

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE CREATION
OF A COMMITTEE TO REVIEW THE
PRESERVATION, ACCESS, AND
SEALING OF COURT RECORDS

ADKT. No. 410

FILED

DEC 31 2007

ORDER ADOPTING RULES FOR
SEALING AND REDACTING COURT RECORDS

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

WHEREAS, the Nevada Supreme Court is concerned about the lack of standardized policies and procedures for the preservation, public access, and sealing of court records; and

WHEREAS, because of the foregoing concern and pursuant to the Nevada Rules on the Administrative Docket, the Nevada Supreme Court on April 26, 2007, created a study committee to be known as the Commission on Preservation, Access and Sealing of Court Records, with District Court Judge Brent T. Adams being appointed as chair of the Commission and Associate Justice James W. Hardesty as liaison; and

WHEREAS, between the months of May and August 2007, the Commission met on several occasions to discuss the development of procedures for the sealing and redacting of court records in civil actions; and

WHEREAS, the Commission prepared a draft rule regarding the sealing and redacting of court records in civil actions and circulated it to all District Court Judges, Justices of the Peace, and Municipal Court Judges in the State of Nevada for review and comment; and

WHEREAS, after meeting on several occasions during the months of August through October 2007 to discuss the draft rule and to consider the comments received from the judiciary and other interested parties, the Commission unanimously recommended a final version of a proposed rule regarding the sealing and redacting of court records in civil actions on October 8, 2007; and

WHEREAS, Commission chair Judge Brent T. Adams, on behalf of the Commission, petitioned the Nevada Supreme Court to adopt the proposed rule unanimously recommended by the Commission; and

WHEREAS, a public hearing was held on December 3, 2007, to consider the Commission's petition; and

WHEREAS, this court solicited and considered public comment on the Commission's petition; and

WHEREAS, the rule proposed in the Commission's petition was thoroughly researched and presents appropriate procedures for the sealing and redacting of court records in the State of Nevada; and


WHEREAS, the adoption of a rule similar to that presented in the Commission's petition, with modifications necessitated by technical considerations and comments received from the public, will serve the citizens and judiciary of the State of Nevada by providing appropriate standardized procedures regarding the sealing and redacting of court records in civil actions; accordingly,


IT IS HEREBY ORDERED that new Part VII of the Supreme Court Rules shall be adopted and shall read as set forth in Exhibit A.

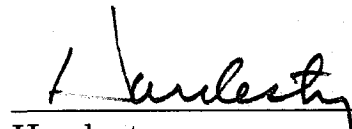
IT IS FURTHER ORDERED that this amendment to the Supreme Court Rules shall be effective January 1, 2008. The clerk of this court shall cause a notice of entry of this order to be published in the

official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rules.

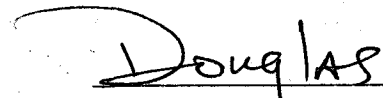
Dated this 31st day of December, 2007.

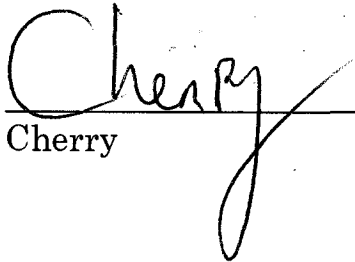

_____, C.J.
Maupin



_____, J.
Gibbons


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Cherry


_____, J.
Saitta

cc: All District Court Judges
All Justices of the Peace
All Municipal Court Judges
All District Court Clerks and County Clerks
Administrative Office of the Courts

EXHIBIT A

AMENDMENTS TO SUPREME COURT RULES

PART VII. ~~[RESERVED]~~ RULES GOVERNING SEALING AND REDACTING COURT RECORDS

Rule 1. Nevada Rules for Sealing and Redacting Court Records; purpose, policy, and scope of rules.

1. *Title.* These rules may be known and cited as Nevada Rules for Sealing and Redacting Court Records, or abbreviated SRCR.

2. *Purpose.* These rules provide a uniform procedure for the sealing and redacting of court records in civil actions.

3. *Policy.* All court records in civil actions are available to the public, except as otherwise provided in these rules or by statute.

4. *Scope.* These rules apply to all court records in civil actions, 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. These rules do not apply to the sealing or redacting of court records under specific statutes, such as NRS Chapter 33, NRS Chapter 179, juvenile cases pursuant to NRS Chapters 62 and 63, or domestic relations matters pursuant to NRS Chapters 122 (Marriage), 123 (Rights of Husband and Wife), 125 (Dissolution), 126 (Parentage), 127 (Adoption), 128 (Termination of Parental Rights), 129 (Minors' Disabilities), 130 (Child Support), 453 (Treatment and Rehabilitation of Addicts), 433, 433A (Admission to Mental Health Facilities/Sealing of Records), 433B (Provisions Relating to Children), 435 (Retarded Persons), and 436 (Community Programs for Mental Health) or to NRS Title 13 (Guardianships; Conservatorships; Trusts). These rules do not provide for the retention or destruction of court records or files.

Rule 2. Definitions. *In these rules:*

1. *“Court file” means all the pleadings, orders, exhibits, discovery, and other papers properly filed with the clerk of the court under a single or consolidated case number(s).*

2. *“Court record” includes, but is not limited to:*

(a) Any document, information, exhibit, or other thing that is maintained by a court in connection with a judicial proceeding; and

(b) 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 in connection with a judicial proceeding, nor does it include documents or information provided to the court for inspection or in camera review unless made a part of the court record by order.

3. *“Person” shall include and apply to corporations, firms, associations and all other entities, as well as natural persons.*

4. *“Seal.” To seal means to protect from examination by the public and unauthorized court personnel. A motion or order to delete, purge, remove, excise, erase, or redact shall be treated as a motion or order to seal.*

5. *“Redact.” To redact means to protect from examination by the public and unauthorized court personnel a portion or portions of a specified court record.*

6. "Restricted personal information" includes a person's social security number, driver's license or identification card number, telephone numbers, financial account numbers, personal identification numbers (PINs), and credit card or debit card account numbers, in combination with any required security code, access code, or password that would permit access to a person's financial account(s). The term does not include the last four digits of a social security number or publicly available information that is lawfully made available to the general public.

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

1. **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. **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. **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. **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 JCRC 12(f) or a protective order entered under NRCP 26(c) or JCRC 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. 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 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, 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. 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. 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 court 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. 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 7 of this rule.

Rule 4. Process and grounds for unsealing court records.

1. Scope. Court records that are sealed, whether or not pursuant to this rule, may be examined by the public only after entry of a court order allowing access to the record in accordance with this rule.

2. Motion; service. A sealed court record in a civil case shall be unsealed only upon stipulation of all the parties, upon the court's own motion, or upon a motion filed by a named party or another person. A motion to unseal a court record must be served on all parties to the action in accordance with NRCP 5. If the movant cannot locate a party for service after making a good faith effort to do so, the movant may file an affidavit setting forth the efforts to locate the party and requesting that the court waive the service

requirements of this rule. The court may waive the service requirement if it finds that further good faith efforts to locate the party are not likely to be successful.

3. Hearing. Any party opposing the motion shall appear and show cause why the motion should not be granted. The responding party must show that compelling circumstances continue to exist or that other grounds provide a sufficient legal or factual basis for keeping the record sealed.

4. Time limit. No motion may be made under this rule more than 5 years after a final judgment has been entered in an action or, if an appeal from a final judgment is taken, after issuance of the remittitur, whichever is later.

Rule 5. Jurisdiction. The court shall retain jurisdiction to entertain a motion brought under these rules.

Rule 6. Sanctions. If the court determines that a motion made under these rules was not made in good faith or violates NRCP 11 or JCRCP 11, the court may impose sanctions upon the party or person who filed the motion or upon that party or person's counsel in accordance with NRCP 11(c) or JCRCP 11(c).

Rule 7. Use of sealed records on appeal. A civil court record or any portion of it that was sealed in the trial court shall be made available to the Nevada Supreme Court in the event of an appeal. Court records sealed in the trial court shall be sealed from public access in the Nevada Supreme Court subject to further order of that court.

Rule 8. Effect on other law. Nothing in these rules is intended to restrict or to expand the authority of court clerks or county clerks under existing statutes, nor is anything in these rules intended to restrict or expand

the authority of any public auditor in the exercise of duties conferred by state law.