

PROPOSED CHARLESTON COUNTY PROBATE COURT ELECTRONIC FILING RULES

RULE 1. COMMENCEMENT; SCOPE; TITLE

Commencement. The Pilot Program shall commence in the Charleston County Probate Court upon Order of the Supreme Court of South Carolina or the Chief Justice of the Supreme Court of South Carolina, and may expand to other counties as ordered by the Supreme Court of South Carolina.

(a) Scope. Unless otherwise excluded by these Policies and Guidelines or by Order of the Supreme Court or the Chief Justice, these rules apply to electronic filings in cases commenced or pending in Charleston County Probate Court after the effective date of the Pilot Program.

(b) Short title. These rules may be known and cited as the Charleston County Probate Court Rules for Electronic Filing.

RULE 2. DEFINITIONS

(a) Document. A “Document” is a writing or other paper filed or served under the Electronic Filing System that is stored in an electronic or other medium and is retrievable.

(b) Electronic Case File. An “Electronic Case File” is an assemblage of the items pertaining to a single case or matter under a single docket number electronically stored by the Charleston County Probate Court.

(c) Electronic Filing System. The “Electronic Filing System” is that system approved by the South Carolina Supreme Court for filing and service of pleadings, motions and other documents via the Internet through the Charleston County Probate Court authorized service provider.

(d) Electronic Filing. “Electronic Filing” is the process of transmitting a document from a Registered Filer’s computer, using the court’s Internet-based electronic filing system, to file the document in the court’s Electronic Case File.

(e) Electronic Service. “Electronic Service” is the transmission of notice to any party in a case via the Electronic-Filing System. Registered Filers have agreed to receive service via the Electronic-Filing System.

(f) Electronic Means. “Electronic means” is any method of direct electronic transmission of a document from the sender’s computer or electronic filing system to the recipient’s computer or electronic filing system.

(g) Traditional Case File. A “Traditional Case File” is an assemblage of the items pertaining to a single case or matter under a single docket number stored by the court.

(h) Traditional Filing. “Traditional filing” is any method of transmitting a document or filing or service by any means other than by direct electronic transmission from the sender’s computer or electronic filing system to the recipient’s computer or electronic filing system.

(i) Filer. A “Filer” is a petitioner, movant, applicant, plaintiff, or interested person as defined under S.C. Code Ann. § 62-1-201(23).

(j) Registered Filer. A “Registered Filer” is any person who is permitted under Rule 3 to file documents electronically and has registered through the electronic filing system website as provided in Rule 4.

(k) S/Name. A “/S/Name” is a symbol representing the signature of the person whose name follows the “/S/” on the electronically or otherwise signed form of the electronically-filed or electronically-served documents.

(l) Unrepresented Party. An “Unrepresented Party” is an interested person as defined under S.C. Code Ann. § 62-1-201(23), who has entered an appearance with the Court.

(m) Testamentary Document. A "Testamentary Document" shall include only the Last Will and Testament of the Decedent and any codicils thereto.

RULE 3. WHO MAY FILE ELECTRONICALLY; EXCEPTIONS

(a) Permitted electronic filing. Except as hereinafter provided in (b) and (c), and other provisions of these rules, all parties, and others permitted to file, in all civil actions and Charleston County Probate Court proceedings, entered in the Charleston County Probate Court, on or after the filing dates provided by Order of the Supreme Court of South Carolina or Chief Justice of the Supreme Court of South Carolina, may electronically file all documents required by the applicable rules of procedure to be filed in court. All documents generated by the court, guardians ad litem, visitors, psychologists, physicians and mediators required to file a report under the applicable rules of procedure in all civil

actions and Charleston County Probate Court proceedings, on or after the filing dates provided by Rule 1(a), will be filed electronically or, if filed traditionally, shall be scanned by court staff.

(b) Required traditional filing. A document must be filed traditionally when:

- (1) It is an original testamentary document;
- (2) Traditional filing is expressly required by these rules or an applicable rule of procedure; or
- (3) The court orders a filer to file traditionally upon a finding that the filer has abused the system by repeated filing of irrelevant, abusive, or duplicative documents or information.

(c) Service. A party who filed a traditional filing must serve notice of the filing and a copy of the document on all parties and the Charleston County Probate Court in any manner appropriate under the applicable rules of procedure, except for documents filed ex parte.

RULE 4. REGISTERED FILERS

(a) Registration required. Any person who is permitted under Rule 3 to file electronically must register by obtaining a user name and password through the electronic filing system website in accordance with Rule 4(b) or (c). Registration constitutes consent to electronic service of all documents or information filed in accordance with these rules.

(b) Method of registration by attorneys and Unrepresented Parties. An attorney in good standing in the State of South Carolina, any other person who is permitted to file documents electronically, or an Unrepresented Party who elects to do so, may register on the electronic filing system website by submitting all information required by the Charleston County Probate Court on the registration screens displayed on the website, including: (1) his or her mailing address; (2) his or her Bar number; (3) his or her billing information; and (4) up to three e-mail addresses, one of which is an e-mail account currently maintained by the applicant or by an attorney on the South Carolina Supreme Court AIS System. The addresses provided shall be listed on the Charleston County Probate Court website and are the addresses to which all service, notice, or other communication submitted must be sent. A Registered

Filer shall remain a Registered Filer for all matters in the Charleston County Probate Court website and are the addresses to which all service, notice, or other communication submitted must be sent. A Registered Filer shall remain a Registered Filer for all matters in the Charleston County Probate Court until he or she terminates his or her registration pursuant to Rule 4(h).

(c) Method of registration by out-of-state attorneys and other filers. An attorney in good standing in another jurisdiction who is admitted pro hac vice under applicable rules of procedure or administrative orders and any other person who is permitted under Rule 3 to file documents electronically may register on the electronic filing system website by submitting all information required by the Charleston County Probate Court on the registration screens displayed on the website, including (1) his or her mailing address; (2) his or her billing information; and (3) up to three e-mail addresses, one of which is an e-mail account currently maintained by the applicant. The addresses provided shall be listed on the Charleston County Probate Court website in connection with the docket number assigned to that matter, must be listed on all filings by that Registered Filer and are the addresses to which all service, notice, or other communication submitted must be sent. A Registered Filer under this subdivision (c) shall remain a Registered Filer, as defined by the docket number (including all sub-matter numbers thereunder) assigned to that matter.

(d) Duties of Registered Filer. A Registered Filer shall, in any matter in which the filer has appeared in accordance with the applicable rules of procedure and has submitted his or her user name and password:

- (1) File documents electronically as provided in Rule 5 and access or download any such documents remotely;
- (2) Access or download documents, as provided in Rule 11, which have been filed by any other party or the court.

(e) Use of agents. An attorney who is a Registered Filer may permit an associated attorney or legal assistant to file documents under the Registered Filer's user name and password. The Registered Filer is responsible for all such filings.

(f) Filings by court personnel. Judges and other authorized court personnel or officers may file court-generated documents and access or download documents that have been filed in any matter without becoming a Registered Filer.

(g) Reports. A Guardian ad litem, visitor, psychologist, physician or mediator who are required to file a report in a proceeding, may file court-generated forms and access or download forms that are required to be filed in that matter without becoming a Registered Filer.

(h) Unregistering. A Registered Filer may “unregister” as a Registered Filer by deactivating his or her account on the Electronic Filing System.

(i) Updating contact information. It is the responsibility of a Registered Filer to maintain updated contact information (mailing addresses, e-mail addresses, etc.) in both the electronic filing system and the South Carolina Supreme Court AIS System.

(j) Required unregistration. In the case of a South Carolina attorney who is inactive, retired, disbarred or suspended, such attorney shall be required to withdraw as a Registered Filer under Rule 4(h).

RULE 5. PROCEDURES FOR ELECTRONIC FILING

(a) Logging into system. A Registered Filer may initiate a new civil action or Charleston County Probate Court proceeding, or file documents in a civil action or Charleston County Probate Court proceeding that is in the electronic filing system, when required or permitted under Rule 3, by logging in on the electronic filing system website with a user name and password obtained as provided in Rule 4.

(b) Transmitting documents. Each filing will be initiated by completing the “new case” or “existing case” pages on the electronic filing system website by attaching documents required or permitted to be filed that have been prepared, formatted, and signed as provided in Rules 7 and 8.

(c) Time of filing. An electronic filing may be submitted on any day, including holidays and weekends, and at any time. A filing is considered submitted on a date if it is submitted prior to 11:59:59 p.m. on that date. Failure of the filer’s system will not excuse a failure to comply with a filing deadline unless the court exercises its discretion to extend the deadline.

(d) Acknowledgment or rejection of filing. The electronic filing system will automatically acknowledge receipt of any filing, but it will automatically reject any filing that does not comply with the requirements of Rule 7(a). A filer may resubmit a rejected filing at any time after addressing the reasons for

rejection, but the date and time of filing for all purposes under the applicable rules of procedure are the date and time that the filing is resubmitted.

(e) Review by court staff. A filing that has not been automatically rejected will be reviewed by court staff for compliance, and court staff will then electronically notify the filer either that the filing has been accepted or that it cannot be accepted until specified actions required under those rules have been taken. A filer may submit a corrected filing within seven calendar days after receiving the notification. Failure to submit a corrected filing on a timely basis shall constitute a rejected filing. Court staff will accept a corrected filing if all requirements of those rules have been met. When an original or corrected filing has been accepted, or when a court-generated document is filed, the date and time of filing for all purposes under the applicable rules of procedure are the date and time that the original filing was submitted. Court staff will provide a docket number for a new filing that has been accepted in the acceptance notification. The assigned docket number must appear on all subsequent filings pertaining to the case.

(f) Notice of filing. The filer must serve notice of the filing and a copy of an electronically filed document as provided in Rule 12 on all parties or persons upon whom service is required by the applicable rules of procedure.

(g) Calculation of deadlines. Deadlines for responding to electronic filings shall be calculated from the date of acceptance by the court staff and pursuant to all applicable rules of procedure.

RULE 6. TRADITIONAL FILINGS

(a) Original testamentary documents. The court staff shall scan all traditional filings filed pursuant to Rule 3(b)(1); shall include such scanned documents in the electronic case file; and shall maintain such original testamentary documents in a traditional case file.

(b) Large or damaged documents. The court shall retain all traditional filings filed pursuant to Rule 3(b) in a traditional case file and shall maintain such traditional filings until the final disposition of the matter, including the disposition of all appeals or the running of the time for appeal. At the conclusion of this term, the court shall thereafter return such traditional filings to the filer.

(c) Other traditionally filed documents. The court staff shall scan all other traditional filings filed pursuant to Rule 3(b) and (c); shall include such scanned

documents in the electronic case file; and shall thereafter return such traditional filings to the filer. The filer must retain the original of each such traditional filings and make it available for inspection upon seven days' notice by the signers or the court until the longer of two years or final disposition of the matter, including the disposition of all appeals or the running of the time for appeal. The court is not required to maintain traditional files for Charleston County Probate Court proceedings or civil actions commenced after the date on which electronic filing is permitted.

RULE 7. FORMAT OF DOCUMENTS

(a) Automatic rejection. An electronically filed document will be automatically rejected by the electronic filing system without acknowledgement of receipt if it:

- (1) Is not created, saved in, or converted to TIFF, PDF, or PDF/A;
- (2) Is larger than 8 MB, unless it is filed in segments no larger than 8 MB; or
- (3) Contains a virus detected by the Electronic Filing System.

(b) Review by court staff. An electronically filed document that has not been rejected by the electronic filing system pursuant to (a) will be accepted by court staff as provided in Rule 5(e) only if:

- (1) It has been formatted as required by the applicable rules of procedure and is clearly legible in the electronic format in which it is filed; and
- (2) Any password protection or other security device has been removed.

(c) Traditionally filed documents. A traditionally filed document must be clearly legible, with all text visible and dark enough to be readable on a scanned image.

RULE 8. SIGNATURES

(a) Effect of Signature. The following screen shall appear on the www.ez-filing.net/southcarolina website prior to any electronic submission to the court that requires a signature:

“By typing your name below preceded by ‘/S/’ you are representing that:

“1) You are the Registered Filer or are permitted by the Registered Filer or the Court to access the Registered Filer’s account;

“2) Each document you are submitting to the Court today has been signed by electronic means or in hand by the person whose name appears in the signature block of the document, you have possession of the document, and agree to retain a paper or electronic copy of the document available for inspection by the signer or the Court until the longer of two years or final disposition of the matter, including the disposition of all appeals or the running of the time for appeal.”

(b) Form of Signature.

(1) An electronically filed pleading, motion or other procedural document must include either a signature block containing the Filer’s typed-in name preceded by “/S/” or a scanned image of the actual signer’s signature.

(2) A procedural document filed traditionally, when permitted under Rule 3(b) or otherwise required by these rules, must be signed as provided in the applicable rules of procedure.

(3) A pleading, motion or other procedural document filed by a Registered Filer and other parties or counsel aligned in interest with the filer must contain the signature of the filer and the other parties or counsel in the form provided in (b)(1) or (2). If a document is filed electronically, the Filer’s signature constitutes a representation that all the other signers consented to the filing of the document.

(c) Documents under Oath. If a notarized, acknowledged, or verified document or a document signed under oath is to be filed electronically under these rules, the original, signed and attested as provided in the applicable rules of procedure or other provisions of law, must be scanned and filed in accordance with Rule 7 by the filer.

(d) Retention of Documents. The filer of any document containing the signatures of other persons must retain a paper or electronic copy of the document available for inspection by the signers or the court until the longer of

two years or final disposition of the matter, including the disposition of all appeals or the running of the time for appeal.

(e) Signatures of Court Personnel. Judges, and other court personnel authorized to sign on behalf of a judge or in their own capacity, may electronically sign any court-generated document that requires a signature with an electronic facsimile signature or scanned copy, or another form of electronic signature as defined in Rule 6, SCEF.

RULE 9. TECHNICAL DIFFICULTIES

(a) Point of Contact. The point of contact for a Registered Filer who is experiencing difficulty Electronic Filing a document is ICON Court Management Solutions at (866) 501-4266 or (678) 730-0028. Registered Filers are encouraged to E-File documents during normal business hours in the event a problem with Electronic Filing occurs.

(b) Electronic Filing System Technical Failure. The Electronic Filing System is deemed subject to a Technical Failure on a given day if the System is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 p.m. that day. Technical Failures will be communicated to Registered Filers through email alerts.

(c) Other Technical Difficulties. Other technical difficulties include malfunctions of a Registered Filer's equipment, software, hardware, or internet connection that prevent the Registered Filer from successfully E-Filing a document.

(d) Problems with Filings. Where a Technical Failure of the Electronic Filing System or a technical difficulty prevents a Registered Filer from submitting a document for Electronic Filing, and the filing of the document is required by the SCRCF, order of the court, or South Carolina law on the day of the Technical Failure or technical difficulty, the Registered Filer may utilize one of the following procedures:

- (1) Traditional Filing.** The Registered Filer may traditionally file the document by physically delivering the document, together with any required filing fee, to the Charleston County Probate Court's office during normal hours of operation. The filing must include a certification signed by the Registered Filer stating a Technical Failure has been declared or, in the case of a technical difficulty,

that the Registered Filer has unsuccessfully attempted to E-File the document electronically at least twice. Where a document is filed under this paragraph, and the document is required to be served under Rule 5, SCRPC, the Registered Filer must serve the filed document and certification on all other parties to the case by a Traditional Service method.

(2) **Alternative Methods of Submission.** In cases where the Registered Filer is unable to physically deliver the document to the Charleston County Probate Court pursuant to paragraph (d)(1), the Registered Filer may preserve the time for filing by utilizing an alternative method of submission set forth below. A document submitted by alternative method must be accompanied by a certification signed by the Registered Filer stating a Technical Failure has been declared or, in the case of a technical difficulty, that the Registered Filer has unsuccessfully attempted to E-File the document electronically at least twice. Where the document is required to be served under Rule 5, SCRPC, the Registered Filer must serve the certification and the entire document on all other parties to the case by email, hand delivery, facsimile, or first class mail. The document may be submitted to the Charleston County Probate Court by:

- (A) Email with an attachment containing the document with s/[typed name] for the signature in PDF format, sent to the email address for Technical Failures for Charleston County Probate Court; or
- (B) Facsimile transmission of the first and signature pages of the document to the Charleston County Probate Court.

THE ALTERNATIVE METHOD OF SUBMISSION IS NOT IN ITSELF A PROPER FILING. The submission shall be effective only to preserve the time for filing, and the subsequent Electronic Filing will be deemed timely filed if the Electronic Filing is accomplished within one (1) business day after the Technical Failure is remedied, or, in the case of an alleged technical difficulty, the next business day. The Registered Filer must also pay any required filing fees at that time.

(e) Traditional Service Methods Permitted. Where a Technical Failure or technical difficulty prevents a Registered Filer from submitting a document for E-Filing and E-Service, and that document is required to be served on one or more Registered Filers in accordance with the SCRCP, order of the court, or South Carolina law on the day of the Technical Failure or technical difficulty, the Registered Filer may serve the document on any other Registered Filer by any Traditional method of service under Rule 5, SCRCP. The Registered Filer must E-File the document, together with proof of Traditional Service on all parties, within one business day after the Technical Failure is remedied or, in the case of a technical difficulty, the next business day, and pay any required fees.

(f) Repeated Technical Difficulties. Where a Registered Filer is unable to complete an E-Filing after repeated attempts, the Registered Filer may file the document with the Charleston County Probate Court utilizing a Traditional Filing Method. The Registered Filer must serve the filed document and certification on all other parties to the case by a Traditional Service method.

(g) Relief. A Registered Filer who suffers prejudice as a result of a Technical Failure may seek appropriate relief from the court.

(h) Scheduled Maintenance and Technical Interruptions. Scheduled maintenance times will be announced to Registered Filers through email alerts.

RULE 10. PAYMENT OF FEES AND COSTS

(a) Fees required. No electronically or traditionally filed document will be accepted under Rule 5 or 6 until any and all fees and costs attributable to the filing are paid, including all technology fees.

(b) Method of payment; waiver of fees. Fees and costs for electronically filed documents shall be paid electronically by Registered Filers when filed, but they may be paid directly over the counter at the office of the Charleston County Probate Court by cash, check, or money order by Unrepresented Parties. A person who wishes to proceed in forma pauperis must comply with the provisions of the applicable rules of procedure.

RULE 11. REMOTE ACCESS TO ELECTRONIC CASE FILES

(c) Counsel and parties. Registered Filers affiliated with a particular matter shall have remote access to all records filed electronically and traditionally in that matter.

(d) Public. Members of the general public and Registered Filers not affiliated with a matter shall have remote access to all Public Records in any matter, subject to the redaction of Private Information on Public Records pursuant to Rule 13.

RULE 12. SERVICE

(a) Required traditional service. Except as provided in subparagraph (b), a Registered Filer shall serve upon a party the notice of a civil action or Charleston County Probate Court proceeding, other process, or a writ of execution or possession, or service upon a nonparty of a subpoena or other original or final process, and any documents accompanying any such notice or process by traditional service. Any required return of service must be filed electronically in accordance with these rules unless otherwise provided in Rule 3(b), SCRPC or by the applicable rules of civil procedure.

(b) Permissible electronic or traditional service. Documents or exhibits required or permitted by applicable rules of procedure to be served on an attorney or party may be served by electronic means or by traditional service, provided that notice is served pursuant to 12(a).

RULE 13. PUBLIC RECORDS AND REDACTION

(a) Private records. “Private Records” means any record or document designated as a Private Record by the Charleston County Probate Court.

(b) Public records. “Public Records” means any record or document (electronic or traditional) filed with the Charleston County Probate Court which is not a Private Record and which is not otherwise restricted by the Charleston County Probate Court.

(c) Private information. “Private Information” means (1) Social Security numbers of living individuals; (2) banking/brokerage account numbers; and (3) any other information designated as Personal Identifying Information (PII) pursuant to Rule 41.2, SCRPC.

(d) Maintenance of Private Records; Redaction of Private Information.

Court staff shall docket Private Records into the electronic file such that those documents are available only to all Registered Filers of record on that particular case. Filers are responsible for redacting Private Information before filing Public Records. If a filer discovers that he has filed a document that includes Private Information, he or she shall notify the court and shall submit a replacement, redacted, document. Upon receipt of such replacement, redacted, document, court staff shall remove the earlier electronic document from the electronic file and shall replace the same with the replacement, redacted, document.