



Home	Courts	Court Dockets	Legal Research	Calendar	Help
Previous Case	Top Of Index	This Point in Index	Citationize	Next Case	Print Only

Oklahoma Supreme Court Cases

IN RE: PRIVACY AND PUBLIC ACCESS TO COURT DOCUMENTS

2008 OK 23

Case Number: SCAD-2008-23

Decided: 03/11/2008

THE SUPREME COURT OF THE STATE OF OKLAHOMA

Cite as: 2008 OK 23, __ P.3d __

FOR PUBLICATION IN OBJ ONLY. NOT RELEASED FOR OFFICIAL PUBLICATION.

In Re: Privacy And Public Access To Court Documents

In an effort to balance the rights of privacy of individuals who use Oklahoma's court system and public access to court documents, the Oklahoma Supreme Court adopts the following rules. These rules shall be applicable to all documents filed in the district courts and the Oklahoma Supreme Court.

I.

Mandatory Redaction of Personal Data Identifiers

A filer shall refrain from including, or shall partially redact where inclusion is necessary, the following personal identifiers from all pleadings or other documents filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court or as otherwise provided by law:

- A. Social Security Numbers. If an individual's social security number must be included in a pleading or other document, only the last four digits of that number shall be used.
- B. Taxpayer Identification Numbers. If a taxpayer identification number must be included in a pleading or other document, only the last four digits of that number shall be used.
- C. Names of Minor Children. If the involvement of a minor child must be mentioned in a pleading or other document, only the initials of that child shall be used. In the alternative, the filer may refer to the child in the manner that shields the identity of the minor in the context of the proceeding (i.e., by symbol [Child A, Child B]; as Doe1, Doe2; or by the child's status in the litigation [Witness, Victim, Ward, Beneficiary]).
- D. Dates of Birth. If an individual's date of birth must be included in a pleading or document, only the year shall be used.
- E. Financial Account Numbers. If financial account records are relevant or mentioned in a pleading or other document, only the last four digits of these numbers shall be used.
- F. Home Addresses. If a home address must be included in a pleading or other document, only the city and state shall be used.

Each filer shall be required to modify any pleading or document that does not comply with this rule. The new pleading or document must be filed within three (3) days after the filer is notified of a violation of this rule. Notice of noncompliance may be given by any participant, interested party, or court official to all parties by first class mail.

Each party to an action shall be required to file an appropriate cover sheet with the Clerk of the Court on a form or forms prepared by the Administrative Office of the Court. All of these administrative cover sheets shall be filed under seal. The Court and Clerk of the Court are authorized to require that each party to an action provide the Court with any or all of the personal data identifiers noted herein or required by the Administrative Office of the Courts in said cover sheets.

II.

Permissive/Optional Redaction

A filer may omit or, where inclusion is necessary, partially redact the following sensitive information from all pleadings and other documents, filed electronically or in paper, unless the assigned judge orders otherwise:

- A. Personal identifying numbers such as a driver's license;
- B. Medical records, treatment and diagnosis;
- C. Employment history;
- D. Individual financial information;
- E. Proprietary or trade secret information;
- F. Information regarding an individual's cooperation with the government;
- G. Information regarding the victim of criminal activity; or
- H. National security information.

Filers are encouraged to exclude this information where possible.

III.

Unredacted Documents

With leave of Court, a filer may file under seal a document containing the unredacted personal data identifiers listed in Section I. and/or Section II. above. In addition, the Court may direct that some or all of these unredacted personal data identifiers or other sensitive information be filed under seal. When leave of Court is sought:

- A. A party/filer seeking to file an unredacted pleading or document shall file a motion to file the document under seal pursuant to these rules and simultaneously submit a proposed order granting the relief requested.
- B. If the motion is granted, the filer shall submit the original unredacted paper document(s) to the Clerk of the Court in a clearly identified envelope. The envelope shall contain the notation "Document filed under seal" and note the case number, and the name of the assigned judge if known. The Clerk of the Court shall retain the paper document as part of the file.
- C. The assigned judge may require the filer to file a redacted copy for the public record. The redacted pleading or document shall be clearly identified as a redacted version.

IV.

Responsibility To Redact

The responsibility for redacting personal data identifiers and other sensitive information shall rest solely with counsel, the parties, or any other filer. The Clerk of the Court will not review documents for compliance with this rule, seal documents containing personal data identifiers or other sensitive information, or redact pleadings or other documents.

V.

Restricting Website Access To Court Records

The Clerk of the Oklahoma Supreme Court, each district court clerk, and the Project Manager of the Oklahoma Court Information System are directed to immediately limit internet public access to court dockets only. The individual pleadings and other recorded documents filed of record in state court actions shall not be publicly displayed on the internet. Court documents may be viewed at the courthouse unless otherwise prohibited by law. This policy may be reviewed by this Court in the future.

VI.

Effective Date

The effective date of these rules shall be: JUNE 10, 2008. These rules shall be prospective only. This order shall be published once in the Oklahoma Bar Journal and once in the Oklahoma Bar Association's E News.

Approved in conference this 10th day of MARCH, 2008.

/s/Chief Justice

CONCUR: WINCHESTER, C.J., HARGRAVE, WATT, COLBERT, REIF, JJ.

CONCUR IN PART; DISSENT IN PART: KAUGER, J. with whom EDMONDSON, V.C.J., joins.

DISSENT: TAYLOR, J.

NOT PARTICIPATING: OPALA, J.

KAUGER, J., with whom EDMONDSON, V.C.J., joins, concurring in part, dissenting in part to the adoption of the order:

¶1 The majority adopted an order mandating redaction of personal data identifiers from public court documents. I certainly agree with the order to the extent an attempt is being made to limit internet access to personal and private information used for improper purposes such as identity theft, harassment, or other crimes. However, as I understand it, all previous filings will be left intact.

¶2 What I disagree with is the instantaneous restriction of public access to current public court documents online. The Court made this decision with input only from the court clerks, others directly affected by the decision – the bar, the bench, the legislature and the public were not consulted. Courts have a responsibility to balance the risk of harm that may be rendered by the disclosure of sensitive information with the need for a “fully open” court record. Evidently the basis of the decision is that until all 77 counties are online and able to provide access to the information, none of them should be able to provide it. I disagree with this rationale and would have *at the very least* asked that this issue be addressed *in cooperation with* the Bar Association and with an opportunity for public comment. This public information which was previously available to the bench, bar, and litigants has been

removed from viewing without any consideration for, or consultation with, lawyers and judges who use the information on a daily basis to do their jobs more efficiently or from public litigants attempting to seek legal redress.

¶3 As a member of the National Center for State Courts, we have sought its advice in updating our computer system. However, we have ignored its October 2005 "Public Access to Court Records: Implementing the CCJ/COSCA Guidelines Final Project Report," in which it makes the following recommendation for creating a court records access policy:

What have we learned about what is happening in the states? The main theme is committee composition and the need for open processes. The Guidelines recommended that the committees convened to do this work be multidisciplinary large committees to bring all the debate to the table before the rules are drafted. The state experiences suggest that each state has its own culture for development, release, refinement of the rules about access to court records and protecting personal information in those records.¹

¶4 In this computerized, internet age, courts, with the help and the direction of legislatures, are taking fiscal responsibility by reducing paperwork, reducing copying costs, moving towards electronic filing and electronic transfer of records, and providing the public greater and easier access to information to which it is entitled. Court records are migrating from paper form to electronic form where information may be disseminated in bulk, accessed over the internet, or both. In a step towards this responsibility, the Court recently increased court costs by \$15.00 to provide for improved computerization of all 77 county clerk dockets. However, as a result of the Court's order, not only is the Court taking a giant, thirty year leap backwards to a time when the personal computer was nonexistent, the public is now paying for access to a system which is made inaccessible by the order.

¶5 Until the proper study can be made, the rule should be changed to include provisions which clearly establish that: 1) the burden is on the filer to remove restricted information; 2) court clerks and other court employees are immune from liability for unintentional and unknowing disclosures of such information; and 3) documents which are currently available online should continue to be made available with private information redacted by the court clerks when an unredacted personal identifier is brought to their attention. I would publish the proposed rules in the Bar Journal and set a hearing before the Court and ask for comment from the bench and bar. I would also invite the public's participation.

I. THE COURT'S OBLIGATION TO PROVIDE ACCESS TO COURT RECORDS AND THE OPEN RECORDS ACT

¶6 The Court is obligated to provide the public with access to court records. The judiciary has long recognized that case file documents, unless sealed or otherwise restricted by statute or court rule, are available at the courthouse for public inspection.² The common law right and the presumption of public access to court records relate to the public's right to monitor the functioning of our courts, thereby insuring quality, honesty, and respect for our legal system.³ The Oklahoma Open Records Act, 51 O.S. 2001 §§24A.1-24A.29 provides for the public's right to access to and review of government records. Section 24A.2 provides in pertinent part:

...The privacy interests of individuals are adequately protected in the specific exceptions to the Oklahoma Open Records Act or in the statutes which authorize, create or require records. Except where specific state or federal statutes create a confidential privilege, persons who submit information to public bodies have no right to keep this information from public access nor reasonable expectation that this information will be kept from public access; provided, the person, agency or political subdivision shall at all times bear the burden of establishing such records are protected by such a confidential privilege. Except as required by other statutes, public bodies do not need to follow any procedures for providing access to public records except those specifically required by the Oklahoma Open Records Act.

Consequently, court documents are required to be open for inspection, copying and reproduction.⁴ Exceptions are made for documents which have been removed from public record by court orders.⁵

¶7 The Attorney General has interpreted the fee provisions of the act to apply to the furnishing of electronic copies of instruments kept by a clerk in a computer-readable format.⁶ With the exception of certain financial records, the Act does not impose any additional record keeping requirements.⁷

¶8 Providing court documents online is neither mandated nor prohibited by the Act, but it is a cost efficient extension of the service of making the public records more readily available to the public. The Act has not been brought up to date to reflect the emerging concern about privacy issues, especially when court filings include social security numbers, personal identifying numbers, medical records, employment history, account numbers, credit information, places of residence, information regarding victims of criminal activities, etc. This information should be shielded from public scrutiny.

II.

Sister States' Approaches to Redaction

¶9 Currently there are no applicable Oklahoma statutes, court rules, or court orders in place to address the publication and distribution of electronic state court records in Oklahoma. Establishing such statutes or rules should be a collaborative effort of the bench, bar, court clerks, the Legislature and the public.

¶10 Oklahoma's state courts have been consistently ahead of the pack in adapting to the digital age. In the Law Library Journal, Peter Martin called the Oklahoma Supreme Court Network, ". . . without dispute the most comprehensive court-based legal information site in the United States."⁸ In the Journal of Appellate Practice and Process, Lynn Foster wrote that the Oklahoma Supreme Court Network, ". . . represent[s] the cutting edge in technological advances for governments and universities with regard to the dissemination of appellate decisions."⁹ Oklahoma's state courts website offers access not only to statutes, rules, opinions, and orders, not only to summaries of filings and other docket events for individual cases in our appellate courts and courts of general jurisdiction, but also to digital copies of pleadings at the trial level in certain counties.

¶11 All federal courts and several state courts have redaction policies that place the burden for redaction on the filing party or attorney. Rule 1.20(b)(3), California Rules of Court provides:

The responsibility for excluding or redacting identifiers identified in (b)(2) from all documents filed with the court rests solely with the parties and their attorneys. The court clerk will not review each pleading or other paper for compliance with this provision.

Iowa, North Dakota, Ohio, Washington, and Wyoming have substantially similar provisions.¹⁰ Federal courts are subject to Fed. R. Civ. P. 5.2 and the Federal Judiciary Privacy Policy that each place the responsibility for redaction on the filer.¹¹

¶12 The requirement to redact personal identifiers from court filings does not place a heavy burden on filers. Physical documents can be easily redacted in any number of ways, and digital documents can be redacted by reliable software that is used daily by litigants and attorneys in federal court.¹² A redaction policy coupled with immunity for the court clerks and the judiciary is the most efficient way to strike the balance between an individual's right to privacy and the public's right to access to appropriate case information.

¶13 With the invention of each new method of conveying information, it becomes more difficult for the courts to seal and protect information without the individual cooperation of litigants and members of the Bar. Whether it is a development we welcome, the simple fact is that the tide of new media may not be ignored or dodged. Instead, we should make policy that contemplates this new reality. Given the public's increasing expectation of governmental transparency¹³ and its acclimation to the variety of new media, a strong philosophical distinction between documents available to the public at the courthouse and documents available to the public online becomes harder and harder to maintain. A blanket ban on posting copies of pleadings online, without consultation with the bench, the Bar, or the Legislature is a step too far, especially when in all likelihood we will lift this ban in the near future when we begin operating under a new case management system. If it is intellectually acceptable to post these documents for all counties, how can it be unacceptable to post them for some counties? The ban will not protect the court any further than the new redaction policy and its existing immunity. In fact, this temporary ban will do little more than have the undesirable effect of limiting the public's access to public information to which it has become accustomed --- and creating a stir.

¶14 If the Court insists on removing these documents from online public access, for the sake of administrative efficiency, the Court could require court clerks to email digital copies of these documents to members of the Bar who request them, and charge a fee.¹⁴

CONCLUSION

¶15 It makes more sense to test our new redaction rules and their effectiveness by continuing to allow a few counties to make documents available online and work out any kinks now rather than to wait until all counties are online and then test the new rules on such a grand scale. Oklahoma was ahead of the game when it came to providing information online; we should remain a pioneer in this regard by requiring redaction and continuing to provide information online. Obviously, case management is being done on a state by state basis. If there were an existing system, every state would be utilizing it. Other states followed Oklahoma's lead by developing websites and going online. Why would we suddenly want to move to the end of the line to wait and follow other states? This is an egregious example of throwing the baby out with the bath water.

FOOTNOTES

¹ Alan Carlson & Martha Wade Steketee, *Public Access to Court Records: Implementing the CCJ/COSCA Guidelines Final Project Report* viii (National Center for State Courts 2005).

² Report on Public Access to Court Case Records in Texas, A Report with Recommendations from the Texas Judicial Council (August 2004).

³ See, *In re. Continental Illinois Securities Litigation*, 732 F.2d 1303, 1308 (7th Cir. 1984).

⁴ Title 51 O.S. Supp. 2005 §24A.3(1) provides:

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property. "Record" does not mean:

- a. computer software,
- b. nongovernment personal effects,
- c. unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Transportation Authority obtained in connection with the Authority's electronic toll collection system,
- d. personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body,
- e. any digital audio/video recordings of the toll collection and safeguarding activities of the Oklahoma Transportation Authority,
- f. any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department or the Board of Trustees of the Quartz Mountain Arts and Conference Center and Nature Park to obtain any service at the facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department or the Quartz Mountain Arts and Conference Center and Nature Park,
- g. a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before the effective date of this act, or
- h. except as provided for in Section 2-110 of Title 47 of the Oklahoma Statutes,
 - (1) any record in connection with a Motor Vehicle Report issued by the Department of Public Safety, as prescribed in Section 6-117 of Title 47 of the Oklahoma Statutes,
 - (2) personal information within driver records, as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, which are stored and maintained by the Department of Public Safety, or
 - (3) audio or video recordings of the Department of Public Safety;

Title 51 O.S. Supp. 2006 §24A.5(1) provides in pertinent part:

OSCN Found Document: IN RE: PRIVACY AND PUBLIC ACCESS TO COURT DOC... Page 7 of 7

All records of public bodies and public officials shall be open to any person for inspection, copying, or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.28 of this title, does not apply to records specifically required by law to be kept confidential including:
 - a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges,
 - b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes,
 - c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725

⁵ Title 51 O.S. Supp. 2001 §24A.25 provides:

Any order of the court for removal of materials from the public record shall require compliance with the provisions of paragraphs 2 through 7 of subsection C of Section 3226 of Title 12 of the Oklahoma Statutes.

Title 12 O.S. 2001 §3226(C)(2-7) provides:

2. If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of paragraph 4 of subsection A of Section 3237 of this title apply to the award of expenses incurred in relation to the motion. Any protective order of the court which has the effect of removing any material obtained by discovery from the public record shall contain the following:
 - a. a statement that the court has determined it is necessary in the interests of justice to remove the material from the public record,
 - b. specific identification of the material which is to be removed or withdrawn from the public record, or which is to be filed but not placed in the public record, and
 - c. a requirement that any party obtaining a protective order place the protected material in a sealed manila envelope clearly marked with the caption and case number and is clearly marked with the word "CONFIDENTIAL", and stating the date the order was entered and the name of the judge entering the order;
3. No protective order entered after the filing and microfilming of documents of any kind shall be construed to require the microfilm record of such filing to be amended in any fashion;
4. The party or counsel which has received the protective order shall be responsible for promptly presenting the order to appropriate court clerk personnel for appropriate action;
5. All documents produced or testimony given under a protective order shall be retained in the office of counsel until required by the court to be filed in the case;
6. Counsel for the respective parties shall be responsible for informing witnesses, as necessary, of the contents of the protective order; and
7. When a case is filed in which a party intends to seek a protective order removing material from the public record, the plaintiff(s) and defendant(s) shall be initially designated on the petition under pseudonym such as "John or Jane Doe", or "Roe", and the petition shall clearly indicate that the party designations are fictitious. The party seeking confidentiality or other order removing the case, in whole or in part, from the public record, shall immediately present application to the court, seeking instructions for the conduct of the case, including confidentiality of the records.

⁶ Op. Atty. Gen. No. 05-21 (June 29, 2005), 2005 WL 1605978.

⁷ Title 51 O.S. Supp. 2005 §24A.18 provides:

Except as may be required in Section 24A.4 of this title, this act does not impose any additional record keeping requirements on public bodies or public officials.

Title 51 O.S. 2001 §24A.4 provides:

In addition to other records which are kept or maintained, every public body and public official has a specific duty

to keep and maintain complete records of the receipt and expenditure of any public funds reflecting all financial and business transactions relating thereto, except that such records may be disposed of as provided by law.

⁸ Peter W. Martin, *Neutral Citation, Court Websites, and Access to Authoritative Case Law*, 99 Law Libr. J. 329, 338 (2007).

⁹ Lynn Foster & Bruce Kennedy, *Technological Developments in Legal Research*, 2 J. App. Prac. & Process 275, 299 fn 91 (2000).

¹⁰ Rule 1.422, Iowa Rules of Civil Procedure (2008); Rule 3.1(j)(4), North Dakota Rules of Court (2008); Rule 8, §6, Rules of Practice of the Supreme Court of Ohio (2008); Rule 31(e)(2), Washington State Court General Rules (2008); Wyoming Supreme Court Electronic Filing Administrative Policies and Procedures Manual <http://www.courts.state.wy.us/EfilingManuals/PnPManual20080102.pdf>.

¹¹ Federal Rule of Civil Procedure 5.2 provides in pertinent part:

(a) Redacted Filings. Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, or a financial-account number, a party or nonparty making the filing may include only:

- (1) the last four digits of the social-security number and taxpayer-identification number;
- (2) the year of the individual's birth;
- (3) the minor's initials; and
- (4) the last four digits of the financial-account number

(h) Waiver of Protection of Identifiers. A person waives the protection of Rule 5.2(a) as to the person's own information by filing it without redaction and not under seal.

Judiciary Privacy Policy, <http://www.privacy.uscourts.gov/Policy.htm>. See generally, *In re. Electronic Submission of Selected Documents*, 411 F.3d 1159, 1161 (10th Cir. 2005); Rule 79-5.4, Local Rules, United States District Court for the Central District of California (2008).

¹² The Oklahoma Bar Association's Management Assistance Program Director suggests the redaction tool in Adobe Acrobat 8 Professional as an option for lawyers. <http://www.adobe.com/products/acrobat/solutions/legal/productinfo/features/index.html>

¹³ For example, see the availability of all state employee salaries provided by the Office of State Finance at <http://www.ok.gov/okaa/>, mandated by 62 O.S. Supp. 2007 §46(C), which provides:

No later than January 1, 2008, the Office of State Finance shall develop and operate a single website accessible by the public. The website shall include aggregate information on state revenue, expenditures and incentive payments and information on state tax preferences as contained in the tax expenditure report published by the Oklahoma Tax Commission pursuant to subsection E of Section 205 of Title 68 of the Oklahoma Statutes. No later than January 1, 2009, the website shall include search capabilities.

¹⁴ Hawaii's state courts once charged \$10 per document for a similar service. www.courts.state.hi.us South Dakota's state court clerks take online orders for court documents, but send them by regular mail for \$15 per request. http://www.sdjudicial.com/index.asp?title=criminalrecords&category=public_info&nav=95

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Cite Name Level

Title 12. Civil Procedure

Cite	Name	Level
<u>12 O.S. 3226.</u>	<u>General Provisions Governing Discovery</u>	Cited

Title 51. Officers

Cite	Name	Level
<u>51 O.S. 24A.2.</u>	<u>Removal of Materials from the Public Record</u>	Cited
<u>51 O.S. 24A.3.</u>	<u>Definitions</u>	Cited
<u>51 O.S. 24A.1.</u>	<u>Short Title</u>	Cited
<u>51 O.S. 24A.4.</u>	<u>Duty to Keep and Maintain Complete Records of Receipt and Expenditure of Funds</u>	Cited
<u>51 O.S. 24A.5.</u>	<u>Open and Confidential Records</u>	Cited
<u>51 O.S. 24A.1.</u>	<u>Additional Recordkeeping Requirements on Public Bodies or Public Officials not Imposed</u>	Cited

Title 62. Public Finance

Cite	Name	Level
<u>62 O.S. 46.</u>	<u>Short Title - Definitions - Single Public Website Providing State Revenue, Expenditures, and Other Information</u>	Cited



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[Previous Case](#) | [Top Of Index](#) | [This Point in Index](#) | [Citationize](#) | [Next Case](#) | [Print Only](#)

Oklahoma Supreme Court Cases

IN RE: PRIVACY AND PUBLIC ACCESS TO COURT DOCUMENTS [WITHDRAWN]

2008 OK 23
 Case Number: SCAD-2008-23
 Decided: 03/11/2008
 Withdrawn: March 25, 2008
 THE SUPREME COURT OF THE STATE OF OKLAHOMA

Cite as: 2008 OK 23, ___ P.3d ___

FOR PUBLICATION IN OBJ ONLY. NOT RELEASED FOR OFFICIAL PUBLICATION.

In Re: Privacy And Public Access To Court Documents

The above numbered and styled order and the rules set out therein, handed down March 11, 2008 are hereby withdrawn to give the issue further study and consideration.

DONE BY THE SUPREME COURT IN CONFERENCE THIS 24TH DAY OF MARCH, 2008.

/S/CHIEF JUSTICE

CONCUR: WINCHESTER, C.J., OPALA, KAUGER, TAYLOR, COLBERT, JJ.

DISSENT: EDMONDSON, V.C.J., HARGRAVE, WATT, REIF, JJ.

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Cite Name	Level	Name	Level
Title 12. Civil Procedure			
Cite		Name	Cited
12 O.S. 3226		General Provisions Governing Discovery	
Title 51. Officers			
Cite		Name	Level
51 O.S. 24A.2		Removal of Materials from the Public Record	Cited
51 O.S. 24A.3		Definitions	Cited
51 O.S. 24A.1		Short Title	Cited
51 O.S. 24A.4		Duty to Keep and Maintain Complete Records of Receipt and Expenditure of Funds	Cited
51 O.S. 24A.5		Open and Confidential Records	Cited
51 O.S. 24A.1		Additional Recordkeeping Requirements on Public Bodies or Public Officials not Imposed	Cited
Title 62. Public Finance			
Cite		Name	Level
62 O.S. 46		Short Title - Definitions - Single Public Website Providing State Revenue, Expenditures, and Other Information	Cited

For Immediate Release
March 25, 2008

The Supreme Court of Oklahoma is very aware of privacy and the identity theft concerns of individuals related to the personal data that may appear on the Court's web site. We are cognizant that many businesses and individuals rely on the information court clerks have placed on our website. Personal privacy balanced with reliable public information is critical for every free society.

Due to the very important issues for all concerned, the Supreme Court is hereby withdrawing its Privacy and Public Access order, SCAD 2008-23 handed down March 11, 2008, to give the issue further study and consideration.

Court to limit use of personal data in cases

by: OMER GILLHAM World Staff Writer
3/12/2008 12:00 AM

The Oklahoma Supreme Court on Tuesday placed limits on the amount of personal information that can be included in court filings and pleadings.

The state's high court adopted new rules that limit the full use of Social Security numbers, home addresses, birth dates and other personal information.

Such information would be redacted or partially redacted from documents filed in the district courts, said Chief Justice James R. Winchester.

For example, if a Social Security number is included in a court filing, only the last four digits will be left visible. Home addresses will have only the city and state instead of the full address.

The new rules are mandatory. However, in some cases, the rules would be overridden if a state statute requires that unredacted personal information be included in a court filing, Winchester said.

The state's Supreme Court created the new rules to protect citizens' privacy and because of increasing awareness of identity theft, he said.

"I can't tell you that there was any single case that called for this action, but we just became more in tune for the potential for identity theft, so we made this ruling after thoughtful deliberation," Winchester said.

The new rules on redaction become effective June 10.

Winchester said the responsibility to uphold the new rules will be placed on the lawyer or person filing a court case in district court. That means documents must be partially redacted before being submitted to the court clerk.

Winchester said essential personal information that has been redacted will be included in a cover letter and given to the court clerk but will not be available for public viewing.

Additionally, the new rules prohibit the posting of pleadings online, Winchester said.

"Only a few counties do this now, so I would not characterize this as a sweeping change for (online) pleadings," he said.

The online rule takes effect immediately.

In addition to the new mandatory rules of redaction, the rules allow a court filer the option of redacting additional personal information. With a judge's permission, the information could include a driver's license number, medical records, employment history, proprietary or trade secrets and individual financial information.

Those concurring with Winchester's ruling are Justices Tom Colbert, Rudolph Hargrave and John F. Reif. Justice Steven Taylor dissented.

Those dissenting in part are Justice Yvonne Kauger and Vice Chief Justice James Edmondson.

Kauger wrote: "What I disagree with is the instantaneous restrictions of public access to current public court documents online. The court made this decision with input only from the court clerks. Others directly affected by the decision -- the bar, the bench, the legislature and the public -- were not consulted."

Tulsa County District Attorney Tim Harris' office said it would need time to review the rules to see how they will affect criminal filings.


Currently, state law requires the district attorney to include witnesses' addresses in criminal court filings, said Steve Kunzweiler, assistant district attorney.

"We're concerned like everyone with identity theft, and we take all precautions to safeguard and to not publish information that would put someone's personal information at risk," Kunzweiler said.

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 Return to Story

Rules for closing records will be 'refined,' state Supreme Court chief justice says

by: Barbara Hoberock, World Capitol Bureau
3/14/2008 12:00 AM

OKLAHOMA CITY -- Oklahoma Supreme Court Chief Justice James Winchester on Friday said recently issued rules closing online records and redacting personal information from paper files will be "refined."

Earlier this week, the state's high court issued rules closing court records that were previously open.

The Oklahoma Supreme Court oversees a system connecting 13 district courts online. It is may be accessed by going to www.oscn.net.

Tulsa and Oklahoma counties are among those counties that make court filings available to the public online.

In the next 90 days, the state's high court will look at the particulars of how its new rules will work, Winchester said.

Winchester said the court needs to balance privacy with the public's desire for information.

The rules require litigants to redact personal information -- such as birth dates, social security numbers and home addresses -- and file them under a separate cover sheet if need be. That information would no longer be available to the public in paper documents or online, making it impossible for the public to confirm identities of those accused of crimes in some cases.

The new rules take many filings, such as legal briefs and supporting documents, offline. Under the new rules, only the docket sheet, or list of events in a case, will be available.

Under the new rules, to get the specifics of a case, a person must drive to the courthouse and review the physical paper copy.

The new rules take effect June 10.


Mark Thomas, Oklahoma Press Association executive vice president, said there needs to be balance.

"If you have to resort to using the public courts, paid for by taxpayers, expect most of the information to be public," Thomas said.

Thomas said many people have come to rely on the online court records for employment purposes and to check on businesses they plan to contract with.

"They are just starting to find out that those records no longer are available and they are starting to scream," Thomas said.

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 Return to Story

Records rules to be honed

by: BARBARA HOBEROCK World Capitol Bureau
3/15/2008 12:00 AM

Sunday is the beginning of Sunshine Week, which focuses on the importance of open public records. For more information click [here](#).

Justice says restrictions on court records will be refined.

OKLAHOMA CITY – Do you want to know if the nanny you are considering is a convicted drunken driver?

Or, if the contractor you want to fix the roof has been successfully sued for breach of contract?

It just got harder to find out the details.

Earlier this week, the state Supreme Court issued rules closing several online records that were previously open. The rules also require personal information to be redacted from paper files.

The state's high court oversees a system putting records from 13 district courts and the appellate courts online. The type of information available online varies from county to county.

The court Web site can be accessed at www.tulsaworld.com/oscn.

Tulsa and Oklahoma counties are among the counties that make court filings available online to the public.

Some information allows the public to review divorce information, look up probate documents and learn the details of home foreclosures.

It also provides information on contract disputes, license revocations, state agency lawsuits and child support.

Oklahoma Supreme Court Chief Justice James Winchester said Friday that the rules closing online records and redacting personal information from files will be "refined."

In the next 90 days, the state's high court will look at the particulars of how its new rules will work, he said.

The new rules take effect June 10.

Winchester said the court needs to balance privacy with the public's desire for information.

"Although the Supreme Court has offered web-based access to dockets for a number of years, there has never been a uniform, statewide policy to guide the court clerks in handling sensitive information," Winchester said in a recent letter to a lawmaker explaining the reasoning behind the decision. "As a result, a few counties took the step of scanning and posting every document filed in each case to the court's Web site. In some instances, these documents include personal identifiers such as Social Security numbers, bank account numbers and other private information."

The rules require litigants to redact personal information, such as birth dates, social security numbers and home addresses, and file them under a separate cover sheet if need be.

The new rules take many filings, such as legal briefs and supporting documents, offline. Under the new rules, only the docket sheet, or list of events in a case, will be available online.

To learn the specifics of a case, a person will have to drive to the courthouse and review the paper files.

"It is sort of like being allowed to read the table of contents but not allowed to buy the book unless you get in your car and go to the store and buy it," said Mark Thomas, Oklahoma Press Association executive vice president. "People have come to expect the convenience of accessing those records online. To just suddenly remove those electronic records is something the public is going to be very upset about."

Thomas said that if you want all your information to be private, settle your affairs in private.

"If you have to resort to using the public courts, paid for by taxpayers, expect most of the information to be public," he said.

Thomas said many people have come to rely on the online court records to check on prospective employees and businesses they might contract with.

"They are just starting to find out that those records no longer are available and they are starting to scream," Thomas said.

Mike Evans, administrative director of the courts, said he has received calls, including some from the media and court clerks, wondering why personal information is available on the Internet, supplied by the courts, especially during a time when identity theft is a concern.

"Also, we have had a lot of members of the public who saw their own information available on the Internet and contacted our office and clerks criticizing the fact that the information is publicly displayed," Evans said.

He said eventually the court may choose to have a restrictive system allowing access.

"We hope in the future to go to a restrictive-access system that allows someone to receive this information once the files are cleaned up," Evans said. "They are going to be cleaned up when lawyers and litigants begin not putting this information in court files at all. The Supreme Court is trying to put together a uniform court management system to allow us to make some of this information available in the future if the court chose to do it."

Evans said that while there is a statutory basis for having the files at a courthouse, there is not a legal basis for having Internet services to display the records.

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Open government awards Monday

FOI Oklahoma Inc. on Monday will present three awards dealing with open government:

- The Ben Blackstock Award goes to the nongovernmental person or organization that has done the most to better the free flow of information in the state.
- The Sunshine Award goes to a public official or governmental body that has done the most to bring openness to government.
- The Black Hole Award goes to the government agency that has done the most to impede the free flow of information.

The awards will be presented at 1 p.m. Monday in the Blue Room on the second floor of the state Capitol.

To find out more about open records, go to www.tulsaworld.com/foioklahoma

Associate Images:



Oklahomans asked for input on access rules

by: ANGEL RIGGS World Capitol Bureau
3/18/2008 12:00 AM

OKLAHOMA CITY -- The Oklahoma Supreme Court wants Oklahoma residents' input on its recently adopted rules restricting access to online records and legal documents.

Mike Evans, administrative director of the courts, said that in coming months the court will evaluate the scope of the rules' effect and decide if changes should be made.

"The chief justice has asked me to be the primary contact person for the public if they want to comment on the rules, on how they might affect their lives or their businesses," he said.

Last week the court issued rules requiring litigants to redact personal identifying information, such as birth dates, Social Security numbers and home addresses in the physical paper copy.

The rules, which take effect June 10, also take offline many records currently available via the Internet.

Supporters say the move protects personal information, especially from identity theft. Critics, though, say the rules are too restrictive and make it more difficult to obtain public documents.

Evans said he has received 40 to 50 e-mails from Oklahomans on both sides of the issue.

"The court is trying to balance the public's absolute right to know this information with the privacy right they have, too," Evans said.

"And if we've not done that in a way that's proper, then I'm sure the court would like to hear what we can do to make it better."

He said that between now and June 10, the court will look for a "rational basis for putting at least some or all of this information online," he said.

To comment on the rules, e-mail michael.evans@oscn.net.

Also Monday, the Oklahoma County Clerk's Office announced in a news release that it will provide an "unofficial duplicate copy" of public records online and allow the public to access the clerk's Web site.

Instead of Social Security numbers, there will be a blackened box covering the numbers. The public can still request copies of official records, or come to courthouse to view and receive copies, according to the release.

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Court rescinds rule on records

by: BARBARA HOBEROCK World Capitol Bureau
3/26/2008 12:00 AM

The state's Supreme Court will seek additional public input.

OKLAHOMA CITY – The Oklahoma Supreme Court on Tuesday rescinded a controversial rule closing many online court records and redacting information from court files.

In a statement issued Tuesday, the court said it was aware of the privacy and identity theft concerns regarding personal data that may appear on the court's Web site, www.oscn.net.

"We are cognizant that many businesses and individuals rely on the information court clerks have placed on our Web site," the statement said. "Personal privacy balanced with reliable public information is critical for every free society."

The statement said the court is withdrawing its March 11 rule to give the issues further study and consideration. The rule was to take effect June 10.

The vote to rescind the order was 5-4.

The original order would have removed documents from the Internet, but left the docket sheet, or history of the case, online.

To get the supporting documents, a user would have to drive to the courthouse to obtain a paper copy.

The original order also removed Social Security numbers, dates of birth, financial account numbers, home addresses and other information from filings and had them placed under seal.

Critics said the new rules were drafted without significant public input and went too far.

They also pointed out that information to be redacted was available in other public records.

"We are pleased they have withdrawn the original rule," said Mark Thomas, executive vice president of the Oklahoma Press Association. "We would gladly serve on any task force to discuss the issue further."

"The original rule was too broad and thousands of Oklahomans and Oklahoma companies now realize the importance of those public court documents," Thomas said. "We do believe, however, that the public is concerned about Social Security numbers possibly being out there and that should be addressed quickly."

Nancy Lynn Roberts, owner and chief operations officer for Trak-1 Technology, a national, Web-based screening firm based in Tulsa, said she was thrilled with the decision to rescind the rules.

She said the decision means businesses can continue to obtain access to information

they need to make good hiring and consumer credit decisions.

"The other side of it for me is that individual citizens who are trying to apply for jobs or housing can now be assured that there will not be problems of misidentification as a result of redaction of identifying information in records," Roberts said.

Joey Senat, past president of FOI Oklahoma and an Oklahoma State University journalism professor, agrees with the decision to rescind the original rules.

The group recently awarded the court its "Black Hole Award" for issuing the rules.

"My guess is they just didn't consider how many people relied both on the Internet access and on some of the information that would have been redacted," Senat said.

He said the decision was good for taxpayers.

"It is good to see public officials listen to the people," Senat said.

Senate Co-President Pro Tem Glenn Coffee, R-Oklahoma City, also said the decision was good for the people of the state.

"The court should be commended for its decision to maintain the convenient and open access to records to which the public is accustomed," Coffee said.

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How they voted

Concurring in Tuesday's Supreme Court vote to withdraw an order restricting public access to court records were Chief Justice James R. Winchester and Justices Marian Opala, Yvonne Kauger, Steven W. Taylor and Tom Colbert. Dissenting were Justices James E. Edmondson, Rudolph Hargrave, Joseph M. Watt and John F. Reif.

The vote was 5-3 on the original order earlier this month closing the court information. Taylor dissented, while Kauger and Edmondson dissented in part. Opala did not vote on the original order.

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 Return to Story