

SUPREME COURT OF COLORADO

OFFICE OF THE CHIEF JUSTICE

DIRECTIVE CONCERNING ELECTRONIC PRESERVATION OF ABANDONED ESTATE PLANNING DOCUMENTS FILED PURSUANT TO SECTION 15-23-101, C.R.S, et seq.

The purposes of this Chief Justice Directive (CJD) are to make uniform the electronic transmission and acceptance of abandoned estate planning documents and to define the standards for submissions and requests for access to records.

I. Document Format Standards

- A. Electronic Document Size: The size limit for each document filed electronically shall be 15MB per document with a total of 150MB per filing submission.
- B. Oversized documents: Any document that exceeds the file size limits shall be separated into smaller electronic files.
- C. Color or Graphics: It is recommended that filers configure scanners to scan documents at 200dpi for an optimal resolution to conform to filing size limits for all documents scanned in color, grey scale, or black and white.

II. Document Submission and Requests for Records

A *submission* is the filing of one or more documents filed collectively at the same time. All documents shall be filed as a single filing submission – although they must remain as separate documents. Filing submissions are limited in size as set forth in this directive. For example, a filing statement and the original estate planning documents shall be filed as a single filing submission but should all be uploaded individually.

- A. Submission of Estate Planning Documents: Prior to filing the abandoned estate planning documents, a custodian must comply with the requirements in §§15-23-105 and 15-23-109, C.R.S.. One filing statement (JDF 975) and the attached original estate planning document(s) as defined in §15-23-103(13), C.R.S. shall be submitted on behalf of each individual creator.* All attached original estate planning documents must be submitted in color.

* Before submitting any filings, a public search should be completed to see if a file has already been established for the creator, and if so, the document should be submitted into the creator's existing file.

- B. Request for Retrieval: To request a certified copy, search and locate the creator's file to submit your request. The requestor must complete and file JDF 976 and any required documentation as outlined in statute and in section IV of this directive. Once the request is approved and the payment is received, a copy of an electronic

document certified by the State Court Administrator will be provided to the requestor.

- C. Request for Deletion: A Creator can request the deletion of their electronic estate planning documents by filing the approved Judicial Department form, JDF 977, and proof of identification. Once the form has been reviewed and payment has been received, the documents shall be deleted from the system.

III. Fees

Fees are collected pursuant to statute in the amounts outlined below. Service fees may apply. Filings and requests will only be accepted after payment has been submitted and verified.

- A. The filing fee to submit electronic estate planning documents is \$39.50. This fee is per submission.
- B. The fee for a certified copy of an electronic estate planning document is \$20.00. This fee will be applied to each document requested.
- C. The fee for the deletion of electronic estate planning documents out of a creator's computer folder is \$5.00. This fee is per creator file deleted.

IV. Access

This section, in conjunction with statute, will work to provide guidance to those seeking access to electronic estate planning documents filed pursuant to article 23 of title 15, C.R.S.

- A. The searchable index of Creator names is a public record and accessible to all.
- B. A Creator's profile, filing statements, and electronic estate planning documents are not a public record and not subject to any federal or state open records act or any request for public information under any federal, state, or local law.
- C. Until notified of a Creator's death, the Creator is presumed living and requests for certified copies of estate planning documents will only be furnished to the following individuals or entities pursuant to §15-23-119, C.R.S.:
 - i. The Creator, upon presentation of proof of identity.
 - ii. An individual authorized to receive the copy of an electronic estate planning document by the creator upon presentation of signed authorization and proof of identity of individual.
 - iii. An agent of the creator upon presentation of the power of attorney, a record of the agent's certification as to the validity of the power of attorney, proof of identity and the agent's authority as provided in §15-14-742, C.R.S. .
 - iv. An individual or entity nominated or appointed as a fiduciary in the electronic document or appointed by a court upon presentation of a record of the original estate planning document, a certified court order, and proof of identity.
 - v. A court-appointed conservator for the creator upon presentation of a copy of certified letters of conservatorship and proof of identity.
 - vi. An individual, entity, court, or government agency authorized to receive a copy of the electronic document as provided in an order entered by a court upon presentation of a certified copy of the order and proof of identity of the authorized individual or the individual acting on behalf of the authorized entity, court, or government agency.

- D. After notification of the Creator's death, by presentation of the creator's certified death certificate or record of the certified court order determining the creator's death, requests for certified copies of estate planning documents will be furnished to the following individuals or entities pursuant to §15-23-120, C.R.S:
- i. An individual or entity nominated or appointed as a fiduciary in an original estate planning document or appointed on behalf of the estate of a creator by a court upon presentation of a record of the original document or the certified court order and proof of identity.
 - ii. An individual or entity named as a devisee under a will document or beneficiary under a trust document, upon presentation of the will document or the trust document and proof of the identity of the individual or the individual acting on behalf of the entity, named as a devisee or beneficiary.
 - iii. A court-appointed fiduciary for an individual named as a devisee or a beneficiary under a will document or a trust document upon presentation of the record of the will document or trust document, certified letters of appointment of fiduciary and proof of identity of fiduciary.
 - iv. An individual, entity, court, or government agency authorized to receive a copy of any or all of the content of a computer folder as provided in a court order upon presentation of the certified court order and proof of identity of the authorized individual, or of the individual acting on behalf of the authorized entity, court, or government agency.

V. REJECTION OF E-FILED DOCUMENTS

Attachment A establishes reasons for rejection of electronically filed abandoned estate documents. When a document is rejected by the State Court Administrator (SCA) or the Administrator's designee, a statement from the SCA or designee shall specifically identify the reason the document was rejected.

Attachment A may be amended by the SCA or the Administrator's designee either to remove or to add reasons for rejection. The SCA or designee is not required to reject documents that are identified in Attachment A. However, no electronically filed document shall be rejected unless it is for one or more of the reasons specified in that Attachment.

Done at Denver this 31st day of January 2023.

/s/
Brian D. Boatright, Chief Justice

Attachment A: Rejection List for E-File Abandoned Estate Documents

| Categories | Rejection List | Explanatory Notes |
|--------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| 1. AT FILER'S REQUEST | <ul style="list-style-type: none"> • Filer calls the State Court Administrator's Office and requests filing be rejected | |
| 2. DOCUMENT FILED FOR WRONG CREATOR | <ul style="list-style-type: none"> • Document filed for existing creator. • Document filed lists information for a different creator. | |
| 3. DOCUMENTS FILED AS ONE DOCUMENT. | <ul style="list-style-type: none"> • JDF and Estate Documents filed as one document. • Multiple estate documents filed as one document. | |
| 4. DOCUMENTS THAT SHOULD BE FILED WITH THE COURT | <ul style="list-style-type: none"> • Probated Wills • Other filings to be filed with the court as defined in statute. | |
| 5. INCORRECT SCANNING OR DOCUMENT SUBMISSION | <ul style="list-style-type: none"> • Original estate documents not filed in color. • Separately filing single pages of a multiple page document, except as required because of the size of the document • A document cannot be opened by the SCA or Designee because of an apparent corruption • A document quarantined by the system for having a virus | |
| 6. POOR DOCUMENT QUALITY | <ul style="list-style-type: none"> • Document is illegible • Document scanned inappropriately | |
| 7. INCOMPLETE OR INAPPROPRIATE DOCUMENTS | <ul style="list-style-type: none"> • Notary signature/seal is not included on a document that requires it. • Documents with tracked changes showing • Duplicate documents filed. | |