

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ADMINISTRATIVE PROCEDURES GOVERNING
THE FILING AND SERVICE BY ELECTRONIC MEANS

ELECTRONIC FILING and PDF

Electronic Filing is the process of uploading a document from the registered user's computer, using the court's Internet-based Electronic Case Files (ECF) system, to file the document in the court's case file. The ECF system only accepts documents in a portable document format (PDF). Although there are two types of PDF documents - electronically converted PDF's and scanned PDF's - **only electronically converted PDF's may be filed with the court using the ECF System**, unless otherwise authorized by local rule or order.

Electronically converted PDF's are created from word processing documents (MS Word, WordPerfect, etc) using Adobe Acrobat or similar software. They are text searchable and their file size is small.

Scanned PDF's are created from paper documents run through an optical scanner. Scanned PDF's are not searchable and have a large file size.

ADMINISTRATIVE PROCEDURES

(a) General Information

- (1) All documents submitted for filing in civil and criminal cases commenced on or after January 1, 2003, except those documents specifically exempted in subsection (g) of these procedures, shall be filed either electronically using the Electronic Case Filing System (ECF) or on a properly labeled 3.5" floppy disk, compact disk, or DVD in portable document format (PDF) so that the document can be added to the electronic case file.
- (2) The official court record in ECF cases shall be the electronic file maintained on the court's servers together with any disks, DVDs, and paper attachments and exhibits filed in accordance with these procedures.

- (3) The Clerk's Office may discard the PDF disk after it has been uploaded to ECF.
- (4) All documents filed by electronic means must comply with technical standards, if any, established by the Judicial Conference of the United States or by this Court.
- (5) An attorney may apply to the Court for permission to file paper documents.

(b) Registration

- (1) Attorneys admitted to the bar of this court, including visiting attorneys, shall register as filing users of the court's ECF system prior to filing any pleadings. Registration shall be on an Attorney Registration Form, a copy of which is on the Court's web page (www.med.uscourts.gov).
- (2) A non-prisoner who is a party to a civil action and who is not represented by an attorney may register as a filing user in the ECF system. If during the course of the action the person retains an attorney who appears on the person's behalf, the Clerk shall terminate the person's registration upon the attorney's appearance.
- (3) A registered user shall not allow another person to file a document using the user's log-in and password, except for an authorized agent of the filing user. Use of a user's log-in and password by a staff member shall be deemed to be the act of the registered user.
- (4) Registration constitutes consent to service of all documents by electronic means as provided in these procedures.

(c) Filing and Service of Civil Case Opening Documents

- (1) Civil case opening documents, such as a complaint, petition, or notice of removal, together with a properly completed summons and civil cover sheet, shall be filed either by e-mail in PDF or on a properly labeled 3.5" floppy or compact disk in PDF, so that the documents can be added to ECF.
- (2) The Clerk's Office will imprint the seal of the court and the Clerk's signature on the summons and issue the summons electronically to counsel. A party may not electronically serve a civil complaint but shall print the embossed summons and effect service in the manner in accordance with Fed.R.Civ.P.4.

(d) Electronic Filing

- (1) Electronic transmission of a document to the ECF system, together with the transmission of a Notice of Electronic Filing (NEF) from the court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and constitutes entry of the document on the docket maintained by the Clerk pursuant to Fed.R.Civ.P.58, Fed.R.Civ.P.79 and Fed.R.Crim.P.55.
- (2) A document filed electronically shall be deemed filed at the time and date stated on the Notice of Electronic Filing received from the court.
- (3) All pleadings filed electronically shall be titled in accordance with the approved dictionary of civil or criminal events of the ECF system of this court.

(e) Service of Electronically Filed Documents

- (1) Whenever a non-sealed pleading 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 user filing the document should retain a paper or digital copy of the NEF, which shall serve as the court's date-stamp and proof of filing.
- (2) Transmission of an NEF shall constitute service of the filed document and shall be deemed to satisfy the requirements of Fed.R.Civ.P.5(b)(2)(D), Fed.R.Civ.P.77(d) and Fed.R.Crim.P.49(b).
- (3) Although the filing of sealed documents in civil cases produces an NEF, the document itself cannot be accessed and counsel shall be responsible for making service of the sealed documents.
- (4) All documents filed using the ECF system shall include a certificate of service stating that the document has been filed electronically and that it is available for viewing and downloading from the ECF system. The certificate of service must identify the manner in which the service on each party was accomplished. A sample certificate of service form is attached as Form A.
- (5) Attorneys who have not yet registered as users with ECF and pro se litigants who have not registered with ECF shall be served a paper copy of any electronically filed pleading or other document in accordance with the provisions of Fed.R.Civ.P.5.
- (6) 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.

(f) Deadlines.

Filing documents electronically does not in any way alter any filing deadlines. All electronic transmissions of documents must be completed prior to midnight, Eastern Time, in order to be considered timely filed that day. Where a specific time of day deadline is set by Court order or stipulation, the electronic filing must be completed by that time.

(g) Special Filing Requirements and Exceptions

- (1) The following documents shall be filed electronically in civil cases:
 - (A) Motions to file documents under seal and sealed documents;
 - (B) Ex parte motions and applications; and
 - (C) Unredacted documents.

- (2) The following documents **shall be filed only on paper**:
 - (A) Motions to file documents under seal and documents filed under seal in criminal cases;
 - (B) Ex parte motions and applications filed in criminal cases;
 - (C) Administrative records in social security cases and in other administrative review proceedings;
 - (D) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings; and
 - (E) Pretrial hearing and trial exhibits.

- (3) The following documents **shall be filed on paper**, which **may also be scanned** into ECF by the Clerk's Office:
 - (A) All handwritten pleadings;
 - (B) All pleadings and documents filed by pro se litigants who are incarcerated or who are not registered filing users in ECF;
 - (C) The charging document in a criminal case, such as the complaint, indictment, and information, as well as the criminal synopsis form;
 - (D) Affidavits for search and arrest warrants and related papers;
 - (E) Fed.R.Crim.P.20 and Fed.R.Crim.P.40 papers received from another court; and
 - (F) Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement.

- (4) The following documents must **be scanned by counsel** and filed using ECF:
 - (A) Rule 4 executed service of process documents; and
 - (B) The state court record filed in 28 U.S.C. § 1446 removal proceedings.

- (5) Attachments to filings (See subsection (j))
- (6) The following documents may be received by the Clerk's Office in criminal cases, but are not filed, electronically or otherwise, unless ordered by the Court:
 - (A) Pretrial service reports;
 - (B) Appearance bonds;
 - (C) Psychiatric and psychological reports;
 - (D) Pre-sentencing reports and other papers submitted prior to sentencing; and
 - (E) Letters from defendants.
- (7) Petitions by the U. S. Probation Office shall be filed electronically in all criminal cases regardless of the case commencement date. All subsequent filings by counsel shall be made electronically on ECF.

(h) Signature

- (1) Attorneys. The user log-in 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 Civil Procedure and the Local Rules of this Court. All electronically filed documents must include a signature block and must set forth the attorney's name, address, telephone number and e-mail address. The name of the ECF user under whose log-in and password the document is submitted must be preceded by a "/s/" in the space where the signature would otherwise appear.
- (2) Multiple Signatures. The filer of any document requiring more than one signature (e.g., pleadings filed by visiting lawyers, stipulations, joint status reports) must list thereon all the names of other signatories, preceded by a "/s/" in the space where the signatures would otherwise appear. 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. The filing attorney shall retain any records evidencing this concurrence for future production, if necessary, until two (2) years after the expiration of the time for filing a timely appeal. A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures must file an objection to the document within ten days of the date on the Notice of Electronic Filing.
- (3) Affidavits. Except as provided in subsection (g)(3)(D), affidavits shall be filed electronically; however, the electronically filed version must contain the typed name of the signatory, preceded by a "/s/" in the space where the signature would otherwise appear indicating that the paper document bears an original signature. The filing attorney shall retain the original for future production, if necessary, for two (2) years after the expiration of the time for filing a timely appeal.

(i) Privacy

In compliance with the policy of the Judicial Conference of the United States and in order to address the privacy concerns created by Internet access to court documents, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court:

- (1) Minors' names: Use of the minors' initials only;
- (2) Social security numbers: Use of the last four numbers 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 addresses: Use the city and state only.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may file an unredacted document under seal, which shall be retained as part of the record, or, may file a reference list under seal. The reference list shall contain the complete personal data identifiers and the redacted identifiers used in 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. It shall be retained by the court as part of the record.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review filings for compliance with this rule.

(j) Attachments

Attachments to filings and exhibits must be filed in accordance with the Court's ECF User Manual, unless otherwise ordered by the court

- (1) When there are 30 or fewer attachments to a pleading, the attachments must be filed by counsel electronically using ECF.
- (2) When there are more than 30 attachments, the attachments must be filed in one of the following ways:
 - (A) Using ECF as attachments to the pleading;
 - (B) Using ECF as "Additional Attachments";
 - (C) On paper; or
 - (D) On a properly labeled 3.5" floppy disk, CD or DVD.

Attachments filed on paper or on disk must contain a comprehensive index that clearly describes each document.

- (3) A filing user must submit as 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. Users who file excerpts of documents do so without prejudice to their right to timely file additional excerpts or the complete document, as may be allowed by the Court. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane.
- (4) Filers shall not attach as an exhibit any pleading or other paper already on file with the Court in that case, but shall merely refer to that document.

(k) Orders and Judgments

- (1) Proposed orders shall not be filed unless requested by the Court. When requested by the Court, proposed orders shall be filed by e-mail in word processing format
- (2) A judge, or any authorized member of the court staff, may grant routine orders by a text-only entry upon the docket. In such cases, no PDF document will issue; the text-only entry shall constitute the court's only order on the matter and counsel will receive a system generated NEF.

(l) Transcripts

- (1) Proceedings of this Court. A transcript of a proceeding of this court shall be filed electronically using ECF or on a properly labeled 3.5" floppy or compact disk in PDF.
- (2) Transcripts from other Courts. A transcript of a proceeding of another court shall be filed electronically in PDF, if so available, otherwise on paper.
- (3) Depositions. Depositions, other than those to be used at trial, shall be filed electronically using ECF or on either a 3.5" floppy disk, compact disk, or DVD in PDF, unless otherwise permitted by the Court. Depositions to be used at trial should be filed in paper.

(m) Facsimile Transmissions

No pleadings or other documents shall be submitted to the Court for filing by facsimile transmission without prior leave of Court.

(n) Technical Failures

A filing user whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.

(o) Pro Se Litigation

Non-prisoner pro se litigants in civil actions may register with ECF or may file (and serve) all pleadings and other documents on paper. The Clerk's Office will scan into ECF any pleadings and documents filed on paper in accordance with subsection (g) of these procedures.

(p) Access to Electronically Stored Documents

The public may review at the Clerk's Office all filings that have not been sealed. Except for social security cases, the public may access civil filings made after January 1, 2003 and criminal filings made after November 1, 2004 in ECF at the court's Internet site (www.med.uscourts.gov) by obtaining a PACER log-in and password. Access to documents filed in social security cases shall be restricted to the attorneys of record.

(q) Retention

Unless otherwise ordered by the Court, documents that are filed on paper shall be maintained by the Clerk's Office until two (2) years after the expiration of the time for filing a timely appeal.