

Date : 5/24/2022 6:52:16 AM
From : "Paul Dulberg"
To : "Law Office Of Alphonse Talarico"
BCc : "Paul Dulberg" , "Tom Kost"
Subject : Re: Original case file 12LA178

Dear Mr Talarico,

I am currently trying to find and study all the statutory, administrative rules, Supreme Court rules and local rules governing when the clerk may scan and destroy the original records.

So far, I did learn that the clerk can Scan and Destroy the original documents after a fixed amount of time after the last filing in a case.

What I cannot find in any statutory, Supreme Court rule, administrative regulation or policy, or local Rule yet is the answers to what I am getting back from the online forums for attorneys where I posed the question, is the underlying case in a legal malpractice action closed or reopened once a malpractice suit is filed and underway and may the circuit clerk scan and destroy the original file from the underlying case?

The overall general response that I am getting back from attorneys all over the state in the forum is:
The clerk should have been notified of the legal malpractice case and should have held off destroying any original documents from the underlying case until the legal malpractice action was finished since the underlying case could be reopened and retried pending the outcome of the legal malpractice and you should have the clerk investigated for this.

I have not had a single answer in the forum contradicting the general responses I received.

Many of the responses differed but only as to whether motions could and should be filed in the legal malpractice action and/or the start of a separate action should be filed against the clerk.

I cannot find anywhere from the various governing bodies and their rules that spells out that the clerk shall not destroy the underlying case file but it appears from my query that it is not okay to destroy original documents stored with the clerks office until the outcome of the legal malpractice has ended.

I am still researching this and just thought I would share what I learned so far.

I still think a subpoena for the original documents will cause an official response from the clerk in writing which is far better than the verbal, the originals were destroyed in July 2020, response I received yesterday.

Thank You,
Paul

> On May 23, 2022, at 5:23 PM, Paul Dulberg <pdulberg@icloud.com> wrote:

>

> Dear Mr Talarico,

>

> You have my permission to subpoena the circuit clerk for the original records in case number 12LA178.

>

> Thank you,

> Paul

>

>> On May 23, 2022, at 9:45 AM, Paul Dulberg <pdulberg@icloud.com> wrote:

>>

>> I am at the clerks office.

>>

>> Clerk is reporting the original case file was destroyed in July of 2020 and can no longer be viewed

>>

>> Sent from my iPhone

>