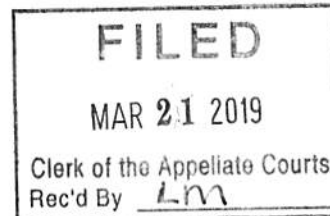




March 21, 2019



VIA E-Mail: appellatecourtclerk@tncourts.gov

James Hivner, Clerk of Appellate Courts
Tennessee Supreme Court
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

Re: Amendments to Tennessee Supreme Court Rule 46A; No. ADM2019-00332

Knoxville Bar Association
505 Main Street, Suite 50
P.O. Box 2027
Knoxville, TN 37901-2027
PH: (865) 522-6522
FAX: (865) 523-5662
www.knoxbar.org

Officers

Wynne du Mariau Caffey-Knight
President

Hanson R. Tipton
President-Elect

Cheryl G. Rice
Treasurer

Jason H. Long
Secretary

Keith H. Burroughs
Immediate Past President

Board of Governors

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Kathryn St. Clair Ellis
Elizabeth B. Ford
Rachel P. Hurt
Allison S. Jackson
Stephen Ross Johnson
Elizabeth K.B. Meadows
Mary D. Miller
T. Mitchell Panter
Robert E. Pryor Jr.
Mikel A. Towe

Executive Director
Marsha S. Watson
mwatson@knoxbar.org

Dear Mr. Hivner:

Pursuant to the Tennessee Supreme Court's Order referenced above, the Knoxville Bar Association ("KBA") Professionalism Committee ("Committee") has carefully considered the proposed change to Tennessee Supreme Court Rule 46A, which would govern the electronic service (e-service) of papers that are electronically filed (e-filed) pursuant to local rules of court. At the KBA Board of Governors' (the "Board") meeting held on March 13, 2019, the Committee presented a report of its review of the Order. Following the Committee's presentation and thorough discussion by the Board, the Board as a whole unanimously adopted the Committee's recommendation to file this comment in support of the proposed changes to Rule 46A.

As always, the KBA appreciates the opportunity to comment on proposed Rules and changes to such Rules promulgated by the Tennessee Supreme Court.

Sincerely,

A handwritten signature in black ink that reads "Wynne Caffey-Knight". The signature is written in a cursive style.

Wynne Caffey-Knight, President
Knoxville Bar Association

cc: Marsha Watson, KBA Executive Director (via e-mail)
KBA Executive Committee (via e-mail)

appellatecourtclerk - On Behalf of the Knoxville Bar Association - Comments on Proposed Changes to Tennessee Supreme Court Rules

From: Marsha Watson <mwatson@knoxbar.org>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>, J...
Date: 3/21/2019 4:42 PM
Subject: On Behalf of the Knoxville Bar Association - Comments on Proposed Changes to Tennessee Supreme Court Rules
Attachments: KBA Comment on No. ADM2019-00332.pdf



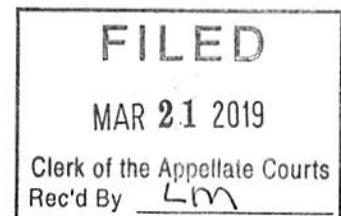
505 Main Street, Suite 50
P.O. Box 2027
Knoxville, Tennessee 37901-2027
Telephone: (865) 522-6522
Facsimile: (865) 523-5662
www.knoxbar.org

Good afternoon.

On behalf of the Knoxville Bar Association, I have attached comments regarding ADM2019-00332.

If you have any questions, please let me know.

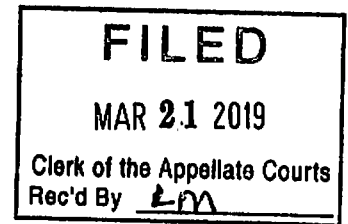
Marsha S. Watson
Knoxville Bar Association
Executive Director
Ph: [865-522-6522](tel:865-522-6522)
FAX: [865-523-5662](tel:865-523-5662)
Cell: [865-919-6559](tel:865-919-6559)
mwatson@knoxbar.org



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**Shelby County Circuit and Chancery Court
Comments to Adoption of Rule 46A**



IN THE SUPREME COURT OF TENNESSEE AT NASHVILLE

IN RE: ADOPTION OF RULE 46A, RULES OF THE TENNESSEE SUPREME COURT

No. ADM2019-00332 _____

ORDER

The Court is considering the adoption of Tennessee Supreme Court Rule 46A, which would govern the electronic service (e-service) of papers that are electronically filed (e-filed) pursuant to local rules of court. The Court hereby solicits comments from judges, lawyers, bar associations, members of the public, and any other interested parties with respect to the attached proposed rule. The deadline for submitting written comments is Friday, March 22, 2019. Comments should reference the above docket number and should be e-mailed to appellatecourtclerk@tncourts.gov or mailed to: James M. Hivner, Clerk, Tennessee Appellate Courts, 100 Supreme Court Building, 401 7th Avenue North, Nashville, TN 37219-1407.

The Clerk shall provide a copy of this order, including the appendix, to LexisNexis and to Thomson Reuters. In addition, this order, including the appendix, shall be posted on the Tennessee Supreme Court's website.

PERCURIAM

APPENDIX

ADOPTION OF TENNESSEE SUPREME COURT RULE 46A

ADOPTION OF TENNESSEE SUPREME COURT RULE 46A

Rule 46(A). Electronic Service of Papers E-Filed Pursuant to Local Rules of Court.

(1) For purposes of this Rule, the following definitions shall apply:

- (a) "E-file" or "E-filing" means the electronic submission of documents through an E-Filing system to the clerk of court.**
- (b) "E-Filer" means a registered user who e-files a document.**
- (c) "E-Filing system" means a system adopted by any Circuit, Chancery, Criminal, Juvenile, Probate or General Sessions Court Clerk that allows for the e-filing of documents and is in compliance with the technological standards promulgated by this Court. (Comment: In Shelby**

Shelby County Circuit and Chancery Court Comments to Adoption of Rule 46A

County, Probate Court is separate from either Circuit or Chancery Courts. Probate Court in Shelby County is currently investigating initiating e-filing.)

(d) "E-service" or "E-served" means the electronic transmission of e-filed documents (or links to such e-filed documents) through an e-filing system to all participants in the case who are registered users.

(e) A "registered user" is a person who has properly registered with and has been authorized to use an e-filing system for the e-filing of documents in accordance with the requirements of a local rule of court. A registered user is deemed to have consented to receive e-service and is responsible for maintaining a valid and current e-mail address and keeping same up to date in the e-filing system.

(f) "Documents" that may be e-served under this Rule include only those items that must be served pursuant to Tenn. R. Civ. P. 5.01, Tenn. R. Crim. P. 49, Tenn. R. Juv. P. 106, and any similar General Sessions Court rule.

(2) Any Circuit, Chancery, Criminal, Juvenile, Probate or General Sessions Court that has, by local rule of court, allowed documents to be filed, signed or verified by a registered user of an e-filing system shall allow such documents to be e-served. E-service shall constitute proper service of the e-filed document on a registered user and shall have the same legal effect as service of a paper document under the applicable rules of procedure. Independent service of an e-filed document, either by paper or otherwise, need not be made on any registered user. Any Circuit, Chancery, Criminal, Juvenile, Probate or General Sessions Court that has, by local rule of court, allowed documents to be e-filed pursuant to local rule and has allowed documents to be signed or verified by a registered user of an e-filing system as a scanned image in a portable document format shall likewise be permitted to allow such documents to be e-served in that manner. *(Comment: Shelby County's Local Electronic Filing Rules (Part 12) currently do not permit electronic signing. Only scanned images of signatures in .pdf format are accepted. If the definition of "signed" is broad enough to include a scanned image of a non-electronic signature then no additional change is required.)*

(3) Any (A) lawyer representing a person, party or participant in the case, or (B) pro se person, party or participant in the case, who is either (i) not a registered user of the e-filing system or (ii) known by the e-filer not to have been e-served, must be served through the conventional means of service set forth in the applicable rules of procedure. *(Comment: It should be noted that currently service of all documents in a case filed in Shelby County (traditionally or electronically) must be traditionally/conventionally served. Under Shelby County's current e-filing system, e-service is not technically available to registered users because at the time of adoption of e-filing (2012) the Tennessee Rules of Civil Procedure did not provide for electronic service.*

As the first e-filing court in the state (and to encourage broad e-filing participation) Shelby County courts have never specifically charged for registration as an e-filer or a per-document filing fee for e-filing individual documents. Attorneys are not required to register for or e-file in Shelby County courts. Some attorneys who initially registered for e-filing (in 2012) are not current e-filers, nor would they accept electronic service of e-filed documents.

Shelby County Circuit and Chancery Court Comments to Adoption of Rule 46A

As it relates to e-service, e-filing systems in the State of Tennessee differ in application. For example, an e-filing system that is hosted by the vendor Tyler might include e-service similar to electronic service in federal courts. (See example on Page 6). It would carry a tracking (“envelope”) number and would provide a link directly to the document filed. However, there is a fee associated with e-filing and e-service when the system is hosted and owned by Tyler. Not all courts wish to charge attorneys and pro-se litigants to use their e-filing system. Some courts prefer to manage their e-filing system and not charge the e-filer to have documents e-filed. E-filing has been marketed for the convenience of attorneys, but it also provides a benefit to the Court.

Other vendors, such as Tybera, can at the discretion of the subscribing court, either charge attorneys to e-file or not charge attorneys to e-file. Irrespective of whether attorneys are charged or not, Tybera provides the e-filer with a Notice of Electronic Filing (NEF). (See example on Page 5). Shelby County Circuit and Chancery Courts rely on Tybera for e-filing. Shelby County Circuit and Chancery Court do not rely on the State of Tennessee’s case management system (TNCIS) but rather have a case management system of their own (Contexte). While Tybera’s NEF provides all the information an e-filer might need for it to operate as e-service, unlike the direct link that Tyler provides, Tybera provides the link directly to the court’s e-filing web and prompts the notified e-filer to validate that the document was filed. Shelby County Courts believe the service and validation (NEF) by Tybera is more secure in nature than relying on a direct link in an email to the document. This is particularly important for sealed matters and the prevention of making the document readily available to anyone who has access to the email.

Unless Shelby County courts update their current electronic court filing system (ECF) with Tybera to allow e-service to all attorneys in each case, as well as perhaps publishing a list of registered users, e-filers may still be required to use the traditional/conventional means of service. Alternatively, the Supreme Court could include in Rule 46A language permitting the current Tybera NEF as valid e-service. Currently in Shelby County Courts, a registered e-filer in a particular case will be individually “noticed” that their document has been filed (defined in the local rules as a Transaction Receipt and referenced by Tybera as an NEF). As it relates to other registered users in an individual case, the current Shelby County e-filing system and NEF is configured to automatically send out this Transaction Receipt listing the document e-filed in the case to all registered users. The Shelby County ECF by Tybera is configured to give the e-filer the list of parties “noticed” and the parties “not noticed” but admittedly there is no external tracking system in place to determine whether the parties were e-served (such as the one hosted by Tyler). There is no direct link to the individual document filed nor an “Envelope Number” that tracks the e-service. It is incumbent on the noticed parties to go into the e-filing system to validate the document that has been filed.

(4) Unless ordered otherwise by the court, a court clerk may, through the e-filing system, transmit to registered users all notices, orders, opinions, or judgments filed by the court or court clerk, which transmission shall constitute proper service and shall satisfy the notice requirements of the applicable rules of procedure. (Comment: The “may” language is helpful for Shelby County’s ECF. As noted above, the Shelby County ECF is not currently programmed for the court clerk to send out notices, orders, opinions, or judgments filed by the court (that would constitute proper service and satisfy the notice requirements of the applicable rules of procedure). Because of the current structure of the ECF system in

Shelby County Circuit and Chancery Court Comments to Adoption of Rule 46A

Shelby County courts, one would assume that a standing order signed by all Judges or Chancellors in Shelby County would suffice to meet the requirements of "unless ordered otherwise by the court".

(5) The court has the discretion, for good cause shown, to order that service, other than e-service, be required in a particular case or by standing order in all cases where a court's current e-filing system does not allow for e-service. (Comment: For all the reasons listed above, the Judges and Chancellors of Shelby County courts would have to order that service, other than e-service, is required in a particular case. The ability of the Shelby County judiciary to issue a standing order applicable to all cases, as opposed to an individual order for each particular case, would prove helpful.

Respectfully submitted,

Temilka Gipson, Shelby County Circuit Court Clerk

Donna L. Russell, Clerk and Master, Shelby County Chancery Court

Shelby County Circuit and Chancery Court
Comments to Adoption of Rule 46A

**SHELBY COUNTY COURTS EXAMPLE OF ELECTRONIC FILING
NOTICE (NEF)**

Sent: Thursday, March 07, 2019 1:44 PM
To: xxxxxxxxxxx Attorney
Cc: xxxxxxxxxxx Paralegal
Subject: Courtesy NEF RE: CT-003780-17

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: CT-003780-17
Judge: Judge HONORABLE JERRY STOKES - Division 30CT

Official File Stamp: 03-07-2019:13:39:40
Notification Date: 03-07-2019:13:43:58
Court: CIRCUIT COURT
Case Title: AC COINFRA VS WILL NELSON
Document(s) Submitted: RESP TO MOTION Response to Defendant's Motion to Dismiss
for Lack of Subject Matter Jurisdiction or in the Alternative
Motion to Compel Arbitration
Filed by or in behalf of: Jennie Vee Silk

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

The following people were notified electronically:

LUKE P CANTRELL for AC COINFRA, LLC
JONATHAN C HANCOCK for AC COINFRA, LLC
JENNIE VEE SILK for AC COINFRA, LLC

The following people have NOT been notified electronically by the Court:

NELSON, LLC D/B/A WCN CONTRACTORS
NELSON, LLC
NELSON, INC.
WILL J. NELSON

Shelby County Circuit and Chancery Court
Comments to Adoption of Rule 46A

DAVIDSON COUNTY COURTS EXAMPLE OF E-SERVICE

Copy of Service

Envelope Number: 20602

This is a copy of service for the filing listed. Please click the link below to retrieve the submitted document.

Filing Details	
Court	Davidson County - Chancery Court
Case Number	18-0001-III
Case Style	James and Julie Archambeault vs. Wyndham Worldwide Operations, Inc. et al
Date/Time Submitted	1/22/2019 9:39 AM CST
Activity Requested	Chancellor's Order
Filed By	Phyllis Hobson
Service Contacts	\$\$\$allcontacts

Document Details	
Lead File	Archambeault v Wyndham-Notice-Status of Ruling on Motion to Dismiss.pdf
Lead File Page Count	1
File Stamped Copy	https://tennessee.tylerhost.net/ViewDocuments.aspx?FID=cf1c9cd2-1995-46f6-bb70-3ddf01aad892 This link is active for 60 days.

Please do not reply to this email. It was generated automatically by no-reply@tylerhost.net

appellatecourtclerk - Comments to Rule 46A

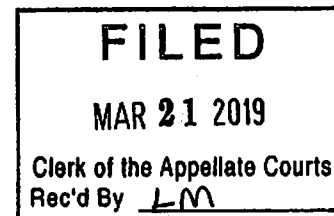
From: "Russell, Donna" <Donna.Russell@shelbycountyttn.gov>
To: "Jim Hivner (Jim.Hivner@tncourts.gov)" <Jim.Hivner@tncourts.gov>
Date: 3/21/2019 4:31 PM
Subject: Comments to Rule 46A
Cc: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>, ...
Attachments: Rule 46A_ Shelby County Court Comments_3.21.19.pdf

Honorable Clerk Hivner,

Attached please find Circuit and Chancery Court's comments to Adoption of Rule 46A, Rules of the Tennessee Supreme Court. Comments are highlighted in "red", recommended changes/additions are highlighted in "blue." Please call if you have any questions.

Regards,

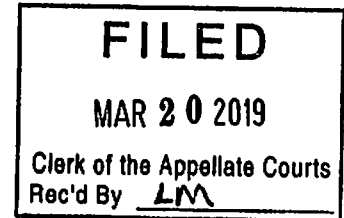
Donna L. Russell
Clerk & Master
Shelby County Chancery Court
140 Adams Ave., Room 308
Memphis, TN 38103
Office: 901-222-3901
Fax: 901-222-3909
Email: donna.russell@shelbycountyttn.gov



LAW OFFICES
ALLAN J. WADE, PLLC
5050 Poplar Avenue, Suite 1028
Memphis, Tennessee 38157
Telephone (901) 322-8005

Allan J. Wade
Brandy S. Parrish

March 20, 2019



Via email appellatecourtclerk@tncourts.gov
Mr. Jim Hivner, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

RE: *ADM2019-00332—Adoption of Rule 46A*

Dear Mr. Hivner:

I have attached a redlined version of Rule 46A, which includes my comments. Functionally, I think the rule will provide sufficient guidance for the bar and the court clerks. However, the Court may wish to consider some changes to make some of the definitions in Rule 46 and Rule 46A consistent. With the exception of the reference to Tenn. R. Civ. P. 5.01 my suggestions are not imperative.

These comments are my own. The Rules Commission will continue its work to fashion a permanent rule for the Court's consideration. In light of the dearth of comments from the bar and the trial courts, we would welcome any suggestions from the Court as to any specific areas the Commission should examine.

Very truly yours,


Allan J. Wade

Rule 46(A). Electronic Service of Papers E-Filed Pursuant to Local Rules of Court

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(1) For purposes of this Rule, the following definitions shall apply:

(a) "E-file" or "E-filing" means the electronic submission of documents through an E-Filing system to the clerk of court. "E-file" or "e-filing" means the electronic transmission of documents in cases pending in the court, using the dedicated e-filing system maintained by the clerk.¹

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(b) "E-Filer" means a registered user who e-files a document.

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(b)

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(c) "E-Filing system" means a system adopted by any Circuit, Chancery, Criminal, Juvenile or General Sessions Court Clerk that allows for the e-filing of documents and is in compliance with the technological standards promulgated by this Court. "E-filing system" means a web-based system that is in compliance with the technological standards promulgated by this Court, which has been adopted by any Circuit, Chancery, Criminal, Juvenile or General Sessions Court Clerk and maintained by the clerk of any such court for the purpose of providing a means for e-filers to transmit documents to the clerk for filing.²

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(e)

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(d) "E-service" or "E-served" means the automatically generated electronic transmission of e-filed documents (or links to such e-filed documents) by and through an e-filing system to all participants in the case who are registered users.³

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(e) A "registered user" is a person who has properly registered with and has been authorized to use an e-filing system for the e-filing of documents in accordance with the requirements of a local rule of court. A registered user is deemed to have consented to receive e-service and is responsible for maintaining a valid and current e-mail address and keeping same up to date in the e-filing system. By consenting to receive e-service from a e-filing system, a party is not

¹ The additional text is offered to compare the definitional language of Rule 46 with Rule 46

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A.

² The additional text is offered to compare the definitional language of Rule 46 with Rule 46

A.

³ These additions are consistent with Rule 46. I assume these notices are automatically generated by the e-filing system and not manually by a person wearing a green visor.

deemed to have consented to receive electronic service directly from another party in lieu of e-service.⁴

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- (f) "Documents" that may be e-served under this Rule include only those items that must be served pursuant to ~~Tenn. R. Civ. P. 5.01~~, Tenn. R. Civ. P. 5.01, Tenn. R. Crim. P. 49, ~~Tenn. R. Juv. P. 106~~, and any similar General Sessions Court rule.⁵

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- (2) Any Circuit, Chancery, Criminal, Juvenile or General Sessions Court that has, by local rule of court, allowed documents to be filed, signed or verified by a registered user of an e-filing system shall allow such documents to be e-served. E-service shall constitute proper service of the e-filed document on a registered user and shall have the same legal effect as service of a paper document under the applicable rules of procedure. Independent conventional service of an e-filed document, either by paper or otherwise, need not be made by an e-filer on any registered user, unless otherwise ordered by the court.

- (3) Unless ordered otherwise by the court, a court clerk may, through the e-filing system, transmit to registered users all notices, orders, opinions, or judgments filed by the court or court clerk, which transmission shall constitute proper service and shall satisfy the notice requirements of Tenn. R. Civ. P. 58 or any other applicable rule of procedure.

- (3)(4) Any (A) lawyer representing a person, party or participant in the case, or (B) pro se person, party or participant in the case, who is either (i) not a registered user of the e-filing system or (ii) known by the e-filer or the clerk of the court not to have been e-served, must be served by the e-filer or by the clerk, as the case may be, through the conventional means of service as required by set forth in the applicable rules of procedure or local rules of court.

⁴ The Court should consider making this clarification, since so many deadlines are triggered by proper notice. Non-e-filed notice is not proper notice, except as permitted under outdated Tenn. R. Civ. P. 5.02(2)(a). Cf. *Rushing v. Board of Supervisors of University of Louisiana System*, 270 F.R.D. 259, 260-61 (M.D.La. 2010)

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⁵ As an aside, the scope of Tenn.R.Civ.P. 5.01 may need to be examined by the Rules Commission, since it does not require service of a number of documents that are routinely e-filed, such as briefs, memoranda, special master's reports and 56.03 Statements [added to Rules after Rule 5.01]. Since some rules have their own service requirements, i.e., Tenn. R. Civ. P 45.03, 53.04, 56.03, reference to Tenn. R.Civ. P. 5.01 may be too restrictive.

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~~(4) Unless ordered otherwise by the court, a court clerk may, through the e-filing system, transmit to registered users all notices, orders, opinions, or judgments filed by the court or court clerk, which transmission shall constitute proper service and shall satisfy the notice requirements of the applicable rules of procedure.~~

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(5) The court has the discretion, for good cause shown, to order that service, other than e-service, be required in a particular case.

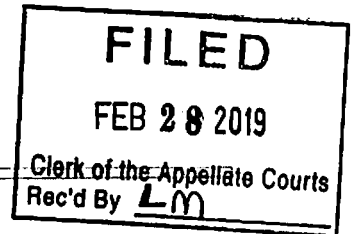
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~~(5)~~

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Lisa Marsh - Docket No. ADM2019-00332; Adoption of Rule 46A



From: "David R. Grimmett" <dgrimmett@grimmettlawfirm.com>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 2/28/2019 11:15 PM
Subject: Docket No. ADM2019-00332; Adoption of Rule 46A

Dear Sir or Madam,

Thank you for taking the time to investigate the possibility of e-filing in Tennessee. I have practiced in this state since 2005 and e-filing is very much long overdue at the local level. In reviewing the Order, the only concern I foresee is some users may interpret e-mail as the same thing as e-file considering "e-file means the electronic submission of documents through an e-filing system to the clerk of the court." A pro-se litigant might interpret this to mean that an e-mail to the clerk would qualify as an "e-file." In order to alleviate this concern, I would suggest having a comment regarding the applicability of this rule compared to e-mail service or a cross reference to rule 5.02. Currently, there is no reference to Rule 5.02 and instead is a broad reference to the "applicable rules of procedure" found in subsection 3.

Thank you again for working so hard to implement an e-filing system. This will certainly help to minimize costs to litigants as well as expedite the litigation process.

David R. Grimmett
Attorney
dgrimmett@GrimmettLawFirm.com
Office: (615) 256-4468
Fax: (615) 296-4488
www.grimmettlawfirm.com

GRIMMETT
— LAW FIRM PLLC —

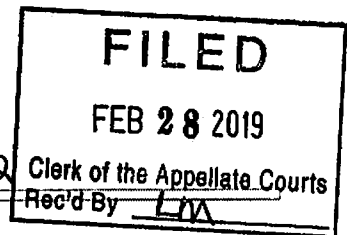
3326 Aspen Grove Drive
Suite 310, Lincoln Square
Franklin, Tennessee 37067

CONFIDENTIALITY NOTICE:

This e-mail and any attachments are confidential and may be privileged. If you are not the named recipient, please notify the sender immediately and delete the contents of this message without disclosing the contents to anyone, using them for any purpose, or storing or copying the information on any medium.

Lisa Marsh - Proposed Rule 46A Comment

ADM2019-00332



From: Bill Miller <bill@williamemiller.com>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 2/28/2019 10:21 AM
Subject: Proposed Rule 46A Comment

Dear Sir or Madam:

I am writing about proposed Rule 46A, and strongly encourage its approval and rapid application. I do have one concern that is not specifically addressed in the proposed Rule. One of the difficulties we face in real estate law (where electronic filing is substantially ahead of the courts) is that each county has a divergent system. This often leads to attorneys having to subscribe to multiple systems to electronically file documents. It would be ideal if there was either one vendor handling electronic filing state wide, or alternatively, a uniform method for filing, rather than leaving that up to each individual district.

Frankly, with economies of scale in this industry, it might be cheaper for the AOC to contract with a vendor to provide this service for all courts of record state wide using uniform file submission guidelines. The vendor could be responsible for actual delivery of the documents to the court clerks.

The type of uniformity I am seeking is that if this is not a unified system, as I have proposed, that all courts require the same electronic file format (say PDF) and that the process for e-filing is largely identical in all districts. Shelby county has had a fabulous online e-file system for some time, and it works well. It might be a good model for the remainder of the districts.

Finally, as a frequent litigator in General Sessions court, e-filing is most desperately needed there, where the case volumes are much higher than in the other courts.

Sincerely,

William E. Miller
Attorney at Law
William E. Miller & Associates
P.O. Box 680026
Franklin, TN 37068-0026

Nashville Phone & Fax: 615-550-7106 x 105
Memphis Phone & Fax: 901-620-6976 x 105

Any attachments to this e-mail require Adobe Acrobat Reader to open. You can download this program for free at <http://get.adobe.com/reader/>

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Lisa Marsh - In Re: Adoption of Rule 46A; No. ADM2019-00332

From: Dusty King <dusty@kingplc.com>
To: "'appellatecourtclerk@tncourts.gov'" <appellatecourtclerk@tncourts.gov>
Date: 2/21/2019 12:58 PM
Subject: In Re: Adoption of Rule 46A; No. ADM2019-00332

Having practiced in the US Bankruptcy Court, Western Section, since it went to the electronic case filing system, I can testify to the ease of use and effectiveness of an e-filing system. My question is whether there are any plans to require the various Clerks to eventually adopt such a system, especially in rural areas of the state. It is imperative that our judicial system get up to speed with the times and allow e-filing. I am certainly in favor of the Proposed Rule 46(A). Thank you.



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Lisa Marsh - Comments on Proposed Supreme Court Rule 46A

ADM2019-00332

From: Chip Dawson <chip@charlesdawsonlaw.com>
To: <appellatecourtclerk@tncourts.gov>
Date: 2/20/2019 6:16 PM
Subject: Comments on Proposed Supreme Court Rule 46A

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FEB 20 2019
Clerk of the Appellate Courts Rec'd By <u>um</u>

I have practiced law in Alabama for over 20 years, and since 2006 electronic filing has been mandatory for licensed attorneys in all trial courts (except juvenile) in all 67 counties. Likewise, the presumption of the perfection of service upon the successful completion of the e-filing of any pleading, proposed order or other documents was built-in. Many older practitioners found it difficult in the beginning; however, it has now become routine for all but the most intractable. It allows attorneys to appear and plead within deadlines without mail, paper or driving to far-flung courthouses. It relieves clerk's office personnel of the extra burden of entering the documents into the case action summary since e-filing also automatically creates the CAS entry. It allows for the submission of proposed orders creating an alert for the receiving judge.

I have been practicing in Tennessee for 2 years. E-filing of any sort would be tremendously helpful, but it would be especially helpful if it were uniform and state-wide, not elective by county. An associate of mine licensed in Georgia has been dealing with the fact that, in that state, e-filing is elective and counties may choose from 3 different providers. It is neither seamless nor equivalent across the various providers.

While many practitioners are familiar with the Federal Courts' ECF system, it is on occasion more difficult than it needs to be, though it is uniform.

I would recommend the courts look at the AlaCourt/AlaFile system in place in Alabama (which was modeled on a similar system in, I believe, Colorado). Here is the AOC link:

<http://efile.alacourt.gov/default.aspx>

And here is a link to an article from 2006 when AlaCourt/AlaFile was announced.

<https://fcw.com/articles/2006/02/13/alabama-introduces-court-efiling-system.aspx>

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