IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

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

O R D E R

Effective March 1, 2005, all documents submitted for filing in both new and pending civil and criminal cases, except those documents specifically exempted, shall be filed either electronically using the Federal Judiciary's case management and electronic filing system known as CM/ECF, or on a properly labeled 3.5" floppy or compact disk. CM/ECF permits electronic filing, signing and verification of pleadings and other papers with the Clerk of Court through the Court's public web site, allows parties to use the Court's transmission facilities to make service when appropriate, and authorizes the Clerk of Court to serve notice of orders and judgments electronically.

At Wilmington this 8th day of February, 2005,

IT IS ORDERED THAT:

1. The Court adopts the attached Administrative Procedures Governing Filing and Service by Electronic Means and directs that

they be applied and interpreted in connection with the Court’s CM/ECF User’s Manual.

2. The Clerk of Court may amend the CM/ECF User’s Manual from time to time as appropriate, and shall make copies of this Order and the User’s Manual available to the bar and public in the Clerk’s Office and on the Court’s public web site.

Chief Judge

Judge

Judge

Judge

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

REVISED ADMINISTRATIVE PROCEDURES GOVERNING FILING AND SERVICE BY ELECTRONIC MEANS

ELECTRONIC FILING and PDF

Electronic Filing is the process of uploading a document from a user's computer, utilizing the Court's Internet-based Case Management and Electronic Case Filing (CM/ECF) system, to file the document in the Court's case file. CM/ECF accepts documents in a portable document format (PDF).

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 run through an optical scanner. Scanned PDF's are not searchable and have a large file size.

PDF documents filed electronically shall not exceed 4 megabytes in size.

ADMINISTRATIVE PROCEDURES

(A) General Information

(1) **Effective March 1, 2005, all documents submitted for filing in both new and pending civil and criminal cases,** except those documents specifically exempted in subsection (G) of these procedures, shall be filed either electronically using CM/ECF or on a properly labeled 3.5" floppy or compact disk in PDF so that the document can be added to the electronic case file.

(2) The official Court record in CM/ECF cases shall be the electronic file maintained on the Court's servers, together with any paper attachments and exhibits filed in accordance with these procedures.

(3) In instances where the Local Rules or Scheduling Orders provide for the filing of an additional copy, a courtesy paper copy of an electronically filed document shall be delivered to the Clerk's Office by the next business day. Motions for admission *pro hac vice* shall not require a courtesy paper copy.

(4) The Clerk's Office may discard the PDF disk after it has been uploaded to CM/ECF.

(5) 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.

(B) Registration

(1) All users of CM/ECF must register with the Court to receive a log-in and password. Registration information is available on the Court's web page at www.ded.uscourts.gov.

(2) Attorneys admitted to the bar of this Court, including those authorized to represent the United States, shall register as users of CM/ECF prior to filing any pleadings. Prior to registration, attorneys must attend a training session sponsored by the Court. Registration shall continue to be effective provided the user remains a bar member in good standing.

(3) An attorney retained in a criminal case who is not admitted to the bar of this Court shall register as a user of CM/ECF solely for purposes of the criminal action. Registration requires identification of the case as well as the name, address, telephone number and Internet e-mail address of the attorney. Familiarity with Delaware's CM/ECF practices and procedures will be required.

(4) Upon approval of the judge, a party to a case who is not represented by an attorney may register as a user of CM/ECF solely for purposes of the action. Registration requires completion of a court-provided training course, 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 user upon the attorney's appearance.

(5) A user registered in CM/ECF shall not allow another person to file a document using his or her log-in and password, except as an authorized agent of the user. Use of a user's log-in and password by an authorized agent shall be deemed to be the act of the user. Attorneys who are not admitted to the bar of this Court or admitted solely pro hac vice shall not be considered authorized agents.

(6) Registration constitutes consent to service of all documents by electronic means as provided in these procedures.

(C) Filing and Service of Civil and Miscellaneous Case Opening Documents

(1) Beginning February 1, 2008, civil and miscellaneous case opening documents, such as a complaint, petition, or notice of removal, together with a summons, civil cover sheet, Rule 7.1 disclosures, and any accompanying motions, may be filed electronically into case number 99-mc-9999 (a holding case for initial

documents), provided that, in instances in which a filing fee is due, the user is either paying via credit card, or submitting an application to proceed without prepayment of fees. As an alternative, case opening documents can also be filed with the Clerk's Office during regular business hours by delivering the documents both in paper format and on a properly labeled 3.5" floppy or compact disk in PDF.

(2) The Clerk's Office will return to counsel for the plaintiff a signed and sealed summons for service of process. A party may not electronically serve a civil complaint, but shall effect service in the manner consistent with Fed.R.Civ.P.4.

(D) Electronic Filing

(1) Electronic transmission of a document to CM/ECF, 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 pursuant to Fed.R.Civ.P.58, Fed.R.Civ.P.79 and Fed.R.Crim.P.55.

(2) Before filing a scanned document with the Court, a user must verify its legibility.

(3) A document filed electronically shall be deemed filed at the time and date stated on the NEF received from the Court. CM/ECF will calculate all response deadlines from the date on the NEF.

(4) All pleadings filed electronically shall be titled in accordance with the approved dictionary of civil or criminal events listed in CM/ECF.

(E) Service of Electronically Filed Documents

(1) Whenever a pleading or other document is filed electronically, CM/ECF will automatically generate and send a NEF to the user and to all other attorneys or parties of record who are registered as users in CM/ECF. The user(s) shall retain a paper or digital copy of the NEF, which shall serve as the Court's datestamp and proof of filing.

(2) Transmission of the NEF shall constitute service of the filed document and shall be deemed to satisfy the requirements of Fed.R.Civ.P.5(b)(2)(D), Fed.R.Civ.P.77(d), Fed.R.Crim.P.49(b) and D. Del. LR 5.2.

(3) Attorneys who have not yet registered as users with CM/ECF, as well as pro se litigants 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 Fed.R.Civ.P.5.

(4) In cases involving pro se parties, all documents filed using CM/ECF 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.

(5) Service by electronic means shall be treated the same as service by mail for the purpose of adding three (3) days to the prescribed period to respond in accordance with Fed.R.Civ.P.6.

(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. Where a specific time of day deadline is set by Court order or stipulation, the electronic filing must be completed by that time. When CM/ECF calculates a deadline, it will include intermediate weekends and holidays as prescribed in Fed.R.Civ.P.6. CM/ECF will also add 3 calendar days for mailing as prescribed in section (E)(5) of these procedures.

(G) Special Filing Requirements and Exceptions

(1) Documents ordered to be placed under seal must be filed in hard copy in the traditional manner, rather than electronically. However, for civil cases, redacted versions of the sealed documents shall be filed electronically within 7 days of the filing of the sealed document. **Unless otherwise ordered, courtesy copies of redacted versions of sealed documents shall not be filed**. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the Court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order must be attached to the documents under seal and be delivered to the Clerk of Court.

(2) The following documents **shall be filed only on paper**:

(a) Administrative records in social security cases and in other administrative review proceedings;
(b) The State Court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;
(c) Documents exceeding 4 megabytes;
(d) Medical records (shall be filed under seal with no redacted version);
(e) Initial papers of a criminal nature such as the indictment, information, criminal complaint, application for search warrant, as well as any superseding indictment or information.

(3) The following documents **may be scanned by counsel** and filed using CM/ECF, **or filed on paper:**

(a) Fed.R.Civ.P.4 executed service of process documents; and
(b) Attachments to filings (See subsection (J)).

(4) A notice of appeal may be filed using CM/ECF. The applicable filing fee must be remitted to the Clerk's Office within 24 hours (excluding weekends, holidays, and days the Court is closed) of filing the notice of appeal. As an alternative, counsel may elect to pay the filing fee by credit card using CM/ECF. A motion for leave to proceed in forma pauperis may be filed using CM/ECF at the time that the notice of appeal is filed.

(5) 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 under the Clerk's Office forms section.

(6) An attorney may apply to the Court for permission to file paper documents.

(H) Signature

(1) Attorneys

The user log-in and password required to submit documents to CM/ECF 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 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 and e-mail address. The name of the CM/ECF user under whose log-in and password the document is submitted must be preceded by a "/s/" and typed in the space where the signature would otherwise appear.

(2) Multiple Signatures

The filer of any document requiring more than one signature (e.g., stipulations, joint status reports) must list thereon all the names of other signatories by means of a "/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. 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 ten days of the date on the NEF.

(3) Affidavits

Affidavits shall be filed electronically; however, the electronically filed version must contain a "/s/_____" block indicating that the paper document bears an original signature. 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 the original for future production, if necessary, for two (2) years after the expiration of the time for filing a timely appeal.

(I) Privacy

To address the privacy concerns created by Internet access to Court documents, unless otherwise ordered by the Court, certain personal data identifiers in pleadings and other papers shall be redacted as follows:

(1) Names of minor children - only initials shall be used;

(2) Social security numbers - only the last four digits shall be used;

(3) Dates of birth - only the year shall be used;

(4) Financial account numbers - only the last four digits shall be used;

(5) Home addresses - only the city and state shall be used in criminal cases.

A sealed and otherwise identical document containing the un-redacted personal data identifiers may be filed in paper format along with the required redacted document. The sealed document will be retained by the Court as a part of the record.

NOTE: 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. The responsibility for redacting personal identifiers rests solely with counsel and the parties.

Caution shall also be exercised when filing documents that contain the following:

- Personal identifying numbers, such as driver's license numbers;
- Medical records, treatment and diagnosis (shall be filed under seal with no redacted version);
- Employment history;

- Individual financial information;
- Proprietary or trade secret information;
- Information regarding cooperation with the government;
- Victim information; and
- National security information.

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

(1) Attachments to filings and exhibits must be filed in accordance with the Court's CM/ECF User Manual, unless otherwise ordered by the Court.

(2) Users 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 by file date and docket item number when applicable.

(3) Attachments and exhibits larger than 4 megabytes may be filed electronically in separate 4 megabyte segments or may be bound and submitted in conventional format. The filing party must serve copies on all other parties in the manner in which the documents were filed with the Court.

(K) Orders and Judgments

(1) Proposed orders may be submitted electronically in PDF. All proposed orders must be either attached as an exhibit to a motion or stipulation, or contained within the body of a stipulation.

(2) A judge or deputy clerk, if appropriate, may grant routine orders by a text-only entry upon the docket. In such instances, no PDF document will be issued; the text-only entry shall constitute the Court's only order on the matter and counsel will receive a system-generated NEF.

(3) All orders, decrees, judgments, and proceedings of the Court filed electronically will constitute entry on the docket kept by the Clerk under Fed.R.Civ.P. 58 and 79.

(L) Facsimile Transmissions

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

(M) Technical Failures

A user whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.

(N) Pro Se Litigation

A party to a case who is not represented by an attorney may file and serve all pleadings and other documents on paper. Upon approval of the judge, a pro se party may register as a user of CM/ECF in accordance with subsection (B) of these procedures.

(O) Access to Electronically Stored Documents

A person may review at the Clerk's Office filings that have not been sealed by the Court. A person also may access CM/ECF at the Court's Internet site, www.ded.uscourts.gov, by obtaining a PACER log-in and password. A person who has PACER access may retrieve docket sheets and documents. Only a user under subsection (B) of these procedures may file documents.

Form A

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

I hereby certify that on , I electronically filed with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following: . I hereby certify that on ,I have mailed by United States Postal Service, the document(s) to the following non-registered participants:

/s/Name of Attorney
Law Firm Name & Address
Law Firm Phone Number
Attorney's E-mail Address