



CHIEF JUSTICE'S RULES ADVISORY COMMISSION MINUTES OF MEETING

April 23, 2021

Remote Meeting via Webex

Call to Order

A remote meeting of the Chief Justice's Rules Advisory Commission was called to order at 2:02 p.m. on Friday, April 23, 2021, via Webex by North Carolina Court of Appeals Chief Judge Donna Stroud, Commission Chair.

Commission Members Present for the Webex Meeting:

Ann Anderson, *Town Attorney*, Town of Chapel Hill

Mark Anderson, *Partner*, McGuireWoods LLP

Michelle Ball, *Clerk of Superior Court*, Johnston County

Mark Holt, *Partner*, Holt Sherlin LLP

Mike Mitchell, *Attorney*, Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP

Kellie Myers, *Trial Court Administrator*, Wake County

John Rabiej, former *Deputy Director*, Bolch Judicial Institute, Duke University School of Law

Paul Ridgeway, *Senior Resident Superior Court Judge*, Wake County

Michael Robinson, *Judge*, North Carolina Business Court

Andrew Tripp, *Senior Vice President for Legal Affairs & General Counsel*, University of North Carolina System

Christine Walczyk, *District Court Judge*, Wake County

Other Attendees Present for the Webex Meeting:

Grant Buckner, *Administrative Counsel*, Supreme Court of North Carolina

Brad Fowler, *Chief Business Officer*, North Carolina Administrative Office of the Courts

Betse Hamilton, *Office Administrator*, Supreme Court of North Carolina

Rebecca Stevens, *Research Assistant to Representative Sarah Stevens*, North Carolina House of Representatives

Welcome and Introductions

Chief Judge Stroud welcomed Clerk Michelle Ball and Judge Michael Robinson, who are new members of the commission. Chief Judge Stroud also welcomed the other members in attendance and several guests.

Approval of Minutes

The minutes from the November 20, 2020 meeting were approved, as written.

Administrative Update

Chief Judge Stroud and Grant Buckner gave a report to the commission about their recent meeting with Chief Justice Newby. The Chief Justice is very supportive of the commission's work and wants it to continue to focus on eCourts and related projects.

Grant Buckner indicated that he would be contacting each commission member to obtain a photograph and biographical statement for inclusion on the commission's website. This information is being requested by the Administrative Office of the Courts.

The commission has two additional meeting dates scheduled for this year: Friday, August 20 and Friday, November 19. Whether these meetings are in-person will depend on the state of the COVID-19 pandemic.

E-filing Rules Status Report

Chief Judge Stroud announced that the Supreme Court adopted e-filing rule amendments on April 21 and asked Grant Buckner to give the commission an overview of the amendments.

Grant Buckner provided the commission with an overview of the Supreme Court's amendments to the General Rules of Practice (Rules 5, 5.1, 22, and 27) and to the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project (Rules 1 and 5). The Supreme Court's orders are attached to these minutes. Discussion then ensued about the amendments.

Chief Justice Newby joined the meeting for a few minutes and thanked the commission for its work and expressed optimism about the eCourts initiative.

Brad Fowler gave a report about the status of the eCourts implementation and answered questions from the commission about the implementation.

Future Projects

Chief Judge Stroud and Grant Buckner gave an overview of four topics for the commission's future study:

(1) Service in Criminal Actions

- The commission could study the issue of service in criminal actions (see, e.g., N.C.G.S. § 15A-951) and then propose legislative changes, if necessary, to allow for service through the electronic-filing system.
- Service in criminal actions is defined in various statutes in Chapter 15A.
- It is not known whether any other advisory body is considering the impact of eCourts on criminal procedure.

(2) Sealing Documents that Have Previously Been Filed Publicly

- The commission could explore additional issues related to sealing documents.
- Although new General Rule of Practice 27 defines the procedure for filing a document and having it sealed by the court from the outset, should additional procedures be outlined for the sealing of documents that have been previously filed in the public record? Should parties have an opportunity to seal an old paper file before a clerk scans the file into *Odyssey*?

(3) Private Information in Court Documents

- The commission could explore the impact that moving from a paper-based court file to an electronic court file has on privacy issues.
- For example, should there be more robust procedures for protecting private information in court documents?

(4) Update to General Rule of Practice 15, "Electronic Media and Still Photography Coverage of Public Judicial Proceedings"

- The commission could explore proposing changes to Rule 15.
- Rule 15 has not been amended in many years and could be updated to reflect modern technologies and practices.

Judge Ridgeway indicated that he plans to work with his interns this summer to study General Rule of Practice 15 and how best to update it. Kellie Myers suggested that the commission cooperate with other stakeholders on the Rule 15 project.

Chief Judge Stroud indicated that she and Grant Buckner would be in touch with the members of the commission about serving on a subcommittee to study one of these four issues.

Before the meeting concluded, John Rabiej inquired about how the commission could better receive recommendations from the public about proposed rule changes. Grant Buckner informed the commission about how the Supreme Court often receives recommendations. Chief Judge Stroud and Grant Buckner indicated that they would discuss this issue and report back to the commission about it.

Minutes of Meeting
Chief Justice's Rules Advisory Commission
April 23, 2021

Adjournment

The meeting was adjourned at approximately 3:50 p.m. by Chief Judge Stroud.

Minutes submitted by: /s/ Grant E. Buckner
Administrative Counsel, Supreme Court of North Carolina

Date: 4/28/21

IN THE SUPREME COURT OF NORTH CAROLINA

ORDER AMENDING THE
GENERAL RULES OF PRACTICE
FOR THE SUPERIOR AND DISTRICT COURTS

Pursuant to section 7A-34 and section 7A-49.5 of the General Statutes of North Carolina, the Court hereby amends the General Rules of Practice for the Superior and District Courts. This order affects Rules 5, 5.1 (new rule), 22, and 27 (new rule).

* * *

~~**Rule 5. Filing of Pleadings and Other Documents**~~

~~(a) — **Electronic Filing.** Electronic filing is available only in (i) cases that are either designated “complex business” or assigned to a Business Court judge under Rule 2.1 of these rules and (ii) cases subject to the North Carolina eFiling Pilot Project. The procedure for filing documents electronically in those cases is governed by the North Carolina Business Court Rules and by the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project, respectively. In all other cases, only paper filing is available.~~

~~(b) — **Paper Filing.** Documents filed with the court in paper should be unfolded and firmly bound with no manuscript cover. They must be letter size (8 ½" x 11"), except for wills and exhibits. The clerk of superior court may require a party to refile a document that does not conform to these requirements.~~

~~In civil actions, special proceedings, and estates, documents filed with the court in paper must include a cover sheet that summarizes the critical elements of the document in a format that the Administrative Office of the Courts prescribes. The clerk of superior court may not reject the filing of a document that does not include a cover sheet. Instead, the clerk must file the document, notify the party of the omission, and grant the party no more than five days to file the cover sheet. Other than dismissing the case, the court should not act on the document before the cover sheet is filed.~~

Comment

~~The North Carolina Judicial Branch will implement a statewide electronic filing and case management system beginning in 2021. The system will be made available across the state in phases over a five year period.~~

~~Subsection (a) of Rule 5 of the General Rules of Practice lists those contexts in which electronic filing already exists and serves as a placeholder until the new electronic filing and case management system is available. As the new system is implemented, litigants should~~

~~expect the General Rules of Practice, the North Carolina Business Court Rules, and the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project to undergo change.~~

Rule 5. Filing of Pleadings and Other Documents in Counties with *Odyssey*

(a) **Scope.** This rule applies only in those counties that have implemented *Odyssey*, the Judicial Branch’s new electronic-filing and case-management system. The Administrative Office of the Courts maintains a list of the counties with *Odyssey* at <https://www.nccourts.gov/ecourts>. In a county without *Odyssey*, a person must proceed under Rule 5.1 of these rules.

(b) Electronic Filing in *Odyssey*.

- (1) **Registration.** A person must register for a user account to file documents electronically. The Administrative Office of the Courts must ensure that the registration process includes security procedures consistent with N.C.G.S. § 7A-49.5(b1).
- (2) **Requirement.** An attorney must file pleadings and other documents electronically. A person who is not represented by an attorney is encouraged to file pleadings and other documents electronically but is not required to do so.
- (3) **Signing a Document Electronically.** A person may sign a document electronically by typing his or her name in the document preceded by “/s/.”
- (4) **Time.**
 - a. **When Filed.** A document is filed when it is received by the court’s electronic-filing system, as evidenced by the file stamp on the face of the document.
 - b. **Deadline.** If a document is due on a date certain, then the document must be filed by 5:00 p.m. Eastern Time on that date.
- (5) **Relief if Emergency Prevents Timely Filing.** If an *Odyssey* service outage, natural disaster, or other emergency prevents an attorney from filing a document in a timely manner by use of the electronic-filing system, then the attorney may file a motion that asks the court for any relief that is permitted by law.
- (6) **Orders, Judgments, Decrees, and Court Communications.** The court may sign an order, judgment, decree, or other document electronically and may file a document electronically. The court may also send notices and other communications to a person by use of the electronic-filing system.

(c) **Paper Filing.** Documents filed in paper with the court should be unfolded and firmly bound with no manuscript cover. They must be letter size (8 ½" x 11"), except for wills and exhibits. The clerk of superior court may require a party to refile a document that does not conform to these requirements.

In civil actions, special proceedings, and estates, documents filed in paper with the court must include a cover sheet that summarizes the critical elements of the document in a format that the Administrative Office of the Courts prescribes. The clerk of superior court may not reject the filing of a document that does not include a cover sheet. Instead, the clerk must file the document, notify the party of the omission, and grant the party no more than five days to file the cover sheet. Other than dismissing the case, the court should not act on the document before the cover sheet is filed.

(d) **Service.** Service of pleadings and other documents must be made as provided by the General Statutes. A Notification of Service generated by the court's electronic-filing system is an "automated certificate of service" under Rule 5(b1) of the Rules of Civil Procedure.

(e) **Private Information.** A person should omit or redact nonpublic and unneeded sensitive information in a document before filing it with the court.

(f) **Business Court Cases.** The filing of documents with the North Carolina Business Court is governed by the [North Carolina Business Court Rules](#). This rule defines how a person must file a document "with the Clerk of Superior Court in the county of venue" under Rule 3.11 of the North Carolina Business Court Rules in counties with *Odyssey*.

Comment

The North Carolina Judicial Branch will implement *Odyssey*, a statewide electronic-filing and case-management system, beginning in July 2021. The system will be made available across the state in phases over a five-year period.

Rule 5 of the General Rules of Practice defines filing in those counties with *Odyssey*. Rule 5.1 defines filing in those counties without *Odyssey*.

Subsection (b)(2) of Rule 5 requires an attorney to file pleadings and other documents electronically. An attorney who seeks relief from this filing requirement for a particular document should be prepared to show the existence of an exceptional circumstance. In an exceptional circumstance, the attorney should exercise due diligence to file the document electronically before the attorney asks the court for relief.

Subsection (b)(5) of Rule 5 describes the process of asking the court for relief if an emergency prevents an attorney from filing a document electronically in a timely manner. Subsection (b)(5) should not be construed to expand the court's authority to extend time or periods of limitation. The court will provide relief only as permitted by law.

The North Carolina Business Court currently accepts filings through *eFlex*, a legacy electronic-filing and case-management system. Until *Odyssey* is implemented both in the Business Court and in the county of venue, duplicate filings in Business Court cases will still be required (see Rule 3.11 of the [North Carolina Business Court Rules](#)). Subsection (f) of Rule 5 of the General Rules of Practice clarifies that in Business Court cases, Rule 5 governs filings "with

the Clerk of Superior Court in the county of venue.”

As *Odyssey* is implemented, litigants should expect the General Rules of Practice, the North

Carolina Business Court Rules, and the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project to undergo change.

* * *

Rule 5.1. Filing of Pleadings and Other Documents in Counties Without *Odyssey*

(a) **Scope.** This rule applies only in those counties that have not yet implemented *Odyssey*, the Judicial Branch’s new electronic-filing and case-management system. In a county with *Odyssey*, a person must proceed under Rule 5 of these rules.

(b) **Electronic Filing.** Electronic filing is available only in (i) cases that are either designated “complex business” or assigned to a Business Court judge under Rule 2.1 of these rules and (ii) cases subject to the legacy North Carolina eFiling Pilot Project. The procedure for filing documents electronically in those cases is governed by the [North Carolina Business Court Rules](#) and by the [Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project](#), respectively. In all other cases, only paper filing is available.

(c) **Paper Filing.** Documents filed in paper with the court should be unfolded and firmly bound with no manuscript cover. They must be letter size (8 ½" x 11"), except for wills and exhibits. The clerk of superior court may require a party to refile a document that does not conform to these requirements.

In civil actions, special proceedings, and estates, documents filed in paper with the court must include a cover sheet that summarizes the critical elements of the document in a format that the Administrative Office of the Courts prescribes. The clerk of superior court may not reject the filing of a document that does not include a cover sheet. Instead, the clerk must file the document, notify the party of the omission, and grant the party no more than five days to file the cover sheet. Other than dismissing the case, the court should not act on the document before the cover sheet is filed.

Comment

The North Carolina Judicial Branch will implement *Odyssey*, a statewide electronic-filing and case-management system, beginning in July 2021. The system will be made available across the state in phases over a five-year period.

Rule 5 of the General Rules of Practice defines filing in those counties with *Odyssey*. Rule 5.1 defines filing in those counties without *Odyssey*.

Subsection (b) of Rule 5.1 lists those contexts in which electronic filing exists in the counties without *Odyssey*.

As *Odyssey* is implemented, litigants should expect the General Rules of Practice, the North Carolina Business Court Rules, and the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project to undergo change.

* * *

Rule 22. Local Court Rules

~~In order to insure general uniformity throughout each respective judicial district, all trial judges shall observe and enforce the local rules in effect in any judicial district where they are assigned to hold court. The senior resident judge shall see that each judge *assigned to hold a session of court in his district* is furnished with a copy of the local court rules at or before the commencement of his assignment.~~

Rule 22. Local Rules of Practice and Procedure

(a) **Purpose.** Local rules of practice and procedure for a judicial district must be supplementary to, and not inconsistent with, the General Rules of Practice. Local rules should be succinct and not unnecessarily duplicative of statutes or Supreme Court rules.

(b) **Enforcement.** A trial judge must enforce the local rules of the judicial district in which the trial judge is assigned to hold court. This enforcement provision does not apply to cases that are either designated “complex business” or assigned to a Business Court judge under Rule 2.1 of these rules.

* * *

Rule 27. Sealed Documents and Protective Orders

(a) General Principles.

- (1) **“Persons” Defined.** References to “persons” in this rule include parties and nonparties who are interested in the confidentiality of a document.
- (2) **“Provisionally Under Seal” Defined.** A document is “provisionally under seal” if it is filed electronically with a confidential designation in the electronic-filing system or if it is filed in paper inside of a sealed envelope or container marked “Contains Confidential Information – Provisionally Under Seal.”
- (3) **Open Courts.** A person who appears before the court should strive to file documents that are open to public inspection and should file a motion to seal a document only if necessary.
- (4) **Scope.** This rule does not apply to documents that are closed to public inspection by operation of statute or other legal authority, nor does it apply to search warrants and other criminal investigatory documents. This rule does not affect a person’s responsibility to omit or redact private information from court documents pursuant to statute or other legal authority.

(b) **Procedure for Sealing a Document.**

- (1) **Filing.** A person who seeks to have a document (or part of a document) sealed by the court must file the document provisionally under seal and file a motion that asks the court to seal the document. The document must be filed on the same day as the motion.
- (2) **Motion.** The motion to seal must contain:
 - a. a nonconfidential description of the document the movant is asking to be sealed;
 - b. the circumstances that warrant sealing the document;
 - c. an explanation of why no reasonable alternative to sealing the document exists;
 - d. a statement that specifies whether the document should be accessible only to counsel of record (as opposed to the parties);
 - e. a statement that specifies how long the document should be sealed and how the document should be handled upon unsealing;
 - f. a statement, if applicable, that (i) the movant is filing the document provisionally under seal because another person has designated the document as confidential and the terms of a protective order require the movant to file the document provisionally under seal and (ii) the movant has unsuccessfully sought the consent of the other person to file the document unsealed; and
 - g. a statement, if applicable, that a nonparty who designated the document as confidential under the terms of a protective order has been served with a copy of the motion and notified of the right to file a brief in support of the motion.
- (3) **Briefing.** A person may file a brief in support of or in opposition to the motion no later than twenty days after having been served with the motion.
- (4) **Hearing.** The movant must notice a hearing on the motion as soon as practicable after the briefing period ends.
- (5) **Disclosure Pending Decision.** Until the court rules on the motion, a document that is provisionally under seal may be disclosed only to counsel of record and unrepresented parties unless otherwise ordered by the court or agreed to by the parties.

- (6) **Decision by Court.** The court may rule on the motion with or without a hearing. In the absence of a motion or brief that justifies sealing the document, the court may order that the document (or part of the document) be made public.

- (7) **Public Version of Document.** If the movant seeks to have only part of a document sealed by the court, then the movant must file a public version of the document no later than ten days after filing the document provisionally under seal. The public version of the document may include redactions and omissions, but the redactions and omissions should be as limited as practicable. If the movant seeks to have the entire document sealed, then the movant must file a notice that the entire document has been filed provisionally under seal instead of filing a public version of the document. The notice must contain a nonconfidential description of the document.

(c) **Protective Orders.** The procedure for sealing a document in subsection (b) of this rule should not be construed to change any requirement or standard that governs the issuance of a protective order. The court may therefore enter a protective order that contains standards and processes for the handling, filing, and service of a confidential document. To the extent that a proposed protective order outlines a procedure for sealing a confidential document, the proposed protective order should include (or incorporate by reference) the procedures described in subsection (b) of this rule. Persons are encouraged to agree on terms for a proposed protective order before submitting it to the court.

* * *

These amendments to the General Rules of Practice for the Superior and District Courts become effective on 10 May 2021.


These amendments shall be published in the North Carolina Reports and posted on the rules web page of the Supreme Court of North Carolina.

Ordered by the Court in Conference, this the 21st day of April 2021.



For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this
the 21st day of April 2021.



AMY L. FUNDERBURK
Clerk of the Supreme Court

IN THE SUPREME COURT OF NORTH CAROLINA

ORDER AMENDING THE
SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE
FOR THE NORTH CAROLINA eFILING PILOT PROJECT

Pursuant to section 7A-34 and section 7A-49.5 of the General Statutes of North Carolina, the Court hereby amends the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project. This order affects Rules 1 and 5.

* * *

Rule 1. Purpose and Scope

~~1.1. — Citation to Rules. These rules shall be known as the “Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project,” and may be cited as the “eFiling Rules.” A particular rule may be cited as “eFiling Rule ____.”~~

~~1.2. — Authority and Effective Date. The eFiling Rules are promulgated by the Supreme Court of North Carolina pursuant to G.S. 7A-49.5. They are effective as of May 15, 2009, and as amended from time to time.~~

~~1.3. — Scope and Purpose. The eFiling Rules apply to civil superior court cases and to foreclosures under power of sale filed on or after the effective date in Chowan and Davidson Counties. Upon addition of Wake County to the pilot project by the North Carolina Administrative Office of the Courts (the “AOC”), these rules shall apply to civil superior court cases and to foreclosures under power of sale filed in Wake County on or after the effective date of the implementation of the pilot project in Wake County, and the public announcement thereof by AOC. In addition, these rules apply to any designated case types and in any counties upon the implementation of the eFiling project in any other counties and the public announcement thereof by the AOC. In general, these rules initially allow, but do not mandate, electronic filing by North Carolina licensed attorneys and court officials of pleadings and other documents required to be filed with the court by the North Carolina Rules of Civil Procedure (“Rules of Civil Procedure”), or otherwise under North Carolina law, and permit electronic notification of the electronic filing of documents between attorneys. Initially, they do not permit electronic filing by *pro se* parties or attorneys not licensed by the State of North Carolina, and they do not permit electronic filing of documents in cases not initially filed electronically. Upon the addition of Alamance County or other counties to the pilot project by the AOC, the electronic filing of civil domestic~~

~~violence cases by pro se parties, acting through domestic violence center personnel approved by the Chief District Court Judge, shall be permitted upon the implementation of the eFiling project in any such counties and the public announcement thereof by AOC.~~

~~**1.4. Integration with Other Rules.** These rules supplement the Rules of Civil Procedure and the General Rules of Practice for Superior and District Courts (the “General Rules”). The filing and service of documents in accordance with the eFiling Rules is deemed to comply with the Rules of Civil Procedure and the General Rules. If a conflict exists between the eFiling Rules and the Rules of Civil Procedure or the General Rules, the eFiling Rules shall control.~~

Rule 1. Purpose and Scope

1.1. Purpose. These rules define practice and procedure for the legacy North Carolina eFiling Pilot Project, which will phase out beginning in July 2021.

1.2. Scope. These rules apply only in those counties that (i) have not yet implemented *Odyssey*, the Judicial Branch’s new electronic-filing and case-management system, and (ii) still participate in the legacy North Carolina eFiling Pilot Project. The Administrative Office of the Courts maintains a list of those counties and case types to which these rules apply at <https://www.efiling.nccourts.org/>.

Comment

The North Carolina Judicial Branch will implement *Odyssey*, a statewide electronic-filing and case-management system, beginning in July 2021. The system will be made available across the state in phases over a five-year period.

Counties that currently have access to *eFlex*, a legacy electronic-filing and case-management system, through the North Carolina eFiling Pilot

Project will continue to have access to that legacy system until it is replaced by *Odyssey*.

As *Odyssey* is implemented, litigants should expect the General Rules of Practice, the North Carolina Business Court Rules, and the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project to undergo change.

* * *

Rule 5. Electronic Filing and Service

5.1. Permissive Electronic Filing. Pending implementation of revised rules by the North Carolina Supreme Court, electronic filing is permitted only to commence a proceeding or in a proceeding that was commenced electronically. Electronic filing is not required to commence a proceeding. Subsequent filings made in a proceeding commenced electronically may be electronic or non-electronic at the option of the filer.

5.2. Exceptions to Electronic Delivery. Pleadings required to be served under Rule 4 and subpoenas issued pursuant to Rule 45 of the Rules of Civil Procedure must be served as provided in those rules and not by use of the electronic

filing and service system. Unless otherwise provided in a case management order or by stipulation, filing by or service upon a *pro se* party is governed by eFiling Rule 5.3.

5.3. *Pro se* Parties. ~~Except as otherwise permitted in these Rules, a party not represented by counsel shall file, serve and receive documents pursuant to the Rules of Civil Procedure and the General Rules.~~ A party not represented by counsel may file electronically in civil domestic violence cases through domestic violence center personnel who have been issued an electronic identity. Service upon a party not represented by counsel may not be made by use of the electronic filing and service system.

5.4. Format. Documents must be filed in PDF or TIFF format, or in some other format approved by the court, in black and white only, unless color is required to protect the evidentiary value of the document, and scanned at 300 dots per inch resolution.

5.5. Cover Sheet Not Required. Completion of the case initiation requirements of the electronic filing and service system, if it contains all the required fields and critical elements of the filing, shall constitute compliance with the General Rules ~~as well as G.S. 7A-34.1~~, and no separate AOC cover sheet is required.

5.6. Payment of Filing Fees. Payment of any applicable filing and convenience fees must be done at the time of filing through the electronic payment component of the electronic filing and service system. Payments shall not include service of process fees or any other fees payable to any entity other than the clerk of superior court.

5.7. Effectiveness of Filing. Transmission of a document to the electronic filing system in accordance with the eFiling Rules, together with the receipt by the eFiler of the automatically generated notice showing electronic receipt of the submission by the court, constitutes filing under the North Carolina General Statutes, the Rules of Civil Procedure, and the General Rules. An electronic filing is not deemed to be received by the court without receipt by the eFiler of such notice. If, upon review by the staff of the clerk of superior court, it appears that the filing is inaccessible or unreadable, or that prior approval is required for the filing under G.S. 1-110, or for any other authorized reason, the clerk's office shall send an electronic notice thereof to the eFiler. Upon review and acceptance of a completed filing, personnel in the clerk's office shall send an electronic notice thereof to the eFiler. If the filing is of a case initiating pleading, personnel in the clerk's office shall assign a case number to the filing and include that case number in said notice. As soon as reasonably possible thereafter, the clerk's office shall index or enter the relevant information into the court's civil case processing system (VCAP).

5.8. Certificate of Service. Pending implementation of the court's document management system, and the integration of the electronic filing and service system with the court's civil case processing system, a notice to the eFiler showing electronic receipt by the court of a filing does not constitute proof of service of a document upon any party. A certificate of service must be included with all

documents, including those filed electronically, indicating thereon that service was or will be accomplished for applicable parties and indicating how service was or will be accomplished as to those parties.

5.9. Procedure When No Receipt Is Received. If a receipt with the status of “Received” is not received by the eFiler, the eFiler should assume the filing has not occurred. In that case, the eFiler shall make a paper filing with the clerk and serve the document on all other parties by the most reasonably expedient method of transmission available to the eFiler, except that pleadings required to be served under Rule 4 and subpoenas issued pursuant to Rule 45 of the Rules of Civil Procedure must be served as provided in those rules.

5.10. Retransmission of Filed Document. After implementation of the court’s document management system, if, after filing a document electronically, a party discovers that the version of the document available for viewing through the electronic filing and service system is incomplete, illegible, or otherwise does not conform to the document as transmitted when filed, the party shall notify the clerk immediately and, if necessary, transmit an amended document, together with an affidavit explaining the necessity for the transmission.

5.11. Determination of Filing Date and Time. Documents may be electronically filed 24 hours a day, except when the system is down for maintenance, file saves or other causes. For the purpose of determining the timeliness of a filing received pursuant to Rule 5.7, the filing is deemed to have occurred at the date and time recorded on the receipt showing a status of “Received.”


5.12. Issuance of Summons. At case initiation, the eFiler shall include in the filing one or more summons to be issued by the clerk. Upon the electronic filing of a counterclaim, crossclaim, or third-party complaint, the eFiler may include in the filing one or more summons to be issued by the clerk. Pursuant to Rule 4 of the Rules of Civil Procedure, the clerk shall sign and issue those summons and scan them into the electronic filing and service system. In civil domestic violence cases, magistrates are authorized to sign and issue summons electronically or in paper form. The eFiler shall print copies of the filed pleading and summons to be used for service of process. Copies of documents to be served, any summons, and all fees associated with service shall be delivered by the eFiler to the process server. Copies of civil domestic violence summons, complaints, orders, and other case documents may be transmitted by the magistrate or clerk to the sheriff electronically or in paper form for service of printed copies thereof. Documents filed subsequent to the initial pleading shall contain a certificate of service as provided in Rule 5.8. Returns of service by sheriff’s personnel of civil domestic violence summons, complaints, orders, and other case documents may be transmitted to and filed with the clerk of superior court via the electronic filing system or in paper form.

* * *

These amendments to the Supplemental Rules of Practice and Procedure for the North Carolina eFiling Pilot Project become effective on 10 May 2021.

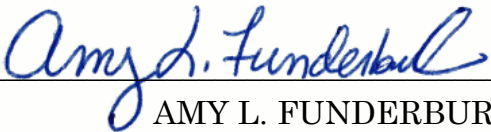
These amendments shall be published in the North Carolina Reports and posted on the rules web page of the Supreme Court of North Carolina.

Ordered by the Court in Conference, this the 21st day of April 2021.



For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 21st day of April 2021.



AMY L. FUNDERBURK
Clerk of the Supreme Court