

IN THE SUPREME COURT OF NORTH CAROLINA

ORDER AMENDING THE
SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE
FOR THE NORTH CAROLINA eFILING PILOT PROJECT

Pursuant to section 7A-34 and section 7A-49.5 of the General Statutes of North Carolina, the Court hereby amends the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project. This order affects Rules 1 and 5.

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Rule 1. Purpose and Scope

1.1. Citation to Rules. These rules shall be known as the “Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project,” and may be cited as the “eFiling Rules.” A particular rule may be cited as “eFiling Rule ____.”

1.2. Authority and Effective Date. The eFiling Rules are promulgated by the Supreme Court of North Carolina pursuant to G.S. 7A-49.5. They are effective as of May 15, 2009, and as amended from time to time.

1.3. Scope and Purpose. The eFiling Rules apply to civil superior court cases and to foreclosures under power of sale filed on or after the effective date in Chowan and Davidson Counties. Upon addition of Wake County to the pilot project by the North Carolina Administrative Office of the Courts (the “AOC”), these rules shall apply to civil superior court cases and to foreclosures under power of sale filed in Wake County on or after the effective date of the implementation of the pilot project in Wake County, and the public announcement thereof by AOC. In addition, these rules apply to any designated case types and in any counties upon the implementation of the eFiling project in any other counties and the public announcement thereof by the AOC. In general, these rules initially allow, but do not mandate, electronic filing by North Carolina licensed attorneys and court officials of pleadings and other documents required to be filed with the court by the North Carolina Rules of Civil Procedure (“Rules of Civil Procedure”), or otherwise under North Carolina law, and permit electronic notification of the electronic filing of documents between attorneys. Initially, they do not permit electronic filing by pro se parties or attorneys not licensed by the State of North Carolina, and they do not permit electronic filing of documents in cases not initially filed electronically. Upon the addition of Alamance County or other counties to the pilot project by the AOC, the electronic filing of civil domestic

~~violence cases by pro se parties, acting through domestic violence center personnel approved by the Chief District Court Judge, shall be permitted upon the implementation of the eFiling project in any such counties and the public announcement thereof by AOC.~~

1.4. Integration with Other Rules. These rules supplement the Rules of Civil Procedure and the General Rules of Practice for Superior and District Courts (the “General Rules”). The filing and service of documents in accordance with the eFiling Rules is deemed to comply with the Rules of Civil Procedure and the General Rules. If a conflict exists between the eFiling Rules and the Rules of Civil Procedure or the General Rules, the eFiling Rules shall control.

Rule 1. Purpose and Scope

1.1. Purpose. These rules define practice and procedure for the legacy North Carolina eFiling Pilot Project, which will phase out beginning in July 2021.

1.2. Scope. These rules apply only in those counties that (i) have not yet implemented *Odyssey*, the Judicial Branch’s new electronic-filing and case-management system, and (ii) still participate in the legacy North Carolina eFiling Pilot Project. The Administrative Office of the Courts maintains a list of those counties and case types to which these rules apply at <https://www.efiling.nccourts.org/>.

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.

Counties that currently have access to *eFlex*, a legacy electronic-filing and case-management system, through the North Carolina eFiling Pilot

Project will continue to have access to that legacy system until it is replaced by *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 5. Electronic Filing and Service

5.1. Permissive Electronic Filing. Pending implementation of revised rules by the North Carolina Supreme Court, electronic filing is permitted only to commence a proceeding or in a proceeding that was commenced electronically. Electronic filing is not required to commence a proceeding. Subsequent filings made in a proceeding commenced electronically may be electronic or non-electronic at the option of the filer.

5.2. Exceptions to Electronic Delivery. Pleadings required to be served under Rule 4 and subpoenas issued pursuant to Rule 45 of the Rules of Civil Procedure must be served as provided in those rules and not by use of the electronic

filing and service system. Unless otherwise provided in a case management order or by stipulation, filing by or service upon a *pro se* party is governed by eFiling Rule 5.3.

5.3. *Pro se* Parties. ~~Except as otherwise permitted in these Rules, a party not represented by counsel shall file, serve and receive documents pursuant to the Rules of Civil Procedure and the General Rules.~~ A party not represented by counsel may file electronically in civil domestic violence cases through domestic violence center personnel who have been issued an electronic identity. Service upon a party not represented by counsel may not be made by use of the electronic filing and service system.

5.4. Format. Documents must be filed in PDF or TIFF format, or in some other format approved by the court, in black and white only, unless color is required to protect the evidentiary value of the document, and scanned at 300 dots per inch resolution.

5.5. Cover Sheet Not Required. Completion of the case initiation requirements of the electronic filing and service system, if it contains all the required fields and critical elements of the filing, shall constitute compliance with the General Rules ~~as well as G.S. 7A-34.1~~, and no separate AOC cover sheet is required.

5.6. Payment of Filing Fees. Payment of any applicable filing and convenience fees must be done at the time of filing through the electronic payment component of the electronic filing and service system. Payments shall not include service of process fees or any other fees payable to any entity other than the clerk of superior court.

5.7. Effectiveness of Filing. Transmission of a document to the electronic filing system in accordance with the eFiling Rules, together with the receipt by the eFiler of the automatically generated notice showing electronic receipt of the submission by the court, constitutes filing under the North Carolina General Statutes, the Rules of Civil Procedure, and the General Rules. An electronic filing is not deemed to be received by the court without receipt by the eFiler of such notice. If, upon review by the staff of the clerk of superior court, it appears that the filing is inaccessible or unreadable, or that prior approval is required for the filing under G.S. 1-110, or for any other authorized reason, the clerk's office shall send an electronic notice thereof to the eFiler. Upon review and acceptance of a completed filing, personnel in the clerk's office shall send an electronic notice thereof to the eFiler. If the filing is of a case initiating pleading, personnel in the clerk's office shall assign a case number to the filing and include that case number in said notice. As soon as reasonably possible thereafter, the clerk's office shall index or enter the relevant information into the court's civil case processing system (VCAP).

5.8. Certificate of Service. Pending implementation of the court's document management system, and the integration of the electronic filing and service system with the court's civil case processing system, a notice to the eFiler showing electronic receipt by the court of a filing does not constitute proof of service of a document upon any party. A certificate of service must be included with all

documents, including those filed electronically, indicating thereon that service was or will be accomplished for applicable parties and indicating how service was or will be accomplished as to those parties.

5.9. Procedure When No Receipt Is Received. If a receipt with the status of "Received" is not received by the eFiler, the eFiler should assume the filing has not occurred. In that case, the eFiler shall make a paper filing with the clerk and serve the document on all other parties by the most reasonably expedient method of transmission available to the eFiler, except that pleadings required to be served under Rule 4 and subpoenas issued pursuant to Rule 45 of the Rules of Civil Procedure must be served as provided in those rules.

5.10. Retransmission of Filed Document. After implementation of the court's document management system, if, after filing a document electronically, a party discovers that the version of the document available for viewing through the electronic filing and service system is incomplete, illegible, or otherwise does not conform to the document as transmitted when filed, the party shall notify the clerk immediately and, if necessary, transmit an amended document, together with an affidavit explaining the necessity for the transmission.

5.11. Determination of Filing Date and Time. Documents may be electronically filed 24 hours a day, except when the system is down for maintenance, file saves or other causes. For the purpose of determining the timeliness of a filing received pursuant to Rule 5.7, the filing is deemed to have occurred at the date and time recorded on the receipt showing a status of "Received."

5.12. Issuance of Summons. At case initiation, the eFiler shall include in the filing one or more summons to be issued by the clerk. Upon the electronic filing of a counterclaim, crossclaim, or third-party complaint, the eFiler may include in the filing one or more summons to be issued by the clerk. Pursuant to Rule 4 of the Rules of Civil Procedure, the clerk shall sign and issue those summons and scan them into the electronic filing and service system. In civil domestic violence cases, magistrates are authorized to sign and issue summons electronically or in paper form. The eFiler shall print copies of the filed pleading and summons to be used for service of process. Copies of documents to be served, any summons, and all fees associated with service shall be delivered by the eFiler to the process server. Copies of civil domestic violence summons, complaints, orders, and other case documents may be transmitted by the magistrate or clerk to the sheriff electronically or in paper form for service of printed copies thereof. Documents filed subsequent to the initial pleading shall contain a certificate of service as provided in Rule 5.8. Returns of service by sheriff's personnel of civil domestic violence summons, complaints, orders, and other case documents may be transmitted to and filed with the clerk of superior court via the electronic filing system or in paper form.

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These amendments to the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project 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
Clerk of the Supreme Court