

OCT 22 2012

ADMINISTRATIVE ORDER NO. 268

CAROL G. GREEN
CLERK OF APPELLATE COURTS

Re: Technical Standards Governing Electronic Filing and Transmission of Court Documents

The following technical standards provide guidelines for implementation of electronic filing (e-filing) and transmission systems in Kansas courts, as referenced in Supreme Court Rule 122. These standards apply consistently to both the Kansas Courts Electronic Filing (Kansas Courts e-Filing) system and the Johnson County, Kansas, District Court Electronic Filing (Johnson County e-Filing) system, except for service of process as discussed below in subsection K.

A. Technical Standards.

These technical standards are mandatory requirements to implement electronic document filing and transmission systems in Kansas appellate and district courts. The purpose of the standards is to ensure the integrity of the court record and provide a capability for filing that is at least as good as existing paper systems.

B. Electronic Filing and Transmission.

E-filing and transmission is the process by which documents are delivered using a court-approved electronic system rather than in a conventional paper form. This includes a record of any documents that normally become part of the case file, whether submitted by the court or by the litigants.

C. Document and File Format Standards.

1. Documents filed electronically shall comply with all applicable rules of the Kansas Supreme Court and of the receiving court regarding form and content.
2. All documents filed electronically must be capable of being printed as paper documents without loss of content or appearance.
3. Electronic documents must be stored in, or convertible to, a format that can be archived in accordance with specifications set forth in Kansas Supreme Court Rule 108.
4. Documents submitted to the court in paper form may subsequently be imaged to facilitate the creation of an electronic case file after which the paper document does not need to be retained by the court.

5. Data files submitted to the court for batch processing shall be in accordance to NIEM standards.
6. Every implementation of e-filing must accommodate submission of nonelectronic documents or exhibits in special circumstances as defined by Supreme Court or local court rule.
7. A docket entry that is electronically visible shall record the date and time a document is received into the court file by the clerk of court. Compliance with this order satisfies the duties of a clerk of court as set out in K.S.A. 60-2601, and amendments thereto, K.S.A. 60-2601a, and amendments thereto, and K.S.A. 20-110, and amendments thereto.

D. Authorization of Electronic Filers.

1. Persons intending to file documents electronically with a court shall follow the established procedures for enrolling in the e-filing system. The court may require information necessary to establish that person as an authorized system user. The information shall include, at a minimum, the filer's full name, business address, phone number, e-mail address, and Kansas Supreme Court registration number if the filer is an attorney. Supreme Court Rules 1.05 and 111. A person that has enrolled in and is authorized to use the e-filing system is a **Filing User**.
2. Kansas attorneys enrolling as a Filing User will use their Kansas bar number for the Filing User identification (ID). An initial password will be assigned to a Filing User upon registration. A Filing User is responsible for maintaining the security of this password.
3. No person shall file documents electronically with a court until the filer has received confirmation of registration approval from the court.
4. Payment of court costs through authorized electronic means shall satisfy the statutory requirements for payment of court costs as stated in K.S.A.60-2001, and amendments thereto, K.S.A. 61-2704, and amendments thereto, and K.S.A. 20-110, and amendments thereto.

E. Signatures.

1. Signature Defined. A Filing User ID and password will serve as the Filing User's signature on a filing for all purposes, including as an "electronic signature" defined at K.S.A. 16-1602(i), and amendments thereto. K.S.A. 60-271, and amendments thereto.

2. Signature Requirements.

(a) Electronic Signature. Filings must include a signature block with the name of the Filing User under whose ID and password the document is submitted along with “/s/[Name of Filing User]” typed in the space where the signature would otherwise appear along with other information required by K.S.A. 60-211, and amendments thereto, and Kansas Supreme Court Rule 111.

(b) Written Signature. A Filing User may also satisfy the signature requirement by scanning a document containing the Filing User’s written signature.

(c) Noncompliance. A filing that does not comply with this provision will be deemed in violation of K.S.A. 60-211, and amendments thereto, and Supreme Court Rule 111. The document may be rejected via electronic notice or may be ordered stricken from the record.

3. Signatures of Multiple Parties. Documents requiring signatures of more than one party may be filed electronically:

(a) by submitting a scanned document containing all necessary written signatures, or

(b) by representing the consent of the other parties on the document, or

(c) in any other manner approved by the court.

4. Signature of the Clerk of the Court. Records and judicial proceedings requiring the attestation of the clerk of the district court may be authenticated by the clerk by using an electronic signature in lieu of the clerk’s manual signature and such electronic signature shall have the same legal effect as a manual signature. K.S.A. 20-365, and amendments thereto.

F. Notarial Acts, Electronic Notarization, and Unsworn Declarations.

1. Notarial Act. Documents subject to a notarial act may be scanned and electronically filed (e-filed) if the notarial act meets the requirements of the uniform law on notarial acts, as set forth in K.S.A. 53-501, *et seq.*, and amendments thereto.

2. Electronic Notarization. Electronic notarization may be used for e-filed documents if the electronic notarization meets requirements adopted by the Kansas Secretary of State. K.S.A. 16-1611, and amendments thereto; K.A.R. 7-43-1, *et seq.*, and amendments thereto.

3. Unsworn Declarations. Documents subject to unsworn declarations may be e-filed if the declaration meets with requirements of K.S.A. 53-601, and amendments thereto.

G. Document and System Security Standards.

The court will control any interactive access to the e-filing system via a user authentication process.

Computer systems used for e-filing must be protected against system and security failures during periods of system availability. In addition, the systems must provide normal backup and disaster recovery mechanisms.

H. Electronic Filing and Transmission Process Standards.

1. Court computers shall be available on a 24-hour basis to receive e-filed documents. This provision does not prevent the court from providing for normal repair and maintenance of the receiving computer.
2. All electronic document submissions must generate a positive acknowledgment or notice that is sent to the filer to indicate that the document has been received by the court. The positive acknowledgment must include the date and time of the document receipt and a computer generated reference number.
3. E-filed documents received by the clerk and subsequently accepted into the court file shall be deemed filed as of the time the transmission ends. The court shall provide acknowledgement to the sender of the successful acceptance of the e-filed document.
4. After the document has been received into the court file by the clerk of the court, the e-filing system generates a "Notice of Electronic Filing" available to registered case participants. This Notice is given to the filer and other parties associated to the case who have enrolled in the e-filing system to indicate that the document has been accepted by the court.
5. E-filing systems must provide a mechanism for quality assurance and quality control of the submitted documents and case management data by both the court and the filer. The court shall provide notice to the filer if a transmission is received with errors.
6. Adequate public access to electronically filed documents must be provided, such as the public access to district court electronic case records set forth in Supreme Court Rule 196.

7. The unavailability of the e-filing system does not constitute a basis for an extension of time in which to file any matter with the court and does not affect any applicable statute of limitations or other statutory deadlines, except as provided by law. The provisions of K.S.A. 60-206, and amendments thereto, shall apply to the extent a clerk's office is inaccessible due to unavailability of the e-filing system.

I. Pro Se Filings

The Supreme Court in the future may permit the ability for pro se filers to file documents electronically.

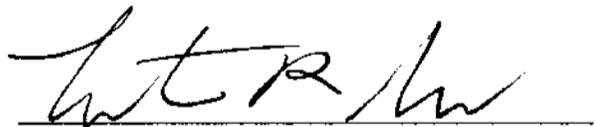
J. Possession of Documents

A person filing or transmitting court documents electronically shall retain, in his or her possession or control, a record of the transmission from which a full copy of the document can be made during the pendency of the action and shall produce such document upon request under K.S.A. 60-234, and amendments thereto, by the court or any party to the action. Upon failure to produce such document, the court may strike the e-filed document and may impose sanctions under K.S.A. 60-211, and amendments thereto. Retention of electronic documents shall include all documents filed with the court and any other electronic communication related to the action.

K. Service by Electronic Means

1. If a proceeding has been initiated under the Kansas Courts e-Filing system, a party consents in that proceeding to service by electronic means under K.S.A. 60-205(b)(2)(E), and amendments thereto after an attorney who is a registered Filing User has entered an appearance on behalf of the party. Under the Kansas Courts e-filing system, transmission of the "Notice of Electronic Filing" to a registered attorney appearing as a case participant on behalf of a party constitutes service by electronic means.
2. If a proceeding has been initiated under the Johnson County e-Filing system, the attorney filing the document must serve notice of the document being filed on the other parties to meet service requirements of K.S.A. 60-205, and amendments thereto.

BY ORDER OF THE COURT this 16 day of October 2012.



Lawton R. Nuss
Chief Justice