

IN THE CIRCUIT COURT FOR THE TWENTY-THIRD JUDICIAL CIRCUIT

GENERAL ORDER 16- 2

IN THE MATTER OF THE MODIFICATION )  
OF LOCAL RULES OF THE 23<sup>RD</sup> JUDICIAL )  
CIRCUIT OF THE STATE OF ILLINOIS. )

**FILED**  
**JUL 12 2016**  
Maureen A. Josh  
Clerk of the Circuit Court  
DeKalb County, Illinois

The majority of the Circuit Judges of the 23<sup>rd</sup> Judicial Circuit having determined that the Local Rules should be amended to provide for the electronic filing of court documents, and the majority of the Circuit Judges of the 23<sup>rd</sup> Judicial Circuit having agreed with the entry of this Order;

THEREFORE, IT IS ORDERED THAT the Local Rules of the 23<sup>rd</sup> Judicial Circuit shall be amended by the addition of the following:

**RULE 2.60**

**COURT RULES – ADMINISTRATION OF THE COURT - E-FILING**

The Illinois Supreme Court issued Order M.R. 18368 effective January 1, 2013, approving *Electronic Filing Standards and Principles* and has approved the 23<sup>rd</sup> Judicial Circuit Court to accept the electronic filing of documents in civil and criminal proceedings effective April 14, 2014. Electronic filing in the 23<sup>rd</sup> Circuit is permissible in those counties that have received Supreme Court approval.

**EFFECTIVE DATE**

This rule shall become effective on the date it is adopted by the Circuit Judges of the Twenty-Third Judicial Circuit, DeKalb and Kendall Counties and supersedes General Orders 14-6 and 14-4, and remains in effect until further order.

**DESIGNATION OF ELECTRONIC FILING CASE TYPES**

- (a) This Court hereby authorizes all civil and criminal cases with the exception of WI (Wills), sealed and impounded cases as permissible electronic filing case types. The Circuit Court Clerk shall direct the phasing in of case types during implementation of electronic filing.
- (b) Wills or other testamentary documents, exhibits, or documents that are filed directly with the judge (e.g. proposed orders) shall not be accepted for filing electronically. Any unapproved document type filed electronically by a Subscriber shall be rejected by the Clerk of the Court.
- (c) Any notice of appeal and post judgment enforcement proceeding documents may be e-filed and served in accordance with Supreme Court Rules.

## **DEFINITIONS**

The following terms in these rules are defined as follows:

- (a) Clerk-The Clerk of the Circuit Court of either DeKalb or Kendall County as defined in Art. 6 § 18 of the Constitution of the State of Illinois.
- (b) Conventional manner of filing – The filing of paper documents with the Clerk as is done in cases that are not e-file cases.
- (c) Court Partner Agency Users – Any local prosecutor or person authorized to serve civil and criminal process with the 23<sup>rd</sup> Judicial Circuit.
- (d) Electronic Document (“e-document”) – An electronic file containing informational text.
- (e) Electronic Filing (“e-file”) – An electronic transmission of information between the Clerk and a vendor for the purpose of case processing.
- (f) Electronic Image (“e-image”) – An electronic representation of a document that has been transformed to a graphical or image format.
- (g) Electronic Service (“e-service”) – An electronic transmission of documents to a party, attorney or representative in a case via the vendor. However, e-service is not capable of conferring jurisdiction under circumstances where personal service is required as a matter of law.
- (h) Justice Community User – Any DeKalb or Kendall County governmental unit, including but not limited to the Sheriff’s Office, State’s Attorney’s Office, Public Defender, Court Services Office, County Clerk, or Recorder of Deeds.
- (i) PDF – Portable Document Format is a file format that preserves all fonts, formatting colors and graphics of any source document regardless of the application platform used.
- (j) Subscriber – One contracting with a vendor to use the e-filing system.
- (k) Vendor – A company or organization that has an executed Electronic Information Project Agreement with the Clerk to provide e-filing services for either DeKalb or Kendall County.

## **AUTHORIZED USERS**

- (a) The Clerk shall accept and approve filings electronically through a vendor or through the Clerk’s computer workstation.
- (b) The Clerk shall allow the filing of a document or pleading using the conventional manner of filing. At no time shall the e-filing program prevent or exclude the ability to file any valid pleading with the Clerk. In those circumstances, the Clerk shall scan conventionally filed documents into the electronic file.

- (c) Prior to filing any document electronically, users are required to register with the Clerk of Court and the Court's authorized e-filing vendor. Attorneys must submit an E-Filing Registration Form to the Clerk of Court which shall include a minimum of the following information: firm name, attorney names and ARDC registration numbers, address, phone number, e-mail address for E-service, staff contact information, selected method for paying filing fees. All other Justice Community Users shall be registered upon confirmation of authorization by the Clerk. Court Partner Agency Users and individual registrations will be used to identify the source of the e-filed document submitted to the court electronically.
- (d) *Pro se* litigants may utilize e-filing through a vendor on the internet by means of individual transactional agreements and credit card payment. *Pro se* litigants will be assigned a user name and password by the Vendor.
- (e) Without charge during normal business hours, the Clerk shall provide attorneys and parties in e-file cases access to an e-file computer workstation.

## **METHOD OF FILING**

- (a) The Circuit Court hereby encourages electronic filing in each of the designated case types although conventional filings in these case types will continue to be accepted unless otherwise mandated by Supreme Court Rule.
- (b) The method of filing shall not affect the right of access to court documents. The Clerk shall maintain public access viewing terminals to allow electronic records and electronic documents to be displayed to the public. Electronic access and dissemination of court records shall be in accordance with the *Electronic Access Policy of Circuit Court Records of the Illinois Courts*.

## **FILING OF EXHIBITS**

Physical items for which a photograph may be substituted may be electronically imaged and e-filed. Items not conducive to electronic filing, such as documents under seal and physical exhibits for which an image will not suffice shall be filed in their physical form at the Clerk's Office or in the Courtroom, as directed by order of the court and in conformity with Supreme Court "*Electronic Filing Standards and Principles*." The Motion and Notice of Motion for permission to file any of these physical items may be done electronically

## **MAINTENANCE OF ORIGINAL DOCUMENTS**

Anyone filing an electronic document that requires an original signature certifies by so filing, that the original signed document exists in the filing person's possession. Unless otherwise ordered by the Court, the filing party shall maintain and preserve all documents containing original signatures that are filed electronically. The filing party shall make those signed originals available for inspection by the Court, the Clerk, other counsel, or *pro se* party in the case, upon five (5) days notice. At any time, the Clerk may request from the filing party a hard copy of an electronically filed document, which shall be provided within five (5) business days.

## PRIVACY ISSUES

- (a) It is the responsibility of the filing party or counsel to insure that documents filed electronically do not disclose previously or statutorily impounded or sealed information or private information defined in Supreme Court Rules 15 and 138. The Clerk is not responsible for the content of filed documents and has no obligation to review, redact or screen any expunged, sealed or impounded information.
- (b) All documents in confidential, impounded, or sealed cases must be submitted conventionally to the Clerk's office for filing. A party who has a legal basis for filing a document under seal without prior court order must electronically file a motion for leave to file under seal. The motion must include an explanation of how the document meets the legal standards for filing sealed documents. The document in question shall not be attached to the motion as an attachment.
- (c) Parties and their counsel shall refrain from including, or shall redact where inclusion is necessary, the materials referenced in Supreme Court Rules 15 and 138. All issues of privacy shall be filed in accordance with Supreme Court Rules 15 and 138.

## FORMAT OF DOCUMENTS

- (a) All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper document pleadings. Additionally, each electronically filed pleading and documents shall include the case title, case number and the nature of the filing.
- (b) Each electronically filed document shall also include the typed name, e-mail address, address and telephone number of the attorney or *pro se* party filing such document. Attorneys shall include their Attorney Number issued by the Attorney Registration and Disciplinary Commission on all documents.
- (c) A New Case Information Sheet shall be required with all new case filings. The New Case Information Sheet shall be completed by the attorney or *pro se* filer and submitted electronically in addition to case initiation documents. The Clerk shall provide electronic access to the required New Case Information Sheet both in the Clerk's office and on the e-filing website.

The minimum data required to be included on a *New Case Information Sheet* for all new case filings is the following: Case Type, Sub-Case Type, Jury Demand (yes or no), Amount Claimed, First Named Plaintiff, Plaintiff's Attorney (or *pro se* indication), Plaintiff Attorney's Address & Phone Number, First Named Defendant, Defendant's Address, Summons Issued (yes or no), Additional Party Information if applicable.

- (d) Documents must be submitted in PDF format. When possible, documents must be converted to PDF directly from the program creating the document, rather than from the scanned image of a paper document. Documents only available in paper format may be scanned and converted to PDF for electronic filing.
- (e) Documents shall be formatted as follows:

1. The size of the type in the body of the text must be no less than 12 point font, and footnotes no less than 10 point font;
  2. The size of the pages must be 8 ½ by 11 inches;
  3. The margins on each side of the page must each be a minimum of 1 inch;
  4. The top right 2 inch by 2 inch corner of the first page of each pleading shall be left blank for the Clerk's stamp.
- (f) Any electronically filed document must be unalterable (sealed PDF), and be able to be printed with the same contents and formats as if printed from its authoring program. The e-filing vendor is required to make each electronically filed document that is not infected by a virus available for transmission to the Clerk immediately after successful receipt and virus checking of the document.
- (g) Bulk filings of multiple cases or multiple documents combined into one PDF document in civil or criminal case types shall not be accepted. Documents with different civil or criminal case numbers must be filed individually in separate transactions. Filing of individual documents within a civil or criminal case should be accepted in a single electronic filing transaction. Multiple citations being electronically filed may be transmitted to the circuit clerk as a single transaction directly from the law enforcement agency.
- (h) Documents not complying with the format specified by the applicable statute, or local rule, or standards may be rejected.
- (i) Electronic documents containing links to material either within the filed document or external to the filed document are for convenience purposes only. The external material behind the link is not considered part of the filing or the basic record.

## **SIGNATURES AND AUTHENTICATION**

- (a) Any document filed electronically, including all pleadings, motions, documents, etc., using a verified user authentication shall be deemed to have been signed by the holder of the user authentication. Documents containing facsimile or typographical signatures may be filed electronically and shall be deemed to have been signed in person by the individual identified.
- (b) In the absence of a facsimile or typographical signature, any document electronically filed with a user's identification and password is deemed to have been personally signed by the holder of the user identification and password.
- (c) Documents containing signatures of one or more persons or third parties may be filed electronically and shall bear a facsimile or typographical signature. The filing party or attorney must confirm approval of all persons not a party to the case or non-registered persons (including paralegals or other persons authorized to act on behalf of a registered user) required to sign the document.
- (d) Original signatures of all non-electronic filers must be obtained before filing the document. The document must indicate the identity of each non-registered signatory. The filing party must retain the original document for one year after the appellate process has been completed.

- (e) Where a Clerk is required to endorse a document, the typed name of the Clerk shall be deemed to be the Clerk's signature on an electronic document.
- (f) All Judges' and other necessary electronic signatures shall be captured and maintained by the Circuit Court Clerk. Each signature shall be protected by internal system security measures and use security tokens and encrypted passwords to authenticate the use of the e-signature.
- (g) Signatures as defined in subparagraphs (a), (b), (c), (d), (e) and (f) satisfy Supreme Court Rules and statutes regarding signatures, and give rise to the application of available sanctions when appropriate.

#### **TIME OF FILING, ACCEPTANCE BY THE CLERK AND ELECTRONIC FILING STAMP**

- (a) Any document filed electronically shall be considered as filed with the Clerk upon review and acceptance, and the transmission has been completed with the Clerk's electronic filing stamp.
- (b) A person who files a document electronically shall have the same responsibility as a person filing a document in the conventional manner for ensuring that the document is complete, readable and properly filed.
- (c) The transmission date and time of transfer shall govern the electronic filing mark. Pleadings received by the Clerk before midnight on a day the courthouse is open shall be deemed filed that day. If filed on a day the courthouse is not open for business, the document will be deemed filed the next business day.
- (d) Upon receipt by the vendor, and submission of an electronic document to the Clerk, the vendor shall issue a confirmation to the subscriber. The confirmation shall indicate the time and date of receipt, and serve as proof that the document has been submitted to the Clerk. A subscriber will receive e-mail notification from the vendor if a document is not accepted by the Clerk's office. In that event, the subscriber may be required to re-file the document to meet necessary filing requirements.
- (e) Each document reviewed and accepted for filing by the Clerk shall receive an electronic file stamp. The stamp shall be endorsed in the name of the Clerk by the deputy clerk accepting filing, and shall include the identification of the court, the official time and date of filing and contain the word "FILED." This file stamp shall be merged with the electronic document and shall be visible when the document is printed and viewed on-line. Electronic documents are not officially filed without the electronic filing stamp. Filings so endorsed shall have the same force and effect as documents time stamped in the conventional manner.

#### **ELECTRONIC SERVICE AND FILING PROOF OF SERVICE**

- (a) Electronic service is not capable of conferring jurisdiction. Therefore, regarding electronically filed cases, documents that require personal service to confer jurisdiction as a matter of law may not be served electronically through an e-file vendor, but must be served in the conventional manner.

- (b) All other documents may be served upon the other parties or their representatives electronically through the e-file vendor. The filing party or attorney shall be responsible for completing electronic service of these other documents using the vendor's system.
- (c) If a party or party's designee has not subscribed to a vendor's services, service of all other documents shall be pursuant to Supreme Court Rule 12.
- (d) E-service via e-mail shall be deemed complete on the first court day following transmission by the e-file vendor or party. The electronic service of a pleading or other document shall be considered as valid and effective service on all parties and shall have the same legal effect as personal service of an original paper document.
- (e) If electronic service on a party does not occur because of (1) inaccessibility to the vendor's system, (2) an error in the vendor's transmission of notice to the party being served, (3) the vendor's failure to process the electronic filing for service, or (4) the party was erroneously excluded from the service list, the party to be served shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or the period within which any right, duty or other act must be performed.
- (f) The e-filing vendor is required to maintain an e-service list for each e-filed case. The vendor shall immediately update the service list upon being given notice of new contact information. Whenever a document is submitted for service upon other parties by the e-filing vendor's system, the e-filing vendor shall use the most current e-service list to perform service.
- (g) All subscribers and other participants must immediately, but not later than ten (10) business days prior to when such a change takes effect, notify other parties, the Clerk and the e-filing vendor of any change of firm name, delivery address, fax number or e-mail address.

## **COLLECTION OF FEES**

- (a) The e-filing of a document requiring payment of a statutory filing fee to the Clerk in order to achieve valid filing status shall be filed electronically in the same manner as any other e-file document. All Subscribers shall maintain a valid credit card on file with the e-filing Vendor for the payment of statutory filing fees.
- (b) At the end of each business day, the vendor shall electronically transmit to the Clerk's bank account all statutory filing fees required for that day's electronic filings. The vendor shall electronically provide the Clerk's detailed breakdown including case number, type of transaction and party being billed for the payment for each deposit. The vendor shall act as a limited agent for the Clerk and collect such required filing fees from the subscriber through direct billing of that subscriber, unless payment of the fee has been waived by court order or law.
- (c) Fees charged to e-filing subscribers by the vendor for vendor services are solely the property of the vendor and are in addition to any statutory fees associated with statutory filing fees.
- (d) Copies of any document or certification of same shall be available to the requesting party at a reasonable cost, including all applicable fees as set by rule or statute.

- (e) When the electronic filing includes a request for waiver of fees by a petition for indigence, payment of the requisite fees shall be stayed until the court rules on the petition.

## **SYSTEM OR USER ERRORS**

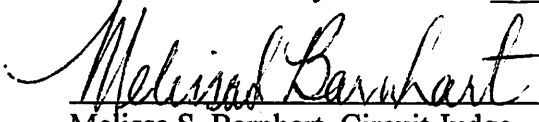
- (a) The Court and Clerk shall not be liable for malfunction or errors occurring in electronic transmission or receipt of electronically filed or served documents.
- (b) If the electronic filing is not filed with the Clerk because of (1) an error in the transmission of the document to the vendor which was unknown to the sending party or (2) a failure to process the electronic filing when received by the vendor or (3) rejection by the Clerk or (4) other technical problems experienced by the filer or (5) the party was erroneously excluded from the service list, the Court may upon satisfactory proof enter an order permitting the document to be subsequently filed effective as of the date filing was first attempted.
- (c) In the case of a filing error, absent extraordinary circumstances, anyone prejudiced by the Court's order to accept a subsequent filing effective as of the date filing was first attempted, shall be entitled to an order extending the date for any response, or the period within which any right, duty or other act must be performed.

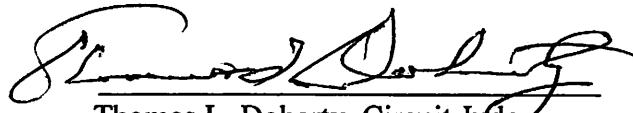
## **VENDOR CONDITIONS**

- (a) E-filing vendor(s) with Electronic Information Project Agreements executed with the Clerk are hereby appointed to be the agent of the Clerk regarding electronic filing, receipt, service and/or retrieval of any pleading or document via the e-filing vendor system.
- (b) The e-filing vendor shall make electronically filed documents, and documents being served electronically through the e-filing vendor's system, available to subscribers and the designated court authorized users through the e-filing vendor's system in accordance with the current contract between the Clerk and the e-filing vendor, and consistent with the Supreme Court's Electronic Access Policy for Circuit Court Records of the Illinois Courts.
- (c) The e-filing vendor may require payment of a fee or impose other reasonable requirements by contract with a subscriber as conditions for processing electronic filings. Pursuant to contract terms, the e-filing vendor must provide services but is not permitted to require payment of a fee for government users or parties deemed indigent by the Court.
- (d) The Chief Judge of the Court or his/her designee, in coordination with the Clerk of the Court, shall review and approve the terms of the subscriber agreement. The vendor shall provide at least 30 days notice prior to the effective date of any subscriber agreement changes.
- (e) Ownership of the documents and access to the data associated with all E-filed documents remains with the Court. The electronic documents processed by the E-filing vendor remain the property of the Court and neither the documents nor the data from the documents and/or transactions shall be used by the E-filing vendor for any other purpose other than those specifically authorized by the Chief Judge of this Court or his/her designee, in coordination with the Clerk of the Court.




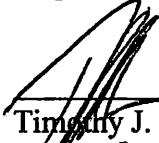
Adopted by the Circuit Judges of the Circuit Court of the Twenty-Third Judicial Circuit, DeKalb County and Kendall County Illinois this 28<sup>th</sup> day of June, 2016.

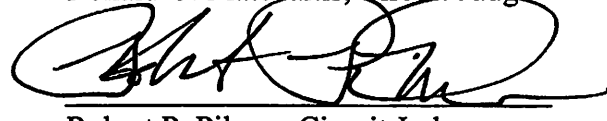
  
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Melissa S. Barnhart, Circuit Judge


  
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Thomas L. Doherty, Circuit Judge

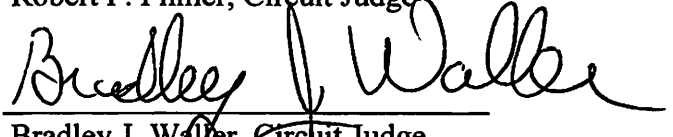
  
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Stephen L. Krentz, Circuit Judge

  
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Ronald G. Matekaitis, Circuit Judge

  
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Timothy J. McCann, Circuit Judge

  
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Robert P. Pilmer, Circuit Judge

  
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Robbin J. Stucker, Circuit Judge

  
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Bradley J. Waller, Circuit Judge