

LR 45-A.R.16-17. Electronic Filing and Service - Proposed

Pursuant to Administrative Rule 16 and Trial Rule 77, the Superior Court of Lake County and the Lake Circuit Court, are authorized to establish practices and procedures for the filing, signing, verification and service of pleadings and papers, and sending notices, by electronic means. The judges and the clerk of the Superior Court of Lake County and the Lake Circuit Court have determined that an electronic filing system would advance efficiency in the Clerk's offices and the courts, and that members of the public and bar would be well served by such a system. Pursuant to Trial Rule 81 and Administrative Rule 16, the Superior Court of Lake County and Lake Circuit Court hereby adopt these rules establishing an electronic filing and service system in Lake County by using the Lake County Online Docket (LCOD) to file documents in the court's case management system, CourtView, and to serve the documents upon other persons in a case. The electronic filing and service system shall be designed, constructed, and maintained so as to function in compliance with Administrative Rules 6, 7, 9, and 16.

A. Application.

Unless otherwise ordered, these rules apply to all documents submitted for filing, no matter when the case was originally filed, according to the following schedule:

1. For all cases in Case Type MF in the Circuit Court and all Rooms of the Civil Division commencing on February 1, 2010.
2. For all cases in Case Type CC, PL, CT, MF and MI in Rooms 2 and 3 of the County Divisions, commencing on July 16, 2012, and cases in Case Type CC commencing September 1, 2013 in County Division Room 4.
3. **For all cases in Case types MR, FA, FB, FC and FD and beginning July 1, 2014, all cases in case types MR and Level 1, 2, 3, 4, 5 and 6 commencing August 1, 2014.**
4. Other case types and/or courts may be added to become subject to these electronic filing rules. Any additions will be made upon at least sixty (60) days advance notice, which shall be published in the offices of the Clerk of the Circuit and Superior Courts and on the Lake County Online Docket.

B. Official Record.

The official record of the court for all documents filed under these rules is the electronic record maintained by the clerk. The clerk shall establish an electronic Record of Judgments and Orders as provided by Trial Rule 77(D).

C. Registered Users.

Attorneys admitted to practice before the Supreme Court of Indiana (including those admitted *pro hac vice*) may register as users of the LCOD. A *pro se* litigant may elect to register as a user for the limited purpose of utilizing the electronic filing and service features for purposes of his or her case. Registrants will be issued a login and password upon fulfilling the registration requirements for the LCOD. *Pro se* registrants shall not knowingly permit or cause to permit their password to be used by anyone other than themselves. Attorney registrants shall not knowingly permit or cause to permit the password to be used by anyone other than an authorized agent of the registrant. Registered users will be assessed fees in accordance with the Schedule of Fees and Charges. Registered users are bound by the Registered User Agreement, which is posted on the LCOD, and registration also constitutes the following:

1. The registrant's consent to receive service and/or notice electronically and a waiver of the right to receive service and/or notice by personal delivery or first class mail, including notice of the entry of an order or judgment under Trial Rule 72, except with regard to documents which are excluded from electronic filing, or service of a summons and complaint, or other legal process which is required by law to be served under Trial Rules 4 - 4.17.
2. An affirmation that the registrant will endeavor to file all documents electronically.
3. The registrant is responsible for all transactions under his or her password and is obligated to notify the Web Administrator if his or her password is compromised.

D. Electronic Filing of Documents.

Unless otherwise permitted by these rules or otherwise authorized by the judicial officer assigned to a particular case, all documents submitted for filing (including the original complaint, or equivalent pleading, and summons) shall be filed electronically with the clerk using the LCOD, no matter when the case was originally filed. The LCOD may be accessed via any Internet connection available to the registered user and at public access terminals located in the offices of the clerk. Attorneys who wish to be exempted from the requirement that they file electronically may file a Petition for Electronic Filing Exemption and an *Electronic Filing Technical*

Requirements Questionnaire, which must be filed in each pending case to which these rules are applicable. The petition will be reviewed by the judicial officer assigned to that particular case and granted only upon a showing of good cause. The *Electronic Filing Technical Requirements Questionnaire* is appended hereto as Form 1.

1. Format. Electronically filed documents must meet the same requirements of format as documents conventionally filed pursuant to L.R.45-T.R.10-2 or other applicable Local Rule(s).

2. Appearance. Electronic filing of a Notice of Appearance shall act to establish the filing attorney as an attorney of record representing a designated party in a particular case.

3. Titles of Documents. The person electronically filing a document will be responsible for designating a title for the document at the time it is filed. The LCOD will generate the appropriate entry onto the CCS to record the filing of the document.

4. Chronological Case Summary Entry Forms (CCS Entry Forms). Separate CCS Entry Forms shall not be submitted. The LCOD shall make an appropriate entry upon the CCS whenever any document is filed electronically.

5. Citations and Hyperlinks. Electronically filed documents may contain hyperlink references to an external document as a convenient mechanism for accessing material cited in the document. Filers wishing to insert hyperlinks into documents shall continue to use the traditional method of citation to authority in addition to the hyperlink provided. The hyperlink is merely a convenience to the court and the material referenced is extraneous to the file and not a part of the court's record.

6. Attachments and Exhibits. All documents which form part of a single submission and which are being filed at the same time and by the same filer may be electronically filed together under one document filing, e.g., the motion, supporting affidavits, memorandum in support, designation of evidence, exhibits.

Large documents which do not exist in an electronic format shall be scanned into .pdf format and filed electronically as separate attachments. A scanner is available in each clerk's office for use by the public and the bar in scanning and saving image files if needed.

7. Filings Requiring Leave of Court. In order to file a document which requires leave of court, such as an amended pleading or a document to be filed late, the proposed document shall be attached as an exhibit to a motion.

8. Form Orders. Proposed orders, which are submitted for the court's convenience under L.R.45-T.R.5-3 or other applicable Local Rule(s), shall be submitted as attachments to motions.

9. Confidential Documents. Documents containing information excluded from public access under Administrative Rule 9, or governed by an order for the sealing of records, which can be filed electronically shall be designated by the filer as "Not for Public Access Pursuant to Administrative Rule 9(G)(1)" at the time of filing on the LCOD. The LCOD shall permit only the Judge, the clerk, and attorneys or parties in a particular case to view the confidential documents in the case. Such confidential documents or information shall be served upon the parties in accordance with the applicable Indiana Rules of Court and local rules for filing and service. The Judge may permit additional persons to view the confidential documents in a case pursuant to Administrative Rule 9(I).

E. Conventional Filing of Documents.

A conventionally filed document is one presented to the clerk or to a party in paper or other non-electronic, tangible format. Unless specifically authorized by the court, only the following documents may be filed conventionally and not electronically:

1. Exhibits And Other Documents That Cannot Be Converted To A Legible Electronic Form, Such As Videotapes, X-Rays, And Similar Materials. Whenever possible, the filer is responsible for converting filings to an electronic form. If electronic filing is not possible, the filer shall electronically file a *Notice of Manual Filing* as a notation to be placed on the CCS that filings are being held in the clerk's office in paper. The filer shall serve the *Notice of Manual Filing* and the documents in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s); and shall file a certificate of service. A *Notice of Manual Filing* form is appended hereto as Form 2; a *Certificate of Service* form is appended hereto as Form 3.

2. Documents Delivered To The Clerk By *Pro Se Litigants*. Documents filed by *pro se* litigants who have not elected to become registered users may be presented in the clerk's office for filing. Such documents shall then be converted to an image document by the clerk. The clerk shall thereupon electronically file and serve such documents upon each registered user of record in that case; and, the filer shall also conventionally serve these documents upon opposing attorneys or parties who are not registered users in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s); and, shall also file a certificate of service. After completion of scanning and filing, the original paper documents shall remain in the custody of the *pro se* litigant who has not elected to become a registered user.

If the original documents cannot be scanned into a legible electronic document, then the originals shall be placed into the case file and a notation of that action shall be placed onto the CCS; and, the filer shall also conventionally serve these documents in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s); and, shall also file a certificate of service.

3. Documents Mailed To The Clerk By *Pro Se Litigants*. Documents received by the clerk in the mail from *pro se* litigants who have not elected to become registered users shall be scanned and electronically filed by the clerk. The clerk shall thereupon serve such documents upon each registered user of record in that case; and, the filer shall also conventionally serve these documents in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s); and, shall also file a certificate of service. After scanning, the originals shall be returned to the filer, if a return envelope is provided. If no return envelope is provided, the original documents shall be discarded.

If the original documents cannot be scanned into a legible electronic document, then the originals shall be placed into the case file and a notation of that action shall be placed onto the CCS. The filer shall

also conventionally serve these documents in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s); and, shall also file a certificate of service.

4. Confidential Documents. Documents containing information excluded from public access under Administrative Rule 9, or governed by an order for the sealing of records, which cannot be legibly scanned and filed electronically, shall be conventionally filed under seal and designated by the filer as “Not for Public Access Pursuant to Administrative Rule 9(G)(1).” Only the Judge, the clerk, and attorneys or parties in a particular case may view the confidential documents in the case. The Judge may permit additional persons to view the confidential documents in a case pursuant to Administrative Rule 9(I). Such confidential documents or information shall be served upon the parties in accordance with the applicable Indiana Rules of Court and local rules for filing and service of conventional documents.

5. Notice of Manual Filing. Parties making a conventional filing shall file electronically, in place of the conventionally filed document, a Notice of Manual Filing setting forth the reasons why the document could not be filed electronically. The conventionally filed documents must be presented to the clerk within 24 hours after the electronic submission of the Notice of Manual Filing. A paper copy of the electronically filed Notice of Manual Filing must accompany the component at the time of conventional filing.

6. Titles of Documents. The person conventionally filing a document will be responsible for designating a title for the document at the time it is filed.

7. Chronological Case Summary Entry Forms (CCS Entry Forms). Separate CCS Entry Forms shall not be submitted. The clerk shall make an appropriate entry upon the CCS whenever any document is filed conventionally.

F. Service of Documents.

1. Service of Process. A party may not electronically serve a summons or other process and complaint or equivalent pleading, but instead must perfect service according to Trial Rules 4 – 4.17.

a. Service by Sheriff. The copies of the complaint or equivalent pleading and summons or other process, or any other documents such as an order to appear, necessary for service by sheriff shall be printed by the office of the clerk. The copies of the complaint and summons, or other

documents, shall be forwarded to the sheriff for service and return. The clerk shall scan and electronically file the return of service and the paper original may then be discarded.

b. Service by Certified Mail – Initial Summons for a Defendant. If a plaintiff does not request service by sheriff, the clerk will upon request electronically issue a summons for service by certified mail, and the initial summons to be served upon a defendant will be printed and served by certified mail by the clerk. The clerk shall scan and electronically file the return receipt or notice of unsuccessful service when received by return mail, and the paper original may then be discarded.

c. Service by Certified Mail – Additional Summons or Other Process after Initial Service. The clerk will electronically issue any additional summons or other process requested for service by certified mail or special process server, and the summons or other process will be printed and served by certified mail by the party or attorney requesting the documents to issue, or by the special process server appointed for that purpose. The party or attorney shall scan and electronically file the certificate of mailing and/or service, and the return receipt or notice of unsuccessful service when received by return mail, and retain the original documents.

2. Service of Other Documents. The LCOD will generate a “Notice of Electronic Filing and Service” when any document is filed and served. This notice will be emailed to each registered user of record in a case, and an electronic service event will be added to the work queue of each registered user of record in the case. The party filing the document should retain a paper or electronic copy of the Notice of Electronic Filing and Service. This notice represents proof of filing and service of the document on registered users of record in that case. The filer shall not be required to conventionally serve any document on any party receiving electronic service.

The filer shall also conventionally serve those parties not designated or able to receive electronic notice or service but who are nevertheless entitled to notice of said pleading or other document in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s). In such cases, the filer shall also file a certificate of service, as appropriate.

G. Signatures.

1. Signature of Registered User. The electronic filing of a document which is required to be signed shall constitute the filer’s representation under Trial Rule 11. Unless the electronically

filed document has been scanned and shows the filer's original signature, the signature of the filer shall be indicated by "s/Attorney's Name", or "s/Party's Name" in the case of a *pro se* litigant, on the line where the signature would otherwise appear.

2. Signatures on Jointly Signed or Filed, Verified or Other Documents. In the case of a stipulation, agreed order, jointly signed motion or other document which needs to be signed by two (2) or more persons, or in the case of documents which must contain original signatures and which require verification or an unsworn declaration under rule or statute, the signatures may be indicated by either:

a. submitting a scanned copy of the originally signed document; or,

b. submitting the document with the use of "s/Name" in the signature block(s) where the original signature(s) appear(s) in the original document; provided, however, that the filer shall first obtain the physical signature of all persons necessary.

The filer shall retain the original executed document.

H. Orders and Judgments.

All orders and judgments shall be entered or filed electronically by a judicial officer assigned to the case.

1. Administrative Entries. The judicial officer may direct the issuance of administrative entries which are routine in nature (e.g., setting or continuing dates) by way of a text entry upon the Chronological Case Summary (CCS). In such a case, the signature of the judicial officer is not required, no further document will issue and the CCS entry shall indicate that the court will issue no further written order.

2. All Other Orders and Judgments. In all other cases, unless the original document has been scanned and shows the signature(s) of the judicial officer(s), the signature(s) of the judicial officer(s) shall be indicated by "s/Judicial Officer's Name" on the line where the signature(s) would otherwise appear; and, shall carry the same weight and authority as a written order signed by the judicial officer(s). Judicial officers shall not knowingly permit or cause to permit their passwords to be used by anyone other than an agent authorized in writing by the judicial officer.

Such written authorization, or a revocation of such authorization, shall be filed with the clerk. Whenever appropriate, the clerk shall place a hardcopy version of any designated order or judgment in the Court's Record of Judgments and Orders, pursuant to Trial Rule 77(D).

3. Service. The LCOD will generate a "Notice of Electronic Filing and Service" when any order is filed and served. This notice will be emailed to each registered user of record in a case, and an electronic service event will be added to the work queue of each registered user of record in the case. This notice represents proof of filing and service of the order on registered users of record in that case. All other parties or attorneys of record will be served with a hardcopy version by first class mail in accordance with the provisions of Trial Rule 72(D).

I. Time of Filing.

Filing electronically does not alter any filing deadlines or any time computation pursuant to state or federal statutes, any Rules of the Indiana Supreme Court, including without limitation the Rules of Trial Procedure, the Rules of Appellate Procedure or the Administrative Rules, or applicable Local Rule(s). The office of the Lake County Clerk is open for electronic filing under these rules 24 hours a day. A document is deemed filed at the date and time it is received by the LCOD server. Filing must be completed before midnight local time in order to be considered filed that day. Lake County observes Central Time and electronic filers are strongly urged to file documents during hours when the LCOD help line is available, from 9:00 a.m. to 4:00 p.m. local time, although documents can be filed electronically 24 hours a day.

In the event of complete failure of the LCOD to accept documents from all electronic filers for a period of in excess of three (3) hours, as determined by the Web Administrator, any filing deadlines which expire on the date of such failure, in cases subject to electronic filing, shall be extended until 6:00 p.m. of the first day on which the court is open for business following the day the LCOD returns to operation. The date, time and duration of such complete failure, as well as the time and date of the return to operation, shall be posted on the LCOD as soon as possible.

J. Technical Failures.

If a registered user is unable to file a document in a timely manner due to technical difficulties in the LCOD, the registered user must file a document with the court as soon as possible notifying the court of the inability to file the document. A sample document titled *Declaration that Party was Unable to File in a Timely Manner Due to Technical Difficulties* is attached hereto as Form 4. Delayed filings shall be rejected unless accompanied by the declaration attesting to the filer's failed attempts to file electronically at least two times, separated by at least one hour, after noon on each day of delay due to such technical failure.

K. Retention of Documents in Electronically Filed Cases.

Registered users must retain signed copies of electronically filed documents until two (2) years after all time periods for appeals expire. Documents that are electronically filed and require original signatures other than that of the registered user must be maintained in paper form. On request of the court, the registered user must provide original documents for review.

Originals of documents filed electronically which require scanning (*e.g.* documents that contain signatures, such as affidavits) must be retained by the filer and made available, upon request, to the court and other parties for a period of two (2) years following the expiration of all time periods for appeals.

The clerk shall maintain all filed documents in accordance with the Administrative Rules 6 and 7 and all other applicable law.

L. Fees and Charges.

The clerk shall collect all filing and electronic system fees due at the time of the commencement of a case or appearance in a case. Persons who have been determined by court order to be indigent in a case shall not be required to pay fees for electronic filing or service in that case. In the case of registered users, all fees due shall be collected via a credit card charge to each registered user's designated credit card at the time of filing.

Conventional copies and certified copies of documents may be purchased at the offices of the clerk during regular business hours and upon payment of the customary copying fees prescribed by law.

The fees so collected shall be collected, maintained, and accounted for pursuant to Lake County Ordinance and all existing procedures as approved by the Indiana State Board of Accounts.

M. Public Access to the LCOD.

Remote access to documents filed through the LCOD via the Internet shall only be available to registered users. Other individuals shall have access only at terminals located in each of the offices of the clerk, during regular business hours.

Access to documents that are confidential as provided by Adm. R. 9, shall be restricted as required by that rule.

APPENDIX A

CCS Entry Form

CIRCUIT/SUPERIOR COURT OF LAKE COUNTY

Case No.:

Title of Case:

The activity of the Court should be summarized as follows on the Chronological Case Summary (CCS):

Attorney for Plaintiff:

Attorney for Defendant:

(TO BE DESIGNATED BY THE COURT)

This CCS Entry Form shall be:

- Placed in case file
- Discarded after entry on the CCS
- Mailed to all counsel by: __Counsel __Clerk __Court
- There is no attached Order; or

The attached Order shall be placed in the RJO: __Yes __No

Date:

Approved: _____

FORM 1

SUPERIOR COURT OF LAKE COUNTY AND LAKE CIRCUIT COURT

ELECTRONIC FILING TECHNICAL REQUIREMENTS QUESTIONNAIRE

1. Have you attended or would you be able to attend (in person or by phone) a free, 90-minute e-filing training session conducted by the Administrator?

Yes No

2. Does your office have at least one computer running on a Windows or Macintosh operating system?

Yes No

Please indicate the operating system(s) installed on your computer(s): _____

(For example, Windows 98, Windows XP, Windows Vista, Mac OS10, etc.)

3. Does your office have word processing software to create court-filed documents (e.g., Microsoft Word or Corel WordPerfect)?

Yes No

4. Does your office have Internet access via a 56K modem or faster?

Yes No

If so, please indicate the type of Internet connection used in your office, dial-up or broadband. _____

5. Does your office have at least one e-mail account?

Yes

No

6. Have you ever filed a Petition for E-filing Exemption in any other cases in the Lake Superior Court or Lake Circuit Court?

Yes

No

If so, please provide the case number(s):

Case Number(s): _____

Note: All questions above must be answered and attached to each Petition for E-filing Exemption before the Petition will be considered.

If you have any questions about these requirements, please contact the Lake County Online Docket Administrator at 219-755-3635.

FORM 2

STATE OF INDIANA)

IN THE LAKE CIRCUIT/SUPERIOR COURT

) SS:

COUNTY OF LAKE)

_____,)

Plaintiff(s),)

v.)

CASE NO. _____

_____,)

Defendant(s).)

NOTICE OF MANUAL FILING

_____ is in paper form only and
is being maintained in the case file in the Clerk's Office.

Attorney for (Plaintiff or Defendant) *or*

Name of *pro se* litigant

Address: _____

Date: _____

FORM 3

STATE OF INDIANA) IN THE LAKE CIRCUIT/SUPERIOR COURT
) SS:

COUNTY OF LAKE)

_____,)

)

Plaintiff(s),)

)

v.)

CASE NO. _____

)

_____,)

)

Defendant(s).)

CERTIFICATE OF SERVICE

I hereby certify that on (date) _____ I

(a) electronically filed the foregoing document(s) with the Clerk of the Court using the Lake County Online Docket Electronic Filing System which sent notification of such filing to the following parties or attorneys who are registered for electronic filing and service in the case: _____,

or

(b) I conventionally filed the foregoing document(s) with the Clerk of the Court.

I hereby certify that I have mailed copies of the document(s) by United States Postal Service to the following parties or attorneys who are not registered for electronic filing in this case: _____.

Dated: _____

FORM 4

STATE OF INDIANA)

IN THE LAKE CIRCUIT/SUPERIOR COURT

) SS:

COUNTY OF LAKE)

_____,)

)

Plaintiff(s),)

)

v.)

CASE NO. _____

)

_____,)

)

Defendant(s).)

DECLARATION THAT PARTY WAS UNABLE TO FILE IN A TIMELY MANNER

Please take notice that _____ was unable to file _____ in a timely manner due to technical difficulties. The deadline for filing the _____ was _____. The reason(s) that I was unable to file the _____ in a timely manner and the good faith efforts I made prior to the filing deadline to both file in a timely manner and to inform the Court and the other parties that I could not do so are set forth below.

[Statement of reasons and good faith efforts to file and to inform]

I declare under penalty of perjury that the foregoing is true and correct.

s/[Name of Password Registrant]

Name of Password Registrant

Address

City, State, Zip Code

Phone: XXX-XXX-XXXX

Fax: XXX-XXX-XXXX

E-mail: [XXX@XXX.XXX](#)

