



DIANE M. MATOUSEK  
CLERK OF THE CIRCUIT COURT

---

---

VOLUSIA COUNTY • SEVENTH JUDICIAL CIRCUIT • POST OFFICE BOX 6043 • DeLAND, FLORIDA 32721-6043 • (386) 822-5710

February 8, 2010

Hon. Judith Kreeger, Chair  
Florida Courts Technology Commission  
175 NW 1st Ave., Suite 2114  
Miami, FL 33128-1845

Re: Proposed Amendment to §119.0714(2)(e)1. Fla. Stat. Court Record Redaction.

Dear Judge Kreeger:

We very much appreciate your consideration of the proposed amendment to the Ch. 119 provision requiring the redaction of social security and other sensitive numbers from all court records beginning on January 1, 2011. We hope the objectives outlined below will clarify the significant difficulties that will result if the amendment is not adopted, as well as provide possible alternatives that could be considered.

First, please understand that our **sole objective** in proposing this amendment is to narrow the application of the redaction requirement only to electronic court records. We intend the electronic redaction process to apply to any and all electronic court records in the Clerks' custody that are viewable by the public in any manner. In other words, there would be no exception to the redaction requirement for subscription access or for bulk data buyers.

Secondly, it is not our desire to hinder or conflict with the development of Rule 2.420, Rules of Judicial Administration, or with the ongoing work toward the ePortal, eFiling, or eAccess of court records. Quite the opposite, the Clerks have been scanning and storing court documents electronically for several years, as well as acquiring or developing redaction software. Once the ePortal and eFiling are underway, our electronic record keeping will only improve. As the Court and the Legislature make diligent efforts to integrate technology, focusing the redaction requirement specifically on electronic records will further the goals of improving access, efficiency, and cost savings in a way that respects the privacy interests of court users.

Most importantly, in order to understand the necessity of the proposed amendment, it is essential to be aware of what is entailed in redacting paper court files. When the Legislature first mandated that social security and other sensitive numbers were to be "redacted" upon request, there was no definition or guidance provided as to what redaction required. The Clerks developed a multi-step process in order to remove the numbers from public view without altering the original court documents. This process includes finding the confidential numbers within the documents, extracting those pages where they appear, making copies, redacting those copies manually, replacing them in the court file, sealing the original documents where the numbers appear, and then producing the file to the public to view.

We are sure you can appreciate that if the Clerks are required to perform these steps on every paper court file, this incredibly tedious and expensive process will frustrate the public's right of access, drastically slow the processing of court files, and greatly increase labor costs. However, if the Court and the Legislature were to approve our proposal to limit *automatic* redaction to electronic files, the redaction-by-request process could be preserved in the statute and the Clerks would continue to manually redact those files when requested.

Of course, we are continuously searching for alternatives to the manual redaction process described above as it would be devastating to the efficiency of the Clerks' offices and our ability to provide services to the public if we were required to perform this service without request. We took note that when the protection of confidential numbers in Official Records was addressed, the Legislature resolved this issue by admonishing the public to refrain from including sensitive numbers in documents to be recorded, and by requiring the Clerks to use redaction software on the Official Records made electronically available to the public. See §119.0714(3), Fla. Stat. Accordingly, the language we propose to apply to court records is taken directly from the Official Records provision.

Additionally, we considered that the federal court system's procedural rules and policies prohibit filers from including sensitive numbers in court documents, but they *do not* require the federal clerks to remove such numbers if they appear.<sup>1</sup> The current proposed Rule 2.420, Rules of Judicial Administration, also provides a method for filers to identify for the Clerks if sensitive numbers or other confidential information is included in a court record; however, the Clerks will be expected to protect the sensitive numbers in all court documents even if the filer has failed to identify them. The Florida Legislature and the Courts could agree to adopt the federal methodology, and place the onus of protecting sensitive numbers solely on the filer. Alternatively, if the law were amended to give the Clerks specific authority to provide electronic court records to the public as the *exclusive* method of viewing, the Clerks could use redaction software to protect the sensitive numbers and avoid the need to manually redact voluminous paper files.

No matter what solution is ultimately chosen, we hope that this letter will foster a better understanding of our intentions in requesting the proposed amendment, and the consequences we face if the statute is left unchanged. Such an amendment, or another viable alternative, is extremely important to the smooth and efficient operation of not only the Clerks' offices but the court system as a whole. We hope you will agree that streamlining the redaction requirement to electronic records would be a logical, cost-saving measure that would both improve access to public records while also protecting privacy.

Sincerely,

DIANE M. MATOUSEK  
Clerk of the Circuit Court

---

<sup>1</sup> See Comments in Federal Rules Civil Procedure, Rule 5.2, and Federal Rules of Criminal Procedure, Rule 49.1, implementing the E-Government Act of 2002.