



SPECIAL INSTRUCTIONS FOR E-FILING

Last amended: November 28, 2012

Overview. Effective December 1, 2012, all matters filed in the Office of Register of Wills for New Castle County (“RO”) shall be done so via e-filing.

Electronic filing shall be via File & ServeXpress (formerly known as LexisNexis File & Serve).

These Special Instructions supplement the standard practices and procedures of Chancery Court in regard to e-filing.

No instructional manual can account for all circumstances all the time. Common sense shall reign with an eye ever on the collective goal—efficient and diligent estate administration.

Collegiality. E-filing is a method of delivery to the RO, akin to using the Post Office or a runner service. It does not create a vacuum, displacing the goodwill and collegial relationship between the RO and attorney practitioners. Please use all available methods—phone calls, letters, emails and in-person appointments—to maintain open communication.

Accepting Documents. Indicative of our collegial relationship, the RO will exercise a strong dose of common sense in reviewing documents. In general, we will accept all documents, EXCEPT:

- The opening of an estate where no Case Information Sheet is filed.
For a more complete explanation, see page 8.
- An inventory where the math does not add up correctly.
- An inventory where the real property information is not completely filled out.
- An accounting where the math does not add up correctly.
- A document which is misfiled, incomplete or so entirely wrong as to have no relevance to the folio.

Example: An inventory is filed for the Estate of Jane Smith, when the inventory involves the Estate of John Jones.

Paper Filing. In addition to e-filing, the following documents **must** be conventionally filed via paper-copy delivery to the RO:

CERTIFIED DEATH CERTIFICATE

WILL

CODICIL

MEMORANDUM

EXEMPLIFIED GOVERNMENT / COURT DOCUMENTS

CERTIFIED GOVERNMENT / COURT DOCUMENTS

Sealed Documents. The only document which should be sealed is the Certified Death Certificate. In general, all other documents are unsealed and can be viewed by any member of the public at the RO library. If you wish for a document to be sealed, the RO must grant permission. Please contact the RO *before filing the document* if you wish for it to be sealed.

Forms. All forms are available on the RO website.

Page Size. File & ServeXpress converts legal-sized documents (8.5"x14") into letter format (8.5"x11"), without cutting off the bottom three inches.

Many Wills are legal-sized. With such a Will, create a PDF document using the 8.5"x14" parameters. When you e-file the document, File & ServeXpress will convert same to letter format.

Excel Documents. Do not e-file an Excel document. File & ServeXpress cannot properly docket it. Instead, file a PDF version of your spreadsheet.



What if I am not the attorney of record but in possession of the Decedent's Will, does the Will need to be e-filed?

No. The current practice remains. An attorney, not the attorney of record but in possession of the Decedent's Will, must turn in the Will. S/he may do so through conventional filing with the RO.

DOCUMENT TYPE

When you file a document, you must designate a document type. All of the document types are listed below, with a rule of thumb guideline on when to file.

The key to successful e-filing is to become familiar with this list. Each of document types is explained in further detail throughout the remainder of these Special Instructions.

Look for this symbol: §. It means a document type is being discussed.

<u>Document Type (listed alphabetically)</u>	<u>When to Use (rule of thumb)</u>	<u>See Page</u>
Accounting (Form 30)	Closing	12
Beneficiary Notice (Form NC1)	Closing	13
Beneficiary Waiver - Incapacity (Form 3)	Closing	12
Beneficiary Waiver (Form 2)	Closing	12
Brief	Exceptions / Litigation	14
Case Information Sheet (Worksheet)	Opening	8
Certificate of Service	As needed	14
Codicil	Opening	6
Combined Affidavit (Jointly Held + No Estate Tax)	Opening	10
Commission Acknowledgement Letter- PR	Closing	13
Death Certificate (Certified)	Opening	5, 10
Demand for Surviving Spousal Allowance	As needed	14
Disclaimer	As needed	14
Envelope for Form NC1	Closing	13
Exceptions	Exceptions / Litigation	14
Exceptions to Masters Report	Exceptions / Litigation	14
Exhibits	As needed	14
Extension Request	As needed	14
Inventory (Form RW600)	After Opening, Before Closing	11
Jointly Held Affidavit	Opening	10
Letter	WITH EVERY FILING	5, 10, 12
Letter - Additional Fees	As needed	14
Life Estate Termination	As needed	14
List of Beneficiaries (Form 5)	Closing	12
Memorandum (Tangible Property)	Opening	6
Motion	Exceptions / Litigation	14

<u>Document Type (listed alphabetically)</u>	<u>When to Use (rule of thumb)</u>	<u>See Page</u>
No Assets or Debts (Form 651/650)	Closing	13
No Estate Tax Affidavit	As needed	14
Notice	As needed	14
Obituary	Opening	5
Opening Petition (Form 1)	Opening	6
Order of Appearance-Entry, Withdrawal, Substitution	As needed	14
Petition	As needed	14
Power of Attorney (linked to Opening Petition)	Opening	6
Proposed Order	Exceptions / Litigation	14
Publication Request (Search for Heirs)	As needed	13
Receipts to Accounting	Closing	12
Release	Closing	13
Renunciation (Form 23, linked to Opening Petition)	Opening	6
Request for Issuing Affidavit for Domicile	As needed	14
Rule 190 Petition and Affidavit for Closing	Closing	12
Rule 190 Petition and Affidavit for Opening	Opening	6
Settlement Agreement	Exceptions / Litigation	14
Statement of Claim (Form 4)	As needed	14
Stipulation	Exceptions / Litigation	14
Trust Inquiry	Opening	6
Will	Opening	5



CONFUSED OR FACING AN UNUSUAL PROBLEM?

CALL THE REGISTER’S OFFICE. LET’S WORK TOGETHER TO TURN AN OBSTACLE INTO A STEPPING STONE, TOWARD BETTER ESTATE ADMINISTRATION.

OPENING FORMAL PROBATE / ADD A CASE

Case Name. Style the case name, following this example:

IMO Jones, John (DOD 1/6/12)

§ **Letter.** Utilize a cover letter as a means to communicate, specifically:

You are petitioning to open an estate.

Name the documents that you are e-filing.

Is there a Will? If so, is the Will being e-filed, or is the original Will already in possession of the Register's Office?

Is the Will self-proving? If not, what arrangements are being made to prove (probe) the Will?

Are you e-filing a Rule 190 petition and affidavit, or would you like an appointment to swear in the personal representative?

How many short certificates are being ordered? Will you pick up the short certificates, or would you like the RO to mail them?

Are there any issues or special circumstances that the RO should be aware of?

§ **Death Certificate (Certified).** File & ServeXpress has designed the framework so that you cannot add a case without e-filing a certified death certificate (or an obituary, pending submission of the death certificate). Remember to e-file the death certificate as a **sealed** document. The certified death certificate must be delivered in paper format to the RO.

§ **Obituary.** Given our collegial relationship with attorney practitioners, the RO will accept an obituary in lieu of a certified death certificate. However, the RO expects that the attorney will follow up by docketing the death certificate into the case with all due speed and diligence.

§ **Case Information Sheet (Worksheet).** The RO will reject a case where no Case Information Sheet (Worksheet) is filed. See page 8 for an extensive discussion on the Worksheet.

§ **Will.** The Will should be e-filed separately from the Codicil and Memorandum. The Will must be delivered in paper format to the RO. A Will not valid on its face (e.g., only one witness) will be ACCEPTED BUT NOT DOCKETED by the RO.

§ **Codicil.** The Codicil should be e-filed separately from the Will and Memorandum. The Codicil must be delivered in paper format to the RO. A Codicil not valid on its face (e.g., only one witness) will be ACCEPTED BUT NOT DOCKETED by the RO.

§ **Memorandum (Tangible Property).** The Memorandum should be e-filed separately from the Will and Codicil. The Memorandum must be delivered in paper format to the RO. A Memorandum not valid on its face (e.g., cash bequests) will be ACCEPTED BUT NOT DOCKETED by the RO.

§ **Rule 190 Petition and Affidavit for Opening.** In lieu of utilizing Rule 190, attorneys may prefer to make an appointment and have the personal representative sworn in. This is perfectly acceptable and welcomed.

§ **Trust Inquiry.** Remember, if there is a Will, you must file a Trust Inquiry form.

§ There are no special instructions for the following document types: Opening Petition, Power of Attorney (linked to Opening Petition), and Renunciation.

800 North French Street, 2nd Floor
Louis L. Redding City/County Bldg.
Wilmington, DE 19801



Phone 302-395-7800
Fax 302-395-7801
www.nccde.org/wills

Ciro Poppiti, III
Register of Wills

COMMUNICATION

The RO will docket appropriate notes and comments to the estate folio. The RO will also utilize File & ServeXpress as a communication tool. The document at right is an example form by which the RO will advise law firms on documents ordered.

ESTATE OF _____ FOLIO No. _____

THE FOLLOWING DOCUMENTS:

_____ SHORT CERTIFICATE(S)

EXEMPLIFIED / CERTIFIED

SEARCHES / COPIES

OTHER _____

ARE READY FOR PICK UP

WILL BE MAILED TO ATTORNEY OF RECORD

WILL BE MAILED WITH LETTERS TO ATTORNEY OF RECORD



§ What if I can't scan the Will without taking it apart and what if I don't want to take it apart?

Utilize the SUBMITTED CONVENTIONALLY feature on File & ServeXpress. The Submitted Conventionally feature gives notice to the folio that there is a Will, but that the attorney has chosen not to e-file a scanned copy. When the RO receives the paper form of the original Will, the RO will take the Will apart and docket it into File & ServeXpress.

File & ServeXpress[®] Welcome: Poppiti, Ciro
Poppiti, Ciro [Resource Center](#) | [File & ServeXpress Preferences](#) | [Sign Off](#)

Home **Filing & Service** Alerts Search

Start A Transaction Saved Transactions Scheduled Transactions

11/24/12 10:47 PM EST Case **Documents** Case Parties Review & Submit

Attach Documents Transaction ID: 34378395 Cancel Save & Close

IMO DE New Castle County Register of Wills

For each document, complete each field and click **Attach Document**. A (*) indicates a document type that may be an originating document; a (***) indicates a document type that may be an originating or subsequent document; document types with no asterisk are valid subsequent document types for this court.

Type: Will **Statutory Transaction Fee: \$0.00**

File: Browse... or Check here to fax your document ?

Access: Submitted conventionally Submitted conventionally - These documents are submitted to the court in paper form and the submitting firm provides transaction information through LexisNexis File & Serve.

Title: 8 Page Will, dated 1/10/1992, Self Proving, Submitted Conventionally
Maximum length of text is 510 characters

?

Attached Documents List:
No Documents have been attached to this transaction.

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Before you open a case, remember to search the Register's website to make sure that an estate for the Decedent has not already been opened.

§ **Case Information Sheet (Worksheet)**. The following areas must be filled out on the Worksheet, as appropriate:

Name of the Estate

Last address of the Decedent

Type of letters (drop down menu)

A screenshot of a software interface showing a drop-down menu. The label 'Type of Letter:' is on the left. The menu is open, displaying six options: 'Testamentary Administration', 'Administration With Will Annexed', 'Ancillary Administration With Will Annexed', 'Ancillary Administration', 'Successor Administration With Will Annexed', and 'Successor Administrator'. The first option is highlighted in blue.

Names of all Personal Representatives

Addresses of all Personal Representatives

Best telephone numbers of all Personal Representatives

Best email addresses of all Personal Representatives

Newspaper publication (drop down menu)

A screenshot of a software interface showing a drop-down menu. The label 'Publication:' is on the left. The menu is open, displaying four options with associated costs: 'New Castle Weekly = \$25.25', 'Middletown Transcript = \$30.00', 'Newark Weekly Post = \$57.50', and 'Post Only Notice = \$0.00'. The first option is highlighted in blue. Below the menu, there are labels for 'Attorney:', 'Law Firm:', and 'Address:' with corresponding input fields.

Attorney of record / paralegal contact

Law firm

Law firm address

Person-in-charge telephone number

Person-in-charge email address

Dollar value of personal assets

Dollar value of real estate

Personal Assets:	<input type="text"/>	Real Property:	<input type="text"/>
Litigation:	<input type="radio"/> YES <input type="radio"/> NO	Shorts #:	<input type="text"/>
Date of Death:	<input type="text"/>	Death Certificate:	<input type="radio"/> YES <input type="radio"/> NO
<input type="text"/>			

Is there litigation? (yes-or-no button)

Short certificates desired

Date of death

Is a certified death certificate being e-filed? (yes-or-no button)

Remarks (text box)

Fees. The fee section **does not** have to be filled in.

The Worksheet must be filed to open formal probate. The reason is that the RO will charge all of the opening costs of probate against the Worksheet. Thus, if there is no filed Worksheet, the RO has no mechanism to collect opening costs.

Once the RO is ready to docket the opening documents into the estate folio, the RO will write/type in the correct fees to the Worksheet as well as any changes, comments or notes. The RO will then charge all opening costs to the Worksheet. The law firm will receive an email back from the RO indicating that the Worksheet has been ACCEPTED WITH EDITS.

OPENING DOCUMENTS BUT NOT FORMAL PROBATE **/ ADD A CASE**

Case Name. Style the case name, following this example:

IMO Jones, John (DOD 1/6/12)

§ **Letter.** Utilize a cover letter as a means to communicate, especially naming the documents that you are e-filing.

§ **Death Certificate (Certified).** File & ServeXpress has designed the framework so that you cannot add a case without e-filing a certified death certificate (or an obituary). Remember to e-file the death certificate as a **sealed** document. The certified death certificate must be delivered in paper format to the RO.

§ **Combined Affidavit (Jointly Held + No Estate Tax) or Jointly Held Affidavit.** E-file the applicable document.

As appropriate, a Will, Codicil and Memorandum should also be e-filed and delivered in paper format.



Before you submit a transaction, remember to double check that you have uploaded the correct documents. Remember to also double check that if you have intended to e-file six documents, you have in fact uploaded six documents.

INVENTORY

§ **Inventory.** An inventory will be REJECTED when the math does not add up correctly.

An inventory will also be REJECTED when the real property information is not completely filled out. Be sure to follow the directions listed on the inventory, especially giving the names and **addresses** of the heirs to the property.

SCHEDULE A SOLELY OWNED REAL ESTATE

Include tax parcel number, deed record number and a description adequate to identify all real estate. List the full names and addresses of persons entitled to each parcel and share (percentage) for each person. Also, please specify the name and address to whom the tax bills should be sent in the area provided below.

ITEM NO.	DESCRIPTION	VALUE AT DATE OF DEATH
		\$

Also be sure to specify the name and address to whom the tax bills should be sent.

	PLEASE SPECIFY THE NAME & ADDRESS TO WHOM THE TAX BILL SHOULD BE MAILED:	
	TOTAL (Also enter on the Recapitulation page)	\$

ACCOUNTINGS / CLOSE A CASE

Estate Close Document. Take Note: An estate is not officially closed until the Estate Close Document is signed and docketed by the RO.

§ **Letter.** Utilize a cover letter as a means to communicate, specifically:

You are e-filing an accounting. Is this a final accounting?

Name the documents that you are e-filing.

How are you submitting the receipts—via e-filing or paper format.

Are you e-filing a Rule 190 petition and affidavit, or would you like an appointment to swear off the personal representative?

Have all the stakeholders signed a Beneficiary Waiver, or will the RO be mailing Beneficiary Notices?

Are there any issues or special circumstances that the RO should be aware of?

§ **Accounting (Form 30).** An accounting will be REJECTED when the math does not add up correctly.

§ **Receipts to Accounting.** A law firm may submit the actual receipts through e-filing **or paper format.** With paper format, e-file the receipts as a document type using the SUBMITTED CONVENTIONALLY option. Remember that if the actual receipts are e-filed, the receipts are then **permanently accessible** by the public as any other docketed document would be.

§ **Rule 190 Petition and Affidavit for Closing.** In lieu of utilizing Rule 190, attorneys may prefer to make an appointment and have the personal representative sworn off. This is perfectly acceptable and welcomed.

§ **List of Beneficiaries (Form 5).** The List of Beneficiaries should be e-filed separately from Beneficiary Waivers and Beneficiary Notices.

§ **Beneficiary Waiver (Form 2) or Beneficiary Waiver – Incapacity (Form 3).** Beneficiary Waivers can be e-filed as a batch. However, Beneficiary Waivers should be e-filed separately from the List of Beneficiaries and Beneficiary Notices.

§ **Beneficiary Notice (Form NC1)**. The date that the RO ACCEPTS the Beneficiary Notice is the date that the RO has mailed the Notice. The 90-day notice period begins on the ACCEPTANCE date.

Beneficiary Notices should be filed separately by beneficiary; **do not e-file the Notices in batch.**

The screenshot shows the 'File & Serve Xpress' interface. At the top, it says 'Welcome: Poppiti, Ciro Poppiti, Ciro' and provides links for 'Resource Center', 'File & ServeXpress Preferences', and 'Sign Off'. The navigation bar includes 'Home', 'Filing & Service', 'Alerts', and 'Search'. Below this, there are tabs for 'Start A Transaction', 'Saved Transactions', and 'Scheduled Transactions'. The current date and time are '11/25/12 11:19 PM EST'. The main navigation tabs are 'Case', 'Documents', 'Case Parties', and 'Review & Submit'. The 'Attach Documents' section is active, showing 'Transaction ID: 34378396' and buttons for 'Cancel' and 'Save & Close'. The document type is 'Beneficiary Notice (Form NC1)' with a 'Statutory Transaction Fee: \$1.00'. The 'File' field is empty with a 'Browse...' button and a checkbox for 'Check here to fax your document'. The 'Access' is set to 'Public' with a note: 'Public - These documents are electronically submitted and available for viewing by LexisNexis File & Serve customers.' The 'Title' field contains 'Form NC1 for Jack Jones' and has a note: 'Maximum length of text is 510 characters'. An 'Attach Document' button is visible.

§ **Envelope for Form NC 1**. Envelopes will be delivered to the RO in paper format. However, e-file envelopes as a document type using the SUBMITTED CONVENTIONALLY option. List all the addressees in the TITLE box.

Consider this BEST PRACTICE: Submit in paper format to the RO the accounting receipts together with the NC1 envelopes.

The screenshot shows the 'File & Serve Xpress' interface. At the top, it says 'Welcome: Poppiti, Ciro Poppiti, Ciro' and provides links for 'Resource Center', 'File & ServeXpress Preferences', and 'Sign Off'. The navigation bar includes 'Home', 'Filing & Service', 'Alerts', and 'Search'. Below this, there are tabs for 'Start A Transaction', 'Saved Transactions', and 'Scheduled Transactions'. The current date and time are '11/25/12 11:38 PM EST'. The main navigation tabs are 'Case', 'Documents', 'Case Parties', and 'Review & Submit'. The 'Attach Documents' section is active, showing 'Transaction ID: 34378396' and buttons for 'Cancel' and 'Save & Close'. The document type is 'Envelope for Form NC1' with a 'Statutory Transaction Fee: \$0.00'. The 'File' field is empty with a 'Browse...' button and a checkbox for 'Check here to fax your document'. The 'Access' is set to 'Submitted conventionally' with a note: 'Submitted conventionally - These documents are submitted to the court in paper form and the submitting firm provides transaction information through LexisNexis File & Serve.' The 'Title' field contains '3 envelopes for Jack Jones, June Jones and Tom Jones' and has a note: 'Maximum length of text is 510 characters'. An 'Attach Document' button is visible.

§ There are no special instructions for the following document types: Commission Acknowledgement Letter – PR, No Assets or Debts (Form 651/650), Publication Request (Search for Heirs) and Release.

OTHER DOCUMENT TYPES

§ **Letter – Additional Fees.** This document type is a mechanism by which a law firm can pay any miscellaneous costs due. Suppose, for example, that there is a miscellaneous fee outstanding, perhaps a complex case assessment of \$25. The attorney practitioner would then e-file a letter, communicating that \$25 is due on the estate and that same should be charged by the RO against the letter. Utilizing this document type alerts the RO that monies are being paid; it also helps the RO audit the estate in total before formally closing the estate.

§ **Order of Appearance – Entry, Withdrawal, Substitution.** As with other Delaware courts, please be conscientious to advise the RO of any change to the attorney in charge of the estate, *after the estate has been opened.*

§ There are no special instructions for the following document types: Brief, Certificate of Service, Demand for Surviving Spousal Allowance, Disclaimer, Exceptions, Exceptions to Masters Report, Exhibits, Extension Request, Life Estate Termination, Motion, No Estate Tax Affidavit, Notice, Petition, Proposed Order, Request for Issuing Affidavit for Domicile, Settlement Agreement, Statement of Claim, and Stipulation.

**DID YOU
KNOW?**

Delaware patriot Caesar Rodney served as Register of Wills.

However, e-filing was not available in Colonial times.

==END OF DOCUMENT==