

# **EXHIBIT 31**

West's General Laws of Rhode Island Annotated  
Title 38. Public Records  
Chapter 2. Access to Public Records (Refs & Annos)

Gen.Laws 1956, § 38-2-2

§ 38-2-2. Definitions

Currentness

As used in this chapter:

(1) "Agency" or "public body" means any executive, legislative, judicial, regulatory, or administrative body of the state, or any political subdivision thereof; including, but not limited to, any department, division, agency, commission, board, office, bureau, authority, any school, fire, or water district, or other agency of Rhode Island state or local government which exercises governmental functions, any authority as defined in § 42-35-1(b), or any other public or private agency, person, partnership, corporation, or business entity acting on behalf of and/or in place of any public agency.

(2) "Chief administrative officer" means the highest authority of the public body.

(3) "Public business" means any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(4) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, computer stored data (including electronic mail messages, except specifically for any electronic mail messages of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities) or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. For the purposes of this chapter, the following records shall not be deemed public:

(A)(I)(a) All records relating to a client/attorney relationship and to a doctor/patient relationship, including all medical information relating to an individual in any files.

(b) Personnel and other personal individually-identifiable records otherwise deemed confidential by federal or state law or regulation, or the disclosure of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 et. seq.; provided, however, with respect to employees, and employees of contractors and subcontractors working on public works projects which are required to be listed as certified payrolls, the name, gross salary, salary range, total cost of paid fringe benefits, gross amount received in overtime, and any other remuneration in addition to salary, job title, job description, dates of employment and positions held with the state, municipality, employment contract, or public works contractor or subcontractor on public works projects work location, and/or project, business telephone number, the city or town of residence, and date of termination shall be public. For the purposes of this section "remuneration" shall include any payments received by an employee as a result of termination, or otherwise leaving employment, including, but not limited to, payments for accrued sick and/or vacation time, severance pay, or compensation paid pursuant to a contract buy-out provision.

(II) Notwithstanding the provisions of this section, or any other provision of the general laws to the contrary, the pension records of all persons who are either current or retired members of any public retirement systems as well as all persons who become members of those retirement systems after June 17, 1991 shall be open for public inspection. "Pension records" as used in this section shall include all records containing information concerning pension and retirement benefits of current and retired members of the retirement systems and future members of said systems, including all records concerning retirement credits purchased and the ability of any member of the retirement system to purchase retirement credits, but excluding all information regarding the medical condition of any person and all information identifying the member's designated beneficiary or beneficiaries unless and until the member's designated beneficiary or beneficiaries have received or are receiving pension and/or retirement benefits through the retirement system.

(B) Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

(C) Child custody and adoption records, records of illegitimate births, and records of juvenile proceedings before the family court.

(D) All records maintained by law enforcement agencies for criminal law enforcement and all records relating to the detection and investigation of crime, including those maintained on any individual or compiled in the course of a criminal investigation by any law enforcement agency. Provided, however, such records shall not be deemed public only to the extent that the disclosure of the records or information (a) could reasonably be expected to interfere with investigations of criminal activity or with enforcement proceedings, (b) would deprive a person of a right to a fair trial or an impartial adjudication, (c) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (d) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, or the information furnished by a confidential source, (e) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions or (f) could reasonably be expected to endanger the life or physical safety of any individual. Records relating to management and direction of a law enforcement agency and records or reports reflecting the initial arrest of an adult and the charge or charges brought against an adult shall be public.

(E) Any records which would not be available by law or rule of court to an opposing party in litigation.

(F) Scientific and technological secrets and the security plans of military and law enforcement agencies, the disclosure of which would endanger the public welfare and security.

(G) Any records which disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to the contribution by the contributor.

(H) Reports and statements of strategy or negotiation involving labor negotiations or collective bargaining.

(I) Reports and statements of strategy or negotiation with respect to the investment or borrowing of public funds, until such time as those transactions are entered into.

(J) Any minutes of a meeting of a public body which are not required to be disclosed pursuant to chapter 46 of title 42.

(K) Preliminary drafts, notes, impressions, memoranda, working papers, and work products; provided, however, any documents submitted at a public meeting of a public body shall be deemed public.

(L) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment or promotion, or academic examinations; provided, however, that a person shall have the right to review the results of his or her examination.

(M) Correspondence of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities.

(N) The contents of real estate appraisals, engineering, or feasibility estimates and evaluations made for or by an agency relative to the acquisition of property or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all proceedings or transactions have been terminated or abandoned; provided the law of eminent domain shall not be affected by this provision.

(O) All tax returns.

(P) All investigatory records of public bodies, with the exception of law enforcement agencies, pertaining to possible violations of statute, rule, or regulation other than records of final actions taken provided that all records prior to formal notification of violations or noncompliance shall not be deemed to be public.

(Q) Records of individual test scores on professional certification and licensing examinations; provided, however, that a person shall have the right to review the results of his or her examination.

(R) Requests for advisory opinions until such time as the public body issues its opinion.

(S) Records, reports, opinions, information, and statements required to be kept confidential by federal law or regulation or state law, or rule of court.

(T) Judicial bodies are included in the definition only in respect to their administrative function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt from the operation of this chapter.

(U) Library records which by themselves or when examined with other public records, would reveal the identity of the library user requesting, checking out, or using any library materials.

(V) Printouts from TELE--TEXT devices used by people who are deaf or hard of hearing or speech impaired.

(W) All records received by the insurance division of the department of business regulation from other states, either directly or through the National Association of Insurance Commissioners, if those records are accorded confidential treatment in that state. Nothing contained in this title or any other provision of law shall prevent or be construed as prohibiting the commissioner of insurance from disclosing otherwise confidential information to the insurance department of this or any other state or country, at any time, so long as the agency or office receiving the records agrees in writing to hold it confidential in a manner consistent with the laws of this state.

(X) Credit card account numbers in the possession of state or local government are confidential and shall not be deemed public records.

(Y) Any documentary material, answers to written interrogatories, or oral testimony provided under any subpoena issued under Rhode Island general law § 9-1.1-6.

(Z) Any individually identifiable evaluations of public school teachers made pursuant to state or federal law or regulation.

(AA) All documents prepared by school districts intended to be used by school districts in protecting the safety of their students from potential and actual threats.

**Credits**

P.L. 1979, ch. 202, § 1; P.L. 1980, ch. 269, § 1; P.L. 1981, ch. 353, § 5; P.L. 1982, ch. 416, § 1; P.L. 1984, ch. 372, § 2; P.L. 1986, ch. 203, § 1; P.L. 1991, ch. 208, § 1; P.L. 1991, ch. 263, § 1; P.L. 1995, ch. 112, § 1; P.L. 1998, ch. 378, § 1; P.L. 1999, ch. 83, § 85; P.L. 1999, ch. 130, § 85; P.L. 2002, ch. 65, art. 13, § 29; P.L. 2007, ch. 73, art. 18, § 3, eff. July 1, 2007; P.L. 2011, ch. 363, § 41, eff. July 13, 2011; P.L. 2012, ch. 423, § 1, eff. June 25, 2012; P.L. 2012, ch. 482, § 1, eff. June 25, 2012; P.L. 2012, ch. 448, § 1, eff. Sept. 1, 2012; P.L. 2012, ch. 454, § 1, eff. Sept. 1, 2012; P.L. 2013, ch. 153, § 1, eff. July 11, 2013; P.L. 2013, ch. 223, § 1, eff. July 11, 2013; P.L. 2013, ch. 342, § 1, eff. July 15, 2013; P.L. 2013, ch. 411, § 1, eff. July 15, 2013.

Notes of Decisions (61)

Gen. Laws, 1956, § 38-2-2, RI ST § 38-2-2

The statutes and Constitution are current through Chapter 534 of the January 2013 session

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West's General Laws of Rhode Island Annotated  
Title 38. Public Records  
Chapter 2. Access to Public Records (Refs & Annos)

Gen.Laws 1956, § 38-2-3

§ 38-2-3. Right to inspect and copy records--Duty to maintain minutes of meetings--Procedures for access

Currentness

(a) Except as provided in § 38-2-2(4), all records maintained or kept on file by any public body, whether or not those records are required by any law or by any rule or regulation, shall be public records and every person or entity shall have the right to inspect and/or copy those records at such reasonable time as may be determined by the custodian thereof.

(b) Any reasonably segregable portion of a public record excluded by subdivision 38-2-2(4) shall be available for public inspection after the deletion of the information which is the basis of the exclusion. If an entire document or record is deemed non-public, the public body shall state in writing that no portion of the document or record contains reasonable segregable information that is releasable.

(c) Each public body shall make, keep, and maintain written or recorded minutes of all meetings.

(d) Each public body shall establish written procedures regarding access to public records but shall not require written requests for public information available pursuant to R.I.G.L. § 42-35-2 or for other documents prepared for or readily available to the public.

These procedures must include, but need not be limited to, the identification of a designated public records officer or unit, how to make a public records request, and where a public record request should be made, and a copy of these procedures shall be posted on the public body's website if such a website is maintained and be made otherwise readily available to the public. The unavailability of a designated public records officer shall not be deemed good cause for failure to timely comply with a request to inspect and/or copy public records pursuant to subsection (e). A written request for public records need not be made on a form established by a public body if the request is otherwise readily identifiable as a request for public records.

(e) A public body receiving a request shall permit the inspection or copying within ten (10) business days after receiving a request. If the inspection or copying is not permitted within ten (10) business days, the public body shall forthwith explain in writing the need for additional time to comply with the request. Any such explanation must be particularized to the specific request made. In such cases the public body may have up to an additional twenty (20) business days to comply with the request if it can demonstrate that the voluminous nature of the request, the number of requests for records pending, or the difficulty in searching for and retrieving or copying the requested records, is such that additional time is necessary to avoid imposing an undue burden on the public body.

(f) If a public record is in active use or in storage and, therefore, not available at the time a person or entity requests access, the custodian shall so inform the person or entity and make an appointment for the person or entity to examine such records as expeditiously as they may be made available.

(g) Any person or entity requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. Any public body which maintains its records in a computer storage system shall provide any data properly identified in a printout or other reasonable format, as requested.

(h) Nothing in this section shall be construed as requiring a public body to reorganize, consolidate, or compile data not maintained by the public body in the form requested at the time the request to inspect the public records was made except to the extent that such records are in an electronic format and the public body would not be unduly burdened in providing such data.

(i) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer.

(j) No public records shall be withheld based on the purpose for which the records are sought, nor shall a public body require, as a condition of fulfilling a public records request, that a person or entity provide a reason for the request or provide personally identifiable information about him/herself.

(k) At the election of the person or entity requesting the public records, the public body shall provide copies of the public records electronically, by facsimile, or by mail in accordance with the requesting person or entity's choice, unless complying with that preference would be unduly burdensome due to the volume of records requested or the costs that would be incurred. The person requesting delivery shall be responsible for the actual cost of delivery, if any.

**Credits**

P.L. 1979, ch. 202, § 1; P.L. 1984, ch. 372, § 2; P.L. 1997, ch. 326, § 168; P.L. 1998, ch. 378, § 1; P.L. 2011, ch. 363, § 41, eff. July 13, 2011; P.L. 2012, ch. 448, § 1, eff. Sept. 1, 2012; P.L. 2012, ch. 454, § 1, eff. Sept. 1, 2012.

**Notes of Decisions (8)**

Gen. Laws, 1956, § 38-2-3, RI ST § 38-2-3

The statutes and Constitution are current through Chapter 534 of the January 2013 session

# **EXHIBIT 32**



South Dakota Codified Laws

Title 15. Civil Procedure

Chapter 15-15A. Unified Judicial System Court Records Rule (Refs & Annos)

SDCL § 15-15A-1

15-15A-1. Purpose of rule of access to court records

Currentness

The purpose of this rule is to provide a comprehensive policy on access to court records. The rule provides for access in a manner that:

- (1) Maximizes accessibility to court records,
- (2) Supports the role of the judiciary,
- (3) Promotes governmental accountability,
- (4) Contributes to public safety,
- (5) Minimizes risk of injury to individuals,
- (6) Protects individual privacy rights and interests,
- (7) Protects proprietary business information,
- (8) Minimizes reluctance to use the court to resolve disputes,
- (9) Makes most effective use of court and clerk of court staff,
- (10) Provides excellent customer service, and
- (11) Does not unduly burden the ongoing business of the judiciary.

The rule is intended to provide guidance to 1) litigants, 2) those seeking access to court records, and 3) judges, court and clerk of court personnel responding to requests for access.

**Credits**

**Source:** SL 2004, ch 333 (Supreme Court Rule 04-06), eff. July 1, 2004; SL 2005, ch 291 (Supreme Court Rule 05-05), eff. Feb. 25, 2005.

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SDCL § 15-15A-1, SD ST § 15-15A-1

Current through the 2014 Regular Session and Supreme Court Rule 14-10

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South Dakota Codified Laws Title 15. Civil Procedure Chapter 15-15A. Unified Judicial System Court Records Rule (Refs & Annos)
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SDCL § 15-15A-2

15-15A-2. Who has access to court records under the rule

Currentness

Every member of the public has the same access to court records as provided in this rule, except as provided otherwise by statute or rule and except as provided in § 15-15A-7.

“Public” includes:

- (1) any person and any business or non-profit entity, organization or association;
- (2) any governmental agency for which there is no existing policy, statute or rule defining the agency's access to court records;
- (3) media organizations.

“Public” does not include:

- (4) court or clerk of court employees;
- (5) people or entities, private or governmental, who assist the court in providing court services;
- (6) public agencies whose access to court records is defined by another statute, rule, order, policy or database access agreement with the South Dakota Unified Judicial System;
- (7) the parties to a case or their lawyers regarding access to the court record in their case, which may be defined by statute or rule.

**Credits**

**Source:** SL 2004, ch 333 (Supreme Court Rule 04-06), eff. July 1, 2004; SL 2005, ch 291 (Supreme Court Rule 05-05), eff. Feb. 25, 2005.

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SDCL § 15-15A-2, SD ST § 15-15A-2  
Current through the 2014 Regular Session and Supreme Court Rule 14-10

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# **EXHIBIT 33**

Vernon's Texas Rules Annotated  
Texas Rules of Civil Procedure  
Part II. Rules of Practice in District and County Courts  
Section 4. Pleading  
A. General

TX Rules of Civil Procedure, Rule 76a

Rule 76a. Sealing Court Records

Currentness

**1. Standard for Sealing Court Records.** Court records may not be removed from court files except as permitted by statute or rule. No court order or opinion issued in the adjudication of a case may be sealed. Other court records, as defined in this rule, are presumed to be open to the general public and may be sealed only upon a showing of all of the following:

(a) a specific, serious and substantial interest which clearly outweighs:

(1) this presumption of openness;

(2) any probable adverse effect that sealing will have upon the general public health or safety;

(b) no less restrictive means than sealing records will adequately and effectively protect the specific interest asserted.

**2. Court Records.** For purposes of this rule, court records means:

(a) all documents of any nature filed in connection with any matter before any civil court, except:

(1) documents filed with a court in camera, solely for the purpose of obtaining a ruling on the discoverability of such documents;

(2) documents in court files to which access is otherwise restricted by law;

(3) documents filed in an action originally arising under the Family Code.

(b) settlement agreements not filed of record, excluding all reference to any monetary consideration, that seek to restrict disclosure of information concerning matters that have a probable adverse effect upon the general public health or safety, or the administration of public office, or the operation of government.

(c) discovery, not filed of record, concerning matters that have a probable adverse effect upon the general public health or safety, or the administration of public office, or the operation of government, except discovery in cases originally initiated to preserve bona fide trade secrets or other intangible property rights.

**3. Notice.** Court records may be sealed only upon a party's written motion, which shall be open to public inspection. The movant shall post a public notice at the place where notices for meetings of county governmental bodies are required to be posted, stating: that a hearing will be held in open court on a motion to seal court records in the specific case; that any person may intervene and be heard concerning the sealing of court records; the specific time and place of the hearing; the style and number of the case; a brief but specific description of both the nature of the case and the records which are sought to be sealed; and the identity of the movant. Immediately after posting such notice, the movant shall file a verified copy of the posted notice with the clerk of the court in which the case is pending and with the Clerk of the Supreme Court of Texas.

**4. Hearing.** A hearing, open to the public, on a motion to seal court records shall be held in open court as soon as practicable, but not less than fourteen days after the motion is filed and notice is posted. Any party may participate in the hearing. Non-parties may intervene as a matter of right for the limited purpose of participating in the proceedings, upon payment of the fee required for filing a plea in intervention. The court may inspect records in camera when necessary. The court may determine a motion relating to sealing or unsealing court records in accordance with the procedures prescribed by Rule 120a.

**5. Temporary Sealing Order.** A temporary sealing order may issue upon motion and notice to any parties who have answered in the case pursuant to Rules 21 and 21a upon a showing of compelling need from specific facts shown by affidavit or by verified petition that immediate and irreparable injury will result to a specific interest of the applicant before notice can be posted and a hearing held as otherwise provided herein. The temporary order shall set the time for the hearing required by paragraph 4 and shall direct that the movant immediately give the public notice required by paragraph 3. The court may modify or withdraw any temporary order upon motion by any party or intervenor, notice to the parties, and hearing conducted as soon as practicable. Issuance of a temporary order shall not reduce in any way the burden of proof of a party requesting sealing at the hearing required by paragraph 4.

**6. Order on Motion to Seal Court Records.** A motion relating to sealing or unsealing court records shall be decided by written order, open to the public, which shall state: the style and number of the case; the specific reasons for finding and concluding whether the showing required by paragraph 1, has been made; the specific portions of court records which are to be sealed; and the time period for which the sealed portions of the court records are to be sealed. The order shall not be included in any judgment or other order but shall be a separate document in the case; however, the failure to comply with this requirement shall not affect its appealability.

**7. Continuing Jurisdiction.** Any person may intervene as a matter of right at any time before or after judgment to seal or unseal court records. A court that issues a sealing order retains continuing jurisdiction to enforce, alter, or vacate that order. An order sealing or unsealing court records shall not be reconsidered on motion of any party or intervenor who had actual notice of the hearing preceding issuance of the order, without first showing changed circumstances materially affecting the order. Such circumstances need not be related to the case in which the order was issued. However, the burden of making the showing required by paragraph 1, shall always be on the party seeking to seal records.

**8. Appeal.** Any order (or portion of an order or judgment) relating to sealing or unsealing court records shall be deemed to be severed from the case and a final judgment which may be appealed by any party or intervenor who participated in the hearing

preceding issuance of such order. The appellate court may abate the appeal and order the trial court to direct that further public notice be given, or to hold further hearings, or to make additional findings.

**9. Application.** Access to documents in court files not defined as court records by this rule remains governed by existing law. This rule does not apply to any court records sealed in an action in which a final judgment has been entered before its effective date. This rule applies to cases already pending on its effective date only with regard to:

(a) all court records filed or exchanged after the effective date;

(b) any motion to alter or vacate an order restricting access to court records, issued before the effective date.

**Credits**

April 24, 1990, eff. Sept. 1, 1990.

**Editors' Notes**

**COMMENT--1990**

New rule to establish guidelines for sealing certain court records in compliance with Government Code § 22.010.

**Notes of Decisions (125)**

Vernon's Ann. Texas Rules Civ. Proc., Rule 76a, TX R RCP Rule 76a

Current with amendments received through February 1, 2014



# **EXHIBIT 34**

West's Vermont Statutes Annotated  
West's Vermont Court Rules  
Rules for Public Access to Court Records

Vermont Rules for Public Access to Court Records, § 1

§ 1. PURPOSE; CONSTRUCTION

Currentness

These rules govern access by the public to the records of all courts and administrative offices of the Judicial Branch of the State of Vermont, whether the records are kept in paper or electronic form. They provide a comprehensive policy on public access to Judicial Branch records. They shall be liberally construed in order to implement the policies therein.

**Credits**

[Added October 27, 2000, effective May 1, 2001.]

**Editors' Notes**

**REPORTER'S NOTES**

These rules on public access to court records are proposed by the Committee to Study Public Access to Court Documents and Electronic Court Information. The Vermont Supreme Court established the committee on November 3, 1998, to study the legal, public policy and practical considerations surrounding the issue of public access to court information. The Court further charged the committee with the task of developing a policy to govern public access to court documents and court electronic information and proposing changes to court rules and procedures necessary to implement that policy. The committee members broadly represent persons interested in judicial access policies and include: a Supreme Court Justice (chair), two trial court judges, a probate court judge, an assistant judge, two court managers, the Court Administrator, a state senator, a state representative, three representatives of the news media, the Director of the Center for Crime Victim Services, the Commissioner of the Department of Public Safety, the Governor's legal counsel, the state librarian, two attorneys, and a representative of the American Civil Liberties Union. The committee met frequently in 1999, and in January 2000 finalized its Report and Recommendations and this proposed rule.

Section 1 states the general purpose of these rules, which is to implement a comprehensive policy governing public access to the records of the courts and administrative offices of the Vermont judiciary. It is intended that these rules provide the public with reasonable access to all judicial branch records, whether in paper or electronic form, while protecting privacy interests. In addition, these rules are intended to provide direction to judicial personnel in order to insure uniformity in responses to requests for judicial branch records.

These rules do not govern access to court proceedings, a subject not now covered by a comprehensive rule or statute. Note, however, that a record of a proceeding—for example, a transcript—is a record governed by these rules. See §§ 3(a) and 6(b) (30), (31). If the public has access to a proceeding, it has access to a record of the proceeding, unless that record is specifically exempted from disclosure under Sections 6 or 7 of these Rules.

These rules are intended to be comprehensive, reflecting all existing statutory and procedural rule provisions on public access to court records, as well as new provisions added in these rules. Where an existing procedural rule or statute establishes the law on public access to a particular record, these rules adopt it by reference so these rules are a complete inventory of access law, whatever its source. Because some access statutes may have been missed in drafting these rules, and access statutes will

**§ 1. PURPOSE; CONSTRUCTION, VT R PUB ACC CT REC § 1**

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be adopted in the future, § 6(b)(33) adopts any other statutory access restrictions by reference, at least for case records. It is expected that these rules will be maintained by a standing Supreme Court advisory committee.

The judiciary, like the other branches of state government, is accountable to the public. Open access to its records and proceedings is essential to maintaining public trust and confidence in the operation of the court system. The Vermont judiciary, however, has not had a comprehensive policy on public access to its records. As a result, responses to requests for records have been made on an ad hoc basis and may vary from court to court.

Court files are the largest state government repositories of information about Vermont citizens. The Vermont trial courts (superior, family, and district) and the Vermont probate courts open approximately 65,000 new cases every year, and have an open caseload of 40,000 cases. In most cases, the information in court records is theoretically available to the public upon request. However, as a practical matter, court records are not readily available. This is because they are kept in paper files in 62 separate courts and the Judicial Bureau, and those not retained by the courts are archived at the Division of Public Records. Public access is further complicated by rapidly changing technologies and the fact that the volume of judicial branch records created and maintained in electronic format has increased significantly.

Rules Pub. Acc. to Ct. Rec. § 1, VT R PUB ACC CT REC § 1  
Current with amendments received through 2/15/14

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West's Vermont Statutes Annotated  
West's Vermont Court Rules  
Rules for Public Access to Court Records

Vermont Rules for Public Access to Court Records, § 2

§ 2. SCOPE

Currentness

**(a) In General.** These rules govern access to judicial branch records where the right of access is solely that of a member of the public.

**(b) Specific Right of Access.** If, based on a statute, judicial rule or other source of law, a person, or an authorized officer or member of the Executive or Legislative Branch, claims a right of access greater than that available to a member of the public, the record custodian shall act in conformity with the applicable statute, rule or other source of law. If a person, or an authorized officer or member of the Executive or Legislative Branch, claims a right of access greater than that available to the public as a whole, but not based on a specific statute or rule, that claim shall be determined by the court administrator for administrative records, the presiding judge of the court involved for case records, or by the administrative judge for trial courts for a class of judicial branch records found in multiple cases in more than one court. In making that determination, the court administrator, judge, or administrative judge for trial courts shall be guided by these rules and any other relevant rules or statutes, and shall weigh the special interest of the person or officer or member seeking the record against the interests protected by the restriction on public access. An appeal from any such determination may be made to the Supreme Court.

**Credits**

[Added October 27, 2000, effective May 1, 2001. Amended effective February 15, 2007.]

**REPORTERS NOTES—2007 AMENDMENT**

Section 2(b) is amended to fill a gap in the current rule. Requests for a greater right of access to administrative records are made to the court administrator; requests for specific access to case records are made to the presiding judge. There is no effective mechanism for claiming a right of access to a class of judicial branch records found in multiple cases in more than one court. Examples of requests include universities conducting research or law enforcement agencies requesting information for valid law enforcement purposes. Rather than requiring persons to go to multiple presiding judges and potentially receive conflicting decisions, the rule authorizes the administrative judge to make the determination, guided by this rule and other relevant authority.

**Editors' Notes**

**REPORTER'S NOTES**

Section 2(a) states the general rule that these rules govern requests for access to judicial branch records by members of the public. Except as provided in § 2(b), the remainder of these rules do not apply to a request for access from a person who claims a greater right of access than the public.

Section 2(b) governs specific rights of access. When a request is made by a person who claims a specific right of access to judicial branch records based on a statute, rule or other source of law, the record custodian is directed to comply with the relevant law. The most obvious example of such a right is that afforded a party, or a party's legal representative, by court procedural rules.

**§ 2. SCOPE, VT R PUB ACC CT REC § 2**

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If the claim is not based on a specific right granted by statute or rule, the Court Administrator will make the determination with respect to claims involving administrative records. The presiding judge will determine claims involving case records. If the claim is based on a constitutional provision, the decision-maker shall act in accordance with the constitutional requirement. In other cases the decision-maker shall be guided by this rule and other relevant authority and shall balance the interests involved.

Decisions under this section are appealable to the Supreme Court.

Rules Pub. Acc. to Ct. Rec. § 2, VT R PUB ACC CT REC § 2  
Current with amendments received through 2/15/14

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West's Vermont Statutes Annotated  
West's Vermont Court Rules  
Rules for Public Access to Court Records

Vermont Rules for Public Access to Court Records, § 3

§ 3. DEFINITIONS

Currentness

(a) "Record" means any paper, letter, map, book, other document, tape, photograph, film, audio or video recording, court reporter's notes, transcript, data compilation, or other materials, whether in physical or electronic form, made or received pursuant to law or in connection with the transaction of any official business by the court. It includes all evidence received by the court in a case. All records are either administrative records or case records.

(b) "Case record" means any judicial branch record pertaining to a particular case or controversy. Any judicial branch record that fits within both this definition and the definition of an administrative record shall be considered a case record.

(c) "Administrative record" means any judicial branch record pertaining to the administration of the Judicial Branch or any court, board or committee appointed by the Supreme Court, or any other entity within the Judicial Branch.

(d) "Physical record" means a judicial branch record that exists in physical form, irrespective of whether it also exists in electronic form.

(e) "Electronic record" means a judicial branch record that exists in electronic form, irrespective of whether it also exists in physical form.

(f) "Record custodian" means the person responsible for the safekeeping of a record. In the absence of a designation to the contrary, the custodian of any judicial branch record (i) held by a court shall be the clerk of that court; (ii) held by the office of the court administrator shall be the director of the appropriate division of that office; or (iii) held by a board or committee appointed by the Supreme Court shall be the staff person assigned to that board or committee, or, if no staff person has been assigned, the court administrator.

(g) "Judge" means a justice of the Supreme Court; a district, superior, probate, environmental or assistant judge; a family court magistrate; or a judicial bureau hearing officer.

(h) "Presiding judge" means the district, environmental, probate or superior judge assigned to the court, and, if more than one such judge is assigned to the court, the judge designated as presiding by the administrative judge for trial courts. With respect to the Supreme Court, the "presiding judge" shall be the Chief Justice or a justice appointed by the Chief Justice to act as a presiding judge. With respect to the judicial bureau, "presiding judge" means a hearing officer of the bureau, as designated by the administrative judge for trial courts. With respect to a board or committee appointed by the Supreme Court, "presiding judge" means the chair of that board or committee.

### § 3. DEFINITIONS, VT R PUB ACC CT REC § 3

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(i) "Public" or "member of the public" means any individual, group, or entity, including the print or electronic media or their representatives, who seeks access to any judicial branch record.

(j) "Judicial branch record" means a record in the possession, custody, or control of the judiciary or was in the possession of the court for purpose of a court decision.

#### Credits

[Added October 27, 2000, effective May 1, 2001.]

#### Editors' Notes

#### REPORTER'S NOTES

Section 3(a) defines "record" as any information, whether in physical or electronic form, made or received by the judicial branch, including all evidence received by the court in a case. All "records" fall into one of two categories; administrative records or case records.

Section 3(b) defines "case record" as any judicial branch record relating to a case or controversy. If a judicial branch record fits the definition of both an administrative record and a case record, it is considered a case record.

Section 3(c) defines "administrative record" as any judicial branch record relating to the administration of the judicial branch, including the administration of the courts, Court committees or other entities within the judicial branch.

Section 3(d) defines "physical record" as judicial branch records in physical form (sometimes also referred to as "hardcopy"). A physical record remains a physical record if the information is also kept in electronic form.

Section 3(e) defines "electronic record" as a judicial branch record in electronic form. An electronic record remains an electronic record if the information is also kept in physical form.

Section 3(f) defines "record custodian" as the person who is responsible for the safekeeping of a record. Unless otherwise designated, the record custodian of judicial branch records: (1) held by a court, is the clerk of court; (2) held by the Court Administrator, is the director of the appropriate division of that office; and (3) held by a Court board or committee, is the staff person assigned to that board or committee, or in the absence of a staff member, it is the Court Administrator.

Section 3(g) defines "judge" as a justice of the Supreme Court, a district, superior, probate, environmental, or assistant judge, a family court magistrate, and a judicial bureau hearing officer.

Section 3(h) defines "presiding judge" as the district, environmental, probate, or superior judge assigned to the court. If more than one judge is assigned to a court, the presiding judge is the judge designated as the presiding judge by the administrative judge. The presiding judge of the Supreme Court is the Chief

Justice or a justice appointed by the Chief Justice to act as a presiding judge. The presiding judge of the judicial bureau is a hearing officer designated by the administrative judge. The presiding judge of a Supreme Court board or committee is the chair of that board or committee.

Section 3(i) defines "public" and "member of the public" as any individual, group, or entity who seeks access to any judicial branch record. It makes clear that representatives of the news media are included within these terms. See *Nixon v. Warner*

**§ 3. DEFINITIONS, VT R PUB ACC CT REC § 3**

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*Communications, Inc.*, 435 U.S. 589, 609 (1978) (“The First Amendment generally grants the press no right to information about a trial superior to that of the general public.”).

Section 3(j) defines “judicial branch record” to include both records which are in the possession, custody or control of the judiciary at the time the request is made, and those which were in the possession of the judiciary for purposes of a court decision.

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West's Vermont Statutes Annotated  
West's Vermont Court Rules  
Rules for Public Access to Court Records

Vermont Rules for Public Access to Court Records, § 4

§ 4. GENERAL POLICY

Currentness

Except as provided in these rules, all case and administrative records of the Judicial Branch shall be open to any member of the public for inspection or to obtain copies.

**Credits**

[Added October 27, 2000, effective May 1, 2001.]

**Editors' Notes**

**REPORTER'S NOTES**

Section 4 states the primary principle contained in these rules, which is that all judicial branch records are open to the public for inspection and copying. This carries forward the policy of 4 V.S.A. § 652(4) that the clerk of the superior court shall provide to any person "copies of ... records, proceedings or minutes" in the clerk's office and 4 V.S.A. § 693 that the clerk of the district court shall provide records of the court to "parties interested" in the case involved for inspection and examination. See also 4 V.S.A. § 740 (family court). Note that for purposes of § 693, the public generally is included within the term "parties interested." *State v. Tallman*, 148 Vt. 465, 472-73, 537 A.2d 422, 427 (1987). These statutory access provisions are subject to the clerk's duty not to "disclose any materials or information required by law to be kept confidential." 4 V.S.A. §§ 652(4), 693. The exceptions created in statute, court procedural rules and these rules create the "law" that requires the clerk to keep certain records confidential.

The exceptions to this rule for administrative records are set forth in § 5, and the exceptions for case records are listed in § 6(b). This structure of a general rule with exceptions is modeled after the statutory access to public records in 1 V.S.A. §§ 315-320.

The National Center for State Courts recommends that state courts adopt a "default position" that "all records and court data should be open for public review and access" absent a "clear showing of countervailing public policy or public or individual harm." S. Jennen, et al., *Privacy and Public Access to Electronic Court Information* 26 (National Center for State Courts eds., 1995). This is generally the position taken in states that have explicitly adopted rules and guidelines relating to access to court files and documents.

A presumption of public access to court records and proceedings has been recognized under the common law and the United States and Vermont Constitutions.

In *Nixon v. Warner Communications, Inc.*, 435 U.S. 589 (1978), the United States Supreme Court acknowledged that "the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents." *Id.* at 597. However, the Court made clear it was describing a "common law" right, as distinct from one arising under the First Amendment or other provision of the federal constitution, and noted that the right is "not absolute." *Id.* at 598. As the Court noted, "[e]very court has supervisory power over its own records and files, and access has been denied where

§ 4. GENERAL POLICY, VT R PUB ACC CT REC § 4

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court files might have become a vehicle for improper purposes.” *Id.* (citing as examples of improper uses “to gratify private spite or promote public scandal” or to publish “painful and sometimes disgusting details of a divorce case”).

Although the right articulated in *Nixon* is not constitutional, the Supreme Court has described the right to attend criminal trials as one that is “implicit in the guarantees of the First Amendment.” *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 580 (1980) (plurality opinion) (citing *Branzburg v. Hayes*, 408 U.S. 665, 681 (1972)). *Richmond Newspapers* did not take up the question of access to civil proceedings, but Chief Justice Burger’s plurality opinion noted that “historically both civil and criminal trials have been presumptively open.” *Id.* at 681 n.17.

The Vermont Supreme Court has drawn an explicit link between access to court documents and “the public’s First Amendment right of access.” *State v. Tallman*, 148 Vt. at 473, 537 A.2d at 427 (holding that, in connection with pretrial criminal proceedings, an affidavit of probable cause becomes a public document subject to inspection). The Court has recognized a “presumption that pretrial proceedings and documents are open to the public,” rebuttable upon a showing “that closure is essential to preserve higher values and is narrowly tailored to serve that interest.” *Id.* at 474, 537 A.2d at 427-28 (emphasis added); see also *Greenwood v. Wolchik*, 149 Vt. 441, 442-43, 544 A.2d 1156, 1157 (1988) (declining to limit or modify *Tallman* and stressing that factors recognized by Supreme Court in deciding whether to limit access to courtroom proceedings “are equally applicable to documents”).

In *State v. Densmore*, 160 Vt. 131, 624 A.2d 1138 (1993), the Court applied a “qualified First Amendment right of public access ... to documents submitted by the parties in sentencing proceedings.” *Id.* at 137, 624 A.2d at 1142. Access may be denied upon a showing that “(1) closure serves a compelling interest; (2) there is a substantial probability that, in the absence of closure, that compelling interest would be harmed; and (3) there are no alternatives to closure that would adequately protect that compelling interest.” *Id.* at 138-39, 624 A.2d at 1142-43 (citations and internal quotation marks omitted) (acknowledging Sixth Amendment right to fair trial and “privacy interests of innocent third parties” as possible compelling interests). However, presentence investigation reports prepared at the request of the sentencing court are not subject to public disclosure on First Amendment grounds. See also *State v. Schaefer*, 157 Vt. 339, 599 A.2d 337 (1991); *State v. LaBounty*, 167 Vt. 25, 27, 702 A.2d 82 (1997); *State v. Bacon*, 167 Vt. 88, 702 A.2d 116 (1997).

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West's Vermont Statutes Annotated  
West's Vermont Court Rules  
Rules for Public Access to Court Records

Vermont Rules for Public Access to Court Records, § 5

§ 5. ADMINISTRATIVE RECORDS

Currentness

The public shall have access to all administrative records in accordance with the provisions of this rule. The procedures, policies, and exemptions in 1 V.S.A. §§ 316, 317(c), and 318 shall apply to requests for inspection or to obtain copies of administrative records. The Court Administrator is designated as the "head of the agency" for purpose of appeals from decisions of the administrative record custodian. The Court Administrator shall inform all administrative record custodians of the fee schedule authorized by 1 V.S.A. § 316(d).

**Credits**

[Added October 27, 2000, effective May 1, 2001.]

**Editors' Notes**

**REPORTER'S NOTES**

Section 5 governs access to administrative records. The judicial branch's administrative records are similar in nature to executive branch records. Section 5 makes the relevant sections of the statutory access to public records applicable to administrative records. 1 V.S.A. § 317(c) sets out the exceptions to the general rule of open access to public records and 1 V.S.A. § 316 and § 318 set out the procedures for access to those records.

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West's Vermont Statutes Annotated  
West's Vermont Court Rules  
Rules for Public Access to Court Records

Vermont Rules for Public Access to Court Records, § 6

§ 6. CASE RECORDS

Currentness

**(a) Policy.** The public shall have access to all case records, in accordance with the provisions of this rule, except as provided in subsection (b) of this section.

**(b) Exceptions.** The public shall not have access to the following judicial branch records:

(1) Records on file with the probate court in connection with an adoption proceeding, unless disclosure is authorized pursuant to Article 6 of Title 15A;

(2) Records of sterilization proceedings pursuant to Chapter 204 of Title 18;

(3) Records of a grand jury and any indictment of a grand jury, as provided in Rule 6 of the Vermont Rules of Criminal Procedure;

(4) Records of the family court in juvenile proceedings governed by Chapter 55 of Title 33, except as provided in 33 V.S.A. § 5536;

(5) Records of the court in mental health and mental retardation proceedings under Part 8 of Title 18, not including an order of the court, except where the court determines that disclosure is necessary for the conduct of proceedings before it or that failure to make disclosure would be contrary to the public interest;

(6) A presentence investigation report as provided in Chapter 5 of Title 28 and Rule 32(c) of the Vermont Rules of Criminal Procedure;

(7) [Reserved];

(8) Records containing a description or analysis of the DNA of a person if filed in connection with a family court proceeding;

(9) Records produced or created in connection with discovery in a case in court, including a deposition, unless used by a party (i) at trial or (ii) in connection with a request for action by the court;

- (10) Records containing financial information furnished to the court in connection with an application for an attorney at public expense pursuant to 13 V.S.A. § 5236(d) and (e), not including the affidavit submitted in support of the application;
- (11) Records containing financial information furnished to the court in connection with an application to proceed in forma pauperis, not including the affidavit submitted in support of the application;
- (12) Records representing judicial work product, including notes, memoranda, research results, or drafts prepared by a judge or prepared by other court personnel on behalf of a judge, and used in the process of preparing a decision or order;
- (13) Any federal, state or local income tax return, unless admitted into evidence;
- (14) [Reserved];
- (15) Records of the issuance of a search warrant, until the date of the return of the warrant, unless sealed by order of the court;
- (16) Records of the denial of a search warrant by a judicial officer, unless opened by order of the court;
- (17) Records created as a result of treatment, diagnosis, or examination of a patient by a physician, dentist, nurse or mental health professional;
- (18) Reports prepared by the Department of Corrections in conjunction with a decision to admit the accused into a furlough program administered by the Department, except that the public shall have access to a short summary of the contents of the report and the recommendation of the Department. Where the Department has not included a summary and recommendation in a separate section with the report, the report shall be subject to public access.
- (19) An evaluation by a mental health professional to determine the competency to stand trial and/or sanity of a criminal defendant, if not admitted into evidence;
- (20) Records filed or created in connection with a proceeding before the Judicial Conduct Board prior to the filing of a formal charge, as provided by Rule 6(7) of the Rules of Supreme Court for Disciplinary Control of Judges;
- (21) Records filed or created in the professional responsibility program, except as provided in Rule 12(A), (B), of Administrative Order No. 9, Rules Governing Establishment and Operation of the Professional Responsibility Program;
- (22) Records on file with the probate court in connection with a guardianship proceeding governed by 14 V.S.A. § 3068, if the court finds that the respondent is not mentally disabled;
- (23) An evaluation submitted by a mental health professional to the probate court under 14 V.S.A. § 3067, in connection with a guardianship proceeding governed by that section;

(24) Records filed in court in connection with the initiation of a criminal proceeding, if the judicial officer does not find probable cause to believe that an offense has been committed and that defendant has committed it, pursuant to Rule 4(b) or 5(c) of the Vermont Rules of Criminal Procedure;

(25) Records filed or generated in connection with the filing of a civil action prior to service or disposition as provided in Rule 77(e) of the Vermont Rules of Civil Procedure;

(26) A will deposited with the probate court for safekeeping, and indices thereof, as provided by 14 V.S.A. § 2 and Rule 77(e) of the Vermont Rules of Probate Procedure;

(27) The complaint and affidavit filed pursuant to 15 V.S.A. §§ 1103, 1104, or 12 V.S.A. §§ 5133, 5134, but not a temporary order, until the defendant has an opportunity for a hearing pursuant to 15 V.S.A. §§ 1103(b) or 1104(b) or 12 V.S.A. §§ 5133(b) or 5134(b);

(28) Records of criminal proceedings involving participants in an adult diversion program sealed pursuant to 3 V.S.A. § 164(e);

(29) Records containing a social security number of any person, but only until the social security number has been redacted from the copy of the record provided to the public;

(30) Records with respect to jurors or prospective jurors as provided in the Rules Governing Qualification, List, Selection and Summoning of All Jurors;

(31) Any transcript, court reporter's notes, or audio or videotape of a proceeding to which the public does not have access;

(32) Any evidence introduced in a proceeding to which the public does not have access; and

(33) Affidavits of income and assets as provided in 15 V.S.A. § 662 and Rule 4 of the Vermont Rules for Family Proceedings.

(34) Records from a juvenile proceeding that are filed with the court or admitted into evidence in a divorce or parentage proceeding.

(35) Any other record to which public access is prohibited by statute.

**(c) Physical Case Records.** To the extent possible, physical case records that are not subject to public access under these rules shall be segregated from records to which the public has access. If a member of the public requests access to a case file, the record custodian shall remove from the file any record excepted from public access before access is provided to the file.

**(d) Electronic Case Records.** Judicial Branch records kept in electronic form shall be designated as open for public access or closed from public access in whole or in part. The record custodian may deny access to electronic case records. This section shall not be construed to permit on-line access to any case record.

**(e) RESERVED.**

**(f) Inspection Procedure.** A case record to which the public has access may be inspected and copied at any time when the office of the clerk of the court is open for business. The record custodian shall act on a request promptly within the time limits set in 1 V.S.A. § 318. If a copy of the case record is requested, 1 V.S.A. § 316(g) and (h) shall apply, and the record custodian shall charge the fees for copying and, if applicable, staff time in accordance with 1 V.S.A. § 316(b)--(d) and (f).

**(g) Denial Procedure.** If a case record custodian denies access to all or part of a requested record, the custodian shall notify the person requesting the record of the decision, in the manner and within the time limit specified in 1 V.S.A. § 318(a)(2), and notify the person requesting the record of the grievance procedure provided by this rule.

**(h) Grievances.** Any person aggrieved by a decision made by a case record custodian with respect to a request for access to a physical or electronic case record or a part thereof, including any person about whom information has been requested, has a right to appeal that decision to the presiding judge within the time limit specified in 1 V.S.A. § 318(a)(3). If the decision appealed is to grant access to all or part of a record, the presiding judge may order the decision to be stayed pending a decision on appeal. The presiding judge shall give notice of the hearing to the grievant and may give notice to other interested persons. The appeal proceeding shall be set for hearing, if any, at the earliest practicable date and shall be decided as soon as possible. A decision of the presiding judge may be appealed to the Supreme Court.

**(i) Access During Appeals.** Records not publicly accessible under this rule remain inaccessible if the case is appealed to another court.

#### Credits

[Added October 27, 2000, effective May 1, 2001. Amended April 30, 2001, effective May 1, 2001; April 30, 2001, effective May 1, 2001; March 6, 2002, effective May 1, 2001. Amended effective November 29, 2005. Amended September 29, 2006, effective October 1, 2006; 2007, Adj. Sess., No. 185, § 7, eff. Jan. 1, 2009. Amended eff. Oct. 1, 2008.]

#### Editors' Notes

##### **REPORTER'S NOTES--2008 EMERGENCY AMENDMENT**

This emergency amendment is made to conform with amendments to Vermont Rules for Public Access to Court Records 6(b) (34) and (35) by the Legislature. See 2007, No. 185 (Adj. Sess.), § 7.

##### **REPORTER'S NOTES--2006 AMENDMENT**

In Act 193 of 2005 (Adj. Sess.), the Legislature enacted provisions enabling people to obtain protective orders against stalking and sexual assault. See 12 V.S.A. §§ 5131-5138, effective October 1, 2006. The Act establishes procedures and protections similar to those available to family or household members. See 15 V.S.A. § 1101 et seq. This amendment limits public access to stalking and sexual assault case records in the same way as public access is limited to domestic abuse records.

**REPORTER'S NOTES--2005 AMENDMENT**

Section 6(b)(33) is added to conform the rules with an amendment to the statutes which added an exception to records available to the public.

**REPORTER'S NOTES--2001 EMERGENCY AMENDMENT**

Section 6(b)(18) is a limited exception for reports generated by the Department of Corrections with regard to eligibility for participation in a furlough program in the community. Unlike the exception for presentence investigation reports in (b)(6), the reports in this section are neither authorized or protected by statute. The reports covered by this section are filed with the court and considered by the court in determining whether the court will accept a recommended sentence that will be implemented by the Department in a community based program. Thus, the reports are presumptively subject to public access in the absence of statute excepting such reports from access or an exception under Rule 6(b). The larger body of the report contains detailed information, often confidential information, provided by persons other than the accused which merits protection. Yet the public has a substantial interest in access to the basic information upon which the Department and the court base a decision to admit the accused to a program in the community. This section attempts to appropriately balance the privacy and confidentiality interests of the Department, the accused, and those who provide necessary information to the Department with the interest of the public in accountability of decisions placing offenders in the community. A short summary of the reasons supporting the Department's recommendation and the recommendation can be prepared without jeopardizing privacy and confidentiality interests. The summary section can and should be contained in a separate section on a separate page(s) at the end of the report to facilitate public access and to eliminate any danger that material in the larger body of the report will be disclosed. The Reporter's Note to 6(b)(6) suggests that access to the entire report may be required in rare circumstances.

Section 6(b)(18) is a limited exception for reports generated by the Department of Corrections with regard to eligibility for participation in a furlough program in the community. Unlike the exception for presentence investigation reports in (b)(6), the reports in this section are neither authorized or protected by statute. The reports covered by the section are filed with the court and considered by the court in determining whether the court will accept a recommended sentence that will be implemented by the Department in a community based program. Thus, the reports are presumptively subject to public access in the absence of statute excepting such reports from access or an exception under Rule 6(b). The larger body of the report contains detailed information, often confidential information, provided by persons other than the accused which merits protection. Yet the public has a substantial interest in access to the basic information upon which the Department and the court base a decision to admit the accused to a program in the community. This section attempts to appropriately balance the privacy and confidentiality interests of the Department, the accused, and those who provide necessary information to the Department with the interest of the public in accountability of decisions placing offenders in the community. A short summary of the reasons supporting the Department's recommendation and the recommendation can be prepared without jeopardizing privacy and confidentiality interests. The summary section can and should be contained in a separate section on a separate page(s) at the end of the report to facilitate public access and to eliminate any danger that material in the larger body of the report will be disclosed. The Reporter's Note to 6(b)(6) suggests that access to the entire report may be required in rare circumstances.

**REPORTER'S NOTES--2001 AMENDMENTS**

Section 6(b)(15) is an exception for records of the issuance of a search warrant. The record of the issuance of a search warrant will become accessible on the execution of the warrant unless sealed pursuant to § 7(a) of these rules. In determining whether to seal warrant issuance records, the court must apply the standards contained in *In re Sealed Documents*, No. 2001-103 (Vt. March 23, 2001.)

No statute or court rule currently restricts access to records of the issuance of search warrants. However, this exception is consistent with current practice in most courts.



Section 6(b)(16) is an exception for records for denial of a search warrant by a judicial officer. These records will remain nonpublic indefinitely unless opened by the court pursuant to § 7(a) of these rules. In determining whether to open these records, the court will be guided by the standards in *In re Sealed Documents*, No. 2001-103 (VT. March 23, 2001.) Again, although no statute or rule currently restricts access to these records, the exception is consistent with current practice.

This rule does not expand access to case records at the courthouse or on-line; it sets forth limits on access to case records by the general public. The Judiciary currently provides or is contemplating the provision of on-line access to the following case records: court schedules, docket entries, court opinions, decisions and entry orders and supreme court oral arguments. The Court intends to amend this rule or adopt a new rule which will address which case records will be made available to the general public via the Judiciary's Internet Web Page or through other on-line access.

#### REPORTER'S NOTES

Section 6 governs access to case records and states the general rule that all case records are open to the public, subject to the exceptions in § 6(b).

Section 6(b) lists specific limitations on access to case records. Each of these limitations is an exception to the general rule that case records are open. Case records often contain very sensitive and personal information about the parties and others involved in the case that would not normally be disclosed to the public. Some limitations on open case records are therefore necessary to protect the privacy of those persons.

Many of these exceptions are currently in statutes and court rules. This rule adopts these limitations by incorporating the statutes and rules by reference and does not change existing law or practice.

Under the Vermont Constitution, court procedure and administration are areas of shared responsibility between the legislative and judicial branches. Therefore, in areas where the Legislature has not acted, the Court has acted independently to protect sensitive and personal information in its case records by adopting additional limitations which are also contained in this section.

Section 6(b)(1) is an exception for records filed in adoption proceedings, Title 15A. Under 15A V.S.A. § 6-102 all adoption records on file with the court are confidential and may not be inspected except under the limited circumstances set forth in Article 6 of Title 15A. See *In re Margaret Susan P.*, 169 Vt. 252, 733 A.2d 38 (1999), for a discussion of the confidentiality of adoption records and of the right of access of an adult adoptee to adoption records held by the private adoption agency that placed the adoptee with an adoptive family. This exception also incorporates by reference the access restrictions contained in V.R.P.P. 77(e)(3) (papers pertaining to an adoption) and (4)(a) (written relinquishment).

Section 6(b)(2) is an exception for records in sterilization proceedings, Chapter 204 of Title 18. Under 18 V.S.A. § 8713 sterilization proceedings are closed to the public, and the records are sealed unless the respondent requests that the records be opened.

Section 6(b)(3) is an exception for grand jury records and any grand jury indictment. Under V.R.Cr.P. 6(f) grand jury proceedings, and court records in connection with these proceedings, are closed to the public.

Historically grand jury records have not been open to the public. This rule continues that practice. See *State v. Lapham*, 135 Vt. 393, 399, 377 A.2d 249, 253 (1977). In *Greenwood v. Wolchik*, 149 Vt. 441, 544 A.2d 1156 (1988), the Court stated (quoting *Douglas Oil Co. v. Petrol Stops Northwest*, 441 U.S. 211, 218-19 (1979)):

[We] have noted several distinct interests served by safeguarding the confidentiality of grand jury proceedings. First, if preindictment proceedings were made public, many prospective witnesses would be hesitant to come forward voluntarily, knowing that those against whom they testify would be aware of that testimony. Moreover, witnesses who appeared before the grand jury would be less likely to testify fully and frankly, as they would be open to retribution as well as to inducements.

There also would be the risk that those about to be indicted would flee, or would try to influence individual grand jurors to vote against indictment. Finally, by preserving the secrecy of the proceedings, we assure that persons who are accused but exonerated by the grand jury will not be held up to public ridicule.

*Id.* at 443, 544 A.2d at 1157.

Section 6(b)(4) is an exception for records in juvenile proceedings, Chapter 55 of Title 33. Under 33 V.S.A. § 5523 juvenile proceedings are closed to the public, and under 33 V.S.A. § 5536 these records are not open to the public. A variety of exceptions to this limitation are found in 33 V.S.A. § 5523 and § 5523a.

The Vermont Supreme Court has frequently recognized the confidentiality of juvenile proceedings. See *Camp v. Howe*, 132 Vt. 429, 321 A.2d 71 (1974); *In re J.S.*, 140 Vt. 458, 438 A.2d 1125 (1981); *In re J.R.*, 146 Vt. 185, 499 A.2d 1155 (1985); *In re K.F.*, 151 Vt. 211, 559 A.2d 663 (1989); and *In re R.D.*, 154 Vt. 173, 574 A.2d 160 (1990).

Section 6(b)(5) is an exception for records of the family court in involuntary commitment proceedings, Part 8 of Title 18. Under 18 V.S.A. § 7103(a) all records and clinical information, other than an order of the court, in involuntary commitment proceedings are confidential, except:

(1) as the individual identified or his legal guardian, if any (or, if he be a minor, his parent or legal guardian) shall consent in writing; or (2) as disclosure may be necessary to carry out any of the provisions of this part; or (3) as a court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make disclosure would be contrary to the public interest.

The exceptions in 18 V.S.A. § 7103(a)(2) and (3) are repeated in § 6(b)(5) to emphasize the need for court discretion in order to balance the confidentiality of these records with the court's inherent power and obligations and the public's interest in these proceedings.

18 V.S.A. § 7615(e) provides that "the court may exclude all persons not necessary for the conduct of the hearing." In *State v. Koch*, 169 Vt. 109, 730 A.2d 577 (1999), the Court interpreted this section

as requiring the court to exercise its discretion by balancing the competing interests at stake--the public's interest in the restrictions placed on a mentally ill patient in the community and the defendant's right to privacy concerning his mental health status. Thus, the court erred when it permitted defendant to make the unfettered decision to stop the flow of information to the public concerning his mental condition, dangerousness, and custody status.

*Id.* at 116, 730 A.2d at 582.

In *Koch* the Court also held that because 18 V.S.A. § 7103 specifically exempts court orders from its confidentiality provisions, the trial court does not have the discretion to redact from its order of hospitalization or nonhospitalization terms or conditions that disclose confidential, clinical information. See *id.* at 117, 730 A.2d at 583.

Section 6(b)(6) is an exception for presentence investigation reports. By statute, 28 V.S.A. § 204(d), and rule, V.R.Cr.P. 32, presentence investigation reports are not open to the public and are disclosed only to the prosecution and the defense.

In *State v. Densmore*, 160 Vt. 131, 137, 624 A.2d 1138, 1142 (1993), the Court held that "a qualified First Amendment right of public access attaches to documents submitted by the parties in sentencing proceedings," but did not decide whether such a right attaches to presentence reports because that issue was not before the Court. In *State v. LaBounty*, 167 Vt. 25, 702 A.2d 82 (1997), that issue was reached by the Court. The Court held that presentence investigation reports are not subject to a qualified right of access under the First Amendment and that they are confidential and should not be open to the press and public. The

Court stated: "PSIs are not court documents in the usual sense; they are not prepared or filed by the parties ... , and they do not become part of the public record of a case. In light of these unique characteristics, any right of access to PSIs must be evaluated separately from the public's right to attend sentencing proceedings and inspect documents filed by the parties in those proceedings." *Id.* at 30, 702 A.2d at 85.

But, "the confidentiality of PSIs is not absolute." *State v. Bacon*, 167 Vt. 88, 91, 702 A.2d 116, 119 (1997). There may be unique circumstances that require disclosure of at least part of a presentence report, as there were in *Bacon*. In general, however, these special circumstances will create special rights of access covered by § 2(b) rather than this exception. In *Bacon*, defendant's accomplice sought access to defendant's PSI. The Court held that "a defendant seeking access to another individual's PSI must support the request with a plausible showing of materiality; upon such a showing, the district court should review the PSI and disclose only that information, if any, that is material to guilt or punishment." *Id.* at 90, 702 A.2d at 118.

Section 6(b)(7) is reserved for future use.

Section 6(b)(8) is an exception for records containing a description or analysis of the DNA of a person if filed in any family court proceeding. No statute or rule restricts access to records containing DNA information filed in family court proceedings, such as in child support or parentage cases. DNA information is extremely personal and sensitive. This exception reflects the Committee's determination that the balance of interests is clearly on the side of protecting the privacy of the DNA record. DNA is defined in 18 V.S.A. § 9331(2) and 20 V.S.A. § 1932(3).

Section 6(b)(9) is an exception for discovery records, including depositions, in cases in any court unless used by a party in connection with a request for action by the court, or at trial. No statute or rule limits access to records produced in discovery in family and civil cases, although court decisions suggest such records are not public unless filed with the court. In *Herald Association, Inc. v. Judicial Conduct Board*, 149 Vt. 233, 544 A.2d 596 (1988), the Court denied access to discovery material in the possession of, but not filed with, the Judicial Conduct Board. The Court stated (quoting from *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33 (1984)):

[P]retrial depositions and interrogatories are not public components of a civil trial. Such proceedings were not open to the public at common law, ... and, in general, they are conducted in private as a matter of modern practice. Much of the information that surfaces during pretrial discovery may be unrelated, or only tangentially related, to the underlying cause of action. Therefore, restraints placed on discovered, but not yet admitted, information are not a restriction on a traditionally public source of information.

*Id.* at 238-39, 544 A.2d at 600.

In practice, most discovery records are not introduced into evidence in the case. Moreover, pursuant to V.R.C.P. 5(d), most discovery requests and responses are not filed unless they will be used in a proceeding. Because these records are not considered by the court in resolving contested issues in the case, and are now considered to be private rather than public, they are not subject to the general rule on disclosure of court records. However, any discovery that is used in the case will be open under this section.

Section 6(b)(10) is an exception for records containing financial information furnished to the court to supplement an application for an attorney to be provided in a criminal case at public expense pursuant to 13 V.S.A. § 5236(d) and (e). The affidavit submitted with the application is excluded from this exception and is therefore public. Under 13 V.S.A. § 5236(f) this type of supplementary financial information is confidential and is "available for review only by the clerk or judicial officer or the person submitting the financial information."

Section 6(b)(11) is an exception for records containing financial information furnished to the court in connection with an application to proceed in forma pauperis. The affidavit submitted with the application is excluded from this exception. No statute or rule restricts public access to records in connection with an application to proceed in forma pauperis in a case. Under

this exception the application is open, but any supplementary financial information is confidential. The financial information here is the same kind of information that is kept confidential in § 6(b)(10) and should be treated the same. See V.R.C.P. 3.1 (Proceedings in Forma Pauperis). Information in any files relating to personal finances is exempt from public inspection under 1 V.S.A. § 317(c)(7).

Section 6(b)(12) is an exception for records of judicial work product used by a judge in preparing a decision or order. Although no statute or rule restricts public access to these records, in practice and under common law they are not open to the public. Of course, any action by the court that results in the creation of an order, decision, or similar record, is open. This exception is patterned on Rule 123(d)(3) of the Rules of the Supreme Court of Arizona on Public Access to Judicial Records of the State of Arizona.

Section 6(b)(13) is an exception for any federal, state, or local income tax return, unless the return is submitted into evidence as an exhibit. No statute or rule specifically restricts public access to income tax returns filed in a case in any court. However, this is the kind of private financial information that should not be made public unless it is introduced into evidence. Tax returns are confidential under 32 V.S.A. § 3102 and are exempt from public inspection under 1 V.S.A. § 317(c)(6).

Section 6(b)(14) is reserved for future use.

Section 6(b)(15) is an exception for records of the issuance of a search warrant. In any case, the records of the issuance of a search warrant will not become accessible before the warrant is executed. In the case of a warrant issued to search for property, records of the warrant will become accessible only if property is seized pursuant to the warrant and the property is offered in a civil or criminal proceeding, or is subject to a motion to suppress its admission. In the case of a warrant issued to search for a person, fetus or corpse, see V.R.Cr.P. 41(b)(4), records of the warrant will become accessible only when the person, fetus or corpse has been located by the person who requested the warrant.

No statute or court rule restricts access to records of the issuance of search warrants, but most courts deny access at least until a warrant is executed. The exception is broader than the current practice to ensure that public knowledge of a warrant, or application, does not interfere with an ongoing investigation.

Section 6(b)(16) is an exception for records of the denial of a search warrant by a judicial officer. The permanent exception for these records is justified by the need to protect an ongoing investigation, as well as the privacy interests of persons whose property was inappropriately targeted for a search. No statute or court rule restricts access to records of the denial of a search warrant. However, this exception is consistent with the practice in most courts, which is to deny access if the warrant is not executed.

“Judicial officer” is defined in V.R.Cr.P. 54(c)(4).

Section 6(b)(17) is an exception for a patient's record created as a result of treatment, diagnosis or examination of the patient by a physician, dentist, nurse or mental health professional. No statute or court rule restricts public access to these types of records. This limitation on access to medical records reflects the Court's recognition of the uniquely personal nature of medical information. This recognition is also contained in the public records act, 1 V.S.A. § 317(c)(7).

Section 6(b)(18) is reserved for future use.

Section 6(b)(19) is an exception for records of an evaluation by a mental health professional to determine if a defendant in a criminal case is competent to stand trial or is insane pursuant to Chapter 157 of Title 13. This exception does not apply if the evaluation is admitted into evidence. No statute or rule restricts public access to these records. However, in practice, these evaluations have not been open to the public. This exception continues the current practice.

Section 6(b)(20) is an exception for records in Judicial Conduct Board proceedings that are created prior to filing of a formal charge. Under Rule 6(7) of the Rules of Supreme Court for Disciplinary Control of Judges, records of complaints to the Judicial Conduct Board and records relating to the complaint and investigation, including all papers, files, transcripts and communications in proceedings before the Board are confidential unless a formal charge is filed. If a formal charge is filed against the judge, the formal charge and all proceedings thereafter are open to the public. See *id.* Rule 6(15).

In *Herald Association, Inc. v. Judicial Conduct Board*, 149 Vt. 233, 544 A.2d 596 (1988), the Court denied a Vermont newspaper access to certain discovery material in a judicial conduct case pending before the Judicial Conduct Board. Referring to the confidentiality provisions in Rule 6 the Court stated: "In common with all other states, we hold confidential complaints, and investigations of such complaints, unless they result in formal charges. Denial of public access to this stage protects 'judges from the injury which might result from publication of unexamined and unwarranted complaints.'" *Id.* at 241, 544 A.2d at 601 (quoting *Landmark Communications, Inc. v. Virginia*, 435 U.S. 829, 835 (1978)). See also *In re Hill*, 152 Vt. 548, 568 A.2d 361 (1989).

Section 6(b)(21) is an exception for records filed or created in the professional responsibility program. Under Rule 12(b) of Administrative Order 9, Rules Governing Establishment and Operation of the Professional Responsibility Program, all records generated in connection with a complaint are confidential unless they are submitted to a hearing panel after the filing of formal charges.

Section 6(b)(22) is an exception for probate court records in a guardianship proceeding governed by 14 V.S.A. § 3068, upon a finding by the court that the respondent is not mentally disabled. Under 14 V.S.A. § 3068(e), if the court finds that the respondent is not mentally disabled, the petition for guardianship is dismissed and the court seals the records of the proceedings. This exception is consistent with the statute.

Section 6(b)(23) is an exception for the record of a mental health professional's evaluation submitted in probate court in a guardianship proceeding governed by 14 V.S.A. § 3067. Under Rule 77(e)(5) of the Vermont Rules of Probate Procedure, mental health evaluations submitted by a mental health professional pursuant to 14 V.S.A. § 3067 and § 3068 are confidential.

Section 6(b)(24) is an exception for records filed in court in connection with the initiation of a criminal case whenever the judicial officer does not find probable cause. No statute or rule restricts public access to such records. This exception is based on the Committee's determination that records filed in court in connection with the initiation of a criminal case should not be open to the public until and unless a judicial officer finds that "there is probable cause to believe that an offense has been committed and that the defendant has committed it." V.R.Cr.P. 4(b).

"Judicial officer" is defined in V.R.Cr.P. 54(c)(4).

Section 6(b)(25) is an exception for records filed or generated in connection with the filing of a civil action prior to service or disposition. This restriction is contained both in statute, 4 V.S.A. § 652(4), and in V.R.C.P. 77(e). A contemporaneous amendment to V.R.C.P. 77(e) defines when service of process has been completed for purposes of the rule and statute.

Section 6(b)(26) is an exception for a will deposited with the probate court for safekeeping and any index of the will. Under 14 V.S.A. § 2(e), wills deposited for safekeeping, or any index of wills so deposited, are not open to the public. Under Rule 77(e)(1) of the Vermont Rules of Probate Procedure, a will deposited in the office of the register for safekeeping is not open to public inspection.

Section 6(b)(27) is a limited exception for the complaint and affidavit filed in abuse prevention proceedings, Chapter 21 of Title 15, pursuant to 15 V.S.A. § 1103 (requests for relief) or § 1104 (emergency relief). The exception does not apply once the defendant has an opportunity for a hearing. No statute or rule limits access to complaints and affidavits filed in abuse prevention

proceedings. This exception is based on the Committee's determination that such records should not be open to the public until the defendant has had an opportunity to contest the allegations in the complaint and affidavit.

Section 6(b)(28) is an exception for adult diversion records that are sealed pursuant to 3 V.S.A. § 164(e). Once these records are sealed they are not open to the public and further, under 3 V.S.A. § 164(g), "the proceedings in the matter under this section shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter."

Section 6(b)(29) is an exception for records containing a person's social security number, but only until the social security number has been redacted. Under federal law social security numbers are confidential. Section 405(c)(2)(C)(viii)(I) of the Social Security Act provides that: "Social security account numbers and related records that are obtained or maintained by an authorized person pursuant to any provision of law, enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such social security number."

Social security numbers are easily blocked out on a record so that they cannot be recognized. Therefore, if access to an otherwise open record containing a social security number is requested, that record can easily be provided to the public without the social security number.

A contemporaneous addition has been made to V.R.C.P. 5, V.R.Cr.P. 49 and V.R.P.P. 5 to require parties to redact social security numbers from any papers they file unless the court has requested the number. These provisions will aid the record custodian, who would otherwise have to examine every document filed to be sure it does not contain a social security number which must be redacted. The custodian will have to search only for records which contain social security numbers because the court has required that they be filed.

Section 6(b)(30) is an exception for records with respect to jurors or prospective jurors as provided in the Rules Governing Qualification, List, Selection and Summoning of All Jurors. There is currently no clear policy on public access to juror information. The Committee recommends that personal information obtained from jurors or prospective jurors, such as address, date of birth, and telephone number, not be open to the public. The Committee further recommends that the Rules Governing Qualification, List, Selection and Summoning of All Jurors be amended accordingly.

Section 6(b)(31) is an exception for the transcript, court reporter's notes, or audio or videotape of a proceeding that is closed to the public. A transcript, court reporter's transcript, notes, and an audio or videotape of a proceeding are all records as defined in § 3(a) of this rule. It would serve little or no purpose to close a proceeding if the transcript or other record of the proceeding was available to the public. Therefore, this exception is necessary to carry out the intent of a statute, rule or court order that authorizes closure of the proceeding. Note that this rule is limited to records and does not cover closure of proceedings.

Section 6(b)(32) is an exception for any evidence introduced in a proceeding that is closed to the public. Evidence received by the court in a case is a record as defined in § 3(a) of this rule. In order to carry out the intent of any statute, rule or court order that authorizes the closure of a proceeding it is also necessary to restrict public access to evidence introduced in that proceeding.

Section 6(b)(33) is an exception for any record to which public access is prohibited by statute. Although these rules have attempted to identify all instances where access to court case records are restricted by statute, there may be others which were not considered. Moreover, new restrictions are likely to be created. Therefore, it is necessary to provide this general exception to cover restrictions not covered by a specific exception. This exception is modeled after Rule 4(f) of the Minnesota Rules of Public Access to Records of the Judicial Branch.

**§ 6. CASE RECORDS, VT R PUB ACC CT REC § 6**

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Section 6(c) requires that physical case records that are not open to the public be kept separate from case records that are open. If access to a case record is requested, any part of the record that is exempt from public access shall be removed before access to that record is provided.

Section 6(d) requires that electronic records be designated as either open for public access or closed, in whole or in part. Closed electronic records will not be available to the public on-line or will be available only if information in the record that is exempt from public access is redacted.

Section 6(e) is reserved.

Section 6(f) establishes a procedure for inspection of physical and electronic case records. This procedure is much the same as the procedure for inspection of executive branch public records with the provisions of 1 V.S.A. § 316(b-d), (f), (g) and (h) and the time limit provisions in 1 V.S.A. § 318 incorporated by reference. The record custodian must allow inspection without charge, but may impose reasonable restrictions on inspection to protect security of the record. If the person seeking access to a record requests that it be copied, the custodian will do so on court equipment charging the fees authorized by 1 V.S.A. § 316. If an electronic record is available on-line, the record custodian may require that it be inspected and copied on-line to minimize use of court staff.

Section 6(g) establishes a procedure if access to a case record is denied. The person requesting access must be notified of the denial within the time limit specified in 1 V.S.A. § 318(a)(2) and of the grievance procedure in § 6(h) of this rule.

Section 6(h) establishes a grievance procedure for persons aggrieved by a decision made by a case record custodian in response to a request to access a physical or electronic case record. The aggrieved person, including any person about whom information has been requested, has a right to appeal that decision to the presiding judge within the time limit specified in 1 V.S.A. § 318(a)(3). The presiding judge may stay a decision that granted access to the record to preserve the status quo. Notice shall be given to the grievant and may be given to other interested persons. The intent is to give notice to any person who is interested in the access decision. The presiding judge has discretion whether or not to have a hearing on the appeal. If a hearing is scheduled, it must be scheduled at the earliest practicable date. The appeal must be decided as soon as possible. An appeal from the decision of the presiding judge is to the Supreme Court, even if the decision was made by a member of that Court.

Section 6(i) provides that records that are not accessible to the public remain closed if the case is appealed to another court. The appeal and transfer of the record to another court do not change the public access status of a case record. For example, if a case record in the district court is not open to the public, it continues to be closed if the case is appealed to the Supreme Court.

Rules Pub. Acc. to Ct. Rec. § 6, VT R PUB ACC CT REC § 6  
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West's Vermont Statutes Annotated  
West's Vermont Court Rules  
Rules for Public Access to Court Records

Vermont Rules for Public Access to Court Records, § 7

§ 7. EXCEPTIONS

Currentness

**(a) Case Records.** Except as provided in this section, the presiding judge by order may grant public access to a case record to which access is otherwise closed, may seal from public access a record to which the public otherwise has access or may redact information from a record to which the public has access. All parties to the case to which the record relates, and such other interested persons as the court directs, have a right to notice and hearing before such order is issued, except that the court may issue a temporary order to seal or redact information from a record without notice and hearing until a hearing can be held. An order may be issued under this section only upon a finding of good cause specific to the case before the judge and exceptional circumstances. In considering such an order, the judge shall consider the policies behind this rule. If a statute governs the right of public access and does not authorize judicial discretion in determining to open or seal a record, this section shall not apply to access to that record.

**(b) Administrative Records.** Subsection (a) of this section shall also apply to an administrative record, except that the determination shall be made by the court administrator.

**(c) Appeals.** Appeals from determinations under this section shall be made to the Supreme Court.

**Credits**

[Added October 27, 2000, effective May 1, 2001.]

**Editors' Notes**

**REPORTER'S NOTES**

Section 7(a) states an exception to the general access policy stated in § 4 of these rules. Under this provision the presiding judge is authorized to allow access to an otherwise closed record or to seal, or redact information contained in, an open record. It also sets forth the process and standards that apply whenever the court considers such actions. Records may be sealed on the court's own motion: for example, the court may act to protect the interests of a person not before the court because those interests are not adequately protected by the parties before the court. The exception permits the court to use its discretion when addressing special situations that can not be anticipated and specifically dealt with in these rules. However, this authority should be exercised by the court only in truly exceptional situations and only for good cause. It is not intended that this exception be used to create new categories of records or information that are generally closed to the public. This exception does not apply if the access issue is governed by a statute that does not authorize judicial discretion. It is important to note that this section does not govern the authority of the court to open or close specific proceedings, a subject not covered by this rule.

For a discussion of the court's authority to grant access to a closed record, to deny access to or seal an open record, to redact information contained in an open record, and the standards and process necessary to exercise that authority, see *In re Sealed Documents*, No. 2001-103 (March 23, 2001); *State v. Tallman*, 148 Vt. 465, 537 A.2d 422 (1987); *Greenwood v. Wolchik*, 149



**§ 7. EXCEPTIONS, VT R PUB ACC CT REC § 7**

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Vt. 441, 544 A.2d 1156 (1988); *State v. Schaefer*, 157 Vt. 339, 599 A.2d 337 (1991); *State v. Densmore*, 160 Vt. 131, 624 A.2d 1138 (1993); *State v. LaBounty*, 167 Vt. 25, 702 A.2d 82 (1997); *State v. Bacon*, 167 Vt. 88, 702 A.2d 116 (1997); and *State v. Koch*, 169 Vt. 109, 730 A.2d 577 (1999). The standards in *In re Sealed Documents* will be particularly relevant in deciding whether to exercise the authority under this section.

Section 7(b) extends the exception, process and standards stated in subsection (a) of this section to the Court Administrator with respect to administrative records.

Section 7(c) grants a right of appeal to the Supreme Court from a decision under this section, even if the decision was made by a member of that Court.

Rules Pub. Acc. to Ct. Rec. § 7, VT R PUB ACC CT REC § 7  
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West's Vermont Statutes Annotated  
West's Vermont Court Rules  
Rules for Public Access to Court Records

Vermont Rules for Public Access to Court Records, § 8

§ 8. STATISTICAL REPORTS

Currentness

Nothing in this rule shall prohibit the court administrator or a record custodian from providing a statistical abstract of information contained in records not publicly accessible, provided that the abstract does not identify any person described in the records.

**Credits**

[Added October 27, 2000, effective May 1, 2001.]

**Editors' Notes**

**REPORTER'S NOTES**

Section 8 makes it clear that statistical compilations of nonidentifying information from records that are not open to the public are not prohibited by this rule. The rule is an authorization; it does not require the Court Administrator or a record custodian to make a statistical compilation of any information in judiciary files. This section is similar to the provisions of 32 V.S.A. § 3102(g), which authorizes publication of statistical information about Vermont income tax returns so long as the data do not identify a particular person.

Rules Pub. Acc. to Ct. Rec. § 8, VT R PUB ACC CT REC § 8

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# **EXHIBIT 35**

West's Annotated Code of Virginia

Title 17.1. Courts of Record (Refs & Annos)

Chapter 2. Clerks, Clerks' Offices and Records (Refs & Annos)

Article 2. Other Clerks and Clerks' Offices

VA Code Ann. § 17.1-208

§ 17.1-208. Records, etc., open to inspection; copies; exception

Effective: July 1, 2013

Currentness

Except as otherwise provided by law, any records that are maintained by the clerk of the circuit court shall be open to inspection by any person and the clerk shall, when requested, furnish copies thereof subject to any fee charged by the clerk pursuant to § 17.1-275, except in cases in which it is otherwise specially provided by statute. The certificate of the clerk to such copies shall, if the paper copied be recorded in a bound volume, contain the name and number of the volume and the page or folio at which the recordation of the paper begins, or the instrument number as applicable, and the clerk may charge a fee therefor pursuant to § 17.1-275. The certificate of the clerk to such copies may be provided electronically subject to the provisions of § 17.1-258.3:2. Such electronic certificate may reference an instrument number, bound volume, or other case number, but is not required to do so. No person shall be permitted to use the clerk's office for the purpose of making copies of records in such manner, or to such extent, as will, in the determination of the clerk, interfere with the business of the office or with its reasonable use by the general public.

**Credits**

Acts 1998, c. 872, eff. Oct. 1, 1998; Acts 2002, c. 299; Acts 2007, c. 548; Acts 2007, c. 626. Amended by Acts 2013, c. 77.

Notes of Decisions (25)

VA Code Ann. § 17.1-208, VA ST § 17.1-208

Current through the End of the 2014 Reg. Sess. and includes the 2014 Sp. S. I, c. 1.

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# **EXHIBIT 36**

West's Revised Code of Washington Annotated  
Part I Rules of General Application  
General Rules (Gr)

General Rules, GR 31

RULE 31. ACCESS TO COURT RECORDS

Currentness

**(a) Policy and Purpose.** It is the policy of the courts to facilitate access to court records as provided by article I, section 10 of the Washington State Constitution. Access to court records is not absolute and shall be consistent with reasonable expectations of personal privacy as provided by article 1, section 7 of the Washington State Constitution and shall not unduly burden the business of the courts.

**(b) Scope.** This rule applies to all court records, regardless of the physical form of the court record, the method of recording the court record or the method of storage of the court record. Administrative records are not within the scope of this rule. Court records are further governed by GR 22.

**(c) Definitions.**

(1) "Access" means the ability to view or obtain a copy of a court record.

(2) "Administrative record" means any record pertaining to the management, supervision or administration of the judicial branch, including any court, board, or committee appointed by or under the direction of any court or other entity within the judicial branch, or the office of any county clerk.

(3) "Bulk distribution" means distribution of all, or a significant subset, of the information in court records, as is and without modification.

(4) "Court record" includes, but is not limited to: (i) Any document, information, exhibit, or other thing that is maintained by a court in connection with a judicial proceeding, and (ii) Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or prepared by the court that is related to a judicial proceeding. Court record does not include data maintained by or for a judge pertaining to a particular case or party, such as personal notes and communications, memoranda, drafts, or other working papers; or information gathered, maintained, or stored by a government agency or other entity to which the court has access but which is not entered into the record.

(5) "Criminal justice agencies" are government agencies that perform criminal justice functions pursuant to statute or executive order and that allocate a substantial part of their annual budget to those functions.

(6) "Dissemination contract" means an agreement between a court record provider and any person or entity, except a Washington State court (Supreme Court, court of appeals, superior court, district court or municipal court), that is provided court records. The essential elements of a dissemination contract shall be promulgated by the JIS Committee.

(7) "Judicial Information System (JIS) Committee" is the committee with oversight of the statewide judicial information system. The judicial information system is the automated, centralized, statewide information system that serves the state courts.

(8) "Judge" means a judicial officer as defined in the Code of Judicial Conduct (CJC) Application of the Code of Judicial Conduct Section (A).

(9) "Public" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency, however constituted, or any other organization or group of persons, however organized.

(10) "Public purpose agency" means governmental agencies included in the definition of "agency" in RCW 42.17.020 and other non-profit organizations whose principal function is to provide services to the public.

**(d) Access.**

(1) The public shall have access to all court records except as restricted by federal law, state law, court rule, court order, or case law.

(2) Each court by action of a majority of the judges may from time to time make and amend local rules governing access to court records not inconsistent with this rule.

(3) A fee may not be charged to view court records at the courthouse.

**(e) Personal Identifiers Omitted or Redacted from Court Records**

(1) Except as otherwise provided in GR 22, parties shall not include, and if present shall redact, the following personal identifiers from all documents filed with the court, whether filed electronically or in paper, unless necessary or otherwise ordered by the Court.

(A) Social Security Numbers. If the social security number of an individual must be included in a document, only the last four digits of that number shall be used.

(B) Financial Account Numbers. If financial account numbers are relevant, only the last four digits shall be recited in the document.

(C) Driver's License Numbers.

(2) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Court or the Clerk will not review each pleading for compliance with this rule. If a pleading is filed without redaction, the opposing party or identified person may move the Court to order redaction. The court may award the prevailing party reasonable expenses, including attorney fees and court costs, incurred in making or opposing the motion.

**COMMENT**

This rule does not require any party, attorney, clerk, or judicial officer to redact information from a court record that was filed prior to the adoption of this rule.

**(f) Distribution of Court Records Not Publicly Accessible**

(1) A public purpose agency may request court records not publicly accessible for scholarly, governmental, or research purposes where the identification of specific individuals is ancillary to the purpose of the inquiry. In order to grant such requests, the court or the Administrator for the Courts must:

(A) Consider: (i) the extent to which access will result in efficiencies in the operation of the judiciary; (ii) the extent to which access will fulfill a legislative mandate; (iii) the extent to which access will result in efficiencies in other parts of the justice system; and (iv) the risks created by permitting the access.

(B) Determine, in its discretion, that filling the request will not violate this rule.

(C) Determine the minimum access to restricted court records necessary for the purpose is provided to the requestor.

(D) Assure that prior to the release of court records under section (f) (1), the requestor has executed a dissemination contract that includes terms and conditions which: (i) require the requester to specify provisions for the secure protection of any data that is confidential; (ii) prohibit the disclosure of data in any form which identifies an individual; (iii) prohibit the copying, duplication, or dissemination of information or data provided other than for the stated purpose; and (iv) maintain a log of any distribution of court records which will be open and available for audit by the court or the Administrator of the Courts. Any audit should verify that the court records are being appropriately used and in a manner consistent with this rule.

(2) Courts, court employees, clerks and clerk employees, and the Commission on Judicial Conduct may access and use court records only for the purpose of conducting official court business.

(3) Criminal justice agencies may request court records not publicly accessible.

(A) The provider of court records shall approve the access level and permitted use for classes of criminal justice agencies including, but not limited to, law enforcement, prosecutors, and corrections. An agency that is not included in a class may request access.



(B) Agencies requesting access under this section of the rule shall identify the court records requested and the proposed use for the court records.

(C) Access by criminal justice agencies shall be governed by a dissemination contract. The contract shall: (i) specify the data to which access is granted; (ii) specify the uses which the agency will make of the data; and (iii) include the agency's agreement that its employees will access the data only for the uses specified.

**(g) Bulk Distribution of Court Records**

(1) A dissemination contract and disclaimer approved by the JIS Committee for JIS records or a dissemination contract and disclaimer approved by the court clerk for local records must accompany all bulk distribution of court records.

(2) A request for bulk distribution of court records may be denied if providing the information will create an undue burden on court or court clerk operations because of the amount of equipment, materials, staff time, computer time or other resources required to satisfy the request.

(3) The use of court records, distributed in bulk form, for the purpose of commercial solicitation of individuals named in the court records is prohibited.

**(h) Appeals.** Appeals of denials of access to JIS records maintained at state level shall be governed by the rules and policies established by the JIS Committee.

**(i) Notice.** The Administrator for the Courts shall develop a method to notify the public of access to court records and the restrictions on access.

**(j) Access to Juror Information.** Individual juror information, other than name, is presumed to be private. After the conclusion of a jury trial, the attorney for a party, or party pro se, or member of the public, may petition the trial court for access to individual juror information under the control of court. Upon a showing of good cause, the court may permit the petitioner to have access to relevant information. The court may require that juror information not be disclosed to other persons.

**(k) Access to Master Jury Source List.** Master jury source list information, other than name and address, is presumed to be private. Upon a showing of good cause, the court may permit a petitioner to have access to relevant information from the list. The court may require that the information not be disclosed to other persons.

**Credits**

[Adopted effective October 26, 2004; amended effective January 3, 2006.]

Notes of Decisions (10)

GR 31, WA R GEN GR 31

**RULE 31. ACCESS TO COURT RECORDS, WA R GEN GR 31**

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Current with amendments received through 5/1/14

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# **EXHIBIT 37**

West's Annotated Code of West Virginia  
Chapter 51. Courts and Their Officers (Refs & Annos)  
Article 4. General Provisions Relating to Clerks of Courts

W. Va. Code, § 51-4-2

§ 51-4-2. Inspection of records and papers; copies

Currentness

The records and papers of every court shall be open to the inspection of any person, and the clerk shall, when required, furnish copies thereof, except in cases where it is otherwise specially provided.

**Credits**

Acts 1875, c. 73, § 5.

**Formerly** Code Va. 1849, c. 163, § 15; Code Va. 1860, c. 163, § 12; Code 1868, c. 117, § 5; Code 1923, c. 117, § 5.

Notes of Decisions (14)

W. Va. Code, § 51-4-2, WV ST § 51-4-2

Current with laws of the 2014 Second Extraordinary Session.

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# **EXHIBIT 38**

West's Wisconsin Statutes Annotated  
Organization of State Government (Ch. 13 to 22)  
Chapter 19. General Duties of Public Officials  
Subchapter II. Public Records and Property (Refs & Annos)

W.S.A. 19.32

19.32. Definitions

Effective: April 16, 2014

Currentness

As used in ss. 19.32 to 19.39:

(1) "Authority" means any of the following having custody of a record: a state or local office, elective official, agency, board, commission, committee, council, department or public body corporate and politic created by the constitution or by any law, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a special purpose district; any court of law; the assembly or senate; a nonprofit corporation which receives more than 50% of its funds from a county or a municipality, as defined in s. 59.001(3), and which provides services related to public health or safety to the county or municipality; a university police department under s. 175.42; or a formally constituted subunit of any of the foregoing.

(1b) "Committed person" means a person who is committed under ch. 51, 971, 975 or 980 and who is placed in an inpatient treatment facility, during the period that the person's placement in the inpatient treatment facility continues.

(1bd) "Elective official" means an individual who holds an office that is regularly filled by vote of the people.

(1bg) "Employee" means any individual who is employed by an authority, other than an individual holding local public office or a state public office, or any individual who is employed by an employer other than an authority.

(1c) "Incarcerated person" means a person who is incarcerated in a penal facility or who is placed on probation and given confinement under s. 973.09(4) as a condition of placement, during the period of confinement for which the person has been sentenced.

(1d) "Inpatient treatment facility" means any of the following:

(a) A mental health institute, as defined in s. 51.01 (12).

(c) A facility or unit for the institutional care of sexually violent persons specified under s. 980.065.

(d) The Milwaukee County mental health complex established under s. 51.08.

(1de) "Local governmental unit" has the meaning given in s. 19.42(7u).

(1dm) "Local public office" has the meaning given in s. 19.42(7w), and also includes any appointive office or position of a local governmental unit in which an individual serves as the head of a department, agency, or division of the local governmental unit, but does not include any office or position filled by a municipal employee, as defined in s. 111.70(1)(i).

(1e) "Penal facility" means a state prison under s. 302.01, county jail, county house of correction or other state, county or municipal correctional or detention facility.

(1m) "Person authorized by the individual" means the parent, guardian, as defined in s. 48.02(8), or legal custodian, as defined in s. 48.02(11), of an individual who is a child, as defined in s. 48.02(2); the guardian of an individual adjudicated incompetent in this state; the personal representative or spouse of an individual who is deceased; or any person authorized, in writing, by an individual to act on his or her behalf.

(1r) "Personally identifiable information" has the meaning specified in s. 19.62(5).

(2) "Record" means any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes, optical disks, and any other medium on which electronically generated or stored data is recorded or preserved. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

(2g) "Record subject" means an individual about whom personally identifiable information is contained in a record.

(3) "Requester" means any person who requests inspection or copies of a record, except a committed or incarcerated person, unless the person requests inspection or copies of a record that contains specific references to that person or his or her minor children for whom he or she has not been denied physical placement under ch. 767, and the record is otherwise accessible to the person by law.

(3m) "Special purpose district" means a district, other than a state governmental unit or a county, city, village, or town, that is created to perform a particular function and whose geographic jurisdiction is limited to some portion of this state.

(4) "State public office" has the meaning given in s. 19.42(13), but does not include a position identified in s. 20.923(6)(f) to (gm).

**Credits**

<<For credits, see Historical Note field.>>

**Editors' Notes**

**LEGISLATIVE COUNCIL NOTES--2003**

**This Section:**

1. Creates a definition of the term "employee" to mean any public sector or private sector employee, other than an individual holding a local public office or a state public office.
2. Creates a definition of the term "local public office" that incorporates the definition of the term "local public office" contained in s. 19.42(7w), stats. The latter statutory provision states that a "local public office" means any of the following offices:
  - a. An elective office of a local governmental unit.
  - b. A county administrator or administrative coordinator or a city or village manager.
  - c. An appointive office or position of a local governmental unit in which an individual serves for a specified term, except a position limited to the exercise of ministerial action or a position filled by an independent contractor.
  - d. The position of member of the board of directors of a local exposition district not serving for a specified term.
  - e. An appointive office or position of a local government which is filled by the governing body of the local government or the executive or administrative head of the local government and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial action, or a position filled by an independent contractor.

Section 19.42(7w), stats., and s. 19.32(1dm), stats., as created in this bill, specifically refer to certain appointive offices or positions of a local governmental unit. The obvious purpose is to provide that an individual who holds an upper level governmental office or position and who has broad discretionary authority may not seek judicial review in order to prevent the release of records that name that individual. The description of an appointive office or position of a local governmental unit contained in s. 19.32(1dm), stats., is broader than the description contained in s. 19.42(7w), stats. For example, unlike the definition contained in s. 19.42(7w), stats., the definition in the proposed statute includes the offices of police chief and fire chief, positions whose incumbents do not serve for a statutorily specified term, may be removed only for cause, and are not appointed by the governing body of a local government. Section 111.70(1)(i), stats., defines the term "municipal employee" to mean an individual employed by a municipal employer other than an independent contractor, supervisor, or confidential, managerial, or executive employee.

3. Creates a definition of the term "record subject" to mean an individual about whom personally identifiable information is contained in a record.
4. Creates a definition of the term "state public office" to mean the numerous agency positions listed in ss. 19.42(13) and 20.923, stats. However, the provision specifically excludes from the definition a position in the Legislative Council staff, the Legislative Fiscal Bureau, and the Legislative Reference Bureau. Thus, a person in one of these positions may have a right of judicial review before a record in which the person is named may be released.



**19.32. Definitions, WI ST 19.32**

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Notes of Decisions (50)

W. S. A. 19.32, WI ST 19.32

Current through 2013 Act 380, published 4/25/2014

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West's Wisconsin Statutes Annotated  
Organization of State Government (Ch. 13 to 22)  
Chapter 19. General Duties of Public Officials  
Subchapter II. Public Records and Property (Refs & Annos)

W.S.A. 19.35

19.35. Access to records; fees

Effective: March 29, 2014

Currentness

**(1) Right to inspection.** (a) Except as otherwise provided by law, any requester has a right to inspect any record. Substantive common law principles construing the right to inspect, copy or receive copies of records shall remain in effect. The exemptions to the requirement of a governmental body to meet in open session under s. 19.85 are indicative of public policy, but may be used as grounds for denying public access to a record only if the authority or legal custodian under s. 19.33 makes a specific demonstration that there is a need to restrict public access at the time that the request to inspect or copy the record is made.

(am) In addition to any right under par. (a), any requester who is an individual or person authorized by the individual has a right to inspect any personally identifiable information pertaining to the individual in a record containing personally identifiable information that is maintained by an authority and to make or receive a copy of any such information. The right to inspect or copy information in a record under this paragraph does not apply to any of the following:

1. Any record containing personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration proceeding or court proceeding, or any such record that is collected or maintained in connection with such an action or proceeding.

2. Any record containing personally identifiable information that, if disclosed, would do any of the following:

a. Endanger an individual's life or safety.

b. Identify a confidential informant.

c. Endanger the security, including the security of the population or staff, of any state prison under s. 302.01, jail, as defined in s. 165.85(2)(bg), juvenile correctional facility, as defined in s. 938.02 (10p), secured residential care center for children and youth, as defined in s. 938.02(15g), mental health institute, as defined in s. 51.01(12), center for the developmentally disabled, as defined in s. 51.01(3), or facility, specified under s. 980.065, for the institutional care of sexually violent persons.

d. Compromise the rehabilitation of a person in the custody of the department of corrections or detained in a jail or facility identified in subd. 2. c.

3. Any record that is part of a records series, as defined in s. 19.62(7), that is not indexed, arranged or automated in a way that the record can be retrieved by the authority maintaining the records series by use of an individual's name, address or other identifier.

(b) Except as otherwise provided by law, any requester has a right to inspect a record and to make or receive a copy of a record. If a requester appears personally to request a copy of a record that permits copying, the authority having custody of the record may, at its option, permit the requester to copy the record or provide the requester with a copy substantially as readable as the original.

(c) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is in the form of a comprehensible audio recording a copy of the recording substantially as audible as the original. The authority may instead provide a transcript of the recording to the requester if he or she requests.

(d) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is in the form of a video recording a copy of the recording substantially as good as the original.

(e) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is not in a readily comprehensible form a copy of the information contained in the record assembled and reduced to written form on paper.

(em) If an authority receives a request to inspect or copy a record that is in handwritten form or a record that is in the form of a voice recording which the authority is required to withhold or from which the authority is required to delete information under s. 19.36(8)(b) because the handwriting or the recorded voice would identify an informant, the authority shall provide to the requester, upon his or her request, a transcript of the record or the information contained in the record if the record or information is otherwise subject to public inspection and copying under this subsection.

(f) Notwithstanding par. (b) and except as otherwise provided by law, any requester has a right to inspect any record not specified in pars. (c) to (e) the form of which does not permit copying. If a requester requests permission to photograph the record, the authority having custody of the record may permit the requester to photograph the record. If a requester requests that a photograph of the record be provided, the authority shall provide a good quality photograph of the record.

(g) Paragraphs (a) to (c), (e) and (f) do not apply to a record which has been or will be promptly published with copies offered for sale or distribution.

(h) A request under pars. (a) to (f) is deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under s. 19.37.

(i) Except as authorized under this paragraph, no request under pars. (a) and (b) to (f) may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. Except as authorized under this paragraph, no request under pars. (a) to (f) may be refused because the request is received by mail, unless prepayment of a fee is required under sub. (3)(f). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

(j) Notwithstanding pars. (a) to (f), a requester shall comply with any regulations or restrictions upon access to or use of information which are specifically prescribed by law.

(k) Notwithstanding pars. (a), (am), (b) and (f), a legal custodian may impose reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(L) Except as necessary to comply with pars. (c) to (e) or s. 19.36(6), this subsection does not require an authority to create a new record by extracting information from existing records and compiling the information in a new format.

**(2) Facilities.** The authority shall provide any person who is authorized to inspect or copy a record under sub. (1)(a), (am), (b) or (f) with facilities comparable to those used by its employees to inspect, copy and abstract the record during established office hours. An authority is not required by this subsection to purchase or lease photocopying, duplicating, photographic or other equipment or to provide a separate room for the inspection, copying or abstracting of records.

**(3) Fees.** (a) An authority may impose a fee upon the requester of a copy of a record which may not exceed the actual, necessary and direct cost of reproduction and transcription of the record, unless a fee is otherwise specifically established or authorized to be established by law.

(b) Except as otherwise provided by law or as authorized to be prescribed by law an authority may impose a fee upon the requester of a copy of a record that does not exceed the actual, necessary and direct cost of photographing and photographic processing if the authority provides a photograph of a record, the form of which does not permit copying.

(c) Except as otherwise provided by law or as authorized to be prescribed by law, an authority may impose a fee upon a requester for locating a record, not exceeding the actual, necessary and direct cost of location, if the cost is \$50 or more.

(d) An authority may impose a fee upon a requester for the actual, necessary and direct cost of mailing or shipping of any copy or photograph of a record which is mailed or shipped to the requester.

(e) An authority may provide copies of a record without charge or at a reduced charge where the authority determines that waiver or reduction of the fee is in the public interest.

(f) An authority may require prepayment by a requester of any fee or fees imposed under this subsection if the total amount exceeds \$5. If the requester is a prisoner, as defined in s. 301.01 (2), or is a person confined in a federal correctional institution located in this state, and he or she has failed to pay any fee that was imposed by the authority for a request made previously by that requester, the authority may require prepayment both of the amount owed for the previous request and the amount owed for the current request.

(g) Notwithstanding par. (a), if a record is produced or collected by a person who is not an authority pursuant to a contract entered into by that person with an authority, the authorized fees for obtaining a copy of the record may not exceed the actual,

necessary, and direct cost of reproduction or transcription of the record incurred by the person who makes the reproduction or transcription, unless a fee is otherwise established or authorized to be established by law.

**(4) Time for compliance and procedures.** (a) Each authority, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor.

(b) If a request is made orally, the authority may deny the request orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 business days of the oral denial. If an authority denies a written request in whole or in part, the requester shall receive from the authority a written statement of the reasons for denying the written request. Every written denial of a request by an authority shall inform the requester that if the request for the record was made in writing, then the determination is subject to review by mandamus under s. 19.37(1) or upon application to the attorney general or a district attorney.

(c) If an authority receives a request under sub. (1)(a) or (am) from an individual or person authorized by the individual who identifies himself or herself and states that the purpose of the request is to inspect or copy a record containing personally identifiable information pertaining to the individual that is maintained by the authority, the authority shall deny or grant the request in accordance with the following procedure:

1. The authority shall first determine if the requester has a right to inspect or copy the record under sub. (1)(a).
2. If the authority determines that the requester has a right to inspect or copy the record under sub. (1)(a), the authority shall grant the request.
3. If the authority determines that the requester does not have a right to inspect or copy the record under sub. (1)(a), the authority shall then determine if the requester has a right to inspect or copy the record under sub. (1)(am) and grant or deny the request accordingly.

**(5) Record destruction.** No authority may destroy any record at any time after the receipt of a request for inspection or copying of the record under sub. (1) until after the request is granted or until at least 60 days after the date that the request is denied or, if the requester is a committed or incarcerated person, until at least 90 days after the date that the request is denied. If an authority receives written notice that an action relating to a record has been commenced under s. 19.37, the record may not be destroyed until after the order of the court in relation to such record is issued and the deadline for appealing that order has passed, or, if appealed, until after the order of the court hearing the appeal is issued. If the court orders the production of any record and the order is not appealed, the record may not be destroyed until after the request for inspection or copying is granted.

**(6) Elective official responsibilities.** No elective official is responsible for the record of any other elective official unless he or she has possession of the record of that other official.

**(7) Local information technology authority responsibility for law enforcement records.** (a) In this subsection:

1. "Law enforcement agency" has the meaning given s. 165.83(1)(b).

2. "Law enforcement record" means a record that is created or received by a law enforcement agency and that relates to an investigation conducted by a law enforcement agency or a request for a law enforcement agency to provide law enforcement services.

3. "Local information technology authority" means a local public office or local governmental unit whose primary function is information storage, information technology processing, or other information technology usage.

(b) For purposes of requests for access to records under sub. (1), a local information technology authority that has custody of a law enforcement record for the primary purpose of information storage, information technology processing, or other information technology usage is not the legal custodian of the record. For such purposes, the legal custodian of a law enforcement record is the authority for which the record is stored, processed, or otherwise used.

(c) A local information technology authority that receives a request under sub. (1) for access to information in a law enforcement record shall deny any portion of the request that relates to information in a local law enforcement record.

**Credits**

<<For credits, see Historical Note field.>>

Notes of Decisions (390)

W. S. A. 19.35, WI ST 19.35

Current through 2013 Act 380, published 4/25/2014

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# **EXHIBIT 39**

West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 1

Rule 1. Scope and Purpose of Rules

Currentness

These rules shall govern public access to court records as defined herein. The rules are designed and should be interpreted to (1) promote access to court records; (2) protect individual privacy rights and public interests; (3) prevent public access to information that is confidential as a matter of law, public policy, court rule, or court order; and (4) make effective use of court staff. The order in which these are listed does not reflect their importance; all are equally important.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011. Amended effective April 26, 2011.]

Gov Access Ct Rec Rule 1, WY R GOV ACCESS CT REC Rule 1

Current with amendments received through 6/1/2014

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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 2

Rule 2. Definitions

Currentness

(a) "Administrative record" means any document or information pertaining to the administration of the courts, except personnel records, internal electronic or physical mail, appellate case assignments, and documents made confidential by statute, administrative rule, court rule, or court order.

(b) "Bulk distribution" means the distribution of all, or a significant subset, of the information in court records, as is and without modification or compilation.

(c) "Case record" means any document or information collected, received, or maintained by a custodian in connection with a specific case or judicial proceeding, except judicial or judicial staff work product, internal electronic or physical mail, memoranda or drafts, appellate case assignments, and documents made confidential by statute, administrative rule, court rule, or court order.

(d) "Compiled information" means information that is derived from the selection, aggregation, or reformulation by the court of some of the information from more than one case record, including statistical reports and information that are not available in an existing record or report.

(e) "Confidential" means unavailable to public access as a matter of state or federal statute, administrative rule, court rule, or court order.

(f) "Court" means the court in which the court record resides at the time of an access request.

(g) "Court record" means case records and administrative records, in whatever format, except personnel records, judicial or judicial staff work product, internal electronic or physical mail, memoranda or drafts, appellate case assignments, and records made confidential by statute, administrative rule, court rule, or court order.

(h) "Custodian" means the clerk of court, or his or her designee, unless otherwise designated by court order.

(i) "Data element" means information contained in a field in a computer database.

(j) "Electronic record" means any court record that is recorded in a form that only a computer can process, irrespective of whether it also exists in physical form.

**Rule 2. Definitions, WY R GOV ACCESS CT REC Rule 2**

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(k) "Interested person" means any non-party identified in a case record.

(l) "Person" means any individual, business entity, media organization, or government agency for which there is no policy, statute, or rule defining the agency's access to court records.

(m) "Personnel record" means any documents or information relating to the employment of persons within the judiciary, except name, position, and salary.

(n) "Public" means any person except court employees, persons who provide court services, government agencies whose access to court records is defined by law, and the parties and attorneys involved in a particular case.

(o) "Public access" means that the public may inspect and obtain a copy of the information in a court record unless prohibited by statute, administrative rule, court rule, or court order.

(p) "Remote access" means the ability electronically to search, inspect, or copy information in a court record without the need physically to visit the court facility where the record is maintained.

(q) "Vendor" means any governmental or non-governmental provider of a court information technology system.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 2, WY R GOV ACCESS CT REC Rule 2

Current with amendments received through 6/1/2014

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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 3

Rule 3. General Policy

Currentness

Court records are presumed to be open to public access during the regular business hours of the court, except as provided herein or otherwise provided by law. These rules are not intended to limit the access of parties and attorneys to case records of cases in which they are involved, but such access may be limited by court order. No custodian may restrict access or allow greater access to court records than as provided herein or otherwise provided by law.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 3, WY R GOV ACCESS CT REC Rule 3

Current with amendments received through 6/1/2014

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**West's Wyoming Statutes Annotated**  
**Wyoming Rules Governing Access to Court Records (Refs & Annos)**

**Wyoming Gov Access Ct Rec Rule 4**

**Rule 4. When Court Records May be Accessed**

**Currentness**

Court records shall be available for public access in the court facilities where the records are kept, during regular business hours. Upon receiving a request for access to court records, the custodian shall respond within a reasonable time regarding the availability of the records, and shall provide or deny access thereto within a reasonable time. Court records shall be provided at a time and in a manner that does not unreasonably interfere with other business of the courts. Electronic records to which the court allows remote access shall be available for public access at any time, subject to normal system maintenance and unexpected technical failures.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 4, WY R GOV ACCESS CT REC Rule 4

Current with amendments received through 6/1/2014

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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 5

Rule 5. Application Procedures

Currentness

Requests for public access to court records shall be directed to the custodian, and may be oral or written, except that requests for public access to administrative records shall be written. The person requesting access to court records shall not be required to disclose the purpose for the request, unless such purpose is commercial gain. Record requests shall clearly identify each record requested so the custodian can locate the record without extensive research. Continuing requests for documents not yet in existence shall not be considered. The custodian shall respond to the request within a reasonable time. Denials of public access may be oral, unless requested to be written. Request and denial forms shall be developed by the Wyoming Supreme Court.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 5, WY R GOV ACCESS CT REC Rule 5

Current with amendments received through 6/1/2014

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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 6

Rule 6. Court Records Not Available for Public Access

Currentness

Public access to court records may be prohibited by statute, administrative rule, court rule, or court order. The below list serves as a partial list of the public access restrictions:

- (a) Records listed in Wyo. Stat. Ann. § 16-4-203(b) and (d).
- (b) Adoption and confidential intermediary records pursuant to Wyo. Stat. Ann. §§ 1-22-104(d), (e), and 1-22-203(c).
- (c) Attorney discipline records pursuant to Disciplinary Code §§ 5 and 12(h) and Lawyers' Assistance Committee Rule 4C.
- (d) Mediation proceeding records pursuant to Wyo. Stat. Ann. § 1-43-102 and agricultural mediation services records pursuant to Wyo. Stat. Ann. § 11-41-106.
- (e) Domestic violence protection order petitioners' and their children's identifying information pursuant to Wyo. Stat. Ann. § 35-21-105(e).
- (f) Grand jury records pursuant to Wyo. Stat. Ann. §§ 7-5-207, 7-5-208, and 7-5-308.
- (g) Guardianships and conservatorships records pursuant to Wyo. Stat. Ann. § 3-1-110(a) and § 16-4-203(b) and (d).
- (h) Involuntary commitment records pursuant to Wyo. Stat. Ann. § 25-10-122.
- (i) Records from child abuse and neglect proceedings, including but not limited to records of the multidisciplinary team, pursuant to Wyo. Stat. Ann. §§ 14-3-424, 14-3-427(g), 14-3-437, and 14-3-439, except any order for payment of support and treatment that is not confidential pursuant to Wyo. Stat. Ann. § 14-3-435.
- (j) Records related to juvenile justice proceedings in the district court, including but not limited to records of the multidisciplinary team, pursuant to Wyo. Stat. Ann. §§ 14-6-203(g) and (j), 14-6-227(g), 14-6-239, and 14-6-240, except any order for payment of support and treatment that is not confidential pursuant to Wyo. Stat. Ann. § 14-6-236.

**Rule 6. Court Records Not Available for Public Access, WY R GOV ACCESS CT REC...**

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- (k) Records related to children in need of supervision proceedings, including but not limited to records of the multidisciplinary team pursuant to Wyo. Stat. Ann. §§ 14-6-437 and 14-6-427, except any order for payment of support and treatment that is not confidential pursuant to Wyo. Stat. Ann. § 14-6-435.
- (l) Presentence investigation reports pursuant to Wyo. Stat. Ann. § 7-13-409.
- (m) Search warrant applications and affidavits until served and returned, pursuant to W.R.Cr.P. 41(i).
- (n) Discovery material or other items submitted to a court for *in camera* review.
- (o) Trial juror addresses, qualification forms, and questionnaires, except to the parties in the case, if disclosure is restricted or prohibited by the court.
- (p) Mental health and counseling records pursuant to Wyo. Stat. Ann. §§ 33-27-123, 33-38-113, 9-2-125, and 9-2-126.
- (q) Substance abuse evaluation reports pursuant to Wyo. Stat. Ann. §§ 9-2-125 and 16-4-203(d)(i).
- (r) Records sealed by a court.
- (s) Sexual assault victim's identifying information prior to filing of the information or indictment in district court, and minor sexual assault victim's name pursuant to Wyo. Stat. Ann. § 6-2-319(a) and (b).
- (t) Medical records pursuant to Wyo. Stat. Ann. § 16-4-203(d)(i).
- (u) Crime victim's compensation application pursuant to Wyo. Stat. Ann. § 1-40-107(d).
- (v) Probation counselor case records pursuant to Wyo. Stat. Ann. § 5-3-504(b).
- (w) Court supervised treatment program information pursuant to Wyo. Stat. Ann. § 7-13-1610.
- (x) Criminal history record information pursuant to Wyo. Stat. Ann. § 7-19-106.
- (y) Sex offender registration information pursuant to Wyo. Stat. Ann. § 7-19-303(b).
- (z) Administrative subpoena information regarding child exploitation investigations pursuant to Wyo. Stat. Ann. § 9-1-640(j), unless in connection with a criminal case related to the subpoenaed materials.

**Rule 6. Court Records Not Available for Public Access, WY R GOV ACCESS CT REC...**

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- (aa) Genetic testing information pursuant to Wyo. Stat. Ann. § 14-2-710(c).
- (bb) Parentage adjudication information pursuant to Wyo. Stat. Ann. § 14-2-819, other than the final judgment.
- (cc) Child abuse and neglect information pursuant to Wyo. Stat. Ann. § 14-3-214.
- (dd) Domestic relations financial affidavits and records pursuant to Wyo. Stat. Ann. § 20-2-308(d).
- (ee) Motor vehicle accident reports pursuant to Wyo. Stat. Ann. §§ 31-5-1110 and 1111.
- (ff) Adult protective services information pursuant to Wyo. Stat. Ann. § 35-20-112(a) and (b).
- (gg) Confidential fair market value information in eminent domain proceedings pursuant to Wyo. Stat. Ann. § 1-26-704(d).
- (hh) Sexual assault victim medical examination information and reports pursuant to Wyo. Stat. Ann. § 6-2-309(m).
- (ii) Sexually transmitted disease examination information and reports pursuant to Wyo. Stat. Ann. § 7-1-109(f).
- (jj) Patient records from the Wyoming Life Resources Center pursuant to Wyo. Stat. Ann. § 25-5-131.
- (kk) Coroner's records, including toxicology reports, photographs, video recordings or audio recordings made at the scene of the death or made in the course of postmortem examinations pursuant to Wyo. Stat. Ann. § 7-4-105.

Any party or other person making a filing in a case, wherein it is necessary to attach documents that are prohibited for public release by statute, administrative rule, court rule, or court order, shall make that filing a redacted filing in accordance with Rule 7, herein.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011. Amended effective April 26, 2011.]

Gov Access Ct Rec Rule 6, WY R GOV ACCESS CT REC Rule 6  
Current with amendments received through 6/1/2014

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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 7

Rule 7. Filing Confidential Information

Currentness

Confidential information that is required to be filed as part of a case record shall be submitted by providing a redacted version of the filing along with an unredacted version attached to a separate Confidential Information Form, as appended to these rules. The court must retain the unredacted copy as part of the confidential record. If the redacted and unredacted filings are not offered for filing contemporaneously, the missing document may be filed or postmarked within one business day. The court may reject any paper filed not in compliance with these rules. When filing confidential or unredacted documents, the court will not accept fax filings. The Confidential Information Form and any attached confidential information are not subject to public access. If confidential information is admitted as evidence in a hearing or trial, any party or interested person may file a motion seeking to limit public access thereto for good cause as set forth in Rule 8 of the Rules Governing Access to Court Records.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011. Amended effective April 26, 2011.]

Gov Access Ct Rec Rule 7, WY R GOV ACCESS CT REC Rule 7

Current with amendments received through 6/1/2014

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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 8

Rule 8. Motions to Limit Public Access to Information in Case Record

Currentness

A motion to limit public access to information in a case record, supported by affidavit showing good cause, may be filed by any party to the case, by any interested person, by an entity charged with maintaining the confidentiality of records, or by the court. The motion and affidavit shall be accompanied by a proposed order, request for setting, and a certificate showing service of the motion and affidavit upon the parties and any interested persons, or a request for waiver of the notice requirements due to inability to locate any interested person after due diligence. The motion and affidavit of an interested person shall be titled as a motion for limited intervention and shall include a request for an order granting limited intervention. Any party or interested person may file a response within thirty days of service of the motion. When a motion to limit public access is filed, the Clerk shall keep the documents confidential and shall restrict public access until the judge has ruled on the motion. After the court has ruled on the motion, the clerk shall file the documents accordingly. Upon a finding that the information is confidential as a matter of law, or that disclosure of the information would do substantial injury to the public interest or to the privacy interest of an interested person, and the interest in non-disclosure resulting from such substantial injury outweighs the public right of access, notwithstanding the fact that the information might otherwise be available for public access, the court shall limit public access or the manner of public access, using the least restrictive means that achieves the purposes of the limitation. A record of the finding shall be kept, and the factual basis for the finding upon which closure is predicated shall be made apparent therein. There shall be a publicly accessible indication of the existence of information within a case record, to which access has been restricted, which indication shall include the title of the document with a notation that it is sealed.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 8, WY R GOV ACCESS CT REC Rule 8  
Current with amendments received through 6/1/2014

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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 9

Rule 9. Motions Requesting Access to Sealed Documents in Case Record

Currentness

Any person may file a motion for limited intervention, supported by affidavit showing good cause, for access to sealed documents in a case record, which shall be accompanied by a proposed order, request for setting, and a certificate showing service of the motion and affidavit upon the parties and any interested persons, or a request for waiver of the notice requirement due to inability to locate any interested person after due diligence. The motion shall include a request for an order granting limited intervention. The court may waive the notice requirement if the court finds that good faith efforts to locate an interested person have been made, that further efforts are not likely to be successful, and that the need for access to the sealed documents outweighs any prejudice to any interested person, and is in the interest of justice. Any party or interested person may file a response within thirty days of service of the motion. In determining the motion, the court shall consider applicable law and the content and purpose of these rules, and shall, in particular, balance the presumption in favor of public access to court records against the need to protect individual privacy rights and the public interest. This rule applies to case records that have been sealed, but does not apply to court records that are confidential as a matter of law.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 9, WY R GOV ACCESS CT REC Rule 9  
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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 10

Rule 10. Judicial Review

Currentness

(a) Any person denied public access to any court record by the record's custodian may petition the court for an order directing the custodian to grant access. Such petition shall be heard upon appropriate notice given to all parties, interested persons, or entities charged with maintaining the confidentiality of records. Unless the court finds that the record is confidential as a matter of law, or that the record should remain sealed as otherwise provided herein, the court shall order the custodian to grant public access.

(b) Any court order granting or denying public access to a court record shall be written, and, except for orders of the Supreme Court, shall be subject to appellate review pursuant to Rule 13 of the Wyoming Rules of Appellate Procedure.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 10, WY R GOV ACCESS CT REC Rule 10  
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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 11

Rule 11. Electronic Records

Currentness

Requests for compiled information and bulk data in electronic format shall be subject to the following additional restrictions:

- (a) The courts shall not be required, in response to a request for public access to court records, to create a non-standard data element, to make a data element available electronically that is not presently available electronically, or to produce a non-standard or alternative format report.
- (b) The courts shall not be required to allow inspection or copying of a record in its electronic format if doing so would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.
- (c) The courts shall not be required to compile data, extract data or create a non-standard document to comply with an electronic record request if doing so would impair the court's ability to discharge its duties.
- (d) The courts shall not be required to provide public access to the following data elements in an electronic record: social security numbers, street addresses, telephone numbers, personal identification numbers, motor vehicle driver's licenses and license plate numbers, and financial account information.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 11, WY R GOV ACCESS CT REC Rule 11  
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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 12

Rule 12. Compiled Information

Currentness

The courts have no duty to provide compiled information. However, any person may request compiled information directly from the clerk of court, if the request consists solely of information that is publicly accessible, is not already available in an existing report, and pertains to new filings, dispositions, judgments, and satisfaction of judgments. Requests for compiled information shall identify what information is sought, describe the purpose for requesting the information, explain how the information will benefit the public interest, and explain provisions for the secure protection of any information requested. An applicant requesting compiled information shall be required to certify that the data will not be sold or otherwise distributed directly or indirectly to third parties, that the information will not be used directly or indirectly to sell a product or services to an individual or the general public, and that the information will not be copied or duplicated, except in the public interest. Compiled information requests shall be limited to no greater than the preceding three month period from the date of request. Absent a showing of good cause, the clerks of court shall provide compiled information within the above limitations; for purposes of this rule, good cause means the court's electronic case management system is not capable of compiling the requested information. The Supreme Court may compile and provide additional information if it determines, in the exercise of its discretion, that providing the information meets the criteria established herein, that the resources are available to compile the information, and that it is an appropriate use of public resources. The State Court Administrator shall make the initial determination and recommendation to the Supreme Court as to whether to provide the additional compiled information.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011. Amended effective April 26, 2011.]

Gov Access Ct Rec Rule 12, WY R GOV ACCESS CT REC Rule 12

Current with amendments received through 6/1/2014

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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 13

Rule 13. Bulk Distribution

Currentness

No bulk distribution of court records shall be made without prior approval of the Supreme Court.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 13, WY R GOV ACCESS CT REC Rule 13

Current with amendments received through 6/1/2014

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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 14

Rule 14. Copies

Currentness

In all cases in which a person has the right of public access to court records, he or she may request copies, printouts, or photographs. If the custodian does not have facilities for making copies, printouts or photographs, the applicant shall be granted access to the records for the purpose of making copies, printouts, or photographs. The copies, printouts, or photographs shall be made while the records are in the possession of the custodian and are subject to the supervision of the custodian. When practical, the copy, printout, or photography work shall be done in the place where the records are kept, but if it is impractical to do so, the custodian may make other arrangements, at the applicant's expense.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 14, WY R GOV ACCESS CT REC Rule 14  
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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 15

Rule 15. Fees

Currentness

The Rules for Fees and Costs for District Courts, Rules for Fees and Costs for Circuit Courts, and any rules governing fees and costs in the Wyoming Rules of Appellate Procedure, as amended from time-to-time, are incorporated herein. Fees shall be paid in advance.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 15, WY R GOV ACCESS CT REC Rule 15

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West's Wyoming Statutes Annotated  
Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 16

Rule 16. Vendors

Currentness

If a court contracts with a vendor to provide information technology support to gather, store, or make accessible court records, the vendor shall be required to comply with these rules and any statutes or administrative agency regulations governing access to court records, and shall be required to notify the court of any requests for compiled information or bulk distribution of court records.

**Credits**

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 16, WY R GOV ACCESS CT REC Rule 16  
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**Rule 17. Local Rules, WY R GOV ACCESS CT REC Rule 17**

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**Filed by:** .....

**Name**

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**Address**  
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.....

**Credits**

[Adopted August 11, 2010, effective January 1, 2011. Amended effective April 26, 2011.]

Gov Access Ct Rec Rule 17, WY R GOV ACCESS CT REC Rule 17  
Current with amendments received through 6/1/2014

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# **EXHIBIT 40**



Superior Court of California  
County of Ventura  
June 18, 2014

**NOTICE OF PUBLIC ACCESS TO  
SCANNED CIVIL UNLIMITED COMPLAINTS**

In furtherance of its long-standing policy of providing timely access to court records, the Superior Court of California, County of Ventura is now creating electronic copies of all new civil unlimited complaints, excluding exhibits and attachments, prior to processing and filing by the Court. These electronic copies can be viewed free of charge on the public computer terminals in the public lobby of the Records Department during regular business hours from 8:00 a.m. to 3:00 p.m. daily. New civil unlimited complaints received by Civil Court Processing Assistants prior to 3:00 p.m. typically will be available for electronic viewing on the same day. Complaints received after 3:00 p.m. typically will be available for electronic viewing the next business day. Each scan will remain available for review for ten (10) days.

The procedures outlined above do not apply to new complaints that are confidential as a matter of law. Similarly, the procedures outlined above do not apply to new complaints that are lodged or filed with the Superior Court pursuant to a motion or application that the complaint be filed under seal. Access to these complaints shall be governed by *California Rules of Court* 2.550 and 2.551.

Scanned complaints do not constitute official records of the Court. The Court may ultimately reject for filing any complaint that does not meet the applicable standards of the *California Rules of Court*. Complaints become official records of the Court only after they are assigned a case number, stamped "filed" and placed in a file folder.

Members of the public may review official court files at the Records Department's public counter upon request. Paper copies of the contents of these files may be obtained at the cost of fifty (.50) cents per page.

# **EXHIBIT 41**

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2 Erica L. Reilley (State Bar No. 211615)  
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5 Telephone: (949) 851-3939  
6 Facsimile: (949) 553-7539

7 Attorneys for Defendant  
8 MICHAEL PLANET, IN HIS OFFICIAL  
CAPACITY AS COURT EXECUTIVE  
9 OFFICER/CLERK OF THE VENTURA  
COUNTY SUPERIOR COURT

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12

13  
14 COURTHOUSE NEWS SERVICE,

15 Plaintiff,

16 v.

17 MICHAEL PLANET, IN HIS  
18 OFFICIAL CAPACITY AS COURT  
EXECUTIVE OFFICER/CLERK OF  
19 THE VENTURA COUNTY  
SUPERIOR COURT,

20 Defendant.  
21

Case No. CV11-08083 R (MANx)

Assigned for all purposes to  
Hon. Manuel L. Real

**DECLARATION OF CHERYL  
KANATZAR IN SUPPORT OF  
DEFENDANT'S OPPOSITION  
TO PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTION**

Date: November 21, 2011

Time: 10:00 a.m.

Courtroom: 8

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I, CHERYL KANATZAR, declare and state as follows:

1. I am employed as a Deputy Executive Officer of the Superior Court of California, County of Ventura (“Ventura Superior Court” or “Superior Court”). I am responsible for the overall administrative operations of the Superior Court in the areas of court processing and courtroom operations. As is relevant to this lawsuit, “court processing” includes processing of, and access to, all filings with the Ventura Superior Court, including those filings at the Hall of Justice facility, the Court’s primary location. In addition, I was responsible for overseeing the management of all of the Court Processing Assistants (“CPAs”) who work in the Civil Department of the Superior Court’s Clerk’s Office, including the CPAs who are assigned to work the public filing windows, the new filings desks, and the Records and Exhibits Departments. I have personal knowledge of the facts stated in this Declaration, and I could and would competently and truthfully testify to these facts if called upon to do so.

2. It is my understanding that Courthouse News Service (“CNS”) claims in this action that Ventura Superior Court can and should provide “same-day access” to newly filed civil unlimited complaints. I provide this declaration to explain why it is not possible for the Superior Court to provide same-day access.

**A. Civil Clerk’s Office Staffing And Caseload Generally.**

3. By way of background, Ventura Superior Court’s Civil Department operates out of two locations, its Hall of Justice Center in Ventura, and its Simi Valley location. CNS has not insisted on a right of same-day access to newly filed complaints filed with our Simi Valley court; this declaration will deal only with the filings at the Hall of Justice facility.

4. Ventura Superior Court does *not* maintain filings in electronic format, and does *not* require litigants to submit motions, orders and other filings through an

1 online filing system like the federal courts' Pacer system. Instead, Ventura  
2 Superior Court maintains only standard physical files for all actions pending in the  
3 County of Ventura. Litigants must physically file paper copies of their documents.  
4 They can do so either by depositing them with CPAs in our Civil Department as  
5 described elsewhere in this Declaration, or by faxing or emailing their documents to  
6 the Civil Department, where a CPA must then generate paper documents for our  
7 files. Therefore, unlike the clerk's office in federal and other electronic filing  
8 courts, the clerk's office in the Ventura Superior Court is burdened by the  
9 substantial additional administrative task imposed by the need to process by hand  
10 every document filed with the court.

11 5. According to our Court Case Management System ("CCMS"), which  
12 maintains our docket of court filings as well as our court calendars, the CPAs in the  
13 civil clerk's office are responsible for receiving, filing and processing in excess of  
14 151,000 separate filings each year:

2008 Civil Filings	144,184
2009 Civil Filings	151,281
2010 Civil Filings	151,203


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20 6. The Superior Court currently employs 14 CPAs in the Civil  
21 Department, plus one Civil Department supervisor, to handle all of these filings.  
22 Each of the CPAs is responsible for a particular function or "desk" in the Civil  
23 Department, including the answers and motions, arbitration, fax filings, judgments,  
24 mandatory early settlement conference assignments, motions, new filings and  
25 orders, as well as public filing windows 7, 8, 9, 10 and 11.

26 7. The workload carried by each of our CPAs is very heavy. By way of  
27 example only, Jessica Brown is the CPA III currently responsible for our  
28

1 Mandatory Early Settlement Conference Desk. Despite what the name might  
2 imply, Ms. Brown is responsible for a very high volume of filings that must be  
3 processed on a daily basis. During a typical day, she is responsible for reviewing  
4 and scheduling appropriate case management hearings for approximately 4 to 5  
5 amended complaints, 7 to 8 notices of settlement and 3 to 4 amendments to  
6 complaints. In addition, she is responsible for receiving, processing and inputting  
7 into CCMS 4 to 5 substitution of attorney / notice of change of address forms per  
8 day. Ms. Brown is also responsible for reviewing and scheduling for hearing  
9 petitions for *de novo* review of wage and hour decisions by the California Division  
10 of Labor Standards Enforcement; for processing Notices of Removal to federal  
11 court; for making settlement officer assignments; and for scheduling settlement  
12 hearings before the settlement officer. She also reviews and schedules in CCMS  
13 follow-up calendars for cases transferred to Ventura Superior Court from other  
14 courts as well as case consolidations ordered by judges of the Superior Court. She  
15 also reviews files in which a proof of service of a new complaint, or status  
16 conference reports, or post-settlement dismissals have not been timely filed, and  
17 schedules OSC hearings in cases in which the appropriate documents have not been  
18 filed by the parties. In addition to these tasks, she is responsible for mailing from  
19 60 to 70 notices and other forms to be served on litigants; for working at one of the  
20 public filing windows for several hours each day; and for answering telephones for  
21 at least an hour per day.

22 8. The workloads of the remaining CPAs in the Civil Department are  
23 equally heavy, and will likely increase in the coming year. As explained in the  
24 Notice of Change in Processing of Civil Filings attached to this Declaration as  
25 Exhibit "A," effective October 11, 2011, CPAs in our Hall of Justice facility in  
26 Ventura assumed responsibility for processing "case initiating papers, including  
27 complaints" for cases filed in our East County courthouse located in Simi Valley:  
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Superior Court of California  
County of Ventura

**NOTICE OF CHANGE IN PROCESSING  
OF CIVIL FILINGS**

**Effective October 11, 2011**

Effective October 11, 2011, case initiating papers, including complaints, applications and petitions, applications for renewals of judgment, and clerk and court default judgment packets (except for requests for entry of default) will be processed in the Ventura clerk's office, only.

For efficiency and timeliness of processing, the Court encourages to the extent possible that all the above listed documents be dropped in the Ventura Court location. (All named documents dropped in the East County must be transported by the Court to Ventura for filing.) Documents relating to Unlawful Detainers will be excluded.

Documents may be dropped off at the civil filing counters, or at window 14, in room 210 of the Hall of Justice during regular business hours.

A drop box is located directly outside of the clerks' office, and documents placed in the box by 5:00 pm will be deemed deposited for filing that same business day.

9. We transferred responsibilities for new case filings to the Hall of Justice facility because reduced staffing at the Simi Valley Courthouse made it difficult to process work in a timely manner.

10. It is possible that further changes to CPA job responsibilities will be implemented in 2012. As explained in the Public Notice of Request for Public Input attached to this Declaration as Exhibit "B," the Superior Court is now considering whether to relocate the civil courtrooms located in Simi Valley to the Hall of Justice facility in Ventura:

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**PUBLIC NOTICE OF REQUEST FOR PUBLIC INPUT**  
(California Rules of Court, rule 10.620)

Superior Court of California, County of Ventura

**RESPONDING TO REDUCTION IN WORKFORCE CAUSED BY THE FISCAL CRISIS  
THE VENTURA SUPERIOR COURT IS CONSIDERING REASSIGNING  
THE EAST COUNTY CIVIL LAW JUDGES AND CLERK'S OPERATIONS  
TO THE HALL OF JUSTICE**

The Ventura Superior Court is considering reassigning its two East County Civil Law Judges (Courtrooms S3 and S5) and all related civil clerk's office operations at that location, except unlawful detainees, to its main courthouse located at the Hall of Justice, 800 South Victoria Avenue, Ventura, California in late January, early February 2012. The proposed changes are due to the significant reduction in funding for the California court system. The Ventura Superior Court is facing a \$5.8 million dollar deficit for fiscal year beginning July 2011, which is projected to increase to \$9.3 million for fiscal year beginning July 2012.

If this relocation takes effect, it will increase the workload of our Civil Department CPAs.

11. The workload carried by our CPAs has been made even heavier as the result of budgetary shortfalls experienced by the State of California generally and the Ventura Superior Court in particular. These budgetary shortfalls have resulted in mandatory furlough days for our CPAs, as well as a hiring freeze, which effectively prevents us from hiring new CPAs in the clerk's office when existing CPAs retire or quit. As of the end of September 2011, Ventura Superior Court had no fewer than 42 vacancies for full-time staff positions. 22 of these vacancies arise in my areas of responsibility; four occurred within the civil processing Civil Department and another four occurred in the Records Department.

12. This reduction in staffing levels necessitated a number of changes in the business operations of the clerk's office. First, we reduced the public business hours for the clerk's office effective July 1, 2009. As can be seen from this excerpt from the July 1, 2009 memorandum issued to all staff in the clerk's office, which I approved, the public and telephone hours were reduced so that the doors to the clerk's office would be closed at 4:00 p.m., rather than 5:00 p.m.:

Declaration of Cheryl Kanatzar ISO  
Def't's Opp. to Plf's Mot. for Prelim. Inj.  
Case No. CV 11-08083 R (MANx)

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SUPERIOR COURT OF CALIFORNIA • COUNTY OF VENTURA

**INTEROFFICE MEMORANDUM**

July 1, 2009

To: Civil/Small Claims/Appeals Staff

From: *JAC* Julie Camacho, Court Program Manager

Subject: Revised Court Closing Time of 4:00 p.m.

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As you are all aware, the Ventura Superior Court processing units hours of service to the public and telephone hours have been revised effective Wednesday, July 1, 2009.

The doors to the public lobby will be closed at 4:00 p.m.

Telephone calls from the public and outside agencies (i.e., Court of Appeal, District Attorney's Office, etc.) will not be accepted from 11:30 a.m. to 1:30 p.m., and 4:00 p.m. to 5:00 p.m. Telephone calls from other court departments and courtroom staff will continue to be accepted.

A locked court drop box has been placed in the hallway outside the lobby doors. Documents placed in the drop box before 5:00 p.m. will be receive stamped by court staff when they are removed from the box. When the documents are processed, they will receive a filing date the same as the date they were received.

A complete copy of this July 1, 2009 memorandum is attached to this Declaration as Exhibit "C."

13. To accommodate the change in office hours with the need to accept filings before 5:00 p.m., the Ventura Superior Court installed a secure drop box near the clerk's office on the second floor of the Hall of Justice facility. Civil and family law filings can be deposited in the drop box for same-day filing at any time prior to 5:00 p.m. Staff from the Family Law Department or the Civil Department retrieve documents from the drop box twice each day, at 4:30 p.m. and 5:00 p.m. Documents retrieved from the drop box are date-stamped "Received" on the back of the first page, and are then distributed to the appropriate back office CPA for processing. Dropped documents, including new complaints, are deemed filed on


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the day they are stamped received. If the documents are processed the next day, our CPAs are instructed to back-date the file stamp to properly reflect the date upon which the document is deemed filed.

14. To further accommodate reduced staffing levels in the clerk's office, the Ventura Superior Court changed the procedure by which new complaints are accepted for filing. The Civil Department receives approximately 8 civil unlimited complaints, along with literally hundreds of other documents, including answers, motions and notices of various types, on a daily basis. Prior to June 2010, most of these complaints were received by CPAs at the public filing windows, who were responsible for fully opening new files and for issuing summons and related documents upon receipt. However, the practice of creating new files upon receipt of complaints at the filing window became increasingly unworkable because of the small number of open clerk windows; the increasing line of customers waiting for those windows; the advent of the CCMS filing system, which requires our CPAs to enter considerably more information regarding a new complaint before a file number can be generated; the reduction in the number of CPAs available to staff the public filing windows; and the reduction of hours the clerk's office could remain open in light of current budget constraints.

15. Accordingly, Ventura Superior Court implemented a change to its filing system effective June 21, 2010. As explained in the following excerpt from our May 19, 2010 Notice of Counter Filing Changes, which I approved, most new complaints could only be "dropped off" at the public filing windows, so that they could be processed by back-counter CPAs:

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*Superior Court of California*  
COUNTY OF VENTURA  
Hall of Justice  
800 South Victoria Avenue  
Ventura, CA 93009

May 19, 2010

**NOTICE OF COUNTER FILING CHANGES**

Effective June 21, 2010, the Ventura Superior Court of California, County of Ventura, will implement a change to the documents permitted to be filed at the front office filing counters.

The following documents will be required to be dropped off for back office processing:

**CIVIL** (All documents relating to Unlawful Detainer cases are excluded from this change.)

1. Case initiating papers including Complaints, Petitions and Applications
2. Applications for and Renewals of Judgment
3. Clerk and court default judgment packets, **except** Requests for Entry of Default

**Note:** The documents listed above can be dropped at the civil filing counters in Ventura and East County, or at Window 14 in Ventura.

A complete copy of our May 19, 2010 notice is attached to this Declaration as Exhibit "D."

16. Under this change in procedure, new complaints are date-stamped "Received" at the public filing window, and given to a behind-the-counter new filings desk CPA, who is responsible for opening a new file, issuing a case number, and providing conformed copies to counsel. As is the case with documents retrieved from the drop box, new complaints received at the public filing window are deemed filed on the date they are stamped received. If they are received late in the day and processed at a later time, the new filings desk CPA is instructed to back-date the file stamp to properly reflect the date upon which the document is deemed filed.

17. This change in procedure allowed the clerk's office to prioritize work

Declaration of Cheryl Kanatzar ISO  
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Case No. CV 11-08083 R (MANx)



1 based on the needs of our public customers and bench officers. From the Superior  
2 Court's standpoint, most new complaint files remain essentially inactive for  
3 approximately 65 days, until the summons and complaint are served, and the  
4 defendant(s) answers or take some other action. Hence, receiving "dropped"  
5 complaints at the public filing window for later processing the same day, allows our  
6 limited staff to deal with other customers waiting in line at the civil filing windows,  
7 and to deal with other pressing issues, including *ex parte* applications, and other  
8 time sensitive matters.  
9

10 **B. CNS's Demand For "Same-Day Access."**

11 18. As a practical matter, CNS's reporter is the only "reporter" who asks  
12 to see our new case files. The Superior Court only infrequently receives requests  
13 from other reporters for access to case files or new complaints. As is the case with  
14 CNS, we grant other reporters the same access we provide to members of the  
15 general public.

16 19. It is my understanding that, prior to November 2010, CNS's reporter,  
17 Juliana Krolak, only visited our clerk's office on roughly a weekly basis. In the  
18 2008 - 2009 time period, Ms. Krolak occasionally complained that she could not  
19 locate particular case files that should have been placed in the Media Bin in our  
20 Records Department. We worked with Ms. Krolak and her supervisor, Chris  
21 Marshall, to determine why some files were not being deposited in the Media Bin,  
22 and took steps to ensure that new files were first placed in our Media Bin where  
23 they would remain for approximately one week before being placed in our shelves  
24 for filing.

25 20. On or about July 23, 2009, I received the following letter from Mr.  
26 Marshall which confirmed our efforts to route new complaints to the Media Bin:  
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VENTURA SUPERIOR COURT  
ADMINISTRATION

July 23, 2009

Cheryl Kanatzar  
Deputy Executive Officer  
Superior Court of California  
County of Ventura  
Hall of Justice  
800 South Victoria Avenue  
Ventura, CA 93009


Re: Media Access to New Civil Filings

Dear Ms. Kanatzar:

On behalf of Julianna Krolak and all of us at Courthouse News Service, I would like to thank you and your professional and helpful staff for assisting us in ensuring new civil unlimited filings make it to the media bin for media review before being placed on the shelf.

Your actions have greatly improved press access to an important courthouse in the state of California, and for that we are deeply appreciative.

If you ever have any questions for me, I am always available and we will not hesitate to contact you in the future if we have questions. Once again, thank you for your assistance.

Sincerely,  
  
Chris Marshall  
Northern California Bureau Chief

A complete copy of this letter is attached to this Declaration as Exhibit "E."

21. It is my understanding that CNS alleges in its complaint that the Superior Court somehow agreed to an "arrangement" by which "newly filed complaints were to be made available to Courthouse News' reporter after some processing but before the complaints had been fully processed, the result of which was that access became much more timely." This allegation is not correct. As noted above, Ventura Superior Court took steps to ensure that fully processed complaints were timely deposited in the Records Department Media Bin. For reasons that will be detailed below, it has never been our practice to grant access to "partially processed" complaints.

22. I received another letter from Mr. Marshall more than a year later on February 7, 2011. Mr. Marshall notified me for the first time in this letter that Ms. Krolak had been visiting the Superior Court's Records Department on a daily basis

1 since November 2010; that CNS hoped that she could review newly filed  
2 complaints on the on the same day they were filed; but that Ms. Krolak had  
3 experienced delays:  
4

5 **Until a few months ago Ms. Krolak had been visiting the main division of the Ventura  
6 Superior Court on a twice-a-week basis to review new civil unlimited complaints  
7 (Courthouse News does not cover criminal or family actions, nor does it review limited  
8 civil actions). In recognition of the increasing importance of Ventura County as a source  
9 of newsworthy litigation, Ms. Krolak began visiting the Court on a daily basis in  
10 November, with each of her visits occurring near the end of each court day.**

11 **Given these now-daily visits, Courthouse News hoped that it would be able to review and  
12 report on new civil complaints at the end of the same day on which those complaints are  
13 filed. This same-day access is provided to news reporters who make daily visits to other  
14 major superior courts, including the California Superior Courts in Los Angeles,  
15 Riverside, San Francisco, and Santa Clara, as well as other major courts across the nation.  
16 A survey that further describes the same-day access that news reporters have in other  
17 courts is enclosed for your review.**

18 **Unfortunately, access to new civil complaints at the Ventura County Superior Court is  
19 nowhere near same-day. In a recent one-week survey of unlimited jurisdiction cases  
20 covered by Courthouse News, Ms. Krolak saw only one case on the day it was filed.  
21 Of the remaining cases, a majority was three days to one week old and a large minority  
22 was one to two weeks old.**

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A copy of Mr. Marshall's February 7, 2011 letter without exhibits is attached to this  
Declaration as Exhibit "F."

23 23. I discussed Mr. Marshall's letter with Julie Camacho, the Court  
24 Program Manager responsible for CPAs working in the Department. In response,  
25 we issued the following February 17, 2011 email which directs Civil Department  
26 CPAs to make every effort to complete their filings and get them to the Records  
27 Department Media Bin in a timely fashion:  
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**From:** Martha McLaughlin  
**To:** Civil Staff  
**Date:** 2/17/2011 4:22 PM  
**Subject:** New Filings - Routing to Records (including media bin) FORTHWITH

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**STAFF:**  
Concerns have been raised with respect to the delay in time of new filings being sent to court records (to include the media bin). Everyone is being asked to please make every effort to complete your entire new filing (s) on the same day filed. Please assemble and distribute to either the cart or the media bin box timely. We understand you may need a day or so more if you encounter a new filing that has multiple parties for entry. However, short of that, it is imperative that the files move on their way daily. This not only ensures proper location, but it helps to eliminate mix-up in placing of labels on documents, missing files, etc. Thank you for your prompt cooperation, please make good use of 4:00-5:00 p.m. time for this activity. Please see me if you have any questions or concerns.

A complete copy of the February 17, 2011 email is attached to this Declaration as Exhibit "G."

24. I spoke with Mr. Marshall by telephone sometime in March 2011 about his February 7, 2011 letter. He explained that Ms. Krolak now visited the Records Department every day, and said that she needed "same-day access." He explained that CNS had obtained same-day access from other courts in California, as demonstrated by the attachment to his letter. He also said that he just needed access to electronic copies of new complaints, and that, in other courts, CNS "reporters" could go to a computer terminal and review new complaints on line.

25. In response, I explained to Mr. Marshall that Ventura Superior Court was *not* an electronic filing court like most of the courts identified in his letter; that we did *not* image Superior Court filings; that we did *not* accept any type of e-filings; that our filing system was *not* automated as is the case with the federal court Pacer system; and that we still manually enter each document into physical files. Mr. Marshall nonetheless insisted that Ms. Krolak be given access to new complaints the same day as they were filed.

26. After speaking with the Superior Court's staff, including Ms. Camacho, I spoke to Mr. Marshall again by telephone several days later. I told him

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that we would do what we could to get newly filed complaints to the Media Bin as fast as possible; that, if we are able to process new complaints early in the day, we would put them in the Media Bin on the same day; but that we would otherwise do our best to process new complaints and deposit them in the Media Bin on the day after they had been filed. Mr. Marshall said that he and his attorneys would not be happy with this response.

27. As a result of these communications with Mr. Marshall, I worked with Julie Camacho to reprioritize the procedures by which newly filed complaints are processed and made available to the public in the Superior Court's Media Bin, which is located in our Records Department. As explained in the following excerpt from Ms. Camacho's March 15, 2011 email to Maria Ochoa, the CPA then assigned to the new filings desk, we asked Maria to give "the highest priority" to processing new civil unlimited complaints, so that there could be a two-day turnaround between the date a new complaint is filed, and the date the newly filed complaint would be deposited in the Media Bin for public review:

**From:** Julie Camacho  
**To:** Maria Ochoa; Martha McLaughlin  
**Date:** 3/15/2011 8:26 AM  
**Subject:** Re-Prioritizing of New Filings Desk  
**CC:** Denise Lugo; Mari Soto; Vicki Knight

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Maria -

I just want to confirm in writing for everyone the decisions that we made last week regarding re-prioritizing the limited and unlimited new complaints.

To save staff from having to photocopy the backlog of Unlimited jurisdiction new complaints for the media bin, these filings will now be the highest priority complaints to be filed. We receive on average 6 per day. Maria has started separated the "other" new complaints by limited and unlimited jurisdiction and labeling them as such.

Maria will work on these filings as the first and highest priority item on her desk (along with any Unlawful Detainer filings she may get) and immediately route them to the Media bin in Records. We have promised a maximum 2 day turn around to the media. Unlimited cases includes any petitions where the procedure states to forward the file to the Media Bin.

This also means that if Maria is out of the office, her work will need to be prioritized and the Unlimited new filings will need to be assigned to another clerk each day.

If there are any issues that arise with this procedure, please let me know. This is a trial period to make sure that this procedure works.

Thank you,  
Julie

1 A complete copy of our March 15, 2011 email is attached to this Declaration as  
2 Exhibit "H."

3 28. While we cannot guarantee a two-day turnaround to the Media Bin in  
4 all cases for the reasons explained below, Ms. Camacho's March 15, 2011 email  
5 confirms our current practice with respect to filing of, and access to, newly filed  
6 civil unlimited complaints.

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8 **C. It Is Not Possible For Ventura Superior Court To Provide "Same-Day Access" To Newly Filed Civil Unlimited Complaints.**

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10 29. Since at least March 2011, Ventura Superior Court has given "the  
11 highest priority" to filing civil unlimited complaints so that they can be forwarded  
12 to the Media Bin in the Records Department for public review. Indeed, in  
13 approximately August of this year, we obtained an exception from the courtwide  
14 hiring freeze in order to hire a new CPA in the Civil Department, and we then  
15 assigned a *second* CPA to the new filings desk. The "first priority" of this second  
16 CPA is to identify and process newly filed civil unlimited complaints.

17 30. It is my understanding that CNS remains unsatisfied with the speed by  
18 which newly filed civil unlimited complaints are processed and routed to the Media  
19 Bin in the Records Department for review. However, from my perspective as  
20 Deputy Executive Officer of the Superior Court, it is not possible to guarantee  
21 "same-day access" to newly filed civil unlimited complaints for at least the  
22 following reasons.

23 31. First, it is important to note that newly filed civil unlimited complaints  
24 can be "dropped" with the Superior Court for filing in a number of different ways.  
25 For example, newly filed complaints can be dropped for filing: (a) with a CPA at  
26 the public filing windows in the clerk's office, as described above; (b) in the after  
27 hours drop box described above, which is only accessed at 4:30 and 5:00 p.m. each  
28 day; (c) by messenger services that deliver a number of filings for a number of

1 cases in bulk to unattended Window 14, usually in the afternoon; (d) by mail, which  
2 is delivered to the new filings desk twice daily; and (e) via “fax filing” and “email  
3 filing,” by which new complaints are received electronically, and are thereafter  
4 printed and processed by the assigned CPA. In addition, civil unlimited complaints  
5 that are dropped for filing at the Simi Valley Courthouse are retrieved and delivered  
6 to the new filings desk once a day by a Superior Court courier. As explained  
7 above, new civil unlimited complaints that are “dropped” in any of these locations  
8 are marked “received” on the date they are delivered. However, delivery of these  
9 complaints to the new filings desk can be delayed by a day or more (in the event of  
10 an intervening weekend) if they are “dropped” late in the day, or not delivered to  
11 the new filings desk until later that day or early the next morning. The Superior  
12 Court has no control over the timing by which new complaints are “dropped” for  
13 filing, and cannot guarantee same-day access to these complaints for that reason.

14         32. Second, furloughs and court closures necessitated by our budgetary  
15 shortfalls also preclude the Ventura Superior Court from guaranteeing “same-day  
16 access” to newly filed civil unlimited complaints. As explained in the Superior  
17 Court’s September 22, 2011 press release attached to this Declaration as Exhibit  
18 “I,” the Superior Court’s Clerk’s Office will be closed to the public on “November  
19 23, 2011, December 23, 27, 28, 29 and 30, 2011 to mitigate the impact of additional  
20 unpaid employee furlough days on court operations.” However, newly filed  
21 complaints can still be deposited in the Superior Court’s drop box, and as explained  
22 elsewhere in this Declaration, they will be deemed filed as of the date they are  
23 stamped “received.” However, it will not be possible to grant “same-day access” to  
24 these newly filed complaints when the Superior Court’s Clerk’s Office is closed.

25         33. Second, it is not possible to guarantee “same-day access” to  
26 complaints that are immediately assigned to judicial officers. This category  
27 includes cases in which plaintiffs simultaneously file complaints and *ex parte*  
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1 applications for temporary restraining orders; complaints for which plaintiffs seek  
2 fee waivers which must be approved by a judicial officer before the complaint can  
3 be accepted for processing; and complaints filed on behalf of minors by guardians  
4 ad litem, who must be appointed as guardians by a judicial officer before the  
5 complaint can be accepted for processing. Newly filed civil unlimited complaints  
6 that are immediately assigned to judicial officers may remain in chambers for  
7 anywhere from one to several days or longer depending on whether the assigned  
8 judicial officer needs to retain the file for further action. The Superior Court is not  
9 in a position to guarantee same-day access to these files for this reason.

10 34. Third, it is not possible to guarantee "same-day access" to newly filed  
11 civil unlimited complaints that are processed by newly appointed CPAs. One of the  
12 Superior Court's highest responsibilities is to ensure and promote public trust and  
13 confidence in the Court and its filings. The Superior Court cannot satisfy this  
14 responsibility unless it ensures that its files are in good order, and are complete and  
15 accurate. Hence, complaints that are processed by newly appointed CPAs are  
16 subject to a quality control review in which new files are routed to Ms. Martha  
17 McLaughlin, Court Program Supervisor II in charge of the Civil Department, who  
18 is responsible for supervising Civil CPAs. It is not uncommon for new CPAs  
19 improperly to process incomplete complaints that should be rejected; to improperly  
20 enter crucial case data that would impair CCMS from properly tracking and  
21 assigning the case; and to improperly enter contact information for attorneys.  
22 These complaints are not ready for review, by the press or other members of the  
23 general public. Instead, Ms. McLaughlin refers the complaint and its file back to  
24 the newly hired CPA who must correct and resubmit the file for final review and  
25 approval. Newly filed civil unlimited complaints are placed in the Media Bin in the  
26 Records Department by Ms. McLaughlin only after they have been corrected and  
27 approved. Once the file is approved, Ms. McLaughlin walks it to the Media Bin;  
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1 the new filings CPA then deals with conformed copies. This quality control  
2 process could take from one to several days. The Superior Court is not in a position  
3 to guarantee same-day access to complaints processed by newly appointed CPAs  
4 for this reason.

5 **D. It Is Not Possible To Allow CNS Reporters "Behind The Counter"**  
6 **To Review Newly Filed Complaints Before They Are Processed.**

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8 35. It has been suggested that we could ensure more timely access to  
9 newly filed civil unlimited complaints by allowing Ms. Krolak to go "behind the  
10 counter" in the Civil Department and to review dropped complaints that have not  
11 been processed, filed and approved for public viewing. This suggestion is not  
12 workable for a number of reasons.

13 36. First, the Superior Court's security procedures were tightened  
14 considerably after the occurrence of a shooting incident involving an Employment  
15 Development Department employee in Oxnard. The Superior Court's current  
16 policies prohibit members of the general public from accessing processing desks  
17 where new civil unlimited complaints are maintained prior to processing.

18 37. Second, the Superior Court cannot allow CNS or other members of the  
19 public to review new civil unlimited complaints until they are filed to ensure that  
20 the Court respects the privacy of litigants. For example, litigants who file fee  
21 waiver requests must include personal financial information with their fee waiver  
22 requests. These requests are kept with the complaints they accompany until after  
23 they are assigned to a judicial officer and processed by a CPA. It would be  
24 inappropriate to grant access to these confidential records.

25 38. Allowing members of the public access to new complaints before they  
26 are filed also violates the Superior Court's accounting protocols. New complaints  
27 cannot be processed or filed until the plaintiff or plaintiffs have paid the proper  
28 filing fee. Filing fees usually are paid by check, which are attached to a new

1 complaint until it is processed. The Superior Court requires CPAs to balance out  
2 each day and has established strict cash handling and audit procedures to ensure  
3 that moneys deposited with the Superior Court are secure. It is inconsistent with  
4 these protocols and procedures to allow public access to those areas of the clerk's  
5 office, including the new filings desk, where filing fees are maintained.

6 39. Quality control concerns also counsel against allowing the general  
7 public to review new complaints before they are filed. As noted above, one of the  
8 Superior Court's highest responsibilities is to ensure and promote public trust and  
9 confidence in the Court and its filings. The Superior Court does not satisfy this  
10 responsibility by allowing access to new complaints that may be rejected for filing,  
11 or that are in some way incomplete.

12 40. Finally, but perhaps more importantly, it is my understanding that the  
13 Superior Court's current practice of granting access to civil unlimited complaints  
14 after they have been processed and filed complies with California law. In  
15 particular, it is my understanding that the Superior Court's practice of granting  
16 access to newly filed civil unlimited complaints once they are processed and placed  
17 in the Records Department Media Bin complies with California Government Code  
18 section 68150, which grants a right of "reasonable access" to "court records,"  
19 which is defined by Government Code section 68151 to include, "[a]ll filed papers  
20 and documents in the case folder, but if no case folder is created by the court, all  
21 filed papers and documents that would have been in the case folder if one had been  
22 created."

23 41. Similarly, it is my understanding that the Ventura Superior Court's  
24 practice is consistent with the provisions of California Rule of Court 2.400(a),  
25 which provides that, "[o]nly the clerk may remove and replace records in the  
26 court's files," and that, "[u]nless otherwise provided by these rules or ordered by  
27 the court, court records may only be inspected by the public in the office of the  
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1 clerk.”

2 **E. Summary.**

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4 42. The Ventura Superior Court has *not* enacted a blanket policy against  
5 granting same-day access to newly filed civil unlimited complaints. To the  
6 contrary, the Superior Court recognizes the role the First Amendment plays in our  
7 society, and does not and will not deny access to documents maintained in its  
8 public files.

9 43. In addition, the Superior Court has granted, and will continue to grant  
10 “reasonable access” to its public files, including newly filed civil unlimited  
11 complaints, to all members of the public, including the press. It is for these reasons  
12 that we have made it our “highest priority” to process and file civil unlimited  
13 complaints so that they can be forwarded to the Media Bin in the Records  
14 Department for public review. However, given current staffing and financial  
15 constraints, it is not possible or practical for the Superior Court to *guarantee* “same-  
16 day access” to newly filed civil unlimited complaints as CNS demands.

17 44. In this regard, I wholeheartedly agree with the statements of the  
18 California Judicial Council when it explained its opposition to CNS’s proposed  
19 “same-day access” legislation as follows:

20 Many courts are unable to meet the same day standard because they must  
21 complete basic case processing tasks before they release the records to the  
22 public in order to ensure that they do not release confidential information,  
23 that the filing is valid (e.g. it is accompanied by the appropriate filing fee and  
24 is directed to the proper court), and to have sufficient information such that  
25 the court can protect the accuracy and integrity of the record prior to its  
26 release. These tasks are important functions of the court in its role as  
27 custodian of these records, and the speed with which access is provided must  
28 be reasonably balanced with these responsibilities. . . . On any given day the  
volume of filings may be such that courts cannot satisfy both requirements -  
if they perform the required screening, they will not be able to release records  
on the day that they are received.

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Sponsors have suggested that courts can simply collect newly-filed records in a box while they await processing and provide access to those files on that basis. The courts, however, note that it is not appropriate to subject those records to unsupervised review before the court has entered sufficient information to protect the accuracy and integrity of the record. The only way for courts to comply with this standard would appear to be to require that all parties submit two copies of any document filed with the court. Yet, even this mandate, which would be unduly burdensome for litigants and thereby diminish access to justice, would impose significant workload burdens for courts to manage this flow of paper and sort those filings that are confidential from those that are not.

It is also critical to note that many court filings are not readily available for public access on the same day they are filed because the court needs to act upon them in a timely manner. Requests for temporary restraining orders for domestic violence, elder abuse, and civil harassment must be acted upon by the court on the day that they are filed unless they are filed too late in the day for the court to act upon them. Taking action on these matters before they become publicly available is an appropriate course of action, and best serves the interest of the underlying statutes that seek to provide immediate protection to those who need it. Criminal filings for in-custody defendants must lead to a timely arraignment of those defendants, and the court needs the filing in order to process the case and complete the arraignment. Courts need the flexibility to prioritize these critical functions and to provide access to the records within a reasonable time frame.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 31st day of October 2011 at Ventura, California.

  
Cheryl Kanatzar

Declaration of Cheryl Kanatzar ISO  
Def't's Opp. to Plf's Mot. for Prelim. Inj.  
Case No. CV 11-08083 R (MANx)

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**EXHIBIT "A"**



Superior Court of California  
County of Ventura

**NOTICE OF CHANGE IN PROCESSING  
OF CIVIL FILINGS**

**Effective October 11, 2011**

Effective October 11, 2011, case initiating papers, including complaints, applications and petitions, applications for renewals of judgment, and clerk and court default judgment packets (except for requests for entry of default) will be processed in the Ventura clerk's office, only.

For efficiency and timeliness of processing, the Court encourages to the extent possible that all the above listed documents be dropped in the Ventura Court location. (All named documents dropped in the East County must be transported by the Court to Ventura for filing.) Documents relating to Unlawful Detainers will be excluded.

Documents may be dropped off at the civil filing counters, or at window 14, in room 210 of the Hall of Justice during regular business hours.

A drop box is located directly outside of the clerks' office, and documents placed in the box by 5:00 pm will be deemed deposited for filing that same business day.

We appreciate your cooperation in implementing this change, and thank you in advance.

Contact: Julie Camacho (Ventura) 805.654.2247  
or  
Keri Griffith (East County) 805.582.8076

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**EXHIBIT "B"**

## **PUBLIC NOTICE OF REQUEST FOR PUBLIC INPUT**

(California Rules of Court, rule 10.620)

Superior Court of California, County of Ventura

### **RESPONDING TO REDUCTION IN WORKFORCE CAUSED BY THE FISCAL CRISIS THE VENTURA SUPERIOR COURT IS CONSIDERING REASSIGNING THE EAST COUNTY CIVIL LAW JUDGES AND CLERK'S OPERATIONS TO THE HALL OF JUSTICE**

The Ventura Superior Court is considering reassigning its two East County Civil Law Judges (Courtrooms S3 and S5) and all related civil clerk's office operations at that location, except unlawful detainers, to its main courthouse located at the Hall of Justice, 800 South Victoria Avenue, Ventura, California in late January, early February 2012. The proposed changes are due to the significant reduction in funding for the California court system. The Ventura Superior Court is facing a \$5.8 million dollar deficit for fiscal year beginning July 2011, which is projected to increase to \$9.3 million for fiscal year beginning July 2012.

Court employees currently working at the East County Courthouse civil clerk's office are responsible for processing all civil, family and small claims matters filed at that location. Due to hiring freezes, mandatory furloughs and layoffs, staffing at the East County Courthouse has been so reduced that the clerk's office is unable to process the work in all these areas in a timely manner. Given the urgency of the problem, as a temporary solution, the court is transporting all initiating civil case filings to the Hall of Justice in Ventura for processing and then transporting the files back to the East County Courthouse in Simi Valley. Moving the civil courtrooms will allow for greater efficiencies by processing all civil cases in one court location. While the court regrets that inadequate funding is reducing access to the courts for the citizens of this county, it cannot maintain the current level of services.

The East County Courthouse would continue to hear and accept filings for Family Law Small Claims, Unlawful Detainers and Traffic matters.

The public is invited to comment on this proposal, either by mail or e-mail, by November 8, 2011. Please direct your response to:

Michael D. Planet, Court Executive Officer  
P.O. Box 6489  
Ventura, CA 93006-6489  
[relocationresponse@ventura.courts.ca.gov](mailto:relocationresponse@ventura.courts.ca.gov)



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**EXHIBIT "C"**



SUPERIOR COURT OF CALIFORNIA ♦ COUNTY OF VENTURA

## INTEROFFICE MEMORANDUM

July 1, 2009

To: Civil/Small Claims/Appeals Staff  
From: *JAC* Julie Camacho, Court Program Manager  
Subject: Revised Court Closing Time of 4:00 p.m.

---

As you are all aware, the Ventura Superior Court processing units hours of service to the public and telephone hours have been revised effective Wednesday, July 1, 2009.

The doors to the public lobby will be closed at 4:00 p.m.

Telephone calls from the public and outside agencies (i.e., Court of Appeal, District Attorney's Office, etc.) will not be accepted from 11:30 a.m. to 1:30 p.m., and 4:00 p.m. to 5:00 p.m. Telephone calls from other court departments and courtroom staff will continue to be accepted.

A locked court drop box has been placed in the hallway outside the lobby doors. Documents placed in the drop box before 5:00 p.m. will be receive stamped by court staff when they are removed from the box. When the documents are processed, they will receive a filing date the same as the date they were received.

At 4:00 p.m., the goal will be to clear the lobby of customers as quickly as possible so that as much time as possible can be spent processing backlog. In order to accomplish this goal, the following guidelines will be followed by processing staff at 4:00 p.m.:

1. If you are assisting customers in the Single Filing lines, process their single case filings and continue to assist each customer in line until the lobby is cleared.
2. If you are assisting customers in the multiple filing lines, complete the processing of any document you are working on at 4:00 p.m. If the customer has additional filings give them the option of dropping off the remaining filings, or returning on the next business day.
3. If additional customers are in the lobby in the multiple filing lines at 4:00 p.m., the clerk will process 1 case filing per customer. Customers will then be

given the option of dropping off the remaining filings, or returning on the next business day.

4. Back office staff must place their telephones on "Not Ready" between the hours of 11:30 a.m. and 1:30 p.m., and 4:00 p.m. to 5:00 p.m.
5. Back office staff must return their phones to operating status promptly at 1:30 p.m.

Once the lobby doors are closed, direct all customers to exit the lobby through the double doors across from the Small Claims Unit.

The supervisors will assign work to the counter staff. The focus will be on processing the oldest backlog in the office.

The time that the office is closed to the public must be spent productively. Please remember to remain focused on processing of work.

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**EXHIBIT "D"**



## *Superior Court of California*

COUNTY OF VENTURA  
Hall of Justice  
800 South Victoria Avenue  
Ventura, CA 93009

May 19, 2010

### **NOTICE OF COUNTER FILING CHANGES**

Effective June 21, 2010, the Ventura Superior Court of California, County of Ventura, will implement a change to the documents permitted to be filed at the front office filing counters.

**The following documents will be required to be dropped off for back office processing:**

**CIVIL** (All documents relating to Unlawful Detainer cases are excluded from this change.)

1. Case initiating papers including Complaints, Petitions and Applications
2. Applications for and Renewals of Judgment
3. Clerk and court default judgment packets, **except** Requests for Entry of Default

**Note:** The documents listed above can be dropped at the civil filing counters in Ventura and East County, or at Window 14 in Ventura.

**FAMILY LAW**

1. Case initiating papers, **except** Restraining Orders
2. Any document without a future hearing date scheduled

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**Dropped documents must include:**

1. A stamped, self-addressed envelope **OR**
2. Attorney service drop box number

Documents dropped without one of the above will be placed in the public pick-up bin and, if not picked up within thirty days, will be discarded.

Dropped documents will be received stamped, and will be processed as of the date they are dropped, unless rejected.

***"We appreciate your cooperation in implementing these changes, and thank you in advance."***

*Michael D. Planet  
Court Executive Officer*

Mailing Address: P.O. Box 6489, Ventura, California 93006-6489

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**EXHIBIT "E"**

**Courthouse News Service**

**RECEIVED**

JUL 27 2009

VENTURA SUPERIOR COURT  
ADMINISTRATION

~~July 23, 2009~~

Cheryl Kanatzar  
Deputy Executive Officer  
Superior Court of California  
County of Ventura  
Hall of Justice  
800 South Victoria Avenue  
Ventura, CA 93009

Re: Media Access to New Civil Filings

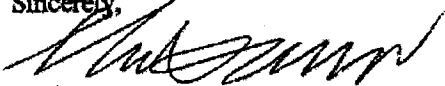
Dear Ms. Kanatzar:

On behalf of Julianna Krolak and all of us at Courthouse News Service, I would like to thank you and your professional and helpful staff for assisting us in ensuring new civil unlimited filings make it to the media bin for media review before being placed on the shelf.

Your actions have greatly improved press access to an important courthouse in the state of California, and for that we are deeply appreciative.

If you ever have any questions for me, I am always available and we will not hesitate to contact you in the future if we have questions. Once again, thank you for your assistance.

Sincerely,



Chris Marshall  
Northern California Bureau Chief

Encl.  
bcc:

Bill Girdner  
Editor

Julianna Krolak  
Courthouse Reporter

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**EXHIBIT "F"**



RECEIVED

FEB 09 2011

**COURTHOUSE NEWS SERVICE**

30 N. Raymond Avenue, Suite 310, Pasadena CA 91103, (626) 577-6700, [home@courthousenews.com](mailto:home@courthousenews.com)

VENTURA SUPERIOR COURT  
ADMINISTRATION

Chris Marshall  
Northern California Bureau Chief  
Courthouse News Service  
(415) 861-7361  
[sanfran@courthousenews.com](mailto:sanfran@courthousenews.com)

February 7, 2011

Cheryl Kanatzar  
Court Executive Officer  
Ventura County Superior Court  
800 South Victoria Avenue  
Ventura, California 93009

Dear Ms. Kanatzar:

I am writing for Courthouse News Service (CNS), on behalf of reporter Julianna Krolak, regarding media access to newly-filed civil complaints at the Ventura County Superior Court. Courthouse News Service appreciated your willingness to work with us to set up the media bin a few years ago and we trust we will be able to work together again in a cooperative manner to address our present concerns.

As you may recall, Courthouse News Service is a legal news service for lawyers and the news media. Founded in 1990, Courthouse News is similar to other news wire services, such as the Associated Press, except that it focuses on civil lawsuits, from the date of filing through the appellate level. Courthouse News does not report on criminal or family law matters. The majority of Courthouse News' nearly 2,500 subscribers nationwide are lawyers and law firms, including many prominent California firms. However, law schools and media outlets are increasingly looking to Courthouse News for information about newsworthy civil filings, and include such well-known California media outlets and law schools as the *San Jose Mercury News*, the *Los Angeles Times*, the *Los Angeles Business Journal*, UCLA Law Library, Stanford Law School, and Loyola Law School. Courthouse News' core news publications are its new litigation reports, which are e-mailed to subscribers daily and contain coverage of all significant newly-filed civil complaints filed in a particular jurisdiction. In addition, Courthouse News' website ([www.courthousenews.com](http://www.courthousenews.com)), which features news reports and commentary about civil cases and appeals, receives an average of 600,000 unique visitors each month.

Until a few months ago Ms. Krolak had been visiting the main division of the Ventura Superior Court on a twice-a-week basis to review new civil unlimited complaints (Courthouse News does not cover criminal or family actions, nor does it review limited civil actions). In recognition of the increasing importance of Ventura County as a source of newsworthy litigation, Ms. Krolak began visiting the Court on a daily basis in November, with each of her visits occurring near the end of each court day.

Given these now-daily visits, Courthouse News hoped that it would be able to review and report on new civil complaints at the end of the same day on which those complaints are filed. This same-day access is provided to news reporters who make daily visits to other major superior courts, including the California Superior Courts in Los Angeles, Riverside, San Francisco, and Santa Clara, as well as other major courts across the nation. A survey that further describes the same-day access that news reporters have in other courts is enclosed for your review.

Unfortunately, access to new civil complaints at the Ventura County Superior Court is nowhere near same-day. In a recent one-week survey of unlimited jurisdiction cases covered by Courthouse News, Ms. Krolak saw only one case on the day it was filed. Of the remaining cases, a majority was three days to one week old and a large minority was one to two weeks old.

For example, a case against Rubio's Restaurant alleging sexual harassment (56-2010-00387332) was not made available for media review until 13 days after it was filed; a complaint claiming The Bonaventure denied a worker's medical leave request (56-2010-00387945) was not available until 8 days after the filing date; another complaint charging Rite-Aid with refusing to accommodate a worker's medical restrictions (56-2010-00387942) was delayed by 9 days and finally a complaint where an investor allegedly took advantage of the elderly (56-2011-00389425) was not made available until 13 days after it was filed.

In an age where the average news cycle is less than 24-hours, these delays eliminate the newsworthy nature of new cases filed in this court.

In most courts that Courthouse News visits on a daily basis we have been able to work with staff to ensure that we have access to all newly-filed civil unlimited cases on the day they are filed.

I recently spoke with Leticia Tueraca, Records Division Supervisor, about achieving access to cases on the day they are filed. While Ms. Tueraca was helpful and willing to adjust procedures to assist our endeavor, she told me that ultimately it was not in her power to affect a switch to same-day access as almost every case does not make it to the Records Division until days after it is filed. Courthouse News thus requests your assistance in setting up procedures to ensure access to newly-filed complaints on the day they are filed for any media entity that assigns a reporter to cover the courthouse on a daily basis, regardless of whether all administrative tasks associated with those cases have been completed.

The current use of a media bin could be incorporated into these procedures. One possible solution would be for the media bin to be placed in the Civil Division where the intake counters are located, which Ms. Krolak could access near the end of the day. Such a system would allow Ms. Krolak access to cases soon after they are filed without requiring the court to speed up processing, which Courthouse News is not requesting. In fact it has been Courthouse News' experience that attempts to speed up processing rarely result in

lasting results, due to staff sick days, vacations, breaks and other variations in work schedules. Courthouse News welcomes the opportunity to discuss procedures that will ensure access to unlimited civil cases on the day they are filed.

While I am not a lawyer, it is my understanding that the law provides for a right of timely access to new court filings, and that the law also recognizes it is appropriate to create special access procedures for the media so they can convey that information to other interested members of the legal, academic and business communities.

As shown in the enclosed survey, many other courts in California and around the nation have set up systems to allow members of the media to review newly-filed cases on the day they are filed, regardless of whether all of the administrative tasks associated with new complaint intake have been completed.

Courthouse News Service has worked cooperatively with courts across the country to ensure all members of the media are able to access civil complaints on the day they are filed. We are confident that by working together we can find a solution to ensure similar timely access at the Ventura County Superior Court. To this end, Ms. Krolak and I would gladly meet with you to discuss ways to secure that access at this court.

Sincerely,



Chris Marshall

Enclosure

cc: William Girdner, Editor, Courthouse News Service  
Rachel Matteo-Boehm, Esq., Holme Roberts & Owen LLP

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**EXHIBIT "G"**

**Julie Camacho - New Filings - Routing to Records (including media bin)  
FORTHWITH**

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**From:** Martha McLaughlin  
**To:** Civil Staff  
**Date:** 2/17/2011 4:22 PM  
**Subject:** New Filings - Routing to Records (including media bin) FORTHWITH

---

**STAFF:**

Concerns have been raised with respect to the delay in time of new filings being sent to court records (to include the media bin). Everyone is being asked to please make every effort to complete your entire new filing (s) on the same day filed. Please assemble and distribute to either the cart or the media bin box timely. We understand you may need a day or so more if you encounter a new filing that has multiple parties for entry. However, short of that, it is **imperative** that the files move on their way daily. This not only ensures proper location, but it helps to eliminate mix-up in placing of labels on documents, missing files, etc. Thank you for your prompt cooperation, please make good use of 4:00-5:00 p.m. time for this activity. Please see me if you have any questions or concerns.

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**EXHIBIT "H"**

## **Julie Camacho - Re-Prioritizing of New Filings Desk**

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**From:** Julie Camacho  
**To:** Maria Ochoa; Martha McLaughlin  
**Date:** 3/15/2011 8:26 AM  
**Subject:** Re-Prioritizing of New Filings Desk  
**CC:** Denise Lugo; Mari Soto; Vicki Knight

---

Maria -

I just want to confirm in writing for everyone the decisions that we made last week regarding re-prioritizing the limited and unlimited new complaints.

To save staff from having to photocopy the backlog of Unlimited jurisdiction new complaints for the media bin, these filings will now be the highest priority complaints to be filed. We receive on average 6 per day. Maria has started separated the "other" new complaints by limited and unlimited jurisdiction and labeling them as such.

Maria will work on these filings as the first and highest priority item on her desk (along with any Unlawful Detainer filings she may get) and immediately route them to the Media bin in Records. We have promised a maximum 2 day turn around to the media. Unlimited cases includes any petitions where the procedure states to forward the file to the Media Bin.

This also means that if Maria is out of the office, her work will need to be prioritized and the Unlimited new filings will need to be assigned to another clerk each day.

If there are any issues that arise with this procedure, please let me know. This is a trial period to make sure that this procedure works.

Thank you,  
Julie

Julie Camacho  
Court Program Manager  
Superior Court of California  
County of Ventura  
Hall of Justice, Room 210  
800 S. Victoria Avenue  
Ventura, CA 93009

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**EXHIBIT "I"**





*Superior Court of  
California*

COUNTY OF VENTURA  
Hall of Justice  
800 South Victoria Avenue  
Ventura, CA 93009

**Michael D. Planet**  
*Executive Officer/Clerk  
and Jury Commissioner*

**FOR IMMEDIATE RELEASE**

Date: September 22, 2011

Contact: Robert Sherman  
Assistant Court Executive Officer  
(805) 654-2964

**VENTURA SUPERIOR COURT ANNOUNCES BUDGET REDUCTION MEASURES:  
Including Layoffs, Furloughs, Partial Court Closures and Reduced Service Hours**

The actions outlined here are necessary to address the continued reductions in funding for the California court system. Since the 2008-09 fiscal year the Governor and Legislature have approved \$652 million in ongoing budget cuts to the judicial branch. These reductions have resulted in a budget deficit of \$5.8 million for 2011-12 for the Ventura Superior Court. This is along with the prospect of even deeper cuts in the 2012-13 fiscal year.

The Superior Court of California, County of Ventura, is providing notice of the decision of the Presiding Judge to institute partial closure days on the dates designated below.

The majority of the courtrooms and all clerks' offices at all three courthouse locations will be closed on November 23, 2011, December 23, 27, 28, 29 and 30, 2011 to mitigate the impact of additional unpaid employee furlough days on court operations. These partial closure days are not court holidays, so statutory deadlines will not be extended. However, drop boxes are currently provided outside each clerical office for filing papers or submitting payments. Documents placed in the boxes by 5:00 p.m. are deemed deposited for filing that same business day. Most cases already calendared for hearing will be rescheduled and the affected parties notified by the court.

The exterior walk-up window on the north side of the Hall of Justice, Government Center, 800 South Victoria Ave., will be open between 8:00 a.m. and 6:45 p.m. for handling criminal/traffic payments and collections payments only. Limited courtrooms will be open to hear urgent matters, and a judge will be available to sign any other necessary documents on an emergency basis at the Hall of Justice. A courtroom will also be open at the Juvenile Justice Center for urgent juvenile matters. All Simi Valley courtrooms will be closed.

Mailing Address: P.O. Box 6489, Ventura, California 93006-6489

Exhibits To Kanatzar Declaration  
Case No. CV 11-08083 R (MANx)

EXHIBIT I  
Exhibit 41  
Page 422

These dates were selected to minimize the impact on the public and court staff as court business is generally the slowest during the holiday season.

Effective Tuesday, January 3, 2012, the hours of the Clerk's Office, Monday through Friday, shall be 8:00 a.m. to 3:00 p.m. for traffic, civil, small claims, family law, criminal, juvenile, probate and records. Phone hours will be from 8:00 a.m. – 11:30 a.m., and 1:30 p.m. – 3:00 p.m. The Walk-up Express Window at the main Ventura Courthouse for Traffic and Collections payments only will remain open from 8:00 a.m. to 6:45 p.m. Monday through Friday.

Staffing in the Clerk's Offices has been significantly impacted by unfilled vacancies and furloughs. A reduction in the Clerk's Office hours will help court staff to timely process cases and prepare court calendars. Drop boxes are currently provided outside each Clerk's Office for filing papers or submitting payments. Documents placed in the boxes by 5:00 p.m. are deemed deposited for filing that same business day.

This week the court issued layoff notices to four (4) court employees after labor negotiations with the SEIU bargaining unit on budget reductions. After completing negotiations with the Criminal Justice Attorney's Association of Ventura County and SEIU, all court staff are taking mandatory unpaid furlough days ranging from thirteen (13) to eighteen (18) days depending on classification. All staff were required to take twelve (12) unpaid mandatory furlough days in the 2009-10 and 2010-11 fiscal years. This fiscal year's furloughs represents approximately 44,000 staff hours of lost work time directly impacting the court's ability to provide prior levels of service to the public.

In addition to the unpaid employee furloughs and staff layoffs, the court has also instituted other cost saving measures including, a freeze on hiring with thirty-seven (37) vacant positions that is projected to save \$2 million over the fiscal year; along with the reengineering of various court processes for efficiencies, reductions in non-salary related operating expenses, and the closure of the Colonia Self Help Center.

###