

### **XIII. ELECTRONIC FILING**

#### **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 September 30, 2014.

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

**(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 September 30, 2014.

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

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

## **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.

### **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) 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.

(6) 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.

#### **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 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).

## **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. Failure to submit a corrected filing on a timely basis shall constitute a rejected filing. 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.

### **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.



## **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.

## **RULE 92.8. SIGNATURES**

**(a) Effect of Signature.** The following screen shall appear on the Maine Probate.Net website prior to any electronic submission to the court that requires a signature:

“By typing your name below preceded by ‘S/’ you are representing that:

“1) You are the Registered Filer or are permitted by the Registered Filer or the Court to access the Registered Filer’s account;

“2) Each document you are submitting to the Court today has been signed by electronic means or in hand by the person whose name appears in the signature block of the document, you have possession of the document, and agree to retain a paper or electronic copy of the document available for inspection by the signer 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.”

**(b) Form of Signature.**

(1) An electronically filed pleading, motion or other procedural document must include either a signature block containing the Filer’s typed-in name preceded by “S/” or a scanned image of the actual signer’s signature.

(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.

(3) A pleading, motion or other procedural document filed 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 (b)(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.

**(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.

**(d) Retention of Documents.** 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.

**(e) 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].

## **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. A person who wishes to proceed in forma pauperis must comply with the provisions of the applicable rules of procedure.

## **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.

## **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).

## **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) 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.

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