

CM/ECF

Administrative Guide

of

Policies and

Procedures

United States District Court

Eastern District of Oklahoma

April 10, 2009

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I. INTRODUCTION

It is the policy of the United States District Court for the Eastern District of Oklahoma to require attorneys and other permitted registrants to file documents with the Court electronically over the Internet except as may be stated in these policies. Parties will be able to view dockets and most documents electronically through the PACER system, regardless of their participation in the Electronic Case Filing (“ECF”) System. LCvR5.1 and LCrR49.1 authorize electronic case filing in accordance with Fed. R. Civ. P. 5(e) and Fed. R. Crim. P. 49(d). The following policies and procedures govern electronic filing in this District unless, due to circumstances in a particular case, the assigned judge determines that these policies and procedures should be modified.

II. ELECTRONIC CASE FILING SYSTEM - GENERAL INFORMATION

A. GENERAL POLICY

After implementation of the Case Management/Electronic Case Filing (CM/ECF) system, all documents submitted for filing in this Court in civil and criminal cases, no matter when a case was originally filed, shall be filed electronically using the ECF System or shall be scanned and uploaded to the ECF System, unless otherwise permitted by these policies and procedures or unless otherwise authorized by the assigned judge.

B. ELIGIBILITY

1. Attorneys

Attorneys admitted to the bar of this Court, including those admitted pro hac vice and those authorized to represent the United States, may register as Filing Users of the Court’s ECF system. The Court will issue Passwords only to attorneys in good standing. An attorney admitted pro hac vice must register for an account specific to this Court in accordance with these Policies and Procedures. Registration is in a form prescribed by the clerk and requires the Filing

User's name, address, telephone number, Internet e-mail address, and a declaration that the attorney is admitted to the bar of this court.

2. Others

Pro se litigants shall file paper originals and one copy of all complaints, pleadings, motions, affidavits, briefs, and other documents. The Clerk will scan these original documents and upload to the ECF System, but will also maintain a paper file.

C. REGISTRATION

Provided that a Filing User has an Internet e-mail address, registration as a Filing User constitutes consent to electronic service of all documents as provided in these rules in accordance with the Federal Rules of Civil Procedure.

1. Instructions and Training

a. Users must complete and sign an official ECF Registration Form, available as a fillable form on the Court's website at www.oked.uscourts.gov. Note: The registrant may request assignment of the User Login utilized in another federal district court, but a random Password will still be assigned.

b. All signed original ECF Registration Forms shall be mailed or delivered to:

ECF Registration, Office of the Court Clerk
United States District Court for the Eastern District of Oklahoma
101 North Fifth Street, Room 208
P.O. Box 607
Muskogee, OK 74402

c. Additionally, the attorney must have successfully completed the Court CM/ECF training program or been certified in another court. If an attorney has received a login and password from another district after receiving CM/ECF training in that district, proof must be provided to the Clerk's Office of such prior training and certification.

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- d. If the attorney has been granted Pro hac vice status or has been admitted to our Court, the attorney must be registered as a CM/ECF Practitioner in another District Court or Bankruptcy Court, must be familiar with this Court's motion practice, must have read our Administrative Procedures for CM/ECF, and completed the online web based tutorial which is located on the Electronic Case Filing link of the Court's website at www.oked.uscourts.gov. If an attorney has received a login and password from another district, after receiving CM/ECF training in that district, proof must be provided to the Clerk's Office of such prior training and certification.
- e. **Training Prerequisites:** Prior to participating in CM/ECF training, external users are required to:
1. Possess basic personal computer skills, including a working knowledge of the internet, browser usage, ability to prepare and attach PDF'S, e-mail usage and scanning.
 2. Establish a PACER Account, if not previously established.
 3. Insure hardware and software requirements are sufficient to file electronically.
- f. **Training Class:** The staff of the Clerk's Office will teach two training classes in order to train the attorneys and their staff how to file electronically. The first class is a basic course consisting of lecture, overhead instruction and hands-on instruction. A second course will be offered for those requiring additional assistance. The basic course must be completed before registration in the advanced class. Attorneys may sign up for the basic training class by going to the CM/ECF link on the Court's website at www.oked.uscourts.gov. Advanced classes are scheduled through the Clerk's office.

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- g. **Non-Attorney Law Office Staff:** Law office staff and non-attorneys are not eligible for their own login or password, although such staff may attend CM/ECF training as long as the attorney is signed up to take the training or has attended training.

2. E-mail Address

The e-mail address for service listed in the Registration Form will be the address required by Fed. R. Civ. P. 5, Fed. R. Civ. P. 77(d), and Fed. R. Crim. P. 49 for service, and transmission through the ECF System to that address of a Notice of Electronic Filing will constitute service. The registrant may also provide two (2) additional e-mail addresses to which courtesy copies of ECF notices will be sent. To confirm that the Clerk has correctly entered a registrant's Internet e-mail address in the ECF System the Clerk will send the registrant an Internet e-mail message upon assignment of User Login and Password.

3. Change of Contact Information

If an e-mail address, mailing address, telephone, or fax number listed on the original ECF Registration Form changes, the Filing User must complete and sign an official Attorney CM/ECF Information Update Form, available as a fillable form on the Court's website at www.oked.uscourts.gov. Return the form in the same manner as the registration form. **Note:** The user is still required to file and serve a notice of the change in **each** of their open cases.

D. PASSWORDS

1. Assignment

Once registration is completed, the Filing User will receive notification of the User Login and Password by regular, first-class mail. Upon receipt of a User Login and Password, the registrant may begin filing electronically with the Court.

As mentioned above, the registrant may request assignment of the User Login utilized in another federal district court, but a random Password will still be assigned.

After registering and receiving a Login and Password from the Court, registrants may change their Passwords as necessary using the ECF System's utility menu.

2. Rules for Use

The combination of this User Login and Password will serve as the registrant's official signature for purposes of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and any applicable statute or regulation of the United States.

No registrant shall permit the User Login and Password to be utilized by anyone other than persons specifically authorized by the registrant. Once registered, the registrant is responsible and accountable for all documents filed with that User Login and Password. Users may be subject to sanctions for failure to comply with this provision.

3. Security

Filing Users agree to protect the security of their Passwords and immediately notify the clerk if they learn that their Password has been compromised. If a Password is believed to be compromised, the registrant must immediately notify the Clerk's Office by telephone at (918) 684-7920 or by e-mail at CM-ECFIntake_OKED@oked.uscourts.gov and change the Password immediately using the ECF System's utility menu.

4. Revocation of Password

The Court may revoke a filing user's password and therefore, his or her authority and ability to electronically file documents under any of the following conditions:

1. Failure to comply with any provision of the agreement contained in the filing user's Registration Form.

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2. Failure to adequately protect his or her password.
 3. Failure to comply with the provisions of these Administrative Procedures for electronically filed cases.
 4. Failure to pay fees required for documents filed electronically.
 5. Misuse of the System.
 6. As a sanction ordered by the Court after notice and an opportunity for hearing.
 7. Upon any disciplinary proceedings as listed in Local Civil Rule 83.6.

E. MODIFICATIONS AND AMENDMENTS OF ECF SYSTEM PROCEDURES

The assigned judge may modify these procedures in specific cases without prior notice, if deemed appropriate. The Court may also amend these procedures at any time without prior notice. Modifications and amendments to ECF System procedures will be posted on the Court's website at www.oked.uscourts.gov.

III. ELECTRONIC FILING AND SERVICE OF DOCUMENTS

A. GENERAL RULES FOR FILING

All motions, pleadings, briefs, or other documents in civil and criminal cases, except those specifically prohibited in Section IV, shall be electronically filed on the ECF System.

Electronic transmission of a document to the Electronic Filing System consistent with this guide, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the Local Rules of this court, and constitutes entry of the document on the docket kept by the clerk under Fed.R.Civ.P. 58 and 79. E-mailing a document to the Clerk's office shall not constitute "filing" of the document.

When a document has been filed electronically, or filed conventionally and imaged by the court, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. A document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

ECF registrants may file documents 24 hours a day, seven days a week. **Filing must be started before midnight local time where the court is located in order to be considered timely filed that day (as indicated by “Time Started” on the Notice of Electronic Filing).** Filing a document electronically does not, however, alter the filing deadline for that document. If the assigned judge has ordered the pleading or other document to be filed by a time certain, it must be filed by that time.

Oversized Documents. If an electronically filed document, together with attachments, exhibits, or appendices, exceeds 250 pages, the filer shall deliver one (1) paper copy of the document to the Clerk’s Office within two (2) business days of the date of filing. If the document is too large to staple, it should be bound at the left hand margin in a manner that will permit it to be opened flat. A courtesy copy of all Social Security transcripts shall be provided to the appropriate chambers at the time of electronic filing. Additionally, if requested, one (1) paper copy of any other electronically filed document shall be delivered to the Clerk’s Office within two (2) business days of the date of filing.

B. GENERAL RULES FOR SERVICE

The “Notice of Electronic Filing” that is automatically generated by the court’s Electronic Filing System constitutes service of the filed document on Filing Users. Parties who are not Filing Users or who are not represented by Filing Users must be served with a copy of

any pleading or other document filed electronically in accordance with the Federal Rules of Civil Procedure and the Local Rules.

If any procedure requires a party to reflect the date of filing on a document, the party shall provide either a file-stamped copy or attach a copy of the Notice of Electronic Filing to the document.

A certificate of service must be included with all documents filed electronically, indicating that service was accomplished through the Notice of Electronic Filing for parties and counsel who are Filing Users and indicating how service was accomplished on any party or counsel who is not a Filing User. Sample language for a certificate of service is available on the Court's website at www.oked.uscourts.gov.

Counsel may serve any electronically filed pleading or document on a party who is not a registered participant by e-mail, if the recipient has consented to such service in writing.

Fed. R. Civ. P. 6(e) and Fed. R. Crim. P. 45(c) apply to service by electronic means.

C. SIGNATURES

1. Filing Attorney Signature

The User Login and Password required to submit documents to the Electronic Filing System function as the Filing User's signature on all electronic documents filed with the court. They also function as a signature for purposes of Fed.R.Civ.P. 11, the Federal Rules of Civil Procedure, the Local Rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court.

Each document filed electronically must, if possible, indicate that it has been electronically filed.

The name of the Filing User under whose Login and Password the document is submitted must be preceded by an “s/” and typed in the space where the signature would otherwise appear. In addition, electronically filed documents must include a signature block and must set forth the name, the name of the party you represent, address, telephone number and the attorney’s [name of state] bar registration number, if applicable. The correct format is as follows:

s/ Lawyer Name
Lawyer Name
[State abbrev.] Bar Number: xxxx (e.g. OK Bar Number: 12345)
Attorney for (Plaintiff/Defendant)
ABC Law Firm
123 South Main Street
Muskogee, OK 74401
Telephone: (918) xxx-xxxx

2. Non-Filing Attorney Signature

Documents containing the signature(s) of non-Filing Attorneys (i.e. attorneys not registered for ECF or attorneys who are registered, but are not the filer of the document) are to be filed electronically with the signature represented by an “s/” and the name typed in the space where a signature would otherwise appear, or as a scanned image. Such approval shall be indicated as follows:

s/ Plaintiff Attorney

s/ Filing Attorney

*(Signed by Filing Attorney with permission of Plaintiff Attorney) **or**,*

(Signed copy of document bearing signature of Plaintiff Attorney is being maintained in the office of Filing Attorney)

The filing attorney is responsible for maintaining a record of when and how permission was obtained to sign the other attorney’s name until all appeals have been exhausted or the time for seeking appellate review or any other post conviction relief has expired.

The filing attorney may obtain and maintain a paper copy of the document signed by the other attorney. The filing attorney shall maintain the signed copy of the document until all appeals have been exhausted or the time for seeking appellate review or any other post conviction relief has expired.

The filing attorney may obtain original signatures, scan the signature page **only**, and file it as an attachment to the pleading or other document. The filing attorney shall maintain the signed original until all appeals have been exhausted or the time for seeking appellate review or any other post conviction relief has expired.

3. Non-User Signature

Documents that are required to be signed by persons who are not counsel of record (e.g., verified pleadings, contracts, affidavits, etc.) may be submitted in electronic format in any of the following ways, so long as the filer has and maintains the signed original until all appeals have been exhausted or the time for seeking appellate review or any other post conviction relief has expired:

- a. An electronic version of the document bearing “s/ (name)” can be filed along with a statement that the filer has the signed original, for example:

s/ Plaintiff Smith*

**I certify that I have the signed original of this document, which is available for inspection at any time by the Court or a party to this action.*

s/ Filing Attorney

- b. An electronic version of the document bearing “s/ (name)” can be filed with a scanned copy of the signature page as an attachment.

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- c. If the document containing original signatures is not digitally available, it may be scanned and filed electronically.

Note: Anyone who disputes the authenticity of any signature must file an objection to the pleading or other document within ten (10) days of service.

D. AMENDED PLEADINGS.

Original proposed amended pleadings shall be signed and attached to any motion for leave to amend the pleading. Unless otherwise permitted by the Court, every pleading to which an amendment is permitted as a matter of right or has been allowed by order of the Court must be retyped or handwritten and filed so that it will be complete in itself including exhibits, without reference to the superseded pleading. Each amended pleading shall contain copies of all exhibits referred to in the amended pleading.

The party shall file the motion for leave to amend, and attach a signed copy of the amended pleading to the filing. The party shall also submit the signed amended pleading to the Clerk via the designated mailbox at CM-ECFIntake_OKED@oked.uscourts.gov. Finally, if the amendment is not permitted as a matter of right, the party shall also submit a proposed Order granting the motion for leave to amend to the Clerk via the designated mailbox listed above. The proposed Order shall refer to the docket entry number for the motion for leave to amend.

E. TITLES OF DOCKET ENTRIES

The party electronically filing a pleading or other document shall be responsible for designating a title for the document by using one of the docket event categories prescribed by the Court. The docket event categories are contained in the ECF Event Lists, which can be found on the Court's website at www.oked.uscourts.gov.

F. FILING ERRORS

Once a pleading or other document is submitted and becomes part of the case, the ECF System will not permit the filer to change the pleading or other document or the docket entry.

Filers should make every effort to ensure that they do not file a pleading or document other than the one intended to be filed, that it is filed in the correct case, and that it does not contain information that should have been redacted or filed under seal. The Clerk's Office should be immediately notified of any mistakes by telephone at (918) 684-7920 or by e-mail at CM-ECFIntake_OKED@oked.uscourts.gov. The notifier should provide the Clerk's Office with the case number and docket number of the erroneous entry. The filer may file a motion to withdraw, but should not file the replacement document unless directed to do so.

G. ORDERS

1. Orders

All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these rules, which will constitute entry on the docket kept by the clerk under Fed.R.Civ.P. 58 and 79.

All signed orders will be filed electronically by the court or court personnel, except for those filed under seal.

Any order or other court-issued document filed electronically without the original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order and it had been entered on the docket in a conventional manner.

Orders may also be issued as "text-only" entries on the docket, without an attached document. Such orders are official and binding.

When mailing or faxing a copy of an electronically filed order to a party who is not a registered participant of the ECF System, the Clerk will include the Notice of Electronic Filing to provide the recipient with proof of filing.

2. Proposed Orders

When filing a motion for which no supporting brief is required in accordance with LCvR7.1, the moving party shall submit a proposed order granting the requested relief.

The motion, which shall comply with LCvR7.1, must be filed prior to submitting the proposed order, and the proposed order must refer to the docket entry number for the motion.

All proposed orders shall be in a format compatible with WordPerfect, which is a “Save As” option in most word processing software; proposed orders in .pdf format will not be accepted.

All proposed orders shall be submitted to the Clerk via the designated mailbox at CM-ECFIntake_OKED@oked.uscourts.gov.

A party moving for issuance of a writ or summons shall attach the writ or summons in .pdf format to the proposed order (if one is needed).

A party moving for entry of default shall, after filing a motion for default, submit the entry of default and the proposed judgment of default to the Clerk via the designated mailbox at CM-ECFIntake_OKED@oked.uscourts.gov. Any proposed judgment shall include the docket entry number of the motion for entry of default.

3. Pretrial Orders

The party responsible for submitting a proposed pretrial order shall docket the proposed pretrial order event on CM/ECF, but not attach the proposed pretrial order to the docket entry. The proposed pretrial order shall be submitted in .pdf format to the Clerk via the designated

mailbox at CM-ECFIntake_OKED@oked.uscourts.gov. The proposed pretrial order shall contain the signatures of all counsel of record.

H. EXHIBITS, ATTACHMENTS, AND APPENDICES

Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless the court permits conventional filing.

A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court.

Excerpted material must be clearly and prominently identified as such.

Filing Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document.

Responding parties may timely file additional excerpts or the complete document that they believe are directly germane.

The court may require parties to file additional excerpts or the complete document.

Exhibits, attachments, and appendices that are filed electronically shall be submitted as separate attachments to the pleading or other document and shall be clearly labeled with the appropriate exhibit number. Exhibits may **NOT** be grouped together for uploading into the system. Each exhibit must be scanned and identified separately.

As the ECF System automatically rejects filings that are greater than five (5) megabytes, documents that exceed five (5) megabytes when converted to electronic form must be broken up into separate documents and identified with the exhibit number and part number (i.e. Exhibit 3, part 1; Exhibit 3, part 2).

I. PRIVACY

In compliance with the policy of the Judicial Conference of the United States and the E-Government Act of 2002 (Pub. L. 107-347, which was enacted on December 17, 2002), and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court:

- **Social Security Numbers (in civil and criminal cases).** If an individual's Social Security number must be included in a pleading, only the last four digits of that number shall be used.
- **Names of Minor Children (in civil and criminal cases).** If the involvement of a minor child must be mentioned, only the initials of that child shall be used.
- **Dates of Birth (in civil and criminal cases).** If an individual's date of birth must be included in a pleading, only the year shall be used.
- **Financial Account Numbers (in civil and criminal cases).** If financial account numbers are relevant, only the last four digits of these numbers shall be used.
- **Home Addresses (in criminal cases only).** If a home address must be included, only the city and state shall be used.

The responsibility for redacting these personal data identifiers rests solely with counsel and the parties. The clerk will not review each pleading for compliance with this general rule.

In addition, parties may refrain from including, or may partially redact where inclusion is necessary, the following confidential information: personal identifying numbers such as driver's license numbers; medical records; employment history; individual financial information; proprietary or trade secret information; information regarding an individual's cooperation with the government; information regarding the victim of any criminal activity; national security information; and sensitive security information as described in 49 U.S.C. 114(s).

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers or other confidential information listed above may:

- File an unredacted version of the document under seal, which shall be retained by the court as part of the record; **or**
- File a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifier. The reference list must be filed under seal, and may be amended as of right. The reference list shall be retained by the court as part of the record. The Court may, however, still require the party to file a redacted copy of the document for the public file.

A filer may file under seal a document containing the unredacted personal data identifiers or file a reference list without requiring a specific court order if said document indicates in the heading or style that it is an "UNREDACTED VERSION OR REFERENCE LIST pursuant to Local Rule".

J TRANSCRIPT REDACTION

At its September 2007 session, the U.S. Judicial Conference approved a new policy regarding the availability of transcripts of court proceedings. A new release of CM/ECF, Version 3.2, includes software that facilitates the implementation of this policy.

The policy only applies to transcripts of official court hearings, not depositions taken outside of court or proceedings of state courts or other jurisdictions. Counsel is to request redaction of specific personal data identifiers before the transcript is made remotely available to the general public. **The responsibility for redacting personal identifiers rests solely with counsel and the parties.** Neither the Clerk nor the Court Reporter will review transcripts for compliance.

1. Summary:

- A transcript filed by the court will be available at the office of the Clerk of Court for inspection only, for a period of 90 days from filing.
- During the 90-day period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference. During the 90-day period the transcript will be available to court staff, at the public terminals in the clerk's office, and remotely electronically available to any attorneys of record who have purchased a copy from the court reporter.
- After the 90-day period has ended, the transcript will be available for copying in the clerk's office, and for download through PACER if not redacted; or if redacted, the redacted version will be available.

2. Transcript Redaction Request:

Redaction responsibilities apply to the attorneys even if the requestor of the transcript is another party, the judge or a member of the public/media. Unless otherwise ordered by the Court, the attorney (or, where there is a self-represented party, the party) must review the following portions of the transcript:

- opening and closing statements made on the party's behalf;
- statements of the party;
- the testimony of any witnesses called by the party;
- sentencing proceedings; and
- any other portion of the transcript as ordered by the court.

If any redaction is required, counsel must file with the court a Transcript Redaction Request (form available on our website) **within 21 calendar days from the filing of the transcript** indicating where the personal identifiers appear in the transcript by page and line. This procedure is limited to the redaction of the specific personal data identifiers listed below:

- social security numbers to the last four digits;
- financial account numbers to the last four digits;
- dates of birth to the year;
- names of minor children to the initials;
- home addresses to the city and state.

If an attorney fails to timely file a Transcript Redaction Request or Motion for Extension of Time to file Transcript Redaction Request, no redactions will be made and the original transcript will be remotely publicly available after 90 days.

3. Requests for Additional Redactions:

If counsel would like to request further redactions, in addition to those personal identifiers listed above, counsel must move the Court by filing a separate Motion for Additional Redaction of Transcript. Until the Court has ruled on any such motion, the transcript will not be electronically available, even if the 90-day restriction period has ended.

4. Redacted Transcripts:

The Court Reporter or transcriber must, within 31 calendar days of the filing of the original transcript, or longer if the court so orders, perform the requested redactions, and file a redacted version of the transcript with the Clerk of Court. The original unredacted transcript will be retained by the Clerk as a restricted document.

5. Remote Public Access to Transcripts:

If a redacted transcript is filed with the Court, the redacted transcript will be electronically available through PACER after 90 calendar days from the date of filing of the original transcript. The original transcript will never be made remotely available to the public. If the original transcript is not redacted, that original transcript will be electronically available through remote PACER access after 90 calendar days.

6. CJA Panel Attorneys:

An attorney who is serving as appointed "standby" counsel for a pro se litigant must review the transcript as if the pro se party were his/her client. If an attorney represents a client pursuant to the Criminal Justice Act (CJA), including serving as standby counsel, the attorney conducting the review of the transcript is entitled to compensation under the CJA for functions reasonably performed to fulfill the obligation and for reimbursement of related reasonable expenses.

7. PACER Fees:

PACER fees will be applied both during and after the 90-day restriction period. Charges will not be capped at 30 pages as they are for other court documents, but will rather accrue for the entire transcript. The user will incur PACER charges for each time the transcript is accessed even though he/she may have purchased it from the court reporter and obtained remote access through CM/ECF. There is no "free look" for transcripts.

IV. CONVENTIONAL FILING OF DOCUMENTS

A. GENERAL RULES FOR FILING

The procedures listed in Section IV govern certain documents filed conventionally. The assigned judge, upon application, may authorize conventional filing of other documents.

The court will keep the paper copy of any document filed conventionally and imaged for a short period of time in order to assure the scanned image is legible. After a short retention period that will be determined by the court, the paper copy of the document will be discarded.

For those documents filed conventionally, but not scanned by the court as designated in these rules, the paper document filed with the court shall be deemed the original.

B. TYPES OF DOCUMENTS FILED CONVENTIONALLY BUT SCANNED BY THE COURT

1. All Initiating Documents in Civil, Criminal, Miscellaneous, and Magistrate Cases

This includes complaints, notices of removal, informations, and indictments.

2. Documents filed by Pro Se Litigants and Other Non CM/ECF Users

Pro se litigants and other non CM/ECF users shall file paper originals and one copy of all complaints, pleadings, motions, affidavits, briefs, and other documents. The Clerk will scan these original documents and upload to the ECF System.

3. Cases or Documents to be Filed Under Seal

Leave of court is required to file a document under seal. An applicant shall request such leave by filing a motion (along with a copy of the document sought to be sealed) and submitting a proposed order granting the relief. If the motion is granted, the filer shall then deliver the original and one copy of the document to the Clerk for conventional filing under seal. The Clerk will scan these original documents and upload to the ECF System. However, the sealed documents will not be available on ECF. Any document filed under seal will be maintained by the Clerk in paper form unless the assigned judge orders the document unsealed.

Titles of sealed pleadings will be docketed and open to the public, unless otherwise ordered by the Court. Therefore, parties should take every precaution to remove confidential material from the title of the sealed pleading.

4. Criminal cases

Several documents in criminal cases require the signature of a non-attorney, such as a grand jury foreperson, a defendant, a third-party custodian, a United States Marshal, or an officer from Pretrial Services or Probation. In general, the Clerk will scan all documents signed by non-attorneys in a criminal case, upload to the ECF System, and retain in paper format only charging documents or documents signed by a defendant.

5. Criminal Justice Act Vouchers

Criminal Justice Act Vouchers shall be filed conventionally. The Clerk will scan the document and upload to the ECF System. The document will not be available on the ECF System, but will be available for viewing upon request at the Clerk's office.

6. Ex Parte Submissions

Ex parte submissions shall be filed conventionally, scanned by the Clerk, and uploaded to the ECF System. The ex parte motion and its NEF will be automatically distributed to everyone in the case who signed up for service by email. If you need to restrict service of the ex parte motion, do not electronically file it. It will need to be filed under seal in the conventional paper method.

C. TYPES OF DOCUMENTS FILED CONVENTIONALLY, NOT IMAGED, AND MAINTAINED IN PAPER FORMAT BY THE COURT

1. State Court Records and Transcripts in Habeas Matters

Absent a showing of good cause, all documents filed by attorneys in habeas cases shall be filed electronically except the state court record and transcripts, which shall be conventionally filed and served. The Clerk will maintain the state court record and transcripts in paper form.

2. Prisoner Litigation

Absent a showing of good cause, all documents filed by attorneys in Prisoner Civil Rights Litigation cases shall be filed electronically except for the Martinez (Special) Report, which shall be conventionally filed and served. The Clerk will maintain the Martinez (Special) Report in paper form.

3. Social Security Cases

Absent a showing of good cause, all documents in Social Security cases shall be filed and noticed electronically. If the Social Security administrative record or transcript is filed electronically, a courtesy copy shall be provided to the appropriate chambers at the time of

electronic filing. For records which are conventionally filed and served, the Clerk will maintain the administrative record in paper form.

4. Administrative Records

Due to the size of records in ERISA and other types of administrative review, administrative records will not be routinely imaged.

5. Bankruptcy Records on Appeal

All documents in Bankruptcy Appeal cases shall be filed electronically. If the Bankruptcy record on appeal and/or transcripts are not available from the Bankruptcy court via electronic transfer, the record on appeal and/or transcripts shall be filed conventionally and served. The Clerk will maintain any such documents filed conventionally in paper form. This Court's rule regarding oversized documents applies to Bankruptcy records on appeal and/or transcripts. (See Section III.)

6. Documents Larger than five (5) Megabytes When Converted to PDF Format

Certain documents, such as pictures, odd-sized originals, etc., that cannot be broken up into smaller files will not be imaged.

7. Other Conventional Filings

For cause shown, an attorney may apply to the assigned judge for permission to file documents conventionally. Even if permission to file documents conventionally is granted, that permission may be withdrawn at any time during the pendency of the litigation.

V. PUBLIC ACCESS TO THE ECF SYSTEM

A. PUBLIC ACCESS AT THE COURT

1. Hours

Electronic access by the public to the electronic docket and documents filed in the ECF System is available at no charge at the Clerk's Office during regular business hours (unless otherwise indicated, Monday through Friday, 8:00 a.m. to 4:30 p.m.).

The business hours of the Court Clerk and the procedures for filing pleadings, motions, briefs, and other papers shall be determined by the Court from time to time. After business hours and on Saturdays, Sundays, and legal holidays, when good cause is shown, the Court Clerk may permit other filings.

2. Fees

Conventional copies and certified copies of electronically filed documents may be purchased at the Clerk's Office. The fee for copying and certifying will be in accordance with 28 U.S.C. 1914.

B. REMOTE ACCESS - PACER

1. Hours

Remote electronic access to the ECF System is limited to subscribers to the Public Access to Court Electronic Records ("PACER") system. The ECF system is routinely available 24 hours a day, 7 days a week.

2. Fees

The Judicial Conference of the United States has ruled that a user fee will be charged for remotely accessing detailed case information, such as filed documents and docket sheets. Such fees do not apply to the initial viewing of a document served via a Notice of Electronic Filing. If, however, the document is again remotely accessed through PACER, a fee will be incurred.

C. PUBLIC ACCESS TO SOCIAL SECURITY CASES

Attorneys are allowed to electronically file documents in Social Security cases. Internet access to the individual documents will be limited to the case participants. This policy is based on Judicial Conference Committee recommendations, which state, “. . . Social Security cases warrant such treatment because they are of an inherently different nature from other civil cases Further, all Social Security disability claims, which are the majority of Social Security cases filed in district court, contain extremely detailed medical records and other personal information, which an applicant must submit in an effort to establish disability. Such medical and personal information is critical to the court and is of little or no legitimate use to anyone not a party to the case. Thus making such information available on the Internet would be of little public benefit and would present a substantial intrusion into the privacy of the claimant.” Docket sheets, however, will be available over the Internet to non-parties, who will continue to have direct access to the documents on file at the Clerk’s Office.

VI. MISCELLANEOUS

A. HYPERLINKS

According to the guidelines set forth by the Committee on Information Technology, allowing hyperlinks in electronic case filings does not inherently increase the security risk to the judiciary; therefore, hyperlinks are allowed in documents filed with the court. However, the judiciary should not require or encourage filers to choose any specific information source for a hyperlink reference. Additionally, the judiciary should not exercise any responsibility over the content at its destination. Also, because the availability and location of the information on the Internet is still highly volatile, the functioning of a hyperlink reference should not be guaranteed.

In short, attorneys should keep in mind that, in following the judiciary's guidelines, the court shares the view that a hyperlink contained in filing is no more than a convenient mechanism for accessing material cited in the document, and a hyperlink reference is extraneous to any filed document and is not part of the court's record. Further, in order to preserve the integrity of the court record, attorneys wishing to insert hyperlinks in court filings should continue to use the traditional citation method for the cited authority, in addition to the hyperlink.

B. TECHNICAL FAILURES

1. Court's ECF System

A technical failure exists when the ECF System is unable to accept filings continuously or intermittently over the course of any period of time greater than two (2) hours after 12:00 p.m. that day. Check the Court's website for postings regarding any scheduled or other ECF System outages or downtimes. Should a filing be made untimely as the result of a technical failure of the Court's ECF System, the filer may seek appropriate relief from the assigned judge.

2. Filer's System

Problems on the filer's end, such as phone line problems, problems with the filer's Internet Service Provider (ISP), or hardware or software problems, will not constitute a technical failure under these procedures or excuse an untimely filing. Upon a showing of good cause, the assigned judge may grant appropriate relief for an untimely filing.

VII. GLOSSARY OF TERMS

Conventional Filing or Conventionally Submitted Document: a filing submitted in paper or other non-electronic, tangible format.

Electronic Case Filing or Electronic Filing: submitting a pleading or other document using the Court's Internet-based system (the ECF System) for filing in the Court's case file. Sending a document to the Clerk or the assigned judge via e-mail does not constitute "electronic filing."

ERISA: Employee Retirement Income Security Act, 29 U.S.C. 1001-1461.

Five (5) Megabytes (MB): five million bytes. A byte is the basic unit of information in computer storage and processing. Documents that are computer generated require fewer bytes than the equivalent pages of a scanned document. Likewise, documents that are text only use fewer bytes than graphics or photographs. If your document is plain text, correspondence, pleadings, etc., 5 MB is approximately 75-115 pages. The 5 MB limit for documents containing tables, charts or graphics is approximately 30-40 pages.

Internet Service Provider (ISP): a company that provides access to the Internet. For a monthly fee, the service provider gives you a software package, username, Password, and access phone number. Equipped with a modem, you can then log on to the Internet, browse the World Wide Web (www), and send and receive e-mail.

Notice of Electronic Filing: the notice generated by the ECF System when a document is filed. The notice of electronic filing includes information about what was filed, the text of the docket entry, the unique document stamp, and a list of case participants who will receive e-mail notification of the filing and a list of those who will not. The notice of electronic filing contains a hyperlink to the filed document.

PACER: the Federal Judiciary's system for Public Access to Court Electronic Records. A PACER account is required to retrieve documents and docket sheets from the ECF System after the initial transmission. To register for a PACER account, visit the PACER Service Center's website at www.pacer.psc.uscourts.gov.

Password: a series of letters and numbers initially assigned by the Court, which can be changed by the ECF registrant using the ECF System's utility menu.

Portable Document Format (.pdf) Files: a computer file that will look the same on the screen and in print, regardless of what kind of computer or printer is used and regardless of what software package was originally used to create it. A .pdf file is a picture of the original document that cannot be changed in any way, thereby safeguarding the information in the original document.

Pro Se Parties: parties proceeding without attorney representation.

Remote Access: offsite access to the Court’s ECF System.

Scanned Documents: an image recorded by an electronic device (a “scanner”). For best results, scanners should be configured to 200 dots per inch (“dpi”) and black and white rather than color scanning. The filing party is responsible for the legibility of the scanned document.

Server: a computer or device on a network (two or more computers linked together) that manages network resources. For example, a file server is a computer and storage device dedicated to storing files. Any user on the network can store files on the server. A print server is a computer that manages one or more printers, and a network server is a computer that manages network traffic. A database server is a computer system that processes database queries.

Upload: the process of adding electronic information from an external source.

User Login: a series of letters and numbers assigned by the Court to each ECF registrant.

REVISION HISTORY:

05/03/2007 Exhibits/attachments/appendices to be scanned/identified separately
02/02/2008 Additional language regarding unredacted documents
09/18/2008 Revised to include information on transcript redaction
04/10/2009 Revised information on training classes; update information on filing of Social Security transcripts; indicate now filing transcripts of court hearings in cm/ecf