

SUPREME COURT OF ARKANSAS

IN RE AMENDMENTS TO RULE 6-3 OF
THE RULES OF THE SUPREME COURT
AND COURT OF APPEALS AND RULE 6
OF THE RULES OF APPELLATE
PROCEDURE-CIVIL

Opinion Delivered: October 6, 2022

PER CURIAM

Today, the court amends Rule 6-3 of the Rules of the Supreme Court and Court of Appeals and Rule 6 of the Rules of Appellate Procedure–Civil, effective immediately. The purpose of the amendments is to better protect the anonymity of minor victims and witnesses as well as the confidentiality of information excluded from public access pursuant to Administrative Order Number 19 while also balancing the public’s interest in access to appellate court records and dispelling the need for case-by-case court review of these issues. First, the amendments require the use of pseudonyms such as “Minor Child 1” and “Minor Child 2” when referring to minors in appellate filings. Second, the amendments permit parties without leave of court to file redacted appeal records omitting the names of minors and other confidential information. Therefore, parties wishing to protect the anonymity of minors or other confidential information shall redact and file a copy of the appellate record that will be available to the public, and upon the filing of a redacted record, the clerk shall keep the original record under seal.

These amendments are effective immediately and are set out in full at the end of this order as well as in “line-out, line-in fashion” (deleted material is lined-through; new material is underlined).

Rules of Appellate Procedure-Civil

....

Rule 6. Record on Appeal.

....

(g) *Records Containing Information that is Confidential per Administrative Order No. 19.* In any case in which the appellate record contains confidential information pursuant to Administrative Order Number 19, any party to the appeal may, without leave of court, redact the confidential information from a copy of the record and file the redacted copy with the Clerk. The Clerk shall then seal the original unredacted record. Any dispute concerning the redactions shall be submitted to the Court by motion.

....

Rules of the Supreme Court and Court of Appeals

....

Rule 6-3. Anonymity in Certain Appellate Proceedings, Opinions and Case Styles.

(a) *Adoption and Juvenile Appeals.* The record and accompanying briefs, motions, or other filings in all adoption appeals and all appeals originating in the juvenile division of circuit court shall be sealed. The Clerk shall ensure that pseudonyms are used on the public docket to protect the identity of the juveniles in those appeals. Counsel and the Court shall preserve the juvenile's anonymity by using pseudonyms in all subsequent captions, opinions, motions, and briefs, as well as in oral argument, if any. The record and papers on appeal shall be open for inspection only to counsel and parties of record, or, only upon order of the Court after review of a written motion.

(b) *Anonymity of Minors.*

(1) *Briefs and Motions.* In all cases, pseudonyms shall be used in lieu of the names of minors in all briefs, oral argument, motions, petitions, or related filings. In the rare instance where use of a minor's name is necessary, the filer shall provide the Clerk with a redacted copy of the document that uses pseudonyms, and the Clerk shall seal the unredacted document.

(2) *Appellate Records.* In any case in which the appellate record identifies a minor, any party to the appeal may, without leave of court, redact information identifying the minor from a copy of the record and file the redacted copy with the Clerk. The Clerk shall then seal the original unredacted record. Any dispute concerning the redactions shall be submitted to the Court by motion.

(c) In any other appeal in which counsel for either side believes that a person's identity or other information should be confidential but is not protected by subsection (b),

Administrative Order Number 19, or the procedures available under Rule 6(g) of the Rules of Appellate Procedure–Civil, counsel may move the Court to protect the person’s identity or other information. The motion shall be accompanied by a redacted copy of the record or other filing that will be available to the public, and the Clerk shall seal the unredacted record or other filing pending the Court’s decision on the motion. If the Court grants the motion, the Clerk shall ensure that the public docket complies with the Court’s order. Counsel and the Court shall preserve the person’s anonymity by using pseudonyms to identify the protected party in all subsequent captions, opinions, motions, and briefs, as well as in oral argument, if any. If the Court denies the motion, the Clerk shall unseal the record as appropriate, and the appeal shall proceed in accordance with these Rules.

Rules of Appellate Procedure–Civil

••••

Rule 6. Record on Appeal.

••••

(g) Records Containing Information that is Confidential per Administrative Order No. 19. In any case in which the appellate record contains confidential information pursuant to Administrative Order Number 19, any party to the appeal may, without leave of court, redact the confidential information from a copy of the record and file the redacted copy with the Clerk. The Clerk shall then seal the original unredacted record. Any dispute concerning the redactions shall be submitted to the Court by motion.

Rules of the Supreme Court and Court of Appeals

••••

Rule 6-3. Anonymity in Certain Appellate Proceedings, Opinions and Case Styles.

(a) Scope Adoption and Juvenile Appeals. The record and accompanying briefs, motions, or other filings in all adoption appeals and all appeals originating in the juvenile division of circuit court shall be sealed. The Clerk shall ensure that ~~initials~~ pseudonyms are used on the public docket to protect the identity of the juveniles in those appeals. Counsel and the Court shall preserve the juvenile’s anonymity by using ~~initials~~ pseudonyms in all subsequent captions, opinions, motions, and briefs, as well as in oral argument, if any. The record and papers on appeal shall be open for inspection only to counsel and parties of record, or, only upon order of the Court after review of a written motion.

(b) Anonymity of Minors.

- (1) Briefs and Motions. In all cases, pseudonyms shall be used in lieu of the names of minors in all briefs, oral argument, motions, petitions, or related filings. In the rare instance where use of a minor’s name is necessary, the filer shall provide the Clerk with a

redacted copy of the document that uses pseudonyms, and the Clerk shall seal the unredacted document.

(2) *Appellate Records.* In any case in which the appellate record identifies a minor, any party to the appeal may, without leave of court, redact information identifying the minor from a copy of the record and file the redacted copy with the Clerk. The Clerk shall then seal the original unredacted record. Any dispute concerning the redactions shall be submitted to the Court by motion.

~~(c) In any other appeal in which counsel for either side believes that a person's identity or other information should be confidential but is not protected by subsection (b), Administrative Order Number 19, or the procedures available under Rule 6(g) of the Rules of Appellate Procedure—Civil the Court, counsel may move the Court ~~do so to protect the person's identity or other information.~~ The motion shall be accompanied by a redacted copy of the record or other filing that will be available to the public~~

~~(b) *Appellant as Movant* If the movant is the appellant in the case, the motion shall be filed at the time the transcript is tendered for filing to the Clerk. The person whose identity is sought to be protected shall be referred to using the initials of the first and last names in the motion and on the cover of the transcript, if applicable.~~

~~(c) *Appellee as Movant* If the movant is the appellee in the case, the motion shall be filed within 5 days, excluding weekends and holidays, of the date the record is filed. The person whose identity is sought to be protected shall be referred to using the initials of the first and last names in the motion. Upon filing the motion, and the Clerk shall seal the unredacted record or other filing pending the Court's decision on the motion.~~

~~(d) *Service.* A copy of the motion must be served upon opposing counsel who will have 10 days to respond and serve the movant. Opposing counsel shall also use only the initials of the first and last names of the person at issue in any response.~~

~~(e) *Motion Granted.* If the Court grants the motion, the Clerk shall ensure that the public docket cover of the tendered transcript complies with the Court's order. Counsel and the Court shall preserve the person's anonymity by using ~~initials~~ pseudonyms to identify the protected party in all subsequent captions, opinions, motions, and briefs, as well as in oral argument, if any. ~~The records and papers on appeal shall be open for inspection only to counsel and parties of record, or, only upon order of the Court after review of a written motion.~~~~

~~(f) *Motion Denied.* If the Court denies the motion, the Clerk shall unseal the record as appropriate, substitute the person's full name on the cover of the transcript, if applicable, and the appeal shall proceed in accordance with these Rules.~~