

LAWTECH GURU BLOG by Jeff Beard

*"If you continue to do what you've always done,
you deserve to get what you've always got."*

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YET ANOTHER REDACTION INFRACTION

As reported on [Law.com](#), a plaintiff's firm against GE in a class action sex discrimination case improperly redacted filings appearing on PACER, allowing readers to copy and paste the sensitive redacted text into another program like Word. Sounds like the classic mistake of adding black boxes without stripping the underlying text. I'm surmising they filed PDFs which is usually the standard in e-filing.

Taking the plaintiff firm's spokesperson at their word (I'm assuming the leak wasn't intentional), it sounds like it was a mistake made from ignorance. The article reports that they were working to correct the problem by making emergency, corrected filings with the federal court clerks. At that point, it's probably best thing they could do to prevent further inadvertent disclosures. But how do you unring the bell?

Rather than restate the article (which I recommend reading as a cautionary tale), I'll add that law firms and corporate law departments still need to be vigilant in the proper way to redact electronic documents. Historically, Adobe Acrobat did not provide appropriate redacting tools (a point I've suggested to them over the years and to which they listened by adding redaction in Acrobat 8 Professional -- but take note, it's not in the Standard version). So firms running on older versions of Acrobat or other PDF tools without built-in or third-party redaction tools (such as Redax from Appligent), remain at risk. By the way, [Acrobat 9](#) was just announced and will likely ship in the next month or so. The same caveat re: Standard-sans-redaction applies per [Acrobat's Feature Comparison Table](#).

If you haven't already invested in these tools, your process may be similar to this:

- Justifying the need for the proper tools (um, just read the article above)

- Communication to the legal staff as to why they are required, using real world examples to demonstrate the impact and that it's not just a hypothetical
- Investment in the appropriate software tools
- Training and practice for the legal staff actually performing the redaction, and it's not a bad idea for supervising attorneys to at least understand the underlying principles (as the plaintiff's lead counsel said, "I didn't know that.")

If your organization is already using appropriate redaction tools (you are, right?), it's probably a good idea to have redaction "tune-ups" with your staff. Meaning, reviewing and/or creating documentation for the standardized and firm-approved process of redacting documents, holding periodic refresher and new user training (consider "on-demand" video training snippets for training or follow-up support so busy professionals can fit it into their schedule), and consider making it part of the organization's overall risk management initiatives so it's at least on the radar. While you're at it, you might want to take a look at how many people actually know how to properly secure or lock a PDF, particularly those posted to external sources such as web sites.

For other helpful resources, **the NSA (yes, *that* NSA) published a guide** several years ago describing how to redact documents after the federal government suffered several information breaches and embarrassments from improper redaction efforts. There are also several very informative blogs dedicated to using PDFs in the legal market, such as **Acrobat for Legal Professionals** and **PDF for Lawyers**, both of which have definitely addressed redaction issues.

While these tools have significant price tags, as the saying goes, "an ounce of prevention..." Taken into perspective, an organization is likely going to incur costs far greater than software and training when dealing with just one of these mis-redaction incidents. Sounds like a pretty good ROI to me.

Topic(s): **Electronic Discovery** | **Legal Technology** | **Privacy & Security**

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http://www.lawtechguru.com/archives/2008/06/05_yet_another_redaction_infraction.html