

Divorce files closed until final dissolution

Check out coming Media Law Seminar

Some of you may have already discovered that when you attempt to look at a dissolution case filed before Aug. 28, 2009, those files are closed. If you haven't discovered this yet, you probably will soon.

A statute passed by the legislature last year has closed all but the interlocutory or final judgment in such files, except to the parties and their attorneys, or under a court order issued after a finding of good cause for access to the file.

This change in the law arises from the fact that dissolution files generally contain significant financial information, such as bank account, and often contain Social Security numbers for the parties and their minor children. The court system thought it imperative to protect this information, but felt that it was going to be impossible to require court clerks to redact all of it from the files, so the only way to protect such information from being disclosed was simply to close the file.

Understand the issue. There are no easy solutions to problems such as this. It is, however, unfortunate that a better solution was not available. Since Aug. 28, 2009, lawyers have been instructed that only the last four digits of a party's Social Security number shall be used in pleadings and a separate, confidential cover sheet containing full Social Security numbers and employer information for parties shall be provided to the Court. That separate page will be kept confidential by the Court and not be part of the Court's record.

But records of dissolutions are important court records to historians and journalists. Having all of these prior

court records closed to the public is going to eventually create a hardship in doing research. And at least a few legislators are aware of this problem and are seeking to change this law.

Reps. Cox, Funderburk, Sater and Grisamore are co-sponsoring a bill (House Bill 1405) to allow the clerk, upon request, to redact Social Security numbers from filings and then make them available to the public. This would allow cases to be opened one by one, and only burdening the clerks with this additional work "as needed," but still giving back to the public the right to access their records held in courthouses.

It is far too early to know how this bill will fare. I hope it will find a place in something that is moving along, because I believe closing all of these court records is bad precedent.

This is not the only change in the access to court records lately. The State Judicial Records Committee decided that effective Jan. 1, 2010, protection orders will not be made available on Case.Net until a full order of protection is issued.

Apparently, the complaint that generated this change came from spouses against whom orders of protection were sought. Some lawyers apparently make this request every time a dissolution is filed, without regard to whether any actual danger exists to their client. As a result, a preliminary order of protection was being issued, and appearing on Case.Net.

These preliminary orders are generally issued "ex parte" (without a hearing and time for the spouse to raise a defense), and employers or potential



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employers of the spouse who was subject to the order would see the preliminary order, and that could impact the employment or prospective employment. In many cases, they are totally unjustified because there is no real threat of harm to one spouse from the other.

Due to the high likelihood of prejudicial impact, the State Judicial Records Committee has concluded that only full orders of protection (a final decision after a full hearing before the judge) will be made public and put on Case.Net.

And while I have your attention, let me tease you with some information about the annual media law seminar we hold in Kansas City each April, sponsored by the Media Law Committee of the Kansas City Metropolitan Bar Association. It's set for April 23 this year, and one of the subjects we'll be addressing is "Aggregators or Agitators? Does the Copyright Act need to be amended to save newspapers?"

Speakers for that session will include David Marburger, a lawyer with Baker & Hostetler in Cleveland, and Daniel Marburger (his brother), an economics professor at Arkansas State University, Jonesboro, Ark., with Srinandan Kasi, general counsel for the Associated Press, moderating.

Other sessions will deal with new media (Twitter and Facebook) and the challenge it gives the traditional media, including discussing issues such as Twittering during a trial, and other ethical issues raised by the social networking forums.

If you've never attended this program, you should look into it. The cost for journalists is only \$60 for the entire day, including lunch. It's an incredible opportunity to hear some excellent nationally known speakers (including our noontime speaker, Jake Adelstein, an American journalist who wrote about crime in Japan and now is the chief investigator for a U.S. State Department-sponsored study of human trafficking in Japan).

More information is available at www.continuingEd.ku.edu. (Search for "media and law" on the right sidebar.) Hoping to see some of you there this year!