

# **Electronic Filing**

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### **What is electronic filing?**

Electronic filing is the electronic transfer of legal documents to and from the court, directly integrating data with the court's case management system. It permits attorneys in designated civil cases to file documents with the Court and also to serve them on opposing parties directly from their computers through approved Electronic Filing Service Providers (EFSPs). Electronic filing will improve accuracy and provide better access to Court records, and should result in significant cost savings to attorneys and their clients, and to the Court.

The E-filing model for Contra Costa County will use electronic filing not only the transmission of electronic documents into the court, but also to provide for the routine use of electronic documents and the electronic record for case processing, for service on other parties, and for access and use by everyone involved in, or interested in, the case.

### **What are the benefits of electronic filing?**

We believe there are a wide range of potential benefits for litigants, judges, lawyers, court administrators, and the general public. The benefits include:

- Immediate creation of docket entries;
- Instantaneous, simultaneous access to filed court documents for participants in the case, for judges and court staff, and members of the public.
- Increased efficiency and reduced cost from the ultimate reduction or elimination of handling and storing paper case files in courts, lawyers' offices, and official archives.
- The ability to store and search documents electronically.
- Speedier processes by eliminating the time required for mailing or personal delivery of pleadings and other documents.
- Savings in copying, courier and noticing costs

### **How does electronic filing work?**

To file electronically, attorneys create documents on their computers as they do now. Attorneys then access a designated Electronic Filing Service Provider (EFSP) through their regular Internet Service Provider (ISP). Each EFSP will establish its own protocols and assign its own user identification names and passwords. The EFSPs will also provide user training and support.

The attorneys will provide the necessary case information on-line to the EFSP [e.g. the case number, the party filing the document, the type of document (answer, motion, etc.) being filed.] The document is attached (in much the same way a document is attached to an e-mail) and sent over the internet to the EFSP server, which immediately sends a receipt back to the attorney's screen verifying that the document has been received by the EFSP.

Once the EFSP confirms that the documents are in acceptable form for filing, the EFSP, transmits the case information to the Court using Legal XML (Extensible Markup Language), together with the attached documents in PDF format. Any necessary file conversion is done by the EFSP, and the user is **not** required to convert the documents to PDF format first. [Please note that the EFSPs are **not** responsible for reviewing the **content** of the filing, and it is solely the user's responsibility to insure the filing conforms to the requirements of the Code of Civil Procedure and the Rules of Court.] Receipt is automatically confirmed by the Court, and in turn automatically confirmed to the filer. The filing is placed in an electronic filing queue, and then reviewed by the Clerk in the order received. If accepted, the document is deemed filed as of the time it was received by the Court, just as a paper filing would be. Once accepted, electronic notice is sent to the EFSP, and in turn to the filing attorney. Again, the notice can be printed or saved. A docket entry is generated and both the entry and the attached document(s) are immediately available to the parties, and to the public, via the internet.

### **What are the technical requirements?**

The technical requirements for electronic filing are minimal and inexpensive. Most law firms already have everything required.

- **Hardware**

**Personal Computer.** Any personal computer (including Apple PCs) with word processing capability and internet access will work.

**Scanner.** Purchase of a scanner is not required, but is highly advisable for converting documents which exist only in paper (such as exhibits). Basic scanners are inexpensive and readily available. Most commercial document copy companies will also provide scanning services at rates comparable to per page paper copy costs. [Note that with limited exceptions you do **not** need to scan signature pages for most documents.]

- **Software**

**Word-Processing Program.** Any word-processor/text-editor program, such as Microsoft Word or Corel WordPerfect is sufficient. Document formatting must comply with the same rules as in paper-cases (fonts, captions, line numbers, etc.).

**PDF Reader.** Adobe Acrobat Reader is the most commonly used program and is available without charge. It can be downloaded at <http://www.adobe.com/products/acrobat/readstep2.html>. Law firms may find PDF Writer software convenient, but it is **not** required.

- **Internet And Email**

**Internet access,** with a web browser (such as Internet Explorer, Mozilla or Netscape) is required. While it is possible to use a dial-up connection, a high speed internet connection (DSL or cable) is preferable.

**An e-mail account** to receive EFSP and Court notices and to send emails is also required. Any email service will work.

### **Who are the E-filing service providers?**

The two vendors selected for the e-filing pilot project are:

**LexisNexis File & Serve** <http://www.lexisnexis.com/fileandserve/>

Sign-Up Instructions: <http://www.cc-courts.org/cxlitdocs/lexiskit.pdf>

**One Legal, Inc.** <http://www.onelegal.com/>

Sign-Up Instructions: <http://www.cc-courts.org/cxlitdocs/onelegal.pdf>

### **How do I chose an E-filing service provider?**

Current technical constraints on e-service require that, at least during the pilot project, only one EFSP be used for any particular case. For all matters pending as of June 6, 2005, the court has, or will, assign the EFSP by individual Order issued in that case. For cases initiated after June 6, 2005, the first appearing party may select the vendor to be used, or the court will make the assignment at the initial Case Management Conference.

### **How do I pay my filing fees?**

The vendors will calculate the court fees due for any filing. The vendor will collect all amounts due at the time the filing is submitted, and submit the payments to the court. Payment accounts will be established between the filer and the vendor. The vendor may refuse any filing if payment arrangements have not been made.

### **Are there any additional fees and costs for e-filing and e-service?**

An EFSP will charge registered users additional fees to deliver, access and use the service. These fees shall be payable to the EFSP at the time of filing and are in addition to statutory filing fees. The costs are typically less than courier fees and copying costs most law firms now routinely incur in filings. There is a nominal additional fee of \$4.00 per transaction charged by the court to support the technology costs of electronic filing.

### **What if there are technical problems?**

If the court is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon that day, and case filings due that day were not filed due solely to technical failures, the filings will then be due the next business day. The court will promptly notify the EFSP of any technical problems, and the EFSP will in turn notify the registered users of the problem and the expected duration. Any delayed filings must be accompanied by a declaration or affidavit attesting to the filing person's failed attempts to file electronically.

### **What if my filing is rejected by the clerk?**

You will be notified by the EFSP of any rejection, and of the reasons for the rejection. It is then your responsibility to correct and re-submit the filing.

### **How do I file a document that requires a signature?**

California Rule of Court 2057 governs electronic filing of documents that require signatures. If a document requires a signature under penalty of perjury, the document is deemed signed by the declarant if, before filing, the declarant has signed a printed form of the document. The original, signed document must be kept by the filer, and be available for review and copying at the request of the court or any party. If a document does not require a signature under penalty of perjury, the document is deemed signed by the party submitting it if the document is filed electronically.

In the case of a document, such as a stipulation, which requires the signatures of opposing parties, the following procedure applies: (1) The party filing the document must obtain the signatures of all parties on a printed form of the document; (2) The party filing the document must maintain the original, signed document and must make it available for review and copying; (3) By electronically filing the document, the electronic filer indicates that all parties have signed the document and that the filer has the signed original in his or her possession.

### **How do I file something under seal?**

Documents may be lodged with the court in paper form conditionally under seal, as provided in Rule of Court 243.2(d), pending hearing on a motion to seal.

### **How do I handle very large exhibits?**

If the electronic original of an exhibit is not available, and must therefore be scanned to PDF, it should not be filed electronically if the file size of the individual scanned document would exceed the limit specified by the EFSP and the Court [5 Mb]. This size limitation applies to each separate document. The EFSP and/or the court may also establish limits on the total size of any individual filing. Exhibits filed on paper because they are too large to scan must be identified in the electronic filing by a Notice of Manual Filing attached in place of the actual document.

### **Electronic summons**

On electronic filing of a complaint, a petition, or another document that must be served with a summons, the court will transmit a summons electronically to the filer. The summons will contain an image of the court's seal and the assigned case number.

Personal service of the printed form of an electronic summons has the same legal effect as personal service of an original summons. [Rule of Court 2059(f)]

### **Proof of service**

Proof of electronic service is governed by Rule of Court 2060(c). Proof of electronic service may be by any of the methods provided in Code of Civil Procedure section 1013(a), except that the proof of service must state:

- (a) The electronic notification address of the person making the service, in place of that person's residence or business address;
- (b) The date and time of the electronic service, in place of the date and place of deposit in the mail;
- (c) The name and electronic notification address of the person served, in place of that person's name and address as shown on the envelope; and
- (d) That the document was served electronically and the transmission was reported as complete and without error, in place of the statement that the envelope was sealed and deposited in the mail with postage fully prepaid.

Proof of electronic service may be in electronic form and may be filed electronically with the court. As with a paper filing, proof of service of the moving papers must be filed at least five calendar days before the hearing. [Rule of Court 317(c)]

The party filing the proof of service must maintain the printed form of the document bearing the declarant's original signature and must make the document available for review and copying on the request of the court or any party.

If a document is served electronically, any response date is extended by two court days, with certain exceptions outlined in the Rule.

### **How do I e-file a proposed order?**

A copy of your Proposed Order should be e-filed with the pleading it relates to (e.g., a stipulation or motion). You must also email a copy in word-processing format to:

[cxlit@sc.co.contra-costa.ca.us](mailto:cxlit@sc.co.contra-costa.ca.us)

so that the judge can modify it prior to signing, if needed. The e-mailed copy may be in any of the following formats:

- WordPerfect (.wpd)
- Any version Microsoft Word (.doc)
- Any version Plain Text / ACSII (.txt)

**DO NOT E-MAIL A PROPOSED ORDER IN PDF**

### **Viewing the docket and any e-filed documents.**

To view dockets and e-filed documents, go to:

<http://icms.cc-courts.org/iotw/>

click on "Open Access - Civil". Passwords are not required. Locate case information by entering the case number or case name.

### **Where do I get additional information?**

For questions about EFSP registration, contact the vendor directly. For questions concerning the court's e-filing requirements, please first check the court's web site at:

<http://cc-courts.org/cxlit.htm>.