

Standing Order Concerning Electronic Filing

Consistent with Rule 1 of S.J.C. Rule 1:25, Massachusetts Rules of Electronic Filing (“E-Filing Rules”), the Appeals Court hereby adopts this standing order concerning its electronic filing program.

A. Governing Rules and Orders.

1. Filers who submit documents electronically through the e-filing service provider (“Provider”), on the Massachusetts Court System Odyssey File and Serve Site (“EfileMA.com”) shall comply with the E-Filing Rules,¹ the Massachusetts Rules of Appellate Procedure, the Appeals Court electronic filing format requirements found on the Appeals Court website,² and all other applicable Appeals Court rules and standing orders.
2. To the extent that any court rule or standing order is inconsistent with this Order concerning electronic filing in the Appeals Court, the E-Filing Rules, or the Appeals Court electronic filing format requirements found on the Appeals Court website, then the E-Filing Rules, this Order, and the Appeals Court electronic filing format requirements shall control.

B. Mandatory Attorney Registration for Electronic Filing and Service. All law firms and attorneys with cases pending in the Appeals Court shall register for electronic filing at eFileMA.com. Registration shall not constitute a notice of appearance in any particular case. Attorney registrants are required to use their business email address on file with the Board of Bar Overseers and to maintain their name and business email address on the eFileMA.com “Public List.” If such email address is different from the email address previously registered with the Appeals Court for receipt of electronic court notices, the filer shall file a change of email address with the Appeals Court.

C. Mandatory Attorney Electronic Filing. Except as provided in Section E(1) (which provides there is no requirement to e-file an impounded document), the following documents filed by an attorney representing a party to a case shall be filed electronically using eFileMA.com. Use of the eFileMA.com system constitutes “e-filed” as used herein. The Appeals Court designates each case docket as either: (i) “public” meaning all data and documents are publicly accessible; (ii), “partially impounded,” meaning some information or documents are publicly accessible and other data or document(s) are not publicly accessible; or, (iii) “impounded,” meaning no case information or records are publicly accessible.

1. All filings in criminal panel cases. All documents in public and partially impounded criminal panel cases (on the court's “P” docket) must be e-filed.

¹ See <https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-rule-125-massachusetts-rules-of-electronic>

² See <https://www.mass.gov/guides/electronic-filing-at-the-appeals-court>

2. Briefs and appendices in civil panel cases. All briefs and appendices in public and partially impounded civil panel cases (on the court's "P" docket) must be e-filed.
3. All docketing statements. All docketing statements, in public and partially impounded civil and criminal panel cases, must be e-filed pursuant to the Appeals Court Standing Order Concerning Docketing Statements for All Appeals (Civil and Criminal). Filers may request a waiver of the Provider convenience fee using a waiver account.
4. All motions and letters filed after panel assignment. After the Appeals Court assigns a case to a panel of justices for consideration on the merits, either with or without oral argument, all subsequent filings in the case must be e-filed. This requirement applies in all public and partially impounded civil and criminal panel cases. Filers may request a waiver of the Provider convenience fee using a waiver account.
5. All filings on the Single Justice docket. All documents in public and partially impounded single justice cases (on the court's "J" docket) must be e-filed.

Except upon motion and order as provided in paragraph F, the Court may decline to docket any of the foregoing documents submitted on paper.

D. Voluntary Electronic Filing by Attorneys and Self-Represented Litigants.

1. Voluntary e-filing. Any document that is not identified as mandatory in paragraph C may nonetheless be e-filed voluntarily by the attorney or party. The Appeals Court encourages all attorneys and self-represented litigants in public, partially impounded, and impounded cases, to e-file every document submitted to the court.
2. Self-represented litigants. Self-represented litigants may register for electronic filing at eFileMA.com.
3. Public Access Scanner and Terminal. A public access computer terminal and scanner are located in the Clerk's Office of the Appeals Court, which may be used by any party to e-file a paper document without payment of the Provider convenience fee.

E. Electronic Filing of Impounded Documents.

1. Voluntary e-filing. Impounded documents may be e-filed through EfileMA.com, but there is no requirement to e-file an impounded document.
2. Marking impounded documents. Prior to e-filing, the filer shall mark any impounded document as impounded on the cover or first page of the document, as required by E-Filing Rule 11, Mass. R. App. P. 16(m) and 18(d).
3. Designation of impounded documents on EfileMA.com. The filer shall also designate the document as impounded using the appropriate field on EfileMA.com, which shall satisfy the requirement of providing written notice to the clerk of a document's impounded status. Impounded documents may otherwise be e-filed in the same manner as non-impounded documents.

4. Confidentiality. The confidentiality of an electronic record or an electronic or paper copy thereof is equivalent to that of a paper record. Access may be permitted only to the extent provided by law. E-notices from the eFileMA.com system containing hyperlinks to impounded documents shall be treated as confidential.

F. Waiver of Mandatory Electronic Filing and Permission to File Paper Original and Copies. Any document required to be e-filed under paragraph C may be filed on paper upon allowance of a motion to waive the e-filing requirement, preferably filed in advance or with the document. The motion must contain a showing of undue hardship, significant prejudice, exigency, or other good cause. For self-represented litigants who are confined in an institution, the requirement of Mass. R. App. P. 20(a)(6)(A) that a paper brief must have a color cover is suspended and no color cover is required.

G. Format. All e-filed documents shall comply with the formatting requirements of the Massachusetts Rules of Appellate Procedure except as modified by the Appeals Court's electronic filing format requirements found on the Appeals Court website. See generally E-Filing Rule 1.

H. No Paper Duplicates. All documents that are e-filed shall be submitted electronically only. Neither a paper original nor duplicate shall be filed unless specifically requested by the Court.

I. Electronic Service of E-Filed Documents.

1. Service of Documents E-Filed in the Appeals Court. Pursuant to E-Filing Rule 3(d), the filer's registration with EfileMA.com constitutes consent to receive electronic service in all cases. All documents submitted electronically through EfileMA.com may be electronically served through EfileMA.com pursuant to E-Filing Rule 7 and such service shall be considered compliant with Mass. R. App. P. 13, provided the other party or party's attorney has registered with EfileMA.com. Registered filers must maintain their name and email address on the eFileMA.com "Public List." If a party's representative has not registered with EfileMA.com, service should be made by the conventional methods (e.g., paper copies and regular mail).

2. No Copies of Applications, Responses, or Oppositions Filed in the Supreme Judicial Court. A party is not required to file or serve a copy in the Appeals Court of any application, response, or opposition that is filed in the Supreme Judicial Court pursuant to Mass. R. App. P. 11 and 27.1.

J. Mandatory Electronic Notice.

1. Notice from Provider. The eFileMA.com system will transmit electronic notifications (i) when an e-filed document is submitted, (ii) when the Clerk's Office accepts or rejects the document, and (iii) possibly at other times during an e-filing transaction.

2. Notice from the Appeals Court. All attorneys will receive electronic notifications in lieu of paper notices of the court's actions, orders, judgments, rescripts, and decisions. The Court will use the business email addresses on file with the Board of Bar Overseers

pursuant to S.J.C. Rule 4:02(11). Attorneys must ensure that their business email address registered with the Board of Bar Overseers is up to date. A self-represented litigant may authorize the Court to send electronic notice in lieu of paper notices.

K. Support. All technical support shall be provided by Provider. The Appeals Court's Clerk's Office may be contacted with procedural questions or with questions regarding the application of this Order.

L. Cessation of Appeals Court's "emotions" email filings. The Appeals Court will no longer accept emails and PDFs of filings at its "emotions@appct.state.ma.us" address. All electronic filings shall be submitted via the eFileMA.com system.

M. Prior Orders Rescinded. The following prior orders of the Appeals Court are hereby rescinded by this Order and no longer in effect:

1. Appeals Court Order Concerning Electronic Filing Pilot Project, adopted March 30, 2016.
2. Appeals Court Order Concerning Number of Copies of Brief and Record Appendix to be Filed, adopted July 29, 2016.
3. Appeals Court Standing Order Requiring the Electronic Filing of All Motions and Letters Filed After Panel Assignment, adopted May 1, 2010, and amended June 1, 2011.

N. Future Changes and Updates. This order may be superseded or amended, in writing, at any time.

O. Effective Date. This Order shall become effective on September 1, 2018.