



Utah State Courts

Preparing documents for filing in the  
Utah State Courts:  
*Redaction rules and techniques*

Utah State Bar  
2011 Fall Forum

# Why redact?

Utah state court rules place burden on filer to redact all confidential information

With electronic documents, risk of disclosure increases exponentially

You and your clients are at risk ***even if you don't efile***

# Court XChange

[www.utcourts.gov/xchange](http://www.utcourts.gov/xchange)

# Code of Judicial Administration Classification of Records

CJA 4-0202 to CJA 4-0202.09

# XChange initial release

No domestic case documents, except divorce decree or final judgment

No documents in case types classified as non-public (i.e., sealed, protected or private). E.g., adoptions (sealed)

In other case types, no documents containing private information, when existence of private information was *actually known* to court

# Classification of Records

Proposed amended CJA 4-0202.02

Proposed amended CJA 4-0202.04

Proposed amended CJA 4-0202.09

**NEW!** Proposed CJA Appendix I  
(summary)

[www.utcourts.gov/resources/rules/comments/index.xml](http://www.utcourts.gov/resources/rules/comments/index.xml)

# Filer's duties

1. Identify as non-public
2. Omit or redact
3. Certify
4. Substitute
5. Separate
6. File motion to classify

# Filer's duties: identify

**NEW!**

CJA 4-202.09(9)

- (A) Non-public information in a public record . . . .  
The person filing a private, protected or sealed record SHALL identify the classification of the record at the top of the first page of a classified document or in a statement accompanying the record.

# Filer's duty: omit or redact

CJA 4-202.09(9)

(A) Non-public information in a public record. The person filing a public record shall omit or redact non-public information.

# Filer's duty: certify

CJA 4-202.09(9)

(A) Non-public information in a public record . . . . The person filing the record shall certify that, upon information and belief, all non-public information has been omitted or redacted from the public record.

# Filer's duty: substitute

- (C) If the following non-public information is required in a public record, only the designated information shall be included:
- (i) social security number: last four digits;
  - (ii) financial or other account number: last four digits
  - (iii) driver's license number: state of issuance and last four digits
  - (iv) address of a non-party: city, state, and zip code
  - (v) email address or phone number of a non-party: omit;
  - (vi) minor's name: initials

# Filer's duty: separate

9(D) If it is necessary to provide the court with private personal identifying information, it must be provided on a cover sheet or other severable document, which is classified as private.

Tip: Use the court's "*Non-Public Information*" sheet. The sheet will not be scanned and will be placed in an envelope that can be removed from the physical file.

# Filer's duty: file motion

## CJA 4-202.09 (9)(B)

If a person believes that a record qualifies as a non-public record, the person may file with the record a motion to classify the record as private, protected or sealed. Under Rule 4-202.04, the clerk shall deny access to the record until the motion is decided. *Unless filed with a motion to classify, public records, even with non-public information, will be accessible.*

# What's not public?

Common case types:

- Domestic, except judgment or decree (includes custody and support, divorce, paternity, grandparent visitation, separate maintenance, UCCJA actions)
- Civil stalking
- Cohabitant abuse

See Appendix I

# What's not public?

By rule, in any case:

- psychological records
- expunged records
- minor's name
- See CJA 4-202.02

# What's not public?

By court order based on motion to classify in any case:

- Record regarding a person's character or competence
- Record containing information the disclosure of which constitutes an unwarranted invasion of privacy
- See CJA 4-202.04(2)(C)

“Increased access to court records offers the prospect of dramatically enhancing the understanding and involvement of ordinary citizens in the judicial process . . . .” Peter A. Winn, *Judicial Information Management in an Electronic Age: Old Standards, New Challenges*

# “Mistakes were made . . .”

2009 “audit” of 20% of PACER records in 32 federal district courts

“[M]any problems might have been mitigated if the bad habits of a generation of attorneys trained in a paper-based system had not made the problem worse.” Id.

# “Mistakes were made . . .”

- Social security numbers, birthdates, credit card account numbers, bank account numbers, home addresses, email addresses, and sometimes all of the above
- psychological evaluations
- child custody evaluations
- minors’ names, ages, schools, photos

# “Mistakes were made . . .”

- HSBC Bank
- *Facebook v. Connect U*
- *Ceglia v. Facebook*
- TSA

# How to redact an electronic record

Disclaimer: Court does not endorse any method

Disclaimer: Your presenter is not a specialist in redaction

# How to redact an electronic record

Two types of information you may need to redact:

- Information that appears when the document is printed
- Embedded information

# Information visible on hard copy

## Options:

1. “Old fashioned” way: print, black out, and scan
2. Might work, but not recommended. Information often still visible

# Information visible on hard copy

## Option 2:

- Learn and use the redaction tools in your Acrobat and word processing software

## Information visible on hard copy

Option 2:

- **DON'T use white font!**

Four and seven years ago . . . .

The font can be restored

## Information visible on hard copy

Option 2:

- **DON'T use white font!**

Four score and seven years ago . . . .

The font can be restored

## Information visible on hard copy

### Option 2:

- **DON'T just highlight the background in black**

The  brown fox jumped over . . . .

As with white font, the background can be changed to reveal the words

# Information embedded in documents

## Examples:

last 10 people who worked on the document

e-mail recipients

who created the document

on which machine it was created

who edited the document

previous document names

comments

And, more

## Information visible on hard copy

### How to: **low-tech and effective**

1. Save a copy of the file with **new name** in original word processing format (Word or WordPerfect). e.g.  
myclientdoc.redact.doc
2. Replace text with “[REDACTED]” or  
“xxx-xx-1234”
3. Resave in original format; convert to pdf.

# Electronically redact both text and hidden data

## Options:

1. Use redaction tools in original word processing software before converting to pdf.
2. After converting to pdf, use commercially available software (e.g. Redax)
3. After converting to pdf, use redaction tools in Adobe Acrobat (version 8 and above)

# Word 2007 Redaction Tool

1. Save copy under new name.
2. In Word 2007, e.g., click on “Office” button in top left hand corner of window
3. Go to “Prepare” and then “Inspect Document”
4. In the box, click the boxes for the type of data you want to inspect, and click inspect.
5. Click “Remove all” for each category in which information was found.
6. Resave in Word and convert to pdf.

# Resources

## **More “horror” stories**

<http://www.pdfforallawyers.com/2009/02/pdf-redaction-gone-awry.html>

<http://www.pdfforallawyers.com/2009/02/pdf-redaction-gone-awry.html>

# Resources

## **PDF for Lawyers**

<http://www.pdfforallawyers.com>

## **Acrobat for Legal Professionals**

<http://blogs.adobe.com/acrolaw>

# Resources

## **Guide to using Acrobat Pro**

<http://blogs.adobe.com/acrolaw/2010/06/ri-cks-guide-to-using-redaction-in-acrobat-x-pro>

## **Redaction of Confidential Information in Electronic Documents**

<http://partners.adobe.com/public/developer/en/acrobat/Redaction.pdf>

# Resources

***Law Practice Today***, “Redaction in a Digital World,” Rick Borstein, July 2011

## **Redaction of Information**

<https://ecf.cand.uscourts.gov/cand/faq/tips/redacting.htm>

## **Effective Personal-Identity and Metadata Redaction Techniques for Subsequent E-Filing**

[http://www.azd.uscourts.gov/azd/cm-ecf.nsf/docview/files/\\$file/redaction.pdf](http://www.azd.uscourts.gov/azd/cm-ecf.nsf/docview/files/$file/redaction.pdf)

# Resources

- ***Redacting with Confidence: How to Safely Publish Sanitized Reports Converted From Word to PDF***

<http://www.ca7.uscourts.gov/guides/nsa-redact.pdf>

- **Removing Sensitive Metadata in Word 2010 Documents**

[http://www.ca7.uscourts.gov/guides/MetadataWord\\_2010.pdf](http://www.ca7.uscourts.gov/guides/MetadataWord_2010.pdf)

# Resources

- **Effective Personal-Identity and Metadata Redaction Techniques for E-Filing**

<http://www.njd.uscourts.gov/cm-ecf/RedactTips.pdf>

- **Removing Sensitive Content**

[http://help.adobe.com/en\\_US/acrobat/pro/using/WS4E397D8A-B438-4b93-BB5F-E3161811C9C0.w.html](http://help.adobe.com/en_US/acrobat/pro/using/WS4E397D8A-B438-4b93-BB5F-E3161811C9C0.w.html)