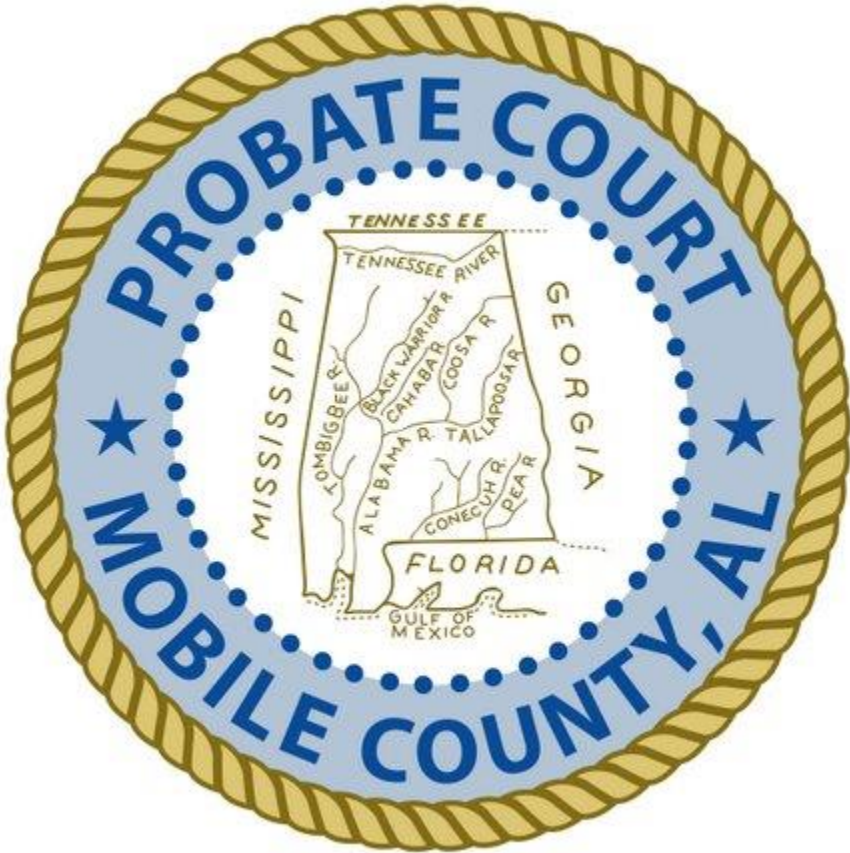


Administrative Policies and Procedures for Electronic Filing in the  
Judicial Division of the Probate Court of Mobile County, Alabama



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## **AUTHORIZATION FOR ELECTRONIC FILING**

The Alabama Rules of Civil Procedure, by amendment dated October 24, 2008, recognized that electronic filing was available as an option statewide. On June 23<sup>rd</sup> 2015, the Chief Justice issued an order authorizing electronic filing in certain probate courts of this state including the Probate Court of Mobile County. Pursuant to said order the following procedures shall govern electronic filing of pleadings in the Probate Court of Mobile County unless, due to extraordinary circumstances in a particular case, the judge of probate determines that these policies and procedures should be modified in the interest of justice.

The orders of the Supreme Court, these administrative procedures, and additional information may be found at the Internet website: <http://probate.mobilecountyal.gov>.

## **DEFINITIONS**

The following definitions shall apply to these policies and procedures for electronic filing:

“Probate Court of Mobile County” will hereinafter be referred to as “Court”.

The Alabama Rules of Civil Procedure will hereinafter be referred to as “A.R.C.P.”.

“The Clerk of the Court” hereinafter referred to as “Court Clerk” and/or “Clerk” shall mean any staff member of the Court’s Judicial Division given duties regarding any pleading filed in the various cases under the jurisdiction of the probate courts of the State of Alabama.

“Benchmark”, “Benchmark System” and/or “System” all refer to the electronic case management system currently utilized by the Court. It is owned, licensed and supported by Pioneer Technology Group (“PTG”) of Sanford, FL.

The term “document” shall include pleadings, motions, exhibits, declarations, affidavits, memoranda, papers, orders, notices, and any other filing by or to the Court.

The term “party” shall include parties to the action, the counsel of record and any *pro se* litigants.

A “user” is a person who is registered to use the electronic filing system site designated by the Court.

“Electronic filing” means uploading a document directly from the registered user’s computer, using the Court’s Benchmark System to file that document in the Court’s case file. Sending a document to the Court via e-mail does not constitute “electronic filing.”

An "e-Filing Confirmation" is a unique number given to all eFiled documents upon completion of an electronic filing. The Confirmation number associated with each filing can be found in the users account under e-File Submissions along with a current status of same.

“PDF” refers to portable document format. A PDF document allows anyone to open the converted document across a broad range of hardware and software, with layout, format, links, and images intact. For information on PDF, users may wish to visit the web sites of PDF vendors by using your favorite search engine.

## **FILING DOCUMENTS WITH THE COURT**

Electronically filed documents must substantially meet the requirements of the A.R.C.P.

A document shall not be considered filed until a system-generated e-Filing Confirmation number has been generated. The time and date stamp generated by Benchmark, on the document filed and the E-filing Confirmation, controls.

**E-mailing a document to the Clerk’s office or to the assigned judge shall not constitute “filing” of the document. Personally e-mailing a document directly to a party or an attorney shall not constitute service of the document.**

### **Documents that may be e-filed:**

All documents including the petition, complaint, applications, response, answer, motions, pleadings, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, or other documents in a case currently allowed and/or required by the A.R.C.P. may be electronically filed through the Benchmark System except as otherwise provided by these procedures.

### **Documents that may NOT be e-filed:**

The following document types are NOT permitted to be filed electronically:

- Documents filed under seal

- Documents or exhibits that cannot be scanned and converted to a PDF (e.g. video or audio tapes, large maps, etc.)

- Exhibits offered at trial or hearing

- Original last wills and testaments and codicils

- Original Letters of Administration and orders from the court of origin filed in an ancillary estate

- Original Letters Testamentary and orders from the court of origin filed in an ancillary estate

- Genetic Test Results (Confidential)

This list of documents is also displayed on the e-filing webpage after entering your Benchmark login information at <https://benchmark.probate.mobilecountyal.gov>. Please refer to this list as it may be updated periodically.

Further, the electronic filing program for probate courts created by the order of June 23<sup>rd</sup> 2015, does not require the following to be filed electronically:

Documents filed by self-represented (*Pro Se*) parties.

## **THE ELECTRONIC RECORD**

In addition to the current physical paper record of the Court's proceedings, the official record of the Court may also include files or document images maintained in an electronic format.

The Court Clerk will continue to maintain a paper court file in any case except as otherwise provided in these procedures. The official Court record shall be the electronic file maintained on the Court's servers. The official record shall include, however, any conventional documents or exhibits filed in accordance with these procedures that have not been scanned into the Court file by the Clerk.

Unless otherwise sealed by order of the judge or rendered confidential by Alabama law, the official Court record will be available for public inspection at the Clerk's office during normal business hours of the Court.

Portions of the electronic record may also be made available for inspection and review by attorneys of record in a case via secure internet connection to the Court's Benchmark System in a manner and at a cost established by the judge of probate.

## **ELECTRONIC SIGNATURES**

Electronic signatures should be in the form prescribed by Rule 11 A.R.C.P. and Rule 30(G) of the Alabama Rules of Judicial Administration.

Attorneys and parties are advised that documents that must contain original signatures or that require either verification or an unsworn declaration under any rule or statute shall be filed electronically with the originally executed copies maintained by the filer. The pleading or other document electronically filed shall indicate a signature, e.g., "/s/Jane Doe," or the original may be scanned and electronically filed. The filing party or attorney shall retain the physical copy of the document containing the original signatures for two (2) years after final resolution of the action, including final disposition and all appeals.

Documents requiring signatures of more than one party shall be filed by submitting a scanned document containing all necessary signatures. The filing party or attorney shall retain the hard copy of the document containing the original signatures for two (2) years after final resolution of the action, including final disposition and all appeals.

## **REGISTRATION and RESPONSIBILITIES OF USERS**

Each attorney or party wishing to file electronically must register on-line via Benchmark at:  
<https://benchmark.probate.mobilecountyal.gov>.

Once the initial registration process is completed, an email will be sent to the user at the e-mail address supplied during registration for verification.

Users may change their passwords at any time via the Benchmark settings page. If a user believes that the security of an existing password has been compromised and that a threat to the system exists, the user must change his or her password immediately.

Users may update their primary email address at any time via the Benchmark settings page.

Changes to all other information related to a user's law practice, including all firm billing, payment and tax identification information, on file with the Court cannot be made online. Such information must be updated or corrected by contacting the Court's Financial Administrator at (251) 574-6101 during normal business hours of the Court.

## **TECHNICAL SPECIFICATIONS**

Although the system requirements may be set forth more completely in a user's manual or other publication, it is expected that the following hardware and software will be needed to file documents electronically:

- A computer system or systems

- The ability to convert documents from word processing software to PDF

- Any standard web browser (i.e. Internet Explorer, Firefox, Google Chrome, Safari)

- Internet access

- A document scanner, if documents need to be imaged

When scanning documents to be filed electronically, filing parties should make certain their scanners are configured for 300 dpi and black and white, rather than color, scanning. The filing party is responsible for the legibility of the scanned document. If for any reason a document cannot be easily read after scanning, the filing party should not electronically file the document. Instead, the filing party must file the document conventionally with the Clerk's office.

Because large documents may not upload properly to the system or download within a reasonable amount of time for users with limited bandwidth, documents over ten (10) megabytes will be rejected by the system and must be filed conventionally or in ten (10) megabyte segments as attachments. The maximum number of pages for an e-filing may not exceed 250 pages.

## **SYSTEM AVAILABILITY/INABILITY TO FILE**

The system is designed to provide service 24 hours a day. Users, however, are encouraged to file documents in advance of filing deadlines and during normal business hours in the event assistance or support is needed from the help desk.

The Court utilizes Benchmark which is an electronic case management application developed by PTG. PTG has established a help desk for questions related to electronic filing. The help desk may be reached by phone at 1-800-280-5281 or email at [court@ptghome.com](mailto:court@ptghome.com). The help desk will be staffed from 8:00 a.m. to 5:00 p.m. on business days on which the Court is open for business.

Additionally, a list of frequently asked questions and answers to those questions are available at <https://benchmark.probate.mobilecountyal.gov>.

If a party misses a Court imposed filing deadline because of an inability to electronically file based upon the unavailability of the system, the party may submit the untimely filed document, accompanied by a declaration stating the reason or reasons for missing the deadline. The document and declaration must be filed no later than 12:00 noon of the first day on which the Court of is open for business following the original filing deadline. A model form of the declaration is available at <https://benchmark.probate.mobilecountyal.gov>.

## **SERVICE**

Service of process shall be perfected using the methods mandated by the A. R.C.P. Summonses shall be issued in the following manner: for service by certified mail, the Clerk shall issue the summons and service of the summons and complaint/petition shall be made by the Clerk or user via certified mail; for service by the sheriff, the Clerk shall issue the summons and deliver it to the sheriff for service; for service by process server, the summons shall be issued by the Clerk and delivered to the user via email for service.

A party who is not a registered participant of the system is entitled to a paper copy of any electronically filed pleading, document, or order. The filing party must therefore provide the nonregistered party with the pleading, document, or order according to the A.R.C.P.

To determine whether another party is a registered user, the filer can enter the case number, select the notification tab and notification information will appear, stating whether or not the filer must mail a copy or if the system will electronically generate notice.

## **FEES PAYABLE TO THE CLERK**

Any fee required for filing a pleading or paper is payable to the Clerk of the Court at the time of filing. Payment must be made by credit/debit card (3.5% of total added as convenience/administrative fee). The Clerk's office will document the receipt of fees in the usual manner. No filing shall be deemed completed until receipt of any required filing fee. The 3.5% convenience fee may be taxed as costs pursuant to Rule 41 of the Alabama Rules of Judicial Administration.

## **COMPLAINTS/PETITIONS**

It is the responsibility of the filing attorney to ensure that the proper filing fee is paid through the application when the complaint/petition is filed.

## **TITLE OF DOCKET ENTRIES**

The party electronically filing a pleading or other document shall be responsible for designating as correctly as possible the type of the document that will be used in the case action summary and index for that case file using the document type designations in Benchmark. Any questions regarding the correct document type to use should be resolved with the Clerk prior to electronically filing a document.

## **PRIVACY AND SECURITY**

To address the privacy concerns created by Internet access, you should not include certain types of sensitive information in any document filed with the court unless such inclusion is necessary and relevant to the case. You must remember that any personal information not otherwise protected will be made available. Please see Rule 5.1 of the A.R.C.P. regarding privacy protection for court filings.

In addition, exercise caution when filing documents that contain the following:

- Personal identifying numbers, such as a driver's license number

- Names of minor children

- Dates of birth

- Medical records, including treatment and diagnosis records

- Employment history

- Proprietary or trade secret information

- Other data as permitted by order of the Court

Counsel is strongly urged to share this information with all clients so that an informed decision about the inclusion, redaction and/or exclusion of certain materials may be made. It is the sole responsibility of counsel and the parties to ensure that redaction of personal identifiers is done. The Clerk will not review each pleading for redaction.



**ACCESS**

Electronic access to the electronic docket and documents filed in the system is available for viewing to the public at no charge at the Clerk's office during regular business hours. A fee will be charged for copies of any document from a case file.

General remote access to the public records of the court is available via a subscribers' service to be established by the Judge of Probate for Mobile County pursuant to Ala. Act 98-646.