

**Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department**

**Electronic Docketing and Scanning Policy of the
Probate and Family Court**

Effective May 30, 2018

Administrative Office of the Probate and Family Court
Honorable Angela Ordoñez, Chief Justice

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I. Docketing Principles

The docket in the Probate and Family Court serves multiple purposes. The content of the docket, which must meet requirements set forth in the Massachusetts General Laws, case law, and rules of court, provides the official procedural and financial history of each case. The docket is also a source of information for reports used to evaluate court performance, determine staffing needs and support funding requests. The docket, except where segregated/impounded¹ by case law, rule, or statute, comprises the public record of the case.

The docket contains a listing of all parties and relevant case information. It chronicles the documents filed, and the events and results which have occurred and will occur in the Court. The automated case management system produces forms, notices and daily trial lists and reports from information contained in docket entries. The docket reflects all financial components, such as filing fees paid or waived, for each case.

The docket is a source of case-related information for the public which court staff frequently use to answer questions about the status of a case or the parties involved. Reports generated from docket information produce data which support local, departmental and Trial Court managers with court administration and case management responsibilities.

For the above reasons, current, complete, and accurate docketing that is uniform across the Probate and Family Court Department, is crucial to the Court's ability to deliver its constitutional, statutory, and procedural mandates. Party information should be updated promptly. All documents should be promptly entered into the docket. When a judge impounds all docket entries or specific docket information on a case, court staff should assign the highest priority to securing that information in the docket.

Every court employee has responsibility for ensuring a current, accurate and complete docket for each case.

NOTE: The paper index and docket book remain the official record of all cases prior to the institution of the various electronic case management systems in the court divisions.

II. Documents to be Accepted/Not Accepted for Docketing and Scanning

- A. All case-related documents that are accepted for filing shall be docketed and scanned with the exception of the documents listed in paragraphs B. and C. below.**

¹ Impoundment is the act of keeping some or all of the papers, documents, or exhibits, or portions thereof of a case, separate and unavailable for public inspection.

B. Documents which the Court shall not accept:

The following list of items shall not be accepted for filing and will not be accepted, docketed and scanned unless the Court, in a specific case, on motion by any party or other person, or on its own motion, shall otherwise order.

- ▶ Notices Of Taking Deposition
- ▶ Transcripts of Depositions
- ▶ Admissions
- ▶ Interrogatories, Answers to Interrogatories and Objections to same under Rule 33
- ▶ Requests under Rule 34
- ▶ Rule 410 Mandatory Disclosures
- ▶ Public Assistance Affidavits (DOR form)
- ▶ Service notifications (i.e., certificates)
- ▶ Exhibits and other extraneous attachments to pleadings (including but not limited to, photographs, text message etc.)

C. Documents received by the Court which are not docketed and scanned, unless ordered by the Court:

- ▶ Correspondence
- ▶ Proposed Findings
- ▶ Proposed Orders/Judgments
- ▶ Tape Duplication/CD Requests
- ▶ Requests for Transcript
- ▶ Authenticated Copies (except authenticated copies of Foreign Fiduciary required by statute)
- ▶ Attachments to Citations (e.g. newspaper tear sheets or copies thereof, registered and certified mail receipts)
- ▶ Trial Exhibits/Evidentiary Exhibits

III. Segregated and Impounded Cases and Documents

A. Cases and Documents Segregated/Impounded by Case law, Rule, or Statute:

Segregated/impounded case materials that are required by case law, rule, or statute to be kept separate and unavailable for public inspection must still be docketed and scanned unless they fall into an exception as noted above in Section II. C. The scanning technology in MassCourts provides the possibility of making available for public view all documents which have been scanned into the system. MassCourts also provides that certain case types and docket codes are automatically segregated/impounded. Staff must make sure to accurately docket those case types and documents which are required to be kept from public view. At the present time, the Probate and Family Court Department does not make any case documents accessible for viewing over the Internet although the possibility of providing limited access to parties or attorneys in a case is being considered.

The following case types and documents must be kept from public view:

Case Types:

- ▶ Adoption and Child Welfare (including all cases filed by the Department of Children and Families)
- ▶ Paternity Cases prior to April 1, 1998
- ▶ Paternity Cases where a Judgment of Non-Paternity has entered (G. L. c. 209C, § 13)
- ▶ G. L. c. 209A Restraining Orders filed on behalf of minors (G. L. c. 209A, § 8)

Documents:

- ▶ Financial Statements
- ▶ Guardian Ad Litem Reports
- ▶ Affidavits of Indigence and supporting documents
- ▶ Affidavits filed in accordance with Rule 404 of the Supplemental Rules of the Probate and Family Court
- ▶ Medical Certificates
- ▶ Clinical Team Reports
- ▶ Treatment Plans
- ▶ Qualified Domestic Relations Orders (QDROs)
- ▶ Medical Affidavits
- ▶ Massachusetts Statistical R 408 form

i. Policy for Segregated/Impounded Case Types

MassCourts allows cases to be automatically marked as segregated/impounded and kept from public view based on case type, like Child Welfare and Adoption cases. No additional work from staff is required for these case types. Therefore, documents in Child Welfare and Adoption cases can be scanned and still kept from public view. Other case types require staff to manually segregate/impound the case like Restraining Order cases filed on behalf of minors and Paternity cases with a judgment of non-paternity. All case types, including those that are segregated/impounded, must be scanned in MassCourts.

ii. Policy for Segregated/Impounded Documents

Docket codes for all segregated/impounded documents have been coded to ensure that they are kept from public view. It is very important to use the correct docket code for these documents to ensure the segregation/impoundment of documents which should not be viewed by the public. For example, the docket code for Financial Statements (FS), is set up so that any document attached to this code is segregated from public view. For example, if the Financial Statement is accidentally attached to the docket code for Findings of Fact (FOF) or another code that is not identified as segregated, the document will not be kept from public view.

B. Cases and Documents Segregated/Impounded by Court Order pursuant to the Uniform Rules on Impoundment Procedure:

Rule VIII of the Trial Court Rules contains the Uniform Rules on Impoundment Procedure. These rules govern the process for requesting impoundment of a case and/or documents, notifying the parties, terminating or modifying an order of impoundment and the duties of the clerk or Register.

Cases that are impounded by a court order must be accurately identified in MassCourts as restricted in order to ensure they will be kept from public view. Staff must manually mark such cases as restricted in MassCourts.

If a request to impound certain documents is allowed, the documents that are impounded must accurately be identified as impounded in MassCourts. If the document has not been docketed yet, this is done by using the regular docket code and adding the word “impounded” at the beginning of the description in the docket entry. The document will not be scanned at this point. Then the document will be scanned using the docket code IMSEG. If the document has already been docketed, adjustments need to be made to the docket entry to add the word “impounded” at the beginning of the docket entry, and the scanned document must be removed and rescanned using the docket code IMSEG. A blank piece of paper should be scanned over the original docket entry image.

IV. Implementation of Scanning

All divisions of the Probate and Family Court have been scanning case file documents since early 2006. Regardless of when a division started scanning, all divisions are currently required to scan documents related to all cases types. Individual divisions may choose to scan case files and papers filed prior to their official scanning start date.

The implementation of MassCourts has greatly reduced the effort required to scan documents. Along with the implementation of MassCourts each division has received desktop scanners. Quality assurance is now completed at the same time that a document is scanned. This has greatly reduced the amount of errors and the time required to correct those errors. If an error is found staff need only rescan the correct document and that scan will override the original incorrect scan.

V. Quality Control

All divisions of the Probate and Family Court are required to ensure images are scanned as set forth in this policy. Procedures shall be in place to ensure the images are accurate. For example, designated staff should prepare a batch scanning report through MassCourts to identify images that have been missed during the scanning process.

VI. Rules

The following rules and statutes apply to docketing in the Probate and Family Court:

Massachusetts Rules of Civil Procedure: (These Domestic Relations Procedure Rules are Identical)

Mass. R. Civ. P. 5: Service and filing of pleadings and other papers

(d)(2) Filing generally, and nonfiling of discovery materials. Unless the court, generally or in a specific case, on motion ex parte by any party or concerned citizen, or on its own motion shall otherwise order, the following shall not be presented or accepted for filing:

- notices of taking depositions,
- transcripts of depositions,
- interrogatories under Rule 33,
- answers and objections to interrogatories under Rule 33,
- requests under Rule 34,
- responses to requests under Rule 34.

Mass. R. Civ. P. 79: Books and records kept by the clerk and entries therein

(a) Civil Docket. The clerk shall keep the civil docket and shall enter therein each civil action to which these rules are made applicable. Actions shall be assigned consecutive file numbers. The file number of each action shall be noted on the folio of the docket whereon the first entry of the action is made. All papers filed with the clerk, all process issued and returns made thereon, all appearances, orders, verdicts, and judgments shall be entered chronologically in the civil docket on the folio assigned to the action and shall be marked with its file number. These entries shall be brief but shall show the nature of each paper filed or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process. The entry of an order or judgment shall show the date the entry is made. When in an action trial by jury has been properly demanded or ordered the clerk shall enter the word ‘jury’ on the folio assigned to that action.

G. L. c. 215, § 37 Docket and index; manner of keeping; public inspection

Each register shall keep a docket of all cases and matters in his court, and shall enter therein every case or matter by its appropriate title and number, brief memoranda of all proceedings had and papers filed therein, the dates of such proceedings or filing of such papers, and references to the places in which the proceedings or papers are recorded, if there is a record thereof. [The register] shall also keep a separate alphabetical index of all such cases and matters which shall refer both to said docket and to the files of the court, and a separate alphabetical index of all public administrators seeking appointment or appointed to administer any estates, with the names of such estates. Such docket and indexes shall be open to public inspection at all reasonable times.

Standing Order 3-08 Impoundment of Qualified Domestic Relations Orders, Domestic Relations Orders and Orders commonly known as Mangiacotti Orders

Standing Order 2-08. Impoundment of Guardian Ad Litem Reports

Standing Order 1-09 Impoundment of Personal Medical Information