ANTIGUA AND BARBUDA

EASTERN CARIBBEAN SUPREME COURT (ELECTRONIC LITIGATION FILING AND SERVICE PROCEDURE) RULES

STATUTORY INSTRUMENTS

2019, No. 44

ANTIGUA AND BARBUDA

Eastern Caribbean Supreme Court (Electronic Litigation Filing and Service Procedure) Rules

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EASTERN CARIBBEAN SUPREME COURT (ELECTRONIC LITIGATION FILING AND SERVICE PROCEDURE) RULES

ANTIGUA AND BARBUDA

STATUTORY INSTRUMENT NO.

In exercise of the powers conferred under Section 17 of the Supreme Court Order, the Chief Justice and two other Judges of the Supreme Court make the following Rules:

Citation

1. These Rules may be cited as the Eastern Caribbean Supreme Court (Electronic Litigation Filing and Service Procedure) Rules, 2019.

Interpretation

2. In these rules –
"Court" means the High Court situated in each of the Member States and Territories and the Court of Appeal, whichever is applicable in the context;

Made this 5th day of August 2019

Chief Justice (Ag)

Justice of Appeal

High Court Judge

and

C.D.

Defendant / respondent

TAKE NOTICE that the claimant / appellant / applicant has filed the attached proceedings on The Eastern Caribbean Supreme Court Electronic Litigation Portal. The authorization code to access these proceedings is *[insert authorization code]*.

These proceedings can only be accessed through the Electronic Litigation Portal. If you do not have an attorney-at-law and need assistance in accessing the Electronic Litigation Portal please contact the Service Bureau at the High Court office.

Dated
The court office is at [xxx xxx xxx] telephone number xx-xxxx, FAX xxx.xxxx. The office is open between [..... am.] and [..... p.m.] ..... to ..... except public holidays."

"Court's Registry" means the Court Office of the High Court situated in each of the Member States and Territories and of the Court of Appeal situated at the Eastern Caribbean Supreme Court (ECSC) Headquarters in Saint Lucia, whichever is applicable in the context;

"Court's website" means the website of the Eastern Caribbean Supreme Court

"electronic means" means a form of electronic communication of the contents of a document and includes the use of an online application, e-mail, online shared drives, CD ROMs, USB Drives, or Facsimile;

"electronic mail" means the transmission of messages via an electronic device or an internet communication network;

"Electronic Litigation Portal" means the web-based application which has been developed and implemented to offer stakeholders in the judicial system of the Eastern Caribbean a single point of access for the electronic litigation filing and management of documents and case files within the Court's Registry in the Eastern Caribbean Supreme Court in accordance with these Rules;

Application of Rules

3. (1) These Rules apply to –

(a) High Court civil proceedings, including Commercial, Non-Contentious Probate and Administration of Estates, Family, Admiralty and Bankruptcy/ Insolvency Proceedings;

(b) High Court criminal proceedings;

(c) Court of Appeal criminal and civil proceedings.

(2) Notwithstanding sub-rule (1), rule 3.6 (2) of the Eastern Caribbean Supreme Court Civil Procedure Rules 2000 and Parts 5 and 6 of the Eastern Caribbean Supreme Court Civil Procedure Rules 2000 apply to civil proceedings in the High Court and Court of Appeal under these Rules.

(3) These Rules apply to proceedings when made available in the Electronic Litigation Portal and notice is provided by the Chief Registrar as directed by the Chief Justice.

(4) These Rules apply without exception, to new proceedings filed on or after the commencement date of the notice provided under sub-rule (3) and must be used to file a document to commence proceedings

(4) Where the provisions of a Practice Direction and Practice Guide conflict with these rules, these rules prevail.

SCHEDULE 1

(Rule 10)

USER FEES FOR ELECTRONIC LITIGATION FILING

DESCRIPTION	FEE
Facilitation	$2.00 per filing

SCHEDULE 2

Form 1: Authorization Code
[Rule 13(4)]

The Eastern Caribbean Supreme Court
In the High Court of Justice / Court of Appeal

[Antigua and Barbuda]
ANUHC....

Between A.B.

Claimant / appellant / applicant

(e) other means sufficient to satisfy the Court that the document came to the notice of the recipient party.

Service by Electronic means by or on the Court

15. (1) The Court may, by electronic means, serve a notice, order, judgment, or other document issued by the Court on a party to proceedings by delivering the document to the electronic mail address of that party.

(2) A party may serve a document by electronic means on the Court by filing the document through the Electronic Litigation Portal.

Practice Directions and Practice Guides

16. (1) The Chief Justice may issue Practice Directions and Practice Guides under these rules to supplement the rules in relation to the practice and procedure to be followed.

(2) A Practice Direction and Practice Guide must be –

(a) published in the Gazette; and

(b) displayed and made available at each Court Office.

(3) A party must comply with a Practice Direction and Practice Guide unless there is good reason for not doing so.

before the Court through the Electronic Litigation Portal.

(5) In the case of existing cases, these Rules apply, without exception, if the case is made available in the Electronic Litigation Portal and electronic or other notification is given to the parties by the Court's Registry.

(6) These Rules apply to procedural rules of the Eastern Caribbean Supreme Court and applicable Practice Directions, subject to any exclusion or revision within these Rules.

Operation of Electronic filing system

4. (1) These Rules make provision for the electronic litigation filing and service of court documents through the use of electronic means of communication.

(2) A document must be submitted through, the Electronic Litigation Portal to enable the electronic litigation filing to the Court's Registry.

(3) The Electronic Litigation Portal enables a party to file a document online to commence proceedings or, in the case of ongoing proceedings available on the Electronic Litigation Portal, at any time during or

outside normal Court office hours of business including weekends, public holidays and during the Court's vacation.

(4) The Electronic Litigation Portal must contain a payment facility including an escrow account, credit card payment facility or other payment facility, to allow for the payment of Electronic Litigation filing fees.

Registration

5.—(1) A party to proceedings shall register on the Electronic Litigation Portal to have access to it.

(2) A party shall provide a valid electronic mail address to the Court's Registry at the time of registering under sub-rule (1).

(3) On registration, the Court shall provide a party with an account, username and password to be used when accessing the Electronic Litigation Portal.

(4) Subject to this rule, a party shall comply with the procedure, the process for registration and instructions provided on the Court's website.

Electronic Submission of Documents

(12) Notwithstanding sub-rule (11) a period during which the service is not available through the facility hosting the Electronic Litigation Portal is excluded from the computation of time."

Proof of service by electronic means

14. (1) An electronic confirmation of delivery serves as proof of service of a document which has been served by electronic means, but if a dispute arises as to whether service occurred, it shall be resolved by the Chief Registrar, the Registrar of the High Court or a single Judge of the Court of Appeal or High Court.

(2) An electronic confirmation of delivery under sub-rule 1 includes:

(a) electronic mail delivery or read receipt;

(b) confirmation from an electronic legal service provider that the document was delivered to the recipient party's account by that service provider;

(c) confirmation that the notification or an imbedded hyperlink in the notifications section of the Electronic Litigation Portal was accessed;

(d) acknowledgement of receipt by the recipient party, counsel or paralegal; or

(7) An electronic mail address is presumed valid for a party if the party has not filed with the Court's Registry notice that the address is no longer valid and at the time that the notice is filed provided an alternative electronic mail address.

(8) A party that receives a document served by electronic means and is unable to view or download the document shall immediately notify the serving party and the serving party shall take reasonable steps to ensure that the document can be viewed and downloaded.

(9) A document to which the Court's stamp and date of filing information has been applied by the Electronic Litigation Portal is deemed to be served on the date and time that the document was submitted to the Electronic Litigation Portal, if the date and time of submission is within business hours.

(10) A document submitted through the Electronic Litigation Portal for service

(a) outside the hours set by law for service or if not applicable, outside of the business hours of the Court's Registry;

(b) on a weekend; or

(c) on a public holiday,

is deemed to have an effective service date as the date when the Court's Registry is next open.

(11) Rules made by the Eastern Caribbean Supreme Court relating to holidays and computation of time apply to documents served using the Electronic Litigation Portal.

(6) (1) For electronic litigation filing of a document using the Electronic litigation Portal a party must:

(a) access the portal by –

(i) visiting the Court's website and clicking on the link to the Electronic Litigation Portal; and

(ii) Logging into the account provided by the Court under rule 5(3);

(b) enter information for a new case or information on an existing case;

(c) upload the document associated with the case;

(d) pay the fees using the payment facility available on the Electronic Litigation Portal under rule 4(4); and

(e) submit the document.

Format of Documents

7 (1) A document which is submitted for electronic litigation filing must be –

(a) prepared electronically using Microsoft Word or open office or other Word Processor in .doc, .docx, .txt, .rtf, .pdf formats; and

(b) converted into Portable Document Format (PDF) before uploading by–

(i) using an Adobe Acrobat software;

(ii) using other compatible Portable Document Format converter software; or

(iii) scanning hard copies of the document.

(2) Where a document is not a text document, it must be scanned using an image resolution of 300 dpi (dots per inch) and saved as a Portable Document Format document.

(3) A document submitted for electronic litigation filing must not –

(i) Exceed 10MB;
(ii) Be encrypted; and
(iii) Be password protected.

(4) A document submitted through the Electronic Litigation Portal must comply with the requirements of applicable procedural rules of the Eastern Caribbean Supreme Court.

(5) There are no limits on the number of documents which can be submitted in the process of electronic filing.

(6) Electronic images of exhibits must be uploaded and submitted as one filing, together with an index of the

Service of documents by electronic means

13. (1) Unless a rule of the court or an order provides otherwise, a document that is required to be served whether personally or by other means may be served by electronic means.

(2) Unless the Court or an enactment requires otherwise, a document filed using the Electronic Litigation Portal that is required to be served must be served by the relevant party and not the Court.

(3) Where proceedings have been commenced –

(a) service must be effected in accordance with the applicable Rules of court; and

(b) the filing party must at the same time serve the authorization code generated by the Electronic Litigation Portal in Form 1 in Schedule 2 to these rules.

(4) Where the authorization code generated by the Electronic Litigation Portal is not served on a party in accordance with sub-rule 3, service shall be deemed not to have been effected, except where service is effected in accordance with directions given by the court in respect of an order permitting substituted service.

(5) Service by electronic means must be effected through the electronic mail address of a party which was provided during the registration process on the Electronic Litigation Portal.

(6) A party who furnishes an electronic mail address under rule 5 consents to accept service by electronic means through the electronic mail address provided.

(3) A filed document must be stamped and dated and by electronic means linked to the associated case by the Electronic Litigation Portal .

(4) The Court's stamp and date of filing information must be applied to an electronically filed document by the Electronic Litigation Portal, validating the authenticity of the document as being filed in the Court's Registry.

(5) On payment of the fees using the payment facility provided by the Electronic Litigation Portal a stamp denoting payment must be applied to the document and the Electronic Litigation filing fees paid under rule 10 must be printed on the document.

Electronic Compilation of trial bundle, core bundle and record of appeal

12. (1) A party shall, provide an index of the documents filed which forms the electronic compilation to be used as —

(a) the trial bundle and core bundle for trial; or

(b) the record of appeal and core bundle for an appeal.

(2) An electronic compilation under sub-rule (1) is deemed to be the trial bundle for the purposes of Part 39 or the Record of Appeal for the purposes of Part 62 of the Eastern Caribbean Supreme Court Civil Procedure Rules or other applicable rules.

exhibits and the corresponding principal document.

Electronic Signatures

8 (1) A filed document which is submitted for electronic litigation filing is not required to bear the electronic image of the handwritten (physical) signature of the party that is filing .

(2) A party may insert a signature on a document for electronic litigation filing through the Electronic Litigation Portal.

(3) Where a party files a document using the Electronic Litigation Portal, scanned original documents that are signed with a physical signature must be made available for inspection if required by another party to the proceedings or by order of the Court.

Filing within and outside hours of business

9 (1) The hours of business for electronic litigation filing are from 8:30 a.m. – 4 p.m. from Monday to Friday, excluding weekends and public holidays.

(2) A document to which the Court's stamp and the date of filing information has been applied by the Electronic Litigation Portal is deemed to be filed on the date and time that the document was submitted to the Electronic Litigation Portal, if the date and time of filing is within the hours of business for electronic filing.

(3) A document submitted through the Electronic Litigation Portal for filing outside the hours of business for electronic filing or on a weekend, or public holiday, is deemed to have an effective filing date as being the date when the Court's Registry is next open.

(4) Rules made by the Eastern Caribbean Supreme Court relating to holidays and computation of time apply to documents filed using the Electronic Litigation Portal.

(5) Notwithstanding sub-rule (4) , a period during which the service is not available through the facility hosting the Electronic Litigation Portal will be excluded from the computation of time.

Fees

10. The fees payable in respect of a document for electronic litigation filing are –

(i) The fee set out in the Eastern Caribbean

Supreme Court (Court Proceedings Fees)(Antigua and Barbuda) Rules 2017, Statutory Instrument 68 of 2017; and

(ii) The fee specified in the Schedule 1.

Processing by the Court's Registry

11. (1) The Court's Registry, through the Electronic Litigation Portal, shall accept a document submitted for electronic filing.

(2) Where a document is submitted using the Electronic Litigation Portal -

(a) an automated notification is generated in the notifications section of the Electronic Litigation Portal and shall be available to the party once the party has logged into the system; and

(b) the notification under paragraph (a) shall be sent by electronic mail to the registered electronic mail address of the person filing and other parties who are already a part of the case on the Electronic Litigation Portal.