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GOVERNMENT NOTICE

The following document is published with and forms part of this
Extraordinary Gazette:

Statutory Instrument

No. 87 of 2018 — Eastern Caribbean Supreme Court (Electronic Litigation
Filing and Service Procedure Rules.

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

SAINT LUCIA

STATUTORY INSTRUMENT, 2018, No. 87

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

SAINT LUCIA

STATUTORY INSTRUMENT, 2018, No. 87

[24th October, 2018]

In exercise of the powers conferred under section 17 of the Supreme Court Order, Cap. 2.01 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)(Saint Lucia) Rules, 2018.

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;

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

“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 Litigation Portal” means the web-based application which has been developed and implemented

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to offer stakeholders in the judicial system of the Eastern Caribbean a single point of access for electronic litigation filing, 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 or 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 in 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 date of the notice provided under sub-rule (3) and must be used to file a document to commence proceedings 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 an exclusion or a revision under these Rules.

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Operation of Electronic Litigation Portal

4.—(1) The Electronic Litigation Portal makes 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 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 at a 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.

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 for electronic litigation filing and service by electronic means.

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

Electronic submission of document

6. 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(4);

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- (b) enter information for new proceedings or information on existing proceedings;
- (c) upload the document associated with the proceedings;
- (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 document

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

- (a) prepared by electronic means using Microsoft Word or open office or other Word Processor in .doc, .docx, .txt, .rtf, pdf formats; and
- (b) converted into Portable Document Format 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 —

- (a) exceed 10MB;
- (b) be encrypted; and
- (c) 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 litigation filing.

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(6) An electronic image of an exhibit must be uploaded and submitted as one filing, together with an index of the exhibit and the corresponding principal document.

Electronic signature

8.—(1) A document which is submitted for electronic litigation filing is not required to bear the electronic image of the handwritten or 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 handwritten or 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 litigation 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 is excluded from the computation of time.

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Fees

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

- (a) the fee set out in the Eastern Caribbean Supreme Court (Court Proceedings Fees)(Saint Lucia) Rules; and
- (b) the fee specified in the Schedule.

Processing by the Court's Registry

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

(2) Where a document has been submitted using the Electronic Litigation Portal —

- (a) an automated notification is generated in the notifications section of the Electronic Litigation Portal and must be available to the party once the party has logged into the system; and
- (b) the notification under paragraph (a) must be sent by electronic mail to the electronic mail address of the party filing and other parties to the proceedings who are registered on the Electronic Litigation Portal.

(3) A filed document must be stamped and dated and by electronic means linked to the associated proceedings 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 paid 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.

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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 an 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.

Service of document 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 are being commenced, service must be effected in accordance with the applicable rules of court.

(4) 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.

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

(6) 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.

(7) 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.

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(8) 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.

(9) 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.

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

(11) Notwithstanding sub-rule (10), 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

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;

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- (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
- (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 issued under sub-rule (1) unless there is good reason for not doing so.

(4) Where a Practice Direction and Practice Guide conflicts with these Rules, these Rules prevail.

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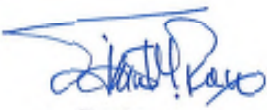
SCHEDULE

(Rule 10)

USER FEES FOR ELECTRONIC LITIGATION FILING

Description	Fee
Facilitation	\$2.00 per filing

Made this 23rd day of October, 2018.


Chief Justice.


Justice of Appeal.


High Court Judge.