

STATE OF MAINE
SUPREME JUDICIAL COURT
PROPOSED MAINE RULES OF ELECTRONIC COURT SYSTEMS [RECS]
DRAFT May 18, 2020

RULE 1. SCOPE

These rules define the scope of access to court records electronically stored by the Maine Judicial Branch and govern electronic filing and service of documents. These rules apply to:

(A) Parties, persons, and entities filing or requesting access to electronic court records; and

(B) All court staff and other persons conducting business on behalf of the court, including judicial officers, responding to requests for electronic court records.

These rules do not apply to county probate courts or paper records and paper filings in existence on or made before the date these rules are implemented in the court where the record is located.

RULE 2. DEFINITIONS

(A) As used in these rules, unless the context otherwise indicates, the following terms have the following meanings:

(1) “Accept” or “Acceptance” in the context of electronic filing indicates approval by the court clerk of an electronic document submitted to the electronic filing system. When a court clerk approves and accepts a document submitted for electronic filing, that electronic filing becomes part of the electronic case file.

(2) “Accessible by the public” means that a court record is open to inspection by any member of the public and may be reproduced as permitted by these rules. Under these rules, some court records may be accessible by the public only at a courthouse, and other court records may be accessible by the public both remotely and at a courthouse.

“Accessible by the public” does not mean that the court will search for records when the requester does not have information sufficient to identify the specific court records sought.

(3) “Accessible by the public only at a courthouse” means that a court record may be inspected by any member of the public only at a public access terminal. Court records that are accessible by the public only at a courthouse cannot be copied electronically, but hard copies may be provided by the court clerk. A fee may be charged for copies.

(4) “Accessible by the public remotely” means that a court record may be inspected or reproduced by any member of the public through an internet-based system that is not platform-specific. Court records that are accessible by the public remotely are also accessible by the public at a courthouse.

(5) “Aggregate data” means summary information extracted, assembled, or derived from compiled data. “Aggregate data” eliminates any case- or party-identifying information such as docket numbers, names, personally identifying information, and addresses.

(6) “Bulk data” means an electronic collection of data composed of information from multiple records, whose primary relationship to each other is their shared origin from single or multiple databases. Bulk data is different from multiple records.

(7) “By law” means by federal or state law or regulation, court rule, including these rules, or administrative order.

(8) “Case management system” or “CMS” means an electronic document repository maintained, administered, and managed by the Maine Judicial Branch to track information and manage cases in the courts.

(9) “Child protection matter” means any child protection matter filed under Title 22 of the Maine Revised Statutes.

(10) “Civil case” means any case that is not a criminal case subject to Rule 5, a juvenile case subject to Rule 6, or a family matter, child protection matter, or protection order case subject to Rule 7.

(11) “Clerical error” means information in the court record that is obviously incorrect and that occurred as a result of a mistake made by court staff.

(12) “Compiled data” means information that is derived from the selection, collection, or reformulation of all or some of the information from the records of more than one case or judicial proceeding.

(13) “Conventional filing” and its variants mean a process in which a filer submits a paper document that is then converted to electronic format by a court clerk and filed.

(14) “Conventional service” and its variants mean service accomplished by non-electronic means such as by mail or in person in accordance with the applicable rules of civil, criminal, or appellate procedure.

(15) “Court” means any judicial officer, attorney, law clerk, or other person employed by the Maine Judicial Branch.

(16) “Court clerk” means a manager of court operations, clerk of court, deputy clerk, assistant clerk, associate clerk, administrative clerk, or staff of a clerk’s office.

(17) “Court record”

(a) “Court record” means any file, document, information, or data received or maintained by a court in electronic form in connection with a specific case or proceeding, including:

(i) Pleadings, motions, briefs and their respective attachments, correspondence, and documentary evidentiary exhibits submitted with court filings;

(ii) Orders, judgments, opinions, and decrees;

(iii) Registries of actions, calendars, docket sheets, and other information created or prepared by court clerks that is related to a case or proceeding; and

(iv) Juvenile case records as defined in the Maine Juvenile Code.

(b) “Court record” does not include the following materials, even if they exist in connection with a specific case or proceeding:

(i) Information gathered, maintained, or stored by a governmental agency or other entity to which the court has access but that is not part of a court record or file or is part of the court record but is prohibited from release by law;

(ii) Notes, memoranda, and drafts thereof, and any other material prepared or collected by a judicial officer or other court staff at the direction of a judicial officer and used for a judicial settlement conference, in recording the judicial officer’s notes of a proceeding, or in researching or preparing orders, judgments, opinions, or decrees;

(iii) Internal draft working documents, reports, or data analysis prepared for or by a judicial officer or other court staff related to court practices, schedules, work assignments, and procedures;

(iv) Legal work product, including to drafts, and other records or reports of any attorney, law clerk, or other person employed by or representing the court that are produced in the regular course of business or during representation of the court;

(v) Records of consultative, advisory, or deliberative discussions pertaining to the rendering of decisions or the management of cases;

(vi) Discovery materials served through the EFS;

(vii) Exhibits submitted at trial or hearing;

(viii) Juror information; and

(ix) Any other court records not expressly defined as court records, including administrative records or reports maintained by the court.

(18) “Courthouse” means any facility in which a State of Maine District Court or Superior Court is housed. “Courthouse” does not include county probate courts.

(19) “Electronic case file” means the dataset that includes any document, information, data, or other item created, collected, received, or maintained by a court in connection with a specific case that is readable through the use of an electronic device. The electronic case file does not include anything that is not a court record as defined in these rules.

(20) “Electronic document” means the electronic form of pleadings, notices, motions, warrants, orders, exhibits, briefs,

judgments, writs of execution, and other records filed and accepted by a court. Electronic documents include documents filed in digitized format or converted to digitized format by a court clerk.

(21) “Electronic filing” means the electronic transmission of a document in electronic form to the court through the electronic filing system. An electronic filing under these rules does not include the submission or transmission of documents to a court through other electronic means such as email, facsimile, or external USB drives.

(22) “Electronic filing system” or “EFS” means the system approved by the court for the filing and service of electronic documents.

(23) “Electronic service” means 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.

(24) “Electronic notification message” means an automatic electronic message generated by the CMS and sent to all attorneys or parties in a specific case to denote the receipt of a filing.

(25) “Family matters” means cases or proceedings for the following:

(a) Divorce;

(b) Annulment or judicial separation;

(c) Parental rights and responsibilities, including the establishment or enforcement of a child support obligation;

(d) Paternity or any type of parentage, including actions to enforce or obtain remedies for noncompliance with a gestational carrier agreement;

(e) Grandparent or great-grandparent visitation; and

(f) Adoption, guardianship, name change, or emancipation of a minor.

(26) “Juror information” means the following for all prospective jurors, jurors, and grand jurors:

- (a) Names;
- (b) Telephone numbers, addresses, including email or other electronic addresses, and other contact information;
- (c) Social Security numbers;
- (d) Dates of birth;
- (e) Source lists;
- (f) Seating charts;
- (g) Qualification questionnaires;
- (h) Information obtained by special screening questionnaires or in *voir dire* proceedings that personally identifies jurors; and
- (i) All other personally identifying information of a juror or information from which a juror’s identity could be learned.

(27) “Nonpublic” means access is restricted or prohibited by law.

(28) “Personally identifying information” means information that can be used to distinguish, detect, discover, or trace an individual, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

(29) “Protection order case” means any protection from abuse case or any protection from harassment case.

(30) “Public”

(a) “Public” means the following:

(i) Any person, business, media organization, or entity; and

(ii) A government agency or commission for which there is no existing federal or state law, court rule, or court order defining that agency’s access to court records.

(b) “Public” does not mean the following:

(i) Court staff, employees, and judicial officers;

(ii) The parties to a specific case or proceeding, their attorneys and their attorneys’ authorized agents, and persons identified by the court as having access to the court record in that case or proceeding;

(iii) Private or governmental persons, vendors, or entities that assist the court in performing its functions and are subject to court restrictions on the use and dissemination of information from court records;

(iv) Persons or governmental entities whose access to court records is governed by law, or by a policy set by the State Court Administrator;

(v) Persons who are authorized by law to access court records;

(vi) An alleged victim in a criminal or juvenile proceeding;

(vii) The parent, guardian, or legal custodian of an alleged victim in a criminal or juvenile proceeding when the alleged victim is a minor;

(viii) An immediate family member, parent, guardian, legal custodian, or a licensed investigator acting on behalf of an alleged victim in a criminal or juvenile proceeding when the alleged victim cannot act on his or her own behalf due to death, age, physical or mental disease, or disability; and

(ix) An attorney representing the alleged victim in a criminal or juvenile proceeding.

(31) “Public access terminal” means a facility within a courthouse to access the court’s closed-loop system.

(32) “Registry of actions,” formerly identified as “docket entries,” means the list of case information maintained by the court clerk that contains the case caption; docket number; a chronological entry identifying the date and title of each complaint, motion, order, judgment, notice, action, or other document filed in a case; and the dates of events in the case.

(33) “Registered user” means an individual or entity with an assigned username and password authorized by the Maine Judicial Branch to access and utilize the EFS.

(34) “Seal or impound” means a court action restricting public access to a court record that is otherwise accessible by the public. A sealed or impounded court record is a court record to which public access has been restricted by a court order or by law.

(35) “Self-represented litigant” means a person or entity, other than an attorney, who is not represented by an attorney in a court proceeding.

(36) “User agreement” means an agreement that establishes the obligations and responsibilities of the registered user for use of the EFS.

PART TWO: RULES OF ELECTRONIC FILING AND SERVICE

RULE 31. GENERAL CONDITIONS FOR FILING AND SERVICE

(A) Purpose and Applicability. These rules establish procedures governing the electronic filing and service of all documents and pleadings to and from all the courts within the Maine Judicial Branch. Upon implementation of electronic filing in each of the courts, electronic filing of all documents shall be mandatory in accordance with Rule 33 of these rules. These rules shall be construed liberally to promote the administration of justice.

(B) Conditions of Electronic Filing. To have access to the EFS, each filing party agrees to, and must:

- (1) Register for access to the EFS;
- (2) Comply with the registration conditions when using the EFS; and
- (3) Maintain one or more working email addresses at which the filer agrees to accept email notification and service from the EFS.

(C) Forms. Forms developed by the Maine Judicial Branch are the official court forms and, if an applicable court form exists, it must be used.

RULE 32. ELECTRONIC CASE FILE

(A) Electronic Case File. The electronic case file is the sole repository of all court records filed in a case for the duration of the case and the applicable retention period under the records retention schedule of the Maine Judicial Branch. Each document filed in a case shall be entered into the electronic case file and, after entry in compliance with these rules, shall be the sole official court record of the filing.

(B) Acceptance. Submitted documents become part of the electronic case file only upon acceptance by the court clerk.

(C) Conversion Discrepancies. It is the responsibility of the filing party to review each document converted into electronic format by the court and entered into the electronic case file for any discrepancies as a result of the conversion process. The filing party has 30 days in which to challenge the accuracy of the electronic converted document.

(D) Retention of Conventionally Filed Documents After Conversion. The court will retain a conventionally filed document in its original format for 30 days following conversion by the court. After 30 days, the court may destroy the conventionally filed document, unless:

- (1) The filer requests the return of the conventionally filed document before the expiration of the 30-day period; or
- (2) The filer challenges the accuracy of the converted document before the expiration of the 30 days and retention of the conventionally filed document is necessary to resolve the dispute.

Advisory Note

Documents served through the EFS but not filed with the court are not in the electronic case file.

RULE 33. USE OF THE ELECTRONIC FILING SYSTEM

(A) Registration. To use the EFS, a filing party must register as a user and execute a user agreement. Executing a user agreement constitutes consent to receive electronic notice and electronic service of all documents through the EFS, except for service of process and summonses, which shall be served in accordance with M.R. Civ. P. 4 and M.R. Crim. P. 4.

(B) Required Use of the EFS. Except as provided in subdivision (C), use of the EFS in all case types is mandatory for required electronic filers. “Required electronic filers” are:

(1) Attorneys acting on behalf of a party or themselves in a court case;

(2) State, county, and municipal filers except for Maine Law Enforcement Officers, as defined in 25 M.R.S. § 2801-A, and Bail Commissioners, as defined in 15 M.R.S. § 1023; and

(3) Self-represented litigants filing or intending to file more than three cases that are not emergency cases in the current calendar month. For purposes of this subdivision, emergency cases mean protection from abuse or harassment requests, mental health requests, requests for emergency guardianship of a minor, and three-party child protection petitions.

(C) Good Cause Exceptions. A required electronic filer may be excused from mandatory use of the EFS only upon motion and a showing of good cause. Good cause means circumstances that would render electronic filing such a hardship that the required electronic filer would be denied access to the court. For the limited purpose of seeking an exception to electronic filing and service, a required electronic filer may file a motion conventionally. If the court grants a motion for a good cause exception, the court shall establish the scope of the exception. The court may amend or revoke the good cause exception on its own initiative or upon motion of a party.

(D) Contact Information. A filer who is not required to use the EFS must provide the court with a mailing address for service of documents and must notify the court in writing of any change of mailing address. If the filer

has alleged in an affidavit or pleading under oath that the health, safety, or liberty of the filer or a minor child would be jeopardized by disclosure of the address, then the clerk shall seal the address from the public and the other party.

(E) Elective Use of the EFS. Even where use of the EFS is not required, a filer in a case may elect to register and use the EFS in compliance with Rule 33(A). After electing to use the EFS, the filer must file, serve, and accept service electronically for the duration of the case, unless excused by the court upon a motion and showing of good cause.

(F) Misuse of the EFS. Misuse occurs when any user attempts to harm, disrupt, alter, or interfere with the EFS or any records maintained in the system, or attempts to use or access information on the system without proper authorization. Misuse of the EFS might subject the user to criminal prosecution. Misuse may also result in suspension or loss of a user's registration or any other penalty that may be imposed by the court. Misuse of the EFS by attorneys may constitute a violation of the Maine Rules of Professional Conduct. Attorneys are responsible for any misuse of the EFS by third parties whom the attorney has authorized or directed to use the EFS.

Advisory Note

The following are examples of what may qualify for a "good cause" exception for Required Electronic Filers under Rule 33(C): disability; limited English proficiency; electrical or internet outages; disaster; lack of internet access; or oversized exhibits such as maps and blueprints.

The scope of the good cause waiver is in the discretion of the court and may be by case, by filing, or by time period.

RULE 34. DOCUMENT REQUIREMENTS

(A) Requirements for Documents Filed Electronically

(1) Document Type and Format. A document submitted electronically to the court must be in the form of a Portable Document Format (PDF), be directly converted to PDF rather than scanned (if possible), and not exceed 50 megabytes. A document that exceeds the size limit must be broken down and submitted as separate files that do not exceed 50 megabytes each. Separate files under this section must include in the “Comments to Court” field for each submission a description that clearly identifies the part of the document that the file represents, for example, “Motion for Summary Judgment, part 1 of 2.”

(2) Documents Must be Submitted Separately. All documents must be submitted individually as separate files with the same submission. The filer must include in the “Filing Description” field a description that clearly identifies each document. For each separate document submitted, the detailed caption title, filing description in the EFS, and .pdf file title must be substantially identical.

(3) Original Documents. A filer of an image of an original instrument or other document shall retain the original instrument or document for a period of eight years, and shall provide the original to the court at an evidentiary hearing when relevant or when requested by the court. The filer’s submission of the scanned image of the original instrument or document shall be deemed a certification by the filer that the document scanned and filed is an accurate image of the original.

(4) Consolidated Cases. When a court consolidates two or more cases for purposes of court events, including hearings, but retains separate docket numbers, a party electronically filing a document that is applicable to all of those cases must electronically file and serve the document in each case, using appropriate case docket numbers.

(5) Courtesy Copies and Other Copies. The court may require that a filer provide, in the manner and time specified by the court, one or more paper copies of the document that was filed electronically and of the submission or acceptance email from the EFS.

(6) Additional Technical Format Requirements. All electronic documents shall be self-contained and must not contain live links to external papers or websites.

(B) Documents or Materials Not Filed in Electronic Format

(1) Materials that are required to be filed with the court and that cannot be converted into electronic format, such as video-tapes, radiographs, and other items that are not intelligible when scanned, may be filed conventionally. The filing party shall file a Notice of Conventional Filing that shall be docketed into the EFS to denote that a conventional 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.

(2) Documents or materials that must be filed conventionally include:

(a) Documents subject to *in camera* inspection, including those produced by the Department of Health and Human Services pursuant to 22 M.R.S. § 4008;

(b) A record or image that is barred from electronic transmission or storage by law, including sexually explicit images of a minor;

(c) Proposed orders drafted by attorneys while in court; and

(d) Anything else required to be filed conventionally by court order.

(C) Trial Exhibits. Trial exhibits shall not be part of the electronic case file, but shall be received, held, and retained by the court until all opportunities for appeal have been exhausted and as required by law or court order.

Advisory Note

Rule 34(A)(2) requires that each electronic document be filed as a separate electronic file. However, separate electronic documents may be filed within the same submission. For example, a filer initiating a parental rights and responsibilities case would file the complaint and child support affidavit as separate documents within the same submission.

The retention period of eight years in Rule 34(A)(3) mirrors the period of retention for client records required for attorneys under the Maine Rules of Professional Responsibility.

RULE 35. TIME OF FILING

(A) Availability of Electronic Filing System. The EFS will receive electronic documents except when the system is unavailable due to scheduled or other maintenance.

(B) File Date. A “day” begins at 12:00 a.m. and ends at 5:00 p.m. in the time zone where the court is located. For a document that is electronically submitted between 12:00 a.m. and 5:00 p.m. in the time zone where the court is located on Monday through Friday, the “file date” will be the day it is submitted. If a document is submitted between 5:01 p.m. and 11:59 p.m. in the time zone where the court is located on Monday through Friday, the file date will be the next business day. If a document is submitted on a Saturday, Sunday, or a legal holiday, the file date will be the next business day. For any questions of timeliness, the time and date registered by the EFS will be determinative. For a document electronically submitted, the file date will apply for purposes of meeting the statute of limitations or any other filing deadlines, even if the document is accepted by the clerk on a later date, except as provided in subdivision (D) of this rule. A conventionally filed document is deemed submitted when presented to the court clerk.

(C) Acceptance or Rejection Procedure. Following submission, the court will accept or reject the electronic document. If the submission is accepted, it is deemed filed and is entered into the electronic case file with the file date as determined under subdivision (B) of this rule. When a submission is accepted, the court will send an acceptance notice to the parties. If the submission does not conform to these rules, the court will send a rejection notice to the submitting party and the submission shall not be entered on the registry of actions. The rejection notice shall identify the basis for the rejection.

(D) Resubmission and Relief.

(1) Requirements of Resubmission. A filer who resubmits a document under this rule must include in the “Comments to Court” field, or, if conventionally filed, in the cover letter accompanying the resubmission, the following:

(a) The words, “Resubmission of filing, original submission unsuccessful”;

(b) The date of the original attempted submission;

(c) The date of the rejection notice; and

(d) A statement confirming that this is the first resubmission.

(2) File Date of Resubmitted Document.

(a) Resubmissions That Relate Back Automatically. If the filer resubmits a corrected version of the rejected document, and it is accepted by the court, the file date of the resubmitted document will automatically relate back to the file date of the original submission if:

(i) it is the first resubmission; and

(ii) it is submitted within two business days after the date of the rejection notice.

(b) Resubmissions That Relate Back with Leave of Court. If the filer resubmits the rejected document more than once or submits the rejected document more than two business days after the date of the rejection notice, the file date of the resubmitted document will only relate back to the file date of the original submission upon court approval.

(c) Response Time. If the file date relates back to the file date of the original submission, the court will adjust the schedule for responding to these documents by adding two business days to the response time. The court may also postpone a court event or provide other relief.

(E) Unavailability of the Electronic Filing System and Relief.

(1) EFS Unavailable. Any filer may obtain relief if the EFS is not operating through no fault of the filer. Technical problems with the filer's equipment or attempted transmission within the filer's control will not excuse an untimely filing.

(2) Relief. Upon satisfactory proof of the system's temporary unavailability or other technical problem, the file date of the document will relate back to the file date of the first filing attempt. The court, in its discretion, may adjust the schedule for responding to any affected filings, postpone the next court event, or provide other relief. The process for resubmission of the filing shall be in accordance with Rule 35(D), and may include, with the resubmission, supporting exhibits showing system unavailability.

RULE 36. SERVICE OF ELECTRONIC DOCUMENTS

(A) Applicability. All documents filed in the EFS must be served through the EFS, except the following, which must be served by conventional service:

- (1) Summonses and case initiating documents;
- (2) Subpoenas;
- (3) Any documents that cannot by law be served electronically;
- (4) Any documents to be served on those who are not registered users; and
- (5) Any documents for which a court order requires conventional service.

(B) Service Contacts. The filer must provide the name and service email address of the filer and any alternative or additional service contacts to be used by the EFS in the case. Designation of any email recipients as alternative or additional service contacts is deemed to provide consent to have electronic documents filed in the case served on those service contacts. The filer is responsible for updating contact information and may update service contacts through the user agreement.

(C) Registered User Consent. Upon the initiation of a case, filing of responsive pleading, or submission of an entry of appearance in a case, registered users are deemed to have consented to receive electronic service of all documents through the EFS.

(D) Service Upon Registered Users. When the court accepts an electronic document for filing, the EFS sends electronic notice to each service contact in the case. The notice contains a hyperlink to the document that has been filed electronically. Transmission of the notice by the EFS to the service contacts constitutes service, and is complete when the EFS sends the notice to the service contacts, except as provided in subdivision (A)(1)-(5) of this rule.

(E) Conventional Service. A party who is not a registered user must be served conventionally. After a party who was not a registered user becomes a registered user, that party must be served electronically.

(F) Service of Sealed, Impounded, and Nonpublic Documents, and Documents Submitted for *In Camera* Review. Regardless of method of filing, sealed, impounded, and nonpublic documents, and documents submitted for *in camera* review must not be served on service contacts or conventional service recipients, either through a hyperlink or paper copies.

If the documents are filed electronically, the EFS will generate a notice to all service contacts in the case. If the documents are filed conventionally, the filer must serve notice that the documents were filed conventionally.

If the court orders that the documents filed are accessible to the public, the court will provide a hyperlink to or paper copies of the documents to the service contacts and any recipients of conventional service.

(G) Certificate of Service. A certificate of service must be filed with the court only when documents are served conventionally, in accordance with the applicable procedural rules.

(H) Service of Documents by the Court.

(1) Service of documents by the court on registered users will be made electronically to all service contacts in a case.

(2) Service of documents by the court on those who are not registered users, including rejection notices of submissions filed conventionally, will be made by conventional service.

(I) Service of Discovery. Service of discovery documents through the EFS is permitted but not required. Discovery documents served through the EFS are not court records and are nonpublic.

RULE 37. ELECTRONIC SIGNATURES AND DOCUMENT AUTHENTICITY

(A) Types of Electronic Signatures. The three forms of electronic signature allowed under this rule are defined as follows:

(1) “Facsimile signature” means a captured image incorporated in document;

(2) “Scanned signature” means a signature affixed by the signer in ink on the signature line of a paper document and scanned with the document for electronic filing; and

(3) “Typographical signature” means a signature block with the name of the signer typed on the signature line preceded by “/s/”.

(B) Signatures of Judges, Justices, Magistrates, and Clerks. Any document that is signed by a judge, justice, magistrate, or court clerk and filed electronically must either bear a facsimile signature or a scanned signature.

(C) Signatures of Court Reporters. A court reporter’s signature on any document or transcript prepared by a court reporter for inclusion in the court record must be a facsimile signature, a scanned signature, or a typographical signature.

(D) Signatures of Registered Users. The username and password required to submit documents to the EFS shall serve as that registered user’s signature. The electronically filed document shall bear a facsimile or a typographical signature along with the typed name, address, email address, and telephone number of the registered user and, if an attorney, the bar number.

(E) Penalty of Perjury, Acknowledgment, Notarization, and Attestation.

(1) Any party to a case and any attorney representing a party to a case who is filing any document consisting of or containing statements, affirmations, or averments made by the party that are otherwise required to be sworn under oath, acknowledged, attested, or notarized may file the document without oath or notarization provided

that, in lieu of an oath, the party affixes the party's typographical or facsimile signature immediately below a declaration using the following language: "I hereby declare that the above statements are true to the best of my knowledge and belief. I understand that these statements are made for use as evidence in court and that I am subject to prosecution for perjury punishable by up to 5 years in prison and a fine of up to \$5,000.00 for giving false information to the court."

(2) A document electronically filed or served using the EFS that is required by law to include a signature of a nonparty and to be signed under penalty of perjury or to be notarized, acknowledged, or attested may be filed electronically provided that the declarant, notary public, and any other necessary party or witness have properly signed in ink the paper form of the document and the executed document is converted 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 document and signature are authentic.

(F) Documents Requiring Signature of Opposing Parties. A document to be filed electronically requiring the signatures of opposing parties must be signed by all parties in accordance with these rules. By electronically filing the document, the attorney or self-represented litigant attests that the document and signature are authentic.

(G) Certification. By electronically filing or submitting a document using the EFS or presenting a filing to a court clerk that is converted and filed, the filer is certifying compliance with the signature requirements of these rules. Signatures on the electronic document shall have the same legal effect as the signatures on the original document.

(H) Retention. The filer must retain the document, attachment, or exhibit in the form in which it was filed for a period of eight years following disposition of the matter. During the retention period the filing party must make the original version available for inspection by other parties, the court, or disciplinary counsel upon reasonable notice. The retention period applies only to documents filed through the EFS. This rule does not affect other federal or state retention statutes or regulations that may apply to the documents.

Advisory Note

The retention period of eight years in Rule 37(H) mirrors the period of retention for client records required for attorneys under the Maine Rules of Professional Responsibility.

RULE 38. NONPUBLIC FILINGS

(A) Burden on Parties. Parties are responsible for omitting or redacting nonpublic information in their filings. With the exception of *in camera* reviews, the court will not review any document to ensure compliance with this rule and is not responsible or liable for the inclusion of nonpublic information in any filed document.

(B) Documents Containing Nonpublic Information.

(1) Omission or Redaction. When documents containing nonpublic information are necessary for the adjudication of a case, the filing party must ensure that nonpublic information is appropriately omitted or redacted in the filing and that the nonpublic information is submitted in a separate document along with the filing. When a separate document is filed containing nonpublic information, the user must include in the “Comments to Court” field the designation “NONPUBLIC” followed by the name of the filing (e.g. “NONPUBLIC, Motion to Continue”).

(2) Access. A document designated as “NONPUBLIC” in accordance with subdivision (B)(1) above will be accessible only as provided in these rules.

(3) Review. Upon motion, the court may consider any matter relating to submissions designated as “NONPUBLIC” in the EFS.

(C) Filing Sealed or Impounded or Nonpublic Documents. Sealed or impounded or nonpublic documents must be filed and handled in compliance with Rule 12. The filer must include in the “Comments to Court” field the designation “NONPUBLIC.”

(D) Motion to Seal or Impound. Motions to seal or impound documents must be made in compliance with Rule 6 or Rule 10.

RULE 39. FILING FEES

(A) Filing Fees. A filer must pay the correct filing fee by any electronic payment method acceptable to the court before the case will be allowed to proceed, subject to the following exceptions:

- (1) The filer is exempt by law;
- (2) The fee is waived in accordance with subdivision (C) of this rule; or
- (3) The filer pays the required fee by cash or check to the court clerk within seven days after the date of the electronic submission. If the court clerk receives payment within those seven days, the file date will relate back to the date of the electronic submission. If the court clerk does not receive the payment of the required fee within seven days, the case shall be dismissed.

(B) Conversion Fees. The court may charge reasonable fees for converting conventional filings into electronic format. A filer may apply to the court for a waiver of fees in accordance with subdivision (C) of this rule. A fee schedule will be published and publicly posted.

(C) Waiver of Filing Fees. Upon application to the court in accordance with M.R. Civ. P. 91, a filer may request a waiver of any filing fees contemplated by these rules.

- (1) Application granted. If the application for fee waiver is granted, the file date relates back to the date of submission of the filing and application.
- (2) Application denied. If the application for fee waiver is denied, the filer will have seven days from the date of denial to pay the fee. If such payment is made, the file date will relate back to the date of submission of the filing and application. If not, the court clerk shall dismiss the case.

Advisory Note

When an application for a fee waiver is granted, the file date is determined pursuant to Rule 35(B).

RULE 40. SANCTIONS

(A) Failure to comply with these rules may be grounds for a finding of contempt of court and imposition of sanctions.

(B) As officers of the court, attorneys are required to abide by these rules or be subject to professional discipline for any violations.

Advisory Note

Contempt of court refers to a finding in accordance with M.R. Civ. P. 66.