

M.R. 3140

**IN THE  
SUPREME COURT  
OF  
THE STATE OF ILLINOIS**

Order entered October 24, 2012.

(Deleted material is struck through and new material is underscored, except in Rule 138, which is entirely new.)

Effective January 1, 2013, Supreme Court Rules 10, 11, and 201 are amended and Rule 138 is adopted, as follows.

**Amended Rule 10**

**Rule 10. Size of ~~Papers~~ Documents Filed in the Illinois Courts**

Except as otherwise provided in these rules, all ~~papers~~ documents filed in all courts of this State shall be 8½ inches by 11 inches. The court encourages use of recycled paper if the filing is in paper form.

Adopted January 5, 1981, effective January 1, 1982; amended June 25, 1990, effective July 1, 1990; amended Oct. 24, 2012, effective Jan. 1, 2013.

**Amended Rule 11**

**Rule 11. Manner of Serving ~~Papers~~ Documents Other Than Process and Complaint on Parties Not in Default in the Trial and Reviewing Courts**

**(a) On Whom Made.** If a party is represented by an attorney of record, service shall be made upon the attorney. Otherwise service shall be made upon the party.

**(b) Method.** ~~Papers~~ Documents shall be served as follows:

(1) by delivering them to the attorney or party personally;

(2) by leaving them in the office of the attorney with the attorney's clerk, or with a person in charge of the office; or if a party is not represented by counsel, by leaving them at the party's residence with a family member of the age of 13 years or upwards;

(3) by depositing them in a United States post office or post office box, enclosed in an envelope, plainly addressed to the attorney at the attorney's business address, or to the party at the party's business address or residence, with postage fully prepaid;

(4) by delivering them to a third-party commercial carrier—including deposit in the carrier's pick-up box or drop off with the carrier's designated contractor—enclosed in a package, plainly addressed to the attorney at the attorney's business address, or to the party at the party's business address or residence, with the delivery charge fully prepaid; or

(5) by transmitting them via facsimile machine to the office of the attorney or party, who has consented to receiving service by facsimile transmission. Briefs filed in reviewing courts shall not be served by facsimile transmission.

(i) A party or attorney electing to serve pleadings by facsimile must include on the certificate of service transmitted the telephone number of the sender's facsimile transmitting device. Use of service by facsimile shall be deemed consent by that party or attorney to receive service by facsimile transmission. Any party may rescind consent of service by facsimile transmission in a case by filing with the court and serving a notice on all parties or their attorneys who have filed appearances that facsimile service will not be accepted. A party or attorney who has rescinded consent to service by facsimile transmission in a case may not serve another party or attorney by facsimile transmission in that case.

(ii) Each page of notices and documents transmitted by facsimile pursuant to this rule should bear the circuit court number, the title of the document, and the page number.

(6) by transmitting them via e-mail to the designated e-mail address of record for the attorney or party; or

(7) by transmission through a service provider that provides an electronic in-box for those parties registered to use the service.

**(c) Multiple Parties or Attorneys.** In cases in which there are two or more plaintiffs or defendants who appear by different attorneys, service of all ~~papers~~

documents shall be made on the attorney for each of the parties. If one attorney appears for several parties, that attorney is entitled to only one copy of any ~~paper~~ document served upon the attorney by the opposite side. When more than one attorney appears for a party, service of a copy upon one of them is sufficient.

**(d) E-Mail Address.** A party or an attorney must include on the appearance and on all pleadings filed in court an e-mail address for service of documents.

Amended April 8, 1980, effective May 15, 1980; amended April 10, 1987, effective August 1, 1987; amended October 30, 1992, effective November 15, 1992; amended December 29, 2009, effective immediately; amended Oct. 24, 2012, effective Jan. 1, 2013.

## **New Rule 138**

### **Rule 138. Personal Identity Information**

(a) In civil cases, personal identity information shall not be included in documents or exhibits filed with the court. This rule applies to paper and electronic filings.

(b) Personal identity information, for purposes of this rule, is defined as follows:

- (1) Social Security numbers;
- (2) birth dates;
- (3) mother's maiden names;
- (4) drivers license numbers;
- (5) financial account numbers, and
- (6) debit and credit card numbers.

A court may order other types of information redacted or filed confidentially, consistent with the purpose and procedures of this rule.

(c) If the court orders the filing of documents or exhibits that contain personal identity information, the information shall be filed under seal in a document titled "Notice of Personal Identity Information Within Court Filing." The notice shall identify the documents or exhibits that contain personal identity information and the order requiring the filing. The notice shall remain confidential, except to parties or as the court may order.

(d) Neither the court, nor the clerk, is required to review documents or exhibits for compliance with this rule.

(e) If a document or exhibit is filed containing personal identity information, a party or any other person whose information has been filed may move that the court order redaction and filing as provided in paragraph (f). The motion shall be filed under seal and the clerk shall remove the document or exhibit containing the personal identity information from public access pending the court's ruling on the substance of the motion. A motion requesting redaction of a document in the court file shall have attached a copy of the redacted version of the document. If the court allows the motion, the clerk shall retain the unredacted copy under seal and the redacted copy shall become part of the court record.

(f) If the court finds the inclusion of personal identity information was willful, the court may award the prevailing party reasonable expenses, including attorney fees and court costs.

(g) This rule does not require any clerk or judicial officer to redact personal identity information from the court record except as provided in this rule.

Adopted Oct. 24, 2012, effective Jan. 1, 2013.

#### Committee Comments

October 24, 2012

Supreme Court Rule 138, adopted October 24, 2012, prohibits the filing of personal identity information that could be used for identity theft. For instance, financial disclosure statements used in family law cases typically contain a variety of personal information that shall remain confidential to protect privacy concerns.

While paragraph (b) defines the most common types of personal identity information, it further allows the court to order redaction or confidential filing of other types of information as necessary to prevent identity theft.

### **Amended Rule 201**

#### **Rule 201. General Discovery Provisions**

**(a) Discovery Methods.** Information is obtainable as provided in these rules through any of the following discovery methods: depositions upon oral examination or written questions, written interrogatories to parties, discovery of documents, objects or tangible things, inspection of real estate, requests to admit and physical and mental examination of persons. Duplication of discovery methods to obtain the same information should be avoided.

**(b) Scope of Discovery.**

(1) *Full Disclosure Required.* Except as provided in these rules, a party may obtain by discovery full disclosure regarding any matter relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking disclosure or of any other party, including the existence, description, nature, custody, condition, and location of any documents or tangible things, and the identity and location of persons having knowledge of relevant facts. The word “documents,” as used in these rules, includes, but is not limited to, papers, photographs, films, recordings, memoranda, books, records, accounts, communications and all retrievable information in computer storage.

(2) *Privilege and Work Product.* All matters that are privileged against disclosure on the trial, including privileged communications between a party or his agent and the attorney for the party, are privileged against disclosure through any discovery procedure. Material prepared by or for a party in preparation for trial is subject to discovery only if it does not contain or disclose the theories, mental impressions, or litigation plans of the party’s attorney. The court may apportion the cost involved in originally securing the discoverable material, including when appropriate a reasonable attorney’s fee, in such manner as is just.

(3) *Consultant.* A consultant is a person who has been retained or specially employed in anticipation of litigation or preparation for trial but who is not to be called at trial. The identity, opinions, and work product of a consultant are discoverable only upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject matter by other means.

**(c) Prevention of Abuse.**

(1) *Protective Orders.* The court may at any time on its own initiative, or on motion of any party or witness, make a protective order as justice requires, denying, limiting, conditioning, or regulating discovery to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or oppression.

(2) *Supervision of Discovery.* Upon the motion of any party or witness, on notice to all parties, or on its own initiative without notice, the court may supervise all or any part of any discovery procedure.

**(d) Time Discovery May Be Initiated.** Prior to the time all defendants have appeared or are required to appear, no discovery procedure shall be noticed or otherwise initiated without leave of court granted upon good cause shown.

**(e) Sequence of Discovery.** Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting

discovery shall not operate to delay any other party's discovery.

**(f) Diligence in Discovery.** The trial of a case shall not be delayed to permit discovery unless due diligence is shown.

**(g) Discovery in Small Claims.** Discovery in small claims cases is subject to Rule 287.

**(h) Discovery in Ordinance Violation Cases.** In suits for violation of municipal ordinances where the penalty is a fine only no discovery procedure shall be used prior to trial except by leave of court.

**(i) Stipulations.** If the parties so stipulate, discovery may take place before any person, for any purpose, at any time or place, and in any manner.

**(j) Effect of Discovery Disclosure.** Disclosure of any matter obtained by discovery is not conclusive, but may be contradicted by other evidence.

**(k) Reasonable Attempt to Resolve Differences Required.** The parties shall facilitate discovery under these rules and shall make reasonable attempts to resolve differences over discovery. Every motion with respect to discovery shall incorporate a statement that counsel responsible for trial of the case after personal consultation and reasonable attempts to resolve differences have been unable to reach an accord or that opposing counsel made himself or herself unavailable for personal consultation or was unreasonable in attempts to resolve differences.

**(l) Discovery Pursuant to Personal Jurisdiction Motion.**

(1) While a motion filed under section 2-301 of the Code of Civil Procedure is pending, a party may obtain discovery only on the issue of the court's jurisdiction over the person of the defendant unless: (a) otherwise agreed by the parties; or (b) ordered by the court upon a showing of good cause by the party seeking the discovery that specific discovery is required on other issues.

(2) An objecting party's participation in a hearing regarding discovery, or in discovery as allowed by this rule, shall not constitute a waiver of that party's objection to the court's jurisdiction over the person of the objecting party.

**(m) Filing Materials with the Clerk of the Circuit Court.** No discovery may be filed with the clerk of the circuit court except ~~upon leave by order of court or as authorized or required by local rule or these rules.~~ Local rules shall not require the filing of discovery. Any party serving discovery shall file a certificate of service of discovery document.

**(n) Claims of Privilege.** When information or documents are withheld from disclosure or discovery on a claim that they are privileged pursuant to a common law or statutory privilege, any such claim shall be made expressly and shall be supported by a description of the nature of the documents, communications or things not produced or disclosed and the exact privilege which is being claimed.

**(o) Filing of Discovery Requests to Nonparties.** Notwithstanding the foregoing, a copy of any discovery request under these rules to any nonparty shall be filed with the clerk in accord with Rule 104(b).

Amended effective September 1, 1974; amended September 29, 1978, effective November 1, 1978; amended January 5, 1981, effective February 1, 1981; amended May 28, 1982, effective July 1, 1982; amended June 19, 1989, effective August 1, 1989; amended June 1, 1995, effective January 1, 1996; amended March 28, 2002, effective July 1, 2002; amended Oct. 24, 2012, effective Jan. 1, 2013.

Committee Comments  
October 24, 2012

Paragraph (m) was amended in 2012 to eliminate the filing of discovery with the clerk of the circuit court absent leave of court granted in individual cases based on limited circumstances. The rule is intended to minimize any invasion of privacy that a litigant may have by filing discovery in a public court file.