

NOTICE TO THE BAR

Clarification of Rule 1:38 -- Family Part Records --

- (1) Non-Redaction of Confidential Personal Identifiers from Confidential Court Records;**
- (2) Continued Confidentiality of Family CIS Appended to a Non-Confidential Document**

This notice clarifies two aspects of Rule 1:38, "Public Access to Court Records and Administrative Records," as it relates to Family Part records.

(1) Non-Redaction of Confidential Personal Identifiers from Confidential Court Records

Rule 1:38-7 lists those confidential personal identifiers (Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number, and active credit card number) that must be redacted from documents or pleadings submitted to the court. While such redaction is required to prevent disclosure of those personal identifiers in documents that are otherwise available to the public, it is not required with respect to confidential documents. One such confidential document is the Family Case Information Statement ("Family CIS").

The revised Family CIS as promulgated by the August 14, 2009 Notice to the Bar contains the following additional certification: "I certify that, other than in this form and its attachments, confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b)."

Despite that clear language, some litigants nonetheless have erroneously redacted personal identifiers from the CIS. The personal identifiers included in the Family CIS and similar confidential documents are necessary for use by the court. Confidential personal identifiers, as defined in Rule 1:38-7, thus are not to be redacted from confidential records filed with the court, including the Family CIS.

(2) Continued Confidentiality of Family CIS Appended to a Non-Confidential Document

Rule 1:38-3(d)(1) provides that the Family CIS and any attachments thereto when filed with the court are excluded from public access and thus are confidential. Rule 1:38-3(a) provides that records enumerated in R. 1:38-3 remain confidential even when attached to a non-confidential document. Therefore, a Family CIS and its attachments that have been filed with the court remain confidential even when appended to a document that might otherwise be non-confidential, e.g., a motion.

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

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