

MASSACHUSETTS RULES OF CIVIL PROCEDURE

RULE 11. APPEARANCES AND PLEADINGS; SIGNATURES

Reporter's Notes--2027

The 2027 amendments to Rule 11 allow parties and attorneys to affix electronic signatures to pleadings and other documents in matters governed by the Massachusetts Rules of Civil Procedure. The amendments are consistent with Supreme Judicial Court Rule 1:26, Electronic Signatures of Attorneys and Parties, which went into effect simultaneously with the Rule 11 amendments.

Electronic signatures are already authorized for cases using the court's Electronic Filing Service Provider by Rule 13 of the Massachusetts Rules of Electronic Filing (Supreme Judicial Court Rule 1:25). For cases not governed by the electronic filing rules, electronic signatures were previously authorized by an Order of the Supreme Judicial Court issued at the beginning of the COVID-19 pandemic. Updated Order Authorizing Use of Electronic Signatures by Attorneys and Self-Represented Parties, issued June 10, 2020 ("Updated Order") (replacing an earlier order issued March 25, 2020). See <https://www.ma-appellatecourts.org/docket/OE144>. The Updated Order was repealed as of the effective date of Supreme Judicial Court Rule 1:26 and the 2027 amendments to Rule 11.

A survey of the bar conducted during the pandemic by the Supreme Judicial Court regarding various emergency COVID-19 orders showed that 94.87% of participants favored the use of electronic signatures.

As discussed later, unlike the Updated Order, the 2027 rule, consistent with Supreme Judicial Court Rule 1:26, does not allow electronic signatures on affidavits from third persons.

The 2027 amendments do not address (nor are intended to prohibit) the common practice where an attorney, after having obtained authority to do so, signs the name of another attorney to a motion, stipulation, or other paper.

Title to Rule 11.

To reflect the revisions to Rule 11 regarding electronic signatures, the title of Rule 11 has been updated to include the word "signatures."

Rule 11(a)(1).

A sentence has been added to Rule 11(a)(1) specifying that personal pronouns may be included in a pleading, consistent with Supreme Judicial Court Rule 1:08, Case and Filer

Information on Papers Filed in All Courts (as amended effective October 1, 2022). The provision allowing personal pronouns likewise applies to motions and other papers as provided in the rules. Rule 7(b)(2).

The requirement that an attorney include the name of the attorney's firm is also drawn from Supreme Judicial Court Rule 1:08. That information may be helpful to court clerks as well as to judges who may more easily become aware of a potential conflict of interest related to the law firm with which the attorney is affiliated. See Supreme Judicial Court Rule 3:09, Code of Judicial Conduct, Rule 2.11, Disqualification.

An attorney's Board of Bar Overseers number has been added to the listing of information to be included.

For clarity, the word "address" has been replaced with "mailing address."

All of the provisions regarding what may or must be included in pleadings under Rule 11(a) also apply to motions: "The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules." Rule 7(b)(2).

Rule 11(a)(2).

Rule 11(a)(2) restates the language regarding verification of pleadings and affidavits that was contained in prior Rule 11(e).

Prior to the 2027 amendments, Rule 11(a)(2) stated that pleadings filed pursuant to the Massachusetts Rules of Electronic Filing may be signed electronically. That sentence has been stricken in light of revised Rule 11(a)(3), which allows electronic signatures in certain instances.

Rule 11(a)(3).

Rule 11(a)(3) allows the use of electronic signatures in three instances: (1) signing of pleadings by attorneys and self-represented litigants (Rule 11(a)(3)(A)); (2) signing of pleadings by attorneys providing assistance to self-represented litigants in legal aid programs or Court Service Centers (Rule 11(a)(3)(B)); and (3) verified pleadings and affidavits of parties (Rule 11(a)(3)(C)). By virtue of Rule 7(b)(2), electronic signatures are likewise authorized for motions and other papers.

The rule does not allow non-parties to sign pleadings or affidavits electronically.

Language in existing Rule 11(a)(1) allows the filing of a motion to strike a pleading where it "is not signed, or is signed with intent to defeat the purpose of this Rule." This language would likewise provide a mechanism to challenge an electronic signature that was not authorized by or otherwise is in violation of amended Rule 11(a)(3). See paragraph 9 of the Updated Order, which states that where "a party has a good faith basis to believe that an

electronic signature was not authorized by the attorney, self-represented party, or other person whose signature it purports to be, a challenge may be raised promptly by way of motion.”

Rule 11(a)(3)(A).

Rule 11(a)(3)(A) allows both an attorney representing a party and a self-represented litigant to sign a pleading electronically. The methods to sign pleadings electronically are those set forth in Supreme Judicial Court Rule 1:26 (which is patterned after language in the Updated Order and Rule 13 of the Massachusetts Rules of Electronic Filing).

Rule 11(a)(3)(B).

Rule 11(a)(3)(B) allows an attorney in a legal aid program or Court Service Center who assists a self-represented litigant to affix the signature of the self-represented litigant to a pleading. The self-represented litigant must review and approve the document and provide “express written or oral authorization” to the attorney to sign the document. The attorney is required to retain any written authorization, and if the authorization was provided orally, must make a record so indicating and retain the record.

Rule 11(a)(3)(C).

Rule 11(a)(3)(C) allows a party to electronically sign a verified pleading, an affidavit, or a document required to be signed under oath or under the penalties of perjury, unless otherwise provided by law or ordered by the court. Examples of rules that require parties to sign documents under oath or the penalties of perjury include Rule 4.1 (attachment), Rule 4.2 (trustee process), Rule 8.1 (certain consumer debt collection actions); Rule 23.1 (complaint in a shareholder derivative action); Rule 33(a)(3) (answers to interrogatories); Rule 36(a) (written statement denying a matter set forth in a request for admission); and Rule 55.1 (defaults involving certain consumer debt collection actions). See Rule 43(d), providing that where an oath is required, “a solemn affirmation under the penalties of perjury may be accepted in lieu thereof.”

With an express written authorization of a party, the party’s attorney may electronically sign such documents.

Unlike the Updated Order, Rule 11(a)(3)(C) and Supreme Judicial Court Rule 1:26 do not allow electronic signatures for affidavits from non-parties.

An electronic signature may consist of a scan of a handwritten signature, an image intended to substitute for a signature, or a “/s/ name of signatory” block. Rule 11(a)(3)(C)(i), cross-referencing Rule 11(a)(3)(A).

Where a party affixes the party’s own electronic signature, the party must hand sign the document or a copy of the document “as early as practicable.” A self-represented litigant or the party’s attorney is required to serve a copy of the hand-signed document upon all parties to the case within a reasonable time and it must be retained by the self-represented litigant or the

party's attorney until the case is concluded. Rule 11(a)(3)(C)(ii). Although documents served on parties must generally be filed with the court, an amendment to Rule 5(d)(2), effective simultaneously with the 2027 amendments to Rule 11, provides for nonfiling of such documents, unless otherwise ordered by the court in a particular case or otherwise provided by a rule of court.

The reference to “a rule of court or standing order” is intended to authorize a rule or standing order that requires filing in general or filing of particular types of documents or that exempts certain types of cases from the requirement of a hand-signed signature. For example, technological developments now allow certain civil actions, such as petitions to seal eviction records (G.L. c. 239, § 16), to be filled out directly online and signed and filed electronically. Some members of the Standing Advisory Committee on the Rules of Civil Procedure have suggested that it may be cumbersome to require the printing of a paper copy of a petition to seal an eviction record where the petition is completed, signed, and filed using an authorized online platform. See press release from the trial court, “Massachusetts Trial Court Launches Tool for E-Filing Petitions to Seal Eviction Records” (May 5, 2025), announcing “the Eviction Sealing Guided Interview, a free, online tool that guides individuals through the process of completing and electronically filing a Petition to Seal Eviction Records” (G.L. c. 239, § 16), available at <https://www.mass.gov/news/massachusetts-trial-court-launches-tool-for-e-filing-petitions-to-seal-eviction-records>. These members of the Standing Advisory Committee on the Rules of Civil Procedure have suggested that the trial court may want to consider exempting such petitions from the wet signature requirement of Rule 11.

The impact of the wet signature and service requirements on litigants who request that fees or costs be waived or paid by the state by completing an Affidavit of Indigency (G.L. c. 261, §§ 27A-27G) was also considered by the Standing Advisory Committee on the Rules of Civil Procedure, in particular because many litigants complete the form and sign the form electronically using an online forms program. The Affidavit of Indigency form that is currently in use in the courts of the Commonwealth states as follows at the bottom of the form: “By order of the Supreme Judicial Court, all information in this affidavit is CONFIDENTIAL. Except by special order of a court, it shall not be disclosed to anyone other than authorized court personnel, the applicant, applicant's counsel or anyone authorized in writing by the applicant. This form prescribed by the Chief Justice of the SJC pursuant to G.L. c. 261, § 27B. Promulgated March, 2003.” To comply with the confidentiality requirement prescribed by the Chief Justice, a party or party's attorney who signs electronically must obtain a wet signature in accordance with Rule 11(a)(3)(C) but should not serve on other parties a copy of the affidavit or any supplement to the affidavit that contains the wet signature.

It should be noted that the Chief Justice of a department must approve any proposed standing order and the proposed standing order must be submitted to the Chief Justice of the Trial Court “for review.” Trial Court Rule V (Procedure Regulating the Issuance of Standing Orders).

Where an attorney affixes a party's electronic signature to a document, the attorney must indicate that it was signed with the party's approval (“signed w/ approval”), must sign the attorney's name, and set forth the attorney's name and Board of Bar Overseers number. The

attorney must obtain the party's written authorization to sign electronically and must obtain "as early as practicable," the document containing the party's signature (or a copy) and must retain it until the case is concluded. Rule 11(a)(3)(C)(iii). As in the case of a party who affixes the party's own electronic signature to a document, an attorney who affixes a party's electronic signature to a document must serve a copy of the hand-signed document on all parties (and the hand-signed document should not be filed unless otherwise ordered by the court in a particular case or otherwise provided by a rule of court).

The hand-signed document or copy must be produced if requested or upon court order. Rule 11(a)(3)(C)(ii) and (iii), 5. One reason why the hand-signed document is to be obtained and maintained is to facilitate cross-examination of an affiant with regard to the contents of the document and the affiant's signed attestation. Regarding admissibility of a copy of an original document, see Mass. G. Evid. § 1004(c) (2025).

Some may question why, in light the widespread use of electronic signature platforms, the rule requires a wet signature on a document. The Standing Advisory Committee on the Rules of Civil Procedure discussed the matter at length. The committee concluded that in litigation, access to a signed paper copy of a document may be useful, particularly with regard to cross-examination of an affiant where a filed affidavit may have been signed electronically. The committee took note of the requirement of a wet signature for certain affidavits in actions in the United States District Court for the District of Massachusetts. See Case Management/Electronic Case Files Administrative Procedures, M. 3. (as amended through July, 2011), which provides that where such an affidavit is filed electronically, an original signature must be obtained and "[t]he filing attorney shall retain the original for future production, if necessary, for two (2) years after the expiration of the time for filing a timely appeal."

Rule 11(a)(3)(D).

Rule 11(a)(3)(D) allows an attorney for a party to electronically sign an affidavit using the same methods as are set forth in Rule 11(a)(3)(A) and setting forth the attorney's name and Board of Bar Overseers number.

Rule 11(b)(2).

An attorney's business e-mail address, firm, if any, and Board of Bar Overseers number have been added to the listing of information to be included. See comment above under Rule 11(a)(1).

For clarity, the word "address" has been replaced with "mailing address."

Rule 11(c).

Changes have been made to eliminate gender references. No substantive changes were intended.

Rule 11(d).

The title of Rule 11(d) has been updated to refer to both a change of appearance and a change in contact information.

Rule 11(d) requires an attorney to notify the court in writing of a change of mailing address, telephone number, or e-mail address and requires the clerk to enter the change on the docket. However, under the current case management system used in the Massachusetts courts, trial court dockets are updated daily by an electronic feed from the Board of Bar Overseers to reflect attorneys' "business physical and electronic mailing addresses" which may be used "for the courts' business purposes" as appears in the records of the Board of Bar Overseers. SJC Rule 4:02(11). Accordingly, in addition to notifying the court, an attorney should "immediately" provide the Board of Bar Overseers with updated information to avoid a change in the court records back to the old information as result of the daily update from the Board of Bar Overseers. See also, SJC Rule 4:02(1), which requires an attorney to file with the Board of Bar Overseers updated information within fourteen days of any change.

For clarity, the word "address" has been replaced with "mailing address."

Changes have been made in Rule 11(d) to eliminate gender references. No substantive changes were intended.