

**UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA**

ADMINISTRATIVE POLICY GOVERNING ELECTRONIC FILING AND SERVICE

Amended September 1, 2008

I. General Information

- (A) Electronic Filing is the process of uploading a document from a registered user's computer, by way of the court's Internet-based Electronic Case Files (ECF) system, to the court's official case file and docket. The ECF system only accepts documents in portable document format (PDF). There are two main types of PDF documents, electronically converted PDFs and scanned PDFs. Electronically converted PDFs are created from word processing documents (MS Word, WordPerfect, etc.) using Adobe Acrobat or similar software. Scanned PDFs are created from paper documents run through an optical scanner. Electronically converted PDFs are the preferred type, and all PDFs submitted must be legible.
- (B) The use of ECF by attorneys is required. All documents must be filed using ECF, unless specifically exempted under [Section XI](#) of these Administrative Policies or unless an individual attorney receives leave of court to not use the system based upon a showing of good cause. Documents filed prior to November 18, 2005, are not available for viewing on the ECF system.
- (C) The official court record shall be the electronic file maintained on the court's servers together with any paper documents filed in accordance with these Administrative Policies.
- (D) PDF files submitted on the ECF system must be no larger than 5 megabytes in size. Large files must be subdivided to comply with the 5 megabyte limit.
- (E) Any charges imposed upon users for viewing or downloading documents are dictated by the Judicial Conference of the United States Courts and are not charges imposed by this District.

II. Registration

- (A) Attorneys admitted to the bar of this court, including pro hac vice attorneys, must register with the court's ECF system prior to filing any pleadings. Registration must be on an Attorney Registration Form, a copy of which is available on the court's web page (www.ndd.uscourts.gov). A registered user will be issued a login and password. Training for use of the ECF system is available from the [clerk's office](#) at no cost and is strongly encouraged.

- (B) A non-prisoner who is a party to a civil action, and who is not represented by an attorney, must obtain court approval to register as a user in the ECF system for the duration of their lawsuit. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the clerk will terminate the party's registration in the ECF system upon the attorney's appearance. Pro se prisoners may not register to use the ECF system.
- (C) Only a user or authorized agent of a user may file a document using the user's login and password. Use of a user's login and password by an authorized agent will be deemed to be the act of the user. Law students practicing before the court under [D.N.D. Gen. L. R. 1.4](#) will be deemed an authorized agent of the supervising attorney, who must register as a user in the ECF system.
- (D) **Registration constitutes consent to service of all documents by electronic means as provided by these Administrative Policies.**

III. User Obligations

- (A) Users have a continuing obligation to update their contact information in the ECF system.
- (B) Users must change their access password to the ECF system if they suspect the confidentiality of the password has been compromised.
- (C) A user must report to the [clerk of court](#) any suspected misuse of the ECF system. If the court becomes aware of misuse of the ECF system, a user may be subject to sanctions for failure to comply with these Administrative Policies, including but not limited to, revocation of access without prior notice.
- (D) A user must obtain court approval to withdraw from participating in the ECF system.
- (E) Attorneys registered to use the ECF system and who have been subject to professional disciplinary action in any jurisdiction are under an obligation to notify the court of such action. The court may order suspension or revocation of ECF access until such time as the attorney is in good standing to practice in this District in accordance with [D.N.D. Gen. L. R. 1.3](#).

IV. Deadlines

Filing documents electronically does not alter any filing deadlines. All electronic transmissions of documents must be received by the ECF system prior to midnight, Central 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.

V. Filing and Service of Civil Case Opening Documents

- (A) Civil case opening documents, such as a complaint, petition, or notice of removal together with the civil cover sheet ([Form JS-44](#)), should be submitted in PDF format either attached to an e-mail, on compact disc, or in paper form. Any case opening documents submitted in paper form will be scanned and electronically filed by the clerk and then destroyed consistent with the policies of the National Archives and Records Administration. The clerk's e-mail address for civil case opening is:

ndd_newcaseBismarck@ndd.uscourts.gov (for filing in Western Divisions)

ndd_newcaseFargo@ndd.uscourts.gov (for filing in Eastern Divisions)

- (B) No case will be opened until the appropriate filing fee is received by the clerk's office.
- (C) All attachments to case opening documents should be submitted in PDF format, but will be accepted in paper form. All attachments must be redacted.
- (D) The clerk's office will prepare the summons, imprint the seal of the court and the clerk's signature on the summons, and issue the summons electronically to counsel by way of e-mail or by U.S. Mail in paper form. A party may not electronically serve a civil complaint and summons but must print or use a court issued summons and effect service in accordance with [Fed. R. Civ. P. 4](#).

VI. Filing of Documents Adding a Party

Any document that adds a party to a case, such as an amended complaint or a third party complaint, must be submitted to the clerk's office in PDF format either attached to an e-mail or on a compact disc. Users are not permitted to add parties to a case. These documents should be sent to the appropriate new case e-mail address set forth in [Section V](#).

VII. Filing a Notice of Appeal

A notice of appeal should be submitted in PDF format either attached to an e-mail or on a compact disc. A notice of appeal should be sent to the appropriate new case e-mail address set forth in [Section V](#).

VIII. Electronic Filing

- (A) Electronic transmission of a document to the ECF system, together with the generation of a Notice of Electronic Filing (NEF) as explained in [Section IX](#), constitutes filing of the document for all purposes of the Federal Rules of Procedure and constitutes entry of the document on the docket maintained by the clerk of court pursuant to [Fed. R. Civ. P. 58](#), [Fed. R. Civ. P. 79](#), [Fed. R. Crim. P.](#)

[49](#), and [Fed. R. Crim. P. 55](#).

- (B) A document filed electronically will be deemed filed at the time and date stated on the NEF.
- (C) All pleadings filed electronically must be titled using the approved [civil](#) or [criminal](#) event code.

IX. Service of Electronically Filed Documents

- (A) Registration as an ECF user constitutes consent to service by electronic means when permitted by the Federal Rules of Procedure.

The Notice of Electronic Filing (NEF) has a dual function.

- (1) The system generates an NEF each time a document is filed. This NEF is the filer's confirmation that the transaction has been successfully completed and the document is deemed to be filed.
 - (2) The system sends an NEF via email to registered users, which constitutes service except as noted below. Parties who are not registered users of the ECF system must be served by traditional means.
- (B) All documents filed using the ECF system must include a certificate of service. 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 on the court's web page.
- (C) The filer must serve a paper copy of any electronically filed document on attorneys and pro se litigants who are not registered to use the ECF system. Parties who are not registered users will be identified in the NEF.
- (D) Service by electronic means will be treated the same as service by mail for the purpose of adding three (3) days to the prescribed period to respond.
- (E) Unsealed Cases. Filing a motion for leave to file under seal, filing a sealed document, or filing a sealed motion will generate and send an NEF. Parties in the case who are registered users will receive the NEF but will not be able to view the linked sealed document. The filer must accomplish service of these documents by traditional means. See [Fed. R. Civ. P. 5](#) and [Fed. R. Crim. P. 49](#).

UNSEALED CASES			
Document Type	NEF Generated	NEF Sent	Service by Traditional Means Required
Motion for Leave to File Under Seal	Yes	Yes	Yes
Sealed Document	Yes	Yes	Yes
Sealed Motion	Yes	Yes	Yes
Ex Parte Motion	Yes	No	No
All Other Documents	Yes	Yes	No

- (F) Sealed Cases. Filing any document in a sealed case will generate an NEF, but the NEF will not be sent. The filer must accomplish service of all documents on all parties by traditional means. See [Fed. R. Civ. P. 5](#) and [Fed. R. Crim. P. 49](#).

SEALED CASES			
Document Type	NEF Generated	NEF Sent	Service by Traditional Means Required
Ex Parte Motion	Yes	No	No
All Other Documents	Yes	No	Yes

X. Signatures

- (A) Attorneys and Pro Se Users. The user login and password will serve as that user's signature for purposes of [Fed. R. Civ. P. 11](#) and for all other purposes under the Federal Rules of Procedure and the Local Rules of 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 user under whose login and password the document is submitted must be preceded by a "/s/," "/s" or "s/" and typed in the space where the signature would otherwise appear. A digital image of a signature may be inserted in the document in lieu of the "/s/," "/s" or "s/." The following are examples of permissible signature blocks:

s/ Richard Smith
Richard Smith
222 4th Street
Anywhere, USA 58201
701-123-4567
rsmith@internet provider.com

/s/ Richard Smith
Richard Smith
222 4th Street
Anywhere, USA 58201
701-123-4567
rsmith@internet provider.com

- (B) Multiple Signatures. The filer of any document requiring more than one signature (e.g., stipulations, pleadings filed by pro hac vice lawyers) must list all the names of other signatories by means of a “/s/,” “/s” or “s/” signature block for each or a digital image of the signature. By submitting a document for filing, the user certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the user has their actual authority to submit the document electronically. The user must retain any records evidencing this concurrence for future production, if necessary, until the entry of a final non-appealable judgment, or for two years, whichever is later.
- (C) Affidavits. Unless a specific exception in these Administrative Policies applies, affidavits must be filed electronically; however, the electronically filed version must contain a digital image of a signature or the “/s/,” “/s” or “s/” signature block indicating that the paper document bears an original signature. The user must retain the original for future production, if necessary, until the entry of a final non-appealable judgment, or for two years, whichever is later.
- (D) Objections to Authenticity. A non-filing signatory or party who disputes the authenticity of an electronically filed document containing signatures must file an objection to the document within ten (10) days of the date on the NEF.
- (E) Defendants in Criminal Cases. Any document requiring a defendant’s signature must actually be signed by the defendant, scanned, and electronically filed. The United States Probation and Pretrial Services Office may submit court forms containing a “/s/,” “/s” or “s/” signature block, or a digital image of the signature of a probationer, if the original is retained by that agency for future production.

XI. Exceptions to Electronic Filing

- (A) Documents that may be filed in paper and will not be scanned into ECF by the clerk’s office:
 - (1) administrative records in review proceedings of federal agency actions such as social security cases;
 - (2) state court records in habeas corpus cases filed under [28 U.S.C. § 2254](#) including Habeas Rule 5 materials;
 - (3) exhibits for hearings and trials; and
 - (4) items that cannot be converted to PDF format (e.g., video tapes, DVD, oversized documents, digital data).
- (B) Documents that may be filed in paper and will be scanned into ECF by the clerk’s office:
 - (1) pleadings and documents filed by prisoners;
 - (2) pleadings and documents filed by pro se litigants who are not registered users of ECF;
 - (3) [Fed. R. Crim. P. 20](#), [Fed. R. Crim. P. 21](#) and [Fed. R. Crim. P. 40](#) transfer papers;

- (4) pleadings and documents for opening a civil case or appeal; and
 - (5) pleadings and documents in a removal matter under [28 U.S.C. § 1446](#).
- (C) Users of the ECF system must obtain leave of court to file paper documents in any other instance. See [Section I\(B\)](#) for the requirements for using the ECF system.

XII. Attachments to Filings and Exhibits (other than hearing and trial exhibits)

- (A) Attachments to pleadings and motions must be filed in PDF format in file size increments that do not exceed the 5 megabyte limitation. Each individual exhibit must be filed as a separate attachment with a description of sufficient detail to make the attachment readily identifiable to the court. See [Guide to Filing Attachments](#).
- (B) Filers must not attach as an exhibit any pleading or other paper already on file with the court in that case, but must instead refer to the docket number assigned to the document in ECF.

XIII. Transcripts

- (A) Transcripts of non-court proceedings. Non-court generated transcripts (e.g., deposition transcripts from private reporters) that are filed to support any motion or pleading must be filed in PDF format in accordance with [Section XII](#) and must be complete copies of the transcripts. The use of partial excerpts as attachments to motions is not encouraged and is not a substitute for the requirement of filing the entire transcript. Also, it is preferred that the transcripts be electronically converted to PDF from word-processor formats, rather than scanned, so the transcripts can be more readily searched. It is the filer's responsibility, not the court or clerk's office, to ensure that transcripts are properly redacted to comply with the Privacy provisions of these Administrative Policies. See [Section XVIII](#).
- (B) Transcripts of court proceedings.
- (1) A transcript provided to the court by a court reporter or transcriber will be available at the office of the clerk for inspection only, for a period of 90 days after it is delivered to the clerk.
 - (2) During the 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 within the court for internal use, and an attorney who obtains the transcript from the court reporter or transcriber may obtain remove electronic access to the transcript through the court's CM/ECF system for purposes of creating hyperlinks to the transcript in court filings and for other purposes.
 - (3) After the 90-day period has ended, the filed transcript will be available for inspection and copying in the clerk's office and for download from the

court's CM/ECF system through the judiciary's PACER system. PACER fees will apply to electronic access even if the transcript has been purchased by the person seeking electronic access.

XIV. Sealed Cases and Sealed Filings

- (A) Parties must obtain leave of court to file a sealed document or a sealed motion. See [Guide to Filing Sealed Documents & Motions](#). If the court grants leave to file a sealed motion or sealed document, no additional leave is required for a responsive filing.
- (B) The ECF system has the capability to allow the court to seal case files and individual documents from public access.

Sealed cases are not available to the public. Non-case participants who attempt to access a sealed case will receive a message that the case is sealed and not available for viewing.

Motions for leave to file under seal, sealed documents, and sealed motions are not available to the public. Non-case participants who attempt to access sealed documents or motions will receive a message that they do not have permission to view the document.

(C) SERVICE

- (1) Unsealed Cases. Filing a motion for leave to file under seal, filing a sealed document, or filing a sealed motion will generate and send an NEF. Parties in the case who are registered users will receive the NEF but will not be able to view the linked sealed document. The filer must accomplish service of a motion for leave to file under seal, a sealed document, or a sealed motion on all parties by traditional means. See [Fed. R. Civ. P. 5](#) and [Fed. R. Crim. P. 49](#)
- (2) Sealed Cases. Filing any document in a sealed case will generate an NEF, but the NEF will not be sent. The filer must accomplish service of all documents on all parties by traditional means. See [Fed. R. Civ. P. 5](#) and [Fed. R. Crim. P. 49](#)

UNSEALED CASES					
	Party access to docket text and documents	Public access to docket text	Public access to documents	NEF Sent	Service by Traditional Means Required
Motion for Leave to File Under Seal	Yes	Yes	No	Yes	Yes
Sealed document	Yes	Yes	No	Yes	Yes
Sealed motion	Yes	Yes	No	Yes	Yes

SEALED CASES					
	Party access to docket text and documents	Public access to docket text	Public access to documents	NEF Sent	Service by Traditional Means Required
All Documents	Yes	No	No	No	Yes

XV. Ex Parte Motions

- (A) Leave of court is not required to file an ex parte motion.
- (B) Ex parte motions are available only to the court. There is no docket text entry. Only the filer and the court will have knowledge that an ex parte motion has been filed.
- (C) Filing an ex parte motion will generate an NEF, but it will not be sent.

EX PARTE MOTIONS					
	Party access to docket text and documents	Public access to docket text	Public access to documents	NEF Sent	Service by Traditional Means Required
Ex Parte Motions	No	No	No	No	No

XVI. Stipulations

Stipulations must conform to [Section X\(B\)](#), regarding multiple signatures. Proposed orders need not be submitted with stipulations unless requested by the court.

XVII. Hyperlinks

- (A) Documents filed on the ECF system may contain hyperlinks but they must be limited to links to material within the filed document or to a location on the Internet that contains a source document for a citation.
- (B) Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of the filed document. Neither a hyperlink, nor any site to which it refers, shall be considered part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filed document.
- (C) The court accepts no responsibility for, and does not endorse, any product, organization, or content at any hyperlinked site. The court accepts no responsibility for the availability or functionality of any hyperlink.

XVIII. Privacy

- (A) The redaction of electronically filed documents is governed by [Fed. R. Civ. P. 5.2](#) and [Fed. R. Crim. P. 49.1](#).
- (B) If a redacted document is filed, the user must retain the original document for future production, if necessary, until the entry of a final, non-appealable judgment, or for two years, whichever is later.
- (C) The responsibility for complying with [Fed. R. Civ. P. 5.2](#) and [Fed. R. Crim. P. 49.1](#) rests solely with the user. The clerk's office will not review filings for compliance with these rules.

XIX. Orders, Judgments and Other Court-issued Documents

- (A) Electronic transmission of all orders, judgments, and proceedings of the court to the ECF system constitutes filing of the document for all purposes of the Federal Rules of Procedure and constitutes entry of the document on the docket maintained by the clerk of court pursuant to [Fed. R. Civ. P. 58](#), [Fed. R. Civ. P. 79](#), [Fed. R. Crim. P. 49](#), and [Fed. R. Crim. P. 55](#).
- (B) Any order, judgment or court-issued document filed in the ECF system has the same force and effect as if the judge or clerk of court had signed a paper copy and filed it in the conventional manner.

XXVI. Access to Electronically Stored Documents

- (A) Public access to the civil and criminal dockets and documents in the ECF system is provided through the Public Access to Court Electronic Records (PACER) system. A PACER login and password can be obtained from the [PACER service center](#). Additional information is available at [PACER's website](#). The court's ECF records can be reviewed using a PACER account.

- (B) All filings that are not sealed may be viewed on the public computer terminal located at the [clerk's office](#) .