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*A Guide to Model Rules  
for Electronic Filing and Service*

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# Model Rules for Electronic Filing and Service

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## Introduction

The purpose of this paper is two-fold: (1) To provide a practical guide for judges, attorneys, court administrators, rules committee members and legislators to develop rules of procedure for electronic filing and service projects; and (2) To provide a basis for standardization of uniform electronic filing and service rules for state courts to adopt.

State courts, Federal courts and law firms across the country are using e-filing more and more to improve access to documents, maximize resources, and streamline filing and service activities. With initial success in reducing the paper and resource burden of complex litigation such as asbestos, tobacco, and firearms; e-filing has had a significant impact with more general litigation such as domestic relations and probate as well.

What is “electronic filing?” In the broadest sense, electronic filing and service, is “the electronic transfer of legal documents to and from the court, and between parties.” Historically this has included Fax filing, CD-ROM data transfer, modem-based online services, and more recently email. But these approaches were considered to be too crude in terms of information management, reliability and security vulnerabilities to adequately support the judicial process. With the evolution of Internet technology, e-filing has been redefined, and in some instances very sophisticated. Today, Internet-based electronic filing and service is rapidly replacing other less capable and less dependable approaches. When properly implemented, e-filing is a highly secure and reliable method for sending, receiving, and managing legal documents and case information. At the same time, commercial solutions—available from online service providers—are supplanting customized one-of-a-kind court projects and are offered at little or no cost to the court.

How can your court implement an e-filing initiative that achieves the necessary level of dependability and reliability? And, how can your court assure not just compliance from the legal community, but also enthusiastic support? One factor that increases the chances for a successful project is the development of rules of procedure that address the unique nature of electronic filing and service. Filing and serving in the digital world presents challenges that are not addressed by rules that govern conventional paper filing. The use of electronic signatures or the 24 hours extension of filing deadlines are just two examples of the impact of online technology.

Recognizing the need to change or add rules is only the first step. The process for actually developing new rules can be time consuming and involve input from others in the court, and the legal community. Every court has a diversity of cases and a unique set of requirements and procedures for managing the filing of documents. If each court develops its own rules, attorneys must sort out the differences with each filing. Model rules however, provide a framework to address local needs and provide continuity.

This paper will present key rules that need to be added or revised, and provides actual proposed language for construction of rules for your court. The content for these model rules is based on rules that have evolved and been adopted by many courts who have successfully implemented e-filing.

## Purposes of the Rules

Fundamentally, there are a handful of reasons why rules are needed for electronic filing and service projects.

- Define the electronic filing system: Depending on who you talk to, electronic filing and service can mean anything from accepting a faxed document at the clerk's office, to email delivery of documents, or sending a CD containing electronic copies of briefs to the courthouse. Rules should clearly define the system that is used by the jurisdiction for electronic filing and service. This could include court developed systems, commercial vendor systems, or a combination of both. The rules must provide guidance for where and how to access the system.
- Authorize electronic filing and service: Most jurisdictions' rules of procedure are very specific when it comes to defining the mechanical rules of filing and serving documents, down to the level of detail as the size of the paper and the valid methods of delivering documents the courthouse for filing. The purpose of electronic filing and service rules is to add electronic delivery to the existing list of approved methods of document delivery.
- Clearly specify the procedural mechanics: By clearly outlining the specifics of how to file electronically, security, service and filing deadlines, payment mechanisms and how to sign documents electronically, both attorneys and litigants can more easily adapt and embrace this technology.
- Encourage use of electronic filing: Jurisdictions can influence the use of electronic filing and service through policy and rule commentary that strongly encourages adoption. For clerks and attorneys who may be resistant to change, this will help to eliminate fear, uncertainty and doubt about the technology and the court's commitment. The court should be unambiguous about strongly encouraging use of e-filing and e-service.

## Approaches to Implementing E-filing Rules

Although there are many procedural and approval hurdles for jurisdictions to overcome in enacting electronic filing and service rules, jurisdictions should begin by defining the scope of their rules. Courts around the country have enacted rules using authority from all levels, including: Statewide rules through Supreme Court rules committees and state legislators, judicial district level through Chief Judges, local jurisdiction rules, and case specific rules issued by individual Judges as case management orders.

The higher the level of authority and the broader the scope of the rule the less need there is for local rules and case management orders. However, state level rules tend to take longer to introduce to the rules agenda and enact. Because each jurisdiction is different in the way their rules adoption process works, this guide is intended to provide model rules for e-filing and e-service that are applicable regardless of the source of authority or the level of enactment. Jurisdictions will likely need to make edits to the model rules to match their particular application.

## Timing of E-filing Rules

Before a jurisdiction can begin accepting electronic filings, the rules authorizing electronic filing need to be fully ratified and adopted. Since attorneys and litigants electronically filing into the court need time to review and become familiar with the rules, we recommend jurisdictions finalize their rules at least six weeks prior to beginning an e-filing project. Although developing a training program for litigants and attorneys is beyond the scope of this paper, the rules play an important part of the training process. The majority of questions that come from users are procedural rather than technical. By referring to the rules, many of these questions can be immediately addressed.

## Proposed Model Rules with Commentary

### General Provisions

#### 1-101 Short Title

These rules may be cited as “e-filing rules.”

#### Comment

The model rule commentary is principally based upon the Standards for Electronic Filing Processes-Technical and Business Approaches (“E-filing Standards”) published by the National Center for State Courts. This report is available online at:

[http://www.ncsconline.org/D\\_Tech/Standards/Documents/pdfdocs/Recommended\\_%20Process\\_%20standards\\_02\\_26\\_03.pdf](http://www.ncsconline.org/D_Tech/Standards/Documents/pdfdocs/Recommended_%20Process_%20standards_02_26_03.pdf).

The Standards for Electronic Filing Processes were developed under a grant from the State Justice Institute. On December 5, 2002, the Joint Technology Committee of COSCA/NACM accepted the report of the National Consortium for State Court automation Standards adopting the E-Filing Functional Requirements as a "recommended standards." As a result of the action of the Joint Technology Committee, the recommended standard was submitted to the COSCA and NACM Boards of Directors, and they were approved in March 2003.

Points of view expressed in the commentary are those of the authors’ and do not necessarily represent the positions or official policies of the Electronic Filing Subcommittee of the National Consortium for State Court Automation Standards or the State Justice Institute.

#### 1-102 Definitions

The following terms in this Rule shall be defined as follows:

- (1) “Electronic Filing Provider” E-filing Provider means the vendor providing e-filing and e-service of documents via the Internet. The service may be accessed at [http://www...] or in person at the courthouse using a Public Access Terminal.

- (2) "Public Access Terminal" means a publicly accessible computer provided by the court for the purposes of allowing e-filing and viewing of public electronic court records. The public access terminal shall be located in the [Clerk's office] at the courthouse and made available during normal business hours. The Clerk's office may also offer printed copies of the electronic court records and apply relevant copying fees as permitted by relevant court rules.
- (3) "Electronic Filing" (e-filing) means the electronic transmission of original documents to the court, and from the court, for the purposes of filing.
- (4) "Electronic Service" (e-service) means the electronic transmission of documents to a party, attorney or representative under these rules. Electronic service does not include service of process or summons to gain jurisdiction over persons or property.
- (5) "Transaction Receipt" means a confirmation that is transmitted to a registered user after a registered user has submitted a transaction through the E-filing Provider to a designated Court and/or parties and their lawyers. The Transaction Receipt displays the date and time the Transaction was submitted by the registered user through the E-filing Provider. The Transaction Receipt may serve as the submitting party's proof of filing.
- (6) "Transaction" means the record that is created by the E-filing Provider with respect to a sent, Filed or Served Document, including the Document(s), Court name, name of case matter, and name of filing party attorney and firm and other associated information.

### Comment

The definition of an E-filing Provider should specify the commercial vendor and include a link to their website.

The public access terminal provides the opportunity for a "no cost" e-filing alternative for all litigants, including litigants who are not authorized users of the Internet E-filing Provider. Use of the public access terminal is a way for jurisdictions to make the service available to all users, including pro se users, while at the same time limiting the types of users who may register to e-file remotely over the Internet (See model rule 1-105). The Court will still have the ability to collect fees associated with copying and printing of electronic case documents accessed through public access terminals.

An important incentive for attorneys to use an electronic filing system is the ability to electronically deliver documents as official service copies. These rules are intended to apply to the routine subsequent service of documents following service of process on defendants (service of process will still require a process physically serving parties). Jurisdictions that currently require a certificate of service may be able to eliminate this requirement for documents served electronically because the service recipient information is automatically included as part of the electronic transaction for parties served electronically and the sending party will also receive a transaction receipt upon completion of the filing. Consent by registered users to accept electronic service may be optional or required depending on the scope of the court's e-file project. Consent will also depend on the tiers of functionality provided by the service provider. (See E-filing Standards 1.2D).

**1-103 Authority**

The rules in this section are adopted under [ ] and the authority granted under [ ].

**1-104 Scope of Rules**

- (1) As of the effective date of this rule, except as expressly provided herein, all courts within the state [may or shall] accept electronic filing and service of pleadings and other documents designated in this rule as valid.
- (2) The court may at any time mandate electronic filing and service of pleadings and other documents in designated cases.
- (3) The court and the clerk's office may issue, file, and serve notices, orders, and other documents electronically, subject to the provision of these rules.

**Alternatives and Additions****ALT. 1-104**

- (1) ... [all or designated] courts shall accept the filing of pleadings and other documents in [all cases, designated cases, designated case types] designated in this rule by e-filing.
- (2) ... the court shall publish and maintain a list of courts and cases where e-filing and e-service is permitted and required. This list may be accessed at [http://www...]
- (3) [Mandated E-filing of Documents] the following pleadings and other documents shall be filed and served electronically:
  - a) New case complaint and petitions
  - b) Original Answers
  - c) Sealed Documents – conditioned upon sending party marking “Sealed” during the upload process with the E-filing Provider and [may or shall] format with a footer stating the following:

**THIS DOCUMENT IS CONFIDENTIAL AND FILED UNDER SEAL.  
REVIEW AND ACCESS TO THIS DOCUMENT IS PROHIBITED  
EXCEPT BY PRIOR COURT ORDER.**

For sealed documents, the filing details and document title will appear in the E-filing Provider's system. The document can be viewed only by the Court, the filer, and those case participants who received service of that particular document. A party that was not served with the document can see only the document title in the case details, however, that party is not able to open or view the document. Public versions of sealed documents shall be filed in accordance with Court Rules.

- d) Other case related documents
- (4) [Prohibited E-file Documents] The following pleadings and other documents may not be e-filed and shall be filed conventionally:
  - a) New case complaint and petitions
  - b) Original answers
  - c) Sealed documents
  - d) Other case related documents

- (5) For designated cases types, the court shall not accept or file any pleadings or instrument in paper form. Parties shall electronically file a document either:
  - (a) By registering to use the E-filing Provider's system;
  - (b) In person, by electronically filing through the Public Access Terminal. Parties filing in this manner shall be responsible for furnishing the pleading or instrument on [an IBM formatted 3 1/2" computer disk, CD ROM], or any other media compatible with the clerk's office-system to be uploaded in person.
- (6) As of the effective date of this [Order/Stipulation], except as expressly provided herein, all counsel shall utilize the E-filing Provider to serve pleadings, documents, exhibits and other information in this litigation electronically.

### Comment

Courts may choose to implement electronic filing gradually by beginning in selected cases or case types (e.g., mass tort asbestos cases or civil cases only). The rule alternatives allow the court to more specifically define the scope of the electronic filing from a court and case level perspective. The rule also includes a provision that can either require or allow local court jurisdictions to accept e-filed documents.

Courts should also consider whether documents may be e-filed for subsequent filings, case initiation or both. Although the E-filing Standards address sealed and confidential documents from a technical perspective, they fail to address procedural rules. Whether sealed documents may or may not be filed electronically will largely depend on the functionality provided by the E-filing Provider. (See E-filing Standards 1.3A).

The E-filing Standards recognize that with the introduction of any new system, there will always be those who will refuse to participate in a voluntary process such as e-filing. This proposed rule allows a court to mandate both electronic filing and service in selected cases. Although the E-filing Standards fail to recognize mandated e-service, courts should consider this so that litigants can see the full benefits of the electronic process.

The E-filing Standards suggest circumstances where a court may mandate participation: 1) it offers a free alternative to a fee-based private sector service provider system or institutes a mechanism for waiving fees in appropriate circumstances; 2) it continues to allow persons whose access to the courts would be impeded by being required to file electronically to file on paper; 3) it provides adequate notice; and 4) it provides training assistance for the participants and their staff. (See E-filing Standards 1.3B)

The court may also choose to implement a rule that simply allows the court the option to mandate participation in the future rather than specifying mandated cases in the rule. This allows a judge to simply issue a case management order for cases deemed appropriate for mandatory participation.

The Public Access Terminal provisions help the court comply with the requirement put forth in the E-filing Standards that a court should only mandate electronic filing where provisions are made for a no-cost filing alternative for litigants who choose not to register with an E-filing Provider.

**1-105 Authorized Users**

For the purposes of accessing the E-filing Provider over the Internet, the following users are authorized to register as E-filing Provider users: a) Licensed attorneys and their staff, including paralegals, secretaries and other legal professionals, b) Pro hac vice attorneys c) Judges and their staff d) Court administrative staff, including technical support staff e) Pro se [pro per] litigants f) Other public users.

**Alternatives and Additions****ALT. 1-105**

- (1) ... the following users are not permitted:
  - a) Pro hac vice attorneys
  - b) Pro se [pro per] litigants
  - c) Other public users not involved in cases designated for e-filing
- (2) Users who are not authorized to access the E-filing Provider over the Internet, may obtain access using the court's Public Access Terminal located in the courthouse to electronically file their pleadings and access publicly e-filed documents.

**Comment**

Courts may choose to implement electronic filing gradually by also limiting the types of users that may access and use the system. Several courts have limited their initial e-filing projects to attorneys only, and excluded pro se parties to gain experience using the system before expanding to support all litigants.

**1-106 Effective Date**

These rules shall become effective on [ ].

**Comment**

By clearly identifying the start date, all litigants and court staff can understand and plan for the change in procedure.

**1-107 Electronic Case File**

The [Court or Clerk] may maintain the original and official case file in electronic format.

**Comment**

This section is meant to further increase the efficiencies within the court by reducing paper. Jurisdictions may want to consider technologies available for converting electronic files to other long-term storage media for archival purposes.

## Filing and Service Procedures

### 2-101 Registration Requirements

- (1) Persons who are authorized users and who desire to electronically file or serve documents shall register with the E-filing Provider. Upon receipt by the E-filing Provider of a properly executed end-user agreement, the E-filing Provider shall assign to the user a confidential login and password to the system. Additional authorized users may be added at any time. No attorney or other user shall knowingly authorize or permit his or her username or password to be utilized by anyone.
- (2) Registered users of the system shall notify the E-filing Provider immediately of any change in firm name, delivery address, fax number or email address.

#### Comment

This rule is consistent with the E-filing Standards guideline for unique identifiers so that filer authenticity is guaranteed. The rules should explicitly require that each individual have their own login and password combination to ensure proper auditing records are available. (See E-filing Standards 1.2B). For purposes of receiving electronic service, it is important for litigants who register with an E-filing Provider to update their contact information so that they always receive service of documents.

### 2-102 Time and Effect of E-Filing

Any pleading filed electronically shall be considered as filed with the court when the transmission to the E-filing Provider is complete. Any document e-filed by 11:59 p.m. <PT> shall be deemed filed on that date. The E-filing Provider is an agent of the court for the purpose of electronic filing, receipt, service and retrieval of electronic documents. Upon completion of filing, the E-filing Provider shall issue a transaction receipt that includes the date and time of receipt. The transaction receipt shall serve as proof of filing. In the event the court rejects the submitted documents following review, the documents shall not become part of the official court record and the filer will receive notification of the rejection. Users may be required to re-file the instruments to meet necessary filing requirements.

#### Comment

There is no issue more important to attorneys and litigants than knowing exactly when their document is filed. The proposed rule is consistent with the E-filing Standards that allow courts to define their own filing mechanics for dates. In this rule, the E-filing Provider automatically assigns the date and time once the filer completes the filing submission. The court may choose to review the filing at a later date, however accepted filings will always relate back to the date originally sent as the official file date. This rule ensures litigants that they will meet their statutory filing deadlines, even when the courthouse is physically closed.

The 11:59 pm deadline should be based on the local time at the courthouse. In many jurisdictions, this rule is consistent with other rules that allow for after hours filing of documents and delivery of documents directly to the Judge or Clerk. Alternatively, some courts may have public policies that explicitly state that the court is always open. (See E-filing Standards 1.2C).

By creating a limited agency relationship with the E-filing Provider for receiving e-filed documents, the court may be able to avoid tedious legislative rule changes regarding filing of court documents. Again, this will depend on local jurisdictional procedures and requirements.

Courts may choose to review e-filed documents just as paper filed documents are reviewed. This rule provides information to the filers about what to expect once their document is filed. (See E-filing Standards 1.3E).

## **2-103 Form of Documents Electronically Filed**

- (1) Format. Each electronically filed document(s) shall be uploaded in a format accepted by the E-filing Provider. To the extent practicable, the document(s) should 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. A document may exceed page limitation rules to a maximum of two (2) additional pages when the additional pages are attributed to the electronic conversion or filing process.
  - (a) The E-filing Provider will automatically convert uploaded documents to Adobe® PDF format, but the original format will also be available for downloading.
  - (b) The official record of the Court is the PDF version.
- (2) Title of Documents. The electronic document title of each pleading or other document, shall include:
  - (a) Party or parties filing/serving the document,
  - (b) Descriptive title of the document,
  - (c) Party or parties against whom relief, if any, is sought, and
  - (d) Nature of the relief sought (e.g., Defendant ABC Corporation Motion for Summary Judgment")

### **Comment**

To minimize the barriers for litigants to file and serve electronically, the model rules mimic the paper-based rules for preparing legal documents. The E-filing Standards for document format require electronic documents to be rendered with high fidelity to the originals and may be read with free online software (viewers). PDF files satisfy this requirement. (See e-file Standard 1.1D)

The model rule includes data elements, such as document title, that are discussed in the E-filing Standards. Document title is the most important element to ensure that litigants and the court can quickly search, sort and view electronic documents efficiently. Local courts may amend or modify these data elements to assist in managing their litigation. (See e-file Standard 1.1F).

**2-104 Payment of Filing Fees**

- (1) Registered users shall pay statutory filing fees for e-filed documents electronically to the Court through their E-filing Provider. Filing fees are due and payable at the time of filing.
- (2) An E-filing Provider may charge registered users additional fees to deliver, access and use the service. These fees shall be payable to the E-filing Provider at the time of filing and are in addition to statutory filing fees.

**Comment**

The mechanics of paying statutory filing fees will depend on the functionality provided by the E-filing Provider. At a minimum, E-filing Providers should provide immediate electronic funds transfer to the court, credit card collection and monthly billing options for attorneys and litigants. It is also important to distinguish statutory filing fees from E-filing Provider transactional fees.

**2-105 Signatures**

Every pleading, document, and instrument electronically filed or served shall be deemed to have been signed by the judge, clerk, attorney or declarant and shall bear a facsimile or typographical signature of such person, e.g., “/s/ Adam Attorney.” Each document e-Filed by or on behalf of a party shall also include the typed name, address, telephone number of the attorney or unrepresented party filing such document. Attorneys shall include their State Bar association numbers.

**Alternatives and Additions****ALT. 2-106**

- (1) Each electronically filed declaration and affidavit shall be deemed to have been signed by the declarant or affiant if an attorney or party not represented by an attorney has authorized such filing. The original affidavit or declaration filed or served electronically, shall be maintained by the party filing the affidavit during the pendency of the case, and shall be made available, upon reasonable notice, for inspection by other counsel, the Clerk or the Court.
- (2) Unless otherwise ordered by the court or clerk, a printed copy of all documents filed or served electronically, including original signatures, shall be maintained by the party filing the document and shall be made available, upon reasonable notice, for inspection by other counsel, the Clerk or Court. Parties shall retain originals until final disposition of the case and the expiration of all appeal opportunities. From time to time, it may be necessary to provide the Clerk with a hard copy of an electronically filed document.

### Comment

The E-filing Standards permit courts to adopt rules such as those proposed in the model rules for signatures and filer authenticity. The E-filing Standards specifically discuss the concern about protecting the electronic signatures of judicial officers. The added user tracking and information logging inherent in the electronic filing process alleviates this concern. When drafting signatures rules, it is very important to also include provisions for third-party signatures such as witnesses, parties and stipulations. The requirement that the filing party maintain the originals easily handles this issue. By e-filing a document with typewritten signatures, the filer is stating the original signatures are in their possession and available for inspection.

The ultimate objective of an electronic filing process is to have all court records maintained in electronic form. However, courts may choose to have litigants also keep paper copies of their signed document on file and available for inspection for some period of time. The court should not generally require the litigants to file their paper copies in addition to electronic filing. The effect of requiring litigants to file paper back-up copies discourages use of e-filing technology among the parties.

If the court requires filers to maintain paper copies containing original signatures, the rule should clearly state how long these papers must be maintained. The model rule alternative language requires litigants to keep their paper until the appellate process is complete.

### 2-107 Electronic Service

- (1) Delivery of e-service documents through the E-filing Provider to other registered users shall be considered as valid and effective service and shall have the same legal effect as an original paper document. Recipients of e-service documents shall access their documents through the E-filing Provider.
- (2) Users shall effectuate e-service by transmitting documents to the E-filing Provider through a secure Internet website that shall be maintained by the E-filing Provider and selecting service recipients from a service list or by manually entering recipients. Certificates of service shall be prepared in the traditional manner and shall state that a document was transmitted using the E-filing Provider pursuant to [ ].
- (3) E-service shall be deemed complete when the transmission to the E-filing Provider is completed.
- (4) For the purpose of computing time to respond to documents received via e-service, any document served on a day or at a time when the court is not open for business shall be deemed served at the time of next opening of the court for business.

If served before 5:00 p.m. [PT]

- Number of Days provided by Rule plus 1 Day

If served after 5:00 p.m. [PT], or during weekends or court holidays:

- Number of Days provided by Rule plus 2 Days

- (5) Parties who register with the E-filing Provider may consent to receive e-service documents, other than service of subpoenas or summons.

**Alternatives and Additions****ALT. 2-107**

(1) Nothing in this Order shall relieve any party from their filing obligations imposed by the Rules of Court or Local Rules; use of the E-filing Provider is not a substitute for filing original documents with the Clerk's Office. All pleadings must be filed in the Clerk's Office in the usual course.

**Comment**

Traditional email delivery should be considered as valid e-service because of the lack of security, delivery confirmation, and document compatibility issues. The model rules describe authorization of electronic service via an E-filing Provider as valid e-service. An E-filing Provider must provide the necessary level of security, confirmation of delivery and receipt, and document conversion to a common file format such as PDF.

Although the E-filing Standards fail to specify when a document is deemed served, it is recommended that jurisdictions adopt a rule that documents are electronically served when the filer first submits them to the E-filing Provider. Electronically served documents should be instantaneously available to their recipients once uploaded by the sender to the E-filing Provider. The calculation of deadlines to respond is a separate issue from when a document is deemed served.

The E-filing Standards recognize that e-filing is most efficient when litigants are allowed to file and serve at any time of the day including as late as midnight, and any day of the week, including weekends. This rule also addresses whether e-served documents are deemed served on weekends, holidays and other days when the court and law firms are closed.

Although the E-filing Standards imply that no additional time is needed when calculating response deadlines for documents served electronically, the authors' have found the opposite is true when implementing e-file projects around the country. One of the primary concerns about electronic filing projects from the law firm and litigant perspective is calculating their response timelines. The proposed rule treats documents electronically served in a similar way that many jurisdiction handle facsimile served documents for purposes of calculating deadlines. The proposed rule is far more easily translated since it already draws upon existing facsimile service rules. (See e-file Standard 1.2D)

Consent to receive electronically served documents is an important issue for attorneys when beginning an e-filing project. The consent provisions will in large measure depend on the functionality and capabilities of the E-filing Provider. The most complete functionality from an E-filing Provider should include electronic service to registered users, and also allow for service to non-registered users via traditional methods of service such as U.S. Mail and facsimile delivery.

Consent to receive electronically served documents is also an important issue for attorneys that wish to implement e-service correspondence in jurisdictions where the court not accepting e-filing. By court order or stipulation between litigating parties, parties and attorneys may voluntarily agree to serve one another via e-service as a more efficient means of service and correspondence. Notwithstanding such a stipulation or order, the case participants must still abide by.

### 2-108 Privacy Issues

Users of the e-filing/service system must be sensitive to confidential and personal information filed publicly, not under seal. Parties shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all documents filed publicly with the court, including exhibits thereto, unless filed under seal or otherwise ordered by the Court.

- (a) **Social Security Numbers.** If a social security number must be included in a document, only the last four digits of that number must be used.
- (b) **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child must be used.
- (c) **Dates of Birth.** If an individual's date of birth must be included in a document, only the year must be used.
- (d) **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers must be used.

In addition, exercise caution when filing documents that contain the following:

- (1) Personal identifying number, such as a driver's license number
- (2) Medical Records, treatment and diagnosis
- (3) Employment History
- (4) Individual Financial Information
- (5) Proprietary or Trade Secret Information

It is the sole responsibility of counsel and the parties to be sure that all pleadings comply with the rules of this court requiring redaction of personal identifiers. The Clerk will not review each pleading for redaction.

### Comment

Due to the nature of the information that is communicated within legal documents, proactive steps should be take to address privacy concerns.. By placing the responsibility of editing and redacting such personal information from documents filed electronically, publicly and not under seal, upon the sending parties, the likelihood of exposing such information will be minimized.

Although the E-filing Standards fail to address court rules or policies for privacy of electronic records, it is recommended that the duty be placed on the sending party to refrain from using or redact such privately protected information from documents that will be electronically accessible to the general public.

**2-109 System or User Filing Errors**

If the electronic filing or service does not occur because of (1) an error in the transmission of the document to the E-filing Provider or served party which was unknown to the sending party, or (2) a failure to process the electronic document when received by the E-filing Provider, or (3) the party was erroneously excluded from the service list, or (4) rejection by the court or clerk, or (5) other technical problems experienced by the filer or E-filing Provider, the party or parties affected shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or the period within which any right, duty or other act must be performed.

**Comment**

The E-filing Standards allow courts to adopt their own legal definitions for the circumstances that will justify a court's providing relief from unknown technical issues. E-filing users rarely experience these issues; however, such a rule will allow the court to eliminate any uncertainty. (See e-file Standard 1.2E).

The proposed rule also outlines the remedies and circumstances leading to court relief for electronically served document errors.



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For information on LexisNexis File & Serve  
13427 N.E. 16th, Bellevue, WA 98005  
[www.lexisnexis.com/fileandserve](http://www.lexisnexis.com/fileandserve)  
1.800.869.1910

