



**NEW YORK STATE**  
**Unified Court System**

OFFICE OF COURT ADMINISTRATION

**HON. JOSEPH A. ZAYAS**  
CHIEF ADMINISTRATIVE JUDGE

**HON. NORMAN ST. GEORGE**  
FIRST DEPUTY CHIEF ADMINISTRATIVE JUDGE

**DAVID NOCENTI**  
COUNSEL

**MEMORANDUM**

To: All Interested Persons

From: David Nocenti

Re: Request for Public Comment – Proposal to amend 22 NYCRR § 202.5 to permit redaction of personal information from filings in Article 81 guardianship proceedings

Date: July 2, 2024

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The Administrative Board of the Courts is seeking public comment on a proposal to amend 22 NYCRR § 202.5(e) to permit the redaction of personal information from court filings in guardianship proceedings commenced pursuant to Article 81 of the Mental Hygiene Law.

Section 202.5(e) currently requires parties to omit or redact confidential personal information (CPI), and authorizes the court to: (1) order a party to remove CPI from papers; (2) order the clerk to seal the papers or portion thereof containing CPI; (3) permit the inclusion of CPI in papers for good cause; (4) order a party to file an unredacted copy under seal for in camera review; or (5) determine the information in a particular action is not confidential.

However, Section 202.5(e) specifically states that it does not apply to Mental Hygiene Law Article 81 guardianship proceedings. This has raised significant concerns, because guardianship records often contain sensitive information such as bank account numbers, social security numbers, personal medical information, and mental health information.

Amending 22 NYCRR § 202.5(e)(1) to remove the exclusion of Article 81 records will allow parties to redact CPI from their filings, and also give judges additional tools to address concerns about public access to personal information. The proposed amendment is attached as Exhibit A.

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Persons wishing to comment on the proposal should e-mail their submissions to [rulecomments@nycourts.gov](mailto:rulecomments@nycourts.gov) or write to: David Nocenti, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 10<sup>th</sup> Fl., New York, New York, 10004. Comments must be received no later than Friday, August 16, 2024.



All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

# **EXHIBIT A**



**Paragraph (e) of Section 202.5 of the Uniform Rules for the Supreme Court & the County Court is amended to read as follows:**

(e) Omission or Redaction of Confidential Personal Information.

(1) Except in a matrimonial action, or a proceeding in surrogate's court, ~~or a proceeding pursuant to article 81 of the mental hygiene law,~~ or as otherwise provided by rule or law or court order, and whether or not a sealing order is or has been sought, the parties shall omit or redact confidential personal information in papers submitted to the court for filing. For purposes of this rule, confidential personal information ("CPI") means:

- i. the taxpayer identification number of an individual or an entity, including a social security number, an employer identification number, and an individual taxpayer identification number, except the last four digits thereof;
- ii. the date of an individual's birth, except the year thereof;
- iii. the full name of an individual known to be a minor, except the minor's initials; and
- iv. a financial account number, including a credit and/or debit card number, a bank account number, an investment account number, and/or an insurance account number, except the last four digits or letters thereof.; and
- v. any of the documents or testimony in a matrimonial action protected by Domestic Relations Law section 235 or evidence sealed by the court in such an action which are attached as exhibits or referenced in the papers filed in any other civil action. For purposes of this rule, a matrimonial action shall mean: an action to annul a marriage or declare the nullity of a void marriage, an action or agreement for a separation, an action for a divorce, or an action or proceeding for custody, visitation, writ of habeus corpus, child support, maintenance or paternity.

(2) The court *sua sponte* or on motion by any person may order a party to remove CPI from papers or to resubmit a paper with such information redacted; order the clerk to seal the papers or a portion thereof containing CPI in accordance with the requirement of 22NYCRR §216.1 that any sealing be no broader than necessary to protect the CPI; for good cause permit the inclusion of CPI in papers; order a party to file an unredacted copy under seal for in camera review; or determine that information in a particular action is not confidential. The court shall consider the *pro se* status of any party in granting relief pursuant to this provision.

(3) Where a person submitting a paper to a court for filing believes in good faith that the inclusion of the full confidential personal information described in subparagraphs (i) to (iv) of paragraph (1) of this subdivision is material and necessary to the adjudication of the action or proceeding before the court, he or she may apply to the court for leave to serve and file together with a paper in which such information has been set forth in abbreviated form a confidential affidavit or affirmation setting forth the same information in unabbreviated form, appropriately referenced to the page or pages of the paper at which the abbreviated form appears.

(4) The redaction requirement does not apply to the last four digits of the relevant account numbers, if any, in an action arising out of a consumer credit transaction, as defined in subdivision (f) of section one hundred five of the civil practice law and rules. In the event the defendant appears in such an action and denies responsibility for the identified account, the

plaintiff may without leave of court amend his or her pleading to add full account or CPI by (i) submitting such amended paper to the court on written notice to defendant for in camera review or (ii) filing such full account or other CPI under seal in accordance with rules promulgated by the chief administrator of the courts.