

The opening up of Case.net could introduce new frustrations

By the time this column lands in your mailbox, the launch of open access to Missouri Case.net will have begun. Anyone using a home computer or tablet, or your smart phone, will eventually be able to look up case records without going to the courthouse.

At first, this sounded fantastic for reporters. But as we find out more about this program, concerns arise over whether this will be beneficial, as we hoped, or whether reporters will find the system offers significant frustration, defeating its very purpose.

The jury is out.

Here's what we know:

First, Case.net is not simply going to flip a switch and everyone will see the cases and links to documents that attorneys in the state have access to via the system. In fact, public access to pleadings and opinions filed prior to July 1, 2023, will never exist. Anything filed prior to that date will remain hidden except via a lawyer's login or via access at your local courthouse (after redaction is made).

Second, on July 1, the only court records that will be accessible will be those of the Supreme Court of Missouri and Missouri Courts of Appeal (again, filed on or after July 1, 2023, and given that July 1 is a Saturday, realistically that date will be July 3).

Third, then circuit court records will be "turned on" over a period of four months. There are 46 circuits in the state and those will be gradually brought online, with Circuits 1-11 becoming open on or after July 16. Then Circuits 12-21 will be added on or after August 20, Circuits 22-29 on or after September 17 and the final group, Circuits 30-46, on or after October 22.

Fourth, lawyers now must remove "confidential" information from any filed pleading. Some of that is obvious, some surprisingly not obvious and, unbelievably, some of this offensive to those who value open government.

Early on, closure discussions focused

on redacting information in domestic relations / divorce litigation regarding matters involving minor children, as they are impacted even though they are not a party to this litigation. Court information on minor children in regard to juvenile matters has been closed for many years. Now, any other class of information that, by statute, is confidential, will be redacted from pleadings.

Fifth, a statute that was enacted in 2009 to close certain court record information has been amended by the legislature this year to close even more information in anticipation of the change in Case.net. Section 509.520 is amended in Senate Bill 189 and in Senate Bill 103, both of which are sitting on Governor Parson's desk, and it is anticipated will be signed into law by the time this column appears.

That will close this additional information: 1) full Social Security number of any party in any pleading; 2) credit card numbers, financial institution account numbers, and any "personal identification number" or password used to secure an account of a party; 3) full motor vehicle operator license number; 4) Victim information, including name, address and other contact information; 5) Witness information, including name, address and other contact information; and 6) birth date of any party (although the birth years of adults are not closed).

And this statute, as amended, not only mandates redaction of this information in any filed pleading, but also in any exhibit and any court order.

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So it is clearly possible that court orders finding a nameless victim has been harmed will be forthcoming as this unfolds.

And it is also possible a court order finding that a party is either civilly or criminally responsible for certain acts will be based upon the testimony of

an unnamed witness. In short, our court system is about to undergo a huge loss of transparency.

Years ago, a Missouri appellate court recognized a presumption that court records are open to the public, reasoning that justice is best served when done in full view of those to whom all courts are ultimately responsible: the public. Missouri courts have acknowledged that the U.S. Supreme Court has held "that the press and general public have a First Amendment right of access to criminal trials," including "pretrial proceedings." And the Missouri Supreme Court has recognized the public has a right of access to court records.

Indeed, the jury is out. The next few months are going to make it clear whether this is a change for the better, or whether more and more we find courts operating in secrecy in Missouri.

What will happen if it's the latter?



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