

COUNTY FILED IN OFFICE

GREG G. ALLEN, CLERK
SUPERIOR & STATE COURT
FORSYTH COUNTY, GEORGIA

)

(

)

)

)

)

16-9

- 16-9

16-9

16-9

- 16-9

- 16-9

- 16-9

- 16-9

- 16-9

- 16-9



- F. E-File. Electronic transmission of an original Document to the State Court via EFSP.
 - G. E-Service. Electronic transmission of an original Document to all designated recipients via an EFSP. E-Filers must still comply with all statutory and case law to perfect service of process or summons to gain jurisdiction over persons or property.
 - H. Non-Conforming Materials. All non-paper filings, including but not limited to videotapes, x-rays, CDs, audio recordings, electronic storage devices, and tangible objects that cannot readily be converted to paper form or are illegible when scanned.
 - I. Original Complaint. A Document that gives rise to a cause of action serving as an original or case initiating pleading.
 - J. Original Petition. A Document that gives rise to a cause of action serving as an original or case initiating pleading.
 - K. Public Access Terminal. A publicly accessible computer (“PAT”) provided by the Court for the purposes of allowing E-Filing, E-Service and viewing of public Court records.
3. PUBLIC ACCESS TERMINAL. Public Access Terminals (PAT) will be located in the State Court of Forsyth County Clerk of Court’s Office, Forsyth County Courthouse, 101 East Courthouse Square, First Floor, Room 1007, Cumming, Georgia, 30040, or any other designated location at the Forsyth County Courthouse. PATs will be connected to the EFSPs and the Case Management System. The PATs shall be available to any person to view public files via the Case Management System, which access shall be free of charge. The PATs shall also be available to E-File Documents on each EFSP without registering for an account with the respective vendor or incurring e-file fees and convenience fees.
4. AUTHORIZED USERS.
- A. Users. For the purpose of accessing the EFSP, the following users are authorized to register with the EFSP:
 - i. Licensed attorneys and their staffs, including paralegals and secretaries;
 - ii. Pro hac vice attorneys;
 - iii. Judges and their staffs;
 - iv. Court administrative staff, including deputy clerks, court reporters, and technical support staff;
 - v. Self-represented litigants; and

- vi. Other public users, including media representatives.
 - B. It is the responsibility of every registered user to have a valid, working e-mail address that is checked regularly. The Court assumes no responsibility for inoperable e-mail addresses or unread e-mails.
 - C. Assignment by the EFSP of personal identification numbers. Upon receipt by the EFSP of a properly executed E-File Usage Agreement, the EFSP shall assign to the authorized user a username and confidential Personal Identification Number (PIN) to file, serve, receive, review, and retrieve electronically filed pleadings, orders, and other documents.
 - D. Utilization of PIN. No attorney shall knowingly authorize or permit his/her PIN to be utilized by anyone other than authorized attorneys or employees of the attorney's law firm, or designated co-counsel, where it has been established in writing that designated counsel may file Documents on behalf of the assigning counsel. An attorney who knowingly authorizes or permits his or her username and/or password (PIN) to be utilized by his/her staff is fully responsible for all transmissions, communications and notifications through the EFSP.
 - E. Change in Information. Registered users are required to update their contact information with the EFSP, including any change in firm name, delivery address, fax number, telephone number and/or email address within ten (10) days of such change.
 - F. Self-Represented Litigants.
 - i. If a Self-Represented Litigant does not have access to a computer to prepare or E-File an E-Document, the litigant can file his or her Document by coming to the Court and filing the same using the EFSP at one of the PATs within the Court. Filing at a PAT does not require registering for an EFSP account and usage and convenience fees are waived.
 - ii. If a Self-Represented Litigant does not have an email address and therefore cannot register for an EFSP account, then all other parties to the litigation must serve the Self-Represented Litigant via traditional USPS mail or personal service. The Self-Represented Litigant must make a certification in his or her initial filing that he or she does not have an email address and there cannot register for an EFSP account.
5. ELECTRONIC FILING OF PLEADINGS AND OTHER DOCUMENTS. As of the effective date of this Order, except as expressly provided herein, all Documents may be filed electronically through the EFSP.
- A. Original Petition or Complaint and Original Answers. Plaintiff may file the Original Petition or Original Complaint in each case electronically through the EFSP or at a

PAT. Each defendant filing electronically shall make arrangements with the EFSP prior to filing its first appearance or answer in such manner as to allow the timely electronic filing of its first appearance or answer in newly filed cases.

- B. Subsequent Pleadings and Discovery. Parties may E-File all other Documents through the EFSP or at a PAT. Depositions and other discovery referenced in any E-Document may be attached electronically as exhibits, or may be filed separately.
- C. Maintenance of Original Documents. Unless otherwise provided by the Court, originals of all Documents filed electronically, including original signatures, shall be maintained by the party filing the Document and shall be made available, upon reasonable notice, for inspection by the other party or the Court. Unless otherwise requested by the Court, the parties shall maintain the original sealed paper depositions. Original Documents must be maintained for a period of seven (7) years following disposition of the matter in which the Document was filed, or longer, if required to do so by applicable law, court rule or ethical or professional obligation.
- D. Maintenance of Documents Filed Under Seal. In accordance with Uniform State Court Rule 36.16(B), E-Filing is expressly prohibited for Documents that must be filed under seal. Documents to be filed under seal must be submitted to the Clerk of Court in paper form. The Documents must be accompanied by a Court Order sealing the Documents submitted. Filers submitting Documents to be filed under seal are required to file a Notice of Submission of Documents Filed Under Seal if the Document to be filed under seal constitutes the entire filing. If the Document to be filed under seal is an exhibit to another Document, a notice indicating that this particular Document has been filed under seal should be included in the larger filed E-Document without separate notice.
- E. Non-Conforming Materials. Non-Conforming Materials must be filed manually with the Clerk of Court. The filing party shall E-File a Notice of Manual Filing which shall be docketed in the Case Management System to denote a manual filing has been made and that the material is being held in the Clerk of Court's office. The filing party shall serve the materials conventionally if required.
- F. Court's Docket. The Court's official docket shall be accessible via its Case Management System, Odyssey. The docket can be accessed electronically by selecting the "Court Docket" link on the Forsyth County State Court Clerk's website at www.forsythclerk.com.

6. TIME FOR FILING AND EFFECT OF USE OF E-FILE.

- A. Time of Filing. Litigants may file E-Documents through the EFSP twenty-four (24) hours a day, seven (7) days a week, except when the system the EFSP is down for maintenance. Any Document filed electronically shall be considered filed with the Court when the transmission to the EFSP is complete. Any Document filed after 11:59 p.m. EST on a day the Court is open for business shall be deemed to have been filed on the next Court day.
- B. Confirmation of Receipt. Upon completion of E-Filing, the EFSP shall issue a confirmation receipt that includes the date and time of submission to the Court. In accordance with Uniform State Court Rule 36.16(D), an E-Document is presumed filed upon receipt by the EFSP.
- C. Clerk of Court Review: Acceptance / Rejection Procedure. Following the submission of an E-Document, the Clerk of Court shall timely review the E-Document and shall notify the filing party as to whether the filing is accepted or rejected. Upon acceptance, the submitted E-Document shall be entered into the docket of the case and the docket shall reflect the date and time of filing as set forth in Paragraph 6(B). If an E-Document is filed which does not conform to the rules of the Court in which it is filed, a rejection notice shall be sent to the filing party and the E-Document shall not be docketed. The rejection notice shall identify the basis of the rejection in accordance with the rules of the Court. An E-Document may be rejected if:
- i. The E-Document is submitted without proper payment of Court Filing Fees;
 - ii. The E-Document is unable to be processed by the EFSP for reasons including but not limited to submission of a corrupt E-Document, an E-Document with embedded fonts, or an E-Document that contains a computer virus;
 - iii. The E-Document does not meet the requirements or policies of the Court.

If an E-Document is rejected by the Clerk of Court, and a filer wishes to challenge the rejection of the prior E-Document and/or relate the date of filing back to the date of the first filing attempt, the filer must petition the Court for such relief.

- D. Technical Problems. In accordance with Uniform State Court Rule 36.16(F), if the electronic filing or service does not occur because of (1) inaccessibility to the EFSP that was not caused by the filer, or (2) an error in transmission of the Document to the EFSP which was unknown to the sending party, or (3) a failure on the part of the EFSP to process the document when received, or (4) other technical problems experienced by the filer, the Court may upon satisfactory proof enter an order

permitting the Document to be filed *nunc pro tunc* to the date it was first attempted to be transmitted electronically.

7. FORM OF DOCUMENTS ELECTRONICALLY FILED.

- A. Format of Electronically Filed Documents. All E-Documents shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper Documents, and in such other and further format as the Court may require from time to time. The E-Documents E-Filed via the EFSP shall be in a PDF file format that does not exceed 25 megabytes, in text searchable format, or such other file format as directed by the EFSP.
- B. Proposed Orders. Proposed Orders may be submitted to the Clerk of Court conventionally, or if submitted electronically must be submitted as a separate Document in PDF file format through the EFSP. The Court may also require that an editable form (Word compatible document) of the Proposed Order be emailed to the staff attorney of the Judge presiding over the case.
- C. Representations by Using a Typographical Signature. Every Document filed in the E-File system shall be deemed to have been signed by the attorney or party and shall bear a facsimile or typographical signature of such person, e.g., “/s/ NAME”, along with the typed name, address, telephone number, email address and State Bar of Georgia number of a signing attorney. Typographical signatures shall be treated as personal signatures for all purposes under the Georgia Civil Practice Act and other applicable laws or court rules.
- D. Electronic Title of Pleadings and Other Documents. The electronic title of each E-Document shall, to the extent practicable, include:
 - i. The party or parties filing the E-Document;
 - ii. The nature of the E-Document;
 - iii. The party or parties against whom relief, if any, is sought; and
 - iv. The nature of the relief sought (i.e., “John Doe, et al.’s Motion to Compel Discovery and for Sanctions against Jim Smith”). The title shall be used for administrative purposes only.

8. ELECTRONIC SERVICE OF PLEADINGS AND OTHER DOCUMENTS.

- A. Case Initiation. All parties shall make service upon other parties of Original Petitions and Original Complaints conventionally, i.e., personal service or other means acceptable under the Civil Practice Act of Georgia.

- B. Subsequent Filings. Except as otherwise set forth in this Order, all parties who have registered with the EFSP to E-File Documents may make service upon other parties who registered users of the EFSP of subsequent Documents electronically through the EFSP. By registering with the EFSP to E-File Documents, a party or attorney specifically consents to receive of all Documents E-Filed and E-Served upon them via the EFSP, and further service by any conventional means shall not be required.
- C. Effect of Electronic Service. The electronic service of an E-Document via the EFSP shall be considered as valid and effective service and shall have the same legal effect as original paper Document sent by conventional means, U.S. mail and/or hand delivery. Recipients of electronic service shall receive an email notification of service which contains an electronic image of the served E-Document.
- D. Court Docket. Recipients of E-Documents can access E-Documents through the EFSP in cases in which they have appeared and consented to E-Filing. A docket listing is accessible by selecting the "Court Docket" link on the official website of the Clerk of State Court at www.forsythclerk.com. E-Documents on the official court docket, Odyssey, may be viewed for free at any PAT. Paper copies of E-Documents from the official court docket will be available on demand for a fee in the Clerk of Court's office.
- E. Service on Parties; Time to Respond or Act.
- i. E-Service shall be deemed complete at the time a document has been received by the EFSP as reflected by the authorized date and time appearing on the electronic transmittal. Effective with the commencement date of E-Filing, any period of notice or any right or duty to do any act or make any response within any period or date that is prescribed by statute or rule of court shall be strictly governed by the Civil Practice Act of Georgia.
 - ii. For the purpose of computing time to respond to Documents received via E-Service, any Document served on a day when the Court is not open for business shall be deemed served on the next day the Court is open for business.
 - iii. Registered users consent to receive E-Service Documents, other than service of subpoenas or summonses.
 - iv. Registered users consent to accept E-Service notifications of a hearing or trial.

9. COURTESY COPIES TO THE COURT. Parties may elect to mail courtesy copies of Documents to the Judge or may be required to do so in the Judge's discretion.

10. COLLECTION OF FEES FOR INSTRUMENTS REQUIRING FEE PAYMENT.

- A. Any Document requiring payment of a statutory filing fee in order to initiate a cause of action and achieve valid filing status shall be paid electronically, except for filers utilizing the PATs, who may tender payment in person in a form approved by the Clerk of Court. If a filing fee is required, immediately upon acceptance of the filing by the review Clerk of Court or Deputy Clerk, the EFSP through which the filing was made will credit the designated Court account via ACH (Automated Clearing House).
- B. Fees may be charged by the EFSP to parties or attorneys for E-Filing of E-Documents, access to Documents and/or dockets, and E-Service of Documents. These fees shall be payable to the EFSP at the time of filing and are in addition to any statutory filing fees.
- C. If a party is exempt from paying statutory filing fees because the Court has determined that the party is indigent, the party shall E-File an *in forma pauperis* order along with his or her case initiation pleadings. The indigent party will select a waiver code as payment and the statutory filing fees and E-Filing and E-Service fees shall be waived for parties with *in forma pauperis* status in that particular case.

11. ELECTRONIC FILING AND SERVICE OF ORDERS AND OTHER PAPERS.

The Court shall, to the extent practicable and subject to the availability of "e-signature" technology, issue, file and serve notices, orders, and other documents electronically, subject to the provisions of this Order. An Order or other Court-issued E-Document bearing the electronic signature of a Judge filed electronically and entered by a Judge, Clerk of Court, Deputy Clerk, or court personnel per the order of a Judge shall have the same force and effect as if the document contained the handwritten signature of the Judge.

12. EFFECTIVE DATE OF ORDER.

This Order applies to new cases filed on or after October 17, 2016, as well as to any case pending on the effective date of this Order.

13. ELECTRONIC RECORD.

The Clerk of State Court is authorized to maintain the original and official case record in electronic format. The Case Management System shall be the official case record.

SO ORDERED, this 17th day of October, 2016.



T. Russell McClelland III, Chief Judge
State Court of Forsyth County
Bell-Forsyth Judicial Circuit