

**IN THE CIRCUIT COURT  
THIRD JUDICIAL CIRCUIT  
MADISON COUNTY, ILLINOIS**

**Part 7 - E-Filing Rules of the Third Judicial Circuit Court**

**RULE 1. AUTHORITY**

By the issuance of Order Number M.R. 18368, the Illinois Supreme Court has approved the Third Judicial Circuit Court as the site for the initial implementation of an electronic filing pilot project. The Order, dated October 31, 2008, was effective immediately. The pilot project was scheduled to run for two years, or longer as extended by Supreme Court Order.

Specific authority for electronic signatures, time of electronic filing and electronic service has been granted by Supreme Court Order M.R. 18368, filed October 31, 2008.

**RULE 2. DESIGNATION OF ELECTRONIC FILING CASE TYPES**

This Court hereby authorizes Asbestos cases, L (Law over \$50,000) cases, and AR cases that are originally filed as such, as permissible electronic filing case types. From time to time, with the approval of the Director of the Administrative Office of the Illinois Courts, the Court may authorize, by written Administrative Order, additional types of cases to be processed via electronic filing. The Circuit Court Clerk shall direct the phasing in of initial implementation.

On or after the effective date, each new Asbestos, L or AR case shall become eligible to be an e-file case when a Plaintiff files a complaint electronically or a Defendant files an answer electronically or when all of the parties to an Asbestos, L or AR case stipulate by written agreement to the submission of a pending case for inclusion in the e-filing pilot program.

If a case's e-file status is initiated by stipulation, the Clerk shall electronically duplicate the physical file and include it in the Circuit Clerk's Case Management System. Thereafter the file shall be processed electronically pursuant to these rules.

All appellate and post-judgment enforcement proceeding documents and notices shall be filed and served in the conventional manner and not by means of e-filing.

**RULE 3. DEFINITIONS**

The following terms in these rules are defined as follows:

Conventional manner of filing – The filing of paper documents with the Clerk as is done in cases that are not e-file cases.

Electronic Document (“e-document”) – An electronic file containing informational text.

Electronic Filing (“e-filing”) – An electronic transmission of information between the Clerk of the Circuit Court and a vendor for the purposes of case processing.

Electronic Image (“e-image” or “image”) – An electronic representation of a document that has been transformed to a graphical or image format.

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.

PDF – A file format that preserves all fonts, formatting colors and graphics of any source document regardless of the application platform used.

Subscriber – One contracting with a Vendor to use the e-filing system.

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 the 3<sup>rd</sup> Judicial Circuit.

#### **RULE 4. AUTHORIZED USERS**

The Court and the Clerk of the Circuit Court shall provide a list of staff members designated to operate the e-filing system within the scope of their duties, and the names of any other individuals, as deemed necessary by the Court. The Circuit Clerk shall maintain a current list containing the names and contact information for all Vendors approved to provide e-filing services within the County. The Vendor or Vendors shall assign a confidential Personal Identification Number (PIN) to the Clerk, which will be used by the listed individuals to access the Vendors’ product services. No PIN user shall knowingly authorize or permit the Clerk’s PIN to be used by anyone other than staff members designated by the Court or the Clerk of the Court.

Upon receipt by the Vendor of a properly executed E-file Subscriber Agreement, and notification to the Clerk of the Circuit Court in writing, the vendor shall assign to the Subscriber a confidential Personal Identification Number (PIN). The Subscriber shall use this PIN to file, serve, receive, review and retrieve electronically filed pleadings, orders and other documents in an assigned case. As a minimum security measure, no PIN holder shall knowingly authorize or permit his or her PIN to be used by anyone other than authorized attorneys or employees of the attorney’s law firm or designated co-counsel, where it has been established in writing by the PIN holder that designated counsel may file documents on behalf of the assigning.

Pro-se or other parties may utilize e-filing through a Vendor on the Internet by means of

individual transactional agreements and credit card payment.

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. Any attorney or party of a designated e-file case who is not a Subscriber that requests to file a document shall be given a temporary confidential Personal Identification Number (PIN), and allowed to spend a reasonable time at the workstation in connection with e-filing cases.

## **RULE 5. METHOD OF FILING**

For the purposes of this pilot project, the Circuit Court hereby authorizes electronic filing in each of the designated cases as identified in Rule 2 Designation of Electronic Filing Case Types, of this Part 7. Once a case becomes an e-file case, the Clerk of the Circuit Court may accept subsequent filings electronically through an approved Vendor or through the Clerk's computer workstation.

At no time shall this pilot program prevent or exclude the ability to file any valid pleading with the Clerk of the Third Judicial Circuit Court. Any document which may be filed under these procedures may instead be filed with the Clerk of the Circuit Court in conventional paper format. The Clerk shall scan conventionally filed documents into the electronic file.

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. The Motion and Notice of Motion for permission to file any of these physical items may be done electronically in e-file cases. The Court in its discretion may deem that certain documents may be filed in a conventional manner.

The Court, through the Clerk of the Court, may issue e-filing notices and other documents electronically in an e-file case.

## **RULE 6. 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 of the Court or by other counsel in the case, upon five (5) days notice. At anytime, 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.

All documents that are required to be maintained and preserved must be kept for one year

after the appellate process period has been completed.

During this pilot project, the Clerk of the Court shall create and maintain a paper copy of all e-filings in a parallel manual court file.

## **RULE 7. PRIVACY ISSUES**

Easy access to electronic documents raises many privacy issues, some of which have been addressed in the “Electronic Access Policy for Circuit Court Records of the Illinois Courts,” Revision effective April 1, 2004. While the Electronic Access Policy allows for greater access of electronic documents by attorneys of record and litigants, e-filing users must be sensitive to confidential and personal information not filed under seal, even though electronically filed documents will be exchanged through a secure transmission. Once the document is filed electronically, it becomes part of the Official Court Record and would be open for public inspection at the Clerk’s office, unless otherwise ordered by the Court. A signed order allowing the filing of pleadings under seal must be provided with the sealed documents. It is the responsibility of counsel and the parties to be sure that all pleadings comply with any policies or rules which require redaction of personal identifiers. Parties and their counsel shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all documents filed electronically or conventionally, with the court, including exhibits thereto, unless otherwise ordered by the Court:

Social Security Number – If an individual’s social security number must be included in a document, only the last four digits of the number shall be used.

Names of Minor Children – If the involvement of a minor child must be mentioned, only the initials of that child’s name shall be used.

Dates of Birth – If an individual’s date of birth must be included in a document, only the year shall be used.

Financial Account Numbers – If financial account numbers are relevant, only the last four digits of these numbers shall be used.

In addition to the above, persons filing electronically shall exercise extreme caution when filing documents that contains the following:

- i. Personal identifying numbers, such as a driver’s license number.
- ii. Medical records, such as treatment and diagnosis.
- iii. Employment history information.
- iv. Individual financial information.

- v. Proprietary or trade secret information.
- vi. All similar data

## **RULE 8. FORMAT OF DOCUMENTS**

All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings. Additionally, each electronically filed pleading and document shall include the case title, case number and the nature of the filing and shall conform with administrative order 2005-F-30.

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 Illinois ARDC number or Madison County Pro Hac Vice code on all documents.

Any electronically filed document must be unalterable by the vendor (such as 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.

## **RULE 9. SIGNATURES**

Each electronically filed document, including all pleadings, motions, papers, etc., that require an original signature when conventionally filed, shall bear a facsimile or typographical signature of the attorney or pro se party authorizing such filing, (e.g., “/s/ Adam Attorney”), and shall be deemed to have been signed in person by the individual identified.

In the absence of a facsimile or typographical signature, any document electronically filed with a user identification and password is deemed to have been personally signed by the holder of the user identification and password.

Documents containing signatures of third parties may be filed electronically and shall bear a facsimile or typographical signature.

Signatures as defined in this Rule 9, satisfy Supreme Court Rules and statutes regarding signatures, and give rise to the application of available sanctions when appropriate.

The original signed document that has been electronically filed pursuant to this Rule 9 shall be maintained and preserved as required by Rule 6 Maintenance of Original Documents.

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.

## **RULE 10. TIME OF FILING, ACCEPTANCE BY THE CLERK AND ELECTRONIC FILING STAMP**

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. All document(s) shall be capable of being printed, without the need for modification by the Clerk, in conformance with the following standards and as required for documents conventionally filed:

1. Electronic documents should print on individual sheets measuring 8.5 inches by 11 inches.
2. The text of documents filed electronically shall use the color black. Signatures and dates may be in contrasting colors provided they will print legibly.
3. The electronic document shall have a clean margin of at least one-half inch on the top, bottom and each side. Margins may be used for non-essential notations that will not affect the validity of the document, including but not limited to form numbers, page numbers and customer notations.
4. The first page of the electronic document shall contain a blank space, measuring at least 2 inches by 2 inches, from the upper right corner, to provide space for the application of the Clerk's file stamp.

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.

Any document submitted electronically to the Clerk's Office on a day or at a time when the Clerk's Office is not open for business shall, unless rejected by the Clerk, be file stamped as filed at the next period for which the Clerk's Office is open to receive conventional filings.

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 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.

Each document reviewed and accepted for filing by the Clerk of Court shall receive an electronic file stamp. The file stamp will be applied by the deputy clerk accepting the filing and shall include the name of the official 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 file stamped in the conventional manner.

## **RULE 11. ELECTRONIC SERVICE, COURTESY COPIES AND FILING PROOF OF SERVICE**

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.

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. By their participation in this e-filing pilot program, parties and their designated counsel consent to receipt of all other documents e-filed and e-served upon them via access to the Vendor's system over the Internet.

If a party or party's designee has not subscribed to a Vendor's services, the party shall provide service by facsimile transmission or mail as provided by the Code of Civil Procedure.

E-service shall be deemed complete at the posted date and time listed by the e-file Vendor. However, for the purpose of computing time for any other party to respond, any document filed on a day or at a time when the Clerk is not open for business is deemed to be served on the Clerk's next business day. 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.

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.

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.

All Subscribers and other participants must immediately, but not later than ten 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.

Paper 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.

## **RULE 12. COLLECTION OF FEES**

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.

Prior to the start of each business day, the Vendor shall electronically transmit to the Clerk's bank account all statutory filing fees required for the previous day's electronic filings. The Vendor shall electronically provide the Clerk's Accounting Department 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 the payment of the fee has been waived by court order of law.

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.

## **RULE 13. SYSTEM OR USER ERRORS**

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.

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) erroneous rejection by the Circuit Court Clerk or (4) other technical problems experienced by the filer or (5) the party was erroneously excluded from the service list or (6) for good cause shown, 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.

Anyone prejudiced by the court's order to accept a subsequent filing effective as of the date filing was first attempted as authorized above by this Rule 13, 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.

## **RULE 14. VENDOR CONDITIONS**

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, service and/or retrieval of any pleading or

document via the e-filing Vendor system.

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.

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.

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.

Certified copies of electronically filed documents may not be obtained electronically. The Clerk of the Court will only issue certified copies in the conventional manner.

On this 19th day of March 2009, the Circuit Judges of the Third Judicial Circuit, State of Illinois, pursuant to Supreme Court Order entered October 31, 2008 and adopted forthwith, approve the above rules by the majority of Circuit Judges of the Third Judicial Circuit.

/s/ Ann Callis  
Chief Judge

/s/ Barbara Crowder  
Circuit Judge

/s/ A. A. Matoesian  
Circuit Judge

/s/ Richard L. Tognarelli  
Circuit Judge

/s/ John Knight  
Circuit Judge

/s/ Charles Romani  
Circuit Judge

/s/ Dennis Ruth  
Circuit Judge

/s/ David Hylla  
Circuit Judge

/s/ Daniel J. Stack  
Circuit Judge