



OFFICE OF THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY

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Press Contact:
Jalyne R. Strong
(312) 603-5690
jrstrong@cookcountycourt.com

CLERK BROWN SUPPORTS SUPREME COURT RULE 138 AND PROPOSAL 13-05 TO PREVENT IDENTITY THEFT IN ELECTRONIC SHARING OF COURT DOCUMENTS

(CHICAGO, October 11, 2013) Honorable Dorothy Brown, Clerk of the Circuit Court of Cook County, penned a letter to Brett Gorman, Chair of the Illinois Supreme Court Rules Committee, commending the Illinois Supreme court on the issuance of Rule 138 and Proposal 13-05. She noted that both rules help prevent identity theft and are protections for public court records, especially in light of the future possibility of these documents being accessed electronically.

Rule 138, which went into effect in July, requires the removal of personal information, such as Social Security, driver's license and credit card numbers, from all documents filed in all civil cases. Proposal 13-05, which consists of two provisions that require the removal of birth dates and names of minors from documents, will take effect on January 1, 2014.

Clerk Brown's letter references a Public Hearing on Oct. 4, 2013, where she provided verbal testimony through her General Counsel Elena Demos. At the Hearing, Clerk Brown's support of the rules was announced and information was relayed as to how the Clerk's Office has implemented Rule 138 through creating procedures and providing employee training.

In her letter to Gorman, Clerk Brown wrote, "We have also included Rule 138 compliance as part of our eFiling MCLE Training for the past eight weeks and have received positive feedback from litigants."

Clerk Brown points out that she agrees with a key provision of Rule 138 that does not require the Illinois Clerks of Court to redact personal identity information from the court record, placing that responsibility on the litigants who are most able and familiar with the content of the documents.

In response to concerns expressed about the Rules at the Hearing, Clerk Brown offered several practical suggestions for implementing Rule 138 and Proposal 13-05, including:

1. Conduct CLE Training or Webinar for attorneys. Clerk Brown noted that attorneys may not understand the purpose of Rule 138 in preventing identity theft. However, it is important for attorneys to understand and comply with the language of the Rule. Therefore, specialized training may be beneficial to help attorneys avoid penalties for violation of the Rule.

2. Permit customers to electronically file the Notice of Personal Identity Information with Court Filing form under seal via eFiling systems. Although current Electronic Filing Standards and Principles do not permit any confidential documents to be electronically filed, Clerk Brown recommends that permission be granted for customers to electronically file, at least, the Notice of Confidential Information Within Court Filing form under seal. Then, attorneys will not be inconvenience with trips to

the courthouse for the purpose of filing a single document under seal.

3. Create a “Relational” Notice of Personal Identity Information Within Court Filing Form. Clerk Brown proposes the creation of a one-page confidential guide for judges and attorneys in cases where personal identifiers are redacted from the public court file. The “relational” Notice of Personal Identity Information form would be especially helpful in cases involving minors such as child support. Accordingly, the “relational” Notice of Personal Identity Information form would be “tagged” as relating to a particular document, so the Clerk, judge and attorney can easily unite the original publicly-filed document with the Notice form that was filed under seal, and the Clerk can easily transmit the required information to justice agencies. Clerk Brown volunteered the services of the Clerk’s Office, with input from the judiciary, to help create the relational notice form.

4. Combine the Rule 15 Notice of Confidential Information Within Court Filing form with the Rule 138 Notice of Personal Identity Information Within Court Filing Form. Both Rules 15 and 138 require that Social Security Numbers not be publicly filed with the Clerk. Clerk Brown pointed out that one combined form would be less confusing to litigants and, therefore, have more utility.

Clerk Brown concluded that Rule 138 is “thoughtfully drafted and clear, and it is important that litigants act in compliance with it.” Additionally, she affirmed the Clerk’s Office continual support of the Supreme Court’s progression towards establishing safeguards to prevent criminal identity theft.