

## **Pa.R.C.P. No. 205.4. Electronic Filing and Service of Legal Papers**

(a)(1) A court by local rule may permit or require electronic filing of legal papers with the prothonotary and shall specify the actions and proceedings and the legal papers subject to the rule.

*NOTE: This rule does not require the implementation of electronic filing by a local court.*

*If a court determines that legal papers may be filed electronically with the prothonotary, Rule 239.9(a) requires the court to promulgate Local Rule 205.4 which shall describe the electronic filing system program and set forth the practice and procedure for the matters required by this rule.*

*If a court provides that electronic filing is mandatory, it must also provide the necessary technical assistance to those parties who lack the capability to file legal papers electronically.*

(2) As used in this rule, the following words shall have the following meanings:

"electronic filing," the electronic transmission of legal papers by means other than facsimile transmission,

"filing party," an attorney, party or other person who files a legal paper by means of electronic filing, and

"legal paper," a pleading or other paper filed in an action, including exhibits and attachments.

(b)(1) Legal papers shall be presented for filing in portable document format ("pdf") or any other electronic format, if any, that the court by local rule designates. A paper presented for filing in a format other than portable document format shall be converted to portable document format and maintained by the prothonotary in that format.

*NOTE: Rule 239.9(b)(2) requires that subdivision (b)(1) of Local Rule 205.4 specify the electronic format for presenting legal papers for filing.*

(2) A legal paper filed electronically shall be deemed the original document.

(3) The electronic filing of a legal paper constitutes a certification

- (i) by the filing party that a hard copy of the legal paper was properly signed and, where applicable, verified, and
- (ii) as provided by Rule 1023.1(c) governing the signature to a legal paper, the violation of which shall be subject to the sanction provision of Rule 1023.1(d).

- (4) The filing party shall maintain the signed hard copy of the document filed for two years after the later of
  - (i) the disposition of the case;
  - (ii) the entry of an order resolving the issue raised by the legal paper; or
  - (iii) the disposition by an appellate court of the issue raised by the legal paper.

(5) Any other party at any time may serve upon the filing party a notice to produce for inspection the signed hard copy within fourteen days of the service of the notice. The court upon motion may grant appropriate sanctions for failure to produce the signed hard copy pursuant to the notice.

(c)(1) The prothonotary when authorized to accept filings by electronic transmission shall provide electronic access at all times.

(2) The prothonotary may designate a website for the electronic filing of legal papers. Access to the website shall be available by the attorney identification number issued by the Court Administrator of Pennsylvania. The court by local rule shall designate the manner of access to the website for a filing party who is not an attorney.

*NOTE: Rule 239.9(b)(3) requires that subdivision (c)(2) of Local Rule 205.4 specify the manner of access to the website by a filing party who is not an attorney.*

(3) The time and date of filing submission and receipt of the legal paper to be filed electronically shall be that registered by the electronic filing system. The prothonotary shall provide, through the electronic filing system's website, an acknowledgement that the legal paper has been received, including the date and time of receipt, in a form which can be printed for retention by the filing party.

(d) (1) A filing party shall pay the cost of the electronic filing of a legal paper by approved credit or debit card, or by advance deposit of sufficient funds with the prothonotary if the court by local rule so provides.

(2) A filing party who presents the legal paper for electronic filing in person at the office of the prothonotary shall pay the cost by a method prescribed by paragraph (1) or by check or cash.

(3) If a court has designated a third party to operate the electronic filing system, the filing party shall pay the cost of the electronic filing to the prothonotary or to the third party operator in the manner provided by local rule.

**NOTE:** Rule 239.9(b)(4) requires that subdivision (d)(1) of Local Rule 205.4 list the credit and debit cards approved by the court or the prothonotary, and state whether the filing fee may be paid by depositing, in advance, sufficient funds with the prothonotary.

Rule 239.9(b)(5) provides for subdivision (d)(3) of Local Rule 205.4 to govern the payment of the filing fee to a third party operator, if any.

(e)(1) A filing party shall be responsible for any delay, disruption, interruption of the electronic signals and legibility of the document electronically filed, except when caused by the failure of the electronic filing system's website.

**NOTE:** The filing party accepts the risk that a document filed by means of electronic filing may not be properly or timely filed with the prothonotary.

(2) No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the prothonotary or the electronic filing system based upon a requirement of a local rule or local administrative procedure or practice pertaining to the electronic filing of legal papers.

**NOTE:** See also Rule 205.2 governing filing legal papers with the prothonotary.

(3) If a pleading or other legal paper is not accepted upon presentation for filing or is refused for filing by the electronic filing system, the prothonotary or the electronic filing system, as may be appropriate, shall immediately notify the party presenting the legal paper for filing of the date of presentation, the fact that the document was not accepted or refused for filing by the system, and the reason therefor.

(4)(i) The court upon motion shall resolve any dispute arising under paragraphs (1) and (2) of this subdivision.

(ii) If a party makes a good faith effort to electronically file a legal paper but it is not received, accepted or filed by the electronic filing system, the court may order that the paper be accepted and filed *nunc pro tunc* upon a showing that reasonable efforts were made to timely present and file the paper.

(f) When electronic filing is permitted as set forth in subdivision (a)(1), the court by local rule shall provide for

(1) a filing status message to the filing party,

(2) the maintenance by the prothonotary of an electronic file only, or of such electronic and such hard copy files as set forth in the rule,

*NOTE: A hard copy file is not required by this rule. If the local rule requires a hard copy file, the requirement may extend to all cases or only to certain specified cases. For example, the court may require hard copy files for cases listed for trial or scheduled for argument while maintaining only electronic files for all other cases.*

(3) additional procedures, if necessary, to ensure the security of the web site and the electronic files,

(4) procedures for the payment of prothonotary's fees and costs, and

(5) such other procedures and matters necessary to the operation of a system of electronic filing.

*NOTE: Rule 239.9(b)(6) provides that subdivision (f) of Local Rule 205.4 must set forth the practice and procedure with respect to the matters required by subdivision (f) of this rule.*

(g)(1) Copies of all legal papers other than original process filed in an action or served upon any party to an action may be served

(i) as provided by Rule 440 or

(ii) by electronic transmission, other than facsimile transmission, if the parties agree thereto or an electronic mail address is included on an appearance or prior legal paper filed with the court in the action. A paper served electronically is subject to the certifications set forth in subdivision (b)(3).

(2) Service by electronic transmission is complete when a legal paper is sent

(i) to the recipient's electronic mail address, or

(ii) to an electronic filing system website and an e-mail message is sent to the recipient by the electronic filing system that the legal paper has been filed and is available for review on the system's website.

*NOTE: Upon the electronic filing of a legal paper other than original process, the electronic filing system may automatically send notice of the filing to all parties who have agreed to service by electronic transmission or whose email address is included on an appearance or prior legal paper filed in connection with the action. If the electronic filing system sends notice of such filing, the party*

*filing the legal paper only need serve those parties who are not served by the electronic filing system.*

*An electronic mail address set forth on letterhead is not a sufficient basis under this rule to permit electronic service of legal papers.*

*See Rule 236(d) providing for the prothonotary to give notice of orders and judgments, and also other matters, by facsimile transmission or other electronic means.*

*See Rule 440(d) governing service of legal papers other than original process by facsimile transmission.*