

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA



ELECTRONIC CASE FILING ADMINISTRATIVE POLICIES
AND PROCEDURES MANUAL

August, 2013

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

**ADMINISTRATIVE PROCEDURES GOVERNING
THE FILING AND SERVICE BY ELECTRONIC MEANS**

ELECTRONIC FILING AND PDF DOCUMENTS

Local Rule 5.3 requires electronic filing in conjunction with Federal Rules of Civil Procedure 5(d)(3) and 83 and Federal Rules of Criminal Procedure 49 and 57. The following procedures govern electronic filing in this district unless, due to extraordinary circumstances in a particular case, a judicial officer determines that these policies and procedures should be modified in the interest of justice.

Electronic filing is the process of uploading a document from the registered user's computer, and then using the court's internet-based case management/electronic case files (CM/ECF) system to file the document in the court's electronic case file.

The ECF system only accepts documents in a portable document format (PDF). Although there are two types of PDF documents, electronically converted PDF's and scanned PDF's, **for documents capable of electronic conversion only electronically converted PDF's may be filed with the court using the ECF System**, unless otherwise authorized by local rule or order.

Electronically converted PDF's are created from word processing documents (MS Word®, WordPerfect® etc.) using Adobe Acrobat® or similar software. They are text searchable and their file size is small.

Scanned PDF's are created from paper documents processed through an optical scanner. Most scanned PDF's are not searchable and have a large file size. Because documents scanned in color or containing a graphic take much longer to upload, filing parties must configure their scanners to scan documents at 300 dpi and in black and white rather than in color. Documents appearing in color in their original form, such as color photographs, may be scanned in color and then uploaded to CM/ECF.

ADMINISTRATIVE PROCEDURES

A. General Information

- (1) **Effective March 1, 2005**, registered CM/ECF users were authorized to file documents electronically, except those exempted in Section G of the administrative procedures. **Effective January 1, 2006**, attorneys were required to use CM/ECF to file all documents not otherwise exempted.
- (2) Any document electronically filed or converted by the United States District Court for the Middle District of North Carolina (Clerk's Office) to electronic format on or after **March 1, 2005** shall be the official record of the Court. As such, the Clerk's Office will not maintain a paper record for these documents.
- (3) All documents filed by electronic means must comply with technical standards, if any, established by the Judicial Conference of the United States or by this Court.
- (4) A case filed under seal will be sealed electronically under ECF until the assigned Judge orders the case unsealed.
- (5) An attorney may for good cause apply to the assigned judge for permission to file documents in hard copy (manually). Even if the assigned judge initially grants an attorney permission to file documents conventionally, the assigned judge may withdraw that permission at any time during the pendency of a case and require the attorney to file documents electronically using the System.
- (6) The Clerk's Office or any assigned judge of this court may deviate from these procedures in specific cases, without prior notice, if deemed appropriate in the exercise of discretion, considering the need for the just, speedy, and inexpensive determination of matters pending before the court. The court may also amend these procedures at any time without prior notice.
- (7) Nothing in these Administrative Procedures shall be construed to nullify or contradict the provision set forth in Rule 26.1 of the Local Rules of Civil Procedure, directing that interrogatories, requests for production and inspection and requests for admission under Rules 33, 34 and 35 of the Federal Rules of Civil Procedure; that answers, responses and objections to interrogatories pursuant to Rules 34 and 36; and, notices of depositions and depositions, under Rules 30 and 31 of Federal Rules of Civil Procedure, shall not be filed with the court pursuant to Local Rule 26.1(b)(3).

- (8) Nothing in these Administrative Procedures shall be construed to nullify or contradict the provisions set forth in Rule 79 of the Federal Rules of Civil Procedure and Rule 55 of the Federal Rules of Criminal Procedure, both of which require the Clerk of Court to maintain custody of records in a manner prescribed by the Director of the Administrative Office of the U.S. Courts.
- (9) All cases filed in the ECF System in which a notice of appeal is filed shall be governed by Rule 10 of the Federal Rules of Appellate Procedure and relevant Local Rules and internal operating procedures of the United States Court of Appeals for the Fourth Circuit, with any differences about whether the record truly discloses what occurred in the district court to be submitted to and settled by the assigned judge. Cases in which there is a right of direct appeal to the United States Supreme Court shall be governed by the rules of the United States Supreme Court.
- (10) Nothing in this Electronic Case Filing and Administrative Policies and Procedures Manual supersedes the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, or the Local Rules of this district.
- (11) The Court may also amend these rules at any time without notice.
- (13) When multiple attorneys in a law firm appear in a case, and at least one attorney is a registered 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 electronic users to notify and serve all other firm members appearing in the case who are not receiving paper copies from the court.
- (14) An attorney who enters a case after the case initiating document and response have been filed shall file a Notice of Appearance which will include the attorney's name and the name of the attorney's law firm. The attorney also shall file contemporaneously a disclosure statement in accordance with Federal Rules of Civil Procedure 7.1, and Federal Rules of Criminal Procedure 12.4, unless already filed by the lead attorney. An attorney may not file a notice of appearance on behalf of another attorney. Each attorney must file his or her own notice of appearance.

B. Registration & Passwords

- (1) Attorneys admitted to the bar of this court, including specially appearing attorneys, shall register as filing users of the court's ECF system prior to filing any pleadings. Registration shall be submitted on an Attorney Registration Form, a copy of which is on the Court's web page (www.ncmd.uscourts.gov.) All signed original Attorney Registration Forms shall be mailed to the United States District Court, Middle District of North Carolina, P.O. Box 2708, Greensboro, N.C. 27402.
- (2) Upon the approval of the assigned judge, a party to a case who is not represented by an attorney may register as an ECF filing user in the ECF System solely for the purpose of the action. Registration is in a form prescribed by the Clerk of Court and requires identification of the case as well as the name, address, telephone number and Internet e-mail address of the party. If, during the course of the case, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk of Court to terminate the party's registration as a filing user upon the attorney's appearance.
- (3) A registered user shall not allow another person to file a document using the user's log-in and password, except for an authorized agent of the filing user. Use of a user's log-in and password by a staff member shall be deemed to be the act of the registered user. Once registered, the attorney shall be responsible for all documents filed with his or her password.
- (4) The court will issue passwords only to attorneys in good standing. To be in good standing, an attorney must meet the requirements in Local Rule 83.1.
- (5) Registration constitutes consent to service of all documents by electronic means as provided in these procedures.
- (6) To ensure that the clerk's office has correctly entered a registering attorney's Internet e-mail address into the System, the Clerk's Office will send the attorney an Internet e-mail message after assigning the attorney a password.
- (7) Within fourteen days after receiving his or her initial password, an attorney must select a new password. Please consult the Court's CM/ECF User's Manual for detailed instructions on changing passwords, which is available on the Court's website at www.ncmd.uscourts.gov.
- (8) After registering, attorneys may change their passwords. If an attorney believes that the security of an existing password has been compromised and that a threat

to the system exists, the attorney must change his or her password immediately.

- (9) An attorney whose e-mail address, mailing address, or telephone or fax number has changed from the original Attorney Registration Form shall timely file a notice of a change of address and, if that attorney currently has active cases pending with the Court, shall serve a copy of the notice on all other counsel and/or parties in each such active case.

C. Filing and Service of Civil Case Opening Documents

- (1) **New cases are deemed filed the day the Clerk's Office receives the complaint and any required filing fee.**
- (2) **Except** for cases requesting to be placed under seal, cases shall be filed electronically using CM/ECF with filing fees being paid online (i.e. using a credit card or debit card with a credit card symbol) contemporaneously with the electronic case opening via the pay.gov application. The pay.gov link will appear when docketing the case initiating event (i.e. complaint, notice of removal, etc.)
- (3) The clerk's office will not make any filing fee refunds without an order from the Court. Counsel must make a motion for refund (using the CM/ECF event "Motion For Refund of Fees Paid Electronically) and attach a proposed order.
- (4) When filing a case with a motion for a temporary restraining order (TRO), the filing attorney shall notify the Clerk of Court by phone that a TRO will be filed. The filing attorney should be prepared to appear in person at the Greensboro or Winston-Salem courthouse should the Court request an immediate hearing. The filer shall submit via e-mail to the Clerk at clerk@ncmd.uscourts.gov WordPerfect versions of **any proposed order, including the TRO and preliminary injunction.**
- (5) If a case cannot be filed electronically due to technical difficulties, please contact the Clerk's Office at 336-332-6030. Problems with the online credit card program (Pay.gov) can be addressed by calling Pay.gov at 1-800-624-1373. If you are unable to docket the complaint or notice of removal after two attempts in one hour increments after 10:00 a.m. that day, you may e-mail the complaint in PDF format to newcases@ncmd.uscourts.gov. **Please contact the Clerk's Office at 336-332-6030 after doing so.** Filing users are cautioned that, in some circumstances, the Court lacks the authority to grant an extension of time to file (e.g., Rule 6(b) of the Federal Rules of Civil Procedure).

- (6) Counsel should complete the summons in Adobe® interactive format (located in our forms directory at our website) and e-mail it to newcases@ncmd.uscourts.gov. The Clerk's Office will sign, date and seal the summons(es) and e-mail them to the attorney who initiated the action. They should be printed for service. Attorney filers will receive a NEF that summons have issued. Because Federal Rule of Civil Procedure 5(b) does not permit electronic service of process for purposes of obtaining personal jurisdiction, service of process must be performed in the traditional manner.

D. Electronic Filing

- (1) Electronic transmission of a document to the ECF system, together with the transmission of a Notice of Electronic Filing (NEF) from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil 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) A document filed electronically shall be deemed filed at the time and date stated on the Notice of Electronic Filing received from the Court.
- (3) A document will be deemed timely filed if filed prior to midnight Eastern Time. However, if the time of day is of the essence, the assigned judge may order that a document be filed by a time certain.
- (4) If filing a document requires leave of the Court, such as an amended complaint, the attorney shall attach the proposed document as an attachment to the motion according to procedures in Section K. If the Court grants the motion, the order will direct the attorney to file the document electronically with the Court.
- (5) The clerk's office shall not maintain an official paper court file in any case begun after the effective date of these procedures except as otherwise provided in these procedures. The official court record shall be the electronic file maintained on the court's servers. The official record shall include, however, any conventional documents or exhibits filed in accordance with these procedures.
- (6) All pleadings and documents filed electronically must be transmitted in the form prescribed by Rule 10(a) of the Federal Rules of Civil Procedure and Local Rule 7.1 of this Court. All pleadings filed electronically should, when possible, be titled in accordance with the approved dictionary of civil or criminal events of the ECF system of this Court.

E. Service of Electronically Filed Documents

- (1) Whenever a pleading or other document is filed electronically, the ECF system will automatically generate and send a Notice of Electronic Filing (NEF) to the filing user and registered users of record. The user filing the document shall retain a paper or digital copy of the NEF, which shall serve as the court's date-stamp and proof of filing.

If a document is filed electronically under seal, the filer can select registered users of record to receive the NEF and access the related document. To view a sealed document from the NEF, the registered user, who has been given access, must enter their CM/ECF (not PACER) log-on and password. Registered users who have not been selected for document access in CM/ECF must be served a paper copy in a conventional manner such as the U.S. Mail.

- (2) Transmission of the NEF shall constitute service of the filed document and shall be deemed to satisfy the requirements of Rules 5(b)(2)(D) and 77(d) of the Federal Rules of Civil Procedure, Rule 49(b) of the Federal Rules of Criminal Procedure, and Local Rule 5.3 (b)(2).
- (3) All documents filed using the ECF system shall include a certificate of service identifying the manner in which the service on each party was accomplished. A sample certificate of service form is attached as Form A.
- (4) Attorneys who have not yet registered as users with CM/ECF and pro se litigants who have not registered with CM/ECF shall be served a paper copy of any electronically filed pleading or other document in accordance with the provisions of Rule 5 of the Federal Rules of Civil Procedure. The filing party may include the "Notice of Electronic Filing" to provide the recipient with proof of the filing. See Form A for format of certificate of service that should be used.
- (5) A filer who is permitted to hand deliver a document to the Clerk's Office for scanning and uploading to the System must serve conventional copies on all non-registered parties to the case and should expect some delay in the uploading and subsequent electronic noticing of the document.

F. Deadlines

Filing documents electronically does not in any way alter any filing deadlines. All electronic transmissions of documents must be **completed** prior to midnight, Eastern Time, in order to be considered timely filed that day. For example, 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. The NEF will note the official date and time of filing.

Where a specific time of day deadline is set by Court order or stipulation, the electronic filing must be completed by that time.

G. Special Filing Requirements and Exceptions

- (1) The following documents **shall be filed only on paper**.
 - (a) Sealed and Qui Tam Cases;
 - (b) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;
 - (c) Administrative records and transcripts in Social Security cases and transcripts or voluminous exhibits in other administrative review proceedings. (Pursuant to Local Rule 79.3 the Social Security administrative record will be returned to counsel at the conclusion of the case.)
 - (d) Pretrial hearing and trial exhibits; and
 - (e) Consent to Proceed before Magistrate Judge.

- (2) The following documents **shall be filed on paper**, which **may also be scanned** into ECF by the Clerk's Office:
 - (a) All handwritten pleadings;
 - (b) All pleadings and documents filed by pro se litigants (prisoner and non-prisoner);
 - (c) The charging document in a criminal case, such as the complaint, indictment, and information, as well as the criminal synopsis form;
 - (d) Applications/Affidavits for search and arrest warrants and related papers;
 - (e) CJA 7 (Order Terminating Appointment of Counsel, CJA 20 (Appointment of Counsel), CJA 21 (Authorization for Payment of Services), CJA 23 (Financial Affidavit), CJA 24 (Authorization and Voucher for Payment of Transcript), CJA 30 (Death Penalty Appointment/Counsel), CJA 31 Death Penalty Appointment/Expert Services);
 - (f) Fed.R.Crim.P.20 and Fed.R.Crim.P.5 papers received from another court;
 - (g) Any pleading or document in a criminal case containing the signature of a defendant, such as Appearance Bonds, Orders Setting Conditions of Release, a Waiver of Indictment or Plea Agreement, letters from a defendant requesting specific relief;
 - (h) Petitions for violations of supervised release;
 - (i) All pleadings and documents filed by non-registered attorneys who have obtained leave of the court to file in paper form; and

- (j) Rule 4 executed service of process documents from the United States Marshall Service.
- (3) Pretrial service reports are electronically filed by the United States Probation Office under seal. The filer shall authorize access to the applicable parties who shall receive a Notice of Electronic Filing. Upon the filing of a Waiver of Detention Hearing or at the conclusion of the detention hearing, any paper copies of the pretrial services report shall be returned to the probation office and the Court shall re-set access to the documents to Court Users only.
- (4) Psychiatric and psychological reports are received by the Clerk's Office in criminal cases, scanned, then filed under seal, unless ordered by the Court.
- (5) Settlement position papers, when required for cases on the Master Calendar and requested, shall be e-mailed to the trial Judge's e-mail box listed in Section L(2)(d).
- (6) A document subject to an existing sealing order or sealing statute shall be filed electronically under seal. A motion to file any document under seal shall be filed electronically using the appropriate docketing event. The document for which sealing is sought and a proposed order shall be submitted to the appropriate Judge's e-mail box. Refer to Section L below for further information on filing proposed orders. Filing Users must bear ultimate responsibility for ensuring that information is properly redacted and/or sealed. Refer to section E(1) above for service of sealed documents.

H. Hyperlinks in Documents

- (1) Electronically filed documents may contain the following types of hyperlinks:
 - (a) Hyperlinks to other portions of the same document; and
 - (b) Hyperlinks to a location on the Internet that contains a source document for a citation.

NOTE: In order for a hyperlink to work when creating the PDF document you must "publish to PDF." rather than "print to PDF" when converting the document from its word processing format.

- (2) Hyperlinks to other documents filed within the CM/ECF system are not permitted. Hyperlinks to personal websites, inclusive of law firms, are strictly forbidden. NOTE: Embedded hyperlinks will be rejected by the system.

- (3) The Court is appreciative of attorneys using hyperlinks so that their citations may be more easily referenced. A hyperlink, however, will not be a permanent part of the court record so it will still be necessary whether hyperlinks are provided or not to continue the citation of cases as required in Local Rule 7.2.

- (4) 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.

I. Signature

- (1) Attorneys. The user log-in and password required to submit documents to the ECF system shall serve as that user's signature for purposes of Fed.R.Civ.P.11 and for all other purposes under the Federal Rules of Civil and Criminal Procedure and the Local Rules of this Court. All electronically filed documents must include a signature block and must set forth the attorney's name, address, telephone number, bar number and e-mail address and, for criminal cases, whether the attorney was appointed or retained in the case. The name of the ECF user under whose login and password the document is submitted must be preceded by a "/s/" and typed in the space where the signature would otherwise appear. The correct format for an attorney signature is as follows:

/s/ Judith Attorney
Judith Attorney Bar Number: 12345
Attorney for (Plaintiff/Defendant)
ABC Law Firm
123 South Street
Greensboro, North Carolina 27401
Telephone: (336) 123-4567
E-mail: judith_attorney@law.com

Any party challenging the authenticity of an electronically filed document or the attorney's signature on that document must file an objection to the document within fourteen days of receiving the Notice of Electronic Filing.

- (2) Special Appearance. Attorneys who are members in good standing of the bar of the highest court of any state or the District of Columbia may practice in this Court for a particular case in association with a member of the bar of this Court. By entering an appearance, completing an Electronic Filing Attorney Registration Form and complying with Section I (1), an attorney agrees that:
 - (a) The attorney will be responsible for ensuring the presence of an attorney who is familiar with the case and has authority to control the litigation at all conferences, hearings, trials and other proceedings;

- (b) The attorney submits to the disciplinary jurisdiction of the Court for any misconduct in connection with the litigation for which the attorney is specially appearing; and
- (c) For purposes of Fed.R.Civ.P.11, the Federal Rules of Civil and Criminal Procedure and the Local Rules of this Court, the special appearance attorney's electronic signature shall carry the same force and effect as an original signature.

An attorney, who is not a member of the bar of this Court, will not receive electronic notification unless the attorney becomes a registered CM/ECF filer with this Court. To be properly included on a case's docket sheet as an electronic filer, the attorney should electronically file a notice of appearance or a pleading.

A member of the bar of this Court who accepts employment in association with a specially appearing attorney is responsible to this Court for the conduct of the litigation or proceeding, must be a CM/ECF registrant and shall review for submission by the visiting attorney all pleadings and papers electronically filed in compliance with Section I (1). Such member must be present during pretrial conferences, potentially dispositive proceedings, and trial.

- (3) Non-Attorney Signature, Generally. If the document requires the signature of a non-attorney, the filing party or the Clerk's Office shall scan the original document, then electronically file it on the system. If an attorney believes a document with original signatures has intrinsic value, the attorney shall retain the original document until two (2) years after the expiration of the time for filing a timely appeal of a final judgment or decree, or after receipt by the Clerk of Court an order terminating the action on appeal.
 - (a) The electronically filed document as it is maintained on the court's servers shall constitute the official version of that record. The Clerk's Office will discard all original documents received for filing two months after they are scanned and uploaded to the system.
 - (b) A non-filing signatory or party who disputes the authenticity of an electronically filed document with a non-attorney signature or the authenticity of the signature on that document must file an objection to the document within fourteen days of receiving the Notice of Electronic Filing.
- (4) Multiple Signatures. The filing user of any document requiring more than one signature (e.g., pleadings filed by visiting lawyers, stipulations, joint status reports) must list thereon all the names of other signatories by means of "/s/" block for each. By submitting such a document, the filing attorney certifies that

each of the other signatories has expressly agreed to the form and substance of the document and that the filing attorney has their actual authority to submit the document electronically. The filing attorney shall retain any records evidencing this concurrence for future production, if necessary, until two (2) years after the expiration of the time for filing a timely appeal of a final judgment or decree, or after receipt by the Clerk of Court an order terminating the action on appeal. A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures must file an objection to the document within fourteen days of the date on the Notice of Electronic Filing.

- (5) Affidavits. Except as provided in Section G(2)(d), affidavits shall be filed electronically. The filing party shall scan the original affidavit, then electronically file it on the System. The filing attorney shall retain the original for future production, if necessary, for two (2) years after the expiration of the time for filing a timely appeal of a final judgment or decree, or after receipt by the Clerk of Court an order terminating the action on appeal.

J. Privacy

Pursuant to the E-Government Act of 2002, Federal Rules of Civil Procedure 5.2 and Federal Rules of Criminal Procedure 49.1 to address the privacy concerns created by Internet access to court documents, unless otherwise ordered by the Court, the filing attorney shall modify certain personal data identifiers in pleadings and other papers as follows:

- (1) Names of minor children: Use of the minors' initials only;
- (2) Social Security numbers: Only the last four digits shall be used;
- (3) Dates of birth: Only the year of birth shall be used;
- (4) Financial account numbers: Identify the type of account and the financial institution, but use only the last four numbers of the account number; and
- (5) Home addresses (criminal cases only): Only the city and state shall be used.

It is not the responsibility of the Clerk's Office to review each document to determine if pleadings have been modified and are in the proper form.

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

(1) GENERALLY

- (a) Attachments to filings and exhibits must be filed in accordance with the Court's ECF User Manual, unless otherwise ordered by the Court.
- (b) A filing user must submit as 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. Users who file excerpts of documents do so without prejudice to their right to timely file additional excerpts or the complete document, as may be allowed by the Court. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane.
- (c) Filers shall not attach as an exhibit any pleading or other paper already on file with the Court in that case, but shall merely refer to that document.
- (d) All exhibits and attachments, whether filed electronically or by paper, must contain on their face a prominent exhibit number or letter.
- (e) Attachments and exhibits must be identified with a clear and complete description of the document. (Example: Exhibit 1 is insufficient. Affidavit of James Johnson would meet the requirement).
- (f) If one or more attachments or exhibits to a motion, brief, or other electronically filed documents are being submitted in paper form under Section K, the motion, brief, or other document must contain a notice of that fact in its text. For example:

(Exhibits 1, 2 and 3 to this Motion are filed electronically; Exhibits 4 and 5 are filed in paper form.)

or

(All exhibits to this brief are filed in paper form.)

- (g) In addition **any** pleading which has an appendix and/or exhibits must be tabbed and an additional (working) copy of the filing with attachments in paper form shall be delivered to the Clerk of Court for use by the Judge within two (2) days of the electronic filing of the document.

- (2) **EVIDENCE NOT IN SUPPORT OF A MOTION.** This section applies to exhibits other than those submitted in support of a motion (example: an attachment to a complaint). Exhibits submitted in support of a motion are governed by Section K(3)

of these procedures.

- (a) A party may conventionally submit exhibits which are not available in electronic form. Lengthy working copies submitted to the Clerk's Office in paper form should be bound using the two or three-hole punches. The Clerk's Office will note on the docket its receipt of the document(s) or exhibit(s) with a text-only entry. Please see Form C or D as deemed appropriate in the Forms Section.
 - (b) If possible, however, a filing user should electronically image, i.e., "scan," a paper exhibit that is less than two megabytes (approximately forty-five pages of PDF text) and submit the exhibit as a PDF file. Because PDF files containing scanned documents use considerably more space on the System than PDF files containing electronically generated documents, filing parties may submit PDF files containing scanned documents of more than two megabytes only if they are filed in separate two-megabyte segments. For more information on the electronic filing of large documents, please consult the Court's CM/ECF User's Manual, which is available on the Court's web page at www.ncmd.uscourts.gov/cmecf/.
 - (c) Because documents scanned in color or containing a graphic require longer time to upload, filing parties must configure their scanners to scan documents at 300 dpi and in black and white rather than in color. Documents appearing in color in their original form, such as color photographs, may be scanned in color and then uploaded to the System.
 - (d) The filing party is required to verify the readability of scanned documents before filing them electronically with the Court.
 - (e) Exhibits submitted conventionally shall be served on other parties as if not subject to these procedures.
- (3) **EVIDENCE IN SUPPORT OF A MOTION.** In general, evidence in support of a motion should not be filed conventionally, but rather, be filed electronically. **However at the time of filing, either electronically or on paper, pursuant to Local Rule 5.1 an additional (working) copy of the entire document in paper form shall be delivered to the Clerk of Court for use by the judge within two (2) days of the electronic filing of the document.**
- (a) If possible, however, a filing party should electronically image, i.e., "scan," a paper exhibit that is less than two megabytes (approximately forty-five pages of PDF text) and submit the exhibit as a PDF file. Because PDF files containing scanned documents utilize considerably more space on the System than PDF files containing electronically

generated documents, filing parties may submit PDF files containing scanned documents of more than two megabytes only if they are filed in separate two-megabyte segments. For more information on the electronic filing of large documents, please consult the Court's CM/ECF User's Manual, which is available on the Court's web page at www.ncmd.uscourts.gov.

- (b) Because documents scanned in color or containing a graphic require longer time to upload, filing parties must configure their scanners to scan documents at 300 dpi and in black and white rather than in color. Documents appearing in color in their original form, such as color photographs, may be scanned in color and then uploaded to the System.
- (c) The filing party is required to verify the readability of scanned documents before filing them electronically with the Court.
- (d) A party submitting evidentiary materials in conventional format shall also file in conventional format an index of evidence listing each item of evidence then being filed and identifying the motion to which it relates.
- (e) Copies of conventionally filed supporting materials shall be served on other parties as if not subject to electronic filing procedures.

L. Orders and Judgments

- (1) All orders, decrees, judgments and proceedings of this court will be filed in accordance with these rules which constitute filing of the document for all purposes of the Federal Rules of Civil Procedure and constitute 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. The assigned Judge or the Clerk's Office shall electronically file all signed orders. Any order signed electronically has the same force and effect as if the Judge had affixed the Judge's signature to a paper copy of the order and it had been entered on the docket conventionally.
- (2) Proposed orders may be submitted as outlined below:
 - (a) In accordance with Local Rules 7.3(j) and 77.2, a moving party shall submit to the District Judge after filing a motion for which no supporting

brief is required, a proposed order granting the motion and setting forth the requested relief. The proposed order should be e-mailed to the assigned District Judge at the address listed in 2(d) below.

If the action is assigned to a Magistrate Judge pursuant 28 U.S.C. § 636(c), the proposed order should be e-mailed to the assigned Magistrate Judge.

NOTE: Please see Rule 29 of the Federal Rules of Civil Procedure for the discovery related extensions of time, upon written stipulation of counsel, that do not require Court approval.

- (b) A copy of proposed orders should be electronically submitted with the motion as an attachment to the motion. The motion must be docketed prior to submitting the proposed order to the assigned Judge, and the e-mail for the proposed order must refer to the resulting docket entry number for the motion.
- (c) All proposed orders must be submitted in an editable format compatible with WordPerfect®, **which is a “Save As” option in most word processing software.** District Judges and Magistrate Judges will not accept proposed orders in PDF format.
- (d) A proposed order should be attached to an Internet e-mail sent to the e-mail address of the assigned District Judges or Magistrate Judges as defined in section (a). The e-mail should be entitled “Proposed Order” and contain the case number. For example, “Proposed Order 1:04 CV 567.”

The District Judge/Magistrate Judge e-mail addresses are as follows:

JTilley@ncmd.uscourts.gov

JSchroeder@ncmd.uscourts.gov

JOsteen@ncmd.uscourts.gov

JBeaty@ncmd.uscourts.gov

JEagles@ncmd.uscourts.gov

JAuld@ncmd.uscourts.gov

JPeake@ncmd.uscourts.gov

JWebster@ncmd.uscourts.gov

If the action has no assigned Judge please use:

unassignedjudge@ncmd.uscourts.gov

- (3) When mailing paper copies of an electronically filed order to a party who is not a registered participant of the System, the clerk's office will include the Notice of Electronic Filing to provide the non-participant with proof of the filing.
- (4) The assigned Judge or the clerk's office, if appropriate, may grant routine orders by a text-only entry which shall constitute the Court's only order on the matter. In such cases, no PDF document will be issued; the text-only entry shall constitute the Court's only order on the matter. These text-only orders shall have the same force and effect as if the Judge had affixed the Judge's signature to a paper copy of the order and the order had been entered on the docket conventionally. The System will generate a "Notice of Electronic Filing" as described in Section E(1) of these procedures. The Clerk's Office will send a paper copy of the text-only order to non-filing users in the case.
- (5) Proposed orders on motions for enlargements of time made pursuant to Local Rule 77.2 as well as **Proposed Entries of Default** should be prepared in a format compatible with WordPerfect®, which is a "Save As" option in most word processing software and then attached to an Internet e-mail sent to the Clerk's Office at the following e-mail address:

clerk@ncmd.uscourts.gov

The motion must be docketed prior to submitting the proposed order to the clerk, and the proposed order must refer to the resulting docket entry number for the motion. No other documents or pleadings may be sent to the clerk's office at this e-mail.

M. Correcting Docket Entries

- (1) Once a document is submitted and becomes part of the case docket, corrections to the docket are made only by the clerk's office. The System will not permit the filing party to make changes to the document(s) or the docket entry in error once the transaction has been accepted.

- (2) A document incorrectly filed in a case may be the result of posting the wrong PDF file to a docket entry, selecting the wrong document type from the menu, or entering the wrong case number and not correcting the error before the transaction is completed. **The filing party should not attempt to refile the document.**
- (3) As soon as possible after an error is discovered, the filing party should contact the Clerk's office with the case number and document number for which the correction is being requested. If appropriate, the Court will make an entry indicating that the document was filed in error. The filing party will be advised if the document needs to be re-filed.

N. Transcripts

- (1) Proceedings of this court. Transcripts prepared by court reporters shall be filed electronically and are available to the public electronically pursuant to guidelines established by the Judicial Conference of the United States.
- (2) Transcripts from other Courts. A transcript of a proceeding of another court shall be filed electronically in PDF, if so available, otherwise on paper.
- (3) Depositions. Depositions shall be filed electronically using ECF only if filed in support of a dispositive motion or ordered by the Court. When so filed, it should be filed in accordance with Section K(3).

O. Facsimile Transmissions

No pleadings or other documents shall be submitted to the Court for filing by facsimile transmission without prior permission from the Court.

P. Technical Failures

The Clerk's Office shall deem the Court's CM/ECF site to be subject to a technical failure on a given day 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 Time that day. Known systems outages will be posted on the Court's web page, if possible. The initial point of contact for any practitioner experiencing difficulty filing a document electronically should be the ECF Help Desk. The telephone numbers are:

Civil/Criminal	336-332-6030
Toll free	1-800-659-2212

- (1) If the Court's CM/ECF site experiences a technical failure, a filing user may submit documents to the court that day in an alternate manner provided that the documents are accompanied by the filing user's affidavit stating that the filing user attempted to file electronically at least two times in one hour increments after 10:00 a.m. that day. Please see Form B in the Forms Section.
- (2) The following methods are acceptable alternate means for filing documents in the case of a technical failure:
 - (a) via electronic mail in a PDF attachment sent to the e-mail address for technical failures (techfailures@ncmd.uscourts.gov); or
 - (b) in person, by bringing the document to the Clerk's office on paper.
- (3) A filing user, whose filing is untimely as the result of a technical failure of the court's CM/ECF site, may seek appropriate relief from the court. However, filing users are cautioned that, in some circumstances, the court lacks the authority to grant an extension of time to file (e.g., Rule 6(b) of the Federal Rules of Civil Procedure).
- (4) Problems with the filing user's system, such as telephonic problems, problems with the filing user's Internet Service Provider ("ISP"), or hardware or software problems, will not constitute a technical failure under these Administrative Procedures nor excuse an untimely filing. A filing user who cannot file documents electronically because of a problem on the filing user's system must file the documents conventionally along with an affidavit explaining the reason for not filing the documents electronically.

Q. Pro Se Litigation

In addition, upon the approval of the Judge, a party to a case who is not represented by an attorney may register as an ECF filing user in the ECF System solely for the purpose of the action. Registration is in a form prescribed by the Clerk of Court and requires identification of the case as well as the name, address, telephone number and Internet e-mail address of the party. If, during the course of the case, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk of Court to terminate the party's registration as a filing user upon the attorney's appearance.

R. Access to Electronically Stored Documents

Electronic access to the electronic docket and documents filed in the system is available for viewing by the public at no charge at the clerk's office in Greensboro during regular business hours. A copy fee for an electronic reproduction is required in accordance with

28 U.S.C. § 1930. Remote electronic access to the System for viewing purposes is limited to subscribers to the Public Access to Court Electronic Records ("PACER") system (www.pacer.ncmd.uscourts.gov). The Judicial Conference of the United States has ruled that a user fee will be charged for remotely accessing certain detailed information, such as filed documents and docket sheets in civil cases, but excluding review of calendars and similar general information. If you are entitled to service of a document, you are entitled to one free viewing of the document by clicking on the document number on the Notice of Electronic Filing.

The public may review at the clerk's office filings that have not been sealed. Except for Social Security cases, the public may access civil files in ECF at the court's Internet site (www.ncmd.uscourts.gov) by obtaining a PACER log-in and password. Access to documents filed in Social Security cases shall be restricted to the attorneys of record.

FORM A

SAMPLE FORMAT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Plaintiff,
vs
Defendant.
Case No.

CERTIFICATE OF SERVICE

I hereby certify that on (Date), I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and have verified that such filing was sent electronically using the CM/ECF system 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).

Respectfully submitted,

/s/[Signature of Password Registrant]
Name of Password Registrant
Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx
[attorney bar number, if applicable]

SAMPLEFORMAT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Plaintiff,
vs
Defendant.
Case No.

DECLARATION OF TECHNICAL DIFFICULTIES

Please take notice that [Plaintiff/Defendant, Name of Party] was unable to file the attached [Title of Document] in a timely manner due to court technical difficulties. The deadline for filing the [Title of Document] was [Filing Deadline Date]. The reason(s) that I was unable to file the [Title of Document] in a timely manner and the good faith efforts I made prior to the filing deadline to both file in a timely manner and to inform the Court and the other parties that I could not do so are set forth below.

[Statement of reasons and good faith efforts to file and to inform (including dates and times)]

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

/s/[Name of Password Registrant]
Name of Password Registrant
Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx
[attorney bar number, if applicable]

SAMPLE FORMAT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Plaintiff,
vs
Defendant.
Case No.

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 document has not been filed electronically because

- o the document or item cannot be converted to an electronic format
o Plaintiff/Defendant is excused from filing this document or item by Court order.

The document or item has been manually served on all parties.

Respectfully submitted,

/s/[Name of Password Registrant]

Name of Password Registrant
Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx
[attorney bar number, if applicable]

FORM D

SAMPLE FORMAT

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

)	
)	
Plaintiff(s),)	
)	
vs)	Case No.
)	
)	
Defendant(s).)	

NOTICE REGARDING EXHIBIT ATTACHMENT

Exhibit _____ which is an attachment to _____

is in paper form only and is being maintained in the case file in the Clerk’s Office.

Respectfully submitted,

/s/[Name of Password Registrant]
Name of Password Registrant
Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx

**UNITED STATES DISTRICT COURT MIDDLE
DISTRICT OF NORTH CAROLINA ELECTRONIC
FILING ATTORNEY REGISTRATION FORM**

This form is used to register for an account on the Middle District of North Carolina Electronic Filing System. Registered attorneys will have privileges to electronically submit documents and to view the electronic docket sheets and documents. By registering, attorneys consent to receiving electronic notice of filings as well as agreeing to file all documents electronically through the system. The following information is required for registration:

PLEASE TYPE

Mr. / Mrs. / Ms. (circle one)

First Name: _____ Middle Initial: _____

Last Name: _____ If appropriate circle one: Senior / Junior / II / III

Bar ID Number: _____

Are you currently in good standing to practice in the Middle District of North Carolina? Yes _____ No _____

Firm Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Have you relocated to this address within the past year? Yes _____ No _____

Voice Telephone Number: _____ Fax Number: _____

Internet E-Mail Address: _____

Attorneys seeking to file documents electronically must be admitted to practice in the United States District Court for the Middle District of North Carolina pursuant to LR 83.1.

Other Courts of Registration for Electronic Filing System: _____

By submitting this registration form, the undersigned agrees to abide by all Court rules, orders and policies and procedures governing the use of the electronic filing system. The undersigned also consents to receiving notice of filings pursuant to Fed. R. Civ. P. 5(b) and 77(d) and Fed. R. Crim. P. 49(b)-(d) via the Court's electronic filing system as well as agreeing to file all documents electronically. The combination of user id and password will serve as the signature of the attorney filing the documents. Attorneys must protect the security of their passwords and immediately notify the court if they learn that their password has been compromised by an unauthorized user.

Signature of Registrant

Date

Submit completed Registration Form to: John S. Brubaker, Clerk
United States District Court
Attention: ECF Attorney Registration
Room 401
324 W. Market Street
Greensboro, NC 27401

Dated March 1, 2005

APPENDIX A

Setting Up E-mail Notification

Users can receive e-mail notification of all electronic filings in cases they are interested in by setting the automatic e-mail notification in their user accounts.

- 1.) Access the "Live" system. (Please note that the "Live" electronic filing system and the "Training Area" are different systems. Setting your e-mail notification in one system does not set it in the other.)
- 2.) Click on "Utilities"
- 3.) Click on "Maintain Your Account"
- 4.) Click on "E-mail Information"
- 5.) Enter your correct e-mail address in the "Primary e-mail address" box. You may include more than one e-mail address (i.e. work, home).
- 6.) Under "Send the notices specified below", there will be a U next to "to my primary e-mail address." Click on the box "to these additional addresses" to identify any additional e-mail addresses of others you would like to receive electronic notice (i.e. an associate, paralegal, secretary).
- 7.) You will find a U next to "Send notices in cases in which I am involved". Click on the box "Send notices in these additional cases" to receive notification of activity for other cases. In the box to the right, enter the case numbers each on a separate line. Please use the format YY-#### ex. 97-1234). You do not have to be a party in the cases entered.
- 8.) Select the type of notice you would like to receive. Notice "Send a notice for each filing" is automatically selected. This selection sends notices to you immediately upon filing. Click on "Send a Daily Summary Report" to have a summary of the notices sent to you at the end of the day (usually at midnight). If you seek electronic notice in only a handful of cases, this selection is the preferred method.
- 9.) Under Format notices, select the format of the notice most appropriate to your e-mail system. Select "html format for Netscape or ISP e-mail service" or "text format for cc:Mail, GroupWise, other e-mail service." Some experimentation may be required.
- 10.) Click on "Return to Account Screen." From the Account Screen, select "Submit." You will receive a confirmation screen listing the cases and e-mail options you have selected.