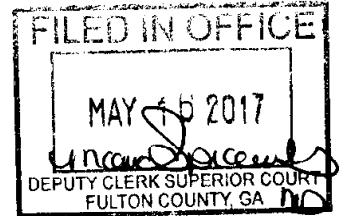


IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA



In re:)
)
CERTAIN LITIGATION)
)
In the Superior Court of Fulton County)
)
)

ADMINISTRATIVE ORDER No.
2017EX 00836

ORDER IMPLEMENTING ELECTRONIC FILING FOR CRIMINAL CASES

1. APPLICATION OF ORDER. The Court, *sua sponte*, consolidates and designates the following case types to e-filing status, with the following effective dates:

E-filing will be mandatory for all criminal cases on June 5, 2017, except for the following filing types: documents filed pre-indictment, indictments, accusations, any other case initiation filings, and The Final Disposition Form or any other pleading imposing a penal sanction. E-filing is mandatory even if the case was initiated prior to June 5, 2017.

All documents in criminal cases must be e-filed pursuant to this Order and are governed by this Order. No party will be permitted to file paper documents in any case except for incarcerated individuals without legal representation and except as otherwise provided herein.

All criminal cases are assigned to the electronic filing and service system provided by Tyler Technologies (the "Vendor") as approved by the Fulton County Board of Commissioners on October 15, 2014 (hereinafter "eFileGA") or any successor system. The Vendor is an agent of the Court for the purposes of electronic filing, receipt, service, and retrieval of electronic documents.

2. DEFINITIONS. The following terms in this Order are defined as follows:

- A. Case Management System. The Court's official case management and records management system.
- B. Court. The Superior Court of Fulton County, Georgia.
- C. Document. Any paper filing, including, but not limited to, pleadings, motions, memoranda of law, orders, or other written papers or instruments. "Documents" shall not include "Non-Conforming Materials."
- D. E-Document. An electronic file of a Document that has been scanned or converted to a graphical or image format (PDF).

- E. E-File. Electronic transmission of an original document to the Superior Court via eFileGA, www.odysseyfilega.com.
 - F. E-Service. Electronic transmission of an original document to all designated recipients via eFileGA. E-Filers must still comply with the applicable law to perfect service of process or summons to gain jurisdiction over persons or property.
 - G. Non-Conforming Materials. All non-paper filings, including but not limited to videotapes, x-rays, CDs, audio recordings, and tangible objects that cannot be readily converted to paper form or are illegible when scanned.
 - H. Public Access Terminal ("PAT"). A publicly accessible computer provided by the Court for the purposes of E-Filing, E-Service, and viewing public Court records.
3. PUBLIC ACCESS TERMINAL. PATs will be located in: (1) the Superior Court of Fulton County Clerk of Court's Office, Fulton County Courthouse, 136 Pryor Street, S.W., 1st Floor Atlanta, Georgia; (2) the Justice Resource Center at the Law Library located in the Justice Center Tower, 185 Central Avenue, SW, 7th Floor; and (3) any other designated location at the Fulton County Courthouse. PATs will be connected to eFileGA and the Case Management System. PATs are available to any person to view public records via the Case Management System. Individuals may access the public files free of charge. The PATs are also available to E-File Documents on eFileGA without registering for an eFileGA account or incurring E-File fees and convenience fees. If a PAT is used by the filer, the filer will not receive emails confirming submission and acceptance or rejection.
4. AUTHORIZED USERS.
- A. Users. For the purpose of accessing eFileGA, the following users are authorized to register:
 - i. Licensed attorneys and their staff, including paralegals and secretaries;
 - ii. *Pro hac vice* admitted attorneys for the purpose of receiving E-Service only;
 - iii. Judges and their staff;
 - iv. Court administrative staff, including deputy clerks, court reporters, and technical support staff;
 - v. Self-represented litigants; and
 - vi. Other public users, including media representatives.
 - B. It is the responsibility of every registered user to have a valid, working email address that is checked regularly. The Court assumes no responsibility for inoperable email addresses or unread email.
 - C. Assignment by the Vendor of personal identification numbers. Upon receipt by the Vendor of a properly executed E-file Usage Agreement, the Vendor shall assign to the authorized user a username and confidential Personal Identification Number

(PIN). The authorized user may then E-File, E-Serve, receive, review, and retrieve electronically filed pleadings, orders, and other Documents.

D. Utilization of PIN. No attorney shall knowingly authorize or permit his/her PIN to be utilized by anyone other than authorized attorneys or employees of the attorney's law firm, or designated co-counsel, where it has been established in writing that such other person may file Documents on behalf of the assigning counsel. An attorney who knowingly authorizes or permits his/her username and/or password to be utilized by others is fully responsible for all transmissions, communications, and notifications through eFileGA.

E. Change in Information. Registered users are required to update their contact information with eFileGA, including changes in employer, firm name, delivery address, fax number, telephone number, and/or email address within ten (10) days of such change. Failure to update one's email address for service in a timely manner may result in the failure to receive E-Service of Documents. A change in address with eFileGa does not substitute for the electronic filing of the appropriate pleading with the Clerk of Court or vice versa.

F. Self-Represented Litigants.

i. If a Self-Represented Litigant does not have access to a computer to prepare an E-Document or E-File an E-Document, the litigant can file his/her Document by coming to the Court and filing the same using eFileGA at one of the PATs. Filing at a PAT does not require registering for an eFileGA account and usage and convenience fees for eFileGA are waived.

ii. If a Self-Represented Litigant does not have an email address and therefore cannot register for an eFileGA account, the parties to the litigation must serve the Self-Represented Litigant via traditional mail or personal service. The Self-Represented Litigant must make a certification in his/her initial filing that he/she does not have an email address and therefore cannot register for an eFileGA account.

5. ELECTRONIC FILING OF DOCUMENTS. As of the effective date of this Order, except as expressly provided herein, all Documents shall be filed electronically through eFileGA and the Clerk of Court shall not accept or file any Documents in paper form.

A. Discovery. Discovery referenced in any E-Document may be attached electronically as exhibits or may be E-Filed separately. If the discovery is E-Filed separately, a Notice of Filing shall be E-Filed with the discovery.

B. Maintenance of Original Documents. Unless otherwise ordered by the Court, originals of all evidentiary Documents, including but not limited to, affidavits,

deposition transcripts, Documents that include original signatures or seals, or any other original Document as contemplated by O.C.G.A. § 24-10-1002, shall be maintained by the party E-Filing the evidentiary Document and shall be made available, upon reasonable notice, for inspection by the other party or the Court. Unless otherwise requested by the Court, the parties shall maintain the original sealed paper depositions. Original evidentiary Documents must be maintained for a period of seven (7) years following disposition of the matter in which the Document was E-Filed, or longer, if required to do so by applicable law.

- C. Filing of Documents Under Seal. In accordance with Uniform Superior Court Rule 36.16(B), E-Filing is expressly prohibited for Documents that are filed under seal. Documents to be filed under seal therefore must be manually submitted to the Clerk of Court in paper form, accompanied by a Court Order sealing the Documents submitted. Also, Filers submitting Documents to be filed under seal are required to file a Notice of Filing Under Seal. If the Document to be filed under seal is an exhibit to another Document, a notice indicating that this particular Document has been filed under seal may be included in the larger filed E-Document as an alternative to filing a separate notice.
- D. Non-Conforming Materials. Non-Conforming Materials must be filed manually with the Clerk of Court. The filing party shall E-File a Notice of Manual Filing which shall be docketed in the Case Management System to denote that a manual filing has been made and that the material is being held by the Clerk of Court. The filing party shall serve the materials conventionally if required.
- E. Court Docket. Paper copies of Documents from the official court docket are available for a fee in the Clerk of Court's office.

6. TIME FOR FILING AND EFFECT OF USE OF E-FILE.

- A. Time of Filing. Parties may E-File E-Documents through eFileGA 24 hours a day, seven days per week, except when eFileGA is down for maintenance. Once the E-Filed Document has been accepted by eFileGA, the Document shall be considered filed as of the date and time that it was submitted for E-Filing. Any Document E-Filed after 11:59 p.m. EST shall be deemed filed on the next day.
- B. Confirmation of Receipt. Upon completion of E-Filing, eFileGA shall email a "filing submitted" receipt that includes the date and time of submission to the Court. The confirmation receipt shall not serve as proof the Document was filed only that the Document was submitted for filing.
- C. Clerk of Court Review: Acceptance / Rejection Procedure. Following the

submission of an E-Document, the Clerk of Court shall timely review the Document. eFileGA shall notify the filing party via email as to whether the filing is accepted or rejected. Upon acceptance, the submitted E-Document shall be entered into the docket of the case and the docket shall reflect the date and time of filing as set forth in Paragraph 6(A). If an E-Document is submitted for filing which does not conform to the rules of the Court to which it is submitted, a rejection notice shall be sent to the filing party and the E-Document shall not be filed. The rejection notice shall identify the basis of the rejection in accordance with the rules of the Court. An E-Document may be rejected if:

- i. The E-Document is submitted without proper payment of Court Filing Fees;
- ii. The E-Document is unable to be processed by eFileGA for reasons including but not limited to submission of corrupt E-Document, an E-Document with imbedded fonts, or E-Documents containing viruses; or
- iii. The E-Document does not meet the requirements or policies of the Court.

If an E-Document is rejected by the Clerk of Court, and a filer wishes to challenge the rejection of the prior E-Document and/or relate the date of filing back to the date of the first filing attempt, the filer must petition the Court for such relief.

- D. Technical Problems. In accordance with Uniform Superior Court Rule 36.16(F), if E-Filing or E-Service does not occur because of: (1) inaccessibility to eFileGA not caused by the filer; (2) an error in the transmission of the Document to eFileGA which was unknown to the sending party; (3) a failure to process the E-Document when received by eFileGA; or (4) other technical problems experienced by the filer, the Court may upon satisfactory proof enter an order permitting the Document to be filed *nunc pro tunc* to the date it was first attempted to be transmitted electronically.

7. FORM OF DOCUMENTS ELECTRONICALLY FILED.

- A. Format of Electronically Filed Documents. All E-Documents shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper Documents, and in such order and further format as the Court may require. Documents shall be E-Filed via eFileGA in a PDF file format that does not exceed 25 megabytes, in searchable format, or such other file format as directed by the Vendor.
- B. Proposed Orders. Proposed Orders may be E-Filed as an exhibit to the Motion or as a separate filing provided that the Proposed Order includes the signature block of the submitting party or attorney in compliance with U.S.C.R. 36.4.
- C. Representations by Using an Electronic Signature. An E-Document bearing an

electronic signature, e.g., /S/ NAME, shall be treated as a personal signature for all purposes under Georgia law.

D. Electronic Title of Pleadings and Other Documents. The electronic title of each E-Document shall, to the extent practicable, include:

- i. the party or parties filing the E-Document;
- ii. the nature of the E-Documents; and
- iii. the nature of the relief sought.

For example, the E-Document shall be titled “Defendant Smith’s Motion to Compel Discovery against the State.” The title shall be used for administrative purposes only.

8. ELECTRONIC SERVICE OF DOCUMENTS.

A. Filings. Except as otherwise set forth in this Order, parties shall E-Serve all Documents through eFileGA. Parties, or their designated counsel, shall receive all Documents E-Filed and E-Served upon them via eFileGA.

B. Service Contact. Parties shall add a service contact to their case in order to receive E-Service. It is the responsibility of every attorney or Self-Represented Litigant to ensure he/she is listed as a service contact for every case in which he/she appears, subject to the exception in Paragraph 4(F) or any other exception from E-Service allowed under this Order.

C. Effect of Electronic Service. E-Service of an E-Document via eFileGA shall be considered valid and effective service and shall have the legal effect as an original paper Document sent via conventional means, e.g. U.S. mail, and/or hand delivery. Recipients of E-Service shall receive an email notification of service, which contains an electronic image of the served E-Document.

D. Service on Parties: Time to Respond or Act.

- i. E-Service shall be deemed complete at the time a Document has been received by eFileGA as reflected by the authorized date and time appearing on the electronic transmittal. Any period of notice or any right or duty to do any act or make any response within any period or date prescribed by statute or rule of court shall be strictly governed by the applicable statutes.
- ii. Registered users shall receive E-Service of Documents, other than service of subpoenas or summonses.

iii. Registered users shall receive E-Service of notices of trial and hearings.

E. System or User Filing Errors. If E-Service does not occur because: (1) an error occurred in the transmission of the E-Document to eFileGA which was unknown to the sending party; (2) an error occurred in the transmission of the E-Document to the receiving party which was unknown to the sending party; (3) a failure to process the Document when received by eFileGA; (4) a party was erroneously excluded from the service list through no fault of the receiving party; or (5) other technical problems experienced by the filer, the party being served shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or the period within which any right accrues or any duty or other act must be performed.

9. COURTESY COPIES TO THE COURT. Parties may elect to mail courtesy copies of Documents to the Court or may be required to do so in the Judge's discretion. Parties shall provide courtesy copies of Documents filed under seal and Non-Conforming Materials to the Court.

10. COLLECTION OF FEES FOR INSTRUMENTS REQUIRING FEE PAYMENT.

A. Fees may be charged by the Vendor to parties or attorneys for E-Filing of E-Documents, access to Documents and/or dockets, and E-Service of Documents. These fees shall be payable to the Vendor at the time of filing and are in addition to any statutory filing fees.

B. Attorneys, or their designated representatives, e.g. paralegals or investigators, employed with the Office of the District Attorney, the Office of the Public Defender, Metro Conflict Defender Office, Office of the Capital Defender, and Georgia Public Defender Council shall be exempt from E-Filing fees.

C. Attorneys in private practice who have been appointed by the Georgia Public Defender Council (e.g. C3 attorneys) to represent indigent defendants shall file proof of their appointment, along with their entry of appearance, in order to be exempt from E-Filing fees.

D. If a party is exempt from paying statutory filing fees or other fees because the Court has determined that the party is indigent, the party shall E-File an *in forma pauperis* Order along with his/her entry of appearance. The indigent party shall select the waiver code as payment and the statutory filing fees, E-Filing fees, and E-Service fees shall be waived for parties with *in forma pauperis* status in that particular case.

11. ELECTRONIC FILING AND SERVICE OF ORDERS AND OTHER PAPERS.

The Court shall issue, file, and serve notices, orders, and other Documents electronically, subject to the provisions of this Order. An Order or other Court-issued E-Document bearing the electronic signature of a Judge filed electronically and entered by a judge, Clerk of Court, Deputy Clerk, or court personnel per the order of a Judge shall have the same force and effect as if the Document contained the handwritten signature of the judge.

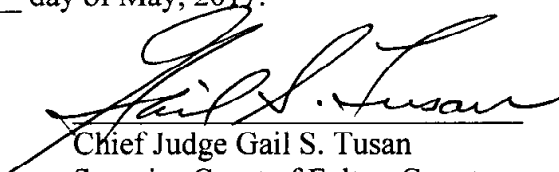
12. EFFECTIVE DATE OF ORDER.

This Order applies to new cases filed on or after June 5, 2017, as well as to any case pending on the effective date of this Order.

13. ELECTRONIC RECORD.

The Clerk of Superior Court is authorized to maintain the original and official case record in electronic format. The Case Management System shall be the official case record.

SO ORDERED, this 16th day of May, 2017.


Chief Judge Gail S. Tusan
Superior Court of Fulton County
Atlanta Judicial Circuit