

RULE CHANGE 2014(12)

COLORADO RULES OF CRIMINAL PROCEDURE (New) Rule 49.5 Electronic Filing and Service System

RULE 49.5 ELECTRONIC FILING AND SERVICE SYSTEM

1. Types of Cases Applicable: E-Filing and E-Service may be used for certain cases filed in the courts of Colorado as the service becomes available. The availability of the E-System for criminal cases will be determined by the Colorado Supreme Court and announced through its web site <http://www.courts.state.co.us/supct/supct.htm> and through published directives to the clerks of the affected court systems.

2. E-Filing May be Mandated: With the permission of the Chief Justice, a chief judge may mandate E-Filing within a county or judicial district for specific case classes or types of cases. A judicial officer may mandate E-Filing and E-Service in that judicial officer's division for specific cases, for submitting documents to the court and serving documents on case parties. Where E-Filing is mandatory, the court may thereafter accept a document in paper form and the court shall scan the document and upload it to the E-Service Provider. After notice to an attorney that all future documents are to be E-Filed, the court may charge a fee of \$50 per document for the service of scanning and uploading a document filed in paper form. Where E-Filing and E-Service are mandatory, the Chief Judge or appropriate judicial officer may exclude pro se parties from mandatory E-Filing requirements.

3. Definitions:

(a) **Document:** A pleading, motion, writing or other paper filed or served under the E-System.

(b) **E-Filing/Service System:** The E-Filing/Service System (“**E-System**”) approved by the Colorado Supreme Court for filing and service of documents via the Internet through the Court-authorized E-System provider.

(c) **Electronic Filing:** Electronic filing (“**E-Filing**”) is the transmission of documents to the clerk of the court, and from the court, via the E-System.

(d) **Electronic Service:** Electronic service (“**E-Service**”) is the transmission of documents to any party in a case via the E-System. Parties who have subscribed to the E-System have agreed to receive service of filings via the E-System, except when personal service is required.

(e) **E-System Provider:** The E-Service/E-Filing System Provider authorized by the Colorado Supreme Court.

(f) **Signatures:**

(I) **Electronic Signature:** An electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by the person with the intent to sign the E-Filed or E-Served document.

(II) **Scanned Signature:** A graphic image of a handwritten signature.

4. To Whom Applicable:

(a) Attorneys licensed or certified to practice law in Colorado, or admitted pro hac vice under C.R.C.P. 205.3 or 205.5 may register to use the E-System. The E-System Provider will provide an attorney permitted to appear pursuant to C.R.C.P. 205.3 or 205.5 with a special user account for purposes of e-filing and e-serving only in the case identified by a court order approving pro hac vice admission. In districts where E-Filing is mandated pursuant to Subsection 13 of this Rule 49.5, attorneys must register and use the E-System.

(b) Where the system and necessary equipment are in place to permit it, pro se parties and government entities and agencies may register to use the E-System.

5. E-Filing--Date and Time of Filing: Documents filed in cases on the E-System may be filed under Crim. P. 49 through an E-Filing. A document transmitted to the E-System Provider by 11:59 p.m. Colorado time shall be deemed to have been filed with the clerk of the court on that date.

6. E-Service /- When Required /- Date and Time of Service: Documents submitted to the court through E-Filing shall be served in accordance with Crim. P. 49 by E-Service to parties who have subscribed to the E-System. A document transmitted to the E-System Provider for service by 11:59 p.m. Colorado time shall be deemed to have been served on that date.

7. Filing Party to Maintain the Signed Copy--Paper Document Not to Be Filed--Duration of Maintaining of Document: A printed or printable copy of an E-Filed or E-Served document with original, electronic, or scanned signatures shall be maintained by the filing party and made available for inspection by other parties or the court upon request, but shall not be filed with the court. Documents shall be maintained in accordance with the Rules of Professional Conduct.

8. Documents Requiring E-Filed Signatures: For E-Filed and E-Served documents, signatures of attorneys, parties, witnesses, notaries and notary stamps may be affixed electronically or handwritten and scanned.

9. Documents under Seal: A motion for leave to file documents under seal may be E-Filed. Documents to be filed under seal pursuant to an order of the court, if filed electronically must be submitted separately from the Motion to Seal.

10. Transmitting of Orders, Notices and Other Court Entries: Courts shall distribute orders, notices, and other court entries using the E-System in cases where E-Filings were received from any party.

11. Form of E-Filed Documents: C.R.C.P. 10 shall apply to E-Filed documents.

12. Relief in the Event of Technical Difficulties:

(a) Upon satisfactory proof that E-Filing or E-Service of a document was not completed because of: (1) an error in the transmission of the document to the E-System Provider which was unknown to the sending party; (2) a failure of the E-System Provider to process the E-Filing when received, or (3) other technical problems experienced by the filer or E-System Provider, the court may enter an order permitting the document to be filed nunc pro tunc to the date it was first attempted to be sent electronically.

(b) Upon satisfactory proof that an E-Served document was not received by or unavailable to a party served, the court may enter an order extending the time for responding to that document.

13. Form of Electronic Documents

(a) **Electronic document format, size and density:** Electronic document format, size, and density shall be as specified by Chief Justice Directive # 11-01.

(b) **Multiple Documents:** Multiple documents (including proposed orders) may be filed in a single electronic filing transaction. Each document (including proposed orders) in that filing must bear a separate document title.

(c) **Proposed Orders:** Proposed orders shall be E-Filed in editable format. Proposed orders that are E-Filed in a non-editable format shall be rejected by the Court Clerk's office and must be resubmitted.

14. Document Security Level. Documents filed in a criminal case will not be electronically available to persons other than the parties until reviewed and provided by the clerk of court or his or her designee.

15. Protective Orders. Nothing in these rules shall prohibit a court from ordering the limitation or prohibition of a nonparty's remote electronic access to a document filed with the court.

COMMITTEE COMMENT

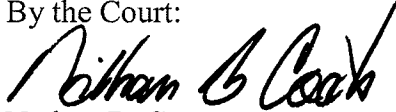
The Court authorized service provider for the program is the Integrated Colorado Courts E-Filing System (www.jbits.courts.state.co.us/icces).

"Editable Format" is one which is subject to modification by the court using standard means, such as Word or WordPerfect format.

C.R.C.P. 77 provides that courts are always open for business. This rule is intended to comport with that rule.

Adopted by the Court, En Banc, September 24, 2014 effective immediately.

By the Court:

A handwritten signature in black ink, appearing to read "Nathan B. Coats", written over a horizontal line.

Nathan B. Coats
Justice