

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

**EXECUTIVE SUMMARY OF THE FEDERAL RULES, USDCNH LOCAL RULES,
AND ADMINISTRATIVE PROCEDURES FOR ELECTRONIC CASE FILING
IN THE DISTRICT OF NEW HAMPSHIRE**

(May 15, 2008)

PREAMBLE

The following is a compilation of both the federal and local rules, as well as the local administrative procedures governing electronic case filing (ECF). While this document does not contain a comprehensive listing of all rules and procedures that may apply to an ECF case, it provides a detailed topical overview, with citations, in one document and in an easy to read format. We think future ECF users would greatly benefit by reading this document as a primer before reviewing the pertinent rules and procedures or the district's ECF User Guide. Of course, in practice counsel and the parties involved in an ECF case may not rely on the contents of this informational document and are responsible to consult applicable federal statutes, federal rules of procedure, local rules of this court, administrative procedures governing electronic case filing, and standing orders of this court.

AUTHORITY TO PERMIT ELECTRONIC FILING

In general, the authority to permit electronic filing is derived from three sources: (1) the Federal Rules of Civil and Criminal Procedure; (2) the Local Rules of this District ("LR"), and (3) the Administrative Procedures for Electronic Case Filing ("AP").

Federal Rule of Civil Procedure 5(d)(3) authorizes the adoption of local rules allowing the court to accept papers "filed, signed, or verified by electronic means" and provides that "[a] paper filed electronically in compliance with a local rule constitutes a written paper for the purposes of these rules." See also Fed. R. Crim. P. 49(d) ("A paper must be filed in a manner provided for in a civil action.") (Advisory Committee Note to subdivision (d) provides "[t]his rule incorporates by reference rule 5(d) and (e) of the Federal Rules of Civil Procedures,..."). Thus, Local Rule 5.4(a) authorizes the clerk's office to accept papers filed by electronic means. It further treats documents filed through the court's electronic filing system as a pleading entered on the court's docket and as a written paper within the meaning of the federal rules of procedure and local rules of this court. LR 5.4(a). Finally, the ECF Administrative Procedures contain the detailed procedures that govern electronic case filing in this district.

SCOPE OF ELECTRONIC CASE FILING

Except as otherwise provided in the Administrative Procedures for ECF, all documents filed by an attorney admitted to practice in this district, including counsel admitted pro hac vice, shall be electronically filed using the court's Electronic Case Filing System (ECF). AP 2.1(a). A party who is not represented by counsel may file papers with the clerk in the traditional manner, but is not precluded from filing electronically. AP 2.1(d). An attorney may apply to the court for permission to file paper documents in a case. AP 2.1(b).

To ease the transition to ECF, case initiating documents, such as a civil complaint, can be filed either electronically or on paper. AP 2.4(a). Additionally, an attorney who is not an ECF Filing User may conventionally file the first document on behalf of a client in an ECF case without leave of the court. AP 2.1(c). Within thirty (30) days thereafter, however, the attorney must register as an ECF Filing User. Id.

ELIGIBILITY TO FILE ELECTRONICALLY & REGISTRATION

A person must register with both ECF and PACER in order to be an ECF Filing User. AP 6.1 (ECF); AP 6.2(f) (PACER).

ECF Registration. An attorney admitted to the Bar of this court may register as an ECF Filing User by completing an on-line registration form on the court's website at www.nhd.uscourts.gov. AP 6.1(a). An attorney admitted pro hac vice must also register as an ECF Filing User. AP 6.1(b). Registration as a Filing User constitutes consent to electronic service of all documents in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure. AP 6.2(b).

A non-prisoner who is a party to a civil action and who is not represented by an attorney may file a motion to register (on a form prescribed by the clerk's office) as an ECF Filing User solely for purposes of the action. AP 2.1 (d) & 6.1(c). If during the course of the action the pro se litigant retains an attorney who appears on their behalf, the clerk's office shall terminate the person's registration upon the attorney's appearance. AP 6.1(c).

Duty to Update ECF Registration Information. An ECF Filing User has an obligation to notify the clerk's office of any change in the following information contained in the original Registration Form through a Notice of Change of Address form: name; mailing address; firm name or affiliation; or telephone number. AP 6.2(e). If participating in an active case, a Filing User shall inform the court and parties of such a change through the use of the "Notice of Change of Address" event in ECF in each active case. Id. An ECF Filing User may, however, change their e-mail address through maintenance of their user account without filing a Notice of Change of Address.

Withdrawal As ECF Filing User. Once registered for ECF, an attorney of record in an active case may withdraw from participating in the ECF system only upon motion in that case. AP 6.2(g). Otherwise, an attorney may withdraw from participating in the ECF system by providing the clerk's office with a written notice of withdrawal. Id. Upon receipt, the clerk's office will immediately cancel the attorney's password and delete the attorney's name from any applicable electronic service list. Id. An attorney's withdrawal from participation in the ECF system will not be construed as authorization for the attorney to file cases or documents conventionally unless so authorized by court order. Id.

PACER Registration. ECF users must have a PACER account. AP 6.2(f). If you do not have a PACER login, contact the PACER Service Center at (800) 676-6856 or (210) 301-6440 to establish an account. Or, you may register for PACER online at <http://pacer.psc.uscourts.gov>. There is no fee to obtain the account. It takes approximately one (1) hour to receive a login and password when you register online with the PACER Service Center .

ECF LOGIN AND PASSWORD

New users will receive a login and password identification following registration. Since the ECF Administrative Procedures provide that the password and login constitute the ECF Filing User's signature for all purposes, including for the purposes of Fed. R. Civ. P. 11, see AP 2.7(a), care should be taken to ensure that this information is protected from unauthorized use. An ECF Filing User shall not allow another person to file a document using their login and password, except for an authorized agent of the filing user, such as the attorney's ECF filing assistant. AP 6.2(c). Use of an ECF Filing User's login and password by a staff member shall be deemed to be the act of the registered user. Id.

Filing Users may change their password (but not their login) at any time through maintenance of their user account. AP 6.2(d). A Filing User who learns that the security of their password has been compromised must immediately change their password and notify the clerk's office help desk. Id.

WHEN A DOCUMENT IS DEEMED "FILED" AND WHAT CONSTITUTES THE "RECORD" IN AN ECF CASE

The electronic filing of a document through ECF consistent with the ECF Administrative Procedures and rules of court, together with the transmission of a Notice of Electronic Filing from the court's ECF system, constitutes filing for all purposes of the Federal Rules of Civil/Criminal Procedure and local rules of this court. AP 2.2(a). A document electronically filed through the court's ECF system shall be deemed filed on the date and time stated on the Notice of Electronic Filing received from the court. AP 2.2(b). Electronic filing does not alter the filing deadline for a document. All electronic filings must be completed before midnight local time in order to be considered timely filed that day unless a different time is established by court order. AP 2.2(d).

Except as otherwise provided in the ECF Procedural Order, the clerk's office will not maintain a paper court file in any ECF case. AP 2.2(c). The official court record shall be the electronic file maintained on the court's servers together with any paper documents filed in accordance with the administrative procedures. Id.

SERVICE OF DOCUMENTS FILED ELECTRONICALLY

Federal Rule of Civil Procedure 5(b)(2)(E) permits service under Fed. R. Civ. P. 5(a)--not service under Fed. R. Civ. P. 4--to be completed by "sending [the pleading] by electronic means if the person consented in writing--in which event service is complete upon transmission." Federal Rule of Civil Procedure 5(b)(3) further provides that "[i]f a local rule so authorizes, a party may use the court's transmission facilities [i.e. CM/ECF] to make service under Rule 5(b)(2)(E)." The provisions of Fed. R. Civ. P. 5 are incorporated by reference into Fed. R. Crim. P. 49(b). Additionally, Fed. R. Civ. P. 77(d)(1) and Fed. R. Crim. P. 49(c) authorize courts to serve notice of entry of orders or judgments by electronic means as provided by Rule 5(b).

Local Rule 5.4(b) authorizes service of court orders and service by the parties, as required by Fed. R. Civ. P. 5(b) and Fed. R. Crim. P. 49(b), to be accomplished through the court's ECF transmission facilities. It also authorizes the court to enact procedural orders governing electronic service. LR 5.4(b).

Whenever a pleading or other document is filed electronically, the ECF system will automatically generate and send a Notice of Electronic Filing (NEF) to the Filing User and registered users of record. The NEF, which will also be maintained on the court's docket, shall serve as the court's date-stamp and proof of filing. AP 2.2(a) & (b).

Transmission of the NEF to ECF registered users who are counsel of record in a case shall constitute service of the filed document and is deemed to satisfy the requirements of Fed. R. Civ. P. 5(b)(2)(E) and 77(d)(1) and Fed. R. Crim. P. 49(b). AP 2.8(b). By registering as a participant in the court's ECF system, a registered user consents to electronic service of all electronically filed documents in ECF cases. AP 6.2(b). Pursuant to Fed. R. Civ. P. 5(b)(2)(E), service is complete upon transmission.

Attorneys and pro se litigants who are not ECF Filing Users must be served with a paper copy of any electronically filed pleading or other document in accordance with the provisions of Fed. R. Civ. P. 5. AP 2.1(d) & 2.8(d). Pursuant to Fed. R. Civ. P. 5(b)(2)(E), a Filing User who learns that electronic service through the court's transmission facilities did not reach the person to be served must serve the document in an alternative manner approved by Fed. R. Civ. P. 5.

Pursuant to Fed. R. Civ. P. 6(d), service by electronic means shall be treated the same as service by mail for the purpose of adding three (3) days to the prescribed period to respond.

Additionally, to the extent that the ECF Administrative Procedures permit a pleading or other document to be filed conventionally, service must be effectuated in a manner authorized by the federal rules of procedures. AP 3.9.

Case opening complaints or petitions may not be served electronically and must be served in accordance with Fed. R. Civ. P. 4. AP 2.4(b). Additionally, LR 5.1(e) prohibits filing and service of pleadings by facsimile transmission.

CERTIFICATES OF SERVICE

Pursuant to Fed. R. Civ. P. 5(d)(1) and LR 5.1(d), all documents filed using the ECF system must still include a certificate of service. The certificate of service must identify the manner and date on which service on each party was accomplished. LR 5.1(d).

Note that attorneys and pro se litigants who are not ECF Filing Users must be served with a paper copy of any electronically filed pleading or other document in accordance with the provisions of Fed. R. Civ. P. 5. AP 2.1(d) & 2.8(d). Similarly, documents that are filed in paper must be conventionally served in accordance with the federal rules of procedure. AP 3.9.

SIGNATURES ON ELECTRONICALLY FILED DOCUMENTS

Attorneys. The Filing User's login and password required to submit documents to the ECF system shall serve as that user's signature for purposes of Fed. R. Civ. P. 11 and for all other purposes under the federal rules of procedure and the local rules of this court. AP 2.7(a)(1). All electronically filed documents must include a signature block and must set forth the attorney's name, bar registration number, address, telephone number, and e-mail address. AP 2.7(a)(2). The name of the ECF user under whose login and password the document is submitted must be preceded by a "/s/ [Insert Signatory's Name]" and typed in the space where the signature would otherwise appear. Id.

Multiple Signatures. The filer of any document requiring more than one signature (e.g. pleadings filed by a party having pro hac vice counsel, stipulations, joint status reports) must list thereon all the names of other signatories by means of a "/s/ [Insert Signatory's Name]" block for each. AP 2.7(b)(1). By submitting such a document, the filing attorney certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filing attorney has their actual authority to submit the document electronically. AP 2.7(b)(2).

Affidavits. Preexisting affidavits and preexisting non-Filing User signature documents shall be filed in a scanned PDF format. AP 2.7(c). All other affidavits and non-Filing User signature documents, including the signature of a notary or other jurat, shall be filed in an electronically converted PDF format and shall contain a "/s/ [Insert Signatory's Name]" block indicating that the paper document bears an original signature. Id.

Objection to Authenticity. A non-filing signatory or party who disputes the authenticity of an electronically filed document must file an objection to the document within ten (10) days of the date on the Notice of Electronic Filing. AP 2.7(d).

Retention Requirement. Documents that are electronically filed and contain original signatures other than that of the Filing User, as well as consents to file under AP 2.7(b)(2) to the extent memorialized, shall be maintained in paper form by the Filing User until three (3) years after the date of filing or until the conclusion of all appeals in the case, whichever date is later. AP 2.7(e). Upon request of the court or any party, a Filing User must make the original documents available for inspection. Id.

PDF FORMAT AND QUALITY CONTROL

PDF Format Required. Documents electronically filed must be submitted in Portable Document Format (PDF) format. There are two types of PDF documents – electronically converted PDF documents and scanned image PDF documents. AP 1.1(f). The main document (e.g. motion, objection, reply) must be submitted as a converted PDF in all instances (unless otherwise provided in the rule, e.g. return of service documents), and the attachments/exhibits should also be submitted in a converted PDF format unless the filer only possess a paper copy, in which case it may be submitted in scanned PDF format. AP 2.3(a).

Converted PDFs Must Be Text Searchable. AP 1.1(f) and 2.3(a) require that electronically converted PDF documents be text searchable. Thus, attorneys must assure that the searchable text function in their PDF conversion software program is activated. A scanned PDF document, which should only be submitted if the filer possesses only a paper copy of the document, need not be text searchable (i.e. filers need not purchase a scanner having OCR technology). AP 2.3(a).

PDF Documents Exceeding Three Megabytes. No document exceeding 3 megabytes will be accepted in ECF. Any individual PDF document exceeding 3 megabytes must be divided into separate PDF documents of less than 3 megabytes. AP 2.3(b). If an individual PDF document exceeds 10 megabytes (i.e. would have to be broken into 4 separate segments of less than 3 megabytes), the filer is required to file the document on a compact disk rather than trying to submit it in ECF or on paper. If the 10 megabyte document is an exhibit/attachment to a main document, which it will be in the vast majority of cases, the exhibits should be submitted consistent with AP 2.5(d)(i.e. file a Notice of Conventional Filing in the place where you would have filed the exhibit electronically and get the disk/CD to the court and the parties within 72 hours).

Hyperlinks in PDF Documents. AP 2.3(i) allows filers to submit documents containing hyperlinks to other portions of the same document, to other documents filed within the CM/ECF system, or to an Internet URL having a source document for a citation. Note that a hyperlink does not replace standard citation format and is not deemed part of the record.

Scanned Documents. As stated previously, Filing Users may submit a scanned image PDF document only if the document cannot be electronically converted to PDF. AP 2.3(a). As pleadings should always be electronically converted from the word processing original, typically the only documents that might be scanned in a case would be attachments or exhibits to a motion or other pleading. For further information regarding the submission of attachments and exhibits, see infra.

Verify Readability Requirement. The Filing User must verify the readability of a converted or scanned PDF document before electronically filing it in ECF. AP 2.3(f).

Scanned Document Retention Requirement. Paper documents converted to PDF through a scanner and filed using ECF must be retained by the Filing User until three (3) years after the date of filing or until the conclusion of all appeals in the case, whichever date is later. AP 2.3(g). Upon request of the court or any party, a Filing User must make the paper document available for inspection. Id.

PDF Document Restrictions. The ECF system will not accept PDF documents containing tracking tags, embedded systems commands, password protections, access restrictions or other security features, special tags or dynamic features. AP 2.3(j).

ELECTRONIC PLEADING FORMATTING REQUIREMENTS

Title of Docket Entries/Pleadings. All electronically filed documents shall be titled and docketed in accordance with the approved dictionary of civil/criminal events available on ECF. AP 2.3(c). The clerk's office may, when necessary and appropriate, modify the docket entry description to comply with quality control standards. Id.

Format of Electronic Filings. Except as provided in the ECF Administrative Procedures, electronically filed documents must comply with the formatting and page limit requirements for paper documents as set forth in the Federal Rules of Civil/Criminal Procedure and the local rules of this court. AP 2.3(d).

SUBMISSIONS HAVING A FEE

In district court, the following filings have a required fee: new civil and miscellaneous case filings; notices of appeals; motions pro hac vice; and tape requests. Attorneys electronically filing pleadings having a filing fee may use the new credit card module in CM/ECF to pay the required fee. (case opening documents, AP 2.4(a); notices of appeal, AP 3.6; pro hac vice motions, AP 3.7). Of course, counsel are not required to make payment by credit card using ECF and may, at their option, file the above-documents in paper with the appropriate fee. Finally, due to limitations of the court's credit card payment system, pro se parties may not electronically file pleadings having a filing fee at this time and all such filings must be made in paper. AP 2.1(d). Also due to the limitations of the system, Filing Users must submit a separate motion for each attorney whose admission is sought pro hac vice and may not request the pro hac vice admission of multiple attorneys in one motion. AP 3.7.

CIVIL/MISCELLANEOUS CASE OPENING DOCUMENTS

Filing. Civil and miscellaneous case opening documents and related attachments may be (i) electronically filed through the court's ECF system if the attorney Filing User pays the filing fee using the ECF credit card payment system, simultaneously submits a motion to proceed in forma pauperis, or if no filing fee is required, or (ii) conventionally filed with the appropriate filing fee. AP 2.4(a). If an attorney chooses to file conventionally, however, AP 2.4(a) requires that they supply all of the case opening documents and attachments on a 3.5 floppy or compact disk in PDF format within 48 hours. Note that the rule only requires attorneys to file the documents on disk--it does not impose that requirement on pro se litigants.

“Civil case opening documents” shall include, but are not limited to, complaints, petitions, or notices of removal. Id. Related attachments that should be electronically filed shall include, but are not limited to, the civil cover sheet and summons/notice of lawsuit and waiver of summons. Id. A Filing User requesting summonses must complete the top section of the each summons form before filing electronically or conventionally. Id.

Service. If summonses are submitted with the case opening documents, the clerk's office will return signed and sealed paper copies of the summonses either electronically through ECF or on paper by regular mail to counsel for the plaintiff(s) for service of process. AP 2.4(b). Case opening complaints or petitions may not be served electronically and must be served in accordance with Federal Rule of Civil Procedure 4. Id.

Return of Service. All returns of service or other returns in civil and miscellaneous cases shall be electronically filed in a scanned PDF format. AP 2.4(c).

CRIMINAL CHARGING DOCUMENTS

All charging documents, including indictments, superseding indictments, informations, complaints and citations or violation notices, and accompanying documents such as supporting affidavits, warrants for arrest, praecipe for summons or warrant, summons (if applicable) and criminal case cover sheets, shall be conventionally filed. AP 3.1(a). The charging document, but not the criminal case cover sheet, will be scanned and added to the court's electronic docket. Id.

ATTACHMENTS AND NON-TRIAL EXHIBITS

Submit in PDF Format as Separate Attachment to Main Document. As stated previously, Filing Users may submit a scanned image PDF document only if the document cannot be electronically converted to PDF. AP 2.3(a). As pleadings should always be electronically converted from the work processing original, typically the only documents that might be scanned in a case would be attachments or exhibits to a motion or other pleading.

Unless otherwise provided in the ECF Administrative Procedures, all documents referenced as exhibits or attachments to a motion or other pleading (“main document”) shall be electronically filed in a converted or scanned PDF format. AP 2.5(a). Each exhibit or attachment to the main document shall be filed as a separate attachment to the main document, shall be individually numbered/lettered, and shall be followed by a short description of the document in the description field (which shall not exceed five (5) words). Id. If attachments include more than one exhibit, the Filing User need not submit a separate table of contents or index as otherwise required by LR 5.1(a)(2), as the documents will be separately hyperlinked and indexed in the ECF system. Id.

May Be Submitted in Excerpted Format. A Filing User may submit as attachments and non-trial exhibits only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. AP 2.5(b). Excerpted material must be clearly and prominently identified as such. Id. Filing Users must promptly provide excerpted documents in full to any party making such a request. Id. Responding parties may timely file additional excerpts, or the complete document, if they believe these additional submissions are directly germane. Id. The court may require the parties to file additional excerpts or the complete document. Id.

Conventional Filing of Attachments/Non-Trial Exhibits. Some attachments and non-trial exhibits may be filed conventionally. For example, attachments and non-trial exhibits that cannot reasonably be filed in an electronically converted or scanned PDF format, such as bulky attachments, physical exhibits, demonstrative evidence, and video or audio tapes, may be conventionally filed. AP 2.5(c).

Notice of Conventional Filing. If an ECF Filing User does submit attachments conventionally, the filer shall electronically submit a Notice of Conventional Filing on a form prescribed by the clerk’s office in the place where the attachment or exhibit would have been submitted electronically as an attachment to the main document. AP 2.5(d)(1). The main document shall be deemed filed upon the issuance of the Notice of Electronic Filing, provided that the conventionally submitted matters are filed and served within 72 hours. AP 2.5(d)(2). A paper copy of the Notice of Electronic filing shall be attached to the conventionally submitted matter. Id. If an attachment or exhibit is conventionally filed, it will be maintained and available for inspection in the clerk’s office and will not be added to the court’s electronic docket. AP 2.5(d)(3).

SEALED CASES, SEALED DOCUMENTS AND EX PARTE FILINGS

Sealed Cases. Documents in sealed cases shall be conventionally filed. AP 3.3(a). The filer shall also contemporaneously provide the court with a 3.5 floppy or compact disk of the main document and any accompanying memorandum of law or exhibits as separate documents in PDF format, which shall be named and organized in a manner that clearly identifies each document. Id.

Sealed Document in Public Case. If an entire submission, which includes the main document and any accompanying memorandum of law and attachments/exhibits, is sought to be filed under seal, the entire submission shall be conventionally filed. AP 3.3(b)(1). No Notice of Conventional filing should be electronically filed in this circumstance. Id. The filer must also contemporaneously provide the court with a 3.5 floppy or compact disk of the main document and any accompanying memorandum of law or exhibits as separate documents in PDF format, which shall be named and organized in a manner that clearly identifies each document. Id.

If the filing contains both sealed and unsealed documents, the submission shall be electronically filed and a Notice of Conventional Filing shall be inserted in the place where the sealed document(s) would otherwise have appeared on the electronic docket. AP 3.3(b)(2). The documents sought to be sealed shall be conventionally filed within 72 hours of the electronic submission and contemporaneously produced on a 3.5 floppy or compact disk as separate documents in PDF format, which shall be named and organized in a manner that clearly identifies each document. Id.

Motions to Seal. All motions to seal should be conventionally filed. AP 3.3(c).

Ex Parte Documents. All ex parte pleadings shall be conventionally filed. AP 3.4. Ex parte pleadings will be scanned and added to the public docket contemporaneously with the entry of the court's order on the ex parte request. Id.

SPECIAL FILING REQUIREMENTS AND EXCEPTIONS

Conventionally Filed Documents--Scanned. Unless otherwise provided in the ECF Administrative Procedures, the clerk's office will scan and insert on the court's electronic docket all non-sealed conventionally filed documents listed:

Criminal:

- Charging Documents (AP 3.1(a))
- Applications and Accompanying Affidavits (AP 3.1(b))
- Return of Service Documents (AP 3.1(c))
- Documents Signed by Defendants (AP 3.1(e))
- Violations of Supervised Release/Probation (AP 3.1 (f))

Civil/Miscellaneous Cases

- Administrative Inspection Warrants (AP 3.2(e))

Conventionally Filed Documents--Not Scanned. Unless otherwise provided in the ECF Administrative Procedures, the clerk's office will not scan and insert the following documents into the court's electronic docket:

Criminal:

- Grand Jury Matters (AP 3.1(d))
- CJA Vouchers and Supporting Materials (AP 3.1(h))
- Financial Affidavits (AP 3.1(e))

Civil/Miscellaneous:

- Administrative Records (AP 3.2(a))
- Habeas Corpus Rule 5 Materials (AP 3.2(b))
- Mediation Documents (AP 3.2(c))
- Letters Rogatory (AP 3.2(d))
- Objections to Assignment to Magistrate Judge (AP 3.2(f))

State Court Records. The certified copy of the state court record in removal actions shall be scanned and filed electronically. AP 2.6. Pursuant to LR 81.1(c), the state court record must be filed within ten (10) days of the filing of the notice of removal.

Trial Exhibits/Exhibits Lists. All trial exhibits and exhibit lists shall be conventionally filed in accordance with LR 83.13. AP 3.5. The clerk's office will scan and insert into the court's electronic docket only the final exhibit list and not the trial exhibits.

Letters/Correspondence. All letters and correspondence shall be conventionally filed. AP 3.8. The clerk's office may scan and add substantive letters and correspondence to the court's electronic docket. Id.

MANDATORY REDACTION OF PERSONAL IDENTIFIERS

Redaction in Court Pleadings Generally. To address the privacy concerns created by Internet access to court documents, Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1 require the filing attorney to refrain from including, or to partially redact where inclusion is necessary, the following personal identifiers from all filings with the court:

- (1) Social security numbers: Use of the last four numbers only;
- (2) Minors' names: Use of the minor's initials only;
- (3) Dates of birth: Use of the year of birth only;
- (4) Financial account numbers: Identify the type of account and the financial institution, but use only the last four numbers of the account number; and
- (5) Home address information: Use city and state information only.

Exemptions from these redaction requirements are expressly listed in the rules. Fed. R. Civ. P. 5.2(b); Fed. R. Crim. P. 49.1(b). According to the comments to the rule, it is the responsibility of the filing party, not the clerk's office, to review each document and to redact any personal identifiers.

Attorney Obligation to Review Transcripts for Personal Identifiers. Within twenty-one (21) days after the date on the Notice of Electronic Filing of a Transcript, any party who purchased an original or a copy of the transcript shall:

- (1) Review the transcript to determine whether it contains any personal identifiers listed in Fed. R. Civ. P. 5.2 or Fed. R. Crim. P. 49.1, whichever is applicable, and

- (2) Electronically file a Transcript Redaction Request if that party concludes the transcript contains personal identifiers that must be redacted.

AP 4.2 (b). Any party that did not request an original or copy of the transcript may also review the transcript for personal identifiers and may electronically file a Transcript Redaction Request within this same twenty-one (21) day period. Id.

The responsibility for redacting personal identifiers rests solely with counsel and the parties. Id. Neither the court reporter nor court staff are responsible to independently redact information from the case unless there is a redaction request by a party to the case. Id. The parties will be charged no fee for redactions made by a court reporter. Id. If a purchasing party does not timely file a Transcript Redaction Request, no redaction will be made and the original transcript will be publicly available ninety (90) days from the date the original transcript was filed with the court. AP 4.2(d).

If counsel would like to request further redactions, in addition to those personal identifiers listed in the Federal Rules of Procedure, counsel must move the court by filing a separate Motion to Redact Transcript. AP 4.2(c).

ERRONEOUS DOCKET ENTRIES

A Filing User may not correct a docket entry or document submission error after a document is electronically filed in ECF. AP 2.3(h). If necessary to satisfy a filing deadline, a Filing User may electronically resubmit the entire document, including all attachments, in ECF. Id. Otherwise, the Filing User shall not attempt to refile the document in ECF. Id. The Filing User shall immediately contact the clerk's office help desk to report the error and request necessary remedial action. Id. The clerk's office may make an entry indicating that the document was filed in error and may request that the document be refiled. Id. The court may, upon motion of a party or upon its own motion, strike any erroneously or inappropriately filed document. Id.

FAILURE OF ECF SYSTEM OR FILER'S SYSTEM

ECF System Failure. A failure of the ECF system, referred to as a "technical failure," will be deemed to have occurred when the court's ECF system cannot accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 pm (noon) on a given day. AP 2.10(a). This does not include such periods resulting from scheduled maintenance for which public notice was provided. Id. A Filing User experiencing a technical failure may conventionally file the document if accompanied by a declaration attesting to the Filing User's attempts to timely file the document using ECF. AP 2.10(b). If a Filing User misses a filing deadline due to an inability to file electronically as a result of a technical failure (i.e. cannot conventionally file the document in time), such a failure shall constitute a condition rendering the office of the clerk of court inaccessible within the meaning of Fed. R. Civ. P. 6 and Fed. R. Crim. P. 45. AP 2.10(e). In such circumstances, the Filing User may electronically or conventionally file the document, accompanied by a declaration stating the reasons for missing

the deadline, no later than 12:00 noon of the first day on which the court is open for business following the original filing deadline. Id. Jurisdictional deadlines, however, cannot be extended by the court for any reason and counsel is responsible for ensuring that a document is timely filed to comply with a jurisdictional deadline. Id. For example, the jurisdictional deadlines contained in Fed. R. Civ. P. 6(b)(2), which in turn references Fed. R. Civ. P. 50(b) & (d), 52(b), 59(b),(d) & (e), and 60(b), may not be extended by court order or local rule.

If a pleading is filed conventionally, a Filing User must serve the document in any alternative manner permitted by the Federal Rules of Civil/Criminal Procedure. AP 2.10(c); AP 3.9. The Filing User shall immediately report a technical failure to the clerk's office help desk. AP 2.10(d).

Filer's System Failure. A problem with the Filing User's systems or equipment shall not constitute a technical failure nor excuse an untimely filing. AP 2.10(f). In such circumstances, however, a Filing User may file the document conventionally with a declaration explaining how the systems failure precluded filing in ECF. Id.

PUBLIC ACCESS TO ELECTRONIC DOCKET AND DOCUMENTS

The public may obtain access to the electronic docket and documents that have not been sealed at no charge at the clerk's office during regular business. AP 5.1 A copy fee for an electronic reproduction will be assessed in accordance with 28 U.S.C. § 1914. Id.

The public may obtain remote access to the court's docket and electronically filed documents at the court's Internet site (www.nhd.uscourts.gov) by obtaining a PACER log-in and password. AP 5.2. Remote Internet access to documents in social security and specific immigration cases through PACER will be limited to counsel of record and shall not be available to the general public. Fed. R. Civ. P. 5.2(c); Fed. R. Crim. P. 49.1(c). A user fee for accessing court information through PACER will be assessed in accordance with 28 U.S.C. § 1914. Id.

PUBLIC ACCESS TO COURT TRANSCRIPTS

Access During 90 Day Period After Transcript Filed. A transcript produced by a court reporter will be available at the clerk's office for inspection only, but not for reproduction, for a ninety (90) day period after it is filed. AP 4.2(f). During this ninety (90) day period, only attorneys of record who have purchased a copy of the transcript from the court reporter will be allowed remote Internet access to the transcript through PACER. Id. During the ninety (90) day period, a copy of the transcript may be obtained from the court reporter at the rate established by the Judicial Conference.

Access After the Conclusion of the 90 Day Period. At the conclusion of the ninety (90) day period the original transcript, or a redacted transcript if applicable, will be available to the public for copying in the clerk's office and available by remote Internet access through PACER. AP 4.2(f). If a redacted transcript is filed with the court, the original transcript will not be made publicly available. Id.

PACER Fees. PACER fees apply both during and after the ninety (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 each time the transcript is accessed even though the user may have purchased it from the court reporter and obtained remote access through CM/ECF. AP 4.2(f). There is no “free look” for transcripts.

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