

Supreme Court of Kentucky

2018-11

AMENDED ORDER

In Re: Administrative Rules of Practice and Procedure for the Kentucky Court of Justice Electronic Filing Pilot Project

Section 1. Citation to Rules

These rules will be known as the “Administrative Rules of Practice and Procedure for the Kentucky Court of Justice Electronic Filing Pilot Project” and may be cited as the “eFiling Rules.”

Section 2. Authority

These rules are adopted under the authority granted to the Kentucky Supreme Court by Section 116 of the Kentucky Constitution to promulgate rules and issue orders of practice and procedure for the Kentucky Court of Justice. This Order does not abridge, enlarge, or modify the substantive rights of any litigant.

Section 3. Scope and Application

(1) These rules shall apply to supported case and filing types, in civil, criminal, domestic, juvenile, probate, and other matters in trial courts.

(2) Authorized eFilers may electronically file into a supported action even if the original action was filed conventionally. Service shall be conventionally made for all other parties who are not eFilers in an action.

Section 4. Integration with Other Rules; Precedence in Event of Conflict

(1) These rules supplement the Kentucky Rules of Civil Procedure (“CR”), the Kentucky Rules of Criminal Procedure (“RCr”), the Kentucky Family Court Rules of Procedure and Practice (“FCRPP”), Juvenile Court Rules of Procedure and Practice (JCRPP), and the Local Rules of Court approved by this Court pursuant to SCR 1.040(3)(a) (“Local Rules of Court”)(All hereinafter broadly referred to as “Kentucky Rules of Procedure”). The filing and service requirements set out herein are deemed to comply with the Kentucky Rules of Procedure. To the extent these eFiling Rules are inconsistent or otherwise conflict with the Kentucky Rules of Procedure, these rules will control in cases subject to electronic filing.

(2) No local rules, practices, procedures, orders, or other policies of any district or circuit may conflict with or controvert these rules; further, to the extent that

any such local rules, practices, procedures, orders, or other policies are inconsistent or otherwise conflict with these rules, these rules shall prevail.

Section 5. Definitions

- (1) "AOC" means the Administrative Office of the Courts.
- (2) "Case entry" means an entry created within the court's case management system which records each document filed or entered in a case.
- (3) "Clerk" means the circuit court clerk.
- (4) "Conventionally filed" means the filing of paper documents with the clerk, pursuant to the Kentucky Rules of Procedure, as is done in cases that are not eFiling cases.
- (5) "Documents" means pleadings, motions, exhibits, declarations, affidavits, memoranda, papers, orders, notices, and any other filings to or by the court.
- (6) "eFiler" means an individual who is authorized by Section 6(1) of these rules to file documents electronically through the electronic filing system.
- (7) "Electronic filing (eFiling)" means the electronic transmission to the court of a document using the court's electronic filing system, together with the transmission from the court of a notice of electronic filing containing an electronic hyperlink to the filed document. Sending a document to the court via email or facsimile does not constitute "electronic filing."
- (8) "Electronic filing (eFiling) system" means the automated system approved by the Kentucky Supreme Court for the filing and service of documents via electronic means.
- (9) "Electronic identity" means the combination of the eFiler's login ID/user name, password, and profile.
- (10) "Electronic service" means the electronic transmission of documents to a party via the court's eFiling system. Electronic service does not include service of process to gain jurisdiction over persons or property, or service of subpoenas. Registration with the eFiling system constitutes consent to electronic service of all documents as defined in these rules. Electronic service of documents is sufficient to provide service in accordance with the Kentucky Rules of Procedure; no other service is required.
- (11) "Electronic signature" means the electronic symbol "/s/ typed name" attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document. The term may also include an electronic image of original handwritten signatures.

(12) "Envelope" means the package of electronically transmitted data and attachments which constitute an eFiling submission.

(13) "Hyperlink" means an electronic connection, which when selected, takes the reader to another place in the document or to a location outside the document.

(14) "Jurisdictional deadline" means a deadline set by statute or rule that the court may not extend or change.

(15) "Nonconforming document" means a document which does not conform to the formatting and technical requirements set out in Section 7.

(16) "Notification of Court Processing (NCP)" means a notice automatically generated by the electronic filing system indicating that an eFiled document has been processed by the clerk. The NCP will indicate whether the filing has been accepted or rejected.

(17) "Notice of Electronic Filing (NEF)" means a notice automatically generated by the electronic filing system at the time a document is filed with the system, containing the date and time of filing and an electronic hyperlink to the document filed.

(18) "PDF" means an electronic document filed in a portable document format which is readable by the free Adobe® Acrobat® Reader.

(19) "PDF/A" means an ISO-standardized version of the Portable Document Format (PDF) specialized for the digital preservation of electronic documents.

(20) "Protected information" means information required to be redacted pursuant to CR 7.03 and in accordance with Section 10 of these rules.

(21) "Scanned document" means an electronic image created by scanning a paper document.

(22) "Self-represented party" means a party who represents himself or herself without the assistance of an attorney.

(23) "Technical failure" means failure of the court's hardware, software, and/or telecommunications facility which results in the impossibility for an eFiler to submit a filing electronically. Technical failure can also include the malfunctioning of an eFiler's equipment.

(24) "Uniform Resource Locator (URL)" means letters and symbols that comprise the address of a website.

Section 6. Registration and Responsibilities of eFilers

(1) Authorized eFilers. Registration is limited to:

- (a) Licensed attorneys in good standing with the Kentucky Bar Association who have completed eFiling certification;
- (b) Judges and their staff;
- (c) Court administrative staff, including technical support staff;
- (d) Government employees and law enforcement with authorized access to eFile in cases relating to their functions; and
- (e) Self-represented parties may be permitted to electronically file subject to authentication and training requirements imposed by the AOC. Nothing in this subsection shall be construed to convey a right to file electronically if authentication or training requirements are not available or have not been completed by a self-represented party.

(2) Registration.

- (a) The eFiler's login ID/user name, password, and profile will constitute the eFiler's electronic identity and user account for purposes of this eFiling rule. eFilers must register online through the Kentucky Court of Justice's KYeCourts website.
- (b) The eFiler will be subject to the terms of the eFiling system user agreement.
- (c) A Commonwealth or County Attorney may elect to use an office account to receive notifications for all eFiled documents in criminal cases within their jurisdiction. Creation and use of an office account under this subsection constitutes consent to electronic service of all documents as defined in these rules.

(3) Responsibilities of eFilers.

- (a) If an eFiler believes that the security of his or her electronic identity has been compromised or that a threat to the system exists, the eFiler must notify the AOC eFiling website administrator.
- (b) It is the responsibility of the eFiler to have a valid and working email address that has not exceeded its size limitation in order to receive orders and other documents served electronically. It is not the responsibility of the court, the clerk, or the AOC to ascertain whether an eFiler is receiving notifications from the eFiling system via email.

(c) If an eFiler's email address, phone number, or other information provided in the eFiler's profile has changed, the eFiler must promptly make the necessary changes to his or her profile.

Section 7. Format and Technical Requirements

(1) Conversion to PDF/A or PDF format required. Electronically filed documents must meet the same requirements of format and page limits as paper documents conventionally filed pursuant to the Kentucky Rules of Procedure, including page and word limits.

(a) Documents must be converted to PDF/A or PDF format before they are filed in the eFiling system. PDF/A is the preferred format for purposes of this pilot project.

(b) The eFiler must ensure that the filing is an accurate representation of the document and is complete and readable.

(2) Envelope size limitation. eFiling envelopes, including all attachments, must not exceed fifty (50) megabytes.

(3) Format. Documents filed electronically must comply with the following format requirements:

(a) 8 ½" x 11" size;

(b) At least 200 dot-per-inch (DPI) resolution;

(c) No unintelligible images (e.g., no all-black images);

(d) Documents must not be secured, password-protected, or have other features limiting access;

(e) No document shall contain any external hyperlinks; however, URL citations are permissible;

(f) Only readable word and viewable pictures or images, and valid, non-corrupted tables shall be included;

(g) Documents must not be corrupted (e.g., a corrupt file having -0- bytes of data); and

(h) Documents must comprise the complete image or file. The eFiler must ensure and verify that uploads to the eFiling system are properly completed.

(4) Nonconforming documents. Documents which do not conform to the above requirements or which cannot be scanned and converted to a PDF or PDF/A (i.e., video or audio recordings, large maps, etc.) must be filed conventionally, with electronic notice to all parties.

(5) Color documents. Exhibits or attachments containing color images may be eFiled, but must also be conventionally filed for the record.

(6) Hyperlinks. No electronically filed document may contain hyperlinks other than internal hyperlinks to the document itself.

Section 8. Electronic Filing

(1) In order to become an eFiler in a supported action, the eFiler must electronically file an Entry of Appearance or any other supported document in that case, or the eFiler may use a supported feature for the purpose of opting into cases. Registering as an eFiler does not automatically opt an eFiler into the eFiler's other existing cases. Registration is not complete until the Circuit Court Clerk transmits a Notification of Court Processing accepting the filing. Electronic service through the eFiling system will not be made on parties associated with the case who are not registered eFilers.

(2) Notice of Electronic Filing.

(a) Upon the filing of a document, a Notice of Electronic Filing (NEF), with a hyperlink to the electronic document, will be automatically generated by the eFiling system, and sent via email to the email addresses of all parties who have registered in the case. The NEF will record the date and time of the filing of the document in the time zone of the receiving court.

(b) All notices of electronic filing and other system notifications will be viewable in the eFiling system under the "Notifications" screen.

(c) In addition to the caption requirements set out in CR 10.01, each document filed electronically will receive a stamp by the eFiling system indicating the document has been electronically filed.

(3) Filing. The electronic transmission of a document to the eFiling system in accordance with the procedures specified in these rules, together with the generation and transmission of a Notice of Electronic Filing from the court with a hyperlink to the electronically filed document, constitutes filing of the document for all purposes of the Kentucky Rules of Procedure.

(a) A document filed electronically is deemed filed on the date and time stated on the Notice of Electronic Filing from the court, regardless of

when the eFiler actually transmitted the document or when the clerk actually processed the envelope.

(b) Filing a document electronically does not alter the filing deadline for that document. Filing must be completed BEFORE MIDNIGHT, in the time zone of the receiving court, in order to be timely filed. However, if time of day is of the essence, the presiding judge may order a document filed by a certain time.

(c) Emailing a document to the clerk's office or to the presiding judge does not constitute filing the document. A document will not be considered filed until the eFiling system generates a Notice of Electronic Filing with a hyperlink to the electronically filed document.

(d) While the eFiling system is designed to accept filings 24 hours a day, it may not always be available due to scheduled maintenance or technical difficulties experienced by the eFiler or system. eFilers are encouraged to file documents in advance of filing deadlines and during normal business hours in the event assistance or support is needed from the AOC's eFiling help line.

(4) Case entries. The clerk receiving an electronic filing will create a case entry using the information provided by the eFiler to record the document filed. If errors in the filing or case entry are discovered by the clerk, the clerk may:

(a) make minor corrections to the case entry, with or without notifying the parties;

(b) return the envelope to the eFiler indicating what further action, if any, is required to address the error. Filers notified of an error through a Notification of Court Processing shall make corrections within two (2) business days of receiving the returned envelope from the clerk. Corrections shall be made in good faith and limited to the specified error(s) identified in the Notification of Court Processing. Timely correction shall preserve the original date and time found on the Notice of Electronic Filing. Failure to make corrections could result in a failure to comply with applicable deadlines. Local rules regarding motion hour deadlines are unaffected by this subsection; or

(c) disregard the error.

(5) Proposed or tendered documents.

(a) If the filing of an electronically submitted document requires leave of court, such as an amended complaint or a document to be filed out of time, the eFiler should attach the proposed document as an attachment

to the motion requesting leave to file. If the court grants the motion and allows the proposed document, the eFiler must refile the proposed document to make it part of the record.

(b) If the eFiler is submitting a proposed order or other proposed or tendered documents such as, but not limited to, judgments, findings of fact and conclusions of law, or jury instructions, the order or other documents may be submitted in PDF or PDF/A format as well as an editable format in .doc format capable of being read by Microsoft Word, and should be identified as “proposed.”

(6) Attachments and exhibits. Attachments and exhibits which do not conform to the requirements set out in Section 7 or which cannot be scanned and converted to a PDF or PDF/A (i.e., video or audio recordings, large maps, etc.) must be filed conventionally, with electronic notice to all parties. A party must serve conventionally filed materials on other parties as if not subject to these electronic filing procedures.

Section 9. Discovery and Sealed Documents

(1) Discovery requests and responses as identified in CR 5.06 and RCr 7.24 shall not be electronically filed unless ordered by the court, used at trial, necessary to a pretrial motion, propounded at the onset of an action pursuant to CRs 33.01(2), 34.01(2), and 36.01(2), or agreed to by stipulation.

(2) The eFiling system will not be used for the electronic exchange of discovery materials and other communications between the parties that are not intended to be filed with the court. Parties may exchange discovery materials electronically by mutual consent consistent with CR 5.02, but not via the court’s eFiling system.

(3) The following documents must be conventionally filed: (i) any document in a sealed case; (ii) any document ordered sealed in an otherwise public record; (iii) a motion to seal and any document that is the subject of that motion, including any document requested to be reviewed *in camera*; (iv) depositions upon oral examination required by CR 30.06(1) to be delivered to the clerk by the officer taking the deposition; and (v) depositions upon written questions required by CR 31.02 to be filed by the officer taking the deposition.

Section 10. Redaction Requirements

(1) Compliance with CR 7.03.

(a) All eFilers must comply with the redaction requirements set out in CR 7.03, “Privacy protection for filings made with the court.” These requirements apply to all documents, including attachments and exhibits. The clerk will not review filings for compliance with this rule. *The responsibility to redact filings rests with the eFiler.*

(b) The provisions of CR 7.03 apply to all eFiled documents regardless of the case type.

(c) eFilers are cautioned, in accordance with CR 7.03(7), that failure to redact information deemed private by CR 7.03 and/or the inclusion of irrelevant personal information in a document, attachment, or exhibit filed electronically with the court may subject the eFiler to the disciplinary and remedial powers of the court, including sanctions pursuant to CR 11.

(2) Improperly included private or protected information.

(a) A party may move to redact improperly included private or protected information from an eFiled document and may request an immediate order from the court temporarily deleting the document from the system pending notice and opportunity to be heard by all parties.

(b) If, after hearing, the court finds that private or protected information was improperly included in an eFiled document, the court may order the clerk to permanently delete the document from the system and require the filing party to file a redacted copy of the document.

(c) If, after hearing, the court does not find that private or protected information was improperly included and the document has been temporarily deleted from the system under paragraph (a), the filing party is responsible for refileing the document electronically.

Section 11. Signatures

(1) Generally. A document electronically filed using the eFiling system must bear the electronic signature of the filing party's attorney or the filing party, if self-represented, as more fully described in paragraphs (a) and (b) below. The electronic signature of the filing party's attorney or the filing party, if self-represented, will be treated as a personal signature and will serve as a signature for purposes of CR 11, all other Kentucky Rules of Civil Procedure, the Kentucky Rules of Criminal Procedure, the Kentucky Family Court Rules of Procedure and Practice, the Juvenile Court Rules of Procedure and Practice, any applicable statutes, the Local Rules of Court, and any other purpose for which a signature is required in connection with proceedings before the court.

(a) An electronically filed document must include a signature block setting forth the name, mailing address, phone number, fax number, and email address of the filing party's attorney or the filing party, if self-represented.

(b) In addition, the name of the filing party's attorney or the filing party, if self-represented, must be preceded by an "/s/" and typed in the space

where the signature would otherwise appear. An electronic image of a handwritten signature may be applied to a signature line. A handwritten signature is required for any conventionally filed document.

(c) Affidavits and exhibits to pleadings with original handwritten signatures must be scanned and filed in PDF or PDF/A format.

(d) An eFiler may not submit a document on another person's behalf without the intent to represent a party or participate in the case. Electronically filing a document without the intent to represent a party or participate in the case could result in CR 11 sanctions.

(2) Signatures of more than one party required. A document requiring signatures of more than one party must be filed either by:

(a) representing the consent of the other parties on the document by inserting in the location where each handwritten signature would otherwise appear the typed signature of each person, other than the filing party, preceded by an "/s/" and followed by the words "by permission" (e.g., "/s/ Jane Doe by permission"); or by

(b) electronically filing a scanned document containing all necessary signatures.

(3) Signatures of judges and other court officials. If the signature of a judge or other court official (e.g., a court commissioner or clerk) is required on a document, an electronic signature may be used. The electronic signature shall be treated as the judge's or court official's personal signature for purposes of CR 11, all other Kentucky Rules of Civil Procedure, the Kentucky Rules of Criminal Procedure, the Kentucky Family Court Rules of Procedure and Practice, the Juvenile Court Rules of Procedure and Practice, any applicable statutes, the Local Rules of Court, and any other purpose for which the signature is required in connection with proceedings before the court.

(4) Documents required to be notarized, acknowledged, verified, or made under oath. The signature on any document required to be notarized, acknowledged, verified, or made under oath must be handwritten and scanned into the eFiling system. The court will maintain the scanned document as the official court record, and the filing party must retain the originally executed copy in accordance with Section 17, Retention Requirements. The court may require the filing party to produce the original paper document if validity of the signature is challenged.

(5) Challenging or disputing authenticity.

(a) A non-filing signatory or party who disputes the authenticity of an electronically filed document with a non-attorney signature, or the authenticity of the signature on that document; or the authenticity of an electronically filed document containing multiple signatures, or the authenticity of the signatures themselves, must file an objection to the document within fourteen (14) days of service of the document. An objection to the document shall place a burden on the non-moving party to prove authenticity. Failure to prove authenticity by the non-moving party will result in the filing being stricken from the record.

(b) If a party wishes to challenge the authenticity of an electronically filed document or signature after the fourteen (14) day period, the party shall file a motion to seek a ruling from the court and show cause for the delayed challenge. If the challenge to authenticity is allowed by the court, the non-moving party shall have the burden to prove authenticity. Failure to prove authenticity by the non-moving party will result in the filing being stricken from the record.

Section 12. Electronic Service of Documents

(1) Notice of Electronic Filing. Upon the electronic filing of a document, the court's eFiling system will automatically generate and send a Notice of Electronic Filing (NEF) to all eFilers associated with that case, along with a hyperlink to the electronic document. Transmission of the NEF with a hyperlink to the electronic document constitutes service of the filed document under CR 5. No other service on those parties is required.

(2) Parties must serve a paper copy of any eFiled document in the manner required by CR 5 on a party or other person entitled to service who is not a registered eFiler. It is the responsibility of the eFiler to review the list of parties who will receive electronic service as indicated by the eFiling system and determine which parties, if any, require conventional service.

(a) The Notice of Electronic Filing will only be sent to eFilers who have associated themselves with the case, and will continue to be sent to them until they have filed a proper withdrawal of appearance in a case and, if applicable, obtained an order allowing the withdrawal.

(b) The NEF will include the date and time of filing in the time zone of the receiving court, along with an electronic hyperlink to the document filed.

(c) If the eFiler received an NCP that indicates a document or filing was returned by the clerk, he or she may correct any deficiencies and refile the document.

(d) If the eFiler learns or has reason to know that the NEF was not transmitted successfully to a party, electronic service is not effective. The filer must serve the electronically filed document by traditional methods pursuant to CR 5 immediately upon discovering that the notice was deficient or that transmission was otherwise unsuccessful.

(3) Service of process. Electronic service of process is not permitted for purposes of obtaining jurisdiction over persons or property, i.e., CR 4 service, with the exception of the service of summons on a cross, counter, or third-party complaint where the defendant to such complaint has already eFiled in the case and therefore consented to receive electronic service. All other service of process must be effected in the traditional manner. The plaintiff or petitioner need not present the summons to the clerk along with the initiating document; the clerk will generate the summons and issue it as set out below in paragraphs (a) and (b). The summons shall bear the date and time indicated on the Notice of Electronic Filing, regardless of when the clerk processes the filing and issues a Notification of Court Processing.

(a) Summonses will be issued as follows:

(i) For service by certified mail under CR 4.01(1)(a), the clerk will issue the summons, and cause service of the summons and complaint to be made via certified mail;

(ii) For service by the sheriff under CR 4.01(1)(b), the clerk will issue the summons and cause the summons and complaint to be transferred to the sheriff for service;

(iii) For service by a process server or other authorized person under CR 4.01(1)(b), other than the sheriff, the summons will be issued by the clerk and electronically returned to the initiating party for service; or

(iv) At the request of the initiating party, in accordance with CR 4.01(1)(c), the clerk will issue the summons and electronically return it to the initiating party for service.

(v) For service by warning order attorney under CRs 4.05, 4.06, and 4.07, the party requesting the warning order attorney shall upload a copy of the affidavit as provided by CR 4.06. Such affidavits shall be filed as stand-alone documents and not included within the body of an initiating document or pleading. The clerk shall appoint a practicing attorney of the court to serve as warning order attorney for the defendant pursuant to CR 4.07. The eFiling system may assess a non-refundable deposit for the warning order

attorney, which may or may not constitute the entirety of his or her legal fees under CR 4.07(6).

(vi) For service of process through the Secretary of State in accordance with KRS 454.210, the clerk will issue the summons, and cause two copies of the summons and two attested copies of the initiating party's complaint to be transferred to the Secretary of State.

(b) The return of service must be imaged in a PDF or PDF/A format and electronically filed by the party at whose request the summons was issued and served if proof of service is returned to that party.

(4) Service of subpoenas. Subpoenas issued pursuant to CR 45 must be served as provided in CR 45.03(1) and not by use of the eFiling system. Notices required to be served on each party pursuant to CR 45.03(3) may be served electronically by mutual consent consistent with CR 5.02, but not via the court's eFiling system. Proof of service pursuant to CR 45.03(1) and RCr 7.02 may be filed via the court's eFiling system.

(5) Certificate of Service. A certificate of service must be included with all documents filed electronically. A certificate of service must show parties who received conventional service and parties who received electronic service.

(6) Additional time after electronic service. Service by electronic means under this rule is treated the same as service by mail under CR 6.05 for the purpose of adding three (3) days to the prescribed period.

Section 13. Entry of Orders and Notice of Entry

(1) Entry of orders. All orders, decrees, judgments, and any other documents entered or issued by the court may be filed in accordance with these rules.

(a) Such filing will constitute entry by the clerk pursuant to CR 58 and CR 79.

(b) An order containing the electronic signature of a judge will have the same force and effect as if the judge had affixed a signature to a paper copy of the order and the order had been entered in a conventional manner.

(2) Notice of entry.

(a) Immediately upon the entry of an order or judgment in an action, the clerk will transmit to eFilers in the case, in electronic form, a Notice of Electronic Filing (NEF), styled as a Notice of Entry, with a hyperlink to the electronic document. Electronic transmission of the NEF, along with

a hyperlink to the electronic document, constitutes service of the notice in accordance with CR 77.04.

(b) The clerk must serve notice in paper form to an attorney or party who is not a registered eFiler to the extent notice is required.

Section 14. Court Record

(1) The clerk will print documents which have been electronically filed and maintain a paper file in each case. The paper file will constitute the official court record.

(2) Conventionally filed or court generated documents may be scanned by the clerk. The original documents will be maintained in the paper file.

(3) When the law requires the filing of an original document, such as a will, voucher, bond, oath, mortgage document, birth certificate, foreign judgment, or other certified or verified document, the eFiler must scan the original document and file the scanned document in the eFiling system. The filer must either (i) retain the original document in accordance with Section 17, Retention Requirements; (ii) file the original with the appropriate agency or officer as may be required by law; or (iii) submit conventionally to the court when necessary for actions involving original documents.

(4) Electronic receipts may be generated for financial transactions. In the event a receipt is generated, the court's file copy shall be retained in electronic format.

(5) Notwithstanding subsection (1) of this Section, the Kentucky Supreme Court may designate pilot counties where the electronic court record may be designated as the official court record.

Section 15. Access to Electronic Record

(1) Authorized users may view eFiled documents, scanned images, and electronic case entries through the CourtNet 2.0 application.

(2) Authorized users of CourtNet 2.0 may be assessed a subscription fee and additional costs for accessing electronic images; however, registered eFilers are permitted to electronically file and access images in an action at no cost.

(3) Certain categories of documents containing sensitive information may be designated as protected images and may only be viewable to parties associated with the case in CourtNet 2.0.

(4) Access to confidential cases in CourtNet 2.0 is available to persons entitled by statute, except that non-government parties may be required to eFile into a

confidential case in order to access the entire record. Sealed cases are not eligible for eFiling and are not viewable in CourtNet 2.0.

Section 16. Fees, Costs, and Payment Methods

(1) Fees, including but not limited to filing fees, bond fees, and judicial sale fees are due and payable at the time of electronic filing unless the fee is waived by order of the court, the fee is not due or payable, the filer submits an affidavit to proceed in forma pauperis, or the court makes alternative arrangements with the filer. Payments of filing fees and other court costs must be made by credit card or electronic check through the KCOJ payment systems vendor.

(2) Other costs.

(a) Service of process. In actions where certified mail, sheriff service, and Secretary of State service is requested, printing cost shall be \$0.10 per page.

(b) Transaction fees for electronic payments may be assessed by the KCOJ payment systems vendor.

(3) All fees and costs listed in this section shall be taxed as costs in the action pursuant to CR 54.04 and shall be recoverable by the prevailing party.

(4) The AOC's centralized printing and mailing facility may be designated to print and distribute documents.

(5) Electronic payments received through the eFiling system, including payments made pursuant to CR 73.02, are deemed to have been made at the time the filing was submitted.

Section 17. Retention Requirements

(1) Original documents and documents containing original signatures. An original document such as a will, voucher, bond, oath, mortgage document, birth certificate, foreign judgment, or other certified or verified document which has been scanned and filed in the eFiling system pursuant to Section 14(3), and any document requiring or otherwise containing an original signature which has been scanned and filed in the eFiling system must be maintained in paper form by counsel and/or the firm representing the party on whose behalf the document was filed until after all periods for appeals expires. Original documents are not required to be retained if the signature is that of an attorney or named party in the case who may personally verify and give proof as to the authenticity of the signatures. Upon the request of the court or other party, counsel must provide the original document for review or inspection.

(2) Discovery documents. Pursuant to CR 5.06, the party responsible for service of a discovery document not filed of record, including interrogatories,

requests, and answers and responses thereto, notices, and subpoenas will be the custodian and must retain the original document. The custodian must provide access to all parties of record during the pendency of the action.

Section 18. Technical Difficulties; System Unavailability

(1) Jurisdictional deadlines. Some deadlines are jurisdictional and cannot be extended. A technical failure, including a failure of the eFiling system, will not excuse a failure to comply with a jurisdictional deadline. The eFiler must ensure that a document is timely filed to comply with jurisdictional deadlines and, where necessary to comply with such deadlines, the eFiler must file the document conventionally accompanied by a certification of the necessity to do so in order to meet a jurisdictional deadline.

(2) Technical failures.

(a) If an eFiler experiences a technical failure as defined herein, the eFiler may file the document conventionally, provided that the document is accompanied by a certification signed by the eFiler, that the eFiler has attempted to file the document electronically at least twice, with those unsuccessful attempts occurring at least one (1) hour apart. The clerk may require the document to be accompanied by a disk or CD-Rom which contains the document in PDF or PDF/A format.

(b) The initial point of contact for an eFiler experiencing technical difficulty filing a document electronically will be the AOC's eFiling help line at the number(s) listed on the Court of Justice's website. The help line will be available during the AOC's regular business hours, 8:00 a.m. until 5:30 p.m., eastern time, Monday through Friday (excluding holidays).

(c) An eFiler who suffers prejudice as a result of a technical failure as defined herein or an eFiler who cannot file a time-sensitive document electronically due to unforeseen technical difficulties, other than a document filed under a jurisdictional deadline, may seek relief from the court. Parties may also enter into an agreed order deeming a document, other than one filed under a jurisdictional deadline, timely filed.

(3) Anticipated system maintenance and downtime. When the eFiling system will not be available due to scheduled maintenance, eFilers will be notified and a notice will be posted on the court's website of the date, time, and anticipated length of the unavailability.

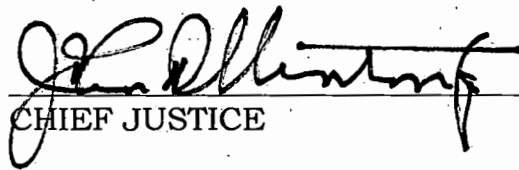
(4) Unanticipated downtime. When the eFiling system is unexpectedly unable to accept filings continuously or intermittently for more than one hour, eFilers will be notified of the problem by email or by the posting of a notice of the problem on the court's website.

Section 19. Technical Assistance

An eFiler experiencing technical difficulty filing a document electronically may contact the AOC's eFiling help line at the number(s) listed on the Court of Justice's website. The help line will be available during the AOC's regular business hours, 8:00 a.m. until 5:30 p.m., eastern time, Monday through Friday.

This Order shall be effective August 1, 2018, and until further Order of this Court.

ENTERED this 21st day of June 2018.


CHIEF JUSTICE