

IN THE SUPREME COURT OF ALABAMA
March 26, 2012

ORDER

WHEREAS the Alabama Supreme Court Standing Committee on the Alabama Rules of Civil Procedure has recommended to this Court that it consider adopting new Rule 5.1 relating to privacy protection for court filings, and the Committee Comments thereto; and

WHEREAS this Court has determined that provision for such privacy protection for court filings is advisable;

IT IS THEREFORE ORDERED that Rule 5.1, "Privacy Protection for Court Filings," Alabama Rules of Civil Procedure, and the Committee Comments to August 1, 2012, Adoption of Rule 5.1, be adopted to read in accordance with Appendix A to this order;

IT IS FURTHER ORDERED that the adoption of Rule 5.1, Alabama Rules of Civil Procedure, and Committee Comments, be effective August 1, 2012;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 5.1, Alabama Rules of Civil Procedure:

"Note from the reporter of decisions: The order adopting Rule 5.1, Alabama Rules of Civil Procedure, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 3d."

Malone, C.J., and Woodall, Stuart, Bolin, Parker, Murdock, Shaw, Main, and Wise, JJ., concur.

I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 26th day of March, 2012

Robert G. Esdale, Sr.
Clerk, Supreme Court of Alabama

APPENDIX A

Rule 5.1. Privacy Protection for Court Filings

(a) Redacted Filings. Unless the court orders otherwise, in an electronic or paper filing with the court that contains a Social Security number, a taxpayer-identification number, or a financial-account number, a party or nonparty making the filing may include only the last four digits of any such Social Security number, taxpayer-identification number, or financial-account number.

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

- (1) a financial-account number that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;
- (2) information contained in the record of any administrative, agency, or court proceeding, if that record was not subject to the redaction requirement when originally created;
- (3) a filing governed by or subject to a statute, rule, regulation, or other provision of law that requires the inclusion of the information that would otherwise be subject to redaction by this rule; and
- (4) a filing covered by Rule 5.1(c).

(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) Party Access. Any party to a civil action is presumptively entitled upon request to a copy of a filing made under seal pursuant to Rule 5.1(c) and to an unredacted copy of any redacted filing made pursuant to this rule. Upon such a request, a person who previously made such a filing shall either promptly provide to the requesting party the requested filing under seal or an unredacted copy or file a timely

motion to be excused from providing such documents to the requesting party.

(e) Protective Orders. For good cause shown, the court may order the redaction of additional information from any filing or may order the removal from a filing of any information required to be redacted but not redacted from that filing.

(f) Responsibility for Privacy Protection. The attorney, party, or nonparty filing documents in the clerk's office or the electronic court record is responsible for making the redactions required by this rule. Neither the clerk nor any other official custodian of court records shall be responsible for reviewing documents filed with the court for compliance with this rule.

(g) Waiver of Protection of Identifiers. Subject to the provisions of subsection (e), a person or entity waives the protection of Rule 5.1(a) as to the person or entity's own information by filing it without redaction and not under seal.

(dc) District Court Rule. Rule 5.1 applies in the district courts.

Committee Comments to August 1, 2012, Adoption of Rule 5.1

This rule is modeled on Rule 5.2 of the Federal Rules of Civil Procedure. A significant change is the omission of the provisions in the federal rule for including only the year of an individual's birth date and only the initials of a minor. Many state-court filings require this information, and the information may affect jurisdictional matters, such as when child-support obligations expire. The risk of unauthorized and unwanted access to minors' names and people's birthdates via electronic searching of court records does not warrant a routine redaction requirement. In cases where such redaction is needed and appropriate, a party may proceed under Rule 5.1(e).

Rule 5.1(c), like Federal Rule 5.2(d), does not limit or expand the judicially developed rules that govern sealing. As with Federal Rule 5.2(e), nothing in Rule 5.1(e) is intended to affect the limitations on sealing that are otherwise

applicable to the court. Rule 5.1(d) is added to make clear that redaction pursuant to Rule 5.1(a) or sealing pursuant to Rule 5.1(c) -- i.e., solely for limiting inappropriate Internet access to sensitive information filed electronically or scanned into the court's electronic file -- does not affect an opposing party's right to the information. If there is reason to limit other parties' access to the information, the filing party or person may seek such relief pursuant to Rule 5.1(d).

Rule 5.1(f) is similar to a comment to Federal Rule 5.2. It is included here as part of the rule to emphasize that this procedure does not impose any responsibility on court officers or personnel to review documents for redactions or to redact documents.

Rule 5.1(g) is substantially identical to Federal Rule 5.2(h). Like Federal Rule 5.2(h), Rule 5.1(g) is intended to allow a party or a person the choice of declining to redact their own information, such as when the burden or expense of redaction outweighs the benefits of privacy. As with Federal Rule 5.2(h), if a person files an unredacted identifier by mistake, that person may seek relief from the court.