

## **5-103.2. Electronic service and filing of pleadings and other papers.**

### **A. Definitions.** As used in these rules:

- (1) “electronic transmission” means the transfer of data from computer to computer other than by facsimile transmission;
- (2) “document” includes the electronic representation of pleadings and other papers; and
- (3) "EFS" means the electronic filing system approved by the Supreme Court for use by the district courts to file and serve documents by electronic transmission in criminal proceedings.

### **B. Electronic filing authorized; registration by attorneys required.**

- (1) A district court may, by local rule approved by the Supreme Court, implement the mandatory filing of documents by electronic transmission in accordance with this rule through the EFS by parties represented by attorneys. Self-represented parties are prohibited from electronically filing documents and shall continue to file documents through traditional methods. Parties represented by attorneys shall file documents by electronic transmission even if another party to the criminal proceeding is self-represented or is exempt from electronic filing under Paragraph M of this rule. For purposes of this rule, unless a local rule approved by the Supreme Court provides otherwise, “criminal proceedings” includes proceedings under Article 2 of the Children’s Court Rules and does not include proceedings sealed under Rule 5-123 NMRA.
- (2) Unless exempted under Paragraph M of this rule, attorneys required to file documents by electronic transmission shall register with the EFS through the district court’s web site. Every registered attorney shall provide a valid, working, and regularly checked email address for the EFS. The court shall not be responsible for inoperable email addresses or unread email sent from the EFS.

**C. Service by electronic transmission.** Any document required to be served by Paragraph A of Rule 5-103 NMRA may be served on a party or attorney by electronic transmission of the document if the party or attorney has agreed to be served with pleadings or papers by electronic mail or if the attorney for the party to be served has registered with the court’s EFS. Documents filed by electronic transmission under Paragraph A of this rule may be served by an attorney through the court’s EFS, or an attorney may elect to serve documents through other methods authorized by this rule, Rule 5-103 NMRA, or Rule 5-103.1 NMRA. Electronic service is accomplished when the transmission of the pleading or paper is completed. If within two (2) days after service by electronic mail, a party served by electronic mail notifies the sender of the electronic mail that the pleading or paper cannot be read, the pleading or paper shall be served by any other method authorized by Rule 5-103 NMRA designated by the party to be served. The court may serve any document by electronic transmission to an attorney who has registered with the EFS under this rule and to any other person who has agreed to receive documents by electronic transmission.

**D. Format of documents; protected personal identifier information; EFS user guide.** All documents filed by electronic transmission shall be formatted in accordance with the Rules of Criminal Procedure for the District Courts and shall comply with all procedures for protected personal identifier information under Rule 5-123 NMRA. The district court may make available a user guide to provide guidance with the technical operation of the EFS. In the event of any conflicts between these rules and the user guide, the rules shall control.

**E. No fees charged for use of the EFS.** No fees shall be charged for the filing or

service of documents by electronic transmission through the EFS.

F. **Single transmission.** Whenever a rule requires multiple copies of a document to be filed only a single transmission is necessary. If an attorney files or serves multiple documents in a case by a single electronic transmission, the applicable electronic services fee under Paragraph E of this rule shall be charged only once regardless of the number of documents filed or parties served.

G. **Time of filing.** For purposes of filing by electronic transmission, a “day” begins at 12:01 a.m. and ends at midnight. If electronic transmission of a document is received before midnight on the day preceding the next business day of the court it will be considered filed on the immediately preceding business day of the court. For any questions of timeliness, the time and date registered by the court's computer will be determinative. For purposes of electronic filing only, the date and time that the filer submits the electronic filing envelope will serve as the filing date and time for purposes of meeting statute of limitations or any other filing deadlines, notwithstanding rejection of the attempted filing or its placement into an error queue for additional processing.

H. **Signatures.**

(1) All electronically filed documents shall be deemed to contain the filing attorney's signature pursuant to Rule 5-206 NMRA. Attorneys filing electronically thereby certify that required signatures or approvals have been obtained before filing the document. The full, printed name of each person signing a paper document shall appear in the electronic version of the document.

(2) If a document filed by electronic transmission contains a signature block from an original paper document containing a signature, the signature in the electronic document may represent the original signature in the following ways:

(a) by scanning or other electronic reproduction of the signature; or  
(b) by typing in the signature line the notation “/s/” followed by the name of the person who signed the original document.

(3) All electronically filed documents signed by the court shall be scanned or otherwise electronically produced so that the judge's original signature is shown.

I. **Demand for original; electronic conversion of paper documents.**

(1) Original paper documents filed or served electronically, including original signatures, shall be maintained by the attorney filing the document and shall be made available, upon reasonable notice, for inspection by other parties or the court. If an original paper document is filed by electronic transmission, the electronic version of the document shall conform to the original paper document. Attorneys shall retain original paper documents until final disposition of the case and the conclusion of all appeals.

(2) For cases in which electronic filing is mandatory, if an attorney who is exempt under Paragraph M of this rule or a self-represented party files a paper document with the court, the clerk shall convert such document into electronic format for filing. The filing date shall be the date on which the paper document was filed even if the document is electronically converted and filed at a later date. The clerk shall retain such paper documents as long as required by applicable statutes and court rules.

J. **Electronic file stamp and confirmation receipt; effect.** The clerk of the court's endorsement of an electronically filed document shall have the same force and effect as a manually affixed file stamp. When a document is filed through the EFS, it shall have the same

force and effect as a paper document and a confirmation receipt shall be issued by the system that includes the following information:

- (1) the case name and docket number;
- (2) the date and time of filing as defined under Paragraph G of this rule;
- (3) the document title;
- (4) the name of the EFS service provider;
- (5) the email address of the person or entity filing the document; and
- (6) the page count of the filed document.

K. **Conformed copies.** Upon request of a party, the clerk shall stamp additional copies provided by the party of any pleading filed by electronic transmission. A file-stamped copy of a document filed by electronic transmission can be obtained through the court's EFS. Certified copies of a document may be obtained from the clerk's office.

L. **Proposed documents submitted to the court.**

(1) A document that a party proposes for issuance by the court shall be transmitted by electronic mail to an email address designated by the court for that purpose. A judge may direct the party to submit a hard copy of the proposed document in addition to, or in lieu of, the electronic copy. The court's user guide shall give notice of the email addresses to be used for purposes of this paragraph. The user guide also may set forth the text to be included in the subject-line and body of the email.

(2) Proposed documents shall not be electronically filed by the party's attorney in the EFS. Any party who submits proposed documents by email under this paragraph shall not engage in ex parte communications in the email and shall serve a copy of the email and attached proposed documents on all other parties to the action.

(3) Documents issued by the clerk under this rule shall be sent to the requesting party by email or through the EFS as appropriate, and the requesting party is responsible for electronically filing the document in the EFS if necessary and serving it on the parties as appropriate. Any document issued by a judge under this rule will be electronically filed by the court in the EFS and served on the parties as required by these rules.

M. **Requests for exemptions from local rules establishing mandatory electronic filing systems.**

(1) An attorney may file a petition with the Supreme Court requesting an exemption, for good cause shown, from any mandatory electronic filing system that may be established by this rule and any district court local rules. The petition shall set forth the specific facts offered to establish good cause for an exemption. No docket fee shall be charged for filing a petition with the Supreme Court under this subparagraph.

(2) Upon a showing of good cause, the Supreme Court may issue an order granting an exemption from the mandatory electronic filing requirements of this rule and any local rules. An exemption granted under this subparagraph remains in effect statewide for one (1) year from the date of the order and may be renewed by filing another petition in accordance with Subparagraph (1) of this paragraph.

(3) An attorney granted an exemption under this paragraph may file documents in paper format with the district court and shall not be charged an electronic filing fee under this rule or local rule for doing so. When filing paper documents under an exemption granted under this paragraph, the attorney shall attach to the document a copy of the Supreme Court exemption order. The district court clerk shall scan the attorney's paper document into the

electronic filing system including the attached Supreme Court exemption order. No fee shall be charged for scanning the document. The attorney remains responsible for serving the document in accordance with these rules and shall include a copy of the Supreme Court exemption order with the document that is served.

(4) An attorney who receives an exemption under this paragraph may nevertheless file documents electronically in any district court that accepts such filings without seeking leave of the Supreme Court provided that the attorney complies with all requirements under this rule, and complies with all applicable local rules for the district court's electronic filing system. By doing so, the attorney does not waive the right to exercise any exemption granted under this paragraph for future filings.

N. **Technical difficulties.** Substantive rights of the parties shall not be affected when the EFS is not operating through no fault of the filing attorney.

[Approved, effective July 1, 1997; as amended, effective January 1, 1999; as amended by Supreme Court Order No. 06-8300-028, effective January 15, 2007; as amended by Supreme Court Order No. 18-8300-022, effective for all cases pending or filed on or after January 14, 2019.]