

RHODE ISLAND JUDICIARY RULES OF PRACTICE GOVERNING PUBLIC ACCESS TO ELECTRONIC CASE INFORMATION

Rule 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 or scanned and filed into the Judiciary's case management system at the clerk's office. 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 non-public information filed with the courts throughout the Judiciary. (As adopted May 7, 2014; amended October 31, 2014; January 29, 2016.)

Rule 2. Application.

These Public Access Rules shall apply to all electronic documents filed in the Judiciary's Electronic Filing System or scanned and filed into the Judiciary's case management system at the clerk's office. Access to electronic documents shall be in accordance with Rule 5 herein. (As adopted May 7, 2014; amended January 29, 2016; December 13, 2016.)

Rule 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 Rhode Island Judiciary Public 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 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.

(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.

(j) 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.

(k) Public Document. An Electronic Document filed in the EFS that is not designated as non-public in its entirety but may contain non-public information that has been redacted.

(l) Public Access. The process whereby a member of the Public may inspect and/or copy Electronic Case Information maintained by a court.

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

(n) 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.

(o) Rhode Island Judiciary Public Portal (Public Portal). An online service provided and maintained by the Judiciary which, for purposes of these rules, is the point of entry for access to Electronic Case Information from the Judiciary's Database whether at the courthouse or remotely. (As adopted May 7, 2014; amended October 31, 2014; December 13, 2016.)

Rule 4. 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.

(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 cases 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) Civil marijuana cases per G.L. 1956 § 8-8.2-21 and § 21-28- 4.01(c)(2)(ix); and
- (15) Any other case or portions thereof which have been sealed through an order of the court.
- (b) Documents.** These documents shall be checked off by the Registered User 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.
- (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;
- (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; and

(7) Driver's abstracts per G.L. 1956 § 27-49-3.1.

(c) Information. It is the filing party's responsibility to ensure that personal or otherwise non-public information is redacted and submitted to the court in accordance with Article X, Rule 8 of the Supreme Court Rules Governing Electronic Filing.

(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)(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);

(4) 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;

(5) 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)(l)(b) and 38-2-2(4)(X), including:

(a) Full social security and taxpayer identification numbers;

(b) Financial account numbers. Numbers that identify specific assets such as loans, bank accounts, mortgages, investment accounts, credit card numbers, personal identification numbers, etc.;

(c) Financial account statements. Statements that identify specific assets such as loans, bank accounts, mortgages, investment accounts, credit card numbers, personal identification numbers, etc.;

(d) Driver's license numbers; and

(e) Other personal identification numbers, such as passport numbers, state identification numbers, etc.

(6) Juror names and other identifying information relating to jurors, including home addresses.

(7) In cases of human trafficking, the identity, pictures, and images of the alleged victim and the family of the alleged victim per G.L. 1956 § 11-67.1-13.

d. Protection of Non-public Information in Cases Filed Prior to Electronic Filing. Cases filed with any court before the implementation of electronic filing may contain Non-public Documents or information which would be deemed non-public under these Public Access Rules. Cases filed prior to the conversion to electronic filing will be scanned and converted to electronic form upon the filing of a new pleading or if the matter is scheduled for hearing before a court. If a case file is closed or dormant, the file will not be converted to electronic format and will remain in

paper form unless and until some action is taken in the case.

(1) For active pending cases, any party or attorney may file a Motion to Protect Non-Public Information in a Case Filed Prior to Electronic Filing in the specific case with the respective court seeking to designate portions of the Public file as non-public in accordance with these Public Access Rules. The court shall hear the motion after notice by the filing party to all parties in the case and any individual to whom the subject records pertain if not a named party. Such motion shall be freely granted and, in cases in which the motion is denied, there shall be a hearing. An order denying any motion to designate portions of a file as non-public shall include the reasons serving as the basis for the denial.

(2) When a closed or pending case that has been dormant for one (1) year or more is to be scanned and converted to electronic format in accordance with subsection (a) above, the clerk shall send a notice to the attorneys of record at their current address as verified by the Clerk of the Supreme Court and parties, to the extent a current address may be available, before the file is scanned. The notice shall advise the attorneys and parties that the subject case file is to be converted to electronic format and that the attorneys and parties may wish to review the file's contents and may submit a Motion to Protect Non-Public Information in a Case Filed Prior to Electronic Filing in accordance with subparagraph (1) of this rule. The clerks shall allow fifteen (15) days from the mailing of the notice.

(3) The most current version of the Motion to Protect Non-Public Information in a Case Filed Prior to Electronic Filing is located on the Rhode Island Judiciary's website at www.courts.ri.gov under Public Resources, Forms. (As adopted May 7, 2014; amended October 31, 2014; January 29, 2016; December 13, 2016.)

Rule 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 Elec-

tronic Filing and these Public Access Rules.

(b) 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 Electronic 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 Public Electronic Case Information. This access does not include access to sealed cases or documents, or 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 Electronic Access at a courthouse 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. 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 Electronic 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 Electronic Case Information shall have access to Public Electronic Case Information at a courthouse. This access does not include access to sealed cases or documents, or 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 Electronic 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.

(c) Remote Access to Case Information.

(1) *Policy.* To allow limited Remote Access to the Database through the Public Portal. Non-public case types shall not be remotely accessible except for certain case types to attorneys who have entered an appearance in a case.

(2) *Content.*

(a) *The Public, Self-represented Litigants and Parties.* The Public, self-represented litigants, and parties shall have Remote Access to the register of actions or Docket but shall not have Remote Access to other Electronic Case Information.

(b) *Attorneys.* Attorneys who have entered an appearance in a case shall have Remote 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. For all other cases in which they are not directly involved, attorneys shall have Remote Access to Public Electronic Case Information.

(c) *State or Federal Agencies.* State or federal agencies and employees thereof authorized by the Judiciary to access Electronic Case Information shall have Remote Access to Public Electronic Case Information. This access does not include access to sealed cases or documents, or 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) *Username and Passwords.* Attorneys and state or federal agencies must register with the Rhode Island Supreme Court, Judicial Technology Center, for a username and password in order to utilize Remote Access.

(4) *Fees.* There shall be no fees charged for Remote 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 the purpose of Remote Access due to the construct of the Public Portal. Attorneys and state or federal agencies shall have Remote Access to exhibits in a case in accordance with Rule 5(c)(2)(b) and (c). (As adopted May 7, 2014; amended October 31, 2014; January 29, 2016; December 13, 2016.)