

Rule Change 2003(8)

**The Colorado Rules Of Civil Procedure
Chapter 17A. Practice Standards And Local Court Rules
Rule 121. Local Rules - Statewide Practice Standards
District Court Practice Standards**

Section 1-26. Interim Rule For Electronic Filing And Service System, Pilot Project.

1. E-Filing System, defined. That system approved by the Colorado Supreme Court for filing and service of pleadings, motions and other papers ("Documents") via the Internet through the Court-authorized service provider.

2. Electronic Filing, defined. Electronic filing ("E-Filing") is the transmission of Documents to the Clerk of the Court, and from the Court, via the E-Filing System.

3. Electronic Service, defined. Electronic service ("E-Service") is the transmission of Documents to any party in a case via the E-Filing System. Parties who have subscribed to the E-Filing System have agreed to receive service, other than service of a summons, via the E-Filing System.

4. E-Filing and E-Service are authorized on a pilot program basis for certain cases filed in specified district courts in Colorado, as set forth in a schedule by the State Court Administrator's Office, as revised from time to time. At the discretion of the Chief Justice, in consultation with the Chief Judge of the Judicial District, E-filing and E-service may be suspended in certain courts that are experiencing technical difficulties.

5. Only attorneys licensed to practice law in Colorado may register to use the E-Filing System in the pilot program. Any attorney so registered may make an entry of appearance pursuant to Rule 121, Section 1-1, through E-Filing.

6. Cases initiated under the pilot program may be commenced under C.R.C.P. 3 through an E-Filing. Service of a summons must be made in accordance with C.R.C.P. 4.

7. Documents for cases under the pilot program may be filed under C.R.C.P. 5 through an E-Filing. A Document transmitted to the E-Filing provider by 11:59 p.m. Colorado time shall be deemed to have been filed with the Clerk of the Court on that date.

8. Documents for cases under the pilot program may be served under C.R.C.P. 5 through E-Service or through a combination of E-Service and other authorized means of

service. A Document transmitted to the E-Filing provider for service by 11:59 p.m. Colorado time shall be deemed to have been served on that date.

9. A printed copy of an E-Filed or E-Served Document with original 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. Where these rules require a party to maintain a document, affidavit or paper, the filer is required to maintain the document for a period of two years after the final resolution of the action, including the final resolution of all appeals.

10. 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 shall not be E-Filed.

11. Use of the E-Filing system by an attorney shall constitute compliance with C.R.C.P. 11's signature requirement and the attorney using the E-Filing system shall be subject to all other requirements of Rule 11. Signatures of parties, witnesses and notaries and notary stamps may be typed and E-filed to satisfy signature requirements, once the filing party has possession of the original signatures.

12. A court may transmit orders, notices, and other court entries via the E-Filing System to attorneys registered to use the E-Filing System.

13. C.R.C.P. 10 shall apply to E-Filed Documents. An E-Filed Document shall not be transmitted to the Clerk of the Court by any other means unless the Court at any later time requests a printed copy bearing original signatures.

14. For purposes of C.R.C.P. 6(e), E-Filing and/or E-Service do not constitute service by mail.

15. A document that requires the signatures of opposing parties (such as a stipulation) may be electronically filed by typing the names of each signing party but the filer is required to first obtain the original signatures of all opposing parties on a written form of the document.

16. With the permission of the Chief Justice, a Chief Judge may mandate E-filing in his/her district for specific types of cases and any trial judge may mandate E-filing in his/her division for specific cases or types of cases, for submitting documents to the court and serving documents to case parties. Because an attorney may not know, until told, that E-filing is mandatory, and attorneys in some circumstances may be granted an exemption from mandated E-filing, the court shall accept the documents filed and

shall scan the document and upload it to the service provider. After notice to the attorney that all documents shall be subsequently E-filed, the court may charge a fee of \$20 per document for the service of scanning and uploading the document.

17. Attorneys who E-file shall not submit paper self-addressed stamped envelopes for the purpose of receiving a signed order back from the Court in active cases. Local courts should use E-filing to distribute such court orders.

18. Upon satisfactory proof that electronic filing or service of a document is not completed because of (1) an error in the transmission of the document to the E-file System service provider which was unknown to the sending party, or (2) a failure to process the electronic filing when received by the service provider, or (3) other technical problems experienced by the filer, 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.

COMMITTEE COMMENT

The Court authorized service provider for the pilot program is ~~JusticeLink, Inc., 535 16th Street, Suite 320, Denver, CO 80202, phone: 720-904-3340~~ LexisNexis CourtLink (www.~~justice~~link~~court~~link.com).

At present, the system is not set up to allow E-Filing or E-Service by pro se litigants or attorneys not licensed to practice law in Colorado. The Supreme Court contemplates that E-Filing and E-Service participants may be expanded in the future.

The Colorado Supreme Court contemplates approving E-Filing and E-Service for civil and domestic cases in all district courts and for probate and water courts, to be phased in according to a timetable set by the Court. In the future, E-Filing and E-Service may be approved for other courts. Announcements regarding the E-Filing system will be made by the Colorado Supreme Court 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.

C.R.C.P. 77 states that courts are always open for business. This Practice Standard is intended to comport with this rule.

Amended and Adopted by the Court, En Banc, April 17, 2003,
effective immediately.

Justice Rice and Justice Coats would not adopt the rule.

BY THE COURT:

Alex J. Martinez
Justice, Colorado Supreme Court