

E-Filing Update

By Anthony J. Iannini, AACP, DCP
Vice President, Delaware Paralegal Association

There are several significant e-filing changes that have been enacted in the Delaware Court of Chancery that I wanted to bring to your attention.

The first significant change is more of a housekeeping one. The Court is going to begin maintaining all case filing and disposition statistics on a uniform, statewide basis. Also, all case assignments will be made on a statewide basis, making it unnecessary to differentiate case assignments by the county in which the filing party is located. Therefore, pursuant to the Court's Standing Order dated November 8, 2007 (<http://courts.delaware.gov/rules/?ChanceryStandingOrder110807.pdf>), effective immediately, case captions for all pleadings filed in the Court of Chancery shall only require the designation "IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE" and shall not reflect the county where filed. In other words, the second line that usually reads "IN AND FOR _____ COUNTY" is no longer required. Documents that are filed with this second line may be rejected. Please be wary of this new rule when filing documents in the Court of Chancery.

Second, pursuant to the Court's Standing Order dated November 19, 2007, beginning December 3, 2007, there will be size limitations on filings in the Court of Chancery. The Court will no longer accept any documents that are **larger than 10 megabytes**. In addition, the Court will no longer accept any transactions in which all of the documents combined are **larger than 25 megabytes**. You may review the Court's Standing Order here: <http://courts.delaware.gov/rules/?ChanceryStandingOrder111907.pdf>

The third change is also very significant. Effective December 3, 2007, the Court of Chancery docket will become entirely electronic. Therefore, every Civil Miscellaneous Action in the Court of

Chancery, whether already pending or newly filed, shall be e-Filed, including all Guardianship cases. You can view the new Administrative Directive which contains the new procedures that apply for electronic filing of all civil miscellaneous actions pursuant to Rule 79.1 here: http://courts.delaware.gov/Courts/Court%20of%20Chancery/?AD2007-1_101207.pdf.

A new "court" named "**DE Chancery Guardianship/Trust**" is being established and will be available on File & Serve beginning December 3, 2007. Any case with a **CM** case number filed prior to December 3, 2007 will be available in this new "court" for electronic filings and all new guardianship and trust cases must be initiated in this new "court" as well. Within this new "court," you will find a "Guardianship" case class and a "Trust" case class and you must file your cases accordingly. This process is being done for both internal and external security reasons.

There will, however, be some exceptions to this rule. In accordance with the Court's November 20, 2007 Revised Amended Standing Order (<http://courts.delaware.gov/rules/?ChanceryRevAmenStandingOrder112007.pdf>), beginning December 3, 2007, the following matters shall be filed and docketed as civil actions and NOT as civil miscellaneous matters:

- Petition to partition
- Petition for decree of distribution
- Petition to sell real property to pay debts
- Petition for instruction
- Petition for adjudication of presumed death
- Petition for elective share
- Petition for admission of a copy of decedent's will to probate
- Petition for a rule to show cause to compel return of assets to an estate pursuant to 12 Del. C. § 2105
- Petition for review of proof of will
- Caveat against allowance of instrument as will

When filing a new Guardianship case, you will be prompted to select a Division which identifies the county of the case. **However, you will not need to put the county designation line in the case caption on your pleadings.**

All new Guardianship cases filed that are titled "In the Matter of..." shall be filed with a case name beginning "IMO." For example, the case name for "In the Matter of John Doe" should be entered as "IMO John Doe."

Due to the security of Guardianship and Trust cases, the Court must first add the attorney involved in the case to the File & Serve e-Filing system in order for the attorney to be able to see the case or conduct any filings in the case. To be added to a case, the attorney must FAX his or her Entry of Appearance to the Court: 302-255-2213 (New Castle County); 302-736-2240 (Kent County); or 302-856-5778 (Sussex County).

If you currently have any existing cases, you should have received Verification Forms from the Court a few weeks ago. If the Verification Forms were returned, the attorney information should already be uploaded for those cases. If not, you will have to fax an entry of appearance for each case to which your firm must be added.

If you are serving as an Attorney Ad Litem, a court appointed fact finder, a member of the Attorney General's office or an attorney appointed by the Court, you must select the "**Court Appointed Counsel/ADR**" option on the Review & Submit tab when you complete your filings.

The Court requires documents filed in these matters are properly linked when you e-File them. The following chart, although not exhaustive, is a good start for a recommended linking map to use for future reference:

These Documents...	Should be Linked to...
Accounting	Previous accounting and/or Inventory
Amended Answer	Original Answer
Amended Petition	Original Petition
Answer	Petition
Answer and Petition	Petition
Answer to Petition	Petition

Answering Brief	Opening Brief
Appraisal of Real Estate	Petition to sell real estate
Attorney Ad Litem Report	Approved Preliminary Order
Attorneys' Fees	Petition and/or Final Order
Bond	Approved Final Order
Contested	Petition and/or document being contested
Cross Petition	Petition
Discovery Requests	Only responses have to be linked; not the requests
Exceptions to Accounting	Accounting
Exceptions to Master's Report	Master's Report
Financial Disclosure	Petition to Expend
Guardian Status Report	Last status report and/or Final Order
Inventory	Final Order and Proof of Compliance
Letter	Any document to which the letter refers
Motion	Any item to which the motion refers
Motion for Default Judgment	Petition
Motion for Summary Judgment	An item to which the motion refers
Motion to Dismiss	Petition and/or Cross Petition
Notice of Voluntary Dismissal	Petition
Objection	Document the objection is in reference to
Opening Brief	Briefing Schedule
Promissory Note	Petition to Expend
Proof of Compliance	Approved Final Order
Proposed Final Order	Petition (if not loaded in same transaction)
Proposed Order	Motion (if not loaded in same transaction)
Receipts	Petition to Expend
Reply	Document to which the reply refers
Reply Brief	Answering Brief
Response	Any document(s) to which the response refers
Response to Exceptions	Exceptions
Response to Exceptions to Master's Report	Exceptions to Master's Report
Stipulation	Any document(s) to which the stipulation refers
Stipulation & (Proposed) Order	Any document(s) to which the stipulation refers
Vacation of Deposition	Notice of Deposition

Other Court Recommendations for Guardianship Cases:

- Every document certification request must be accompanied by a copy of the document and a \$25.00 certification fee per document.
- All consents filed with a document must be notarized.
- There is a **12 noon filing deadline** in each county for petitions to be considered at the next routine hearing day: noon Tuesday for New Castle County, noon Wednesday for Kent

County and Sussex County.

- A statement must be filed as clarification for any situation when no known next of kin and/or whereabouts unknown is stated.

Other Court Recommendations for Trust Cases:

- Trustee must be identified in the Order of Sale.
- Trustee report is due within 90 days of the date of the sale.

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Other Court Recommendations for Former Miscellaneous Cases:

- Attorney of record for Sale of Real Estate is responsible for e-Filing appraisal report.

With all the above-referenced changes, it is also important to point out that there have been some fee changes which will go into effect on December 1, 2007. Rule 3(bb) has been deleted and replaced with the new Rule 3(bb) which contains the new fee structure and can be viewed at: <http://courts.delaware.gov/rules/?chanceryRule3bb101507.pdf>.

Finally, I would like to point out that there has been a revision to Court of Chancery Rule 6(e) and Rule 171 which you can view here: <http://courts.delaware.gov/rules/?ChanceryRule6eRule171.pdf>.

As you can see, there have been many significant changes in the e-Filing procedures for the Delaware Court of Chancery. Also, with the inclusion of Civil Miscellaneous Actions, Guardianships and Trusts, there exists the possibility that many people who have never used LexisNexis File & Serve for e-Filing will now have to learn the system very quickly. If you are in that position, do not panic. The system is fairly easy to learn and training is available.

For more information, or to schedule a training session, you may contact Nick Noland at 1-800-901-1889 or you may call the LexisNexis Customer Support Line at 1-888-529-7587. As always, if you have any questions, please do not hesitate to contact me as well at 302-421-6849. Good luck, Happy Holidays and Happy e-Filing! ☺