

2nd Request

C. HOLMES, MD
P.O. Box 187
SULLIVANS ISLAND, SC 29482
843.883.3010

15 May 2018

Fax: 803.734.1839

Clerk, South Carolina Court of Appeals
1220 Senate Street
Post Office Box 11629
Columbia, SC 29201/29211

RECEIVED
MAY 21 2018
SC Court of Appeals

Re: Holmes v. Becker et al
App. Case No. 2017-01460

RECEIVED
JUN 12 2018
SC Court of Appeals

Dear Jenny:

For ease of reference, please find enclosed a copy of the mandatory Order referenced in each Court of Appeals notice of appeal initial letter. The record in this case reflects irregularities including a violation of that Order. Pursuant to S. C. Code Section 30-2-330 (see enclosed), we are requesting removal of the inappropriate information on page 3 of the March 22 entry. Further, the record reflects controlling precedent and case law supporting the Motion. Moreover, Motion to Recall Remittitur was filed pursuant to the Court's express request to file it in correspondence dated November 3, 2017. Motion to Recall Remittitur is unrelated to any prior order, and the issue of dereliction of the ministerial duties of the clerk must be forwarded to the Court for interpretation of the law. Please do not hesitate to contact us with any questions.

Thanking you in advance and with best personal regards, I am

Yours very truly,

C. Holmes
Jenny

ORDER

On August 13, 2007, this Court issued an interim Order concerning the use of personal data identifiers in documents filed in the Supreme Court and the Court of Appeals (appellate court). In the Order, the Court noted that, under the Federal Constitution, our State Constitution, and our common law, court records are presumptively open to the public. The Court also observed the electronic availability of documents filed in the appellate court raised significant privacy concerns for parties in appeals. Since that time, the appellate court has created and implemented the South Carolina Appellate Case Management System. This system currently allows the public to view documents filed in appeals in limited types of civil appeals via the internet. Furthermore, the General Assembly has enacted legislation specifically prohibiting parties from filing documents containing certain personal identifying information. See S.C. Code Ann. § 30-2-330(A).

We reiterate that parties shall not include, or will partially redact where inclusion is necessary, personal identifying information from documents filed with the appellate court.^[1] Documents filed in the appellate court shall not include the following:

1. Social Security Numbers, Taxpayer Identification Numbers, Driver's License Numbers, Passport Numbers or any other Personal Identifying Numbers. If it is necessary to include personal identifying numbers in a document, the parties should utilize some other identifier. Parties shall not include any portion of a social security number in a filing.
2. Names of Minor Children. If a minor is the victim of a sexual assault or the victim in an abuse or neglect case, the minor's name must be completely redacted and a term such as "victim" or "child" should be used. In all other cases, the minor's first name and first initial of the last name (i.e., John S.), or only the minor's initials (i.e., J.S.) should be used.
3. Financial Account Numbers, including any type of Bank Account Numbers, Personal Identification Number (PIN) Code, or Passwords. If financial account numbers are relevant, only the last four digits of these numbers should be used.
4. Home Addresses of minors, sexual assault and abuse and neglect victims, and non-parties. If a home address of a minor, sexual assault victim, or non-party must be included, only the city and state should be used.
5. Date of Birth. If a date of birth must be included, only the year of birth should be included.

If the caption of the case contains any of the personal data identifiers listed above, the parties should file a motion to amend the caption to redact the identifier. This should be done contemporaneously with the filing of the notice of appeal or the commencement of the case with the appellate court. Without a motion to the appellate court, the caption of a juvenile delinquency matter from the family court shall be redacted to only use the juvenile's first name and first letter of the juvenile's last name (i.e., In the Interest of John S., a Juvenile.)

A party seeking to seal material beyond those personal identifiers listed above must file a motion to seal with the appellate court in which the matter is pending. This is true even if the lower court or administrative tribunal may have issued an order sealing the record. Until the motion is ruled on, the clerk of the appellate court shall treat the material as if it is sealed. Parties and counsel are reminded that the standard established in *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 630 S.E.2d 464 (2006), and *Davis v. Jennings*, 304 S.C. 502, 405 S.E.2d 601 (1991), must be met before any request to seal all or a portion of a record will be granted. Once sealed by order of an appellate court, the materials will remain sealed before the appellate courts unless otherwise ordered by the appellate court in which the matter is pending.

A filing that contains redacted information may be filed together with a confidential reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. This list must be filed confidentially and may be amended as of right. The confidential reference list shall not be made available to the public and may only be viewed by the parties and the appellate court and staff. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information. No order of the court is required to file a reference list.

Parties should also exercise caution in including other sensitive personal data in their filings, such as personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, information regarding an individual's cooperation with the government, information regarding the victim of any criminal activity, or national security information.

Attorneys are expected to discuss this matter with their clients so that an informed decision can be made about the inclusion of sensitive information. The appellate courts and their staff will not review filings for redaction or to determine if materials should be sealed; the responsibility for ensuring that information is redacted or sealed rests with counsel and the parties.

s/Jean H. Toal _____ C.J.

s/Costa M. Pleicones _____ J.

s/Donald W. Beatty _____ J.

s/John W. Kittredge _____ J.

s/Kaye G. Hearn _____ J.

**2012 South Carolina Code of Laws
Title 30 - Public Records
Chapter 2 - FAMILY AND
PERSONAL IDENTIFYING
INFORMATION PRIVACY
PROTECTION**

**Section 30-2-330 - Removal of
social security numbers and other
identifying information from
official records filed by register of
deeds or clerk of court or county.**

Universal Citation: SC Code § 30-2-330 (2012)

(A) A person preparing or filing a document to be recorded or filed in the official records by the register of deeds or the clerk of court of a county may not include an individual's social security, driver's license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code, or passwords in that document, unless otherwise expressly required by law or court order or rule adopted by the state registrar on records of vital events. A loan closing instruction that requires the inclusion of an individual's social security number on a document to be recorded is void. A person who violates this subsection is guilty of a misdemeanor, punishable by a

fine not to exceed five hundred dollars for each violation.

(B) Notwithstanding Section 30-1-30, or another provision of law, an individual or his attorney-in-fact or legal guardian may request that a register of deeds or clerk of court remove, from an image or copy of an official record placed on a publicly available Internet web site or a publicly available Internet web site used by a register of deeds or court to display public records by the register of deeds or clerk of court, the individual's social security, driver's license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code, or passwords contained in that official record. The request must be made in writing, legibly signed by the requester, and delivered by mail, facsimile, or electronic transmission, or delivered in person to the register of deeds or clerk of court. The request must specify the identification page number that contains the social security, driver's license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code, or passwords to be redacted. The register of deeds or clerk of court has no duty to inquire beyond the written request to verify the identity of an individual requesting redaction. A fee must not be charged for the redaction pursuant to the request.

(C) A register of deeds or clerk of court immediately and conspicuously shall post signs throughout his offices for public viewing and a notice on any Internet web site or remote electronic site made available by the register of deeds or clerk of court and used for the ordering or display of official records or images or copies of official records a notice, stating, in substantially similar form, the following:

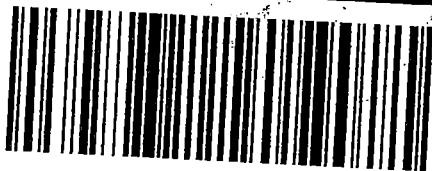
"A person preparing or filing a document for recordation or filing in the official records may not include a social security, driver's license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code, or passwords in the document, unless expressly required by law. An individual has a right to request a register of deeds or clerk of court to remove, from an image or copy of an official record placed on a publicly available Internet web site or on a publicly available Internet web site used by a register of deeds or clerk of court to display public records, any social security, driver's license, state identification, passport, checking account, savings

account, credit card, or debit card number, or personal identification (PIN) code, or passwords contained in an official record. The request must be made in writing and delivered by mail, facsimile, or electronic transmission or in person, to the register of deeds or clerk of court. The request must specify the identification page number that contains the social security, driver's license, state identification, passport, checking account, savings account, credit card, debit card number, or personal identification (PIN) code, or passwords to be redacted. There is no fee for the redaction pursuant to request."

HISTORY: 2008 Act No. 190, Section 3.B, eff December 31, 2008.

SECRET AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL®



7016 3560 0000 5725 9985

CHARLESTON

SC 294

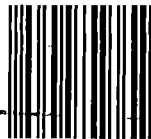
09 JUN 18

PM 31



UNITED STATES
POSTAL SERVICE

1000



29201

U.S. POSTAGE
PAID
SULLIVANS ISLAND, SC
29482
JUN 09, 18
AMOUNT

\$6.91

R2305K141622-2

RECEIVED

JUN 12 2018

SC Court of Appeals

6/11

29211-152929

