

**PLEASE NOTE: Rule 1:38 has been revised.**

The version of Rule 1:38 attached to this pdf document has been superseded by the Supreme Court. The current version of Rule 1:38 is available at:

<http://www.judiciary.state.nj.us/rules/r1-38.htm>

**SUPREME COURT OF NEW JERSEY**

It is ORDERED that the attached amendments to Rules 1:38-3, 1:38-5, and 1:38-11 of the Rules Governing the Courts of the State of New Jersey are adopted effective immediately.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: January 5, 2010

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

The following court records are excluded from public access:

(a) ... no change

(b) ... no change

(c) ... no change

(d) ... no change

(e) Records of [ Surrogate ] Guardianship Proceedings.

Guardianship records and reports maintained by the Surrogate and by the Chancery Division, Probate Part, except that such records will be made available to the spouse or family members to the third degree of consanguinity of the ward. Any other individual or entity seeking such records must demonstrate before a Superior Court judge a special interest in the matter.

(f) Records of Other Proceedings.

(1) Records pertaining to mediation sessions and complementary dispute resolution proceedings pursuant to R. 1:40-4(d) and R. 7:8-1, but not the fact that mediation has occurred;

(2) Records and transcripts of civil commitment proceedings, pursuant to N.J.S.A. 30:4-24.3, N.J.S.A. 30:4-27.27(c), N.J.S.A. 30:4-82.4h, R. 4:74-7, and R.4:74-7A;

- (3) Police investigative reports, unless admitted into evidence or submitted to the court in support of a motion, brief, or other pleading;
- (4) Records that are impounded, sealed pursuant to R. 1:38-11, or subject to a protective order pursuant to R. 4:10-3;
- (5) Criminal, Family, and Probation Division records pertaining to any investigations and reports made by court staff or pursuant to court order for a court or pertaining to persons on probation;
- (6) Family, Finance and Probation Division records containing information pertaining to persons receiving or ordered to pay child support, including the child(ren); custodial parents; non-custodial parents; legal guardians; putative fathers; family members and any other individuals for whom information may be collected and retained by the court in connection with child support cases subject to Title IV-D of the Social Security Act, 42 U.S.C. §651 et seq. and applicable state and federal statutes, but not the complaint or orders in such cases; [.]
- (7) Records maintained by the Judiciary that contain identifying information about a person who has or is suspected of having AIDS or HIV infection, pursuant to N.J.S.A. 26:5C-7, except as provided in N.J.S.A. 26:5C-8 and -9;
- (8) Records of appeals from the Division of Developmental Disabilities in accordance with N.J.S.A. 30:4-24.3.

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.

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

The following administrative records are excluded from public access:

(a) ... no change

(b) ... no change

(c) ... no change

(d) ... no change

(e) ... no change

(f) ... no change

(g) Juror source lists prepared pursuant to N.J.S.A. 2B:20-2, jury questionnaires completed pursuant to N.J.S.A. 2B:20-3, and preliminary lists prepared pursuant to N.J.S.A. 2B:20-4 of persons to be summoned for possible service as grand or petit jurors, which shall remain confidential, except as provided in Rule 1:8-5, unless otherwise ordered by the Assignment Judge;

(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

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.

### 1:38-11. Sealing of Court Records

(a) Information in a court record may be sealed by court order for good cause as defined in this section. The moving party shall bear the burden of proving by a preponderance of the evidence that good cause exists.

(b) Good cause to seal a record shall exist when:

(1) Disclosure will likely cause a clearly defined and serious injury to any person or entity; and

(2) The person's or entity's interest in privacy substantially outweighs the presumption that all court and administrative records are open for public inspection pursuant to R. 1:38.

(c) The provisions of this rule do not apply to actions required to be sealed pursuant to the New Jersey False Claims Act (N.J.S.A. 2A:32C-5(c)).

Note: New Rule 1:38-11 adopted July 16, 2009 to be effective September 1, 2009; new paragraph (c) adopted January 5, 2010 to be effective immediately.