

Invitation to Comment

Title	Trial Courts: Release of Court Records (amend Cal. Rules of Court, rule 2.400)
Summary	Rule 2.400(a) of the California Rules of Court currently provides that papers filed in a court may only be released to a “court officer or authorized court personnel for use in a court facility.” The term “court officer” is ambiguous. It is unclear whether it applies to attorneys or court administrative officers or both. The proposal would amend the rule to provide that filed papers may be released to attorneys of record and authorized court personnel only.
Source	Civil and Small Claims Advisory Committee Hon. Lee Smalley Edmon, Chair
Staff	Patrick O’Donnell, Committee Counsel 415-865-7665, patrick.o’donnell@jud.ca.gov
Discussion	<p>Rule 2.400 governs court records. The amendment to rule 2.400 would clarify what is meant by “court officer.” Because courts often want to release files to attorneys of record for use in a court facility (for example, so that an attorney can take a file to a trial department), the rule should allow courts to do this. Accordingly, the rule would be amended to expressly provide that records may be released to “an attorney of record.” This rule would also be clarified to show that this section is permissive; it would allow, but not require, the release of court files to attorneys.</p> <p>If this amendment is made to rule 2.400(a), the inclusion of the term “court officers” in the rule is unnecessary. The amended rule would clearly indicate to whom filed papers may be released—that is, only to “authorized court personnel or an attorney of record.” That description should be sufficient and accurate. Thus, the reference to “a court officer” would be eliminated.</p> <p>The committee seeks comments as to whether there are other categories of individuals to whom courts regularly want to release records, and who should therefore be identified in this rule.</p>
	Attachment

Rule 2.400 of the California Rules of Court would be amended, effective January 1, 2009, to read as follows:

1 **Rule 2.400. Court records**

2
3 **(a) Removal of Papers**

4
5 Only the clerk may remove and replace papers in the court's files.
6 Unless otherwise ordered by the court, filed papers may only be
7 inspected by the public in the office of the clerk. The clerk may, unless
8 otherwise ordered by the court, release records to ~~and released to a~~
9 ~~court officer or~~ authorized court personnel or an attorney of record for
10 use in a court facility. No original papers filed with the clerk may be
11 used in any location other than a court facility, unless so ordered by the
12 presiding judge.

13
14 **(b)-(c) * * ***

Item SPR08-17 Response Form

Title: Trial Courts: Release of Court Records (amend Cal. Rules of Court, rule 2.400)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

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DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 20, 2008

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee.
All comments will become part of the public record of the council's action.*