

ARTICLE X. RULES GOVERNING ELECTRONIC FILING

Rule 1. General.

(a) Title. These rules shall be known as the Supreme Court Rules Governing Electronic Filing.

(b) Purpose, Scope and Applicability. These rules establish procedures governing the electronic filing of all documents to and from all of the courts within the Rhode Island Judiciary (Judiciary). Upon implementation of electronic filing in each of the courts, electronic filing of all documents shall be mandatory for all parties except for incarcerated individuals or where a waiver is granted in accordance with Rule 3(c) herein. Self-represented litigants and other third parties may electronically file documents in accordance with Rule 3(b) herein but are not required to do so. These rules shall be construed liberally to promote the administration of justice by all of the courts within the Judiciary.

(c) Definitions:

(1) Case Initiating Document(s). The first document(s) filed in a case.

(2) 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.

(3) Conventional Service. Service accomplished by traditional, non-electronic means such as by mail or in person in accordance with the respective procedural rules of the courts within the Judiciary.

(4) 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 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 docket of the case.

(5) Electronic Document. The electronic form of pleadings, notices, motions, orders, exhibits, briefs, judgments, writs of execution, and other papers filed with a court.

(6) Electronic Filing. The electronic transmission of a document in electronic form to or from a court/clerk through the Judiciary's electronic filing system or scanned and filed into the Judiciary's CMS at the clerk's office. An electronic filing does not encompass the submission or transmission of documents to or from the court through other electronic means such as e-mail, facsimile, or computer discs.

(7) 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.

(8) *Electronic Service.* The electronic transmission of a document or information to a party or a party's attorney under these rules. Electronic service does not include service of process or a summons to gain jurisdiction over persons or property.

(9) *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 state or federal law, court rule, court order or case law resulting in the document being designated as non-public in its entirety.

(10) *Personal Identifying Information.* Information of a non-public nature which can be used to identify an individual but can be redacted within the document.

(11) *Registered User.* An individual or entity with an assigned username and password authorized by the Judiciary to access and utilize the EFS.

(12) *Rhode Island Judiciary Rules of Practice Governing Public Access to Electronic Case Information.* Rules governing the terms and conditions of access to Electronic Documents maintained in the Judiciary's CMS. This document shall be available on the Judiciary's website at www.courts.ri.gov.

(13) *Rhode Island Judiciary User Guide for Electronic Filing.* A document published by the Judiciary and updated from time to time which provides instruction and guidance as to the proper use of the EFS. This document shall be available on the Judiciary's website at www.courts.ri.gov.

(14) *Sealed Document.* A document that is required by court order, rule or statute to be submitted under the strictest levels of privacy with access allowed only to the court and/or upon approval of the court.

(15) *Usage Agreement.* An agreement that establishes the obligations and responsibilities of the Registered User and provides guidelines for use of the EFS.

(d) Technical Requirements. It is the responsibility of the Registered User to maintain an electronic mailbox sufficient to receive electronic transmissions of notices, orders and other documents. Additional technical guidelines and requirements for usage of the EFS shall be maintained by the Judiciary and published and/or amended from time to time.

(e) Forms. Any forms that have been developed to aid in the implementation of the EFS shall be located on the Judiciary's website at www.courts.ri.gov under Forms. (As adopted by the court on February 14, 2014, eff. March 1, 2014; amended October 31, 2014; January 29, 2016.)

Rule 2. Official Court Record.

(a) Official Court Record. Upon the implementation of the EFS in each court, all documents shall be filed electronically and shall be the official court record. Filing parties are obligated to verify the accuracy, authenticity and legibility of electronically filed documents.

(b) Scanning of Court Records. Hard copy active case files may be scanned into the CMS in the discretion of the Chief Justice, Presiding Justice, Chief Judge or Chief Magistrate of the respective courts. The scanning of active case files to the CMS shall be undertaken in a manner which results in a sequential and complete electronic case file that corresponds to the case

docket. Upon scanning in accordance with this rule, the electronic version of the case file shall constitute the official court record if and when the EFS has been implemented in the court.

(c) Documents Scanned by the Court. It is the responsibility of the filing party to review each document scanned by the court into the CMS for any discrepancies as a result of the scanning process. Failure to give notice of a discrepancy to the court within thirty (30) days from the filing date will be deemed acceptance of the scanned document. Original documents filed with the assistance of the clerk's office shall be returned to the filing attorney or self-represented litigant. Documents that are submitted in the courtroom and then scanned into the CMS shall be retained in accordance with the Judiciary's Record Retention Schedule.

(d) Court Control Over Court Records. Each court within the Judiciary shall retain control of its own official court record.

(e) Paper on demand system. Paper copies of documents filed electronically will be available on demand for a fee in the respective clerks' offices. (As adopted by the court on February 14, 2014, eff. March 1, 2014; amended October 31, 2014.)

Rule 3. Registration for Use of the Electronic Filing System.

(a) Usage Agreement. Execution of a Usage Agreement constitutes registration as a user of the EFS and shall constitute consent to receive Electronic Service of all documents through the EFS. A username and password may be used only by the individual or attorney to whom the username and password were issued, by an attorney's law firm or office, or by another person authorized by an attorney to use the username and password.

(b) Self-represented Litigants and Authorized Law Enforcement Agencies. Any self-represented litigant or authorized law enforcement agency involved in a proceeding before any court may elect to execute a Usage Agreement and utilize the EFS but shall not be required to do so. When a self-represented litigant or authorized law enforcement agency elects to utilize the EFS and executes a Usage Agreement, only upon motion and for good cause shown may the court before which the self-represented litigant or authorized law enforcement agency appears allow the self-represented litigant or authorized law enforcement agency to terminate the Usage Agreement. Individuals who are incarcerated are not required to submit filings through the EFS.

(c) Attorney Waiver. Upon petition and for good cause shown, the Supreme Court may grant an attorney a waiver of the mandatory registration and Electronic Filing requirements contained in these rules. Such waiver shall identify the scope of the exception. The most current Petition for Waiver of the Mandatory Electronic Filing Requirements is located on the Rhode Island Judiciary's website at www.courts.ri.gov under the heading of Forms.

(d) Misuse of the Electronic Filing System. Misuse occurs when any user attempts to harm, disrupt, alter or interfere with the EFS and/or any documents or information maintained on the system or attempts to use or access information on the system without proper authorization. Misuse of the EFS may result in suspension or loss of a user's registration or any other penalty that may be imposed by the Judiciary. Misuse of the EFS by attorneys may constitute a violation of Article V of the Supreme Court Rules of Professional Conduct as further addressed therein. Attorneys are responsible for any misuse of the EFS by third parties whom the attorney has authorized or directed to use the EFS. (As adopted by the court on February 14, 2014, eff. March 1, 2014; amended October 31, 2014; January 29, 2016.)

Rule 4. Requirements for Use of Electronic Filing System.

(a) Document Type and Format. Documents filed in the EFS shall be in a searchable format, as specified by the Rhode Island Judiciary User Guide for Electronic Filing. Documents must also conform to the technical requirements identified in the Rhode Island Judiciary User Guide for Electronic Filing.

(b) Non-conforming Documents. Materials that are required to be filed with the court and that cannot be converted into electronic form, such as videotapes, x-rays, documents and other similar items which are illegible when scanned, may be filed manually. The filing party shall file a Notice of Manual Filing which shall be docketed in the CMS to denote that a manual filing has been made and that the material is being held in the clerk's office. The filing party shall serve the materials conventionally if required.

(c) Documents Shall be Self-contained. All Electronic Documents shall be self-contained and must not contain hyperlinks to external papers or websites. (As adopted by the court on February 14, 2014, eff. March 1, 2014; amended October 31, 2014.)

Rule 5. Time.

(a) Availability of Electronic Filing System. The EFS will accept Electronic Documents twenty-four (24) hours a day, seven (7) days a week, except when the system is unavailable due to scheduled or other maintenance.

(b) Time of Filing. A document will be deemed to have been filed and/or served on the date and time when it is submitted to the EFS, regardless of whether the court is open for business at the time of submission. The filing shall be stamped with the submission date and time. Documents will be considered to have been timely filed when submitted at any time up to 11:59 p.m. on a filing deadline day. The time and date registered by the Judiciary's computer shall be determinative.

(c) Clerk Review; Acceptance/Rejection Procedure. Following submission, the court shall timely review the electronically filed document and shall notify the filing party as to whether the filing is accepted or rejected. Upon acceptance, the submitted document shall be entered into the docket of the case and the docket shall reflect the date and time of filing as set forth in Rule 5(b). If a document is filed which does not conform to the rules of the court in which it is filed, a rejection notice shall be sent to the filing party and the document shall not be docketed. The rejection notice shall identify the basis for the rejection in accordance with the rules of the court. A rejected filing shall be promptly corrected and resubmitted and shall be deemed to have been submitted and filed on the initial filing date for purposes of any statutory or rule-based deadline.

(d) Technical Errors; Relief:

(1) Substantive rights of the parties shall not be affected when the EFS is not operating through no fault of the filing attorney or party.

(2) Upon a showing of good cause, the court may grant appropriate relief when an Electronic Filing or Electronic Service was not completed due to technical problems.

(3) A motion for relief under this rule may constitute a motion for relief from judgment or order in accordance with applicable procedural rules. (As adopted by the court on February 14, 2014, eff. March 1, 2014; amended October 31, 2014; January 29, 2016.)

Rule 6. Service of Electronic Documents.

(a) Applicability. Electronic Service of documents is limited to those documents permitted by court rule to be served by mail or facsimile transmission. Subpoenas, summonses and complaints, petitions or other documents that must be hand delivered or served in person with a summons shall not be served electronically. All discovery on a case shall be electronically served using the EFS except when discovery is of a type which does not lend itself to electronic service (either because it consists of non-conforming documents or is too voluminous), in which case conventional service shall be used.

(b) Consent to Electronic Service. Upon the initiation of a case and/r upon submission of an entry of appearance in a matter, Registered Users are deemed to consent to receive Electronic Service of all documents through the EFS.

(c) Service Upon Registered Users. A party may accomplish service on another Registered User by utilizing the Electronic Service function of the EFS. The transmission of an e-mail through the EFS that contains the link to the document being served shall constitute service of the filed document(s).

(d) Service on Nonregistered Users. The party filing a document must serve nonregistered users by Conventional Service and must submit proof of such service to the court.

(e) Certificate of Service. All documents filed using the EFS shall include a certificate of service stating that the document has been filed electronically and that it is available for viewing or downloading from the EFS. The certificate of service must identify the manner in which the service on each party was accomplished. The certificate of service may be in the following form:

CERTIFICATE OF SERVICE

I hereby certify that, on the _____ day of _____, _____:

☐ I filed and served this document through the electronic filing system on the following: _____.

The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

☐ I served this document through the electronic filing system on the following: _____.

The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

☐ I mailed or ☐ hand-delivered this document to the attorney for the opposing party and/or the opposing party if self-represented, whose name is

_____ at the following address

_____.

/s/ NAME

(As adopted by the court on February 14, 2014, eff. March 1, 2014; amended October 31, 2014; January 29, 2016.)

Rule 7. Electronic Signatures and Document Authenticity.

(a) Judge, Magistrate, Clerk, or Court Reporter Signatures. Any order or other court-issued document filed electronically and entered by a judge, magistrate or court clerk per the order of a judge or magistrate may reflect the judge, magistrate or clerk's signature as: /s/ NAME. A certified copy of an order or other court-issued document bearing the electronic signature of a judge, magistrate or duly authorized clerk shall have the same force and effect as if the document contained the handwritten signature of the judge, magistrate or clerk. A court reporter's signature may be reflected as: /s/ NAME on any document or transcript submitted by a court reporter.

(b) Attorney Signature. The username and password required to submit documents to the EFS shall serve as that user's signature. The electronically filed document shall bear a facsimile or typographical signature along with the typed name, address, e-mail address, telephone number and attorney registration number of the signing attorney. Typographical signatures of an attorney shall be treated as a personal signature and shall be in the form: /s/ NAME.

(c) Self-represented Litigants and Other Registered Users. The user- name and password required to submit documents to the EFS shall serve as that user's signature. The electronically filed document shall bear a facsimile or typographical signature along with the typed name, address, e-mail address, and telephone number of the signing self-represented litigant. Typographical signatures of a self-represented litigant shall be treated as a personal signature and shall be in the form: /s/ NAME

(d) Penalty of Perjury, Acknowledgment, Notarization, and Attestation. Penalty of Perjury, Acknowledgment, Notarization, and Attestation: A document electronically filed or served using the EFS that is required by law to include a signature signed under penalty of perjury or to be notarized or attested may be submitted electronically provided that the declarant, notary public or witness has signed the hard copy paper form of the document. The hard copy paper form of the document bearing the original signatures must be scanned and electronically submitted for filing in a format that accurately reproduces the original signatures and contents of the document. By electronically filing the document, the attorney or self-represented litigant attests that the documents and signature are authentic.

(e) Documents Requiring Signature of Opposing Parties. When a document to be filed electronically requires the signatures of opposing parties, the party filing the document must first obtain the signatures of all parties on the hard copy paper form of the document. The hard copy paper form of the document bearing the original signatures must be scanned and electronically submitted for filing in a format that accurately reproduces the original signatures and contents of the document. By electronically filing the document, the attorney or self-represented litigant attests that the documents and signatures are authentic.

(f) Certification; Retention of Original Version. By electronically filing or submitting a document using the EFS or presenting a filing at a clerk's office that is scanned into the CMS, the electronic filer, attorney, or self-represented litigant is certifying compliance with the signature requirements of these rules, and the signatures on the document shall have the same legal effect as the signatures on the original document.

An electronic filer, attorney, or self-represented litigant must retain the original version of a

document, attachment or exhibit that was filed electronically or scanned into the CMS by the court for a period of seven (7) years following disposition of the matter during which time the electronic filer, attorney or self-represented litigant shall make the original paper document available for inspection by other parties, the court, or disciplinary counsel upon reasonable notice. The retention period applies only to documents submitted through the EFS and documents scanned at the clerk's office. This rule does not affect other federal or state retention statutes or regulations which may apply to the documents. (As adopted by the court on February 14, 2014, eff. March 1, 2014; amended October 31, 2014; January 29, 2016.)

Rule 8. Non-public Filings.

(a) Overview. Parties may not submit filings containing information that is designated as non-public by federal or state law, court rule, court order or case law and/or which contain Personal Identifying Information as part of a public document. With the exception of in camera reviews when necessary, the courts will not review each document to ensure compliance with this rule and are not responsible or liable for the inclusion of such information in an electronically filed document. Case types, documents, and/or information which are deemed to be non-public are identified in the Rhode Island Judiciary Provisional Rules of Practice Governing Public Access to Electronic Case Information.

(b) Documents Containing Non-public Information:

(1) Redaction. When documents containing non-public and/or Personal Identifying Information are necessary for the adjudication of the case, it is the responsibility of the filing party to ensure that non-public information or personally identifiable information is appropriately redacted prior to filing.

(2) Submission of Non-public Filing with the Court. If the court requires access to the non-public information which was redacted from the original filing, a separate, non-public version of the document containing the un-redacted information shall be simultaneously filed.

(3) Exchange of Non-public Information with Other Party. If the un-redacted information must be provided to another party in the case but is not needed by the court, the information may be provided separately to that party. Following such submission, the filing party shall file a certification with the court that the non-public information has been provided.

(4) Access. A document marked or submitted as "confidential" in the EFS, non-public, will be accessible only to the parties and/or attorneys in the case, court staff, and where applicable, to certain governmental entities as authorized by law, court rule or court order.

(5) Review. Upon motion, a court may consider any matter relating to the redaction and/or the filing of non-public documents in the EFS in a case before the court.

(c) Sealed Documents:

(1) Submission. A party seeking to designate a document as sealed upon filing shall assert the basis for the sealed submission in a motion. Neither the motion to seal nor the document in question shall be entered in the case or docketed until the motion to seal has been ruled upon by the court.

(2) Access. A document marked or submitted as "sealed" will be accessible only to the court

and court staff with the highest security level clearance. Sealed Documents may not be accessible to other parties or the public without a court order. (As adopted by the court on February 14, 2014, eff. March 1, 2014; amended October 31, 2014; January 29, 2016.)

Rule 9. Fees.

(a) Technology Surcharge. A technology surcharge shall be applied to each case in accordance with the schedule published and maintained by the Judiciary.

(b) Waiver. Each court shall have the discretion to waive any fees contemplated by these rules upon motion made to the respective court in which the subject records were filed. (As adopted by the court on February 14, 2014, eff. March 1, 2014.)

Rule 10. Sanctions.

As officers of the court, attorneys are required to abide by the letter and spirit of these rules or be subject to discipline for any knowing and willful violations. Sanctions may be imposed upon an attorney or party who fails to comply with these Rules upon motion by a party or motion of an individual whose personal or non-public information was published in violation of these Rules, or upon the court's own initiative. (As adopted by the court on February 14, 2014, eff. March 1, 2014; amended October 31, 2014.)