

Temporary Rule

PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION BY A SELF-REPRESENTED LITIGANT IN AN APPELLATE COURT

- (a) **Purpose.** The Kansas Supreme Court adopts the following temporary rule to protect personally identifiable information when a self-represented litigant files a document in the Kansas Supreme Court or Court of Appeals.
- (b) **Definitions.**
 - (1) “Clerk” means a clerk of the Kansas appellate courts.
 - (2) “Document” means any paper filing, including the filings necessary to docket an appeal or initiate an appellate case.
 - (3) “Sealed” means that access to a case or document is limited by statute, Supreme Court rule, or court order.
 - (4) “Self-represented litigant” means a person not represented by an attorney authorized to practice law before the appellate courts.
- (c) **Filing Under Seal; Request to Seal Document.**
 - (1) If a self-represented litigant files a document under a seal order previously entered by a court, the self-represented litigant must certify that the order exists and attach a copy of the order.
 - (2) If a self-represented litigant believes at the time of filing that an appellate court should seal a document not covered by an existing seal order, the self-represented litigant must file a motion to seal that includes a general description of the document. The self-represented litigant must certify that the motion complies with subsection (d) of this rule, which protects personally identifiable information.
 - (3) A self-represented litigant may file a motion to seal a document already in the case file. The self-represented litigant must identify in the motion the document to seal. A court employee will remove the document from public view until the court rules on the motion to seal. But a court employee is not required to search for a document that the self-represented litigant does not describe in detail in the motion to seal.

- (4) A case or document may be sealed only by a court order that is case or document specific or as required by a statute or Supreme Court rule.
- (d) **Obligation to Redact Personally Identifiable Information.** A self-represented litigant must comply with the requirements of [Supreme Court Rules 7.043](#) and [24](#) regarding the protection of personally identifiable information and is subject to sanctions for failure to comply under [Rule 24\(f\)](#).
- (e) **Certification.** A self-represented litigant must include a certification of the following information with each document the self-represented litigant files:
 - (1) the self-represented litigant has signed the document and provided the self-represented litigant's name, address, telephone number, email address if available, and fax number if available; and
 - (2) the self-represented litigant has reviewed the document and is submitting it under seal or certifying that it complies with subsection (d).
- (f) **Certification Form.** A form to assist the self-represented litigant with certification is available in the Office of the Clerk of the Appellate Courts and at www.kscourts.gov.
- (g) **Self-Represented Litigant's Responsibility.** The responsibility for correctly filing a document with an appellate court rests with the self-represented litigant. A court employee is not required to review a document that a self-represented litigant files to ensure that the self-represented litigant appropriately designated a case, document, or information.
- (h) **Clerk Processing.**
 - (1) **Document Review.** Upon receipt of a document filed by a self-represented litigant, a clerk is authorized to return the document only for the following reasons:
 - (A) the document is illegible;
 - (B) the document does not leave a margin large enough to add a file stamp;
 - (C) the document does not have the correct county designation, case number, or case caption;¹

- (D) the self-represented litigant has not paid the applicable fee or submitted a poverty affidavit with the document and no poverty affidavit is already on file in the case; or
 - (E) the self-represented litigant failed to include the necessary information or required documents for docketing an appeal or initiating an appellate case.
- (2) **Processing Timeline.** A clerk must process a document for filing as quickly as possible but not more than eight business hours after the clerk receives the document for filing.
 - (3) **Document Return.** If a clerk determines that a document must be returned for any reason listed in subsection (h)(1), the clerk must designate the reason for its return.
 - (4) **Document Approval.** If a clerk does not return a document under subsection (h)(1), the clerk will approve the document for filing. The clerk may flag the document for further review as authorized by standard operating procedures adopted by the judicial administrator.
- (i) **Noncompliance.** If a document filed by a self-represented litigant does not comply with this rule, an appellate court may order that a court employee remove the document from public view until the court rules on the document's noncompliance.
 - (j) **Application.** This rule does not affect the application of constitutional provisions, statutes, or rules regarding confidential information or access to public information.
 - (k) **Conflict.** This rule should be read in conjunction with other applicable rules and statutes, including the prison mailbox rule.² But this rule controls if any provision of a Supreme Court rule conflicts with this rule.

¹ The return reason listed in subsection (h)(1)(C) applies to a document filed in an existing case where the clerk must match the county designation, the names of the parties in the case caption, and the case number with those of the existing case.

² See *Wahl v. State*, 301 Kan. 610, 615 (2015).

Certification Form for a Self-Represented Litigant in an Appellate Court

By signing this form, I certify that the attached filing complies with the certification requirements in the Temporary Rule for Protection of Personally Identifiable Information by a Self-Represented Litigant in an Appellate Court.

You must complete the next section.

I CERTIFY that I signed the attached filing and provided my name, address, telephone number, email address if available, and fax number if available.

*Only complete **one** of the next two sections.*

I ALSO CERTIFY that my document **does not contain prohibited personally identifiable information (“PII”)**. I checked my document for PII and made sure that my document meets the requirements in the Temporary Rule. It meets those requirements because the following statement is true. (*Choose one or both.*)

My document does not include any of the items listed in [Supreme Court Rules 7.043](#) and [24\(b\)](#) (*The list is printed on the back of this form for reference.*)

The information in my document meets one of the exceptions listed in [Supreme Court Rule 24\(c\)](#). (*The list is printed on the back of this form for reference.*)

OR

I ALSO CERTIFY that my document **may contain prohibited personally identifiable information (“PII”)**, but I am asking the court to file it confidentially under seal for one of the following reasons. (*Only choose one.*)

A court entered an order sealing this document on (*enter the order date*).

I am asking the court in the document I am now filing to issue an order to seal a different document that is not yet filed. *Describe the document without using PII.*

_____.

I am asking the court in the document I am now filing to seal a document that is already filed in this case. *Describe the document without using PII.*

_____.

Date: _____

Signature: _____

Name of Party: _____

Personally Identifiable Information – Supreme Court Rule 24(b)

- (1) *(not applicable in an appellate court)*;
- (2) the name of a minor in an appellate court case and, if applicable, the name of a person whose identity could reveal the name of the minor;
- (3) the name of an alleged victim of a sex crime;
- (4) the name of a petitioner in a protection from abuse case;
- (5) the name of a petitioner in a protection from stalking, sexual assault, or human trafficking case;
- (6) the name of a juror or venire member;
- (7) a person's date of birth except for the year;
- (8) any portion of the following:
 - (A) an email address except when required by statute or rule;
 - (B) a computer username, password, or PIN; and
 - (C) a DNA profile or other biometric information;
- (9) the following numbers except for the last four digits:
 - (A) a Social Security number;
 - (B) a financial account number, including a bank, credit card, and debit card account;
 - (C) a taxpayer identification number (TIN);
 - (D) an employee identification number;
 - (E) a driver's license or nondriver's identification number;
 - (F) a passport number;
 - (G) a brokerage account number;
 - (H) an insurance policy account number;
 - (I) a loan account number;
 - (J) a customer account number;
 - (K) a patient or health care number;
 - (L) a student identification number; and
 - (M) a vehicle identification number (VIN);
- (10) any information identified as personally identifiable information by court order; and
- (11) the physical address of an individual's residence

Exceptions – Supreme Court Rule 24(c)

- (1) an account number that identifies the property alleged to be the subject of a proceeding;
- (2) the name of an emancipated minor;
- (3) information used by the court for case maintenance purposes that is not accessible by the public;
- (4) information a party's attorney, or a party if not represented by an attorney, reasonably believes is necessary or material to an issue before the court;
- (5) *(not applicable in an appellate court)*;
- (6) the initials, pseudonym, familial relationship, generic descriptor, or juror number of any person in an appellate court case identified in subsections (b)(2)-(b)(6);
- (7) any information required to be included by statute or court rule; and
- (8) any information in a transcript

NOTE: Supreme Court Rule 24 includes comments that explain the requirements and exceptions. The summary above is provided for reference, but you should read the rule with the comments to fully understand the rule. You can find the full rule here: kscourts.gov/Rules-Orders/Rules/Protection-of-Personally-Identifiable-Information

