

FACSIMILE FILING RULE FOR MARIETTA MUNICIPAL COURT

The provisions of this local rule are adopted under [Civ.R. 5(E)] [Civ.R. 73(J)] [Crim.R.12(B)] [Juv.R. 8] [App.R. 13(A)].

Pleadings and other papers may be filed with the clerk by facsimile transmission to 740-373-2547 as provided in this rule.

APPLICABILITY

1.01 This rule applies to civil, criminal and small claims, proceedings in the Marietta Municipal Court

ORIGINAL FILING

2.01 A document filed by fax shall be accepted as the effective original filing. The person filing a document by fax is not required to file any source document with the clerk. The person filing the document shall maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, and the source copy of the facsimile cover sheet used for the subject filing.

2.02 The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

DEFINITIONS

As used in these rules:

3.01 “Facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end. “Facsimile transmission” does not include transmission by email.

3.02 “Facsimile machine” means a machine that can send and receive a facsimile transmission.

3.03 “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

COVER PAGE

4.01 The person filing a document by fax shall also include a cover page containing all

of the following information: [See appendix for sample cover page form.]

(A) name of the court;

(B) title of the case;

(C) case number;

(D) name of the judge to whom the case is assigned , if any;

(E) title of the document being filed (e.g. Defendant Jones’ Answer to Amended Complaint; Plaintiff Smith’s Response to Defendants’ Motion to Dismiss; Plaintiff Smith’s Notice of Filing Exhibit “G” to Plaintiff Smith’s Response to Defendants’ Motion to Dismiss);

(F) date of transmission;

(G) transmitting fax number;

(H) indication of the number of pages included in the transmission, including the cover page;

(I) if a judge or case number has not been assigned, state that fact on the cover page;

(J) name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available;

(K) if applicable, a statement explaining how costs are being submitted.

4.02 (A) If a document is sent by fax to the clerk without the cover page information

listed above, the clerk may do either of the following:

(1) enter the document in the case docket and file the document;

(2) deposit the document in a file of failed faxed documents with a notation of the reason for the failure.

(B) If the clerk acts pursuant to division (A)(2) of this section, the document shall not be considered filed with the clerk.

4.03 The clerk may inform the sending party of a failed fax filing.

SIGNATURE

5.01 A party who wishes to file a signed source document by fax shall do either of the following:

(A) fax a copy of the signed source document;

(B) fax a copy of the document without the signature but with the notation “/s/” followed by the name of the signing person where the signature appears in the signed source document.

5.02 A party who files a signed document by fax represents that the physically signed source document is in his or her possession or control.

EXHIBITS

6.01 Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason shall be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five court days following the filing of the facsimile document. The Court may strike any document or exhibit, or both, if missing exhibits are not filed as required by this section.

6.02 Any exhibit filed pursuant to Section 6.01 shall include a cover sheet containing the caption of the case that sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith’s Notice of Filing Exhibit “G” to Plaintiff Smith’s Response to Defendants’ Motion to Dismiss). The exhibit and cover sheet shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court. [See appendix for sample exhibit cover sheet.]

TIME OF FILING

7.01 Subject to the provisions of these rules, all documents sent by fax and accepted by

the clerk shall be considered filed with the clerk as of the date and time the fax transmission was received by the clerk. The office of the clerk will be open to receive facsimile transmission of documents on the basis of twenty-four hours per day seven days per week including holidays. Each page of any document received by the clerk shall be automatically imprinted with the date and time of receipt. The date and time imprinted on the document shall determine the time of filing, provided the document is deemed accepted by the clerk.

7.02 Fax filings may be transmitted only through the facsimile equipment operated by the clerk.

7.03 The clerk may acknowledge receipt of a facsimile transmission.

7.04 The sending party bears the risk of transmitting a document by fax to the clerk .

The sending party is urged to verify receipt by the clerk of a fax filing through whatever technological means are available.

FEES AND COSTS

8.01 No document filed by facsimile that requires a filing fee shall be accepted by the clerk for filing until court cost and fees have been paid. Documents tendered to the clerk without payment of court cost and fees or that do not conform to applicable rules will not be filed.

8.02 No additional fee shall be assessed for facsimile filings.

LENGTH OF DOCUMENT

9.01 Facsimile filings shall not exceed 30 pages in length. The filer shall not transmit service copies by facsimile.

EFFECTIVE DATE

10.01 These local rules shall be effective August 19, 2004, and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in a particular action pending on the effective date would not be feasible or would work

an injustice, in which event, the former procedure applies.

SO ORDERED:

W. M. Nuzum, III, Judge

Dated: August 18, 2004

FACSIMILE FILING COVER PAGE

RECIPIENT INFORMATION:

NAME OF COURT: MARIETTA MUNICIPAL COURT
FAX NUMBER: 740-373-2547

SENDING PARTY INFORMATION:

NAME: _____
SUPREME COURT REGISTRATION NO. (if applicable): _____
OFFICE/FIRM: _____
ADDRESS: _____
TELEPHONE NO. _____
FAX NUMBER: _____
E-MAIL ADDRESS (if available): _____

CASE INFORMATION:

TITLE OF THE CASE: _____
CASE NUMBER: _____
TITLE OF THE DOCUMENT: _____

JUDGE: W. M. Nuzum, III

FILING INFORMATION:

DATE OF FAX TRANSMISSION: _____
NUMBER OF PAGES (including this page): _____
STATEMENT EXPLAINING HOW COSTS ARE BEING SUBMITTED, IF
APPLICABLE: _____

*If a case number has not been assigned, please state that fact in the space provided.