

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 of the General Statutes of North Carolina, the Court hereby amends [Rule 5](#) and [Rule 5.1](#) of the General Rules of Practice for the Superior and District Courts.

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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 who files a document electronically may sign at the document electronically by typing his or her name in the document preceded by “/s/.” If the document requires additional signatures, then the filer may type the name of each signatory preceded by “/s/” or scan a document that includes all of the necessary signatures. By filing a document with multiple signatures, the filer certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filer has authority to submit the document on each signatory’s behalf.

- (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 in paper that asks the court for permission to file the document in paper or for any other relief that is permitted by law. The attorney must attach the document that he or she was prevented from filing to the motion.
- (6) **Withdrawal of a Document by Filer.** After a person files a document electronically, the person may withdraw the document in Odyssey up until the point at which the clerk of superior court or the judicial official who is authorized by law to accept the document begins processing it. If withdrawn, the document will be treated as if it had never been filed with the court.
- (7) **Acceptance or Rejection of a Document by Court.** When processing a document that has been filed electronically, the clerk of superior court or the judicial official who is authorized by law to accept the document will accept it unless:
- a. the document is prohibited by order, statute, or rule from being filed with the court;
 - b. the filer, after being contacted by the clerk's office, has submitted a rejection request in writing to the clerk who is processing the document; or
 - c. the document cannot be opened by the court because it is corrupted or the document has been quarantined in Odyssey for containing a virus or other malicious software.
- If the clerk or judicial official rejects the document for one of the reasons specified above, then (i) the document will be treated as if it had never been filed with the court and (ii) the clerk or judicial official will notify the filer that it has been rejected and specify the reason it was rejected.

~~(6)~~(8) **Orders, Judgments, Decrees, and Court Communications.** ~~The court may sign an order, judgment, decree, or other document electronically and may file a document electronically. Barring exceptional circumstances, the court must sign and file its orders, judgments, decrees, and other documents electronically in Odyssey. A document filed by the court in Odyssey is filed when it is electronically file-stamped by the clerk of superior court or by another judicial official who is authorized by law to accept the document. The court may also send notices and other communications to a person by use of the electronic filing system in Odyssey.~~

(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.

A document filed in paper is filed when it is file-stamped by the clerk of superior court or by another judicial official who is authorized by law to accept the document.

(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 system, ~~beginning in July 2021.~~ is implementing Odyssey, a statewide electronic-filing and case-management system ~~will implement~~ 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 in *Odyssey*. 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)(4) of Rule 5 indicates that a document is filed when it is received by the court's electronic-filing system, not when it is processed by the clerk's office. The file stamp on the face of the document will therefore reflect the date and time of receipt. Subsection (b)(4) also implements a 5:00 p.m. filing deadline on the due date for a document. If a document is filed on its due date, then it is timely if it is filed by 5:00 p.m. and late if it is filed after 5:00 p.m.

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.

Subsection (b)(6) of Rule 5 indicates that a person may withdraw a document that has been filed electronically. The functionality for withdrawing a document is built into the filer's *Odyssey* interface and is available until the clerk of superior court or the judicial official who is authorized by law to accept the document begins processing it.

Subsection (b)(7) of Rule 5 specifies the reasons the clerk of superior court or another judicial official who is authorized by law to accept a document may nevertheless reject it. The first

category permits the clerk or judicial official to reject a document if there is an order, a statute, or a rule that prohibits the document from being filed. For example, a clerk may reject a document if a gatekeeper order directs the clerk not to accept it, if a document is ordered null and void pursuant to N.C.G.S. § 14-118.6 because it is a false lien or encumbrance, or if a document is not permitted to be filed under Rule 5(d) of the Rules of Civil Procedure (e.g., a discovery request or response, an offer of settlement, or a document submitted to the court for in camera review). The second category permits the clerk or judicial official to reject a document if the filer submits a rejection request in writing to the clerk who is processing the document. This category gives the clerk's office an opportunity to inform the filer of potential issues with a document so that the filer can correct mistakes and make changes to the document before it is accepted and added to the case file. The final category permits the clerk or judicial official to reject a document that is either unviewable due to corruption or potentially harmful because of a virus or other malicious software. If a document is rejected, the rule requires the clerk or judicial official to notify the filer that the document has been rejected and specify the reason it was rejected.

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.

A document filed in paper is filed when it is file-stamped by the clerk of superior court or by another judicial official who is authorized by law to accept the document.

Comment

The North Carolina Judicial Branch ~~will implement~~ is implementing *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*.

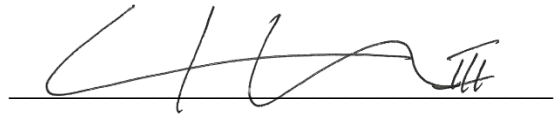
As *Odyssey* is implemented, litigants should expect the General Rules of Practice, the North Carolina Business Court Rules, and the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project to undergo change.

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These amendments to the General Rules of Practice for the Superior and District Courts become effective on 13 February 2023.

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 1st day of February 2023.

A handwritten signature in black ink, appearing to be "C. H. Smith", written over a horizontal line.

For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 1st day of February 2023.

A handwritten signature in blue ink, appearing to be "Grant E. Buckner", written over a horizontal line.

GRANT E. BUCKNER
Clerk of the Supreme Court