REGISTER IN CHANCERY for the COURT OF CHANCERY

COMMON E-FILING ERRORS

The Court of Chancery uses File and Serve Express (FSX) for e-filing. The Register in Chancery (RIC) review clerks have identified the following issues as the most common reasons for rejecting civil action (CA) filings during clerk review:

1. Linking – Filings are not linked at all, or are linked to items that do not relate to the current filing. Law firms have suggested that not all filings need be linked to a prior filing. The most common documents suggested by firms needing linking would be answers, responses, oppositions, replies, and briefing. Discovery issues (Notices, etc.) seem to be the items suggested most by firms as not needing to be linked. (Clerk review staff are not able to correct linking issues.)

2. Document Title – Filings do not state the basic information in the FSX document title to detail what the item is, who it is from, who it is to, what it is about, and sometimes who the person represents (such as for *Pro Hac Vice*). What is typed in the document title box is the official docket for the Court. (Clerk review staff are able to add to or correct a FSX document title.)

3. Main & Supporting Documents – Filings that contain multiple documents (such as a motion, exhibits, proposed order, and certificate of service) should be properly designated as a main document (*i.e.,* the motion) or a supporting document (*i.e.,* the exhibits, proposed order, or certificate of service). This is referred to by FSX as 'stapling'. Every main document is assigned a docket entry number on the FSX docket at the time of acceptance. If documents are filed as main documents when they should be supporting documents (such as in the example above), all the documents in the filing will be assigned a docket entry number by FSX. (Clerk review staff are not able to correct main and supporting designations.)

4. Supplemental Information Sheet – RIC enforces that the filing firm use the most current supplemental as shown on our website. If the supplemental is the current form, is one page, and is otherwise properly completed, the clerk will accept the filing, and will send a note back to the firm with a request to file a corrected supplemental if something minor is amiss (such as no date, no statute reference, no bar id at signature line, etc.). This was recently changed at the behest of comments from law firms stating the whole new case filing should not be rejected for those errors on the supplemental. (Clerk review staff are not able to correct errors or omissions on the actual scanned documents.)

5. Party Lists – RIC is charged with making sure the FSX party list is accurate. A new case filing will be rejected if the filing firm does not load all the parties in the case, or does not load all the counsel shown in the signature block of the complaint to the case during the new case filing. Clerks will also reject entries of appearance for not having the proper counsel loaded to the FSX party list during the filing. Clerks also try to catch when a new party is brought into a case during an amended complaint, counterclaim, third party complaint, or other situation that involves a new case party. (Clerk review staff are not able to load or correct a party or attorney during a filing.

6. Compendiums and Appendix Exhibits – RIC has rejected compendium filings with a note to only provide the copies to the parties and to chambers. Many law firms have pushed back and stated they want the items on the docket. Clerks have since allowed the filings, with the idea that if the firm wants it posted to the docket we will allow it. (Clerk review staff can change the document type and the document title if necessary.)

7. Batching of Scanned Exhibits – Some firms have filed their exhibits not in numerical order, but by scanning all the under seal exhibits in 1 or 2 scans, and all the public exhibits in 1 or 2 scans. If the filing contains exhibits A-F, and only exhibits C and F are under seal, the firm should be filing the following scans: scan 1: exhibits A and B public, scan 2: exhibit C sealed, scan 3: exhibits D and E public, scan 4: exhibit F sealed. The law firms could scan each exhibit separately, which would eliminate the issue. Clerks do reject filings for exhibits not batched properly. (Clerk review staff are not able to correct how the documents are batched in a scan.)

8. Editable Format – Clerks do check all proposed orders or stipulated and proposed orders, all briefs and all memorandums to see if they are in editable format, such as Microsoft Word or WordPerfect. If they are not, the filing is rejected. (Clerk review staff are not able to change the document to editable format.)

9. Confidentiality – Clerks enforce the following items regarding confidentiality, under Rule 5.1:

    a.) Under seal cover sheet, including footers on the documents, the date by which a public version will be filed, or that a public version is not required to be filed;

    b.) Enclosure of a 5.1 letter to the RIC on new complaint filings;

    c.) Linked to a granted confidentiality order on non-new case filings;

d.) Notation on the public version of the documents under the civil action number stating "Public Version" and the current date. (Law firms sometimes put that information next to the date at the bottom left of the first page of the brief instead of under the civil action number.) This requirement was implemented years ago by RIC in an effort to conform to the old RIC practice of hand writing on an unsealed document (literally taken out of an envelope) the notation "unsealed on ___ date." (Clerk review staff are not able to able to edit an e-filed document.)

10. Certificate of Service – Clerks do enforce the requirement of a Certificate of Service (COS) for all documents filed, per Rule 5(f). The exception is that on a letter there should be a "cc:" to opposing counsel or parties, listing each by name. The clerks can also reject a filing if the parties or counsel listed on the COS do not match the service list on that filing on FSX. There remains confusion from some law firms that even though FSX has a service list attached to each filing, they must also provide a formal COS. There were concerns that using the FSX service list *only* would not comply with Rule 5(f) because there would be no official statement signed by the submitting counsel as there is with a COS. (Clerk review staff are not able to edit an e-filed document, and they are not able to correct who is selected on the service list on an e-filed transaction.)

The Court's website (www.courts.delaware.gov/chancery) offers the following resources for e-filers:

- Guidelines for Persons Litigating in the Court of Chancery;
- Operating Procedures for Litigants; and
- Best Practices for EFiling

If additional guidance is needed, feel free to contact the Register in Chancery at one of the numbers listed below:

- New Castle County – 302-255-0544
- Kent County – 302-735-1930
- Sussex County – 302-856-5775