



JUDGE FRANK D. REMINGTON  
DANE COUNTY CIRCUIT COURT  
BRANCH 8

Dane County Courthouse  
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May 2, 2019

Attorney Jacob Zimmerman  
Via e-filing

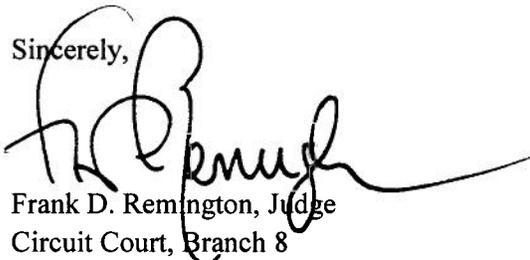
Attorney Marisa Berlinger  
Via e-filing

RE: Leonard Pozner vs. James Fetzer, et. Al.  
Case No. 18CV3122

Dear Counsel,

We are in receipt of the Affidavit of Jacob Zimmerman in Support of Plaintiff's Motion for Summary Judgment. This document has not been processed yet, as the document in its entirety has been marked by you as "temporarily sealed". At the hearing on April 26, 2019, your Motion for Confidentiality was addressed. I expressed my concerns with a broad order that allows for blanket sealing of documents. In reviewing the affidavit, it appears that exhibits 4-6 and 8-11 may be considered confidential, but the remaining do not.

Per Wis. Stat. §801.20, "The court is not required to review documents to determine if the documents are confidential in nature." My clerk has attached the most recent memorandum from Court Operations that outlines the procedure for filing documents that are to be sealed or redacted. In the alternative, you may redact the documents prior to filing. At this point, we have the following options. 1) My clerk may process the documents but removing the seal; or 2) she can reject the documents and you can refile them with the appropriate forms as outlined in the memorandum. Please let me know how you would like to proceed.

Sincerely,  
  
Frank D. Remington, Judge  
Circuit Court, Branch 8

cc: Counsel and Defendants via e-filing

# Memorandum

SUPREME COURT OF WISCONSIN  
OFFICE OF COURT OPERATIONS  
PHONE (608) 266-3121 FAX (608) 267-0911



**DATE:** April 22, 2019

**TO:** Court Procedures File

**FROM:** Kat Carpenter

**SUBJECT:** A Guide to Confidentiality, Sealing, and Redaction in Wisconsin Circuit Courts

This memo is intended as a guide for filers, court staff, and judges on the various statutory provisions related to confidentiality, redaction, and sealing of information in circuit court case records. This general guide clarifies how the court system treats different types of filings under statute. Individual practices of judges in each county may vary from this guide. If a filer wants to supplement this guide with additional information, please contact Kat Carpenter in the Office of Court Operations at Katherine.Carpenter@wicourts.gov.

## 1. Documents that can be marked as confidential and submitted with no further motion

- The CCAP software automatically marks these documents as confidential when filed through eFiling. Filers need to select the correct document type when eFiling the below documents in order for the software to mark them properly.
- The DA should mark these documents as confidential when filed through PROTECT.
- Clerks should mark these documents as confidential when they are filed in paper.
- See Wis. Stat. § 801.20.

Form Title	Form Number	Statute Number	Who Is Allowed to View the Record? <sup>1</sup>
Confidential Address Information in TRO and Injunction Actions <i>(NOTE: restraining orders and injunctions are not yet enabled to eFiling)</i>	CV-502	813.12(5m) 813.122(5g) 813.123(5g) 813.125(5m)	Petitioner/Child/Individual at Risk (and his/her attorney) or person filing on behalf of the person to be protected. 813.12(5m), 813.122(5g), 813.123(5g), 813.125(5m)
Confidential Disclosure of Protected Information	GF-241	801.19(2)	Parties, party attorneys, guardians ad litem, judicial officers, court staff, individuals allowed access by stipulation of parties, and other

<sup>1</sup> "Allowed to view the record" means allowed to access the record under Wisconsin state statutes. Some statutes allow for individuals to only inspect the record while others allow for individuals to obtain copies of the record. For eFiling parties, access may be granted through the eFiling system. For paper parties and other individuals, access may be through traditional means.

			individuals ordered by the court to have access. 801.19(2)(h)1.
Cover Sheet for Confidential Records	GF-244	801.20	Access will be determined based upon the type of document filed.
Confidential Disclosure of Information to be Sealed or Redacted	GF-245	801.21	The court should use form GF-246B to designate who can access the records.801.21(2)
Confidential Petition Addendum	GF-179	767.215(5)	Parties and their attorneys, a county child support agency, and individuals who have a court order to access the information. 767.215(5)(b)
Court Report		48.396(3)(b)2. 48.33 48.293(2) 48.38(5)(d) & (5m)(d) 938.396(2m)(b)2. 938.33 938.293(2), 938.38(5)(d) & (5m)(d)	Parties (through GAL or attorney) and court-appointed special advocate at the time of filing.  Parents, guardian, and legal custodian (and their attorneys), corporation counsel/district attorney, child's/juvenile's counsel/guardian ad litem or court-appointed special advocate, Indian child's Indian custodian and tribe for purposes of participating in a permanency review/hearing under 48.38.
Disclosure of Sealed Identifying Information in a Child Custody Proceeding	GF-178	822.29(5)	Party and party attorney who files the affidavit unless court orders disclosure to other party or public. 822.29(5)
Examining Physician's or Psychologist's Report in Guardianship cases and cases under the Children's Code		51.30(4)(b) 54.36  48.396(3)(b)2. 48.295	In a guardianship proceeding, the report of an examination of a proposed ward under 54.36, can be released to appropriate examiners and facilities who will be examining the ward (54.36(3)) and the ward, proposed ward and the ward's guardian ad litem and attorney; corporation counsel and the district attorney are entitled to access under s. 804.10(3)(a) and s. 51.30(3)(b).  The district attorney or corporation counsel, guardian ad litem,

		938.396(2m)(b)2. 938.295	attorney or court-appointed special advocate for the child/juvenile, counsel for the unborn child and the unborn child's expectant mother can have access to the report.  Parents, guardian, and legal custodian (and their attorneys), corporation counsel/district attorney, child's/juvenile's counsel/guardian ad litem or court-appointed special advocate, Indian child's Indian custodian and tribe for purposes of participating in a permanency review/hearing under 48.38 or 938.38.
Family Medical History Questionnaire	FA-608	767.41(7m)	Physician or health care provider with custody of the information and other record custodian at the request of the physician, parents, guardians, legal custodians and other individuals authorized under 146.81 to 146.835. 767.41(7m)(b)
Financial Disclosure Statement	FA-4139V	767.127	Parties and party attorneys, Department of Children and Families as needed with respect to child and spousal support and establishment of paternity and information to administer the medical support liability program. 767.127(3) and 59.40(2)(p)
Income and Expense Statement	FA-4138V	767.127	Parties and party attorneys, Department of Children and Families as needed with respect to child and spousal support and establishment of paternity and information to administer the medical support liability program. 767.127(3) and 59.40(2)(p)
Permanency Plan		48.396(3)(b)2. 48.38(5)(d) & (5m)(d) 938.38(5)(d) & (5m)(d)	Parents, guardian, and legal custodian (and their attorneys), corporation counsel/district attorney, child's/juvenile's counsel/guardian ad litem or court-

			appointed special advocate, Indian child's Indian custodian and tribe.
Presentence Investigation Reports		972.15(4m)	District attorney, defense attorney, assistant attorney general. If unrepresented, the defendant may view the report, but not keep a copy. 972.15(4m)
Report of Examination under 51.45(13) (Involuntary Commitment)	ME-940	51.45(13)	The attorney of the person subject to the commitment or the person (if he/she waived counsel) must be provided this report 96 hours prior to the hearing under 51.45(13)(e).  Accessible to individual's attorney, GAL, corporation counsel, without modifications, to prepare for commitments. 51.30(3)(b). <i>See</i> Wis. Stat. 51.30 for the list of individuals who are able to access these records in other circumstances.
Report of Examination 51.20 (Involuntary Commitment for Treatment)	ME-941	51.20	The attorney of the person subject to the commitment or the person (if he/she waived counsel) must be provided this report 48 hours prior to the final hearing under 51.20(10)(b).  Accessible to individual's attorney, GAL, corporation counsel, without modifications, to prepare for commitments. 51.30(3)(b). <i>See</i> Wis. Stat. 51.30 for the list of individuals who are able to access these records in other circumstances.

## 2. Other information made confidential by statute - submit using form GF-244

- Form GF-244, Cover Sheet for Confidential Records, should be used to submit the information listed below. This information is made confidential by statute, so no motion needs to accompany the form.
- The CCAP software automatically marks form GF-244 as confidential when submitted through eFiling. Attachments are automatically marked as confidential if submitted with the GF-244 as a single document.
- The clerk should note on the court record the nature of the information submitted.

- The DA should mark the GF-244 as confidential when filing through PROTECT.
- Clerks should mark the GF-244 and accompanying documents as confidential when they are filed in paper.
- See Wis. Stat. § 801.20.

Information	Statute Number	Who Is Allowed to View the Record?
Child pornography recordings as evidence	971.23(11)(d)	Law enforcement and district attorney. Must be made reasonably available to the defense (so defense can view the evidence). The defense may get a copy upon order from the court. 971.23(11)
Criminal competency determinations prior to competency hearing	971.14(4)(a)	District attorney, defense attorney, and defendant. Sheriff or jailer only upon request to the court. Sheriff or jailer may in turn provide it to the medical records custodian, nurse, physician or physician assistant of the defendant. 971.14(4)(a)
Criminal mental disease or defect reports prior to testimony or end of trial	971.16(3)	District attorney and defense attorney. The contents of the report shall be confidential until the physician or psychologist have testified or at the completion of the trial. 971.16(3)
Documents previously sealed by court order	801.21(7)	Access granted according to the original order to seal.
Family maintenance payment records	767.57(1)(c)	Parties to the action, their attorneys, and the circuit court commissioner. 767.57(1)(c)
Records relating to insurer rehabilitation/liquidation summary proceedings	645.24(3)	All parties to the proceeding and their attorneys unless otherwise ordered by the court. 645.24(3)
Medical incapacity of attorney petition	SCR 12.02(1)(e)	Petitioner, attorney, trustee attorney after appointment by the court. OLR upon notice of the court. SCR 12.02(1)(a)
Parent denied physical placement has limited access to child's records	767.41(7)	Certain child's records (school records, court/treatment records, protective services records, health records) may not be available to a parent who has been denied periods of physical placement under Ch. 767. 767.41(7)(b)
Physical/mental health/sensitive personal matter in proceedings under Chs. 48/938	48.396(3)(b)2. 938.396(2m)(b)2.	Documents may be disclosed to individuals as permitted under ss. 48.396(2) and 938.396(2g) or as otherwise permitted by another section of this chart.

Pupil records provided under subpoena for in camera inspection	118.125(2)(f)	After the court conducts an in camera review, the records or parts of the records may be turned over to the parties in the action and their attorneys. 118.125(2)(f)
Treatment records of individuals criminal committed under ch. 971 and 975 (e.g. conditional release plan in NGI cases)	51.30(7)	Accessible to individual's attorney, GAL, corporation counsel, without modifications, to prepare for commitments. 51.30(3). <i>See</i> Wis. Stat. 51.30 for the list of individuals who are able to access these records in other circumstances.
UCCJEA proceedings where risk of harm is alleged	822.29(5)	Petitioner (and petitioner attorney) 822.29(5)
Wiretap records, electronic or oral interceptions	968.30(7)	Court shall seal the records and recordings. The court has the authority to grant access to sealed records and recordings under specific circumstances. 968.30(7) – (9)

### 3. Information to be sealed based on court discretion (may require a motion to seal)

- Unlike the information listed in the preceding two charts, the following is a list of documents that require a court's discretion to determine if the information should be sealed or redacted.
- For some of the documents below, parties will need to file a motion to seal and the court will determine whether to treat the information/documents as confidential. Parties can file a motion to seal using form GF-246A, Motion to Seal or Redact a Court Record, or form GF-247A, Motion to Seal or Redact a Transcript. Parties can also submit a motion to seal in a different format.
- Form GF-245, Confidential Disclosure of Information to be Sealed or Redacted, should be used to submit the information to the court that the party wants to be sealed or redacted.
- The CCAP software automatically places form GF-245 under temporary seal when submitted through eFiling. The filer should check the radio button labeled "seal" in order to seal the documents submitted with the GF-245. Until the court rules on the motion, the information can be viewed only by the filer.
- The DA needs to place the GF-245 under "temporary seal" when filing through PROTECT.
- Clerks should mark the GF-245 and information to be sealed or redacted as confidential when they are filed in paper until the court can rule on the motion.
- The motions to seal, GF-246A and GF-247A, and their orders, GF-246B and GF-247B, are open to the public.
- If the court grants a motion to seal the court record, the clerk will place the GF-245 under permanent seal and allow access to the parties only as provided in the court order.
- *See* Wis. Stat. § 801.21.

Information	Statute Number	Who Is Allowed to View the Record?
Antitrust actions - business or trade secrets	133.13(2)	The court should use form GF-246B to designate who can access the records.
Confidential informants - identification and testimony	905.10(3)	The court should use form GF-246B to designate who can access the records.
Coroner's inquest records	979.05(6) 979.08(7)	The court should use form GF-246B to designate who can access the records.
Divorce judgments may be impounded when parties remarry each other or reconcile	767.35(6) 767.35(7)	The court should use form GF-246B to designate who can access the records.
Family actions may be impounded for good cause shown	767.13	The court should use form GF-246B to designate who can access the records.
In camera inspection of alleged victim's psychological/psychiatric/treatment records under <i>Shiffra/Green</i>	<i>State v. Green</i> , 2002 WI 68, 253 Wis. 2d 356	The court shall review the records and determine whether the records will be disclosed.
In camera inspection of potential discovery under 971.23	971.23(6m)	Under 971.23, the court shall review the documents and shall mask or delete any material which is not relevant to the case being tried. District attorneys, defense attorneys and defendant attorneys get access after inspection and redaction. 971.23(6m)
In camera inspection of state employment records if the employee demands de novo review of the release ( <i>Woznicki</i> notice)	19.356	The court shall determine access after review of the records.
John Doe proceedings	968.26(4)	The court should use form GF-246B to designate who can access the records.
Juror Information	<i>State v. Tucker</i> , 2003 WI 12, 259 Wis. 2d 484	Under <i>State v. Tucker</i> , in order to restrict juror information, the court must make an individualized determination that the jury needs protection, and take reasonable precautions to minimize any prejudicial effect to the defendant. <i>Id.</i> at ¶ 27. The court may use form GF-246B to designate who can access this information.
Restraining orders and	813.123(3)(c)2.	The court should use form GF-246B to

injunctions, individual at risk		designate who can access the records.
Trade secrets litigation	134.90(5)	The court should use form GF-246B to designate who can access the records.

Other state statutes provide confidentiality for records when held by other custodians. These statutes may be used in support of a motion to the court to seal the record, but the clerk does not automatically treat the information as confidential without a court order (e.g. patient health care records).

A party may wish to file a motion to seal the following information/documents, even though there is no statute that specifically provides for confidentiality when these are submitted to the court:

- medical and psychological records
- crime victim and witness information – name, address
- victim impact statements
- children’s names in cases outside the Children’s Code (Ch. 48) and Juvenile Code (Ch. 938)
- driver records
- qualified domestic relations orders
- personnel records

When ordering a record sealed, the court should use Form GF-246B to designate who can access the records.

**4. Five numbers identified by court rule as “protected information” – submit using form GF-241 OR omit if not needed for the court proceeding**

- Form GF-241, Confidential Disclosure of Protected Information, should be used to submit the five numbers listed below. Court rule requires that these numbers be submitted in a confidential manner. If the number is not needed for the proceeding, it may be omitted or redacted from the filing.
- The CCAP software automatically marks form GF-241 as confidential when submitted through eFiling. Attachments are automatically marked as confidential if submitted with the GF-241 as a single document.
- The DA needs to mark the GF-241 as confidential when filing through PROTECT.
- Clerks should mark the GF-241 as confidential when it is filed in paper.
- Form GF-242A, Motion to Redact Protected Information in Court Record, is used when a party wishes to redact information previously filed. Form GF-243A, Motion to Redact Protected Information in Transcript, is used when one of the numbers has been spoken in court and needs to be redacted from the transcript. These motions and their orders are not confidential.
- See Wis. Stat. § 801.19.

Protected Information	Statute Number
Social security numbers	801.19(a)1.

Employer & tax ID numbers	801.19(a)2.
Financial account numbers (bank accounts, credit cards, passwords, PINs)	801.19(a)3.
Driver license and state identification numbers	801.19(a)4.
Passport numbers	801.19(a)5.

**5. Records submitted from another confidential court proceeding**

- If records from other confidential proceedings are used as exhibits in another type of case, the filer must bring them to the attention of the clerk and the court with the appropriate motion in order to assure that the records remain confidential.

**6. Information submitted *ex parte***

- If a party wishes to submit documents *ex parte*, the filer must file the documents in paper. The CCAP software does not have the capability for parties to submit these documents through the eFiling system without the other party being able to see the filing.

**7. Entire classifications of cases that are confidential**

- Some statutes require that an entire classification of cases be kept confidential. These statutes have provisions allowing disclosure to the parties, their attorneys, and others.
- When a party commences an action under one of these case types, the clerk will automatically treat them as confidential.

Case Type	Statute Number
Adoption	48.93
Child Abuse Restraining Orders and Injunctions	813.122(3)(bq)
Children's Proceedings under Chapter 48	48.396(2)(a)
Confidential Name Change Petition	786.37(4)
Grand juror list and grand jury proceedings	968.40 - 968.53
Guardianship	54.75 54.25(2)(c)4. 54.44(5)
Jane Doe Proceedings	48.375(7)(e)
Mental Health Act Proceedings	51.30
Juvenile Proceedings under Chapter 938	938.396(2)(a)
Paternity pre-adjudication records	767.853
Protective Services and Placement	55.22, 55.10(3)
Unexecuted Search Warrants	968.21
Wills Deposited with the Court During Testator's Life	853.09(1)

More guidance is posted at <https://www.wicourts.gov/services/attorney/redact.htm>