

Filing Documents with the Circuit Clerk



**TWENTY-FIRST JUDICIAL CIRCUIT: Kankakee County
First Edition, 2017**

Filing at the Courthouse

Filing is the way that documents get officially included in the court record. The courthouse keeps a paper file for each case. The original copies of documents must be brought to the circuit clerk's office so they can be included in the court's file.

What Does the Clerk Do?

When you bring in your documents to be filed, the clerks will **file-stamp** your papers to record the date and time of filing.

Note: You will want to bring enough copies of your document to send to the other parties in the case, as well as one for you to keep for your records. The clerks will file-stamp each copy.

Filing Fees

You will usually have to pay a **filing fee**. It's a good idea to call the clerk's office at 815-937-2905 to ask what the fee is for your documents. You can also check the Circuit Clerk Fee Sheet posted on the clerk's website at this link:

http://www.k3county.net/circuitclerk_files.html

The clerks can only accept cash or cashier's checks for filing fees.

If you cannot afford the filing fee, you can ask the court to **waive**, or excuse, your fee. You would file a **request for a fee waiver**, also called an **Application to Sue as Indigent Person**. You can get this form at the circuit clerk's office.

After you fill out the waiver form and leave it with the clerk, a judge reads it and decides whether to grant it. This may take a few days. The clerk will call you to tell you whether your waiver has been granted or not.

If it is granted, you can return to the circuit clerk's office to finish filing and delivering your answer. You will keep the waiver throughout your divorce. Every time you come to the courthouse to file papers, you must show the clerks your waiver. If it is not granted, you will have to pay the filing fee.

You can ask the court to waive your fees either **before** you file or **at the same time** you file. It is recommended to do this before filing. Why? When a litigant brings in documents at the same time as a fee waiver, the clerks keep those documents in their office for just a few days until they know whether the waiver was granted. **Documents that a litigant abandons at the clerk's office will be destroyed after a couple of days if they cannot be filed.**

Even if your waiver is granted, you still need to return to the clerk's office to collect your waiver form, and to pick up your copy and the copies that you will deliver to the opposing side.

Notice to Opposing Party

When you file a document (a petition or a motion), you must also complete and notarize a **proof of delivery** indicating that you delivered that document to the opposing party. Typically, you deliver a document by mailing it. (A proof of delivery is sometimes also called a proof of service, proof of mailing, certificate of delivery, etc.)

By signing the proof in front of a notary, you are declaring that you will deliver the document on the date you listed on the proof. Attach the original proof to the document you file. Attach a copy of that proof to each document you deliver. See an example proof of mailing on page 3.

Special Type of Notice: Service

When you file a petition that starts a case, you have to provide notice to the other party by **servicing** them with the petition and a summons. **Service** is done by having a sheriff’s deputy hand-deliver the documents to the party. (See separate Service guide for instructions.)

Filing: Bring to Circuit Clerk’s Office	
1. Filing fee or your court-approved Fee Waiver (Application to Sue as Indigent Person)	<ul style="list-style-type: none">• Cost varies based on documents filed (Cash or cashier’s check only)
2. Document to be filed 3. Notarized Proof of Mailing attached to document (see example Proof of Mailing on page 3)	<ul style="list-style-type: none">• Originals for the clerk• Enough copies for opposing party(ies) and for you
<ul style="list-style-type: none">• If you are filing, but not setting a hearing date: a Notice of Filing• If you are setting a hearing date: a Notice of Hearing (see example Notice of Hearing on page 5)	<ul style="list-style-type: none">• Originals for the clerk• Enough copies for opposing party(ies) and for you

SAMPLE: PROOF OF MAILING

PROOF OF MAILING

The undersigned hereby certifies that a copy of the attached [*Name of the document you are delivering*; example: “Motion to Modify Allocation of Parental Responsibilities”] was served upon the following:

Jonathan Doe
122 Maple Street
Bradley, IL 60915

(1) *If the other side is self-represented, put the party's name and address here.*
(2) *If they have an attorney, put the attorney's name and office address here instead.*

by enclosing the same in an envelope addressed to the above named party [*or “attorney”*] at the above listed address with postage fully prepaid, and by depositing in the United States Mail at Kankakee this ____ day of _____, 20__.

[Your signature here]

Subscribed and sworn to before me this ____ day of _____ 20__.

[Notary public signs here]

You can use the above example to write your own proof of delivery and attach it as the last page of a document to be filed.

Checklist: Proof of Delivery

1. The **name of the document you are filing and delivering**;
2. The **name and address of the party or attorney you sent it to**;
3. The **date you will drop it in the mailbox**;
4. **Your signature verifying you did this**; and
5. The **signature and stamp of the notary public who witnesses you sign it**.

Notice of Hearing

You must also notify the opposing side whenever you set a **hearing** date on your own. Notices usually have two parts on one page, a Notice and a Proof. This accomplishes two things at once: (1) it **notifies** the other side of the hearing date, and (2) **proves** that this page was delivered to the other side. You can get a blank Notice from the clerk's office, or you can type up your own. See page 5 for an example.

Checklist: Notice of Hearing

The top half of the document (the Notice) should include:

1. The **case caption**;
2. The **title of the document** (Notice of Hearing; Notice of Motion, etc.)
3. The **full name and mailing address of the recipient**;
4. The **date, time, and courtroom number** of the court date (you will have to talk to the judge's clerk to set this)
5. Your **signature and address**.

The bottom half of the document (the Proof of Delivery) should include:

1. The **method of delivery** (U.S. mail; email; hand delivery);
2. Your **signature, witnessed by a notary**; and
3. The **notary's signature and stamp**.

Remember, hearings are usually set to discuss a document that you want to file. That document needs its own Proof of Delivery. See page 5 for an example.

When you are done, you will mail several things to the opposing side:

1. The document you filed (Motion, Petition, Answer/Appearance, etc.);
2. A Proof of Delivery page attached to the end of the document;
3. A separate Notice of Hearing + Proof of Delivery page.

SAMPLE: NOTICE OF HEARING with PROOF OF DELIVERY [of Notice]

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE TWENTY-FIRST JUDICIAL CIRCUIT
IN THE COUNTY OF KANKAKEE

<u>[PLAINTIFF/PETITIONER'S NAME]</u> ,)	
Plaintiff [or Petitioner],)	
)	
vs.)	Case No.: _____
)	
<u>[RESPONDENT / DEFENDANT'S NAME]</u> ,)	
Respondent [or Defendant].)	

NOTICE OF HEARING

TO: [Name]
[Address]
[City, State, Zip]

PLEASE TAKE NOTICE that on the ____ day of _____, 20____, at ____ a.m./p.m., or as soon thereafter as parties can be heard, I shall appear before the Honorable _____, or any judge sitting in his/her place and stead, in court room ____ in the Kankakee County Courthouse, Kankakee, Illinois, and then and there present the attached _____ for hearing instanter, at which time and place you may appear if you so desire.

[Your signature here]

Please Print
[Your] Name: _____
Address: _____
City, State, Zip: _____
Phone: _____

PROOF OF DELIVERY

The undersigned hereby certifies that he/she served a true and correct copy of the foregoing Notice to the individual listed above by enclosing the same in an envelope addressed to the individual listed above at the address listed above and by depositing in the United States Mail with postage fully prepaid, at Kankakee this ____ day of _____, 20____.

[Your signature here]

Subscribed and sworn to before me
this ____ day of _____ 20____.

[Notary public signs here]