



STATE OF DELAWARE  
**THE JUSTICE OF THE PEACE COURT**


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ALAN G. DAVIS  
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**POLICY DIRECTIVE 08-232 (1<sup>ST</sup> Supplement)**

**TO: ALL JUSTICES OF THE PEACE  
ALL NON-JUDICIAL COURT EMPLOYEES**

**FROM: ALAN G. DAVIS  
CHIEF MAGISTRATE** 

**DATE: JULY 8, 2019**

**RE: E-FILING**

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**Scope:**

Pursuant to Justice of the Peace Court Civil Rule 79.1(c), this Policy Directive establishes the procedures for filing electronic documents in civil proceedings in the Justice of the Peace Court of the State of Delaware. It identifies the parties who must file electronically (“eFile”), the documents that must be eFiled, and the form of such documents. This Policy Directive also provides guidance for registering for an eFiling account and for using the eFiling system. Lastly, this Directive specifies the form of signature on eFiled documents, the fees payable for eFiling, the availability of eFiling for indigent litigants, and the effect of an improperly eFiled document.

**Justice of the Peace Court Policy:**

In all Justice of the Peace Court civil actions, the following parties to those civil actions shall file all documents in those actions electronically:

1. Parties represented by attorneys.
2. Artificial entities represented by an officer, employee or other authorized agent under Delaware Supreme Court Rule 57 and Justice of the Peace Court Civil Form 50 (“Form 50 agent”), where the entity has filed five (5) or more civil actions in the twelve (12) months immediately preceding the commencement of the civil action. This case limitation is effective regardless of whether or not the particular Form 50 agent has filed,

within the prior year period, more than five (5) civil actions on behalf of the artificial entity.

3. All other parties who, in the twelve (12) months immediately preceding the commencement of the civil action, have filed more than ten (10) other civil actions in the Justice of the Peace Court.

4. To the extent that they may not fall into any of the above categories, any State Agency filing a civil action, represented by a Form 50 agent.

The Court will not accept any conventionally filed document from parties who meet these criteria.

Parties other than those specified may, but are not required to, file documents electronically. Such parties who choose to file conventionally must follow all statutes, court rules and policy directives pertaining to the conventional filing of documents.

**Policy Directives/Legal Memoranda Affected:**

No other policy directives or legal memoranda address eFiling procedures. As a result, none are directly affected by this policy directive.

**Effective Date:**

This policy shall take effect immediately upon issuance and shall continue until further notice. The actual date for documents to be filed electronically by parties represented by attorneys is November 1, 2008. Due to difficulties in transmitting this policy to Form 50 agents and other qualifying parties, the actual date for documents to be filed by other mandatory eFile parties is December 1, 2008.

Should a party required to eFile under this policy be unable to complete necessary training prior to the established deadline, the party or an authorized legal representative of the party, may apply to the presiding judge of the court location where the matter is to be filed and request a hardship waiver. Such waivers shall be freely given as is reasonable under the circumstances, but after January 15, 2009, shall only be granted to avoid manifest injustice.

**Discussion:**

Advancements in technology and document imaging allow Delaware courts, including the Justice of the Peace Court, to maintain civil case files in electronic form and accept electronically filed documents from the parties to such cases. Accepting documents electronically streamlines the Court's efforts to incorporate documents into the Court's electronic file system. At the same time, it affords the parties an effective, convenient, and secure means of filing and serving documents and accessing electronic court case files without having to physically appear at the court at the time of filing. As a result, the Court has decided to require electronic filing of documents by parties to civil cases.

Not all parties in Justice of the Peace Court civil actions, however, may be in a position, or sufficiently experienced with filing prerequisites, to utilize electronic filing. No electronic filing requirement should prevent such parties from pursuing or defending claims in this Court.

Accommodating both these interests - in administrative efficiency and in available access - this policy mandates the electronic filing of documents in civil cases by categories of parties, rather than by type of civil action. As such, this policy establishes four categories of parties that are affirmatively required to eFile documents: 1) parties represented by attorneys, 2) artificial entities represented by Form 50 agents where the entity has filed five (5) or more civil actions in the preceding twelve (12) months, 3) all other parties who, in the twelve (12) months immediately preceding the commencement of the civil action, have filed more than ten (10) other civil actions in the Justice of the Peace Court, and 4) State Agencies regardless of representation (collectively, "eFiling litigants"). Parties that fall into any of these categories are required to eFile documents in civil actions according to the procedures outlined in this policy. Parties who are required to eFile and fail to do so shall have any such conventional filing rejected by the Court. Repeated failure to eFile by required parties or abuse of the eFile process may result in further sanction by the Court, up to and including sanction under Justice of the Peace Court Civil Rule 11 and citation for contempt.

Other parties, *i.e.* those falling outside the specified categories, are not required to file documents electronically, but may choose to do so. Such parties shall file documents in accordance with all statutes, court rules and policy directives pertaining to the conventional filing of documents, unless they elect to file electronically, which would implicate the requirements of this policy.

The remainder of this policy directive details various aspects of the Court's eFiling program.

### ***Registration and Training***

To eFile a document in a civil action, a party must register for an account with Tybera eFlex on the Delaware Judiciary eFiling website: <https://courtsefile.delaware.gov/ecf/>. On that site, a party seeking to register will select the option that reads "Request Account." A party will complete the registration process by filling out the forms that appear in subsequent webpages. Help in filling out these forms is available at <https://courts.delaware.gov/efiling>.

The Judicial Information Center ("JIC") offers an online training course to assist persons in the proper use of the system. Once the required training is finished, the person must submit a completed certification form in order to be granted access to the system.

### ***Technical Requirements***

The eFiling system is an Internet-based application. As a result, any computer that provides access to the Internet will enable a user to eFile. No special eFiling software is required. A user will, however, need to have hardware and/or software that converts the documents to be filed to .PDF format.

The minimum technical requirements for eFiling are available online at: <https://courts.delaware.gov/efiling/eflextraining.aspx>

### ***Documents That Must Be Filed Electronically***

Unless otherwise ordered by the Court, eFiling litigants must eFile any document that statute, Justice of the Peace Court Civil Rule or Policy Directive requires in a civil action. In addition, unless otherwise ordered by the Court, eFiling litigants must also eFile any other document that they wish to present for Court consideration or action in a civil proceeding. Unlike other State Courts' procedure, follow-up paper copies of any Complaint and Praecipe need not be filed to facilitate service of process; the eFiled documents shall be processed by the Court to effect service of process.

### ***Document Format***

Each electronically filed document shall be filed in .PDF format. All documents included in a single filing must be individually attached to that filing. To the extent practicable each document shall be formatted in accordance with the applicable rules governing formatting of paper documents, and in such other and further format as the Chief Magistrate may require from time to time. Any document that exceeds ten (10) pages must be broken into multiple .PDF files, unless prior leave has been granted by the Court. A document may exceed page limitation rules to a maximum of two (2) additional pages when the additional pages are attributed to the electronic conversion or filing process.

### ***Signatures***

Each electronically filed document shall be deemed to have been signed by the attorney, Form 50 agent, or *pro se* party that authorized such filing, and shall bear a facsimile or typographical signature of such person, *e.g.*, “/s/ John Doe.” Each document eFiled by or on behalf of a party shall also include the typed name, address, and telephone number of the attorney, Form 50 agent, or *pro se* party filing such document. Attorneys shall include their Delaware bar number, and Form 50 agents shall include their system ID number.

Each electronically filed affidavit or declaration shall be deemed to have been signed by the declarant or affiant so long as an attorney, Form 50 agent, or *pro se* party has authorized such filing. The original of an affidavit or declaration filed or served electronically shall be maintained by the party filing the affidavit during the pendency of

the litigation and shall be made available, upon reasonable notice, for inspection by another party, counsel or Form 50 agent for a party, a clerk of the Court, or the Court.

Judges and Court staff may also utilize facsimile or typographical signatures on any document issued by the Court.

### ***Fees***

The eFiling fee structure consists of several components. First, existing case initiation fees, filing fees, and court costs continue to apply. *See generally* 10 DEL. CODE § 9801 (reproduced at <https://courts.delaware.gov/help/fees/jpfees.aspx>); Justice of the Peace Civil Rule 77(h). In addition, a party filing a civil action must pay the security assessment fee appropriate to that type of action. *See* Justice of the Peace Civil Rule 77(h)(4). Finally, an eFiling litigant must pay a court technology fee of one dollar and twenty-five cents (\$1.25) per document for each eFiled document. *See* Justice of the Peace Civil Rule 79.1(d). A single hard-copy document submitted as multiple .PDF files, as required under this Policy Directive or otherwise, shall be counted as multiple documents for filing fee purposes. Payment of fees may be accomplished through a pre-established court debit account or by credit card.

The Justice of the Peace Court shall waive the court technology fee for any party represented by the Delaware Department of Justice. *See* Justice of the Peace Civil Rule 79.1(d). In addition, the Court shall waive the court technology fee for any eFiling litigant who is an indigent person represented by an attorney employed by a non-profit organization established for the purpose of providing legal representation to such persons and who has been granted leave by the Court to proceed *in forma pauperis* in the civil action in which such fees might otherwise be assessed.

### ***Indigent Litigants***

Justice of the Peace Court Civil Rule 112 concerning proceedings *in forma pauperis* remains available to indigent eFiling litigants. Thus, eFiling litigants who cannot afford the prepayment of litigation fees may petition the Court to proceed without having to prepay such fees. This petition shall be filed electronically and an eFiling litigant shall be exempt from the court technology fee pending the Court's ruling on the petition. Following the Court's ruling, an eFiling litigant's responsibility for payment of any Court cost or fee shall be dictated by the terms of the Court's order on the petition.

### ***Time of eFiling***

Any document filed electronically by 5:00 pm Eastern Time shall be considered eFiled with the Court on that date once the transmission is successfully completed and received as recorded on the State of Delaware Judiciary eFiling System.

### ***Electronic Service of Documents***

Service of process of initial case filings shall be accomplished through standard means provided for by statute or Court rule and may not be accomplished electronically. Any subsequently filed document is deemed electronically served only upon selection of the registered parties to be served and submission of that document according to State of Delaware Judiciary eFiling System procedures. The electronic service of a pleading or other document in the eFiling system is considered valid and effective service on all registered parties and shall have the same legal effect as conventional service of an original paper or document. An eFiling litigant must conventionally serve a paper copy of the electronically filed document on parties not registered with the State of Delaware Judiciary eFiling System. Note that, because the Justice of the Peace Court is not requiring eFiling by case type, but by party type, many cases will involve both registered and un-registered parties. All parties should take great care to ensure that service is properly accomplished.

### ***Rejection of eFiled Documents by the Court***

A Court clerk may reject any eFiled document that fails to conform to a filing requirement or prerequisite, either for that document or for the civil action in which the document purports to be filed, established by statute, Court rule, or Justice of the Peace Court Policy Directive. By way of illustration, a clerk may reject a landlord's eFiled complaint seeking summary possession of the rented premises when the complaint is not accompanied by an eFiled document purporting to demonstrate timely notice required by 25 DEL. CODE § 5502(a). *See* Justice of the Peace Court Legal Memorandum 81-37 (1<sup>st</sup> Supp.) (Mar. 1, 1996). The clerk will not be reviewing the content of the documents for legal sufficiency, but only for the presence of the document itself in the filing. See Attachment 1 for current list of reasons the court may reject an e-filed case.

### ***System or User Filing Errors***

The Court encourages parties to resolve any filing and service errors based on technical failures or deficiencies without Court intervention. Absent such resolution, if an attempted electronic filing is not filed and served with the Court because of: (1) an error in the transmission of the document to State of Delaware Judiciary eFiling system which was unknown to the sending party, (2) a failure to process the electronic filing when received by State of Delaware Judiciary eFiling system, (3) rejection by the Court, or (4) other technical problems experienced by the filer, the Court may upon satisfactory proof enter an order permitting the document to be filed or served *nunc pro tunc* to the date it was first attempted to be sent electronically.

### ***Related eFile Documents***

eFlex Training Modules and manuals are available on the State of Delaware Judiciary eFiling website at <https://courts.delaware.gov/efiling/eflextraining.aspx>.

### ***Obligation of Registered eFile Users to Maintain Current Information***

Within ten (10) days of any change in party name, attorney name, firm name, delivery address, fax number, or e-mail address, parties or attorneys who register to use the State of Delaware Judiciary eFiling system shall modify their profiles on that system to reflect any such change.

### ***Sanctions***

Failure to abide by the terms of this policy directive and/or the terms and conditions of the registration process for eFiling may result in sanctions that include, but are not limited to, rejection of filings, termination of eFiling privileges, and dismissal of pending actions.

Attachment: List of Rejection reasons

cc: Honorable Leo E. Strine, Jr.  
Honorable Andre G. Bouchard  
Honorable Jan Jurden  
Honorable Alex J. Smalls  
Honorable Michael K. Newell  
Amy Quinlan, State Court Administrator  
All Justice of the Peace Courts  
Marianne Kennedy, Justice of the Peace Court Administrator  
Jody Huber, Esquire, Justice of the Peace Court Staff Attorney  
Mark Hitch, Operations Manager  
Law Libraries: New Castle County, Kent County, Sussex County,  
Widener University Delaware Law School

**THE FOLLOWING IS A LIST OF REASONS THE COURT MAY REJECT AN E-FILED CASE**

- 1 COMPLAINT FORM DOES NOT MATCH INFORMATION ENTERED IN E-FILING SYSTEM.
- 2 ABANDONED PROPERTY NOT ABANDONED FOR ONE FULL YEAR BEFORE FILING.
- 3 INCORRECT SS# ON DOCUMENTS - ONLY LAST 4 DIGITS ARE ALLOWED (EXCLUDING USPS GARNISHMENT)
- 4 NAME ON SUBSEQUENT FILING DOCUMENTS DO NOT MATCH ORIGINAL FILING
- 5 SCAN RESOLUTION WRONG - DOCUMENT SIZE CANNOT BE LARGER THAN 1.0 MB AND MUST BE BLACK/WHITE.
- 6 INSUFFICIENT FUNDS
- 7 DUPLICATE FILING
- 8 WRONG JURISDICTION - FILING SUBMITTED TO WRONG COURT/LOCATION.
- 9 PARTY NAMES, CASE NUMBER AND/OR SIGNATURE NOT INCLUDED OR INCORRECT ON ATTACHED DOCUMENTS.
- 10 INCORRECT DOCUMENT ORIENTATION
- 11 ILLEGIBLE SCANNED IMAGE (DOCUMENT)
- 12 ONLY ONE CASE ACTION MAY BE SELECTED PER FILING
- 13 FILING REQUIRES INFORMA PAUPERIS DOCUMENTS
- 14 SYSTEM ID REQUIRED FOR FILING PARTY
- 15 MAIN DOCUMENT REQUIRES ADDITIONAL ATTACHMENT (S)
- 16 INCORRECT JUDGMENT DATE OR AMOUNT
- 17 REASON REQUIRED FOR TRANSCRIPT
- 18 LEVY/GARNISHMENT FILING SUBMITTED SHOULD BE AN ALIAS FILING
- 19 DMV LETTER TO BE FILED WITH LEVY; CANNOT BE OVER 120 DAYS OLD
- 20 NO ATTACHMENT OVER 10 PAGES
- 21 NOTARY SEAL MISSING ON DOCUMENT
- 22 FILING SUBMITTED PREMATURELY
- 23 A VALID FORM 50 MUST BE SUBMITTED FOR EACH AGENT NAMED IN THE INITIAL FILING
- 24 INCORRECT ATTACHMENT FILED FOR DOCUMENT TYPE SELECTED
- 25 E-FILER MUST BE LISTED AS A PARTY TO THE CASE