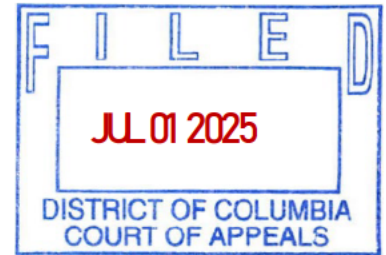


**District of Columbia
Court of Appeals**



No. M-274-21

BEFORE: Blackburne-Rigsby, Chief Judge, and Beckwith, Easterly, McLeese,
Deahl, Howard, and Shanker, Associate Judges.

AMENDED O R D E R

(FILED—July 1, 2025)

PUBLIC ACCESS TO CERTAIN BRIEFS, MOTIONS, AND ORDERS

In 2022, the court established a pilot project that provided public access to certain documents filed electronically in the court. As a first step, the court provided public access to briefs filed and orders issued in CV (Civil) appeals. In 2023, the court expanded public access to orders and briefs in certain case types in criminal appeals: CF (Criminal Felony), CM (Criminal Misdemeanor), CT (Criminal Traffic), and CO (Criminal Other) subtypes. In 2024, the court further expanded the pilot project to include all motions filed in civil and criminal case types noted above.

As a next step, the court will expand the pilot project to include additional case types in BG (Bar Governance) appeals and SP cases (Special Proceedings, but only the subcase type Certified Question of Law)—this expansion includes all briefs and motions filed in BG and Certified Question of Law cases. Additionally, the court is expanding the pilot project to include not only motions but any responsive filings to motions. Going forward, the following requirements apply not only to motions but also to oppositions to motions, replies to oppositions to motions, and other pleadings responding to motions.

The court requires that parties separately file a single redaction certificate with their first submission to the court, including a motion or brief, certifying that their motion or brief and all subsequent pleadings will have redacted information identified in this order. If a party files a redacted brief or motion, that party must also file an unredacted copy of the brief or motion, which will automatically be filed under seal without the need for a separate motion to seal. *See* Court Order M-274-21 (Jun. 17, 2024). It is therefore

ORDERED that, effective August 1, 2025, each unsealed brief, motion, or responsive filing to a motion filed in CV, CF, CM, CT, CO, BG, or SP (Certified Question of Law) appeals shall comply with the following requirements:

1. The party filing the brief or motion must redact all personal identifiers listed in Super. Ct. Civ. R. 5.2 or Super. Ct. Crim. R. 49.1, to the extent applicable, as described below. Initials should be used in lieu of a minor's name. *See* Super. Ct. Civ. R. 5.2(a)(5) and Super. Ct. Crim. R. 49.1(a)(2).
2. For civil cases, the party filing the motion or brief must ensure that the motion or brief does not contain (a) any information revealing the identity of an individual receiving mental-health services (initials should be used in lieu of the victim's name); (b) any information revealing the identity of an individual receiving or under evaluation for substance-use-disorder services (initials should be used in lieu of the victim's name); (c) information about protection orders, restraining orders, and injunctions that "would be likely to publicly reveal the identity or location of the protected party," 18 U.S.C. § 2265(d)(3) (prohibiting public disclosure on the internet of such information); *see also* 18 U.S.C. § 2266 (defining "protection order" to include, among other things, civil and criminal orders for the purpose of preventing violent or threatening acts, harassment, sexual violence, contact, communication, or proximity) (both provisions attached); (d) any information revealing the identity of an individual who has been the victim of a sexual offense (initials should be used in lieu of the victim's name); or (e) any other information required by law to be kept confidential or protected from public disclosure.
3. For civil cases, the following procedural provisions in Super. Ct. Civ. R. 5.2 are also applicable: R. 5.2(d) (court may order filing of unredacted brief under seal), 5.2(e) (court may enter protective orders), 5.2(g) (reference lists), 5.2(h) (waiver of privacy protection), and 5.2(i) (responsibility to redact rests solely with person or entity making filing).
4. For criminal cases, the party filing the brief or motion must also ensure that the brief (a) does not contain any information revealing the identity of an individual receiving mental-health services (initials should be used in lieu of the victim's name); (b) does not contain any information revealing the identity of an individual receiving or under evaluation for substance-use-

disorder services (initials should be used in lieu of the victim's name); (c) does not contain information about protection orders, restraining orders, and injunctions that "would be likely to publicly reveal the identity or location of the protected party," 18 U.S.C. § 2265(d)(3) (prohibiting public disclosure on the internet of such information); *see also* 18 U.S.C. § 2266 (defining "protection order" to include, among other things, civil and criminal orders for the purpose of preventing violent or threatening acts, harassment, sexual violence, contact, communication, or proximity) (both provisions attached); (d) uses initials when referring to victims of sexual offenses; (e) uses initials when referring to minors; and (f) does not contain any other information required by law to be kept confidential or protected from public disclosure.

5. For criminal cases, the following procedural provisions in Super. Ct. Crim. R. 49.1 are also applicable: R. 49.1(b) (exemptions from the redaction requirement), 49.1(c) (filings made under seal), 49.1(d) (protective orders), 49.1(e) (option for additional unredacted filing under seal), 49.1(f) (option for filing a reference list), and 49.1(g) (waiver of protection of identifies).
6. For BG (Bar Governance) cases, the party filing the brief or motion must redact all personal identifiers and information that should be protected, including but not limited to the same information a party would be required to redact in either a civil or criminal case. *See* Nos. 1-5 above.
7. For SP (Certified Question of Law) cases, those SP cases arising out of the Civil, Probate, or Tax Division or Family Court proceedings shall follow the rules for redaction in civil cases and SP cases arising out of the Criminal or Domestic Violence Division shall follow the redaction rules for criminal cases. For SP cases from federal court, parties should follow the redaction rules as noted for either civil or criminal cases. *See* Nos. 1-5 above.
8. Where redaction is necessary to comply with the foregoing requirements, **the party filing the redacted brief or motion MUST also file an unredacted brief or motion under seal.** The party need not seek leave of the court to file an unredacted brief or motion under seal.
9. Parties filing briefs in these case types through the court's e-file system shall file all briefs under the Briefs (redacted) subcode whether or not there are redactions in the brief to comply with the above requirements. Parties filing motions through the e-file system shall file all motions through the court's e-file system under the applicable subcode. In the event a party has redacted any information, they shall file a sealed version to comply with the above

requirements, and the party shall use Brief (sealed) and Motion (sealed) subcodes. A separate motion to seal is not required.

10. All appendices, including presentence reports, must be filed separately from the brief or motion and need not be redacted. Any brief or motion filed with an attached appendix will be rejected for electronic filing with an instruction to refile the brief and the appendix separately. Appendices will not be made electronically available during this pilot project.
11. The filing party must complete and file the appropriate Redaction Certificate Disclosure Form (a new BG/SP form has been created and is available on the court's website along with the forms for civil and criminal cases), linked on the court's website, indicating that the person has reviewed this order and Super. Ct. Civ. R. 5.2(a) or Super. Ct. Crim. R. 49.1 and that the brief or motion complies with the applicable requirements of those provisions. **Only one redaction form** must be filed prior to submitting any brief or motion with the court and shall serve as certification that all later submissions in the case types listed in this order comply with the aforementioned redaction requirements. Parties in active appeals may also file a single redaction form and upon submission will not be required to include this form.
12. **Incarcerated individuals ONLY:** Incarcerated individuals who are unrepresented by an attorney (often referred to as "proceeding pro se") are strongly encouraged to follow the redaction requirements set forth in this order and file the redaction form. However, if it is not reasonably possible for an incarcerated individual to redact their filings, they may initial the redaction form at "G," certifying they are unable to file a redacted brief or motion. *The form must either be submitted prior to filing a brief or motion with the court or be attached at the end of the brief or motion.* If an incarcerated individual indicates that they are unable to redact their brief or motion, that filing will not be available for public viewing through online public access but will be available in person in the public office.
13. This order does not apply to sealed cases or to briefs filed entirely under seal.

PER CURIAM

Super. Ct. Civil Rule 5.2. Privacy Protection for Filings Made with the Court

(a) REDACTED FILINGS. Unless the court orders otherwise, a party or nonparty must redact, in an electronic or paper filing with the court, an individual's social-security number, taxpayer-identification number, driver's license or non-driver's license identification card number, and birth date; the name of an individual known to be a minor; and a financial-account number, except that a party or nonparty making the filing may include the following:

(1) the acronym "SS#" where the individual's social-security number would have been included;

(2) the acronym "TID#" where the individual's taxpayer-identification number would have been included;

(3) the acronym "DL#" or "NDL#" where the individual's driver's license or non-driver's license identification card number would have been included;

(4) the year of the individual's birth;

(5) the minor's initials; and

(6) the last four digits of the financial-account number.

(b) [Omitted].

(c) [Omitted].

(d) FILINGS MADE UNDER SEAL. The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the person who made the filing to file a redacted version for the public record.

(e) PROTECTIVE ORDERS. For good cause, the court may by order in a case:

(1) require redaction of additional information; or

(2) limit or prohibit a nonparty's remote electronic access to a document filed with the court.

(f) ADDITIONAL UNREDACTED FILING UNDER SEAL.

(1) *Motion to File an Unredacted Copy Under Seal.* Except as provided in Rule 5.2(f)(2), a person who makes a redacted filing and wishes to file an additional unredacted copy must file a motion to file an unredacted copy under seal. If granted, the court must retain the unredacted copy as part of the record.

(2) *Name Change Applications.* A person filing an application under Rule 205 (name change) must file an unredacted copy of the application under seal.

(g) OPTION FOR FILING A REFERENCE LIST. A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list must be

filed under seal and may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information.

(h) **WAIVER OF PROTECTION OF IDENTIFIERS.** A person waives the protection of Rule 5.2(a) as to the person's own information by filing it without redaction and not under seal.

(i) **RESPONSIBILITY TO REDACT.** The responsibility for redacting these personal identifiers rests solely with the person or entity making the filing.

COMMENT TO 2017 AMENDMENTS

This rule is similar to *Federal Rule of Civil Procedure 5.2* except that: 1) section (a) has been modified to require protection of driver's license and non-driver's license identification card numbers; 2) section (a) requires parties to redact entirely social- security numbers and taxpayer- identification numbers, allowing only the acronyms "SS#" and "TID#," respectively; 3) section (b) has been omitted, removing exemptions to provide greater protection for identifiers; 4) section (c) has been omitted as inapplicable;

5) section (f) has been modified to require a motion where a person wishes to file an unredacted copy except that a person filing a name change application must file an unredacted version under seal; and 6) section (i) was added to make clear that the clerk is not required to review filings for compliance with this rule.

The modifications to section (a) were made because the Superior Court was concerned that filing portions of social-security numbers and taxpayer-identification numbers might increase the risk of identity theft by making the critical portions of these numbers readily accessible on the internet.

As used in this rule, the phrase "financial-account number" is intended to include credit and debit card numbers.

A party may move to seal documents or other information not covered under this rule by using the procedures described in Rule 5-III.

Super. Ct. Crim. Rule 49.1. Privacy Protection for Filings Made with the Court

(a) Redacted Filings. Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer identification number or driver's license or non-driver's license identification card number, the name of an individual known to be a child as that term is defined in D.C. Code § 16-2301 (3), a person's birth date, a debit card, credit card or other a financial account number, or the home address of an individual, a party or nonparty making the filing may include only:

- (1) the acronym "SS#", "TID#", "DL#", or "NDL#" instead of the social-security number, taxpayer-identification number, driver's license number and non-driver's license identification card number, respectively;
- (2) the child's initials;
- (3) the acronym "DOB" instead of the individual's birth date;
- (4) the last four digits of a debit card, credit card, or other financial-account number; and
- (5) the city and state of the home address.

(b) Exemptions from the Redaction Requirement. The redaction requirement does not apply to the following:

- (1) a financial-account number or real property address that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;
- (2) the record of an administrative or agency proceeding;
- (3) the official record of a state-court proceeding;
- (4) the record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;
- (5) a filing covered by Rule 49.1(c)(d);
- (6) a pro se filing in an action brought under D.C. Code §§ 22-4135 or 23-110
- (7) a court filing that is related to a criminal matter or investigation and

that is prepared before the filing of a criminal charge or is not filed as part of any docketed criminal case;

(8) an arrest or search warrant; and

(9) a charging document and an affidavit filed in support of any charging document.

(c) Filings Made Under Seal. The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the person who made the filing to file a redacted version for the public record. (d) Protective Orders. For good cause, the court may by order in a case:

(1) require redaction of additional information; or

(2) limit or prohibit a nonparty's remote electronic access to a document filed with the court.

(e) Option for Additional Unredacted Filing Under Seal. A person making a redacted filing may also file an unredacted copy under seal. The court must retain the unredacted copy as part of the record.

(f) Option for Filing a Reference List. A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list must be filed under seal and may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information.

(g) Waiver of Protection of Identifiers. A person waives the protection of Rule 49.1(a) as to the person's own information by filing it without redaction and not under seal.

COMMENT TO 2023 AMENDMENTS

Section (a) has been amended to delete the term "minor" as intended by the 2009 amendment to this rule.

COMMENT TO THE 2009 AMENDMENT

This Rule is identical to the Federal Rule with the following exceptions.

Paragraph (a) of this Rule requires redaction of several categories of information not covered by the Federal Rule: driver's license and non-driver's license identification card numbers, and credit and debit card numbers. See D.C. Code § 28-3851 (3)(A) (defining "Personal information" for purposes of the Consumer Personal Information Security Breach Notification Act of 2006, D.C. Code § 28-3851 et seq.) Paragraph (a) also substitutes the term "child" for the term "minor" and refers to a locally applicable definition of that term.

Subparagraph (a)(3) differs from the Federal Rule, which requires redaction of the month and date of birth, but not the year of birth. This Rule requires redaction of the entire date of birth and use of the acronym "DOB" in its place.

Subparagraph (b)(6) refers to post-conviction proceedings under local, rather than federal, law.

Paragraph (c) of the Federal Rule ("Immigration Cases") is omitted from this Rule as locally inapplicable.

18 U.S.C. § 2265. Full faith and credit given to protection orders

(d) Notification and Registration.—

(3) Limits on internet publication of registration information.—A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order or injunction, restraining order, or injunction in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.

18 U.S.C. § 2266. Definitions

In this chapter:

(5) Protection Order.—The term “protection order” includes—

(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.