

Supreme Court

In re: Rhode Island Judiciary Provisional :
Rules of Practice Governing Public Access to :
Electronic Case Information :

ORDER

The attached amendments to the Rhode Island Judiciary Provisional Rules of Practice Governing Public Access to Electronic Case Information (Public Access Rules) are hereby adopted. These Public Access Rules shall become effective upon the respective implementation of electronic filing in each court within the unified judicial system.

The Public Access Rules will continue to be open for public comment until further order of the Court so that attorneys and the public can provide additional comment after having the opportunity to use the electronic filing system in conjunction with the new rules. The Public Access Rules will remain available for viewing in the Supreme Court Clerk’s Office and on the Rhode Island Judiciary’s website at www.courts.ri.gov by clicking on the heading of Court Rules – Public Comment under the Self-help Center box on the home page.

Any person interested in offering comment to the Public Access Rules may do so in writing by submitting memoranda to the Clerk of the Supreme Court until further order of the Court.

Entered as an Order of this Court this *31st* day of *October 2014*.

_____/s/_____
Suttell, C.J.

_____/s/_____
Goldberg, J.

_____/s/
Flaherty, J.

_____/s/
Robinson, J.

_____/s/
Indeglia, J.

Rhode Island Judiciary
Provisional Rules of Practice Governing Public Access to Electronic Case Information

1. Purpose. These Rules of Practice Governing Public Access to Electronic Case Information (Public Access Rules) are intended to address access to electronic case information that is filed in the Rhode Island Judiciary's (Judiciary) Electronic Filing System. The Public Access Rules seek to harmonize the Judiciary's obligation to make case information available and accessible while also protecting the privacy of personal and/or otherwise ~~confidential~~ non-public information filed with the courts throughout the Judiciary.
2. Application. These Public Access Rules shall apply to all electronic documents filed in the Judiciary's Electronic Filing System. Access to electronic documents shall be in accordance with Section 5 herein.
3. Definitions.
 - a. Case Management System (CMS). An electronic document repository database maintained and managed by the Judiciary and administered by the respective courts to track information used to manage the courts' caseload, such as case numbers, party names and identifiers, attorneys for parties, titles of all documents filed in a case, and all scheduled events in a case.
 - b. Database. The Database is an electronic collection of court records which is accessible through the Public Access Portal and is displayed as a register of actions or Docket.
 - c. Docket. Listing of parties, case events, document filings, or other activities in a case set forth in chronological order.
 - d. Electronic Access. Access to electronic case information through a computer and the Internet, either from terminals located within a courthouse or a computer at a remote location.
 - e. Electronic Case Information. Any document, information, data, or other item created, collected, received, or maintained by a court in connection with a particular case that is readable through the use of an electronic device. This definition does not encompass data maintained by or for a ~~judge~~ judicial officer or court pertaining to a particular case or party, such as personal notes and communications, memoranda, drafts, or other working papers; or information gathered, maintained, or stored by a government agency or other entity to which the court has access but which is not entered into the ~~d~~Docket of the case.
 - f. Electronic Document. The electronic form of pleadings, notices, motions, orders, exhibits, briefs, judgments, writs of execution, and other papers filed with a court.

- g. Electronic Filing System (EFS). An approved Judiciary-wide system for the filing and service of pleadings, motions, and other documents or information via electronic means such as the Internet, a court-authorized remote service provider, or through other remote means to and from the Judiciary's CMS.
 - h. Non-public Document. A document which is required to be filed with a court and made available to opposing parties in the case but contains a significant amount of personal identifying information or contains information that is designated as non-public by state or federal law, court rule, court order or case law resulting in the document being designated as non-public in its entirety.
 - i. Personal Identifying Information. Information of a non-public nature which can be used to identify an individual within a document but can be redacted within the document.
 - jh. Public. An individual, group, agency, business, or non-profit entity, organization, or association. The term also incorporates print or electronic media organizations. A government agency for which there is no existing policy defining the agency's access to court records is also included in this definition.
 - ki. Public Document. An eElectronic dDocument filed in the EFS that is not designated as non-public in its entirety but may contain non-public information that has been redacted. does not contain any confidential information.
 - lj. Public Access. The process whereby a member of the pPublic may inspect and/or copy eElectronic eCase iInformation maintained by a court.
 - mk. Public Access Portal. The Ppoint of entry for public users, made available on the Judiciary's website, to remotely access to eElectronic eCase iInformation from the Judiciary's Database whether at the courthouse or remotely.
 - nl. Registered User. An individual or entity with an assigned username and password authorized by the Judiciary to access and utilize the EFS.
 - om. Remote Access. Process by which the inspection of case information maintained by a court is accomplished by electronic means from a physical location other than a courthouse.
4. Confidentiality Non-public Filings. Categories of non-public filings as set forth in state or federal law include, but are not limited to, the following:
- a. Case Types. Certain case types that are required by federal or state law, court rule, court order, or case law to be kept confidential shall not be publicly accessible. These case types include, but are not limited to, the following:

1. Juvenile case files per G.L. 1956 § 8-10-21, G.L. 1956 § 14-1-5, G.L. 1956 § 14-5-7(c), G.L. 1956 § 23-4.7-6, and G.L. 1956 § 38-2-2(4)(C);
 2. Child custody case files per G.L. 1956 § 15-14.1-21 and G.L. 1956 § 38-2-2(4)(C);
 3. Adoption case files per G.L. 1956 § 8-10-21, G.L. 1956 § 14-1-5, and G.L. 1956 § 38-2-2(4)(C);
 4. Termination of parental rights case files per G.L. 1956 § 15-7-7(f);
 5. Mental health certification case files per G.L. 1956 § 40.1-5-26;
 6. Paternity case files per G.L. 1956 § 15-8-17;
 7. Sealed cases of acquitted or otherwise exonerated individuals per G.L. 1956 §§ 12-1-12(a) and 12-1-12.1(c);
 8. Expunged or otherwise sealed case information per G.L. 1956 § 3-8-12; G.L. 1956 § 12-1.3-4 (c); G.L. 1956 § 12-10-12;
 9. Cases initiated under the Insurance Rehabilitation and Liquidation Act per G.L. 1956 § 27-14.3-15;
 10. Civil violations for possession of one (1) ounce or less of marijuana per G.L. 1956 § 21-28-4.01(c)(ix);
 11. Complaints for an Order of Protection from Domestic Violence under Title 15, Chapter 15, Domestic Abuse Prevention, when a juvenile is a party in the case per G.L. 1956 § 15-15-3(k)(2) and § 38-2-2(4)(C);
 12. Complaints for an Order of Protection from Sexual Abuse under Title 11, Chapter 37.2, Sexual Assault Protective Orders, when a juvenile is a party in the case per G.L. 1956 § 11-37.2-1(a) and § 38-2-2(4)(C);
 13. Complaints for a Civil Protective Order when a juvenile is a party in the case per G.L. 1956 § 8-10-3(g) and § 38-2-2(4)(C);
 14. Any other case or portions thereof which have been sealed through an order of the court.
- b. Documents. ~~Certain documents that are designated as confidential by federal or state law, court rule, court order, or case law shall not be submitted to any court through the EFS as pPublic dDocuments.~~ **These documents shall be submitted checked off as “confidential” in the EFS in their entirety and need not be submitted in a**

public form in accordance with Article X, Rule 8 of the Supreme Court Rules Governing Electronic Filing.

~~Confidential documents include, but are not limited to, the following:~~

1. All medical records, including, but not limited to, mental health records per G.L. 1956 §§ 5-37.3-4(c) and 5-37.3- 6.1(f), G.L. 1956 § 9-19-39(d), G.L. 1956 § 11-37-17(b), G.L. 1956 § 40.1-5-26, and G.L. 1956 § 40.1-5.3-15;
 - a. ~~Access to medical records. A person or entity not a party to the case who can demonstrate a sufficient need for access to confidential medical records contained in a court file may request such access by submitting a motion to the court before which the matter is pending. See G.L. 1956 § 5-37.3-4(c)(1). The motion shall be heard in the usual manner and the reasons for granting or denying the request for access shall be set forth in an order. A court which allows access to a confidential medical record contained in a case file shall ensure that only information germane to the subject action is released and shall further ensure that all otherwise confidential information is sufficiently redacted in accordance with Article X, Rule 8 of the Supreme Court Rules Governing Electronic Filing and these Public Access Rules. Redacted medical records released by the court in accordance with this section shall be Public Documents in the court file.~~
2. Records of the Department of Children, Youth, and Families per G.L. 1956 §§ 42-72-8(b)(13) and 42-72-8(f);
3. Statement of Assets, Liabilities, Income and Expenses submitted in Family Court and Workers' Compensation Court - G.L. 1956 § 38-2-2(4)(A)(I)(b);
4. Tax returns - G.L. 1956 § 38-2-2(4)(O);
5. Pay stubs, except for wage and salary information about public employees - G.L. 1956 §§ 38-2-2(4)(A)(I)(b);
6. Pretrial services records per G.L. 1956 § 12-13-24.
- c. Information. ~~Certain categories of information that are designated as confidential by federal or state law, court rule, court order, or case law shall not be submitted to any court through the EFS as part of a public document. It is the filing party~~ **Registered User's responsibility to ensure that personal or otherwise confidential non-public information is redacted and/or submitted confidentially to the court in accordance with Article X, Rule 8 of the Supreme Court Rules Governing Electronic Filing.**

~~Categories of confidential information include, but are not limited to, the following:~~

1. Name and address of juvenile in criminal and civil cases per G.L. 1956 § 38-2-2(4)(C);
2. Identifying information pertaining to crime victims and/or confidential informants per G.L. 1956 § 38-2-2(4)(C)(D)(c) and G.L. 1956 § 12-28-1, et seq.;
3. The address of any person requesting a protective order in accordance with G.L. 1956 § 8-8.1-3(a)(3) and § 11-37.2-2(a)(2).
43. Victim of child molestation sexual assault per G.L. 1956 § 11-37-8.5 and Rule 3.3 of the Superior Court Rules of Practice;
54. Personal ~~Identifying~~ Information, see generally, G.L. 1956 §§ 8-15-9 and 8-15-9.1 and G.L. 1956 §§ 38-2-2(4)(A)(I)(b) and 38-2-2(4)(X), including:
 - a. ~~Full~~ Dates of birth;
 - b. ~~Home addresses and telephone numbers;~~
 - be. Social security and ~~employer~~ taxpayer identification numbers;
 - cd. Financial account numbers. Numbers that identify specific assets such as loans, bank accounts, mortgages, investment accounts, credit card numbers, personal identification numbers, etc.;
 - de. Financial account statements. Statements that identify specific assets such as loans, bank accounts, mortgages, investment accounts, credit card numbers, personal identification numbers, etc.;
 - ef. Driver's license numbers;
 - fg. Other personal identification numbers, such as passport numbers, state identification numbers, etc.
65. Juror names and other identifying information relating to jurors, including home addresses.
- d. Protection of Confidential Non-public Information in Cases Filed Prior to Electronic Filing. Cases filed with any court before the implementation of electronic filing may contain ~~confidential~~ Non-public ~~d~~Documents or information in the ~~p~~Public file which would be deemed non-public under these Public Access Rules. Any party or attorney may submit a petition to the hearing court seeking to designate portions of the ~~p~~Public file as ~~confidential~~ non-public in accordance

with these Public Access Rules. The court shall consider said petition after service and notice by the petitioner to all interested parties. Such motion shall be freely granted. An order denying any motion to designate portions of a file as ~~confidential~~ non-public shall include the reasons serving as the basis for the denial.

5. Access to Case Information

a. Access to medical records.

1. A person or entity who can demonstrate a sufficient need for access to non-public medical records contained in a court file may seek such access by submitting a petition to the court before which the matter is or was pending.
2. Notice of the petition shall be provided to the individual whose medical records are being sought, together with a notice that the individual may challenge the disclosure; or if the individual cannot be located, an affidavit of that fact is provided.
3. Any challenge to the provision of non-public medical health care information shall be heard and decided in accordance with the procedure set forth in G.L. § 5-37.3-6.1.
4. An order granting or denying a petition for access shall be in writing and shall set forth the reasons for the decision.
5. The order shall be limited to that information deemed by a judicial officer to be germane to the subject action.
6. The order shall further direct that all otherwise non-public information contained in the records to be accessed that is not deemed by a judicial officer to be germane to the subject action be redacted in accordance with Article X, Rule 8 of the Supreme Court Rules Governing Electronic Filing and these Public Access Rules.
7. Redacted medical records that do not contain any Personal Identifying Information shall be deemed Public Documents in the court file.

ba. Courthouse Access to Case Information.

1. *Policy.* Each court shall make computer terminals available in the respective clerks' offices in each of the courthouses for use by anyone

who wishes to review ~~e~~Electronic ~~d~~Documents filed in the Judiciary's EFS during regular business hours.

2. *Content.*

a. *Public Access.* Members of the Public shall have access to all ~~p~~Public ~~e~~Electronic ~~e~~Case ~~i~~Information. This access does not include access to sealed cases or documents, or ~~confidential~~ non-public case types, documents, or information as defined in these Public Access Rules.

b. *Attorneys.* Attorneys who have entered an appearance in a case shall have ~~e~~Electronic ~~a~~Access at a courthouse to all documents and information about a case in which they are representing party. This access does not include access to sealed cases or documents. Attorneys shall have no greater access than the Public to information about cases in which they are not directly involved.

c. *Parties and Self-represented Litigants.* Parties to a case and self-represented litigants shall have ~~e~~Electronic ~~a~~Access at a courthouse to all documents and information about a case in which they are named as a party. This access does not include access to sealed cases or documents. Parties and self-represented litigants shall have no greater access than the Public to information about cases in which they are not directly involved.

d. *State or Federal Agencies.* State or federal agencies and employees thereof authorized by the Judiciary to access ~~e~~Electronic ~~e~~Case ~~i~~Information shall have access to ~~p~~Public ~~e~~Electronic ~~e~~Case ~~i~~Information at a courthouse. This access ~~may~~ does not include access to sealed cases or documents, or ~~confidential~~ non-public case types, documents or information as defined in these Public Access Rules except in specific circumstances as authorized by the Judiciary. State or federal agencies shall be approved for access by the Supreme Court.

3. *Fees.* No fees shall be charged for the viewing of ~~e~~Electronic ~~d~~Documents on a computer terminal provided by the Judiciary at one of its courthouses. There may be fees associated with the printing and/or certifying of documents.

~~cb.~~ Remote Public Access to Case Information.

1. *Policy.* To allow limited Remote Access to the Database through the Public Access Portal.

2. *Content.*

- a. *The Public, Self-represented Litigants and Parties.* Remote ~~public~~ ~~a~~Access to ~~e~~Electronic ~~e~~Case ~~i~~Information will not be immediately available to the Public, parties, and self-represented litigants but may be made available in the future at which point these Public Access Rules will be amended accordingly.
- b. *Attorneys.* Attorneys who have entered an appearance ~~on behalf of a client~~ in a case shall have ~~r~~Remote ~~electronic~~ ~~a~~Access to all documents and information about a case in which they are representing a party. This access does not include access to sealed cases or documents. Upon termination of representation, or if an attorney's client is no longer a party to a pending case, an attorneys' remote electronic access to the subject case shall be terminated. For all other cases in which they are not directly involved, attorneys shall have ~~r~~Remote ~~a~~Access to the register of actions or Docket but shall not have ~~r~~Remote ~~a~~Access to other ~~e~~Electronic ~~e~~Case ~~i~~Information.
- c. *State or Federal Agencies.* State ~~or federal~~ agencies and employees thereof authorized by the Judiciary to access ~~e~~Electronic ~~e~~Case ~~i~~Information shall have ~~r~~Remote ~~electronic~~ ~~a~~Access to ~~p~~Public ~~e~~Electronic ~~e~~Case ~~i~~Information. This access ~~may~~ does not include access to sealed cases or documents, or confidential non-public case types, documents or information as defined in these Public Access Rules except in specific circumstances as authorized by the Judiciary. State or federal agencies shall be approved for access by the Supreme Court.

~~34.~~ *Username and Passwords.* Attorneys and ~~S~~state ~~or federal~~ ~~A~~Agencies must register with the Rhode Island Supreme Court, Judicial Technology Center, for a username and password in order to utilize ~~r~~Remote ~~a~~Access.

~~45.~~ *Fees.* There shall be no fees charged for ~~r~~Remote ~~a~~Access to the foregoing information.

d. Access to Exhibits.

1. *Courthouse Access.* Exhibits are designated as Public at the courthouse.
2. *Remote Access.* Exhibits are designated as non-public for purpose of Remote Access due to the construct of the Public Access Portal. Attorneys who have entered an appearance in a case shall have Remote Access to exhibits in a case. State or federal agencies shall have Remote Access to exhibits in a case in accordance with Rule 5(c)(2)(c).