

IN THE SUPERIOR COURT OF DEKALB COUNTY
STATE OF GEORGIA

16MS0285

In re: }
ALL CIVIL CASES, WITH EXCEPTIONS }
In the Superior Court of DeKalb County }

ORDER IMPLEMENTING ELECTRONIC-FILING
FOR CIVIL CASES

1. APPLICATION OF ORDER. The Court, *sua sponte*, consolidates and designates the following case types to e-filing status, with the following effective dates:

E-filing will be mandatory for all civil cases on December 31, 2016, except for the following case types: ex parte motions, adoptions, bond validations, domestication of foreign judgments, surrogacy declaratory judgment, and termination of parental rights, and family violence temporary protective orders

All Documents in all civil cases must be E-Filed, E-Served and E-Noticed pursuant to this Order and governed by this Order. Except as otherwise provided herein, no party will be permitted to file paper Documents in any case except for incarcerated individuals without legal representation.

All civil cases are assigned to the electronic filing and service system provided by Tyler Technologies ("Vendor") as selected by the DeKalb County Clerk's Office. Vendor is an agent of the Court for the purpose of electronic filing, receipt, service and retrieval of electronic documents.

2. DEFINITIONS. The following terms in this Order shall be defined as follows:
- A. Case Management System. The Court's official case management and records management system. The Case Management System is Odyssey by Tyler Technologies and can be accessed at www.dksuperiorclerk.com/civil.
 - B. Court. The Superior Court of DeKalb County, Georgia.
 - C. Document. Any paper filing, including but not limited to pleadings, petitions, complaints, motions, memoranda of law, orders, or other written papers or instruments. "Document" shall not include "Non-Conforming Material."

- D. E-Document. An electronic file of a Document that has been scanned or converted to a graphical or image format (PDF).
 - E. E-File. Electronic transmission of an original Document to the Superior Court via eFileGA / www.odysseyefilega.com.
 - F. E-Service. Electronic transmission of an original Document to all designated recipients via eFileGA. E-Filers must still comply with Georgia law to perfect service of process or summons to gain jurisdiction over persons or property (i.e., Original Complaint or Motion for Contempt). E-service is thus required after perfecting original service pursuant to the Civil Practice Act.
 - G. Non-Conforming Materials. All non-paper filings, including but not limited to sealed original depositions, videotapes, x-rays, CDs, audio recordings, and tangible objects that cannot be readily converted to paper form or are illegible when scanned.
 - H. Original Complaint. A Document that gives rise to a cause of action serving as an original or case initiating pleading.
 - I. Original Petition. A Document that gives rise to a cause of action serving as an original or case initiating pleading.
 - J. Public Access Terminal ("PAT"). A publicly accessible computer provided by the Court for the purposes of allowing E-Filing, E-Service and viewing of public Court records.
 - K. E-Notice. Electronic transmission of an original Document or E-Service of an original document, such as a Notice to Appear in Court or a Court Order from the Superior Court to the parties via eFileGa/ www.odysseyefilega.com.
3. PUBLIC ACCESS TERMINAL. Public Access Terminals (PAT) will be located in the Superior Court of DeKalb County Clerk of Court's Office, DeKalb County Courthouse, 556 North McDonough Street, Decatur, Georgia 30030, or any other designated location at the DeKalb County Courthouse. PATs will be connected to efileGA and the Case Management System. PATs are available to any person to view public files via the Case Management System.

Individuals may access the public files on the PAT free of charge. The PATs are also available to E-File Documents on eFileGA without registering for an eFileGA account or incurring e-file fees and convenience fees.

4. AUTHORIZED USERS

- A. Users. For the purpose of accessing eFileGA, the following users are authorized to register:

- i. Licensed attorneys and their staff, including paralegal and secretaries;
 - ii. Pro hac vice attorneys;
 - iii. Judges and their staff;
 - 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. Valid Email Address. 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-mail. The email address must be added under the filer's signature block. An Attorney's signature block must include the email address in accordance with Uniform Superior Court Rule 4.2.
- C. Assignment by the Vendor of personal identification numbers. Upon receipt by the Vendor of a properly executed E-file Usage Agreement, the Vendor 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 to be utilized by his/her staff is fully responsible for all transmissions, communications and notifications through eFileGA.
- E. Change in Information. Registered users are required to update their contact information with eFileGA, including 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. E-filing: If a Self-Represented Litigant does not have access to a computer to participate in E-Filing, the litigant can come to the Clerk of Court's Office and instead file by using eFileGA at one of the PATs within the Courthouse. Filing at a PAT does not require registering for an

eFileGA account and usage and convenience fees for eFileGA are waived.

- ii. E-Service: If a Self-Represented Litigant does not have an email address and cannot register for an eFileGA account, **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 therefore cannot register for an eFileGA account.** Then, the parties to the litigation must serve the Self-Represented Litigant via traditional methods.

5. ELECTRONIC FILING OF PLEADINGS AND OTHER DOCUMENTS. As of the effective date of this Order, except as expressly provided herein, all Documents shall be filed electronically through eFileGA. Except as otherwise set out herein, the Clerk of Court shall not accept or file any Documents in paper form. Parties or their representatives must either register with the Vendor to utilize eFileGA or E-File at a PAT.

- A. Original Petition and Original Answers. Plaintiff shall file the Original Petition or Original Complaint in each case electronically via eFileGA or via PATs. The Original service will be handled in the traditional manner under the Civil Practice Act. After traditional service, each defendant shall register with eFileGA to develop contact with the Vendor prior to filing its first appearance or answer in such manner as to allow the timely e-filing of its first appearance or answer in the newly filed cases.
- B. Subsequent Pleading and Discovery. Parties must E-File all other Documents via eFileGA or at the PATs. 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 ordered 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.
- D. Maintenance of Documents Filed Under Seal. In accordance with Uniform Superior Court Rule 36.16(B), E-Filing is expressly prohibited for Documents that must be filed under seal. To file a seal document, a party must first E-file a motion for permission from the Court. The Court will file an order granting the motion to proceed under seal. Then, the seal documents must be delivered to the Judge's chambers. Upon review of the document, the Judge may then provide the

second order directing the Clerk to seal the document. This Order and document to be sealed will be hand delivered to the Clerk's Office or picked up from chambers by the Clerk's Office. If the document to be filed under seal is an exhibit to another Document, a notice indicating or referencing that this particular Document has been filed under seal should be included in the larger filed E-Document.

- E. Non-Conforming Materials/ Notice of Manual Filing. 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 that 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 via the Odyssey Portal on the DeKalb County Clerk of Superior Court's website at www.dksuperiorclerk.com/civil.

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

- A. Time of Filing. Litigants may file E-Documents through eFileGA 24 hours a day, seven days per week, except when eFileGA's system is down for maintenance. Any Document filed electronically shall be considered filed with the Court when the transmission to eFileGA 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, eFileGA shall issue a confirmation receipt that includes the date and time of submission to the Court. In accordance with Uniform Superior Court Rule 36.16(D), an E-Document is presumed filed upon its receipt by eFileGA. The confirmation receipt shall serve as proof of filing.
- 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(A). 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 eFileGA for reasons including but not limited to submission of a corrupt E-Document, an E-Document with imbedded fonts, or E-Documents containing viruses;
- 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 Superior Court Rule 36.16(F), if the electronic filing or service does not occur because of (1) inaccessibility to eFileGA that was not caused by the filer, or (2) an error in the transmission of the Document to eFileGA which was unknown to the sending party, or (3) a failure to process the E-Document when received by eFileGA, 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 shall be E-Filed via eFileGA in a pdf file format that does not exceed 25 megabytes, in searchable format, or such other file format as directed by the Vendor.
- B. Proposed Orders. Proposed Orders must be submitted to the Clerk of Court in both Word and pdf file format through eFileGA.
- C. Representations by Using a Typographical Signature. Every Document file 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 Rules of Civil Procedures.
- 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 by the Civil Practice Act of Georgia.
- B. Subsequent Filings. Except as otherwise set forth in this Order, all parties shall make service upon other parties of subsequent Document electronically through eFileGA. Parties or their designated counsel shall receive all Documents E-Filed and E-Served upon them via eFileGA.
- C. Effect of Electronic Service. The electronic service of an E-Document via eFileGA shall be considered as valid and effective service and shall have the legal effect as an original paper Document sent via 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 eFileGA system in cases in which they have appeared and consented to E-Filing. A docket listing is accessible via the Odyssey portal on the official website of the Clerk of Superior Court at www.dksuperiorclerk.com/civil. 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 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 eFileGA 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 is prescribed by statute or rule of court, shall be strictly governed by the Georgia Civil Practice Act.
 - 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 may consent to accept E-service notification of a hearing or trial by completing the designated forms. Registering will include said attorney for all matters filed in DeKalb County.

F. System or User Filing Errors If E-Service does not occur because of (1) an error in the transmission of the E-Document to eFileGA or served party which was unknown to the sending party, (2) a failure to process the E-Document when received by eFileGA, (3) the party was erroneously excluded from the service list, or (4) other technical problems experienced by the filer, the party shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or the period within which any right accrues or any duty or other act must be performed.

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's office. If a filing fee is required, immediately upon acceptance of the filing by the review Clerk of Court or Deputy Clerk, Vendor will credit the designated Court account via ACH (Automated Clearing House).
- B. Fees may be charged by the Vendor 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 Vendor at the time of filing and are in addition to the statutory filing fees.
- C. If a party wishes to request a waiver from filing fees due to indigency, the party will efile a petition to proceed In Forma Pauperis by completing the Pauperis Affidavit. There is no fee to file this petition. The Court will review the application. If a party is exempt from paying statutory filing fees or other fees because the Court has determined that the party is indigent, the Court will efile an *in forma pauperis* Order. Then, the party shall efile his or her case initiation pleadings by selecting a waiver code as payment and the statutory filing fees, as well as E-Filing and E-Service fees, shall be waived in that particular case.

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

The Court shall 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. PETITION FOR RELIEF FROM E-FILING/E-SERVICE REQUIREMENTS:

Any person seeking to initiate a lawsuit in Superior Court who desires relief for E-Filing and the requirements set forth herein and/ or who desires to opt out of the consent required for E-Service/ E-Notice may file in the case at issue their Complaint in paper form with the Clerk's Office. The petition shall set forth the reasons as to why that party cannot or is not legally required to comply with the E-Filing and/or E-Service requirements. Within thirty (30) days of becoming a party to an action filed in Superior Court, any defendant may also petition for relief from the E-Filing/ E-Service requirements. The petitioning party must show the legal reason or good cause for the need for such relief.

If the petition is granted, said party will also no longer qualify for E-Notice and thus will no longer receive advanced electronic notices from the Court, electronic notice of documents electronically filed, or electronic copies of any filing, including Orders, in the case.


13. EFFECTIVE DATE OF ORDER

This Order applies to new cases filed on December 31, 2016, as well as to any case pending in DeKalb County Superior Court on the effective date of this Order.

14. ELECTRONIC RECORD

The Clerk of Superior 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 27th day of December 2016.


TANGELA M. BARRIE, CHIEF JUDGE
DEKALB COUNTY SUPERIOR COURT
STONE MOUNTAIN JUDICIAL CIRCUIT