

**MONTGOMERY COUNTY CIRCUIT CIVIL  
ADMINISTRATIVE PRACTICES AND PROCEDURES FOR  
ELECTRONIC CASE FILING (E-FILING)**

The E-Filing Rules set forth herein govern the electronic filing of pleadings and other papers in the Circuit Civil Courts for Montgomery County, Tennessee, 19<sup>th</sup> Judicial District. Courts may, by local rule, adopt electronic systems and allow papers to be filed by electronic means that comply with the technological standards promulgated by the Tennessee Supreme Court. In accordance with Rule 5B of the Tennessee Rules of Civil Procedure, the Circuit Civil Court of Montgomery County, Tennessee, 19<sup>th</sup> Judicial District hereby adopts electronic filing. Pleadings and other papers filed electronically in the Circuit Civil Court shall be considered the same as written papers.

These rules may be cited as the "Montgomery County Civil E-Filing Rules"

WHEREAS, these E-Filing Rules are adopted as an appendix to the Local Rules of Court and do not supersede or replace any Local Rules of Court.

**DEFINITIONS**

1. **"Case Management System"** or **"CMS"** means a computer system operated by the Clerk's Office which maintains all case information. For the Montgomery County Circuit Court Clerk, the CMS is TNCIS.
2. **"Clerk"** means the Circuit Clerk of Montgomery County.
3. **"Clerk's Office"** means the office of the Circuit Civil Clerk in the Montgomery County Courts Complex.
4. **"Convenience Fee"** is the fee charged by the credit card company for payments made online or in connection with electronic filing. The fee is charged in connection with payment by credit card or Bank Automated Clearing House, "ACH."
5. **"Court"** means the Circuit Civil Court of Montgomery County and its Judges.
6. **"Court Administrator"** means the Circuit Civil Court Deputy Clerk designated by the Clerk to administer TNCIS, the DMS, and internal users.
7. **"Document"** means a pleading, plea, motion, application, request, exhibit, brief, memorandum of law, paper, or other instrument in paper form or electronic form which is permitted to be filed pursuant to the Tennessee Rules of Civil Procedure ("TRCP") and the Local Rules.
8. **"Document Management System"** or **"DMS"** means a computer system operated by the Clerk's Office which maintains all electronic and scanned paper documents filed in the

Court in electronic form. For the Montgomery County Circuit Civil Court Clerk, the DMS is NextGen.

9. **“E-File” or “E-Filing”** means the electronic transmission of original Documents to the Court and from the Court, for the purposes of recording information and court documents to a Court case or other official court purposes. For purposes of these rules, E-Filing does not include the filing of faxed documents.

10. **“E-Filer” or “Authorized User”** is an authorized user who has an approved E-Filing username and password allowing E-Filing of documents into the DMS.

11. **“Electronic signature”** means a signature line beginning with an “s/” followed by the typewritten name of the signatory.

12. **“E-Filing Fee”** is the fee an attorney or pro se litigant pays for using the E-Filing system. This fee is \$5.00 per filing up to a maximum of \$50.00 per case or a \$300.00 flat subscription fee per lawyer or pro se litigant for a one year period starting on the date the flat fee is paid. The flat fee pays all the E-Filing fees for all cases that lawyer or pro se litigant participates in, in any Court in the State using the Tybera E-Filing System. This fee is in addition to the Convenience Fee charged by the credit card processor. The E-Filing fee shall not be assessed against the State or to a party declared indigent or to that indigent party’s legal representative. Tybera will keep an account of the amount of fees paid in each case.

13. **“E-Filing Rules”** means the Montgomery County Circuit Civil Courts E-Filing Rules.

14. **“Electronic Court Filing System” or “ECF”** means the software and services provided to authorized users to E-File, review filings, and process information that is recorded to the Court’s CMS and DMS. For the Montgomery County Circuit Civil Court Clerk, the ECF is Tybera.

15. **“Filing Fee”** is the statutory fee for court costs per case as defined in T.C.A. § 8-21-401. The schedule of court costs can be found at <https://mcgtn.org/circuit/forms/circuit-court>.

16. **“Local Rules”** mean the Rules of the Circuit Court for the 19<sup>th</sup> Judicial District.

## **RULES**

### **RULE 1: FILINGS**

Unless excepted by these Local Rules, any document may be E-Filed that could be filed in Court as a paper document pursuant to TRCP and the Local Rules. Such E-Filing shall constitute the official filing of such documents.

The Court and the Clerk may issue, file, and serve notices, orders, and other documents electronically.

## **RULE 2: FILINGS AFTER EFFECTIVE DATE OF THESE RULES**

Except as expressly provided herein, for all new documents filed on or after the effective date of the E-Filing Rules, the Court shall accept as validly filed all documents that are filed through E-Filing.

## **RULE 3: CASE FILES**

The Clerk shall maintain the original and official case file in electronic format for all new cases filed on or after the effective date of these rules. Existing cases can be converted to e-filed cases at the request of the litigants or their attorneys.

## **RULE 4: TIME AND EFFECT OF E-FILING**

Any E-Filed document shall be considered as filed with the Clerk when the transmission of the entire document is received by the Clerk. Any document received by the Clerk before midnight local time of the Clerk's Office shall be deemed filed on that date if such document otherwise meets all the requirements for filing under the relevant rules of the Court. Upon receipt by the Clerk of an E-Filed document, the Clerk shall electronically transmit a Transaction Receipt indicating that the E-Filing has been received. The Transaction Receipt shall serve as proof of filing. In the event the Clerk rejects the submitted document following review, the rejected document shall not become part of the official Court record and the E-Filer will receive notification of the rejection. The E-Filer may be required to re-file the document to meet filing requirements.

A document that is required to be signed, verified, notarized, acknowledged, sworn to, or made under oath may be E-Filed only as a scanned image. The original document shall be maintained by the filing party or attorney and shall be made available upon reasonable notice, for inspection by other counsel, the Clerk or the Court. Parties or their attorneys shall retain originals until final disposition of the case and the expiration of all appeal opportunities.

If the E-Filing does not occur because of:

- (1) an error in the transmission of the document to the Clerk which was unknown to the sending party;
- (2) a failure to process the electronic document when received by the Clerk;
- (3) rejection by the Court or Clerk; or
- (4) other technical problems experienced by the E-Filer or the Clerk;

the Court may, upon satisfactory proof, enter an order permitting the document to be filed *nunc pro tunc* to the date the document was first attempted to be filed electronically and may also extend the date for any response or the period within which any right, duty, or other act must be performed.

The Court may electronically transmit orders, opinions, judgments, and other court-issued documents through the courts' e-filing system.

When a document electronically transmitted by the Court for filing by the clerk requires the signature of the judge, clerk or authorized deputy clerk, the signature may be reflected at the end of the document by means of an electronic signature in the format: "s/name" followed by the appropriate title. Any order, opinion, judgment or other court-issued document filed electronically without the handwritten signature of the judge, clerk or authorized deputy clerk by containing an approved electronic signature has the same effect as if the judge or clerk had signed a paper copy of the filing.

## **RULE 5: REDACTION AND UNDER SEAL DOCUMENTS**

E-Filers must be sensitive to confidential and personal information filed publicly, not under seal. E-Filers shall refrain from including, or shall redact as follows where inclusion is necessary, the following personal identifiers from all documents filed publicly with the Clerk, including exhibits thereto, unless required by statute or otherwise ordered by the Court:

- (1) A social security number or taxpayer identification number (if it must be included in a document), shall only include the last four digits of that number.
- (2) An individual's date of birth (if it must be included in a document), shall only include the year.
- (3) If a minor is named, use only the minor's initials.
- (4) If financial accounts are relevant, only the last four digits of these numbers may be used.

**It is the responsibility of the Authorized User to redact all documents that are E-Filed.** When a document includes sensitive data that otherwise would be redacted, the E-Filer must hand file the original and e-file the redacted version. Only the redacted version will be stored for public access. The original must be filed with a motion to place the original, un-redacted document under seal. If an entire document is requested to be placed under seal, it must be hand filed with the Clerk and accompanied by a motion to place that document under seal.

**It is the sole responsibility of E-Filers to be sure that all documents comply with the rules of this court and the law requiring redaction of personal identifiers. The Clerk will not review each document for redaction.**

## **RULE 6: FORM OF DOCUMENTS ELECTRONICALLY FILED**

Each E-Filed document shall be uploaded in a PDF format unless it is a proposed order for a judge to review. The document should be formatted in accordance with the applicable ECF Terms of Use Agreement as well as the TRCP and Local Rules governing formatting of paper documents and in such other and further format as the Court may require from time to time. Proposed orders can be E-Filed in Microsoft Word format.

An Authorized User's use of the assigned log-in name and password to e-file a document serves as that user's signature on that document for all purposes. The identity of the e-filer must be reflected at the end of the document by means of electronic signature, followed by the user's name, business address, telephone number, e-mail address, and Board of Professional Responsibility number, if applicable.

The E-Filer is responsible for verifying that the documents to be E-Filed are legible. Documents that are not legible or scanned sideways will be rejected and will require the E-Filer to correct the document and E-File them again. The corrected documents will be date and time stamped according to the date and time of E-Filing the corrected documents.

In addition to the information required by TRCP Rule 11 and any other Local Rule, the party or attorney signing a document that is being E-Filed shall also follow the requirements in Rule 4.

#### **RULE 7: REGISTRATION REQUIREMENT**

Persons who qualify as Authorized Users and who desire to electronically file a Document shall register as an E-Filer on the ECF Website. The registration process requires the prospective user to accept the Terms of Use Agreement, identify their role for the account, enter their personal information, their username and password, and submit the request. Attorneys must include a valid Tennessee issued Bar Number. There is an approval process that will occur. Once the approval process is completed the user will receive an email notifying them that their account is approved. The user must then register their payment options and credit card with the ECF system and to each Court with which the Authorized User will E-File. If the user does not receive an email, the user can try to determine if their account is activated by logging into the ECF website.

E-Filers shall change their E-Filing profile immediately upon any change in firm name, delivery address, phone number, fax number, or e-mail address.

Attorneys who intend to practice Pro Hac Vice are not permitted to register. Out-of-State Attorneys who are not admitted to practice in Tennessee are required to associate with an attorney who has a Tennessee issued Bar number, and they must follow the rules for participating in a case.

#### **RULE 8: NOTICE OF ELECTRONIC FILING (“NEF”)**

When a person E-Files to a case, whether they are a case participant or not, notifications of the E-Filing are distributed to Authorized Users that are recorded in TNCIS as case participants or legal representatives. To receive notifications, participants must be Authorized Users and have an active account in the ECF System. In order for the notification to recognize the association of an Authorized User to a case, they must be recorded on the case in TNCIS as a pro se litigant or as a legal representative with a Bar Number. TNCIS only maintains Tennessee issued Bar Numbers.

**All Authorized Users agree to receive their notices of documents which are E-Filed in their cases electronically through the ECF system.** All Authorized Users agree and consent that the e-mail address provided in the account request and maintained in the ECF User Account supersedes the Court’s Case Management System for the purpose of electronic notification resulting in effective notification and delivery of filed documents.

Pro se litigants recorded in TNCIS on a case must be registered Authorized Users in ECF and have previously filed a Notice of Association that links the ECF user account to the TNCIS participant ID.

The NEF does not replace the need for service of process. The NEF satisfies the responsibility of a filer to send service to other parties that are registered in the ECF System and linked as participants on the case for filings. This service does not replace the responsibility of E-Filers to notify parties by other means when they are not registered in the ECF system. The ECF system provides a method to identify what case participants are Authorized Users and recorded in TNCIS as participants in the case.

The NEF is distributed as an email and posted in the ECF web interface for access. The email is not always reliable and considered a courtesy notice. It is the responsibility of each Authorized User to login to the ECF and review their NEFs within ninety (90) days from the time the NEF is posted to their user account. After ninety days, the NEFs are cleaned up, and the information is removed from the Authorized User's account.

## **RULE 9: PAYMENT OF FILING FEES**

**Court Costs** – All E-Filed cases subject to statutory filing fees/court costs shall require payment of such filing fees immediately upon filing unless excused by the Court. These filing fees must be paid with a credit card at the time of E-Filing. Use of the E-Filing Website constitutes the E-Filer's consent to process or charge the credit card supplied. It is the responsibility of the Authorized User to refer to the Clerk's website <https://mcgtn.org/circuit/forms/circuit-court> or call the Clerk's office during office hours for a table of fees for cases and documents filed.

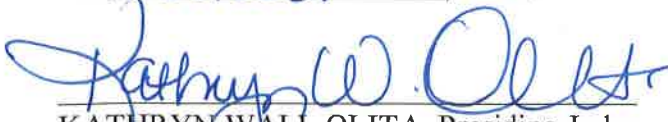
Refunds due to improper collection will require the E-Filer to contact the Clerk's Office directly. The Clerk will issue checks for refunds. Refunds on a case will be paid to the owner of the credit card used to make the payment.


**E-Filing Fee** – The E-filing fee is **in addition to** the statutory filing fees. This fee is \$5.00 per filing up to a maximum of \$50.00 per case or a \$300.00 flat subscription fee per lawyer or pro se litigant for a one year period starting on the date the flat fee is paid. The flat fee pays all the E-filing fees for all cases filed by that lawyer or pro se litigant in any Court in the State using the Tybera E-Filing System. This fee is in addition to the Convenience Fee charged by the credit card processor. The E-Filing fee shall not be assessed against the State or to a party declared indigent or to that indigent party's legal representative. Tybera will keep an account of the amount of E-filing fees paid in each case.


**Convenience Fee** – The credit card vendor, VitalChek by LexisNexis, will charge a convenience fee for using the credit card services. That fee is paid to the vendor at the time of the charge. Currently, in Montgomery County, the convenience fee is 3.0% for credit and debit cards or \$2.00 whichever is greater.

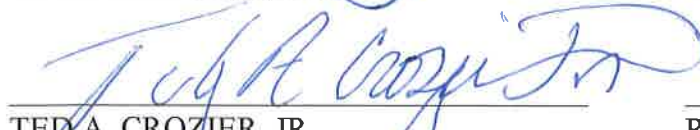
**ORDER**

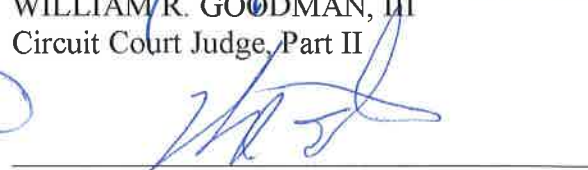
The foregoing E-Filing Rules applicable in the Circuit Civil Courts of Montgomery County within the 19<sup>th</sup> Judicial District are adopted on this 1 day of October, 2021.

  
KATHRYN WALL OLITA, Presiding Judge  
Circuit Court Judge, Part V

  
ADRIENNE FRY  
Circuit Court Judge, Part I

  
WILLIAM R. GOODMAN, III  
Circuit Court Judge, Part II

  
TED A. CROZIER, JR.  
Circuit Court Judge, Part III

  
ROBERT T. BATEMAN  
Circuit Court Judge, Part IV