
From: Sanderson, Joseph <joseph.sanderson@kirkland.com>
Sent: Wednesday, October 30, 2019 1:48 AM
To: RulesCommittee Secretary
Subject: Electronic Filing Deadline (19-AP-E; 19-BK-H; 19-CR-C; 19-CV-U)

I strongly support Judge Chagares's proposal to roll back electronic filing deadlines--at least as a presumptive matter--to a more reasonable time than midnight. The clerk's office closing time is a good presumptive deadline, although in the event that the clerk's office closes before 5 p.m. local time, the deadline should be 5 p.m.

Midnight deadlines tend to lead to procrastination and have negative impacts on quality of life for associates and support staff such as paralegals and managing clerks. Indeed, in cases where parties have simultaneous deadlines for filings, it is routine for parties to play a game of chicken in order to avoid the other party being able to edit its filing in response. That inevitably leads to no-one filing until 11:30 p.m., even if the filing is ready long before.

Conforming the electronic filing deadline to the clerk's office closing time has a further benefit, insofar as it will reduce the number of botched filings due to technical errors. Requiring parties to file while the clerk's office is open allows parties to seek assistance from court staff, which is particularly important for complex filings in districts that require PDF/A format filings and have automatic filters that may prevent documents from being filed if there are technical defects in the PDF/A conversion. Similarly, if a document containing confidential information is filed on the public docket in error, a business-hours filing requirement means that there will be someone in the clerk's office to deal with the issue immediately.

Additionally, the Committee should strongly consider a business-hours rule for electronic *service* of documents that are not filed, such as discovery requests, deeming documents served after 5 p.m. to be served the next business day. I believe some judges in the Northern District of Illinois have similar rules in their individual rules or standing orders, and it is worth considering as a nationwide rule (again, at least as a presumptive matter).

One note, however: most courts' ECF systems do not display on the docket report the time a document was filed, only the date. While there are usually ways to track the timing down, a business-hours filing rule would likely require technical modification so that either the docket report displays the time of filing or displays the document as having been filed the next day if it is filed after business hours. The former is presumably preferable, since the latter would produce misleading filing dates in cases where judges authorize a later filing deadline or for emergency filings after hours.

Sincerely,

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