

## ATTACHMENT A: PROBATE eFILING PROCEDURES

### **PEF Procedure 1. Who Must eFile**

As of November 1, 2013, 12:01 a.m., all documents submitted in designated eFile case types shall be eFiled through the Court's authorized eFiling system by parties and other participants who either are Mandatory eFilers or are not Mandatory eFilers but have chosen to register in that case for eFiling with the Court's authorized eFiling system. Attorneys, whether appearing as counsel, fiduciary, or otherwise, are Mandatory eFilers. In addition, members of the Fiduciary Panel, Examiner Panel, and Visitor Panel, and participants in the Non-Lawyer Guardianship Pilot Project, are also Mandatory eFilers. After November 1, 2013, 12:01 a.m., the Office of the Register of Wills shall not accept for filing any document in paper form that is submitted by a Mandatory eFiler, other than pleadings and documents excluded from eFiling. Parties who are not Mandatory eFilers and who do not choose to eFile may file and serve documents in paper form.

### **PEF Procedure 2. Maintenance of Original Document**

(a) *EFilers.* Unless otherwise ordered by the Court, the original of all eFiled documents, with original signatures, shall be maintained by the party eFiling the document while the case is pending and through exhaustion of any appeals or appeal time periods, and shall be made available, upon reasonable notice, for inspection by other parties or the Court.

(b) *Paper Filers.* The Probate Division staff shall docket and scan all documents filed in paper form, other than auditing documents used for an audit, at the time of filing beginning October 25, 2013. Except for wills, codicils, bonds, sealed documents, and documents requested to be placed under seal, the Probate Division staff shall return the file-stamped originals to the filer once the filing is electronically entered into the Court's case management system. The original of the paper-filed documents shall be maintained by the party filing the document while the while the case is pending and through exhaustion of any appeals or appeal time periods, and shall be made available, upon reasonable notice, for inspection by other parties or the Court.

(c) *In-Court Filings.* Any exhibit that was admitted into evidence in the courtroom by a Probate Division judge and that may be viewed comprehensively in an electronic format shall be scanned into the Court's case management system. The original of any scanned exhibit shall be maintained by the presenting party as it was when presented in the courtroom while the case is pending and through exhaustion of any appeals or appeal time periods, and shall be made available, upon reasonable notice, for inspection by other parties or the Court. The original of any exhibit, such as x-ray film or blueprints, which may not be viewed comprehensively in an electronic format, shall be maintained by the Court while the case is pending and through the exhaustion of any appeals or appeal time periods.

(d) *Multi-Door Dispute Resolution Division Documents.* The original of all documents maintained by the Multi-Door Dispute Resolution Division in connection with Probate Division

cases shall be maintained for its customary three year period, commencing from the date of entry of the document on the court docket, and shall be made available, upon reasonable notice, for inspection by parties or persons who participated in mediation or the Court.

(e) *Preservation of Documents Otherwise Required.* This procedure does not alter any other legal, professional, or ethical requirement or obligation of an individual to maintain documents or exhibits.

**PEF Procedure 3. Time of Filing and Effect of Use of eFile**

(a) *Time of eFiling.* Any eFiled document shall be considered as having been filed with the Superior Court when it is submitted to the Court's authorized eFiling system and transmission is completed. Any document filed after 11:59:59 p.m. EST shall be deemed to have been filed on the next Court day.

(b) *Failure to Process eFiling.* If the eFiled document is not filed in the Superior Court's case management system because of a processing failure that is no fault of the sending party, the Court will enter an order permitting the document to be filed *nunc pro tunc* to the date it was sent electronically.

**PEF Procedure 4. Documents Excluded from eFiling**

(a) The following documents may not be eFiled:

(1) Wills and codicils;

(2) Initial pleadings that open a Probate Division case. The Probate Division case types are ADM (Large Decedents' Estates), SEB (Small Decedents' Estates), INT (Intervention Proceedings), IDD (Interventions – Developmental Disability), GDN (Guardianship of Minors' Estates), FEP (Foreign Decedents' Estates), FOI (Foreign Intervention Proceedings), LIT (Major Litigation), TRP (Trusts), NRT (Notice of Revocable Trusts), DIS (Disclaimers), PBM (Probate Miscellaneous), and WIL (Wills);

(3) Petitions to Reopen the Administration of an Estate and Requests for Extension of Personal Representative's Appointment in a closed case;

(4) Bonds;

(5) Verifications and Certificates of Notice when additional court costs are due;

(6) Sealed documents and documents that are requested to be placed under seal, but not the motion to seal. The Administrative Order Certifications (AOC) shall be filed as provided in PEF Procedure 8;

(7) Personal Identification Information (Form 26) forms, generally filed with the initial pleading that opens a Probate Division case;

(8) Filings that require payment of Court costs that vary in amount or deposits into the Estate Deposit Account;

(9) Inventories and accounts and supporting documents containing financial information;

(10) Exhibits or other documents that are real objects, such as x-ray film or blueprints, or that otherwise may not be viewed comprehensively in an electronic format; and

(11) Matters reviewed by the Office of the Register of Wills and forwarded to the Judge in Chambers, such as Petitions for a General Proceeding seeking appointment of an emergency guardian or health care guardian, subpoenas for medical records, and applications requesting that the filer be granted permission to proceed *in forma pauperis* in a particular case.

(b) An eFiler who is filing a will or codicil may also file in paper form the Certificate of Filing Will and affidavits of witnesses, if filed at the same time as the will or codicil. An eFiler who is filing initial pleadings to open a Probate Division case may also file in paper form the documents associated with the opening of the case.

**PEF Procedure 5. Form of Documents eFiled**

(a) *Format of eFiled Documents.* An eFiler may submit documents in any recognized electronic format for eFiling, including Word, Microsoft Works, Word Perfect or PDF. If PDF software is used, it must be Adobe compliant.

(b) *Signature.* Every eFiled document that bears either an “/s/” or a typographical or imaged signature on the signature line shall be deemed to have been signed by the eFiler who made the filing or authorized the filing to be made. In order to be accepted for eFiling, the typed name, address, telephone number, email address and, if applicable, the Bar number of a signing attorney shall be listed below the signature line on the eFiled document. An “/s/” or typographical signature shall be treated as a personal signature for all purposes under the Superior Court rules, including SCR Civil Rule 11.

(c) *Raised Seal.* If a document contains a raised seal, the eFiler shall highlight the seal prior to eFiling the document.

**PEF Procedure 6. E-Service of Documents**

(a) *Service of Documents Excluded from eFiling.* Service of initial pleadings to open a Probate Division case, including the original complaint in a LIT proceeding, and service of any other document excluded from eFiling is the responsibility of the filer and must be accomplished in accordance with applicable Superior Court rules. However, proof of such service shall be filed electronically by all eFilers.

(b) *Eservice List.* Beginning September 24, 2013, each mandatory eFiler who commences a Probate Division case shall create the eService list with the Court's authorized eFiling system promptly upon being notified of the case number assigned to that case, by following the Court's authorized eFiling system vendor's instructions regarding how to do so.

(c) *EService of eFiled Documents.* EFilers shall eServe documents upon other parties who are Mandatory eFilers or who have registered to receive eService. Parties who are not Mandatory eFilers and who have not chosen to be eServed in accordance with these procedures shall be served in accordance with applicable Superior Court rules.

(d) *Service on Parties: Time to Respond or Act.* Service shall be deemed complete at the time a document has been received by the Court's authorized eFiling system as reflected by the authorized date and time appearing on the electronic transmittal. As of the commencement date of eFiling, any period of notice or any right or duty to do any act or make any response within any period or on a date certain after the service of the document prescribed by statute or rule of Court, shall be strictly governed by the applicable rules of the Superior Court.

**PEF Procedure 7. Privacy Requirements for eFiled Documents**

(a) *Personal information to be excluded.* All eFilers shall comply with the privacy requirements of SCR-Probate Rule 5.1.

(b) *Responsibility for redacting personal identification information.* The responsibility for redacting personal identification information rests solely with the eFiler.

**PEF Procedure 8. Petitions for Compensation**

(a) *Petition for Compensation or Fees eFiled by Attorney*

(1) The certification provisions of Administrative Order 04-06 - which require attorneys who are filing a petition for compensation or fees from private or public funds to submit a certification of the list of cases in which that attorney serves as guardian, conservator, personal representative or counsel for any of them - shall not apply to eFilers.

(2) Each petition for compensation or fees that is eFiled by such a person shall include the following certification as part of the petition:

I, (name of attorney) certify that in each case in which I am guardian, conservator, personal representative, or counsel for any of them:

(A) within the last 30 days I have personally verified the current location and health status and ongoing availability of placements for wards in guardianship cases except guardianships of the property of minors, and except that in the event a ward cannot be located, I have diligently sought to locate the ward as follows: (detailed

description of efforts to locate the ward) and forwards that have no fixed address, it is for the following reasons (detailed explanation):

(B) in cases in which I am a fiduciary, other than petitions or requests for compensation to me, I have filed all reports, verifications of notice, accounts, and subsequent requirements due as of the date of this petition or request, and

(C) In cases in which I am counsel to the fiduciary, I have verified that the filing requirements are current or within the last 10 days I have advised my client in writing of the necessity for bringing them current.

*(b) Petition for Compensation or Fees eFiled by Lay Fiduciary*

(1) The certification provisions of Administrative Order 04-07 - which require lay fiduciaries who are filing a petition for compensation or fees from private or public funds or for approval of payment of compensation to any attorney or other provider of professional services to submit an affidavit - shall not apply to lay fiduciary eFilers.

(2) Each petition for compensation or fees that is eFiled by such a person shall include the following certification as part of the petition:

I, (name of lay fiduciary) certify that:

(A) within the last 30 days I have personally verified the current location and health status and ongoing availability of placements for wards in guardianship cases except guardianships of the property of minors, and except that in the event a ward cannot be located, I have diligently sought to locate the ward as follows: (detailed description of efforts to locate the ward) and forwards that have no fixed address, it is for the following reasons (detailed explanation):

(B) In all guardianships and conservatorships, with the sole exception of petitions or requests for compensation to me, I have filed all reports, verifications of notice, accounts, and subsequent requirements for which I am responsible as fiduciary due as of the date of this petition or request.

**PEF Procedure 9. Collection of Fees for Filings Requiring Fee Payment; Waiver of Costs**

(a) Any filing requiring payment of a filing fee to the Register of Wills shall be filed electronically in the same manner as any filing that does not require payment of a filing fee. The Court's authorized eFiling system vendor, as limited agent for the Superior Court of the District of Columbia, will collect filing fees from the subscriber. Fees charged by the Court's authorized eFiling system vendor to subscribers for access to and electronic transmission of a document are in addition to any charges associated with filing fees required by Superior Court rules and which may be collected for the Court by the Court's authorized eFiling system vendor.

(b) If the payment of court costs is waived by Court order for a party to a Probate Division case pursuant to SCR-Civil Rule 54-II, and the party chooses to eFile and eServe documents electronically, the party must register with the Court's authorized eFiling system; otherwise, the party must file documents in paper.

**PEF Procedure 10. Courtesy Copies**

(a) Courtesy copies shall not be provided to judge's chambers except upon request by the judge.

(b) Any paper courtesy copy shall be labeled in bold at the top of the first page "Courtesy Copy Only. Original filed on (Month)/(Day)/(Year)."

(c) Delivery of a courtesy copy to a judge's chambers does not constitute filing with the Court.

**PEF Procedure 11. Change of Address**

(a) Whenever there is a change of address of a party who eFiles or counsel to a party in a Probate Division case, that party or counsel for that party must eFile a Change of Address Praecipe with the Office of the Register of Wills within 14 days of the change so that the Court is able to mail court orders, delinquency notices, and notices of court proceedings to the correct address.

(b) The address of a party or counsel to a party listed on the initial pleading that opened the Probate Division case, or the first pleading filed on behalf of another party in a Probate Division litigation case, shall be conclusively considered to be the last known address of the party or counsel for the party, unless modified by the filing of a Change of Address Praecipe or Notice of Entry of Appearance by counsel.

(c) If mail delivered to the last known address of a party or counsel has been returned to the Court on more than one occasion as undeliverable, Court orders and notices shall not continue to be sent by the Court to that address.

**PEF Procedure 12. Proposed Orders**

(a) Proposed orders shall be included with the eFiling, with the service list for the proposed order on a separate page from the substance of the proposed order.

(b) An electronic copy of the proposed order shall be separately emailed to [ProbateDivisionEfiling@dcsc.gov](mailto:ProbateDivisionEfiling@dcsc.gov). The subject line of email shall be formatted as follows:

- i. (Four digit year)(case type abbreviation using capital letters)(# of the case), such as 2013ADM115;
- ii. The date the order was eFiled; and
- iii. Title of the filing.

(c) An order downloaded from the Probate Division's website that is available in PDF format may be filed as a PDF. Any other order shall be emailed in Word format capable of being edited, and shall not be write-protected.

(d) For each party listed on the service list of a proposed order, the eFiler shall indicate whether that person should be eServed or served by mail.

**PEF Procedure 13. Public Access**

(a) The public may view eFiled documents on a Public Access computer terminal located in the Probate Clerk's Office. Users shall be charged for printed copies of documents at rates established by the Court.