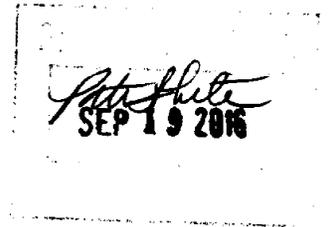


IN THE MAGISTRATE COURT OF FULTON COUNTY
STATE OF GEORGIA



In re:)
)
CERTAIN LITIGATION) CIVIL ACTION ORDER No.
)
In the Magistrate Court of Fulton County) 2016-EX-01108
)

**3rd AMENDED ORDER IMPLEMENTING ELECTRONIC-FILING
FOR NON-CRIMINAL CASES**

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

Effective April 4, 2016, E-filing will be mandatory for all non-criminal cases except abandoned motor vehicle petitions, domestication of foreign judgements, garnishment answers* and writs of fieri facias (“fi.fa.”). All filings must conform to O.C.G.A. § 15-10-54 and Uniform Magistrate Court Rule 20, both of which require specific handling of sensitive information, e.g., personal identifiers.

*All garnishment answers received through the Clerk’s lock box will be electronically filed by the Clerk’s banking institution.

All Documents in all non-criminal cases must be E-Filed pursuant to this Order and governed by this Order. Except as otherwise provided, no party will be permitted to file paper documents in any case except for incarcerated individuals without legal representation.

Bulk filers. Effective September 19, 2016, parties filing more than 10 cases simultaneously will be considered a bulk filer. Bulk filers have three options for electronic filing: 1. They may choose to file from the convenience of their office or workspace through eFileGA. Each case must be filed individually. A template function can expedite the process. 2. They may come to the courthouse to file at the designated Bulk Filer Kiosk as a registered user, thus avoiding the Tyler electronic filing fee. All bulk filing transmissions must be paid through the available payment options within eFileGA. The Bulk Filer Kiosk use will be limited to 30 minutes per user per turn to afford all bulk filers the benefit of the Kiosk. 3. Bulk filers may use FivePoints Solutions, a vendor capable of filing large numbers of cases electronically through eFileGA. Filings should be submitted through <https://efile.myfivepoint.com/ga/> and questions regarding the filing process should be directed to 803-951-2094. The identified vendor has a process established by the Clerk of Magistrate Court with a separate Memorandum of Understanding, the terms of which are incorporated herein by reference.

Public Access Kiosk. The public access kiosks designated for Magistrate Court in TG-100 are recognized to provide pro se litigants equal access to justice. Filers are restricted to filing no more than three new cases per day at the public access kiosks. All new case filings in excess of this amount should be done outside of the public access kiosks at the filer's discretion.

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

2. DEFINITIONS. The following terms in this Order shall be defined as follows:
- A. Case Management System. The Court's official case management and records management system is Odyssey by Tyler Technologies and can be accessed at www.magistratefulton.org.
 - B. Court. The Magistrate Court of Fulton County, Georgia.
 - C. Document. Any paper filing, including but not limited to statements of claim, answers, pleadings, petitions, complaints, 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 Magistrate Court via eFileGA, www.odysseyefilega.com.
 - F. E-Service. Electronic transmission of an original Document to all designated recipients via eFileGA. E-Filers must comply with the requirements of the Official Code of Georgia Annotated 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. Original Complaint/ Original Statement of Claim. A Document that gives rise to a cause of action serving as an original or case initiating pleading.
 - I. Original Petition. A Document that gives rise to a cause of action serving as an original or case initiating pleading.

- J. Original Answer. A Document directly responsive to the Original Complaint/Original Statement of Claim or Original Petition.
 - K. Public Access Terminal. ("PAT") A publicly accessible computer provided by the Court for the purposes of allowing E-Filing, E-Service and viewing of public Court records.
3. PUBLIC ACCESS TERMINAL. Public Access Terminals (PAT) will be located in the Self-help Center located in the Justice Center Tower, 185 Central Avenue, SW, Ground Floor, Suite TG-300, Atlanta, Georgia and any other designated location at the Fulton County Courthouse or Annex Service Centers. PATs will be connected to eFileGA and the Case Management System. PATs are available to any person to view public files 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 filing fees.

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* attorneys;
 - iii. Judges and their staff;
 - iv. Court administrative staff, including 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 e-mail address that is checked regularly. The Court assumes no responsibility for inoperable e-mail addresses or unread e-mail.
- 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) to file, serve, receive, review, and retrieve electronically filed pleadings, orders, and other documents.
- D. Utilization of PIN by attorney. 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 designated counsel may file Documents on behalf of the assigning counsel. An attorney who knowingly authorizes or permits his or her username and/or password to be utilized by his/her staff is fully responsible for all transmissions, communications and notifications through eFileGA.

E. Utilization of PIN by self-represented litigants. A self-represented litigant shall not knowingly authorize or permit his/her PIN to be utilized by anyone. Self-represented litigants are fully responsible for all transmissions, communications and notifications made through eFileGA with his/her PIN.

F. Change in Information. Registered users are required to update their contact information with eFileGA, including change in firm name, delivery address, fax number, telephone number and/or email address within three (3) days of such change.

G. Self-Represented Litigants.

i. If a Self-Represented Litigant does not have access to a computer to prepare or E-File an E-Document, the litigant can file his or her Document by coming to the Court and filing the same using eFileGA at one of the PATs within the Court. 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, then 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 or her initial filing that he or she does not have an email address and therefore cannot register for an eFileGA account.

5. ELECTRONIC FILING OF PLEADINGS AND OTHER DOCUMENTS. As of the effective date of this Order, except as expressly provided herein, all Documents shall be filed electronically through eFileGA. Except as otherwise set out herein, the clerk shall not accept or file any Documents in paper form. Parties or their representatives must either register with the Vendor to utilize eFileGA or E-File at a PAT.

A. Original Petition and Original Answers. Plaintiff shall file the Original Petition or Original Complaint or Original Statement of Claim in each case electronically via eFileGA or via PATs. Each defendant shall make arrangements with the Vendor prior to filing its first appearance or answer in such manner as to allow the timely electronic filing of its first appearance or answer in newly filed cases.

B. Subsequent Pleading and Discovery. Parties must E-File all other Documents

via eFileGA or at the PATs. Depositions and other discovery referenced in any E-Document may be attached electronically as exhibits, or may be filed separately. Any pleadings filed on *cases initiated prior to January 1, 2016*, including those requiring costs to be paid to the court, must be filed manually.

- C. Maintenance of Original Documentary Evidence by Filer. Unless otherwise ordered by the Court, originals of all Documents filed electronically, including original signatures, shall be maintained by the party filing the 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 Documents must be maintained for a period of seven (7) years following disposition of the matter in which the Document was filed, or longer, if required to do so by applicable law.
- D. Maintenance of Documents Filed Under Seal. In accordance with Uniform Magistrate Court Rule 19(B), E-Filing is expressly prohibited for Documents that must be filed under seal. Documents to be filed under seal must be submitted to the Clerk of Court in paper form. The Documents must be accompanied by a Court Order sealing the Documents submitted. Filers submitting Documents to be filed under seal are required to file a Notice of Submission of Documents Filed Under Seal if the Document to be filed under seal constitutes the entire filing. 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 should be included in the larger filed E-Document without separate notice.
- E. 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 in the clerk's office. The filing party shall serve the materials conventionally if required.
- F. Ex Parte Filings. Only where authorized by law or rule, a party may transmit an *ex parte* request manually. Requests for continuances or other filings of a non-emergency nature must be filed and served via eFileGA or PAT.
- G. Court's Docket – the Court's official docket shall be accessible via its Case Management System, Odyssey. The docket can be accessed electronically via the Odyssey Portal on the Court's website, www.magistratefulton.org.

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

- A. Time of Filing. Litigants may file E-Documents through eFileGA 24 hours a day, seven (7) days per week, except when eFileGA's system is down for maintenance. Any Document filed electronically shall be considered filed with the Court when the transmission to eFileGA is complete. Any document filed

after 11:59 p.m. EST on a day the Court is open for business shall be deemed to have been filed on the next Court day.

- B. Confirmation of Receipt. Upon completion of E-Filing, eFileGA shall issue a confirmation receipt that includes the date and time of submission to the Court. In accordance with Uniform Magistrate Court Rule 19(D), an E-Document is presumed filed upon its receipt by eFileGA. The confirmation receipt shall serve as proof of filing.
- C. Clerk Review: Acceptance/ Rejection Procedure. Following the submission of an E-Document, the Clerk of Court shall timely review the E-Document and shall notify the filing party 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(B). If an E-Document is filed which does not conform to the rules of the Court in which it is filed, a rejection notice shall be sent to the filing party and the E-Document shall not be docketed. 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 a corrupt E-Document, an E-Document with imbedded fonts, or E-Documents containing viruses;
 - iii. The E-Document does not meet the requirements or policies of the Court.

If an E-Document is rejected by the Clerk, 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 Magistrate Court Rule 19(F), if the electronic filing or service does not occur because of (1) inaccessibility to eFileGA that was not caused by the filer, or (2) an error in the transmission of the Document to eFileGA which was unknown to the sending party, or (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 or to provide an extension to respond.

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 other and further format as the Court may require from time to time. The E-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. When requested by the Court, Proposed Orders must be emailed directly to the judge's representative in Word format.
- C. Representations by Using a Typographical Signature. Every Document filed in the E-file system shall be deemed to have been signed by the attorney or party and shall bear a facsimile or typographical signature of such person e.g., /s/ NAME), along with the typed name, address, telephone number, email address and State Bar of Georgia number of a signing attorney. Typographical signatures shall be treated as personal signatures for all purposes in accordance with Uniform Magistrate Court Rule 19(C).
- 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-Document;
 - iii. The party or parties against whom relief, if any, is sought; and
 - iv. The nature of the relief sought (i.e. "Defendant John Doe's Motion to Open Default"). The title shall be used for administrative purposes only.

8. ELECTRONIC SERVICE OF PLEADINGS AND OTHER DOCUMENTS.

- A. Case Initiation. All parties shall make service upon other parties of Original Petitions and Original Complaints conventionally, i.e. by personal service or other means authorized by Georgia law.
- B. Subsequent Filings. Except as otherwise set forth in this Order, Documents other than case-initiating documents, shall be served electronically through eFileGA. Parties, or their designated counsel, shall receive all Documents E-Filed and E-Served upon them via eFileGA.
- C. Effect of Electronic Service. In accordance with Uniform Magistrate Court Rule 19(E), the electronic service of a E-Document via eFileGA shall be considered as valid and effective service and shall have the legal effect as an original paper Document sent via conventional means, U.S. mail and/or hand delivery. Recipients of electronic service shall receive an email notification of service, which contains an electronic image of the served E-Document.

D. Court Docket. Recipients of E-Documents can access E-Documents through the eFileGA system in cases in which they have appeared and consented to E-Filing. A docket listing is accessible via the Odyssey portal on the official website of the Court, www.magistratefulton.org. E-Documents on the official court docket, Odyssey, may be viewed for free at any PAT. Paper copies of E-Documents from the official court docket will be available on demand for a fee in the Clerk's Office.

E. 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. Effective with the commencement date of E-Filing, any period of notice or any right or duty to do any act or make any response within any period or date is prescribed by statute or rule of court.

ii. For the purpose of computing time to respond to Documents received via E-Service, any Document served on a day when the Court is not open for business shall be deemed served on the next day the Court is open for business.

iii. Registered users consent to receive E-Service Documents, other than service of subpoenas or summonses.

iv. Registered users consent to accept E-Service notifications of a hearing or trial.

F. System or User Filing Errors If E-Service does not occur because of (1) an error in the transmission of the E-Document to eFileGA or served party which was unknown to the sending party, (2) a failure to process the E-Document when received by eFileGA, (3) the party was erroneously excluded from the service list, or (4) other technical problems experienced by the filer, the party 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 Judge or may be required to do so in the Judge's discretion.

10. COLLECTION OF FEES FOR INSTRUMENTS REQUIRING FEE PAYMENT.

A. Any Document requiring payment of a statutory filing fee in order to initiate a cause of action and achieve valid filing status shall be paid electronically, except for filers utilizing the PATs, where users may tender payment in person in a form approved by the Clerk's office. If a filing fee is required, immediately

upon acceptance of the filing by the review clerk, Vendor will credit the designated Court account via ACH (Automated Clearing House).

- B. Fees may be charged by the Vendor to parties or attorneys for E-Filing of E-Documents, access to Documents and/or docket, and E-Service of Documents. These fees shall be payable to the Vendor at the time of filing and are in addition to the statutory filing fees.
- C. 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 or her case initiation pleadings. The indigent party will select a waiver code as payment and the statutory filing fees and E-Filing 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, court 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 April 4, 2016, as well as to any case pending on the effective date of this Order.

13. ELECTRONIC RECORD

The Clerk of Magistrate 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 19 day of September, 2016.


Chief Magistrate Judge Cassandra Kirk
Magistrate Court of Fulton County
Atlanta Judicial Circuit