ACCESS/ Rhode Island
Freedom of Information Coalition

COMMENTS ON PROPOSED RULES OF PRACTICE GOVERNING PUBLIC ACCESS TO THE ELECTRONIC CASE REPOSITORY
April 2026

These comments are submitted on behalf of ACCESS/RI, and its members, the American Civil Liberties Union of Rhode Island, Common Cause Rhode Island, the League of Women Voters, the New England First Amendment Coalition, and the Rhode Island Press Association.

We appreciate the opportunity to once again offer comments on these proposed rules implementing the court's updated electronic filing system. While some positive changes have been made to the proposal since testimony was last elicited a year ago, our coalition continues to have concerns that the proposed standards for public access to court records fail in a few ways to meet the transparency goals that should be a key component of this new electronic system. We wish to focus specifically on two of them, which are summarized below.

Fees

Our most significant objection continues to involve the proposed change to proposed Rule 5(c)(4), which would authorize the judiciary to charge fees for the remote downloading or printing of documents. We again strenuously urge the deletion of this provision.

The rule provides no clue as to the amounts that would be charged, but any cost is bound to inhibit many individuals from taking advantage of the new system's remote access capabilities.

We recognize that the federal court's electronic system PACER charges fees for downloading most documents, but those fees have, rightly, been the subject of tremendous criticism over the years, and even successful litigation. Since there is no cost to the Court in allowing for the downloading and printing of documents once they have been filed and entered into the system, imposition of a fee for this access is unnecessary and unwarranted, and a major barrier to the transparency that this new system of remote access should foster.

We do not find persuasive any argument that a charge is necessary to cover the costs of running the system. Both state law and court rules have for years specifically provided for the application of a technology fee with the filing of every case. See R.I.G.L. § 8-15-11 and RI Sup.Ct.Rules, Art. X, Electronic Filing, Rule 9. That fee will continue to be charged and should obviate any possible need to also charge the public for access to documents in the electronic system.

We therefore renew our request for the retention of current Rule 5(c)(4), which specifies that there is no charge for access to remote information.

Remote Access to Exhibits

Last year, we expressed concern that the proposal indicated that the public would not have access to any exhibits filed in a lawsuit. The latest version of the

proposal clarifies that this prohibition is limited to *trial* exhibits, not exhibits that are electronically filed with complaints, memoranda of law, etc. Rule 5(d)(2).

This is an important and welcome clarification. As the court is aware, exhibits to a case can often provide essential information to understanding the details of a lawsuit and the evidence underpinning it. At the same time, this can also be said for trial exhibits. While there are obviously certain types of physical exhibits presented at trial that are not documents and not uploadable, we do not understand what technical limitations would prevent the uploading of paper trial exhibits to the portal. We urge that this rule be amended to establish a process for the uploading of paper trial exhibits to the portal in order to make them available for public access.

Finally, we wish to express two tangential concerns related to this rule promulgation. First, as we have pointed out previously, we fear there are potential pitfalls in the implementation of the re:Search technology – such as the utility of its search functions – based on experiences in other states. Once the new system is up and running here, we hope that the court will be amenable to promptly addressing any functionality problems brought to its attention.

Second, we were troubled by the court's decision last year not to make publicly available the written testimony that had been submitted in response to the last iteration of these proposed rules. We believe such commentary should clearly be deemed a matter of public record, and we hope the court will not once again draw a veil of secrecy around the testimony it receives this time around.

We also hope that, in light of the importance of the transparency issues we have raised, the revisions we have suggested will be made to better promote the public's right to know.

Thank you for considering our views.

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