

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to Rules 1:38-1, 1:38-2(a)(1), 1:38-3(b)(2), and 1:38-5(b) of the Rules Governing the Courts of the State of New Jersey are adopted to be effective immediately.

For the Court,

A handwritten signature in blue ink, appearing to read "Stuart Rosen", is written over a horizontal line.

Chief Justice

Dated: May 30, 2017

1:38-1. Policy

Court records and administrative records as defined by R. 1:38-2 and R. 1:38-4 respectively and within the custody and control of the judiciary are open for public inspection and copying except as otherwise provided in this rule. Exceptions enumerated in this rule shall be narrowly construed in order to implement the policy of open access to records of the judiciary. Restrictions on access pursuant to R. 1:38, unless otherwise provided by law, shall not be applicable to named parties, defendants, or their legal counsel in the specific case or judicial proceeding.

Note: New caption for Rule 1:38 adopted July 16, 2009 to be effective September 1, 2009. New Rule 1:38-1 adopted July 16, 2009 to be effective September 1, 2009; amended May 30, 2017 to be effective immediately.

1:38-2. Definition of Court Records

(a) "Court record" includes:

(1) any information maintained by a court in any form in connection with a case or judicial proceeding, including but not limited to pleadings, motions, briefs and their respective attachments, evidentiary exhibits, indices, calendars, [and] dockets, and aggregate data maintained or created by the judiciary for the purpose of statistics;

(2) ... no change

(3) ... no change

(4) ... no change

(5) ... no change

(b) ... no change

Note: New Rule 1:38-2 adopted July 16, 2009 to be effective September 1, 2009; subparagraph (a)(1) amended May 30, 2017 to be effective immediately.

1:38-3. Court Records Excluded from Public Access

The following court records are excluded from public access:

(a) . . . no change.

(b) Internal Records

(1) Notes, memoranda, draft opinions, or other working papers maintained in any form by or for the use of a justice, judge, or judiciary staff member in the course of performing official duties, except those notes, not otherwise excluded from public access under this rule, that are required by rule or law, e.g., R. 7:2-1(e), to be taken as part of the record of the proceeding;

(2) Records of consultative, advisory, or deliberative discussions pertaining to the rendering of decisions or the management of cases; and support data maintained or created by the judiciary for use in reporting aggregate data for the purpose of statistics.

(c) ...no change.

(d) ...no change

(e) ...no change.

(f). . . no change.

Note: New Rule 1:38-3 adopted July 16, 2009 to be effective September 1, 2009; subparagraph (b)(1) amended December 9, 2009 to be effective immediately; paragraphs (e) and (f) amended January 5, 2010 to be effective immediately; subparagraph (c)(11) amended, subparagraph (c)(12) adopted, and subparagraph (d)(10) amended February 16, 2010 to be effective immediately; subparagraph (d)(1) amended June 23, 2010 to be effective July 1, 2010; paragraph (e) amended October 10, 2010 to be effective immediately; paragraph (e) amended February 28, 2013 to be effective immediately; subparagraph (d)(12) amended July 9, 2013 to be effective September 1, 2013; subparagraph (d)(2) amended July 27, 2015 to be effective September 1, 2015; subparagraph (b)(1) amended May 30, 2017 to be effective immediately.

1:38-5. Administrative Records Excluded from Public Access

The following administrative records are excluded from public access:

(a) ... no change

(b) Notes, memoranda, or other working papers maintained in any form by or for the use of a justice, judge or judiciary staff member in the course of his or her official duties, including administrative duties; and support data maintained or created by the Judiciary for use in reporting aggregate data for the purpose of statistics;

(c) ... no change

(d) ... no change

(e) ... no change

(f) ... no change

(g) ... no change

(h) ... no change

(i) ... no change

(j) ... no change

(k) ... no change

(l) ... no change

(m) ... no change

(n) ... no change

(o) ... no change

(p) ... no change

(q) ... no change

(r) ... no change

Note: New Rule 1:38-5 adopted July 16, 2009 to be effective September 1, 2009; paragraph (g) amended January 5, 2010 to be effective immediately; paragraph (p) amended and new paragraph (q) added October 18, 2011 to be effective immediately; new paragraph (r) adopted November 12, 2014 to be effective immediately; paragraph (h) amended December 9, 2014 to be effective immediately; paragraph (b) amended May 30, 2017 to be effective immediately.