



**ADMINISTRATIVE PROCEDURES
FOR
ELECTRONIC CASE FILING (ECF)**

April 2019

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(A) **Definitions**

The following definitions shall apply to these procedures for the ECF System:

(1) **Electronic Filing:** the process of uploading a document from the registered user's computer, using the court's Internet-based Electronic Case Files (ECF) system to file the document in the court's case file. The ECF system only accepts documents in a portable document format (PDF). Although there are two types of PDF documents, electronically converted PDFs and scanned PDFs, **electronically converted PDFs are preferred.**

(2) **Electronically converted PDFs:** created from word processing documents (MS Word, WordPerfect, etc.) using Adobe Acrobat or similar software. They may be "text searchable" and their file size is relatively small.

(3) **Scanned PDFs:** created from paper documents processed through an optical scanner. Scanned PDFs are not natively searchable and have a larger file size than electronically converted PDFs.

(4) **Document:** shall include pleadings, motions, exhibits, declarations, affidavits, memoranda, papers, orders, notices, and any other filing by, or to, the court.

(5) **Party:** shall include counsel of record, pro se litigants, and other persons or entities eligible to receive notice.

(6) **ECF User:** refers to the person who is registered to use the ECF system. An ECF user is a person who is registered for electronic noticing and to file electronically.

(7) **NEF (Notice of Electronic Filing):** generated automatically by the ECF System upon completion of an electronic filing. The NEF is emailed to the email address(es) of record in the applicable case and provides proof of service.

(8) **PDF (Portable Document Format):** allows anyone to open the converted document across a broad range of hardware and software, with layout, format, links, and images intact.

(B) **Technical Specifications**

(1) **System Requirements.** While the system requirements may be set forth more completely in the ECF User's Manual, or other court publication, it is expected the following hardware requirements and software will be needed to electronically file, view, and retrieve documents within the ECF system. Other specifications are also indicated for optimum performance.

- (a) a computer running a standard operating system such as Microsoft or Apple;
- (b) software able to convert documents from a word processor such as WordPerfect or Word to PDF;
- (c) Mozilla Firefox or Internet Explorer 7 or 8;
- (d) Internet access (high-speed recommended); and
- (e) a scanner, if paper documents need to be imaged.

(2) Scanning Documents. When scanning documents to be subsequently filed electronically, filing parties should make certain their scanners are configured for 300 dpi and black and white rather than color scanning, unless color scanning is necessary to preserve the integrity of the document being filed. The filing party is responsible for the legibility of the scanned document. If for any reason a document cannot be easily read after scanning, the filing party should not electronically file the document. Instead, the filing party must conventionally file it with the Clerk's Office.

(3) Large Documents. Large documents may not upload properly to the ECF system or download within a reasonable amount of time for users with a 56k modem. Documents that are more than 50 megabytes (MB) will be rejected by the ECF system. Large documents may be broken into multiple smaller (50 MB or less) documents. As an estimate, PDF documents produced by converting a normal text file using conversion software can yield between 300 and 500 pages per 1 MB depending on the software used; scanned documents will yield considerably fewer pages (approximately 1/10th the number of pages depending on the scanner settings). Documents in color or containing graphics may yield even fewer pages.

(C) ECF System Availability

The court's ECF system is designed to provide service 24 hours a day. The parties, however, are encouraged to file documents in advance of filing deadlines, and during normal business hours. The ECF Help Desk is available to respond to questions regarding the registration process during the hours of 8:30 a.m. to 5:00 p.m. ET Monday through Friday and will accept voicemail messages anytime. Calls received after 5:00 p.m. will be returned the following business day.

A party who misses a filing deadline due to system unavailability may seek relief by filing an appropriate motion.

(D) General Information

(1) Relationship to Other Rules. These administrative procedures are intended to supplement the Local Rules of Procedure in the United States District Court for the District of Vermont to the extent necessary to establish procedures for the signing, filing, service, maintenance and verification of documents by electronic means. Unless modified by order of the court, all Federal Rules of Civil and Criminal Procedure, Local Rules of

Procedure, and standing orders of the court shall continue to apply to cases which are subject to electronic case filing.

(2) *Electronic Format.* Effective October 2, 2006, documents submitted for filing in civil and criminal cases, except those documents specifically exempted in subsection (I) of these procedures, may be filed either in paper form, electronically using the ECF system or on a properly labeled compact disc (CD) or digital versatile disc (DVD) containing the document(s) in PDF.

(3) *Official Record.* Effective January 1, 2005, the official court record shall consist of electronic files maintained on the court's servers. The Clerk's Office will not maintain paper court files except as ordered by this court. The case files in actions commenced prior to January 1, 2005, may contain a combination of paper versions of documents filed prior to January 1, 2005, and electronic documents filed on or after January 1, 2005.

(4) *Discs Not Returned by Clerk's Office.* The Clerk's Office may discard the disc after the PDF document has been uploaded to ECF.

(5) *Compliance with Technical Specifications.* All documents filed by electronic means must comply with technical specifications, if any, established by the Judicial Conference of the United States or by this court.

(E) Registration

(1) *Attorneys.* Attorneys admitted to the bar of this court, including those admitted Pro Hac Vice, shall register as a user of the court's ECF system prior to filing any pleadings electronically. Registration shall be on an ECF Registration Form which may be downloaded from the court's website (www.vtd.uscourts.gov).

(2) *Non-prisoner, Pro-Se Parties.* A non-prisoner who is a party to a civil action and who is not represented by an attorney may register as an ECF user. Should the pro se party obtain counsel during the course of litigation, the clerk shall terminate the pro se party's registration upon the filing of the attorney's appearance.

(3) *Log-in Usage.* A registered user shall not allow another person to file a document using their log-in and password except as an authorized agent of the filing user. Use of a user's log-in and password by a staff member shall be deemed to be the act of the registered user.

(F) Electronic Filing

(1) *Defined.* Electronic transmission of a document to the ECF system, 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) *When Deemed Filed.* A document filed electronically shall be deemed filed at the time and date stated on the Notice of Electronic Filing.

(3) *Portable Document Format (PDF).* Documents electronically filed must be submitted in PDF. It is preferred documents be filed in an electronically converted PDF. Attachments and non-trial exhibits are also preferred to be filed as electronically converted PDFs when possible. Where the filing user possesses only a paper version of the document to be submitted, a scanned PDF which is not text searchable may be submitted.

(4) *PDF File Size Limitations.* A filing party must limit the size of each PDF file to no more than 50 megabytes (MB). Any document exceeding 50 MB must be submitted in separate files of 50 MB or less.

(5) *Title of Pleadings.* All pleadings filed electronically shall be titled in accordance with the comprehensive list of civil or criminal events of the ECF system available on the court's website.

(G) Service of Electronically Filed Documents

(1) *Proof of Filing.* Whenever a pleading or other document is filed electronically, the ECF system will automatically generate a Notice of Electronic Filing (NEF) to the filing user and registered users of record. The filing user should retain a paper or digital copy of the NEF, which shall serve as proof of filing.

(2) *Constitute Service.* 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)(E), Fed.R.Civ.P.77(d) and Fed.R.Crim.P.49(b).

(3) *Certificate of Service Required.* Any document that requires service outside of the ECF system shall include a Certificate of Service identifying the manner in which service on each party was accomplished.

(4) *Conventional Service of Electronically Filed Pleading.* Attorneys and pro se litigants who are not registered as ECF users 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.

(H) 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.

(I) Special Filing Requirements and Exceptions

(1) Documents Required On Paper. The following documents **must be filed on paper** with the Clerk's Office:

- (a) documents filed under seal;
- (b) all case initiating documents, such as a complaint, petition or notice of removal in civil cases, and a complaint, indictment, or information in criminal cases;
- (c) applications for Search Warrants, Affidavits in Support of Search and Arrest Warrants and related papers;
- (d) any pleading or document in a criminal case containing the original signature of a defendant, such as a waiver of indictment, plea agreement, or order setting conditions of release;
- (e) ex-parte motions and applications;
- (f) petitions for violations of supervised release;
- (g) pretrial hearing and trial exhibits;
- (h) the state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;
- (i) Fed. R. Crim. P. 20 and Fed. R. Crim. P. 40 papers received from another court;
- (j) all pleadings and documents filed by pro se litigants who are incarcerated or who are not registered users in ECF;
- (k) all handwritten pleadings;
- (l) motions for pro hac vice admission.

Reminder: Any document filed traditionally must contain original ink signatures rather than an electronic signature.

(2) Documents Received Which Are Not Filed. The following documents may be received by the clerk's office in criminal cases, but are not filed, electronically or otherwise, unless ordered by the court:

- (a) psychiatric and psychological reports; and
- (b) letters to the court submitted prior to sentencing, unless submitted as an attachment to a sentencing memorandum or supplemental pleading.

(J) Signatures

(1) Attorneys. The user log-in and password required to submit documents to the ECF system 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, excluding attachments, must include a signature block which sets forth the attorney's name, address, telephone number and e-mail address. The name of the ECF user under whose log-in and password the document is submitted must conform with the attorney name used in the signature block. The correct format for an attorney's signature is:

John S. Smith, Esq.
ABC Law Firm
123 Main Street
Burlington, VT 05401
Telephone: (802) 555-5555
Fax: (802) 123-4567
Email: jsmith@law.com

(2) Multiple Signatures. The filer of any document requiring more than one signature (e.g., pleadings filed by attorneys admitted pro hac vice, stipulations, joint status reports) must list thereon all the names of other signatories by means of signature block for each 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 the filing attorney has the authority to file the document on behalf of all signatories. The filing attorney shall retain any records evidencing this concurrence for future production, if necessary, for 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 fourteen (14) days of the date on the Notice of Electronic Filing.

(3) Affidavits/Verified Pleadings/Other Non-Attorney Signatures. Except as provided in subsection (J), affidavits may be filed electronically using the signature block indicating the paper document bears an original signature. 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.

(4) *Objection to Authenticity.* A non-filing user signatory, or party who disputes the authenticity of an electronically filed document, must file an objection to the document within fourteen (14) days of service of the Notice of Electronic Filing or other service made pursuant to Federal Rules of Civil/Criminal Procedure.

(5) *Retention of Documents.* Documents which are electronically filed and contain original signatures, other than that of the filing user, shall be maintained in paper form by the filing user until two (2) years after the expiration of the time for filing a timely appeal. Upon request of the court or any party, a filing user must make the original documents available for inspection.

(K) Privacy Protection

Pursuant to federal rule, the following personal data identifiers shall be redacted from all documents filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court:

- minors' names (use only the minor's initials);
- social security numbers (use only the last four digits);
- dates of birth (use only the year of birth);
- financial account numbers (identify the type of account and the financial institution, but use only the last four numbers of the account number); and
- home addresses, in criminal cases only (use only the city and state).

In compliance with Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, a party wishing to file a document containing the personal data identifiers listed above may, upon filing a redacted version, file an un-redacted document under seal, which shall be retained as part of the record, or, may file a reference list under seal. The reference list shall contain the complete personal data identifiers and the redacted identifiers used in 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 identifier. The reference list must be filed under seal and may be amended as of right. It shall be retained by the court as part of the record.

The responsibility for redacting these personal identifiers rests upon counsel and the parties. When a filing user logs into ECF, they are required to check a box stating they have read and will comply with the redaction rules. A person waives the protection of Rules 5.2(a) and 49.1(a) as to the person's own information by filing it without redaction and not under seal.

(L) Attachments to Filings (other than hearing and trial exhibits)

(1) Attachments to Filings. Attachments to filings, such as exhibits, affidavits and memoranda, must be filed in accordance with the court's ECF User Manual, unless otherwise ordered by the court. Attachments and exhibits to documents which are too large to convert to PDF may be filed conventionally with the Clerk's Office and served on opposing counsel. Documents so filed shall be retained by the Clerk's Office in accordance with the records management guide. If the number of attachments exceeds five (5), the party filing the attachments shall include a separate index describing each exhibit. This index shall be the first attachment.

(2) Submission Requirements. If possible, a filing party should electronically image (scan) a paper exhibit and submit the exhibit as a PDF file. Scanned PDF documents are significantly larger than PDF converted files. Filing parties may submit scanned PDF documents of more than 50 MB only if the files are divided into multiple files of 50 MB or less each.

(3) Excerpts. A filing user must submit as attachments only those excerpts of the referenced documents which are directly germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. Users who file excerpts of documents do so without prejudice to their right to timely file additional excerpts or the complete document as may be allowed by the court. Responding parties may timely file the complete document or additional excerpts they believe are directly germane.

(4) Attachments of Previously Filed Documents. Filers 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.

(M) Orders and Judgments

(1) Judge's Electronic Signature. All signed orders, decrees, and judgments will be entered electronically by the judge or court personnel. Any order signed electronically (signature block designated with judge's name) shall have the same force and effect as if the judge had signed the order with an original ink signature and it had been entered on the docket in the traditional manner.

(2) Text Only Order. The court may issue routine orders by a text only entry on the docket. In such cases, no PDF document will be attached. The text only entry shall constitute the court's only order on the matter and registered counsel will receive a system generated NEF. If a party is not registered to receive a NEF, the clerk's office will mail a copy of the Notice of Electronic Filing which contains the entire text-only order. Text only orders are official and binding.

(N) Transcripts

(1) *Proceedings of This Court.* A transcript of a proceeding of this court shall be filed electronically.

(a) A transcript of a proceeding of this court shall be filed electronically using ECF. The transcript shall be available at the Clerk's Office, for inspection only, for a period of ninety (90) days after it is filed. During this period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference. The transcript will be available at each public terminal at the courthouse for viewing only and electronically available via PACER to any attorney of record who has purchased a copy from the court reporter or transcriber. No other PACER users are allowed to view the transcript during the 90-day period.

(b) In compliance with Judicial Conference Policy and to address privacy concerns:

- i. parties must file a Notice of Intent to Redact within seven (7) calendar days of the filing of the official transcript;
- ii. if redaction is requested, parties must submit to the court reporter a Redaction Request within 21 days from the filing of the official court transcript;
- iii. parties must move the court for any additional redactions beyond those identified in section (i);
- iv. any redacted transcript shall be filed electronically using ECF within 31 days from the filing of the official transcript;
- v. after the 90-day inspection only period has ended, the original transcript, or redacted transcript, if so filed, will be publicly available through PACER and public terminals in the courthouse.

(c) The Judicial Conference Policy on Privacy and Public Access to Electronic Case Files states that documents in criminal cases containing identifying information about jurors or potential jurors shall not be included in the public case file and shall not be made available to the public at the courthouse or via remote electronic access. Transcripts of proceedings may become public record; therefore, counsel are advised to use juror numbers instead of juror names during court hearings.

(2) *Transcripts from Other Courts.* A transcript of a proceeding of another court shall be filed electronically in PDF, if so available, otherwise on paper.

(O) Facsimile Transmissions

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

(P) Technical Failures

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

(Q) Pro Se Litigation

Non-prisoner pro se litigants in civil actions may register with ECF or may file (and serve) all pleadings and other documents on paper. The clerk's office will scan into ECF any pleadings and documents filed on paper in accordance with subsection (I) of these procedures.

(R) Access to Electronically Stored Documents

Access to electronically stored documents is available at the Clerk's Office public terminals and the Internet via the court's ECF/PACER web site www.vtd.uscourts.gov (requires a PACER log-in and password available at www.pacer.gov).

Public terminals at the Clerk's Offices provide access to all civil filings made after January 1, 2003 and all criminal filings made after November 1, 2004, excluding sealed documents.

ECF/PACER provides access to civil filings made after January 1, 2003, and criminal filings made after November 1, 2004, excluding sealed documents. Access to documents via ECF/PACER filed in social security cases, sentencing memoranda and plea agreements is restricted to case participants.

(S) Retention

The Clerk's Office will discard all paper documents filed with the Clerk's Office thirty (30) days after those documents have been successfully scanned and uploaded into ECF. Therefore, the court encourages attorneys to retain originals or copies of documents with intrinsic value.

(T) Correcting Docket Entries

(1) Filer Not Able to Correct. Once a document is filed electronically and becomes part of the case docket, corrections to the docket are made only by the Clerk's Office. The ECF system will not permit the filing party to make changes to the document(s) or docket entry filed in error once the transaction has been accepted and the Notice of Electronic Filing has been displayed.

(2) Do Not Attempt to Correct. A document incorrectly filed in a case may be the result of posting the wrong PDF file to a docket entry, 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 party should not attempt to re-file the document as this will result in duplicative entries on the docket.**

(3) Contact ECF Help Desk. As soon as possible after an error is discovered, the filing party should contact the ECF Help Desk with the case number and document number. The Help Desk will take the necessary actions to remedy the entry on the docket.

(U) Public Access to the Docket

(1) Public Access at the Court. Electronic access to the docket and documents filed are available 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. § 1930.

(2) Public Access via 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. This will include access to restricted documents such as social security cases and unsealed sentencing memorandums and plea agreements in criminal cases. Please visit www.pacer.gov for more information and current access charges.