

**Local Rules of the Twentieth Judicial Circuit
Ottawa County
RE: Electronic Filing of Court Documents (eFiling)**

**Effective May 24, 2004
(Revised May 14, 2004)**

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 the 20th Judicial Circuit Court, Ottawa County, Michigan. These rules are adopted pursuant to Rule 8.112 of the Michigan Court Rules of 1985 and may be known as the "Local Rules of the 20th Judicial Circuit RE: 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 20th Circuit Court. These rules do not supersede or replace any local rules previously adopted by the 20th Circuit Court.

Rule 1.3 Effective Date

These local rules for eFiling take effect on May 24, 2004 for civil cases in the 20th Judicial Circuit Court.

Rule 1.4 Form and Commencement of Action

A civil action may include an action designated by Circuit Court Records as an eFile case.

Rule 1.5 Electronic Filing – Practice and Procedure

(a) **Case availability on Internet.** As of the effective date of this Rule, except as expressly provided herein, cases designated by the clerk as an eFile case will be available on the Vendor's system; www.lexisnexis.com/fileandserve .

(b) **Assignment of Confidential User Name and Password.** Upon receipt by the vendor of a properly executed eFile Subscriber Agreement at their website, the Vendor shall assign to the attorney, law firm, litigant or litigant's designated representative(s) a confidential user name and password (used to file, serve, receive, review, and retrieve electronically filed pleadings, orders, and other documents filed in the assigned cases.)

No attorney or other user shall knowingly authorize or permit their user name or password to be used by anyone other than authorized attorneys or employees of the attorney's law firm, or designated co-counsel.

PART 2. DEFINITIONS

Rule 2.1 Specific Terms

The following definitions apply to these rules:

- (a) **Circuit Court Records** means the Ottawa County Clerk or the Clerk's staff.
- (b) **Document** means any paper to be filed with the court in paper form or electronic form.
- (c) **Electronic Filing** ("eFile") is the electronic transmission of documents to Circuit Court Records and from Circuit Court Records, via the vendor for purposes of filing. For purposes of these rules, the process does not include the filing of faxed documents which is governed by Rule 2.406, Michigan Court Rules of 1985.
- (d) **Electronic Filing Service Provider** ("EFSP") is the service provided by vendor (LexisNexis CourtLink, Inc.) and approved by the clerk for filing and service of documents via the Internet. LexisNexis CourtLink services are available at www.lexisnexus.com/fileandserve.
- (e) **Electronic Service** ("eService") is the electronic transmission of documents to a party, attorney or representative in a case via the vendor. Parties who register to use the eFile Service may also consent to receive electronic service of documents, other than service of subpoenas or summons via the eFiling Service. eService shall be deemed complete at the time indicated as the Authorized Date and Time by the eFile Service
- (f) **Electronically File** means to file a document by means of electronic filing.
- (g) **Electronically Serve** means to serve a document by means of electronic service.
- (h) **Filer** means a person who files a document, including an attorney.
- (i) **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.
- (j) **Regular Filing Fees** are those filing fees charged in connection with traditional filing.
- (k) **Rules** are the Local Rules of the 20th Judicial Circuit RE: Electronic Filing of Court Documents.

(l) **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 civil cases, including cases that are appeals from lower courts, with jurisdiction in the 20th Judicial Circuit.

(b) These rules apply to the filing of documents in cases before the 20th Circuit Court that are subsequently assigned to judges, visiting judges, circuit court referees or any other similar judicial authorities.

Rule 3.2 Clerks

These rules apply only to the filing of documents with Circuit Court Records.

Rule 3.3 Documents That May Be Electronically Filed

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

- i) case evaluation responses;
- ii) documents to be presented to a court in camera, solely for the purpose of obtaining a ruling on the discoverability of such documents;
- iii) documents sealed pursuant to Rule 8.119, Michigan Court Rules of 1985; and
- iv) documents to which access is otherwise restricted by law or court order.

(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 may be electronically filed only as a scanned image.

(c) Any affidavit or other paper 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 Circuit Court Records. 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 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 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 Rule 2.114, Michigan Court Rules of 1985 or any other law. The person whose name appears first in the signature block of an initial pleading is deemed to be the attorney of record for the purposes of Rule 2.114, 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 Rule 2.114.

(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 4.2 Time Document is Filed

(a) A filer may electronically transmit a document through an EFSP to Circuit Court Records 24 hours per day each and every day of the year, except during brief periods of pre-approved scheduled maintenance.

(b) Upon sending an electronically transmitted document to a filer's EFSP, the filer is deemed to have delivered the document to Circuit Court Records and, subject to Rule 8.119, 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 Circuit Court Records 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. Circuit Court Records will electronically transmit to the filer an "acknowledgment" that the document has been received by Circuit Court Records. The acknowledgment will note the date and time that the electronically transmitted document was received by Circuit Court Records.

(d) Not later than the first business day after receiving a document from the filer's EFSP, Circuit Court Records shall decide whether the document will be accepted for filing. Circuit Court Records shall accept the document for filing provided that the document is not misdirected and complies with all filing requirements. Circuit Court Records shall handle electronically transmitted documents that are filed in connection with an affidavit of inability to afford court costs in the manner required by Rule 2.002, Michigan Court Rules of 1985. If Circuit Court Records fails to accept or reject a document within the time period, the document is deemed to have been accepted and filed.

(e) If the document is accepted for filing, Circuit Court Records shall note the date and time of filing which, with the exception of subsection (g) below, shall be the date and time that the filer transmitted the document to the filer's EFSP. Circuit Court Records shall, on that same day, electronically transmit to the filer's EFSP a "confirmation" that the document has been accepted for filing by Circuit Court Records. 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 Circuit Court Records considers the document to have been filed.

(f) If the document is not accepted for filing, Circuit Court Records 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.

(g) 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, or Circuit Court Records on Sunday. Such documents will be deemed to have been filed on the succeeding Monday.

Rule 4.3 Filing Deadlines Not Altered

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

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 Circuit Court Records.

(b) A filer may electronically transmit a document to Circuit Court Records 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) Circuit Court Records file for a particular case may contain a combination of electronically filed documents and traditionally filed documents.

(b) Circuit Court Records may maintain and make available electronically filed documents in any manner allowed by law.

Rule 4.6 E-mail Address Required

In addition to the information required on a pleading by Rules 2.113 and 2.114, Michigan Court Rules of 1985, a filer must include an e-mail address on any electronically filed document.

Rule 4.7 Document Format

(a) Electronically filed documents must be computer formatted as specified by Circuit Court Records and approved by the Chief Judge. Electronically filed documents must also be formatted for printing on 8 ½ inch by 11 inch paper. Specifications will be available on the County Clerk's website, www.ottawacountyclerk.com/.

(b) An electronically filed pleading is deemed to comply with Rule 2.113, Michigan Court Rules of 1985.

PART 5. SERVICE OF DOCUMENTS OTHER THAN SUMMONS

Rule 5.1 Electronic Service of Documents Permissible

(a) In addition to the methods of serving documents (other than the summons to be served upon the filing of a cause of action) set forth in Rule 2.102, Michigan Court Rules of 1985, 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, in writing, to receive electronic service in that case. Circuit Court Records shall adopt a standard form of agreement which provides that the party has agreed to electronically accept service, sets out the e-mail address where service should be sent, and informs the party of the right to rescind the agreement by subsequent notice to the court. The agreement must be filed with the court and the form must be served on all other parties.

(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 Circuit Court Records and all parties in the case.

(d) A party who electronically files a document is not required to electronically serve documents upon other parties. Electronic service of documents is an optional method of service.

(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 11:59 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 sent 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 Michigan Court Rules of 1985, 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

Rule 5.5 Electronic Filing – Practice and Procedure

(a) **Case availability on Internet.** As of the effective date of this Rule, except as expressly provided herein, cases designated by Circuit Court Records as an eFile case will be available on the Vendor's system; www.lexisnexis.com/fileandserve .

(b) **Assignment of Confidential User Name and Password.** Upon receipt by the vendor of a properly executed eFile Subscriber Agreement at their website, the Vendor shall assign to the attorney, law firm, litigant or litigant's designated representative(s) a confidential user name and password (used to file, serve, receive, review, and retrieve electronically filed pleadings, orders, and other documents filed in the assigned cases). No attorney or other user shall knowingly authorize or permit their user name or password to be used by anyone other than authorized attorneys or employees of the attorney's law firm, or designated co-counsel.

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

Rule 6.1 Courts Not Authorized to make Electronic Orders

(a) Judges shall continue to sign paper copies of court orders, judgments, rulings, notices and other court produced documents ("court orders").

(b) Circuit Court Records may electronically scan a court order. The scanned court order may then serve as the official copy of the court order. Circuit Court Records is not required to electronically scan court orders create official electronic court orders. Electronic scanning of court orders is at the option of Circuit Court Records.

Rule 6.2 Viewing of Electronically-filed Documents

(a) Circuit Court Records shall ensure that all the records of the court, except those made confidential or sealed by law or statute, may be viewed in some format by all persons pursuant to Rule 8.119(E), Michigan Court Rules of 1985.

(b) Nothing in this rule allows for the viewing of documents or court orders, in any form, that are legally confidential.

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 Circuit Court assigned in accordance with local assignment procedures shall decide any dispute.

Rule 7.2. Rule Guiding Interpretation.

These rules are designed to govern the conduct of a pilot project. It is likely that these rules may not have contemplated each problem that may arise in the electronic filing or service of court documents. The application of the rules must be consistent with the understanding that the rules were written for the conduct of an initial pilot project, and must be made without 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 "20th Judicial Circuit Court Local Rules RE: the Electronic Filing of Court Documents" are hereby adopted by the undersigned Circuit Judges in Ottawa County on this the _____ day of _____, 2004 and submitted to the Supreme Court of Michigan for approval.

/S/___

/S/___

Judge, 20th Judicial Circuit Court

Judge, 20th Judicial Circuit Court

/S/___

/S/___

Judge, 20th Judicial Circuit Court

Judge, Ottawa County Probate Court
20th Judicial Circuit Court by Assignment