

**ADMINISTRATIVE ORDER 2016-3**

**PROVIDING FOR**

**AN ADDENDUM TO THE RULES OF PRACTICE OF THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT, BY PROVIDING FOR THE ADDITION TO THE GENERAL RULES OF THE TENTH JUDICIAL CIRCUIT THE RULES FOR E-FILING**

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The Rules of Practice of the Circuit Court of the Tenth Judicial Circuit are hereby amended by adding the following additional rule, E-Filing for the Tenth Judicial Circuit Court.

**E-Filing Rules for the Tenth Judicial Circuit**

**AUTHORITY**

The Illinois Supreme Court issued Order M.R. 18368 effective January 1, 2013 which approved civil case types to be filed electronically. The *Electronic Filing Standards and Principles* were approved by the Supreme Court on October 24, 2012 and implemented effective January 1, 2013. In November, 2012, the Supreme Court approved *Electronic Filing Guidelines* for application to implement an electronic filing program to be used to guide the Circuit Courts through the application process. Effective September 16, 2014, the Supreme Court expanded the Standards to include Criminal case types. On January 22, 2016, the Illinois Supreme Court announced that electronic filing in civil cases will be required in all circuit courts effective January 1, 2018.

**EFFECTIVE DATE**

These rules shall become effective on **December 1, 2016**, and remain in effect until further order.

**DESIGNATION OF ELECTRONIC FILING CASE & DOCUMENT TYPES**

The Circuit Clerk shall direct the phasing in of case types during initial implementation of electronic filing. This Court hereby authorizes all cases with the exception of WI (Will Filing), documents provided in requests for discovery, and impounded or sealed cases as permissible electronic filing case types.

- (a) Wills or other testamentary documents, exhibits, photographs, 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.

- (b) Any notice of appeal and post judgment enforcement proceeding documents may be e-filed and served in accordance with Supreme Court Rules.
- (c) Confidential, impounded and sealed documents shall be submitted conventionally to the clerk's office for filing; however, motions for leave to file a document under seal may be e-filed and designated as such at the time of e-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 may not be attached to the motion as an attachment.

## **DEFINITIONS**

The following terms in these rules are defined as follows:

- (a) Conventional manner of filing- The filing of paper documents with the Clerk as is done in cases that are not E-File cases.
- (b) Electronic Document ("E-document") - An electronic file containing informational text.
- (c) Electronic Filing ("E-file") - An electronic transmission of information between the Clerk of the Circuit court and a vendor for the purposes of case processing.
- (d) Electronic Image ("E-image") - An electronic representation of a document that has been transformed to a graphical or image format.
- (e) Electronic Service ("E-service") - An electronic transmission of documents to a party, attorney, or representative in a case. However, E-Service is not capable of conferring jurisdiction under circumstances where personal service is required as a matter of law.
- (f) PDF- Portable Document Format (PDF) is a file format that preserves all fonts, formatting colors and graphics of any source document regardless of the application platform used.
- (g) Subscriber- One contracting with a vendor to use the E-filing system.
- (h) Vendor- A company or organization that has an executed Electronic Information Project Agreement with the Clerk of the Circuit Court to provide E-Filing services for Tazewell County, Illinois.
- (i) ARDC#- The registration number issued by the Illinois Attorney Registration and disciplinary Commission to Attorneys practicing in Illinois.
- (j) Conventional Filing- The filing of paper documents with the Clerk as is done under applicable Supreme Court rules pre-dating the implementation of the Statewide Standards in the Tenth Judicial Circuit.
- (k) Facsimile Signature- A reproduction of a manual signature, saved electronically.
- (l) Filer- An attorney authorized to practice law in the State of Illinois who has an e-filing account with Vendor.
- (m) Statewide Standard- The "Electronic Filing Standards and Principles" approved by the Illinois Supreme Court by M.R. 18368 on October 24, 2012 as amended from time to time.

- (n) Typographical Signature- A signature comprised of text(e.g., “/s/ Perry Mason”)

### **AUTHORIZED USERS**

- (a) The Clerk of the Circuit Court shall accept and approve filing electronically through a vendor or through the Clerk’s computer workstation.
- (b) The Clerk of the Circuit Court shall allow the filing of a document or pleading using the conventional manner of filing until January 1, 2018. After January 1, 2018, the Illinois Supreme Court has mandated that all civil documents and pleadings must be filed electronically, unless the document is exempted from being filed electronically or in case of emergency. 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 State of Illinois’ authorized e-filing vendor and provide the Clerk in writing with his or her ARDC# and an e-mail address. Filers shall keep the required information in this paragraph current with the Vendor and the Clerk.
- (d) The Attorney Registration and Disciplinary Commission number will be used as the identifier for attorneys to ensure that the attorney is licensed and in good standing with the Illinois Supreme Court. The Clerk is authorized to verify whether an attorney who registers as a user is authorized to practice in Illinois.
- (e) Pro-se litigants may utilize E-filing through a vendor on the internet by means of individual transactional agreements and credit card payment.
- (f) Without charge during normal business hours, the Clerk of the Circuit Court shall provide attorneys and parties in e-file cases access to an e-file computer workstation.

### **METHOD OF FILING**

The Circuit Court will not accept conventionally filed documents in civil cases beginning January 18, 2018 per Supreme Court Mandate M.R. 18368. The court will continue to accept conventionally filed documents in criminal cases, but encourages electronic filing in all accepted case categories.

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 record 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 for the 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 court 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**

- (a) 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 of the Court or by other counsel in the case, upon five (5) days notice. At any time, the Clerk of the Court may request from the filing party a hard copy of an electronically filed document, which shall be provided within five (5) business days upon reasonable notice.
- (b) All documents that are required to be maintained and preserved must be kept for one year after the appellate process period has been completed.

### **CONFIDENTIAL DOCUMENTS**

It is the responsibility of the filing party or counsel to insure that documents or exhibits 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.

All documents in confidential, impounded, or sealed cases must be submitted conventionally to the Clerk of the Court 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 may not be attached to the motion as an attachment.

In addition to any other materials referenced in Supreme Court Rules 15 and 138, parties and their counsel shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all documents electronically filed with the Court, unless otherwise ordered by the Court.

- (a) Social Security Number, Drivers License Number and Taxpayer Identification Number- If the number must be included, only the last four (4) digits of the number shall be used.
- (b) Financial Account Numbers, Debit and Credit Card Numbers- If these numbers are relevant, only the last four (4) digits of the numbers shall be used.

The effective date of amended Supreme Court Rule 138 is November 21, 2014.

## FORMAT OF DOCUMENTS

- (a) All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of document pleadings. Additionally, each electronically filed pleading and document 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.
- (c) Documents should be formatted as follows:
  - a. 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.
  - b. The size of the pages must be 8 ½ inches by 11 inches.
  - c. The margins on each side of the page must each be a minimum of 1 inch.
  - d. 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.
  - e. The text of documents filed electronically shall use the color black. Signatures and dates may be in contrasting colors provided they will print legibly.
- (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) If a document exceeds the maximum size allowed, the filer will file multiple documents, each under the maximum size. In such cases, the user will be responsible for dividing the document into appropriately sized parts. Currently the maximum file size allowed for each document is 10MB, with a total maximum size of all documents filed in one transaction at 50MB. A maximum of 8 documents can be filed in a single transaction. Maximum file size allowances may increase as technology advances allow.
- (f) Any electronically file document must be unalterable (sealed PDF format) 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 (i.e., simple Motion and Order documents that have previously been filed as one document will no longer 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 shall 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 filed by attorneys that do not comply with the format specified by the applicable statute, rule or Statewide Standard may be rejected. Documents filed by pro se parties that do not comply with the format specified by the applicable statute or rule shall be reviewed.
- (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 basic record.

### **SUBMISSION OF PROPOSED ORDERS**

Proposed orders submitted in a case must be in a PDF format, text searchable, and generated directly from a word processing program. Proposed orders shall be submitted with all pleadings as required by local rule or order.

### **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, persons not a party to the case or non registered persons, 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 until one year after the date that the judgment has become final by the conclusion of direct review or the expiration of the time for seeking such review.
- (e) Authentication of court staff shall be by the password-based login to the court information system which is applying the electronic signature. The form of any associated signatures of such staff will be by a Typographical Signature indicating the name and title of the Clerk, as well as the ID of the court staff member.

- (f) Judges shall use the Court's document management system which will allow for electronic signatures in the form of a Typographical Signature or Facsimile signature applied based upon the password-based login of the document management system. 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 securities measures and use security tokens and encrypted password to authenticate the use of the e-signature.
- (g) Signatures as defined in subparagraphs (a), (b), (c),(d),(e), and (f) above, satisfy Supreme Court Rules and statutes regarding signatures, and give rise to the application of available sanctions when appropriate.
- (h) The original signed document that has been electronically filed pursuant to subparagraphs (a), (b), (c), (d), (e), and (f) above, shall be maintained and preserved as required in the section of this document entitled **Maintenance of Original Documents**.

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

- (a) Any document filed electronically shall be considered as filed with the Clerk of the Circuit Court 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 Circuit Clerk's office is open shall be deemed filed that day. If filed on a day the Circuit Clerk's office 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 the necessary filing requirements.
- (e) Each document reviewed and accepted for filing by the Clerk of Court shall receive an electronic file stamp. The stamp shall be endorsed in the name of the Circuit Clerk and shall include the identification of the court, the official time and date of filing and contain the work "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. While the case is pending, the Clerk shall retain an

audit trail of submission, acceptance, and filing of electronic documents by recording the dates and times transmitted, received, and accepted or rejected.

## **ELECTRONIC SERVICE, COURTESY COPIES AND FILING PROOF OF SERVICE**

- (a) Electronic service is not capable of conferring jurisdiction. Therefore, regarding electronically filed cases, documents that require service of process to confer jurisdiction as a matter of law may not be served electronically, but must be served in the conventional manner. Personal service shall be made as required by law.
- (b) All other documents may be served upon the other parties or their representatives electronically. The filing party or attorney shall be responsible for completing electronic service of these other documents.
- (c) E-service shall be made in accordance with Supreme Court Rule 12, and shall be deemed complete at the posted date and time of transmission listed by the E-service vendor. However, for the purpose of computing time for any other party to respond, any document electronically served is deemed to be served on the first court day following transmission. 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.
- (d) If electronic service on a party does not occur, 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.
- (e) The E-filing vendor is required to maintain and e-service list for each electronically filed case. The vendor shall immediately update the service list upon being given notice of new contact information.
- (f) 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.
- (g) Courtesy copies of documents customarily required to be provided to the Court shall continue to be required in E-file cases, absent a specific court order to the contrary.
- (h) The e-filing system will make a file-stamped copy of the filing available on the e-filing site at no additional cost to the Filer by sending a link to the Filer for that filing.
- (i) 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.
- (j) A means of electronic service on registered attorneys in criminal cases may be established as part of the e-filing system. When service is required by the



Clerk, the Clerk of the Court may serve electronically to the attorney and shall record in the official court record the effective date and time of service. Service of documents in criminal cases to a Pro-se defendant who is not represented by counsel shall, unless waived, be made as otherwise provided by rule or statute.

#### **ADDITIONAL PROVISIONS**

- (a) The Filer may use the e-filing system to request the scheduling of matters. Hearings may not be set solely by the Filer by use of a message accompanying an e-filing. Hearings shall be scheduled with the Court per existing practices.
- (b) By becoming a Filer, Filer consents to receive e-service on all cases on which they are listed as attorney of record in the court's case management system.
- (c) In order to e-file on a case, Filer must be listed as attorney of record on the case in the court's case management system. An attorney shall not file a document on behalf of another attorney, even as co-counsel.

#### **COLLECTION OF FEES**

- (a) The e-filing of a document requiring payment of a statutory filing fee to the Clerk of the Court in order to achieve valid filing status shall be filed electronically in the same manner as any other e-file document. Pleadings not accompanied by the appropriate filing fee will be rejected by the clerk.
- (b) All Subscribers shall maintain a valid credit card on file with the e-filing vendor for the payment of statutory filing fees, or utilize the e-check payment option offered by the E-filing vendor. Peoria County also offers a draw-down account option for payment.
- (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) 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 a 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.
- (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.
- (f) Filing initiated by court partner agencies in criminal cases (e.g. State's Attorney, Public Defender, Attorney General, law enforcement) shall be

exempted from the payment of filing fees and any vendor fees, when appropriate.

#### **SYSTEM OR USER ERRORS**

- (a) The Court and Clerk of the Circuit Court 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 Circuit 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 of the Circuit Court are hereby appointed to be the agent of the Clerk of the Circuit Court regarding electronic filing, receipt, and 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 Clerk 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 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.

This addendum to the Tenth Judicial Local Rules is adopted on the 1<sup>st</sup> day of December, 2016.

  
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**Hon. Stephen A. Kouri, Chief Judge**