

IN THE PROBATE COURT OF MONTGOMERY COUNTY, OHIO

IN THE MATTER OF THE : **CASE NO. 2003 MSC 342545**
ELECTRONIC FILING OF : **AMENDED ADMINISTRATIVE**
DOCUMENTS : **ORDER**
:
:

A. APPLICATION AND SCOPE OF ADMINISTRATIVE ORDER

On December 7, 2016 the Montgomery County Probate Court began a phased implementation of an electronic filing system (eFile System). On December 7, 2016, the Court mandated electronic filing in Mandatory Case Types.

Consistent with Ohio Sup.R. 27, Ohio Civ.R. 5(E), the Ohio Supreme Court Commission on Technology and the Court's Draft Standards for Electronic Filing Processes, the Probate Court hereby adopts the following Administrative Order governing electronic filing.

If necessary, the Probate Court may adopt additional administrative orders or local rules that supplement this order and designate other case types as mandatory electronic filing case types or non-mandatory electronic filing case types. Case types so designated shall be filed electronically after the effective date of such supplemental orders or local rules.

B. DEFINITIONS

The following terms in this Administrative Order shall be defined as follows:

- 1. Case Management System (CMS).** A system that manages the receipt, processing, storage and retrieval of data associated with a case and performs actions on the data.
- 2. Clerk.** The Probate Judge as Ex-Officio Clerk of the Probate Court, as defined by the Ohio Constitution and Section 2101.11 of the Ohio Revised Code.
- 3. Clerk Review.** A review of data and documents that are electronically submitted to ensure that they comply with the Court's local rules, policies, and procedures.
- 4. Conventional Filing.** The filing of paper documents with the Clerk, pursuant to applicable law and rules, as in case types for which electronic filing and service is not authorized.
- 5. Conventional Service.** The service of documents upon case participants pursuant to applicable law and rules, as in case types for which electronic filing and service is not authorized.

6. Court Electronic Record. Any document that the Court receives in electronic format, records in its Case Management System and stores in its Document Management System. The Court Electronic Record does not include physical evidence or exhibits that cannot be captured, stored and transmitted in electronic format.

7. Court Initiated Document. Official court documents entered into the docket or register of actions, such as notices, decisions, orders, decrees, and judgments.

8. Document. A filing that becomes the Court's official record.

9. Document Management System (DMS). A system that manages the receipt, indexing, storage, and retrieval of documents associated with a case.

10. eFile Case Type. A case type that has been designated as a mandatory eFile case type by an administrative order or local rule.

11. Electronic Filing (eFiling). The electronic filing of documents with the Clerk using the Electronic Filing System. Electronic filings shall not include filings submitted by facsimile or electronic mail.

12. Electronic Service (eService). The electronic service of electronically filed documents upon case participants using the Electronic Filing System.

13. Filer. A case participant who electronically files a document using the Electronic Filing System.

14. Registered User. A person who has read and agreed to the terms of the Electronic Filing System's User Agreement, has provided his or her credentials through the Electronic Filing System, and has been provided with a user name and password for the Electronic Filing System.

C. MANDATORY CASE TYPES

The Court designates the following case types as Mandatory Case Types:

MSC Case Types

- Adult Protective Services
- Assign Lottery Prize
- Change of Name – Adult
- Change of Name – Minor
- Concealment of Assets
- Correction of Birth
- Correction of Marriage
- Declaration of Paternity
- Declaratory Judgment
- Designation of Heir
- Determination of Heirship
- Disinterment
- Presumption of Death
- Other-Applicant
- Other-Plaintiff
- Production of Will
- Registration of Birth
- Sale of Real Estate – Estate

- Sale of Real Estate – Guardianship
- Successor Custodian
- Surviving Spouse Purchase Action

- Transfer of Rights
- Validity of Will
- Will Construction
- Will Contest

EST Case Types

- Ancillary Administration
- Foreign Records (Authenticated Copies)
- Full Administration with Will
- Full Administration without Will
- Full Successor Administration with Will
- Full Successor Administration without Will
- Other
- Probate of Will Only
- Release of Administration with Will
- Release of Administration without Will

- Release of Administration with Will for Record Only
- Summary Release
- Summary Release; Will for Record Only
- Tax Only
- Transfer of Real Estate Only; with will
- Transfer of Real Estate Only; without Will
- Will Filed without Probate
- Will Filed without Probate/Tax
- Will Filed with Notice of Intent
- Bond Filed with Notice of Intent

TRS Case Types

- Testamentary Trust
- Successor Trust

- Wrongful Death Trust
- Special Needs Trust

ADP Case Types

- Adoption after placement
- Adult Adoption
- Agency Adoption
- Foreign Re adoption
- Independent Non-Relative
- Independent Relative
- Non-Relative Placement

- Relative Placement
- Stepparent Adoption
- Request for Adoption Information (Identifying)
- Request for a birth certificate
- Request for Non-Identifying Information

GRD Case Types

- Advocacy & Protective Services
- Conservatorship
- Dispense with Minor Guardianship
- Emergency Guardianship
- Guardianship Adult Incompetent
- Guardianship Minor
- Minor Injury Settlement No Guardian
- Other
- Successor Guardianship Incompetent
- Successor Guardianship Minor

D. USER REGISTRATION

All persons filing documents in eFile Case Types may be registered as users of the eFile System. Attorneys and banks filing documents in eFile Case Types **must** be registered as users of the eFile System.

Persons registering as users of the eFile System shall select and be assigned a user name and a password. Registered Users shall use their user name and password to electronically file, serve, and retrieve documents.

Registered Users shall be responsible for the security, use, and confidentiality of their user name and password. All documents shall be deemed to have been filed with the authorization of the Registered User to whom a user name has been assigned, unless the Registered User demonstrates otherwise, by clear and convincing evidence.

E. ORIGINATING NEW CASES & EFILING TO AN EXISTING CASE IN PROBATE COURT

The eFile System is hereby appointed the agent of the Clerk for purposes of electronic filing, service and retrieval of documents. All pleadings, motions, memoranda of law, transcripts of depositions, transcripts of proceedings, and Court Initiated Documents filed in eFile Case Types shall be electronically filed, except as provided in section 3 below.

1. Paper documents submitted by attorneys and banks. If an attorney submits a paper document for conventional filing in an eFile Case Type, the Clerk shall provide instructions on how to register and use the eFile System and return the paper document to the attorney or bank.

2. Paper documents submitted by pro se case participants. If a pro se case participant submits a paper document for conventional filing in an eFile Case Type, the Clerk shall scan, upload and electronically file the document on the case participant's behalf and return the paper document to the case participant. The case participant will not receive electronic notification of the electronic filing or

any future electronica filings, unless the case participant registers to use the eFile System.

3. Original Last Will and Testament, Codicil or Fiduciary Bond. An original Will, Codicil or Fiduciary Bond must be presented to the Court for review before the original may be E-Filed in order to allow the Court the opportunity to verify that the document is an original document and not a copy.

In the case of wills or codicils an Applicant shall submit all original wills or codicils with a Notice of Deposit of Original Will/Codicil form (2.0A) to the Clerk's Office. The Notice Form also states which subsequent action will be filed in the E-Filing System. Designated court personnel will review the document and if the document is an original the document will be filed with the Notice. A case number will be assigned. This case number is used for all subsequent E-Filings in this case. The Court reserves the right to require a hearing on the admission of any document that is represented to be an original that does not appear to the Court to be an original when examined by the Court.

The original Fiduciary Bond, with an attached power of attorney, shall be presented to the Court with a Notice of Deposit of Fiduciary Bond form (4.2B). The original Fiduciary Bond will be held by the Court until the fiduciary is appointed and then the original Fiduciary Bond will be filed. If an Applicant has submitted an original fiduciary bond and he or she is not appointed the Court may order the return of the original Fiduciary Bond before it is filed.

If subsequent actions are not taken in these cases within ninety (90) days the Court may close the case administratively subject to the case being reopened at a later date.

If for any reason after filing the Notice of Deposit your intentions change, you will need to E-File a Statement of Intention Form (2.0B) stating what your new intentions are. This allows you access to the correct "Document Types" as to what type of case it is that you will be E-Filing.

4. To initiate an adoption case A Statement of Intention form (119.6), with all original certified documents, such as the birth certificate, marriage license or juvenile court orders, etc. shall be brought to the court to open any Adoption Case.

F. FILING DATE AND TIME OF EFILED DOCUMENTS

With the exception of planned nightly system backups and unplanned system outages, Registered Users may electronically file documents in eFile Case Types twenty-four hours a day, seven days a week. To be considered timely, documents must be electronically submitted by 11:59 p.m. on the date they are due.

Upon electronic submission, the eFile System will issue a confirmation that a document has been received. The confirmation will include the date and time of receipt. The

confirmation does not mean that the document has been filed. Documents shall not be considered filed until they have been reviewed by a Clerk and accepted for filing.

Upon acceptance for filing, the eFile System will issue a notification that the document has been accepted for filing, including the date and time of acceptance. The document will receive an electronic stamp including the date and time the document was filed. Documents shall be deemed filed on the date and time of receipt, except that documents received on a Saturday, Sunday, or a Court holiday shall be deemed filed on the next Court day.

Upon rejection for filing, the eFile System will issue a notification that the document has been rejected for filing and the reason for rejection. The document shall not become part of the Court Record and the Filer shall be required to resubmit the document to meet filing requirements.

G. FORMAT OF EFILED DOCUMENTS

1. File format. Documents shall be submitted in Portable Document Format (.pdf), with the exception of proposed orders and entries, which shall be submitted in Microsoft Word format (.doc or .docx).

2. Size of filing. Individual documents shall be limited in size to three megabytes (3MB). Multiple documents in a single transmission shall be limited in size to a combined total of thirty megabytes (30MB).

3. Font style and size. With the exception of Standard Probate Forms and local probate forms, documents shall be double-spaced, in Times New Roman or Georgia font style and at least 12 point type. Standard Probate Forms and local probate forms shall use the font style and size prescribed by Sup.R. 52 and applicable orders and local rules.

4. Margins. With the exception of Standard Probate Forms and local probate forms, the first page of a document shall have a top margin of at least 1.5 inches and side and bottom margins of at least 1 inch. Subsequent pages shall have top, bottom, and side margins of at least 1 inch. Standard Probate Forms and local probate forms shall have the margins prescribed by Sup.R. 52 and applicable orders and local rules.

5. Signatures.

a. Filer signatures. Documents requiring the signature of a Filer shall be signed with a conformed signature of: /s/ (Name of Filer).

The conformed signature of an attorney shall be formatted as follows:

/s/ (Name of Attorney)
Name of Attorney
Supreme Court ID Number

Attorney for (Party Designation)
Law Firm
Address
Telephone Number
Email Address
Fax Number

A conformed signature on an electronically filed document shall be deemed to constitute a legal signature for the purposes of signature requirements imposed by applicable law or rules.

b. Case participant signatures. Documents requiring the signature of one or more case participants for whom the Filer is authorized to sign shall be signed in the following manner:

- i.** The Filer shall confirm in writing that the contents of the document are acceptable to all persons required to sign the document;
- ii.** The Filer shall indicate the agreement of such persons at the appropriate place in the document, usually on the signature line;
- iii.** The Filer shall electronically sign the document on behalf of such persons and electronically file the document.

c. Non-case participant signatures. Documents requiring the signature of one or more non-case participants, or a case participant for whom the Filer is not authorized to sign, shall be signed in the following manner:

- i.** The Filer shall obtain the signatures of all persons required to sign the document;
- ii.** The Filer shall scan, upload, and electronically file the document;
- iii.** The Filer shall maintain the signed document until the case is closed and the time for appeal has expired or any appeals have been heard or denied.

d. Judge and Judicial Officer signatures. Documents requiring the signature of a Judge or Judicial Officer shall be signed by placement of a digitized image of the Judge's or Judicial Officer's signature beneath the Court Seal.

All orders, notices, decisions, orders, decrees, and judgments signed in this manner shall have the same force and effect as if the Judge or Judicial Officer had affixed his or her signature to a paper copy of the document and journalized it.

H. REDACTION IN EFILED DOCUMENTS

Documents that are electronically filed shall not include personal or private information, unless such inclusion is necessary and relevant to the case. Personal or private information includes, but is not limited to, social security numbers, financial account numbers, and driver's license numbers. If inclusion of personal or private information is necessary and relevant to the case, the Filer is responsible for redacting the document and filing Form 45(D) – Confidential Disclosure of Personal Identifiers.

I. CONVENTIONAL FILING OF DOCUMENTS

The following types of documents may be filed conventionally, unless expressly required to be electronically filed by the Court:

- 1. Documents filed under seal.** Documents shall be filed under seal only with prior Court authorization. Documents shall be filed under seal by submitting them to the Clerk's Office in accordance with the process set forth in Loc.R. 45.1(B).
- 2. Documents presented for in camera review.** Documents shall be presented for in camera review by submitting them to the Judge or assigned Judicial Officer in accordance with the process set forth in Loc.R. 45.1(C).
- 3. Exhibits.** Exhibits, transcripts, or other items that cannot be captured, stored or submitted in an electronic format may be filed and served conventionally. Such exhibits, transcripts, or other items shall be identified by a cover page bearing the case caption, case number, assigned Judge or Judicial Officer, and name and party designation of the filer.
- 4. Persons with disabilities.** Persons with disabilities that prevent them from using the eFile System may move the Court for leave to file and serve documents conventionally. The motion for leave may be filed conventionally.

J. ESERVICE BY THE COURT

Court-Initiated Documents that are electronically filed shall be electronically served on case participants who are represented by counsel or who are Registered Users, subject to the applicable provisions of this Administrative Order and the Court's local rules. Paper copies of Court-Initiated Documents shall be conventionally served on pro se case participants who are not Registered Users.

K. ESERVICE BY CASE PARTICIPANTS

- 1. Service of initial pleadings.** When electronically filing a complaint, third party complaint, or any other initial pleading, the Filer shall also electronically file instructions for service. The Clerk shall issue a summons and process the method

of service requested. Electronic service shall not replace the methods for service of initial pleadings prescribed by applicable law or rules.

2. Service of other documents. With the exception of initial pleadings, documents that are electronically filed shall be electronically served on case participants who are represented by counsel or who are Registered Users. Paper copies of documents that are electronically filed shall be conventionally served on case participants who are neither represented by counsel nor Registered Users.

a. Certificate of service. A certificate of service shall be required when a Filer electronically files a document. The certificate of service shall state the date and manner in which service was accomplished, including electronic service if applicable, on each case participant.

b. Notice of Electronic Filing. When a document is electronically filed in accordance with these procedures, the eFile System will generate and deliver a Notice of Electronic Filing (NEF) to the Filer and to case participants who are represented by counsel or who are Registered Users.

Exceptions to this are the confidential case types of Adoption and Mental Illness. Therefore, these types of filings must be served by regular mail.

Delivery of the NEF to a Registered User's eFiling account shall constitute official service in accordance with applicable law and rules. Registered Users shall be responsible for checking their notifications page in the eFile System for NEFs.

In addition to the NEF, the eFile System shall generate and deliver an email to the email address associated with the Registered User's eFiling account. Such emails are sent as a courtesy and do not constitute official service.

3. Service of proposed orders. A Filer who electronically submits a proposed order shall electronically serve or conventionally serve the proposed order as set forth in this Administrative Order.

Upon the Judge's or Judicial Officer's signing and filing of the order, the eFile System will generate and deliver an NEF to the case participants who are represented by counsel or who are Registered Users. Upon receipt of the NEF, the case participant who submitted the proposed order shall print a copy of the order and serve it on case participants who are neither represented by counsel nor are Registered Users.

4. Service copies. When the Court is required by applicable law or rules to serve a paper copy of a document on a case participant, the Court shall cause service copies of the document to be produced. Fees for producing service copies shall be assessed as costs against the funds on deposit, at a rate established by the Court.

5. Time to respond or act.

a. Completion of eService. Electronic service of a document that has been electronically filed shall be deemed complete when the NEF is delivered to the Registered User's eFiling account. Documents that are electronically served on a Saturday, Sunday, or a Court holiday shall be deemed served on the next Court day.

b. Completion of conventional service. Service of a paper copy of a document that has been electronically filed shall be deemed complete on the date set forth in the certificate of service.

c. Mail rule. The time to respond or act in response to documents that have been electronically served or conventionally served shall be computed in accordance with applicable law and rules. Pursuant to Civ.R. 6(D), case participants who receive electronic service of a document are not entitled to the three-day extension of time to which case participants who receive service by mail are entitled.

6. Failure of eService. If electronic service of a document on a case participant fails, the case participant to be served may, upon motion, be entitled to an order extending the deadline by which to respond or act in response to the document.

L. OFFICIAL COURT RECORD

The electronic version of a document that has been electronically filed, or has been scanned, uploaded and electronically filed with assistance from the Clerk, shall constitute the Official Court Record.

When the law requires the filing of an original document, such as a will, voucher, bond, oath, mortgage document, birth certificate, foreign judgment, or other certified or verified document, the Filer must scan the original document and electronically file the scanned document. The Filer must either: (1) retain the original document until the case is closed and the time for appeal has expired or any appeals have been heard or denied or (ii) file the original document with the appropriate agency or office as may be required by law.

M. SYSTEM OR USER EFILING ERRORS

If a document that has been electronically submitted is not electronically filed because of a system or user error, the Court may, upon satisfactory proof, enter an order permitting the document to be deemed filed as of the date it was submitted.

N. PAYMENT OF FILING DEPOSITS AND FEES

In eFile Case Types, deposits required as security for costs and filing fees shall be paid electronically. Filers who are required to post a deposit are required to maintain a positive balance on deposit. If a positive balance is not maintained and a document is

electronically submitted, the Filer must tender an additional deposit before the document may be accepted for electronic filing.

Filers who are not required to post a deposit must pay the cost of the filing before a document that has been electronically submitted may be accepted for electronic filing, unless they have filed, and the Court has approved, an affidavit of indigency.

O. COLLECTION OF FILING DEPOSITS AND FEES

The eFile System shall establish a method for accepting electronic payment of deposits and fees, including the process for filing an affidavit of indigency.

P. PUBLIC ACCESS COMPUTER STATIONS AND PRINT CHARGES

If a case participant does not have internet access, he or she may use the Court's public access computer stations to register to use the eFile System and electronically file documents.

The public may view and print electronically filed documents on public access computer stations located in the Court. Users shall be charged for printed copies of documents at rates established by the Court.

Q. HELP DESK

The Court shall establish a Help Desk for users of the eFile System. The Help Desk shall provide telephone support for registration and use of the eFile System. The Help Desk shall be available 8:30 a.m. to 4:15 p.m. each business day that the Court is open.

R. EFFECTIVE DATE OF ADMINISTRATIVE ORDER

This Amended Administrative Order shall become effective April 1, 2019.

IT IS SO ORDERED.

ALICE O. McCOLLUM, JUDGE



Case Title: THE CIVIL CASE OF . ADMINISTRATIVE FORM

Case Number: 2003MSC342545

Type: ADMINISTRATIVE ORDER AND ENTRY

So Ordered

A handwritten signature in black ink, appearing to read "J. D. ...", is written below the text "So Ordered".