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Includes amendments effective January 1, 2009

## **RULE 79. BOOKS AND RECORDS KEPT BY THE CLERK AND ENTRIES THEREIN**

(a) Civil Docket. The clerk shall keep the civil docket, and shall enter therein each civil action to which these rules are applicable. Actions shall be assigned docket numbers. Upon the filing of a complaint with the court, the name of each party and each trustee, and the name and address of the plaintiff's attorney shall be entered upon the docket. Thereafter the name and address of the attorney appearing or answering for any defendant or trustee shall similarly be entered. All pleadings and motions addressed in Rule 7(a) and (b), and any opposition thereto and any returns showing execution of process filed with the clerk, and all appearances, fee payments, orders, verdicts, and judgments shall be noted chronologically upon the docket and shall be marked with the docket number. These notations shall briefly show the nature of each document filed or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process. In the alternative the notation of an order or judgment may consist of an incorporation by reference of a designated order, judgment, opinion or other document filed with the clerk by the court, provided that the notation shows that it is made at the specific direction of the court. The notation of an order or judgment shall show the date the notation is made.

(b)(1) Motion to Impound. Upon the filing of a motion or other request to impound or seal documents or other materials, the clerk shall separate such materials from the publicly available file and keep them impounded or sealed pending the court's adjudication of the motion.

(2) Confidential Materials. Requests for inspection or copying of materials designated as confidential, impounded or sealed within a case file must be made by motion in accordance with Rule 7.

(c) Custody of Papers by Clerk. The clerk shall be answerable for all records and papers filed with the court, and they shall not be taken from the clerk's custody without special order of the court; but the parties may at all times have copies.

(d) Other Books and Records. The clerk shall keep such other books and records as may be required from time to time by the Chief Justice of the Superior Court, or the Chief Judge of the District Court, as the case may be.

**Advisory Note  
January 2009**

This amendment to Rule 79(a), in combination with an amendment to Rule 26(f)(1), is designed to reduce workload in court clerk's offices by eliminating the requirement that all papers, notices and other documents filed in a case be noted by an entry in the docket. In place of the "all papers" docketing requirement, the amended rule includes a listing of filings that must be docketed that denote events and progress in the case. With this change, entries in the docket will be required for each complaint, counterclaim, cross-claim, third-party complaint, for any answer or reply to any complaint or claim, for a disclosure under oath, if trustee process is used, for issuance of writs, and for all appearances, fee payments, motions, opposition to motions, requests for findings, orders, verdicts, judgments, amendments to judgments, and notices of appeal. However, other papers such as letters, notices, exhibits, and attachments to pleadings or motions will be date stamped when received and placed in the case file, but will not be noted in the docket.

**Advisory Committee's Notes  
May 1, 2000**

Subdivision (b) is adopted to include language covering the issue of confidential materials now addressed in the Administrative Order of May 28, 1996 regarding public access to court files.

**Advisory Committee's Notes  
1992**

Rule 79(b) is amended to facilitate implementation of 14 M.R.S.A. § 2401(l), enacted by P.L. 1991, ch. 125, prohibiting the destruction of court records "affecting title to or rights in land." Since extended records of judgments in real actions are no longer maintained and the judgment itself may simply be incorporated by reference on the docket under Rule 79(a), the actual judgment order in the file is the only source in many cases. The amendment requires a separate file of all judgments to be maintained by the clerk, permitting destruction of other file documents. All judgments are to be retained so that the clerk does not have to determine whether title to real estate is affected. *Cf.* Amendment of M.R. Civ. P. 10(a), effective January 1, 1992.

**Advisory Committee's Note**  
**February 1, 1983**

This deletion [of then 79(b), reserved for future use] recognizes that this subdivision has not been utilized for some time and is no longer necessary.

**Advisory Committee's Note**  
**April 15, 1975**

A next-to-the-last sentence is added to subdivision (a) in order to permit the court to direct that incorporation by reference on the docket of an order or judgment will constitute sufficient notation of judgment, in place of a statement of its substance.

By Rule 58 the notation of a judgment in the docket constitutes entry of judgment, thereby starting the time period running for a motion for a new trial or to alter the judgment (Rule 59), a motion for relief from the judgment (Rule 60(b)), or an appeal (Rule 73(a)). It is obviously important that there be no uncertainty as to when the judgment is entered. In a number of unreported cases, the Law Court has found appeals to be premature because no proper entry of judgment had ever been made. Also, in the case of a lengthy and complex order or judgment (as, for example, is not infrequently entered in an injunctive, multi-party, or class action), the notation upon the docket of the "substance" of the order or judgment is both difficult of proper preparation and cumbersome for physically placing on the docket. The amendment enables the judge in such a case to direct the clerk to enter judgment by means of a notation on the docket incorporating by reference a designated order, judgment, opinion or other document which the court has filed with the clerk. The parties are fully informed of the contents of the order or judgment through other means than the docket; and the clerks' offices, this Committee understands, have adequate methods to preserve documents that are so incorporated, in order thus to assure that any interested non-parties can have ready access to full information about the judgment.

The incorporation alternative should be used sparingly. It should be reserved for the truly lengthy and complex order or judgment. It may be used only at the specific direction of the court, and judges should not direct incorporation as a routine matter. It decidedly should be the exception to the rule.

**Explanation of Amendment**  
**(Dec. 1, 1959)**

Rule 79(b) was amended November 2, 1959, effective December 1, 1959, to reduce the number of actions for extended records must be prepared by the clerk while providing the Chief Justice with latitude to prescribe that additional records be maintained. It also provided that in actions for divorce a copy of the judgment be included in the extended record.

**Reporter's Notes  
December 1, 1959**

This rule differs considerably from Federal Rule 79.

Rule 79(a) requires the clerk to keep the civil docket. It is taken partly from Federal Rule 79(a) and partly from Revised Rules of Court 1 and 2.

Rule 79(b) includes the provisions of Revised Rules of Court 44 and Equity Rule 43, both as amended, for extended records in specified types of proceedings.

Rule 79(c) is taken from Revised Rules of Court 31.

Rule 79(d) is a general authorization to the Chief Justice of the Supreme Judicial Court to require the clerk to keep additional books and records.