

U.S. DISTRICT COURT  
N.D. OF N.Y.  
FILED  
October 21, 2015

LAWRENCE K. BAERMAN, CLERK



## **GENERAL ORDER #22**

# **ADMINISTRATIVE PROCEDURES FOR ELECTRONIC CASE FILING**

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DATED: October 21, 2015



Chief U.S. District Judge  
Northern District of New York

**THE NORTHERN DISTRICT OF NEW YORK'S  
ADMINISTRATIVE PROCEDURES FOR ELECTRONIC CASE FILING**

**1. Definitions.**

- 1.1** “All documents” means all documents traditionally filed with the Court.
- 1.2** “Traditionally Filed Document” means a document or pleading presented to the Court for filing in paper or other non-electronic, tangible format.
- 1.3** “Electronic Filing” means uploading a pleading or document directly from the Filing User’s computer using the Court’s Internet-based Electronic Filing System (the “System”) to file that pleading or document in the Court’s case file.
- 1.4** “Filing User” is an individual who has a court-issued login and password to file documents electronically.
- 1.5** “Notice of Electronic Filing” means the notice that the System generates that establishes the electronic receipt of a document filed electronically with the System.
- 1.6** “Portable Document Format” or “.pdf format” means a type of document formatting that can be created with almost any word processing program. Scanned documents can also be converted to .pdf format. For information on converting word processing documents into .pdf text documents, users should visit the Court’s web page at [www.nynd.uscourts.gov](http://www.nynd.uscourts.gov) or the websites of .pdf vendors such as <http://www.adobe.com/products/acrobat> or <http://www.fineprint.com/>.
- 1.7** “.pdf scanned document” means a document converted into .pdf format by means of a document scanner. “.pdf scanned documents” differ from “.pdf text documents” in that “.pdf scanned documents” are essentially pictures of the original documents and do not allow for text searches within those documents.
- 1.8** “.pdf text document” means a document converted from a word processing program (e.g., WordPerfect, Microsoft Word) directly into .pdf format without the use of a scanner. A “.pdf text document” is the preferred format for filing documents with the Court because a “.pdf text document” is considerably smaller in size and allows for text searches within that document.

## 2. Scope of Electronic Filing.

After January 1, 2004, all documents that attorneys admitted to practice in the Northern District of New York submit for filing shall be filed electronically using the System or shall be scanned and uploaded to the System, **no matter when a case was originally filed**, unless these Administrative Procedures otherwise permit or unless the assigned judge otherwise authorizes. An attorney who is not a Filing User by January 1, 2004, must show good cause to the assigned judge to file and serve pleadings and other papers in the traditional manner. If the Court grants permission to file a document traditionally, the attorney must submit the documents for filing to the Clerk's Office on CD-ROM in .pdf or pdf.A format.

### 2.1 Exceptions and/or Waivers from Mandatory Electronic Filing.

The following types of cases and/or documents **are not** required to be filed electronically:

1. If you are seeking to have your complaint filed under seal, please file your complaint and proposed sealing order traditionally at the Clerk's Office.
2. Any document that a party proceeding *pro se* files. (See Section 12.1 for procedural details).
3. Sealed documents, sealed cases, documents for *in camera* review, documents lodged with the Court, ex parte documents, confidential agreements, Qui Tam actions and Grand Jury material and warrants must be filed traditionally. (See Section 12.2 for further information the filing of the above-referenced documents).
4. Discovery: In accordance with Local Rule 26.2, parties shall not file discovery, provided, however, that discovery material to be used at trial or in support of any motion, including a motion to compel or for summary judgment, shall be filed electronically with the Court prior to the trial or with the motion. Any motion pursuant to Rule 37 of the Federal Rules of Civil Procedure shall be accompanied by the electronically filed discovery materials to which the motion relates if those materials have not previously been filed with the Court.
5. Transport Orders: All orders requesting that an incarcerated individual be transported that a judicial officer of the Northern District of New York signs shall be filed traditionally. These Orders will not be filed with the case or uploaded to the docket but rather will be processed in accordance with the procedures that the Clerk of Court promulgates.

The Court may deviate from these Administrative 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 require that courtesy copies of electronically filed documents be submitted for its review and may amend these Administrative Procedures at any time without prior notice. Updates to these Administrative Procedures will be immediately posted to the Court's web page at [www.nynd.uscourts.gov](http://www.nynd.uscourts.gov).

### 3. Eligibility, Registration and Passwords.

#### 3.1 Eligibility

An attorney admitted to practice and in good standing in the Northern District of New York must register as a Filing User unless these Administrative Procedures or the assigned judge otherwise authorizes. (See Section 2 for further information). To be in good standing, an attorney must meet the requirements of Local Rule 83.1, including timely payment of the biennial assessment imposed in Local Rule 83.1(a)(5).<sup>1</sup>

#### 3.2 Registration

Upon registration, the Clerk's Office will transmit the attorney's password via e-mail. Upon receipt of a password, attorneys have 10 days to activate their CM/ECF account with the Northern District. Detailed instructions on how to activate your CM/ECF account can be found on the District's web page at [www.nynd.uscourts.gov/cmecf/](http://www.nynd.uscourts.gov/cmecf/) under the "Registration" section. **Failure to comply with this requirement may result in the removal from the Northern District Bar.**

If a Filing User's e-mail address, telephone or fax number change, they shall immediately update this information within their CM/ECF user account. Detailed instructions are available in the Northern District of New York's CM/ECF Users Manual. If a Filing User's physical office (mailing) address changes, they shall notify the Court immediately by completing the automated **Update My Information** form located on the Court's website:

[www.nynd.uscourts.gov/e-filingregistration/procform13.cfm](http://www.nynd.uscourts.gov/e-filingregistration/procform13.cfm).

**NOTICE: Failure to keep this information current pursuant to Local Rules 83.1(a), 83.1(e) and 10.1(c)(2) will result in the attorney being removed from the Northern District Bar.**

If the Clerk's Office receives a "bounce-back" (i.e. an undeliverable e-mail) notice from a registered filer's primary e-mail account, the filer will be given one opportunity to update their information in CM/ECF. With the second bounce-back, the court may issue an order to show cause regarding the suspension of the registered user's filing privileges. Any bounce-back notice generated by a secondary e-mail address will not be re-served. The only action taken on this kind of bounce-back notice is that it is deleted from the clerk's office e-mail box. It is the registered attorney's responsibility to maintain and update all e-mail addresses, primary and secondary, associated with their CM/ECF account.

### **3.3 Passwords.**

Upon receiving their initial court-generated password, attorneys are encouraged to select a new password of their own choosing. Please consult the Court's CM/ECF Users Manual for detailed instructions on changing passwords. (See [www.nynd.uscourts.gov/cmecf/](http://www.nynd.uscourts.gov/cmecf/)).

The password permits the attorney to participate in the electronic retrieval and filing of pleadings and other papers. Once registered, the attorney shall be responsible for all documents filed with his or her password. Documents filed under an attorney's login and password shall constitute that attorney's signature for purposes of the Local and Federal Rules of Civil and Criminal Procedure, including but not limited to Rule 11 of the Federal Rules of Civil Procedure.

No attorney shall knowingly permit or cause to permit anyone other than an authorized employee of his or her office to use his or her password. If, at any time, an attorney believes that the security of an existing password has been compromised, the attorney must change his or her password immediately. In addition, the attorney shall immediately notify the Court via e-mail at the following address [www.nynd.uscourts.gov](http://www.nynd.uscourts.gov) of his or her belief that the password has been compromised.

## **4. Electronic Filing and Service of Documents**

### **4.1 Filing defined.**

Electronic transmission of a document to the System in accordance with these Administrative 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 that the Clerk's Office keeps under Rules 58 and 79 of the Federal Rules of Civil Procedure and Rules 49 and 55 of the Federal Rules of Criminal Procedure. E-mailing a document to the Clerk's Office or to the assigned judge shall not constitute "filing" of the document.

### **4.2 Complaints.**

All civil actions commenced by members of the Bar must be filed electronically in CM/ECF. The payment of the filing fee will be made through a secure United States Treasury Internet Credit Card site known as (Pay.Gov<sup>2</sup>). The attorney will log into CM/ECF and submit all initiating documents in .pdf format to a universal shell case "5:00-at-99999." The Clerk will transfer the case from the shell file, and assign a case number, district court judge and magistrate judge. Once the new case is opened by the Clerk the filing attorney will receive a Notice of Electronic Filing (NEF). Please note - the action will be filed as of the date that the filing fee was paid and the complaint was uploaded into the shell case. In a case removed to this Court, parties are required to provide electronic copies of all documents previously filed in the underlying state court action. If the filing attorney is seeking to have the filing fee

waived, an In Forma Pauperis application should be filed as an attachment to the electronically filed civil complaint and the filing attorney would answer “yes” at the IFP screen. *If the initial complaint includes a motion for a TRO, please file the complaint with summons and civil cover sheet, motion for TRO and supporting documents as attachments, and call the Clerk’s Office to notify of the filing.*

#### **4.3 Time of Filing.**

A document will be deemed timely filed if electronically filed prior to midnight Eastern Time. However, if the time of day is of the essence, the assigned judge may order that the document be filed by a time certain. New cases are deemed filed the day the Clerk’s Office receives the complaint and required filing fee.

#### **4.4 Attachments and Exhibits.**

A Filing User must submit in electronic form all documents referenced as exhibits or attachments in accordance with the Court’s CM/ECF Users Manual unless the Court otherwise orders. A Filing User shall submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under the Court’s consideration. Excerpted material must be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under these Administrative Procedures do so without prejudice to their right to timely file additional excerpts or the complete document. Responding parties may also timely file the complete document or additional excerpts that they believe are directly germane to the matter under the Court’s consideration.

All attachments must be described in sufficient detail so the Court and opposing counsel can easily identify and distinguish the filed attachments. Vague or general descriptions are insufficient (i.e. “Exhibit 1”). Rather, each attachment shall have a descriptive title identifying, with specificity, the document that is being filed (i.e. “Exhibit 12 Mulligan County Fire Investigation Report.”) Failure to adequately describe attachments may result in the document being rejected by the Court.

#### **4.5 Large Documents.**

For information on the electronic filing of large documents, please consult the Court’s CM/ECF Users Manual, which is available on the Court’s web page at:

[www.nynd.uscourts.gov/cmecf/](http://www.nynd.uscourts.gov/cmecf/)

A party who believes a document is too lengthy to electronically image, i.e., “scan,” may contact the Clerk’s Office for permission to file that document conventionally. If the Clerk’s Office grants permission to conventionally file the document, the Filing User shall electronically file a notice of conventional filing for the documents. More information regarding this process can be obtained from the Court’s web page at [www.nynd.uscourts.gov](http://www.nynd.uscourts.gov). Exhibits submitted conventionally shall be served on other parties as if they were not subject to these Administrative Procedures. For a list of hints and tips for scanning large documents, please consult the Court’s web page at [www.nynd.uscourts.gov](http://www.nynd.uscourts.gov).

#### **4.6 Legibility.**

It shall be the Filing User's responsibility to verify the legibility of scanned documents before filing them electronically with the Court.

#### **4.7 Color Documents.**

Since documents scanned in color or containing a graphic take much longer to upload, Filing Users are encouraged to configure their scanners to scan documents at 300 dpi and preferably in black and white rather than in color.

#### **4.8 Items not in .PDF Format.**

Parties wishing to file items not amenable to .pdf format (i.e. CD's, DVD's), shall file such items conventionally with the Clerk's Office. The Filing User shall electronically file a notice of conventional filing indicating that these items have been submitted to the clerk and shall serve copies of these items on other parties as if they were not subject to these Administrative Procedures. These item(s) will be maintained by the Clerk's Office until the case is disposed, at which time they will be returned to the filing party for retention consistent with Section 4.9 of the General Order.

#### **4.9 Document Retention.**

The Filing User shall retain all documents containing original signatures of anyone other than the Filing User for a period of not less than sixty days after all dates for appellate review have expired.

### **5. Service.**

#### **5.1 Service of Process.**

Rule 5(b) of the Federal Rules of Civil Procedure and Rule 49(b) of the Federal Rules of Criminal Procedure do not permit electronic service of process for purposes of obtaining personal jurisdiction, i.e., Rule 4 Service. Therefore, service of process must be effected in the traditional manner.

#### **5.2 Service of Electronically-filed Documents.**

Service is complete provided all parties receive a Notice of Electronic Filing (NEF), which is sent automatically by email from the Court (see the NEF for a list of who did/did not receive notice electronically). Transmission of the NEF constitutes service upon all Filing and Receiving Users who are listed as recipients of notice by electronic mail. It remains the responsibility of Filing and Receiving Users to maintain current contact information with the court and to regularly review the docket sheet of the case.

Attorneys and pro se parties who are not Filing or Receiving Users must be served with a paper copy of any electronically filed pleading or other document. Service of such paper copy must be made according to the Federal Rules of Civil Procedure,

the Federal Rules of Criminal Procedure and the Local Rules. Such paper service must be documented by electronically filing a certificate of service.

### **5.3 Service of Electronically-filed Documents upon non-Filing Users.**

A party who is not a Filing User of the System is entitled to a paper copy of any electronically-filed pleading, document, or order. The Filing User must therefore provide the non-Filing User with the pleading or document according to the Federal Rules of Civil Procedure.<sup>2</sup>

### **5.4 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 purposes of adding three days to the prescribed period to respond.

## **6. Signatures**

### **6.1 Attorney Signatures.**

Documents filed under an attorney's login and password shall constitute that attorney's signature for purposes of the Local and Federal Rules of Civil and Criminal Procedure, including but not limited to Rule 11 of the Federal Rules of Civil Procedure. A pleading or other document requiring an attorney's signature shall be signed in the following manner, whether filed electronically or submitted on disk or CD-ROM to the Clerk's Office: "s/ (attorney name)." The correct format for an attorney signature is as follows:

**s/ Judith Attorney**

Judith Attorney Bar Number: 123456

Attorney for (Plaintiff/Defendant)

ABC Law Firm

123 South Street

Albany, NY 12207

Telephone: (518) 555-1234

Fax: (518) 555-5678

E-mail: [judith\\_attorney@law.com](mailto:judith_attorney@law.com)

### **6.2 Non-Attorney Signature.**

If an original document requires the signature of a non-attorney, the Filing User may scan the original document containing the original signature(s), then electronically file it on the System. Alternatively, the Filing User may convert the document into .pdf text format and submit the document using "s/" for the signature of the non-attorney.

Please note, the Filing User shall retain all documents containing original signatures of anyone other than the Filing User for a period of not less than sixty days after all dates for appellate review have expired. Should the authenticity of the document be questioned, the presiding judge may require the Filing User to produce the original

document.

### **6.3 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; (2) representing the consent of the other parties on the document; or (3) in any other manner that the Court approves.

### **6.4 Authenticity Disputes.**

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 ten days of receiving the Notice of Electronic Filing, or, if a non-Filing User, within ten days of receiving the document.

## **7. Fees Payable to the Clerk.**

Any fee required for filing a pleading or paper in this Court is payable to the Clerk of the Court. The Court will not maintain electronic billing or debit accounts for attorneys or law firms. Effective January 1, 2007, payment for filing fees will be mandatory through CM/ECF's Internet Credit Card Payment site - a secure Treasury Site known as (Pay.Gov<sup>3</sup>). The Filing User will be prompted to enter either Bank Account Debit (ACH) or credit card information while filing the initial pleading. Any document that requires a filing fee (e.g. Notice of Appeal, Motion for Pro Hac Vice Admission) may also be paid through Pay.Gov.

## **8. Orders.**

The assigned judge or the Clerk's Office shall electronically file all signed orders. Upon filing, the System will send a "Notice of Electronic Filing" to all Filing Users in that case. The Clerk's Office will send a paper copy of the order along with the "Notice of Electronic Filing" to non-Filing Users in the case. 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 the order had been entered on the docket conventionally.

### **8.1 Text-Only Orders.**

The assigned judge or the Clerk's Office, if appropriate, may grant routine orders by a text-only entry upon the docket. In such cases, no .pdf document will issue; 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 1.5 of these Administrative Procedures. The Clerk's Office will send a paper copy of the text-only order to non-Filing Users in the case.

### **8.2 Submitting a Proposed Order or Stipulation.**

A document that is submitted in .pdf format cannot be modified; therefore, a proposed order or stipulation must be in a word processing format. The chambers of the assigned judge may request that a proposed order and/or a stipulation be e-mailed to the courtroom deputy for the presiding judge in either **WordPerfect or Microsoft Word format**. Please attach your proposed order and/or stipulation to an Internet e-mail sent to the appropriate e-mail address as listed below:

Chief Judge Suddaby	<a href="mailto:NYND_GTS_ECF_NOTICES@nynd.uscourts.gov">NYND_GTS_ECF_NOTICES@nynd.uscourts.gov</a>
Judge Hurd	<a href="mailto:NYND_DNH_ECF_NOTICES@nynd.uscourts.gov">NYND_DNH_ECF_NOTICES@nynd.uscourts.gov</a>
Judge Sharpe	<a href="mailto:NYND_GLS_ECF_NOTICES@nynd.uscourts.gov">NYND_GLS_ECF_NOTICES@nynd.uscourts.gov</a>
Judge D'Agostino	<a href="mailto:NYND_MAD_ECF_NOTICES@nynd.uscourts.gov">NYND_MAD_ECF_NOTICES@nynd.uscourts.gov</a>
Judge Sannes	<a href="mailto:NYND_BKS_ECF_NOTICE@nynd.uscourts.gov">NYND_BKS_ECF_NOTICE@nynd.uscourts.gov</a>
Judge McAvoy	<a href="mailto:NYND_TJM_ECF_NOTICES@nynd.uscourts.gov">NYND_TJM_ECF_NOTICES@nynd.uscourts.gov</a>
Judge Scullin	<a href="mailto:NYND_FJS_ECF_NOTICES@nynd.uscourts.gov">NYND_FJS_ECF_NOTICES@nynd.uscourts.gov</a>
Judge Kahn	<a href="mailto:NYND_LEK_ECF_NOTICES@nynd.uscourts.gov">NYND_LEK_ECF_NOTICES@nynd.uscourts.gov</a>
Judge Mordue	<a href="mailto:NYND_NAM_ECF_NOTICES@nynd.uscourts.gov">NYND_NAM_ECF_NOTICES@nynd.uscourts.gov</a>
Mag. Judge Peebles	<a href="mailto:NYND_DEP_ECF_NOTICES@nynd.uscourts.gov">NYND_DEP_ECF_NOTICES@nynd.uscourts.gov</a>
Mag. Judge Baxter	<a href="mailto:NYND_ATB_ECF_NOTICES@nynd.uscourts.gov">NYND_ATB_ECF_NOTICES@nynd.uscourts.gov</a>
Mag. Judge Dancks	<a href="mailto:NYND_TWD_ECF_NOTICES@nynd.uscourts.gov">NYND_TWD_ECF_NOTICES@nynd.uscourts.gov</a>
Mag. Judge Hummel	<a href="mailto:NYND_CFH_ECF_NOTICES@nynd.uscourts.gov">NYND_CFH_ECF_NOTICES@nynd.uscourts.gov</a>
Mag. Judge Stewart	<a href="mailto:NYND_DJS_ECF_NOTICES@nynd.uscourts.gov">NYND_DJS_ECF_NOTICES@nynd.uscourts.gov</a>
Prisoner Pro Se	<a href="mailto:NYND_ILU_ECF_NOTICES@nynd.uscourts.gov">NYND_ILU_ECF_NOTICES@nynd.uscourts.gov</a>

## 9. Correcting Docket Entries.

Once a document is submitted and becomes part of the case docket (i.e., the Filing User receives a Notice of Electronic Filing), only the Clerk's Office can make corrections to that docket entry. In other words, the System will not permit the Filing User to make changes to the document(s) or docket entry filed in error once the transaction has been accepted. Please consult the Court's CM/ECF Users Manual for detailed instructions on correcting docket errors. (See [www.nynd.uscourts.gov/cmecf/](http://www.nynd.uscourts.gov/cmecf/)). A document incorrectly filed in a case may be the result of posting the wrong .pdf document to a docket entry or selecting the wrong document type from the menu or entering the wrong case number and not catching the error before the transaction is completed. **The Filing User should not attempt to refile the document.**

As soon as possible after an error is discovered, the Filing User should contact the Clerk's Office with the case number and document number for which it is requesting a correction. If appropriate, the Court will make an entry indicating that the document was filed in error. The Clerk's Office will notify the Filing User *if* the document needs to be refiled.

## **10. Technical Failures.**

### **10.1 Technical Failure of the System.**

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. that day. Known systems outages will be posted on the Court's web page, if possible.

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. The following methods are acceptable alternate means for filing documents in case of a technical failure:

- a) via electronic mail in a PDF attachment sent to the e-mail address for technical failures (See [www.nynd.uscourts.gov/cmecf/](http://www.nynd.uscourts.gov/cmecf/)); or
- b) in person, by bringing the document to the Clerk's Office on paper accompanied by a CD-ROM that contains the document in .pdf format.

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).

### **10.2 Technical Failure of the Filing User's System.**

Problems with the Filing User's system, such as phone line 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.

## **11. Public Access and Privacy Concerns.**

### **11.1 Social Security Case Information.**

The public may retrieve information from the System at the Court's Internet site by obtaining a PACER login and password. See Section 13.2 for more information regarding PACER. In accordance with the policy of the Judicial Conference, social security cases are not available for public view over the Internet. Although docket sheets will be available to the Public via PACER, only counsel in the case may view documents which have been filed electronically. Based upon the viewing restrictions in place in CM/ECF, documents in Social Security Cases are exempt from the

redaction requirements of Local Rule 8.1 and Section 11.2 of this order.

## 11.2 Sensitive Information

As the public may access certain case information over the Internet through the Court's Internet site, sensitive information should not be included in any document filed with the Court unless such inclusion is necessary and relevant to the case. Parties shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all pleadings filed with the Court, including exhibits thereto, whether filed electronically or in paper form, unless the Court orders otherwise.

1. **Social security numbers.** If an individual's social security number must be included in a document, use only the last four digits of that number.
2. **Names of minor children.** If the involvement of a minor child must be mentioned, use only the initials of that child.
3. **Dates of birth.** If an individual's date of birth must be included in a document, use only the year.
4. **Financial account numbers.** If financial account numbers are relevant, use only the last four digits of those numbers.
5. **Home Addresses.** If a home address must be used, use only the City and State.
6. **Names of Sexual Assault Victims.** If the victim of a sexual assault must be referenced, redact the name to 'Victim.'

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

- 1) personal identifying number, such as a driver's license number;
- 2) medical records, treatment and diagnosis;
- 3) employment history;
- 4) individual financial information; and
- 5) proprietary or trade secret information.

Counsel is strongly urged to discuss this issue with all their clients so that an informed decision about the inclusion of certain information may be made. The responsibility for redacting these personal identifiers **rests solely with counsel and the parties.** The Clerk will not review each pleading for compliance with this Rule. Counsel and the parties are cautioned that failure to redact these personal identifiers may subject them to the Court's full disciplinary power.

## 11.3 Filing Under the E-Government Act of 2002.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may:

- a. file an unredacted version of the document under seal, or
- b. file a reference list under seal. The reference list shall contain the complete

personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal and may be amended as of right. Please refer to Section 12.2 of this Order for the proper procedure for filing a document under seal.

#### **11.4 Documents That Are Restricted.**

The Court has determined that the following documents shall be filed electronically, with access limited to the case participants, court users, and public terminals. Please note that these documents are not available via PACER:

- Witness Lists
- Voir Dire
- State Court Records in Habeas Corpus Cases
- Jury List
- Pretrial Disclosure Statement
- Notice of Teleconference
- Medical Records

The Court has determined that the following documents **MAY** be filed electronically, at the discretion of the presiding judge, with access limited to the case participants and court users. Please note that these documents are not available via PACER:

- Letters regarding sentencing
- Redaction Request-Transcript

### **12. Documents that will continue to be traditionally filed.**

#### **12.1 Pro se filers.**

A non-prisoner who is a party to a civil action and who is not represented by an attorney may file a motion to obtain an Electronic Case Filing (ECF) login and password on a form prescribed by the Clerk's Office. The **Pro Se CM/ECF Registration Form** shall be submitted with the motion. If during the course of the action an attorney appears on behalf of the pro se party, the Clerk's Office shall terminate the pro se party's registration based upon the attorney's appearance.

Absent permission to file electronically, pro se filers shall file paper originals of all complaints, pleadings, motions, affidavits, briefs, and other documents which must be signed or which require either verification or an unsworn declaration under any rule or statute. The Clerk's Office will scan these original documents into an electronic file in the System but will also maintain a paper file.

A pro se party may also seek permission to receive immediate notice of all public documents filed in their cases. Notices of Electronic Filing (NEF) and attached documents would be transmitted to a non-prisoner pro se party who selects this option. **Note: The pro se party would continue to file their documents with the Clerk's Office in paper form.**

## **12.2 Sealed Documents, Sealed Cases, Documents Presented for In Camera Review, and Documents Lodged with the Court.**

If a party wishes to file one of the above listed documents, the party must file a motion or application to achieve the desired action. The motion or application, along with the documents the party is requesting to be sealed or lodged with the Court, shall be filed in a traditional manner in a sealed envelope marked “sealed.” Unless the motion is being filed ex parte, the filing party shall conventionally serve all parties with the papers being filed with the Court.

If the Court grants the motion or application, the assigned judge will enter electronically the order authorizing the filing of the documents in the appropriate manner (e.g., under seal, restricted, or lodged with the Court). The Clerk’s Office will then file the documents in the appropriate manner.

If the Court denies the motion or application, the Court will issue an order that directs the parties to file the documents electronically.

## **12.3 Access to Sealed Documents and/or Docket Entries.**

Sealed documents and entries shall only be viewable by court users. Attorneys, PACER and Public Terminal users will not have access to sealed entries or documents. If a docket **entry** is sealed, the public docket will not show the entry on the docket sheet, often leading to “skipped” numbers. When a **document** is sealed, attempts to access the document by an attorney, PACER or public terminal user will be denied, with a message indicating that the document is sealed.

## **13. Public Access to the System Docket.**

### **13.1 Public Access at the Court.**

Electronic access to the electronic docket and documents filed in the System is available for viewing to the public at no charge at the Clerk’s Office during regular business hours. A copy fee for an electronic reproduction is required in accordance with 28 U.S.C. § 1914.

### **13.2 Internet Access.**

Remote electronic access to the System for viewing purposes is limited to subscribers to the Public Access to Court Electronic Records (“PACER”) system. The Judicial Conference of the United States has ruled that a user fee will be charged for remotely accessing certain detailed case information, such as filed documents and docket sheets in civil cases.<sup>4</sup> Application forms and information on PACER can be found on the Court’s web page at [www.nynd.uscourts.gov](http://www.nynd.uscourts.gov)

### **13.3 Conventional Copies and Certified Copies.**

Conventional copies and certified copies of electronically filed documents may be purchased at the Clerk’s Office. The fee for copying and certifying will be in accordance with 28 U.S.C. § 1914.

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1. L.R 83.1(a)(5) waives the biennial registration fee for all attorneys employed by federal, state and local public sector entities.

2. To determine whether another party is a Filing User, the filing party can select the System's "Utilities" category, and then click on "Mailing Information for a Case" on the pull-down menu. The filing party then enters the case number and the System information will appear, stating whether or not the filer must mail a copy of the documents or if the System will electronically generate a "Notice of Electronic Filing" to a particular party.

3. Note - If the Pay.Gov system is down for any reason when attempting to electronically file a new civil complaint, please contact the Office of the Clerk for guidance as to the procedure to be followed. For additional information on Pay.Gov, please visit our website at [www.nynd.uscourts.gov](http://www.nynd.uscourts.gov).

4. According to a memorandum from the Administrative Office of the United States Courts dated October 21, 2004, users will be charged a fee beginning January 1, 2005, to access electronic data such as docket sheets and case documents obtained remotely through the PACER system. Current rates are set forth in the [Electronic Public Access Fee Schedule](#). The access fee does not apply to official recipients of electronic documents, i.e., parties legally required to receive service or to whom the Filing User has directed service in the context of service under the Federal Rules of Civil Procedure. Filing Users will receive the initial electronic copy of a document free to download as they see fit, but if they remotely access the document again, they will be charged the access fee.