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**Survey on the Rules for Sealing and Redacting
Court Records**

Final Report

Prepared by

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Background

On April 26, 2007, the Nevada Supreme Court created the Commission on Preservation, Access and Sealing of Court Records. District Court Judge Brent T. Adams was appointed as chair of the Commission and Justice James W. Hardesty as liaison.

The Commission met on several occasions in 2007 to discuss rules for the sealing and redacting of court records in civil actions. On October 8, 2007, the Commission unanimously recommended to the Court a final version of proposed rules governing the sealing and redacting of court records in civil actions.

A public hearing was held on December 3, 2007, to consider the Commission's recommendations. The Court also solicited and considered public comments. On December 31, 2007, the Court filed the Order Adopting Rules for Sealing and Redacting Court Records, which became effective January 1, 2008. The purpose of the rule was "to provide a uniform procedure for the sealing and redacting of court records in civil actions." The rules apply to all court records in civil actions regardless of the form.

On July 8, 2008, an order was issued reconstituting the Commission on Preservation, Access, and Sealing of Court Records and Justice James W. Hardesty was appointed to serve as the chair of the Commission. Many topics related to Records have been addressed by the Commission since it was reconstituted.

Introduction

In October 2010, Justice Hardesty, Chair, and the Commission on Preservation, Access, and Sealing of Court Records asked that a survey be sent to all District Courts to evaluate the effectiveness of the sealing records rule.

An email with the link to the eSurveyspro¹ survey website was sent to all the court administrators and district court clerks on November 16, 2010, requesting that the courts complete a short survey, which would provide statistics on the Sealing and Redacting Rule. The courts were asked to provide the number of motions that were filed to seal a court record, how many were granted, how many were denied, and how many were pending for the period January 1, to June 30, 2010.

¹ eSurveyspro is an online survey software program website: <http://www.esurveyspro.com/>

Summary

The survey² was sent to the 9 Nevada District Courts. The courts were asked to provide the number of cases where a motion was filed to seal a court record between January 1, and June 30, 2010. Responses were received from 3 of the courts reporting that they have not sealed any civil records during that time period.

Nevada's two urban courts, the Second Judicial District Court in Washoe County and the Eighth Judicial Court in Clark County, have had the largest number of motions filed during the first six months of 2010. The Second Judicial District reported 37 motions were filed, of which 34 were granted and 3 were denied. The Eighth Judicial District reported the filing of 47 motions of which, 35 were granted, 2 were granted in part, and 7 were denied.

Four of the rural district courts reported they have had motions filed to seal court records between January 1, 2010, and June 30, 2010:

- The Ninth Judicial District in Douglas County and the Fourth Judicial District in Elko County each reported they had one case where a motion was filed to seal a court record and that motion to seal was granted.
- The Third Judicial District Court in Churchill County has had 4 motions filed to seal a court record and all 4 were granted.
- The First Judicial District Court in Storey County reported 2 cases where a motion to seal had been filed and both were granted.

In total, 92 motions were filed to seal a court record in the 9 Nevada District Courts between January 1, 2010, and June 30, 2010, and 79 of those motions were granted, 10 were denied, and 3 were still pending.

All of the courts responded that they have not had any problems implementing the Order. The Second Judicial District Court did add many of the Orders that seal or redact information direct the Clerk of the Court to seal or redact only specific papers, records, proceedings, and evidence. The remaining pleadings in the file are open to public inspection. If a document is accompanied by a motion to seal document, the document will be filed conditionally under seal pending the Court's ruling on the motion to seal. Some of the motions are ex parte motions, which require an expedited decision.

Conclusion

Three years have passed since the Court issued the Order Adopting the Sealing and Redacting of Court Records Rule. As this is the first effort to collect statistics, no comparisons to other timeframes can be made.

² A copy of the questions is provided in Appendix A. A copy of the original survey is provided in Appendix B. Please note in Appendix B, no questions were asked regarding redaction of the record. The survey focused exclusively on the sealing of civil court records.

When asked, all of the courts responded they have not had any problems implementing the order. It would appear, based on the responses, that the rule has provided the courts with a uniform procedure for the sealing and redacting of court records in civil actions.

**APPENDIX A
Survey Results**

**Supreme Court Order Adopting Rules for Sealing and Redacting Court Records
Survey sent November 16, 2010**

Question 1: Please provide the number of cases where a motion was filed to seal a court record since January 1, 2010:

COURT	RESPONSE
First Judicial District Court, Carson City	0
First Judicial District Court, Storey County	2
Second Judicial District Court, Washoe County	37
Third Judicial District Court, Silver County	0
Third Judicial District Court, Churchill County	4
Fourth Judicial District Court, Elko	1
Fifth Judicial District Court, Esmeralda County	0
Fifth Judicial District Court, Mineral County	0
Fifth Judicial District Court, Nye County	0
Sixth Judicial District Court, Pershing	0
Sixth Judicial District Court, Humboldt County	0
Sixth Judicial District Court, Lander	0
Seventh Judicial District Court Lincoln	0
Seventh Judicial District Court, Eureka County	0
Seventh Judicial District Court, White Pine County	0
Eighth Judicial District Court, Clark County	47
Ninth Judicial District Court, Douglas County	1

Question 2: Of those cases where a motion to seal was filed, how many were granted?

COURT	RESPONSE
First Judicial District Court, Carson City	0
First Judicial District Court, Storey County	2
Second Judicial District Court, Washoe County	34
Third Judicial District Court, Lyon County	0
Third Judicial District Court, Churchill County	4
Fourth Judicial District Court, Elko	1
Fifth Judicial District Court, Esmeralda County	0
Fifth Judicial District Court, Mineral County	0
Fifth Judicial District Court, Nye County	0
Sixth Judicial District Court, Pershing	0
Sixth Judicial District Court, Humboldt County	0
Sixth Judicial District Court, Lander	0
Seventh Judicial District Court Lincoln	0
Seventh Judicial District Court, Eureka County	0
Seventh Judicial District Court, White Pine County	0
Eighth Judicial District Court, Clark County	35 were granted, 2 granted in part
Ninth Judicial District Court, Douglas County	1

Question 3: How many were denied?

COURT	RESPONSE
First Judicial District Court, Carson City	0
First Judicial District Court, Storey County	0
Second Judicial District Court, Washoe County	3
Third Judicial District Court, Lyon County	0
Third Judicial District Court, Churchill County	0
Fourth Judicial District Court, Elko	0
Fifth Judicial District Court, Esmeralda County	0
Fifth Judicial District Court, Mineral County	0
Fifth Judicial District Court, Nye County	0
Sixth Judicial District Court, Pershing	0
Sixth Judicial District Court, Humboldt County	0
Sixth Judicial District Court, Lander	0
Seventh Judicial District Court Lincoln	0
Seventh Judicial District Court, Eureka County	0
Seventh Judicial District Court, White Pine County	0
Eighth Judicial District Court, Clark County	7
Ninth Judicial District Court, Douglas County	0

Question 4: How many are pending?

COURT	RESPONSE
First Judicial District Court, Carson City	0
First Judicial District Court, Storey County	0
Second Judicial District Court, Washoe County	0
Third Judicial District Court, Lyon County	0
Third Judicial District Court, Churchill County	0
Fourth Judicial District Court, Elko	0
Fifth Judicial District Court, Esmeralda County	0
Fifth Judicial District Court, Mineral County	0
Fifth Judicial District Court, Nye County	0
Sixth Judicial District Court, Pershing	0
Sixth Judicial District Court, Humboldt County	0
Sixth Judicial District Court, Lander	0
Seventh Judicial District Court Lincoln	0
Seventh Judicial District Court, Esmeralda County	0
Seventh Judicial District Court, White Pine County	0
Eighth Judicial District Court, Clark County	3 no decision
Ninth Judicial District Court, Douglas County	0

Question 5³: What problems, if any, has your court had in implementing the Order Adopting Rules for Sealing and Redacting Court Records?

- First Judicial District, Storey County responded none.
- First Judicial District Court, Storey County responded none. We rarely receive requests to seal civil cases.
- The Second Judicial District Court has not experienced problems implementing the Order Adopting Rules for Sealing and Redacting Court Records. Many of the Orders that seal or redact information, direct the Clerk of Court to seal or redact only specific papers, records, proceedings and evidence. The remaining pleadings in the file are open to public inspection. If a document is accompanied by a Motion to Seal Document, the document will be filed conditionally under seal pending the Court's ruling on the Motion to Seal Document. Some of those Motions are Ex Parte Motions which require an expedited decision.
- Third Judicial District, Lyon County responded since the requests are few so far no problems.
- Fifth Judicial District, Esmeralda County responded none at this time.
- Fifth Judicial District, Nye County responded we haven't come across any problems yet, but we don't really have any specific procedures in place at this

³ Some courts did not answer this question.

time other than sealed items are usually kept in the file, but sealed in a manila envelope.

- Sixth Judicial District, Pershing County responded none.
- Sixth Judicial District, Humboldt County responded none that I am aware of.
- Sixth Judicial District, Lander County responded none.
- Eighth Judicial District responded no known problems
- Seventh Judicial District responded the 7th Judicial District Court currently uses the JAVS digital recording system. We are corresponding with the company to comply with the sealing of any "record of proceedings"
- Seventh Judicial District, Lincoln County responded none.
- Seventh Judicial District responded I have worked here for almost 4 years and I have not had any motions to seal any cases as of this date.
- Eighth Judicial District responded no known problems

Question 6: Please provide any additional comments or feedback below:

There were no responses to question 6.

APPENDIX B
Survey Questions

Sealing and Redacting Court Records (ADKT No. 410)

Answers marked with a * are required.

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1. Introduction

Greetings:

The Supreme Court of the State of Nevada issued an Order Adopting Rules for Sealing and Redacting Court Records (ADKT No. 410), effective January 1, 2008. The purpose of this rule was to provide a uniform procedure for the sealing and redacting of court records in civil actions.

The Commission on Preservation, Access, and Sealing of Court Records is asking for your court's assistance in providing us with statistics from cases filed between JANUARY 1, 2010, and JUNE 30, 2010.

Please note: if you provide statistics from a different time period, please let me know the time period you are reporting in the comments section of the survey.

We appreciate you taking the time to complete this short survey. PLEASE COMPLETE THE SURVEY ON-LINE , or PRINT THIS OUT AND RETURN VIA FAX AT (775) 687-9811, NO LATER THAN WEDNESDAY, DECEMBER 1, 2010.

If you have any questions please contact Stephanie Heying at (775) 687-9815 or email at sheying@nvcourts.nv.gov.

Thank you

1. Please enter the name of your court and county below. *

2. Please provide the number of cases where a motion was filed to seal a court record since January 1, 2010:

*

3. Of the cases where a motion to seal was filed, how many were granted?

*

4. How many were denied?

*

5. How many are pending? (Please note, responses to 3 + 4 + 5 should equal the response to question 2)

*

6. What problems, if any, has your court had in implementing the Order Adopting Rules for Sealing and Redacting Court Records?

7. Please provide any comments or feedback below.