

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1633

Amending Administrative Rule 40 to allow the presiding judge to protect a party's name on the public case index, and

amending Administrative Rule 37.8 and the Note following Administrative Rule 37.6 to add references to the new subsection of Administrative Rule 40.

IT IS ORDERED:

1. The Note following Administrative Rule 37.6 is amended to read as follows:

Note: Administrative Rule 40 requires the clerk of court to list a case on the public case index even though the case file has been sealed or made confidential under this rule. Only the presiding judge of the judicial district has the power to remove a party's name from the public case index, and this action may be taken only in very limited circumstances. See Administrative Rule 40(b) and (c).

The terms "confidential" and "sealed" are defined in Administrative Rule 37.5(c).

2. Administrative Rule 37.8 is amended to read as follows:

- (a) **Availability.** The following case-related information maintained in the court system's electronic case management systems will not

be published on the court system's website or otherwise made available to the public in electronic form:

* * * *

(8) party names protected under Administrative Rule 40(b) and (c); and

(9) information that is confidential or sealed in its written form.

* * * *

3. Administrative Rule 40 is amended to read as follows:

Rule 40. Index to Cases.

(a) The clerk of court shall maintain an alphabetical index by last name of every party named in every case filed, regardless of whether a party's true name is protected in the public index under paragraphs (b) or (c) of this rule. The index must show the party's name, the case number, the case caption or title, the filing date, the case type, and other information required for that case type by court rule. The index may show the party's date of birth. The clerk shall publish a public version of the index, which excludes only

(1) cases designated as confidential or sealed by statute or court rule, unless the index to those cases is public under court rules;

(2) foreign domestic violence protective orders filed under AS 18.66.140; and

(3) party names protected under paragraphs (b) or (c) of this rule.

The clerk shall continue to list a case on the public index even though the case file has been sealed or made confidential under Administrative Rule 37.6, unless the party names were protected under paragraphs (b) or (c) of this rule. The public index will be

available to the public in electronic form except as limited by Administrative Rule 37.8.

(b) The presiding judge of a judicial district may direct the clerk of court to substitute the pseudonym “Jane Doe” or “John Doe” or initials for a party’s true name on the public index if the presiding judge finds that the issues in the case involve matters of a sensitive and highly personal nature, that publication of the name could expose a person to harassment, injury, ridicule, or personal embarrassment, and that protection of the party’s name outweighs the public’s interest in disclosure and any prejudice to the opposing party. If the presiding judge determines that the true name of more than one party in a case should be protected under this subsection, the parties shall be distinguished with alphabetical middle initials (“Jane A. Doe, Jane B. Doe”). Unless otherwise ordered, a party’s name will not appear on the public index while a request to protect the name is pending before the presiding judge.

(c) The presiding judge of a judicial district may direct the clerk of court to remove a party’s name from the public index for a period of five years if the presiding judge finds that publication of the name is likely to result in substantial physical harm to the party or members of the party’s household and protection of the party’s name outweighs the public’s interest in disclosure. After five years, the party’s name will appear on the public index unless the presiding judge orders the name protected for an additional period of time, upon another showing that publication of the name is likely to result in substantial physical harm to the party or members of the party’s household. Unless otherwise ordered, a party’s name will not appear on the public index while a request to protect the name is pending before the presiding judge.

DATED: April 10, 2007

EFFECTIVE DATE: May 15, 2007

/s/
Chief Justice Fabe

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Bryner

/s/
Justice Carpeneti