

How To Avoid Rejection, Striking, and Improper Document Classification of Your Filings in 2021

December 29-30, 2020

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Legal Counsel Division | State Court Administrator's Office



Goals for this CLE

- Do you want to avoid:
 - Having filings rejected?
 - Having non-public ("confidential") documents classified as public?
 - Having court administration strike your filings after they've been accepted?
 - Sanctions and possible discipline?
- If you answered "yes" to any of these, then you need to know the 2021 amendments to the General, Civil, and Public Access Rules



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2021 Rule Amendments

- Rules of Civil Procedure
 - Rejecting Filings
- General Rules of Practice
 - Universal Cover Sheet/e-Filing Code
 - Striking Filings
- Rules of Public Access
 - Medical Records Protection and Process
 - Paternity Cases Now Public
 - Nudity or Pornographic Images Non-public
 - Drivers License/Passport Images Non-public



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Rule Amendments Effective Date: January 1, 2021

- Apply to all documents filed on or after 1-1-2021
- Exceptions:
 - Rules of Civil Procedure
 - For cases pending on 1-1-2021, amended rules apply unless court finds that application of the rule is not feasible or would work an injustice in the case
 - General Rules of Practice
 - For cases pending on 1-1-2021, amended rules apply unless court finds that application of rules is not feasible or would work a manifest injustice

Court Staff Continue to See Errors

- Restricted identifiers in public court filings
- Filers misclassifying public documents as non-public
- Misunderstandings about what constitutes a “medical record”
- Misuse and non-use of Form 11.1 and Form 11.2
- Public and non-public documents filed together as single PDFs (so-called “monster documents”)
- Administrative striking process disregarded

How do the Rules Address These Persistent Errors?

- Place burden completely on filers to screen their filings for non-public information
 - Some filers rely on court staff for such screening (**DON'T DO THIS**)
- Place burden completely on filers to use Form 11.2 when filing non-public documents in paper
- Permit administrative rejection and striking
- Reduce complexity
- Treat similar records consistently

New Rejection Reason Minn. R. Civ. P. 5.04(c)

- Court staff can reject filings for failure to remove restricted identifiers or other non-public information from public documents
- Does not apply to:
 - Criminal Cases
 - Civil Commitment Cases
 - Juvenile Protection Cases
 - Juvenile Delinquency Cases
 - Medical Records in Any Case Type (Discussed below)
 - IFP, OFP and HRO applications/petitions

S. Ct. Order filed 11-20-2020



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What Do I Do After Rejection?

- If your filing is rejected for failure to remove restricted identifiers or non-public information, you must
 - correct your documents, and
 - re-file
- New provision clarifies you may additionally file a motion (including the motion filing fee) asking to have your filing date relate back, but you must show this would be in the interests of justice
- Bottom line: do it right the first time



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Common Rejection Scenarios: SSN and Account Numbers

- Dissolution public filings containing full and partial Social Security Numbers and financial account numbers
 - SSN and full account numbers may only be submitted on a separate confidential Form 11.1
 - If not submitted on Form 11.1, they must be redacted
 - **DO NOT** rely on court staff to perform review and redact for you as court staff are being instructed to reject the document
 - Financial source documents (e.g. tax returns) can be submitted as confidential documents using Form 11.2 universal cover sheet



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Confidential Information Form 11.1

CONFIDENTIAL

State of Minnesota District Court

Case No. _____ Judicial District _____
Court File Number _____
Case Name _____

Plaintiff (Full name, address, last 4 of SSN)
Defendant (Full name, address, last 4 of SSN)

Confidential Information Form
(Min. Rules of Practice 11.1)
Revised 10/15/13

The information on this form is confidential and shall not be placed in a publicly accessible portion of the file.

A. Social Security Numbers

Name	Party or Role	Social Security Number

B. Account Numbers

Plaintiff Identification Number	Account Number

C. Employee Identification Numbers

Employee	Employee Identification Number

Information supplied by: _____
Date: _____

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Common Rejection Scenarios: Monster Documents

- “Monster Documents” containing both public and non-public documents in a single PDF submission
 - e.g., motion, notice, affidavit and supporting financial documents combined into single PDF document
 - Separate the public and non-public documents into separate PDF documents and submit each appropriately
 - Can still file separate, related documents in a single eFiling envelope
 - **DO NOT** rely on court staff to separate and classify for you as court staff are being instructed to reject the document

Common Scenarios: Sensitive Information

- Incorrectly using Form 11.2 to treat family court supporting documents that contain “sensitive” information as non-public
 - Form 11.2 is to be used for confidential information, not merely sensitive information
 - A claim in a divorce motion affidavit that a party was drunk at a family gathering, although embarrassing, is not confidential
 - Court staff will likely make the document public under Gen. R. Prac. 14.06(b)

General Rules of Practice Amendments: Rules 11 and 14

- Restricted identifier protections apply to all persons not just parties
- Financial account number definition narrowed
- New universal cover sheet (or eFiling code) required for identifying virtually all non-public documents
- Two step process: Every eFiler must both identify and designate non-public documents
- Potential consequences of filer errors:
 - Documents become public
 - Documents stricken if error not cured in 3 days



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“Restricted Identifier” Definition

- Restricted identifiers include complete or partial:
 - Social Security Numbers
 - Employer Identification Numbers
 - Other Taxpayer Identification Numbers (**New**)
- Restricted identifiers can belong to any person or legal entity (**Clarification**)
- Restricted identifiers also include financial account numbers
 - Exception for last four digits of financial account numbers (unless account number is also taxpayer identification number) Gen. R. Prac. 11.01



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Financial Account Numbers Definition Narrowed

- Narrowed by adding a use requirement:
 - “A string of numeric or alphanumeric characters assigned to a credit, deposit, trust, insurance, or other account that can be used by someone other than those authorized to access the account to obtain access to the account for unauthorized transactions” (**New definition**)
- Narrowed by adding exclusion for “billing number[s] issued by a government entity which [are] publicly accessible from [the] government entity”
- Guidance: mncourts.gov/efile Gen. R. Prac. 11.01



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Restricted Identifier Limitations

- Prohibited in all documents unless germane and necessary (**Clarification**)
 - If germane and necessary you may only submit on separate Form 11.1
 - DO NOT put in filing comments or elsewhere in eFS
 - Filer solely responsible for compliance
 - DO NOT rely on court staff to do your work
- Gen. R. Prac. 11.02

New Universal Cover Sheet aka Form 11.2

- Starting January 1, court rules **require** use of the cover sheet for all non-public document filings
 - Paper and eFilings included
 - Exception for juvenile protection cases
 - Non-public filing codes are an alternative for eFilers
- Historically, the Form 11.2 cover sheet was only authorized for “financial source documents”
- Filers have used it as a generic cover sheet for non-public documents, and the Supreme Court has decided to formally adopt this practice

Gen. R. Prac. 11.03

New Universal Cover Sheet Form 11.2 : Uses Check Boxes

The documents I am filing with this Cover Sheet are non-public because:

- They are “financial source documents” as defined in General Rule of Practice 11.01(b).
- They are “court services records” as defined in Public Access Rule 4, subd. 1(b).
- They are “medical records” as defined in Public Access Rule 4, subd. 1(f).
- I have already filed, or am simultaneously filing, a motion to have these documents filed under seal or as confidential.
- The documents are non-public for another reason:

REQUIRED: List the specific legal reason why the documents are non-public (please include specific page numbers if only some pages are non-public):

Identify and Designate

- Paper filers have a single duty to identify non-public documents by using Universal Cover Sheet
- Electronic filers have dual duties to both identify and designate non-public documents:
 - Identify document as non-public using universal cover sheet or eFiling Code
- PLUS**
 - Designate document as nonpublic in eFS

Identify and Designate

- eFilers must do both: Identify and Designate
- Identify as non-public document when eFiling by:
 - Submitting the **universal cover sheet**, OR
 - selecting a **non-public document filing code** from a drop-down box in the E-Filing system
- Designate as non-public document when eFiling by:
 - Indicating whether document is confidential or sealed in the field marked "**Filing Comments**" containing the text, "Is Document Public, Confidential or Sealed?"

Juvenile Protection Cases

- Rule 8.04 of Rules of Juvenile Protection Procedure applies when filing confidential or sealed documents in juvenile protection cases
- Form 11.3 works similarly to universal cover sheet
- Use Form 11.4 for confidential information governed by the Rules of Juvenile Protection Procedure
- DO NOT use the process to protect merely "sensitive" information

If Your Filing Wasn't Rejected, It Can Still Be Stricken

- Let's assume court administration doesn't catch the non-compliance when deciding whether to accept a filing
- Anybody can notify court administration of the non-compliant filing, at any time
- Court administration will then initiate the striking process by sending a deficiency notice

Gen. R. Prac. 11.05

Striking Process and Remedies

- Court notice will give you **three** days (reduced from the current 21 days) to cure the error (that is, refile) your stricken filing, or file a motion for relief
- If you do neither, the judge will not be able to see or consider your filing
- To get the benefit of the initial filing date, you will need to file a motion asking for relation back
 - Must show the interests of justice merit relation back of the filing date

Gen. R. Prac. 11.05

Exceptions to Striking/Rejection

- Striking remedy doesn't apply:
 - In criminal cases
 - In civil commitment cases
 - In juvenile delinquency cases
 - To medical records (discussed below)
 - To In Forma Pauperis (IFP) applications
 - To Order For Protection (OFP) and Harassment Restraining Order (HRO) petitions

Gen. R. Prac. 11.03, .08; S Ct. Order filed 11-20-2020

Exceptions to Striking/Rejection

- Use of Form 11.2 or eFiling Code also not required:
 - Applications for Public Defenders
 - Proofs of Insurance filed into a case with charges of No Proof of Insurance or No Insurance
 - Victim requests for restitution or victim impact statements
 - Law enforcement filing search warrant and related documents except when submitting restricted identifiers, but striking is precluded

Note: Parties filing warrants in criminal cases still must comply with Rule 11 but striking is precluded

Gen. R. Prac. 11.03, .08; S Ct. Order filed 11-20-2020



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Avoid Striking: How Do I Know It's Non-Public?

- There is a statute or court rule that makes it non-public
 - e.g., the Rules of Public Access to Records of the Judicial Branch (discussed below)
 - State statutes that don't conflict with the Rules of Public Access
 - The Data Practices Act (Chapter 13) does not apply
- There is a court order making it non-public
- You have filed a motion for an order making it non-public

Access Rule 2, 4; Gen. R. Prac. 11.04



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Avoiding Striking: I Know It's Non-Public, How Do I Protect it?

- Restricted identifiers may only be filed on Form 11.1 or on a document that is otherwise appropriately submitted as non-public in compliance with rules
 - Restricted identifiers don't make an otherwise publicly accessible document non-public – instead, you must redact them and place them on Form 11.1
- See slides 17-20 regarding the new Universal Cover Sheet and the requirements to Identify and Designate non-public documents



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Substantive Public Access Changes: Medical Records

- To qualify as a “medical record,” a document must:
 - Be from a medical, health care, or scientific professional; and
 - Relate to an individual’s mental or physical health or genetic information; and
 - [Effective January 1, 2021] Except in civil commitment cases, be designated as a medical record by the filer
- All filers must ensure they are identifying medical records in their filings

Access Rule 4, subd. 1(f)



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Substantive Public Access Changes: Medical Records

- Until a 2015 rules amendment, medical records were public in court files; currently they are non-public
- 2021 amendments put obligation entirely on filer to identify medical records
- Except in civil commitment cases, medical records are only considered non-public if identified as such by filer – must designate to maintain confidentiality
- However, failure to designate medical records as non-public may result in judges issuing sanctions



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Substantive Public Access Changes: Medical Records

- Medical “information” ≠ medical records
- Must still meet “medical records” definition in Public Access Rule 4, subd. 1(f)
- Protects the medical record, not all of the information in the record
- Filers often must include medical information in pleadings to effectively advocate their positions

Access Rule 4, subd. 4; Commitment Rule 21(b)



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Substantive Public Access Changes: Medical Records

- Rules permit discussion of “medical information” from a non-public medical record in otherwise publicly accessible pleadings, motions, affidavits, and memoranda of law where such discussion is necessary and relevant to the particular issues or legal argument being addressed in the proceeding
- In other words, simply quoting from a medical record in a motion or affidavit does NOT make the motion or affidavit a “medical record”

Access Rule 4, subd. 4; Commitment Rule 21(b)



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Medical Record

88-PR-20-3717 Filed in District Court
State of Minnesota
8/18/2020 10:07 AM

FAX#: 30 Second Street SW
PO BOX 685
Crosbyton, Minnesota 55008

555-555-5555
fakeDoctors.org

No Recipients August 13, 2020
RE: Noam de Plume
MCR 3,742.253
DOB: 5/24/1958

TO WHOM IT MAY CONCERN

Noam de Plume fell on August 11, 2020 suffering a concussion. He was seen in the Emergency Department at St. George's Hospital. I am seeing him in the Clinic today and he is enduring headache, dizziness, and ongoing weakness. I do not feel that it is in his best interest to attend the court hearing today August 13, 2020. With the symptoms from his concussion, he could suffer ongoing debilitating symptoms if he attends today.

Again, I reiterate that it is not in Noam de Plume's best interest to attend the court hearing today.

Please feel free to contact me with questions or concerns.

Sincerely,



Tilly Nurse, APRN, C.N.P., D.N.P.
Division of Hospital Medicine
30 2nd ST SW
FREDERICK MN 55002



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Medical Information

88-PR-20-3717 Filed in District Court
State of Minnesota
8/18/2020 10:07 AM

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF BUNYAN ELEVENTH JUDICIAL DISTRICT

In Re: Conservatorship of the Estate, Court File No. 88-PR-20-3717
Noam de Plume, Respondent. MOTION FOR CONTINUANCE

TO: Hon. Learned Hand, Judge of District Court

PLEASE TAKE NOTICE that the Protected Person, Noam de Plume, herein moves the Court for an Order continuing the Trial scheduled in this matter for August 13, 2020 at the Bunyan County Courthouse, before the Honorable Learned Hand, based on the following:

- The date notice was given and whether it was given by mail or in court:
Notice of Hearing Dated July 24, 2020, but not received by Noam de Plume directly.
- The reason for the continuance: Noam de Plume suffered a fall Monday evening and had to be taken to the emergency room at St. George's Hospital. Attached are: (a) Letter from Tilly Nurse, CNP dated August 13, 2020; (b) Activity Work Status Report executed by Mr. de Plume from Court; (c) Neurology consult dated August 11, 2020 describing Mr. de Plume's condition.



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Substantive Public Access Changes: New Paternity Case

- Paternity cases become public from their inception
 - Applies to cases filed on or after 1-1-2021
 - Ensures consistent treatment with other family law cases, such as custody or dissolution cases
 - “Final adjudication” standard resulted in inconsistent outcomes
 - Access Rule 4, subd. 1(n)
- Medical Records, such as genetic test results need to be filed as separate, non-public documents using Universal Cover Sheet (Form 11.2) or eFiling Code (See slides 17-20)

Substantive Public Access Changes: New Paternity Cases

- Redact all restricted identifiers from public supporting documents
- County attorneys / child support agencies need to pay closer attention to removing financial account numbers and SSNs from:
 - DEED statements
 - medical invoices
 - child care provider invoices
 - Recognition of Parentage documents

DEED Statement

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07/13/20      - Quarterly Wage Detail -      11:46 AM
*Action (C,D,M,N):
NCI: 001611825 Name: NIMM, SUB DOE
SSN:          OB: 08/09/91 Number of Cases: 1
LAST: NIMM          FIRST: SUB          MI:
SSN:               SEC: PCR ST: 55 Fed Agency: DOD:
Employer: MULLER'S RESTAURANTS OF WISCONSIN INC FEIN: 053553555
Addr: PO BOX 66351          Owner/Operator Ind:

Chntry CD: CHICAGO          IL 60666-0299
Chntry Name:

Qtr Beg Dt      Amount      Weeks/Hours      Reviewed: Y
04/01/2019      1092.00
01/01/2019      400.00

Direct Command: ( CPQW )
F1=Help, F2=Quit, F3=Retrn, F4=Prev, F6=Upd, F7=Up, F8=Down, F13=TRBL, F18=Main
F19=Glbb, F20=Audit
Quarterly Wage 001611825--36274 displayed effective for 04/01/19
    
```

Substantive Public Access Changes: Nudity/Porn

- Images containing sexual content or nudity are officially non-public
 - Ratifies existing court process
 - Internet addresses described in court filings as linking to such images are also non-public
- In public case types, images will be required to be filed as non-public under a separate Universal Cover Sheet (Form 11.2) or eFiling code (see slides 17-20)
- Encounter these in family and restraining order proceedings



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Substantive Public Access Changes: License/Passport; IFP

- Images of State driver's licenses and ID cards, and U.S. passport and passport cards, are non-public
- IFP denial orders are public, but underlying pleadings are non-public
- Police and other law enforcement reports are presumptively public



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Other Rules Changes: Proof of Service When E-Filing

- No proof of service required only when a document is both eFiled and eServed together using the E-Filing System
- If not both eFiling and eServing together, then must submit certificate of service specifying the details of how and when service was accomplished; must be signed under oath or penalty of perjury by the person effecting service

R. Civ. P. 5.04(b); Gen. R. Prac. 7; 14.05.



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Resources:

- Appendix including rules promulgation orders and summaries
- www.mncourts.gov/efile (access e-filing system and documentation)
- www.mncourts.gov/rules (access court rules)
- www.mncourts.gov/forms (access Forms 11.1 and 11.2, and other court forms)

Questions?





Summary of January 1, 2021 Rules Amendments

On January 1, 2021, significant amendments to the Rules of Civil Procedure,¹ the General Rules of Practice,² and the Rules of Public Access³ will go into effect. The amendments are designed to address recurring issues presented by the improper submission of non-public information in publicly accessible court records.

Public Accessibility

Rule of Public Access 4 governs which case records are publicly accessible, and which records are non-public. The term “records” is defined as “any recorded information that is collected, created, received, maintained, or disseminated by a court or court administrator, regardless of physical form or method of storage.”⁴ For the purposes of people preparing court filings, a non-public case record may be a non-public document, or a non-public data element that appears in an otherwise public court filing. Many of the non-public case records listed in Rule of Public Access 4, such as medical records and death certificates, will be filed in the form of non-public documents. Generally, filers are permitted to include information from non-public documents in public filings when the information is necessary and relevant to the issues before the court.⁵ However, filers are not permitted to include in public filings certain non-public data elements, such as restricted identifiers or other specific data elements protected by applicable law, court rule, or order.⁶

¹ *Order Promulgating Amendments to the Rules of Civil Procedure*, ADM04-8001 (Minn. filed June 29, 2020)

² *Order Promulgating Amendments to the General Rules of Practice for the District Courts*, ADM09-8009 (Minn. filed June 29, 2020)

³ *Order Promulgating Amendments to the Rules of Public Access to Records of the Judicial Branch*, ADM10-8050 (Minn. filed June 29, 2020)

⁴ MINN. R. PUB. ACC. 3, subd. 5.

⁵ MINN. R. PUB. ACC. 4, subd. 4.

⁶ *Id.*

Restricted Identifiers

Restricted identifiers are defined in General Rule of Practice 11, and their non-public status under General Rule of Practice 11 is incorporated into the Rules of Public Access.⁷ Restricted identifiers include Social Security Numbers, employer identification numbers, and financial account numbers. The amendments to General Rule of Practice 11.01 clarify that all taxpayer identification numbers of any person or legal entity are considered restricted identifiers. The amendments to General Rule of Practice 11.01 also provide a definition of the term “financial account number,” which has been a point of confusion in practice. The State Court Administrator is authorized to publish a non-exclusive list of examples of financial account numbers.

Identification and Designation of Non-Public Records

As amended, General Rule of Practice 11 expressly requires filers to separate public and non-public records, and to identify and designate non-public records as such upon filing. As before, restricted identifiers are only allowed when submitted on a Form 11.1 Confidential Information Form, or when submitted on a document designated by the filer as confidential.⁸ The amendments change the permissible means of designating non-public documents as non-public. Under the amendments, filers must designate all non-public documents as non-public using Form 11.2, which has been converted to a universal cover sheet for all non-public documents.⁹ If the Form 11.2 is filed electronically, it must be filed as a separate PDF from the non-public documents.¹⁰ As an alternative, electronic filers may designate non-public documents using electronic filing codes established by the State Court Administrator for non-public documents. Electronic filing is principally governed by General Rule of Practice 14. The amendments to General Rule of Practice 14 require electronic filers to additionally designate non-public

⁷ MINN. R. PUB. ACC. 4, subd. 1(v)(2)(G).

⁸ This restriction does not apply to search warrants or related documents filed into administrative files by law enforcement, but does apply to search warrants filed into case files by parties. MINN. GEN. R. PRAC. 11.08.

⁹ The Form 11.2 cover sheet is not required in juvenile protection cases for “confidential documents” and “confidential information” as defined in the Rules of Juvenile Protection Procedure, which will continue to be submitted using Forms 11.3 and 11.4. The Form 11.2 cover sheet also is not required in non-public case types, such as juvenile delinquency or adoption cases.

¹⁰ MINN. GEN. R. PRAC. 14.06(a).

documents as either “Confidential” or “Sealed” in the Filing Comments field of the E-Filing System.¹¹

Rejection of Filings

Rule of Civil Procedure 5.04(c) governs district court administration’s ability to reject filings. Except in criminal, juvenile delinquency, juvenile protection, or civil commitment cases, or for medical records in any type of case, the amendments to Rule of Civil Procedure 5.04(c) will authorize district court administration to reject filings if the filer fails to identify and designate non-public records as required by General Rule of Practice 11. If a filing is rejected for this reason and the filer wants to secure the benefit of the initial filing date, the filer must file a cured version of the filing and a motion for an order to have the filing relate back to the initial filing date.

Administrative Striking of Filings

The amendments to General Rule of Practice 11 allow any person, at any time, to notify the district court administrator that a restricted identifier or other non-public information appears in a publicly accessible court record. If a district court administrator becomes aware that a document containing non-public information was not filed in compliance with General Rule of Practice 11, the amendments direct the district court administrator to administratively strike the document from the case record after giving the filer notice and a three-day opportunity to cure. Under the amended rule, stricken documents are not accessible to the public, the parties, or the court. However, judges may, in interests of justice under the circumstances of the individual case, order the district court administrator to restore the document to the official court record.¹²

Medical Records

As noted above, the expanded rejection and administrative striking do not apply to medical records filed into any type of case. Rule of Public Access 4, subd. 1(f) defines “medical records” as, essentially, records from a health care professional that relate to an individual’s health or genetic information. This

¹¹ MINN. GEN. R. PRAC. 14.06(a). “Confidential” means the document is not accessible to the public, but is accessible to court employees and may be made accessible to other government agencies. MINN. GEN. R. PRAC. 14.01(a)(1). “Sealed” means the document is not accessible to the public, and is only accessible by court staff with the highest security level clearance. MINN. GEN. R. PRAC. 14.01(a)(9).

¹² MINN. GEN. R. PRAC. 11.05.

definition has been difficult for court administration staff to apply in practice. Under the amended rules, this definition will continue to apply in civil commitment cases. However, in other case types, medical records will only be treated as medical records if the filer designates them as medical records. Otherwise, medical records will be presumptively filed as public. These amendments take court administration out of the business of determining which documents qualify as medical records.

Limited Exceptions

On November 20, 2020, the Supreme Court issued an order clarifying the application of the amended rules.¹³ The order states that the following filings are exempted from the expanded rejection, striking, and cover sheet requirements: petitions for orders for protection and accompanying documentation, petitions for harassment restraining orders and accompanying documentation, and applications to proceed *in forma pauperis* and accompanying documentation. The order also clarifies that, in criminal and juvenile delinquency cases, no cover sheet shall be required for public defender applications, proofs of insurance filed into cases with charges of no proof of insurance or no insurance, or requests for restitution or victim impact statements and attachments filed by victims as authorized by law. Finally, the order clarifies that police reports and law enforcement reports are presumptively public when filed into any type of case.

New Types of Non-Public Records

Rule of Public Access 4, subd. 1(s)-(u) has been amended to add a few types of non-public records. Paragraph (s) will provide that images containing sexual content or nudity are non-public, as are internet addresses described in a court document as linking to such images. This amendment ratifies the courts' current practice of restricting public access to such images and links. Paragraph (t) will provide that images of state government driver's licenses and ID cards, and U.S. passports and passport cards, are non-public. Paragraph (u) will provide that if a judge denies a petition to proceed *in forma pauperis* (i.e., a fee waiver), the denial order is public, but the application and proposed initial pleadings are non-public.

¹³ *Order Exempting Certain Submissions from Administrative Filing Requirements and Clarifying the Application of the Rules of Public Access*, Nos. ADM04-8001, ADM09-8009, ADM10-8050 (Minn. Nov. 20, 2020).

Paternity Cases

Finally, the Rules of Public Access have been amended to make paternity cases public from their inception. Currently, paternity cases are non-public until entry of a final judgment of paternity. Portions of the final judgment are public, as are subsequent proceedings seeking to modify or enforce the judgment. This has proved difficult to apply in practice, because it requires court administration to assess whether a judgment contains all of the statutorily-required items to be considered final. This will continue for paternity cases initiated before January 1, 2021, but pending after that date.¹⁴ However, paternity cases initiated on or after January 1, 2021, will be accessible to the public.¹⁵

¹⁴ MINN. R. PUB. ACC. 4, subd. 1(n).

¹⁵ MINN. R. PUB. ACC. 4, subd. 1(v)(1) (stating that Minn. Stat. § 257.70(a), which purports to restrict access to paternity case records, is “superseded to the extent inconsistent with” the Rules of Public Access).

STATE OF MINNESOTA
IN SUPREME COURT
ADM04-8001



**ORDER PROMULGATING AMENDMENTS TO
THE RULES OF CIVIL PROCEDURE**

In a report filed on June 4, 2019, the Advisory Committee on the Rules of Civil Procedure recommended that amendments be made to the rule governing documents submitted for filing with the district court that include confidential information, restricted identifiers, or other non-public information, amending as well the stated reasons for rejecting such filings. *See* Minn. R. Civ. P. 5.04(c). The Advisory Committee also recommended amendments to Rule 3.01, to clarify service of a summons and complaint by delivery to a sheriff, and the use of certified mail for the process authorized by Rule 67.

We opened a public comment period and received several written comments. Having carefully considered the Advisory Committee's recommendations and the reasons for the proposed amendments, as well as the related amendments recommended by the advisory committees for the General Rules of Practice for the District Courts and the Rules of Public Access to Records of the Judicial Branch and the written comments filed regarding those proposed amendments, we conclude that the Advisory Committee's recommended amendments will clarify filing and service procedures.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the Rules of Civil Procedure are prescribed and promulgated as shown below.

2. The amendments to Rule 3.01 and Rule 67.02 are effective as of September 1, 2020, and shall apply to all cases filed on or after that date.

3. The amendments to Rule 5.04 are effective as of January 1, 2021, and shall apply to all documents filed on or after that date, unless the district court concludes that application of the rule as amended in a case pending as of the effective date is not feasible or would work an injustice in the case. *See* Minn. R. Civ. P. 86.01(b).

4. The Advisory Committee comments are included for convenience and do not reflect court approval of the comments.

Dated: June 29, 2020

BY THE COURT:



Lorie S. Gildea
Chief Justice

AMENDMENTS TO THE RULES OF CIVIL PROCEDURE

[Note: In the following amendments, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.]

RULE 3. COMMENCEMENT OF THE ACTION; SERVICE OF THE COMPLAINT; FILING OF THE ACTION

3.01. Commencement of the Action

A civil action is commenced against each defendant:

- (a) when the summons is served upon that defendant; or
- (b) at the date of signing of a waiver of service pursuant to Rule 4.05; or
- (c) when the summons is delivered ~~for service~~ to the sheriff in the county where the defendant resides ~~for service~~personally, by U.S. Mail (postage prepaid), by commercial courier with proof of delivery, or by electronic means consented to by the sheriff's office either in writing or electronically; but such delivery shall be ineffectual unless within 60 days thereafter the summons is actually served on that defendant or the first publication thereof is made.

Filing requirements are set forth in Rule 5.04, which requires filing with the court within one year after commencement for non-family cases.

Advisory Committee Comments—2020 Amendments

Rule 3.01 is amended to clarify the forms of delivery to sheriffs that may be used to commence an action. It does not restrict or change how service on the defendant is accomplished.

The committee expects that most sheriffs will make available on their websites or will provide information upon inquiry as to how they prefer to receive requests for service under this rule. Transmittal by U.S. Mail is expressly authorized, and a party may use Certified Mail, Return Receipt Requested in order to obtain proof of receipt. The rule also authorizes delivery to the sheriff by commercial courier (e.g., Federal Express, UPS), which may be most effective in getting the required documents in the sheriff's hands and would also create a record of delivery (although the rule does not require a proof of delivery).

The amended rule intentionally does not authorize delivery to the sheriff in the proper county by facsimile. As anachronistic and inconvenient as facsimile is for most purposes in 2020, it is particularly ill-suited for this purpose. Minn. R. Civ. P. 3.02 requires service of the complaint with the summons and that may result in lengthy facsimile transmissions. Moreover, faxes impose undue burdens on sheriffs' offices. Sheriffs in most counties will accept delivery by hand delivery, U.S. Mail, commercial courier, or email to a designated email address.

* * *

RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER DOCUMENTS

* * *

5.04. Filing; Certificate of Service

(a) **Deadline for Filing Action.** Any action that is not filed with the court within one year of commencement against any party is deemed dismissed with prejudice against all parties unless the parties within that year sign a stipulation to extend the filing period. This paragraph does not apply to family cases governed by rules 301 to 378 of the General Rules of Practice for the District Courts.

(b) **Filing of Documents After the Complaint; Certificate of Service.** All documents after the complaint required to be served upon a party, together with a certificate of service specifying the details of how and when service was accomplished and signed under oath or penalty of perjury by the person effecting service, shall be filed with the court within a reasonable time after service, except disclosures under Rule 26, expert disclosures and reports, depositions upon oral examination and interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless authorized by court order or rule. If a document is electronically filed and electronically served together using the district court's e-service system, no separate proof of service is required.

(c) **Rejection of Filing.** The administrator shall not refuse to accept for filing any ~~documents~~ document presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices. Documents may be rejected for filing if:

- (1) tendered without a required filing fee or a correct assigned file number;
- (2) tendered to an administrator other than for the court where the action is pending; ~~or~~
- (3) the document constitutes a discovery request or response submitted without the express permission of the court; or
- (4) the document contains a restricted identifier or other non-public information submitted in violation of Rules 11.02, 11.03, or 11.04 of the General Rules of Practice for the District Courts. This clause (4) shall not apply to criminal, civil commitment, juvenile protection, or juvenile delinquency cases, or to medical records in any type of case.

(d) **Relation Back.** On motion and in the interests of justice, the court may deem a filing rejected under paragraphs (c)(1) and (c)(4) of this rule to be filed as of the time and date it was originally tendered to the appropriate administrator for filing.

Advisory Committee Comment—2020 Amendments

Rule 5.04(b) is amended to expressly require that proof of service be provided either by: (1) both eFiling and eServing a document together using the court's e-Filing System (with the system-generated proof of service eliminating the need to file separate proof of service); or (2) by filing a separate

certificate of service. The amended rule specifies that a certificate of service must be signed under oath or penalty of perjury by the person effecting service. The certificate must also establish the specific time and manner of services, as this information is often required to determine the deadline for response.

Rule 5.04(c) is amended to add the new subdivision (4), to authorize court administrators to reject for filing any document containing restricted identifiers or other information that may not properly be filed in a public document. The specific definitions of what information may not be filed are contained in Rules 11 and 14 of the Minnesota General Rules of Practice for the District Courts.

Rule 5.04(d) is new and is intended to prevent a rejection for filing from having case-ending or other severe consequences for a timely attempt to file a document that contains non-public information. Relief is not automatic under the rule, and in most cases the document will not be deemed filed until a version that complies with the rules is filed. If the filing date is crucial, however, the rule authorizes a motion to have the filing of a compliant version deemed filed as of the time of the original attempted filing. The rule requires that the moving party demonstrate that relief is required "in the interests of justice." This standard does not focus on whether there is a good excuse for the initial, non-compliant document being tendered for filing so much as whether the consequences of rejection are severe or irreparable. This might occur for those relatively rare cases where an action is commenced by filing the complaint. *See, e.g.*, Minn. Stat. § 514.11 (requiring timely filing of mechanic's lien foreclosure action).

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VII. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

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RULE 67. DEPOSIT IN COURT

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67.02. When No Action is Brought

When money or other personal property in the possession of any person, as bailee or otherwise, is claimed adversely by two or more other persons, and the right thereto as between such claimants is in doubt, the person in possession, though no action is commenced against that person by any of the claimants, may place the property in the custody of the court. The person in possession shall apply to the court of the county in which the property is situated, setting forth by petition the facts which bring the case within the provisions of this rule, and the names and places of residence of all known claimants of such property. If satisfied of the truth of such showing, the court, by order, shall accept custody of the money or other property, and direct that, upon delivery and upon giving notice thereof to all persons interested, personally or by ~~registered~~ certified mail as prescribed in such order, the petitioner is relieved from further liability on account thereof. This rule shall apply to cases where property held under like conditions is garnished in the hands of the possessor; but in such cases the application shall be made to the court in which the garnishment proceedings are pending.

* * *

Advisory Committee Comment—2020 Amendments

Rule 67.02 is amended to remove the requirement that notice by mail be given by registered mail. The archaic specification of mailing by registered mail imposes only additional expense. Use of certified mail provides a record of the actual delivery, which is what is needed for the notice under this rule. The court may, but need not, require that delivery be restricted to the particular person or entity entitled to notice. A party serving notice under the rule may use certified mail with return receipt requested in order to obtain evidence of receipt, and may have the postal service restrict delivery to a particular individual. If service is to be made pursuant to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, as allowed under Rule 4.04(c)(1), a different form of service may be required.

FILED

June 29, 2020

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA
IN SUPREME COURT

ADM09-8009

**ORDER PROMULGATING AMENDMENTS TO THE
GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS**

In a report filed on July 31, 2019, the Advisory Committee for the General Rules of Practice for the District Courts recommended that the rules be amended to clarify the process for submitting filings that, whether in paper or electronic form, contain confidential or non-public information. The recommended amendments establish procedures for restricting public access to non-compliant documents in a publicly accessible court record, requiring the filer to correct the submission by appropriately designating the confidential or non-public information, striking a non-compliant document from the record if not corrected, and allowing the filer to secure the benefit of the original filing date if necessary. The committee also recommends that amendments be made to Form 11.2, the cover sheet to be filed with non-public documents, to assist filers in managing the submission of separate public and non-public documents. Additional amendments, in the nature of housekeeping, are recommended in Rule 377.09 and Rule 509 of the General Rules of Practice.

Comments were filed by the State Court Administrator, supporting the committee's recommended amendments and proposing additional clarifying amendments to address access issues with respect to specific document types or matter included in documents. The court has carefully considered the committee's recommendations and the input of the State Court Administrator, as well as the related amendments recommended by the advisory

committees for the Rules of Civil Procedure and the Rules of Public Access to Records of the Judicial Branch. Based on that review, we adopt the advisory committee's recommended amendments to the General Rules of Practice, including the additional amendments proposed by the State Court Administrator. We also agree with the recommendation to amend Form 11.2, and ask the State Court Administrator to implement that recommendation by working with the staff attorney to the Advisory Committee for the General Rules of Practice for the District Court.

The Advisory Committee's report also recommended a housekeeping amendment to Rule 509, and committee staff have identified a housekeeping amendment to Rule 377.09 that is related to timing amendments we previously promulgated. We also make these housekeeping changes in this order.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the General Rules of Practice for the District Courts are prescribed and promulgated as shown.

2. The amendments to Rule 377.09 and Rule 509 are effective as of September 1, 2020, and shall apply to all cases pending on or after the effective date, unless the district court concludes that application of the rules as amended to a case pending on the effective date is not feasible or would work a manifest injustice, *see* Minn. Gen. R. Prac. 1.02.

3. The amendments to Rules 7, 11, and 14 are effective as of January 1, 2021, and shall apply to all documents filed on or after the effective date, unless the district court

concludes that application of the rules as amended to a case pending on the effective date is not feasible or would work a manifest injustice, *see* Minn. Gen. R. Prac. 1.02.

4. The amendments to Form 11.2 are approved and the State Court Administrator shall make the amended form available on or before January 1, 2021.

5. The Advisory Committee comments are included for convenience and do not reflect court approval of the comments.

Dated: June 29, 2020

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lorie S. Gildea".

Lorie S. Gildea
Chief Justice

AMENDMENTS TO THE GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS

[*Note: In the following amendments, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.*]

TITLE I. RULES APPLICABLE TO ALL COURT PROCEEDINGS

* * *

RULE 7. PROOF OF SERVICE

When a document has been conventionally served before filing, proof of service shall be affixed to the document so that the identity of the document is not obscured. If a document is filed before conventional service has been made, proof of service shall be filed within 7 days after service is made. When a document has been both eFiled and eServed together using served through the E-Filing System in accordance with Rule 14, the record of service on the E-Filing System shall constitute proof of service.

RULE 11. SUBMISSION OF CONFIDENTIAL INFORMATION

Rule 11.01 Definitions

The following definitions apply for the purposes of this rule:

(a) “Restricted identifiers” ~~shall mean~~ any of the following numbers of a party or other person any person or legal entity: a complete or partial social security number, complete or partial employer identification number, or other taxpayer identification numbers; and any financial account numbers other than the last four numbers of a financial account number that is not also a social security, employer identification, or other taxpayer identification number.

(b) “Financial account number” means a string of numeric or alphanumeric characters assigned to a credit, deposit, trust, insurance, or other account that can be used by someone other than those authorized to access the account to obtain access to the account for unauthorized transactions, provided that a billing number issued by a government entity which number is publicly accessible from such government entity is not a financial account number under this rule. For the convenience of filers, the state court administrator may establish a non-exclusive list of examples of financial account numbers, and the list shall be posted on the judicial branch website (www.mncourts.gov).

(c) “Financial source documents” means income tax returns, W-2 forms and schedules, wage stubs, credit card statements, financial institution statements, check registers, and other financial information deemed financial source documents by court order.

Rule 11.02 Restricted Identifiers; Submission; Certification

(a) ~~Pleadings and Other Documents Submitted by a Party~~ Records Generated by External Filers. No party shall submit ~~r~~Restricted identifiers are prohibited in all ~~on any pleading~~

~~or other documents or other records that is to be filed with the court except when the restricted identifiers are information is germane and necessary for the court's consideration of the issues then before the court. If it is necessary to provide restricted identifiers to the court, they must be submitted in either one of the following two ways:~~

- ~~(1) on a separate form entitled Confidential Information Form (see Form 11.1 as published by the state court administrator) filed with the pleading or other document; or~~
- ~~(2) on a non-public document submitted in accordance with Confidential Financial Source Documents under Rule 11.03.~~

The Confidential Information Form (Form 11.1) shall not be accessible to the public.

~~The parties are~~ Every person who files any other document or other record with the court is solely responsible for ensuring that it contains no restricted identifiers, except as permitted in section (a) of this rule do not otherwise appear on the pleading or other document filed with the court. The court administrator will not review each record pleading or document filed by a party for compliance with this rule. Notwithstanding this provision, the court administrator may take any action consistent with Rule 11.05-11.04.

(b) Records Generated by the Court. Restricted identifiers maintained by the court in its register of actions (i.e., activity summary or similar information that lists the title, origination, activities, proceedings and filings in each case), calendars, indexes, and judgment docket shall not be accessible to the public. Courts shall not include restricted identifiers on judgments, orders, decisions, and notices except on ~~the a~~ Confidential Information Form (Form 11.1), which shall not be accessible to the public.

(c) Certification. Every filing shall constitute a certification by the filer that the documents filed contain no restricted identifiers, except as permitted in section (a) of this rule. For documents filed using the E-Filing System, this certification may additionally be provided by electronically acknowledging the certification statement in the manner designated by the E-Filing System.

Rule 11.03 Confidential Financial Source Documents-Filer's Duty to Identify Non-Public Document Using Cover Sheet Plus E-filing Designation, or Using E-Filing Code Plus E-filing Designation

(a) Cover Sheet or E-filing Code Required. Every person filing non-public documents with the court in public case types is solely responsible for identifying and designating them as non-public. When e-filing, non-public documents shall also be designated as Confidential or Sealed in the E-Filing System as required by Rule 14.06 of these rules. In all case types, restricted identifiers shall only be filed as authorized in Rule 11.02 of these rules. In juvenile protection cases, other confidential information and confidential documents must be filed as provided in Rule 8.04 of the Rules of Juvenile Protection Procedure. All other individual non-public documents filed in public cases, including but not limited to financial source documents shall be;

- (i) ~~submitted to filed with the court under with a separate, publicly accessible cover sheet designated “Confidential Financial Source Documents” and substantially in the form set forth as Form 11.2 Cover Sheet for Non-Public Documents as published by the state court administrator; or~~
- (ii) e-filed with a specific filing code in the E-Filing system or via Court Integration Services, which defaults the document to Confidential or Sealed, as published in the E-Filing Code Guides by the state court administrator for that specific type of non-public document and case type.

Financial source documents and other non-public documents submitted ~~as with the~~ required in parts (i) or (ii) above ~~cover sheet~~ are not accessible to the public except to the extent that they are admitted into evidence in a testimonial hearing or trial or as provided in Rule ~~11.05~~ 11.06 of these rules. The filer must file the Form 11.2 Cover Sheet for Non-Public Documents as a separate document from the non-public documents. The Form 11.2 Cover Sheet for Non-Public Documents shall be accessible to the public. The cover sheet or copy of it shall be accessible to the public.

(b) Closed Account Statements. Statements from a permanently closed (also known as “charged off”) credit card or financial institution account that has been identified as a closed account in ~~the~~ related pleading or other filed document need not be submitted with a Form 11.2 Cover Sheet for Non-Public Documents ~~as a confidential financial source document under rule 11.03 of these rules~~ unless desired by the filing party or as directed by the court.

(c) Absence of Cover Sheet or E-Filing Code. ~~Financial source~~ Non-public documents that are not submitted as required in part (a)(i) or (a)(ii) above ~~with the required cover sheet~~ are accessible to the public, but the court may, upon motion or on its own initiative, order that any such ~~financial source~~ document be non-public confidential.

(d) Not Applicable to Non-Public Case Types. This Rule 11.03 is not applicable to non-public case types. The state court administrator shall maintain and publish on the judicial branch website a list of non-public case types.

Rule 11.04. When Documents May Be Filed as Non-Public

Non-public documents may be filed as “confidential documents” or as “sealed documents.” A person may submit a document for filing as a “confidential document” or “sealed document” only if one of these circumstances exists:

- (a) The court has issued an order permitting the filing of the particular document or class of documents under seal or as confidential.
- (b) This rule or any applicable court rule, court order, or statute expressly authorizes or requires filing under seal or as confidential.
- (c) The filer files a motion for leave to file as confidential or under seal not later than at the time of submission of the document.

The court may require a filing party to specify the authority for asserting that a filing is a “confidential document” or “sealed document.” For purposes of this rule, the terms “confidential document” and “sealed document” shall have the meanings set forth in Rule 14.01. Additional requirements for electronically submitting a document as confidential or sealed in the E-Filing System are set forth in Rule 14.06.

Upon review, the court may modify the designation of any document incorrectly designated as confidential or sealed and shall provide prompt notice of any such change to the person who filed the document.

Rule ~~11.04~~ 11.05 Failure to Comply

If a ~~party-filer~~ fails to comply with the requirements of this rule in regard to any ~~person’s~~ restricted identifiers or ~~other non-public information/financial source documents~~, the court may upon motion or its own initiative impose appropriate sanctions, including costs necessary to prepare an appropriate document for filing.

Any person may notify the court administrator at any time that a restricted identifier or other non-public information appears in a publicly accessible court record. Upon discovery that a document containing a restricted identifiers or other non-public information has not been submitted in a confidential manner as required by this rule, the court administrator shall file it with a temporary non-public status-restrict public access to the document pending redaction or court order and direct the filer to, within 3 21-days, either:

- (1) serve and file a properly redacted filing, including any necessary cover sheet, and pay any prescribed monetary fee to the court, and, if the party desires that the filing date of the resubmitted document(s) relates back to the filing date of the original document(s), serve and file a motion requesting the relation-back to the original filing date; or
- (2) file a motion for relief from the court.

Any other party may oppose the motion seeking relation-back to the original filing date within the same time limits as are provided by law for the type of document(s) being filed. If a filer timely pays the monetary fee, and timely requests relation-back of the filing date, the court may, in the interests of justice, order that the filing date of the properly submitted document(s) relate back to the filing date of the original document(s). The court may additionally impose any sanctions it finds appropriate for the filer’s non-compliance.

Except in criminal, civil commitment, and juvenile delinquency cases, or for medical records filed in any case type, if no action is taken within 3 21-days after notice/direction from the court administrator, the court administrator shall strike the document so it is not accessible to the public, the parties, or the court. The parties and the court shall not consider the stricken document to be part of the court record unless the court, in the interests of justice under the circumstances of the individual case, orders the court administrator to restore the document to the official court record, the filing shall be stricken.

Rule ~~11.05~~ 11.06 Procedure for Requesting Access to Confidential Financial Source Documents

(a) **Motion.** Any person may file a motion, supported by affidavit showing good cause, for access to Confidential Financial Source Documents or portions of the documents. Written notice of the motion to all parties is required.

(b) **Waiver of Notice.** If the person seeking access cannot locate a party to provide the notice required under this rule, after making a good faith reasonable effort to provide such notice as required by applicable court rules, an affidavit may be filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provisions of this rule. The court may waive the notice requirement of this rule if the court finds that further good faith efforts to locate the party are unlikely to be successful.

(c) **Balancing Test.** The court shall allow access to Confidential Financial Source Documents, or relevant portions of the documents, if the court finds that the public interest in granting access or the personal interest of the person seeking access outweighs the privacy interests of the parties or dependent children. In granting access the court may impose conditions necessary to balance the interests consistent with this rule.

~~Rule 11.06. When Documents May Be Filed as Confidential or under Seal~~

~~— A party may submit a document for filing as a “confidential document” or “sealed document” only if one of these circumstances exists:~~

~~— (a) The court has entered an order permitting the filing of the particular document or class of documents under seal or as confidential.~~

~~— (b) This rule or any applicable court rule, court order, or statute expressly authorizes or requires filing under seal or as confidential.~~

~~— (c) The party files a motion for leave to file under seal or as confidential not later than at the time of submission of the document.~~

~~— The court may require a filing party to specify the authority for asserting that a filing is a “confidential document” or “sealed document.” For purposes of this rule, the terms “confidential document” and “sealed document” shall have the meanings set forth in Rule 14.01. Additional requirements for electronically submitting a document as confidential or sealed in the E-Filing System are set forth in Rule 14.06.~~

Rule. 11.07. Procedure for Requesting Access to Other Non-Public Records.

Any person may request access to records not governed by Rule 11.06 of these rules by following the procedures set forth in Rule 7 of the Rules of Public Access to Records of the Judicial Branch and any other applicable court rules.

Rule 11.08. Exceptions.

Rule 11 does not apply to search warrants or related documents filed administratively by law enforcement pursuant to Minn. Stat. § 626.17 and Rule 33.04(a)-(b) of the Rules of Criminal Procedure, except that if such a document contains a restricted identifier it shall be filed with a Form 11.2 Cover Sheet for Non-Public Documents in the manner described in Rule 11.03(a)(1) of these rules. Rule 11 does apply to search warrants and related documents filed by parties in a case.

If any person filing a medical record in a civil commitment case fails to designate the medical record as non-public upon filing, the court administrator shall not reject the filing due to the failure to do so.

Advisory Committee Comment—2020 Amendments

Rule 11.01 is modified in 2020 to clarify the definition of financial account number, which has caused much confusion. Several important limitations are added. One is that only numbers that can be used by someone other than those authorized to access the account to obtain access to the account for unauthorized transactions are considered financial account numbers. The other limitation excludes any billing number issued by a government entity that is publicly accessible and these numbers are not a financial account number under this rule. For the convenience of filers, the state court administrator maintains a non-exclusive list of examples of financial account numbers on the judicial branch website (www.mncourts.gov). These changes will avoid an overbroad reading of the rule that some courts have adopted in regard to similar rules. *See, e.g., In re Chubb*, 426 B.R. 695, 699–700 (Bankr. E.D. Mich. 2010) (finding the twelve digit account number on statement of account that clearly and obviously relates to debtor’s finances by identifying a debt is enough to bring it within the rule, without any showing that the information in question could be used to steal one’s identity or be misused for some other purpose).

Rule 11.03 is amended in 2020 to expand the use of a required cover sheet that previously applied only to Financial Source Documents and now applies to all non-public documents being filed. The requirement applies to those filing electronically or on paper. The cover sheet itself serves as a guide to trigger filers’ attention to certain non-public documents and information and sources of the same including the Rules of Public Access to Records of the Judicial Branch. By requiring a cover sheet for each individual document that is non-public, the cover sheet also serves to avoid the electronic filing of so-called “monster” documents. A monster document might contain, for example, a motion, notice of motion, affidavit, and any of a number of attachments all submitted as a single PDF document. The problem with monster documents is that if just one of the attachments is non-public, such as a medical record, then court staff must either keep the entire monster document non-public, which means the public is denied access to documents that it should be able to access, or court staff must separate out the attachments, which places an impossible burden on court staff. Filers are directed in the Registered User Guide, applicable to e-filers under Gen. R. Prac. 14.03(g), to separate documents, in particular the nonpublic documents, when e-filing them. The separate documents can be submitted in the same electronic envelope, just like a handful of separate paper documents can be placed in the same paper envelope, for filing.

Use of the new Cover Sheet for Non-Public Documents can be avoided only if the document is being e-filed and a filing code already exists in the E-Filing System that is specifically assigned by state court administration as the filing code for a particular type of non-public document. The filing code appears in the E-Filing system with the words “Select Filing Code” followed by a drop down box when a filer

selects the most appropriate code for each individual document being filed. The filing code for a non-public document, such as a pre-sentence investigation report in a criminal case, serves the same purpose as, and becomes the electronic equivalent of, the Non-Public Document Cover Sheet. Just like a cover sheet, the filing code transfers from the E-Filing System to the case management system (known as MNCIS). The state court administrator's office publishes commonly used filing codes on the main branch website (go to www.mncourts.gov and look for "Civil Case type Index (also includes Civil Case Filing Codes)," "Expedited Process Child Support Filing Codes Index," and "Criminal and Juvenile Delinquency Filing Codes Index").

In addition to filing the separate Form 11.2 Cover Sheet for Non-Public Documents or selecting a non-public document filing code, under Rule 14.06 a filer must also designate in the E-filing system whether the document is Confidential or Sealed. This designation is made in the E-Filing System in a field marked "Filing Comments" with a box beneath it asking "Is Document Public, Confidential, or Sealed?" Although this designation may seem redundant, filers need to remember that the cover sheet is intended to work in both the paper and electronic filing context. When an electronic filer selects a filing code for a non-public document as an alternative to the cover sheet, the filer will not see anything in the filing process marking the document as confidential or sealed. Accordingly, there must be a separate step to make this clear for each document being electronically filed. For a walk-through of the e-filing process illustrating the Select Filing Code location and the Filing Comments entry box, go to the main branch website at www.mncourts.gov/eFile and search for the Quick Reference Guide (QRG) titled "eFiling and eService into an Existing Case."

Rule 11 is also amended in 2020 to carve out certain exceptions in scope and enforcement impacting child protection, criminal, and juvenile delinquency case records. Rule 11.03(a) provides that juvenile protection filings that contain confidential information and confidential documents must be filed as provided in Rule 8.04 of the Rules of Juvenile Protection Procedure. This language is intended to preserve the current practice for juvenile protection cases: restricted identifiers are subject to the same rules as in other cases, while other types of confidential information and documents are governed by Juvenile Protection Rule 8.04. Juvenile Protection Rule 8.04, subd. 5(d), provides that if it is brought to the attention of court administration staff that confidential information or confidential documents have not been filed with the proper form, court administration staff shall designate the document as confidential, and direct the filer to file in compliance with Rule 8.04.

Rule 11.08 makes Rule 11 inapplicable to search warrants and related documents filed by law enforcement, but requires the same records filed by parties to comply with Rule 11. Regarding enforcement, criminal, civil commitment, and juvenile delinquency matters are exempted from striking of documents under Rule 11.05, and exempted from rejection of documents in rule 14.03(b), for violations of Rule 11.

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RULE 14. E-FILING AND E-SERVICE

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Rule 14.03. Filing and Service of Documents and Court Notices

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(b) Filed Upon Transmittal. A document that is electronically filed is deemed to have been filed by the court administrator on the date and time of its transmittal to the court through the E-Filing System, and except for proposed orders, the filing shall be stamped with this date and time if it is subsequently accepted by the court administrator. Acceptance of electronic filings is governed by Rule 5.04(c) of the Rules of Civil Procedure, except that Rule 5.04(c)(4) shall not apply to criminal, civil commitment, juvenile protection, or juvenile delinquency cases, or to medical records in any type of case. If the filing is not subsequently accepted by the court administrator ~~for reasons authorized in Rule 5.04 of the Rules of Civil Procedure,~~ no date stamp shall be applied, and the E-Filing System shall notify the filer that the filing was not accepted. Upon receipt of a document electronically transmitted for filing by a Registered User, the E-Filing System shall confirm to the Registered User, through an automatically generated notification to the Registered User's designated e-mail address, that the transmission of the document was completed and the date and time of the document's receipt. Absent confirmation of receipt, there is no presumption that the document was successfully transmitted to the court. The Registered User is solely responsible for verifying that the court received all electronically transmitted documents.

* * *

Rule 14.05 Proof of Service

When a document is both eFiled and eServed together using the E-Filing system, tThe records of the E-Filing system indicating transmittal to the Registered User recipient shall be sufficient proof of service on the recipient for all purposes.

Rule 14.06 Sealed and Confidential DocumentsSubmission of Non-Public Information—E-Filing System.

~~(a) Request to Submit Document for In Camera Review.~~ Any interested person must seek and obtain advance approval from the court by motion, with notice thereof to all parties, to submit a document to the court for in camera review. The motion must be filed and served electronically.

~~(b) Process When Submission for In Camera Review Granted.~~ A document submitted for in camera review as permitted by the court under part (a) of this rule shall be submitted to the court outside the E-Filing System by either:

- ~~(1) causing the document to be conventionally mailed or hand-delivered to the presiding judge or judicial officer, or~~
- ~~(2) upon approval of the presiding judge or judicial officer, transmitting the document to the presiding judge or judicial officer, via e-mail, as an attachment to an e-mail address as directed by the presiding judge or judicial officer. Any document submitted for in camera review must be clearly labeled "For In Camera Review" and, unless otherwise ordered by the court, shall be sealed and preserved as a court exhibit.~~

(ea) Filer's Duty to Designate as Confidential or Sealed. In addition to filing a separate non-public cover sheet as required in Rule 11.03(a) or selecting a non-public document filing code from a drop-down box in the E-Filing system as required in Rule 11.03(a)(ii), a Registered User electronically filing a document that is not accessible to the public in whole or in part under the Rules of Public Access to Records of the Judicial Branch or other applicable law, court rules or court order, is responsible for designating that document as confidential or sealed in the E-Filing System before transmitting it to the court. This designation is made in the E-Filing system in a field marked "Filing Comments" containing the text, "Is Document Public, Confidential or Sealed?" The Registered User must file any Form 11.2 Cover Sheet for Non-Public Documents required by Rule 11.03(a)(i) as separate documents, and must designate them as public. The Registered User must separate all non-public documents from public documents when filing.

(db) Correction of Designation by the Court. Upon review, the court may modify the designation of any document incorrectly designated as ~~sealed or~~ confidential or sealed and shall provide prompt notice of any such change to the Registered User who filed the document. A Registered User must seek advance approval from the court to transmit a document for filing designated as ~~sealed or~~ confidential or sealed if that document is not already inaccessible to the public under the Rules of Public Access to Records of the Judicial Branch or other applicable law, court rules, or court order.

(ec) Filing ~~Sealed or~~ Confidential or Sealed Document in Paper Form When Not Seeking In Camera Review. A document to be filed as ~~under seal or~~ confidential or under seal may be filed in paper form if required or permitted by the court. A motion to file a document in paper form ~~under seal or~~ as confidential or under seal must be filed and served electronically.

Rule 14.07 Procedures for In-Camera Review

(a) Request To Submit Document for In Camera Review. Any interested person must seek and obtain advance approval from the court by motion, with notice thereof to all parties, to submit a document to the court for in camera review. The motion must be filed and served electronically.

(b) Process When Submission for In-Camera Review Granted. A document submitted for in camera review as permitted by the court under part (a) of this rule shall be submitted to the court outside the E-Filing System by either:

- (1) causing the document to be conventionally mailed or hand-delivered to the presiding judge or judicial officer; or
- (2) upon approval of the presiding judge or judicial officer, transmitting the document to the presiding judge or judicial officer, via e-mail, as an attachment to an e-mail address as directed by the presiding judge or judicial officer. Any document submitted for in camera review must be clearly labeled "For In Camera Review"

and, unless otherwise ordered by the court, shall be sealed and preserved as a court exhibit.

Rule 14.078 Records: Official; Appeal; Certified Copies

Documents electronically filed and paper documents conventionally filed but converted into electronic form by the court are official court records for all purposes. Certified copies may be issued in the conventional manner or in any manner authorized by law, provided that no certified copies shall be made of any proposed orders. Unless otherwise provided in these rules or by court order, a conventionally filed paper document need not be maintained or retained by the court after the court digitizes, records, scans or otherwise reproduces the document into an electronic record, document or image.

Advisory Committee Comment—2020 Amendments

Rule 14 is modified in 2020 to separate its related in-camera review portions and move them to a new rule, 14.07, and renumber current 14.07 as 14.08. Changes are also made to clarify the process for designating non-public documents being e-filed as Confidential or Sealed and distinguish that process from selection of a filing code under Rule 11.03(a)(ii). See the comments under Rule 11 for a full description. Changes are also made to Rule 14.03(b) to recognize an exemption to rejection of filings in criminal, commitment, juvenile protection, and juvenile delinquency matters for violations of Rule 11; Rule 11 also exempts most of these cases from striking of filings in rule 11.05. See Rule 11 and its comments for a full description.

* * *

TITLE IV. RULES OF FAMILY COURT PROCEDURE

* * *

RULE 377.

* * *

Rule 377.09 Basis of Decision and Order

Subdivision 1. Timing. Within 30 days of the close of the record, the child support magistrate or district court judge shall file with the court an order deciding the motion. In the event a notice to remove is granted pursuant to Rule 368, the 30 days begins on the date the substitute child support magistrate or district court judge is assigned. The record shall be deemed closed upon occurrence of one of the following, whichever occurs later:

- (a) filing of a response pursuant to Rule 377.04;
- (b) filing of a transcript pursuant to Rule 366;
- (c) withdrawal or cancellation of a request for transcript pursuant to Rule 366; or
- (d) submission of new evidence under subdivision 4.

If none of the above events occur, the record on a motion for review or combined motion shall be deemed closed forty-six (46) days after service of the notice of filing as required by Rule 365.034, despite the requirements of Rule 354.04. For a motion to correct clerical mistakes and none of the above events occur, the record shall be deemed closed upon expiration of the time to respond to 15 days after service of the motion to correct clerical mistakes.

* * *

TITLE VI. CONCILIATION COURT RULES

* * *

RULE 509. COUNTERCLAIM

* * *

(c) **Administrator's Duties.** The court administrator shall assist with the preparation of the counterclaim on request. When the counterclaim has been properly asserted, the court administrator shall note the filing of the counterclaim in the court's case management system ~~on the original claim~~, promptly transmit notice of the counterclaim to plaintiff and set the counterclaim for trial on the same date as the original claim.

* * *

STATE OF MINNESOTA
IN SUPREME COURT
ADM10-8050



**ORDER PROMULGATING AMENDMENTS TO THE
RULES OF PUBLIC ACCESS TO RECORDS OF THE JUDICIAL BRANCH**

The Supreme Court Advisory Committee on the Rules of Public Access to Records of the Judicial Branch met in 2019 to consider amendments to address issues presented by the improper submission of confidential data in publicly accessible court records, proposed substantive amendments to expand or refine the current public access to judicial branch case records, and several proposed housekeeping amendments. The committee recommends amendments to Rule 4, subdivision 1(a), to ensure a consistent access status for orders for protection and harassment restraining orders when allegations of domestic abuse are at issue, *see* Minn. Stat. § 518B.01 (2018), Minn. Stat. § 609.748 (2018); and to Rule 4, subdivision 1(n), to make paternity cases public from the outset for consistency with the public-access status of family-law cases generally. The committee also recommended amendments to preclude public access to certain records when an application to proceed in forma pauperis is denied, and other amendments to clarify cross-references in the rules.

Comments were filed by the State Court Administrator, supporting the committee's recommended amendments and proposing additional clarifying amendments to address access issues with respect to specific document types or matter included in documents. The court has carefully considered the committee's recommendations and the input of the State Court Administrator, as well as the related amendments recommended by the advisory

committees for the Rules of Civil Procedure and the General Rules of Practice for the District Courts.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the Rules of Public Access to Records of the Judicial Branch be, and the same are, prescribed and promulgated to be effective as of January 1, 2021. The rules as amended shall apply to all documents filed on or after the effective date.

2. The Advisory Committee comments are included for convenience and do not reflect court approval of those comments.

Dated: June 29, 2020

BY THE COURT:



Lorie S. Gildea
Chief Justice

AMENDMENTS TO THE RULES OF PUBLIC ACCESS TO RECORDS OF THE JUDICIAL BRANCH

[Note: In the following amendments, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.]

RULE 1. SCOPE OF RULES.

* * *

Subd. 4. Filer's Obligations and Enforcement Sanctions Addressed Elsewhere. Various other court rules place obligations on parties and participants filing documents with the court to correctly designate non-public documents when filing (e.g., MINN. GEN. R. PRAC. 14 (electronic filing)), to redact certain data elements from documents before filing (e.g., MINN. GEN. R. PRAC. 11.02 (restricted identifiers such as social security numbers and certain financial account numbers); MINN. R. JUV. PROT. P. 8 (various elements in juvenile protection matters)), and to face sanctions for failure to comply (e.g., MINN. R. CIV. P. 5.04 (rejection of filings for inclusion of non-public information); MINN. GEN. R. PRAC. 11.054 (appropriate sanctions including costs of redaction and potential striking of pleadings)). Following these rules correctly is critical to ensuring appropriate public access to court records as court staff are not required to review every word of every document submitted to the court for filing to determine if it is appropriately accessible to the public. To the extent that noncompliance is brought to the attention of the court, various rules may require, among other possible relief or action, that a document be temporarily segregated from public view until the redaction rule can be enforced.

RULE 2. GENERAL POLICY.

Records of all courts and court administrators in the state of Minnesota are presumed to be open to any member of the public for inspection or copying at all times during the regular office hours of the custodian of the records. Some records, however, are not accessible to the public, at least in the absence of a court order or disclosure by a judge, and these exceptions to the general policy are set out in Rules 4, 5, 6, and 8. Without limiting Rule 11, a disclosure made or directed by a judge acting in the judge's official capacity, including but not limited to disclosure directions in a written or oral order, shall not create liability, whether civil or criminal in nature, for the judge or for court staff implementing the judge's order.

* * *

RULE 4. ACCESSIBILITY TO CASE RECORDS.

Subd. 1. Accessibility. Subject to subdivision 4 of this rule (Records Referring to Information in Non-Public Documents) and Rule 8, subd. 5 (Access to Certain Evidence), the following case records are not accessible to the public:

- (a) *Domestic Abuse and Harassment Records.*

- (1) Records maintained by a court administrator in accordance with the domestic abuse act, MINN. STAT. § 518B.01, until a court order as authorized by MINN. STAT. § 518B.01, subs. 5 or 7, is ~~executed or served~~ upon the record subject who is the respondent to the action.
- (2) Records of harassment restraining order proceedings maintained by a court administrator in accordance with MINN. STAT. § 609.748 until a court order as authorized by MINN. STAT. § 609.748, ~~subd. 4, is executed or served~~ upon the record subject who is the respondent to the action. Upon the petitioner's request, information maintained by the court regarding the petitioner's location or residence is not accessible to the public but may be disclosed to law enforcement for purposes of service of process, conducting an investigation, or enforcing an order.

* * *

- (b) *Court Services Records.* Records on individuals maintained by a court that are gathered at the request of a court to:
 - (1) determine an individual's need for counseling, rehabilitation, treatment or assistance with personal conflicts (including, without limitation, support or attendance letters, e.g., regarding Alcoholics Anonymous, submitted by or for a party),
 - (2) assist in assigning an appropriate sentence or other disposition in a case (including, without limitation, disposition advisor memoranda or reports in criminal matters),
 - (3) provide the court with a recommendation regarding the custody of minor children, or
 - (4) provide the court with a psychological evaluation of an individual.

Provided, however, that this paragraph (b) does not apply to social services reports and guardian ad litem reports to the court in juvenile protection matters governed by the Rules of Juvenile Protection Procedure, which must be filed with the court in accordance with MINN. R. JUV. PROT. P. 8.04, subd. 5(b). In addition, the following information on adult individuals is accessible to the public: name, age, sex, occupation, and the fact that an individual is a parolee, probationer, or participant in a diversion program, and if so, at what location; the offense for which the individual was placed under supervision; the dates supervision began and ended and the duration of supervision; information which was public in a court or other agency which originated the data; arrest and detention orders; orders for parole, probation or participation in a diversion program and the extent to which those conditions have been or are being met; identities of agencies, units within agencies and individuals providing supervision; and the legal basis for any change in supervision and the date, time and locations associated with the change.

- (f) *Medical Records.* Records in civil commitment cases, or in other cases if they are submitted under a non-public cover sheet or using an electronic filing code designated

for non-public documents as provided in Rules 11.03(a) and 14.06 of the General Rules of Practice for the District Courts, that are from medical, health care, or scientific professionals (including but not limited to reports and affidavits) that are of the following types:

* * *

- (n) Pre-Adjudication Paternity Proceedings In Cases Filed Before January 1, 2021. Records of proceedings in cases filed before January 1, 2021, to determine the existence of parent-child relationship under MINN. STAT. §§ 257.51 to 257.74, provided that the following are public: the final judgment under section 257.70(a) (minus findings of fact and restricted identifiers under MINN. GEN. R. PRAC. 11), affidavits filed pursuant to MINN. STAT. §§ 548.09-.091 to enforce the judgment, and all subsequent proceedings seeking to modify or enforce the judgment except an appeal of the initial, final judgment. The subsequent proceedings shall be brought in the same case file provided that the register of actions in the case shall then be made public but identifying information on persons who were alleged to be the parent of the child but were not adjudicated as such parent will remain nonpublic, and documents that were not previously public will also remain nonpublic except that the register of actions may publicly reflect the existence of the document and its title.

* * *

- (q) Voluntary Foster Care for Treatment. Records of judicial reviews of voluntary foster care for treatment under MINN. STAT. § 260D.06 (Records of voluntary foster care proceedings under MINN. STAT. § 260D.07 are accessible to the public as authorized by these rules and by MINN. R. JUV. PROT. P., see clause ~~(s)~~(v)(2)(D), below.).
- (r) Juvenile Protection Case Records Child Name Search Results. In juvenile protection case records, searching by a child's name shall not provide results through any public name search functionality provided by the court. For purposes of this rule "child" is defined as set forth in MINN. R. JUV. PROT. P. 2.01(54).
- (s) Images Containing Sexual Content or Nudity. Any of the following images, or internet addresses described in a court filing as linking to any of the following images:
- (1) Images that are "obscene" as defined in Minn. Stat. § 617.241;
 - (2) Images that constitute "pornographic works" involving minors as defined in Minn. Stat. § 617.246, subd. 1(f);
 - (3) Images containing depictions of actual or simulated "sexual conduct" as defined in Minn. Stat. § 617.246, subd. 1(e), regardless of the age of the individuals depicted in the image;
 - (4) Images that are "private sexual images" covered by Minn. Stat. § 604.31;
or
 - (5) Images that depict nudity.

- (t) Driver's Licenses and Passports. An image of a state government driver's license or identification card, or a United States passport or passport card.
- (u) In Forma Pauperis Denials. An order denying permission to commence or defend any civil action or appeal therein, without prepayment of fees, under Minn. Stat. §§ 563.01–.02, shall be accessible to the public but the petition or application seeking such permission, including the financial disclosure, affidavit, and the proposed initial pleadings shall not be accessible to the public except by court order for good cause shown.
- (v) *Other.* Case records that are made inaccessible to the public under:
- (1) state statutes, other than MINN. STAT. ch. 13 and MINN. STAT. § 257.70(a), which are superseded to the extent inconsistent with these rules;
 - (2) court rules not inconsistent with these rules, including but not limited to:
 - (A) MINN. R. ADOPT. P. 7 (all adoption case records);
 - (B) MINN. SPEC. R. CT. APP. FAMILY L. MEDIATION 7, 9 (appellate family mediation confidential information form and selection of mediator form);
 - (C) MINN. GEN. R. PRAC. 114.08, 114.09 (notes, records and recollections of the neutral);
 - (D) MINN. R. JUV. PROT. P. 8, ~~16.01, subd. 1; 33.02, subd. 6~~ (various records and data elements in juvenile protection proceedings);

Advisory Committee Comment – 2020

Rule 4, subd. 1(a), is amended in 2020 to ensure a consistent level of privacy to orders for protection involving domestic abuse under Minn. Stat. § 518B.01 and harassment restraining orders under Minn. Stat. § 609.748 as proceedings under either statute can involve domestic abuse. The phrase “executed or served upon ... the respondent” has been shortened to “served upon ... the respondent” to obviate arguments that “executed” means signed by a judge as opposed to being carried out by those seeking to serve the order on the respondent. These provisions have been consistently interpreted and applied with service on the respondent as the triggering mechanism for public access to occur. The reference to a particular subdivision in Minn. Stat. § 609.748 has been removed as orders are addressed in multiple locations in the statute.

Rule 4, subd. 1(n), (s), and (t) are amended in 2020 to make paternity cases public upon initial filing like other family-law cases, confirm that images containing sexual content or nudity are non-public, and confirm that access to driver's licenses and state/federal ID cards is restricted. A new section (u) is added precluding public access to certain records of in forma pauperis denials.

FILED

November 20, 2020

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM04-8001

ADM09-8009

ADM10-8050

**ORDER EXEMPTING CERTAIN SUBMISSIONS FROM ADMINISTRATIVE
FILING REQUIREMENTS AND CLARIFYING THE APPLICATION OF THE
RULES OF PUBLIC ACCESS**

ORDER

In orders filed on June 29, 2020, we amended several rules that govern the public status of or access to certain court records. Specifically, we amended the General Rules of Practice for the District Courts to clarify the process for submitting filings that contain restricted identifiers or other non-public information, and to authorize court administrators to strike non-compliant filings. In general, filers will be required to designate filings containing non-public information through the use of a cover sheet or an electronic filing code designated for non-public documents. We also amended the Rules of Civil Procedure to authorize court administrators to reject non-compliant filings. The expanded authority in the General Rules of Practice and the Rules of Civil Procedure for court administrators to reject or strike non-compliant filings, is not authorized in criminal, juvenile delinquency, juvenile protection, or civil commitment cases, in non-public case types, or for medical records filed in any type of case. We additionally amended the Rules of Public Access to Records of the Judicial Branch to provide additional clarification on which court records are not accessible to the public.

These amendments to the rules apply to documents filed on or after January 1, 2021. *See Order Promulgating Amendments to the General Rules of Practice for the District Courts*, ADM09-8009, at 2 (Minn. filed June 29, 2020); *Order Promulgating Amendments to the Rules of Civil Procedure*, ADM04-8001, at 2 (Minn. filed June 29, 2020); *Order Promulgating Amendments to the Rules of Public Access to Records of the Judicial Branch*, ADM10-8050, at 2 (Minn. filed June 29, 2020).

For certain filings, such as petitions for orders for protection, harassment restraining orders, or initial requests for leave to proceed *in forma pauperis*, the expanded administrative rejection and striking could result in an unintended and critical loss of access to justice. In addition, although the expanded administrative rejection and striking authority is not authorized in criminal or juvenile delinquency cases, certain non-public documents filed in these cases are so common and critical that imposing the use of a new cover sheet or electronic filing code could also result in a critical loss of access to justice. Additionally, some uncertainty remains as to whether police reports or other law enforcement reports filed into case records constitute non-public “court services records” under Rule 4, subdivision 1(b) of the Rules of Public Access to Records of the Judicial Branch. Police reports and other law enforcement reports are regularly, and appropriately, filed in support of a variety of petitions and motions, but imposing the use of a new cover sheet or electronic filing code for these reports could also result in a critical loss of access to justice.

Based on all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Effective January 1, 2021, district court administrators shall not reject, under the authority of Minn. R. Civ. P. 5.04(c)(4); require a cover sheet or an electronic filing code designated for non-public documents, pursuant to Minn. Gen. R. Prac. 11.03; or administratively strike, pursuant to Minn. Gen. R. Prac. 11.05, any of the following documents:

- a. Petitions for Harassment Restraining Orders, pursuant to Minn. Stat. § 609.748, or the documents that accompany the petition;
- b. Petitions for Orders for Protection, pursuant to Minn. Stat. § 518B.01, or the documents that accompany the petition; and
- c. Affidavits for Proceeding In Forma Pauperis, submitted under Minn. Stat. § 563.01, or accompanying documentation.

2. Effective January 1, 2021, district court administrators shall not require a cover sheet or an electronic filing code designated for non-public documents, pursuant to Minn. Gen. R. Prac. 11.03, for any of the following documents, when filed into criminal or juvenile delinquency cases:

- a. Applications for Public Defenders, filed under Minn. Stat. §§ 611.16-.18;
- b. Proofs of Insurance filed into a case with charges of No Proof of Insurance or No Insurance; and
- c. Requests for restitution or victim impact statements and attachments filed by victims, as authorized by law.

3. Effective January 1, 2021, district court administrators shall not consider police reports or law enforcement reports to be “court services records” as defined in Rule 4, subdivision 1(b) of the Rules of Public Access to Records of the Judicial Branch, and shall consider the documents presumptively public when filed in a public case.

4. Nothing in this order shall be construed to otherwise modify district court administrators’ authorities and obligations with respect to rejection and striking of filings.

Dated: November 20, 2020

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lorie S. Gildea".

Lorie S. Gildea
Chief Justice

STATE OF MINNESOTA
IN SUPREME COURT
ADM10-8050



**IN RE RULES OF PUBLIC ACCESS TO RECORDS
OF THE MINNESOTA JUDICIAL BRANCH**

O R D E R

Records of all courts in the State of Minnesota “are presumed to be open to any member of the public for inspection or copying.” Minn. R. Public Access to Recs. of the Judicial Branch 2. Certain medical records, financial records, and some restricted identifiers, such as social security numbers, are not accessible to the public. Minn. R. Public Access to Recs. of the Judicial Branch 4, subd. 1(f); Minn. Gen. R. Prac. 11.01–11.03. Submission of documents that contain non-public information is governed by the General Rules of Practice for the District Courts, and effective January 1, 2021, must be submitted with the appropriate cover sheet. *See* Order Promulgating Amendments to the General Rules of Practice for the District Courts, No. ADM09-8009 (Minn. filed June 29, 2020).

The Minnesota Legislature has enacted amendments to statutes governing submissions to the district court in guardianship and conservatorship proceedings. Act of May 16, 2020, ch. 86, art. I (“the 2020 legislation”). This legislation designates additional categories of information disclosed in guardianship and conservatorship submissions as confidential, including the reasons for a guardianship or conservatorship, statements of property and value, reports and recommendations of visitors, and all documents or

information disclosing or pertaining to health or financial information, *see id.*, §§ 17–18, 21, 23–26, 28–31. These provisions are effective August 1, 2020: some amendments apply to guardianship and conservatorship cases commenced “before, on, or after that date,” and some apply to cases commenced on or after the effective date. *Id.*, § 42.

Access to records of the judicial branch “is governed by rules adopted by the supreme court.” Minn. Stat. § 13.90, subd. 2 (2018). *See also State v. C.A.*, 304 N.W.2d 353, 358 (Minn. 1981) (explaining that controlling court records is an essential judicial function). The 2020 legislation expands the categories of non-public documents or information in guardianship and conservatorship proceedings beyond those currently designated in the Rules of Public Access to Records of the Judicial Branch. Thus, we must decide whether the Rules of Public Access should be amended to conform to the 2020 legislation. To do so, we need the input of the Advisory Committee for the Rules of Public Access to Records of the Judicial Branch.

Until the court has decided whether the Rules of Public Access should be amended to conform to the 2020 legislation, the public or non-public status of submissions to the district court made in guardianship and conservatorship proceedings will continue to be governed by the Rules of Public Access to Records of the Judicial Branch. In addition, all submissions in these proceedings must continue to comply with Rules 11 and 14 of the General Rules of Practice for the District Courts.

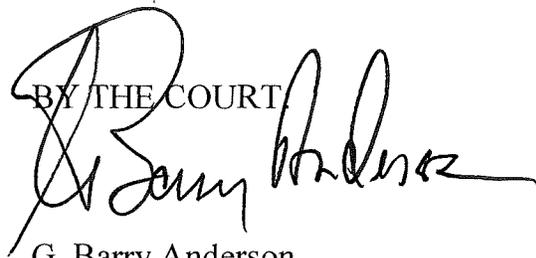
Based on all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the Minnesota Supreme Court Advisory Committee on the Rules of Public Access to Records of the Judicial Branch shall review

the recent amendments to the statutes governing guardianship and conservatorship proceedings in the district court as those amendments relate to the public or non-public status of submissions in those proceedings, *see* Act of May 16, 2020, ch. 86, art. I, and provide recommendations on whether the Rules of Public Access should be amended to conform to any provisions in that legislation. If the committee concludes that the rules should be amended to conform to the 2020 legislation, the committee shall provide recommended amendments. The advisory committee shall file its report and recommendations on or before November 2, 2020.

IT IS FURTHER ORDERED that notwithstanding the 2020 legislation, the public or non-public status of documents and information in submissions to the district court in guardianship or conservatorship proceedings governed by Minnesota Statutes chapter 524.5 (2018), shall continue to be governed by the Rules of Public Access to Records of the Judicial Branch until further notice or order from this court. In addition, notwithstanding the 2020 legislation, all persons submitting documents or information to the district court in such guardianship or conservatorship cases shall continue to comply with Rules 11 and 14 of the General Rules of Practice for the District Court until further notice or order from this court.

Dated: July 22, 2020

BY THE COURT

G. Barry Anderson
Associate Justice



Examples of “Financial Account Numbers” (effective January 1, 2021)

General Rule of Practice 11 prohibits restricted identifiers in all court filings, except when germane and necessary for the court’s consideration of the issues before the court. If restricted identifiers must be provided to the court, they must be filed in accordance with the procedures set out in General Rule of Practice 11. “Restricted identifiers” include Social Security Numbers (SSN), employer identification numbers (EIN), and other taxpayer identification numbers (TIN), such as the ITIN issued by the IRS to people who are not eligible for Social Security (a 9-digit number, beginning with the number "9", formatted like an SSN (NNN-NN-NNNN)). “Restricted identifiers” also include financial account numbers. Filers may include the last four digits of financial account numbers in public court filings, but may not include any portion of a SSN, EIN or TIN in a public court filing.

General Rule of Practice 11.01(b) defines “financial account number” as “a string of numeric or alphanumeric characters assigned to a credit, deposit, trust, insurance, or other account that can be used by someone other than those authorized to access the account to obtain access to the account for unauthorized transactions, provided that a billing number issued by a government entity which number is publicly accessible from that government entity is not a financial account number under this rule.”

When reviewing documents presented for filing, court staff will make their determination on whether a number can be used for unauthorized for transactions based on what can be seen in, or inferred from, a document. Filers are responsible for knowing whether, in fact, the numbers in their documents can be used for unauthorized transactions. After a document has been accepted for filing, court staff could still initiate the striking process for wrongful inclusion of a financial account number on a public document based on, for example, credible evidence from an opposing party that the number could be used for unauthorized transactions.

As authorized by Rule 11.01(b), and for the convenience of filers, the State Court Administrator’s Office establishes the following non-exclusive list of examples of financial account numbers:

Number Type	Financial Account Number?
Agency case number (county attorney, child support, etc.)	No
Alien registration number	No
Annuity contract number	Yes

<p>Billing number from a government agency, which is publicly accessible from that government agency</p> <p><i>For example, in a property tax appeal, filers often include a copy of their property tax statement, most of which is often publicly accessible from the county website, and the statement may include various billing type numbers labelled as account number, billing number, parcel or property ID numbers, and even taxpayer ID numbers. Filers are responsible for determining whether all of these billing-type numbers are publicly accessible from the county.</i></p>	No
<p>Billing number from a service provider (medical facility account, fuel oil account, telephone account, etc.) that can be used by someone other than those authorized to access the account to obtain access to the account for unauthorized transactions</p>	Yes
<p>Certificate of deposit or stock certificate number</p>	Yes
<p>Checking or savings account number</p>	Yes
<p>Credit account number</p>	Yes
<p>CUSIP identifier</p>	No
<p>EBT card number</p>	Yes
<p>Frequent flyer account number</p>	Yes
<p>Insurance claim number</p>	No
<p>Insurance group ID number</p>	No
<p>Insurance policy number uniquely associated with the policy holder that can be used by someone other than those authorized to access the account to obtain access to the account for unauthorized transactions</p>	Yes
<p>Invoice number</p>	No
<p>Lease number</p>	No
<p>Medicaid recipient ID (MMIS)</p>	Yes
<p>Money order numbers</p>	Yes

Mortgage identification number <i>Although a mortgage identification number may be publicly accessible from other government agencies such as a county recorder, the issue, under the revised definition of “financial account number,” is not whether the number is available from another agency, but whether the number could be used to access a financial account for unauthorized transactions. State Court Administration has determined that mortgage identification numbers cannot be used for unauthorized transactions.</i>	No
Number from a charged-off credit or debit account	Yes
Patient ID	No
Professional license number	No
Property tax ID number	No
Retirement account number <i>Retirement account numbers are restricted identifiers, but numbers that merely identify a retirement plan (such as the three-digit code assigned to a particular employer’s plan) are not considered restricted identifiers. Filers are responsible for determining whether a number associated with retirement benefits identifies a particular retirement account.</i>	Yes
Series EE bond serial number	No
SSIS (Social Services Information System)	No
Student ID number	Yes
Treasury direct account number	Yes
Vehicle title number	No
Veterans Affairs (VA) identifying number	Yes
WID (worker identification) number used by MN Department of Labor and Industry	No