

# **STATEWIDE RULES CONCERNING ELECTRONIC FILING AND SERVICE OF DOCUMENTS IN DISTRICT, COUNTY, AND JUSTICE OF THE PEACE COURTS**

## **PART 1. GENERAL PROVISIONS**

### **1.1 Scope**

These rules govern the electronic filing (“e-filing”) of documents in all civil cases in the district courts, statutory county courts, constitutional county courts, statutory probate courts and justice of the peace courts.<sup>[1](#)</sup> These rules also apply to cases appealed to district and county courts.

## **PART 2. DEFINITIONS**

### **2.1 Specific Terms**

The following definitions apply to these rules:

- (a) The term “Court” includes a district court, county court, statutory county court, statutory probate court and justice of the peace court or a clerk of the court.
- (b) “OCA” is the Office of Court Administration.
- (c) “Electronic signature” is an electronic identifier intended by the person using it to have the same force and effect as a manual

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<sup>1</sup> Misc. Docket No. 12-9208, Order Requiring e-Filing in Certain Courts (S.Ct.e-filing Order)

- signature.<sup>2</sup> An electronically transmitted document issued or received by a court is considered signed if an electronic signature is transmitted with the document. The transmitted electronic signature must include: (1) a “/s/” and the name typed in the space where the signature would otherwise appear or (2) an electronic image or scanned image of the signature.<sup>3</sup>
- (d) “E-filing” is a process by which a person or entity files a court document with a court or court clerk’s office by means of an online computer transmission of the document through a portal operated by an electronic filing manager designated by OCA.<sup>4</sup>
- (e) “Electronic filing manager” (EFM) is the entity contracted by OCA to provide the single interface for managing the electronic filings to the various courts in Texas.
- (f) “Electronic filing service provider” (EFSP) is an entity certified by the OCA that provides electronic filing services and support to a filer.<sup>5</sup> An attorney or law firm may act as an EFSP. A list of certified EFSPs is on the OCA’s website.
- (g) “E-filer” means a person or entity or their authorized agent who e-files in accordance with these rules. Registration as an e-filer

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<sup>2</sup> See Tex. Code Crim. Proc. Art. 2.26.

<sup>3</sup> See Supreme Court Order Misc. Docket No. 11-9118; Final Approval of Amendments to the Texas Rules of Appellate Procedure And Templates for Local Rules Governing Electronic Copies and Electronic Filings in the Courts of Appeals, Appendix B: Electronic Filing of Documents (Appellate Rules) (f)(1).

<sup>4</sup> See Supreme Court Order Misc. Docket No. 07-9200, Statewide Rules concerning the Electronic Filing and Service of Documents in Participating Justice of the Peace Courts. (JP Rules); [Templates for Local Rules of the District Courts concerning the Electronic Filing of Court Documents \(DC Rules\)](#); Templates for Local Rules of the County Courts concerning the Electronic Filing of Court Documents (CC Rules).

<sup>5</sup> See JP Rules, DC and CC Rules.

- constitutes consent to accept electronic service of pleadings filed by other registered e-filers as well as documents and orders issued by the court.<sup>6</sup>
- (h) “Electronic order” means a digital, non-paper order that a judge signs by applying his or her electronic signature to the order.<sup>7</sup>
  - (i) “E-filed service” is a method of electronically serving any e-filed pleading, plea, motion or other form of request, required to be e-filed with the court, by electronically transmitting a copy to the EFSP for transmission to the designated email address of the party to be served.<sup>8</sup>
  - (j) “Unfiled document e-service” is a method of electronically serving documents that are not required to be e-filed with the court but are required to be served on all other parties to the action. Unfiled document e-service occurs by electronically transmitting the documents to the EFSP for transmission to the designated email address of the party to be served.
  - (k) “Designated e-mail address” means the email address(es) the e-filer has designated with the EFM for electronic service.
  - (l) “Judicial Committee on Information Technology (JCIT)” is the legislative entity approved by the Supreme Court of Texas to develop and recommend minimum standards for electronically based document systems to govern the flow of information

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<sup>6</sup> Rule 2.1(l), JP Rules.

<sup>7</sup> Rule 2.1(h) [JP Rules](#).

<sup>8</sup> Rule 2.1(i), JP Rules.

within the judicial system in electronic form and recommend rules relating to the electronic filing of documents with courts. <sup>9</sup>

- (m) “Technical failure” is defined as a malfunction of the EFM, EFSP or the county’s owned or leased hardware, software, or telecommunications equipment that results in the inability of an e-filer to e-file a document.
- (n) “Clerk” means a district clerk, county clerk and their employees and the clerks and employees of a Justice of the Peace.

### **PART 3. MECHANISM**

#### **3.1 Electronic filing required**

A party represented by counsel must e-file any documents that may be filed with the court in paper form except:

- (a) Wills;
- (b) Documents to be presented to a court in camera, solely for the purpose of obtaining a ruling on the discoverability of such documents;
- (c) Documents sealed pursuant to Tex.R.Civ. P. 76a and;
- (d) Documents to which access is otherwise restricted by law or court order. <sup>10</sup>

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<sup>9</sup> See Chapter 77, Government Code.

<sup>10</sup> See Rule 3.3(a) CC Rules.

Persons not represented by counsel may e-file documents, but e-filing is not required.<sup>11</sup>

Counsel may file a motion in connection with a particular case requesting permission to file documents in paper form and after notice and hearing; a court may grant such motion upon a showing of good cause.

### **3.2 Electronic Filing Manager**

- (a) *E-filing through the EFM:* E-filing must be done through the EFM provided by the OCA. Counsel must not file documents through any alternative document filing transmission system including telecopier or fax filing. No alternative electronic document filing transmission system may be offered by courts or clerks.<sup>12</sup> No local rule, order, or practice of any court may be inconsistent with these rules.<sup>13</sup>
- (b) *Registration:* A person or entity must first register with the EFM through an EFSP in order to e-file. A list of certified EFSPs is on the OCA website. A document to be e-filed must be transmitted to the EFSP, which will send the document to the EFM, which in turn will send the document to the clerk. After filing, the e-filer will receive by email an immediate

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<sup>11</sup> S. Ct. e-filing Order: “Persons not represented by an attorney may e-file documents, but e-filing is not required”.

<sup>12</sup> S.Ct. e-filing Order,

<sup>13</sup> Tex.R.Civ.P. 3a

acknowledgement of the e-filing, a confirmation of the clerk's acceptance of the filing, and a file-stamped copy of the document. An e-filer must provide a designated email address to the EFM .<sup>14</sup>

### 3.3 Multiple Documents

An e-filer may e-file more than one document in the same case in a single transmission through the EFM. However, each e-filed document will be individually accepted or rejected by the clerk.

### 3.4 Signatures

Counsel's electronic signature constitutes the attorney's signature on the document in compliance with the signature requirements in the Texas Rules of Civil Procedure, and authorizes payment of all filing fees and service fees associated with the e-filing.<sup>15</sup>

- (a) *Notarized Documents:* If a document must be notarized, sworn to, or made under oath, the e-filer may electronically notarize the document or must scan the page with the notarized signature(s) or oaths and must include the page with the scanned notarized signature(s) or oaths with the document.<sup>16</sup>
- (b) *Signatures of Opposing Parties:* If a document requires the signature of an opposing party, the e-filer must scan the page

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<sup>14</sup> See Appellate Rules (i).

<sup>15</sup> See Rule 4.21(c) CC Rules.

<sup>16</sup> See Rule (f)(2) Appellate Rules; Rule 3.4 CC Rules

- with the signature(s) of the opposing party and must include the page with the scanned signature(s) with the document.<sup>17</sup>
- (c) *Retention of Original Signatures:* When an e-filer e-files a scanned image of a notarized signature or oath, pursuant to preceding paragraph (b) of this rule, the e-filer must retain the original document from which the scanned image was made until the case in which the document was filed is resolved. If the original document is in another party's possession, that party must retain the original document until the case in which the document was filed is resolved.<sup>18</sup>
- (d) *Designated Email Addresses:* An e-filer must include a designated e-mail address(es) for e-service on all e-filings. An e-filer must notify the clerk, the EFM and, if applicable, the EFSP, of any email address change within one business day of the change.<sup>19</sup> The clerk of a court may send notices or other communications about a case to the designated email address of the party to be served or the party's duly authorized agent or counsel of record in lieu of mailing paper documents.<sup>20</sup>
- (e) *Attorney in Charge:* On the occasion of the party's first appearance through counsel, the attorney whose signature first appears on the on the initial pleading for any party shall be the

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<sup>17</sup> See Rule (f)(3) Appellate Rules.

<sup>18</sup> See Rule (f)(4) Appellate Rules.

<sup>19</sup> See Rule 5(c) JP Rules.

<sup>20</sup> See Rule (i), Appellate Rules.

attorney in charge for the purposes of Texas Rule of Civil Procedure 8 until such designation is changed.<sup>[21](#)</sup>

### **3.5 Electronic Court Orders**

- (a) A judge may electronically sign an order by applying his electronic signature to the order. Judges are not required to electronically sign orders.<sup>[22](#)</sup>
- (b) Upon electronically signing an order, the electronic order shall be electronically forwarded to the court clerk who may treat the electronic order as the official copy of the order. The clerk may electronically scan a paper court order which may serve as the official copy of the court order.<sup>[23](#)</sup>

### **3.6 Format of e-filed pleading or document**

An e-filed document must be formatted as follows:

- (a) An e-filed document must be in text-searchable portable document format (PDF) on 8.5x11 page size, with the content appropriately rotated.<sup>[24](#)</sup> The EFSP must confirm that each document is compatible with this format before it is e-filed.<sup>[25](#)</sup>

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<sup>21</sup> See Rule 4.2(b) DC Rules, JP Rules.

<sup>22</sup> See Rule 6.1 CC Rules.

<sup>23</sup> See Rule 6.1 (c) CC Rules.

<sup>24</sup> See JCIT Technology Standards Version 1.1, [www.courts.state.tx.us/jcit/standards.asp](http://www.courts.state.tx.us/jcit/standards.asp)

<sup>25</sup> See Rule (i) Appellate Rules



- (b) When possible, the document should be generated directly from the originating software using a PDF distiller.<sup>[26](#)</sup>
- (c) Exhibits and appendices must be combined into one computer file with the document they are associated with, unless the resulting document would exceed the EFM's size limits for documents. Documents that include exhibits or appendices must contain bookmarks to each exhibit or appendix item. The bookmarks must be clearly labeled so as to identify the exhibit or appendix item. Whenever possible, scanning of exhibits should be avoided.<sup>[27](#)</sup>
- (d) An e-filed document may contain hyperlinks to another part of the same document, an attachment or exhibit contained within the same computer file.<sup>[28](#)</sup>
- (e) An e-filed document must not contain a virus or malware. The e-filing of a document constitutes a certification by the e-filer that the document has been checked for viruses and malware.<sup>[29](#)</sup>

### **3.7 Time of e-filing**

- (a) *Timely Filing:* Upon transmitting an e-filing to the e-filer's EFSP, the e-filer is deemed to have delivered the document to the clerk and the document is deemed filed. A document will be considered filed timely if it is e-filed at any time before

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<sup>26</sup> Id.

<sup>27</sup> See Rule (e) Appellate Rules.

<sup>28</sup> See Rule (e)(5).Appellate Rules.

<sup>29</sup> See Rule (e) (6) Appellate Rules.

- midnight (in the court's time zone) on the date on which the document is due. A transmission report by the e-filer to the e-filer's EFSP shall be prima facie evidence of date and time of transmission.<sup>30</sup>
- (b) *Technical Failure:* If an e-filed document is untimely due to a technical failure or a system outage, the e-filer may seek appropriate relief from the court. A technical failure that precludes a party's compliance with e-filing procedures cannot be a basis for disposing of any case.
- (c) *Clerk's Acceptance of Filing:* Not later than the first business day after receiving a document from the EFM, the clerk must decide whether the document will be accepted for filing. The clerk must accept the document for filing provided that the document is not misdirected and complies with all e-filing requirements. The clerk must handle electronically transmitted documents that are filed in connection with an affidavit of inability to afford court costs in the manner required by Rule 145 Texas Rules of Civil Procedure. If the clerk fails to accept or reject a document within the time period, the document is deemed to have been accepted and filed.<sup>31</sup>
- (d) *Confirmation of Filing:* If the document is accepted for filing, the clerk must note the date and time of filing which, with the

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<sup>30</sup> See Rule 4.3 JP Rules

<sup>31</sup> Rule 4.3(e) CC Rules, DC Rules

- exception of subsection (f) below, must be the date and time that the e-filer transmitted the document to the e-filer's EFSP. The EFM will, on that same day, electronically transmit to the e-filer a "confirmation" that the document has been accepted or rejected for filing by the clerk. This confirmation will include an electronically "file-marked" copy of the front page of the document showing the date and time the clerk considers the document to have been filed.<sup>32</sup>
- (e) *Rejection of Filing:* If the document is not accepted for filing, the clerk must inform the EFM of its action, and the reason for such action, the same day action is taken. The EFM must, on that same day, electronically transmit to the e-filer an "alert" that the document was not accepted along with the reason the document was not accepted.<sup>33</sup>
- (f) *Official Record:* The clerk may scan a paper document and designate the scanned version as the official court record. A clerk may designate an e-filed document as the official court record. A clerk need only preserve the official record and is not required to keep both traditional and electronic versions of the same document.<sup>34</sup> Nothing herein prohibits a court from requesting counsel to provide a paper courtesy copy of an e-filed document but the clerk need not maintain such copy.

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<sup>32</sup> Rule 4.3(f) CC Rules.

<sup>33</sup> Rule 4.3(g) CC Rules.

<sup>34</sup> See Rule 6.1(c) CC Rules.

- (g) *Electronic Access to e-filed Documents:* The clerk must provide to judges electronic access to e-filed documents within twenty-four hours of the clerk's acceptance of the document, and the judge and judge's staff may access such documents electronically or print such documents as necessary.<sup>35</sup>

## **Part 4. E-Filed Service**

### **4.1 Electronic Service of Documents**

- (a) Except for the citation to be served upon the filing of a cause of action and as otherwise expressly provided in the Rules of Civil Procedure, every document that is e-filed must be electronically served at the same time through the EFM to the designated email address(es) of the party to be served, or the party's duly authorized agent or counsel of record. A party who electronically serves a document through the EFM must make a written certification of such service that must accompany the document noting the date and time of service and the designated email address of the party served.
- (b) Service through the EFM is complete on the e-filer's transmission of the document to the EFSP. When e-service is complete after 5:00 p.m. (recipient's time) the date of service is deemed to be the next day that is not a Saturday, Sunday or

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<sup>35</sup> See Rules 4.6, 6.2 CC Rules.

- legal holiday.<sup>36</sup> The EFM will send proof of service to the e-filer. Nothing herein shall preclude any party from offering proof that the notice or instrument was not received, and upon so finding, the court may extend the time for taking the action required of such party or grant such other relief as it deems just.
- (c) An e-filer must include her designated email address(es) on any electronically filed document.<sup>37</sup>
  - (d) If an e-filer must serve a copy of a document on a party or his counsel who does not have a designated email address, the e-filer must comply with the service requirements in Texas Rule of Civil Procedure 21a and on the same day the document is e-filed must deliver the document to the party being served.<sup>38</sup>

## **4.2 Unfiled Documents E-Service**

- (a) Documents and discovery not required to be e-filed with the court may be served in accordance with Rule 21a or by electronically transmitting such documents through the EFM to the designated email address of the party to be served.
- (b) By agreement of the parties, documents and discovery not required to be e-filed with the court may be served by electronically transmitting such documents directly to the

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<sup>36</sup> See Rule 5.4, CC Rules.

<sup>37</sup> JP Rule 4.6

<sup>38</sup> Rule 21a, Tex. R. Civ. P.

designated email address of the party to be served without using the EFM.<sup>39</sup>

- (c) Service through the EFM is complete on the E-filer's transmission of the document to the EFSP. When e-service is made after 5:00 p.m. (recipient's time) the date of service is deemed to be the next day that is not a Saturday, Sunday or legal holiday.<sup>40</sup> The EFM will send proof of service to the e-filer. Nothing herein shall preclude any party from offering proof that the notice or instrument was not received, and upon so finding, the court may extend the time for taking the action required of such party or grant such other relief as it deems just.

## **PART 5. ELECTRONICALLY FILED SENSITIVE DATA**

### **5.1 Scope**

This rule applies to all e-filed documents, except for court orders and judgments that are filed in civil actions that contain sensitive data, as that term is defined in 5. 2.

### **5.2. Sensitive Data**

Sensitive data<sup>41</sup> consists of:

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<sup>39</sup> Rule 5.2, CC Rules.

<sup>40</sup> See Rule (g)(2) Appellate Rules.

<sup>41</sup> See Rule (d)(1) Appellate Rules.

- (a) a social security or other taxpayer-identification number, except for the last three digits or characters;
- (b) numbers of bank accounts and other financial accounts, including credit cards, except for the last three digits or characters; and
- (c) identification numbers on driver's licenses, passports, and other government-issued identification cards, except for the last three digits or characters.<sup>42</sup>

### 5.3. Elimination of Sensitive Data

- (a) *Filing of Documents Containing Sensitive Data Prohibited:*  
Unless the inclusion of sensitive data is specifically required by a statute, court rule, or administrative regulation, an electronic document containing sensitive data may not be filed with a court. E-filers may comply with this prohibition by replacing or redacting any sensitive data in accordance with subsection (b).  
The e-filing of a document constitutes a certification by all

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<sup>42</sup> See Sec. 30.014. Govt. Code: PLEADINGS MUST CONTAIN PARTIAL IDENTIFICATION INFORMATION. (a) In a civil action filed in a district court, county court, or statutory county court, each party or the party's attorney shall include in its initial pleading:

(1) the last three numbers of the party's driver's license number, if the party has been issued a driver's license; and

(2) The last three numbers of the party's social security number, if the party has been issued a social security number.

attorneys of record for the party filing the document that the document complies with this paragraph.<sup>43</sup>

- (b) *Redaction or Replacement of Sensitive Data:* For a document that the e-filer creates, the e-filer must indicate the omission of sensitive data by use of the letter “X” in place of each omitted number or character. For an existing document containing sensitive data, the e-filer must redact the sensitive data in a manner that makes it wholly unreadable. E-filers must retain an unredacted copy of any redacted document filed under this rule until the case in which the document is filed is resolved.<sup>44</sup>
- (c) *Notice to Clerk:* If an e-filer believes any information described in paragraph 5.2 of this rule is essential to an e-filed document or if a document is required by a statute, court rule, or administrative regulation to include sensitive data, the e-filer must provide notice to the clerk of the court in which the document is being filed that the document contains sensitive data. An e-filer satisfies this requirement by informing the transmitting EFSP that the document contains sensitive information or by complying with any other method approved by the Texas Supreme Court.<sup>45</sup>

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<sup>43</sup> See Rule (d)(2) Appellate Rules.

<sup>44</sup> State Bar of Texas Rules Committee, Suggested Sensitive Data Rule 2013.

<sup>45</sup> See redaction guidelines posted by the Supreme Court’s Clerk on the Supreme Court’s website.



## **5.4. Non-Conforming Documents**

- (a) The court may strike any document containing sensitive data in violation of this rule and require or allow the document to be re-filed without sensitive data as a substitute document. The substitute document must be deemed filed on the same day as the document that was struck.
- (b) If an e-filer believes that sensitive data is essential to an e-filed document or that the e-filed document would be confusing without the information, the e-filer may submit the information to the court under seal.<sup>[46](#)</sup>

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<sup>46</sup>See Rule d(3) Appellate Rules.

# IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 12- 9208

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## ORDER REQUIRING ELECTRONIC FILING IN CERTAIN COURTS

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This order mandates electronic filing (“e-filing”) in civil cases, including family and probate cases, by attorneys in appellate courts, district courts, statutory county courts, constitutional county courts, and statutory probate courts pursuant to a detailed implementation schedule.

Disputes in court require the exchange of information. The primary medium of that exchange has been paper. Texas courts have struggled for over a century to process, manage, and store court documents. With the information age, it is now possible to receive and store those documents digitally. Texas courts first experimented with this new medium in the 1990s when two district courts urged lawyers to file documents electronically. The benefits were immediate. With electronic filing, storage expenses decreased dramatically. Clerks that formerly spent time sorting and file-stamping documents could be assigned to more productive activities. Documents were no longer damaged or lost. The public, lawyers, and judges could instantly access vital pleadings, accelerating the progress of litigation. These efficiencies prompted the judiciary to initiate a pilot project in January 2003 to test and refine the e-filing model. That model was instituted statewide in 2004 through the state’s Texas.gov<sup>1</sup> internet portal. Since that time, a growing number of trial and appellate courts have implemented e-filing.

Currently, the following courts in Texas accept e-filing:

- Supreme Court of Texas (mandatory);
- 9 of the 14 courts of appeals (4 mandatory);

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<sup>1</sup> The portal was originally named TexasOnline.

- 236 district courts and 81 county courts covering 51 counties and more than 80% of the state's population (mandatory in a few district courts);
- 7 statutory probate courts covering 7 counties; and
- 28 justice courts covering 12 counties.

While most of these courts have accepted e-filings through the Texas.gov portal, several courts have adopted systems that diverge from the Supreme Court's e-filing exemplar. As a result, Texas litigants and attorneys confront several different systems and must master the requirements for each. Without a centralized and uniform portal for accessing court case information, the advantages of filing electronically are greatly diminished.

The federal courts, including the bankruptcy courts, district courts and courts of appeals, offer e-filing through a unified, nationwide system, and most of those courts require lawyers to file electronically. Twenty-three states mandate e-filing to varying degrees. These courts have reported dramatic improvements in efficiency and decreased costs.

This Court convened a hearing on December 8, 2011, to assess the benefits and drawbacks of creating a uniform statewide e-filing system. The Court received testimony from the Chair of the Judicial Committee on Information Technology, a district judge, four district clerks, a representative of the current e-filing vendor, a representative of an e-filing service provider and a law firm technology officer. The Court also received numerous written comments. Almost all of the individuals who testified at that hearing and submitted written comments supported mandatory e-filing and implementation of a uniform statewide system.

The testimony revealed a number of benefits to e-filing in Texas courts, including quicker access to e-filed documents; increased efficiency for attorneys and litigants; reduced printing and mailing costs for attorneys and litigants; reduced storage costs for clerks; greater security of court documents in the event of disaster; more efficient use of court staff, as employees typically assigned to accept documents at the clerk's office counter can be retrained for higher skilled positions; and increased transparency and access to the courts. Information can generally be found more quickly in an e-filed document because of the capacity to search for words and phrases. Documents can also be easily cross-referenced and hyperlinks can facilitate direct citation to other filings, legal databases, and exhibits. All of this enhances the quality of legal advocacy and the quantity of information the tribunal possesses when deciding the case.

The testimony also revealed a number of concerns, including the high cost of e-filing associated with the "toll-road" structure of the current system, which requires litigants to pay a fee each time a document is e-filed; the current system's inability to allow certain government<sup>2</sup> and indigent filers to e-file documents at no cost; the decentralized nature of the current system

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<sup>2</sup> Government filers referenced here are those which are not statutorily required to pay filing fees.

and accompanying local e-filing rules; and the inability of the current technology to handle an increase in filings.

While considering the information received at the hearing, the Court learned that the vendor who managed the Texas.gov system would not renew its contract. Accordingly, unless appropriate measures were taken, e-filing would expire in Texas in August 2012.<sup>3</sup> The Court, the Judicial Committee on Information Technology (“JCIT”), the Department of Information Resources, and others determined that it would be prudent to seek a new vendor. The Office of Court Administration (“OCA”) procured and recently signed a contract with a new vendor to provide e-filing to all Texas courts through a system called “TexFile.” The TexFile system follows the “toll road” model, but drastically reduces<sup>4</sup> the cost of e-filing and electronic service. To further reduce costs, OCA and the Court continue to pursue alternative funding models for the new system. In support of these efforts, the Texas Judicial Council has requested that the Texas Legislature lower e-filing fees by adopting a one-time, per-case e-filing fee to replace the “toll-road” model’s per-document or per-transaction fee.<sup>5</sup> TexFile will also permit indigent and certain government filers to submit documents at no cost. Finally, the new system will be scalable to handle as many filings as necessary and will allow for better integration with existing case management software in the courts.

This Court relies on JCIT to develop policy recommendations for the Judiciary on matters relating to technology. JCIT has spent the last several years evaluating the existing e-filing structure and determining how to improve service to the courts and citizens of Texas. After much study, JCIT recommended that the Court “mandate a statewide, uniform system of e-filing for all courts with a phased implementation starting with the most populous counties.”

After considering the testimony, both oral and written, provided at the Court’s hearing, along with the recommendations of JCIT regarding e-filing, the Supreme Court of Texas concludes that mandatory e-filing in civil cases will promote the efficient and uniform administration of justice in Texas courts.

Accordingly, it is **ORDERED** that:

1. This Order governs e-filing in all civil cases, including family and probate cases, at the Supreme Court of Texas, courts of appeals, district courts, statutory county courts, constitutional county courts, and statutory probate courts.

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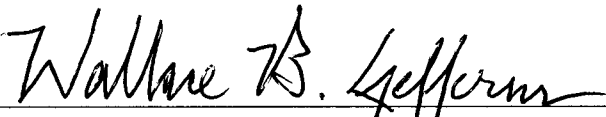
<sup>3</sup> An eighteen month extension was negotiated between DIR and the current vendor to allow for a transition to a new vendor.


<sup>4</sup> The e-filing fees are reduced by up to 48 percent under the new contract. With additional filing volume, the e-filing fees could be reduced by up to 66 percent.

<sup>5</sup> Available at <http://www.courts.state.tx.us/tjc/pdf/AdequateFundingCourteFilingSystem.pdf>.


2. E-filing will be mandatory in the Supreme Court of Texas and in civil cases in the courts of appeals effective January 1, 2014.
3. E-filing will be mandatory in civil cases in the district courts, statutory county courts, constitutional county courts and statutory probate courts according to the following implementation schedule based upon the counties' 2010 Federal Census population:
  - a. Courts in counties with a population of 500,000 or more – January 1, 2014
  - b. Courts in counties with a population of 200,000 to 499,999 – July 1, 2014
  - c. Courts in counties with a population of 100,000 to 199,999 – January 1, 2015
  - d. Courts in counties with a population of 50,000 to 99,999 – July 1, 2015
  - e. Courts in counties with a population of 20,000 to 49,999 – January 1, 2016
  - f. Courts in counties with a population less than 20,000 – July 1, 2016
4. Once a court is subject to mandatory e-filing under this Order, attorneys must e-file all documents in civil cases, except documents exempted by rules adopted by this Court, through TexFile, the e-filing portal provided by OCA. Attorneys must not file documents through any alternative electronic document filing transmission system (including fax filing), except in the event of emergency. Persons not represented by an attorney may e-file documents, but e-filing is not required.
5. Once a court is subject to mandatory e-filing under this Order, courts and clerks must not offer to attorneys in civil cases any alternative electronic document filing transmission system (including fax filing), except in the event of emergency. And courts and clerks must not accept, file, or docket any document filed by an attorney in a civil case that is not filed in compliance with this Order, except in the event of emergency.
6. The Supreme Court will adopt rules governing e-filing and e-service in accordance with the mandate schedule above.
7. Courts or clerks who believe they cannot comply with this Order by the implementation date specified may petition the Supreme Court for an extension, which may be granted for good cause shown.

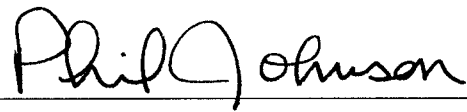
SO ORDERED, this 11<sup>th</sup> day of December, 2012.

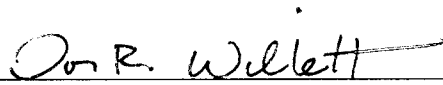
  
Wallace B. Jefferson, Chief Justice

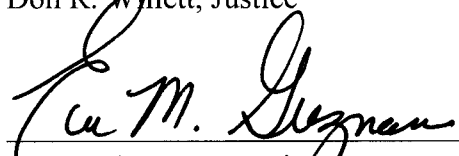
  
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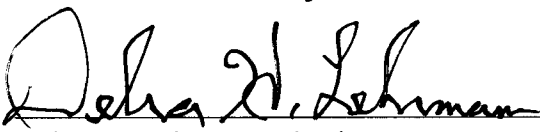
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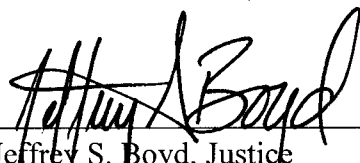
  
Paul W. Green, Justice

  
Phil Johnson, Justice

  
Don R. Willett, Justice

  
Eva M. Guzman, Justice

  
Debra H. Lehrmann, Justice

  
Jeffrey S. Boyd, Justice

# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 11- 9032

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## AMENDMENTS TO THE TEXAS RULES OF APPELLATE PROCEDURE AND TEMPLATES FOR LOCAL RULES GOVERNING ELECTRONIC COPIES AND ELECTRONIC FILINGS IN THE COURTS OF APPEALS

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**ORDERED** that:

1. Pursuant to Section 22.004 of the Texas Government Code, the Supreme Court of Texas amends Rules 9.2 and 9.3 of the Texas Rules of Appellate Procedure, as follows.

**9.2. Filing**

....

- (c) *Electronic Filing.* Documents may be permitted or required to be filed, signed, or verified by electronic means by order of the Supreme Court or the Court of Criminal Appeals, or by local rule of a court of appeals. A technical failure that precludes a party's compliance with electronic-filing procedures cannot be a basis for disposing of any case.

**9.3. Number of Copies; Electronic Copies**

- (a) *Courts of Appeals.*

- (1) Paper Copies in General. A party must file:
- (A) the original and three copies of all documents in an original proceeding;
  - (B) the original and two copies of all motions in an appellate proceeding; and
  - (C) the original and five copies of all other documents.
- (2) Local Rules. A court of appeals may by local rule require:

- (A) the filing of more or fewer paper copies of any document other than a petition for discretionary review; and
- (B) an electronic copy of a document filed in paper form.

(b) *Supreme Court and Court of Criminal Appeals.*

- (1) Paper Copies of Document Filed in Paper Form. A party must file the original and 11 copies of any document addressed to either the Supreme Court or the Court of Criminal Appeals, except that in the Supreme Court, only an original and one copy must be filed of any motion, response to the motion, and reply in support of the motion, and in the Court of Criminal Appeals, only the original must be filed of a motion for extension of time or a response to the motion, or a pleading under Code of Criminal Procedure article 11.07.
- (2) Electronic Copies of Document Filed in Paper Form. An electronic copy of a document filed in paper form may be required by order of the Supreme Court or the Court of Criminal Appeals.
- (3) Paper Copies of Electronically Filed Document. Two paper copies of each document that is electronically filed with the Supreme Court or the Court of Criminal Appeals must be mailed or hand-delivered to the Supreme Court or the Court of Criminal Appeals, as appropriate, within one business day after the document is electronically filed.

(c) *Exception for Record.* Only the original record need be filed in any proceeding.

2. The Supreme Court also promulgates the attached templates for local rules governing electronic copies and electronic filings in the courts of appeals.

- a. A court of appeals' local rule requiring electronic copies of documents must be in the form of Appendix A with modifications only as permitted by the Supreme Court. The local rule must be approved by Order of the Supreme Court.
- b. A court of appeals' local rule permitting the electronic filing of documents must be in the form of Appendix B with modifications only as permitted by the Supreme Court. The local rule must be approved by Order of the Supreme Court.



c. The procedures prescribed by the local rules apply in lieu of those prescribed by the Texas Rules of Appellate Procedure to the extent there are differences between the procedures; otherwise, the Rules of Appellate Procedure continue to apply with full force and effect.

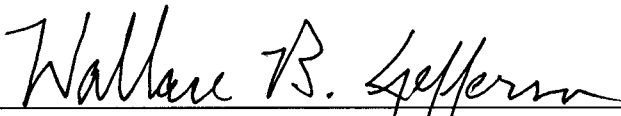
3. Amended Rules 9.2 and 9.3 of the Texas Rules of Appellate Procedure, with any modifications made after public comments are received, take effect June 30, 2011. Comments regarding the amended rules may be submitted to the Supreme Court in writing on or before May 31, 2011. Comments should be directed to Kennon L. Peterson, Rules Attorney, at P.O. Box 12248, Austin, TX 78711, or [kennon.peterson@txcourts.gov](mailto:kennon.peterson@txcourts.gov).

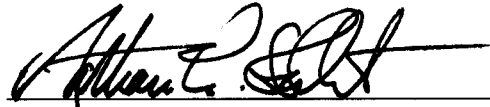
4. Courts of appeals may proceed immediately with submitting proposed local rules in accordance with this Order for the Supreme Court's consideration.

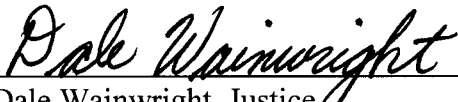
5. The Clerk of the Supreme Court is directed to:

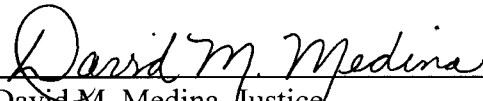
- a. file a copy of this Order with the Secretary of State;
- b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the Texas Bar Journal;
- c. send a copy of this Order to each elected member of the Legislature; and
- d. submit a copy of the Order for publication in the Texas Register.


Dated: February ~~28~~, 2011.

  
Wallace B. Jefferson, Chief Justice

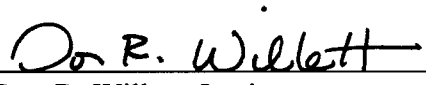
  
Nathan L. Hecht, Justice

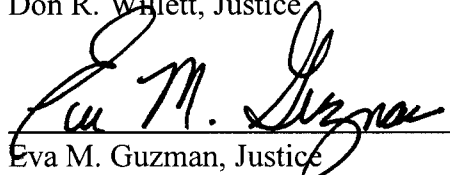
  
Dale Wainwright, Justice

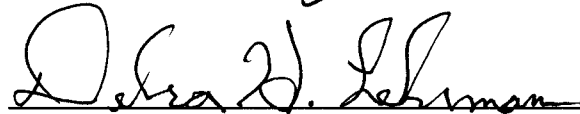
  
David M. Medina, Justice

  
Paul W. Green, Justice

  
Phil Johnson, Justice

  
Don R. Willett, Justice

  
Eva M. Guzman, Justice

  
Debra H. Lehrmann, Justice

## APPENDIX A

### Local Rule \_\_\_\_\_. Electronic Copies of Documents Filed in Paper Form.

**(a) Electronic copies of documents required.** For the convenience of the court, attorneys, parties, and the public, an attorney for a party must email to the court an electronic copy of every document filed with the court, except a document under seal or subject to a motion to seal. A party who is not represented by an attorney is encouraged to email to the court an electronic copy of every document filed with the court, except a document under seal or subject to a motion to seal. [Courts may add exceptions for attorneys and unrepresented parties.]

**(b) Filing required.** An electronic copy does not constitute a filing. Documents must continue to be filed as provided by the Texas Rules of Appellate Procedure[, except that only the original and [insert number] copies must be filed of any document other than a petition for discretionary review. A party must file the original and 11 copies of a petition for discretionary review].

**(c) Time to email electronic copy.** The electronic copy must be emailed to the court at [insert applicable email address] on the same day the original document is filed. Also on that day, the electronic copy must be emailed to each other party's lead counsel for whom the filing attorney has an email address.

**(d) Identification of document.** The email subject line must identify the document by case number and by name. The electronic copy must be named as follows: [insert court's desired naming conventions here].

**(e) Redaction of electronic copies.** An electronic copy must be substantively identical to the original document filed with the court, except it must not contain a social security number; a birth date; a home address; the name of any person who was a minor when the underlying suit was filed; a driver's license number, passport number, tax identification number, or similar government-issued personal identification number; or a bank account number, credit card number, or other financial account number. The attorney emailing the electronic copy must redact all such information in accordance with the redaction guidelines posted by the Supreme Court's Clerk on the Supreme Court's website; however, the electronic copy may contain a reference to this information as long as the reference does not include any part of the actual information (e.g., "passport number"). For good cause, the court may order redaction of additional information.

**(f) Certification of counsel.** The submission of an electronic copy constitutes a certification by all attorneys of record for the party filing the document that the electronic copy complies with paragraph (e).

**(g) Posting of electronic copies.** The clerk may post electronic copies of documents in a case on the court's website. By letter to the clerk, a party to the case may request that electronic copies posted on the court's website be redacted further or removed altogether. The request must identify with particularity the document(s) to be removed or the information to be redacted and state specific reasons for the request. If the request is for further redaction, the party must email a copy of the requested version of the document.

**(h) Format of electronic copies.** An electronic copy must be formatted as follows:

(1) An electronic copy must be in text-searchable portable document format (PDF) compatible with the latest version of Adobe Reader.

(2) Except as otherwise provided by this rule, an electronic copy of a document created by a word processing program must not be a scan of the original but must instead be converted from the original directly into a PDF file using Adobe Acrobat, a word processing program's PDF conversion utility, or another software program.

(3) Records filed in original proceedings and appendix materials may be scanned if necessary, but scanning creates larger file sizes with images of lesser quality and should be avoided when possible. An appendix must be combined into one computer file with the document it is associated with, unless the resulting computer file would exceed the size limits in paragraph (i). If a record filed in an original proceeding or an appendix contains more than one item, it should include a table of contents and either bookmarks to assist in locating each item or separator pages with the title of the item immediately following and any number or letter associated with the item in the table of contents.

(4) A scanned document must be made searchable using optical-character-recognition software, such as Adobe Acrobat, and have a resolution of 300 dots per inch (dpi).

(5) An electronic copy may contain hyperlinks to another part of the same document, an external source cited in the document, an appendix item associated with the document, an embedded case, or a record cite. Hyperlinks within an appendix item are also permitted.

(6) An electronic copy must not contain a virus or malware. The submission of an electronic copy constitutes a certification by all attorneys of record for the party filing the document that the electronic copy has been checked for viruses and malware.

(7) An electronic copy need not be signed.

**(i) Size of electronic copies.** A electronic copy must not exceed 20 megabytes. Electronic copies larger than 20 megabytes must be divided into smaller files.

**(j) Communications with the clerk.** An attorney who emails an electronic copy of a document must supply the clerk with an email address to which the clerk may send notices or other communications about the case in lieu of mailing paper documents. If the attorney's email address changes, the attorney must provide the clerk with the new email address within one business day of the change. Lead counsel must register for Casemail and follow the instructions for receiving notices for cases in which they represent a party.

## APPENDIX B

### Local Rule \_\_\_\_\_. Electronic Filings of Documents.

**(a) Electronic filing permitted.** A party may electronically file (e-file ) any document that may be filed with the court in paper form, except a document under seal or subject to a motion to seal.

**(b) E-filing mechanism.** E-filing must be done through Texas.gov, the portal established by the Texas Legislature. Directions for its use may be found on its website. This is a summary. A person must first register with an Electronic Filing Service Provider (EFSP). A list of approved EFSPs is on the Texas.gov website. The EFSP will provide the registrant with a confidential, secure username and password to use when e-filing a document. This username and password will also function as a signature on each e-filed document, and will authorize payment of all filing fees and service fees. A document to be e-filed must be transmitted to the EFSP, which will send the document to Texas.gov, which in turn will send the document to the clerk. The e-filer will receive by email an immediate acknowledgment of the e-filing, a confirmation of the clerk's acceptance of the filing, and a file-stamped copy of the document. Fees charged by Texas.gov for the e-filing of a document are in addition to any filing fees and are costs of court.

**(c) Electronic service.** A party who has registered to e-file documents through an EFSP may electronically serve (e-serve) documents through that EFSP on any other party who has consented to e-service by registering for the e-service option with an EFSP or by setting up a complimentary account with Texas.gov. Directions may be found on the Texas.gov website.

(1) Service through an EFSP is complete on transmission to the e-served person's EFSP or complimentary Texas.gov account. The e-filer's EFSP will send proof of service to the e-filer. Fees that an EFSP charges for e-service are not costs of court.

(2) If an e-filer must serve a copy of a document on a party who has not consented to e-service, the e-filer must comply with the service requirements in Texas Rule of Appellate Procedure 9.5 and, on the same day the document is e-filed, must send the document to:

(A) the party's lead counsel by email if the e-filer has an email address for the lead counsel; or

(B) if the party is not represented by counsel, to the party by email if the e-filer has the party's email address.

**(d) Redaction of information in e-filed document.**

(1) Unless the court orders otherwise, an e-filed document must not contain a social security number; a birth date; a home address; the name of any person who was a minor when the underlying suit was filed; a driver's license number, passport number, tax identification number, or similar government-issued personal identification number; or a bank account number, credit card number, or other financial account number. The e-filer must redact all of this information in accordance with the redaction guidelines posted by the Supreme Court's Clerk on the Supreme Court's website; however, the e-filed document may contain a reference to this information as long as the reference does not include any part of the actual information (e.g., "passport number"). For good cause, the court may order redaction of additional information.

(2) The e-filing of a document constitutes a certification by all attorneys of record for the party filing the document that the document complies with paragraph (1) of this rule.

(3) If an e-filer believes any information described in paragraph (1) of this rule is essential to an e-filed document or that the e-filed document would be confusing without the information, the e-filer may submit the information to the court in a reference list that is in paper form and under seal. The reference list must specify an appropriate identifier that corresponds uniquely to each item listed. Any reference in the e-filed document to a listed identifier will be construed to refer to the corresponding item of information. If the e-filer provides a reference list pursuant to this rule, the front page of the e-filed document must indicate that the reference list has been, or will be, provided.

(4) On its own initiative, the court may order a sealed reference list in any case. The court may also order that a document be filed under seal in paper form, without redaction. The court may later unseal the document or order the filer to provide a redacted version of the document for the public record.

**(e) Format of e-filed document.** An e-filed document must be formatted as follows:

(1) An e-filed document must be formatted in accordance with Texas Rule of Appellate Procedure 9.4(b)–(e). The "paper" requirements in Rule 9.4(b)–(c) apply equally to a "page" of the e-filed document.

(2) An e-filed document must be in text-searchable portable document format (PDF) compatible with the latest version of Adobe Reader. An EFSP will convert each e-filed document from its original form into a PDF file that complies with this rule.

(3) Records filed in original proceedings and appendix materials may be scanned if necessary, but scanning creates larger file sizes with images of lesser quality and should be avoided when possible. An appendix must be combined into one computer file with the document it is associated with, unless the resulting computer file would exceed Texas.gov's size limits for the document. If a record filed in an original proceeding or an appendix contains more than one item, it should include a table of contents and either bookmarks to assist in locating each item or separator pages with the title of the item immediately following and any number or letter associated with the item in the table of contents.

(4) A scanned document must be made searchable using optical-character-recognition software, such as Adobe Acrobat, and have a resolution of 300 dots per inch (dpi).

(5) An e-filed document may contain hyperlinks to another part of the same document, an external source cited in the document, an appendix item associated with the document, an embedded case, or a record cite. Hyperlinks within an appendix item are also permitted.

(6) An e-filed document must not contain a virus or malware. The e-filing of a document constitutes a certification by the e-filer that the document has been checked for viruses and malware.

(7) The court may strike an e-filed document for nonconformance with this rule.

**(f) Signatures on e-filed documents.**

(1) Except as otherwise provided by this rule, the confidential, secure username and password that the e-filer must use to e-file a document constitute the e-filer's signature on the document, in compliance with signature requirements in the Texas Rules of Appellate Procedure. When a signature is provided in this manner, the e-filer must also include either an "/s/" and the e-filer's name typed in the space where the e-filer's signature would otherwise appear or an electronic image of the e-filer's signature, which may take the form of a public key-based digital signature or a scanned image of the e-filer's signature. The e-filer must not allow the e-filer's username or password to be used by anyone other than an agent who is authorized by the e-filer.



(2) If a document must be notarized, sworn to, or made under oath, the e-filer must e-file the document as a scanned image containing the necessary signature(s).

(3) If a document requires the signature of an opposing party, the e-filer must e-file the document as a scanned image containing the opposing party's signature.

(4) When an e-filer e-files a scanned image of a document pursuant to paragraph (2) or (3) of this rule, the e-filer must retain the original document from which the scanned image was made until the case in which the document was filed is resolved. If the original document is in another party's possession, that party must retain the original document until the case in which the document was filed is resolved.

(5) If an e-served document was also e-filed and the person who completes a certificate of service under Texas Rule of Appellate Procedure 9.5(e) is different from the person who e-filed the document, the person who completes the certificate of service must sign the certificate by including either an"/s/" and his or her name typed in the space where his or her signature would otherwise appear or an electronic image of his or her signature.

**(g) Time of e-filing.** A document will be considered filed timely if it is e-filed at any time before midnight (in the court's time zone) on the date on which the document is due.

(1) An e-filed document is deemed filed when the e-filer transmits the document to the e-filer's EFSP, unless the document is transmitted on a Saturday, Sunday, or legal holiday or requires a motion and an order allowing its filing.

(2) If a document is transmitted on a Saturday, Sunday, or legal holiday, it will be deemed filed on the next day that is not a Saturday, Sunday, or legal holiday.

(3) If a document requires a motion and an order allowing its filing, it will be deemed filed on the date the motion is granted.

(4) If an e-filed document is untimely due to a technical failure or a system outage, the e-filer may seek appropriate relief from the court.

**(h) Paper copies.**

OPTION 1: An e-filer is not required to file any paper copies of an e-filed document, except that paper copies of a petition for discretionary review must still be filed in accordance with Rule 9 of the Texas Rules of Appellate Procedure within one business day after the petition is e-filed.

OPTION 2: An e-filer must file 11 paper copies of an e-filed petition for discretionary review and [insert number] paper copies of any other e-filed document in accordance with Rule 9 of the Texas Rules of Appellate Procedure within one business day after the document is e-filed.

**(i) Email address requirements and communications with the clerk.** An e-filed document must include the e-filer's email address, in addition to any other information required by the Texas Rules of Appellate Procedure. If the e-filer's email address changes, the e-filer must provide the clerk and the e-filer's EFSP with the new email address within one business day of the change. If there is a change in the email address of a party who has consented to receive e-service, the party must provide Texas.gov or, if applicable, the party's EFSP with the new email address within one business day of the change. The clerk may send notices or other communications about a case to an attorney's email address in lieu of mailing paper documents.

**(j) Casemail registration.** Lead counsel must register for Casemail and follow the instructions for receiving notices for cases in which they represent a party.

**(k) Construction of rules.** This rule must be liberally construed so as to avoid undue prejudice to any person who makes a good-faith effort to comply with requirements in this rule.

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\_\_\_\_\_ COUNTY

**LOCAL RULES OF THE DISTRICT COURTS**

**concerning the**

**ELECTRONIC FILING OF COURT DOCUMENTS**

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**PART 1. GENERAL PROVISIONS**

**Rule 1.1 Purpose**

These rules govern the electronic filing and service of court documents, by any method other than fax filing, in \_\_\_\_\_ County. These rules are adopted pursuant to Rule 3a of the Texas Rules of Civil Procedure and may be known as the “\_\_\_\_\_ County Local Rules of the District Courts Concerning the Electronic Filing of Court Documents.”

**Rule 1.2 Effect on Existing Local Rules**

These rules are adopted in addition to any other local rules of the district courts in \_\_\_\_\_ County. These rules do not supersede or replace any previously adopted local rules. These rules are in addition to current local rules regarding electronic court documents (fax filing).

**Rule 1.3 Electronic Filing Optional Unless Ordered by Court**

(a) Except as provided by subsection (b) below, the electronic filing and serving of court documents is wholly optional.

(b) Upon the motion of a party and for good cause shown, a district court may order the parties in a particular case to electronically file and serve court documents that are permitted to be electronically filed under Rule 3.3.

**PART 2. DEFINITIONS**

**Rule 2.1 Specific Terms**

The following definitions apply to these rules:

- (a) “Convenience fee” is a fee charged in connection with electronic filing that is in addition to regular filing fees. A Convenience Fee charged by the District Clerk will be considered as a court cost.
- (b) “District clerk” means the \_\_\_\_\_ County District Clerk.
- (c) “Digitized signature” means a graphic image of a handwritten signature.
- (d) “Document” means a pleading, plea, motion, application, request, exhibit, brief, memorandum of law, paper, or other instrument in paper form or electronic form. The term does not include court orders.
- (e) “Electronic filing” is a process by which a filer files a court document with the district clerk’s office by means of an online computer transmission of the document in electronic form. For purposes of these rules, the process does not include the filing of faxed documents which is described as the “electronic filing of documents” in Section 51.801, Government Code.
- (f) “Electronic filing service provider (EFSP)” is a business entity that provides electronic filing services and support to its customers (filers). An attorney or law firm may act as an EFSP.
- (g) “Electronic order” means a computerized, non-paper court order that a judge signs by applying his or her digitized signature to the order. A digitized signature is a graphic image of the judge’s handwritten signature.
- (h) “Electronic service” is a method of serving a document upon a party in a case by electronically transmitting the document to that party’s e-mail address.
- (i) “Electronically file” means to file a document by means of electronic filing.
- (j) “Electronically serve” means to serve a document by means of electronic service.
- (k) “Filer” means a person who files a document, including an attorney.
- (l) “Party” means a person appearing in any case or proceeding, whether represented or appearing pro se, or an attorney of record for a party in any case or proceeding.
- (m) “Regular filing fees” are those filing fees charged in connection with traditional filing.
- (n) “Rules” are the \_\_\_\_\_ County Local Rules of the District Courts concerning the Electronic Filing of Documents.
- (o) “Traditional court order” means a court order that is on paper.

(p) “Traditional filing” is a process by which a filer files a paper document with a clerk or a judge.

### **Rule 2.2 Application to Pro Se Litigants**

The term “counsel” shall apply to an individual litigant in the event a party appears pro se.

## **PART 3. APPLICABILITY**

### **Rule 3.1 Scope**

(a) These rules apply to the filing of documents in all non-juvenile civil cases, including cases that are appeals from lower courts, before the various district courts with jurisdiction in \_\_\_\_\_ County.

(b) These rules apply to the filing of documents in cases before the various district courts referred to in paragraph (a) above that are subsequently assigned to associate judges or any other similar judicial authorities.

### **Rule 3.2 Clerks**

These rules apply only to the filing of documents with the district clerk. These rules do not apply to the filing of documents directly with a judge as contemplated by TEX. R. CIV. P. 74.

### **Rule 3.3 Documents That May Be Electronically Filed**

(a) A document that can be filed in a traditional manner with the district clerk may be electronically filed with the exception of the following documents:

- i) citations or writs bearing the seal of the court;
- ii) bonds;
- iii) subpoenas;
- iv) proof of service of subpoenas;
- v) documents to be presented to a court in camera, solely for the purpose of obtaining a ruling on the discoverability of such documents;
- vi) documents sealed pursuant to TEX. R. CIV. P. 76a; and

vii) documents to which access is otherwise restricted by law or court order, including a document filed in a proceeding under Chapter 33, Family Code.

(b) A motion to have a document sealed, as well as any response to such a motion, may be electronically filed.

### **Rule 3.4. Documents Containing Signatures**

(a) A document that is required to be verified, notarized, acknowledged, sworn to, or made under oath may be electronically filed only as a scanned image.

(b) A document that requires the signatures of opposing parties (such as a Rule 11 agreement) may be electronically filed only as a scanned image.

(c) Any affidavit or other paper described in Rule 3.4(a) or (b) that is to be attached to an electronically-filed document may be scanned and electronically filed along with the underlying document.

(d) Where a filer has electronically filed a scanned image under this rule, a court may require the filer to properly file the document in a traditional manner with the district clerk. A third party may request the court in which the matter is pending to allow inspection of a document maintained by the filer.

## **PART 4. FILING MECHANICS**

### **Rule 4.1 Texas.gov**

(a) Texas.gov is a project of the Department of Information Resources Board, a state entity charged with establishing a common electronic infrastructure through which state agencies and local governments may electronically send and receive documents and required payments.

(b) To become registered to electronically file documents, filers must follow registration procedures outlined by Texas.gov. The procedure can be accessed from Texas.gov's website at [www.Texas.gov](http://www.Texas.gov).

(c) Filers do not electronically file documents directly with the district clerk. Rather, filers indirectly file a document with the district clerk by electronically transmitting the document to an electronic filing service provider (EFSP) which then electronically transmits the document to Texas.gov which then electronically transmits the document to the district clerk. A filer filing or serving a document must have a valid account with an EFSP and with Texas.gov

(d) Consistent with standards promulgated by the Judicial Committee on Information Technology (JCIT), Texas.gov will specify the permissible formats for documents that will be electronically filed and electronically served.

(e) Filers who electronically file documents will pay regular filing fees to the district clerk indirectly through Texas.gov by a method set forth by Texas.gov.

(f) An EFSP may charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees.

(g) Texas.gov will charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees and will be in an amount not to exceed the amount approved by the Department of Information Resources Board.

(h) The district clerk may charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees, credit card fees, or other fees.

#### **Rule 4.2 Signatures**

(a) Upon completion of the initial registration procedures, each filer will be issued a confidential and unique electronic identifier. Each filer must use his or her identifier in order to electronically file documents. Use of the identifier to electronically file documents constitutes a “digital signature” on the particular document.

(b) The attachment of a digital signature on an electronically-filed document is deemed to constitute a signature on the document for purposes of signature requirements imposed by the Texas Rules of Civil Procedure or any other law. The person whose name appears first in the signature block of an initial pleading is deemed to be the attorney in charge for the purposes of Texas Rules of Civil Procedure 8, unless otherwise designated. The digital signature on any document filed is deemed to be the signature of the attorney whose name appears first in the signature block of the document for the purpose of Texas Rules of Civil Procedure 13 and 57.

(c) A digital signature on an electronically-filed document is deemed to constitute a signature by the filer for the purpose of authorizing the payment of document filing fees.

#### **Rule 4.3 Time Document is Filed**

(a) A filer may electronically transmit a document through an EFSP to Texas.gov 24 hours per day each and every day of the year, except during brief periods of state-approved scheduled maintenance which will usually occur in the early hours of Sunday morning.

(b) Upon sending an electronically-transmitted document to a filer's EFSP, the filer is deemed to have delivered the document to the clerk and, subject to Rule 4.3(h), the document is deemed to be filed. If a document is electronically transmitted to the filer's

EFSP and is electronically transmitted on or before the last day for filing the same, the document, if received by the clerk not more than ten days tardily, shall be filed by the clerk and deemed filed in time. A transmission report by the filer to the filer's EFSP shall be prima facie evidence of date and time of transmission.

(c) On receipt of a filer's document, the filer's EFSP must send the document to Texas.gov in the required electronic file format along with an indication of the time the filer sent the document to the EFSP and the filer's payment information. Texas.gov will electronically transmit to the filer an "acknowledgment" that the document has been received by Texas.gov. The acknowledgment will note the date and time that the electronically-transmitted document was received by Texas.gov.

(d) Upon receiving a document from a filer's EFSP, Texas.gov shall electronically transmit the document to the district clerk. If the document was not properly formatted, Texas.gov will transmit a warning to the filer's EFSP.

(e) Not later than the first business day after receiving a document from Texas.gov, the district clerk shall decide whether the document will be accepted for filing. The district clerk shall accept the document for filing provided that the document is not misdirected and complies with all filing requirements. The district clerk shall handle electronically-transmitted documents that are filed in connection with an affidavit of inability to afford court costs in the manner required by TEX. R. CIV. P. 145. If the clerk fails to accept or reject a document within the time period, the document is deemed to have been accepted and filed.

(f) If the document is accepted for filing, the district clerk shall note the date and time of filing which, with the exception of subsection (h) below, shall be the date and time that the filer transmitted the document to the filer's EFSP. The district clerk shall inform Texas.gov of its action the same day action is taken. Texas.gov shall, on that same day, electronically transmit to the filer's EFSP a "confirmation" that the document has been accepted for filing by the district clerk. The EFSP will electronically transmit the confirmation to the filer. This confirmation will include an electronically "file-marked" copy of the front page of the document showing the date and time the district clerk considers the document to have been filed.

(g) If the document is not accepted for filing, the district clerk shall inform Texas.gov of its action, and the reason for such action, the same day action is taken. Texas.gov shall, on that same day, electronically transmit to the filer's EFSP an "alert" that the document was not accepted along with the reason the document was not accepted. The EFSP will electronically transmit the alert to the filer.

(h) Except in cases of injunction, attachment, garnishment, sequestration, or distress proceedings, documents that serve to commence a civil suit will not be deemed to have been filed on Sunday when the document is electronically transmitted to the filer's EFSP, Texas.gov, or the Clerk on Sunday. Such documents will be deemed to have been filed on the succeeding Monday.



#### **Rule 4.4 Filing Deadlines Not Altered**

The electronic filing of a document does not alter any filing deadlines.

#### **Rule 4.5 Multiple Documents**

(a) Except as provided by subsection (b) below, a filer may include only one document in an electronic transmission to Texas.gov.

(b) A filer may electronically transmit a document to Texas.gov that includes another document as an attachment (e.g., a motion to which is attached a brief in support of the motion).

#### **Rule 4.6 Official Document**

(a) The district clerk's file for a particular case may contain a combination of electronically-filed documents and traditionally-filed documents.

(b) The district clerk may maintain and make available electronically-filed documents in any manner allowed by law.

#### **Rule 4.7 E-mail Address Required**

In addition to the information required on a pleading by TEX. R. CIV. P. 57, a filer must include an e-mail address on any electronically-filed document.

#### **Rule 4.8 Document Format**

(a) Electronically-filed documents must be computer-formatted as specified by Texas.gov. Electronically-filed documents must also be formatted for printing on 8 ½-inch by 11-inch paper.

(b) An electronically-filed pleading is deemed to comply with TEX. R. CIV. P. 45.

### **PART 5. SERVICE OF DOCUMENTS OTHER THAN CITATION**

#### **Rule 5.1 Electronic Service of Documents Permissible**

(a) In addition to the methods of serving documents (other than the citation to be served upon the filing of a cause of action) set forth in TEX. R. CIV. P. 21a, a filer may serve documents upon another party in the case by electronically transmitting the document to that party at the party's email address. Service in such a manner is known as "electronic service," and is permissible in the circumstances set out in paragraph (b) below.

(b) Documents may be electronically served upon a party only where that party has agreed to receive electronic service or where the court has ordered the parties to electronically serve documents.

(c) By virtue of electronically filing a document or serving a document or by agreeing to accept service, a filer additionally agrees to provide information regarding any change in his or her e-mail address to Texas.gov, the district clerk, and all parties in the case.

(d) A party who electronically files a document is not required to electronically serve documents upon other parties unless the court has ordered the parties to electronically serve documents.

(e) A filer may electronically serve a document in instances where the document is traditionally filed as well as in instances where the document is electronically filed.

### **Rule 5.2 Completion of Service and Date of Service**

(a) Electronic service shall be complete upon transmission of the document by the filer to the party at the party's e-mail address.

(b) Except as provided by subsection (c) below, the date of service shall be the date the electronic service is complete.

(c) When electronic service is complete after 5:00 p.m. (recipient's time), then the date of service shall be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

### **Rule 5.3 Time for Action After Service**

Whenever a party has the right or is required to do some act within a prescribed period of time after service of a document upon the party and that document is electronically served, then three days shall be added to the prescribed period of time.

### **Rule 5.4 Certification of Service**

(a) Documents to be electronically served upon another party shall be served before the time or at the same time that the document is filed.

(b) A filer who electronically serves a document upon another party shall make a written certification of such service that shall accompany the document when that document is filed. The written certification shall include, in addition to any other requirements imposed by the Texas Rules of Civil Procedure, the following:

- (i) the filer's e-mail address or telecopier (facsimile machine) number;
- (ii) the recipient's e-mail address;

(iii) the date and time of electronic service; and

(iv) a statement that the document was electronically served and that the electronic transmission was reported as complete.

## **PART 6. ELECTRONIC ORDERS AND VIEWING OF ELECTRONICALLY-FILED DOCUMENTS**

### **Rule 6.1 Courts Authorized to Make Electronic Orders**

(a) A judge may electronically sign an order by applying his or her digitized signature to the order. Judges are not required to electronically sign orders.

(b) Upon electronically signing an order, the judge shall electronically forward the order to the district clerk who may treat the electronic order as the official copy of the order. Alternatively, the district clerk may print the electronic order and treat the printed order as the official copy of the order.

(c) The district clerk may electronically scan a traditional court order. The scanned court order may then serve as the official copy of the court order. The district clerk is not required to electronically scan traditional court orders in order to create official electronic court orders. Electronic scanning of traditional court orders is at the option of the district clerk.

### **Rule 6.2 Viewing of Electronically-filed Documents**

(a) The district clerk shall ensure that all the records of the court, except those made confidential or privileged by law or statute, may be viewed in some format by all persons for free.

(b) Independent of the Texas.gov system and the requirement of viewing access described in subsection (a), the district clerk may choose to provide for both filers and the general public to electronically view documents or court orders that have been electronically filed or scanned. Where such provision has been made, persons may electronically view documents or court orders that have been electronically filed or scanned.

(c) Nothing in this rule allows for the viewing of documents or court orders, in any form, that are legally confidential (e.g., papers in mental health proceedings) or otherwise restricted by judicial rule or order.

## **PART 7. MISCELLANEOUS PROVISIONS**

### **Rule 7.1 Assigned Court to Resolve Disputes**

In the event a dispute should arise involving the application of these rules or various electronic filing issues, a district court assigned in accordance with local assignment procedures shall decide any dispute.

**Rule 7.2. Rule Guiding Interpretation.**

These rules shall be liberally construed so as to avoid undue prejudice to any person on account of using the electronic filing system or sending or receiving electronic service in good faith.

**ADOPTION OF RULES**

The foregoing “\_\_\_\_\_ County Local Rules of the District Courts concerning the Electronic Filing of Documents” are hereby adopted by the undersigned district judges in \_\_\_\_\_ County on this the \_\_\_\_\_ day of \_\_\_\_\_, 2011 and submitted to the Supreme Court of Texas for approval. These rules shall become effective upon their approval by the Supreme Court of Texas.

\_\_\_\_\_  
Judge, \_\_\_\_<sup>st</sup> Judicial District Court

\_\_\_\_\_  
Judge, \_\_\_\_<sup>rd</sup> Judicial District Court

\_\_\_\_\_  
Judge, \_\_\_\_<sup>nd</sup> Judicial District Court

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\_\_\_\_\_ COUNTY

**LOCAL RULES OF THE COUNTY COURTS**

**concerning the**

**ELECTRONIC FILING OF COURT DOCUMENTS**

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**PART 1. GENERAL PROVISIONS**

**Rule 1.1 Purpose**

These rules govern the electronic filing and service of court documents, by any method other than fax filing, in \_\_\_\_\_ County. These rules are adopted pursuant to Rule 3a of the Texas Rules of Civil Procedure and may be known as the “\_\_\_\_\_ County Local Rules of the County Courts Concerning the Electronic Filing of Court Documents.”

**Rule 1.2 Effect on Existing Local Rules**

These rules are adopted in addition to any other local rules of the county courts in \_\_\_\_\_ County. These rules do not supersede or replace any previously adopted local rules.

**Rule 1.3 Electronic Filing Optional Unless Ordered by Court**

(a) Except as provided by subsection (b) below, the electronic filing and serving of court documents is wholly optional.

(b) Upon the motion of a party and for good cause shown, a county court may order the parties in a particular case to electronically file and serve court documents that are permitted to be electronically filed under Rule 3.3.

**PART 2. DEFINITIONS**

**Rule 2.1 Specific Terms**

The following definitions apply to these rules:

(a) “Convenience fee” is a fee charged in connection with electronic filing that is in addition to regular filing fees. A Convenience Fee charged by the County Clerk will be considered as a court cost.

(b) “County clerk” means the \_\_\_\_\_ County Clerk.

- (c) "Digitized signature" means a graphic image of a handwritten signature.
- (d) "Document" means a pleading, plea, motion, application, request, exhibit, brief, memorandum of law, paper, or other instrument in paper form or electronic form. The term does not include court orders.
- (e) "Electronic filing" is a process by which a filer files a court document with the county clerk's office by means of an online computer transmission of the document in electronic form. For purposes of these rules, the process does not include the filing of faxed documents which is described as the "electronic filing of documents" in Section 51.801, Government Code.
- (f) "Electronic filing service provider (EFSP)" is a business entity that provides electronic filing services and support to its customers (filers). An attorney or law firm may act as an EFSP.
- (g) "Electronic order" means a computerized, non-paper court order that a judge signs by applying his or her digitized signature to the order. A digitized signature is a graphic image of the judge's handwritten signature.
- (h) "Electronic service" is a method of serving a document upon a party in a case by electronically transmitting the document to that party's e-mail address.
- (i) "Electronically file" means to file a document by means of electronic filing.
- (j) "Electronically serve" means to serve a document by means of electronic service.
- (k) "Filer" means a person who files a document, including an attorney.
- (l) "Party" means a person appearing in any case or proceeding, whether represented or appearing pro se, or an attorney of record for a party in any case or proceeding.
- (m) "Regular filing fees" are those filing fees charged in connection with traditional filing.
- (n) "Rules" are the \_\_\_\_\_ County Local Rules of the County Courts concerning the Electronic Filing of Documents.
- (o) "Traditional court order" means a court order that is on paper.
- (p) "Traditional filing" is a process by which a filer files a paper document with a clerk or a judge.

## **Rule 2.2 Application to Pro Se Litigants**

The term “counsel” shall apply to an individual litigant in the event a party appears pro se.

### **PART 3. APPLICABILITY**

#### **Rule 3.1 Scope**

(a) These rules apply to the filing of documents in all non-juvenile civil cases, including cases that are appeals from lower courts, before the various county courts with jurisdiction in \_\_\_\_\_ County.

(b) These rules apply to the filing of documents in cases before the various county courts referred to in paragraph (a) above that are subsequently assigned to associate judges or any other similar judicial authorities.

#### **Rule 3.2 Clerks**

These rules apply only to the filing of documents with the county clerk. These rules do not apply to the filing of documents directly with a judge as contemplated by TEX. R. CIV. P. 74.

#### **Rule 3.3 Documents That May Be Electronically Filed**

(a) A document that can be filed in a traditional manner with the county clerk may be electronically filed with the exception of the following documents:

- i) citations or writs bearing the seal of the court;
- ii) bonds;
- iii) wills and codicils thereto;
- iv) subpoenas;
- v) proof of service of subpoenas;
- vi) documents to be presented to a court in camera, solely for the purpose of obtaining a ruling on the discoverability of such documents;
- vii) documents sealed pursuant to TEX. R. CIV. P. 76a; and

- viii) documents to which access is otherwise restricted by law or court order, including a document filed in a proceeding under Chapter 33, Family Code.
- (b) A motion to have a document sealed, as well as any response to such a motion, may be electronically filed.

### **Rule 3.4. Documents Containing Signatures**

- (a) A document that is required to be verified, notarized, acknowledged, sworn to, or made under oath may be electronically filed only as a scanned image.
- (b) A document that requires the signatures of opposing parties (such as a Rule 11 agreement) may be electronically filed only as a scanned image.
- (c) Any affidavit or other paper described in Rule 3.4(a) or (b) that is to be attached to an electronically filed document may be scanned and electronically filed along with the underlying document.
- (d) Where a filer has electronically filed a scanned image under this rule, a court may require the filer to properly file the document in a traditional manner with the county clerk. A third party may request the court in which the matter is pending to allow inspection of a document maintained by the filer.

## **PART 4. FILING MECHANICS**

### **Rule 4.1 Texas.gov**

- (a) Texas.gov is a project of the Department of Information Resources Board, a state entity charged with establishing a common electronic infrastructure through which state agencies and local governments may electronically send and receive documents and required payments.
- (b) To become registered to electronically file documents, filers must follow registration procedures outlined by Texas.gov. The procedure can be accessed from Texas.gov's website at [www.Texas.gov](http://www.Texas.gov).
- (c) Filers do not electronically file documents directly with the county clerk. Rather, filers indirectly file a document with the county clerk by electronically transmitting the document to an electronic filing service provider (EFSP) which then electronically transmits the document to Texas.gov which then electronically transmits the document to the county clerk. A filer filing or serving a document must have a valid account with an EFSP and with Texas.gov



- (d) Consistent with standards promulgated by the Judicial Committee on Information Technology (JCIT), Texas.gov will specify the permissible formats for documents that will be electronically filed and electronically served.
- (e) Filers who electronically file documents will pay regular filing fees to the county clerk indirectly through Texas.gov by a method set forth by Texas.gov.
- (f) An EFSP may charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees.
- (g) Texas.gov will charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees and will be in an amount not to exceed the amount approved by the Department of Information Resources Board.
- (h) The county clerk may charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees, credit card fees, or other fees.

#### **Rule 4.2 Signatures**

- (a) Upon completion of the initial registration procedures, each filer will be issued a confidential and unique electronic identifier. Each filer must use his or her identifier in order to electronically file documents. Use of the identifier to electronically file documents constitutes a “digital signature” on the particular document.
- (b) The attachment of a digital signature on an electronically-filed document is deemed to constitute a signature on the document for purposes of signature requirements imposed by the Texas Rules of Civil Procedure or any other law. The person whose name appears first in the signature block of an initial pleading is deemed to be the attorney in charge for the purposes of Texas Rules of Civil Procedure 8, unless otherwise designated. The digital signature on any document filed is deemed to be the signature of the attorney whose name appears first in the signature block of the document for the purpose of Texas Rules of Civil Procedure 13 and 57.
- (c) A digital signature on an electronically-filed document is deemed to constitute a signature by the filer for the purpose of authorizing the payment of document filing fees.

#### **Rule 4.3 Time Document is Filed**

- (a) A filer may electronically transmit a document through an EFSP to Texas.gov 24 hours per day each and every day of the year, except during brief periods of state-approved scheduled maintenance which will usually occur in the early hours of Sunday morning.
- (b) Upon sending an electronically-transmitted document to a filer's EFSP, the filer is deemed to have delivered the document to the county clerk and, subject to Rule 4.3(h),

the document is deemed to be filed. If a document is electronically transmitted to the filer's EFSP and is electronically transmitted on or before the last day for filing the same, the document, if received by the county clerk not more than ten days tardily, shall be filed by the county clerk and deemed filed in time. A transmission report by the filer to the filer's EFSP shall be prima facie evidence of date and time of transmission.

(c) On receipt of a filer's document, the filer's EFSP must send the document to Texas.gov in the required electronic file format along with an indication of the time the filer sent the document to the EFSP and the filer's payment information. Texas.gov will electronically transmit to the filer an "acknowledgment" that the document has been received by Texas.gov. The acknowledgment will note the date and time that the electronically-transmitted document was received by Texas.gov.

(d) Upon receiving a document from a filer's EFSP, Texas.gov shall electronically transmit the document to the county clerk. If the document was not properly formatted, Texas.gov will transmit a warning to the filer's EFSP.

(e) Not later than the first business day after receiving a document from Texas.gov, the county clerk shall decide whether the document will be accepted for filing. The county clerk shall accept the document for filing provided that the document is not misdirected and complies with all filing requirements. The county clerk shall handle electronically-transmitted documents that are filed in connection with an affidavit of inability to afford court costs in the manner required by TEX. R. CIV. P. 145. If the county clerk fails to accept or reject a document within the time period, the document is deemed to have been accepted and filed.

(f) If the document is accepted for filing, the county clerk shall note the date and time of filing which, with the exception of subsection (h) below, shall be the date and time that the filer transmitted the document to the filer's EFSP. The county clerk shall inform Texas.gov of its action the same day action is taken. Texas.gov shall, on that same day, electronically transmit to the filer's EFSP a "confirmation" that the document has been accepted for filing by the county clerk. The EFSP will electronically transmit the confirmation to the filer. This confirmation will include an electronically "file-marked" copy of the front page of the document showing the date and time the county clerk considers the document to have been filed.

(g) If the document is not accepted for filing, the county clerk shall inform Texas.gov of its action, and the reason for such action, the same day action is taken. Texas.gov shall, on that same day, electronically transmit to the filer's EFSP an "alert" that the document was not accepted along with the reason the document was not accepted. The EFSP will electronically transmit the alert to the filer.

(h) Except in cases of injunction, attachment, garnishment, sequestration, or distress proceedings, documents that serve to commence a civil suit will not be deemed to have been filed on Sunday when the document is electronically transmitted to the filer's EFSP,

Texas.gov, or the county clerk on Sunday. Such documents will be deemed to have been filed on the succeeding Monday.

#### **Rule 4.4 Filing Deadlines Not Altered**

The electronic filing of a document does not alter any filing deadlines.

#### **Rule 4.5 Multiple Documents**

(a) Except as provided by subsection (b) below, a filer may include only one document in an electronic transmission to Texas.gov.

(b) A filer may electronically transmit a document to Texas.gov that includes another document as an attachment (e.g., a motion to which is attached a brief in support of the motion).

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(a) The county clerk's file for a particular case may contain a combination of electronically-filed documents and traditionally-filed documents.

(b) The county clerk may maintain and make available electronically-filed documents in any manner allowed by law.

#### **Rule 4.7 E-mail Address Required**

In addition to the information required on a pleading by TEX. R. CIV. P. 57, a filer must include an e-mail address on any electronically-filed document.

#### **Rule 4.8 Document Format**

(a) Electronically-filed documents must be computer-formatted as specified by Texas.gov. Electronically-filed documents must also be formatted for printing on 8½-inch by 11-inch paper.

(b) An electronically-filed pleading is deemed to comply with TEX. R. CIV. P. 45.

### **PART 5. SERVICE OF DOCUMENTS OTHER THAN CITATION**

#### **Rule 5.1 Electronic Service of Documents Permissible**

(a) In addition to the methods of serving documents (other than the citation to be served upon the filing of a cause of action) set forth in TEX. R. CIV. P. 21a, a filer may serve documents upon another party in the case by electronically transmitting the document to

that party at the party's email address. Service in such a manner is known as “electronic service,” and is permissible in the circumstances set out in paragraph (b) below.

(b) Documents may be electronically served upon a party only where that party has agreed to receive electronic service or where the court has ordered the parties to electronically serve documents.

(c) By virtue of electronically filing a document or serving a document or by agreeing to accept service, a filer additionally agrees to provide information regarding any change in his or her e-mail address to Texas.gov, the county clerk, and all parties in the case.

(d) A party who electronically files a document is not required to electronically serve documents upon other parties unless the court has ordered the parties to electronically serve documents.

(e) A filer may electronically serve a document in instances where the document is traditionally filed as well as in instances where the document is electronically filed.

#### **Rule 5.2 Completion of Service and Date of Service**

(a) Electronic service shall be complete upon transmission of the document by the filer to the party at the party's e-mail address.

(b) Except as provided by subsection (c) below, the date of service shall be the date the electronic service is complete.

(c) When electronic service is complete after 5:00 p.m. (recipient's time), then the date of service shall be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

#### **Rule 5.3 Time for Action After Service**

Whenever a party has the right or is required to do some act within a prescribed period of time after service of a document upon the party and that document is electronically served, then three days shall be added to the prescribed period of time.

#### **Rule 5.4 Certification of Service**

(a) Documents to be electronically served upon another party shall be served before the time or at the same time that the document is filed.

(b) A filer who electronically serves a document upon another party shall make a written certification of such service that shall accompany the document when that document is filed. The written certification shall include, in addition to any other requirements imposed by the Texas Rules of Civil Procedure, the following:

- (i) the filer's e-mail address or telecopier (facsimile machine) number;
- (ii) the recipient's e-mail address;
- (iii) the date and time of electronic service; and
- (iv) a statement that the document was electronically served and that the electronic transmission was reported as complete.

## **PART 6. ELECTRONIC ORDERS AND VIEWING OF ELECTRONICALLY-FILED DOCUMENTS**

### **Rule 6.1 Courts Authorized to Make Electronic Orders**

- (a) A judge may electronically sign an order by applying his or her digitized signature to the order. Judges are not required to electronically sign orders.
- (b) Upon electronically signing an order, the judge shall electronically forward the order to the county clerk who may treat the electronic order as the official copy of the order. Alternatively, the county clerk may print the electronic order and treat the printed order as the official copy of the order.
- (c) The county clerk may electronically scan a traditional court order. The scanned court order may then serve as the official copy of the court order. The county clerk is not required to electronically scan traditional court orders in order to create official electronic court orders. Electronic scanning of traditional court orders is at the option of the county clerk.

### **Rule 6.2 Viewing of Electronically-filed Documents**

- (a) The county clerk shall ensure that all the records of the court, except those made confidential or privileged by law or statute, may be viewed in some format by all persons for free.
- (b) Independent of the Texas.gov system and the requirement of viewing access described in subsection (a), the county clerk may choose to provide for both filers and the general public to electronically view documents or court orders that have been electronically filed or scanned. Where such provision has been made, persons may electronically view documents or court orders that have been electronically filed or scanned.
- (c) Nothing in this rule allows for the viewing of documents or court orders, in any form, that are legally confidential (e.g., papers in mental health dealings) or otherwise restricted by judicial rule or order.

## **PART 7. MISCELLANEOUS PROVISIONS**

**Rule 7.1 Assigned Court to Resolve Disputes**

In the event a dispute should arise involving the application of these rules or various electronic filing issues, the court assigned to the case in which the dispute arises shall decide any dispute.

**Rule 7.2 Rule Guiding Interpretation**

These rules shall be liberally construed so as to avoid undue prejudice to any person on account of using the electronic filing system or sending or receiving electronic service in good faith.

**ADOPTION OF RULES**

The foregoing “\_\_\_\_\_ County Local Rules of the County Courts concerning the Electronic Filing of Documents” are hereby adopted by the undersigned judges in \_\_\_\_\_ County on this the \_\_\_\_\_ day of \_\_\_\_\_, 2011 and submitted to the Supreme Court of Texas for approval.

These rules shall become effective upon their approval by the Supreme Court of Texas.

\_\_\_\_\_  
County Court at Law  
\_\_\_\_\_ County, Texas

\_\_\_\_\_  
County Court at Law No. 2  
\_\_\_\_\_ County, Texas

## IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 07-9200

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### FINAL ADOPTION OF STATEWIDE RULES CONCERNING THE ELECTRONIC FILING AND SERVICE OF DOCUMENTS IN PARTICIPATING JUSTICE OF THE PEACE COURTS

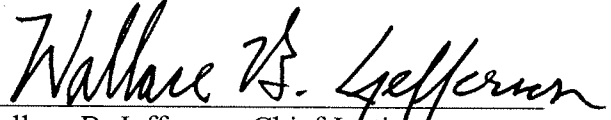
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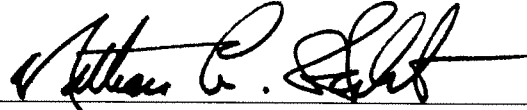
**ORDERED** that:

1. As required by the Act of May 3, 2007, 80th Leg., R.S. ch. 63, 2007 Tex. Sess. Law Serv. 58 (“SB 237”), and in accordance with its mandatory deadline, the Court adopts the following Statewide Rules Concerning the Electronic Filing and Service of Documents in Participating Justice of the Peace Courts.
2. Pursuant to Misc. Docket No. 07-9166, these rules were published in the October 2007 *Texas Bar Journal* with public comments invited through November 30, 2007. The order provided that “[t]hese rules, with any modifications made after public comments are received, take effect January 1, 2008.” Misc. Docket No. 07-9166 (September 20, 2007).
3. The final version of the rules shown on the following pages reflects modifications to Rule 2.2 made after public comment. The remaining rules are adopted as previously published. The rules take effect January 1, 2008.
4. The Clerk is directed to:
  - a. file a copy of this Order with the Secretary of State;
  - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this Order to each elected member of the Legislature;  
and
  - d. cause a copy of this Order to be posted on the website of the Supreme Court of Texas at <http://www.supreme.courts.state.tx.us>.

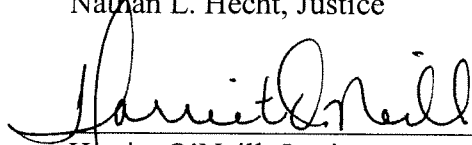
SIGNED this 10th day of December, 2007.



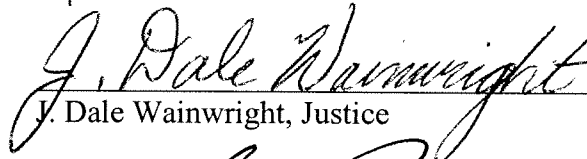
Wallace B. Jefferson, Chief Justice



Nathan L. Hecht, Justice



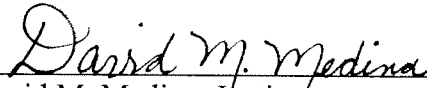
Harriet O'Neill, Justice



J. Dale Wainwright, Justice



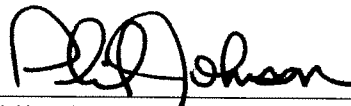
Scott Brister, Justice



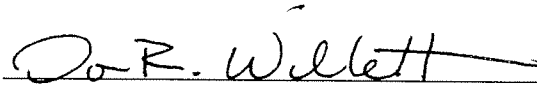
David M. Medina, Justice



Paul W. Green, Justice



Phil Johnson, Justice



Don R. Willett, Justice



**STATEWIDE RULES**  
**concerning the**  
**ELECTRONIC FILING AND SERVICE OF DOCUMENTS**  
**in PARTICIPATING JUSTICE OF THE PEACE COURTS**

**PART 1. GENERAL PROVISIONS**

**Rule 1.1 Scope**

These rules govern the electronic filing and service of documents in civil cases in all participating justice of the peace courts. These rules are adopted pursuant to Texas Government Code §22.004(f), and may be known as the Statewide Rules Concerning the Electronic Filing and Service of Documents in Participating Justice of the Peace Courts.

**Rule 1.2 Electronic Filing Optional**

In a participating justice of the peace court, a party may electronically file any documents that are permitted to be electronically filed under Rule 3.1.

**Rule 1.3. Participation in Electronic Filing By Justice of the Peace Courts**

(a) Each justice of the peace in Texas may determine whether the court over which the justice of the peace presides will accept electronically filed documents. These rules do not require any individual justice of the peace to accept electronically filed documents. Documents may be electronically filed only in a participating justice of the peace court.

(b) The county clerk of each county must maintain a current list, available to the public at no charge in the county clerk's office—and, if the county has a website accessible by the public at no cost, on the county's website as well—of participating justice of the peace courts in the county. After a justice of the peace court has begun participating in electronic filing, it must continue to do so until the justice of the peace has notified the county clerk, the county commissioner's court, and TexasOnline that the court will no longer participate and that the TexasOnline account has been closed, at which time the county clerk must promptly update the list to reflect the change. A justice of the peace court must provide advance notice of its decision to cease participating in electronic filing, in the form of (1) a general notice posted in a prominent place in the clerk's office or other location where the paper filings for the justice of the peace court are made, the county clerk's office, and the county's website, if

available, posted in each location for at least 30 consecutive days before the TexasOnline account is closed; and (2) direct notice by e-mail or other means, provided at least 7 days before the TexasOnline account is closed, to every party registered with TexasOnline in a case then pending in the justice of the peace court.

## **PART 2. DEFINITIONS**

### **Rule 2.1 Specific Terms**

The following definitions apply to these rules:

- (a) “Civil cases” means all cases filed in small claims court and all non-criminal cases filed in the justice courts. The term does not include matters handled by a justice of the peace acting as a magistrate.
- (b) “Convenience fee” is a fee charged in connection with electronic filing that is in addition to regular filing fees. A convenience fee charged by the justice of the peace court will be considered as a court cost.
- (c) “Digital signature” means a confidential and unique electronic identifier issued to a filer upon registration with TexasOnline. *See* Rule 4.2.
- (d) “Digitized signature” means a graphic image of a handwritten signature.
- (e) “Document” means a pleading, plea, motion, application, request, exhibit, brief, memorandum of law, paper, or other instrument in paper form or electronic form. The term does not include court orders.
- (f) “Electronic filing” is a process by which a filer files a court document with the justice of the peace court by means of an online computer transmission of the document in electronic form. For purposes of these rules, the process does not include the filing of faxed documents described as the “electronic filing of documents” in Tex. Gov’t Code §51.801.
- (g) “Electronic filing service provider” (EFSP) means a business entity that provides electronic filing services and support to its customers (filers). An attorney or law firm may act as an EFSP.
- (h) “Electronic order” means a computerized, non-paper court order that a justice of the peace signs by applying his or her digitized signature to the order.
- (i) “Electronic service” is a method of serving a document upon a party in a case by electronically transmitting the document to that party’s e-mail address.

- (j) “Electronically file” means to file a document by means of electronic filing.
- (k) “Electronically serve” means to serve a document by means of electronic service.
- (l) “Filer” means a person who files a document, including an attorney.
- (m) “Justice of the peace court” means a justice court or a small claims court, as defined by chapters 27 and 28 of the Texas Government Code and Texas Constitution Article V, §19.
- (n) “Paper court order” means a court order that is generated and signed on paper.
- (o) “Paper filing” and “filing in paper format” describe a process by which a filer files a paper document with a justice of the peace court.
- (p) “Participating justice of the peace court” means a justice of the peace court that has set up a TexasOnline account to accept electronically filed documents and has notified the county clerk and the county commissioner’s court of the court’s participating status.
- (q) “Party” means a person or entity appearing in any case or proceeding.
- (r) “Registered e-mail address” means an e-mail address a filer has registered with TexasOnline for the transmission or receipt of electronically filed documents.
- (s) “Regular filing fees” are those filing fees charged in connection with paper filing.
- (t) “Rules” are the Statewide Rules Concerning the Electronic Filing and Service of Documents in Participating Justice of the Peace Courts.

## **Rule 2.2 Self Representation**

The term “attorney” shall apply to a self-represented party, such as a person representing himself or herself in a justice of the peace court, or a corporate representative who is not a licensed attorney appearing on behalf of a corporation either in small claims court as authorized by Texas Government Code §28.003(e) or in justice court as authorized by Texas Government Code §27.031(c).

## **PART 3. APPLICABILITY**

### **Rule 3.1 Documents That May Be Electronically Filed**

- (a) A document that can be filed in paper format may be electronically filed with a participating justice of the peace court, with the exception of the following documents:

- i) citations or writs bearing the seal of the court;
- ii) returns of citation;
- iii) bonds;
- iv) subpoenas;
- v) proof of service of subpoenas;
- vi) documents to be presented to a court in camera, solely for the purpose of obtaining a ruling on the discoverability of such documents; and,
- vii) documents sealed pursuant to Texas Rule of Civil Procedure 76a.

(b) A motion to have a document sealed, as well as any response to such a motion, may be electronically filed.

**Rule 3.2. Documents Containing Signatures**

(a) A document that is required to be verified, notarized, acknowledged, sworn to, or made under oath may be electronically filed only as a scanned image.

(b) A document that requires the signatures of opposing parties (such as an agreement between attorneys or parties pertaining to a pending suit) may be electronically filed only as a scanned image.

(c) Any affidavit or other paper described in Rule 3.2(a) or (b) that is to be attached to an electronically filed document may be scanned and electronically filed along with the underlying document.

(d) Where a filer has electronically filed a scanned image under this rule, a court may require the filer to file the document in paper format.

(e) When a document is filed as a scanned image under Rule 3.2(a) or (b), the filer must retain the original document from which the scanned image has been made. Upon a party's request, a court shall require a party that electronically filed a scanned image of a document under Rule 3.2(a) or (b) to allow another party to inspect the original document.

## **PART 4. FILING**

### **Rule 4.1 TexasOnline**

- (a) Texas Online is a project of the Texas Department of Information Resources (DIR), a state agency charged with establishing a common electronic infrastructure through which state agencies and local governments may electronically send and receive documents and required payments.
- (b) To become registered to electronically file documents, filers must follow registration procedures outlined by TexasOnline. The procedure can be accessed from TexasOnline's website at [www.texasonline.com](http://www.texasonline.com).
- (c) Filers do not electronically file documents directly with the justice of the peace court. Rather, filers indirectly file with the justice of the peace court by electronically transmitting the document to an electronic filing service provider (EFSP), which electronically transmits the document to TexasOnline, which then electronically transmits the document to the justice of the peace court. A filer filing a document must have a valid account with a TexasOnline EFSP.
- (d) Consistent with standards promulgated by the Judicial Committee on Information Technology (JCIT), TexasOnline will specify the permissible formats for documents that will be electronically filed and electronically served.
- (e) Filers who electronically file documents will pay regular filing fees to the justice of the peace court indirectly through TexasOnline by a method set forth by TexasOnline.
- (f) An EFSP may charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees.
- (g) TexasOnline will charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees and will be in an amount not to exceed the amount approved by the DIR Board.
- (h) The justice of the peace court may charge filers a convenience fee to electronically file documents, in an amount not to exceed the amount approved by the DIR Board. This fee will be in addition to regular filing fees, credit card fees, or other fees.

### **Rule 4.2 Signatures**

- (a) Upon completion of the initial registration procedures, each filer will be issued a confidential and unique electronic identifier. Each filer must use his or her identifier in order

to electronically file documents. Use of the identifier to electronically file documents constitutes a digital signature on the particular document.

(b) The attachment of a digital signature on an electronically filed document is deemed to constitute a signature on the document for purposes of signature requirements imposed by the Texas Rules of Civil Procedure or any other law. The person whose name appears first in the signature block of an initial pleading is deemed to be the attorney in charge for the purposes of Texas Rule of Civil Procedure 8, unless otherwise designated. The digital signature on any document electronically filed is deemed to be the signature of the attorney whose name appears first in the signature block of the document for the purpose of Texas Rules of Civil Procedure 13 and 57.

(c) A digital signature on an electronically filed document is deemed to constitute a signature by the filer for the purpose of authorizing the payment of document filing fees.

#### **Rule 4.3 Time Document is Filed**

(a) A filer may electronically transmit a document through an EFSP to TexasOnline 24 hours per day each and every day of the year, except during brief periods of state-approved scheduled maintenance which will usually occur in the early hours of Sunday morning.

(b) Upon the electronic transmission of a document to a filer's EFSP, the filer is deemed to have delivered the document to the justice of the peace court and, subject to Rule 4.3(h), the document is deemed to be filed. If a document is electronically transmitted to the filer's EFSP on or before the last day for filing the same, the document shall be filed by the court and deemed filed in time. A transmission report by the filer to the filer's EFSP shall be prima facie evidence of date and time of transmission.

(c) On receipt of a filer's document, the filer's EFSP must send the document to TexasOnline in the required electronic file format along with an indication of the time the filer sent the document to the EFSP and the filer's payment information. TexasOnline will electronically transmit to the filer an acknowledgment that the document has been received by TexasOnline. The acknowledgment will note the date and time that the electronically-transmitted document was received by TexasOnline.

(d) Upon receiving a document from a filer's EFSP, TexasOnline shall electronically transmit the document to the justice of the peace court. If the document was not properly formatted, Texas Online will transmit a warning to the filer's EFSP.

(e) The justice of the peace court shall accept the document for filing provided that the document is not misdirected and complies with all filing requirements. The justice of the peace court must accept electronically-transmitted documents that are filed in connection with an affidavit of inability to afford court costs in the manner required by Texas Rule of

Civil Procedure 145. If the justice of the peace court fails to accept or reject a document within one business day, the document is deemed to have been filed.

(f) If the document is accepted for filing, the justice of the peace court shall note the date and time of filing which, with the exception of subsection (h) below, shall be the date and time that the filer transmitted the document to the filer's EFSP. The justice of the peace court shall inform TexasOnline of its action the same day action is taken. TexasOnline shall, on that same day, electronically transmit to the filer's EFSP a confirmation that the document has been accepted for filing by the justice of the peace court. The EFSP will electronically transmit the confirmation to the filer. This confirmation will include an electronically file-marked copy of the front page of the document showing the date and time the justice of the peace court considers the document to have been filed.

(g) If the document is not accepted for filing, the justice of the peace court shall inform TexasOnline of its action, and the reason for such action, the same day action is taken. TexasOnline shall, on that same day, electronically transmit to the filer's EFSP an "alert" that the document was not accepted along with the reason the document was not accepted. The EFSP will electronically transmit the alert to the filer.

(h) Except in cases of attachment, garnishment, sequestration, or distress proceedings, documents that serve to commence a civil suit will not be deemed to have been filed on Sunday when the document is electronically transmitted to the filer's EFSP, TexasOnline, or the justice of the peace court on Sunday. Such documents will be deemed to have been filed on the succeeding Monday.

#### **Rule 4.4 Multiple Documents**

(a) Except as provided by subsection (b) below, a filer may include only one document in an electronic transmission to TexasOnline.

(b) A filer may electronically transmit a document to TexasOnline that includes another document as an attachment (e.g., a motion to which is attached a brief in support of the motion).

#### **Rule 4.5 Official Document**

(a) The justice of the peace court's file for a particular case may contain a combination of electronically filed documents and paper documents.

(b) The justice of the peace court may maintain and make available electronically filed documents in any manner allowed by law.

#### **Rule 4.6 Registered E-mail Address Required**

A filer must include the filer's registered e-mail address on any electronically filed document, along with the filer's mailing address; telephone number; telecopier (fax) number, if available; and, if the filer is an attorney licensed in Texas, the filer's State Bar of Texas identification number.

#### **Rule 4.7 Document Format**

Electronically-filed documents must be computer-formatted as specified by TexasOnline. Electronically-filed documents must also be formatted for printing on 8 1/2-inch by 11-inch paper.

### **PART 5. SERVICE OF DOCUMENTS OTHER THAN CITATION**

#### **Rule 5.1 Electronic Service of Documents Permissible**

(a) Texas Rule of Civil Procedure 21a provides that, except for the citation to be served upon the filing of a cause of action and except as otherwise expressly provided in the Rules of Civil Procedure, documents filed with a court or otherwise required to be served upon a party may be served by delivering a copy to the party, or to the party's authorized agent or attorney, in person or by agent or by courier receipted delivery or by certified or registered mail, to the party's last known address, or by telephonic document transfer (fax) to the recipient's current telecopier (fax machine) number, or by such other method as the court in its discretion may direct. In addition to those methods, a filer may serve documents upon another party in the case by electronically transmitting the document to that party, either through TexasOnline to the party's registered e-mail address or directly to the party at the e-mail address provided by the party upon agreeing to receive electronic service, as updated by the party as provided in paragraph (c) below. Service in either manner is known as "electronic service" and is permissible in the circumstances set out in paragraph (b) below.

(b) Documents may be electronically served upon a party only where that party has agreed to receive electronic service.

(c) By virtue of electronically filing or serving a document or by agreeing to receive electronic service, a party additionally agrees to provide information regarding any change in his or her e-mail address to TexasOnline, the justice of the peace court, and all parties in the case within 24 hours of the change.

(d) A party who electronically files a document is not required to electronically serve documents upon other parties.



(e) A filer may electronically serve a document in instances where the document is filed in paper format as well as in instances where the document is electronically filed.

### **Rule 5.2 Completion of Service and Date of Service**

(a) Service shall be complete upon the sender's initiation of an electronic transmission of the document under either of the methods of electronic service specified in Rule 5.1(a). However, nothing in this rule precludes a party from offering proof that the electronic transmission was not timely received for reasons beyond the control of the intended recipient, and upon so finding, the court may extend the time for taking the action required of the intended recipient or grant such other relief as it deems just.

(b) Except as provided by subsection (c) below, the date of service shall be the date the electronic service is complete.

(c) When electronic service is complete after 5:00 p.m. (recipient's time), then the date of service shall be deemed to be the next day that is not a Saturday, Sunday, or legal holiday.

### **Rule 5.3 Certification of Service**

(a) Documents to be electronically served upon another party shall be served before the time or at the same time that the document is filed.

(b) A document served electronically must contain a certificate of electronic service that must include, in addition to any other requirements imposed by the Texas Rules of Civil Procedure, the following:

(i) the filer's e-mail address and, if available, the filer's telecopier (fax machine) number;

(ii) the recipient's e-mail address;

(iii) the date and time of electronic service; and

(iv) a statement either that the document has been electronically served, or that the document is being electronically served concurrent with the electronic filing of the document.

## **PART 6. ELECTRONIC ORDERS AND VIEWING OF ELECTRONICALLY-FILED DOCUMENTS**

### **Rule 6.1 Courts Authorized to Make Electronic Orders**

- (a) A justice of the peace may electronically sign an order by applying his or her digitized signature to the order. Justices of the peace are not required to electronically sign orders.
- (b) Upon electronically signing an order, the justice of the peace may maintain the electronic order as an official copy of the order or print the electronic order and treat the printed order as an official copy of the order.
- (c) The justice of the peace court may electronically scan a paper court order. The scanned court order may then serve as the official copy of the court order. The court is not required to electronically scan paper court orders in order to create official electronic court orders. Electronic scanning of paper court orders is at the option of the court.

### **Rule 6.2 Viewing of Electronically-filed Documents**

- (a) The justice of the peace court shall ensure that all the records of the court, except those made confidential or privileged by law, rule, or court order, may be viewed in some format by all persons at no charge. Nothing in this rule allows for the viewing of documents or court orders, in any form, that are confidential or privileged by law, rule, or court order.
- (b) Independent of the TexasOnline system and the requirement of viewing access described in subsection (a), a justice of the peace court may choose to provide for both filers and the general public to electronically view documents or court orders that have been electronically filed or scanned. Where such provision has been made, persons may electronically view documents or court orders that have been electronically filed or scanned.

## **PART 7. MISCELLANEOUS PROVISIONS**

### **Rule 7.1 Assigned Court to Resolve Disputes**

In the event a dispute should arise involving the application of these rules or various electronic filing issues, the justice of the peace court assigned to the case in which the dispute arises shall decide any dispute.

### **Rule 7.2. Rule Guiding Interpretation**

These rules shall be liberally construed so as to avoid undue prejudice to any person on account of using the electronic filing system or sending or receiving electronic service in good faith.

SUBCHAPTER C. POWERS AND DUTIES; FUNDING

Sec. 77.031. GENERAL POWERS AND DUTIES. The committee shall:

(1) develop programs to implement the recommendations of the Information Technology Task Force of the Texas Commission on Judicial Efficiency;

(2) develop minimum standards for voice storage and retrieval services, including voice messaging and electronic mail services, local area networks, Internet access, electronic data interchange, data dictionaries, and other technological needs of the judicial system;

(3) develop a coordinated statewide computer and communication network that is capable of linking all courts in this state;

(4) encourage efficiency and planning coordination by researching the possible uses of existing computer and communication networks developed by other state agencies;

(5) develop minimum standards for an electronically based document system to provide for the flow of information within the judicial system in electronic form and recommend rules relating to the electronic filing of documents with courts;

(6) develop security guidelines for controlling access to and protecting the integrity and confidentiality of information available in electronic form;

(7) develop a state judicial system web page for use on the Internet accessible to the public for a reasonable access fee set by the supreme court after consultation with the committee;

(8) develop minimum standards for an internal computer and communication network available only to court staff;

(9) recommend pilot programs relating to the testing and demonstration of new technologies as applied to the judicial system;

(10) recommend programs to provide training and technical assistance to users of the coordinated statewide computer and communication network;

(11) develop funding priorities regarding the various technological needs of the judicial system; and

(12) recommend distributions to courts from the judicial technology account in the judicial fund.

## Technology Standards Version 1.1

### 3.1 DOCUMENTS

- A. An e-filed document must be in text-searchable PDF, using fonts specified in the Adobe PDF Reference version 1.5, on 8.5x11 page size, with the content appropriately rotated.
- B. When possible, the document should be generated directly from the originating software using a PDF distiller.
- C. Prior to being filed electronically, a scanned document must have a resolution of 300 DPI. Preferably, scanned documents should be made searchable using OCR technology.
- D. An e-filed document may not contain any security or feature restrictions including password protection or encryption and may not contain embedded multi-media video, audio, or programming.
- E. Documents may not contain package PDF's. PDF's should not be embedded inside of another PDF. A court may require that multiple PDF documents be combined into a single PDF document and bookmarks used to separate content appropriately. The content of the document should not depend on bookmarks.
- F. Any e-filed document filename should contain only alphanumeric characters that are part of the Latin1\_General character set. No special characters are allowed and the length of the filename should be restricted to 50 characters.



Art. 2.26. DIGITAL SIGNATURE AND ELECTRONIC DOCUMENTS. (a)

In this section, "digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

(b) An electronically transmitted document issued or received by a court or a clerk of the court in a criminal matter is considered signed if a digital signature is transmitted with the document.

(b-1) An electronically transmitted document is a written document for all purposes and exempt from any additional writing requirement under this code or any other law of this state.

(c) This section does not preclude any symbol from being valid as a signature under other applicable law, including Section 1.201(39), Business & Commerce Code.

(d) The use of a digital signature under this section is subject to criminal laws pertaining to fraud and computer crimes, including Chapters 32 and 33, Penal Code.

Added by Acts 1999, 76th Leg., ch. 701, Sec. 1, eff. Aug. 30, 1999.

Amended by Acts 2005, 79th Leg., ch. 312, Sec. 1, 2, eff. June 17, 2005.