

**UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NORTH CAROLINA**



**ELECTRONIC CASE FILING
ADMINISTRATIVE POLICIES AND PROCEDURES MANUAL**

Revised: March 2017

The most current version of this document resides on the court's website. Please cross-reference this printed version with the Policy Manual posted on www.nced.uscourts.gov.

TABLE OF CONTENTS

I.	GENERAL INFORMATION	4
A.	Scope and Citation	4
B.	Authorization for Electronic Filing	4
C.	Notice of Electronic Filing	5
II.	ELIGIBILITY, REGISTRATION, AND PASSWORDS	5
A.	Eligibility	5
1.	Filing Users	5
2.	Receiving Users	5
B.	Registration Forms	5
1.	Attorney Registration—Filing Users	5
2.	Pro se party Registration—Receiving Users	6
C.	Password Maintenance	6
III.	CM/ECF ACCOUNT MAINTENANCE	6
A.	Updating the Account	6
B.	NEFs	7
IV.	DOCUMENT FORMAT	7
A.	Creating a PDF	7
1.	Scanned or Converted PDF	7
2.	PDF and Docket Entry Size	7
3.	PDF/A Format	7
B.	Using Fillable Forms	8
C.	Creating Hyperlinks	8
D.	Signatures	8
1.	Filing Users	8
2.	Multiple Signatures	9
3.	Non-Filing User Signatures	9
4.	Defendant’s Signature in a Criminal Case	9
E.	Title of Document	10

F. Privacy	10
V. FILING IN CM/ECF	10
A. Exceptions to Mandatory Electronic Filing	10
1. Automatic Exemptions	11
2. Permissible Exemptions	12
B. Effect of Electronic Filing	12
1. Official Filing of Documents	12
2. Time of Filing	13
C. First Appearance in a Case	13
D. Case Initiation	13
1. Civil Cases	13
2. Civil Miscellaneous Cases	15
3. Sealed Civil Cases	15
4. Criminal Cases	15
E. Filing an Exhibit as an Attachment in CM/ECF	15
1. Generally	15
2. Index of Exhibits	16
3. Exhibits Filed Manually	16
4. Motions for Summary Judgment	16
F. Motions for Leave to File a Document	17
G. Filing Sealed and Other Restricted Documents in CM/ECF	17
1. Sealed Documents	17
2. <i>Ex Parte</i> Documents	19
3. <i>In Camera</i> Submissions	20
4. Sealed Cases	21
H. Filing of Motions Requesting Immediate Attention	21
I. Orders and Judgments	21
1. Generally	21
2. Text Orders	21
3. Proposed Orders	22
4. Protective Orders	22
J. Corrections in CM/ECF	22
K. Technical Failures	22
1. CM/ECF Technical Failure	22
2. Scheduled Maintenance by the Court	23
3. Technical Failure of the Filing User	23
4. Court Contact for Technical Failure	23

VI. SERVICE.....	23
A. Generally	23
B. Certificate of Service	24
C. Service of a Document by Electronic Means	24
D. Service of a Document by Conventional Means	24
F. Service of a Sealed Document.....	25
1. Criminal.....	25
2. Civil.....	25
VII. ACCESS TO ELECTRONICALLY STORED DOCUMENTS.....	25
A. NEF Access	25
B. Public Access at the Court.....	26
C. Public Internet Access	26
1. Criminal.....	26
2. Civil.....	26
3. Transcripts	27
FORM A.....	28
FORM B.....	29
CHECKLIST FOR ATTORNEYS USING THE ELECTRONIC FILING SYSTEM.....	31

I. GENERAL INFORMATION

The federal judiciary's Case Management/Electronic Case Filing (CM/ECF) system is an internet-based document filing and case management system. The Eastern District of North Carolina implemented CM/ECF in October 2005. Any computer with internet access and web-browser software can access CM/ECF.

A. Scope and Citation

The Electronic Case Filing Administrative Policies and Procedures Manual governs the filing, service and access to documents in CM/ECF in the Eastern District of North Carolina, except that nothing in the manual supersedes the federal rules, local rules or standing orders of this district. Any judge in this district or the clerk of court may vary from or amend these procedures without prior notice. These policies and procedures must be cited as "Section ___ of the Policy Manual" or "Policy Manual." The Policy Manual posted on the district's website www.nced.uscourts.gov constitutes the official record of such policies and procedures.

B. Authorization for Electronic Filing

Rule 5(e) of the Federal Rules of Civil Procedure and Rule 49(d) of the Federal Rules of Criminal Procedure authorize courts by local rule to permit or require papers to be filed by electronic means. Unless otherwise permitted or required by the Policy Manual or authorized by the assigned judge, all documents submitted for filing must be filed electronically using CM/ECF. All attorneys making an appearance pursuant to [Local Civil Rule 83.1](#) and [Local Criminal Rule 57.1](#) are required to register for CM/ECF and file documents electronically. See Standing Order 06-PLR-2.

Any document electronically filed or converted by the clerk's office to electronic format constitutes the official record of the court and the clerk's office will not maintain a paper record of these documents. However, the court may allow material incapable of being stored electronically in CM/ECF to be included in the official record.

CM/ECF registration, training, and other guides are available on the district's [website](#).

C. Notice of Electronic Filing

Whenever a document is filed electronically, CM/ECF will automatically generate and send a Notice of Electronic Filing (“NEF”) to the filing users and receiving users of record. The user filing the document must retain a paper or digital copy of the NEF, which will serve as the court’s date-stamp and proof of filing.

II. ELIGIBILITY, REGISTRATION, AND PASSWORDS

A. Eligibility

1. Filing Users

All attorneys permitted to practice in the Eastern District of North Carolina in accordance with [Local Civil Rule 83.1](#) and [Local Criminal Rule 57.1](#) must register to become a filing user of CM/ECF.

2. Receiving Users

A pro se party who is not incarcerated may consent to be a receiving user of CM/ECF. A receiving user receives notices of filings by email instead of by regular mail, but may not file electronically.

B. Registration Forms

1. Attorney Registration—Filing Users

All attorneys permitted to practice in the Eastern District of North Carolina in accordance with [Local Civil Rule 83.1](#) and [Local Criminal Rule 57.1](#) must register to become a filing user of CM/ECF by completing the Attorney Registration Form prior to filing a document. Government attorneys must complete the Government Attorney Registration Form. The registration forms are available on the district’s [website](#). Registration constitutes written consent to service of all documents by electronic means in accordance with Rule 5 of the Federal Rules of Civil Procedure and Rule 49 of the Federal Rules of Criminal Procedure. The original registration form may be mailed to the clerk’s office to the attention of: ECF Attorney Registration, Post Office Box 25670, Raleigh, NC 27611 or delivered to a staffed clerk’s office. To ensure that the clerk’s office has correctly entered a filing user’s account information, the clerk’s office will send the attorney a confirmation email.

2. Pro se party Registration—Receiving Users

A pro se party who is not incarcerated may consent to be a receiving user of CM/ECF by completing the Pro Se Consent & Registration Form to Receive Documents Electronically. The registration form is available on the district's [website](#). Registration constitutes written consent to service of all documents by electronic means in accordance with Rule 5 of the Federal Rules of Civil Procedure and Rule 49 of the Federal Rules of Criminal Procedure. The original registration form may be mailed to the clerk's office to the attention of: CM/ECF Registration, Post Office Box 25670, Raleigh, NC 27611 or delivered to a staffed clerk's office. To ensure that the clerk's office has correctly entered a receiving user's account information, the clerk's office will send the receiving user a confirmation email.

C. Password Maintenance

Within 14 days after receiving the initial password from the clerk's office, the filing user or receiving user must select a new password. Subsequently, the filing user or receiving user may change the password at his or her discretion. A filing user must not allow another person, except for an authorized agent, to file a document using the filing user's login and password. If a filing user believes that the security of an existing password has been compromised, then the filing user must change the password immediately. Use of the filing user's login and password by another person will be deemed to be the act of the filing user.

III. CM/ECF ACCOUNT MAINTENANCE

A. Updating the Account

A filing user or receiving user is responsible for maintaining his or her account, particularly including email addresses, to ensure accurate delivery of an NEF. If the filing user or receiving user is unable to modify the information in his or her CM/ECF account, the filing user or receiving user must email the modifications to the clerk's office at NCED-Attorney-Update@nced.uscourts.gov. In addition, a Notice of Change of Address must be filed in every pending or active case. An act or omission due to the failure of a filing user or receiving user to receive an NEF may not constitute good cause by the court for excusing the act or omission.

B. NEFs

A “bounceback” is an NEF that is returned from the intended recipient back to the court as undeliverable. Any bounceback NEF from a filing user or receiving user’s email address will be deleted by the clerk’s office without notification to the filing user or receiving user. **It is the responsibility of the filing user or receiving user to obtain any document which he or she did not receive because of his or her failure to maintain the CM/ECF account.**

IV. DOCUMENT FORMAT

A. Creating a PDF

1. Scanned or Converted PDF

CM/ECF only accepts documents in a portable document format (PDF). Word processed documents (i.e. Microsoft Word, Word Perfect) should be converted directly to a PDF rather than scanned to minimize the file size and allow for text-searchability. Documents that cannot be converted to PDF from a word processing program must be scanned using Optical Character Recognition (OCR) technology to create a searchable text file. The scanner resolution must be set to 300 DPI, Black and White, unless scanning documents that must remain in color. The filer must ensure that the document is legible in CM/ECF.

2. PDF and Docket Entry Size

The size limitation for an individual PDF is 50 megabytes. The total size limitation for a docket entry, including all attachments, is 60 megabytes. Any document over 50 megabytes or docket entry over 60 megabytes must be broken down to meet the size requirements.

3. PDF/A Format

In the future, the judiciary will require that all electronically filed documents uploaded into CM/ECF be in PDF/A format. The move to a PDF/A standard is viewed as a necessary step to enhance the security of CM/ECF and improve the archiving and preservation of the record. Currently, CM/ECF accepts both PDF and PDF/A documents. While no specific date has been set for the conversion, at this time filing users are encouraged to file

documents in the PDF/A format.

B. Using Fillable Forms

When using a PDF fillable form, such as those found on the district's [website](#) (i.e. civil summons, cover sheet, financial disclosure forms, etc.), the filing user must lock or "flatten" the PDF document after creating it to prevent others from making any changes to the document once it is filed in CM/ECF. While CM/ECF will prevent an individual from making any permanent changes to the document filed in CM/ECF, the form's fields will remain active and editable unless the document is flattened. Instructions for flattening a document can be found on the district's [website](#). Failure to flatten documents may result in the clerk's office issuing a notice of deficiency. Documents that have not been flattened cannot be transmitted electronically with the record on appeal.

C. Creating Hyperlinks

Electronically filed documents may contain the following types of hyperlinks:

- (1) citation hyperlinks that link to case law citations (i.e. WestLaw, Lexis);
- (2) cross-document hyperlinks that link to previously filed CM/ECF documents; and
- (3) internal PDF document hyperlinks to other portions of the same document.

Hyperlinking instructions can be found on the district's [website](#).

Hyperlinks to personal websites or organizations, including law firms, are strictly forbidden. The court accepts no responsibility for and does not endorse any product, organization or content at any hyperlinked site or at any site to which that site may be linked. The court accepts no responsibility for any availability or functionality of any hyperlink.

D. Signatures

1. Filing Users

The filing user's login and password will serve as the filer's signature for the purposes of the federal rules and the local rules of this court. 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. All documents filed electronically must include a signature block in conformity with [Local Civil Rule 10.1](#) and [Local Criminal Rule 47.3](#).

2. Multiple Signatures

The filer of any document requiring more than one filing user’s signature, such as a stipulation, joint motion or joint status report must list all of the signatories by means of an “/s/” or by filing a scanned document containing all of the necessary signatures. By submitting such a document, the filer certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filer has authority to submit the document on his or her behalf. An individual who disputes the authenticity of an electronically filed document containing multiple signatures must file an objection in the case within 14 days from the filing of the document. **Joint filings must still include a certificate of service.** See [Form A](#).

3. Non-Filing User Signatures

A non-filing user cannot electronically sign a document such as an affidavit or declaration with an “/s/”, but must instead manually sign the document. The filing user filing the document must scan the document and docket it into CM/ECF. Under [Local Civil Rule 5.1\(a\)\(1\)](#) and [Local Criminal Rule 49.1\(a\)\(1\)](#), the electronic document in CM/ECF constitutes the official record of the court. An individual who disputes the authenticity of an electronically filed document containing a non-filing user’s signature must file an objection in the case within 14 days from the filing of the document. **Joint filings must still include a certificate of service.** See [Form A](#).

4. Defendant’s Signature in a Criminal Case

Documents in a criminal case containing the original signature of a defendant, such as, but not limited to, appearance bonds, orders setting conditions of release, waivers of indictment or plea agreements must be delivered to the clerk’s office for retention.

E. Title of Document

All documents filed electronically must be titled to the extent practicable using the approved dictionary of civil and criminal events of CM/ECF referenced on the district's [website](#).

F. Privacy

Pursuant to Rule 5.2 of the Federal Rules of Civil Procedure and Rule 49.1 of the Federal Rules of Criminal Procedure, any filing with the court, unless otherwise exempt, that contains a social security number, a taxpayer-identification number, a birth date, a minor's name, or a financial-account number may include only:

1. the last four digits of the social security number and taxpayer-identification number;
2. the year of the individual's birth;
3. the minor's initials;
4. the last four digits of the financial-account number;
5. the city and state of home addresses (criminal cases only).

The responsibility to redact documents rests solely with the filer, no matter who created the document. Pursuant to [Local Civil Rule 5.1](#) and [Local Criminal Rule 49.1](#), the clerk's office is not required to review documents for compliance. If, however, a document with personal identifiers is discovered, the clerk's office may issue a notice of deficiency to the filer. In that instance, in order to give the filer an opportunity to comply with the federal rules, the document may be sealed temporarily for a prescribed time period.

If a redacted document is filed within the prescribed time period, the unredacted document with personal identifiers will remain sealed. If a redacted document is not filed within the prescribed time period, the document with personal identifiers may be unsealed by the clerk's office without further order or notice to the parties.

V. FILING IN CM/ECF

A. Exceptions to Mandatory Electronic Filing

Any filing that is not automatically exempt pursuant to this section must be accompanied by a motion for leave to file manually (in paper form) with a proposed order. The motion for leave must state good cause why the document or item cannot

be filed electronically.

1. Automatic Exemptions

No motion for leave to file manually is required for the following documents:

(a) Pro se Filing

All filings made by pro se parties must be submitted to the clerk's office in paper by delivering the original filing(s) to the clerk's office during regular business hours or by mail. Pro se parties will not be provided a login and password for filing in CM/ECF. The clerk's office will scan and upload the documents into CM/ECF as presented by the pro se filer. The electronic document in CM/ECF constitutes the official record of the court. [See Local Civil Rule 5.1\(a\)\(1\)](#) and [Local Criminal Rule 49.1\(a\)\(1\)](#).

The clerk's office will not accept filings by email or facsimile transmission unless ordered by the court prior to the transmission.

(b) Sealed Cases

All cases sealed in their entirety (i.e. juvenile cases, *qui tam* whistleblower cases) are exempt from mandatory electronic filing until they are unsealed or the court orders otherwise.

(c) Hearing and Trial Exhibits

Unless otherwise ordered by the court, hearing and trial exhibits will not be electronically filed in CM/ECF.

(d) In Camera Submissions

Unless otherwise ordered by the court, *in camera* submissions must not be electronically filed in CM/ECF.

(e) Psychiatric and Psychological Reports

Psychiatric and psychological reports in criminal cases may be

received by the clerk's office and are filed under seal, electronically or otherwise, as directed by the court.

(f) State Court Record in 2254 Cases

The state court record and materials that are filed under the Rules Governing Habeas Corpus Cases under Section 2254 in capital and non-capital cases where the record is voluminous are exempt from mandatory electronic filing unless otherwise ordered by the court.

2. Permissible Exemptions

(a) Leave of Court for Attorneys Not Yet Registered

An attorney permitted to practice in the Eastern District of North Carolina pursuant to [Local Civil Rule 83.1](#) and [Local Criminal Rule 57.1](#) but who is not yet registered as an electronic filer must submit a motion to file manually until the attorney has secured a CM/ECF login and password. The motion must include the attorney's registration date for CM/ECF training. If the exception request is solely to allow the attorney time to become a filing user, the motion will be referred to the clerk of court. Upon motion of counsel and for good cause shown, the presiding judge for a particular case may permit an attorney to file in paper form for the duration of the case. The court reserves the right to withdraw an exemption at any time.

(b) Leave of Court for Certain Exhibits Not Capable of Being Electronically Filed

A filing user must seek leave of court to manually file exhibits that are not capable of being electronically filed.

B. Effect of Electronic Filing

1. Official Filing of Documents

Electronic transmission of a document to CM/ECF, together with the transmission of an NEF from the court, constitutes filing of the document for all purposes of the Federal Rules of Civil and Criminal Procedure and constitutes entry of the document on the docket maintained by the clerk of

court pursuant to Rules 58 and 79 of the Federal Rules of Civil Procedure and Rules 49 and 55 of the Federal Rules of Criminal Procedure.

2. Time of Filing

A document filed electronically will be deemed filed at the time and date stated on the NEF received from the court. A document will be deemed timely filed if filed before midnight Eastern Standard Time (e.g., a filing procedure commenced at 11:58 P.M. on March 1, but completed on March 2 at 12:03 A.M., will be considered filed on March 2). Where a specific time of day deadline is set by court order or stipulation, the electronic filing must be completed by that time. **The user filing the document must retain a paper or digital copy of the NEF, which will serve as the court's date-stamp and proof of filing.**

C. **First Appearance in a Case**

As part of making an appearance in a case, an attorney must electronically file a notice of appearance pursuant to [Local Civil Rule 5.2\(a\) and 5.3](#) and [Local Criminal Rule 44.1\(b\)](#).

As part of making an appearance in a case, a pro se party must manually file a notice of self-representation pursuant to [Local Civil Rule 5.2\(b\)\(1\)](#).

All parties (other than prisoners), whether represented by counsel or appearing pro se, must file a financial disclosure statement upon their first appearance in the case in accordance with [Local Civil Rule 7.3](#) and [Local Criminal Rule 12.3](#), and must promptly file a supplemental statement if any required information changes.

D. **Case Initiation**

1. Civil Cases

Except for the exemptions listed in [Section V.A. of the Policy Manual](#), filing users must open all new civil lawsuits electronically in CM/ECF. A *Civil Case Opening Procedural Guide* is available on the district's [website](#). **The clerk's office may issue a notice of deficiency to a party who fails to file any required case opening documents.**

(a) Payment and Refund of Filing Fees

- (i) Payment of filing fees in the form of cash, check or credit card may be delivered to the clerk's office during regular business hours. Payment may also be made by credit card over the telephone during regular business hours. When paying by any of these options, the filer must have a court-issued receipt number before opening the case in CM/ECF.
- (ii) Pay.gov is an additional credit card option that allows the filer to pay the filing fee contemporaneously with the case opening in CM/ECF. The Pay.gov link will appear when docketing the case initiating event (i.e., complaint, notice of removal). Pay.gov users are cautioned that multiple clicks on the final submission screen could result in an overpayment of the filing fee.
- (iii) The clerk's office will not make any filing fee refunds without an order from the court. A party must make a motion for a refund using the CM/ECF event "Motion for Refund of Fees Paid Electronically" and attach a proposed order.

(b) Summons

A party requesting a summons must complete the form and attach it to the case initiating document or document for which a summons is required (i.e. counterclaim, third-party complaint). The clerk's office will issue the summons and docket it in CM/ECF for the requesting party to retrieve and effect service unless the party has been allowed to proceed *in forma pauperis* or otherwise ordered by the court.

(c) Notice of Removal

When filing a notice of removal from state court, the filer must attach the state court record to the notice of removal. Each exhibit to the notice of removal must be clearly identified in the docket text (i.e. state court complaint, summons, order, motion for extension of time). The filer must also fully complete and file a supplemental removal cover sheet. The form is available on the district's [website](#). Counsel is reminded that all pending motions originally filed in state court are subject to [Local Civil Rule 5.3\(c\)](#).

2. Civil Miscellaneous Cases

Miscellaneous cases must be submitted to the clerk's office manually in paper. Once opened in CM/ECF by the clerk's office, filing users may file electronically in a miscellaneous case unless it is sealed.

3. Sealed Civil Cases

Sealed civil cases must be submitted to the clerk's office manually in paper. A motion to seal, supporting memorandum of law, and proposed order must accompany the filing. Sealed civil cases are opened in CM/ECF by the clerk's office. All documents must be filed and served conventionally by the parties until the case is unsealed.

4. Criminal Cases

All criminal cases (i.e. felony, misdemeanor, search and seizure warrants, grand jury) are opened in CM/ECF by the clerk's office. Once opened in CM/ECF, a filing user may file electronically in any case that is not sealed. All documents in sealed cases must be filed and served conventionally by the parties.

E. Filing an Exhibit as an Attachment in CM/ECF

1. Generally

- (a) For the purposes of this section, *exhibit* is used to describe any document submitted in support of a filing (i.e., complaint, motion, reply brief) and *attachment* is used to describe what is appended to a docket entry in CM/ECF.
- (b) Except as provided in [Local Civil Rule 56.1](#), all memoranda of law in support of motions, affidavits, and declarations must be filed as separate docket entries and not as attachments to motions, responses or replies.
- (c) Each exhibit must prominently display an exhibit number on the face of the document.

- (d) Each exhibit must be scanned in text-searchable format as a separate PDF and docketed as a separate attachment. The exhibits must not be scanned together into one PDF and docketed as a single attachment.
- (e) The docket text for the attachment description must be clear and complete. Labeling an attachment as **Exhibit 1** or **Exhibit 1-Affidavit** is insufficient. The docket text for an attachment must provide a detailed description, such as **Exhibit 1 - Affidavit of Jane Doe**.
- (f) Except as provided in [Local Civil Rule 56.1](#), and unless otherwise stated in a judge's preferences located on the district's [website](#), a filer should not submit a document as an exhibit that has already been filed in the case. Instead, the filer should create a hyperlink to the previously filed document within the brief.

2. Index of Exhibits

When filing a document with more than 5 exhibits, the first attachment must be an index of the exhibits. When filing multiple exhibits that span multiple docket entries, the index of exhibits should be docketed in each docket entry.

3. Exhibits Filed Manually

A party permitted to file an exhibit manually in accordance with [Section V.A. of the Policy Manual](#) must reference that fact in the attachment's docket text. For example:

Exhibit 1 - Affidavit of Jane Doe
Exhibit 2 - DVD of John Doe telecast to be filed manually

The attachment must be a notice of manual filing. [See Form B](#).

4. Motions for Summary Judgment

A motion for summary judgment must be supported by a memorandum of law, a statement of material facts, and an appendix of evidence. [See Local Civil Rule 56.1](#). The memorandum of law, the statement of material facts and the appendix of evidence must each be filed as separate docket entries.

A response in opposition to a motion for summary judgment must be supported by an opposing statement of material facts and an appendix of evidence, each of which must be filed as a separate docket entry. When an appendix of evidence in support of or in opposition to a motion for summary judgment is filed, the first document must be an index of the evidence contained in the appendix. Each exhibit must be scanned in text-searchable format as a separate PDF and docketed as a separate attachment. The exhibits must not be scanned together into one PDF and docketed as a single attachment.

F. Motions for Leave to File a Document

If a filing of a document requires leave of court (i.e., filing a sur-reply or amended pleading), the filing user must attach the proposed document as an attachment to the motion according to the procedures in [Section V.E](#). Any motions for leave to file an amended pleading must comply with [Local Civil Rule 15.1](#).

G. Filing Sealed and Other Restricted Documents in CM/ECF

1. Sealed Documents

- (a) Except for motions filed under seal in accordance with [Section V.G.1.\(f\)](#), each time a party seeks to file under seal, the party must accompany the request with a motion to seal. The motion to seal may be filed without a supporting memorandum only if the filing party can cite a statute, rule, standing order or court order that requires the filing to be sealed. Absent such authority, the filing party must submit a supporting memorandum that specifies:
 - (i) The exact document or item, or portions thereof, for which the filing under seal is requested;
 - (ii) How such request to seal overcomes the common law or the First Amendment presumption to access;
 - (iii) The specific qualities of the material at issue which justify sealing such material, taking into account the balance of competing interest in access;
 - (iv) The reasons why alternatives to sealing are inadequate; and
 - (iv) Whether there is consent to the motion.

In addition to the motion and supporting memorandum, the

filing party must set out findings supporting these specifications in a proposed order to seal.

- (b) The motion to seal must be a public document and docket entry, which will give the public notice of the request to seal and a reasonable opportunity to challenge it. With court approval, the memorandum in support may be filed under seal.
- (c) The proposed sealed document must be filed in accordance with [Local Civil Rule 79.2](#) and [Local Criminal Rule 55.2](#) and will remain under seal pending the court's ruling on the motion to seal.
- (d) The filing party must docket the proposed sealed document(s) as the first docket entry, using the CM/ECF events specifically created for sealed documents. If the filing party seeks to file the supporting memorandum of law under seal, the party must docket the proposed sealed memorandum of law as the second docket entry, using the PROPOSED SEALED Memorandum in Support event. The motion to seal should be the next docket entry with the proposed order to seal as the attachment. The filer should link the motion to seal to the proposed sealed document docket entry or entries.
- (e) In the event that a filing party seeks to file material that has been designated confidential by another party or entity, the filing party must provisionally file the material under seal in accordance with this section and [Local Civil Rule 79.2](#) and [Local Criminal Rule 55.2](#), with notice served on the party or entity who desires to maintain the material under seal.
 - (i) In lieu of filing a motion to seal, the filing party is required to file a notice of filing pursuant to this subsection. The notice of filing should be docketed after the filing of the provisionally sealed material and linked back to the entry or entries being filed under seal.
 - (ii) Within 7 days after service of such notice, the party or entity desiring that the material be maintained under seal must file a motion to seal, supporting memorandum and proposed order in accordance with [Section V.G.1 of the Policy Manual](#).

- (iii) Documents submitted under seal in accordance with this subsection will remain under seal pending the court's ruling on the motion to seal. **If no motion to seal is filed, the material may be unsealed and made public by the clerk's office without further notice or order of the court.**
- (f) Pursuant to [Standing Order No. 09-SO-2](#), any document referencing the substantial assistance of a defendant in a criminal case must be filed under seal without the necessity of a motion to seal.

2. Ex Parte Documents

- (a) **Except for those *ex parte* motions filed pursuant to Rule 17(b) and 49.1 of the Federal Rules of Criminal Procedure, *ex parte* docket entries and the corresponding documents are visible to the public, but the NEF is only transmitted to the filing attorney and the court.**
- (b) The filing party must docket the *ex parte* document using the CM/ECF events specifically created for *ex parte* documents. **If an order is to be entered *ex parte*, the caption of the proposed order must be entitled *Ex Parte Order*.**
 - (i) Requests for subpoenas pursuant to Rule 17(b) of the Federal Rules of Criminal Procedure must be docketed using the event ***Ex Parte Motion for Issuance of Subpoena***, specifically created for this request. The proposed order, entitled ***Ex Parte Order***, must be attached. A generic docket entry (*Ex Parte Motion*) will be created and will be public. The corresponding documents will not be viewable to the public. The NEF is restricted to court users and the primary email address for the attorney for the filing party.
 - (ii) *Ex Parte* Applications for Authorization and Payment for Investigative, Expert or Other Services pursuant to the Criminal Justice Act and Rule 49.1 of the Federal Rules of Criminal Procedure must be filed *in camera*. The motion must be docketed using the event ***Ex Parte Motion for Investigative, Expert or Other Services*** specifically created for these applications. The proposed order, entitled ***Ex Parte***

Order, must be attached. Neither the docket entry nor the document will be viewable to the public. The NEF is restricted to court users and the primary email address for the attorney for the filing party.

- (iii) An *ex parte* motion for temporary restraining order pursuant to Rule 65(b) of the Federal Rules of Civil Procedure must be docketed using the event **Ex Parte Motion for TRO**. The proposed order, entitled **Ex Parte Temporary Restraining Order**, must be attached. The docket entry (*Ex Parte Motion*) and corresponding document will be viewable to the public, but the NEF will only be transmitted to the filing attorney and the court. If the *ex parte* motion is incorrectly filed under the non-*ex parte* event **Motion for Temporary Restraining Order**, an NEF will issue to any counsel who has appeared in the case or who has added the case to his or her CM/ECF account.
- (iv) All other *ex parte* motions must be docketed using the event **Ex Parte Motion**. The proposed order must be attached to the motion. If the order is to be entered *ex parte*, the caption of the proposed order must be entitled **Ex Parte Order**. A generic docket entry (*Ex Parte Motion*) will be created and will be viewable to the public. The corresponding documents will be viewable to the public, but the NEF will only be transmitted to the filing user and the court.
- (c) Excluding those documents filed in accordance with (b)(i) and (ii) of this subsection, a party desiring to seal an *ex parte* document or docket entry must file a motion to seal in accordance with [Section V.G.1 of this Policy Manual](#). The filing party must use the event **Ex Parte Motion to Seal** when the motion to seal is filed *ex parte*. The docket entry (*Ex Parte Motion to Seal*) and corresponding document are viewable to the public, but the NEF is only transmitted to the filing user and the court.

3. *In Camera* Submissions

Unless otherwise instructed by the court, submissions made for *in camera* review must be submitted in paper form to the clerk's office for possible

entry into CM/ECF. Counsel must electronically file a Notice of Filing of the *in camera* submission. At the court's direction, the clerk's office will enter an *in camera* document into CM/ECF using the event ***In Camera Submission***. Neither the docket entry nor the document will be viewable to the public and no NEF will be transmitted.

4. Sealed Cases

In accordance with [Section V.A.3 of this Policy Manual](#), new civil cases that are to be sealed in their entirety (i.e., *Qui Tam* civil cases) must be filed in paper and opened by the clerk's office. The case must also be accompanied by a motion to seal, in compliance with [Section V.G. of this Policy Manual](#), and a courtesy copy for the judge. While the case is sealed, all filings must be submitted to the clerk's office in paper for entry into CM/ECF. The sealed case will not be viewable to the public in CM/ECF. A search of the party names will not reveal the identity of the sealed case name or number. A search of the sealed number will result in the following message: **THIS CASE IS SEALED.**

H. Filing of Motions Requesting Immediate Attention

When a party files a motion seeking emergency relief (i.e., motion for temporary restraining order or preliminary injunction), the party must contact the clerk's office at 919-645-1700 to notify the court of such a filing.

I. Orders and Judgments

1. Generally

All orders and judgments will be filed electronically. Any order signed electronically will have the same force and effect as if the judge or clerk of court had affixed his or her signature on the paper. Electronic filing of an order or judgment will constitute entry on the docket in accordance with Rule 58 and Rule 79 of the Federal Rules of Civil Procedure and Rule 49 and Rule 55 of the Federal Rules of Criminal Procedure.

2. Text Orders

Orders may be entered by a judge or the clerk of court in a text-only docket entry. In such instances, a PDF document will not be associated with the

docket entry. Text orders are official and binding. The docket text located in the NEF will constitute notice to the filing users and receiving users of the entry of the order. Unless otherwise ordered by the court, the clerk's office will serve a copy of the text order in paper form to parties not authorized to receive an NEF.

3. Proposed Orders

A proposed order should be filed as an attachment to the underlying motion seeking entry of the order. In addition, filers should check the district's [website](#) for any judge specific preferences regarding proposed orders. Parties must file a proposed order with any non-dispositive motion to expedite the process in accordance with Local Civil Rule 7.1(b)(3).

4. Protective Orders

All proposed protective orders submitted to the court must contain the language in [Section V.G.1\(a\)\(i\) through \(iv\)](#) with respect to the filing of sealed material. Filers should also review the judge's practice preferences for additional requirements.

J. Corrections in CM/ECF

Once a transaction has been accepted in CM/ECF and an NEF has been generated, the filer is not permitted to make changes to the document or docket entry. As soon as a filer discovers that an error has been made, he or she should contact the judge's case manager with the case number and document number for which the correction is being requested for direction. The filer should not attempt to refile the document unless instructed by the clerk's office to do so.

K. Technical Failures

1. CM/ECF Technical Failure

The Eastern District of North Carolina's CM/ECF website will be considered a "technical failure" if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 10:00 A.M. Eastern Standard Time on a given day. The following methods are acceptable alternate means for filing documents in the event of a technical failure:

- (a) Sending a PDF attachment(s) of the documents to the email address for technical failures (technical-failure_NCED@nced.uscourts.gov). This email address will only be monitored by the court upon confirmation of a technical failure within the court's CM/ECF site.
- (b) Seeking appropriate relief from the court to deem the document timely filed. **Filers are cautioned that the federal rules preclude extensions of time in some circumstances.**

2. Scheduled Maintenance by the Court

The court's scheduled routine maintenance will not be considered a technical difficulty as the maintenance will be scheduled in advance and posted on the district's website sufficiently ahead of time.

3. Technical Failure of the Filing User

Problems of the filing user, such as failure with the filer's phone line, internet service provider, or hardware and software, will not constitute a technical failure. A filing user who cannot file documents electronically because of a problem on the filer's side may file the document manually accompanied by a motion for leave to file in paper form. The motion must state the reason for not filing the document electronically and include a proposed order.

4. Court Contact for Technical Failure

A filer who is experiencing difficulty filing in CM/ECF should call the CM/ECF Helpdesk at 1-866-855-8894 to determine whether there is a technical failure as defined in this section. The Helpdesk is staffed only during regular business hours.

VI. SERVICE

A. Generally

1. Rule 6 of the Federal Rules of Civil Procedure and Rule 45 of the Federal Rules of Criminal Procedure govern the computation of time.
2. A civil summons must be served in accordance with Rule 4 of the Federal

Rules of Civil Procedure and cannot be served electronically through CM/ECF.

B. Certificate of Service

All documents filed in the Eastern District of North Carolina that are required to be served pursuant to Rule 5 of the Federal Rules of Civil Procedure and Rule 49 of the Federal Rules of Criminal Procedure, whether filed by electronic means or manually in paper, must include a certificate of service identifying the document that is being served, the individuals being served and the date and manner of service. A certificate of service is required on joint filings, such as joint motions or stipulations. See [Form A](#).

C. Service of a Document by Electronic Means

1. Upon the electronic filing of a document, the court's CM/ECF system will automatically generate and send an NEF to all filing users and receiving users associated with that case. Transmission of the NEF will constitute service upon all filing and receiving users who are listed as recipients of notice of by electronic mail, and will be deemed to satisfy the requirements of Rules 5(b)(2)(D), 5(b)(3) and 77(d) of the Federal Rules of Civil Procedure and Rule 49(b) of the Federal Rules of Criminal Procedure.
2. Attorneys who are permitted to practice in the Eastern District of North Carolina in accordance with [Local Civil Rule 83.1](#) and [Local Criminal Rule 57.1](#) are required to become filing users in CM/ECF and must electronically file a notice of appearance as counsel of record in order to receive electronic notification of a filing through the NEF.
3. When multiple attorneys in a law firm appear in a case, and at least one attorney is a filing user, service of any court-generated document (i.e. orders, notices, etc.) will only be made on the attorney(s) registered in CM/ECF. It is the responsibility of the law firm's filing users to notify and serve all other firm members appearing in the case who are not receiving electronic notification. The non-registered attorneys will not receive paper copies from the court.

D. Service of a Document by Conventional Means

Pro se litigants who have not consented to electronic noticing and attorneys exempt

from filing electronically pursuant to [Section V.A.2](#) must serve and be served with all filings by other means in accordance with the federal rules.

F. Service of a Sealed Document

1. Criminal

A party cannot serve a sealed criminal document through CM/ECF. Although filing users and receiving users who have appeared in the case will receive an NEF when a sealed document is filed, the recipient will not be able to access the document through the NEF. Service of criminal sealed documents must be made by other means in accordance with the federal rules and such service must be reflected in the certificate of service.

2. Civil

A filing user can serve a civil sealed document through CM/ECF provided a sealed CM/ECF event is used to docket it. The filer must select the parties authorized to view the document through the NEF, including his or her own party. If the authorized party is a receiving user, the primary email address for the authorized party will be able to access the document through the NEF. If the authorized party is represented by counsel, the primary email address for counsel of record for the authorized party will be able to access the document through the NEF. All other NEF recipients, including the secondary email addresses for the authorized party, will not be able to access the document through the NEF. **Pro se litigants who have not consented to electronic service and attorneys exempt from electronic filing pursuant to [Section V.A.2](#) must be served by other means in accordance with the federal rules and such service must be reflected in the certificate of service. See [Form A](#).**

VII. ACCESS TO ELECTRONICALLY STORED DOCUMENTS

A. NEF Access

Filing users and receiving users who are permitted access to the filed document through the NEF may have one free look at the document through the hyperlink in the NEF. All filing users and receiving users are encouraged to print or save the document during the free look. The NEF hyperlink will expire with the first use of the hyperlink or 15 days from the date of the NEF, whichever occurs first. After the

hyperlink has expired the filing user or receiving user will be asked for a PACER login and password and will be charged to view the document.

B. Public Access at the Court

Unless subject to an exception set forth below, the electronic docket and documents filed in CM/ECF are available for viewing at no charge at the public terminals in the clerk's office during regular business hours.

C. Public Internet Access

1. Criminal

- (a) Remote public access is available for criminal cases filed after November 1, 2004, except for those documents cited in Rule 49.1 of the Federal Rules of Criminal Procedure as not being available to the public, either remotely or at the courthouse.
- (b) Pursuant to [Standing Order No. 09-SO-2](#), there is no remote public access to plea agreements filed after August 28, 2009. The public may have access to the filed plea agreements at the public terminals in the clerk's office, subject to existing rules regarding these access methods.

2. Civil

Pursuant to Rule 5.2 of the Federal Rules of Civil Procedure, unless the court orders otherwise, in an action for benefits under the Social Security Act, or in an immigration proceeding relating to an order of removal, to relief for removal or to immigration benefits or detention, access to an electronic file is authorized as follows:

- (a) The party or their attorney may have remote electronic access to any part of the case file, including the administrative record;
- (b) Any other person may only have remote electronic access to the docket sheet and any opinion, order or judgment.
- (c) The public may have access to these records at the public terminals in the clerk's office.

3. Transcripts

Pursuant to the policy promulgated by the Judicial Conference of the United States, the electronic availability of transcripts of court proceedings is as follows:

- (a) A transcript filed by the court reporter in CM/ECF will be available for viewing only at the public terminals in the clerk's office for a period of 90 days from filing.
- (b) During the 90-day period, a copy of the transcript can only be obtained from the court reporter or transcriber at the rate established by the Judicial Conference of the United States. An attorney who purchases the transcript from the court reporter or transcriber may request permission for remote electronic access to the transcript in CM/ECF.
- (c) After the 90-day period, unless otherwise ordered by the court, the filed transcript will be available for viewing and purchase at the clerk's office and on PACER.

SAMPLE FORMAT

FORM A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
_____ DIVISION

No. _____

Party Name,)
)
)
)
 v.)
)
 Party Name,)

CERTIFICATE OF SERVICE

I hereby certify that on _____ (Date), I electronically filed the foregoing (Document) with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following: (Name of Party) _____, and I hereby certify that I have mailed the document to the following non-CM/ECF participants:

(Name of Party)
(Mailing Address).

Respectfully Submitted,

/s/ Judith Attorney
Judith Attorney
ABC Law Firm
123 South Street
Raleigh, North Carolina 27601
(919)123-4567
Fax: (919) 123-7654
Judith_attorney@email.address.com
State Bar No. _____
Attorney for Plaintiff/Defendant
(If applicable) Local Civil Rule 83.1 Counsel
(If applicable) Local Criminal Rule 57.1 Counsel

SAMPLE FORMAT

FORM B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
_____ DIVISION

No. _____

Party Name,)
)
)
)
 v.)
)
 Party Name,)
)
)

NOTICE OF MANUAL FILING

Please take notice that [Plaintiff/Defendant, Name of Party] has manually filed the following document or item:

[Title of Document or Object]

This item has not been electronically filed because:

- the Electronic Case Filing Administrative Policies and Procedures Manual provides an exemption
- Plaintiff/Defendant is excused from filing this document or item by court order.

Respectfully Submitted,

 /s/ Judith Attorney
Judith Attorney
ABC Law Firm
123 South Street
Raleigh, North Carolina 27601
(919)123-4567

SAMPLE FORMAT

Fax: (919) 123-7654

Judith_attorney@email.address.com

State Bar No. _____

Attorney for Plaintiff/Defendant

(If applicable) Local Civil Rule 83.1 Counsel

(If applicable) Local Criminal Rule 57.1 Counsel

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA**

CHECKLIST FOR ATTORNEYS USING THE ELECTRONIC FILING SYSTEM

PREPARING THE DOCUMENT - Please make sure:

- Case opening documents include the complaint, civil cover sheet, summons, financial disclosure, filing fee or IFP application, and notice of appearance
NOTE: Identify any related cases in the civil cover sheet
NOTE: Notify the case manager if the party will request a waiver of service of summons
NOTE: When filing a Notice of Removal, a supplemental removal cover sheet should be filed in addition to the other case opening documents
- The document is named in accordance with the court's [dictionary/event list](#)
- The signature line contains "/s/ Attorney's Typed Name"
NOTE: When out-of-district counsel files a notice of appearance, all documents *must* also be signed by local counsel
- Personal identifiers are not included in any document
- The document contains a certificate of service clearly stating the parties served and the manner and date of service
- The document conforms to the Federal Rules of Civil or Criminal Procedure
- The document conforms to the Local Rules, standing orders, and judge's practice preferences
- The document does not contain any hyperlinks, e.g. attorney's email or web address should not be a hyperlink
- Contact the clerk's office at 919-645-1700 for further direction for filing a motion for temporary restraining order or other emergency relief

CREATING THE PDF DOCUMENT - Please make sure:

- If the document was created using a word-processing application, it must be converted to PDF format instead of printed and scanned to create the PDF
- The PDF file is not more than 50MB in size
- The document is formatted properly and is legible with no missing pages and all pages are right side up
- Any proposed order is a separate PDF file
- The main filing is a separate document from any attachments, and each exhibit is an additional PDF document
- The document, including any attachments and exhibits, is in text searchable format
- Any document using a fillable PDF form has been flattened

ELECTRONICALLY FILING THE DOCUMENT - Please make sure:

- The name of the attorney logged into CM/ECF matches the attorney's name on the signature line
- The document contains the correct case number and division—verify the information is accurate at the top of the filing screen.
- Select the most accurate event from the menus provided
- If asked to create an association between the attorney and party, do so whenever appropriate
NOTE: *Never* remove the check from the “Notice” box
- If filing a notice of appearance, file a separate notice for each attorney using each attorney's login and password
- Exhibits and other attachments are labeled clearly, both in the documents and in the docket text, e.g. Exhibit A, Affidavit of Jane Doe
- When filing a motion for leave to file a document, the motion is the primary filing and the subject document is an attachment, not a separate docket entry
- A proposed order is filed as a separate PDF attachment to all non-dispositive motions
- A proposed order is filed in accordance with the judge's practice preferences
- If asked, link to an existing document if appropriate, e.g. a memorandum in support or opposition or reply, should be linked to the motion
- The optional text box is used to describe the filing more fully
NOTE: The docket text should accurately reflect the title of the document filed
- If the optional text box is used, confirm that the added information is descriptive and not a separate entry
- Proofread and edit the text box to correct typographical errors and to delete duplicate phrases, e.g. Exhibit Exhibit A, Affidavit of Jane Doe
- Courtesy copies of *all* documents, including attachments and exhibits, are promptly delivered or mailed to the case manager in conformance with the judge's practice preferences
- Corrections are promptly made in response to a notice of deficiency or notice to counsel