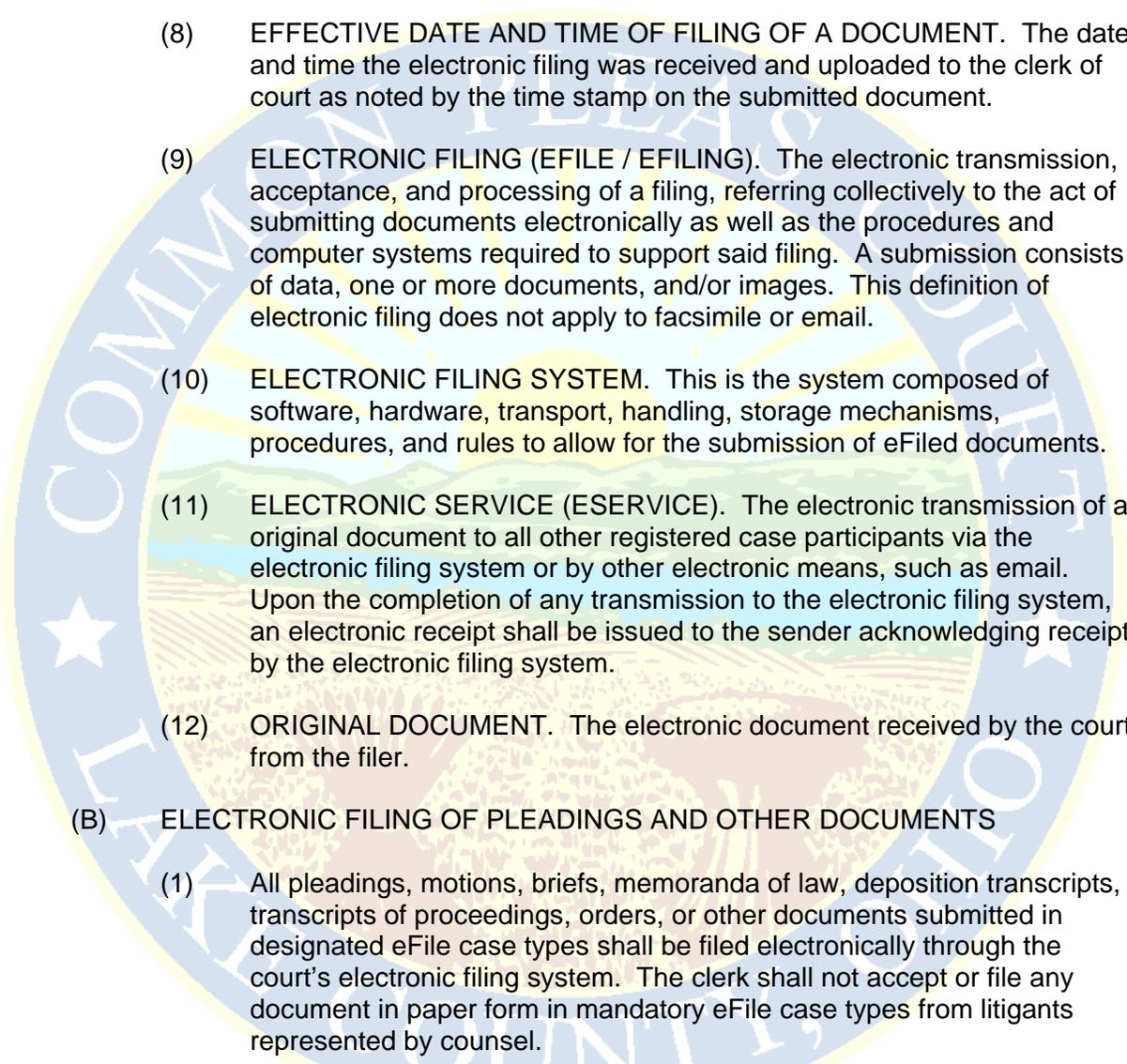


DRAFT LOCAL RULE FOR PUBLIC COMMENT UNTIL JULY 31, 2014

3.07 ELECTRONIC FILING OF COURT DOCUMENTS (Eff. x/x/2014, V.xx, P.xxx)

- (A) DEFINITIONS. The following terms used in these rules are defined in this section.
- (1) CLERK REVIEW. A review of electronically filed documents by the clerk of courts in accordance with court rules, policies, procedures, and practice. Court clerks may review the data and documents electronically submitted to ensure compliance with court rules, policies, procedures and practices before creating a docket entry or before docketing the case.
 - (2) CASE MANAGEMENT SYSTEM (CMS). A court case management system manages the receipt, processing, storage and retrieval of data associated with a case and performs actions on the data.
 - (3) COURT ELECTRONIC RECORD. This is any document that a court will (a) receive in electronic form, (b) record in its services case management system, and (c) store in its document management system. This may include documents received in paper form and scanned into the court's DMS (see below). This will include notices and orders created by the court as well as pleadings, other documents, and attachments created by practitioners or parties. It will not include physical exhibits brought into the courtroom for the court's or jury's edification or documents and things which are not susceptible to capture in electronic form.
 - (4) COURT INITIATED FILINGS. These are official court documents entered into the docket or register of actions, such as notices or orders. The term "court initiated filings" is a simplification to indicate that documents will be internally created and submitted as part of the electronic court record, but could be submitted using exactly the same process as external filings if the court so desires.
 - (5) DESIGNATED EFILE CASE TYPES. Until such time as the court designates all filings on all cases as mandatory eFile case types, the court will designate certain cases or types of filings as mandatory, discretionary, or prohibited.
 - (a) Mandatory eFile Case Types. These are case types and filings that shall be submitted via the eFiling system.
 - (b) Discretionary eFile Case Types. These are case types and/or filings that may be submitted via the eFiling system.
 - (c) Prohibited eFile Case Types. These are case types and filings that may not be filed electronically and shall be presented in paper form via traditional means via U.S. Mail or at the Clerk's counter.

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- The seal of Hamilton County, Ohio, is a large, semi-transparent watermark in the background. It features a central landscape with a sun, mountains, and a river, surrounded by the text "HAMILTON COUNTY, OHIO" and a star.
- (6) DOCUMENT. A filing made with the court or by the court in either electronic format or scanned from paper, thus becoming part of the court's official record.
- (7) DOCUMENT MANAGEMENT SYSTEM (DMS). A DMS manages the receipt, indexing, storage, and retrieval of the electronic (and scanned non-electronic) documents associated with a case.
- (8) EFFECTIVE DATE AND TIME OF FILING OF A DOCUMENT. The date and time the electronic filing was received and uploaded to the clerk of court as noted by the time stamp on the submitted document.
- (9) ELECTRONIC FILING (EFILE / EFILING). The electronic transmission, acceptance, and processing of a filing, referring collectively to the act of submitting documents electronically as well as the procedures and computer systems required to support said filing. A submission consists of data, one or more documents, and/or images. This definition of electronic filing does not apply to facsimile or email.
- (10) ELECTRONIC FILING SYSTEM. This is the system composed of software, hardware, transport, handling, storage mechanisms, procedures, and rules to allow for the submission of eFiled documents.
- (11) ELECTRONIC SERVICE (ESERVICE). The electronic transmission of an original document to all other registered case participants via the electronic filing system or by other electronic means, such as email. Upon the completion of any transmission to the electronic filing system, an electronic receipt shall be issued to the sender acknowledging receipt by the electronic filing system.
- (12) ORIGINAL DOCUMENT. The electronic document received by the court from the filer.
- (B) ELECTRONIC FILING OF PLEADINGS AND OTHER DOCUMENTS
- (1) All pleadings, motions, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, orders, or other documents submitted in designated eFile case types shall be filed electronically through the court's electronic filing system. The clerk shall not accept or file any document in paper form in mandatory eFile case types from litigants represented by counsel.
- (2) In conformity with the Revised Code, Civil Rule 5(E) and Criminal Rule 12(B) and, as approved (provisionally) by the Ohio Supreme Court Commission on Technology and the Courts, complaints, pleadings and other documents may be filed with the clerk of court electronically via the Internet, subject to the provisions in this rule.
- (3) APPLICATION OF RULES AND ORDERS. Unless otherwise modified by approved stipulation or court order, all rules of civil, criminal, and

appellate procedure, local rules, and orders of the court shall continue to apply to all documents electronically filed.

(C) ELECTRONIC FILING AND SERVICE OF ORDERS AND OTHER PAPERS

- (1) For all designated eFile case types, the court shall issue, file, and serve pursuant to Civ.R. 4. all pleadings, notices, orders, and other documents using traditional certified mail service, subject to the provisions of this rule.
- (2) For all designated eFile case types, the filer shall file and serve Civ.R. 5. notices, orders, and other documents using courier, mail, or electronic means. Proof of service must be filed with the clerk.

(D) DESIGNATION OF ELECTRONIC FILING CASES

- (1) Upon the designation of any particular case type as an eFile case or filing, the parties to that case who are represented by counsel shall promptly take steps to allow their counsel to file, serve, receive, review, and retrieve copies of their pleadings, notices, orders, and other documents filed in the case electronically. By definition, parties filing electronically or receiving electronic service of any documents filed must become participants in the court's electronic filing system.
- (2) For designated eFile case types as mandatory, the court shall not accept or file any pleadings or instrument in paper form. Parties represented by counsel shall eFile a document by registering to use the court's electronic filing system.

(E) CONFIDENTIAL AND UNIQUE ELECTRONIC IDENTIFIER

- (1) The court's electronic filing system shall assign the party's designated representative(s) a confidential and unique electronic identifier that must be used to file, serve, receive, review, and retrieve electronically filed pleadings, orders, and other documents filed in the assigned case. Each person to whom a unique identifier has been approved shall be responsible for the security and use of such identification. All documents filed electronically will be deemed to be made with the authorization of the party who is assigned to the specific unique electronic identifier, unless the party demonstrates to the satisfaction of the court by clear and convincing evidence to the contrary.

- (F) PRO SE LITIGANTS. All filings by parties appearing pro se shall be filed and served conventionally in paper form, unless the party petitions the court, and the court allows the party, to file and serve electronically, in which case the party may do so through the court's electronic filing system. The clerk of courts shall scan the paper document and return the paper copy to the pro se litigant.

(G) OFFICIAL COURT RECORD

- (1) For case types designated for electronic filing, parties shall file all pleadings, motions, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, notices, orders, or other documents electronically through the court's electronic filing system.
- (2) For documents that have been electronically filed or documents filed in paper format that have been scanned and uploaded to the electronic filing system, the electronic version constitutes the official court record.
- (3) Electronically filed papers have the same force and effect as those filed by traditional means.

(H) FORM OF DOCUMENTS ELECTRONICALLY FILED

- (1) **FORMAT OF ELECTRONICALLY FILED DOCUMENTS.** All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings, and in any other format as the court may require from time to time. A filed pleading shall not be filed as a scanned image document. Such pleadings shall be filed in a PDF format that permits word searches. A filed document shall not contain links to other documents or references in the court's case management system, unless they are incorporated into the filed document. External links are prohibited.
- (2) **LOCATION OF DATE AND TIME STAMP.** Filers must leave a marginal location at the top left of each page for date and time stamps. This blank space must be no less than 2-1/2 inches wide and 3/4 inch high.
- (3) **PORTABLE DOCUMENT FORMAT.** All electronically filed documents, pleadings, and papers shall be filed with the clerk in portable document format (PDF) with the exception of proposed orders. Proposed orders must be submitted in Word [.doc or .docx] or WordPerfect [.wpd] and reference the specific motion to which it applies. The electronic filing system will electronically transmit the proposed order to the assigned judge or judicial hearing officer.
- (4) **SIZE OF FILING.** Documents shall be limited to ten megabytes (10MB) in size. No combination of PDF files in one transmission may accumulate to more than thirty megabytes (30MB) in size.
- (5) **RESOLUTION OF FILING.** Documents shall be submitted in a resolution not less than 300 dots per inch (DPI).
- (6) **SIGNATURES**
 - (a) **ATTORNEY/FILING PARTY SIGNATURE.** Documents filed electronically with the clerk that require an attorney's or filing party's signature shall be signed with a conformed signature of "/s/ (name)." The correct format for an attorney signature is as follows:

/s/ Attorney Name

Attorney's Name
Bar Number 00XXXXXX
Attorney for (party)
Law Firm Address
Telephone number
Email address
Fax number (if any).

The conformed signature on an electronically filed document is deemed to constitute a signature on the document for the purposes of signature requirements imposed by the Rules of Superintendence, Rules of Civil Procedure, Rules of Criminal Procedure, Rules of Appellate Procedure, and/or any other law, rule of court, or local rule of practice or procedure.

(b) **MULTIPLE SIGNATURES.** When a stipulation or other document requires two or more signatures:

(i) The filing party or attorney shall confirm that the content of the document is acceptable to all persons required to sign the document. The filer will indicate the agreement of other counsel or parties at the appropriate place in the document, usually on the signature line.

(ii) The filing party or attorney then shall file the document electronically, indicating the signatories, e.g., /s/ Jane Doe, /s/ John Smith, etc.

(c) **THIRD-PARTY SIGNATURES.** Documents containing signatures of third-parties (i.e., unopposed motions, affidavits, stipulations, etc.) shall be electronically filed only as a scanned image.

(d) **JUDGE/JUDICIAL OFFICER SIGNATURE.** Electronic documents may be signed by a judge or judicial officer via a digitized image of his or her signature. All orders, decrees, judgments, and other documents signed in this manner shall have the same force and effect as if the judge or judicial hearing officer had affixed his or her signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

(7) **DOCKET TEXT.** When entering a proposed docket entry into the eFiling system, the filer understands that for purposes of clarity, uniformity, and formatting, the clerk of courts will, where necessary and appropriate, modify the docket entry description to comply with quality control standards.

(I) **TIME FOR FILING AND EFFECT OF USE OF EFILE**

(1) Any document filed electronically shall be considered as filed with the court when the transmission of the court's electronic filing system is complete ("effective date and time") and payment has been successfully

tendered electronically. An electronic filing may be submitted to the clerk twenty-four hours a day, seven days a week. Any document filed after 11:59 p.m. Eastern Standard Time or Eastern Daylight Saving Time shall be deemed to have been filed on the next court day. The court's electronic filing system is hereby appointed the agent of the Lake County clerk of courts for the purpose of electronic filing, receipt, service, and retrieval of electronic documents.

- (2) Upon receipt of a filing, the court's electronic filing system shall issue a confirmation that the filing has been received. The confirmation shall include the date and time of receipt and serve as proof of filing. A filer will receive subsequent notification from the clerk of courts that the filing has been accepted or rejected by the clerk's office for docketing and filing into the general division's case management system. Each document will receive an electronic stamp. When the filing is accepted by the clerk, this stamp will include the date and time that the filer transmitted the document to the court's electronic filing system as well as the unique confirmation number of the filing. In the event the clerk rejects a submitted document following review, the document shall not become part of the official court record and the filer may be required to re-file the document to meet necessary filing requirements.

(J) **SYSTEM FILING ERRORS**

- (1) If the electronic filing is not filed with the court because of an error in the receipt of the document by the court's electronic filing system due to circumstances under the court's or clerk of court's control, the court may, upon satisfactory proof, enter an order permitting the document to be filed nunc pro tunc to the date it was sent electronically.
- (2) In the event of a technical failure which renders the clerk of court's eFiling interface non-functional for more than one hour, the clerk may provide notice on its website indicating the anticipated resolution time and what steps filers should take in the interim. These steps may include a period of time where paper filing is required.

(K) **ELECTRONIC SERVICE OF FILINGS AND OTHER DOCUMENTS**

- (1) Whenever a document is filed electronically through the court's electronic filing system, the system will generate a notification of electronic filing to the filing party or its designated counsel.
 - (a) **COMPLAINT AND RELATED DOCUMENTS.** Upon electronically filing the original complaint, third party complaint, or any pleading that adds a new party, the filing party shall also file instructions for service electronically. The clerk shall issue a summons and process in the designated method of service in accordance with the Civil Rules.
 - (b) **SERVICE OF DOCUMENTS AFTER THE COMPLAINT.**

(i) **ESERVICE.** The electronic service of a subsequent pleading, filing or other documents in eFile cases shall be considered as valid and effective service on all parties and shall have the same legal effect as an original paper document served under former rules. Pro se parties or attorneys who have not registered with the court's electronic filing system shall be served a paper copy by the filing party, not the court or clerk, in accordance with the applicable rules of civil procedure.

(ii) **CERTIFICATE OF SERVICE.** A certificate of service on all parties entitled to service is still required when a party files a document electronically. The certificate must state the manner in which service was accomplished on each party so entitled. The certificate of service shall contain the following language: I hereby certify that I served the documents by courier, regular U.S. mail, or electronic means to the following (list of parties).

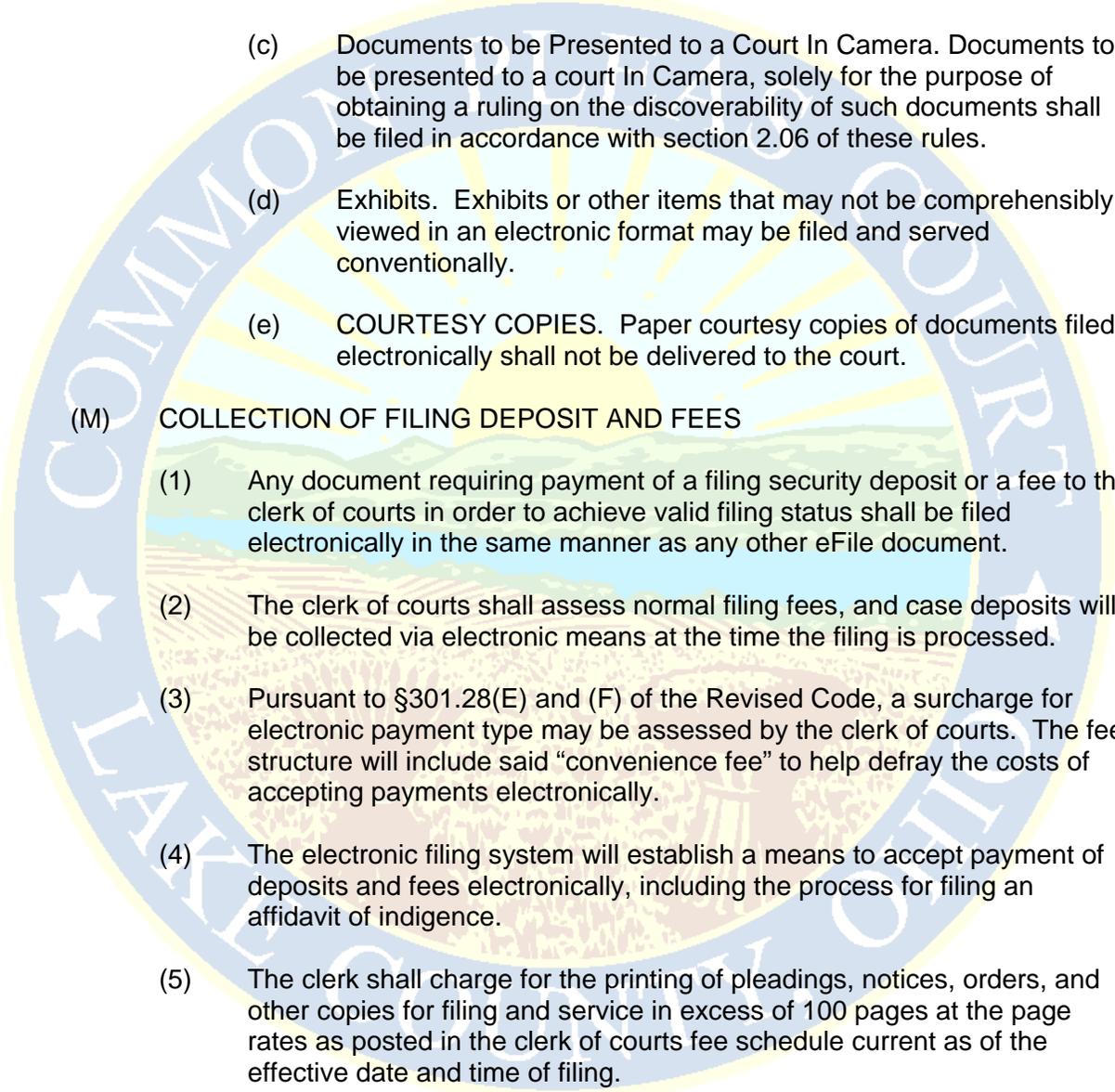
(iii) **SERVICE OF PROPOSED ENTRIES AND ORDERS.** It shall be the responsibility of the filing party, not the court or clerk, to serve all proposed entries and orders submitted to the court for signature on all parties and must be served by regular U.S. mail once the order has been signed and filed. Proposed orders should include a certificate of service as set forth in section (K)(1)(b)(ii) of this rule.

(c) **SERVICE ON PARTIES—TIME TO RESPOND OR ACT.** eService shall be deemed complete at the time a document has been received by the court's electronic filing system as reflected by the effective date and time appearing on the electronic transmittal. Effective with the commencement date of electronic filing, any period of time to respond to the served document or perform any right, duty, or act shall be strictly governed by the applicable rules of the court. Parties served electronically are entitled to the same three-day extension of time to respond as if they had been served by mail.

(d) **FAILURE OF ELECTRONIC SERVICE.** If service on a party does not occur, the party to be served may be entitled to an order extending the date for any response or the period within which any right, duty or act must be performed or the court may strike the pleading from the record.

(L) **CONVENTIONAL FILING OF DOCUMENTS**

(1) Notwithstanding the foregoing, the following types of documents may be filed conventionally, unless expressly required to be filed electronically by the court:

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- The seal of the Commonwealth of Massachusetts Superior Court is a large, circular watermark in the background. It features a central sunburst over a landscape with a river and hills. The words "COMMONWEALTH OF MASSACHUSETTS" are written around the top inner edge, and "SUPERIOR COURT" is written around the bottom inner edge. A five-pointed star is positioned on the left side of the seal.
- (a) **CONFIDENTIAL INFORMATION.** Personal data identifiers should be filed under separate cover in accordance with section 2.06 of these rules.
- (b) **DOCUMENTS FILED UNDER SEAL.** A motion to file documents under seal shall be filed and served electronically. However, the documents to be filed under seal shall be filed in accordance with section 2.06 of these rules.
- (c) **Documents to be Presented to a Court In Camera.** Documents to be presented to a court In Camera, solely for the purpose of obtaining a ruling on the discoverability of such documents shall be filed in accordance with section 2.06 of these rules.
- (d) **Exhibits.** Exhibits or other items that may not be comprehensibly viewed in an electronic format may be filed and served conventionally.
- (e) **COURTESY COPIES.** Paper courtesy copies of documents filed electronically shall not be delivered to the court.
- (M) **COLLECTION OF FILING DEPOSIT AND FEES**
- (1) Any document requiring payment of a filing security deposit or a fee to the clerk of courts in order to achieve valid filing status shall be filed electronically in the same manner as any other eFile document.
- (2) The clerk of courts shall assess normal filing fees, and case deposits will be collected via electronic means at the time the filing is processed.
- (3) Pursuant to §301.28(E) and (F) of the Revised Code, a surcharge for electronic payment type may be assessed by the clerk of courts. The fee structure will include said “convenience fee” to help defray the costs of accepting payments electronically.
- (4) The electronic filing system will establish a means to accept payment of deposits and fees electronically, including the process for filing an affidavit of indigence.
- (5) The clerk shall charge for the printing of pleadings, notices, orders, and other copies for filing and service in excess of 100 pages at the page rates as posted in the clerk of courts fee schedule current as of the effective date and time of filing.
- (N) **PUBLIC ACCESS TERMINAL.** The public can view electronically filed documents in the clerk’s office. Users shall be charged for printed copies of documents at the page rates as posted in the clerk of courts fee schedule.