

Office of Motor Vehicle Hearings (OMVH)
E-Filing Procedures

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Section 1. Definitions

(A) Approved Electronic Signature is the Authorized E-Filer's typed name preceded by "s/" when the Authorized E-Filer logs into the E-Filing System using their login and password and as set forth in Section 5.

(B) Authorized E-Filer is a licensed South Carolina attorney in good standing who has registered to e-file through the E-Filing System. An attorney admitted pro hac vice in an individual case is not an Authorized E-Filer unless otherwise ordered by the OMVH.

(C) Attorney E-Filing Manual is a document that is posted on the OMVH website under E-Filing. See www.scomvh.net. It is intended to provide instructional information, and all Authorized E-Filers are required to periodically check the OMVH website for updates. It also provides the Terms and Conditions of E-Filing referenced in Section 3.

(D) Counsel of Record is an attorney who is associated with a specific case in the E-Filing System.

(E) Electronic Filing System (E-Filing System) is the South Carolina Office of Motor Vehicle Hearing's automated system for receiving and storing documents filed by electronic methods. Access to the E-Filing System is available through a link on the OMVH website (www.scomvh.net).

(F) E-filing or e-file is the electronic submission of documents by Authorized E-Filers using the E-Filing System.

(G) Electronic Service or E-Service is the e-filing of a document together with the transmission of a Notice of an Electronic Filing (NEF) to an Authorized E-Filer under these Procedures via the E-Filing System.

(H) Notice of Electronic Filing (NEF) is a notice automatically generated by the E-Filing System at the time of a filing or other OMVH action.

- An NEF is transmitted by email to all Authorized E-Filers and to the Law Enforcement Arresting Agency who are in the case and includes a description of the filing and a list of parties to whom the NEF was transmitted.
- The NEF will also include an attachment of the filed document, which the recipient will have an opportunity to download without cost.

(I) Technical Difficulty is a malfunction of an Authorized E-Filer's equipment, software, hardware, or internet connection that prevents the E-Filer from successfully e-filing a document after repeated attempts.

(J) Technical Failure is a malfunction of the E-Filing System hardware, software, or communications that results in the inability of an Authorized E-Filer to submit a document for e-filing. Technical Failure does not include malfunctioning of an Authorized E-Filer's equipment, software, hardware, or internet connection.

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(K) Traditional Filer is a party, or an attorney for a party, who is not an Authorized E-Filer and who files and serves paper documents via traditional methods of filing and service.

(L) Traditional Filing is the physical filing of paper documents bearing the original signature of the party or the attorney for the party.

(M) Traditional Service is the service of a paper copy of a document using the forms or methods of service authorized under the OMVH's Rules.

Section 2. Scope and Participation

(A) Commencement of E-filing System. Use of the E-Filing System shall commence upon the issuance of an administrative order by the OMVH and may be amended or expanded as ordered by the OMVH.¹

(B) Scope. Unless otherwise ordered by the OMVH, all filings in cases shall be e-filed if the party is represented by an attorney. The OMVH Staff will not accept Traditional Filings submitted by attorneys except:

- (1) where a case is excluded from being e-filed; or
- (2) where an attorney has been excused from participation in the E-Filing System; or
- (3) where the document cannot be e-filed as otherwise set forth in these Procedures.

(C) Commencement of a Case. Unless otherwise excluded, new cases shall be commenced by filing them using the E-Filing System. An Authorized E-Filer consents to any required filing fees and/or service fees at the time of submission, and these fees must be paid through the E-Filing System, by credit card or by Automated Clearing House (ACH).² Failure to pay any fees may delay or prevent the Authorized E-Filer from filing the case. In addition, if an Authorized E-Filer incorrectly pays a fee resulting in an overpayment, no refund will be made.

(D) Electronic Service.

- (1) An Authorized E-Filer may be served any document through the OMVH's E-Filing System as set forth in Section 4 below.
- (2) An Authorized E-Filer may also be served through alternative methods of service in the event of a failure of the Notice of Electronic Filing (*see* Section 4) or a Technical Failure (*see* Section 8).

¹ The OMVH will initially commence the E-Filing System under a Pilot Program that will be limited in its application as described in the administrative order.

² ACH is an electronic payment-transfer system.

Section 3. Eligibility and Registration

(A) Attorneys.

- (1) **Eligibility to Participate in the E-Filing System.** A licensed South Carolina attorney in good standing is eligible to register and participate in the E-Filing System as an Authorized E-Filer.
- (2) **Registration.** To access and utilize the E-Filing System, an attorney must be registered and verified by the OMVH Staff as described in the Attorney E-Filing Manual.
 - (a) **Authorized E-Filer.** To become a registered Authorized E-Filer, an attorney must submit the Registration Form through the E-Filing System to the OMVH Staff for verification. The Registration Form requires attorneys to certify:
 - (1) they are a member of the South Carolina Bar in good standing;
 - (2) they have completed the E-Filing System training;
 - (3) they have reviewed the E-Filing Procedures and Attorney E-Filing Manual; and
 - (4) they have agreed to abide by the Terms and Conditions of e-filing.

The Registration Form will also require the Authorized E-Filer to submit their South Carolina Bar Number as well as their mailing address, phone number and email address. The Authorized E-Filer may submit up to three email addresses, two mailing addresses and three phone numbers, which may include their paralegal's contact information, for purposes of receiving notifications from the E-Filing System.

Once the OMVH Staff verifies the registration has been properly completed, the Authorized E-Filers will be notified they can begin utilizing the E-Filing System.

(3) Use and Unauthorized Use of Login and Passwords.

- (a) **Security.** Authorized E-filers are solely responsible for their login information and password, and they shall protect this information from unauthorized use. Authorized E-Filers may change their password utilizing the procedure set forth in the Attorney E-Filing Manual.
- (b) **Supervised Use Permitted.** Authorized E-Filers may permit an authorized agent, such as another attorney or a non-attorney assistant, to utilize the Authorized E-Filer's login and password information to access and use the E-Filing System on behalf of the Authorized E-Filer. Authorized E-Filers and are responsible for supervising their authorized agents with respect to any access or utilization of the E-Filing System on their behalf.
- (c) **Notification of Unauthorized Use.** Authorized E-Filers shall immediately notify the OMVH Staff if they learn or suspect their login and password has been used without authorization. The OMVH Staff shall be notified using the telephone number or email address listed on the OMVH's website, www.scomvh.net.

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- (4) **Change of Name, Address, Email Address, or Phone Number.** Authorized E-Filers shall keep their names, addresses, emails, and phone numbers current in the E-Filing System.
- (5) **Revocation of Privileges.** Participation in the E-Filing System is a privilege and may be denied or revoked by the OMVH.

Section 4. E-Filing and E-Service

(A) Electronic Filing. The electronic submission of a document to the E-Filing System, together with the transmission of the Notice of Electronic Filing (NEF) in accordance with these Procedures, constitutes the filing of that document in accordance with the OMVH's Rules. Any required filing fees and/or service fees must be paid for by credit card at the time of submission.

(B) Official Record. Where a document is e-filed, the electronic version of that filing constitutes the official OMVH record. E-filed documents have the same force and effect as documents filed traditionally. Additionally, documents filed traditionally may be scanned and uploaded into electronic format by the OMVH Staff. After the electronic version is uploaded into the system, it shall constitute the official OMVH record.

(C) Timeliness.

- (1) **Commencing a Case.** A document seeking to commence a case that is submitted to the E-Filing System on or before 11:59:59 p.m., Eastern Time, shall be considered filed with the OMVH on that date provided it is subsequently accepted by the OMVH as described below in subsection (D).
- (2) **All Other E-Filings.** A document submitted to the E-Filing System on or before 11:59:59 p.m., Eastern Time, shall be considered filed with the OMVH on that date.

Except as provided in Section 8, nothing in these Procedures should be construed to reduce or extend any filing or service deadlines set by statute, the OMVH Rules, or orders of the OMVH.

(D) Acceptance of Initial E-Filing by the OMVH. The Clerk of Court shall promptly review the initial documents seeking to commence a case to determine whether it conforms to the applicable filing requirements.

- (1) **Acceptance.** If the OMVH Staff accepts the filing, the case shall be considered filed with the OMVH at the time the original submission to the E-Filing System was complete in accordance with subsection (C)(1). Upon acceptance, the E-Filing System shall assign a docket number, and the E-Filing System will affix the date and time of submission to the document and issue an email confirming the date and time of submission. The Authorized E-Filer who submitted the filing, and any attorneys listed as associated with them in the case, will be designated as counsel of record in the case in the E-Filing System. When the case is assigned to a hearing officer, the E-Filing System will then notify the Authorized E-Filer.

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- (2) **Rejection.** If the OMVH Staff rejects the filing, the documents shall not become part of the official OMVH record and it will be given a docket number with an extension of “RF.” The OMVH Staff will notify the Authorized E-Filer of the rejection and the reason(s) for rejection. The Authorized E-Filer can also review the reason(s) for rejection in the E-Filing System under the “My Filings” tab.

The Authorized E-Filer may correct the filing within five (5) business days, otherwise the case will be deemed closed. Importantly, the time to resubmit the filing does not extend or toll any statutory deadline for filing the request for a contested case.

The Authorized E-Filer may also resubmit the e-filing as a new filing with a new filing fee, but it will be deemed filed the day of resubmission, provided the filing is perfected.

(E) Electronic Service.

- (1) **Unauthorized Electronic Service.** Documents that are e-filed to commence a case cannot be served through the E-Filing System and must be served using Traditional Service. Additionally, the E-Filing System may not be used for service of a subpoena, or any other document required to be personally served under OMVH Rule 12.

Although the documents may not be served through the E-Filing System, proof of Traditional Service of the document must be e-filed.

- (2) **E-Filing an Initial Response to the Commencement of a Case.** An Authorized E-Filer who receives service of process commencing a case must e-file an initial response by:

Submitting a Notice of Appearance to the E-Filing System along with the initial response. Once the Notice of Appearance is received, the Authorized E-Filer, along with any attorneys listed with the Authorized E-Filing on the response, will be designated counsel of record in the case.

- (3) **Automatic Service.** Except as provided in subsection (a) below, upon the e-filing of any document following the initial e-filing of a case, the E-Filing System will generate and transmit an NEF to all Authorized E-Filers and the Law Enforcement Arresting Agency who are listed as parties to the case.

The e-filing of that document, together with the transmission of an NEF, constitutes proper service under the OMVH’s Rules as to parties who are Authorized E-Filers. It is the Authorized E-Filer’s responsibility to review the content of the e-filed document in the E-Filing System to determine its force and effect.

- (a) No NEF will be created when a case is initially e-filed; however, the E-Filing System will transmit a confirmation of the submission and acceptance of the initial e-filing as described in subsection (D)(1) above.

- (4) **Service Complete Upon E-Filing.** When permitted, service of a document is complete upon e-filing the document, provided an NEF is transmitted by the E-Filing System in accordance with paragraph (E)(3) of this section. The NEF constitutes proof of service under OMVH Rule 4(D), and the date of service shall be the file stamp date set forth on the Proof of Service eForm. Where notice of the filing of a document is

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served by an NEF, the Authorized E-Filer must indicate what method of service was utilized on the Proof of Service eForm.

(5) Service By or Upon a Party Who is Not an Authorized E-Filer

(a) E-filed documents that must be served upon a party who is not represented by an Authorized E-Filer or who is a Traditional Filer must be served by Traditional Service in accordance with the OMVH's Rules. An Authorized E-Filer who has e-filed a document prior to service of the document shall serve a paper copy of the corresponding NEF on the Traditional Filer. The Authorized E-Filer must also e-file proof of Traditional Service.

(b) Traditional Filers must continue to serve all parties with a paper copy of the document by a Traditional Service method.

(6) Content of Notice of Electronic Filing. The NEF will be sent to all email addresses listed in the Authorized E-Filer's Registration Form and will include the name of the filed document. A copy of the filed document will be attached to the NEF, and the NEF will allow anyone receiving the notice by e-mail an opportunity to download the document without cost.

(7) Failed Transmission of NEF. If an Authorized E-Filer becomes aware that the NEF was not transmitted successfully to the other Authorized E-Filers in the case, or that the NEF is deficient, the Authorized E-Filer shall, upon learning of the failure or deficiency, serve the e-filed document by email or by Traditional Service. Proof of such service shall be e-filed within one business day of service and shall be made in accordance with the procedures in the Attorney E-Filing Manual.

Section 5. Signatures on E-Filed Documents

(A) Approved Electronic Signatures

(1) Documents signed by attorneys who are Authorized E-Filers using the E-filing System must be signed using a typed name preceded by "s/." As part of the signature line, the Authorized E-Filer shall also include their South Carolina Bar number, representation, physical address, telephone number, and email address such that the signature line is formatted as follows:

s/John Doe
S.C. Bar No. 12345
Attorney for the Plaintiff
1234 Any Street
Columbia, SC 29201
803-555-0111
name@email.com

(2) The use of the Authorized E-Filer's login and password, combined with the use of the s/[typed name] in the signature line of an e-filed document shall constitute an approved signature in accordance with OMVH Rule 6.

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(B) Documents Requiring Multiple Signatures

- (1) A document requiring the signature of more than one person shall be e-filed by a single Authorized E-Filer using their Approved Electronic Signature unless otherwise ordered by the OMVH. The Authorized E-Filer who e-files the document may insert the typed signature(s) of the other required signatories if the Authorized E-Filer obtains written consent from the required signatories, which may be in the form of a letter, e-mail, or facsimile. The e-filed document shall affirmatively state that the Authorized E-Filer obtained the required consent.
- (2) A non-filing signatory or party who disputes the authenticity of an e-filed document containing multiple signatures or who disputes giving consent to e-file the document must file an objection to the document within ten (10) days of receiving the NEF.
- (3) The Authorized E-Filer who files the document shall retain either (a) the hard copy or accessible digital copy of the document containing the original signatures of the signatories, or (b) a hard copy or accessible digital copy of the written consent given by all signatories.

(C) Documents Containing Signatures of Persons Other than Authorized E-Filers.

Documents containing the signature of persons other than Authorized E-Filers, including affidavits, other notarized or signed documents, proofs of service signed by paralegals or legal assistants must be signed with a traditional, handwritten signature and may be e-filed as a scanned PDF image by an Authorized E-Filer. The E-Filer shall affirmatively state that the documents submitted were signed with a traditional, handwritten signature.

Section 6. Document Size and Formatting

(A) Conversion to PDF. All documents submitted by E-Filers to the E-Filing System, other than proposed orders, must be converted to PDF utilizing PDF conversion software, and the converted document must be text-searchable. Any documents that cannot be converted to PDF must be scanned to PDF and then submitted.

(B) Submission in Other Formats. In addition to the submission of documents in PDF, the assigned hearing officer may also require that documents be submitted in Microsoft Word format. The person submitting a document shall ensure that the media utilized is virus-free.

(C) Legibility. An Authorized E-Filer must only submit legible documents.

(D) Electronic Documents Conform to Current Rules. All e-filed documents shall conform to the requirements of OMVH Rules 4, 6, and 10.

(E) Size. A single document cannot be larger than eight (8) Megabytes, and the total size of all the documents included in a single submission cannot be larger than forty (40) Megabytes. When a single document is larger than eight (8) Megabytes, the document must be broken into smaller-sized documents that are eight (8) Megabytes or less.

Section 7. Attachments and Exhibits

(A) Format and Resolution of Attachments and Exhibits. Attachments and Exhibits must be scanned to PDF as images for e-filing unless: (1) the attachment or exhibit cannot be comprehensively viewed in an electronic format; (2) the attachment or exhibit is sealed or submitted for in camera review; or (3) as otherwise ordered by the OMVH.

(B) Bookmarks and Hyperlinks. E-filed documents may contain bookmarks to locations within the same document. Hyperlinks to other documents or external sites are not permitted unless otherwise ordered by the OMVH.

(C) Other Exhibits. Exhibits or other evidentiary items that cannot be filed electronically because the exhibit cannot be scanned and converted to PDF (i.e. large maps or plats, etc.) or because an original version must be filed, may be traditionally filed.

Section 8. Technical Failures and Technical Difficulties

(A) Point of Contact. The point of contact for an Authorized E-Filer who is experiencing difficulty e-filing a document is the OMVH's Department of Information Technology (IT Department) at the email address listed on the OMVH's website, www.scomvh.net. The IT Department is open during normal OMVH hours of operation.

(B) Electronic Filing System Technical Failure. If the E-Filing System is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 p.m., Eastern Time, then the technical failure will be communicated to Authorized E-Filers by announcing it on the E-Filing System web page.

(C) Technical Problems on the Day a Filing is Due. Where a technical failure of the E-Filing System or a technical difficulty prevents an Authorized E-Filer from submitting a document for e-filing, and the filing of the document is required on the day of the technical failure or difficulty, the E-Filer may utilize one of the following procedures:

- (1) Traditional Filing During Business Hours.** The Authorized E-Filer may traditionally file the document by physically delivering the document, together with any required filing fee, to the OMVH during normal business hours. The filing must include a certification signed by the Authorized E-Filer stating
 - (a)** a technical failure of the E-Filing System was declared; or
 - (b)** a technical difficulty occurred and explaining what the technical difficulty was and why that difficulty prevented the Authorized E-Filer from e-filing the document.

When a document is filed under this paragraph, and the document is required to be served, the Authorized E-Filer must serve the filed document and proof of service on all other parties to the case by Traditional Service.

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(2) Alternative Method of Submission After Business Hours. In cases where the Authorized E-Filer is unable to physically deliver the document to the OMVH Staff pursuant to paragraph (C)(1), the Authorized E-Filer may preserve the time for filing by emailing the document prior to the filing deadline in section 4(C) along with the following certification to the OMVH Staff. The certification must be signed by the Authorized E-Filer and state:

- (a)** a technical failure was declared; or
- (b)** a technical difficulty occurred and provide an explanation of what the technical difficulty was and why that difficulty prevented the Authorized E-Filer from e-filing the document; and
- (c)** why the documents could not be physically delivered to the OMVH during normal business hours, with the required filing fee, if any.

When the document is required to be served, the Authorized E-Filer must serve the document and the certification on the OMVH and all other parties to the case by Traditional Service post-marked no later than one business day after the email to the OMVH Staff.

EMAIL SUBMISSION IS NOT IN ITSELF A PROPER FILING. The submission to the OMVH Staff via email shall be effective only to preserve the time for filing. The document will be deemed timely filed only if the OMVH receives Traditional Service that is post-marked within one business day of the date of the email submission.

(D) Technical Difficulties. Where an Authorized E-Filer is unable to complete an e-filing after repeated attempts, the E-Filer may traditionally file the document with the OMVH. The E-Filer must also include a Certificate of Technical Difficulties with the Traditional Filing explaining the problem and certifying that:

- (1)** the E-Filer attempted to e-file the document three or more times on at least two (2) separate calendar days; **(Except as set out in (C) above)**
- (2)** the E-Filer contacted the IT Department for assistance; and
- (3)** after requesting assistance from the IT Department, at least one (1) more attempt to e-file the document was made, and the attempt was unsuccessful.

The Authorized E-Filer must serve the filed document and certification on all other parties to the case by Traditional Service.

(E) Relief. An Authorized E-Filer who suffers prejudice as a result of a technical failure may seek appropriate relief from the OMVH.

(F) Scheduled Maintenance and Technical Interruptions. Scheduled maintenance of the E-Filing System will be announced in advance via the e-filing webpage at www.scomvh.net. Where the E-Filing System is unavailable and the time of the unavailability is announced in advance as part of regularly scheduled maintenance, no technical failure has occurred. Authorized E-Filers may utilize the technical difficulty provisions if the filing is required to be filed that day.

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Section 9. Miscellaneous

(A) Citation. These Procedures may be cited as follows: Section __, SCOMVH-EFP.

(B) Courtesy Copies. The OMVH shall not require parties to furnish courtesy paper copies of e-filed documents.

(C) Adding Parties. An Authorized E-Filer may not utilize the E-Filing System to file a motion to intervene or a motion to substitute a party.