

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**IN RE: ELECTRONIC CASE FILING
POLICIES AND PROCEDURES**

ORDER

FILED

JAN 5 2004

AT 8:30

WILLIAM T. WALSH
CLERK

Effective January 5, 2004, the Court establishes an Electronic Case Filing system referred to in this Order as "ECF." Rules 5 and 83 of the Federal Rules of Civil Procedure and Rule 57 of the Federal Rules of Criminal Procedure authorize the Court to establish policies and procedures for the filing, signing, serving and verification of documents by electronic means. Consistent with the general authorization contemplated by these procedures, the Court intends to implement a voluntary ECF system, effective January 5, 2004, for civil, miscellaneous, and criminal cases. The Court will seek required utilization within a reasonable period of time after receiving the benefit of full comment by the bar and public.

This Order incorporates the annexed policies and procedures to be followed by parties participating in ECF, which are intended to be applied and interpreted pursuant to the Court's ECF User Manual. The Court has solicited and considered the views of the bar concerning these policies and procedures through the Lawyers' Advisory Committee, which established a subcommittee to assist in the formulation of the Policies and Procedures, and the views of the public by publishing in September 2003 a draft version of this Order and considering the comments submitted in response to that publication.

The Court is satisfied that the public and the bar have participated in the development of procedures set forth herein, with a continuing opportunity to offer

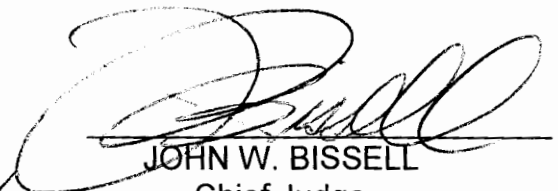
comment, and that these procedures, read in conjunction with the Electronic Filing User Manual, are consistent with the policies of the Judicial Conference of the United States and all applicable Federal Rules of Civil and Criminal Procedure.

IT IS THEREFORE ORDERED THAT:

1. This Order supersedes the Standing Order of March 24, 1999, concerning Electronic Case Filing.
2. The Court adopts the attached ECF Policies and Procedures and directs that they be applied and interpreted with the Court's ECF User Manual.
3. The Court adopts the attached Local Civil Rule 5.2 which permits electronic service and filing of documents.
4. The Court also adopts the attached amendments to paragraph B of Appendix N to the Local Civil Rules.
5. The Clerk of the Court may amend the ECF Policies and Procedures from time to time as appropriate.
6. This Administrative Order, the ECF Policies and Procedures, Local Civil Rule 5.2, Amendment to Appendix N, and the Users' Manual shall be made available to the bar and public at the three vicinages of the Court, shall be posted on the Court's web site at pacer.njd.uscourts.gov, and shall be published periodically in the New Jersey Law Journal. Any amendments to these documents shall be similarly posted and published.

FOR THE COURT

DATE: *Jan. 5, 2004*


JOHN W. BISSELL
Chief Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ELECTRONIC CASE FILING POLICIES AND PROCEDURES

1. Definitions.

- (a) "Electronic Filing System" refers to the court's automated system that receives and stores documents filed in electronic form. The program is part of the CM/ECF (Case Management/Electronic Case Filing) software which was developed for the Federal Judiciary by the Administrative Office of the United States Courts.
- (b) "Filing User" is an individual who has a court-issued login and password to file documents electronically.
- (c) "Notice of Electronic Filing" is a notice automatically generated by the Electronic Filing System at the time a document is filed with the system, setting forth the time of filing, the name of the party and attorney filing the document, the type of document, the text of the docket entry, the name of the party and/or attorney receiving the notice, and an electronic link (hyperlink) to the filed document, which allows recipients to retrieve the document automatically.
- (d) "PACER" (Public Access to Court Electronic Records) is an automated system that allows an individual to view, print, and download court docket information over the internet.
- (e) "PDF" refers to Portable Document Format. A document file created with a word processor, or a paper document which has been scanned, must be converted to portable document format to be filed electronically with the court. Converted files contain the extension ".pdf."
- (f) "Proposed Order" is a draft document submitted by an attorney for a judge's signature. A proposed order shall accompany a motion or other request for relief as an electronic attachment to the document.
- (g) "Document" shall include pleadings, motions, briefs, memoranda, exhibits, certifications, declarations, affidavits, papers, orders, notices, and any other filing by or to the court.
- (h) "Technical Failure" is defined as a malfunction of court owned/leased hardware, software, and/or telecommunications facility which results in the inability of a Filing User to submit a filing electronically. Technical failure does not include malfunctioning of a Filing User's equipment.
- (i) "In Paper Form" is submitting a document in hard copy on paper.

2. Actions Subject to Electronic Case Filing

All civil, criminal, and miscellaneous cases and documents filed in this court on or after January 5, 2004, will be entered into the court's Electronic Case Filing ("ECF") System in accordance with these Policies and Procedures ("Procedures"). Except as expressly provided in these Procedures and in exceptional circumstances preventing a registered ECF Filing User from filing electronically, a registered ECF Filing User shall file all documents electronically.

3. Initial Papers

The filing of initial papers in civil cases, such as the complaint and the issuance and service of the summons, and, in criminal cases, the indictment, information, or complaint, including any superseders, warrant for arrest or summons, will be accomplished by hard copy filed in the traditional manner on paper rather than electronically. In a case removed to the federal court, parties are requested to provide electronic copies of all documents previously filed in the state court.

4. Service of Process

Service of summons and complaint must be made under Federal Rule of Civil Procedure 4 and applicable Local Rules governing service.

5. Disk or CD Rom

All documents submitted on paper, including initial papers referenced in paragraph 3, must be accompanied by a disk or CD Rom containing the document in PDF format.

6. Eligibility, Registration, Passwords.

An attorney admitted to the Bar of this court, including attorneys authorized to represent the United States, may register as a Filing User by completing the prescribed registration form (see Exhibit A) and submitting it to the Clerk of Court. The form is also available on the court's web site at pacer.njd.uscourts.gov. Registration as a Filing User constitutes consent to electronic service of all documents as provided in this order in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

When registering as an ECF Filing User, an attorney is certifying that he/she has completed the ECF tutorial on the court's web site or hands-on training. It is recommended that a PACER account be established, which can be accomplished by visiting the PACER web site at <http://pacer.psc.uscourts.gov>. After verification, the Filing User will receive an electronic notification of the user login and password. A Filing User shall protect the security of the User's password and immediately notify the court if the Filing User suspects that the password has been compromised.

A Filing User will promptly notify the court if there is a change in personal data, such as name, e-mail address, telephone number, etc., as required under Local Civil Rule 10.1.

The E-Filing Registration Form includes a space (**Email**) for the user's email address. This email address is essential in order to receive Notices of Electronic Filing. It can be the user's business or personal email address. It can also be an email address for another person designated to receive these Notices. If you change the email address for receiving Notices of Electronic Filing, notify the Clerk's Office promptly.

Pro Se Parties - A party who is not represented by counsel must file papers with the clerk in the traditional manner on paper.

7. Consequences of Electronic Filing.

Electronic transmission of documents to the Electronic Filing System in accordance with these Policies and Procedures, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the Local Rules of this court, and constitutes entry of the document on the docket kept by the clerk under Fed.R.Civ.P. 58 and 79 and Fed.R.Crim.P. 49 and 55.

Before filing a scanned document with the court, a Filing User must verify its legibility.

When a document has been filed electronically, the official record of that document is the electronic recording as stored by the court, and the filing party is bound by the document filed. A document filed electronically is deemed filed on the date and time stated on the Notice of Electronic Filing from the court.

Filing a document electronically does not alter the filing deadline for that document. Electronic filing must be completed before midnight Eastern time in order to be considered timely filed that day. In accordance with Rule 6(e) of the Federal Rules of Civil Procedure and Rule 45(c) of the Federal Rules of Criminal Procedure service by electronic means is treated the same as service by mail for the purposes of adding three (3) days to the prescribed period to respond.

8. Entry of Court Orders and Related Papers.

All orders, decrees, judgments, and proceedings of the court entered or issued by the court will be filed in accordance with these Policies and Procedures, and such filing shall constitute entry on the docket kept by the clerk under Fed.R.Civ.P. 58 and 79 and Fed.R.Crim.P. 55.

All orders will be filed electronically by the court or court personnel. An order filed electronically without the original signature of a judge shall have the same force and effect

as if the judge had affixed a signature to a paper copy of the order and the order had been entered on the docket in the conventional manner.

The assigned judge or the clerk's office, if appropriate, may grant routine orders by a text-only docket entry for which a Notice of Electronic Filing will be generated. In such cases, no PDF document will be issued, and the text-only entry shall constitute the court's only order on the matter.

A Filing User submitting a document that requires a judge's signature shall submit the document as an electronic attachment to a motion or other request for relief in accordance with the procedure for a "Proposed Order" as outlined in the court's ECF User Manual.

9. Notice of Court Orders and Judgments.

Immediately upon the entry of an order or judgment in an action, the clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed.R.Civ.P. 77(d) and Fed.R.Crim.P 49(c). The clerk must give notice in paper form to a person who has not consented to electronic service.

10. Attachments and Exhibits.

A Filing User must submit in electronic form all documents referenced as exhibits or attachments, including briefs, in accordance with the court's ECF User Manual, including file size limitations contained therein, unless otherwise ordered by the court. A Filing User shall submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. The court may require parties to file additional excerpts or the complete document.

11. Courtesy Copies

In addition to the electronic filing of all motion papers, the court requires delivery of courtesy copies in paper form within three days of the filing of the motion to Judges' chambers, unless otherwise directed by the Judge. These documents shall be clearly marked as courtesy copies.

12. Sealed Documents.

A document subject to a sealing order or order of confidentiality must be filed only in the traditional manner on paper, in a sealed envelope marked "sealed," and shall NOT be accompanied by a disk or CD-ROM containing the document in PDF format. Only the motion to file a document under seal may be filed electronically, unless prohibited by law. The order of the court authorizing the filing of documents under seal may be filed

electronically, unless prohibited by law. A paper copy of the sealing order must be attached to the documents under seal and be delivered to the clerk.

13. Special Filing Requirements and Exceptions to Electronic Filing.

(a) Special Filing Requirements

The documents listed below shall be presented for filing in the traditional manner on paper only, and shall NOT be accompanied by a disk or CD-ROM containing the document in PDF format:

Sealed
In Camera
Confidential Agreements
Documents subject to confidentiality order
Ex Parte
Qui Tam Cases

(b) Exceptions

(1) Permissive Exceptions

The following documents may be excluded from the Electronic Filing System and filed solely on paper.

(a) ANY DOCUMENT WHICH CONTAINS MORE THAN 200 PAGES.

(b) In cases where the record of an administrative proceeding (excluding Social Security Cases as referred to in paragraph 18) or other prior proceeding must be filed with the court, such record may be served and filed in hard copy without prior motion and order of the court.

(c) A party may move for permission to serve and file in hard copy documents that cannot reasonably be scanned.

(2) Mandatory Exceptions

The following documents are excluded from the Electronic Filing System and shall be filed solely on paper:

(a) ADMINISTRATIVE RECORDS IN SOCIAL SECURITY CASES

(b) TRANSCRIPTS

(c) GRAND JURY MATTERS:

The following documents are examples of grand jury matters.

- 1) Minute Sheets of swearing in and empanelment;
- 2) Grand Jury Returns;
- 3) Voting Slips;
- 4) Motions to quash subpoenas and orders ruling on them;
- 5) Motions to enforce subpoenas and orders ruling on them;
- 6) Motions for immunity and orders ruling on them;
- 7) Motions for appointment of counsel and orders ruling on them.

(d) WARRANTS ISSUED:

The following are examples of types of warrants issued.

- 1) Arrest Warrants;
- 2) Seizure Warrants;
- 3) Search Warrants;
- 4) Pen Registers;
- 5) Wire Tap Orders;
- 6) Bench Warrants.

(c) Procedures for Electronic Filing of Motions Under Appendix N

B.1.A The following provisions shall be employed in those cases where the parties are electronic case filers:

The moving party shall serve its notice of motion, brief, and any certifications, affidavits or other supporting documentation on all adversaries under a cover letter specifically identifying each document enclosed, and shall file electronically its cover letter without enclosures with the court. Unless an extension of time for a more extended briefing schedule is granted by the Judge, all parties must file electronically their motion papers with the Clerk of Court within 30 days of the submission of the copy of the cover letter. On the date agreed upon among the parties (not beyond the 30 day period), each party shall simultaneously file electronically their respective motion papers with the Clerk, and the Moving Party shall be responsible to deliver a courtesy copy in paper form (marked as a courtesy copy) of all motion papers, including opposition, to the Judge who will hear such motion. Unless the Court has previously set the return date for the motion, the return date on the notice of motion shall be left blank until the full motion package is ready for filing. The moving party shall insert the return date on the notice of motion before filing electronically the motion. The filing of the cover letter will enable the Court to acknowledge and follow the status of the motion. The filing of the cover letter within the time limitations provided in Fed. R. Civ. P. 12 (or any extension thereto pursuant to L.Civ.R. 6.1(b)) shall satisfy those

time limitations and evidence the extension of time for filing a responsive pleading (e.g., an answer).

Parties are to refer to paragraph 19 concerning sensitive information when submitting documents to the court.

The remaining provisions of Appendix N shall continue to apply.

14. Signatures.

- (a) **Attorney Signatures** The user login and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the court. They serve as signature for purposes of Fed.R.Civ.P.11, all other Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, and the Local Rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court.

Each document filed electronically shall indicate "Document Electronically Filed" in the caption showing that it has been electronically filed. An electronically filed document, or a document submitted on disk or CD-ROM, and in compliance with Local Civil Rules 10.1 and 11.1, must include a signature line with "s/," as shown below.

s/ Jennifer Doe

No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

- (b) **Multiple Signatures** A document requiring signatures of more than one party must be filed electronically either by: (1) submitting a scanned document containing all necessary signatures; or (2) in any other manner approved by the court.
- (c) **Non-Attorney Signatures** A document requiring the signature of a non-attorney must be filed electronically by: (1) submitting a scanned document containing all necessary signatures; or (2) in any other manner approved by the court.

15. Retention Requirements.

A document that is electronically filed and requires an original signature other than that of the Filing User must be maintained in paper form by the ECF Filing User and/or the firm representing the party on whose behalf the document was filed until one year after all periods

for appeals expire. On request of the court, the ECF Filing User or law firm must provide the original document.

16. Service of Documents by Electronic Means.

(a) Service of Process

Nothing in these Procedures shall affect the manner of filing and service of complaints (including third-party complaints) and the issuance and service of summonses, which in all civil actions shall continue to be filed, issued and served in paper form and in conformance with the Federal Rules of Civil Procedure and the Local Rules of this Court.

(b) Other Types of Service:

(1) Filing User

Upon the electronic filing of a pleading or other document, the court's ECF System will automatically generate and send a Notice of Electronic Filing to all Filing Users associated with that case. Transmission of the Notice of Electronic Filing constitutes service of the filed document.

The Notice of Electronic Filing includes the time of filing, the name of the party and attorney filing the document, the type of document, the text of the docket entry, and an electronic link (hyperlink) to the filed document, allowing anyone receiving the notice by e-mail to retrieve the document automatically. If the Filing User becomes aware that the Notice of Electronic Filing was not transmitted successfully to a party, or that the notice is deficient, e.g., the electronic link to the document is defective, the filer shall serve the electronically filed document by e-mail, hand, facsimile, or by first-class mail postage prepaid immediately upon notification of the deficiency of the Notice of Electronic Filing.

The submission of the Registration Form to the court constitutes consent to service of all papers via the court's electronic filing system as provided in Fed. R. Civ. P. 5(b) and 77(d), and the "Notice of Electronic Filing" that is automatically generated by the court's Electronic Filing System constitutes service of the filed document on Filing Users.

(2) Non ECF Filer

A Non ECF Filer is entitled to receive a paper copy of any electronically filed document from the party making such filing. Service of such paper copy must be made according to the Federal Rules of Civil Procedure,

the Federal Rules of Criminal Procedure, the Local Rules of this court, and as set forth in the ECF User Manual.

(c) Time to Respond Under Electronic Service

In accordance with Rule 6(e) of the Federal Rules of Civil Procedure and Rule 45(c) of the Federal Rules of Criminal Procedure service by electronic means is treated the same as service by mail for the purposes of adding three (3) days to the prescribed period to respond.

17. Technical Failures.

The clerk shall deem the court's Electronic Case Filing web site to be subject to a technical failure if the site is unable to accept filings continuously or intermittently for more than one hour occurring after 12:00 noon (Eastern Time) that day. If a Filing User experiences technical failure, the document may be submitted to the court that day in an alternative manner, provided that it is accompanied by an affidavit of the Filing User's failed attempts to file electronically at least two times at least one hour apart after 12:00 noon. The following methods of filing are acceptable as a result of **only the court's** technical failure:

- (a) in person, by bringing the document to the clerk's office on paper accompanied by a disk or CD-ROM which contains the document in PDF format;
- (b) via electronic mail in PDF attachment, sent to the e-mail address for technical failures listed in the ECF User Manual.
- (c) through facsimile transmission to the clerk's office where the presiding judicial officer is stationed. When a Filing User subject to technical failure submits a document by fax, the document shall be filed electronically on the next business day. Please refer to the fax numbers listed in the ECF User manual.

The initial point of contact for a Filing User experiencing technical difficulty filing a document electronically shall be the court's ECF Help Desk at the toll free numbers listed in the ECF User Manual. When possible, the Clerk will provide notice of all such technical failures on the court's web site.

A Filing User who suffers prejudice as a result of a technical failure may seek appropriate relief from the court.

18. Public Access

A person may retrieve information from the Electronic Filing System at the court's Internet site, ecf.njd.uscourts.gov, by obtaining a PACER login and password. A person who has PACER access may retrieve docket sheets and documents in civil cases, except for

social security cases, in which only counsel of record may retrieve certain documents. Docket sheets in criminal cases are available to a person with PACER access, but only counsel for the government and for the defendant may retrieve documents electronically in a criminal case.¹ Neither a social security case nor criminal case is available for public view over the Internet in accordance with the policy established by the Judicial Conference of the United States. However, when ordered by the court upon the agreement of the parties, a criminal case may be accessed when it is for the convenience of the parties and in the public interest to do so. Any case or document under seal shall not be available to the public through electronic or any other means.

19. Sensitive Information

As the public may access certain case information over the internet through the court's Electronic Filing System, sensitive information should not be included in any document filed with the court unless such inclusion is necessary and relevant to the case. If sensitive information must be included, the following personal data identifiers must be partially redacted from the document, whether it is filed traditionally or electronically: Social Security numbers, financial account numbers, dates of birth, and names of minor children.²

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers specified above may also file an unredacted document under seal along with the required redacted document. The unredacted document shall be retained by the court as part of the record.

In addition, caution must be exercised when filing documents that contain the following:

- 1) Personal identifying numbers, such as a driver's license number;
- 2) Medical records, treatment, and diagnoses;
- 3) Employment history;
- 4) Individual financial information; and
- 5) Proprietary or trade secret information.

Counsel are strongly urged to share this information with all clients so that an informed decision about the inclusion of certain material may be made. If a redacted document is filed, it is the sole responsibility of counsel and the parties to be sure that pleadings and other

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The Judicial Conference, at its September 2003 meeting, has agreed to delay the effective date of its new policy permitting remote public access to electronic criminal case file documents until guidelines are drafted by conference committees governing court administration.

² Documents in social security cases may be excluded from the redaction requirement as they are not electronically available to the public over the Internet, pursuant to the privacy policy of the Judicial Conference of the United States.

papers comply with the rules and orders of this court requiring redaction of personal identifiers. The clerk will **not** review each filing for redaction.

Counsel and the parties are cautioned that failure to redact personal identifiers and/or the inclusion of irrelevant personal information in a document filed with the court may subject them to the full disciplinary and remedial power of the court, including sanctions pursuant to Fed. R. Civ. P. 11.

20. Correcting Docket Entries

Once a document is filed electronically, corrections to the docket can only be made by the Clerk's Office. The System will not permit the filing party to make changes to the document or docket entry once the transaction has been accepted. Only upon an Order of the Court can a document be removed or withdrawn from the ECF system.

Policies and Procedures December 2, 2003

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Local Civil Rule 5.2 - Electronic Service and Filing Documents

Papers served and filed by electronic means in accordance with procedures promulgated by the Court are, for purposes of Federal Rule of Civil Procedure 5, served and filed in compliance with the local civil and criminal rules of the District of New Jersey.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Appendix N. Procedure for Dispositive and Complex Motions

The first sentence of B.1 is hereby amended to read as follows,

B.1 Except for electronic filing as set forth in paragraph B.1.A below,

The remaining provisions of B.1. shall continue to apply.

B.1.A The following provisions of this Appendix N shall be employed in those cases where the parties are electronic case filers:

The moving party shall serve its notice of motion, brief, and any certifications, affidavits or other supporting documentation on all adversaries under a cover letter specifically identifying each document enclosed, and shall file electronically its cover letter without enclosures with the court. Unless an extension of time for a more extended briefing schedule is granted by the Judge, all parties must file electronically their motion papers with the Clerk of Court within 30 days of the submission of the copy of the cover letter. On the date agreed upon among the parties (not beyond the 30 day period), each party shall simultaneously file electronically their respective motion papers with the Clerk, and the Moving Party shall be responsible to deliver a courtesy copy in paper form (marked as a courtesy copy) of all motion papers, including opposition, to the Judge who will hear such motion. Unless the Court has previously set the return date for the motion, the return date on the notice of motion shall be left blank until the full motion package is ready for filing. The moving party shall insert the return date on the notice of motion before filing electronically the motion. The filing of the cover letter will enable the Court to acknowledge and follow the status of the motion. The filing of the cover letter within the time limitations provided in Fed. R. Civ. P. 12 (or any extension thereto pursuant to L.Civ.R. 6.1(b)) shall satisfy those time limitations and evidence the extension of time for filing a responsive pleading (e.g., an answer).

Parties are to refer to paragraph 19 concerning sensitive information when submitting documents to the court.

The remaining provisions of Appendix N shall continue to apply.