

E-Filing Update

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There are a few changes that I want to bring to your attention this month in both Superior and District Court, but first, I wanted to share a little e-filing story with you. A friend called me a few weeks ago and said that her e-filing notifications from LexisNexis File & Serve were not being received. It was later discovered that they were being filtered out by her company's spam protection. Listening to her situation, it occurred to me that, with all the changes and expansion of e-filing in the Delaware courts, there are many new firms and users who may not yet be familiar with the LexisNexis File & Serve system, so I thought I'd issue this preventative warning: e-mails can be blocked or not delivered for any number of reasons, including, but not limited to, your company's IT policies, your mailbox being full, and spam/virus filters. If you are a new user and you are preparing to receive e-file notifications, talk to your IT Department or your ISP provider to make sure your office is properly set up to receive them. You may also want to add the LexisNexis File & Serve e-mail address to your "safe senders" list (eFile@fileandserve.lexisnexis.com) to ensure that you receive your notifications in a timely manner.

If you are unable to take these steps, be sure to check your spam folder daily, or log on to your LexisNexis File & Serve account and check your "In Box" a couple times throughout the day to see if you have any new filings to review. Your "In Box" is updated every time you receive a new filing, so even if the e-mail notification does not find its way to you, the information will still be in your "In Box" for review.

Superior Court Expands E-filing

The Superior Court announced, via Administrative Directive 2007-4, that effective January 1, 2008, all new Civil Complaints, Mechanic's Liens and Mortgage cases filed with the Prothonotary in

any county, whether subject to Alternative Dispute Resolution ("ADR") or not, shall be filed and/or served electronically using the LexisNexis File & Serve system. If your firm does not already have a LexisNexis File & Serve account, you will need to set one up with LexisNexis by calling 1-888-529-7587.

District Court Announces Six-Month Pilot Program for Filing an Initial Pleading in a Civil or Miscellaneous Case

The District Court has announced a new six-month-long pilot program wherein effective February 1, 2008, registered CM/ECF users can file a civil or miscellaneous initial pleading electronically using a credit card to pay the filing fees. In its *Revised Administrative Procedures Governing Filing and Service by Electronic Means*, revised in January 2008 (the "Revised AP"), the Court has announced that any "civil and miscellaneous case opening documents, such as a complaint, petition, or notice of removal, together with a summons, civil cover sheet, Rule 7.1 disclosures, and any accompanying motions, may be filed electronically into case number 99-mc-9999 (a holding case for initial documents), provided that, in instances in which a filing fee is due, the user is either paying via credit card, or submitting an application to proceed without prepayment of fees." This pilot program will be re-evaluated by the Court after its six-month trial period.

It should be noted that in the alternative, if you do not wish to or do not have the ability to pay by credit card, you can still file case-opening documents with the Clerk's office in paper format and in PDF format on a 3.5" floppy disk or on a CD with a check.

However, if you are planning on trying the new system, pay specific attention to a few new instructions:

1. Once you sign in to CM/ECF, select "Civil" from the blue menu bar at the top.

2. Click on "Open New Case" under the "Initial Pleadings and Service" events group. You will see a drop down menu with various initial pleadings, including "Complaint."

3. With your initial pleading, use case number **99-mc-9999** to e-file your document(s). This case number has been designated to be an interim holding case for initial documents. **Do not** use that case on any of the actual documents you are filing; it is for e-filing purposes only. The Clerk's office will assign an actual civil or miscellaneous case number to your documents. It is still your responsibility to prepare the summons(es) before including them as attachments. When the Clerk's office reviews the new case after it is filed, Court personnel will print the summons(es), add the case number, sign and seal them, and either mail them back or make them available for pickup. You will receive a Notice of Electronic Filing ("NEF") indicating the status of the summons(es) (i.e., issued or not issued).

4. Attach the initial pleading in PDF format. Any accompanying documents, such as civil cover sheets and summonses, should be filed as attachments to the original filing document.

5. On the next screen, you will be asked to type in a short case caption.

6. You will then be asked if the user is a "government attorney" or if an *Application to Proceed without Prepayment of Fees* is one of the attachments. If you click "yes" you are brought to the final screen before submission. If you click "no" you are taken to the credit card payment screen.

7. Pursuant to Local Rule 5.3, a paper copy of the pleading must be furnished to the Clerk of the Court.

District Court Eliminates Need for Certificate of Service

One last item I wanted to bring to everyone's attention, especially for those who may be new to the world of electronic filing, is that the District Court announced in its recent revision to its *Electronic Filing Tips for Attorneys* that certificates of service "shall **not** be filed in cases in which **all parties and/or counsel are registered users with CM/ECF** since the NEF shall serve as the certificate of service. If the parties to a case are not all participants in CM/ECF, or if a document must be filed in paper format,

then a certificate of service **should** be included as either the last page of the main document or as an attachment to the mail document." (Emphasis added.)

The new language for the certificate of service, an example of which is attached to the Revised AP as "Form A," should read as follows:

"I hereby certify that on _____, I electronically filed _____ with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following:

I hereby certify that on _____, I have mailed by United States Postal Service, the document(s) to the following non-registered participants:"

It should also be noted that both the Superior Court and the District Court have updated their Civil Case Information Statement/Civil Cover Sheet forms. The new forms can be found on the courts' respective websites.

The Delaware Courts continue to lead the way in the implementation and advancement of electronic filing. It's very exciting to see how far we have come in this area and to see how electronic filing has changed the way many of us do our jobs. As always, if anyone has any questions, please feel free to call me at 302-421-6849. If you have any questions regarding the LexisNexis File and Serve system, please visit the website at www.lexisnexis.com/fileandserve or call 1-888-529-7587. For more information on the CM/ECF System, visit the Court's website at www.ded.uscourts.gov or contact the Clerk of the District Court at 302-573-6170.

Special thanks to D. Merritt from LexisNexis File & Serve for providing some of the information that was used in preparing this article. As always, happy e-filing! ☺

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