OFFICE OF
APPELLATE COURTS

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STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8011
ADM04-8001 (formerly C6-84-2134)
ADM09-8009 (formerly CX-89-1863)
ADM09-8006 (formerly C4-84-2133)

ORDER AMENDING E-FILING PILOT PROJECT

By order filed October 22, 2010, this court authorized the Fourth Judicial District to conduct an e-filing pilot project ("Pilot Project") to test the feasibility of electronic filing and electronic service of documents in civil cases designated by the Fourth Judicial District. Modification of the Pilot Project has been requested to authorize use of certain electronic signatures by judges and court staff. In addition, expansion of the Pilot Project has been requested to include the Second Judicial District. The Court has reviewed the proposals and is advised in the premises.

IT IS ORDERED THAT:

1. The attached amendments to the Fourth Judicial District E-Filing Pilot Project Provisions be, and the same are, prescribed and promulgated to be effective immediately, and the same shall now be known as the Judicial District E-Filing Pilot Project Provisions.

2. The Second Judicial District is hereby authorized to participate in the Pilot Project under the attached Judicial District E-Filing Pilot Project Provisions.

3. The Fourth Judicial District and Second Judicial District shall jointly report to this Court when seeking changes to the Judicial District E-Filing Pilot Project Provisions

but no later than one hundred eighty (180) from the date of this order, and as often thereafter as this Court shall direct. The reports shall address the feasibility and impact of electronic filing and service of documents, including the impact of maintaining documents in a searchable or non-searchable format.

4. The Pilot Project shall continue until further order of the Court.

5. To the extent of any conflict between the terms of this order and its attached pilot project provisions and the provisions of the Rules of Civil Procedure, the General Rules of Practice for the District Courts, the Rules of Civil Appellate Procedure, and the Rules of Public Access to Records of the Judicial Branch, the terms of this order and its attached pilot project provisions shall prevail.

Dated: March 10, 2011 BY THE COURT:

Lorie S. Gildea
Chief Justice

Amendments

[Note: new material is indicated by underscoring, deleted material is indicated by strikethrough.]

~~Fourth~~ Judicial District E-Filing Pilot Project Provisions

1. **Who May Electronically File and Serve**. During the pilot project, attorneys, law firms and parties designated by the Fourth Judicial District and Second Judicial District (each district referred to herein as "District Court") may, upon registering with the electronic filing service provider designated by the District Court ("Designated Provider"), electronically file documents with the designating District Court in civil cases designated by the District Court. Once the District Court has determined that the E-Filing System and process is working satisfactorily and can support additional users, in any designated case in which the designated and registered attorneys, law firms or parties have electronically filed a document with the District Court, any other attorney or law firm representing a party in the case and any party designated by the District Court may also electronically file documents in the case after registering with the Designated Provider. Registered attorneys and parties may also electronically serve documents on other registered attorneys and parties in such cases provided that the attorney or party to be served has designated an e-mail address for receiving electronic service in the E-Filing System after the District Court has accepted the initial filing in the case. The District Court may electronically file and serve on registered attorneys and parties any judgments, orders, notices or other documents prepared by the District Court in such cases provided that the attorney or party to be served has designated an e-mail address for receiving electronic service in the E-Filing System after the District Court has accepted the initial filing in the case. Electronic filing and electronic service shall be accomplished through the

Designated Provider's Internet-accessible electronic filing and service system ("E-Filing System").

2. **Registration and Designation of E-Mail Address for Service**. An attorney, firm or party is registered with the Designated Provider when they have entered into a subscriber agreement with the Designated Provider and obtained a E-Filing System user identification and password generated according to the Designated Provider's protocols. The registered attorney or party electronically filing the initial document in any case as provided herein shall diligently monitor the E-Filing System filing queue for the case for notice from the District Court that the Court has either accepted or rejected the filing, and immediately upon accessing or viewing notice of acceptance of the filing, the registered attorney or party shall designate in the E-Filing System an e-mail address for receiving electronic service in the case. Once an initial filing has been accepted in a case, all other registered attorneys and parties shall, upon filing their initial document in a case, designate in the E-Filing System an e-mail address for receiving electronic service in the case. Registered attorneys and parties shall maintain a designated e-mail address for receiving electronic service until all applicable appeal periods have expired for the case.

3. **Document Format**. Notwithstanding Rule 6 of the General Rules of Practice for the District Courts, the state court administrator, in consultation with the District Court, shall specify the form and formats for documents to be electronically filed or served using the E-Filing System.

4. **Effect of Electronic Filing or Service**. A document electronically filed or served by the District Court or a registered attorney, law firm or party under this order has the same legal effect as an original document filed or served in paper form.

5. **Signatures**.

a. **Judge and Administrator Signatures**. All electronically filed and served documents that require a judge's, ~~or~~ judicial officer's, or court administrator's

signature shall either capture the signature electronically under a process approved by the state court administrator pursuant to judicial branch policy ~~supreme court~~ or begin with an actual signature on paper that is then scanned into an electronic document format such that the final electronic document has the judge's, ~~or~~ judicial officer's, or court administrator's signature depicted thereon. The final electronic document shall constitute an original.

b. **Attorney or Declarant Signature**. A document electronically filed or served using the E-Filing System shall be deemed to have been signed by the attorney or declarant and shall bear a facsimile or typographical signature of such person, along with the typed name, address, telephone number, and attorney registration number of a signing attorney. Typographical signatures of an attorney or declarant shall be treated as a personal signature and shall be in the form: */s/ John L. Smith.*

c. **Notary Signature, Stamp**. A document electronically filed or served using the E-Filing System that requires a signature of a notary public shall be deemed signed by the notary public if, before filing or service, the notary public has signed a printed or electronic form of the document and the electronically filed or served document bears a facsimile or typographical notary signature and stamp.

d. **Perjury Penalty Acknowledgement**. A document electronically filed or served using the E-Filing System that requires a signature under penalty of perjury is deemed signed by the declarant if, before filing or service, the declarant has signed a printed form of the document and the electronically filed or served document bears the declarant's facsimile or typographical signature.

e. **Certification; Retention**. By electronically filing or submitting a document using the E-Filing System, the registered attorney or party filing or serving is indicating compliance with the signature requirements of this order, and the signatures on the document shall have the same legal effect as the signatures on the original document. A registered attorney or party electronically filing or serving a document using the E-Filing system shall maintain the original

document bearing actual signatures, if in paper form, or electronic signatures if the original is in electronic form and shall make the original document available upon reasonable request of the District Court, the signatories, or other parties.

6. **Time of Filing; Fees**. A document that is electronically filed under this order is deemed to have been filed by the court administrator on the date and time of its transmittal to the District Court through the E-Filing System, and the filing shall be stamped with this date and time subject to acceptance by the court administrator. If the filing is not subsequently accepted by the court administrator (e.g., for nonpayment of all applicable fees, attempted filing into the wrong case, or clearly incorrect venue as indicated in the caption), the date stamp shall be removed and the document electronically returned to the person who filed it. The District Court shall establish procedures for payment of fees electronically.

7. **Time of Service; Proof**. Except where service is otherwise prohibited (e.g., holidays), electronic service under this order is complete upon the date and time of its transmittal through the E-Filing System to the registered recipient who has designated an e-mail address for service of process in the case. The records of the E-Filing System indicating transmittal to a registered recipient who has designated an e-mail address for service of process in the case shall be sufficient proof of service on the recipient under Rule 5.04 of the Rules of Civil Procedure and Rule 7 of the General Rules of Practice for the District Courts, and shall be retained by the E-Filing System for the retention period designated by the District Court. Notice of filing or entry under Rule 77.04 of the Rules of Civil Procedure may be served electronically as provided in this order.

8. **Confidential or Sealed Documents**. A person electronically filing a document that is not accessible to the public in whole or in part is responsible for designating that document as confidential or sealed in the E-Filing System before transmitting it to the District Court. If that designation is not available as part of the E-filing System at the time of transmittal, the person electronically filing the document shall add a note to the court administrator at the time of transmittal

indicating that the document is to be marked as confidential or sealed and the court administrator shall so mark the document. A document marked as "confidential" means that the document will not be accessible to the public but will be accessible to District Court staff. A document marked as "sealed" will not be accessible to the public but will be accessible to District Court staff with only the highest security level clearance. Upon review District Court staff may modify the designation of any document incorrectly designated as sealed or confidential. It is the responsibility of the parties to seek advance approval from the District Court for submitting a document as sealed or confidential if that document is not already inaccessible to the public under the Rules of Public Access to Records of the Judicial Branch or other applicable law, court rules or court order.

9. **Records: Official; Appeal; Certified Copies**. For purposes of this pilot project, documents electronically filed with the District Court under this order are official court records and may be transmitted as the record on appeal subject to procedures established by the Clerk of the Appellate Courts. Certified copies shall be issued in the conventional manner.

10. **Access to E-Filing System**. A document electronically filed or served using the E-Filing System under this order shall be accessible as provided in the applicable court rules and statutes, including the Rules of Public Access to Records of the Judicial Branch, provided that such a document may be made remotely accessible to the person filing or serving the same, and the recipient of the same, on the E-Filing System for the period designated by the District Court, and on the District Court's case management system to the extent technically feasible.