FILED
MAR 16 2020
DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS

IN THE SUPREME COURT OF THE STATE OF KANSAS

ORDER

2020-RL-0014

RULES RELATING TO DISTRICT COURTS

Supreme Court Rule 119 is hereby amended, effective the date of this order.

Rule 119

FAX FILING AND SERVICE BY FAX

(a) **Applicability.** This rule applies to all district court proceedings except a small claim as defined in K.S.A. 61-2703.

(b) **Limitation on Use of Fax Filing.** A Kansas-licensed attorney is subject to the provisions of Rule 122 when filing any document with a district court.

(c) **Definitions.** The following definitions apply in this rule, unless the context requires otherwise.

(1) "Document" includes a pleading, motion, or other paper and attached exhibits. "Document" does not include a pleading, motion, other paper, or exhibit if a statute requires the original to be filed with the court.

(2) "Fax filing" or "filing by fax" means transmitting a facsimile of an original document by electronic means to a court or fax filing agency for filing with the court. The term includes receipt of the transmission by the court or agency.

(3) "Fax filing agency" means an entity that receives documents by fax for processing and filing with the court.

(4) "Transmission record" means a document printed by a sending fax machine stating the telephone number of the receiving machine, the number of pages sent, and the transmission time, indicating no errors in transmission.

(d) **Filing by Fax.** An unrepresented party may file a document by fax directly with a district court at the fax number designated by the clerk. The following rules apply.

(1) **Separate Transmission for Each Court Filing.** Each document filed by fax must be transmitted separately. The document may include attached exhibits.

~~(2) **10-Page Limit.** The document, with attached exhibits, must not exceed 10 pages and must not be split into multiple transmissions to avoid the page limit. The transmission sheet required by paragraph (4), cover sheet required by Rule 123, and any special processing instructions are not included in the 10-page limit.~~

~~(3) **Summonses and Service Copies.** If the fax filing does not exceed the page limit in paragraph (2), a petition may include related summonses and service copies. If their inclusion would cause the transmission to exceed 10 pages, all additional copies and summonses must be delivered to the clerk in a manner other than by fax transmission and must be accompanied by a request for service.~~

(2~~4~~) **Transmission Sheet Required.** A fax filing must be accompanied by a Fax Transmission Sheet on the judicial council form. The transmission sheet must be the first page(s) transmitted, followed by any special processing instructions. When the second page of the transmission sheet contains credit or debit card information, that page must not be retained in the case file or publicly disclosed.

(3~~5~~) **Other Fax Content Requirements.** The following additional requirements apply to the content of a document filed by fax:

(A) the first page must include the words "By Fax"; and

(B) each page must be numbered and must include a short caption of the case and an abbreviated title of the document.

(4~~6~~) **Retention of Fax Transmission Record and Original Document.**

(A) **Transmission Record.** An unrepresented party filing by fax must retain a transmission record.

(B) **Original Document.** An unrepresented party that files or serves a document by fax must retain the original document during the pendency of

the action and must produce it on request by the court or a party. If the unrepresented party fails to produce the document, the court may strike the fax filing and impose sanctions under K.S.A. 60-211.

(5~~7~~) **When a Fax Filing is Deemed Filed.** Subject to the provisions of paragraph (7~~9~~)(C), a fax filing received by a court is deemed filed at the time printed by the court fax machine on the final page of the fax document received or at the time recorded on the court's electronic fax log.

(6~~8~~) **Motion Procedure When Fax Filing Fails.**

(A) **Applicability.** A court, on motion of the sender, may order filing of a document nunc pro tunc if a fax filing is not filed with the court because of:

(i) an error—the occurrence of which was unknown to the sender—in the transmission of the document; or

(ii) the court's failure to process the fax filing on receipt.

(B) **Motion Requirement.** A motion under subparagraph (A) must be accompanied by:

(i) the transmission record;

(ii) a copy of the document transmitted; and

(iii) a Declaration of Transmission by Fax on the judicial council form.

(7~~9~~) **Payment of Fees.** The following rules govern the payment of fees associated with a document filed by fax.

(A) Only a credit or debit card system designated by the judicial administrator may be used to pay a docket fee, filing fee, and any other fee or charge.

(B) When payment of a fee is required with a fax filing, the second page of the transmission sheet must include:

(i) the name of the credit or debit card system and the account number to which the fee is to be charged;

(ii) the signature of the cardholder authorizing the charge; and

(iii) the credit or debit card's expiration date.

(C) If a charge for a fee is rejected by the credit or debit card issuing company, the document is not deemed filed under K.S.A. 60-203 or 60-2001.

(8~~10~~) **Rules Applicable to a Court.** The following rules apply to a district court.

(A) A court must have its fax machine available on a 24-hour basis.

(B) A court may impose limits, by order or local rule, on the number of fax filings by an unrepresented party.

(e) **Service by Fax.**

(1) **How Made.** Service by fax is made by transmitting a document to the attorney's or unrepresented party's designated fax number.

(2) **Fax Service by Court.** A court may serve a notice by fax if the notice may be served by mail.

(3) **Must Make Fax Machine Available.** An attorney or unrepresented party that has listed a fax number on a paper in compliance with Rule 111 must make the fax machine available for receipt of documents on a 24-hour basis.

(4) **When Fax Service Deemed Complete.** Service by fax is complete when the transmitting machine generates a transmission record indicating successful transmission of the entire document.

(5) **Certificate of Service by Fax.** A certificate of service by fax must include:

(A) the transmission date and time;

(B) the name and fax number of the person served;

(C) a statement that the document was transmitted by fax and the transmission was reported as complete and without error; and

(D) the signature of the attorney or person making the transmission.

(f) **Fax Signature.** A fax signature has the same effect as an original signature.

(g) **Fax Filing Agency.**

(1) An unrepresented party may transmit a document, without a page limit, by fax to a fax filing agency for filing with a court. The fax filing agency acts as the filing party's agent, not as the court's agent.

(2) A fax filing agency is not required to accept a document for filing unless the sender has made appropriate arrangements for payment of any docket or other required fee before the document is transmitted to the agency.

Dated this 16th day of March 2020.

FOR THE COURT:

Marla Luckert

MARLA LUCKERT
Chief Justice