



**JOHN T. FREY**  
Clerk of Circuit Court

Commonwealth of Virginia

## Fairfax Circuit Court Clerk's Office

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Fairfax, Virginia 22030-4048



**SUZANNE E. LUBKEMAN**  
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## Electronic Filing User Guidance and Privacy Policy

This document describes the guidelines defined by the Clerk of the Court (Clerk) implementing electronic filing (eFiling) in accordance with Circuit Court Civil Miscellaneous Order CM 2022-48700, dated April 26, 2022. eFiling is provided as a convenience to the residents of the 19<sup>th</sup> Judicial Circuit and the legal community and is not mandatory for any court user. By using the Court's eFiling system (System) you are agreeing to comply with the following operational guidelines. The guidelines established by the Clerk are in addition to any terms and conditions you may be subject to as part of the registration process on the eFiling portal, which is operated by a third party. If you do not accept those terms and conditions - as well as these guidelines - access to the Fairfax eFiling system may not be permitted. Use of the System is also subject to the Privacy Policy, as stated below.

**BY USING THE SYSTEM, USERS ACKNOWLEDGE AND AGREE THAT THEY HAVE READ AND UNDERSTAND THIS USER GUIDANCE, INCLUDING THE PRIVACY POLICY, AS WELL AS RULE 1:17 OF THE RULES OF THE SUPREME COURT OF VIRGINIA, AND THEY ACCEPT ALL OF TERMS OF USE.**

### USER GUIDANCE

#### 1. Representation

System Users represent and warrant that they:

- Are using their actual identity.
- Will provide only true, accurate, current, and complete information.
- Will maintain and promptly update the information provided, to ensure it remains true, accurate, current, and complete.
- If accessing or using the System on behalf of another person or legal entity, represent and warrant that they have the authority to do so.
- Will consider all laws, contracts, and fiduciary duties inherent in materials submitted through the system.
- Will not gather or mine data using robots or similar data-gathering or extraction methods in connection with the System or its contents.

#### 2. Compliance

When using the System, users are responsible for complying with all applicable statutes, as well as rules and policies of the Supreme Court of Virginia and the Fairfax Circuit Court. Further, the System shall not be used in

a manner contrary to, or in violation of any applicable federal, state, or local law, rule, or regulation, including and without limitation to, the Fair Credit Reporting Act (15 U.S.C.A. 1681, *et seq.*).

### **3. Modification of Guidelines**

From time to time, the Clerk may modify these guidelines to better serve the residents of Fairfax and the legal community. When updates are made, the Clerk will provide a Notice to all registered users of the System. It is the responsibility of all users to ensure that they are aware of the current System guidelines and maintain compliance with these Guidelines, as, and when, updated.

### **4. Case Types**

eFiling is being deployed on a phased-in schedule, by litigation case type. The Clerk will announce when eFiling is activated for specific case types as the phases progress.

### **5. Physical Filing**

The ability to physically file documents at the Court during normal court business hours will remain and may be more appropriate for some cases or document types such as oversized documents.

### **6. Training**

All users shall take the training available to ensure they are using the System in the most efficient and effective manner. While Court personnel are available to assist with general inquiries about the System, they are not equipped to offer technical support or software or hardware assistance to System users.

### **7. Date and Time Stamp**

The date and time of the electronic submission, as reported by the System, will be considered the filing date and time of the document(s).

### **8. Scanned Documents**

System Users are responsible for ensuring that scanned documents filed electronically are legible and properly oriented. For black and white text documents, a minimum scanning resolution of 300 dots per inch is recommended. More complex documents, photographs, and images may require a higher resolution and/or scanning in color. Documents that are skewed, blurry, or illegible may be rejected during clerk review.

### **9. Clerk Review of Documents Filed Electronically**

**DOCUMENTS SUBMITTED ELECTRONICALLY REMAIN SUBJECT TO “CLERK REVIEW” AND MAY BE REJECTED FOR DEFECTS. CONFIRMATION OF AN ELECTRONIC SUBMISSION DOES NOT CONSTITUTE ACCEPTANCE BY THE COURT.**

To maximize convenience to the residents of Fairfax and the legal community, the System is designed to operate 24 hours a day, seven days a week, throughout the year (24x7x365). Users may file documents electronically at any time when the System is available. However, in Fairfax Circuit Court, clerks work from 8AM to 4PM on normal court business days, i.e., Monday through Friday. Users should refer to the Fairfax Circuit Court’s list of Legal Holidays available at <https://www.fairfaxcounty.gov/circuit/calendar>.

The following should be noted by System users:

- Documents filed after 3:30PM on a normal court business day may not be reviewed until the next court business day.
- Documents filed on holidays or weekends will not be reviewed until the next court business day

- From time to time, the Court may experience a need to close prematurely or unexpectedly, such as from a weather event, or other factor. Under these circumstances documents will be reviewed when the Court returns to normal business operations.

## **10. Notifications**

Notifications of rejected submissions or other matters related to electronically-filed documents will be provided through the eFiling System and/or via email.

## **11. Hyperlinks**

Hyperlinks in documents are NOT supported.

## **12. Document Access in the Court**

Any person requiring access to case documents while in the courthouse may go to the relevant Circuit Court Records Division, to do so.

## **13. System Availability**

Planned or unplanned interruptions in System availability may occur. Every effort will be made to minimize any downtime and the Clerk will notify users, as soon as possible and in advance, when feasible.

## **14. Information Usage**

The information accessed through the System shall be for the User's use in managing cases before the Fairfax Circuit Court. While System Users may share the results of individual record(s) and searches with clients or customers, they may not provide a third party (including clients or customers) any right of access to the System.

## **15. Case Status**

System Users are solely responsible for the filing of any document submitted to the court via the System. It is the User's responsibility to confirm that documents submitted conform in substance and content to the Rules of the Virginia Supreme Court. It is the User's responsibility to confirm that filings have been accepted by the Clerk. In addition, System Users are responsible for tracking and calculating any case filing deadlines.

**USERS ARE SOLELY RESPONSIBLE FOR MONITORING THE CASE STATUS ON THE SYSTEM. FURTHERMORE, IT IS SOLELY THE USER'S RESPONSIBILITY TO DETERMINE IF A CASE DOCUMENT MUST BE SERVED ON ANOTHER PARTY TO THE MATTER, AS OPPOSED TO SIMPLY FILED INTO THE CASE RECORD.**

## **16. Termination**

The Clerk of Court has the right to immediately terminate use of the System for:

- Noncompliance with this guidance;
- Failure to pay required fees;
- For any lawful reason; or
- Discontinuance of the system

## **17. Limitation of Liability.**

System Users acknowledge that in no event shall the Court's Clerk, Deputy Clerks, any Court or Fairfax County personnel, or the Court's agents, directors, employees, partners, or suppliers be liable to System Users or any third party for any direct, special, incidental, indirect, consequential, or punitive damages, including those resulting from loss of use, data, or profits, whether or not foreseeable, or if the Court has been advised of the possibility of such damages, or based on any theory of liability, including breach of contract or warranty,

negligence or other tortious action, or any other claim arising out of or in connection with use of or access to the site, services or materials.

## **PRIVACY POLICY**

The Fairfax Circuit Court Clerk's Privacy Policy for its electronic filing system (System) is established in accordance with the following guidance:

- Supreme Court of Virginia, Office of the Executive Secretary, Privacy Policy for Electronic Filing
- Virginia Department of Technology Planning's Internet Privacy Guidelines (COV ITRM Guideline SEC2001-02.1)
- Government Data Collection and Dissemination Practices Act, Chapter 38 of Title 2.2 of the Code of Virginia

### **1. Collection of Personal Information**

It is the policy of the Clerk to collect only the minimal amount of personal information that is necessary to conduct Court business. This may include, but may not be limited to:

- User name, address, email address, telephone number and other information provided when registering with, or using, the System;
- Communications sent to the Clerk's Office; and
- Bar number from the Virginia State Bar, if the User is a member of the bar.

### **2. Use of Personal Information**

The Clerk of Court may use the personal information Users provide to:

- Enable it to process queries and to provide the services and information offered through the System;
- Contact Users to conduct Court business; and
- Notify users of planned or unplanned System maintenance or outages, as set out above.

### **3. Collection of Non-Personally Identifiable Information**

When using the System, some information is automatically collected, such as which operating system and browser you use to access the System. The System may also collect non-personally identifiable information to identify the user for purposes such as user preferences and personalization. The Court may use such information to:

- Identify new and returning users of the System;
- Assess usage patterns;
- Audit the accessing of resources and downloading of data from the System
- Assist in improving and updating the System; and
- Assist in improving current and developing improved services.

### **4. Information Sharing**

The Clerk places great importance on the security of all personally identifiable information associated with its System Users. The Clerk may disclose aggregate statistics about System Users in order to describe or evaluate its services. The Clerk may disclose personal information, if required to do so by law or to address a particular complaint, or if it believes that such action is necessary to prevent fraud or any other crime, or to protect the Court's systems, or to protect the or the rights, property, or personal safety of any person.

Users' Internet Service Provider (ISP) and the third-party provider of the System may have access to your communications between your equipment and the System. Please refer to their respective privacy policies before using the System.

## **5. Security of Data**

Security measures are in place to attempt to protect against the loss, misuse, and alteration of personal information under the Clerk's control. While the Clerk cannot guarantee that loss, misuse, or alteration of information will never occur; it uses reasonable efforts to prevent such harms. By using the System, Users acknowledge that the Clerk of Court cannot guarantee the security of their personal information.

## **6. Contacting Us**

Please submit any questions, concerns, or comments you have about this privacy policy or any requests concerning your personal data by writing to us at:

Fairfax Circuit Court  
IT Department, Suite 322  
4110 Chain Bridge Road  
Fairfax, VA 22030