

Changes to Texas Rules of Civil Procedure, effective January 1, 2014, affect more than E-filing.

By Edwin M. Callender

In accordance with its order, mandating electronic filing in civil cases commencing on January 1, 2014, the Supreme Court of Texas promulgated revisions to Rules 4, 21, and 21a on January 1, 2014. Attorneys should be aware of the following significant changes to these rules:

1. **Electronic Filing.** Except in juvenile cases under Title 3 of the Family Code, attorneys must e-file documents in e-file mandated courts. **TCRP 21(f)(1)**. Moreover, the attorney must include his/ her email address on the e-filed document. **TCRP 21(f)(2)**. Original wills, and documents under seal or presented in camera to the court, are excepted from e-filing. **TCRP 21(f)(2)**. While an original will is exempt from the e-filing requirement, it must be filed with the clerk within three business days after the probate application is e-filed. **TCRP 21(f)(12)**.

Generally, a party timely files a document if it is e-filed at any time before midnight, in the court's time zone, on the filing deadline. **TCRP 21(f)(5)**. However, if an untimely filing is due to a technical failure or system glitch, on the filing party's motion, the court must give a reasonable time extension to complete the filing. **TCRP 21(f)(6)**.

Under these rules, an electronic image or scanned signature, or a "/s/" and typed name is a valid electronic signature on a document electronically served, filed, or issued by a court or clerk. **TCRP 21(f)(7)**. To conform, an e-filed document must be in a text-searchable PDF, be directly converted to PDF and not scanned, if possible, and unlocked. **TCRP 21(f)(8)**.

2. **Rule 21a** permits service by e-filing, in person, by mail, by commercial delivery service, by fax, by email, or by any other method directed by the court.

Documents filed electronically must be served electronically through the electronic filing manager (EFM) if the email address of the party or attorney to be served is on file with the EFM. **TCRP 21a(a)(1)**.

Mail Box Rule Expanded to Include Commercial Delivery Service. Service by mail or commercial delivery service is complete upon deposit of the document, postpaid and properly addressed, in the mail or with a commercial delivery service. **TCRP 21a(b)(1)**.

Service by fax is complete on receipt. **Electronic Service** is complete on transmission of the document to serving party's electronic filing service provider as indicated by the EFM's confirmation. **TCRP 21a(b)(2) & (3)**. The rules do not address when service by email is complete.

3. **Three Day Rule Limited to Service by Mail.** The rule permitting addition of three days to the prescribed period for response applies only if served by mail. Thus, there is no grace period if service is through the electronic filing manager (i.e., e-filing), by email, by fax, by commercial delivery service (e.g., FedEx, UPS), in person, or by any other method permitted by the court. **TRCP 4 & 21a**.

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