

# Questions and Answers from the Best Practice Seminars

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**Question:** How are civil and criminal cases assigned to judges?

**Answer:** Generally, civil cases are randomly assigned among all district judges without regard to the location where the case is filed. Civil cases filed in Bangor will ordinarily be referred to Magistrate Judge Kravchuk and cases filed in Portland will ordinarily be referred to Magistrate Judge Rich. Generally, criminal cases filed in Bangor are assigned to Chief Judge Woodcock and criminal cases filed in Portland are randomly assigned among Judges Hornby, Singal and Torresen.

**Question:** Surveillance videos from stores, businesses, police departments, etc. are captured with a wide variety of proprietary software programs. Many of them are not compatible with the Court's system. What format do we have to get our video files into so that they will be compatible with the Court's equipment, including the system that goes to the jury during their deliberations?

**Answer:** All video and audio files should be in a format playable by MS Windows Media Player. This would include the following file formats: .WAV; .MP3; .WM; .MID; .MIDI; .CDA; .MPG; .MPEG; .MP2; .MPV2.

**Question:** What other transcript formats are available from the Court Reporter, other than .PDF?

**Answer:** Transcripts are also available in paper or ASCII. If you require another format, please contact the Court Reporter.

**Question:** What, if anything, is the Civil Cover Sheet used for other than to identify possible related cases and to create aggregated data for the Court?

**Answer:** The Civil Cover Sheet is also used to assist the case manager in opening the case and is used to enter the civil case opening statistical data.

**Question:** Regarding Related Cases, do they apply only to active cases and if not, how does one address related cases recently decided and closed prior to filing of an active case?

**Answer:** You can and should list District of Maine cases that are closed but related to the case you are filing. The best practice is to refer to the case by docket number.

**Question:** Does the Court prefer or not prefer cover sheet pages for Exhibits/Attachments?

**Answer:** The preferred method of labeling an exhibit is to put an exhibit sticker or label on the first page of the exhibit if that can be done without having to scan the document and will still allow the document to be easily read. If a label will cover up relevant portions of the document or adding a label would require you to scan a document that could otherwise be electronically converted, you should feel free to label the exhibit or attachment by creating a cover sheet that provides the letter or number being used to identify that exhibit.

**Question:** If you label the attachment as Exhibit A but the attachment is ten separate affidavits, should each affidavit be a separate attachment?

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**Answer:** Yes. Also, each affidavit/attachment should be separately identified with unique descriptions, not just generic identifiers such as Exhibit A, Exhibit B, etc. In other words, you would have ten separate attachments in the above example, i.e. "Exhibit A Affidavit of John Doe," "Exhibit B Affidavit of Jane Doe," "Exhibit C Affidavit of James Doe," etc.

**Question:** Should a Motion for Ex Parte Attachment be filed under Ex Parte No Notice?

**Answer:** Civil Ex Parte Motions may be filed using one of two options: Ex Parte (Notice) or Ex Parte (No Notice).

- Ex Parte (Notice) – the docket entry and the document are publicly available and notice is sent to all counsel of record. The Clerk's Office will bring this ex parte filing to the attention of the judge or magistrate judge as soon as possible without awaiting the response time that is automatically set with the filing of any motion.
- Ex Parte (No Notice) – the docket entry and the document are sealed from public view and NO notice is sent from CM/ECF. The Clerk's Office will bring this ex parte filing to the attention of the judge or magistrate judge as soon as possible without awaiting the response time that is automatically set with the filing of any motion.

Any attachments to the above ex parte motion options carry the same restriction levels outlined above.

**Question:** Would the Court like a motion for confidentiality order to have attach to the motion a red-lined version of the Proposed Order to show changes from the model order?

**Answer:** The Local Rules do not require this, but it is a helpful and courteous practice that many attorneys follow.

**Question:** If you made an error in your ECF filing, say you forgot to put the /S/ signature on the document, should you re-file the document with a corrected signature?

**Answer:** Yes. Please contact the Clerk's Office so that they can make sure the docket correctly reflects that you have made a corrected filing and the earlier filing can be ignored.

**Question:** What should a party do if an opposing party files unredacted personal identifiers?

**Answer:** They should contact opposing counsel and let them know that they have failed to redact required identifiers. If all counsel agree that personal identifiers were inadvertently publicly filed, they may file a joint motion to seal. Upon granting of that motion, the filer would be required to file a properly redacted version of the document at issue. Counsel can also file a motion to seal if opposing counsel is unable or unwilling to file a motion to seal and contact the Clerk's Office to ensure the document is sealed as soon as practicable.

**Question:** What should we know about converting to the use of PDF/A format as opposed to the current format – PDF?

**Answer:** Portable Document Formatting for Archiving (PDF/A) is an International Standards Organization (ISO) standard document format. It is a subset of the PDF standard which excludes those PDF features

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that give rise to concerns about security and the ability to archive electronic documents. PDF/A documents can already be accepted by the CM/ECF system. However, PDF/A is not required and no target date has been set for courts to require PDF/A documents.

**Question:** What if a document is filed on the ECF system publicly (not sealed) and opposing counsel thinks it should never have been filed for public viewing. Can it be taken off ECF?

**Answer:** A motion to seal can be used to address this kind of concern. If the motion to seal is granted, the Clerk's Office will not physically remove the document from the CM/ECF system. Instead, the document will be modified so that it is unavailable for public viewing.

**Question:** Does the signature on both the Motion and the Certificate of Service need to be the signature of the person filing them on ECF?

**Answer:** Yes.

**Question:** If a placeholder is used for only a partially redacted document, should the filer attach the partially redacted document to the placeholder or as a separate attachment?

**Answer:** Use of a placeholder is recommended in only two situations. One is when you are seeking to obtain sealed status for an entire document. The other is when counsel cannot agree that a document should be redacted in whole or in part. The question presumes that the filer intends to attach a partially redacted document and therefore, unless counsel disagree about the appropriateness of redacting, the filer should simply file the redacted version as an attachment to the motion it relates to and include the word "redacted" in the description of the attachment. Although there is no need for a placeholder in this situation, the filer may need to file a motion to seal and attach to it an unredacted version of the document. The ECF Best Filing Practices handout contains more information and outlines the limited circumstances that would call for a placeholder document.

**Question:** Regarding Trial Exhibits, where some exhibits have been agreed to, that is no party is contesting their admission, but other exhibits are contested, how should we handle exhibit numbers? All in one sequential number order, two sets of binders, etc.?

**Answer:** A preferred practice in this situation would be to group the exhibits that will be moved without objection thereby allowing counsel to seek admission of Exhibits 1-20 or even Exhibits 100-120 (which is far simpler than seeking admission of Exhibit 1, 3, 5, 10-15, 17, etc.

**Question:** Regarding Trial Exhibits, if you put exhibits 1-50 in binders, but end up using only nos. 1, 25 and 50, do they get renumbered 1, 2, 3 as they are admitted?

**Answer:** No. To avoid confusion and make sure the record is clear for any future appeal, all exhibits should retain the number used in the prepared exhibit list and/or the number or letter first used to refer to the exhibit at the hearing/trial. The Court will be working off the exhibit list provided by counsel prior to the start of trial and assumes any reference to "Exhibit 3" is the Exhibit 3 described on that document. If the binder or banker box is going to a jury, any non-admitted exhibits would be removed.