

Supreme Court of Kentucky

2022-45

ORDER

IN RE: MANDATORY ELECTRONIC FILING IN SELECTED CASE TYPES IN THE CIRCUIT AND DISTRICT COURTS OF THE COMMONWEALTH

Pursuant to Section 116 of the Kentucky Constitution and the Administrative Rules of Practice and Procedure for the Kentucky Court of Justice Electronic Filing Pilot Project (2018-11, “eFiling Rules”), effective November 1, 2022, all eligible documents, including document(s) initiating the action, shall be electronically filed by an attorney in the following case types in the circuit and district courts:

1. Tort - Automobile
2. Tort – Intentional
3. Tort - Malpractice – Medical
4. Tort - Malpractice – Other
5. Tort – Premises Liability
6. Tort – Product Liability
7. Tort – Property Damage
8. Tort – Slander/Libel/Defamation
9. Tort – Other

In the event of a technical failure, Section 18 of the eFiling Rules shall apply. For the purposes of this order, “eligible documents” means those documents for which an action in eFiling is configured and available to the filer. If a document is not eligible for eFiling, it may be conventionally filed.

Effective December 1, 2022, the Circuit Clerk shall reject and return any conventionally filed document that is eligible for eFiling in these case types, except that, attorneys who have not obtained certification to electronically file in the KY eCourts eFiling application and are unable to do so in time to comply with a jurisdictional deadline shall be permitted to file an eligible document(s) if accompanied by an affidavit of necessity.

The affidavit of necessity, to be subscribed and sworn to by the attorney, shall be as set out herein and contain, at a minimum, the following language:

"Commonwealth of Kentucky County of _____. Affiant, _____, being first duly sworn states as follows:

- (1) Affiant is an attorney, in good standing, licensed to practice law in the Commonwealth of Kentucky, with Kentucky Bar Identification Number _____.
- (2) Affiant has not obtained certification to electronically file in the KY eCourts eFiling application.
- (3) Affiant represents _____, a party in the attached court filing which affiant is tendering to the Circuit Court Clerk of _____ County for filing on this ____ day of _____, 20__.
- (4) Prior to the date of this affidavit, affiant was unfamiliar with Supreme Court Administrative Order 2022-45, which mandates attorneys to electronically file all eligible court documents, including a document(s) initiating an action, in tort case types.
- (5) Affiant has not previously filed an affidavit of necessity with respect to any Supreme Court Administrative Order mandating electronic filing.
- (6) The attached court filing is an eligible document required to be electronically filed pursuant to Supreme Court Administrative Order 2022-45.
- (7) Further, the attached court filing is subject to an imminent jurisdictional deadline that cannot be extended.
- (8) Affiant would be unable to comply with the jurisdictional deadline if not permitted to conventionally file the attached court filing prior to obtaining the required certification.
- (9) Affiant acknowledges that pursuant to Supreme Court Administrative Order 2022-45, all subsequent eligible documents associated with the attached court filing must be electronically filed, and as such, agrees to take all necessary steps prior to filing any such documents to ensure that affiant will be able to comply with Supreme Court Administrative Order 2022-45.

<Signature of affiant>

Subscribed and sworn to before me this ____ day of _____, 20__.

<Signature and title of officer administering the oath>”

Judges, commissioners, and other court personnel are strongly encouraged to electronically file orders, notices, and other documents in all case types considering system availability and limitations.

This order supplements Administrative Order 2022-22 regarding Mandatory Electronic Filing in Selected Case Types in the Circuit and District Court of the Commonwealth.

Entered this 19th day of September 2022.

All sitting. All concur.


CHIEF JUSTICE