

IN THE SUPREME COURT OF THE STATE OF KANSAS

ORDER

RULES RELATING TO DISTRICT COURTS

Supreme Court Rule 122 is hereby amended, effective June 25, 2018.

This order supersedes the amendment to Rule 122 adopted by 2018 SC 39 on May 9, 2018. The following language was added to subsection (d): "when service is required under K.S.A. 60-205."

2018 SC 39 is hereby rescinded.

RULE 122

~~ELECTRONIC FILING AND TRANSMISSION OF~~
~~DISTRICT COURT DOCUMENTS~~ SERVICE BY ELECTRONIC MEANS

~~(a) **District Court May Require Electronic Filing.** A district court may require filing by electronic means if:~~

~~(1) the district court's electronic filing system is consistent with standards for electronic filing approved by the Supreme Court; and~~

~~(2) the Supreme Court approves the system.~~

(a) **District Court Electronic Filing System.**

(1) **Approved District Court Electronic Filing System.** The Supreme Court approves for electronic filing in the district courts the Kansas Courts Electronic Filing System (Kansas Courts eFiling system) and the Johnson County District Court Electronic Filing System (Johnson County eFiling system).

(2) **Filing User.** A Kansas-licensed attorney who is permitted to practice law under Rule 208(a) must register as a filing user with the approved district court electronic filing system prior to filing a document with a district court.

(b) **Electronic Filing Required; Exceptions.** A Kansas-licensed attorney who is permitted to practice law under Rule 208(a) must electronically file any document submitted to a district court through the approved district court electronic filing system, unless:

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DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS

- (1) a judge of the district court grants permission for a document, including an exhibit, to be filed by paper when the unique characteristics of the document require review or preservation of the document in its original form;
- (2) the procedures adopted by the judicial administrator under subsection (g) permit a document to be filed by paper; or
- (3) the provisions of subsection (e) apply.

~~(b)~~(c) **Service by Electronic Means.** ~~Service of papers under K.S.A. 60-205 by electronic means is authorized in a proceeding in a district court that has implemented an approved electronic filing system.~~ The following provisions apply to service by electronic means under K.S.A. 60-205(b)(2)(F).

(1) **Parties Who Consent to Service by Notice of Electronic Filing.**

- (A) A party consents to service by electronic means under K.S.A. 60-205(b)(2)(F) when an attorney who is a filing user enters an appearance on behalf of the party.
- (B) The notice of electronic filing automatically generated by the approved district court electronic filing system is an acceptable form of service by electronic means.

(2) **Parties Who Are Unable to Consent to Service by Notice of Electronic Filing.** An attorney must serve an unrepresented party by a manner authorized under K.S.A. 60-205(b).

(d) **Certificate of Service.** An electronically filed document must include a certificate of service when service is required under K.S.A. 60-205. A certificate of service must include: the name of the party served, the manner in which service was made, the signature of the attorney making the submission, and if service is obtained in a manner other than transmission of the notice of electronic filing, the date on which service was made. If service is obtained by the transmission of the notice of electronic filing, the date of service is the date reflected in the file stamp on the document.

(e) **Procedure When Electronic Filing Fails.**

(1) **Unavailability of the Electronic Filing System.** The provisions of K.S.A. 60-206 apply if the district court clerk's office is inaccessible because the approved district court electronic filing system is unavailable. An attorney whose filing is untimely made due to the unavailability of the system may seek relief from the court.

(2) **Failure of Attorney's Technology.** If a document cannot be electronically filed by the filing deadline because of a failure of the filing attorney's technology, the attorney may file the document by fax or by paper and must accompany the filing with a motion to accept the document. The motion must state the specific technology failure that prevented the document from being electronically filed with the district court. The attorney must file this motion no later than noon on the first day the district court clerk's office is open for business following the original filing deadline. The court may order filing of the document nunc pro tunc as of the date the attorney's technology failed if the filing occurs after the filing deadline. If the court orders filing of the document nunc pro tunc, the response time runs from the date the nunc pro tunc order is entered.

(e)(f) **Fees.** The Supreme Court may approve reasonable fees to support the expenses associated with the electronic filing system.

(d)(g) **Standard Operating Procedures.** The judicial administrator is authorized to adopt standard operating procedures consistent with this rule to facilitate the electronic filing process of ~~electronic filing~~ in district courts. In developing these procedures, the judicial administrator will consult with stakeholders, as appropriate.

BY ORDER OF THE COURT, this 30 day of June, 2018.

FOR THE COURT:



Lawton R. Nuss
Chief Justice