

# **CHAPTER 2**

## **Electronic Filing**

**CAUTION:** Kansas courts will soon be converting to a centralized case management system called eCourt, which will allow all district and appellate case data to reside on a single web-based platform. The conversion process is expected to take three or four years and, when complete, the electronic filing procedures described in this chapter will change. Always check the Supreme Court's website, [www.kscourts.org](http://www.kscourts.org), for the most up-to-date information.

### **I. INTRODUCTION**

#### **§ 2.1 Who May File Electronically**

All district and appellate courts in Kansas require electronic filings from lawyers in good standing who are licensed in Kansas. Self-represented litigants (who are not Kansas-licensed attorneys in good standing) must file paper documents in all courts. Rules 1.14 and 122.

Johnson County District Court maintains an electronic filing system that is separate from Kansas Courts e-Filing and an attorney must contact the court directly to gain access to it. When using the Johnson County e-Filing system, be aware of service requirements.

Submitting a document for filing through the e-Filing system does not mean it is filed. It must first be approved by the clerk. It is the attorney's responsibility to make sure that it was approved. If it was rejected, it is as if the document was never submitted at all. An attempted filing will not be recorded in the docket events.

**PRACTICE NOTE:** If you are providing service on a pro se litigant or a pro hac vice attorney, you must serve by traditional means because only attorneys licensed in Kansas, and in good standing, will receive electronic notifications of filings. If you are a pro se litigant, you must serve all parties by traditional means because your paper filings will not generate electronic notices.

## **§ 2.2 Register to eFile**

Before registering to eFile, watch tutorials on the Kansas Courts e-Filing Training Videos page. Then, go to the Kansas Courts e-Filing application (<http://www.kscourts.org/Cases-and-Opinions/E-Filing/default.asp#Register To eFile>), and select Request Account under the New User heading.

Before an account request is processed, the user must read, accept, and agree to abide by the terms of use for Kansas Courts e-Filing. The terms of use include a requirement that the user follow technical standards set out in Supreme Court Administrative Order No. 268 for filing and transmitting electronic court documents.

Once an account is approved, the user will receive an email that explains how to log in for the first time. The email will include several useful documents, including an explanation of rules and technical standards, and a list of documents currently accepted by Kansas Courts e-Filing. For help with questions or problems with the registration process, email [e-Filingadministrator@kscourts.org](mailto:e-Filingadministrator@kscourts.org).

### **§ 2.3 Your e-Filing Account**

Up to three e-mail accounts can be attached to an e-Filing account. Notifications will be sent to all of the e-mail addresses associated with the account. E-mail addresses can be changed at any time by logging in and choosing “My Profile” and clicking on “Modify User Profile.”

**PRACTICE NOTE:** These e-mail accounts can be for another person, such as a legal assistant. Using more than one e-mail address is a good way to avoid missing a notification.

Do not give your password to anyone else.

## **II. TECHNICAL STANDARDS**

Supreme Court Administrative Order No. 268 sets out the mandatory requirements of the 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.

### **§ 2.4 Electronic Filing and Transmission**

E-Filing 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.

### **§ 2.5 Document and File Format Standards**

Documents filed electronically in the Appellate Courts must be submitted through the Court’s e-Filing system in an Adobe portable document format (PDF) or another format later specified by the Supreme Court. See Rule 1.05.

An electronically filed document must not exceed 10 MB. For a document that exceeds this size restriction, an attorney should contact the office of the clerk of the appellate courts for assistance.

**PRACTICE NOTE:** To make your PDFs a small digital package –

- don't use color
- scan in black and white (not grayscale, not automatic)
- look at your scanner settings
  1. set your DPI at 300
  2. set the size of the document to 8.5" x 11"
- convert a Word document to a PDF instead of printing and scanning
- don't insert scanned signatures into a PDF
- don't insert graphics

Documents submitted to the court in paper form will be imaged to facilitate the creation of an electronic case file. The paper document will not be retained by the court. The Clerk's office can accommodate submission of non-electronic documents or exhibits in special circumstances as defined by Supreme Court or local court rule.

A docket entry that is electronically visible will record the date and time a document is received into the court file by a Clerk of the Appellate Courts.

## § 2.6 Authorization of Electronic Filers

Persons intending to file documents electronically with a court must 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 will 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.

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.

No person may file documents electronically with a court until the filer has received confirmation of registration approval from the court.

Payment of court costs through authorized electronic means satisfies the statutory requirements for payment of court costs as stated in K.S.A.60-2001, K.S.A 61-2704, and K.S.A. 20-110.

The Appellate Courts use KanPay. The district courts use Cite Pay. If you experience a problem with KanPay, please call 1-800-452-6727.

## § 2.7 Signatures

### *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), K.S.A. 60-271.

### *Signature Requirements*

- **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 Kansas Supreme Court Rule 111.
- **Written Signature.** A Filing User may also satisfy the signature requirement by scanning a document containing the Filing User’s written signature.
- **Noncompliance.** A filing that does not comply with this provision will be deemed in violation of K.S.A. 60-211, and Supreme Court Rule 111. The document may be rejected via electronic notice or may be ordered stricken from the record.

### *Signatures of Multiple Parties*

Documents requiring signatures of more than one party may be filed electronically:

- by submitting a scanned document containing all necessary written signatures, or
- all necessary electronic signatures.

### *Signature of the Clerk of the District 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. An electronic signature has the same legal effect as a manual signature. K.S.A. 20-365.

## **§ 2.8 Notarial Acts, Electronic Notarization, and Unsworn Declarations**

Documents subject to a notarial act may be scanned and electronically filed (e-filed) if the notarial act meets the requirements of the revised uniform law on notarial acts, as set forth in K.S.A. 53-5a01, *et seq.*

Electronic notarization may be used for e-filed documents if the electronic notarization meets the requirements of K.S.A. 16-1611.

Documents subject to unsworn declarations may be e-filed if the declaration meets with requirements of K.S.A. 53-601.

## **§ 2.9 Electronic Filing and Transmission Process Standards**

Court computers must 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.

All electronic document submissions 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.

E-filed documents received by the clerk and subsequently accepted into the court file are deemed filed as of the time the transmission ends. The court must provide acknowledgement to the sender of the successful acceptance of the e-filed document.

After the document has been received and approved by the clerk, it is filed into the court file by a clerk of the appellate courts. At that point, the e-Filing system generates a “Notice of Electronic Filing” to registered case participants. This Notice is given to the filer and other parties associated with the case who have enrolled in the e-Filing system to indicate that the document has been accepted by the court.

An electronically filed document is deemed filed on the date and time reflected in the file stamp on the document. Electronically filed documents received on a Supreme Court holiday or after 12:00 a.m. Saturday through 11:59 p.m. Sunday will be deemed filed on the next business day that is not a Saturday, Sunday, or Supreme Court holiday.

The court must provide notice to the filer if a transmission is received with errors.

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 apply to the extent a clerk’s office is inaccessible due to unavailability of the e-Filing system.

## **§ 2.10 Pro Se Filings**

The Supreme Court in the future may permit pro se filers to file documents electronically. At present, all pro se documents are paper documents, filed manually. Filing of a paper document will never generate a notice of electronic filing. Pro se litigants must serve other litigants by traditional means. Attorneys using the e-Filing system must serve pro se litigants by traditional means.



## § 2.11 Possession of Documents

A person filing or transmitting court documents electronically must 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 must produce such document upon request under K.S.A. 60-234 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. Retention of electronic documents includes all documents filed with the court and any other electronic communication related to the action.

## § 2.12 Service by Electronic Means

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) 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.

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.

An attorney can rely on the notice of electronic filing (NEF) to serve parties (other than *pro se* parties and *pro hac vice* attorneys), but the certificate of service still must state that the manner of service was by notice of electronic filing.

Court reporters cannot be served by NEF.

A docketing statement or motion to docket out of time cannot be served by NEF. Those documents must be served by traditional means, including e-mail and fax.

### III. ADDITIONAL INFORMATION

#### § 2.13 Training

Training beyond what is offered in online tutorials is available. Register to participate in a webinar through Kansas e-Filing Training. More information is available at: [www.kscourts.org/ECourt/Kansas-Courts-eFiling/Training](http://www.kscourts.org/ECourt/Kansas-Courts-eFiling/Training)

#### § 2.14 Support

An attorney with an existing e-Filing account who needs support may contact the helpdesk by calling 1-844-892-3721 (toll free), or by emailing [kansassupport@tybera.com](mailto:kansassupport@tybera.com). Telephone and email support are available 8 a.m. to 6 p.m. CST, Monday through Friday, excluding federal holidays.

#### § 2.15 Docketing

Add the other parties and counsel in the e-Filing system correctly:

- Pay attention to the drop-down menus and select the correct party identifiers (*i.e.* appellant, appellee, guardian ad litem, intervenor, petitioner, respondent, etc.).
- Do not add contact information for Kansas licensed attorneys – the clerk’s office has that information in its database, and that contact information will be pulled directly from the e-Filing system into the court’s case management system.
- Do not add contact information for the parties represented by attorneys, but DO add their names.
- Enter in the contact information for any unrepresented party and any out-of-state attorney.

Upload the required docketing documents in the correct order as specified in Rule 2.04:

- If filing a Motion to Docket Out of Time, the motion MUST be the first document, followed by the Docketing Statement.
- If not filing a Motion to Docket Out of Time, you MUST upload the Docketing Statement first.
- Then upload the remaining documents in this order:
  1. Notice of Appeal
  2. Final Order
  3. Post-trial Motions and Orders – in chronological order by date stamp
  4. Transcript Requests/Orders
  5. Orders of Appointment, if any

Court reporters cannot be served through the e-Filing system. If a request for transcript is e-filed in the district court, the court reporter must be served by traditional means and the means of service must be stated in the certificate of service.

Each request/order for transcript should be served on only one court reporter. Each court reporter should receive a request/order for transcript – that request can list multiple hearing dates as long as the court reporter served is the correct court reporter responsible for those hearing dates.

Upload each document as a separate PDF.

- One document per PDF. *E.g.*, do not scan or combine the notice of appeal and the journal entry being appealed into one PDF.
- Even documents of the same type must be separated. For example, when filing three journal entries, upload three separate PDFs.

## **§ 2.16 Entering an Appearance**

Any attorney listed on the docketing statement, even if just in the certificate of service, is considered counsel of record. An entry of appearance by that attorney will be rejected because the attorney is already counsel of record on that case.

If an attorney is not already counsel of record, the attorney must file an Entry of Appearance in order to receive NEFs in the case and in order to file anything in the case.

An Entry of Appearance must be filed from the e-Filing account of the attorney entering the case. *I.e.*, Attorney A cannot log in to her e-Filing account and upload an Entry of Appearance signed by Attorney B, even if they are in the same firm.

**PRACTICE NOTE:** If two attorneys from the same firm both want to enter their appearance, they must upload and file an entry of appearance from each of their e-Filing accounts. The document can be identical – and signed by both. Or it can be a separate document for each. But the key is that each e-Filing account must upload it separately in order for that account to be linked to the case.

### *Government attorneys*

If an agency is filing documents under an umbrella registration number, then attorneys should not file separate entries of appearance under their bar registration numbers. If an attorney other than the one on the brief cover is going to argue a case, do not file an entry of appearance. Simply file a notice stating which attorney will be arguing the case. It must be filed under the umbrella number and signed by either the attorney who will be arguing or the attorney on the brief's cover.

*Counsel for an amicus*

Do not file an entry of appearance. A motion requesting permission to file an amicus brief may be filed without first entering an appearance. If the motion is granted, then the attorney is automatically entered as counsel of record on that case for that *amicus*.

*Pro hac vice attorneys as counsel for amici curiae*

If counsel for an *amicus* is not a Kansas licensed attorney, the attorney must find a local counsel to file the motion requesting permission to file an amicus brief. Once the motion to file amicus brief is granted, the local counsel can file a motion requesting that the out-of-state attorney be admitted *pro hac vice* in the case. If granted, the out-of-state attorney will be listed as *pro hac vice* counsel for the *amicus*.

