



UNITED STATES DISTRICT COURT

District of New Mexico

CM/ECF
Administrative Procedures Manual

CASE MANAGEMENT/ELECTRONIC CASE FILES (CM/ECF)

Administrative Procedures Manual

Matthew J. Dykman, Clerk
United States District Court
District of New Mexico
333 Lomas Boulevard NW • Suite 270
Albuquerque, NM 87102
Help Desk Phone 505.348.2075 • Email cmecf@nmcourt.fed.us

**Effective August 28, 2006
As Revised February 2015**

Table of Contents

Section 1	<u>Mandatory Electronic Case Filing and Privacy</u>	1
Section 2	<u>Electronic Record</u>	3
Section 3	<u>Participant Registration</u>	4
Section 4	<u>Public Access, One Free Look, Copying Charges...</u>	7
Section 5	<u>Payment of Fees</u>	8
Section 6	<u>Signatures and Verified Documents</u>	9
Section 7	<u>Entry of Appearance</u>	11
Section 8	<u>Service and Notice</u>	12
Section 9	<u>Filing</u>	14
Section 10	<u>Docket Entries and Corrections</u>	17
Section 11	<u>Documents filed by the Court, Text Only Entries</u> ...	18
Section 12	<u>Proposed Orders</u>	19
Section 13	<u>Bounced Back Emails, Out of Office Notifications</u> .	20
Section 14	<u>Replication and Failover Services</u>	21
Section 15	<u>Transcript Redaction Procedures</u>	23

Mandatory Electronic Case Filing and Privacy

- (a) **Mandatory Electronic Filing.** As authorized by the [Administrative Order effective August 28, 2006](#) and the Court's Local Rules, unless otherwise excepted as set forth in [Section 9\(b\)](#) of this manual, electronic filing is mandatory in the United States District Court for the District of New Mexico.
- (1) **Enforcement of Mandatory Efiling**
- (A) Attorneys filing in paper, without prior authorization of the Court, will receive a Notice of Deficiency for Failure to Efile.
 - (B) Subsequent paper filings from attorneys without prior authorization will result in a second Notice of Deficiency and may result in an Order to Show Cause requiring an appearance before the Chief Judge or designated Judicial Officer to explain why the party is unable to comply with the mandatory electronic filing requirement.
 - (C) As needed, the Chief Judge or designated Judicial Officer will schedule monthly hearings to address all orders issued to show cause for failure to comply with the mandatory efile policy and recommend monetary sanctions or other action.
- (2) **Exemption to Mandatory Efiling Requirement**
- (A) Individual attorney filers may encounter situations or circumstances that hinder their ability to electronically file documents. In these exceptional circumstances, an attorney may petition the Court for permission to file documents in paper.
 - (B) To petition the Court, an [Application for Exemption to Mandatory Efiling Requirement](#) should be submitted, in duplicate, to the Clerk's Office. Applicants will be notified of the Court's decision by mail.
 - (C) All documents filed in paper, subsequent to approval, must be accompanied by a copy of the approval document.

- (b) ***Local Rules and Manual Govern Electronic Filing.*** This manual, Rule 5 of the [Local Rules of Civil Procedure](#), and Rule 49 of the [Local Rules of Criminal Procedure](#) of the United States District Court for the District of New Mexico, govern the procedures for electronic filing.
- (c) ***Privacy Concerns.***
- (1) **Privacy Policy.** In compliance with the privacy policy of the Judicial Conference of the United States and the E-Government Act of 2002, sensitive information should not be included in any document filed with the Court unless such inclusion is necessary and relevant to the case.
 - (2) **Personal Information.** Any personal information not otherwise protected will be made available online via PACER.
 - (3) **Rules.** Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, D.N.M.LR-Cr. 57.5, 57.6, 57.7, and the [Court's Privacy Policy](#) set forth the rules governing privacy protection for any filing made with the Court. Filers must familiarize themselves with the rules governing mandated redaction, exemptions from the redaction requirement, the sealed and protective order options, and waiver of privacy protections.
- (d) ***Manual Modifications/Additional Assistance.*** Modifications to this manual may be made from time to time by the Clerk of Court. Notice of all modifications to these CM/ECF procedures will be given via the [Court's web site](#). Additional CM/ECF procedural information and guidance is posted online at the Court's [Filing Information](#) page.

Electronic Record

- (a) ***Official Record.*** The electronic record is the official record of the Court and it replaces the traditional paper record. The official record includes documents filed in CM/ECF, as well as documents originally filed in paper then scanned and submitted to CM/ECF.
- (b) ***Electronic Filing or “efiling.”*** Electronic filing or “efiling” is the transfer of a document to CM/ECF for filing in the official record. Unless otherwise stated, “filing” means “efiling.”
- (c) ***Electronic Submission or “esubmitting.”*** Electronic submission or “esubmitting” is the transfer of an originally filed paper document to CM/ECF for filing in the official record. Esubmitting is performed by Clerk’s Office staff.
- (d) ***Retention of paper documents.*** The Clerk will maintain paper documents only as long as required to ensure the information has been accurately transferred to the Court’s official record, for other court purposes, or as required by applicable laws or rules.

Participant Registration

- (a) **Registration Constitutes Consent.** Registration constitutes consent to service of filings by electronic means under Fed. R. Civ. P. 5.
- (b) **Required and Permitted Registrants.**
- (1) **Members of the Federal Bar Must Register.** All members of the New Mexico Federal Bar must register for a CM/ECF account to facilitate service of notices and orders from the Court, as well as meeting the service requirements of the other parties in the case. Failure to register will result in a loss of good standing.
 - (2) **Attorneys who are Not Federal Bar Members May Register.** An attorney who is not a member of the New Mexico Federal Bar, but who is licensed to practice in New Mexico and is in good standing, may register for a CM/ECF account.
 - (3) **Non-Resident Attorneys and *Pro Se* Individuals May Register and if permitted File Electronically.**
 - (A) Anyone may register and consent to service by electronic means, but registration does not entitle everyone to file electronically. *Pro se* parties may register for a CM/ECF account, but must request permission from the Court to file electronically.
 - (B) Attorneys licensed outside the district seeking permission to participate as a non-resident attorney must comply with the procedures for [Appearing in an Action if Licensed Outside the District of New Mexico](#).
 - (C) Parties who are not represented by an attorney are called “*pro se*” parties. The *pro se party* must familiarize him or herself with the District’s [Guide for Pro Se Litigants](#) and comply with all applicable rules, including the District’s local rules. The *pro se* party must also pay attention to D.N.M.LR-Civ. 83.5 and 83.6. If a *pro se* party wishes to electronically file documents in a particular case, he or she must file a motion in paper requesting permission to do so.

(c) *Registration Requirements.*

- (1) Registered Participants.** A registered participant (Participant) is any person who has successfully completed the registration and training requirements and received a CM/ECF login and password. A Participant may authorize employees to act on his or her behalf.
- (2) Overview of Requirements.** To become a Participant in CM/ECF, individuals must:
 - (A) Maintain a valid email address where notice and service will be made.
 - (B) Secure and maintain a PACER account. A PACER account is fee based and is required for any case related queries and reports. A law firm may choose to obtain a PACER Administrative Account to manage and pay for charges associated with multiple PACER logins within the firm. Register for an account at [PACER](#).
 - (C) Complete, sign, and submit the appropriate CM/ECF registration form found at the Registration section of the [Filing Information](#) Page.
 - (D) Demonstrate proficiency with filing in CM/ECF.
- (3) Training Requirements.**
 - (A) Participants and authorized employees acting on behalf of a Participant who have not used CM/ECF in the past, either in this Court or in another federal court, are strongly encouraged to attend a Court-sponsored training class to become a CM/ECF Participant in this Court.
 - (B) Participants and authorized employees acting on behalf of a Participant, who have previously filed using CM/ECF, are not required to attend a Court-sponsored training class to become a Participant.
 - (C) Those who demonstrate they have successfully used CM/ECF in another federal court may apply to become a Participant in this District without having to attend the Court-sponsored training. However, such persons must be conversant with this District's local rules and this procedures manual.
 - (D) If the Court determines that a Participant demonstrates a lack of understanding of filing practices and procedures, additional training will be required.

(d) *Logins and Passwords.*

- (1) Registration.** Participants will receive their login and password after the Court has received and processed their CM/ECF account registration form. The login and password will be emailed to the Participant at the email address provided on the registration form.
- (2) Changing Passwords.** Upon receipt of a password, the Participant is responsible for immediately changing it. See [Changing or Resetting a CM/ECF Password](#) for guidance.

CM/ECF ADMINISTRATIVE PROCEDURES

- (3) **Participant Usage.** Any CM/ECF password issued for filing must be used exclusively by the Participant to whom the password is assigned or by his or her authorized employee(s).
- (4) **Authorization.** No Participant may knowingly permit a password to be used by anyone who is not authorized to use the password and no person may knowingly use the password of a Participant unless such person is so authorized.
- (5) **Security.** If an employee of a Participant is no longer authorized to use the password, or if the Participant has reason to believe that the security of a password has been compromised, it is the Participant's responsibility to change the password.
- (6) **Updates.** The Participant is responsible for maintaining and promptly updating account information when changes occur. Maintaining account information is described in the [CM/ECF Attorney User Manual](#).
- (7) **Account Deactivation.** In the event the Court rejects or suspends login and password privileges, the Participant will be notified.

Public Access, One Free Look at Documents, and Copying Charges

- (a) **Free Public Access at Clerk's Office Terminals.** Online access to the docket and documents is available at no charge during regular business hours at the public computer terminals located at each Clerk's Office.
- (b) **One Free Look upon Email Notice.**
- (1) **Free Look.** Upon receipt of a Notice of Electronic Filing (NEF), the recipient will have one opportunity to review, save, and print the document without incurring any PACER fees.
 - (2) **Secondary Emails.** Participants may specify additional email addresses to receive NEFs. Each of these addresses will also receive one free look.
 - (3) **Expiration.** The free look period expires 15 calendar days from the date of the email.
- (c) **Online Access Anytime for a Fee.** PACER services are available online at any time; a fee will be charged for viewing reports and documents.
- (d) **Clerk's Office Copying Services and Charges.** Conventional copies and certified copies of documents may be obtained at the Clerk's Office. The copying and certification fees are governed by 28 U.S.C. § 1914 and 28 U.S.C. § 1930. Refer to the Court's [Schedule of Fees](#) for the costs associated with copies.

Payment of Fees

- (a) **Online Payment of Fees.** Payment for CM/ECF transactions requiring a fee may be made online on the same day the transaction is filed. For guidance, see [Paying Filing Fees Online](#).
- (b) **Acceptable Credit Cards.** Only VISA, MasterCard, American Express, Discover and Diners Club credit cards will be accepted. Debit cards from these providers will also be accepted if a PIN code is not required.
- (c) **Rejected Credit Card.** Any transaction declined by the credit card issuer for any reason must be paid to the Court in cash or by check or money order by close of business on the next business day after notification by Court staff of the deficiency. Failure to timely submit the fees will result in revocation of CM/ECF login credentials.
- (d) **Requesting Refunds.** Should a filing fee paid online be erroneously charged, the Participant must file a Motion to Refund Filing Fees Paid Online. The motion must state the reason for the refund and the amount to be refunded. All refunds will be credited back to the credit card used during the initial payment process.

Signatures and Verified Documents

(a) *Filing Constitutes Signature.*

- (1) Participant Signature.** When filing the Participant's CM/ECF login and password constitute his or her signature for all purposes under the federal rules. A digital signature is not needed.
- (2) Signature Block.** The following is an example of a signature block within a filed document:

<p>Firm Name (if applicable)</p> <p><u>/s/ Name of Filing Attorney</u> Attorney for Plaintiff/Defendant Address</p>
--

(b) *Submission Constitutes Certification.* When esubmitting the Court or Clerk's Office Participant's CM/ECF login and password is certification that the submission is a true and valid copy of the original document.

(c) *Filing of Verified Documents.*

- (1) Verified Document.** A verified document is:
 - (A) A document that must contain an original third-party signature;
 - (B) A document that requires verification under the federal rules;
 - (C) An unsworn declaration as provided in 28 U.S.C. § 1746; or

(D) An affidavit or pleading in which a person verifies, certifies, affirms or swears under oath or penalty of perjury concerning the truth of matters set forth therein.

(2) **Conformity.** A Participant who files a verified document must ensure that the filed version conforms to the original signed document.

(3) **Signing.** The full, printed name of each person signing a verified document must appear in the filed version.

(d) *Retention of Verified Documents.*

(1) **Possession.** Filing of a verified document constitutes Participant's representation that the original signed document is in Participant's possession at the time of filing.

(2) **Retention.** A Participant who files a verified document in a case must retain the original of the document for not less than (a) one year after the maximum allowed time to complete appellate proceedings, or (b) one year after the case is closed, whichever is later. The original document must be produced upon order of the Court.

Entry of Appearance

- (a) **Requirement.** Under D.N.M.LR-Civ. 83.4 and D.N.M.LR-Cr. 44.1 all attorneys participating in a case must file an entry of appearance unless they were appointed by the Court or appear via another document constituting an entry of appearance.
- (1) **Other Documents.** Documents constituting an entry of appearance include:
- (A) Initiating documents; *i.e.*, complaints, notices of removal, *amicus curiae* appearance
 - (B) Interpleader
 - (C) Notice of Appearance
 - (D) Notice of Attorney Substitution
 - (E) Notice of Association of Attorney Licensed Outside the District
- (b) **Change of Address.** Under D.N.M.LR-Civ. 83.6 and D.N.M.LR-Cr. 44.1 all attorneys of record and parties appearing pro se have a continuing duty to notify the Clerk, in writing, of any change in their firm name, mailing addresses, telephone numbers, facsimile numbers, or email addresses.
- (c) **Compliance.** Failure to make an entry of appearance or update CM/ECF account information (including any change in firm name) will prevent you from receiving notification of case activity and may result in a Notice of Deficiency.

Service and Notice

- (a) **Complaints and Notices of Removal.** Service of a civil complaint is governed by Fed. R. Civ. P. 4 and is made outside of CM/ECF. Service of a notice of a removal must also be made outside of CM/ECF.
- (b) **Service of Documents not Governed by Fed. R. Civ. P. 4, 4.1 or 45.**
- (1) **Notice of Electronic Filing.** When a document is filed or submitted in an unsealed case, CM/ECF will generate and send a Notice of Electronic Filing (NEF) via email. The NEF is the official notice of the filing to all parties; it includes the text of the docket entry and a link to the document.
 - (2) **Participants.** If the recipient is a CM/ECF Participant, emailing of the NEF is the equivalent of service by first class mail.
 - (3) **Non-Participants.** If the recipient is not a CM/ECF Participant or has not yet been added to the case, service must be made under the Federal Rules of Civil and Criminal Procedure.
 - (4) **Service.** Whenever a document is filed in paper, the filer must serve conventional copies on all parties to the case.
 - (5) **Restricted Access Documents or Documents Filed in Sealed Cases.**
 - (A) When a restricted access document is filed in an unsealed case, an NEF will be sent; to view the document the Participant must be logged into CM/ECF.
 - (B) When a document is filed in a sealed case, service must be made outside of CM/ECF.
 - (C) Service of filings made in sealed cases by the Court will be by first class mail or fax transmission.
- (c) **Certificates of Service.**
- (1) **Requirement.** A certificate of service is required when a document is filed. The certificate must state the manner in which service was accomplished on each party and must appear on the last page of the filed document.

- (2) **Example.** The following is an example of a certificate of service in which different methods of service were used:

I HEREBY CERTIFY that on the ____ day of ____, 2014, I filed the foregoing using CM/ECF which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Robert Adams
Attorney for Defendant Jones
(email address)

Joe Roberts
Attorney for Defendant Smith
(email address)

I FURTHER CERTIFY that on such date I served the foregoing on the following non-CM/ECF Participants in the manner indicated:

Via first class mail, postage prepaid, addressed as follows:

Building Construction Inc.
1234 South Main Street
Small Town, NM 88000

Via certified mail, return receipt requested, addressed as follows:

USA First Bank, N.A.
Attn: Joseph Adams, President
616 Parkway Drive
Any Town, NM 87123

/s/ _____
Michael Miller
Attorney for Plaintiffs

Filing

(a) **Document Format.**

- (1) **PDF.** Documents in their native format (such as MS Word) and scanned paper documents must be converted to PDF (portable document format) before filing. PDF is used because the layout, format, links, and images of the original document are saved when it is converted to PDF.
- (2) **Legibility.** Participant is responsible for ensuring that all documents he or she files are legible.

(b) **Documents Excluded from Efiling.** The following documents are excluded from the mandatory efileing requirement unless otherwise authorized by the Court.

- (1) **Pro se documents.** Any document filed by a *pro se* party who has not secured approval to efile.
- (2) **State court records submitted in habeas corpus proceedings.**
- (3) **Unable to convert.** Any document that cannot be converted to PDF.

(c) **File Date.** Unless otherwise ordered by the Court, a document is considered filed on its date of transfer (including weekends and holidays) to CM/ECF.

- (1) **Filing Day.** A filing day is defined as 12:00:00 AM to 11:59:59 PM.

- (d) **Complaints and Removals.** Complaints, notices of removal, and civil cover sheets must be filed using CM/ECF. These filings must be accompanied by the applicable fees which may be paid online or delivered to the Clerk's Office.
- (1) **Civil Cover Sheet.** The civil cover sheet must be filed as an attachment to the complaint or notice of removal.
 - (2) **Removal Documents.** When filing a notice of removal, the state court documents must be filed as separate attachments to the notice of removal.
 - (A) When filing the record and proceedings from the state court action under D.N.M.LR-Civ. 81.1(a), documents must be linked to the notice of removal.
- (e) **Summonses.** When initiating a civil proceeding, the Participant must prepare the standard summons and email it to the Clerk to be issued.
- (1) **Procedures.** See [Procedures for Having a Civil Summons Issued](#) for detailed information.
 - (2) **Affidavits of service.** Affidavits of service, which may include executed returns of service, are filed using CM/ECF.
- (f) **Motions and Related Documents.**
- (1) **Captions in Responsive Documents Must Contain Docket Numbers.** A document filed in response to, in support of, or in opposition to another document must reference the docket number of the other document in the caption.
 - (2) **Each Motion is Filed Separately.** Motions and responses are always filed as separate documents. For example, a cross motion for summary judgment should never be combined with a response to a motion for summary judgment. The cross motion must be filed separately so it will appear on pending motions reports and can be properly linked to any subsequent related filings.
 - (3) **Exhibits or Affidavits Filed as Attachments.** Exhibits or affidavits filed concurrently in support of a motion or memorandum are filed as attachments to the main document. Exhibits should be attached in a logical sequence.
 - (4) **Linking Separately Filed Documents.** If a brief, exhibit, or affidavit in support is filed after a separately filed document, the original document must not be re-filed. As with other separately filed documents, the Participant references the original document in the caption of the subsequent document and during filing, chooses the option that will link the two documents.

(g) Attachments, Large Documents, and Administrative Records.

- (1) Attachments.** Unless otherwise ordered by the Court, Participants must file attachments in PDF. Attachments consisting of excerpted material must be clearly and prominently identified as such.
- (2) Large Documents.** Documents exceeding the allowable document size of 2.5 MB will fail to file due to transmission time. If a failure occurs, CM/ECF will display an error message. To successfully file the document, divide it into logical segments and file each segment as an attachment to the main document. CM/ECF will allow multiple attachments to any document.
- (3) Administrative Records.** Administrative records, including voluminous records proper, may be filed at the Clerk's Office in paper; however, these documents will not be scanned by Clerk's Office staff. If a paper administrative record is filed, the Participant must also file a notice of lodging. A copy of the filed or proposed notice of lodging must accompany the record when it is delivered to the Clerk's Office.
- (4) Exhibits which cannot be converted to PDF.** If an item cannot be converted to PDF, it may be lodged at the Clerk's Office like an administrative record. When the notice of lodging is filed in CM/ECF, it must be linked to its related filing. The notice must clearly identify the item lodged and to what filing the item belongs. A copy of the filed or proposed notice of lodging must accompany the item when it is delivered to the Clerk's Office.

(h) Setting Document Access Restrictions.

- (1) Responsibility.** CM/ECF allows for various levels of restricted access to documents filed with the Court. It is the Participant's duty to select the appropriate access restriction level for the document being filed. Participant must also ensure that permission of the Court to restrict access to the filing has been granted. Leave of Court is not required to file documents sealed or restricted under Fed. R. Civ. P. 5.2(f), Fed. R. Crim. P. 49.1(f) or statute.
- (2) Restrictions.** The three restriction levels available in CM/ECF are:
 - (A) Accessible by public and all case participants.** The filed document will be available to the public, the parties to the case, and the Court (most documents are filed this way).
 - (B) Accessible by all case participants but not the public.** The filed document will be available to the parties in the case and the Court. The document will not be available to the public.
 - (C) Accessible only by the filer and the Court.** The filed document will be available to the filing party (or parties) and the Court. The document will not be available to the other parties in the case or the public.

Section
10

Docket Entries and Corrections

- (a) ***Participant Designates Docket Entry.*** Participants are responsible for selecting the correct filing event to use during the filing process. This ensures that the filing is correctly identified on the NEF and on the docket.
- (b) ***Abbreviations Not Allowed in Docket Text.*** In some instances, during the filing process, Participants may enter additional text for inclusion in the final docket entry. Participants are not permitted to use abbreviations when entering additional text.
- (c) ***Withdrawing or Re-Filing to Correct Errors is not Permitted.*** Participants cannot withdraw an incorrectly filed document or change the form of an incorrect docket entry once the transaction has been accepted. Participants must not re-file an incorrectly filed or docketed document unless otherwise ordered by the Court.
- (d) ***Clerk's Office Staff Authorized to Correct Errors.*** Once a document is filed and becomes part of the official record, corrections to the docket may be made only by Clerk's Office staff.
- (e) ***Notice of Deficiency.*** If a Participant notifies the Clerk's Office that he or she has made a filing or docketing error, or if the error is discovered by the Court, the Clerk may enter a Notice of Deficiency to notify all parties of record about the error and what, if any, corrective action is needed. Docket text errors or incorrect linking of documents may be corrected by Clerk's Office staff without further action by the Participant. In these situations, the Participant will be notified via telephone or email.

Documents filed by the Court and Text Only Entries

- (a) ***Court Filings.*** All orders, decrees, judgments, and proceedings of the Court will be filed in accordance with these procedures. Filing constitutes entry on the docket kept by the Clerk.
- (b) ***Signatures on Court Filings.*** Any order or other Court filed document without the original signature of a judge or clerk has the same force and effect as if a signed paper document had been entered on the docket.
- (c) ***Notice of Court Filings to Non-Participants.*** Clerk's Office staff will mail or fax Court filed documents to non-Participants; the NEF will be included as proof of filing.
- (d) ***Text Only Entries.***
- (1) **Entry.** Disposition of routine matters such as orders on unopposed motions, may be entered on the docket by using a text only entry. A text only entry has the same force and effect as an entry with a document.
 - (2) **Docket Entries.** If a text only entry is made, no document will accompany the entry; the text of the entry constitutes the only action on the matter. Each text only entry will be identified as a text only entry with no documents attached.
 - (3) **NEF.** Like filings with documents, CM/ECF will generate and send an NEF for a text only entry filed in an unsealed case.

Section
12

Proposed Orders

- (a) **Submission.** Proposed orders should not be filed or submitted to the Clerk or Chambers unless otherwise required by the Judge.
- (b) **Procedure for Submitting.**
- (1) **Email Delivery.** When a proposed order is required, it is attached to an email and sent to the proposed order mailbox of the judge who will rule on the related motion.
 - (2) **Addresses.** Email addresses and chambers specific requirements are available in the [Procedures for Submitting Proposed Orders and Other Text Documents](#). Links to this document are also available on the CM/ECF civil and criminal menus, under Motions and Related Filings.
 - (3) **Format.** The subject line of the email must include the following: the case number, the judge's initials, the docket number of the related motion, and a very brief description of the proposed document. The attached proposed document should be similarly named to convey the same information. Examples:
 - (A) **Subject line of email:** 14cv01234, MCA, 10, Order Dismissing
 - (B) **Attached document:** 14cv01234_MCA_10_Order_Dismissing.docx

Section
13

Bounced Back Emails and Out of Office Notifications

- (a) ***Bounce Backs.*** When an NEF is not delivered to a Participant's email account the email is bounced back to the Court.
- (b) ***Primary Email Accounts.*** Only bounced back emails from a Participant's primary email account are addressed by the Clerk's Office. Emails bounced back from secondary email accounts are deleted without further action.
- (c) ***Participant Notification.*** A Participant will be notified by telephone for bounced back NEFs related to a full mailbox or an incorrect address.
- (1) **First Bounce Back.** The Participant will be told to correct the problem and that the NEF will be forwarded to the Participant.
 - (2) **Second Bounce Back.** If a subsequent bounce back is received, the Participant will again be told to correct the problem, and the NEF will be forwarded to the Participant.
 - (3) **Third Bounce Back.** If the NEF is bounced back a third time, an entry will be made on the docket indicating that the Court sent the NEF three times and informed the Participant twice of the failure to deliver notice. In this situation, it is the Participant's responsibility to obtain a copy of the document at Participant's expense.
- (d) ***Out of Office Email Notifications.*** Out of office email notifications received by the Court are deleted without further action.

Section
14

Replication and Failover Services

- (a) **System Unavailability.** When CM/ECF fails locally or becomes inaccessible due to expected or unexpected events, the Court will provide a temporary failover to a replication server. The replication server will allow Court staff, attorneys, and the public to continue using CM/ECF until service from the local Court systems can be restored.
- (b) **Failover.** To ensure continuity of operations, two modes of service are used.
- (1) **Read Only.** Read only mode is used during short service interruptions, planned power outages or system upgrades. In read only mode, users may access CM/ECF to query and run reports, but access to sealed case information is not available. Filing, scheduling, and other data entry functionality is not available in read only mode.
 - (2) **Read Write.** Read write mode is used for longer service interruptions. In read write mode, full functionality is available but performance may be degraded because data is being sent to a replication server located outside the district. When regular service is restored, updates made on the replication server will be duplicated on the Court's local server.
- (c) **Notification of Downtime.** If a disruption of service occurs or is scheduled to occur, notice will be posted on the [Court's web site](#) and/or at the [Filing Information](#) page as soon as practicable.
- (d) **Extended Service Interruption.** If a service interruption exceeds two hours and failover service is unavailable, provisional submission of time sensitive documents via fax will be authorized.
- (1) **Notice that Provisional Submission Authorized.** The nature of an extended interruption may preclude notice of any kind, but every effort will be made to notify Participants by

CM/ECF ADMINISTRATIVE PROCEDURES

email, by notice posted on the [Court's web site](#), and by recorded message at the Court's general information phone number (505-348-2000). The fax number for provisional submissions will be included in the notice.

- (2) Restoration of Service.** When regular service is restored, documents submitted provisionally must be filed in CM/ECF by Participants. Clerk's Office staff will ensure the correct file date, determined by the provisional submission, is applied to the document. **At no time will the provisional submission represent the official document filed with the Court.**

Transcript Redaction Procedures

- (a) **Review of Transcript.** When a transcript is filed, Participants must review the transcript for information that should be redacted under the local and federal rules (see Section 1(c), [Privacy Concerns](#)). Transcripts are available for public inspection (but not copying) at the Clerk’s Office upon filing. Transcripts are also available for purchase from the court reporter or transcriber within 90 days of filing. A Participant who purchases a transcript will be given online access to the transcript.
- (b) **Notice of Intent to Redact.** The Participant is responsible for reviewing all statements and testimony made on behalf of the party he or she represents. Within **7 calendar days** of the transcript’s file date, the Participant must file a notice of his or her intent to request redaction. If no notice is filed, the Court will assume that redaction of personal data is not necessary. A Participant serving as standby counsel has the same review and redaction responsibilities as if he or she were the party’s attorney of record.
- (c) **Redaction Requests.** If a Participant files a notice of intent to redact, he or she has **21 calendar days** from the filing of the transcript to review it and file a list of the personal data to be redacted. The redaction request or list must set forth the page and line number of the data to be redacted without revealing the personal information itself. For example, “Redact SSN, page 12, line 9 to read xxx-xx-1234.” If a notice of intent to request redaction is filed, but no redaction request is filed, it is the Participant’s responsibility to file a notice withdrawing the notice of intent to request redaction.

- (d) ***Additional Information.*** During the 21 day period, a Participant may move that additional information be redacted. No remote online public access to the transcript will be allowed until a ruling on the motion has been made.
- (e) ***Time to Perform Redaction.*** When a redaction request is filed, the court reporter or transcriber must redact the personal identifiers as requested within **31 calendar days** of the filing of the transcript. If the court reporter or transcriber cannot meet this deadline, it may be extended for good cause shown.
- (f) ***Redacted Transcript.*** Once the requested redactions have been made, the court reporter or transcriber will promptly file the redacted transcript. The redacted transcript will be publicly available in accordance with [paragraph \(a\)](#).
- (g) ***Remote Online Access.*** The original transcript will be publicly available for viewing or download from PACER **90 calendar days** after its date of filing. Copies will also be available at the Clerk's Office. If redactions have been made, only the redacted transcript will be available online. The original transcript will be restricted from remote online public access.
- (h) ***Other Redactions.*** This transcript policy applies to mandated redactions only; leave of Court is required to redact other content.
- (i) ***Sealed Transcripts.*** This transcript policy does not apply to sealed transcripts or transcripts filed in sealed cases.