil matters. Absent further action by the Court, the proposed rule was to become effective July 2, 1979. The Court has carefully considered the responses received regarding proposed Rule 1.450(f) and now feels that the July 2, 1979, effective date does not allow sufficient time for full reflection on matters raised in these responses. Therefore, the effective date for Rule 1.450(f) is, by this order, delayed until further order of the Court.’”

The retention of court records is the subject of Florida Rule of Judicial Administration 2.075.

