

Proposed Amended Supreme Court Rule 122

The Kansas Supreme Court is accepting public comment on proposed amended Rule 122 to include the requirement for electronic filing by Kansas-licensed attorneys who are permitted to practice law under Rule 208(a). Other amendments address electronic service, certificates of service, and filings made untimely if an eFiling system is unavailable. The proposed changes are shown using strikethrough for deletion and underlining for new language.

The court will accept comment on the proposed amended rule at publiccomments@kscourts.org until 5 p.m. Monday, January 22, 2018. The subject line must read Rule 122.

Rule 122

~~ELECTRONIC FILING AND TRANSMISSION OF~~ ~~DISTRICT COURT DOCUMENTS~~ SERVICE BY ELECTRONIC MEANS

- (a) ~~**District Court May Require Electronic Filing.**~~ A district court may require filing by electronic means if:
- (1) ~~the district court's electronic filing system is consistent with standards for electronic filing approved by the Supreme Court; and~~
 - (2) ~~the Supreme Court approves the system.~~
- (a) **District Court Electronic Filing System.**
- (1) **Approved District Court Electronic Filing System.** The Supreme Court approves for electronic filing in the district courts the Kansas Courts Electronic Filing System (Kansas Courts eFiling system) and the Johnson County, Kansas, District Court Electronic Filing System (Johnson County eFiling system).
 - (2) **Filing User.** All Kansas-licensed attorneys who are permitted to practice law under Rule 208(a) must register as filing users with the approved district court electronic filing system prior to filing a document with the district court.
- (b) **Electronic Filing Required; Exceptions.** All Kansas-licensed attorneys who are permitted to practice law under Rule 208(a) must electronically file any document submitted to a district court through the approved district court electronic filing system, unless:

(1) a judge of the district court grants permission for a document, including an exhibit, to be filed by paper when the unique characteristics of the document require review or preservation of the document in its original form; or

(2) the procedures adopted by the judicial administrator under subsection (g) require a document to be filed by paper.

~~(b)(c)~~ **Service by Electronic Means.** ~~Service of papers under K.S.A. 60-205 by electronic means is authorized in a proceeding in a district court that has implemented an approved electronic filing system. The following provisions apply to service by electronic means under K.S.A. 60-205(b)(2)(F).~~

(1) **Parties Who Have Consented to Service by Notice of Electronic Filing.**

(A) A party consents to service by electronic means under K.S.A. 60-205(b)(2)(F) when an attorney who is a filing user enters an appearance on behalf of the party.

(B) The notice of electronic filing automatically generated by the approved district court electronic filing system is an acceptable form of service by electronic means.

(2) **Parties Who Are Unable to Consent to Service by Notice of Electronic Filing.** An attorney must serve an unrepresented party by a manner authorized under K.S.A. 60-205(b).

(d) **Certificate of Service.** An electronically filed document must include a certificate of service. A certificate of service must include: the name of the party served, the manner in which service was made, the signature of the attorney making the submission, and if service is obtained in a manner other than transmission of the notice of electronic filing, the date on which service was made. If service is obtained by the transmission of the notice of electronic filing, the date of service is the date reflected in the file stamp on the document.

(e) **Unavailability of the Electronic Filing System.** The provisions of K.S.A. 60-206 apply if the district court clerk's office is inaccessible because the approved district court electronic filing system is unavailable. An attorney whose filing is untimely made due to the unavailability of the system may seek relief from the court.

~~(e)(f)~~ **Fees.** The Supreme Court may approve reasonable fees to support the expenses associated with the electronic filing system.

~~(d)(g)~~ **Standard Operating Procedures.** The judicial administrator is authorized to adopt standard operating procedures consistent with this rule to facilitate the electronic filing

process of ~~electronic filing~~ in district courts. In developing these procedures, the judicial administrator will consult with stakeholders, as appropriate.