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IN THE COMMON PLEAS COURT OF ERIE COUNTY, OHIO

WYADA S. WILSON  
CLERK OF COURTS

CRIMINAL DIVISION

IN RE: ELECTRONIC FILING OF COURT DOCUMENTS  
ADMINISTRATIVE ORDER

2019 MS 0011

Pursuant to Ohio Sup. R. 27, Ohio Civ. R. 5(E), Ohio Civ. R. 11, Ohio Supreme Court Advisory Committee on Technology, and Erie County Common Pleas Court Local Rules for e-Filing, all filings submitted for case types designated by the General Division of Erie County Common Pleas Court as e-File case types for the Court's e-Filing Project must be filed electronically through the Court's authorized electronic filing system beginning on or after January 7, 2019, and shall be governed by this administrative order.

If necessary, the Court may issue additional administrative orders or adopt local rules that supplement this Order and designate various other case types as mandatory e-File case types. Case types so designated shall be filed electronically after the effective date of such supplemental order or local rule.

This Administrative Order applies to all filers (party filers and non-party filers). Any and all persons or entities who need to file anything in a mandatory e-File case type, unless specifically excluded from that requirement elsewhere in this Order, shall file their documents electronically, as outlined herein.

**RULE I. - ELECTRONIC FILING OF COURT DOCUMENTS**

**RULE II.- Definition of Terms:**

- A. **e-File Case Type.** A case type that has been designated by the Administrative Order and/or Local Rule as being one that shall be filed electronically.
- B. **Clerk.** The Clerk of Courts of Erie County Common Pleas Court, General Division as defined by the Ohio Revised Code.
- C. **Clerk Review.** A review of electronically filed documents by the Clerk in accordance with the court rules, policies, procedures, and practices. The Clerk shall review the data and documents electronically submitted to ensure compliance with court rules, policies, procedures and practices, before officially accepting the documents for filing and creating a docket entry. If the submitted documents comply with the applicable Court Rules, policies and procedures, they will be accepted by the Clerk for e-Filing. If the submitted documents do not comply with the applicable Court rules, policies and procedures, they will not be accepted for e-Filing and the Clerk shall notify the filer of the deficiency or problem with the submission.

- D. **Court Electronic Record.** Any document received in electronic form, recorded in the case management system and stored in the Court's document management system. This will include but may not be limited to notices and orders created by the Courts as well as pleadings, other documents and attachments created by the parties. It shall not include physical exhibits brought into the courtroom for the Courts' or jury's edification. These documents will be considered to be maintained as court records as set forth in the Ohio Rules of Superintendence.
- E. **Document.** A filing made with the Court or by the Court in either electronic format or in paper format that is then converted to an electronic record, not to include electronic media.
- F. **Case Management System (CMS).** A System that manages the receipt, indexing, storage, and retrieval of electronic documents associated with a case.
- G. **Electronic Filing (e-Filing).** The electronic transmission, acceptance, and processing of a filing. The definition of e-Filing does not include facsimiles or emails. **Facsimile filing is not permitted.** Merely submitting an email to the clerk does not constitute e-Filing. In order to e-File any document, the authorized e-Filing system must be used and the documents(s) submitted with use of the confidential unique electronic identifier.
- H. **Electronic Service (e-Service).** The electronic transmission of notice of a filing to all other electronically registered case participants via the e-Filing system.
- I. **Received.** A document submitted to the Clerk either electronically or manually for filing.
- J. **Accepted for Filing.** A document received by the Clerk which has been subjected to Clerk's review and deemed in compliance with Court rules, policies, procedures and practices.

### **RULE III. MANDATORY ELECTRONIC FILING**

- A. Except for those type cases listed below in Rule III B, in all criminal cases pending or filed after January 7, 2019, all documents must be filed electronically ("e- Filed").

- B. All criminal cases filed or pending after January 7, 2019 are designated e-File cases, except for the following, which are not to be e-filed:

The initiating of a Bill of Information (but once a Bill of Information is filed, parties can e-file to that case); extraditions; "Rule 4" proceedings; request for a Governor's Warrant; Governor's Warrants; criminal miscellaneous cases designated as "MI" (including but not limited to, subpoenas for person/records, out-of-state subpoenas, oaths, voting records, entries naming subpoena servers, entries naming forepersons/clerks/deputy forepersons for Grand Jury, true bills, Grand Jury subpoenas, internet services, release records (Google records, Yahoo records, cell phone records, bank records, medical records, cell tower pings, state tax records), disposal of property, GPS tracking devices, and search warrant inventories); out-of-county writ of habeas corpus.

The above listed actions shall be filed in the Erie County Clerk of Courts office during normal business hours, Monday through Friday 8:00 am to 4:00 pm.

- C. If a party does not have internet access, the party can use the Clerk's public Access Terminal to register to use the Court's authorized electronic filing system and to file documents electronically.
- D. **Electronic Filing and Service of Orders and other Papers:** In e-File cases, the court shall issue, file, and serve notices, orders, and other documents electronically. Service of orders, notices, assignments of hearing by the Court will be done electronically, and counsel are deemed served thereby.
- E. **CONFIDENTIAL AND UNIQUE ELECTRONIC IDENTIFIER:** The Court's authorized e-Filing system shall assign the party's designated representatives/s a confidential and unique electronic identifier that must be used to file, serve, receive, review, and retrieve, electronically filed pleadings, orders, and other documents filed in the assigned case. Each person to whom a unique identifier has been approved shall be responsible for the security and use of such identification. All documents filed electronically will be deemed to be made with the authorizations of the party who is assigned to the specific unique electronic identifier.
- F. **Method of Payment:** In all mandatory e-File case types, deposits as security for costs, filing fees, and all other costs shall be paid by credit card at the time a document is submitted for e-Filing. Pro Se filers, who do not qualify for indigent status, and are not registered e-Filers, may pay by cash, credit card, money order, or check.

Any document requiring payment of a filing deposit or fee to the Clerk in order to achieve valid filing shall be filed electronically in the same manner as any other e-

Filed document. The electronic filing system will establish a means to accept payment of deposit/fees electronically. The electronic filing system will accept a document for filing without payment of a filing fee, only if the case includes a court-approved poverty affidavit. Also, a proposed order must be prepared and submitted for the Judge's signature and shall follow all e-filing rules, Local Court Rules, Rules of Criminal Procedure, and Rules of Superintendence. The approval to proceed with a poverty affidavit only permits the party to submit a document without payment of a filing fee. It does not relieve the party of the obligation to pay court costs due on the action.

**H OFFICIAL COURT RECORD:** For case types designated for e-Filing, parties shall file all pleadings, motions, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, orders or other documents electronically through the Court's authorized e-Filing system, the electronic version constitutes the official Court record. Electronically filed papers have the same force and effect as those filed by traditional means.

#### **I. PRO SE LITIGANTS**

1. Documents received from Pro Se litigants shall be scanned and filed into the Court's authorized e-Filing system by the Clerk's staff. After scanning and filing into the e-Filing system, the Clerk is authorized to return the original paper documents to the Pro Se litigant, if a return mailing envelope has been provided, or otherwise, to discard the paper document. Service of all documents after the complaint will occur on all parties represented by counsel automatically through the e-Filing system.
2. Pro Se litigants must be served conventionally (other than through the e-Filing system) unless that pro se litigant has registered to use the e-Filing system of this court.
3. If a self-represented defendant is incarcerated, he/she shall file documents on his/her case by submitting the documents, in paper format, to the Clerk's office. No one else (other than the defendant him/herself, if not incarcerated) shall be allowed to e-File documents on behalf of an incarcerated self-represented defendant. This does not preclude an attorney from e-Filing on behalf of his/her client, who happens to be incarcerated.

J. **Exceptions to E-Filing:** Notwithstanding mandatory e-Filing, the following types of documents are to be filed conventionally, unless expressly directed otherwise by the Court:

1. With respect to documents to be filed under seal, the Motion to file under seal shall be filed and served electronically. However, the documents to be filed under seal shall be filed in paper form.
2. Documents to be presented to a court for *In Camera review* for purposes of obtaining a ruling on discoverability shall be filed in paper form.
3. Exhibits or other items which may not be comprehensively viewed in electronic form shall be filed and served conventionally.
4. Paper courtesy copies shall not be delivered to the Court unless otherwise directed.

K. In e-Filing cases, counsel is still expected to comply with the Criminal Rules regarding service upon opposing parties/counsel. (i.e. Include certificates of service on all pleadings, motions, etc. after the Original action).

L. Written discovery requests shall not be e-Filed, only the certifications that such discovery has been sent, and propounded discovery has been answered shall be e-Filed. Except, when responses to written discovery are necessary to support a motion or to be used at trial (i.e. to support a summary judgment motion; motion to compel discovery, etc.)

M. When seeking specific action from the Court (i.e. a Motion), the filing shall clearly be denominated as a Motion in the Caption of the filing. Merely including a request for action or motion, even as an alternative, in the body of the filing might not be detected by e-Filing. Therefore, it is essential that the caption of the filing clearly be marked as a Motion.

N. **Public Access Terminal:** The public can view dockets and request electronically filed documents on Public Access Terminals located in the Clerk's Office. User shall be charged for printed copies of documents at rates established by the Clerk pursuant to the dictates of the Ohio Revised Code.

#### **RULE IV. FILING AND REMOVAL OF PAPERS FROM CUSTODY OF CLERK**

- A. **Duties of the Clerk:** The Clerk shall file and maintain all documents delivered to the Clerk's Office. At the time of filing a complaint, the Clerk shall, through its electronic filing system, accept for filing all criminal cases, except for cases listed in Rule III B, and cause an assignment of Judge by electronic random selection process. The assigned Judge's name shall be stamped on all documents submitted through the electronic filing system.
- B. **Size of Documents and Document Requirements:** All pleadings, motions, briefs and other similar documents that are filed with the Clerk shall be typewritten or printed, double spaced, on 8 1/2" x 11" paper in at least a 12-point regular type font, and paged sequentially. Filings prepared in a pleading format shall reserve a blank space of at least two and one-half inches at the top of the first page for endorsements and shall have appropriate side and bottom margins of not less than one inch. Forms prescribed and approved *by the* General Division in a form format shall reserve an adequate space in the top right-hand corner for endorsements or file stamps and shall have appropriate side and bottom margins proportional with the format of the form or document. Each consecutive page shall have appropriate top, bottom and side margins of not less than one inch.
- C. **Required Format and Procedure:**
1. All electronically filed documents, pleadings, and papers shall be filed in PDF. **proposed judgement entry/order shall be filed simultaneously with all motions. Failure to simultaneously file a corresponding proposed judgement entry shall result in the motion being rejected.** All proposed orders/entries must be submitted in Word format as well as PDF and while filed simultaneously with the corresponding motion said order/entry shall not be attached to the specific motion to which it applies. All proposed orders/entries SHALL NOT include a signature line or date line for the assigned Judge. Proposed Orders not requiring a motion shall be submitted with a " Notice of Submission of Proposed Order" pleading.

2. Further, if a party files a motion for leave to plead instanter the party shall simultaneously file the corresponding proposed instanter pleading. **However, while the proposed instanter pleading shall be simultaneously filed with the motion for leave to file instanter, said proposed instanter pleading shall not be attached to the motion for leave to file instanter. Further, the Clerk of Courts shall not file the proposed instanter pleading until the Clerk of Courts receives an order granting the motion for leave to file instanter.**
3. Individual documents shall be limited to **20 megabytes** in size. Documents larger than 20 megabytes must be split into multiple documents. Each additional document must include a heading that contains the case number, the case caption, and title of the document. There is no limit on the number of 20 megabyte files that can be submitted in a filing.

**D. Documents Requiring Service or Notice:**

1. For documents filed electronically, the system will generate an email / Notification of Electronic Filing to designated counsel of filing parties, and any other party who is a registered user of the electronic filing system. The Notification of Electronic Filing via the Courts authorized electronic filing system shall constitute service pursuant to Civil Rule 5. A party who is not a registered user of the e-Filing System is entitled to a paper copy of an electronically filed document. **The filing party shall serve the non-registered party with the document in accordance with the applicable rules of the Court.**
2. **Certificate of Service:** A certificate of service on all parties entitled to service shall still be required when a party files a document electronically. The certificate must state the manner in which service was accomplished pursuant to Civ.R. 5(B)(2). The certificates of service shall be in accordance with Civ.R. 5(B)(3).
3. **Service on Parties and Time Calculation:** e-service is deemed complete at the time a document has been received by the Court's authorized electronic filing system as reflected by the authorized date and time appearing on the electronic transmittal. Effective with the commencement date of electronic filing, any period of time to respond to the served document or perform any right,-duty, or act is strictly governed by the applicable rules of Court. Parties served electronically are entitled to the same three (3) day extension of time to respond as if this had been served by mail. For the purpose of computing time to respond to documents received via eService, any document served after 4:00 p.m. Eastern Standard/Eastern Daylight Time shall be deemed served on the next day that is not a Saturday, Sunday or legal holiday.
4. **Failure of Electronic Service:** If electronic service on a party/their designated counsel does not occur, the party to be served may upon motion be entitled to an order extending the date for any response or the period within which any right, duty, or act must be performed.

**E. Attorney Filing/Party Signature:** Documents filed electronically that require an attorney or filing party's signature shall be signed with conformed signatures of "*/s/ Attorney's Name*". The correct format shall be:

*/s/ Attorney's Name*  
Attorney Name  
Ohio Supreme Court Registration No.  
Attorney for (Plaintiff/Defendant) XYZ Corp.  
ABC Law Firm  
Address  
Telephone Nos.  
Email address  
Facsimile

A pro se litigant (unrepresented filer) shall sign: Party's Name, Pro Se

The conformed signature on an e-Filed document is deemed a signature for purposes of signature requirements imposed by the Ohio Civil Rules of Procedure, Rules of Superintendence, and any other rule or law.

**F. Personal and Private Information in Documents Filed with the Clerk of Courts:**

1. Personal and private information includes, but is not limited to:
  - a. Social Security Numbers;
  - b. Financial Account Numbers;
  - c. Names of Minor Children;
  - d. Information protected by law from public disclosure;
  - e. Other personal identification numbers such as driver's license numbers.
2. Filing parties and/or legal counsel shall not include personal and private information in any document filed with the Court unless such inclusion is necessary and relevant to the case. This requirement extends to, and includes, exhibits or addenda attached to filings such as preliminary and financial reports, which itemize state liens that use Social Security numbers as case numbers or medical records.

3. If personal and private information is necessary and must be included in a document, the filing party shall partially redact the following personal data and identifiers from the pleading:
  - a. Social Security Numbers: If an individual's Social Security number must be included in a document, only the last four digits of that number shall be used.
  - b. Financial Account Numbers: If financial account numbers are relevant, only the last four digits of the account number shall be used.
  - c. Names of Minor Children: If the involvement of a minor child must be mentioned, only the initials of the minor child shall be used.
  - d. The responsibility for redacting all personal identifiers rests solely with counsel and their parties.
4. Entries and orders that necessarily include personal and private information shall partially redact the personal data and identifiers in (F) (3) (a) and (b) of this rule unless it is absolutely necessary to include all digits in a personal data and/or identifier. In the event that it is absolutely necessary to include all digits in a personal identifier, the entries and orders shall be submitted to the Clerk's Office as follows:
  - a. The original document that includes the personal and private information, which shall be designated by the filer as "Not for Public Access"; and
  - b. A redacted copy in the following format:
    - i. The redacted copy will indicate in the caption, above the title of the action, "Redacted Copy, Personal and Private Information Redacted".
    - ii. The redacted copy of the document will have the notation "redacted" at all places in the document where the information was removed.
  - c. The Court shall sign the journal entry it deems appropriate.
5. ***The Clerk may refuse to accept for filing any document that contains personal and private information that has not been redacted or submitted in accordance with the rule.***

## **G. SIGNATURES E-FILING**

1. When a stipulation or other document requires two or more signatures, the filing party/attorney shall confirm that the content of the document is acceptable to all persons required to sign. The filing party shall indicate the agreement of other parties/counsel at the appropriated place, usually the signature line. The filing party/counsel shall then file the document electronically, including the signatures. i.e. */s/ Jane Doe /s/ John Smith.*
2. Electronic documents may be signed by a Judge or Judicial Officer via a digitized signature. Electronic documents signed by a Judge or Judicial Officer may be signed with the following conformed signature: */s/ Judge's Name.* All orders, judgments and other documents signed in this manner shall have the same force and effect as if the Judge had affixed his/her signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

## **RULE V. DEPOSITION TESTIMONY**

- A. If a deposition is to be filed, then the deposition (including all exhibits and attachments) shall be electronically filed by the attorney of record through the Courts' authorized electronic filing system. Pursuant to Ohio Rule of Superintendence 45(D), the attorney of record shall omit or redact all personal identifiers from the written deposition transcripts prior to filing the transcript.
- B. The party filing a written deposition transcript shall also file a Notice of Filing Deposition Transcript. The Notice of Filing Deposition Transcript shall identify the deponent and the date the written deposition was taken and include a certification that the written deposition transcript being filed is a true record of the deposition that was certified by the person (officer) who took the deposition and that testimony has not been altered.
- C. If an audio/video version of a deposition transcript is to be presented during trial or hearing, the attorney presenting the audio/video version of the deposition transcript shall manually submit the audio/video version of the deposition to the Clerk for submission to the Court no less than fourteen (14) days prior to the trial or hearing, unless the Court otherwise directs.
- D. This rule does not alter the practice and procedure of the Court with respect to the use of videotaped trial testimony. Compliance with the respective Court's practice and procedure is expected.

## **RULE VI. TIME FOR FILING AND EFFECT OF USE OF E-FILE:**

- A. Please note filing documents through e-Filing does not alter any filing deadlines imposed by the local rules and/or the rules of criminal procedure. Items received by e-Filing will be reviewed in the order in which they are received by the Clerk's office. Review of documents may take up to one business day. Deputy Clerks are unable to fulfill requests for immediate review. When filing documents by way of e-Filing, please allow sufficient time to register and familiarize oneself with the e-Filing system.
- B. Any document submitted electronically through the electronic filing system will be received and processed. Receipt is acknowledged by an "authorized date and time stamp". An electronic filing may be submitted to the Clerk twenty-four (24) hours a day, seven (7) days a week for review. *However, received documents are only reviewed and deemed filed twenty-four (24) hours a day, five (5) days a week.* Documents electronically submitted for review for e-Filing shall be deemed *accepted* and filed on the date and time as outlined below. All items listed herein refer to Eastern Standard Time or Eastern Daylight Savings Time.
1. Upon receipt of an e-Filing, the Court's authorized electronic filing system shall issue a confirmation that the filing has been received. The confirmation shall include the date and time of receipt. The confirmation notice shall also inform the e-Filer that, if the document is accepted for filing, the date and time reflected in the confirmation notice shall serve as the date and time of filing if filed prior to 11:59 p.m. during a business day. Any documents received after 11:59 p.m. on a Friday, anytime Saturday, anytime Sunday, or anytime during a Court holiday, will be deemed filed on the following business day. This does not in any way alter the provision in Civil Rule 6 that filing deadlines that fall on a Saturday, a Sunday, or a legal holiday run until the end of the following day that is not a Saturday, Sunday, or legal holiday.
  2. An e-Filer will receive subsequent notification from the Clerk indicating whether the document received has been accepted or rejected by the Clerk's office for docketing and filing into the Court's Case Management System. This stamp will include the date and time that the filer transmitted the document to the e-Filing system.
    - a. Subject to the exceptions noted in 6 (B)(1), if accepted, the document retains the date and time originally received.
    - b. If rejected, the document will not become part of the official court record and the e-Filer will be required to resubmit the document to meet necessary filing requirements. Once a document is rejected the date and time originally received is void and the document must

be resubmitted and shall receive a new date and time upon submission.

3. If the electronic filing is not filed with the Court because of an error in transmission of the document to the Court's authorized electronic filing system, then the Court may, upon satisfactory proof, enter an order to permit the document to be accepted and filed "Nunc Pro Tunc" from the date it was electronically received.
4. It is the responsibility of the registered user to check his or her notifications in the e-Filing System for notices pertaining to recent filings, and to not rely solely on the courtesy e-mails delivered to the user's e-Filing-designated e-mail account. It is also the responsibility of the registered user to ensure the courtesy e-mails with notices of electronic filings are not blocked by the spam filter of his or her designated e-Filing e-mail account.

## **RULE VII. - FILING SEALED AND IN CAMERA DOCUMENTS**

### **I. DEFINITION OF TERMS PURSUANT TO RULE OF SUPERINTENDENCE 44, COURT RECORDS:**

- A. "Public Access" includes both direct and/or remote access.
- B. "Direct Public Access" means the ability of the general public to inspect and obtain a copy of a court record at all reasonable times during regular business hours at the Clerk's office.
- C. "Remote Public Access" means the ability of the general public to electronically search, inspect and copy a court record at a location other than the place where the record is made available.

### **II. SEALED DOCUMENTS, RESTRICTED ACCESS, LEVELS OF ACCESS:**

- A. Motions and proposed orders:
  1. All motions requesting that documents be filed under seal with Public Access restricted shall be filed electronically and include language designating a specific level of access.
  2. The movant shall also file a proposed protective order, proposed order to seal, or other proposed order designating the proposed level of access.
  3. The movant shall **NOT** attach the documents (that are the subject of the request to be protected or sealed) to the motion or proposed order, as the motion and proposed order shall not be sealed.
  4. Motions and proposed orders shall be appropriately titled, for example:
    - "Motion: Protective Order"
    - "Motion: Seal"
    - "Order: Protective (Proposed)"

"Order: Seal (Proposed)"

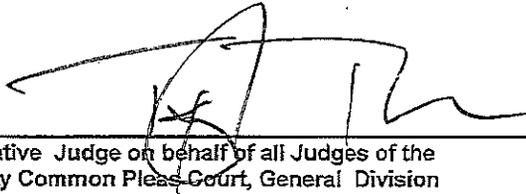
- B. The designated level of access shall be one of the following:
1. **No Remote or Direct Public Access:** Under this level the docket and access to documents will be available to the Judge, court staff, clerk staff and attorneys of record through the Court's authorized electronic filing system and the documents shall be filed electronically. *However, there is no Public Access to the documents via the PIC System or at the Clerk's Office.*
  2. **Judge Access Only:** The docket will be available through the Court's authorized electronic filing system and the PIC System, but *access to the documents is limited to the assigned Judge.*
    - a. Documents filed for "Judge Access Only" shall be filed in paper format. The documents must be submitted to the Clerk's Office for filing in a securely sealed envelope. A copy of the Court's order to file under seal must be securely attached to outside of the envelope. The face of the envelope shall include a conspicuous notation that it contains "Documents under Seal-Judge Access Only." It shall also include the case caption, a descriptive title of the documents, unless such information has been included among the information ordered sealed, and the date of the order permitting the item to be sealed.
    - b. The Clerk's Office shall file stamp the face of the envelope, enter on the docket that the documents were filed under seal with "Judge Access Only" and retain the envelope in the Clerk's Office.
    - c. Once the docket entry is entered on the docket, the Court's authorized electronic filing system will send a notice that a document with "Judge Access Only" has been filed. The docket entry will be visible through the Court's authorized electronic filing system and the Clerk's PIC System, but the documents shall not be viewable on either site. Since the documents are sealed to everyone except the assigned Judge, the filing party or attorney of record is not required to serve paper copies of the sealed documents on all parties in the case.
- C. The Clerk of Courts shall not accept any document to be filed under seal unless there is a previously signed protective order or order authorizing that a document be filed under seal and the order designates a level of access as defined in this section. If a protective order or order authorizing that documents be filed under seal does not include a designated level of access, the filer will be required to file a proposed order designating a specific level of access for the protective order or the order to seal. The Clerk will accept the documents to be filed under seal once an order is approved and filed with the Clerk of Courts.
- D. **IN CAMERA DOCUMENTS:** If documents submitted for in camera review are to be filed with the Clerk's Office per the assigned Judge, the filer shall follow the

same procedures as a protective order or order to seal with the designated level of "Judge Access Only" as outlined in this Rule. Otherwise, all documents for in camera review should be submitted to the assigned Judge and not filed with the Clerk's Office.

Effective date of Administrative Order:

This Administrative Order shall become effective immediately.

**IT IS SO ORDERED,**

A handwritten signature in black ink, appearing to be "J. M. [unclear]", written over a horizontal line.

Administrative Judge on behalf of all Judges of the  
Erie County Common Pleas Court, General Division