

**12-307.2. Electronic service and filing of papers.**

**A. Definitions.** As used in these rules

- (1) “electronic transmission” means email or other transfer of data from computer to computer other than by facsimile transmission;
- (2) “document” includes the electronic representation of pleadings and other papers but does not include a record proper filed under Rule 12-209 NMRA, a transcript filed under Rule 12-211 NMRA, or an exhibit filed under Rule 12-212 NMRA; and
- (3) “EFS” means the electronic filing system approved by the Supreme Court for use by attorneys to file and serve documents by electronic transmission in Supreme Court or Court of Appeals proceedings.

**B. Filing by electronic transmission authorized in the Supreme Court only; mandatory registration for attorneys.**

- (1) In any proceeding in the Supreme Court, the filing of documents by electronic transmission through the EFS is mandatory for any party represented by an attorney, which includes attorneys who represent themselves. The filing of documents by electronic transmission in the Court of Appeals is not currently authorized.
- (2) Self-represented parties are prohibited from filing documents by electronic transmission and shall continue to file documents through the other methods authorized by the Rules of Appellate Procedure.
- (3) Parties represented by attorneys shall file documents by electronic transmission even if another party to the action is self-represented or is exempt from electronic filing under Paragraph M of this rule.
- (4) Unless exempted under Paragraph M of this rule, for any case pending or filed in the Supreme Court on or after the effective date of this rule, the following attorneys shall register with the EFS:
  - (a) any attorney required to file documents by electronic transmission under this rule; and
  - (b) any attorney who is deemed to have entered an appearance under Rule 12-302(B) NMRA and who has not withdrawn in accordance with Rule 12-302(C) NMRA.
- (5) Every registered attorney shall provide a valid, working, and regularly checked email address for the EFS. The Court shall not be responsible for inoperable email addresses or unread email sent from the EFS.

**C. Filing fees; no fees charged for use of the EFS; non-electronic payment of docket fees required; dismissal for untimely payment of docket fee.**

- (1) Except for the payment of any docket fee required under the Rules of Appellate Procedure, no other fees shall be charged for the filing or service of documents by electronic transmission through the EFS.
- (2) Payments currently cannot be accepted by the Supreme Court through the EFS or by other electronic payment methods.
- (3) Notwithstanding any other provision in these rules requiring the payment of a docket fee at the time a document is filed, any docket fee required under the Rules of Appellate Procedure for initiating a case in the Supreme Court through the EFS shall be paid by check no later than five (5) days after the attorney is notified through the EFS that the case has been accepted for filing.
- (4) A check for payment of a docket fee under this paragraph shall include a

notation providing the docket number of the case to which the payment applies.

(5) Failure to timely pay the docket fee as required under Subparagraph (3) of this paragraph may, on the Court's own motion, result in the dismissal of the case without prejudice to a timely motion for reinstatement filed under Subparagraph (6) of this paragraph.

(6) A motion for reinstatement of any case dismissed without prejudice under Subparagraph (5) of this paragraph may be filed within fifteen (15) days after the date of the dismissal order provided that payment of the docket fee is delivered to the Court clerk on or before the date that the motion for reinstatement is submitted for filing through the EFS.

(7) A motion for reinstatement may be granted on a showing of good cause, and any proceeding reinstated under the provisions of this subparagraph shall be deemed initiated on the date that the proceeding was originally filed.

**D. Service by electronic transmission.**

(1) Any document required to be served by Rule 12-307(B) NMRA may be served on a party or attorney by electronic transmission of the document if

(a) the attorney for the party to be served has registered with the EFS under this rule or Rule 1-005.2 NMRA;

(b) the party or attorney has agreed to be served with documents by email; or

(c) the party or attorney has listed an email address on a paper filed with the Court.

(2) Documents filed by electronic transmission through the EFS may be served by an attorney through the EFS or may be served through other methods authorized by this rule, Rule 12-307 NMRA, or Rule 12-307.1 NMRA.

(3) Electronic service is accomplished when the transmission of the document is completed. If within two (2) days after service by electronic transmission, a party served by electronic transmission notifies the sender of the electronic transmission that the document cannot be read, the document shall be served by any other method authorized by Rule 12-307 NMRA as designated by the party to be served.

(4) Proof of service by a party or attorney shall be in the form of written acknowledgment of service by the person served, certificate of the attorney making service, or affidavit of any other person and shall state the following:

(a) the name of the person who sent the document;

(b) the date of service and email address of the sender and recipients;

and

(c) a statement that the document was served by electronic transmission and that the transmission was successful.

(5) The Court shall serve all written court orders and notices on the parties unless otherwise ordered by the Court. The Court may file documents before serving them on the parties. The Court may serve any document by electronic transmission to an attorney who has registered with the EFS under this rule or Rule 1-005.2 NMRA and to any other party or attorney who has agreed to receive documents by electronic transmission or who has listed an email address on a document filed with the Court. For documents served by the Court, proof of service shall be in the form of a certificate of the Court clerk, which shall state the date of service and identify the parties served but need not indicate the method of service. For purposes of Rule 12-308(B) NMRA, documents served by the Court shall be deemed served by mail, regardless of

the actual manner of service, unless the Court clerk's certificate of service unambiguously states otherwise.

E. **Single transmission.** Whenever a rule requires multiple copies of a document to be filed only a single transmission is necessary.

F. **Time of filing.** For purposes of filing by electronic transmission, a "day" begins at 12:01 a.m. and ends at midnight. If electronic transmission of a document is received before midnight on the day preceding the next business day of the Court it will be considered filed on the immediately preceding business day of the Court. For any questions of timeliness, the time and date registered by the Court's computer will be determinative. For purposes of filing by electronic transmission only, notwithstanding rejection of an attempted filing through the EFS or its placement into an error queue for additional processing, the date and time that the filer submits the electronic filing envelope will serve as the filing date and time for purposes of meeting any filing deadline.

G. **Signatures.**

(1) All electronically filed documents shall be deemed to contain the filing attorney's signature pursuant to Rule 12-302 NMRA. Attorneys filing by electronic transmission thereby certify that required signatures or approvals have been obtained before filing the document. The full, printed name of each person signing a paper document shall appear in the electronic version of the document.

(2) If a document filed by electronic transmission contains a signature block from an original paper document containing a signature, the signature in the electronic document may represent the original signature in the following ways:

- (a) by scanning or other electronic reproduction of the signature; or
- (b) by typing in the signature line the notation "/s/" followed by the name of the person who signed the original document.

(3) All documents filed by electronic transmission that are signed by the Court shall be scanned or otherwise electronically produced so that the original signature is shown.

H. **Format of documents; protected personal identifier information; EFS user guide.** All documents filed by electronic transmission shall be formatted in accordance with the Rules of Appellate Procedure and shall comply with all procedures for protected personal identifier information under Rule 12-314 NMRA. The Court may make available a user guide on its website to provide guidance with the technical operation of the EFS. In the event of any conflicts between these rules and the user guide, the rules shall control.

I. **Demand for original; electronic conversion of paper documents.**

(1) Original paper documents filed or served electronically, including original signatures, shall be maintained by the attorney filing the document and shall be made available, upon reasonable notice, for inspection by other parties or the Court. If an original paper document is filed by electronic transmission, the electronic version of the document shall conform to the original paper document. Attorneys shall retain original paper documents until final disposition of the case and the conclusion of all appeals.

(2) For cases in which electronic filing is mandatory, if an attorney who is exempt under Paragraph M of this rule or a self-represented party files a paper document with the Court, the Court clerk shall convert such document into electronic format for filing. The filing date shall be the date on which the paper document was filed even if the document is electronically converted and filed at a later date. The Court clerk shall retain such paper

documents as long as required by applicable statutes and Court rules.

J. **Electronic file stamp and confirmation receipt; effect.** The Court clerk's endorsement of an electronically filed document shall have the same force and effect as a manually affixed file stamp. When a document is filed through the EFS, it shall have the same force and effect as a paper document and a confirmation receipt shall be issued by the system that includes the following information:

- (1) the case name and docket number;
- (2) the date and time of filing as defined under Paragraph F of this rule;
- (3) the document title;
- (4) the name of the EFS service provider;
- (5) the email address of the person or entity filing the document; and
- (6) the page count of the filed document.

K. **Conformed copies.** Upon request of a party, the Court clerk shall stamp additional copies provided by the party of any paper filed by electronic transmission. A file-stamped copy of a document filed by electronic transmission can be obtained through the EFS. Certified copies of a document may be obtained from the Court clerk.

L. **Technical difficulties.** Substantive rights of the parties shall not be affected when the EFS is not operating through no fault of the filing attorney.

M. **Requests for exemptions from electronic filing requirement.**

(1) An attorney may file a petition with the Supreme Court requesting an exemption, for good cause shown, from the mandatory electronic filing requirements under this rule. The petition shall set forth the specific facts offered to establish good cause for an exemption. No docket fee shall be charged for filing a petition with the Supreme Court under this subparagraph.

(2) Upon a showing of good cause, the Supreme Court may issue an order granting an exemption from the mandatory electronic filing requirements of this rule. An exemption granted under this subparagraph remains in effect for one (1) year from the date of the order and may be renewed by filing another petition in accordance with Subparagraph (1) of this paragraph.

(3) An attorney granted an exemption under this paragraph may file documents in paper format with the Court. When filing paper documents under an exemption granted under this paragraph, the attorney shall attach to the document a copy of the Supreme Court exemption order. The Court clerk shall scan the attorney's paper document into the electronic filing system including the attached Supreme Court exemption order. No fee shall be charged for scanning the document. The attorney remains responsible for serving the document in accordance with these rules and shall include a copy of the Supreme Court exemption order with the document that is served.

(4) An attorney who receives an exemption under this paragraph may nevertheless file documents by electronic transmission without seeking leave of the Supreme Court provided that the attorney complies with all requirements under this rule. By doing so, the attorney does not waive the right to exercise any exemption granted under this paragraph for future filings.

[Approved, effective July 1, 1997; as amended by Supreme Court Order No. 06-8300-031, effective January 15, 2007; as amended by Supreme Court Order No. 17-8300-004, effective for all cases pending or filed on or after July 1, 2017.]