

Alabama Rules of Appellate Procedure

Rule 57. ELECTRONIC FILING AND SERVICE

(a) Scope. Documents in proceedings before an appellate court may be filed, served, and preserved in an electronic format in lieu of the traditional paper format. Except for the filing of the record on appeal as provided in subsection (j)(3), the provisions of this rule for e-filing and e-service do not apply to parties who are proceeding pro se. These Rules of Appellate Procedure shall be fully applicable to documents filed, served, and preserved in an electronic format, unless modified by this rule.

(b) General Provisions -- Definitions.

(1) "Appellate courts' e-filing system" or "e-filing system" means the system utilized by the appellate courts to accept and transmit documents electronically.

(2) "E-document" means any document, other than an e-record, that has been e-filed in accordance with this rule.

(3) "E-file" or "e-filing" means the electronic transmission of a document to the clerk of an appellate court for the purpose of filing the document.

(4) "E-record" means a record on appeal that has been prepared, assembled, and filed with the clerk of an appellate court in an electronic format as prescribed in this rule.

(5) "E-service" or "e-served" means the electronic transmission of documents in lieu of serving such documents in hard-copy form.

(6) "E-signature" is a signature that is either affixed to or deemed to be affixed to an e-document or an e-record as prescribed in section (f) of this rule.

(7) "Filer" means the registered user whose e-filing system credentials were used to e-file a document in an appellate court.

(8) "Hard copy" is a paper copy of an e-document.

(9) "Portable document format" or "PDF" means a computer file format utilized when reproducing a document in a manner that is independent of the application software, hardware, and operating system originally used to create the document.

(10) "Registered user" means an attorney who has properly registered with the e-filing system as set forth in section (d) of this rule.

(c) Authorized Users. The following persons are authorized to use the e-filing system to e-file documents and records in appellate court proceedings:

- (1) attorneys licensed to practice law in Alabama;
- (2) pro hac vice attorneys authorized to practice in an appellate proceeding;
- (3) circuit, district, and juvenile court judges;
- (4) circuit, district, juvenile, and family court clerks; and
- (5) court reporters.

(d) Registration Requirements for Attorneys. All attorneys who opt to e-file documents in appellate court proceedings shall register with the appellate courts through the e-filing system.

(1) *Responsibility for Keeping E-Filing System ID and Password Secure.* No registered user shall authorize or permit anyone to use his or her e-filing system credentials, except for the purpose of e-filing a document on behalf of the registered user, in which event the registered user shall be deemed to be the filer.

(2) *Responsibility for Keeping Information Current.* Registered users shall be responsible for maintaining the accuracy of the information contained in the e-filing system, including changes in their firm name, mailing address, telephone number, and primary and secondary e-mail addresses.

(e) Format of Documents to be E-Filed.

(1) *Document Format.* All documents to be e-filed shall be formatted in accordance with these rules governing the formatting of documents filed in appellate court proceedings, except as modified by this rule.

(2) *Document Resolution, Size, Etc.* All documents shall be e-filed in a format supported by the e-filing system. Documents e-filed in a PDF format must be saved with a resolution of 200 DPI (dots per inch) or higher. Documents to be e-filed 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. Documents to be e-filed shall not contain any

embedded files, scripts, tracking tags, and/or any type of executable files. The filer shall also be responsible for removing any confidential information that may be embedded in the document (metadata) before it is e-filed or e-served on an opposing party or a court official.

(3) *Colored Covers and Binding on Documents to be E-Filed and Hard Copies Thereof.* The provisions of these rules prescribing the color of covers for specified documents and how certain paper documents are to be bound shall not apply to documents to be e-filed, but shall remain in effect for the hard copies of those documents required to be mailed or delivered to an appellate court, as provided in subsection (h)(2) of this rule.

(4) *Attachments.* If a registered user desires to include appendices or exhibits with a document to be e-filed, the appendices or exhibits shall be e-filed with the principal document.

(A) Those attachments that cannot be e-filed in a format supported by the e-filing system shall be forwarded to the appellate court and to all the parties in the case by the end of the next day that is not a Saturday, Sunday, or legal holiday. Regular mail of the United States Postal Service is a sufficient means for delivering copies of attachments that cannot be e-filed. Upon final disposition of the proceeding, the appellate court may dispose of all copies of attachments that were not e-filed with the principal document.

(B) A notice regarding the inability to e-file the attachments shall be appended to the end of the document to be e-filed, and a copy of that notice shall also accompany all copies of the principal document that are served on the parties and any court officials in the case, whether the principal document is served electronically or in paper format. (See Form A entitled "Notice Regarding Attachments.")

(5) *Bookmarks.* Filers shall electronically bookmark the separate sections of each document to be e-filed. Each bookmark shall link to a particular section of the document in accordance with the following:

(A) For a petition, brief, motion, response, or reply, the sections of the document to be e-filed that shall be bookmarked include those sections or elements required by Rule 5, Rule 21, Rule 27, Rule 28, Rule 29, or Rule 39 of these rules, as applicable.

(B) For an appendix or exhibits to a document to be e-filed, each separate document in the appendix and each exhibit shall be bookmarked.

(C) The captions of the bookmarks shall be concise and sufficient to identify the separate sections or elements of each document to be e-filed, including each separate document in an appendix and each exhibit.

(f) E-Signatures. An e-signature is created by typing "s/" followed by the name of the person who is signing a document to be e-filed.

(1) *E-Signatures of Registered Users.* In the event a document is e-filed by a registered user without an e-signature or with an e-signature that is different from the e-filing system credentials used to e-file the document, the e-document shall be deemed to contain the e-signature of the registered user whose e-filing system credentials were used to e-file the document. In addition to the e-signature, the filer shall include his or her e-mail address, mailing address, and telephone number under the e-signature.

(2) *E-Signatures of Court Officials.* Court officials are also authorized to use e-signatures on documents to be e-filed, including all certificates of completion that are to be included in records to be e-filed. Appellate court officials are authorized to use e-signatures on all documents that are e-served pursuant to this rule.

(3) *Sufficiency of E-Signatures on Hard Copies of E-Documents.* Unless otherwise ordered by an appellate court, the e-signature is sufficient on all hard copies of e-documents.

(4) *Effect of E-Signatures.* When an e-signature is affixed to an e-document or is deemed to be affixed to an e-document as provided in subsection (f)(1) of this rule, that e-signature shall have the same effect pursuant to these rules as a handwritten signature of the person whose name appears or is deemed to appear thereon.

(5) *Notice of Appearance.* In the event a document is e-filed by an attorney who has not previously appeared in the proceeding in which said document is e-filed, the e-signature on the e-document shall operate as a notice of appearance by the filer for the party on whose behalf the document was e-filed.

(6) *Provisions for Multiple Signatories.* In the case of a signatory whose e-filing system credentials will not be used to e-file a document, as in the case of a document requiring multiple signatures, the filer of the

document shall list thereon the names of all signatories, which shall serve as the filer's attestation that each of the other signatories has concurred in the e-filing of the document. In addition to the names of all signatories, the filer shall list each signatory's e-mail address, mailing address, and telephone number.

(g) Production of a Hard Copy of an E-Document. At any time during the pendency of an appellate court proceeding, the clerk of the appellate court in which the proceeding is pending may direct any signatory on an e-document to file and serve one or more hard copies of that e-document.

(h) E-Filing and E-Service of E-Documents.

(1) *When an E-Document is Deemed Filed.* An e-document shall be deemed filed in compliance with these rules on the date and time the document, along with any e-filed attachments, has been successfully uploaded onto the e-filing system. Central time shall be used to determine the filing date and time for purposes of this rule. A document is successfully uploaded on the e-filing system when the system has successfully received the entire document, including any e-filed attachments.

(2) *Hard Copies of Documents to be Filed.* In addition to the e-document, the filer must mail or deliver the following number of hard copies listed below, along with any e-filed attachments, to the appropriate appellate court:

Supreme Court:

Two (2) copies of appellate briefs and attachments e-filed in direct appeals and in cases in which a petition for the writ of certiorari has been granted. However, no hard copies of a petition for the writ of certiorari that has been e-filed are required.

Two (2) copies of each petition, answer, supporting brief, and attachments e-filed in proceedings seeking to appeal by permission under Rule 5 of these rules and in proceedings for an extraordinary writ under Rule 21 of these rules.

All hard copies shall be mailed or delivered to the Supreme Court within 24 hours of the date the principal document is e-filed, unless the day following the filing date is a Saturday, Sunday, or legal holiday, in which event the hard copies shall be mailed or delivered by the end of the next day that is not a Saturday, Sunday, or legal holiday or, when the day following the filing date is a day on which weather conditions have made the office of the clerk of the court inaccessible, the end of the next day that

is not one of the aforementioned days. The hard copies that are delivered to the Supreme Court shall be accompanied by a copy of the confirmation receipt provided pursuant to subsection (h)(3) of this rule. In addition to delivery by regular mail of the United States Postal Service, delivery by certified, registered, or express mail of the United States Postal Service or by third-party commercial carrier, as provided in Rule 25(a)(3)(A)(i) or (ii) of these rules, is sufficient for delivering hard copies to the Supreme Court as provided in this rule.

No hard copies are required to be filed with the Court of Criminal Appeals or the Court of Civil Appeals. However, the Court of Criminal Appeals or the Court of Civil Appeals may direct that hard copies be furnished. Moreover, if a document to be e-filed includes an appendix or an addendum that contains an exhibit that is incapable of being e-filed, then that exhibit must be mailed or delivered to the Court of Criminal Appeals or the Court of Civil Appeals within 24 hours of the date the document is e-filed, unless the day following the filing date is a Saturday, Sunday, or legal holiday, in which event the exhibit shall be mailed or delivered by the end of the next day that is not a Saturday, Sunday, or legal holiday or, when the day following the filing date is a day on which weather conditions have made the office of the clerk of the court inaccessible, the end of the next day that is not one of the aforementioned days. A hard copy of an exhibit that is delivered to the Court of Criminal Appeals or the Court of Civil Appeals shall be accompanied by a copy of the confirmation receipt provided pursuant to subsection (h)(3) of this rule. Regular mail of the United States Postal Service is a sufficient means for delivering a hard copy of an exhibit to the Court of Criminal Appeals or the Court of Civil Appeals as provided in this rule.

(3) *Confirmation Receipt of E-Filing.* Upon the successful transmission and upload of a document to the e-filing system, the e-filing system shall e-serve the filer a receipt confirming the date and time that the document was e-filed. The confirmation receipt shall serve as proof of the filing.

(4) *Rejection of a Document or a Record Submitted for E-Filing.* In the event an appellate court rejects a document or a record submitted for e-filing because it does not comply with this rule or another applicable rule of these rules, the appellate clerk shall serve the filer or, in the event the rejection involves a record, the trial court clerk and the other parties with notice of the rejection. The notice shall state the reason or reasons for the rejection. The filer or the clerk of the trial court shall have 14 days from service of notice of the rejection to e-file and serve a corrected document or record, unless a different time for the e-filing and service of a corrected document or record is ordered by the appellate court.

(5) *E-Service by Counsel of Documents, E-Filings, Etc.* E-service of documents, motions, and other e-filings, as permitted by this rule, shall be considered a valid and effective means of service on attorneys and court officials and shall have the same force and legal effect as service of a paper copy pursuant to these rules. Copies of all documents e-filed by any party and not required by these rules to be served by the clerk shall, at or before the time of e-filing, be served by a party or person acting for the party on all other parties to the appellate proceeding. Service on a party represented by counsel shall be made on counsel. E-service is effective upon the transmission of the document to any e-mail address used for legal or court business by the person being served; provided, however, that if the person attempting e-service is informed that the electronic transmission failed, the person attempting e-service shall take appropriate action to ensure that service of the document is completed, either electronically or otherwise. When an attorney e-serves opposing counsel of record or a court official, the certificate of service shall list the e-mail address used for such service.

(6) *E-Service by Appellate Court Clerk's Office.* Each appellate court clerk is authorized by this rule to e-serve all notices, orders, opinions, decisions, etc., that were heretofore served in paper form, and such service on attorneys and court officials shall be deemed effective and complete upon the transmission of either the document or a hyperlink to the document that is being e-served pursuant to this rule. When e-serving court officials, appellate clerks are authorized to use the e-mail addresses maintained by the Administrative Office of Courts to communicate electronically with trial court officials or such other means of electronic communication as may be agreed upon by the appellate clerks and the trial court officials as an acceptable alternative means to perfect e-service pursuant to this rule.

(i) Filing Fees and Costs Associated with E-Filing.

(1) *Filing Fees and Costs.* The same fees prescribed by order of the Supreme Court for filing paper documents shall apply to documents submitted for e-filing. Such fees may be paid by credit card at the time documents are e-filed. If the filing fee is paid by credit card at the time a document is e-filed, in addition to the filing fee, the filer shall also be required to pay the applicable credit-card-usage or convenience fee.

(2) *Recovery of Fees and Costs.* A prevailing party may recover credit-card-usage or convenience fees associated with their use of the e-filing system in the same manner as other costs on appeal are recoverable pursuant to Rule 35 of these rules. Credit-card-usage or convenience fees incurred through use of the e-filing system are expenses for which counsel

appointed to represent indigent defendants pursuant to Rule 24(b) of these rules and § 15-12-22, Ala. Code 1975, are entitled to be reimbursed.

(3) *Waiver of Fees.* Any counsel representing a filing party may make application for waiver of the cost or filing fee associated with e-filing a document in the same manner as prescribed for making application for waiver of the cost or filing fee associated with filing a paper copy of the same document.

(j) Assembly and Transmission of Records to be E-Filed. Unless otherwise ordered by an appellate court, the clerk of the trial court shall prepare and e-file a record in each case appealed to an appellate court. All corrections or supplements to the record shall also be e-filed, unless otherwise directed by the appellate court. The documents in the record shall be assembled in volumes of no more than 200 pages. All records shall be e-filed in a format supported by the e-filing system. Documents in the record e-filed in a PDF format must be saved with a resolution of 200 DPI (dots per inch) or higher. All documents in the record to be e-filed 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 (c)(1) of these rules. 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 (1) 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. The electronic file stamp or any file stamp shall not be covered or rendered illegible.

(2) *Reporter's Transcript.* The reporter's transcript shall be prepared pursuant to the provisions of Rule 10(b)(2) and (c)(2) of these rules. Except as otherwise provided herein for appeals in 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 of these rules. The reporter's transcript shall be filed with the clerk of the trial court in a format supported by the e-filing system. Documents e-filed in a PDF format must be saved with a resolution of 200 DPI (dots per inch) or higher. At the time the transcript is filed with the clerk of the trial court, the court reporter shall file a copy of his or her certificate of completion with the clerk of the appellate court in which the appeal is pending.

(A) Civil Cases. In appeals in 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) of these rules.

(B) Criminal Cases. In appeals in criminal cases, the court reporter shall prepare and file a single electronic copy and one (1) paper copy of the reporter's transcript with the clerk of the trial court within the time allowed in Rule 11(b) of these rules.

(3) *Record on Appeal.* The clerk of the trial court shall assemble the record to be e-filed 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) of these rules.

(A) Assembly. The record to be e-filed 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 of these rules, 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 record and an index to the documents and exhibits incapable of being legibly reproduced in an electronic format.

(B) Paper Copy of Record in Criminal Cases. In appeals in criminal cases, simultaneously with the preparation and e-filing of a record, the clerk shall also prepare, certify, and transmit a paper copy of the record to the appellant's counsel unless the appellant is proceeding pro se, in which event the paper 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 record onto the trial court's online system. The e-record will be deemed filed with the appellate court clerk upon the successful upload of the record onto the online system.

(4) *Notification to Parties.* Simultaneously with the upload and transmission of the e-record to the appellate court 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 system may store and transmit copies of the e-record on a digital-storage device ("DSD") (e.g., compact disc, USB drive, etc.) In those cases, the e-record shall be deemed filed on the day it is received in the office of the appellate court 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 (j)(3)(B) of this rule. Otherwise, in criminal cases the clerk of the trial court shall provide a copy of the e-record on a DSD 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 (1) copy of the e-record on a DSD to the appellant(s) and one (1) copy to the appellee(s). Copies of the DSD shall be delivered to the applicable parties in the same manner in which paper copies of the record on appeal had been previously delivered.

(k) Difficulties Caused by Technology. If a party misses a filing deadline as the result of an inability to e-file a document because of a difficulty caused by technology occurring on the date for filing the document, the party must file the document within the time prescribed in this section, accompanied by a motion to accept the document as timely filed, before the appellate court will accept the document. The motion shall include a declaration stating the reason or reasons for missing the deadline and stating why the document should be accepted as timely filed. The document and motion shall be filed by no later than the first day on which the appellate court is open for business following the deadline date for filing the document. If the appellate court grants the motion to accept the document as timely filed, the document shall be deemed timely filed on the date the appellate court grants the motion, notwithstanding any statute or

any rule promulgated by the Supreme Court to the contrary. (See Form B entitled "Declaration of Technological Difficulties and Motion to Accept as Timely Filed.")

[Adopted 9-29-2010, eff. 10-1-2010, Amended 5-7-2015, eff. 8-1-2015; Amended eff. 11-10-2020; Amended 10-20-223, eff. 1-1-2024.]

Committee Comments to Adoption of Rule 57 Effective October 1, 2010

The Committee has adopted what was formerly a separate rule, the Interim Electronic Filing and Service Rule, as amended, as Rule 57.

The number of copies of documents to be supplied to the Supreme Court has been increased to 10.

Court Comment to Amendment of Rule 57 Effective January 1, 2024

Rule 57 has been amended to account for the appellate courts' migration to a new case-management system in March 2022. References in the rule to the appellate courts' legacy system have been removed in favor of more generic terminology. The rule has been updated to account for technological advances and to provide for consistency in terminology. Additionally, Rule 57(h)(2) has been amended to reflect changes in the number of hard copies of e-documents each appellate court requires. Rule 5(e), Rule 21(d), Rule 27(d), Rule 31(b), and Rule 39(e), Ala. R. App. P., have also been amended to correspond with the amendment to Rule 57(h)(2).

Finally, Rule 57(e)(5) has been added to require the use of bookmarks in documents to be e-filed. Prior to this amendment, Rule 57(e), relating to the format of documents to be e-filed, did not include any instructions regarding the inclusion of bookmarks.

Bookmarks are a type of link visible in the "Bookmarks" panel in the navigation pane of common PDF viewers. Bookmarks can be added to PDF documents using word processing software, such as Microsoft Word, or PDF document viewing and editing software, such as Adobe Acrobat, which are generally accessible and commonly used by filers.

Bookmarks allow the court to quickly locate the different areas of a petition, motion, or brief and particular documents in an appendix or list of exhibits. As a result, bookmarks are helpful for any reviewer of an e-document. Filers therefore shall include bookmarks in documents to be e-filed.

Note from the reporter of decisions: The order amending, effective October 1, 2010, Rule 11(a)(3), Rule 25, Rule 26(a), Rule 31, and Rule 32(a)(7), rescinding Rule 11(a)(4), and adopting Rule 57, the Committee Comments to Amendment to Rule 11(a) Effective October 1, 2010, the Committee Comments to Amendment to Rule 25 Effective October 1, 2010, the Committee Comments to Amendment to Rule 26(a) Effective October 1, 2010, the Committee Comments to Amendment to Rule 31 Effective October 1, 2010, the Committee Comments to Amendment to Rule 32(a)(7) Effective October 1, 2010, and the Committee Comments to Adoption of Rule 57 Effective October 1, 2010, is published in that volume of *Alabama Reporter* that contains Alabama cases from 44 So. 3d.

Note from the reporter of decisions: The order amending Rule 3(d)(1), Rule 11(c), Rule 39(d)(4), and Rule 57(j)(1), effective August 1, 2015, and adopting the Committee Comments to the amendments to Rule 3(d)(1), Rule 11(c), and Rule 39(d)(4) is published in that volume of *Alabama Reporter* that contains Alabama cases from 160 So. 3d.

Note from the reporter of decisions: The order amending Rule 31(b) and Rule 57(h)(2), effective immediately, is published in that volume of *Alabama Reporter* that contains Alabama cases from ___ So. 3d.

Note from the reporter of decisions: The order amending Rule 5(e), Rule 21(d), Rule 27(d), Rule 31(b), Rule 39(e), and Rule 57, Alabama Rules of Appellate Procedure, and adopting the Court Comment to the amendment of Rule 57, effective January 1, 2024, is published in that volume of *Alabama Reporter* that contains Alabama cases from ___ So. 3d.