Exhibit 1

Illinois Supreme Court Rules Committee

222 North LaSalle Street, 13th Floor
Chicago, Illinois 60601
Telephone: 312/793-3250
Facsimile: 312/793-0775

July 9, 2024

Via Email
Jaqueline Stevens
Northwestern University
Weinberg College of Arts and Sciences
Department of Political Science
601 University Place
Evanston, Illinois 60208

Dear Professor Stevens:

As you know, your proposal to amend Supreme Court Rule 8, which has been docketed as Proposal 24-08, was referred pursuant to Supreme Court Rule 3(d)(1) to the Supreme Court e-Business Policy Advisory Board (Board) for its review and recommendation. The Chair of the Board, Hon. Eugene Doherty, informed the Rules Committee today via email that the Board has recommended Proposal 24-08 not be adopted for the reasons stated in the email. See attached. In accordance with Supreme Court Rule 3, the Supreme Court Rules Committee will take no further action on Proposal 24-08 and the file will be closed.

Should you have any questions, please do not hesitate to contact me at (312)793-3250 or kmurphy@illinoiscourts.gov. On behalf of the Supreme Court Rules Committee, thank you for your submission and your interest in the improvement of the Illinois Supreme Court Rules.

Sincerely,

Katie Murphy
Secretary to the Rules Committee

Enc.

c: James Hansen, Chair, Supreme Court Rules Committee
Marcia Meis, Director, Administrative Office of the Illinois Courts

From:	Eugene G. Doherty
To:	Katherine Murphy
Cc:	James A. Hansen; Cynthia Grant; Jacque Hayes; jacqueline-stevens@northwestern.edu
Subject:	Supreme Court Rules Proposal 24-08
Date:	Tuesday, July 9, 2024 3:05:42 PM

Thank you for inviting the e-Business Policy Board to review and comment upon the rules change proposal designated No. 24-08. This proposal would amend various provisions of Supreme Court Rule 8.

First let me say that the Board understands and supports the general idea of public access to non-confidential court documents. The Supreme Court's actions over the years have demonstrated much the same position. The devil, however, is in the details, and our Board cannot support this proposal.

First, we have to begin with the observation that, pursuant to statute, records kept by the circuit clerk have long been presumptively public in nature: "All records, dockets and books required by law to be kept by such clerks shall be deemed public records, and shall at all times be open to inspection without fee or reward, and all persons shall have free access for inspection and examination to such records, docket and books, and also to all papers on file in the different clerks' offices and shall have the right to take memoranda and abstracts thereto." 705 ILCS 105/16.6. This excludes, of course, some types of records which have long been recognized as being protected by a greater degree of confidentiality, such as those in juvenile cases. (We do not understand that this principle is being questioned by Proposal No. 24-08.)

The next level of consideration is whether *electronic* access records to the clerk's records must also be provided as a matter of right in precisely the same way in which those records could be accessed in person. It is at this point that the proposal begins to depart from policy choices which the Supreme Court has already made. Risks such as identity theft present themselves when remote access to records is unconstrained. Thus, the Supreme Court adopted a Remote Access Policy intended to "balance competing interests with recognition that unrestricted access to certain court records and documents could result in unwarranted invasion of personal privacy and unduly increase the risk of irrevocable harm." This means that, while court "records and documents are presumptively open to public access unless restricted by court order, Court Rule, Law or policy … [t]he nature of the information contained in some court records and documents suggests that exclusion from Remote Access may be warranted, even though public access at the Courthouse is allowed." This is a decision made by the Supreme Court after careful consideration of the risks and benefits of unfettered remote access to the clerk's records. Proposal No. 24-08 rejects this careful balancing in favor of a blanket requirement of open remote access. This conflict cannot be resolved, and so the proposal should be rejected.

Additionally, Proposal 24-08 would essentially transport the substance of the statutory

requirement of open records into the Supreme Court Rule. First, as a principle of draftsmanship, “copying” the content of one provision into another should be avoided; when future changes are made to one but not the other, it creates the potential for conflicting provisions. Second, it seems clear that the importation of the statutory provision is intended to apply it to remote access situations as well; for the reasons stated above, that approach should not be followed.

Finally, Proposal 24-08 would change the definition of a public document and delete the words, “that is accessible by any person upon request.” Because the definitions in section (d) of Rule 8 are set forth in terms of the access permitted, we recommend keeping the existing language.

Eugene Doherty
Illinois Appellate Court, Fourth District