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## Delaware State Courts

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### Register in Chancery's Recommended Best Practices for eFiling in the Court of Chancery

All Civil Actions must be electronically filed (e-filed) by an attorney licensed to practice in Delaware via File & ServeXpress. If you are not represented by Delaware counsel, please contact the Register in Chancery for guidance on alternative methods for filing your documents with the Court. The Register in Chancery will review the documents for accuracy before accepting them into the docket. The Register's office will verify the following:

1. Documents are uploaded correctly.
2. Correct fee is applied.
3. Document title matches the caption per the Court's Operating Procedures. Who is filing (name of plaintiff/defendant), to whom it is going (name of plaintiff/defendant), what the document is, and what it is regarding.
4. Case number(s) on documents match case number(s) on File & Serve Express (single case number, or multi-case).
5. Attorney signature (Either hand-signed, or if it is an electronic signature, /s/ must be typed before the name), Bar ID #, & Attorney Block as needed pursuant to Court of Chancery Rule 79.1 .
6. The filing should be linked properly.
7. Certificate of Service, CC or Notice of Service, as necessary.
8. Document is in editable format as required.
9. Document is in correct font per [Amended Court of Chancery Rule 10](#).
10. Any response, reply, opposition, or memorandum in excess of fifteen (15) pages will be rejected with the instruction to file as a Brief.

**Note:** This is not an exhaustive list of everything the clerk reviews in an e-Filing. It is only meant to bring to your attention the main reasons a filing is rejected. All electronically filed cases must adhere to the directives detailed in [Operating Procedures](#).

#### Affidavit

- An affidavit must be notarized and dated.
- Each affidavit must be uploaded individually and be accompanied by a Certificate of Service.
- Affidavits filed by Delaware attorneys, must include the full attorney signature block, including bar id.
- For an Affidavit of Non-Resident Service (affidavit of mailing), one of the exhibits must be the green cards from the mailing. ( [See 10 Del Code § 3104](#) for recent changes.)
- An affidavit that is not notarized should be uploaded as an exhibit.
- A Delaware attorney can act as the notary, pursuant to [Section 29 Del. C. 4323](#) , which must be cited when this occurs, and bar id must be included.

#### Affidavit of Mailing

- An affidavit of mailing should be document type "Affidavit" and have a Certificate of Service.
- Example: A person would submit an affidavit of mailing to state that he or she mailed the complaint to the opposing parties, usually pursuant to [10 Del Code § 3104](#). He or she would need to have it notarized. The attorney does not need to sign it unless they are the one who did the mailing or service.
- The exhibits would be the returned green cards, the mailing receipts and the summons.

#### Amended Complaint, Rule 15(aa)

- A new supplemental is not needed.

- The black line or red line version must be uploaded separately as an exhibit, and it must state black or red line in the document title. The Amended Complaint will be rejected if there is no Black or Red Line version uploaded as an exhibit.
- A filing fee is charged every time an amended complaint is filed
- Amended pleadings must be filed as a separate docket entry when a motion to amend pleadings is granted by the Court.
- Document type 'amended complaint' must be used.
- There must be a notarized verification for each plaintiff/petitioner filed as "verification to complaint."

**Note:** The black/red-line version AND the verifications must be included ANY time an amended complaint is filed (with the motion to file and with the subsequent filing).

### Appeal

- The appeal is filed with the Supreme Court. Notice of the Appeal will come to us from the clerk of the Supreme Court.
- The appellant's attorney will send a check made payable to the Register in Chancery for the appeal preparation and transfer fee.

### Appendix

- An appendix is used when the Exhibits are too large to add on as exhibits to the brief.
- The appendix is a table of contents for all the exhibits.
- It requires full case caption, but no attorney block or signature needed.
- Make sure a separate Certificate of Service is filed for the Appendix.
- Each section of the appendix (except for the table of contents) should be document type 'Exhibits.'

### Archives

- Files can be retrieved from Archives upon request.
- Fees are required and vary depending on the size of the file requested per [Court of Chancery Rule 3 \(bb\)](#).

### Briefs

- Pursuant to the [Operating Procedures](#) all briefs and memorandums shall be filed in editable Word or WordPerfect format.
- Times New Roman 14-point font should be used for the entire text including footnotes per [Amended Rule 171](#).
- Word limits for Main or Answering Briefs must not exceed 14,000 and 8,000 for Reply Briefs.
- A [Certificate of Compliance](#) noting volume limitation and font compliance should be filed as a separate, supporting document using the document type, "Certification".
- If the brief is filed pursuant to a briefing schedule, it must be linked to the granted order and if applicable, to any briefs filed before it.

**Note:** If there is NOT a briefing schedule on the docket, then it should be document type "brief," NOT "opening/answering/reply" brief.

### Certificate of Service

- A document stating (in a short paragraph) that certain information was sent to the opposing side (i.e. Motions, Affidavit, etc.).
- It may be uploaded with any document (except for any type of proposed order), but the document title must reflect that.
- The Certificate of Service must list the name and address of the opposing attorney that the documents were sent to. (It cannot say, "Sent to all counsel." However, the attorney can attach a list of who the documents were sent to.)
- A Certificate of Service cannot be filed by itself; it can only be submitted if accompanying a pleading, appendix, proposed order, etc.
- Only the attorney signature and Bar ID are required at the signature line.
- The Certificate of Service is not needed with any documents for a new case until after the Summons has been returned.

### Certified Copy

- Fees are required for certified copies and exemplifications per Court of Chancery Rule 3(bb).
- If the document is an order, make sure there is a granted order on the docket.
- If the law firm is sending over a signed order for certification, they must include the judge's electronic signature page or the documents will be returned to the runner without being processed.

### Commission

- The document title must state who is being requested to appear or to be deposed.
- The same commission can be for more than one item-it can be for both the deposition and production of documents.
- Document type 'commission' must be selected in the e-filing. A filing fee will be assessed per commission which is paid through File & Serve Express.

Submitted documents should be the following:

1. Motion for Commission
2. Proposed order (in editable format) for the judge to sign (This must contain the name of the person for whom commission is issued.)
3. Commission (or proposed commission)-there must be a signature line for the Chief Register in Chancery
4. Certificate of Service
5. Schedules must be uploaded separately as exhibits. (Schedules specify what information is required by the Commission and needs no case caption, signature or attorney block; it cannot be attached to the bottom of the commission.)
6. A notice of deposition may also be filed at the same time, uploaded separately with its own certificate of service.

A Commission is not needed when the deposition or production of documents are being requested of a named party in the case, the event is taking place in Delaware, or the person being deposed or providing documents has agreed to appear.

### Granted Commission

- Certified copies of a granted commission can be obtained through the Register's Office.
- Fees will be assessed pursuant to Court of Chancery Rule 3(bb).
- The law firm can provide a copy of the commission and complete granted order with the electronic signature for certified copies. If not, the Register's Office can provide copies at an additional cost.

### Compendium

- Does not have to be e-filed.
- Courtesy copies can be dropped off for the Chancellor or Vice Chancellor depending on their preference.
- If they are uploaded and efiled, they are document type "Exhibits."

### Complaint (Petition)

- There must be full caption & full attorney signature block.
- The supplemental (Case Information Sheet) must have full case caption, and only be ONE (1) page, & is uploaded separately from the complaint.

\*\*\*\* **NOTE:** You must use the most recent [supplemental information sheet](#) pursuant to [COURT OF CHANCERY Rule 3\(bb\)\(1\)](#).

**NOTE: Effective January 1, 2007 all complaints must be accompanied by a notarized verification statement from EACH plaintiff or petitioning party. Failure to have a notarized verification statement(s) submitted with the complaint will cause the new case filing to be rejected. If a person is making the verification on behalf of corporations, the verification must clearly state what title/position an individual holds in a corporation. The verification(s) must be uploaded separately from the complaint and be filed as document type 'verification to complaint.'**

- All documents must be uploaded separately when e-filed.

### Confidentiality

- [Refer to Court of Chancery Rule 5.1.](#)

### Consolidation

- When two or more related cases are filed in our court, counsel may submit a Motion and Proposed Order to have the cases combined (Consolidated).
- Any motion/proposed order to consolidate must be filed on File and Serve Express as a multi-case filing. If not, the filing will be rejected.
- When filing the multi-case consolidation request, the filing firm must load their client as party type 'interested party' to any cases in which their party is not currently shown.

### Deed Restrictions–Statutory Procedures for Restriction Enforcements

- Refer to [Statutory Procedure for Suits Enforcing Deed Covenants or Restrictions.](#)

### Deposition (Notice of)

- The notice of the deposition will be on the docket, but the deposition may not be filed.
- The law firms may e-file a notice of deposition, and upload a SERVED subpoena duces tecum with the return of service attached as document type subpoena. (Subpoenas that have not been served should not be on the docket.)
- Full attorney block is needed on the notice of deposition, and a Certificate of Service is required.
- Name of the person to be deposed must be in the Notice itself and in the document e-filing title.
- A re-notice of deposition (with a new date, time, location, etc) must be linked to the original notice of deposition.

**NOTE:** If the Notice of Deposition is for something taking place outside the state of Delaware (and the deponent is not a party), the notice should be linked to a granted commission order. If no order exists because the deponent has agreed to appear (or the state in which the event is happening does not require a subpoena), the Notice of Deposition or a cover letter must clearly indicate why a commission was not required and, therefore, not on the record.

### Discovery (Interrogatories, Requests for Production, etc.)

- Discovery requests do not have to be e-Filed; they should be served to the opposing side. On File and Serve Express, they should be marked as "Serve Only, Private."
- Only the Notice of Service of any Discovery is necessary to be filed **and** served.
- If you do choose to file the actual Discovery, it must have a Certificate of Service.
- The initial request for Discovery or Notice of Service of the initial request should be linked to the Scheduling Order (if one is on the docket) or to the most recent Complaint filed.
- Responses to Discovery requests, or the Notice of Service of the responses, must be linked to the Discovery requests or Notice of Service of the requests filed by the opposing party.
- Subsequent requests for Discovery or Notices of Service for subsequent requests should be linked to all prior requests or Notices of Service filed for that type of Discovery (i.e., a Notice of Service for the second request for Production should be linked to the Notice of Service for the first request for Production **AND** the Notice of Service for the responses to the first request, if it is on the docket).

### Dismissals

- Any type of dismissal (notice, stipulation, motion) must be linked to that which you are dismissing (complaint or motion).

### Entry of Appearance

- An entry of appearance needs to contain the attorneys entering their appearance and for which parties they are representing.
- It must be linked to the original complaint and have a Certificate of Service.
- Attorneys can e-file an entry of appearance in the same transaction as other documents (i.e. Motions, etc.).
- **ALL** attorneys who are in the signature block on an Entry of Appearance must be loaded to File and Serve Express.
- Pursuant to Court of Chancery Rule 5(aa), only those Pleadings in direct response to the Complaint may be filed in lieu of a formal Entry of Appearance (e.g. an Answer, a Motion to Dismiss the Complaint, or a Stipulation extending the time to respond to the initial Complaint).

### Exhibit

- An Exhibit cannot be uploaded with an Affidavit, Proposed Order, or any other document; it must be uploaded separately.

**Special Instructions** - Trial exhibits are NOT accepted onto the docket sheet. If there is a pre-trial brief uploaded with trial exhibits, the brief may be rejected by the reviewing clerk because trial exhibits are not admitted as evidence until the day of trial.

### Interrogatories

- Interrogatories and any other discovery do not have to be e-filed; they should be done on File and Serve Express as "serve only, private."
- Only the notice of service of any discovery is necessary to be filed and served.
- If you do choose to file the actual discovery, it must have a certificate of service, and if it is responses, it must be linked to the request and/or the notice of service of the request.
- The initial request or notice of service of the initial request should be linked to the scheduling order (if one is on the docket) or to the most recent complaint filed.
- Responses to discovery, or the notice of service of the responses, must be linked to the discovery requests or notice of service of the requests filed by the opposing party.

### Letter

- All letters should use Times New Roman 14-point font and be double spaced.
- If the document type is a letter, it should be linked to the documents to which the letter references. The exception would be if the motion is in the same transaction id as the letter.
- If there is "CC" at the bottom of the letter, that serves as the Certificate of Service for any supporting documents filed with it (NOT main documents).
- Letters in reference to courtesy copies of documents should wait until those documents have been accepted onto the docket sheet so they can be properly linked.
- "CC" on letter must include all individual names of people given copies (cannot say "all counsel")
- All letters should be on firm letterhead. Any letters from out-of-state counsel being filed into the docket by local counsel must be uploaded as document type 'exhibits' and be accompanied by a letter of introduction from local counsel.

### Linking

- All documents filed subsequent to initial filings must be linked appropriately pursuant to the Court's Operating Procedures. Filings will be rejected for failure to link properly.

### Memorandum

- Memoranda may not exceed 15 (fifteen) pages in length. If a Memorandum exceeds 15 (fifteen) pages, it will be rejected and it must be either shortened or filed as a Brief.
- Memoranda cannot have tables of contents or tables of authorities. They must be filed with a Certificate of Service.

### Motion

- Motions may not exceed 15 (fifteen) pages. If a Motion exceeds 15 (fifteen) pages, it will be rejected and it must be either shortened or filed with a separate Brief or Memorandum in support of it.
- Motions cannot have tables of contents or tables of authorities. They must be filed with a Certificate of Service.

### Notice of Service

- Discovery is not required to be filed onto the docket; however, a Notice of Service attesting to the service of the discovery on opposing counsel is required with a certificate of service for when the Notice was served.
- If the Notice of Service and the Discovery were served on opposing counsel simultaneously, inclusion of the phrase "...and this Notice of Service...." in the wording of the Notice negates the need for a separate Certificate of Service.

### Opposition/Reply

- If a pleading is responsive to a pending Motion and it is filed as 'Opposition' or 'Reply' it should not exceed 15 pages in length or else it will be rejected. Such pleadings in excess of 15 pages should be filed as a 'Brief' and should comply with all the filing requirements of Briefs in compliance with [Court of Chancery Rule 171](#).

### Praecepte

- Praecepte is used to request service through the Sheriff and is to be efiled onto the docket.
- When the case is assigned to a judge, the praecipe, one service copy of documents per person to be served, and check to respective sheriff with any other service fees are to be hand delivered to the Register in Chancery of the county where the judge resides.

### Pro Hac Vice, Rule 170

- A Motion for Pro Hac Vice is an attorney asking the Court to admit a non-Delaware attorney into the case.  
Items needed:
  1. **Motion** (from the Delaware attorney; must include the name of the attorney to be admitted PHV)
    - When e-filing, select document type, "Motion for Pro Hac Vice", per attorney, per case so that Supreme Court admittance fee can be properly assessed.
  2. **Certification** of the attorney to be admitted Pro Hac Vice
    - [Rule 171](#)
    - The attorney being admitted should sign the certification.
    - No DE Bar id is required since they are not a Delaware attorney.
  3. **Proposed order**
    - Select the document type, "Proposed Order-Pro Hac Vice".
    - Must be in editable format and state the name of the attorney to be admitted.
    - The document title should read as the following:  
Attorney's last name, first name: Proposed Order for Admission of Pro Hac Vice. (I.e. Doe, John: Proposed Order for the admission of Pro Hac Vice.)
  4. **Certificate of Service**

### Proposed Order

- A Proposed Order must be uploaded separately from any other documents, and filed in editable word or word perfect format!
- If a proposed order is not filed with its responsive motion, a Certificate of Service or a letter with "CC" at the bottom is required to be filed with it.
- There must be a line for the presiding judicial officer to sign.
- The document title must state what the proposed order is for.
- The filing must be linked to the documents to which the proposed order refers or applies

**NOTE:** Only proposed orders for a motion to expedite or a motion for a TRO may be filed with new cases. ALL others must wait until a judge is assigned before being filed with a letter of enclosure and linked back to the complaint/petition. This is PER CHAMBERS.

### [Statement Pursuant to Court of Chancery Rule 4\(D\)\(C\)](#)

- After the summons is served, the law firm will upload the summons return onto the docket sheet.
- The law firm will then e-file the Statement 4(d)(c). The Statement gives all the information needed for the Register's office to complete registered mailings under certain statutes for service. This will contain the business address of the company and personal addresses of the individuals served. If unknown, that should be stated.
- This may be done in letter format.

### Stipulation

- All Delaware counsel/pro se litigants must sign a stipulation. However, if for some reason one of the attorney's refuses to sign, then the opposing counsel can submit a cover letter explaining why all counsel has not signed and choose document type, "Stipulation and Proposed Order."
- If the stipulation is being submitted to Chambers for their reference only and not for approval at this time, the document type should be "Exhibits".

- If the Stipulation is fully effectuated but does not need Chamber's signature to be implemented, the document type should be "Stipulation" – this document type does not put the document into judicial review.

### Subpoena , [Court of Chancery Rule 45](#)

- Subpoena should be uploaded first, with the Affidavit of Service attached.
- Schedules should be uploaded separately as an Exhibit. (Schedules for a Subpoena Duces Tecum are lists of the documents requested by the subpoena).
- There is no Certificate of Service needed.

**Note:** If you are filing a subpoena return pertaining to a commission, you will file a notice of service of subpoena (with a certificate of service for the notice) with the out-of-state subpoena and proof of service as an exhibit to the notice and then link to the granted order for the commission.

**Note:** Attorneys can prepare subpoenas in a similar format to the subpoenas issued by the Court. The subpoena must contain the full attorney's signature block. When the subpoena is served and is returned back to the attorney, it should be e-filed as document type 'subpoena' so that the proper fee will be assessed through File & Serve Express.

When E-filed, upload in this format:

- 1) Subpoena with return of service attached, and this must be indicated in the document title.
- 2) Schedule A (this should be uploaded separately as an exhibit).

### Summons

After a new complaint is filed, there will either be a letter filed as document type "Summons Instructions" (for a Special Process Server) or a Praecipe (for Sheriff Service).

1. Summons Instructions Letter - should specifically state who will prepare the summons (either the law firm or the Register in Chancery), and the name of the agency who will serve the summons.

**Note:** It must be a process server registered with the court.

-If the Register's office is being requested to prepare the summons, the letter should also cite the statute under which service is being requested for each defendant, and list the names and addresses of the defendants to be served.

-Also, even if the law firm prepares the summons, they will still need to go to the Register's office for signature and seal.

**Note:** Do NOT send summons anywhere until the case is assigned to a judge. However, if the case is a TRO, you will automatically send them to New Castle (or New Castle will automatically prepare them) or if there is a motion to expedite, you will send them to the Register's office closest to the law firm's address, or that Register's office will automatically prepare them.

2. Praecipe – should state which sheriff is to do the service of the summons, cite the statute service is being requested under for each defendant, and list the addresses to which those defendants should be served.
3. Completed Summons – the Register in Chancery will contact the law firm stating the summons is ready for pick up for the law firm or the process server. If the summons is for the Sheriff, Chancery will submit the summons, respective checks for the fees from the law firms, and the service copies to the appropriate Sheriff's office. Then, Chancery will write a note on the top of the Praecipe or Summons Instructions Letter that states how many summons were issued, what type, the date and to whom they were issued. This, along with copies of the front and back of the issued summons, will be e-filed in the appropriate case by the Register in Chancery as document type "Issuance of Summons."
4. Return of Service -After the summons has been served, the law firm will upload the front and back of the summons and the proof of service (a.k.a. affidavit of service).

The return of service will be document type, "summons" and must be linked to the issuance of the summons that Chancery has filed onto the docket. A return of

service from the Sheriff will be returned to the Chancery office that issued the summons, date stamped and filed onto the docket.

- a. There is no set format for the return of service. However, it must be signed by the special process server and notarized. Individual names and/or companies must be listed in the Affidavit. It cannot say, "forgoing names." The names of the parties served listed on the Affidavit must match the names of the parties to be served on the back of that respective summons. If it does not, the reviewing clerk will reject the filing.
- b. The process server on the proof of service must match that listed on the summons, and he/she must be registered with the court, or the reviewing clerk will reject the filing.

**Fees-Sheriff:** \$30.00 for each defendant at each different address. If more than one defendant at the same address, it is \$30.00 for the first defendant and \$5.00 each for the other defendants. Checks are to be made payable to whichever county the Sheriff will do the service: New Castle County Sheriff, Kent County Sheriff or Sussex County Council. In addition, service upon the Insurance Commissioner requires an additional check for \$25.00 per person served-check made payable to the Insurance Commissioner. **Note:** No personal checks are accepted.

### Supplemental (Case Information Sheet)

[See "[Complaint \(Petition\)](#)"]

### Verification/Verified Petition

All complaints/petitions/cross claims/counterclaims/amended & third party complaints must have a notarized verification from **each** petitioner/plaintiff/claimant. This document should be uploaded separately from the petition/complaint and be filed using document type "verification to complaint." The notarial stamp and/or seal MUST be visible, or filing will have to be rejected. If it is a raised notary seal, shade it with a pencil prior to scanning the document.

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