

STATE OF MAINE
SUPREME JUDICIAL COURT
PROPOSED AMENDMENTS TO
MAINE RULES OF PROBATE PROCEDURE

1. Rule 92.2 of the Maine Rules of Probate Procedure is amended to read as follows:

RULE 92.2. DEFINITIONS

....

(j) Registered Filer. A “Registered Filer” is any person who is permitted or required under Rule 92.3 to file documents electronically, ~~or a self-represented party who elects or is ordered under Rule 92.3(c)(3) to file electronically~~ and has registered through the electronic filing system website as provided in Rule 92.4. ~~The term includes any other person authorized to file documents electronically under Rule 92.4.~~

....

(l) Self-Represented Party. A “Self-Represented Party” is an interested person as defined under 18-A M.R.S.A. § 1-201(20), who has entered an appearance with the Court.

(m) Testamentary Document. A “Testamentary Document” shall include only the Last Will and Testament of the decedent and any Codicils thereto.

Advisory Committee Note – January 2017

This amendment, which amends Rule 92.2(j) and creates Rule 92.2(l) and (m), seeks to provide additional clarity about the difference between “Registered Filers” and “Self-Represented Parties” and limit the definition of “Testamentary Document” to Wills and Codicils.

2. Rule 92.3 of the Maine Rules of Probate Procedure is amended to read as follows:

RULE 92.3 WHO MUST FILE ELECTRONICALLY; EXCEPTIONS

(a) Required electronic filing. Except as hereinafter provided in (b) and (c), and other provisions of these rules, all parties, and others required or permitted to file, in all civil actions and probate proceedings, entered in the Probate Court, on or after the filing dates provided by Rule 92.1(a) and (b), must electronically file all documents required by the applicable rules of procedure to be filed in court. All documents generated by the court, guardians ad litem, visitors, psychologists, physicians and mediators required to file a report under the applicable rules of procedure in all civil actions and probate proceedings, on or after the required filing dates provided by Rule 92.1(a) and (b), will be filed electronically or, if filed nonelectronically, shall be scanned by court staff.

(b) Exceptions to electronic filing. Nonelectronic filing may occur as follows:

(1) A ~~self-represented party~~ Self-Represented Party who is not a Registered Filer may file nonelectronically.

(2) A filer in a particular case is excused from electronic filing in that case by the court when exceptional circumstances make electronic filing unfeasible.

(3) Nonelectronic filing of a particular document or information is permitted by the court to protect confidentiality or for other good cause.

(4) Nonelectronic filing is permitted when expressly permitted by these rules or an applicable rule of procedure.

~~(5) Nonelectronic filing is permitted in a case commenced prior to the mandatory filing date in the applicable county unless the court orders that documents filed on or after the mandatory electronic filing date in that case be filed electronically.~~

(65) Nonelectronic filing is permitted when a document cannot reasonably be scanned and filed electronically because of its dimensions, shape, or condition.

(c) Required nonelectronic filing. A document must be filed by nonelectronic means when:

(1) It is an original testamentary document;

(2) Nonelectronic filing is expressly required by these rules or an applicable rule of procedure; or

(3) The court orders a filer to file by nonelectronic means upon a finding that the filer has abused the system by repeated filing of irrelevant, abusive, or duplicative documents or information.

(d) Consequence of filing by improper method. If a document that is required to be filed electronically is filed nonelectronically, it will not be accepted and will not be scanned. The filer may resubmit the document electronically pursuant to these rules, and the date and time of filing will be the date and time that the original filing was submitted.

(e) Service. A party who filed a nonelectronic document must serve notice of the filing and a copy of the document on all parties and the Probate Court in any manner appropriate under the applicable rules of procedure, except for documents filed ex parte.

Advisory Committee Note – January 2017

The elimination of subparagraph (b)(5) from Rule 92.2 is intended to ensure that all attorneys are required to file electronically regardless of when the matter was commenced or by whom.

3. Rule 92.9 of the Maine Rules of Probate Procedure is amended to read as follows:

RULE 92.9. PAYMENT OF FEES AND COSTS

(a) Fees required. No electronically or nonelectronically filed document will be accepted under Rule 92.5 or 92.6 until any and all fees and costs attributable to the filing are paid.

(b) Method of payment; waiver of fees. Fees and costs for electronically filed documents ~~may~~ shall be paid electronically by Registered Filers when filed, but ~~or~~ may be paid directly over the counter at the office of the clerk by cash, check, or money order by Self-Represented Parties. A person who wishes to proceed in forma pauperis must comply with the provisions of the applicable rules of procedure.

Advisory Committee Note – January 2017

Rule 92.9 deals generally with the payment of fees and costs for electronically and nonelectronically filed documents. Payment for electronic filing by Registered Filers must be accomplished in any of several ways as may be selected by the filer at the time of filing including: PayPal, electronic funds transfer (EFT), automated clearing house (ACH), and approved credit card. Only Self-represented parties may pay for their filings by cash, check, or money order at the courthouse.

4. Rule 92.12 of the Maine Rules of Probate Procedure is amended to read as follows:

RULE 92.12. PUBLIC RECORDS AND REDACTION

(a) Private records. “Private Records” means (1) all records and documents (electronic or nonelectronic) relating to an adoption proceeding; (2) Certificates of Value (Probate Form DE-401A); (3) Physicians’ and Psychologists’ Reports (~~Probate Form PP-505~~); and (4) Inventories; (5) Accountings; (6) Death Certificates; (7) Birth Certificates; and (8) any record or document designated as a Private Record by the Probate Court.

(b) Public records. “Public Records” means any record or document (electronic or nonelectronic) filed with the Probate Court which is not a Private Record and which is not otherwise restricted by the Probate Court.

(c) Private Information. “Private Information” means (1) Social Security numbers ~~of living individuals~~; (2) banking/brokerage account numbers; ~~and~~ (3) cause of death; and (4) any other information designated as Private Information by the Probate Court.

(d) Maintenance of Private Records; Redaction of Private Information. Court staff shall docket Private Records into the electronic file such that those documents are available only to all Registered Filers and Self-Represented Parties of record on that particular case.

Filers are responsible for redacting Private Information before filing Public Records. If a filer discovers that he has filed a document that includes Private Information, he or she shall notify the court and shall submit a replacement, redacted, document. Upon receipt of such replacement, redacted, document, court staff shall remove the earlier electronic document from the electronic file and shall replace the same with the replacement, redacted, document.

Advisory Committee Note – January 2017

Rule 92.12 relates to Private Records and Private Information found in Public Records. This Amendment clarifies the scope of information intended to remain private and protected from disclosure. Filers who wish to protect confidential documents or information from other Registered Filers or Self-Represented Parties, but still have the information available to the Court, should make a motion to the Court to file the materials non-electronically in accordance with Rule 92.3(b)(3).