

IN THE SUPREME COURT OF ALABAMA  
September 18, 2009

ORDER

WHEREAS, on March 1, 2005, the Supreme Court of Alabama issued an order authorizing a pilot project that applied to selected counties, entitled the "Appellate Court E-Filing Project," for the purpose of evaluating the suitability and efficiency of preparing, transmitting, and using documents and pleadings filed electronically in cases appealed to the appellate courts of Alabama and authorizing the adoption of uniform practices and procedures by which to administer the pilot project; and

WHEREAS, the order authorizing the pilot project was extended by order of the Chief Justice for an additional six months past its original expiration date of February 28, 2006; and

WHEREAS, on August 16, 2006, the Court issued another order extending the pilot project until September 30, 2007, expanding the pilot project to include all counties, and authorizing the application of the practices and procedures established in the order authorizing the pilot project to all cases pending before the appellate courts; and

WHEREAS, on September 28, 2007, the Court issued another order extending the Appellate Court E-Filing Project until March 30, 2008, expanding the provisions of the pilot project to allow the clerks of the appellate courts to accept the electronic filing of new cases in their respective courts, and adopting the "Interim Electronic Filing and Service Rule" to provide uniform practices and procedures for administering the pilot project and to govern the electronic filing and service within the appellate courts; and

WHEREAS, this Court has subsequently issued orders extending the Appellate Court E-Filing Project until September 30, 2010, or until further order of this Court;

IT IS ORDERED that subsection (j) of the "Interim Electronic Filing and Service Rule" is amended to read in accordance with Appendix A attached to this order;

IT IS FURTHER ORDERED that Comment to Amendment to Subsection (j) be adopted to read in accordance with Appendix B attached to this order;

IT IS FURTHER ORDERED that the amendment of subsection (j) and the adoption of the comment be effective January 1, 2010;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow the Interim Electronic Filing and Service Rule:

"Note from the reporter of decisions: The order amending, effective January 1, 2010, the Interim Electronic Filing and Service Rule and adopting, effective January 1, 2010, a comment to that rule, is published in that volume of Alabama Reporter that contains Alabama cases from \_\_\_ So. 3d."

Cobb, C.J., and Lyons, Woodall, Stuart, Smith, Bolin, Parker, Murdock, and Shaw, JJ., concur.

## APPENDIX A

Interim Electronic Filing and Service Rule, Subsection (j).

(j) Assembly and Transmission of the E-Record. Unless otherwise ordered by an appellate court, the clerk of the trial court shall prepare and e-file an e-record in each case appealed to an appellate court. All corrections or supplements to the e-record shall also be e-filed, unless otherwise directed by the appellate court. The documents in the e-record shall be assembled in volumes of no more than 200 pages. All e-records shall be filed in a PDF format that has been saved with a resolution of 200 DPI or higher. All documents in the e-record shall be saved as letter-size documents (8½ inches or 2550 pixels wide x 11 inches or 3300 pixels long) with black text on white background.

(1) Clerk's Record. The clerk of the trial court shall assemble electronic copies of the original documents to be included in the clerk's record as prescribed in Rule 10(b)(1) and Rule(10)(c)(1), Ala. R. App. P. If the documents to be included in the clerk's record are not currently available to the clerk in an electronic format, the clerk shall scan the paper copies of such documents in the manner prescribed in this subsection for inclusion in the clerk's record. In appeals in criminal cases, the clerk shall prepare one paper copy of the clerk's record in addition to the electronic copy. The pages of the clerk's record shall be numbered beginning with the first physical page of the record (typically the cover sheet) and shall continue throughout the clerk's record, including any blank pages, dividers, and cover pages.

(2) Reporter's Transcript. The reporter's transcript shall be prepared pursuant to the provisions of Rule(10)(b)(2) and Rule(10)(c)(2), Ala. R. App. P. Except as otherwise provided herein for appeals of criminal cases, the court reporter shall provide the clerk of the trial court with an electronic copy of the reporter's transcript in lieu of the paper copies prescribed in Rule 10, Ala. R. App. P. The reporter's transcript shall be filed with the clerk in a PDF format consistent with the

size and resolution provisions specified above. At the time the transcript is filed with the clerk of the trial court, the court reporter shall file a copy of their certificate of completion with the clerk of the appellate court in which the appeal is pending.

(A) Civil Cases. In appeals of civil cases, the court reporter shall prepare and file a single electronic copy of the designated reporter's transcript with the clerk of the trial court within the time allowed in Rule 11(a)(2), Ala. R. App. P.

(B) Criminal Cases. In appeals of criminal cases, the court reporter shall prepare and file a single electronic copy and one paper copy of the reporter's transcript with the clerk of the trial court within the time allowed in Rule 11(b), Ala. R. App. P.

(3) Record on Appeal. The clerk of the trial court shall assemble the e-record within 7 days (1 week) from the date the reporter's transcript is filed in the trial clerk's office or, in the event there is no reporter's transcript, within 28 days (4 weeks) from the filing of the notice of appeal, unless the time is shortened or extended by an order entered pursuant to Rule 11(c), Ala. R. App. P.

(A) Assembly. The e-record shall be assembled with the cover page first, followed by the clerk's record, the reporter's transcript and certificate of completion, the trial court clerk's "Certification of Completion and Transmittal" as provided for in Rule 11, Ala. R. App. P., and the trial court clerk's index to the entire record. The clerk's index shall include an index to the documents, written charges, and indices that are contained in the e-record and an index to the documents and exhibits incapable of being legibly reproduced in an electronic format.

(B) Hard Copy of Record in Criminal Cases. In appeals of criminal cases, simultaneously with the preparation, filing, and service of an e-record, the clerk shall also prepare, certify, and transmit a hard copy of the e-record to the appellant's counsel unless the appellant is proceeding pro se, in which event the hard copy shall be transmitted to the appellant.

(C) E-Record Deemed Filed. Immediately upon completion of the Certificate of Completion and Transmittal, the clerk of the trial court shall upload the e-record onto the trial court's online system. The e-record will be deemed filed with the appellate clerk upon the successful upload of the e-record onto the online system.

(4) Notification to Parties. Simultaneously with the upload and transmission of the e-record to the appellate clerk, the clerk of the trial court shall notify the parties or, if they are represented by counsel, their attorneys, that the e-record has been certified complete and electronically transmitted to the appellate court and that a copy of the e-record is available online through the trial court's online system. Notification may be by e-mail if an e-mail address is available; otherwise notice shall be by paper.

(5) Exhibits. The customary provisions regarding exhibits will apply. If an exhibit cannot be legibly scanned, the exhibit will be handled in the same manner as exhibits that cannot be photocopied. (See Rule 11(e), Ala. R. App. P.) The clerk of the trial court shall retain custody of the original exhibits unless otherwise ordered by the appellate court, so as to allow the attorneys access to the exhibits while preparing their briefs.

(6) Exceptions. Any court or administrative agency that does not have access to the trial court's online e-appellate system may store and transmit copies of the e-record on a compact disk ("CD") or disks ("CDs"). In those cases, the

e-record shall be deemed filed on the day it is received in the office of the appellate clerk, except that it shall be deemed filed on the day of mailing if certified or registered mail is used in the transmittal.

In criminal cases, the defendant shall be provided a paper copy of the record on appeal pursuant to subsection (3)(B) of this rule. Otherwise, in criminal cases the clerk of the trial court shall provide a copy of the e-record on CD to each of the parties that were previously entitled to receive a paper copy of the record on appeal. In civil cases, the clerk of the trial court shall provide one copy of the e-record on CD to the appellant(s) and one copy to the appellee(s). Copies of the CD or CDs shall be delivered to the applicable parties in the same manner in which paper copies of the record on appeal had been previously delivered.

Effective Date. This amendment to subsection (j) shall become effective on January 1, 2010, and shall apply to all cases in which the notice of appeal is filed on or after the effective date. The courts and agencies referenced in subsection (j)(6) are exempt from the provisions of this amendment until July 1, 2010; until that date they may continue filing records of appeal in a paper format.

APPENDIX B

Comment to Amendment to Subsection (j)  
Effective January 1, 2010

The intent of this amendment is to mandate that in all cases filed on or after January 1, 2010, records on appeal be filed with the appellate courts in an electronic format. The Court has granted a grace period of six months in which to allow the courts and agencies covered by subsection (j)(6) an opportunity to obtain the necessary equipment and training to comply with this rule.