

IN THE SUPREME COURT OF NORTH CAROLINA

ORDER AMENDING THE
GENERAL RULES OF PRACTICE
FOR THE SUPERIOR AND DISTRICT COURTS

Pursuant to section 7A-34 and section 7A-49.5 of the General Statutes of North Carolina, the Court hereby amends the General Rules of Practice for the Superior and District Courts. This order affects Rules 5, 5.1 (new rule), 22, and 27 (new rule).

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Rule 5. Filing of Pleadings and Other Documents

(a) **Electronic Filing.** Electronic filing is available only in (i) cases that are either designated “complex business” or assigned to a Business Court judge under Rule 2.1 of these rules and (ii) cases subject to the North Carolina eFiling Pilot Project. The procedure for filing documents electronically in those cases is governed by the North Carolina Business Court Rules and by the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project, respectively. In all other cases, only paper filing is available.

(b) **Paper Filing.** Documents filed with the court in paper should be unfolded and firmly bound with no manuscript cover. They must be letter size (8 ½" x 11"), except for wills and exhibits. The clerk of superior court may require a party to refile a document that does not conform to these requirements.

In civil actions, special proceedings, and estates, documents filed with the court in paper must include a cover sheet that summarizes the critical elements of the document in a format that the Administrative Office of the Courts prescribes. The clerk of superior court may not reject the filing of a document that does not include a cover sheet. Instead, the clerk must file the document, notify the party of the omission, and grant the party no more than five days to file the cover sheet. Other than dismissing the case, the court should not act on the document before the cover sheet is filed.

Comment

The North Carolina Judicial Branch will implement a statewide electronic filing and case management system beginning in 2021. The system will be made available across the state in phases over a five year period.

Subsection (a) of Rule 5 of the General Rules of Practice lists those contexts in which electronic filing already exists and serves as a placeholder until the new electronic filing and case management system is available. As the new system is implemented, litigants should

~~expect the General Rules of Practice, the North Carolina Business Court Rules, and the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project to undergo change.~~

Rule 5. Filing of Pleadings and Other Documents in Counties with *Odyssey*

(a) **Scope.** This rule applies only in those counties that have implemented *Odyssey*, the Judicial Branch's new electronic-filing and case-management system. The Administrative Office of the Courts maintains a list of the counties with *Odyssey* at <https://www.nccourts.gov/ecourts>. In a county without *Odyssey*, a person must proceed under Rule 5.1 of these rules.

(b) **Electronic Filing in *Odyssey*.**

(1) **Registration.** A person must register for a user account to file documents electronically. The Administrative Office of the Courts must ensure that the registration process includes security procedures consistent with N.C.G.S. § 7A-49.5(b1).

(2) **Requirement.** An attorney must file pleadings and other documents electronically. A person who is not represented by an attorney is encouraged to file pleadings and other documents electronically but is not required to do so.

(3) **Signing a Document Electronically.** A person may sign a document electronically by typing his or her name in the document preceded by “/s.”

(4) **Time.**

a. **When Filed.** A document is filed when it is received by the court's electronic-filing system, as evidenced by the file stamp on the face of the document.

b. **Deadline.** If a document is due on a date certain, then the document must be filed by 5:00 p.m. Eastern Time on that date.

(5) **Relief if Emergency Prevents Timely Filing.** If an *Odyssey* service outage, natural disaster, or other emergency prevents an attorney from filing a document in a timely manner by use of the electronic-filing system, then the attorney may file a motion that asks the court for any relief that is permitted by law.

(6) **Orders, Judgments, Decrees, and Court Communications.** The court may sign an order, judgment, decree, or other document electronically and may file a document electronically. The court may also send notices and other communications to a person by use of the electronic-filing system.

(c) Paper Filing. Documents filed in paper with the court should be unfolded and firmly bound with no manuscript cover. They must be letter size (8 ½" x 11"), except for wills and exhibits. The clerk of superior court may require a party to refile a document that does not conform to these requirements.

In civil actions, special proceedings, and estates, documents filed in paper with the court must include a cover sheet that summarizes the critical elements of the document in a format that the Administrative Office of the Courts prescribes. The clerk of superior court may not reject the filing of a document that does not include a cover sheet. Instead, the clerk must file the document, notify the party of the omission, and grant the party no more than five days to file the cover sheet. Other than dismissing the case, the court should not act on the document before the cover sheet is filed.

(d) Service. Service of pleadings and other documents must be made as provided by the General Statutes. A Notification of Service generated by the court's electronic-filing system is an "automated certificate of service" under Rule 5(b1) of the Rules of Civil Procedure.

(e) Private Information. A person should omit or redact nonpublic and unneeded sensitive information in a document before filing it with the court.

(f) Business Court Cases. The filing of documents with the North Carolina Business Court is governed by the [North Carolina Business Court Rules](#). This rule defines how a person must file a document "with the Clerk of Superior Court in the county of venue" under Rule 3.11 of the North Carolina Business Court Rules in counties with *Odyssey*.

Comment

The North Carolina Judicial Branch will implement *Odyssey*, a statewide electronic-filing and case-management system, beginning in July 2021. The system will be made available across the state in phases over a five-year period.

Rule 5 of the General Rules of Practice defines filing in those counties with *Odyssey*. Rule 5.1 defines filing in those counties without *Odyssey*.

Subsection (b)(2) of Rule 5 requires an attorney to file pleadings and other documents electronically. An attorney who seeks relief from this filing requirement for a particular document should be prepared to show the existence of an exceptional circumstance. In an exceptional circumstance, the attorney should exercise due diligence to file the document electronically before the attorney asks the court for relief.

Subsection (b)(5) of Rule 5 describes the process of asking the court for relief if an emergency prevents an attorney from filing a document electronically in a timely manner. Subsection (b)(5) should not be construed to expand the court's authority to extend time or periods of limitation. The court will provide relief only as permitted by law.

The North Carolina Business Court currently accepts filings through *eFlex*, a legacy electronic-filing and case-management system. Until *Odyssey* is implemented both in the Business Court and in the county of venue, duplicate filings in Business Court cases will still be required (see Rule 3.11 of the [North Carolina Business Court Rules](#)). Subsection (f) of Rule 5 of the General Rules of Practice clarifies that in Business Court cases, Rule 5 governs filings "with

the Clerk of Superior Court in the county of venue.”

As *Odyssey* is implemented, litigants should expect the General Rules of Practice, the North

Carolina Business Court Rules, and the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project to undergo change.

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Rule 5.1. Filing of Pleadings and Other Documents in Counties Without *Odyssey*

(a) **Scope.** This rule applies only in those counties that have not yet implemented *Odyssey*, the Judicial Branch’s new electronic-filing and case-management system. In a county with *Odyssey*, a person must proceed under Rule 5 of these rules.

(b) **Electronic Filing.** Electronic filing is available only in (i) cases that are either designated “complex business” or assigned to a Business Court judge under Rule 2.1 of these rules and (ii) cases subject to the legacy North Carolina eFiling Pilot Project. The procedure for filing documents electronically in those cases is governed by the [North Carolina Business Court Rules](#) and by the [Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project](#), respectively. In all other cases, only paper filing is available.

(c) **Paper Filing.** Documents filed in paper with the court should be unfolded and firmly bound with no manuscript cover. They must be letter size (8 ½" x 11"), except for wills and exhibits. The clerk of superior court may require a party to refile a document that does not conform to these requirements.

In civil actions, special proceedings, and estates, documents filed in paper with the court must include a cover sheet that summarizes the critical elements of the document in a format that the Administrative Office of the Courts prescribes. The clerk of superior court may not reject the filing of a document that does not include a cover sheet. Instead, the clerk must file the document, notify the party of the omission, and grant the party no more than five days to file the cover sheet. Other than dismissing the case, the court should not act on the document before the cover sheet is filed.

Comment

The North Carolina Judicial Branch will implement *Odyssey*, a statewide electronic-filing and case-management system, beginning in July 2021. The system will be made available across the state in phases over a five-year period.

Rule 5 of the General Rules of Practice defines filing in those counties with *Odyssey*. Rule 5.1 defines filing in those counties without *Odyssey*.

Subsection (b) of Rule 5.1 lists those contexts in which electronic filing exists in the counties without *Odyssey*.

As *Odyssey* is implemented, litigants should expect the General Rules of Practice, the North Carolina Business Court Rules, and the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project to undergo change.

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Rule 22. Local Court Rules

~~In order to insure general uniformity throughout each respective judicial district, all trial judges shall observe and enforce the local rules in effect in any judicial district where they are assigned to hold court. The senior resident judge shall see that each judge assigned to hold a session of court in his district is furnished with a copy of the local court rules at or before the commencement of his assignment.~~

Rule 22. Local Rules of Practice and Procedure

(a) **Purpose.** Local rules of practice and procedure for a judicial district must be supplementary to, and not inconsistent with, the General Rules of Practice. Local rules should be succinct and not unnecessarily duplicative of statutes or Supreme Court rules.

(b) **Enforcement.** A trial judge must enforce the local rules of the judicial district in which the trial judge is assigned to hold court. This enforcement provision does not apply to cases that are either designated “complex business” or assigned to a Business Court judge under Rule 2.1 of these rules.

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Rule 27. Sealed Documents and Protective Orders

(a) **General Principles.**

- (1) **“Persons” Defined.** References to “persons” in this rule include parties and nonparties who are interested in the confidentiality of a document.
- (2) **“Provisionally Under Seal” Defined.** A document is “provisionally under seal” if it is filed electronically with a confidential designation in the electronic-filing system or if it is filed in paper inside of a sealed envelope or container marked “Contains Confidential Information – Provisionally Under Seal.”
- (3) **Open Courts.** A person who appears before the court should strive to file documents that are open to public inspection and should file a motion to seal a document only if necessary.
- (4) **Scope.** This rule does not apply to documents that are closed to public inspection by operation of statute or other legal authority, nor does it apply to search warrants and other criminal investigatory documents. This rule does not affect a person’s responsibility to omit or redact private information from court documents pursuant to statute or other legal authority.

(b) Procedure for Sealing a Document.

- (1) **Filing.** A person who seeks to have a document (or part of a document) sealed by the court must file the document provisionally under seal and file a motion that asks the court to seal the document. The document must be filed on the same day as the motion.
- (2) **Motion.** The motion to seal must contain:
 - a. a nonconfidential description of the document the movant is asking to be sealed;
 - b. the circumstances that warrant sealing the document;
 - c. an explanation of why no reasonable alternative to sealing the document exists;
 - d. a statement that specifies whether the document should be accessible only to counsel of record (as opposed to the parties);
 - e. a statement that specifies how long the document should be sealed and how the document should be handled upon unsealing;
 - f. a statement, if applicable, that (i) the movant is filing the document provisionally under seal because another person has designated the document as confidential and the terms of a protective order require the movant to file the document provisionally under seal and (ii) the movant has unsuccessfully sought the consent of the other person to file the document unsealed; and
 - g. a statement, if applicable, that a nonparty who designated the document as confidential under the terms of a protective order has been served with a copy of the motion and notified of the right to file a brief in support of the motion.
- (3) **Briefing.** A person may file a brief in support of or in opposition to the motion no later than twenty days after having been served with the motion.
- (4) **Hearing.** The movant must notice a hearing on the motion as soon as practicable after the briefing period ends.
- (5) **Disclosure Pending Decision.** Until the court rules on the motion, a document that is provisionally under seal may be disclosed only to counsel of record and unrepresented parties unless otherwise ordered by the court or agreed to by the parties.

- (6) **Decision by Court.** The court may rule on the motion with or without a hearing. In the absence of a motion or brief that justifies sealing the document, the court may order that the document (or part of the document) be made public.
- (7) **Public Version of Document.** If the movant seeks to have only part of a document sealed by the court, then the movant must file a public version of the document no later than ten days after filing the document provisionally under seal. The public version of the document may include redactions and omissions, but the redactions and omissions should be as limited as practicable. If the movant seeks to have the entire document sealed, then the movant must file a notice that the entire document has been filed provisionally under seal instead of filing a public version of the document. The notice must contain a nonconfidential description of the document.

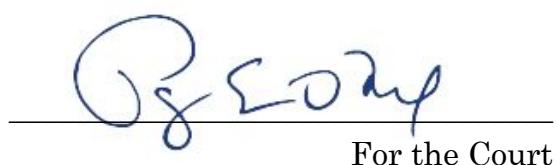
(c) **Protective Orders.** The procedure for sealing a document in subsection (b) of this rule should not be construed to change any requirement or standard that governs the issuance of a protective order. The court may therefore enter a protective order that contains standards and processes for the handling, filing, and service of a confidential document. To the extent that a proposed protective order outlines a procedure for sealing a confidential document, the proposed protective order should include (or incorporate by reference) the procedures described in subsection (b) of this rule. Persons are encouraged to agree on terms for a proposed protective order before submitting it to the court.

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These amendments to the General Rules of Practice for the Superior and District Courts become effective on 10 May 2021.

These amendments shall be published in the North Carolina Reports and posted on the rules web page of the Supreme Court of North Carolina.

Ordered by the Court in Conference, this the 21st day of April 2021.



For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this
the 21st day of April 2021.

Amy L. Funderburk
AMY L. FUNDERBURK
Clerk of the Supreme Court