

IN THE SUPREME COURT OF THE STATE OF NEVADA

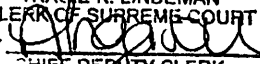
IN THE MATTER OF THE PROPOSED
AMENDMENTS TO SCR PART VII,
RULE 3.

ADKT 0513

FILED

MAY 24 2016

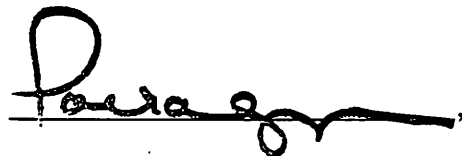
ORDER INVITING COMMENT

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

On April 19, 2016, the Honorable Nancy M. Saitta, Associate Justice, filed a petition seeking amendments to Part VII, Rule 3 of the Supreme Court Rule. A copy of the petition and the proposed amendments is attached to this order. This court conducted a hearing in this matter on May 3, 2016. The court has decided that additional input would be helpful in this matter.

The Nevada Supreme Court invites written comment from the Division of Child and Family Services, the district attorney's offices, the public defender's offices, district court clerks, and the Family Bar Section of the State Bar of Nevada. An original and 8 copies of written comments are to be submitted to: Tracie K. Lindeman, Clerk of the Supreme Court, 201 South Carson Street, Carson City, Nevada 89701, by 5:00 p.m., June 10, 2016.

It is so ORDERED.

, C.J.

cc: Laurence Digesti, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
All District Attorneys
All Public Defenders
All District Court Clerks
Nevada Division of Child and Family Services
Administrative Office of the Courts

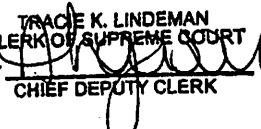
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PETITION

COMES NOW, the Honorable Nancy M. Saitta, Associate Justice of the Nevada Supreme Court, and hereby petitions the Nevada Supreme Court on its administrative docket to amend SCR Part VII, Rule 3 for the following reasons:

1. The Supreme Court has previously adopted rules governing the sealing and redacting of court records pursuant to SCR Part VII, Rule 3, entitled "PROCESS AND GROUNDS FOR SEALING OR REDACTING COURT RECORDS."

2. The cornerstones of an effective, functioning judicial system are openness and transparency. Safeguarding these cornerstones requires public access not only to judicial proceedings but also to judicial records and documents.

3. A person's right to privacy has long been valued as one of the most cherished and important rights in the United States. In addition to keeping information from prying eyes, it is credited with helping individuals realize a full and happy life. One category of privacy rights is the constitutional right to informational privacy. This right includes a person's right to determine if, when, and the terms upon which personal information will be disclosed.

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4. The right to informational privacy is even more important in the context of minors. The particular vulnerabilities of a minor means that invasion of this right is more deleterious to a minor than an adult. This is especially problematic in the age of technology where individuals can easily gain access to publicly accessible information, such as a minor's information contained in this court's case management system.

5. In recognition of this heightened privacy interest in the context of minors, federal courts and several states mandate that a minor's name be redacted in court filings. Similarly, the Nevada Supreme Court Rules allow for redaction of a minor's name under certain circumstances.

6. Mandated redaction of a minor's name in this court's case management system adequately addresses a minor's significant informational privacy interest by preventing identifying information from being publicly accessible, while also recognizing the public's interest in an open and transparent judicial system.

7. SCR Part VII, Rule 3 should be amended as set forth in Exhibit "A" attached hereto and incorporated by reference.

WHEREFORE, petitioner requests that this court, through public hearings, if it deems appropriate, receive additional input from district court judges, attorneys, and other interested parties regarding the proposed amendments to SCR Part VII, Rule 3.

Dated this 19th day of April, 2016.

Respectfully submitted,



NANCY M. SAITTA, Justice

Exhibit "A"

Proposed Amendments to SCR Part VII:

Rule 3. Process and grounds for sealing or redacting court records.

1. Mandatory redaction. The names of minors in a case management system created or prepared by the court that is related to a judicial proceeding shall be redacted or designated by initials only.

~~1.2.~~ Request to seal or redact court records; service. Any person may request that the court seal or redact court records for a case that is subject to these rules by filing a written motion, or the court may, upon its own motion, initiate proceedings to seal or redact a court record. A motion to seal or redact a court record must disclose, in its title and document code, that sealing or redaction is being sought. The motion must be served on all parties to the action in accordance with NRCP 5.

~~2.3.~~ Access to court record while motion pending. When a motion to seal or redact a court record has been filed, the information to be sealed or redacted remains confidential for a reasonable period of time until the court rules on the motion.

~~3.4.~~ Hearing; notice. The court may conduct a hearing on a motion to seal or redact a court record. If the court orders a hearing, the court may also require that the movant provide notice to the general public by posting information, including the time, date, and location of the hearing, at a place within the confines of the court that is accessible to the general public.

~~4.5.~~ Grounds to seal or redact; written findings required. The court may order the court files and records, or any part thereof, in a civil action to be sealed or redacted, provided the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record. The parties' agreement alone does not constitute a sufficient basis for the court to seal or redact court records. The public interest in privacy or safety interests that outweigh the public interest in open court records include findings that:

(a) The sealing or redaction is permitted or required by federal or state law;

(b) The sealing or redaction furthers an order entered under NRCP 12(f) or JCRCP 12(f) or a protective order entered under NRCP 26(c) or JCRCP 26(c);

(c) The sealing or redaction furthers an order entered in accordance with federal or state laws that serve to protect the public health and safety;

(d) The redaction includes only restricted personal information contained in the court record;

(e) The sealing or redaction is of the confidential terms of a settlement agreement of the parties;

(f) The sealing or redaction includes medical, mental health, or tax records;

(g) The sealing or redaction is necessary to protect intellectual proprietary or property interests such as trade secrets as defined in NRS 600A.030(5); or

(h) The sealing or redaction is justified or required by another identified compelling circumstance.

5.6. Limitations on sealing or redacting.

(a) **Public hazard.** In no event may the sealing or redaction have the purpose or effect of concealing a public hazard.

(b) **Redaction preferred.** A court record shall not be sealed under these rules when reasonable redaction will adequately resolve the issues before the court under subsection 4-5 above.

(c) **Sealing of entire court file prohibited.** Under no circumstances shall the court seal an entire court file. An order entered under these rules must, at a minimum, require that the following information is available for public viewing on court indices: (i) the case number(s) or docket code(s) or number(s); (ii) the date that the action was commenced; (iii) the names of the parties, consistent with subsection 1 above, counsel of record, and the assigned judge; (iv) the notation "case sealed"; (v) the case type and cause(s) of action, which may be obtained from the Civil Cover Sheet; (vi) the order to seal and written findings supporting the order; and (vii) the identity of the party or other person who filed the motion to seal.

6.7. Scope and duration of order. If the court enters an order sealing or redacting a court record, the court shall use the least restrictive means and duration.

7.8. Procedures for maintaining sealed court records.

(a) When the clerk receives a court order to seal specified court records, the clerk shall:

(1) Preserve the docket code, document title, document and subdocument number, and date of the original court records on the court's docket;

(2) Remove the specified court records, seal them, and return them to the file under seal or store them separately. The clerk shall

substitute a filler sheet for the removed sealed court record. If the sealed record exists in a microfilm, microfiche, or other storage medium form other than paper, the clerk shall restrict access to the alternate storage medium so as to prevent unauthorized viewing of the sealed record; and

(3) File the order and the written findings supporting the order to seal. Both shall be accessible to the public.

(b) Sealed court records may be maintained in a medium other than paper.

(c) Before a court file is made available for examination, the clerk shall prevent access to the sealed court records.

8.9. Procedures for redacted court records. When a court record is redacted in accordance with a court order, the clerk shall replace the original court record in the public court file with the redacted copy. The person who filed the motion shall provide the redacted copy. The original unredacted court record shall be sealed following the procedures set forth in subsection 78 of this rule.