UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NORTH DAKOTA

ADMINISTRATIVE POLICY GOVERNING ELECTRONIC FILING AND SERVICE

Amended December 1, 2018

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I. General Information

(A) The Court uses an internet-based Electronic Case File (ECF) system for its official case files and docket. The ECF system accepts documents in portable document format (PDF). Electronically converted PDFs are the preferred type, and all PDFs submitted must be legible.

(B) All documents must be filed using ECF, unless specifically exempted under Section XI, Exceptions to Electronic Filing, of these Administrative Policies or unless the document is filed by a *pro se* party. See Section II (A), Registration. Documents filed prior to November 18, 2005, are available in paper form only and may be reviewed at the clerk's office.

(C) The electronic file maintained by the court, together with any paper documents filed in accordance with these Administrative Policies, constitutes the official court record.

(D) Each PDF file submitted must be no larger than 35 megabytes in size. Individual files larger than 35 megabytes must be subdivided prior to filing.

(E) Any charges imposed for viewing or downloading documents are dictated by the Judicial Conference of the United States Courts and are not charges imposed by this court. For additional information, visit the Public Access to Court Electronic Records (PACER) website.

II. Registration

(A) A *pro se* party may not register to use the ECF system.

(B) Only a filer or authorized agent of a filer may file a document using the filer's login and password. Use of a filer's login and password by an authorized agent will be deemed to be the act of the filer. 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. Law students will not be issued a login and password.

III. Filer Obligations

(A) Filers have a continuing obligation to update their contact information.

(B) Filers must change their access password to the ECF system if they suspect the confidentiality of the password has been compromised.

(C) A filer must report any suspected misuse of the ECF system to the clerk. If the court becomes aware of misuse of the ECF system, a filer 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) Attorneys 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 either electronically in PDF format attached to an e-mail or in paper form. Any case opening documents submitted in paper form will be scanned and electronically filed by the clerk. The clerk's e-mail address for civil case opening is: ndd_clerksoffice@ndd.uscourts.gov

(B) No case will be opened until the appropriate filing fee or a motion to proceed *in forma pauperis* (IFP) is received by the clerk's office.

(C) All attachments and exhibits to case opening documents must be submitted as separate documents. Attachments and exhibits may be submitted electronically in PDF format or in paper form. All attachments must be redacted, pursuant to Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1.

(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.

(E) The Court's Plan for Direct Assignment of Civil Cases to a Magistrate Judge governs the manner in which civil cases are assigned. If a civil case is directly assigned to a Magistrate Judge, the parties will be required to submit a Consent/Reassignment Form. Additional Information is available in the Direct Assignment Plan.

VI. Filing of Documents Adding or Removing a Party

Any document that adds a party to a case or removes a party from 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 in paper form. Filers are not permitted to add or remove parties to a case. These documents should be sent to the clerk's office e-mail address: ndd_clerksoffice@ndd.uscourts.gov

VII. Filing a Notice of Appeal

(A) Civil Cases: A notice of appeal may be filed in CM/ECF. If the notice of appeal is not filed in CM/ECF, a notice of appeal should be submitted in paper form or sent to the clerk's office email address: ndd_clerksoffice@ndd.uscourts.gov

(B) Criminal Cases: A notice of appeal should be submitted in PDF format either attached to an e-mail or in paper form. A notice of appeal should be sent to the clerk's office email address: ndd_clerksoffice@ndd.uscourts.gov

VIII. Electronic Filing

(A) A document filed electronically will be deemed filed at the time and date stated on the NEF.

(B) All pleadings filed electronically must be titled using the appropriate civil or criminal event code.

IX. Service of Electronically Filed Documents

(A) 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 represented parties, which constitutes service except as noted below. *Pro se* parties must be served by traditional means.

(B) The filer must serve a paper copy of any electronically filed document on *pro se* litigants. *Pro se* parties will be identified in the NEF.

X. Signatures

(A) Attorneys. 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 filer 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	/s/ Richard Smith
Richard Smith	Richard Smith
222 4th Street	222 4th Street
Anywhere, USA 58201	Anywhere, USA 58201
701-123-4567	701-123-4567
rsmith@internetprovider.com	rsmith@internetprovider.com

(B) Clerk's Office Staff and United States Probation and Pretrial Services Staff. Clerk's office staff and United States probation and pretrial services staff may use an electronic signature when signing documents. The electronic signature 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/."

(C) Multiple Signatures. The filer of any document requiring more than one signature (*e.g.*, stipulations) must list the names of all 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 filer certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filer has their actual authority to submit the document electronically. The filer 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.

(D) 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 filer 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.

(E) 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.

(F) Defendants in Criminal Cases. Any document requiring a defendant's signature must contain an image of a defendant's signature. An "/s/," "/s" or "s/" signature block is not acceptable for defendants' signatures, unless the document is submitted by the United States probation and pretrial services office. If the United States probation and pretrial services office submits a document with a "/s/," "/s" or "s/" signature block, the original signed document must be retained 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) trial exhibits; and
(2) items that cannot be converted to PDF format (e.g., video tapes or oversized documents).

(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 *pro se* litigants;
(2) Fed. R. Crim. P. 20, Fed. R. Crim. P. 21 and Fed. R. Crim. P. 40 transfer papers;
(3) pleadings and documents for opening a case or appeal; and
(4) pleadings and documents in a removal matter under 28 U.S.C. § 1446.

(C) Attorneys must obtain leave of court to file paper documents in any other instance. See Section I(B), General Information, for the requirements for using the ECF system.

XII. Motions

(A) Motions should be filed using the appropriate civil or criminal event code. If a motion is seeking multiple forms of relief from the court (i.e., motion to dismiss and motion for hearing), both motion reliefs should be selected when filing the motion. See Guide for Filing Multiple Relief Motions for more information.

(B) Proposed orders must NOT be filed. See Section XXI(B), Proposed Documents, for additional information. When requested by the Court, the proposed orders should be emailed to the appropriate chambers email address in either Word or WordPerfect format.

XIII. 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 35 megabyte limitation. Each individual attachment must be filed separately and must contain an exhibit letter or number, if applicable, and a description of sufficient detail to make the attachment readily identifiable to the court. Abbreviations may be used sparingly. See Guide to Filing Attachments and Section XXVII, Reference to Parts of the Record.

(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 in ECF. See Section XXVII, Reference to Parts of the Record.

XIV. 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 XIII, Attachments to Filings and Exhibits, and must be filed in their entirety. The use of partial excerpts as attachments to motions is not allowed 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 processing 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 XIX, Privacy.

(B) Transcripts of court proceedings.

(1) A transcript provided to the court by a court reporter or transcriber will be available at the public terminal in the office of the clerk for inspection only, for a period of 90 days after it is delivered to the clerk. The transcript may not be printed.

(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 remote electronic access to the transcript through the court's CM/ECF system.

(3) After the 90-day period has ended, the filed transcript will be available for inspection and printing 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. Transcripts are not subject to the maximum per document fee charged by PACER. The per page fee will be charged for each page of the transcript.

XV. 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. For additional information, see the Court's Standing Order re: Sealed Documents and Standing Order re: Search and Seizure Warrants.

(B) Sealed Cases and Documents.

(1) 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.

(2) Motions for leave to file under seal, sealed documents, sealed motions, responses to sealed motions, replies to sealed motions, and sealed orders 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.

XVI. *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 and the filing party. The *ex parte* motion will not appear on the public docket sheet. 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 be sent to only the court and the filing party. The filing party will be able to access the *ex parte* motion using the filer's login and password.

XVII. Stipulations

Stipulations must conform to Section X(C), Multiple Signatures. Proposed orders must NOT be submitted with stipulations unless requested by the court. When requested by the court, the proposed orders should be emailed to the appropriate chambers email address in either Word or WordPerfect format.

XVIII. 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, will 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.

XIX. 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) The responsibility for complying with Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1 rests solely with the filer. The clerk's office will not review filings for compliance with these rules.

(C) If a redacted document is filed, the filer 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.

XX. 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 pursuant to Fed. R. Civ. P. 58, Fed. R. Civ. P. 79, 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 had signed a paper copy and filed it in the conventional manner.

(C) A judge may grant routine orders by a text-only entry upon the docket. No PDF document will be attached. The text-only entry will constitute the court's only order on the matter. An NEF will be generated and sent. The NEF will indicate "no document attached" and will not contain a hyperlink to a document. *Pro Se* parties will be mailed a paper copy of the NEF.

(D) A paper copy of electronic filings generated by the court will be mailed by the clerk to parties not registered on the ECF system.

XXI. Proposed Documents

(A) A party seeking leave of court to file a proposed document (*e.g.*, amended complaint, modification to scheduling order, brief in excess of page limitations) must submit the proposed document as an attachment to the motion for leave to file. The court will rule on the motion, and if granted, will direct the party to file an electronically signed original. See Section XIII, Attachments to Filings and Exhibits, for information on attachments.

(B) Proposed orders must NOT be filed. When requested by the Court, the proposed orders should be emailed to the appropriate chambers email address in either Word or WordPerfect format.

XXII. Correspondence

Correspondence must not be filed in the ECF system. Any request for court action must be filed in pleading format.

XXIII. Facsimile Transmissions

No pleadings or other documents may be submitted to the court for filing by facsimile transmission.

XXIV. Errors, Docket Corrections, and E-filing Modification Requests

(A) Any errors will be brought to the filer's attention by the clerk's office and may require correction by the filer.

(B) A filer who discovers an error should contact the clerk's office:

Bismarck: 701-530-2300
Fargo: 701-297-7000
E-mail: ndd_clerksoffice@ndd.uscourts.gov

(C) When an error is corrected, the clerk's office will file a Docket Correction in ECF advising all parties of the correction. If the clerk's office needs a filer to take any action to assist in correcting an error, the clerk's office will file an E-filing Modification Request in ECF advising all parties of the action needed by the filing party.

XXV. Technical Failures

A filer whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court, using the contact information set forth in Section XXIV, Errors, Docket Corrections, and E-filing Modification Requests.

When the ECF system is down for system upgrades or due to other technical difficulties, filings may be sent to the new case email address set forth in Section V, Filing and Service of Civil Case Opening Documents and will be filed by the clerk's office as of the date the court received the document(s).

XXVI. Retention

Unless otherwise ordered by the court, documents submitted to the clerk for filing on paper will be destroyed after uploading into the ECF system consistent with the policies of the National Archives and Records Administration.

XXVII. 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.

XXVIII. References to Parts of the Record

To facilitate the Court's review of filings, references to documents filed in CM/ECF should be made in the following format.

Source	**Citation Formats**
Document number 123 in the same case	Doc. 123 ECF 123 Dkt. 123
Document number 12 in the same case, first attachment	Doc. 12-1 ECF 12-1 Dkt. 12-1
Case 1:12-cv-123, document number 14, page 2	Doc. 1:12-cv-123 14 p. 2 Doc. 1:12-cv-123 14 2 ECF 1:12-cv-123 14 p. 2 ECF 1:12-cv-123 14 2 Dkt. 1:12-cv-123 14 p.2 Dkt. 1:12-cv-123 14 2
Criminal case 1:12-cr-456, defendant 2, document number 25	Doc. 1:12-cr-456-2 25 ECF 1:12-cr-456-2 25 Dkt. 1:12-cr-456-2 25

For attachments to main documents, the text reference in the main documents must match the description that is entered for the attachment at the time of filing. For example, if an attachment is described as "Exhibit 1 Contract," references to this exhibit in the main document should use the same text, "Exhibit 1 Contract."

Additional information on describing attachments is available in the Guide to Filing Documents and Attachments.