



Texas E-filing and E-service Rule Changes Effective January 1, 2014

Misc. Docket No. 13-9165: Order Adopting Texas Rule of Civil Procedure 21c and Amendments to Texas Rules of Civil Procedure 4,21,21a,45,57 and 502; Texas Rules of Appellate Procedure 6,9 and 48; and the Supreme Court Order directing the form of the Appellate Record.

Notable Changes:

These rules supersede all local rules and template on electronic filing, including all county and district court local rules based on e-filing templates.

These rules supersede all local rules of the courts of appeals on electronic filing.

Rule 21(f) Electronic Filing

- (1) Except in juvenile cases, attorneys must electronically file documents in courts where electronic filing has been mandated.
- (2) The email address of the attorney who electronically files the document must be included on the document.
- (3) Electronic filing must be done through an electronic service provider certified by the Office of Court Administration.
- (4) Exceptions
 - (A) Wills are not required to be filed electronically;
 - (B) The following documents must not be filed electronically:
 - (i) **Documents filed under seal or presented** to the court in camera; and
 - (ii) Documents to which access is otherwise **restricted by law or court order**
- (5) A document is considered timely filed if it is electronically filed at **any time before midnight** on the filing deadline. An electronically filed document **is deemed filed when transmitted to the filing party's electronic filing service provider**, except:
 - (A) If a document is transmitted on a Saturday, Sunday or legal holiday, it is deemed filed on the next day that is not a Saturday, Sunday or legal holiday; and
 - (B) If a document requires a motion and an order allowing its filing, the document is deemed filed on the date that the motion is granted.
- (6) **Technical Failure**. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from the court. If the missed deadline is one imposed by these rules, **the filing party must be given a reasonable extension of time to complete the filing**.
- (7) A document that is electronically served, filed or issued by a court or clerk is considered signed if the document includes:
 - (A) a **"/s/ "** and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or

- (B) an electronic image or scanned image of the signature.
- (8) Format. An electronically filed document must:
 - (A) Be in text-searchable portable document format (PDF);
 - (B) Be directly converted to PDF rather than scanned, if possible;
 - (C) Not be locked; and
 - (D) Otherwise comply with the Technology Standards set by the Judicial Committee on Information Technology and approved by the Supreme Court.
- (9) Paper Copies. Unless required by local rule, a party need not file a paper copy of an electronically filed document.
- (10) Electronic notices from the court. The clerk may send notices, orders or other communications about the case to the party electronically. A court seal may be electronic.
- (11) **Non-conforming Documents.** The clerk may not refuse to file a document that fails to conform with this rule. But the clerk may identify the error to be corrected and state a deadline for the party to resubmit the document in a conforming format.
- (12) Original Wills. When a party electronically files an application to probate a document as an original will, the original will must be filed with the clerk within three business days after the application is filed.
- (13) Official Record. The clerk may designate an electronically filed document or a scanned paper document as the official court record. The clerk is not required to keep both paper and electronic versions of the same document unless otherwise required by local rule.

Rule 21a. Methods of Service

21a(a)(1) A **document filed electronically under Rule 21 must be served electronically through the electronic filing manager** if the email address of the party or attorney to be served is on file with the electronic filing manager. If the email address of the party or attorney to be served is not on file with the electronic filing manager, the document may be served on that party or attorney under subparagraph (2).

(2) **A document not filed electronically may be served in person, by mail, by commercial delivery service, by fax, by email** or by such other manner as the court in its discretion may direct.

21a(b) When Complete

(1) Service by mail or commercial delivery service shall be complete upon deposit of the document, postpaid and properly addressed, in the mail or with a commercial delivery service.

(2) Service by fax is complete on receipt. Service completed after 5:00pm local time of the recipient shall be deemed served the following day.



(3) **Electronic service is complete on transmission of the document to the service party's electronic filing service provider.** The electronic filing manager will send confirmation of service to the serving party.

21a(c) Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, three days shall be added to the prescribed period.

21a(d) Notice may be served by a party to the suit, an attorney of record, a sheriff or constable or by any other person competent to testify.

Rule 21c. Privacy Protection for Filed Documents

(a) Sensitive data consists of:

- (1). A driver's license number, passport number, social security number, tax identification number or similar government-issued personal identification number.
- (2). A bank account number, credit card number or other financial account number; and
- (3). A birth date, home address and the name of any person who was minor when the underlying suit was filed.

(b) Filing of documents containing sensitive data is prohibited.

(c) Redaction of sensitive data retention requirement. **Sensitive data must be redacted by using the letter "X" in place of each omitted digit or character or by removing the sensitive data in a manner indicating that the data has been redacted.** The filing party must retain an unredacted version of the filed document during the pendency of the case and any related appellate proceedings filed within six months of the date the judgment is signed.

(d) Notice to Clerk. If a document must contain sensitive data, the filing party must notify the clerk by:

- (1). **Designating the document as containing sensitive data** when the document is electronically filed; or
- (2). If the document is not electronically filed, by including, on the upper left hand side of the first page, the phrase: "NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA"

(e) Non-conforming documents. The clerk may not refuse to file a document that contains sensitive data in violation of this rule. But the clerk may identify the error to be corrected and state a deadline for the party to resubmit a redacted, substitute document.



Amendments to Rule 9, Texas Rule of Appellate Procedure

9.2(c) Electronic Filing

(1) Requirement. **Attorneys in civil cases must electronically file documents.** Attorneys in criminal cases must electronically file documents except for good cause shown in a motion filed in the appellate court. Unrepresented parties in civil and criminal cases may electronically file documents, but it is not required.

9.5 Service

9.5(b)(1) Documents filed electronically. **A document filed electronically under Rule 9.2 must be served electronically** through the electronic filing manager if the email address of the party or attorney to be served is on file with the electronic filing manager. If the email address of the party or attorney to be served is not on file with the electronic filing manager, the document may be served on that party or attorney under subparagraph (2).

(2) A document that is not filed electronically may be served in person, by mail, by commercial delivery service, by fax or by email. Personal service includes delivery to any responsible person at the office of the lead counsel for the party served.