

Chapter 6

OBTAINING INFORMATION FROM PUBLIC RECORDS

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I. RECORDS AVAILABLE IN CIRCUIT CLERK'S OFFICE:

A. Pleadings in circuit court litigation:

1. Civil cases: All litigation filed in civil matters is an open record in the circuit clerk's office unless it has been "filed under seal." This includes suits filed by companies against individuals, companies against companies, individuals against individuals, divorce matters and matters involving increases or reductions of child support and various other matters. These cases generally are numbered beginning with two digits representing the year, a letter indicating the type of case (P for Probate, CV for Civil, JV for Juvenile, CR for Criminal, etc.), and numbers designating the case file. Each file will have a "docket sheet" detailing every action in a file by date. This is true in *every* case filed in every court below, whether civil, criminal, juvenile or probate.

2. Criminal cases: Criminal cases handled in circuit court are usually only felonies. A felony case begins in associate circuit court (see below) and the entire case file is transferred to circuit court to be heard by the circuit judge for trial or for acceptance of the plea of the defendant where a plea agreement is reached with the prosecutor. Missouri law regarding search warrants is markedly different from most states' laws on such warrants: Section 542.276 sets out that the application for warrants and supporting affidavits are open records under Missouri law, whereas the return of the warrant, outlining the result of the search, is to be delivered to the judge and is a non-public record. (*In Re: Various Search Warrants and Returns. State v. Irvin*, 1991 WL 150843 (Mo.Cir).)

3. Juvenile litigation: Juvenile records are maintained in the Circuit Clerk's office in many jurisdictions (although larger counties may have a separate juvenile court office). In general, these records are closed at all times, unless the child has been certified under Missouri's law to be tried as an adult. (However, if the reporter obtains information regarding a juvenile matter, the bar against release of this information does not apply to the reporter. The state mandate applies only to court and law enforcement personnel who have custody of this information. Therefore, there is no restriction on the reporter in reporting on information which may have been obtained.) in Missouri. Juvenile court proceedings have traditionally been closed, except for offenses that would constitute a felony in circuit court, which have been open. Beginning on July 1, 2005, portions of juvenile proceedings involving a 17-year-old or termination of parental rights cases will be open to the public, along with the court records on those proceedings.

II. RECORDS AVAILABLE IN ASSOCIATE CIRCUIT COURT OFFICE:

A. Civil cases: Civil litigation filed in this court generally will have a request for damages below \$25,000.00, but that is not always the case. In addition, matters filed in small claims court will be in this court office. Small claims matters are those filed by individuals without lawyer representation.

B. Criminal cases: The associate circuit judge hears all misdemeanor cases from the beginning, when the preliminary hearing is either held or waived by the defendant, through the trial and/or the entry of the plea by the defendant in case of a plea agreement with the prosecutor. When a felony case is charged, the defendant is brought before the associate circuit judge for the preliminary hearing or waiver of the hearing, and then the case is transferred to the circuit judge (see above) for subsequent proceedings.

C. Probate Court: In the smaller counties, probate matters are handled in the same office as the associate circuit court office. (In larger counties, there will be a separate probate court clerk's office and separate probate judges/commissioners). Probate cases can be distinguished by the fact that their numbers generally begin with a P-.

1. Deceased estates: These are files involving the probating of the assets of a dead person. Of interest in these files will be the inventory of the estate, itemizing all the assets of the individual, pleadings reflecting the sale of personal and real property, and the “final settlement” showing who finally receives the assets of the dead person.

2. Incompetents’ estates: These are files where a person is appointed to take charge of someone’s business or personal affairs when the individual is incompetent to manage those affairs. All incompetents’ estates are open records unless closed under special order of the court.

a. A “guardianship” generally involves a person who is incapable to manage their personal affairs, including their physical care. It may also involve the affairs of a minor child, whom Missouri law deems unable to handle their affairs until they turn 18.

b. A “conservatorship” generally involves a person who is capable of managing their personal affairs but who cannot manage their financial affairs. These two kinds of estates may at times be combined for an adult, and generally are always combined when a child is involved.

III. RECORDS AVAILABLE IN RECORDER OF DEEDS’ OFFICE:

A. All land deeds: Whenever land is transferred from one owner to another, there generally is a deed recorded in this office reflecting the transfer. In addition, whenever an entity creates a mortgage on land, generally a Deed of Trust is recorded reflecting that lien. When liens are paid in full, a Deed of Release is generally recorded reflecting that payoff. All of these documents are public records. Other records may be filed in with the Recorder of Deeds office, including some which are closed, such as military discharge records. The Recorder of Deeds is required by state law to redact Social Security numbers from records disclosed, as is any other state entity. Some Counties now require filing a certificate of value with land records.

B. UCC filings: Whenever a loan is made where personal property is used as security for the loan, there often will be a Uniform Commercial Code certificate filed in that county’s recorder of deeds office reflecting this lien. Likewise, when the lien is paid in full, the release of the UCC filing is made in this office by filing of a record reflecting that release.

C. Real estate liens: The Recorder of Deeds will also have records of all liens which have been filed against real estate to reflect unpaid personal court judgments, taxes unpaid or other governmental debts.

IV. RECORDS AVAILABLE IN ASSESSOR’S OFFICE:

A. Most county assessors receive from the State Department of Revenue a list of all vehicles that appear to be registered in that county, including the name of the owner, the VIN number and the license number of that vehicle.

B. The assessor’s office is also the repository of all records made by county residents of personal property owned in the county on which personal property tax is assessed.

V. RECORDS AVAILABLE IN COLLECTOR’S OFFICE:

A. Collectors will have records on taxes paid by individuals and companies for property, both real and personal, within the county.

B. Collectors will also have records on property on which taxes are unpaid.

VI. RECORDS AVAILABLE IN COUNTY CLERK’S OFFICE:

A. The County Clerk is generally the custodian of records for the county governing body, and may be the custodian of records for other public bodies within the county. Those records are open records under Missouri’s open meetings/open records law unless closed under § 610.021.

Also in the county clerk’s office are voting records. The voter registration information in the clerk’s office is generally an open record, except for certain categories of citizens whose information may be closed, such as law enforcement officers and others who seek court approval to close those records.

VII. APPELLATE COURT RECORDS:

A. Court of Appeals: Appeals from circuit courts in the state are made to a district court of appeals. Those appellate files are similar to the underlying court’s file in that there will be a docket sheet detailing the pleadings that have been filed and all of the pleadings filed in these courts are open unless the court has granted special dispensation to proceed under seal in a matter.

B. Supreme Court: Generally, cases filed in the Supreme Court are appeals from the Court of Appeals, although there are a few instances when an appeal is made directly to the state Supreme Court and even a few instances where this is a

court of “original jurisdiction” (ie: the impeachment trial of Judy Moriarty while state Secretary of State). Again, all files are open unless closed by order of the Court and a docket sheet is kept detailing all pleadings filed here. Case.net is the free computerized service available to the public over the Internet providing docket information on pending cases in some of the circuit courts, the courts of appeal and the state Supreme Court.

VIII. HEALTH DEPARTMENT RECORDS:

A. Birth and death records: May be obtained from the local health department through its computer linkup with the state health department. These records are not open for all purposes, but certain information regarding births and/or deaths on certain dates may be disclosed by reference to the date of the birth or death, and all death records over 50 years old are presumptively open.

B. Marriage and divorce records: May be obtained from the state department of vital statistics.

VIX. DEPARTMENT OF REVENUE RECORDS:

A. Drivers License records: At present, these records are closed in Missouri to the general public.

B. State tax records: The department of revenue has the right to prohibit access to all state tax records, both personal and business.

OTHER RESOURCES TO CITE:

A Journalist’s Primer on Locating Legal Documents, published by the American Bar Association. 312-988-5522.

News Reporter’s Handbook on Law and Courts, published by the Missouri Press-Bar Commission, c/o The Missouri Bar, 573-635-4128.