

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

2012 Me. Rules 09

Effective: May 1, 2012

All of the Justices concurring therein, the following amendments to the Maine Probate Rules are hereby adopted to be effective on the date indicated above. The specific rules amendments are stated below. To aid in understanding of the amendments, an Advisory Committee Note appears after the text of each amendment. An Advisory Committee Note states the reason for recommending each amendment, but it is not part of the amendment adopted by the Supreme Judicial Court.

1. Rule 92.1 of the Maine Rules of Probate Procedure is adopted to read:

RULE 92.1. APPLICABILITY; EFFECTIVE DATES; TITLE

(a) Cumberland, Oxford, Penobscot, and York Counties. The Probate Courts of Cumberland, Oxford, Penobscot, and York Counties shall make electronic filing available as of May 1, 2012, and these rules apply to all civil and probate proceedings commenced in Probate Courts in those counties after the date indicated.

(1) Electronic filing in accordance with these rules is permitted in all cases commenced between May 1, 2012, and April 30, 2013.

(2) Electronic filing in accordance with these rules is required in all cases commenced on or after May 1, 2013.

(b) Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Lincoln, Piscataquis, Sagadahoc, Somerset, Waldo, and Washington Counties. The Probate Courts of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Lincoln, Piscataquis, Sagadahoc, Somerset, Waldo, and Washington Counties shall make electronic filing available as of May 1, 2013, and these rules apply to all civil and probate proceedings commenced in Probate Courts in those counties after the dates indicated:

(1) Electronic filing in accordance with these rules is permitted in all cases commenced between May 1, 2013, and April 30, 2014.

(2) Electronic filing in accordance with these rules is required in all cases commenced on or after May 1, 2014.

(c) Short title. These rules may be known and cited as the Maine Probate Rules for Electronic Filing.

Advisory Committee Note – November 2011

Rule 92.1 establishes the timing for implementation of e-filing in Maine’s Probate Courts. During the first year (May 1, 2012 – April 30, 2013), four courts (Cumberland, Oxford, Penobscot and York) will accept, but not require, e-filing. In the second year (May 1, 2013 – April 30, 2014), e-filing will become mandatory in those four courts (except for certain filers who will be exempt pursuant to Rule 92.3) and will become permissible in all other courts. In the third year (commencing on May 1, 2014) filing shall become mandatory in all of the Probate Courts (again, except for certain filers who will be exempt pursuant to Rule 92.3).

2. Rule 92.2 of the Maine Rules of Probate Procedure is adopted to read:

RULE 92.2. DEFINITIONS

(a) Document. A “Document” is a writing or other paper filed or served under the Electronic Filing System that is stored in an electronic or other medium and is retrievable.

(b) Electronic Case File. An “Electronic Case File” is an assemblage of the items pertaining to a single case or matter under a single docket number electronically stored by the Probate Court.

(c) Electronic Filing System. The “Electronic Filing System” is that system approved by the Maine Supreme Judicial Court for filing and service of pleadings, motions and other documents via the Internet through the Probate Court authorized service provider.

(d) Electronic Filing. “Electronic Filing” is the process of transmitting a document from a Registered Filer’s computer, using the court’s Internet-based electronic filing system, to file the document in the court’s Electronic Case File.

(e) Electronic Service. “Electronic Service” is the transmission of documents to any party in a case via the Electronic-Filing System. Registered Filers have agreed to receive service via the Electronic-Filing System.

(f) Electronic Means. “Electronic means” is any method of direct electronic transmission of a document from the sender’s computer or electronic filing system to the recipient’s computer or electronic filing system.

(g) Nonelectronic Case File. A “Nonelectronic Case File” is an assemblage of the items pertaining to a single case or matter under a single docket number physically stored by the court.

(h) Nonelectronic Means. “Nonelectronic means” is any method of transmitting a document or filing or service by any means other than by direct electronic transmission from the sender’s computer or electronic filing system to the recipient’s computer or electronic filing system.

(i) Filer. A “Filer” is a petitioner, movant, applicant, plaintiff, or interested person as defined under 18-A M.R.S.A. §1-201(20).

(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.

(k) S/Name. An “S/Name” is a symbol representing the signature of the person whose name follows the “S/” on the electronically or otherwise signed form of the electronically-filed or electronically-served documents.

(l) Emeritus Attorney. An “Emeritus Attorney” is an attorney who has practiced for 40 years or more, attained the age of 65 years, and is engaged in less than the full-time practice of law.

Advisory Committee Note – November 2011

E-filing permits filing of legal papers by electronic means. Rule 92.2 recognizes that the terminology used in e-filing is not presently used in the Probate Courts and contains the definitions for the terms used in e-filing.

3. Rule 92.3 of the Maine Rules of Probate Procedure is adopted to read:

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 who is not a Registered Filer may file nonelectronically.

(2) An Emeritus Attorney may file nonelectronically.

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

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

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

(6) 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.

(7) 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 – November 2011

Rule 92.3(a) requires electronic filing for parties and others permitted or required to file in proceedings in the Probate Court. All documents generated by the court and others will also be filed electronically or scanned by the court staff.

Subdivision (b) enumerates exceptions to the electronic filing requirement. These include filings made by a self-represented party, an emeritus attorney, and those excused by the court for exceptional circumstances. Nonelectronic filing is also permitted to protect confidentiality, when documents that cannot reasonably be scanned for physical reasons, dimensions, shape or condition, and for other good causes.

Subdivision (c) requires filing by non-electronic means for an original testamentary document, documents excepted by another rule of procedure, and by order of the court to prevent abuse of the system.

4. Rule 92.4 of the Maine Rules of Probate Procedure is adopted to read:

RULE 92.4. REGISTERED FILERS

(a) Registration required. Any person who is permitted or required under Rule 92.3 to file electronically must register by obtaining a user name and password through the electronic filing system website in accordance with 92.4(b) or (c). Registration

constitutes consent to electronic service of all documents or information filed in accordance with these rules.

(b) Method of registration by attorneys and self-represented parties. An attorney in good standing in the State of Maine, any other person who is permitted to file documents electronically, or a self-represented party who elects to do so, may register on the electronic filing system website by submitting all information required by the Probate Court on the registration screens displayed on the website, including: (1) his or her mailing address; (2) his or her Bar number; (3) his or her billing information; and (4) up to three e-mail addresses, one of which is an e-mail account currently maintained by the attorney. The addresses provided shall be listed on the probate website, must be listed on all filings by that attorney and are the addresses to which all service, notice, or other communication submitted must be sent. Once an attorney has become a Registered Filer pursuant to this subdivision in any matter, he or she shall remain a Registered Filer for all matters in the Probate Court until he or she terminates his or her registration pursuant to Rule 92.4(h).

(c) Method of registration by out-of-state attorneys and other filers. An attorney in good standing in another jurisdiction who is admitted pro hac vice under applicable rules of procedure or administrative orders and any other person who is required under Rule 92.3 to file documents electronically must register on the electronic filing system website by submitting all information required by the Probate Court on the registration screens displayed on the website, including (1) his or her mailing address; (2) his or her billing information; and (3) up to three e-mail addresses, one of which is an e-mail account currently maintained by the applicant. The addresses provided shall be listed on the Probate website in connection with the docket number assigned to that matter, must be listed on all filings by that Registered Filer and are the addresses to which all service, notice, or other communication submitted must be sent. A Registered Filer under this subdivision (c) shall remain a Registered Filer, as defined by the docket number (including all sub-matter numbers thereunder) assigned to that matter.

(d) Duties of Registered Filer. A Registered Filer shall, in any matter in which the filer has appeared in accordance with the applicable rules of procedure and has submitted his or her user name and password:

(1) File documents electronically as provided in Rule 92.5 and access or download any such documents remotely;

(2) Access or download documents, as provided in Rule 92.10, which have been filed by any other party or the court.

(e) Use of agents. An attorney who is a Registered Filer may permit an associated attorney or legal assistant to file documents under the Registered Filer’s user name and password. The Registered Filer is responsible for all such filings.

(f) Filings by court personnel. Judges and other authorized court personnel or officers may file court-generated documents and access or download documents that have been filed in any matter without becoming a Registered Filer.

(g) Reports. A Guardian ad litem, visitor, psychologist, physician or mediator who are required to file a report in a proceeding, may file court-generated forms and access or download forms that are required to be filed in that matter without becoming a Registered Filer.

(h) Unregistering. A Registered Filer may “unregister” as a Registered Filer by deactivating his or her account on the Electronic Filing System.

(i) Updating contact information. It is the responsibility of a Registered Filer to maintain updated contact information (mailing addresses, e-mail addresses, etc.) in the electronic filing system.

(j) Required unregistration. In the case of a Maine attorney who is inactive, retired, disbarred or suspended, such attorney shall be required to withdraw as a Registered Filer under Rule 92.4(h).

Advisory Committee Note – November 2011

The procedures for registering to file documents electronically are outlined in 92.4(b) and 92.4(c). A Maine attorney will remain registered until he or she terminates registration pursuant to 92.4(h). It is expected that once a Maine attorney registers, he or she will remain a Registered Filer and will not enter into and exit from the Electronic Filing System.. Others who are permitted to file electronically will remain registered for the duration of the Probate Court matter for which he or she registered. A Registered Filer is responsible for updating contact information under 92.4(i).

Associate attorneys and legal assistants of a registered attorney may file under the user name and password of the registered attorney pursuant to 92.4(e).

Registration to file and to access and download forms and documents electronically is not required of judges and authorized court personnel or of guardians ad litem, visitors, psychologists, physicians and mediators pursuant to 92.4(f) and (g).

5. Rule 92.5 of the Maine Rules of Probate Procedure is adopted to read:

RULE 92.5. PROCEDURES FOR ELECTRONIC FILING

(a) Logging into system. A Registered Filer may initiate a new civil action or probate proceeding, or file documents in a civil action or probate proceeding that is in the electronic filing system, when required or permitted under Rule 92.3, by logging in on the electronic filing system website with a user name and password obtained as provided in Rule 92.4.

(b) Transmitting documents. Each filing will be initiated by completing the “new case” or “existing case” pages on the electronic filing system website by attaching documents required or permitted to be filed that have been prepared, formatted, and signed as provided in Rules 92.7 and 92.8.

(c) Time of filing. An electronic filing may be submitted on any day, including holidays and weekends, and at any time. A filing is considered submitted on a date if it is submitted prior to midnight on that date. Failure of the filer’s system will not excuse a failure to comply with a filing deadline unless the court exercises its discretion to extend the deadline.

(d) Acknowledgment or rejection of filing. The electronic filing system will automatically acknowledge receipt of any filing, but it will automatically reject any filing that does not comply with the requirements of Rule 92.7(a). A filer may resubmit a rejected filing at any time after addressing the reasons for rejection, but the date and time of filing for all purposes under the applicable rules of procedure are the date and time that the filing is resubmitted.

(e) Review by court staff. A filing that has not been automatically rejected will be reviewed by court staff for compliance, and court staff will then electronically notify the filer either that the filing has been accepted or that it cannot be accepted until specified actions required under those rules have been taken. A filer may submit a corrected filing within seven calendar days after receiving the notification. Court staff will accept a corrected filing if all requirements of those rules have been met. When an original or corrected filing has been accepted, or when a court-generated document is filed, the date and time of filing for all purposes under the applicable rules of procedure are the date and time that the original filing was submitted. Court staff will provide a docket number for a new filing that has been accepted in the acceptance notification. The assigned docket number must appear on all subsequent filings pertaining to the case.

(f) Notice of filing. The filer must serve notice of the filing and a copy of an electronically filed document as provided in Rule 92.11 on all parties or persons upon whom service is required by the applicable rules of procedure.

(g) Calculation of deadlines. Deadlines for responding to electronic filings shall be calculated from the date of acceptance by the court staff.

Advisory Committee Note – November 2011

Rule 92.5 was created to set forth the specific procedures for the electronic filing of both probate and civil matters in Maine's Probate Courts. The specific procedures for every type of filing within the Probate Court will be available through a drop-down menu on the State's Probate Court uniform website. This rule allows for the filing at any time but leaves the determination as to whether or not the filing is accepted to the court staff. This rule establishes the criteria and mechanism for court staff to accept or reject any filing.

6. Rule 92.6 of the Maine Rules of Probate Procedure is adopted to read:

RULE 92.6. NONELECTRONIC DOCUMENTS

(a) Original testamentary documents. The court staff shall scan all nonelectronic documents filed pursuant to Rule 92.3(c)(1); shall include such scanned documents in the electronic case file; and shall maintain such original testamentary documents in a nonelectronic case file for a period of five years, after which the Register may return all such original documents to the last serving Personal Representative.

(b) Large or damaged documents. The court shall retain all nonelectronic documents filed pursuant to Rule 92.3(b)(7) in a nonelectronic case file and shall maintain such nonelectronic documents until the later of two years from the date of filing of the document or final disposition of the matter, including the disposition of all appeals or the running of the time for appeal. At the conclusion of this term, the court shall thereafter return such nonelectronic documents to the filer.

(c) Other nonelectronically filed documents. The court staff shall scan all other nonelectronic documents filed pursuant to Rule 92.3(b) and (c); shall include such scanned documents in the electronic case file; and shall thereafter return such nonelectronic documents to the filer. The filer must retain the original of each such nonelectronic document and make it available for inspection upon seven days notice by

the signers or the court until the later of two years from the date of filing or final disposition of the matter, including the disposition of all appeals or the running of the time for appeal. The court is not required to maintain nonelectronic files for probate proceedings or civil actions commenced after the date on which electronic filing is required.

Advisory Committee Note – November 2011

Rule 92.6 outlines the procedures for docketing and maintaining documents filed nonelectronically either as permitted under Rule 92.3(b) or as required under Rule 92.3(c).

Rule 92.6(a) relates to documents that are required to be filed in nonelectronic form pursuant to Rule 92.3(c)(1) – Testamentary Documents. Rule 92.6(a) provides that the court will scan the testamentary document, add it to the electronic file, and maintain the original document for at least five years. After the expiration of the five-year term, the court may continue to maintain the original or it can return the original to the last serving Personal Representative. The Advisory Committee determined that five years was a sufficient time period for retention, as it is extremely unlikely that anyone would need an original testamentary document five years after the beginning of the probate process. However, recognizing the long history of retaining such testamentary documents, Rule 92.6(a) does not require the return of such documents and courts may, in fact, choose to keep those original documents.

Rule 92.6(b) relates to those documents filed nonelectronically pursuant to Rule 92.3(b)(7) because the document “cannot reasonably be scanned and filed electronically because of its dimensions, shape, or condition.” Rule 92.6(b) requires the court to maintain the nonelectronic document for the longer of two years from the date of filing or final disposition of the matter, including the disposition of all appeals or the running of the time for appeal. The Advisory Committee determined that maintaining the original document for a period of two years after the disposition of the matter was sufficient. Upon the termination of the two year period, the court is to return the original document to the filer.

Rule 92.6(c) relates to all other documents filed nonelectronically, either as permitted under Rule 92.3(b)(1-7) or as required pursuant to Rule 92.3(c)(2) and (3). In those circumstances, the court will scan the document; add it to the electronic file; and return the original document to the filer. The filer then has the obligation to retain the original document and make it available for inspection for the longer of two years from the date of filing or two years after final disposition of the matter, including the disposition of all appeals or the running of the time for appeal.

7. Rule 92.7 of the Maine Rules of Probate Procedure is adopted to read:

RULE 92.7. FORMAT OF DOCUMENTS

(a) Automatic rejection. An electronically filed document will be automatically rejected by the electronic filing system without acknowledgement of receipt if it:

(1) Is not created, saved in, or converted to TIFF, PDF, or PDF/A;

(2) Is larger than 10 MB, unless it is filed in segments no larger than 10 MB; or

(3) Contains a virus detected by the Electronic Filing System.

(b) Review by court staff. An electronically filed document that has not been rejected by the electronic filing system pursuant to (a) will be accepted by court staff as provided in Rule 92.5(e) only if:

(1) It has been formatted as required by the applicable rules of procedure and is clearly legible in the electronic format in which it is filed; and

(2) Any password protection or other security device has been removed.

(c) Nonelectronically filed documents. A nonelectronically filed document must be clearly legible, with all text visible and dark enough to be readable on a scanned image.

Advisory Committee Note – November 2011

Rule 92.7 addresses the required formatting for electronically and nonelectronically filed documents. The court-authorized service provider for the pilot program is Icon Software Corporation hosting through www.maineprobate.net. The service provider requires that documents which are uploaded to the site meet certain technological requirements.

Subdivision (a) mandates that uploaded documents be free of viruses, no larger than 10 MB, and in either a PDF, PDF/A, or a TIFF format. Encouraging use of the open standard PDF format ensures that electronically filed documents will retain maximum search functionality and electronic filers will have ready access to conversion programs. Screening for compliance with subdivision (a) will be accomplished by the service provider software.

Subdivision (b) imposes the additional conditions that electronically filed documents be legible in the electronic format in which they are filed and otherwise comply with all applicable rules of procedure. Subdivision (b)(2) also requires that electronically filed documents be free of any password protection that might interfere with the electronic filing functionality. Screening for compliance with Subdivision (b) will be accomplished by court staff.

Subdivision (c) sets forth the requirements for filing nonelectronic documents. Like electronically filed documents, nonelectronically filed documents must be legible and otherwise comply with the applicable rules of procedure. In addition, they must be printed on only one side of white paper and be free of staples, barcodes, or exhibit tabs that might otherwise interfere with the scanning process.

8. Rule 92.8 of the Maine Rules of Probate Procedure is adopted to read:

RULE 92.8. SIGNATURES

(a) Forms and Effect of Signature.

(1) The electronic filing of a pleading, motion, or other procedural document by a Registered Filer constitutes the filer's signature on the document and for all other purposes under the applicable rules of procedure, including the imposition of sanctions. An electronically filed procedural document must include a signature block containing the filer's typed-in name preceded by "S/" and the filer's name, address, telephone number, and e-mail addresses.

(2) A procedural document filed by nonelectronic means, when permitted under Rule 92.3(b) or otherwise required by these rules, must be signed as provided in the applicable rules of procedure.

(b) Multiple Signatures.

(1) A pleading, motion or other procedural document filed jointly by a Registered Filer and other parties or counsel aligned in interest with the filer must contain the signature of the filer and the other parties or counsel in the form provided in (a)(1) or (2). If a document is filed electronically, the filer's signature constitutes a representation that all the other signers consented to the filing of the document.

(2) The filer of any document containing the signatures of other persons must retain a paper or electronic copy of the document available for inspection by the signers

or the court until the longer of two years or final disposition of the matter, including the disposition of all appeals or the running of the time for appeal.

(c) Documents under Oath. If a notarized, acknowledged, or verified document or a document signed under oath is to be filed electronically under these rules, the original, signed and attested as provided in the applicable rules of procedure or other provisions of law, must be scanned and filed in accordance with Rule 92.7 by the filer. The filer must retain the original of the document available for inspection by the signers or the court until the longer of two years from the date of filing or final disposition of the matter, including the disposition of all appeals or the running of the time for appeal.

(d) Signatures of Court Personnel. Judges, and other court personnel authorized to sign on behalf of a judge or in their own capacity, may electronically sign any court-generated document that requires a signature with an electronic facsimile signature or scanned copy, or another form of electronic signature as defined in the Maine Digital Signature Act, 10 M.R.S. §§9501-9507 [2010].

Advisory Committee Note – November 2011

Rule 92.8 deals with the process of signing documents submitted to the court during electronic filing. Subdivision (a) states that electronically filed documents are deemed to be “signed” by the Registered Filer. This subdivision also sets forth the procedure for a Registered Filer to electronically sign an electronically filed document. Subdivision (a) clarifies the requirements that documents submitted by nonelectronic means must comply with the signature requirements under the applicable rules of procedure.

Subdivision (b) addresses the situation in which multiple parties are required to sign a document by setting forth the rule that the document must contain the signatures of all of the parties jointly filing the document. The person electronically filing the document is certifying the consent of all of the parties to the document with the filer’s electronic signature. This subdivision also requires the filer to retain a copy of the document for at least two years or through the final disposition of the matter, including any appeals period.

Subdivision (c) requires filers to scan and electronically file the original, signed and attested document if any document is required to be notarized or signed under oath. This subdivision also requires the filer to retain a copy of the document for at least two years or through the final disposition of the matter, including any appeals period.

Subdivision (d) authorizes Judges and other court personnel to electronically sign any court-generated document that requires a signature.

9. Rule 92.9 of the Maine Rules of Probate Procedure is adopted to read:

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 be paid electronically when filed, or may be paid directly over the counter at the office of the clerk by cash, check, or money order. Fees and costs for nonelectronically filed documents must be paid by cash, check, or money order. A person who wishes to proceed in forma pauperis must comply with the provisions of the applicable rules of procedure.

Advisory Committee Note – November 2011

Rule 92.9 deals generally with the payment of fees and costs for electronically and nonelectronically filed documents. No document will be accepted until all fees and costs attributable to the filing are paid in full. It is anticipated that payment for electronic filing may 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. Depending upon the method selected, additional charges may be imposed by the service provider in order to cover transaction fees associated with a particular payment type. Charges associated with nonelectronically filed documents may be paid by cash, check, or money order at the courthouse.

Subdivision (c) of Rule 92.9 makes it clear that in forma pauperis filing is permitted for both electronic and nonelectronic filing provided that the filer complies with all applicable rules of procedure.

10. Rule 92.10 of the Maine Rules of Probate Procedure is adopted to read:

RULE 92.10. REMOTE ACCESS TO ELECTRONIC CASE FILES

(a) Counsel and parties. Registered Filers affiliated with a particular matter shall have remote access to all records filed electronically and nonelectronically in that matter.

(b) Public. Members of the general public and Registered Filers not affiliated with a matter shall have remote access to all Public Records in any matter, subject to the redaction of Private Information on Public Records pursuant to Rule 92.12.

Advisory Committee Note – November 2011

Registered filers on a particular matter will be allowed to review the file from their office, home, library or wherever they have internet access. Registered Filers will be able to view all the records filed in their particular matter, regardless of the record being filed electronically or nonelectronically.

Everyone, including members of the general public and Registered Filers not affiliated with a matter, will have remote access to all the Public Records, subject to the redaction of Social Security numbers of living individuals and banking/brokerage account numbers on Public Records as outlined in Private Information in Rule 92.12.

11. Rule 92.11 of the Maine Rules of Probate Procedure is adopted to read:

RULE 92.11. SERVICE

(a) Required nonelectronic service. Except as provided in subparagraph (b), a Registered Filer shall serve upon a party the notice of a civil action or probate proceeding, other process, or a writ of execution or possession, or service upon a nonparty of a subpoena or other original or final process, and any documents accompanying any such notice or process by nonelectronic means unless accepted by electronic receipt by a Registered Filer through the court's electronic filing system. Any required return of service must be filed electronically in accordance with these rules unless otherwise provided in Rule 92.3(b) or by the applicable rules of procedure.

(b) Form N-104. In the case of Form N-104, the court shall serve notice by nonelectronic means unless accepted by electronic receipt by a Registered Filer through the court's electronic filing system. Any required return of service must be filed electronically in accordance with these rules unless otherwise provided in Rule 92.3(b) or by the applicable rules of procedure.

(c) Permissible electronic or nonelectronic service. Documents or exhibits required or permitted by applicable rules of procedure to be served on an attorney or

party may be served by electronic means or by nonelectronic means, provided that notice is served pursuant to 92.11(a).

Advisory Committee Note – November 2011

Rule 92.11 sets forth the procedures governing service of notice or process in connection with probate and civil matters within Maine’s Probate Courts. The rule requires that service, including service of Form N-104, be made by nonelectronic means except when service is made upon a Registered Filer. Service upon a Registered Filer should be made by electronic means through the court’s e-filing system. The standards related to service by nonelectronic means are unchanged by Rule 92.11. The rule thus contemplates the means by which service is to be made upon attorneys and parties who are not registered filers and attorneys and parties who are Registered Filers.

12. Rule 92.12 of the Maine Rules of Probate Procedure is adopted to read:

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); Physicians’ and Psychologists’ Reports (Probate Form PP-505); and (4) 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) 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 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 – November 2011

Rule 92.12 relates to Private Records and Private Information found in Public Records. The term “Private Records” is narrowly defined to include Certificates of Value (Probate Form DE-401A) and all filings related to adoption proceedings, including Consents and Surrender and Releases. All other documents are considered Public Records. Private Information is defined to include Social Security numbers of living individuals and account numbers, including bank accounts, investment accounts and brokerage accounts.

It is the court’s duty to docket Private Records into the electronic case file in such a manner that prevents anyone, other than the Registered Filers of record on that particular matter, from accessing the Private Records.

It is the Registered Filer’s responsibility to ensure that Private Information is redacted from any Public Record filed with the court. If, however, after a Public Record with Private Information has been filed, Rule 92.12(e) provides a mechanism for the filer to notify the court and submit a replacement, redacted, version of the Public Record.

13. These amendments shall be effective May 1, 2012.

Dated: April 13, 2012

FOR THE COURT¹

/s/
LEIGH I. SAUFLEY
Chief Justice
DONALD G. ALEXANDER
JON D. LEVY
WARREN M. SILVER
ANDREW M. MEAD
ELLEN A. GORMAN
JOSEPH M. JABAR
Associate Justices

¹ This Rule Amendment Order is approved after conference of the Court, all Justices concurring therein.