

## **APPENDIX IV**

### **UNITED STATES DISTRICT COURT DISTRICT OF MAINE**

#### **ADMINISTRATIVE PROCEDURES GOVERNING THE FILING AND SERVICE BY ELECTRONIC MEANS**

**(Revised December 2011)**

##### **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.

Software used to electronically convert documents to PDF which includes proprietary or advertisement information within the PDF document is prohibited.

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##### **ADMINISTRATIVE PROCEDURES**

###### **(a) General Information**

- (1) All documents submitted for filing in civil and criminal cases, regardless of case commencement date, except those documents specifically exempted in subsection (g) of these procedures, shall be filed electronically using the Electronic Case Filing System (ECF).
- (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) 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.
- (4) Documents filed with the Clerk's Office will normally be reviewed no later than the close of the next business day. It is the responsibility of the filing party to promptly notify the Clerk's Office via telephone of a matter that requires the immediate attention of a judicial officer.
- (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](http://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 to receive service electronically and to electronically transmit their documents to the Court for filing 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 by e-mail 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, Fed.R.Crim.P.49 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) Although the filing of the Mandatory Plea Agreement Supplement in criminal cases produces an NEF, the document itself cannot be accessed and counsel shall be responsible for making service of the sealed document along with the Plea Agreement.
- (5) 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 available in our Electronic Case Files User Manual on our website.

- (6) 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.

**(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) Generally, all documents are filed electronically in civil cases, to include the following:
  - (A) Motions to file documents under seal and sealed documents;
  - (B) Ex parte motions and applications;
  - (C) Unredacted documents;
  - (D) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings may be filed electronically or in paper; and
  - (E) Administrative records in Social Security Disability cases.
- (2) The following documents **shall be filed only in paper**:
  - (A) Administrative review proceeding records other than administrative records in Social Security Disability cases.
- (3) The following documents **shall be filed in paper** with the Clerk's Office, which **will also be scanned and uploaded** into ECF (Note that sealed documents in **criminal** cases will not generate an NEF and the docket entry and documents will not be accessible):
  - (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) Pleadings and documents filed in sealed cases, both civil and criminal;
  - (D) The charging document in a criminal case, such as the complaint, indictment, or information;
  - (E) Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment, plea agreement or mandatory plea agreement supplement; and
  - (F) Affidavits for search and arrest warrants.

- (4) The following documents **shall be filed in paper**, which **may also be scanned** into ECF by the Clerk's Office:
  - (A) All handwritten pleadings; and
  - (B) All pleadings and documents filed by pro se litigants who are incarcerated or who are not registered filing users in ECF.
- (5) 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.
- (6) Attachments to filings (See subsection (j))
- (7) The following documents may be received by the Clerk's Office, but are not filed, electronically or otherwise, unless ordered by the Court:
  - (A) Pretrial services reports;
  - (B) Psychiatric and psychological reports;
  - (C) Presentence reports, character letters and general documents in support of sentencing (excluding Sentencing Memoranda);
  - (D) Hearing and trial exhibits; and
  - (E) Letters in support of Downward Departure Motions.

**(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)(F), 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 in **criminal** cases 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.

The redaction requirement does not apply to the following:

- (1) A financial account number that identifies the property allegedly subject to forfeiture in a forfeiture proceeding in **civil** cases;
- (2) A financial account number or real property address that identifies the property allegedly subject to forfeiture in a forfeiture proceeding in **criminal** cases;
- (3) The record of an administrative or agency proceeding;
- (4) The official record of a state court proceeding;
- (5) The record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;
- (6) A civil filing covered by Rule 5.2(c) or (d);
- (7) A pro se filing in an action brought under 28 U.S.C. Sections 2241, 2254, or 2255;

- (8) A criminal filing made under Rule 49.1(d);
- (9) A court filing that is related to a criminal matter or investigation and that is prepared before the filing of a criminal charge or is not filed as part of any docketed criminal case;
- (10) An arrest or search warrant; and
- (11) A charging document and an affidavit filed in support of any charging document.

**(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, simply attach them to the pleading being filed;
  - (B) Using ECF, use the "Additional Attachments" menu item;
  - (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.

- (3) 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.

**(I) Transcripts**

(1) Proceedings of this Court.

- a. A transcript of a proceeding of this Court shall be filed electronically using ECF. The transcript shall be available at the Clerk's Office, for inspection only, for a period of 90 days after it is filed. During this 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. The transcript will be available at the public terminal at the courthouse and remotely electronically available to any attorneys of record who have purchased a copy from the court reporter or transcriber.
  - b. In compliance with the policy of the Judicial Conference of the United States and to address privacy concerns outlined in Section (i) of this order:
    - i. Parties must file a Notice of Intent to Redact within seven (7) calendar days of the filing of the official court transcript;
    - ii. If redaction is requested, parties must submit to the court reporter a Redaction Request within 21 days from the filing of the official court transcript;
    - iii. Parties must move the Court for any additional redactions beyond those identified in section (i) of this order;
    - iv. Any redacted transcript shall be filed electronically using ECF within 31 days from the filing of the official court transcript;
    - v. After the 90-day inspection-only period has ended, the original transcript, or redacted transcript, if so filed, will be publicly available through PACER.
  - c. The Judicial Conference of the United States Policy on Privacy and Public Access to Electronic Case Files states that documents in **criminal** cases containing identifying information about jurors or potential jurors shall not be included in the public case file and shall not be made available to the public at the courthouse or via remote electronic access. Transcripts of proceedings may become public record; therefore, counsel are advised to use juror numbers instead of juror names during court hearings.
- (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. Excerpts of depositions in support of or in opposition to a motion shall be filed electronically using ECF, unless otherwise permitted by the Court. Full transcripts of 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.

A technical failure of the Court's ECF system is deemed to have occurred when the Court's ECF site cannot accept filings continuously or intermittently over the course of any period of time greater than one hour. Known system outages will be posted on the Court's website along with guidance on how to proceed, if applicable.

(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 Documents**

(1) **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](http://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. However, the public may access judgments, opinions and orders filed on or after December 1, 2007 in social security cases.

(2) **Sealed Cases and Documents**

(A) **In General:** In both civil and criminal actions, cases may be sealed in their entirety, or only as to certain documents. Sealing may be required when a case is initiated or at various times during the proceedings. Cases and documents can only be sealed by statute, local rule, or an order of the Court. A sealed case or document cannot be examined except by order of the Court, or by certain judicial employees.\*

(B) **Criminal:** In a criminal case which is not sealed in its entirety, when an individual document is sealed, neither the docket entry nor the document is available to be examined by the public without a Court order, unless the Local Rules provide otherwise.

- (C) **Civil:** In a civil case which is not sealed in its entirety, when an individual document is sealed the docket entry remains publicly available, unless the Local Rules provide otherwise. However, the sealed document itself is not available to be examined by the public except by Court order.

\*Judicial Employees with access to sealed documents include the Clerk of Court, Chief Deputy, Information Systems Analysts, Case Managers, Chambers Staff and Probation Officers.

(q) **Synopsis of Revisions**

Date	Description of Revision
5/19/08	Added Paragraph 4 to ELECTRONIC FILING and PDF
5/19/08	Section (i)(5) added text "in <b>criminal</b> cases only"
5/19/08	Added list of redaction requirement exemptions
5/19/08	Modifications and additions to Section (l)(1)
7/1/08	Paragraph (e)(4) added
4/1/09	Section (g)(6) "Appearance bonds" removed; and Section (g)(6) "Letters from defendants" removed
12/1/09	Section (b)(2) non-prisoner pro se language updated Section (e)(7) removed language re: adding 3 days for service by mail Section (g)(2)(D) moved to Section (g)(1)(D) Section (n) 2 <sup>nd</sup> paragraph added
4/1/10	Section (g)(1)(E) added Section (g)(2)(C) modified Section (g)(3)(C) removed language re: criminal synopsis form Section (g)(3) removed item re: Fed.R.Crim.P.20 and 5 papers language; Section (g)(3)(F) renumbered to (g)(3)(E) Section (p) (2) added
3/11/11	Section (a)(4) was renumbered to (a)(5) and a new (a)(4) was added.
12/13/11	Section (d)(1) – added citation for Fed.R.Crim.P. 49 Section (g)(1) – added clarifying language Section (g)(2) and (g)(3) – moved subsections from one into the other for clarification and reworded (g)(3) to say "will also be scanned..." and added parenthetical note regarding sealed criminal documents Section (g)(4) [previously(g)(3)]–moved subsections (C) and (D) to section (g)(3) Section (g)(7) [previously (g)(6)] – added two subsections for categories of documents and clarified language Section (j)(2)(A) & (B) – revised for clarity Section (k)(3) – this is new section, added to explain court-issued orders