

## **ELECTRONIC FILING TIPS FOR ATTORNEYS**

**APPEALS:** Parties may pay the filing fee for a Notice of Appeal by credit card or by direct debit. After filing the appeal, please select “Appeal - Credit Card Payment”, which is the first option listed in the Appeals menu. Please also note that electronic versions of the Transcript Purchase Order are available on the District Court website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov).

**ATTACHMENTS:** When adding an attachment to a document, CM/ECF requires the user to select an attachment category and/or add a description correlating to the attachment.

**BRIEFING IN BANKRUPTCY APPEAL CASES:** Special docket codes for briefing in Bankruptcy Appeal cases can be found under the category entitled Appeals - Bankruptcy and Circuit.

**CERTIFICATES OF SERVICE** shall not be filed in cases in which all parties and/or counsel are registered as users with CM/ECF since the NEF shall serve as the certificate of service. If the parties to a case are not all participants in CM/ECF, or if a document must be filed in paper format, then a certificate of service should be included as either the last page of the main document or as an attachment to the main document.

**CONSENT TO DISPOSITION BY A U.S. MAGISTRATE JUDGE:** At the time of filing a new civil action, the Clerk of Court will provide the filer with a copy of Form AO-85 (Notice, Consent, and Reference of a Civil Action to a Magistrate Judge) for the filer and each defendant. The filer shall include the AO-85 with the documents to be served on defendants. Federal Rule 73 states that “A district judge or magistrate judge shall not be informed of a party’s response to the clerk’s notification, unless all parties have consented to the referral of the matter to a magistrate judge.” For this reason, signed consent forms (i.e., AO-85) shall be filed in paper format with the Clerk, outside of CM/ECF. They will be docketed only when all parties have consented. For further details, please see the Standing Order of the Court re: Utilization of United States Magistrate Judges.

**CORRECTING ENTRIES** can be made by Court personnel. If an error is discovered, the filer should contact the Help Desk at 302-573-6170 prior to attempting to re-file a document.

**COUNSEL OF RECORD:** During the case opening process, it is now the practice of the Clerk’s Office to enter as counsel of record, all CM/ECF registered local counsel listed on the complaint or other primary pleading. The first listed attorney will be marked as “LEAD”. If additional attorneys wish to appear on the docket, their names can be added by filing an Entry of Appearance.

**COURTESY COPIES:** If the Local Rules require the filing of an original plus a copy, then the electronically filed document will serve as the original. A courtesy copy of the document, in paper format, should be filed with the Clerk of Court. Each individual document should have attached

to it a copy of its Notice of Electronic Filing (NEF) or, as an alternative, the docket item number should be listed on the front of each copy. Envelopes and cover letters addressed to the Judge are not needed. Courtesy copies of briefs should be bound at the left in accordance with the Local Rules. The electronically filed document is all that is needed for Motions for Admission Pro Hac Vice as well as documents having no additional copy requirements prescribed by the Local Rules. Unless otherwise ordered, courtesy copies of redacted versions of sealed documents shall not be filed.

**COURTESY COPIES IN CASES ASSIGNED TO VISITING JUDGES:** In cases assigned to Visiting Judges, courtesy copies of electronically filed documents should be sent to the chambers of the Visiting Judge unless otherwise directed. The courtesy copies of documents not filed electronically should also be sent to the chambers of the Visiting Judge. The originals of the non-electronic documents (sealed documents, oversized documents, etc.) should be filed in the Clerk's Office in the District of Delaware.

**COVER LETTERS:** When it is necessary to file a cover letter together with an actual document, the letter should be docketed as one entry and the document (i.e., affidavit, stipulation, proposed order) as a separate entry. An alternative would be to file the cover letter as an attachment to the pleading.

**DISCLOSURE STATEMENT PURSUANT TO FEDERAL RULE 7.1:** When docketing the disclosure statement, the corporate parents/affiliates listed on the statement should be added by the filer when prompted by the docketing screen.

**EMAIL BOXES** on both personal computers and blackberries should be periodically checked to insure that stored messages do not exceed the storage limitations on the mailbox. The Court often receives rejected Notices of Electronic Filing (NEF) which were sent to office email addresses and blackberries that were too full to accept the NEF.

**ENTRY OF APPEARANCE:** When entering an appearance on behalf of a party, a screen will appear that allows an attorney to associate with the particular party or parties. The attorney entering an appearance should select all parties being represented. Towards the right of this screen, the box for "Lead" will appear unchecked and the box for "Notice" will appear checked. If the attorney will be the lead attorney, then he/she should check the "Lead" box. In order to receive electronic notices, the "Notice" box should remain checked. While other attorneys in the law firm may appear for purposes of a "Notice", only one attorney should be designated as "Lead".

**FILE DATE:** When the intent is to file a document just after midnight, it is suggested that the docketing process not be initiated prior to midnight. In some instances, when the process begins prior to midnight but is not completed (submitted) until after midnight, the resulting NEF may display a file date of the previous day and a transaction entry date reflecting the current day. Conversely, when the intent is to file a document prior to midnight, it is recommended that the docketing process begin well enough in advance to insure completion of the entry and creation of the NEF prior to midnight.

**FILER:** The attorney account (login and password) being used for filing a document should match the attorney signature on the document being filed. All documents must contain either the electronic form of the filer's actual signature or the typed name of the filer, preceded by /s/.

**MOTIONS, BRIEFS AND APPENDICES** should be filed as three separate documents using three separate docket codes. Standard briefing on a motion should utilize the codes **Motion, Brief-Opening Brief in Support, Brief-Answering Brief in Opposition** and **Brief-Reply**. The codes, Response to Motion, Memorandum in Support and Memorandum in Opposition should not be used for standard briefing on a motion, as these codes are more appropriate for filers who are not a defendant or plaintiff, or if the filer is responding to something other than a motion.

**MOTIONS FOR REARGUMENT:** According to Rule 7.1.5, within 14 days after the filing of the motion, an opposing party may file a brief answer. CM/ECF event codes **Response to Motion** or **Brief-Answering Brief in Opposition (Reargument Only)** can be used to docket the answer. The general answering brief code, **Brief-Answering Brief in Opposition**, should not be used, as it will improperly set a reply brief deadline.

**MOTIONS (NONDISPOSITIVE):** In accordance with Local Rule 7.1.1, except for civil cases involving *pro se* parties or motions brought by nonparties, every nondispositive motion shall be accompanied by an averment of counsel for the moving party that a reasonable effort has been made to reach agreement with the opposing party on the matters set forth in the motion. Unless otherwise ordered, failure to so aver may result in dismissal of the motion.

**MULTI DISTRICT LITIGATION (MDL):**

In accordance with the MDL Guide for Transferee Clerks, filings in MDL cases should be docketed as follows:

- Document referring to only 1 case: **docket on master & on the docket of the single civil action;**
- Document referring to all actions: **docket on master & on the dockets of each case**
- Document referring to 2 or more cases, but not all: **docket on master & on the dockets of each case to which it refers;**

The Assigned Judge may provide additional filing instructions, generally in the form of an Order.

**NOTICES OF ELECTRONIC FILING (NEF):** Some of the previously reported problems with secondary email addresses continue in Version 5.0.3 of CM/ECF. If you experience a problem with a secondary email account, please contact the Help Desk at 302-573-6170 and an Attorney Admissions Clerk will review the account to see if we can minimize the problem.

**PAPER DOCUMENTS:** Counsel may elect to file a paper version of a document exceeding 4 MB that cannot reasonably be broken into segments. This is done by docketing a Notice of Filing Paper Documents in CM/ECF. The Notice of Filing will automatically be assigned a DI# by CM/ECF. The attorney will then file the paper original and any required copies with the Clerk's Office, together with the Notice of Filing. Standards for formatting, length, numbering and binding of hard copy documents will be in accordance with Local Rules, and must include a certificate of service as the last page of the document. Upon receipt, the Court will docket the paper item in CM/ECF

using the actual name of the document (opening brief, appendix, etc.), and assign a separate DI#, without attaching a PDF. The DI# of the paper document will be a different DI# than that of the notice. The paper document will be considered an original document that will be maintained in a case file in the Clerk's Office.

**PATENT CASES:** In cases involving patents and trademarks, counsel shall complete form AO-120, Report on the Filing or Determination of an Action Regarding a Patent or Trademark, and include it with the case initiating document. If additional patents are brought into the case at a later time, counsel shall complete the AO-120 form, to include the additional patents, and electronically file the form in CM/ECF. If a patent case involves an Abbreviated New Drug Application (ANDA), counsel shall also complete the Court's ANDA form and submit it at the time of filing the complaint. Both form AO-120 and the ANDA form can be found on the Court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov) under the Clerk's Office forms section.

**PDF DOCUMENTS** should be carefully checked prior to docketing to insure that they are complete, legible and do not contain confidential information. With regard to size limitations, please note that some internet service providers may add a header to a document. This could cause a 3.8 MB or 3.9 MB document to exceed the 4 MB limit. **Version 5.0.3 of CM/ECF has the capability of accepting PDF/A documents. The filing of documents in PDF/A format will be voluntary through 2012. On January 1, 2013, CM/ECF will require that all documents conform to the PDF/A standard.**

**PDF DOCUMENT VIEWING PROBLEMS:** On occasion, a document cannot be viewed when the PDF header is turned off. If a blank page or an error message is received when attempting to view a PDF document, please try turning on the PDF header to see if the document appears. The PDF header option is a selection on the docket sheet report screen.

Additionally, at times, the information entered into a fillable PDF document does not appear when the "View All" option is selected for the docket entry. This information does appear when the document is individually selected for viewing.

**PRETRIAL ORDER AND RELATED DOCUMENTS:** When filing a pretrial order, jury instructions, or proposed voir dire, it is suggested that both the electronic version and two courtesy copies be filed with the Clerk's Office by the deadline prescribed in either the Local Rules or a Scheduling Order.

**RELATED CASES:** While CM/ECF permits in some instances the simultaneous docketing of a single PDF document into multiple related cases, this method is not recommended for briefs, responses to motions, and documents that require links to other documents on the docket sheet. To create the proper links, as well as a more accurate docket entry, a brief or response relating to multiple case numbers should be docketed separately in each of the cases.

**REVISED DOCUMENTS:** When filing a **revised version** of a document that is already on the docket sheet, to the extent possible, please use the free text box to refer to the docket item number of the document that is being revised. (Not to be confused with "REDACTED DOCUMENT", see "Sealed Documents" below for details.)

**SCANNERS** should be set at 300 pixels per inch or higher in order to comply with the preservation recommendations of the National Archives and Records Administration.

**SEALED DOCUMENTS** should not be filed as a PDF.

In criminal cases, sealed documents should be delivered to the Clerk's Office in sealed envelopes with no electronic entry on the docket sheet. If the document requires the submission of an original plus one copy, each should be in a separate sealed envelope. The Clerk's Office will make the entry on the docket sheet.

In civil cases, an electronic entry corresponding to the title of the document shall be made on the docket by the filing attorney. The attachment to this entry should be a single page noting just the words, "Sealed Document". An original plus one copy of the actual sealed document should be delivered to the Clerk's Office in sealed envelopes. Within 7 days, counsel shall electronically file a redacted version of the sealed document using the docket code for **Redacted Document** located under Other Documents. **Unless otherwise ordered, courtesy copies of redacted versions of sealed documents shall not be filed.** Please refer to the FAQ entitled "Filing Under Seal" and the CM/ECF User Manual located on our web site at [www.ded.uscourts.gov](http://www.ded.uscourts.gov).

**SEALED EXHIBITS TO A DOCUMENT** should not be filed as a PDF.

Sealed exhibits to a document should not be combined with publicly filed documents. In civil cases, sealed exhibits may be referenced as "filed separately under seal" in a primary document that is filed electronically, however, they must be docketed with a separate event code and docket item number. Using the docket event code **Exhibit to a Document**, link the sealed exhibits to the related electronically filed document, and select the "SEALED" prefix. The attachment to this entry should be a single page noting just the words, "Sealed Document". At the completion of the transaction, print the NEF and attach copies to the back of the two envelopes containing the "Original" and "Copy" of the sealed exhibit(s). See FAQ "How do I present documents for filing under seal?"

### **SOCIAL SECURITY, IMMIGRATION AND ASSET FORFEITURE CASES**

Docket sheets in Social Security, Immigration, and Asset Forfeiture Cases are available for public viewing by remote internet access using a PACER login. Documents in these types of cases may be viewed via remote internet access only by counsel of record. Upon receipt of a Notice of Electronic Filing (NEF), counsel of record may proceed as follows to receive the free look at the document filed:

- Leave the NEF and go to the ECF/Pacer login screen;
- Log into ECF with the login and password of counsel of record;
- Run the Docket Report;
- Enter the Pacer login when prompted;
- Go to the document link and open it;

**TIME (COMPUTATION OF TIME):** Effective 12/1/2009, CM/ECF no longer excludes intermediate weekends and holidays when calculating deadlines less than 11 days. Deadlines will be calculated in accordance with the changes to Fed.R.Civ.P.6 (i.e., 5 day deadlines will become 7 day deadlines, 10 and 15 day deadlines will become 14 day deadlines, etc.). CM/ECF will add 3

calendar days for mailing, as prescribed in the Administrative Procedures for Filing and Service by Electronic Means.