THE VINCENT A. BIFFERATO
SUPERIOR COURT TRIAL PRACTICE FORUM
"How We Can Help"

Moderator: Superior Court Judge Eric M. Davis

Friday, February 15, 2019 from 2:00 p.m. – 4:00 p.m.
Jury Services at Leonard L. Williams Justice Center, 500 N. King St.

SUPERIOR COURT CIVIL PACKET

Superior Court Civil Contact List

Prothonotary: Susan A. Hearn 302-255-0700

Deputy Prothonotary: Tameka Lewis-Sterling 302-255-0753

CIVIL ADMINISTATION
Manager: Cynthia Coleman 255-0781
Supervisor: Erica Sherkey 255-0741

JUDGMENTS
Manager: Kathy Zeccola 255-0766

EXPUNGEMENTS
Paralegal: Inez Charles 255-0574

TRIAL DEPARTMENT
Manager: Tamu White 255-0751
Supervisor: Kim Cephas 255-0704

JUDGE	CASE MANAGER	PHONE NUMBER
President Judge Jan R. Jurden	Keeley Baker	255-0724
Judge Richard R. Cooch	Nancy Gonzalez	255-0756
Judge William C. Carpenter, Jr.	Nancy Hernandez-Becerra	255-0711
Judge Calvin L. Scott, Jr.	Vené Thomas	255-0706
Judge Mary M. Johnston	Novene Tate	255-0744
Judge John A. Parkins	Kim Cephas	255-0704
Judge Diane Clarke Streett	Tiffiney Butcher	255-0720
Judge Charles E. Butler	Ellen Slaweski	255-0785
Judge Eric M. Davis	Amanda Kehoe	255-0737
Judge Paul R. Wallace	Morgan Daughton	255-2279
Judge Vivian L. Medinilla	Kay Tamone	255-0714
Judge Andrea L. Rocanelli	Brittany Butler	255-0787
Judge Ferris W. Wharton	Ashley Quimby	255-0739
Judge Abigail M. LeGrow	Clare Messick	255-0188
Judge Sheldon K. Rennie	Evette Mosley	255-2216
Commissioners	Akira Alston	255-0709

Superior Court E-File Procedures

All electronically filed cases/documents must adhere to the requirements of **Administrative Directive No. 2007-6**.

Failure to meet these requirements will be cause for the electronic filing to be **rejected** or may be **edited** (if possible) by the reviewing clerk.

Documents will be rejected for the following reasons
Wrong document uploaded. Pleading must relate to the document title. **NOTE:** This occurs when filer selects the wrong .PDF file.
Pleading not signed as required. ***Administrative Procedure 4(c)***. Pleading shall bear a facsimile or typographical signature of the filing party. /s/ Adam Attorney
Authorizing Attorney is not an active member of the Delaware Bar and/or does not maintain an office in Delaware for the practice of law. ***Superior Court Civil Rule 79.1 (e-h).*** Filing Attorneys must be a member of the Delaware Bar and maintain an office in Delaware. Supreme Court Rule 12(a) and (d).
Bar ID not included. ***Administrative Procedure 4(c).*** Include Bar ID on all pleadings. Remember to include: name, address, telephone number and Bar ID.
Incorrect county. Must file in the correct county.
Incorrect case number. Must have correct civil action number.
Writs must include the correct Prothonotary. New Castle County Prothonotary: Susan Hearn Kent County Prothonotary: Annette Ashley Sussex County Prothonotary: Myrtle Thomas
Scanned document is not legible. Scanned documents should be reviewed before transmitting. Scanned documents that are illegible will be rejected.
Main pleading rejected. If the main pleading is rejected, all supporting pleadings under the same Transaction ID must be rejected. **NOTE:** Supporting pleadings can be rejected, without rejecting the main document.
Exceeds Page Limit. ***Superior Court Civil Rule 107.*** Motions and Responses – 6-page limit Briefs must comply with typeface requirement of ***Superior Court Civil Rule 107(b)(1).***
Proposed Order not filed or filed as part of the Motion/Pleading. A Proposed Order (filed as a supporting document to the Motion) must be filed as a separate document from the Motion. Title must read: Proposed Order for Defendant John Smith's Motion for Summary Judgment.
Edits of Documents/Rejection **The following reasons will result in documents being edited or rejected by the reviewing clerk.**
Wrong document type selected. Pleading does not relate to filing type or document title.
Document titles MUST be specific. Document titles MUST be specific, i.e.: Motion for Summary Judgment. The document title must read: Defendant John Smith's Motion for Summary Judgment. Notice of Motion. The document title must read: Defendant John Smith's Motion for Summary Judgment scheduled for (date and time).

Partial Dismissals. Any dismissal that does NOT dispose of the entire action. Select Document Type: Partial Stipulation of Dismissal or Stipulation of Dismissal – PARTIAL.

General eFile Information

Cases Subject to eFile. All complaint cases 'C' cases, all Mortgage and Mechanic Lien 'L' cases, and all Judgments are subject to eFile. It is the responsibility of the filing party to add all parties and counsel, when appropriate.

Document Title does not include case caption, only the title of the document.

Pleading is deemed filed when. ***Administrative Procedure 6(a).*** A pleading is considered filed at the time of submission. However, until accepted by the Prothonotary's Review Clerk, there is a chance a pleading may be rejected.

Document size. It is suggested that each file be limited to 10 megs (10,485,760 bytes) and the total transaction should not exceed 25 megs (25,214,400 bytes).

Type of Print. ***Must comply with Superior Court Civil Rule 107(b).*** "All typed matter must be of a size permitting not more than 11 characters or spaces per linear inch". All printed matter must be done in 14-point type.

Note to Clerk Feature (NCC). If there is any issue you want to bring to the court's attention, i.e. Statute issue; use the note to clerk feature.

NOTE: The goal of the Prothonotary Office is to review **new cases** and 'Accept' and 'Reject' those documents within 48 hours.

All 'Parties' and 'Non-Parties' of the case must be entered in the 'Party Field'. To appear in the Superior Court index, each party/non-party of a case must be added. In order to file in a related case that you are not a party to (i.e. Response to a Motion to Consolidate, etc.), add the party to the party field as a Non-Party in the case you wish to file in DBA, AKA, FKA, Subrogee, T/A, etc. should be added into Lexis in the 'Party Field' as **'NON-PARTY'**.

i.e. Mary Jones a/k/a Mary O'Neill – Mary O'Neill should be entered as a Non-Party
i.e. John Smith d/b/a Smith Auto – Smith Auto should be entered as a Non-Party
When the caption is amended, the 'Party Field' must be updated.

NOTE: Non-Parties are not served. If service is requested, that party should be entered as a party to the case.

Pleadings must be filed separately, but should be 'electronically stapled'. ***Administrative Procedure 4(d).*** Documents relating to a single pleading must be 'electronically stapled' using the MAIN and SUPPORTING functionality of the eFile system:

Complaint (main pleading)
Case Information Sheet (supporting pleading)
Summons (supporting pleading)
Praecipe (supporting pleading)

NOTE: Pleadings with Statutory fees are **always** the Main Pleading. i.e. Complaint, Motion for Pro Hac, Third-Party Complaint, Notice of Appeal to Supreme Court, etc.

Pleading is not linked. ***Administrative Procedure 4(d).*** Documents directly related to a previously filed document must be linked utilizing the 'linked document feature' in the eFile system.

Motion to Dismiss (main pleading)
Opening Brief, Answering Brief, Reply Brief **Must** be linked to main pleading
Complaint (main pleading)
Defendant John Smith's Answer to the Complaint (linked pleading)

NOTE: Clerks do not have the ability to link documents after filing. Documents MUST be linked at the time of filing.

Service copies to Prothonotary (New Cases). To facilitate the processing of your new cases, please use the CIS and/or the 1st page of the complaint with the eFiled deal indicating the filed date and transaction ID printed on it for the service copies.
General eFile Information (continued)
Affidavit of Merit/Medical Malpractice Cases. Affidavit of Merit and curriculum vitae may be electronically filed as a sealed document or conventionally filed. If conventionally filed, a Notice of Conventional Filing must be eFiled stating that the Affidavit of Merit was conventionally filed in the Prothonotary Office under seal.
Sealed vs. In Camera. ***Administrative Procedure 5. Superior Court Civil Rule 5(g)(2).*** **Sealed Documents** can be viewed by all parties related to the case. **In Camera Documents** can be viewed by the filer and assigned Judge only.
Notice of Service/Affidavit of Mailing. ***Administrative Procedure 6(b).*** When a Notice of Service is eFiled, an Affidavit of Service/Mailing is not required. When a document is eFiled, there is no requirement to serve via mail.
Service of eFile Documents. ***Administrative Procedure 6(b).*** Service of documents on eFiled cases must be served through File & Serve eFile system.
Discovery should not be filed with the court. Only the Notice of Service related to the discovery is filed on eFile. It is suggested that counsel use eFile to **serve** 'Discovery' on opposing counsel.
Substitution of Counsel and Motion to Withdraw as Counsel. Party Field and Attorney Field must be updated through File & Serve Case and Party Management to reflect the current attorney.
Third Parties, etc. When filing a third-party complaint or answer to third-party complaint, correct party and attorney type must be selected. Update the 'Party Field' (Add the 3rd party Plaintiffs and 3rd Party Defendants). Select Document Type: Answer and 3rd Party Complaint (main pleading – contains statutory fees). The proper writs must accompany the 3rd Party Complaint.
Courtesy Copies of Supplemental Pleadings. ***Administrative Procedure 3.*** No courtesy copies should be filed with the Prothonotary's Office. A paper copy of each Motion, Response to Motion and all Briefing (Opening, Answering, Reply) and appendices shall be send to the assigned Judge. When sending these copies, the cover page **MUST** be marked **'COPY'**.
Pro Se Litigants. **Electronic service** is currently not available for pro se litigants. Prothonotary will scan and upload pleadings for pro se litigants. Pro se litigants must serve a hard copy of the pleading on opposing counsel. Opposing counsel must serve the pro se litigants with a hard copy of each pleading.
Closed Cases. Cases marked 'CLOSED' on eFile are cases that have been concluded in Superior Court; however, the case may still be pending post-trial motions or a Supreme Court appeal.

SUPERIOR COURT
OF THE
STATE OF DELAWARE

JAMES T. VAUGHN, JR.
PRESIDENT JUDGE

KENT COUNTY COURT HOUSE
38 THE GREEN
DOVER, DELAWARE 19901

ADMINISTRATIVE DIRECTIVE OF THE PRESIDENT JUDGE OF THE SUPERIOR COURT OF THE STATE OF DELAWARE

NO. 2007-6

eFILE ADMINISTRATIVE PROCEDURES

This 13th day of December, 2007, IT IS HEREBY DIRECTED that Administrative Directive No. 2003-8 is hereby rescinded and that the following administrative procedures apply for electronic filing or eFiling pursuant to Civil Rule 79.1:

eFile Administrative Procedures

1. **Registration and fees for eFiling**

(a) *Registration.* Any person intending to use eFile must register with LexisNexis File & Serve at www.lexisnexis.com/fileandserve

(b) *Filing Fees.*

(1) There are several parts to the fee structure for eFiling. These will be billed by LexisNexis using the billing arrangements established through the LexisNexis registration process. The parts are:

- The routine filing fee for various pleadings (Superior Court Civil Rule ("Rules") 77(h)A-F).

- A technology fee of 50 cents per document (Rule 79.1).
- LexisNexis File & Serve fees.
- Pro Hac Vice fees, trial fees and filing fees.
- 50 document fee (Rule 77(h)(B)).

(2) Arbitration fees (Rule 16.1) may be paid through the Lexis Nexis system or directly to the Prothonotary, at the option of the filing attorney.

2. **Minimum Technical Requirements**

The minimum technical requirements for eFilings are available online at www.lexisnexis.com/fileandserve

3. **Documents which must be electronically filed; Exceptions**

Each document which must be filed under the Rules shall be eFiled unless otherwise ordered by the Court. Excepted are that a paper copy of any praecipe, CIS (case information statement), complaint and summons shall be filed to facilitate service of process, with additional copies for service as required by the Rules. A paper copy of each motion, answer and reply and each brief and appendix shall be sent to the assigned Judge. The cover page must indicate "COPY" and include the assigned document ID number. Original documents which have heretofore been filed with the Court shall be filed electronically. The original shall be retained by counsel and produced only if so ordered by the Court.

4. **Form of Documents Electronically filed**

(a) *Format.* Each electronically filed document shall be filed in Word, WordPerfect, TIFF or PDF format. To the extent practicable it shall be formatted in accordance with the applicable rules governing formatting of paper documents, and in such other and further format as the Prothonotary may require from time to time. 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.

(1) eFile will automatically convert any Word, WordPerfect or TIFF file to .PDF format, but the original format will also be available for downloading.

(2) The official record of the court is the .PDF version.

(b) *Title of Documents.* The title of each electronically filed document shall include:

(1) Party or parties filing the document,

(2) Descriptive title of the document,

(3) Party or parties against whom relief, if any, is sought, and

(4) Nature of the relief sought (e.g., Defendant ABC Corporation's Motion for Summary Judgment).

(c) *Signature.*

- Each electronically filed document shall be deemed to have been signed by the attorney or party not represented by an attorney authorizing such filing, and shall bear a facsimile or typographical signature of such person, e.g., "/s/ Adam Attorney." Each document eFiled by or on behalf of a party shall also include the typed name, address, and telephone number of the attorney or unrepresented party filing such document. Attorneys shall include their Delaware bar number.

- Each electronically filed declaration and affidavit shall be deemed to have been signed by the declarant or affiant if an attorney or party not represented by an attorney has authorized such filing. The original 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 other counsel, the Prothonotary or the Court.

(d) *Filing Related Documents.*

- All electronically filed documents relating to a single pleading or paper shall be "electronically stapled" using the "main" and "supporting" functionality of the eFiling system. In this way, multiple related documents, although filed separately, are linked logically together and identified as a single transaction.

- All electronically filed documents, papers or pleadings directly relating to a previously-filed document, paper or pleading shall be linked to the previously filed document, paper or pleading, utilizing the "linked document feature" in the eFiling system.

- Failure to properly link document will result in rejection of filing by Prothonotary.

5. **Sealed Documents**

(a) Documents filed under seal MUST be formatted with a footer stating the following:

THIS DOCUMENT IS CONFIDENTIAL AND FILED UNDER SEAL. REVIEW AND ACCESS TO THIS DOCUMENT IS PROHIBITED EXCEPT BY PRIOR COURT ORDER.

This footer must appear on every page of the document. Additionally, the first page or cover page of the document must be in the following format:

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

[name of first plaintiff],	:	
v.	:	C.A. No. [ ]
[name of first defendant].	:	

YOU ARE IN POSSESSION OF A DOCUMENT FILED IN THE SUPERIOR COURT OF DELAWARE THAT IS CONFIDENTIAL AND FILED UNDER SEAL.

If you are not authorized by Court order to view or retrieve this document read no further than this page. You should contact the following person:

[filing attorney's name]
[firm name of filing attorney]
[address of filing party]
[telephone number of filing party]

No other information should appear on the cover page.

(b) The filing details and document title will appear in the LexisNexis system. The document can be viewed only by the Court, the filer, and those case participants who received service of that particular document. A party that was not served with the document can see only the document title in the case details, however, that party is not able to open or view the document.

(c) Public versions of sealed documents shall be filed in accordance with Rule 5(g).

6. **Time of eFiling and Service**

(a) Any document filed electronically by 11:59 pm ET shall be considered eFiled with the Prothonotary once the transmission is successfully completed ("authorized date and time") as recorded on the LexisNexis File & Serve system.

(b) An eFiled document is deemed served only upon selection of parties to be served and submission according to the File & Serve procedures.

The associated filing receipt will list the parties selected for service and give proof of date, time and method of service.

7. **Public Access to the Docket**

The Prothonotary in each county shall make a Public Access Terminal to the general public to allow access to the Court's electronic case record in all eFiled cases. Copies made from the Court's electronic case records shall be printed by the Prothonotary's Office and copying fees will be charged in accordance with Civil Rule 77(F).

8. **Related eFile Documents**

The following eFile instructions and practice guides are available on the Superior Court Website (http://courts.state.de.us/superior) or in the Prothonotary's Office:

- Quick Guide: File & Serve
- Quick Guide: New Case Filing
- Quick Guide: Multi-Case Filing
- Quick Guide: File Room

9. **Privacy Issues**

Easy access to electronic documents raises many privacy issues. eFile users must be sensitive to confidential and personal information not filed under seal. Parties shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all documents filed with the court, including exhibits thereto, unless otherwise ordered by the Court.

(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 should be used.

(b) **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.

(c) **Dates of Birth.** If an individual's date of birth must be included in a document, only the year should be used.

(d) **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.

In addition, exercise caution when filing documents that contain the following:

(1) Personal identifying number, such as a driver's license number

(2) Medical Records, treatment and diagnosis

(3) Employment History

(4) Individual Financial Information

(5) Proprietary or Trade Secret Information

It is the sole responsibility of counsel and the parties to be sure that all pleadings comply with the rules of this court requiring redaction of personal identifiers. The Prothonotary will not review each pleading for redaction.

10. SYSTEM OR USER FILING ERRORS.

If the electronic filing is not filed with the Prothonotary or served because of (1) an error in the transmission of the document to LexisNexis which was unknown to the sending party, or (2) a failure to process the electronic filing when received by LexisNexis, or (3) rejection by the Prothonotary, 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.

11. OBLIGATION OF REGISTERED EFILE USERS TO MAINTAIN PROPER DELIVERY INFORMATION.

Parties or attorneys who register to use the File & Serve system shall notify LexisNexis within 10-days of any change in firm name, delivery address, fax number or e-mail address.

/s/ James T. Vaughn, Jr.
President Judge

oc: Prothonotaries
cc: Superior Court Judges
Superior Court Commissioners
Court Administrator
Case Scheduling Offices
Law Libraries
Margaret Derrickson (for web page)
File

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

ORDER AMENDING RULE 107 (b) and (h) OF THE SUPERIOR COURT RULES OF CIVIL PROCEDURE AND ORDER ADOPTING RULE 107(j) and FORM 48 OF THE SUPERIOR COURT RULES OF CIVIL PROCEDURE

This 28th day of June, 2017, **IT IS SO ORDERED** that:

1. Superior Court Civil Rule 107 (b) is amended by adding the underlined text and deleting the strikethrough text:

(b) *Type of print for briefs, motions and other papers*. All briefs must be double spaced and typeset in Times New Roman 14-point font with two spaces between sentences. Case names shall be italicized or underlined. Footnotes shall be single-spaced and typeset in Times New Roman 14 ~~12~~-point font with two spaces between sentences.

2. Superior Court Civil Rule 107 (h) is amended by deleting the rule in its entirety and substituting in lieu thereof the following new Rule 107(h):

(h) *Length of briefs*.

(1) Type-volume limitation. Without leave of Court, an opening or answering brief shall not exceed 8,000 words and no reply brief shall exceed 5,500 words, exclusive of appendix. In the calculation of words, the material required

by paragraphs (e)(1) and (2) of this rule is excluded and the material required by paragraphs (e)(3) through (5) of this rule is included.

(2) Certificate of compliance.

(A) Any brief subject to Rule 107(h)(1) must include a certificate of compliance by counsel or an unrepresented party that the brief complies with the typeface requirement of Rule 107(b) and the type-volume limitation of Rule 107(h)(1). The person preparing the certificate must state the number of words in the brief, and may rely on the word count of the word processing program used to prepare the brief.

(B) Form 48 is a suggested form of a certificate of compliance. Use of Form 48 is sufficient to meet the requirements of paragraph (h)(2)(A) of this rule.

(3) Page limitations for parties without access to word processing. Without leave of Court, an opening brief or answering brief shall not exceed 40 pages and a reply brief shall not exceed 25 pages, exclusive of appendix. In the calculation of pages, the material required by paragraphs (e)(1) and (2) of this rule is excluded and the material required by paragraphs (e)(3) through (5) of this rule is included.

~~(h) Length of briefs. Without leave of Court, an opening or answering brief shall not exceed a total of 40 pages and a reply brief shall not exceed 25 pages,~~

~~exclusive of appendix. In the calculation of pages, the material required by paragraphs (e)(1) and (2) of this rule is excluded and the material required by paragraphs (e)(3) through (5) of this rule is included.~~

3. Superior Court Civil Rule 107 (j) is adopted as follows:

(j) *Appendix*. A party may submit an appendix of documents or testimony from the factual record supporting the party's position. An appendix should not duplicate record materials already provided by an opposing party.

(4) This amendment shall take effect July 15, 2017.