

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.

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. The filer may attach as many attachments to a document as needed provided that each attachment is under 35 MB and is given a description.

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 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 or Clerk are not needed. Courtesy copies of briefs should be bound at the left in accordance with the Local Rules. Courtesy copies of Motions for Admission Pro Hac Vice should not be submitted unless payment in person to the Clerk is required. Unless otherwise ordered, courtesy copies of redacted sealed documents, notices, and other such documents having no additional courtesy copy requirements prescribed in the Local Rules shall be not be submitted.

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.

E-FILING AND SERVICE DEADLINE OF 5:00 P.M. With the exception of initial pleadings, all electronic transmission of documents (including, but not limited to, motions, briefs and discovery responses) must be completed by 5:00 p.m. Eastern Time, in order to be considered timely filed and served that day. Additional information is available in the Court's Standing Order dated August 16, 2022, and in the Revised Administrative Procedures Governing Filing and Service by Electronic Means.

EMAIL BOXES on both personal computers and smart phones 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 smart phones 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. You must select parties manually from the drop-down list. 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”.

If multiple attorneys are entering their appearance on a single entry of appearance document, only the attorney logged into CM/ECF will be added as counsel when the e-filing is made. Call the Clerk’s Office Help Desk at 302-573-6170 to ask that additional attorneys noted on the entry of appearance are added manually.

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/. The electronic signature should also include the attorney’s mailing address, telephone number, Bar I.D. number and e-mail address.

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 will not create the necessary response deadlines in CM/ECF.

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): 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 resolve the problem.

PAPER DOCUMENTS: Counsel may elect to file a paper version of a document exceeding 35 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, and an accompanying CD Rom or Flashdrive with all documents scanned onto the disk or drive in pdf format. 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#. The paper document will be considered an original document that will be maintained in a case file in the Clerk's Office. Counsel should make a conscious effort to break down their filings to under 35 MB segments.

MULTI-MEDIA MATERIALS: Counsel may have the need to file a Multi-Media item as an exhibit in a case. Examples of Multi-Media items are: Audio files, DVR, DVD, CD Rom disks or flash drives containing Movies, Tutorials, Wav or JPEG files, Spreadsheets and any other type of media. Word Processing documents should not be filed in this format but rather scanned or converted to pdf files and uploaded electronically via CM/ECF and given a docket item number. Notice of a Multi-Media filing can be given by electronically filing a paper "Notice of Filing of Multi-Media Materials" from the event code listed under "Other Filings", "Notice of Filing Multi-Media Materials."

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 under the Forms section.

PDF DOCUMENTS should be carefully checked prior to docketing to insure that they are complete, legible and do not contain confidential information. The filing of documents in PDF Standard format will remain acceptable until further notice. Based on the recommendation of the Administrative Office of the Courts, the requirement for conforming to the PDF/A standard has been indefinitely postponed due to problems encountered.

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

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 assigned judge's Docket Clerk will make the entry on the docket sheet.

In civil and miscellaneous cases, sealed documents shall be filed electronically, directly into CM/ECF. The authority for filing a document under seal must be provided by an accompanying Motion to Seal, Protective Order, or other order of the Court. Within 7 days after the filing of the sealed document, 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 submitted to the Clerk's Office. Please refer to the FAQ entitled "Filing Under Seal" and the CM/ECF User Manual and tutorial located on our web site at www.ded.uscourts.gov.

SEALED DOCUMENTS FILED WITH INITIAL CASE PLEADING

DO NOT ADD SEALED DOCUMENTS when filing an initial pleading (e.g. Complaint, Motion to Quash) in the 99-mc-9999 holding case. Sealed documents accompanying any initial pleading must be provided in person or by mail to the Clerk's Office along with one hard copy and CD Rom including said documents in pdf format. A motion to seal must accompany the documents. The motion to seal may be filed in the 99-mc-9999 holding case, along with the initial pleading, but must not contain any confidential information.

SEALED EXHIBITS TO A DOCUMENT

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 also be electronically 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 document, and answer “Yes” when asked if the document should be filed under seal. Follow the directions provided in the screen prompts regarding certificates of service, redacted copies and courtesy copies. At the completion of the transaction, print the NEF and attach copies to the back of the courtesy copies 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):

CM/ECF 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.).