

The Associated Press recently published an article with the headline “ID Theft Case Reveals Security Weaknesses in Alabama Court System.” Two follow up articles have been published concerning personal information of crime victims appearing in court records. The initial story reported that prosecutors had charged an Alabama man with aggravated identity theft and conspiracy. The defendant, who has since pleaded guilty, used personal information purportedly gained from alacourt.com to assist in stealing identities. The story pointed out that the federal court system, PACER, “typically” does not include personal information and that PACER posts a notice that it is up to attorneys to ensure that private information is not included in filed documents. The notice posted on that website is no different from Alabama state law.

Under Alabama law, the person filing a document with the court must ascertain that no identifying information is included in that document. Rule 31(I) of the Alabama Rules of Judicial Administration states in part that “[t]he clerk or other official custodian of court records shall not be responsible for identifying information included on any document filed in the clerk’s office.” Rule 31(I) goes on to state that “[a]ny individual filing a document that requires or contains an individual’s personal identifying information may make proper request...to protect the contents of such documents from public disclosure.” Furthermore, Rule 5.1 of the Alabama Rules of Civil Procedure provides a process for redacting identifying information in documents filed in civil cases.

In addition to not being charged with the legal responsibility to comb through the hundreds or thousands of documents filed in their offices per day in search of potential personal identifying information, the Circuit Clerks do not have the time or personnel to perform this task. The Administrative Office of Courts has implemented processes that safeguard any identifying information that may be contained in any data that is displayed in any electronic systems. If identifying information is written or typed on a document that is scanned into the system, however, the system cannot identify that information. Therefore, individuals filing documents with the courts need to exercise extreme caution when they include personal identifying information about an individual.

Although Social Security numbers are frequently used to verify the identity of a person, it is not necessary to include the entire Social Security number in a document filed with the court. Although Section 41-13-6, Ala. Code 1975, implements a general prohibition of certain governmental entities from placing a Social Security number on any document available for public inspection, that statute is “not applicable to a document originating with any court...or any record of judgment, conviction, eviction, or bankruptcy.” Rule 5.1 of the Alabama Rules of Civil Procedure states that, unless the court orders otherwise, a filer may include only the last four digits of any Social Security number, of any taxpayer-identification number, or of any financial-account number when filing an electronic or a paper document. If a person filing a document is ever prompted to provide a Social Security number on a document to be filed with the court, the filer may enter 999-99-9999.

Information about the victim of certain criminal offenses (defined in 15-23-60(7) as “a felony involving physical injury, the threat of physical injury, or a sexual offense, or any offense involving spousal abuse or domestic violence has been committed”) must also be excluded from documents filed with the courts. Section 15-23-69, Ala. Code 1975, provides that “[t]he address, phone number, place of employment, and other related information about the victim contained in the court file shall not be public record.” Furthermore, Section 15-1-2(b), Ala. Code 1975, provides that “[t]he court records of a child under the age of 18 years who is a victim of sexual abuse or exploitation shall not be open to the

public, but shall be kept in the same manner as juvenile offender records are kept.” If the victim information is contained in a document filed with the courts, the filing party should take steps to assure that the information is redacted or to assure that the document is shielded from public view. The filing party can notify the circuit clerk at the time such document is filed.

The Administrative Office of Courts is dedicated to protecting information within court records that could be used for malicious purposes. The courts further intend to protect victims of crime from the display of their identifying information. Please assist the court system in our efforts by assuring that documents filed with the courts are appropriately redacted.