

## MEMORANDUM

To: Advisory Committee on Rules  
From: Carolyn Koegler  
Re: # 2018-011. Circuit Court Rules. Confidential Documents and Confidential Information  
Date: November 26, 2018

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As you may recall, a subcommittee chaired by Judge Delker had recommended a set of proposed rules regarding the filing of confidential documents and documents containing confidential information. A May 9, 2017 memo from Judge Delker stated, “the same set of rules should be incorporated in the superior court rules of civil and criminal procedure. . . . and the rules applicable to all case types in Circuit Court that are not governed by electronic filing.” However, Committee discussions about the proposal seemed to focus on Superior Court filings and the August 1, 2018 report to the Court included a proposal to amend only the Superior Court Civil Rules.

When the Court requested comment on the proposals made in the August 1, 2018 report, it requested comment only on the proposal to amend the Superior Court Civil Rules to adopt the rules relating to the filing of confidential documents and documents containing confidential information.

On November 5, the Court amended the Superior Court Civil Rules, effective January 1, 2019. The Court also amended the New Hampshire Rules of Criminal Procedure to adopt the rules relating to the filing of confidential documents and documents containing confidential information for criminal cases filed in Superior Court on a temporary basis. The Court did not amend any of the Circuit Court Rules.

The Court understands that, due to concerns related to electronic filing, the Circuit Court prefers that the Court not yet amend the Circuit Court Rules to adopt the rules proposed by the Delker subcommittee. Therefore, the Court refers the issue of whether and when to amend the Circuit Court Rules back to the Advisory Committee on Rules. The Court suggests that the Committee may wish to consider this issue at the Committee’s June or September 2019 meeting.