

IN THE SUPERIOR COURT OF FORSYTH COUNTY
STATE OF GEORGIA

ADMINISTRATIVE ORDER 24 - 6

FORSYTH COUNTY GEORGIA
FILED IN THIS OFFICE

FEB 21 2024

M. M.
CLERK SUPERIOR COURT

IN RE: CRIMINAL E-FILING PROCEDURES

ORDER IMPLEMENTING ELECTRONIC FILING FOR CRIMINAL CASES

The Superior Court of Forsyth County, having initiated a pilot criminal E-Filing program on or about March 26, 2019, and following the Criminal Case Data Exchange Board's ("CCDEB") authorization for electronic filing in criminal cases within such pilot programs, and with the Clerk of Court having implemented criminal E-Filing in this judicial circuit, establishes the following local rules to govern electronic filing in criminal actions unless and until the CCDEB issues formal and approved rules.

1. EFFECTIVE DATE.

E-Filing shall be mandatory for all criminal cases as of March 1, 2024. This requirement also applies to any case pending on the effective date of this Order.

2. DEFINITIONS. The following terms in this Order are defined as follows:

- A. Case Management System. The Court's official case management and records management system.
- B. Court. The Superior Court of Forsyth County, Georgia.
- C. Document. Any paper filing, including but not limited to motions, memoranda of law, orders, or other written papers or instruments.
- D. E-Document. An electronic file of a Document that has been scanned or converted to a graphical or image format (PDF).
- E. E-File. Electronic transmission of an original document to the Superior Court via eFileGA. See <https://georgia.tylertech.cloud/ofswb>. Emailing or other transmission of a document to the Clerk's office or to an assigned Judge shall not constitute "electronic filing" of the document.

- F. E-Service. Electronic transmission of a Document to all designed recipients via eFileGA.
- G. Non-Conforming Materials. All non-paper filings, including but not limited to videotapes, x-rays, CDs, audio recordings, and tangible objects that cannot be readily converted to paper form or are illegible when scanned.
- H. Self-Represented Litigant. A person appearing in court or filing without representation by or the assistance of a licensed attorney.
- I. Public Access Terminal (“PAT”). A publicly accessible computer provided by the Court for the purposes of E-Filing, E-Service, and viewing public Court records.

3. APPLICATION OF ORDER.

After initiation of a case in the Case Management System, all Documents shall be E-Filed. However, documents falling under the exceptions outlined in Section 6.D. will not be subjected to electronic filing and will instead require manual submission.

Documents excepted from mandatory E-Filing as set forth above shall be scanned by the Clerk of Court and uploaded to the Case Management System. The Clerk of Court shall retain the original copy of all such excepted Documents.

All documents in criminal cases not excepted from mandatory E-Filing as set forth above must be E-Filed pursuant to this Order and are governed by this Order. No party will be permitted to file paper documents in any case except for incarcerated individuals without legal representation and except as otherwise provided herein.

All criminal cases are assigned to the electronic filing and service system provided by Tyler Technologies’ Odyssey eFileGA (“eFileGA”) or any successor system approved by the Court. eFileGA is an agent of the Court for the purposes of filing, receipt, service, and retrieval of electronic documents.

4. PUBLIC ACCESS TERMINAL (PAT).

PATs will be located in the Forsyth County Clerk of Court’s Office, Forsyth County Courthouse, 101 E. Courthouse Square, 1st Floor – Suite 1007, Cumming, Georgia 30040.

PATs will be connected to eFileGA and the Case Management System. PATs are available to any person to view public records via the Case Management System. The PATs are also

available to E-File Documents on eFileGA without registering for an eFileGA account. If a PAT is used by the filer, the filer will not receive emails confirming submission and acceptance or rejection of the Document.

5. USERS.

A. Authorized Users. For the purpose of accessing eFileGA, the following users are authorized to register:

- i. Licensed attorneys and their staff, including paralegals and secretaries;
- ii. *Pro hac vice* admitted attorneys;
- iii. Judges and their staff;
- iv. Court administrative staff, including deputy clerks, court reporters, and technical support staff;
- v. Self-Represented Defendants; and
- vi. Other public users, including media representatives.

B. User Responsibility. It is the responsibility of every attorney or self-represented litigant, unless otherwise exempt through another provision of this Order, to register as a user with eFileGA. Every registered user shall have a valid, working email address that is checked regularly. The Court assumes no responsibility for inoperable email addresses or unread email.

C. Utilization of Registered Account. No attorney shall knowingly authorize or permit his/her registered account to be utilized by anyone other than authorized attorneys or employees of the attorney's law firm, or designated co-counsel, where it has been established in writing that such other person may file Documents on behalf of the assigning counsel. An attorney who knowingly authorizes or permits his/her username and/or password to be utilized by others is fully responsible for all transmissions, communications, and notifications through eFileGA.

D. Change in Information. Registered users are required to update their contact information with eFileGA, including changes in employer, firm name, delivery address, fax number, telephone number, and/or email address within ten (10) calendar days of such change. Failure to update one's email address for service in a timely manner may result in the failure to receive E-Service of Documents. A change in address with eFileGA does not substitute for the electronic filing of the appropriate notice with the Clerk of Court or vice versa.

E.

F. Self-Represented Defendants.

- i. If a Self-Represented Defendant does not have access to a computer to prepare an E-Document or E-File an E-Document, he/she can file his/her Document by coming to the Courthouse and filing the same using eFileGA at one of the PATs. Filing at a PAT does not require registering for an eFileGA account. If the Self-Represented Defendant cannot access a PAT due to incarceration, then the Clerk shall accept paper documents mailed to the Clerk for filing by the Self-Represented Defendant. The Clerk shall convert such paper document(s) into an E-Document and submit the E-Document(s) to eFileGA to initiate the electronic filing process on the Self-Represented Defendant's behalf. The Clerk shall provide proof of filing of the paper document to the Self-Represented Defendant.
- ii. If a Self-Represented Defendant does not have an email address and therefore cannot register for an eFileGA account, the State must serve the Self-Represented Defendant via traditional mail or personal service. The Self-Represented Defendant must make a certification in his/her initial filing that he/she does not have an active email address and therefore cannot register for an eFileGA account.

6. ELECTRONIC FILING OF DOCUMENTS.

As of the effective date of this Order, except as expressly provided herein, all Documents shall be filed electronically through eFileGA and the Clerk of Court shall not accept or file any Documents in paper form.

- A. Maintenance of Original Documents. The original copy of an E-Filed Document remains subject to any document retention requirements imposed on the filer by statute or rule of court.
- B. Filing of Documents Under Seal. In accordance with Uniform Superior Court Rule 36.16 (B), E-Filing is expressly prohibited for Documents that are filed under seal. Documents to be filed under seal therefore must be manually submitted to the Clerk of Court in paper form, accompanied by a Court Order sealing the Documents submitted. Filers submitting Documents to be filed under seal are also required to file a Notice of Filing Under Seal. If the Document to be filed under seal is an exhibit to another Document, a notice indicating that this particular Document has been filed under seal may be included in the larger filed E-Document as an alternative to filing a separate notice.

C. Non-Conforming Materials. Non-Conforming Materials that cannot be filed in an electronically converted or PDF format, such as physical exhibits or demonstrative evidence, must be submitted manually to the Clerk of Court. The filing party shall E-File a Notice of Manual Filing, which shall be docketed in the Case Management System to denote that a manual filing has been made and that the material is being held by the Clerk of Court. The filing party shall serve the materials conventionally if required.

D. Exceptions. The following documents may not be filed electronically:

- i. Original Warrants;
- ii. Transfers to The Solicitor's Office;
- iii. Criminal Case Information Forms;
- iv. Indictments and Accusations;
- v. Petitions to Enter Plea of Guilty;
- vi. Fourth Amendment Waivers;
- vii. Jury Verdict Forms;
- viii. Written Charges to Jury;
- ix. Waivers of Arraignment;
- x. Affidavits;
- xi. Sentences; or
- xii. any other document signed by a defendant or documents signed in court.

7. TIME FOR FILING AND EFFECT OF USE OF E-FILE.

A. Time of Filing. Parties may E-File E-Documents through eFileGA 24 hours a day, seven days per week, except when eFileGA is down for maintenance. Once the E-Filed Document has been accepted by the Clerk of Court, the Document shall be considered filed as of the date and time that it was submitted for E-Filing. Any Document E-Filed after 11:59 p.m. EST shall be deemed filed on the next day.

B. Confirmation of Receipt. The initial confirmation receipt provided by eFileGA upon submission of a Document shall not serve as proof that the Document was filed, only that the Document was submitted to eFileGa for filing.

C. Clerk of Court Review: Acceptance/Rejection Procedure. Following the submission of an E-Document, the Clerk of Court shall timely review the Document. Upon acceptance, the submitted E-Document shall be entered into the docket of the case and the docket shall reflect the date and time of filing as set forth in Paragraph 6 (A). If an E-Document is submitted for filing that does not conform to the rules of the Court, a

rejection notice shall be sent to the filer and the E-Document shall not be filed. The rejection notice shall identify the basis of the rejection in accordance with the rules of the Court. An E-Document may be rejected if:

- i. the E-Document is unable to be processed by eFileGA for reasons including but not limited to submission of a corrupt E-Document, an E-Document with imbedded fonts, or an E-Document containing viruses; or
- ii. the E-Document does not meet the requirements or policies of the Court.

If an E-Document is rejected by the Clerk of Court and a filer wishes to challenge the rejection and/or relate the date of filing back to the date of the first attempted filing, the filer must petition the Court for such relief.

D. Technical Problems. In accordance with Uniform Superior Court Rule 36.16 (F), if E-Filing or E-Service does not occur because of: (1) inaccessibility to eFileGA not caused by the filer; (2) an error in the transmission of the Document to eFileGA which was unknown to the sending party; (3) a failure to process the E-Document when received by eFileGA; or (4) other technical problems experienced by the filer, the Court may upon satisfactory proof enter an order permitting the Document to be filed *nunc pro tunc* to the date of the first attempted electronic transmission.

8. FORM OF DOCUMENTS ELECTRONICALLY FILED.

- A. Format of Electronically Filed Documents. All E-Documents shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper Documents, and in such order and further format as the Court may require. Documents shall be E-Filed via eFileGA in a PDF file format or such other file format as directed by eFileGA.
- B. Proposed Orders. A Proposed Order may be E-Filed as an exhibit to a Motion or as a separate filing, provided that it includes the signature block of the submitting party or attorney in compliance with Uniform Superior Court Rule 36.4.
- C. Representation by Using an Electronic Signature. An E-Document bearing an electronic signature, e.g., /S/ NAME, shall be treated as a personal signature for all purposes under Georgia law. The signature block must also include the information required the Uniform Superior Court Rule 4.2 (3).

D. Electronic Title of Documents. The electronic title of each E-Document shall, to the extent practicable, include: (1) the party or parties filing the E-Document; (2) the nature of the E-Document; and (3) the nature of the relief sought. For example, an E-Document may be titled "Defendant's Motion for Bond." The title shall be used for administrative purposes only.

9. ELECTRONIC SERVICE OF DOCUMENTS.

A. Filings. Except as otherwise set forth in this Order, parties shall E-Serve all Documents through eFileGA. Parties, or their designated counsel, shall receive all Documents E-Filed and E-Served upon them via eFileGA.

B. Service Contact. Parties shall add a service contact to their case in order to receive E-Service. It is the responsibility of every attorney or Self-Represented Defendant to ensure he/she is listed as a service contact for every case in which he/she appears, subject to the exception in Paragraph 5 (E) or any other exception from E-Service allowed under this Order.

C. Effect of Electronic Service. E-Service of an E-Document via eFileGA shall be considered valid and effective service and shall have the same legal effect as an original paper Document sent via conventional means, e.g. U.S. mail and/or hand delivery. Recipients of E-Service shall receive an email notification of service, which contains an electronic image of the served E-Document.

D. Service on Parties: Time to Respond or Act.

i. E-Service shall be deemed complete at the time a Document has been received by eFileGA as reflected by the authorized date and time appearing on the electronic transmittal. Any period of notice or any right or duty to do any act or make any response within any period or date prescribed by statute or rule of court shall be strictly governed by the applicable statutes.

ii. Registered users shall receive E-Service of Documents, other than service of subpoenas.

iii. Registered users shall receive E-Service of notices of trial and hearings.

E. System or User Filing Errors. If E-Service does not occur because: (1) an error occurred in the transmission of the E-Document to eFileGA which was unknown to the sending party; (2) an error occurred in the transmission of the E-Document to the

receiving party which was unknown to the sending party; (3) a failure to process the Document when received by eFileGA; (4) a party was erroneously excluded from the service list through no fault of the receiving party; or (5) other technical problems experienced by the filer, the party being served shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or the period within which any right accrues or any duty or other act must be performed.

10. COURTESY COPIES TO THE COURT.

Parties may elect to mail courtesy copies of Documents to the Court or may be required to do so in the Judge's discretion. Parties shall provide courtesy copies of Documents filed under seal and Non-Conforming Materials to the Court.

11. ELECTRONIC FILING AND SERVICE OF ORDERS AND OTHER PAPERS.

The Court shall issue, file, and serve notices, orders, and other Documents electronically, subject to the provisions of this Order. An order or other Court-issued E-Document bearing the electronic signature of a Judge filed electronically and entered by a Judge, Clerk of Court, Deputy Clerk, or court personnel per the direction of a Judge shall have the same force and effect as if the Document contained the handwritten signature of the Judge.

12. ELECTRONIC RECORD.


The Clerk of Superior Court shall maintain original Documents as set forth above and the official case record in electronic format. For purposes of appeal, the Case Management System shall be the official case record.

13. DISTRIBUTION OF THIS ORDER.

The Clerk of Superior Court shall disseminate a stamp-filed copy of this Order to the District Attorney, the Director of Indigent Defense, and the President of the Forsyth County defense bar. This Order shall also be posted on the websites of the Forsyth County Clerk of Court (<https://www.forsythclerk.com/>) and the Forsyth County Courts (<https://forsythcourts.com/>).

SO ORDERED, this 21ST day of February, 2024.


Jeffrey S. Bagley, Chief Judge
Forsyth County Superior Court
Bell-Forsyth Judicial Circuit


David L. Dickinson, Judge
Forsyth County Superior Court
Bell-Forsyth Judicial Circuit


Philip C. Smith, Judge
Forsyth County Superior Court
Bell-Forsyth Judicial Circuit