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IN THE SUPREME COURT OF THE STATE OF KANSAS 2005 MAY -5 P 3: 14

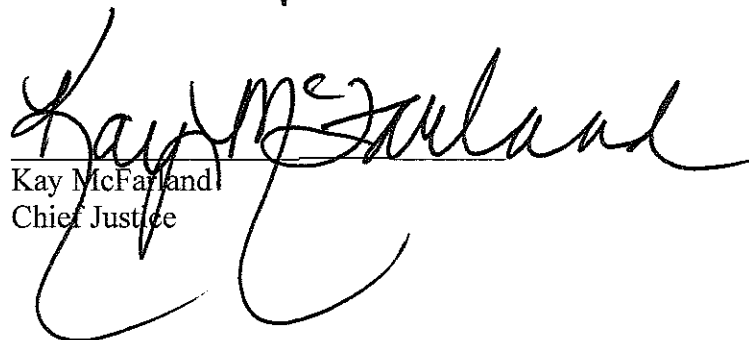
ADMINISTRATIVE ORDER NO. 191

CAROL G. GREEN  
CLERK APPELLATE COURTS

Re: Amended Rule on Public Access to District Court Electronic Case Records

The attached Supreme Court Rule 196 is hereby adopted.

AMENDED BY ORDER OF THE COURT this 4<sup>th</sup> day of May, 2005.

  
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Kay McFarland  
Chief Justice

Attachment

IN THE SUPREME COURT OF THE STATE OF KANSAS

RULES RELATING TO DISTRICT COURTS

New Rule [196]

PUBLIC ACCESS TO  
DISTRICT COURT ELECTRONIC CASE RECORDS

Supreme Court Rule [196] is hereby enacted, effective June 1, 2005.

**(a) Scope**

- (1) This rule governs public access to and confidentiality of electronic case records in district courts. Except as otherwise provided by this rule, access to electronic court records is governed by the Kansas Open Records Act (K.S.A. 45-215 *et seq.* [KORA]), Kansas Supreme Court Rules and Administrative Orders, and relevant state and federal law.
- (2) Non-case records or case records which are not available in electronic form, which are determined to be open records under the KORA, Supreme Court rule or order, or other state or federal laws, will be made available in a format determined by the appropriate records officer.
- (3) Information in district court electronic case records available for public access in electronic format will be available at each respective court through the use of public access terminals. Only information from the county the courthouse is located in will be available; access to information in other counties will not be available. In addition, county information may be available through the Internet at the discretion of the chief judge and the judicial administrator. Statewide information is not available at each respective court.
- (4) This rule applies only to electronic case records as defined in this rule and does not authorize or prohibit access to information gathered, maintained, or stored by a non-Judicial Branch governmental agency or other entity.

**(b) Definitions**

For the purpose of this rule, the following definitions apply to the terms used in this rule.

- (1) Bulk Distribution - the distribution of all or a significant subset of the information in court records in electronic form, as is, and without modification or compilation.
- (2) Case-by-Case Access - each electronic case record is available only individually. When a search for an individual electronic case record returns multiple results, each result may be viewed only individually.
- (3) Compiled Information - information that is derived from the selection, aggregation, or reformulation of all or a subset of all the information from more than one individual court case record in electronic form.
- (4) Court Case Record – filings or other activity relating to a particular case. This does not include e-mail, correspondence, notes, etc. not filed in a court case.
- (5) Electronic Access - access to court case records available to the public through both public terminals at courthouses and remotely, unless otherwise specified in these rules.
- (6) Electronic Case Record - a digital court case record, regardless of the manner in which it has been converted to digital form. The term does not include a case record that is maintained only on microfiche, paper, or any other medium that can be read without the use of an electronic device.
- (7) Public Access - the process whereby a person may inspect the information in a court record that is not closed by law or judicial order.
- (8) Remote Access - the process whereby a person may inspect information in electronic case records through an electronic means at a location other than the court.
- (9) Register of Action – Basic information for an individual court case provided by the court, consisting of dates of case activity and a brief description of the case activity. Information provided by a Register of Action does not include all information pertinent to the case and does not include information that is not public.
- (10) Records Custodian – the person responsible for the safekeeping of records held by a court.
- (11) Records Officer – the person responsible for safeguarding the access to records held by a court under the Kansas Open Records Act, Kansas Supreme Court Rules and Administrative Orders, and relevant state and federal law.

- (12) Judicial Administrator - The position responsible to the Chief Justice of the Kansas Supreme Court for implementing the policies of the Court with respect to the operation and administration of the courts, under supervision of the Chief Justice.

**(c) Persons Who Have Access**

- (1) All persons have access to electronic case records as provided in this rule.
- (2) Judges, court employees, and others as determined by the Supreme Court, may have greater access than the public in general to electronic case records.
- (3) This rule does not give any person access to any record to which the person is not otherwise entitled.

**(d) Access Provisions and Restrictions**

- (1) Public access to electronic case records or information contained in electronic records shall be available on a case-by-case basis only and may be conditioned on the user's consent to access the records only as instructed by the court and the user's consent to the monitoring of access to electronic court records.
- (2) A court record available electronically through a public access method does not constitute the official record of the court.
- (3) Due to privacy concerns, some otherwise public information, as determined by the Supreme Court, may not be available through electronic access. A nonexhaustive list of information generally not available electronically includes Social Security numbers, dates of birth, and street addresses. Except for electronically filed documents, to which adequate public access will be provided as determined by the records custodian, only information contained in the court's Registers of Action will be available electronically. District courts may provide other information provided that first, a request to provide other information is made in writing to the judicial administrator, who will make a recommendation on the request and forward it to the Supreme Court.
- (4) Electronic case records will be available for public access in the courthouse during regular business hours. Access may be disrupted due to unexpected technical failures or normal system maintenance.
- (5) This rule applies to all electronic case records in the district courts; clerks and courts need not redact or restrict information that was otherwise public in court records created before the effective date of this rule.

**(e) Bulk and Compiled Information Distribution**

Information in bulk or compiled format will not be available.

**(f) Correction of Electronic Case Records**

Clerical mistakes in electronic case records may be addressed as detailed in K.S.A. 60-260.

**(g) Contracts With Vendors Providing Information Technology Services Regarding Public Access to Statewide Electronic Case Records**

- (1) Subject to the approval of the Supreme Court, the judicial administrator shall have authority to contract with a third party vendor to provide access to statewide electronic case records in accordance with this rule. The Supreme Court retains ownership of all court electronic case records and retains the right to approve any other contracts by any other records custodian.
- (2) Contracts with a vendor to provide information technology support to gather, store, or make accessible electronic case records or information in court electronic case records will require the vendor to comply with the intent and provisions of this rule. For purposes of this section, the term “vendor” also includes a state, county, or local governmental entity that provides information technology services to a court.
- (3) Each contract for access to statewide electronic case records shall require the vendor to assist the Supreme Court in its role of educating litigants and the public about this rule. The vendor also shall be responsible for training its employees and subcontractors to comply with the provisions of this rule.
- (4) Each contract shall require the vendor to acknowledge that electronic case records remain the property of the Supreme Court and are subject to the directions and orders of the Court with respect to the handling of and access to the records, as well as the provisions of this rule.
- (5) These requirements are in addition to those otherwise imposed by law.

**(h) Disclaimer of Immunity for Disclosure of Information**

The Judicial Branch and its employees shall not be liable for monetary damages related to unintentional or unknowing disclosure of confidential or erroneous information.