



MILLE LACS BAND OF OJIBWE

Judicial Branch of Tribal Government

IN THE COURT OF CENTRAL JURISDICTION
CHIEF JUSTICE COURT ORDER 55
Presented to Band Assembly and approved on July 9, 2020

IN THE MATTER OF THE ADOPTION OF RULE 134 OF THE DISTRICT COURT
OF THE NON-REMOVABLE MILLE LACS BAND OF OJIBWE
GOVERNING ELECTRONIC FILING AND SERVICE

Whereas Title 5 – Judicial Branch of the Mille Lacs Band Statutes, Chapter 2, Judicial Authority and Jurisdiction, Section 105 empowers the Court of Central Jurisdiction “to prescribe by general rules, the forms of process, writs, pleadings and the practice and procedure of the District Court in civil actions and criminal actions” and Section 114(d) confers on the Chief Justice of the Court of Central Jurisdiction the duty to “execute rules and policies of the Court consistent with the provisions of Band Statute[s] for the orderly conduct of Court business . . .,” District Court Rule 134. “Electronic Filing and Service” is **HEREBY ADOPTED**.

Rule 134 as set forth below establishes procedures to ensure the efficient and consistent electronic filing and service of court documents in District Court matters. Adoption of Rule 134 supersedes the provisions of Chief Justice Court Order 53, In the Matter of the Operations of the Mille Lacs Band Court of Central Jurisdiction Under a Band-Wide and Statewide Emergency to Address the Coronavirus (COVID-19), set forth in the paragraph entitled “E-Filing of Documents.”

SECTION XVII. MISCELLANEOUS PROCEDURES

Rule 134. Electronic Filing and Service

The following provisions govern e-filing and service of documents in District Court matters:

- (a) Persons Allowed to E-File in the District Court include:
- (1) Attorneys admitted to practice before the Mille Lacs Band Court of Central Jurisdiction and their paralegals or administrative assistants for the purpose of filing only;
 - (2) Lay advocates admitted to practice before the Mille Lacs Band Court of Central Jurisdiction;
 - (3) Attorneys with pending applications to be admitted to practice before the Mille Lacs Band Court of Central Jurisdiction; or
 - (4) A self-represented litigant.
- (b) Documents Eligible for Electronic Filing (e-filing)
- (1) The following documents are eligible for e-filing:

- (A.) Petitions or Complaints
- (B.) Answers
- (C.) Responses
- (D.) Replies
- (E.) Motions
- (F.) Briefs
- (G.) Affidavits
- (H.) Declarations
- (I.) Court Reports
- (J.) Child Protection Action Forms
- (K.) Exhibits
- (L.) Certificates of Representation
- (M.) Certificates of Service
- (N.) Proof of Publication
- (O.) Proposed Orders and Judgments
- (P.) Any other document permitted by the Court to be e-filed

(c) Documents Ineligible for E-Filing.

(1) The following documents may not be e-filed and must be filed conventionally:

- (A.) Original wills
- (B.) Original death certificates
- (C.) Sealed and in-camera documents
- (D.) Individually identifiable health information protected under the federal Health Insurance Portability and Accountability Act (HIPAA)
- (E.) Any document that is required to be in its original format under the Best Evidence Rule or any document from another jurisdiction that is required to be certified

(d) Retention of Original Documents

(1) A printed or printable copy of an e-filed or e-served document with original or scanned signatures shall be maintained by the filing party and made available for inspection by other parties or the court upon request but shall not be filed with the court.

- (2) When these rules require a party to maintain a document, the filer is required to maintain the document for 90 (ninety) days after the final resolution of the action, including the final determination of all appeals.

(e) Form of E-Filed Documents

- (1) Documents Requiring E-Filed Signature. Separation agreements, parenting plans, stipulated agreements, and disclaimers of interest or power, and any other document designated by the court, must include original signature pages bearing the attorneys', lay advocates', parties', and notaries' signatures that must be scanned and e-filed.
- (2) Use of "/S/ Name". For all other documents not designated in (e)(1), all other e-filed and e-served documents, the signatures of attorneys, lay advocates, and parties may be in the /S/ Name typed format to satisfy signature requirements.
- (3) Notarization Not Required. Unless specifically required by court rule or Mille Lacs Band statute, e-filed documents are not required to be notarized.
- (4) Declaration in Lieu of Affidavit. When an affidavit is required by court rule or Mille Lacs Band statute, such requirement shall be satisfied by the filing of a document that has been signed under penalty of perjury pursuant to 24 MLBSA § 1204 provided that the signature or /S/ Name is placed immediately below a declaration using the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature or /S/ Name, the date the document was signed shall be noted on the document.

(f) Procedure for E-Filing

- (1) Filer shall create the document using Microsoft Word or other word processing software.
- (2) The electronic signature with name printed underneath, or /S/ Name, shall be affixed to the document.
- (3) A certificate of service stating the names of the parties served, the method of service, and the date of service shall be included at the end of the document.
- (4) The document shall be converted into portable document format (PDF).
- (5) Filer shall serve the document by the means indicated in the certificate of service.
- (6) The document shall be emailed to the Court Clerk's office at: MLBO.Court@millelacsband.com and must include a description of the e-filed document in the email's subject line.

(g) Electronic Service (E-Service).

- (1) Only documents, which are to be filed subsequent to the filing and service of the initiating petition and the summons, may be e-served.
- (2) The parties may agree to service by e-filing. A person who is providing service by e-mail must include a certificate of consent to e-service indicating that the person to be served agrees to e-service. The certificate of consent is required to be filed once at the onset of the case and again if a new party joins the case.

- (h) Filing Date of E-Filed Document. A document e-mailed to the Court Clerk by 5:00 p.m. (Minnesota time) on any day that the Court is open for business shall be considered as filed that same day. Any document e-filed after 5:00 p.m. is considered as filed on the next Court business day.

(i) Proposed Orders

- (1) Proposed orders shall be e-filed in Microsoft Word-editable format.
- (2) Proposed orders that are e-filed in a non-editable format shall be rejected by the Court Clerk and must be resubmitted.
- (j) Incomplete Document. A person e-filing a document has the responsibility of ensuring that filings have been received by the Court Clerk. If a document is not transmitted in its entirety, it will not be considered filed.
- (k) Relief for Technical Difficulties. Upon motion and a showing of good cause by the sender of an electronic filing or electronic service of a document that was not completed, the court may enter an order permitting the document to be deemed filed or served on the date and time it was first attempted to be transmitted electronically. Good cause for relief includes:
 - (1) An error in the e-mail transmission of the document to the Court's designated email account
 - (2) A failure of Court Clerk's office to process the document when received; or
 - (3) Other technical problems experienced by the sending party.
- (l) Electronic Documents as Official Court Records
 - (1) Documents electronically filed and paper documents conventionally filed but converted into electronic form by the Court are official court records for all purposes.
 - (2) Certified copies may be issued in the conventional manner or in any manner authorized by law, provided that no certified copies shall be made of any proposed orders.
 - (3) Unless otherwise provided in these rules or by court order, a conventionally filed paper document need not be maintained or retained by the court after the court digitizes, records, scans, or otherwise reproduces the document into an electronic record, document, or image, and after the action has been finally resolved, including all appeals, for 90 (ninety) days.

IT IS SO ORDERED.

Ramona Applegate

Ramona Applegate
Chief Justice, District II

Dated this 8 day of June, 2020

Elmer E. Nayquonabe

Elmer Nayquonabe
Associate Justice, District I

Dated this 15 day of June, 2020

W.R. Premo Jr.

William Premo
Associate Justice, District III

Dated this 8 day of June, 2020