

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
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Court Technology Advisory Committee
Hon. Ming W. Chin, Chair
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DATE: October 9, 2007

SUBJECT: Access to Electronic Records (amend Cal. Rules of Court, rule
2.503) (Action Required)

Issue Statement

Rule 2.503 of the California Rules of Court contains a list of the types of records in electronic form to which a court must provide access at the courthouse, but to which access must not be made available by remote electronic means. To protect the privacy interests of individuals in certain types of cases, the list should be expanded to include records in elder and dependent adult abuse prevention proceedings and workplace violence prevention proceedings.

Recommendation

The Civil and Small Claims and the Court Technology Advisory Committees recommend that the Judicial Council, effective January 1, 2008, amend rule 2.503 of the California Rules of Court to expand the list in subdivision (c) of the types of records that are available electronically only at the courthouse.

The text of amended rule 2.503 is attached at page 4.

Rationale for Recommendation

The California Office of Privacy Protection has characterized the balancing of the competing values of public access to government records with individual privacy

rights “as one of the most significant public policy issues Americans face today.” This issue is addressed in the California Rules of Court on access to electronic trial court records. These rules “are intended to provide the public with reasonable access to trial court records that are maintained in electronic form, while protecting privacy interests.” (Cal. Rules of Court, rule 2.500(a).)

To provide reasonable public access and yet protect privacy, the rules on electronic access provide for access to many records by remote electronic means, but limit access to records in certain types of cases to the courthouse only. The records available only at the courthouse under rule 2.503(c) include records in family, juvenile, guardianship or conservatorship, mental health, criminal, and civil harassment proceedings. These records often contain personal and financial information about family members, juveniles, victims of crime, and victims of harassment. Because of the sensitive nature of the information in these records, it is appropriate to restrict the availability of these types of records over the Internet.

The advisory committees recommend adding to the list in rule 2.503(c) records in elder and dependent adult abuse prevention proceedings and records in workplace violence prevention proceedings. The reason for adding these two additional types of records is straightforward: these cases involve the same types of sensitive information as the records in civil harassment and domestic violence cases that are already included on the list in (c).

In addition, although the general provision in subdivision (c) that limits access to proceedings under the Family Code already covers records in domestic violence prevention proceedings, the rule should be amended to explicitly include domestic violence prevention proceedings in the examples in (c)(1), to clarify that these proceedings are on the list of records available electronically only at the courthouse.

Alternative Actions Considered

The rule could be left unchanged. However, as courts make more court records available by remote electronic access, this would result in information about parties in elder abuse and workplace violence proceedings becoming easily available on the Internet. Therefore, to protect the privacy interests of victims in these types of cases, it is appropriate to limit access to records available only at the courthouse.

Comments From Interested Parties

The proposal to revise rule 2.503 was circulated in the spring of 2007. Seven comments were received. The commentators included court administrators, the Superior Court of Los Angeles County, the president of a local bar association, and the State Bar’s Standing Committee on the Delivery of Legal Services

(SCDLS). All of the commentators supported the proposal.¹ The SCDLS stated that it “supports this proposal because it balances public access to court records with the privacy interests of particularly vulnerable populations.”

Implementation Requirements and Costs

This proposal should reduce future court expenses by excluding certain types of court records maintained in electronic form from the requirement that they be made available electronically on the Internet.

Attachments

¹ A chart summarizing the comments and the committee’s responses is attached at pages 5–6.

Rule 2.503 is amended, effective January 1, 2008, to read as follows:

1 **Rule 2.503. Public access**

2
3 (a) * * *

4
5 (b) **Electronic access required to extent feasible**

6
7 A court that maintains the following records in electronic form must provide
8 electronic access to them, both remotely and at the courthouse, to the extent it is
9 feasible to do so:

10 (1) Registers of actions (as defined in Gov. Code, § 69845), calendars, and indexes
11 in all cases; and

12 (2) All records in civil cases, except those listed in (c)(1)–~~(6)~~(8).

13
14 (c) **Courthouse electronic access only**

15
16 A court that maintains the following records in electronic form must provide
17 electronic access to them at the courthouse, to the extent it is feasible to do so, but
18 may provide remote electronic access only to the records governed by (b):

19 (1) Records in a proceeding under the Family Code, including proceedings for
20 dissolution, legal separation, and nullity of marriage; child and spousal support
21 proceedings; ~~and~~ child custody proceedings; and domestic violence prevention
22 proceedings;

23 (2) Records in a juvenile court proceeding;

24 (3) Records in a guardianship or conservatorship proceeding;

25 (4) Records in a mental health proceeding;

26 (5) Records in a criminal proceeding; ~~and~~

27 (6) Records in a civil harassment proceeding under Code of Civil Procedure section
28 527.6.;

29 (7) Records in a workplace violence prevention proceeding under Code of Civil
30 Procedure section 527.8; and

31 (8) Records in an elder or dependent adult abuse prevention proceeding under
32 Welfare and Institutions Code section 15657.03.

33 (d)–(i) * * *

SPR07-23**Public Access to Electronic Records: Records in Proceedings to Prevent Elder or Dependent Adult Abuse or Workplace Violence
(amend Cal. Rules of Court, rule 2.503)**

	Commentator	Position	Comment on behalf of group?	Comment	Committee's Response
1.	Sandy Almansa Supervising Legal Clerk II Family Law, Probate and IV-D Divisions Superior Court of California, County of Stanislaus Modesto, CA	A	Y	No specific comments.	No response required.
2.	Stephen A. Bouch Court Executive Officer Superior Court of California, County of Napa Napa, CA	A	N	No specific comments.	No response required.
3.	Mary Carnahan Criminal Division Program Manager Superior Court of California, County of Solano Fairfield, CA	A	N	No specific comments.	No response required.
4.	Joseph Chairez President Orange County Bar Association Irvine, CA	A	Y	The Orange County Bar Association strongly supports the proposed changes, as they will enhance privacy protections for victims forced into the judicial system.	The bar association's support is noted.
5.	Superior Court of California, County of Los Angeles Los Angeles, CA	A	Y	No specific comments.	No response required.
6.	Sharon Ngim, Program Developer and Staff Liaison	A	Y	The State Bar's Standing Committee on the Delivery of Legal Services supports this	The committee's support for the proposal is noted.

SPR07-23

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	Commentator	Position	Comment on behalf of group?	Comment	Committee's Response
	On behalf of: Standing Committee on the Delivery of Legal Services (SCDLS) The State Bar of California Office of Legal Services, Access & Fairness Programs San Francisco, CA			proposal because it balances public access to court records with the privacy interests of particularly vulnerable populations (victims of elder or dependent abuse or workplace violence). It also simply adds these categories to an existing list of records that can be accessed only at the courthouse and not through the Internet.	
7.	Michael M. Roddy Executive Officer Superior Court of California, County of San Diego San Diego, CA	A	Y	No additional comments.	No response required.