

SUPREME COURT ELECTRONIC FILING SYSTEM

FILING REQUIREMENT

Who is required to file electronically?

Any party represented by an attorney in the Supreme Court will be required to submit filings through the electronic filing system.

Are individuals representing themselves eligible to file through the system?

No. At the current time, only parties represented by attorneys are able to file through the system.

When will the requirement to file electronically go into effect?

November 13, 2017.

Should all filings from attorneys be submitted through the system?

Most filings should be submitted through the system. Limited exceptions to this requirement (for example, when documents are filed under seal) are included in the “Guidelines for the Submission of Documents to the Supreme Court’s Electronic Filing System.”

If a document is submitted through the electronic filing system, does a filer still have to send a paper version of the filing?

Yes. At this time, the paper version of a document remains the official filing, and the requirement to submit electronically does not alter the core requirement of filing in paper form.

Will electronic filing at some point become the official means of filing?

It is expected that the electronic filing will become the official means of filing once the system has operated effectively for some period of time.

When should documents be submitted through the electronic filing system?

The electronic version should be submitted contemporaneously with the filing of the paper document in this Court. Thus, if a document is mailed or delivered by third-party commercial carrier, it should be submitted through the system at or near the same time that it is delivered to the Postal Service or third-party carrier. If a document is delivered to the Court directly, it should be submitted through the system at or near the same time that it is delivered.

Will amici submit filings through the electronic filing system?

Yes. Amici will submit filings just as parties do.

Does the submission of a document through the electronic filing system constitute service of the document upon other attorneys in the case?

No. Service of process continues to be via paper as governed by Rule 29.

REGISTRATION

Who can register to file through the system?

Registration is open to members of the Supreme Court Bar and to attorneys who are not Supreme Court Bar members but were appointed for a particular case in the lower courts under the federal Criminal Justice Act, 18 U.S.C. § 3006A(d)(6). See Supreme Court Rule 9.1.

How do I register?

Go to the following page on the Supreme Court’s website: <https://file.supremecourt.gov>. Then follow the prompts to enter information as part of your application. You will be asked to create a unique username and password that you will use to log in any time you wish to file a document in the future.

How long will it take to process my application?

You should expect that it will take 1-2 business days for your application to be approved. So if you plan to file a document, you should ensure that your application has been submitted several days before the due date of the document.

How will I learn if my application to register has been approved?

You will receive an email from the Clerk’s Office indicating whether the application has been approved. If it is approved, you will be given a link to activate the application. You must activate within 48 hours of when you receive the email. Once you activate, you will be able to file immediately.

What if my application is not approved?

You will receive a communication from the Clerk’s Office indicating why the application is not approved.

FILING A PETITION FOR A WRIT OF CERTIORARI

How do I submit a cert petition or other new case through the system?

Once logged into the system, click on the “New Filing” box, click on the box to indicate that it is not in an existing case, and then follow the prompts to enter information about the case in the lower courts, upload documents, and submit the filing.

Is it required that the attorney submitting the cert petition be counsel of record in the case?

No. Any registered user who represents a party can submit a cert petition on behalf of that party. If the user submitting the filing is not counsel of record, simply uncheck the “Counsel of Record” box on the “Attorney” page. The attorney who is counsel of record should then separately enter a notice of appearance in the case and in that process check the “Counsel of Record” box.

Does the attorney submitting a cert petition have to file a separate notice of appearance before filing the petition?

No. The filing of a case-initiating document such as a cert petition serves as the entry of an appearance in the case. Anyone else seeking to file a subsequent document in the case must first file a notice of appearance.

What documents are required to be submitted in connection with a paid cert petition?

Required documents for a paid petition are (1) the petition; (2) the appendix, including lower court rulings; (3) a certificate of word count; and (4) a proof of service. Each of these documents should be created and uploaded as a separate PDF/A file.

What documents are required for an *in forma pauperis* cert petition?

Required documents for an *in forma pauperis* cert petition are: (1) the petition; (2) the appendix, including lower court rulings; (3) a motion to proceed *in forma pauperis*, including an affidavit; and (4) a proof of service. Each of these documents should be created and uploaded as a separate PDF/A file.

Is there any limit to the size of an electronic file that can be uploaded to the system?

Yes. The maximum size of a file to be uploaded is 100 MB.

What do I do if the file I plan to upload is larger than 100 MB?

You should break the file into two or more separate files that are each under 100 MB. Then you can upload each separately.

The system does not allow me to enter lower court information about two or more cases in connection with a cert petition filed under Rule 12.4. What should I do?

For a cert petition filed under Rule 12.4, input information about one of the cases under review. The Clerk's Office will input information about other cases during the docketing process.

FILING AN APPLICATION FOR AN EXTENSION OF TIME TO FILE A CERT PETITION

Should I submit an application to extend the time to file a cert petition or jurisdictional statement through the electronic filing system?

Yes. From the home screen, click "New Filing," select the box to note that this is not in a case that has been accepted for filing and given a docket number, select "Application" from the dropdown menu, and follow the prompts to enter lower court information and upload a PDF/A file of the application and other documents.

When will this type of application appear on the public docket?

As with other case-initiating documents, applications to extend the time to file a cert petition or jurisdictional statement will appear on the docket only once the Clerk's Office has reviewed and docketed the paper filing.

If an application for an extension has previously been filed and I later wish to submit the cert petition or jurisdictional statement through the system, should I submit it the existing case with a docket number with an “A” prefix? Or should I treat it as a new case?

Treat it as a new case, i.e., check “No” in response to the inquiry whether the filing is in a case that has been accepted for filing and given a case number. When the Clerk’s Office docket the cert petition or jurisdictional statement, it will link the application to the case.

NOTICES OF APPEARANCE

Do I have to enter a notice of appearance before submitting a document in an existing case?

Yes. Before you can file anything in an existing case, you must first have entered an appearance in the case. To enter an appearance, click on the “New Filing” box, choose “Notice of Appearance” from the dropdown menu, and follow the prompts. Then when ready to submit the actual filing, click on “New Filing” again, choose the type of filing from the dropdown menu, and follow the prompts.

Do I need to enter the notice of appearance well in advance of the time that I intend to submit a filing through the system?

No. Once you enter a notice of appearance, you will be able to submit a filing through the system immediately.

Should a paper version of a notice of appearance be submitted to the Clerk’s Office?

No. Only an electronic version is submitted.

When entering an appearance, how do I make clear the party or parties that I represent?

In the process of entering an appearance, one of the boxes that must be filled in is “Party Name.” If there are multiple parties on one side of a case, and you represent fewer than all of those parties, you should attempt to identify the parties you represent in as clear a fashion as possible and practical given the space limitations of the box. For example, if you represent three respondents, enter the names of all three; if you represent 400 respondents, use “et al.” or a description of the respondents.

If multiple attorneys are listed on a filing as representing a party in a case, is it expected that they would each file a separate notice of appearance in the case?

That is up to the individual attorney. Anyone who wishes to submit a filing through the system will have to enter an appearance. Attorneys who have entered an appearance will also receive electronic notification of activity in the case (filings by parties and amici, and action by the Court). But only counsel of record is required to enter an appearance in the case.

SUBMITTING A FILING IN AN EXISTING CASE

How do I submit a filing in an existing case?

Once you have entered an appearance in the case, click on “New Filing,” indicate that the filing is in an existing case with a docket number, enter the docket number, and follow the prompts.

What documents are required for a brief in opposition or brief in support at the cert stage of an existing case?

Parties not proceeding in forma pauperis are required to submit these documents: (1) the main document; (2) a certificate of word count; and (3) a proof of service. If the filing is from a party seeking to proceed in forma pauperis, required documents are: (1) the main document; (2) a motion to proceed in forma pauperis (filed under “Other” from the dropdown menu); and (3) a proof of service.

What documents are required for any other brief from a party in an existing case?

Parties not proceeding in forma pauperis are required to submit these documents: (1) the main document; (2) a certificate of word count; and (3) a proof of service. If the filing is from a party seeking to proceed in forma pauperis, no certificate of word count is required.

What should I do if I need to file a waiver or if I need additional time to file a brief in opposition to a cert petition, but I am not a member of the Supreme Court Bar and therefore cannot file electronically?

In these circumstances, submit the waiver or extension request in paper form only. This accommodation is available to allow you to either become a Bar member or locate counsel who is a Bar member.

What documents are required for an amicus brief in an existing case?

Required documents for an amicus brief are: (1) the main document; (2) a certificate or word count; and (3) a certificate of service. If the parties have given consent to the filing of the amicus brief, the brief itself should reflect that consent; pursuant to amended Rule 37.2(a), no separate document reflecting that consent need be filed.

How should I file an amicus brief if the parties have not given consent?

If the parties have not given consent to the filing of an amicus brief (either through a blanket consent that is entered on the Court’s docket or through a written communication specific to the individual amicus brief), the amicus must file a motion for leave to file the brief. In this circumstance, the following documents are required for the filing: (1) the motion for leave to file, which should include the brief; (2) a certificate of word count; and (3) a proof of service.

What should I do if I want a cert-stage filing to be considered in multiple cases, e.g., where two or more petitions were filed challenging the same lower-court ruling?

If you want a cert-stage filing to be filed in two or more cases, the cover of the filing should include the case number and caption for each case in which the filer intends it to be filed, and the filing should be submitted electronically in connection with each case.

Is the same true for merits-stage filings?

No. If two or more cases are consolidated at the merits stage, future filings in all of the cases should be submitted electronically only in connection with the case with the lowest docket number. The cover of the filing should still include the case number and caption for each case in which the filer intends it to be filed.

Can a joint appendix be submitted through the electronic filing system?

Yes. If the electronic file is more than 100MB, you should break the appendix up into smaller files that are less than 100MB, and upload each document separately.

Once a case has been decided, what types of filings can be submitted?

For 25 days after a case has been decided (most commonly through the denial of a cert petition or a ruling on the merits), it is possible to submit certain types of filings through the system. Once the time to file a rehearing petition has expired, the case will be deemed closed, and no further submissions through the system will be permitted. If you believe that special circumstances may warrant the submission of a filing in the case at this point, contact the Clerk's Office.

NOTIFICATIONS

The system allows me to enter email addresses for people who wish to receive notifications of activity in the case. What does this mean?

Individuals whose email addresses are listed here will receive automated emails any time that someone submits a document in the case through the electronic filing system, and any time that the Court takes action in the case.

What is the difference between receiving email notifications and entering an appearance on behalf of a party in a case?

Only attorneys can enter an appearance on behalf of a party. The entry of an appearance signifies that the attorney is officially representing the party (or amicus) in the case. In contrast, any other attorney, paralegal, secretary or other legal professional who is actually working on the case can be signed up to receive email notifications.

I input an email address to receive notifications and hit "Enter," but the system does not seem to have saved that address.

In order for the system to save an email address for notifications, you must click the "Save" button. If you have additional email addresses to enter, you can then click "Add New Optional Email." When finished entering addresses, click "Next."

How do I add email addresses for individuals to receive notifications after my initial filing in the case?

Click on the "My Cases" box on the home screen to see a list of the cases in which you have entered an appearance. Click on the case in which you wish to add new email addresses, then click on the "Edit" icon next to Notifications, and add new addresses. When finished, click "Next."

Is there a mechanism for members of the press to receive electronic notification of activity in a case?

The software permits members of the press and public to subscribe to RSS feeds for individual cases. It is expected that future versions of the software will likely allow for direct email notification of activity in a case to members of the press.

POSTING OF FILINGS ON THE COURT'S DOCKET

When will a petition for a writ of certiorari submitted through the system be available on the Court's docket?

Certiorari petitions and other case-initiating documents (e.g., jurisdictional statements, petitions for extraordinary writs, and applications not connected to existing cases) will be available on the docket only once the Clerk's Office has reviewed the paper document and accepted it for filing. If a filing is mailed to the Court, it may take several days from mailing for the filing to be reviewed, docketed, and posted.

When will subsequent filings in a case be available on the docket?

Most subsequent filings in a case will become available on the docket within 10-15 minutes of the time that the document is submitted to the system.

How will the public be able to determine whether the Clerk's Office has reviewed a document and accepted it for filing?

Before a document submitted through the system has been reviewed, the docket will indicate that it has been "submitted." For example, it may read, "Brief in Opposition of the United States submitted." Once that document has been reviewed and accepted, the docket entry will change to "Brief in Opposition of the United States filed."

What happens if a document that was submitted through the system is not accepted for filing?

If a document is not accepted for filing the docket entry will change to indicate that the document was "not accepted for filing," and the electronic version of document will no longer be available for view or download.

Will filings submitted on paper by non-attorneys be made available on the Court's docket?

Yes. Filings from non-attorneys will be scanned by the Clerk's Office and made available on the Court's docket. While the entire petition, brief or motion will be scanned, the only portion of an appendix to a filing that will be scanned is lower court rulings submitted under Rule 14.1(i).

ATTORNEY CONTACT INFORMATION

How do I change my contact information within the electronic filing system?

If you need to make a change to your contact information within the electronic filing system (for example, if you change places of employment), click on "My Account" at the top of the home screen. The menu along the left side of the screen will then give you the option to make changes to your home or business address, email addresses, system password or other personal information. The changes you make here will affect only cases in which you later participate. This information will also be incorporated into the official Court record of Bar members, so there is no need to also inform the Admissions Office of these changes.

How do I make changes to contact information for cases in which I have already entered a notice of appearance?

Click on the “My Cases” button on the home screen, select the individual case in which you wish to make a change, click the “Edit” button next to either the Attorney or Notifications designation, make the changes, and click “Save and Next.” The Summary screen that appears should show updated information. Changes made here will affect only the single case, and will not affect other pending cases or cases in which you later enter an appearance.

CHANGING DESIGNATIONS OF COUNSEL OF RECORD

How do I change the designation of counsel of record through the system?

There are two steps to this process. First, the existing counsel of record must remove the designation of counsel of record. Click on the “My Cases” button on the home screen, select the individual case in which you wish to make a change, click the “Edit” button next to the “Attorney” designation, and uncheck the “Counsel of Record” box. Second, the new counsel of record must be designated. After entering an appearance in the case, click on the “My Cases” button on the home screen, select the individual case in which you wish to make a change, click the “Edit” button next to the “Attorney” designation, and check the “Counsel of Record” box. It is important that the outgoing counsel of record’s designation be removed before the incoming counsel of record is designated, since the system will not allow two attorneys to be counsel of record at the same time.

Can one attorney change the counsel of record designation for another attorney?

No. The outgoing and incoming counsel of record must each change their own status.

EMERGENCY APPLICATIONS

Will emergency applications be submitted through the electronic filing system?

Yes. But the paper version of the document remains the official filing, and the mere submission of an emergency application through the system will not cause the Clerk’s Office to review the application. As under current practice, those requiring prompt action on an emergency application due to unique circumstances are required to make direct contact with the Clerk’s Office by telephone.

When will emergency applications be available on the docket?

Applications in cases that have already been docketed will be available within minutes after submission through the system. The same will be true for responses to docketed applications and other subsequent filings in connection with a docketed application. Applications in cases that have not already been docketed will be available only once reviewed by the Clerk’s Office and accepted for filing.

RULES AMENDMENTS AND OTHER GUIDANCE

Are there amendments to the Supreme Court Rules to implement the system?

Yes. The Court issued amendments to its Rules to implement electronic filing on September 27, 2017. Those amendments go into effect on November 13, 2017. They are available in the Rules and Guidance section of the Court's website.

Will there be other documentation in connection with the system?

Yes. The Clerk's Office has issued "Guidelines for the Submission of Documents to the Supreme Court's Electronic Filing System," which provide more detail about how documents should be submitted. Those Guidelines, which go into effect on November 13, 2017, are also available in the Rules and Guidance section of the Court's website. In addition, the Court will issue user guides and "quick start guides" concerning operation of the software.

SUPPORT AND TECHNICAL ISSUES

Will the Court provide technical support if a filer encounters problems submitting a document through the system?

The Clerk's Office will provide support during business hours. Email inquiries should go to efilingssupport@supremecourt.gov, and telephone calls should be directed to 202-479-5660. If a filer has problems after business hours that make it impossible to submit the filing through the system, the filer should email the document to efilingssupport@supremecourt.gov, with a brief explanation of the nature of the technical problem. Other counsel in the case should receive a copy of that email.

If a filing cannot be submitted electronically due to technical problems, but the paper version was properly filed, will the filing still be timely?

Yes. Because the official filing remains the paper version, the fact that a document was not submitted through the system due to technical problems does not affect the timeliness of the filing.

What do I do if I determine after submitting a document through the system that some kind of change is necessary?

Contact the Clerk's Office by telephone. Once you have submitted a filing through the system, you cannot withdraw it or substitute one version of the document for another. In limited circumstances, the Clerk's Office may be able to accept an amended paper version of the document and substitute one electronic version for another.