

Rule 205.4. Electronic Filing and Service of Legal Papers

(a)(1) A court by local rule may permit or require electronic filing of legal papers with the prothonotary and shall specify the actions and proceedings and the legal papers subject to the rule.

NOTE: This rule does not require the implementation of electronic filing by a local court.

If a court determines that legal papers may be filed electronically with the prothonotary, Rule 239.9(a) requires the court to promulgate Local Rule 205.4 which shall describe the electronic filing system program and set forth the practice and procedure for the matters required by this rule.

If a court provides that electronic filing is mandatory, it must also provide the necessary technical assistance to those parties who lack the capability to file legal papers electronically.

(2) As used in this rule, the following words shall have the following meanings:

"electronic filing," the electronic transmission of legal papers by means other than facsimile transmission,

"filing party," an attorney, party or other person who files a legal paper by means of electronic filing, and

"legal paper," a pleading or other paper filed in an action, including exhibits and attachments. [but not including

(1) a writ of summons or a complaint that is original process naming an original defendant or an additional defendant, unless the court by local rule provides otherwise, or

(2) a notice of appeal from an award of a board of arbitrators or a notice of appeal or other legal paper, the filing of which is prescribed by the Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges.]

[(b) A party may file a legal paper with the prothonotary by means of electronic filing if electronic filing is permitted by general rule, rule of court or special order of court. The filing shall be in the format of Adobe PDF, WordPerfect for Windows or Microsoft Word for Windows. Except as otherwise provided by law, a legal paper filed electronically shall be deemed the equivalent of the original document.

(1) The electronic filing of a legal paper constitutes

(i) a certification by the filing party that the original hard copy was properly signed and, where applicable, verified, and

(ii) a certification as provided by the signature to a legal paper under Rule 1023.1(c), the violation of which shall be subject to the sanction provision of Rule 1023.1(d).

(2)(i) The filing party shall maintain the original hard copy of the document filed.

(ii) Any other party at any time may require the filing party to file the original hard copy by filing with the prothonotary and serving upon the filing party

a notice to file the original hard copy with the prothonotary within fourteen days of the filing of the notice.]

(b)(1) Legal papers shall be presented for filing in portable document format (“pdf”) or any other electronic format, if any, that the court by local rule designates. A paper presented for filing in a format other than portable document format shall be converted to portable document format and maintained by the prothonotary in that format.

NOTE: Rule 239.9(b)(2) requires that subdivision (b)(1) of Local Rule 205.4 specify the electronic format for presenting legal papers for filing.

(2) A legal paper filed electronically shall be deemed the original document.

(3) The electronic filing of a legal paper constitutes a certification

(i) by the filing party that a hard copy of the legal paper was properly signed and, where applicable, verified, and

(ii) as provided by Rule 1023.1(c) governing the signature to a legal paper, the violation of which shall be subject to the sanction provision of Rule 1023.1(d).

(4) The filing party shall maintain the signed hard copy of the document filed for two years after the later of

(i) the disposition of the case,

(ii) the entry of an order resolving the issue raised by the legal paper,

or

(iii) the disposition by an appellate court of the issue raised by the legal paper.

(5) Any other party at any time may serve upon the filing party a notice to produce for inspection the signed hard copy within fourteen days of the service of the notice. The court upon motion may grant appropriate sanctions for failure to produce the signed hard copy pursuant to the notice.

(c)(1) The prothonotary when authorized to accept filings by electronic transmission shall provide electronic access at all times. [The time and date of filing and receipt shall be that registered by the prothonotary's computer system.]

(2) The prothonotary may designate a website for the electronic filing of legal papers. Access to the website shall be available by the attorney identification number issued by the Court Administrator of Pennsylvania [or an identification number issued by the website administrator]. The court by local rule shall designate the manner of access to the website for a filing party who is not an attorney.

NOTE: Rule 239.9(b)(3) requires that subdivision (c)(2) of Local Rule 205.4 specify the manner of access to the website by a filing party who is not an attorney.

(3) The time and date of filing submission and receipt of the legal paper to be filed electronically shall be that registered by the electronic filing system. The prothonotary shall provide, through the electronic filing system's website, an acknowledgement that the legal paper has been received, including the date and time of receipt, in a form which can be printed for retention by the filing party.

(d)(1) A filing party shall pay the cost of the electronic filing of a legal paper by [depositing with the prothonotary, in advance, sufficient funds or by authorizing payment by credit or debit card.] approved credit or debit card, or by advance deposit of sufficient funds with the prothonotary if the court by local rule so provides.

(2) A filing party who presents the legal paper for electronic filing in person at the office of the prothonotary shall pay the cost by a method prescribed by paragraph (1) or by check or cash.

(3) If a court has designated a third party to operate the electronic filing system, the filing party shall pay the cost of the electronic filing to the prothonotary or to the third party operator in the manner provided by local rule.

NOTE: Rule 239.9(b)(4) requires that subdivision (d)(1) of Local Rule 205.4 list the credit and debit cards approved by the court or the prothonotary, and state whether the filing fee may be paid by depositing, in advance, sufficient funds with the prothonotary.

Rule 239.9(b)(5) provides for subdivision (d)(3) of Local Rule 205.4 to govern the payment of the filing fee to a third party operator, if applicable.

(e)(1) A filing party shall be responsible for

[(i)] any delay, disruption, interruption of the electronic signals and **[readability]** legibility of the document electronically filed, except when caused by the failure of the electronic filing system's website.], and

(ii) the maintenance of sufficient funds deposited with the prothonotary or of a credit or debit account to cover the cost of electronic filing.]

NOTE: The filing party accepts the risk that a document filed by means of electronic filing may not be properly or timely filed with the prothonotary.

(2) [The filing party accepts the risk that a document filed by means of electronic filing may not be properly or timely filed with the prothonotary.]

No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the prothonotary or the electronic filing system based upon a requirement of a local rule or local administrative procedure or practice pertaining to the electronic filing of legal papers.

NOTE: See also Rule 205.2 governing filing legal papers with the prothonotary.

(3) If a pleading or other legal paper is not accepted upon presentation for filing or is refused for filing by the electronic filing system, the prothonotary or the electronic filing system, as may be appropriate, shall immediately notify the party presenting the legal paper for filing of the date of presentation, the fact that the document was not accepted or refused for filing by the system, and the reason therefor.

(4)(i) The court upon motion shall resolve any dispute arising under paragraphs (1) and (2) of this subdivision.

(ii) If a party makes a good faith effort to electronically file a legal paper but it is not received, accepted or filed by the electronic filing system, the court may order that the paper be accepted and filed *nunc pro tunc* upon a showing that reasonable efforts were made to timely present and file the paper.

(f) When electronic filing is permitted as set forth in subdivision [(b)] (a)(1), the court by local rule shall provide for

(1) a filing status message to the filing party,

(2) the maintenance by the prothonotary of an electronic file only, or of such electronic and such hard copy files as set forth in the rule,

NOTE: A hard copy file is not required by this rule. If the local rule requires a hard copy file, the requirement may extend to all cases or only to certain specified cases. For example, the court may require hard copy files for cases listed for trial or scheduled for argument while maintaining only electronic files for all other cases.

- (3) additional procedures, if necessary, to ensure the security of the web site and the electronic files,
- (4) procedures for the payment of prothonotary's fees and costs, and
- (5) such other procedures and matters necessary to the operation of a system of electronic filing.

NOTE: Rule 239.9(b)(6) provides that subdivision (f) of Local Rule 205.4 must set forth the practice and procedure with respect to the matters required by subdivision (f) of this rule.

(g)(1) Copies of all legal papers other than original process filed in an action or served upon any party to an action may be served

[(1)] (i) as provided by Rule 440 or

[(2)] (ii) by electronic transmission, other than facsimile transmission, if the parties agree thereto or an electronic mail address is included on an appearance or prior legal paper filed with the court in the action. **[Service is complete when the legal paper is sent.]** A paper served electronically is subject to the certifications set forth in subdivision **[(b)(1)]** (b)(3).

- (2) Service by electronic transmission is complete when a legal paper is sent
- (i) to the recipient's electronic mail address, or
 - (ii) to an electronic filing system website and an e-mail message is
- sent to the recipient by the electronic filing system that the legal paper has been
filed and is available for review on the system's website.

NOTE: Upon the electronic filing of a legal paper other than original process, the electronic filing system may automatically send notice of the filing to all parties who have agreed to service by electronic transmission or whose e-mail address is included on an appearance or prior legal paper filed in connection with the action. If the electronic filing system sends notice of such filing, the party filing the legal paper only need serve those parties who are not served by the electronic filing system.

An electronic mail address set forth on letterhead is not a sufficient basis under this rule to permit electronic service of legal papers.

See Rule 236(d) providing for the prothonotary to give notice of orders and judgments, and also other matters, by facsimile transmission or other electronic means.

See Rule 440(d) governing service of legal papers other than original process by facsimile transmission.

Rule 239.9. Electronic Filing. Local Rule 205.4 (New)

(a) If a court permits or requires the electronic filing of legal papers with the prothonotary, the court must promulgate a local rule designated Local Rule 205.4 which sets forth in detail the practice and procedure to file a legal paper electronically and includes the matters set forth in this rule.

(b) Local Rule 205.4 shall include the following subdivisions as required by Pa.R.C.P. No. 205.4:

(1) subdivision (a)(1) stating whether the electronic filing system is permissive or mandatory and specifying the actions and proceedings and the legal papers subject to the rule,

(2) subdivision (b)(1) setting forth one or more formats in which legal papers shall be submitted to the prothonotary for filing. The formats shall include portable document format (pdf) and such other electronic format, if any, that the court may designate,

(3) subdivision (c)(2) providing a method of access to the electronic filing website for persons who are not attorneys,

(4) subdivision (d)(1) listing the credit and debit cards approved by the court or the prothonotary, and stating whether the filing fee may be paid by depositing, in advance, sufficient funds with the prothonotary,

(5) subdivision (d)(3) providing the manner of payment when the court has designated a third party to operate the electronic filing system, and

(6) subdivision (f) providing the practice and procedure to govern the matters provided for in Rule 205.4(f).

(c) Local Rule 205.4 may contain such additional subdivisions as the court deems necessary to provide a full and complete description of the electronic filing system.

(d) Local Rule 205.4 shall be promulgated in accordance with the provisions of Rule 239.8(b) through (d).

Rule 2951. Methods of Proceeding

(a)(1) ***

(2) The documents to be filed in support of the entry of judgment are

(i) the instrument,

(ii) an affidavit that the judgment is not being entered by confession against a natural person in connection with a consumer credit transaction, and

(iii) a certificate of residence of the plaintiff and of the defendant.

NOTE: Section 2737(3) of the Judicial Code provides that the prothonotary shall have the power and the duty to "enter all civil judgments, including judgments by confession."

A judgment by confession may be entered only in the name of a holder, assignee or other transferee. See Rule 2954.

For collection of attorneys' fees under such a judgment see Rule 2957. If an instrument authorizes confession for a penal sum, judgment may be entered in that amount.

If a judgment by confession on an instrument is to be entered in a judicial district which has implemented electronic filing, an electronic copy of the instrument should be filed in support thereof. Should an issue arise concerning the instrument, any party at any time may request the production of the original instrument for inspection pursuant to Pa.R.C.P. No. 205.4(b)(5).

Rule 2952. Complaint. Contents

(a) The complaint shall contain the following:

(2) the original or a photostatic copy or like reproduction of the instrument showing the defendant’s signature; if the original is not attached, an averment that the copy attached is a true and correct reproduction of the original; if neither the original nor a reproduction can be attached, an explanation why they are not available;

NOTE: If the original instrument is not attached to the complaint, a method of securing inspection thereof is provided by Discovery Rule 4009.1 et seq.

If the complaint is to be filed in a judicial district which has implemented electronic filing, an electronic copy of the instrument should be attached to the complaint. Should an issue arise concerning the instrument, any party at any time may request the production of the original instrument for inspection pursuant to Pa.R.C.P. No. 205.4(b)(5).

(b) ***

Explanatory Comment

Rule 205.4 governing electronic filing of legal papers has been amended to give greater flexibility to the courts of common pleas in creating a program of electronic

filing. In addition, new Rule 239.9 mandates that any court that by local rule permits or requires electronic filing adopt Local Rule 205.4 that fully explains the program.

Rule 205.4 - Electronic Filing and Service

Subdivision (a)

Subdivision (a) has been amended by adding new subdivision (a)(1) authorizing local courts to institute a program of electronic filing and by designating the definitions found in former subdivision (a) as subdivision (a)(2).

New subdivision (a)(1) is derived from the introductory paragraph to former subdivision (b) and provides that a court by local rule “may permit or require electronic filing of legal papers with the prothonotary...”. The note advises that the rule does not require that the court implement electronic filing; this is left to the discretion of the court.

The court must determine whether electronic filing shall be permissive or mandatory and the scope of electronic filing “with respect to the actions and proceedings and the legal papers subject to the rule.” These matters must be set forth in Local Rule 205.4(a)(1) to be promulgated by the court.

Subdivision (a) prior to its amendment defined the term “legal papers.” The definition excluded (1) original process and (2) notices of appeal from both awards in compulsory arbitration and judgments of magisterial district courts.

Former subdivision (a) has been redesignated subdivision (a)(2) and has been revised in two respects. First, the term “legal papers” now specifically includes “exhibits and attachments.” Second, the two exceptions noted above have been deleted so that “legal paper” encompasses all documents to be filed in an action or proceeding. However, the local court is given discretion under new subdivision (a)(1) to determine the scope of the rule with respect to legal papers that may be filed electronically.

Subdivision (b)

Subdivision (b) has been revised as to both substance and structure. The introductory paragraph to former subdivision (b) has been transferred to subdivision (a) as paragraph (1). The remaining text of present subdivision (b) has been deleted and replaced although the subject matter of the rule remains unchanged.

New subdivision (b)(1) names only one format for electronic filing, “pdf” or portable document format, but it allows the court by local rule to specify other formats, whether as alternatives to or in place of “pdf.” However, the rule recognizes portable document format as the standard by providing that legal papers presented for filing in other electronic formats must be “converted to portable document format and maintained by the prothonotary in that format.”

New subdivision (b)(2) is derived from the last sentence of former subdivision (b)(1). Whereas the former rule provided that a paper filed electronically is deemed to be “the equivalent of the original document,” new subdivision (b)(2) states that a paper filed electronically “shall be deemed the original document.”

Usually, the original instrument is filed with the prothonotary when seeking a judgment by confession under Rules 2951 and 2952. The note to both rules is revised to accommodate electronic filing since the “original instrument,” i.e. the signed hard copy, probably will not be filed.

New subdivision (b)(3) contains the text of former subdivision (b)(1) without change. It provides that the electronic filing of a legal paper constitutes a certification that the paper was properly signed and verified and also a certification as prescribed by Rule 1023.1 et seq. governing the signing of legal papers.

New subdivision (b)(4) continues the requirement of former subdivision (b)(5) that the filing party retain possession of the “original hard copy of the document filed.” Only the terminology has changed from “original” hard copy to “signed” hard copy. The new subdivision is modeled on Supreme Court Orphans’ Court Rule 3.7(c)(3) but adopts a two-year period following specified events for maintaining the legal document rather than the five-year period of the Orphans’ Court rule.

New subdivision (b)(5) replaces former Rule 205.4(b)(2)(ii) and is concerned with those occasions when it is necessary to see the signed hard copy of a document. The prior rule provided for service upon the filing party of a notice to file the original hard copy with the prothonotary. The new subdivision provides for service upon the filing party of a motion to produce the signed hard copy for inspection. The signed hard copy will not be filed.

Subdivision (c)

Subdivision (c)(1) has been revised by deleting the second sentence relating to the date and time of filing and receipt by the prothonotary’s computer system. That subject is governed by new subdivision (c)(3).

Revised subdivision (c)(2) provides that access to a website by an attorney shall be by the attorney’s identification number issued by the Court Administrator of Pennsylvania. However, the local court shall “designate the manner of access to the website for a filing party who is not an attorney.”

New subdivision (c)(3) requires the prothonotary to provide an acknowledgement that a legal paper presented for filing has been received. This notice is in addition to the filing status notice under subdivision (f)(1).

Subdivision (d)

Subdivision (d) governing the payment of the cost of electronic filing has been substantially revised.

Subparagraph (1) is directed to the party who files electronically from a remote location, i.e., a location other than the prothonotary's office. It lists two methods of payment: an approved credit or debit card and the advance deposit of funds with the prothonotary if the court has approved that method of payment. The court must promulgate Local Rule 205.4(d)(1) specifying the approved card(s) or authorizing the advance deposit of funds.

Subdivision (d)(2) recognizes that a filing party may appear in person at the prothonotary's office to electronically file a legal paper. That party may pay by a method provided by subdivision (d)(1) and also by cash or check.

If the court has designated an entity other than the prothonotary to operate the electronic filing system, new subdivision (d)(3) provides for the court to promulgate a local rule, Local Rule 205.4(d)(3), authorizing payment of the filing fee to either the prothonotary or to the entity operating the system.

Subdivision (e)

Subdivision (e) relating to problems encountered with the electronic transmission of a legal paper being presented for filing has been substantially revised:

Former subparagraph (1)(i) has been designated subparagraph (1) and continues to provide that a filing party is responsible for delay, disruption and legibility of a document electronically filed. However, an exception has been added when the problem is "caused by the failure of the electronic filing system's website."

Former subparagraph (1)(ii) relating to the responsibility of maintaining a debit or credit card account or depositing sufficient funds with the prothonotary has been

deleted as unnecessary. If a filing party is to pay the cost of filing by credit or debit card, or the advance deposit of sufficient funds, then it is presupposed that the party will maintain a credit or debit account or sufficient funds on deposit. The presupposition need not be stated.

Former subdivision (e)(2) provided that the filing party accepts the risk that a legal paper filed electronically may not be properly or timely filed. This is a restatement of revised subparagraph (1). Consequently, former subparagraph (2) has been deleted and the text of the rule has been set forth in a note to subparagraph (1).

New subdivision (e)(2) is derived from Rule 205.2 and ensures that a legal paper that complies with the Pennsylvania Rules of Civil Procedure will be accepted for filing by the electronic filing system.

New subdivision (e)(3) provides for the prothonotary to give immediate notice and reason when the electronic filing system rejects a paper for filing.

New subdivision (e)(4) contains two paragraphs. Paragraph (i) provides that the court “upon motion shall resolve any dispute arising under paragraphs (1) and (2) of this subdivision.”

Subdivision (e)(4)(ii) provides relief where a legal paper is not received, accepted or filed by the electronic filing system despite a good faith effort to file the paper. The “court may order that a legal paper be accepted and filed *nunc pro tunc* upon a showing that reasonable efforts were made to timely present and file the paper.”

Subdivision (f)

Subdivision (f) is unchanged except for an updated cross-reference and the addition of a new note referring to the requirement of Rule 239.9(b)(6) that the court promulgate a local rule governing the matters specified in subdivision (f).

Subdivision (g)

Subdivision (g) continues to provide that if a legal paper is sent electronically directly to another party, service is complete when the paper is sent. However, if the electronic filing system provides notice of the filing to the other party and the document is available for review on the website, service is complete when such notice is given by the system. The note to the rule states that if the notice provided by the system advises the other party that the legal paper is available on the website, there is no need for the filing party to send a separate electronic copy to such other party.

Rule 239.9 - Local Rule 205.4

New Rule 239.9(a) requires that a local court that wishes to institute a program of electronic filing promulgate Local Rule 205.4 that “sets forth in detail the practice and procedure to file a legal paper electronically.”

Pa.R.C.P. 205.4 leaves certain matters pertaining to electronic filing to the discretion of the local court. Rule 239.9(b) lists these six matters and requires that they be included in the local rule promulgated by the court. However, since the local rule must set forth the practice for electronic filing in detail, the local rule will not be limited to these six matters.

By the Civil Procedural
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