

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ADOPTION OF STATEWIDE
ELECTRONIC FILING STANDARDS AND RULES.

ADKT 404

ORDER ADOPTING NEVADA ELECTRONIC FILING RULES

WHEREAS, this court formed a committee to study and propose statewide policies and guidelines for Nevada courts to follow when designing and implementing a system for the electronic filing of documents and also requested the committee to draft proposed uniform rules applicable to all courts that accept documents electronically for filing; and

WHEREAS, the committee has now completed its work and filed a final report including proposed rules to govern electronic filing in all Nevada courts; and

WHEREAS, it appears to this court that adoption of proposed rules to govern electronic filing in all the courts in the State of Nevada is warranted; accordingly,

IT IS HEREBY ORDERED that a new set of rules entitled Nevada Electronic Filing Rules shall be adopted to govern electronic filing in all municipal courts, justice courts, district courts, and the Supreme Court of Nevada as set forth in Exhibit A.

IT IS FURTHER ORDERED that the Nevada Electronic Filing Rules shall be effective March 1, 2007, and shall apply to all electronic filing processes currently in use by any court in the State of Nevada and all future electronic processes to be implemented by any court in the State of Nevada. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this

order shall be conclusive evidence of the adoption and publication of the foregoing rule amendments.

Dated this 29th day of December, 2006.

BY THE COURT

ROBERT E. ROSE, *Chief Justice*

NANCY A. BECKER
Associate Justice

A. WILLIAM MAUPIN
Associate Justice

MARK GIBBONS
Associate Justice

MICHAEL L. DOUGLAS
Associate Justice

JAMES W. HARDESTY
Associate Justice

RON D. PARRAGUIRRE
Associate Justice

EXHIBIT A

NEVADA ELECTRONIC FILING RULES

1. *General Provisions*

Rule 1. Title. These rules may be known and cited as the Nevada Electronic Filing Rules, or may be abbreviated N.E.F.R.

Rule 2. Definitions of words and terms.

(a) *Case management system.* An electronic database maintained by the court or clerk to track information used to manage the court's caseload, such as case numbers, party names, attorneys for parties, titles of all documents filed in a case, and all scheduled events in a case.

(b) *Document management system.* An electronic database containing documents in electronic form and structured to allow access to documents based on index fields such as case number, filing date, type of document, etc.

(c) *Electronic case.* An "electronic case" is one in which the documents are electronically stored and maintained by the court, and the court's electronic version of the document is the original.

(d) *Electronic document.* An "electronic document" includes the electronic form of pleadings, notices, motions, orders, paper exhibits, briefs, judgments, writs of execution, and other papers.

(e) *Electronic filing.* "Electronic filing" is the electronic transmission to or from a court or clerk of a document in electronic form as defined by the accepting court; it does not include submission via e-mail, fax, floppy disks, or other electronic means.

(f) *Electronic filing service provider.* An "electronic filing service provider" is a person or entity that receives an electronic document from a party for re-transmission to the court for filing. In submission of such filings, the electronic filing service provider does so on behalf of the electronic filer and not as an agent of the court.

(g) *Electronic filing system.* "Electronic filing system" is a system implemented or approved by a court for filing and service of pleadings, motions, and other documents via the Internet.

(h) *Electronic service.* "Electronic service" is the electronic transmission of a document to a party, attorney, or representative under these rules. Electronic service does not include service of process or a summons to gain jurisdiction over persons or property.

(i) *Public access terminal.* A computer terminal provided by the court or clerk for viewing publicly accessible electronic court records. The public access terminal must be available during the court's normal business hours.

(j) *Registered user.* A person authorized by the court or by an authorized electronic filing service provider to access a court's electronic filing system via the Internet.

Rule 3. Purpose, scope, and application of rules.

(a) *Purpose and scope.* These rules establish statewide policies and procedures governing the electronic filing process in all the courts in Nevada.

These rules cover the practice and procedure in all actions in the district, justice, and municipal courts of this state where no local rule covering the same subject has been approved by the supreme court. A court may adopt local rules detailing the specific procedures for electronic filing to be followed in that court, provided that the rules are not inconsistent with these rules.

(b) *Application of rules.* These rules must be liberally construed to secure the proper and efficient administration of the business and affairs of the court and to promote and facilitate the administration of justice by the court.

Rule 4. Implementation of electronic filing.

(a) *Establishment of electronic filing system.* A district, justice or municipal court may establish a system for the electronic submission of documents provided that the system developed meets the minimum requirements set forth in these rules.

(b) *Mandatory electronic processes.* A court may mandate use of electronic filing processes in all cases or a particular type of case only if: (1) the court provides a free electronic filing process or a mechanism for waiving electronic fees in appropriate circumstances; (2) the court allows for the exceptions needed to ensure access to justice for indigent, disabled, or self-represented litigants; (3) the court provides adequate advanced notice of the mandatory participation requirement; and (4) the court provides training for filers in the use of the process. In addition, a judge may require participation in the electronic filing system in appropriate cases.

(c) *Voluntary electronic processes.* A court must ensure that all documents filed in electronic cases are maintained in electronic form. In voluntary electronic processes, the court must scan paper documents and store them electronically.

(d) *Quality control procedures.* A court must institute a combination of automated and human quality control procedures sufficient to ensure the accuracy and reliability of their electronic records system.

(e) *Integration with case management and document management systems.* Electronic documents should be accessed through a court's case management information system. A court's case management information system must provide an application programming interface capable of accommodating any electronic filing application that complies with these rules and must also provide automated workflow support.

(f) *Archiving electronic documents.* A court must maintain forward migration processes to guarantee future access to electronic court documents.

Rule 5. Electronic filing system requirements. Any system for the electronic submission of documents adopted by a district, justice or municipal court must conform to the following minimum requirements:

(a) *Technical requirements.* A court must use Internet browser technology and comply with any Administrative Office of the Courts (AOC) technical standards for electronic filing processes. The electronic filing system must support text searches wherever practicable.

(b) *Electronic viewing.* Electronic filing processes adopted by a court must presume that all users will view documents on their computer screens.

Paper copies are to be available on demand, but their production will be exceptional, not routine.

(c) *Document format.* Electronic documents must be submitted in a format that can be rendered with high fidelity to originals and, when possible, is searchable and tagged. Software to read and write electronic documents in required formats must be available free for viewing and available free or at a reasonable cost for writing and printing.

(d) *Self-contained documents.* Each filed document must be self-contained, with links only to other documents submitted simultaneously or already in the court record.

(e) *Data accompanying submitted documents.* Filers submitting documents for electronic filing must transmit data identifying the document submitted, the filing party, and sufficient other information for the entry in the court's docket or register of actions. In the case of a document initiating a new case, sufficient other information must be included to create a new case in the court's case management information system. This data may be specified with particularity by the court receiving the document.

(f) *Identity of the sender.* A court or an authorized e-filing service provider must use some means to identify persons interacting with its electronic filing system.

(g) *Integrity of transmitted and filed documents and data.* A court must maintain the integrity of transmitted documents and data, and documents and data contained in official court files, by complying with current Federal Information Processing Standard 180.2 or its successor. Nothing in this rule prohibits a court or clerk from correcting docketing information errors in documents submitted, provided that a record of such changes is maintained, including the date and time of the change and the person making the change.

(h) *Electronic acceptance of payments.* A court may establish a means to accept payments of fees, fines, surcharges, and other financial obligations electronically, including the processing of applications to waive fees. Any such system developed must include auditing controls consistent with generally accepted accounting principles and comply with any AOC technical standards that may be adopted.

(i) *Surcharges for electronic filing.* Mandatory electronic filing processes should be publicly funded to eliminate the need to impose surcharges for filing of or access to electronic documents. A court may, however, impose such surcharges or use a private vendor that imposes surcharges when sufficient public funding is not available. Such surcharges must be limited to recouping the marginal costs of supporting electronic filing processes if collected by the court or to a reasonable level if imposed by a private vendor. Collection of surcharges by a private vendor must be audited annually to ensure that the fee charged is reasonable and is properly assessed. The court must also require a periodic performance audit assessing the vendor's system for adequate service to the court, the public, and the bar, including the accuracy and authenticity of data produced, stored or transmitted by the vendor, the reliability of the hardware and software used by the vendor, the integrity and security of the vendor's system, the timeliness of access to documents and other data

produced, stored, or transmitted by the vendor, and the vendor's compliance with Nevada law requiring the safeguarding of personal information.

(j) *Court control over court documents.* The original court record of electronically filed documents must be stored on hardware owned and controlled by the court system or other governmental entity providing information technology services to the court. Whenever a court's electronic documents reside on hardware owned or controlled by an entity other than the court, the court must ensure by contract or other agreement that ownership of the documents remains with the court or clerk of the court. All inquiries for court documents and information must be made against the current, complete, accurate court record. Court documents stored by an outside vendor or entity cannot be accessed or distributed absent written permission of the court.

(k) *Special needs of users.* In developing and implementing electronic filing, a court must consider the needs of indigent, self-represented, non-English-speaking, or illiterate persons and the challenges facing persons lacking access to or skills in the use of computers.

(l) *Limiting access to specified documents and data.* A court's electronic filing applications must contain the capability to restrict access to specific documents and data in accordance with statutes, rules, and court orders.

(m) *System security.* A court's electronic filing applications must include robust security features to ensure the integrity, accuracy, and availability of the information contained in them. They should include, at a minimum, document redundancy; virus protection software; firewalls, intrusion detection systems, authentication and authorization features; plans for system archival, contingency and disaster recovery; other generally accepted security features to detect and prevent attempts by unauthorized persons to gain access to or modify court records; system audit logs; secured system transmissions; privilege levels restricting the ability of users to create, modify, delete, print, or read documents and data; means to verify that a document purporting to be a court record is in fact identical to the official court record; and reliable and secure archival storage of electronic records in inactive or closed cases.

2. *Filing and Service of Documents*

Rule 6. Official court record.

(a) *Electronic documents.* For documents that have been electronically filed, the electronic version of the document constitutes the official court record, and electronically filed documents have the same force and effect as documents filed by traditional means.

(b) *Form of record.* The court clerk may maintain the official court record of a case in electronic format or in a combination of electronic and traditional formats consistent with Rules 4(b) and (c) above. Documents submitted by traditional means may be scanned and made part of the electronic record. Once scanned, the electronic form of the documents are the official court record. If exhibits are submitted, the clerk may maintain the exhibits by traditional means or by electronic means where appropriate.

Rule 7. Documents that may be filed electronically.

(a) *General.* A court may permit electronic filing of a document in any action or proceeding unless these rules or other legal authority expressly prohibit electronic filing.

(b) *Exhibits and real objects.* Exhibits, or other documents which otherwise may not be comprehensibly viewed in an electronic format, may be filed and served conventionally in paper form.

(c) *Court documents.* The court may electronically file or issue any notice, order, minute order, judgment, or other document prepared by the court.

Rule 8. Time of filing, confirmation, rejection, and endorsement.

(a) *Filed upon transmission.* Subject to acceptance by the court clerk, any document electronically submitted for filing shall be considered filed with the court when the transmission to the court's electronic filing system or an authorized electronic filing service provider is completed. Upon receipt of the transmitted document, the electronic filing system or electronic filing service provider must automatically confirm to the electronic filer that the transmission of the document was completed and the date and time of the document's receipt. Absent confirmation of receipt, there is no presumption that the court received and filed the document. The electronic filer is responsible for verifying that the court received and filed the document transmitted.

(b) *Review by clerk.* The court clerk may review the document to determine whether it conforms with applicable filing requirements. If the clerk rejects the document for filing because it does not comply with applicable filing requirements or because the required filing fee has not been paid, the court must promptly send notice to the electronic filer. The notice must set forth the reasons the document was rejected for filing. Notification that the clerk has accepted the document for filing is not required.

(c) *Endorsement.* Electronic documents accepted for filing must be endorsed. The court's endorsement of a document electronically filed must contain the following: "Electronically Filed/Date and Time/Name of Clerk." This endorsement has the same force and effect as a manually affixed endorsement stamp of the clerk of the court.

(d) *Time of filing.* Any document electronically submitted for filing by 11:59 p.m. at the court's local time shall be deemed to be filed on that date, so long as it is accepted by the clerk upon review.

(e) *Availability of electronic filing process.* The court's electronic filing system must allow the electronic submission of documents during the court's regular business hours and should allow the electronic submission of documents 24 hours per day, 7 days per week, except when the system is down for scheduled maintenance.

Rule 9. Electronic service.

(a) *Applicability.* Electronic service of documents is limited to those documents permitted to be served by mail, express mail, overnight delivery, or facsimile transmission. A complaint, petition or other document that must be served with a summons, and a summons or a subpoena cannot be served electronically.

(b) *Service on registered users.* When a document is electronically filed, the court or authorized electronic filing service provider must provide notice to all registered users on the case that a document has been filed and is available on the electronic service system document repository. The notice must be sent by e-mail to the addresses furnished by the registered users under Rule 13(c). This notice shall be considered as valid and effective service of the document on the registered users and shall have the same legal effect as service of a paper document. A court is not required to make a document available until after the clerk has reviewed and endorsed the document.

(c) *Consent to electronic service.* Other than service of a summons or subpoena, users who register with the electronic filing system are deemed to consent to receive service electronically. A party may also agree to accept electronic service by filing and serving a notice. The notice must include the electronic notification address(es) at which the party agrees to accept service.

(d) *Service on nonregistered recipients.* The party filing a document must serve nonregistered recipients by traditional means such as mail, express mail, overnight delivery, or facsimile transmission and provide proof of such service to the court.

(e) *Service list.* The parties must provide the clerk with a service list indicating the parties to be served. The clerk shall maintain the service list, indicating which parties are to be served electronically and which parties are to be served in the traditional manner.

(f) *Time of service; time to respond.* Electronic service is complete at the time of transmission of the notice required by subsection (b) of this rule. For the purpose of computing time to respond to documents received via electronic service, any document served on a day or at a time when the court is not open for business shall be deemed served at the time of the next opening of the court for business.

Rule 10. Payment of filing fees.

(a) *Filing fees.* The court clerk is not required to accept electronic documents that require a fee. If the clerk does accept electronic documents that require a fee, the court may permit the use of credit cards, debit cards, electronic fund transfers, or debit accounts for the payment of filing fees associated with electronic filing. A court may also authorize other methods of payment consistent with any AOC guidelines that may be adopted.

(b) *Waiver of fees.* Anyone entitled to waiver of nonelectronic filing fees will not be charged electronic filing fees. The court or clerk shall establish an application and waiver process consistent with the application and waiver process used with respect to nonelectronic filing and filing fees.

Rule 11. Signatures.

(a) *Deemed signed.* Every document electronically filed or served shall be deemed to be signed by the registered user submitting the document. Each document must bear that person's name, mailing address, telephone number, and bar number if applicable. Where a statute or court rule requires a signature at a particular location on a form, the person's typewritten name shall be inserted. Otherwise, a facsimile, typographical, or digital signature is not required.

(b) *Documents under penalty of perjury or requiring signature of notary public.*

(1) Documents required by law to include a signature under penalty of perjury, or the signature of a notary public, may be submitted electronically, provided that the declarant or notary public has signed a printed form of the document. The printed document bearing the original signatures must be scanned and electronically submitted for filing in a format that accurately reproduces the original signatures and contents of the document.

(2) By electronically filing the document, the electronic filer verifies that the signatures are authentic.

(c) *Documents requiring signatures of opposing parties.*

(1) When a document to be filed electronically, such as a stipulation, requires the signatures of opposing parties, the party filing the document must first obtain the signatures of all parties on a printed form of the document.

(2) The printed document bearing the original signatures must be scanned and electronically submitted for filing in a format that accurately reproduces the original signatures and contents of the document.

(3) By electronically filing the document, the electronic filer verifies that the signatures are authentic.

(d) *Signature of judicial officer or clerk.* Electronically issued court documents requiring a court official's signature may be signed electronically. A court using electronic signatures on court documents must adopt policies and procedures to safeguard such signatures and comply with any AOC guidelines for electronic signatures that may be adopted.

Rule 12. Format of documents. An electronic document shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings and other documents, including page limits. Electronic documents must be self-contained and must not contain hyperlinks to external papers or websites. Hyperlinks to papers filed in the case are permitted.

Rule 13. Registration requirements.

(a) *Registration mandatory.* All users of a court's electronic filing system must register in order to access the electronic filing system over the Internet. A court must permit the following users to register: (1) licensed Nevada attorneys; (2) non-Nevada attorneys permitted to practice in Nevada under Supreme Court Rule 42; and (3) litigants appearing in proper person in a particular case in which the court has mandated electronic filing. A court must permit users who are not authorized to access the court's electronic filing system over the Internet to access electronically filed documents via a public access terminal located in the courthouse.

(b) *Registration requirements.* A court must establish registration requirements for all authorized users and must limit the registration of users to individuals, not law firms, agencies, corporations, or other groups. The court must assign to the user a confidential, secure log-in sequence. The log-in sequence must be used only by the user to whom it is assigned and by such agents and employees as the user may authorize. No user shall knowingly

permit his or her log-in sequence to be used by anyone other than his or her authorized agents and employees.

(c) *Electronic mail address required.* Registered users must furnish one or more electronic mail addresses that the court and any authorized electronic service provider will use to send notice of receipt and confirmation of filing. It is the user's responsibility to ensure that the court has the correct electronic mail address.

(d) *Misuse or abuse of the electronic filing system.* Any user who attempts to harm the court's electronic filing system in any manner or attempts to alter documents or information stored on the system has committed misuse of the system. Any unauthorized use of the system is abuse. Misuse or abuse may result in loss of a user's registration or be subject to any other penalty that may be imposed by the court.

Rule 14. Access to electronic documents; confidential information.

(a) *Electronic access.* Except as provided in these rules, a court must provide registered users in a case with access to electronic documents to the same extent it provides access to paper documents. Electronic access to such documents is required for registered users who are parties or attorneys on a case. A court may provide electronic access to registered users who are not parties or attorneys on a case.

(b) *Confidential records.* The confidentiality of electronic records is the same as for paper records. A court's electronic filing system must permit access to confidential information only to the extent provided by law. No person in possession of a confidential electronic record shall release the information to any other person unless provided by law.

(c) *Identification of confidential documents.* The filing party must identify documents made confidential by statute, court rule, or court order. The electronic filing system shall make the document available only to registered users and only as provided by law.

(d) *Protection of personal information.* A document containing personally identifiable information shall be so designated by the party filing the document. If a paper is designated as containing personally identifiable information, only registered users for the case may access the paper electronically. The document will remain available for public inspection at the courthouse unless otherwise sealed by the court or held confidential by law. The clerk will not review each paper for redaction.

(e) *Temporary sealing of documents.* For information not made confidential by statute, court rule, or court order, users may electronically submit documents under temporary seal pending court approval of the user's motion to seal.

Rule 15. System or user filing errors.

(a) *Failure of electronic filing or service.* When electronic filing does not occur due to technical problems, the court clerk may correct the problem. Technical problems include:

(1) An error in the transmission of the document to the electronic filing system or served party that was unknown to the sending party;

(2) A failure to process the electronic document when received by the electronic filing system;

(3) Erroneous exclusion of a party from the service list; or

(4) Other technical problem experienced by the filer with the electronic filing system.

(b) *Time of filing of delayed transmission.* Unless the technical failure prevents timely filing or affects jurisdiction, the court must deem a filing received on the day when the filer can satisfactorily demonstrate that he or she attempted to file or serve the document. The time for response is calculated from the time the document is correctly transmitted. When the technical failure prevents timely filing or affects jurisdiction, the issue shall come before the court upon notice and opportunity to be heard. The court may upon satisfactory proof enter an order permitting the document to be filed as of the date and time it was first attempted to be sent electronically.

Rule 16. Electronic filing providers.

(a) *Right to contract.* A court may contract with one or more electronic service providers to furnish and maintain an electronic filing system for the court. A public bid process should be used to award such contracts.

(b) *Transmission to contracted provider.* If a court contracts with an electronic filing service provider, it may require electronic filers to transmit the documents to the provider. If, however, there is a single provider or in-house system, the provider or system must accept filings from other electronic service providers to the extent it is compatible with them.

(c) *Provisions of contract.* A court's contract with an electronic filing service provider may allow the provider to charge electronic filers a reasonable fee in addition to the court's filing fee. If such a fee is allowed, the contract must also provide for audits of the vendor as provided in Rule 5(i). The contract may also allow the electronic filing provider to make other reasonable requirements for use of the electronic filing system. Any contract between a court and an electronic filing provider must acknowledge that the court is the owner of the contents of the filing system and has the exclusive right to control its use. The vendor must expressly agree in writing to safeguard any personal information in accordance with Nevada law.

(d) *Transmission of filing to court.* An electronic filing service provider must promptly transmit any electronic filing, with the applicable filing fees, to the court.

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