

**+ UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**



An Attorney's Guide to the Court's
**ADMINISTRATIVE PROCEDURES FOR
ELECTRONIC CASE FILING**

EFFECTIVE: JUNE 11, 2012

INTRODUCTION

To the extent these Administrative Procedures for Electronic Case Filing conflict with the Court's existing Local Rules, the Local Rules take precedence. The Clerk or any judge of this Court may deviate from these Administrative Procedures for Electronic Case Filing in specific cases without prior notice, if 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 also amend these Administrative Procedures for Electronic Case Filing at any time without prior notice and will post the revised versions to the Court's web page at www.wvnd.uscourts.gov.

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1. Definitions.

- 1.01.** “All documents” shall mean all motions, pleadings, and all other filings traditionally filed with the Court.
- 1.02.** “Filing Traditionally” shall mean filing in paper or other non-electronic, tangible format.
- 1.03.** “Traditionally Filed Document” is a document filed in paper or other non-electronic, tangible format.
- 1.04.** “Filed in the Traditional Manner” is a document filed in paper or other tangible format, as explained in 1.03 *supra*.
- 1.05.** “Traditional manner” shall mean paper. “Filed in the Traditional Manner” shall mean filing in paper or other tangible format, as explained in 1.03 *above*.
- 1.06.** “Electronic Filing” shall mean uploading a document directly from the filer’s computer using the Court’s Case Management/Electronic Filing System (CM/ECF) on to the case docket.
- 1.07.** “Filer” is an individual who presents documents, either electronically or in paper, to the Court for filing.
- 1.08.** “CM/ECF Filer” is an individual who has a login and password for CM/ECF and may file cases through the CM/ECF filing system.
- 1.09.** “Non-CM/ECF Filer” is an individual who does not use CM/ECF.
- 1.10.** “NEF” is Notice of Electronic Filing. It is the notice that CM/ECF generates that establishes the electronic receipt of a document filed electronically.
- 1.11.** “PDF” is Portable Document Format. It is a two-dimensional electronic image of a document in a device-independent, fixed-layout format that appears the same on all computers and prints the same on all printers, unlike word processing documents that may appear differently on different computers and print differently on various printers.
- 1.12.** “PDF text document” is a document converted from a word processing program directly into PDF format without the use of a scanner. A PDF text document is the preferred document for filing because it is considerably smaller than a scanned document and is text searchable.
- 1.13.** “PDF scanned document” is a document converted into PDF format via a scanner.

It is not text searchable and is considerably larger than a PDF text document.

2. Scope of Electronic Filing.

Subject to the exceptions set forth herein, all non- *pro se* parties shall file all documents electronically.

3. Exceptions from Mandatory Electronic Filing.

Filers shall file the following documents in paper which the Clerk's Office will scan into CM/ECF as appropriate:

- A. The charging document in a criminal case, such as the complaint, indictment, and information, as well as the criminal cover sheet.
- B. Affidavits for search and arrest warrants and related papers.
- C. Fed.R.Crim.P.20 and Fed.R.Crim.P.40 papers received from another court.
- D. Petitions for violations of supervised release and pre-trial conditions of release.

4. Pro Se Cases.

- A. Non-prisoner *pro se* parties may file electronically only upon express permission of the Court. If, during the course of the action, the *pro se* party retains an attorney who appears on the party's behalf, the Clerk shall terminate the party's registration.
- B. Incarcerated *pro se* parties are not permitted to file electronically. They must file in the traditional manner.
- C. Electronic filers in *pro se* cases must traditionally serve copies on all *pro se* parties who are not e-filers in CM/ECF.

5. Social Security Cases.

- A. Electronic Filing: Absent a showing of good cause, litigants shall file and notice all documents in social security reviews, except case opening documents, under §§ 9.1 and 9.2 below, electronically.

- B. Transcripts of Administrative Procedures: The United States Attorney shall either file social security transcripts electronically in CM/ECF or provide them to the Clerk's office in electronic format, either via email, Compact Disc, or other electronic format suitable for filing in CM/ECF. The United States Attorney shall provide a paper copy of the social security transcript to the respective magistrate judge, who shall provide it to the district judge upon request. The Clerk's staff will not make copies of social security transcripts.
- C. Internet Access: Unless the Court orders otherwise, in an action for benefits under the Social Security Act, access to the electronic file is authorized as follows:
- (1) the parties and their attorneys may have remote electronic access to any part of the case file, including the administrative record; and
 - (2) any other person may have electronic access, whether remotely or at the courthouse, only to:
 - (i) the docket maintained by the Court; and
 - (ii) an opinion, order, judgment, or other disposition of the Court, but not any other part of the case file or the administrative record.

6. Registration and Passwords.

Unless exempted by Order of the Court,¹ attorneys admitted to practice before this Court, including those admitted *pro hac vice*,² shall register as users of the CM/ECF system.

- A. Registration as a filer constitutes consent to electronic service of all documents as provided in this Administrative Procedures for Electronic Case Filing in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.
- B. To register for a login and password to the Court's CM/ECF system, complete the Attorney Registration Form at www.wvnd.uscourts.gov. Click on CM/ECF- then on Register. Email, mail or fax it to the address or fax number on the form.
- C. Upon receipt and processing of the Attorney Registration form, the Clerk's office will notify the filer of his/her login and password. The filer is

¹ If filing electronically would create an undue hardship for an attorney, s/he may move for permission to file documents conventionally. The motion must be in writing and must contain a detailed explanation of the reason(s) for the request.

² *Pro Hac Vice* attorneys will have read-only access. The local attorney must file all documents per LR Gen P 83.02 (Appendix 1 to this document).

responsible for protecting the security of his/her password. If a filer learns that the password has been compromised, s/he shall immediately:

- i. Change the password; and
 - ii. Notify the Clerk's Office of the compromise.
- D. Documents filed under a filer's login and password constitute that filer's signature for all purposes.
- E. The filer is responsible for all documents filed with his or her password.
- F. If an attorney's contact information changes, s/he must update the attorney information in CM/ECF.

7. Filing.

- A. Electronic filing of a document in CM/ECF, together with the transmission of a NEF from CM/ECF, 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 kept by the Clerk's Office 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."
- B. A document shall be timely filed if it is electronically filed by midnight, E.S.T., as indicated on the NEF.
- C. The date and time shown on the NEF shall be the official time and date of the filing.

8. Commencement of a Civil Action.

A. A CM/ECF filer may provide a complaint, notice of removal and other initiating documents by logging into the ECF system, selecting **Civil** on the main menu bar, and filing their documents into the electronic intake case.

B. The date the CM/ECF filer completes the transaction entering all the initiating documents in the ECF system, as displayed on the resulting Notice of Electronic Filing, shall constitute the official filing date of the civil action. CM/ECF filers will not associate themselves as counsel in the electronic intake case. All documents associated with a new case will be filed as attachments to the filing entry in this case. CM/ECF filers are required to arrange payment of the filing fee within the

Clerk's Office immediately following the filing, except for:

- Cases in which the plaintiff seeks to proceed without prepayment of fees, thus the initiating documents must include a motion or application to proceed without prepayment of and a proposed order granting the motion;
- Cases initiated by the United States of America or any of its agencies.

C. Temporary Case:

Case initiating documents filed through CM/ECF are placed into a temporary case for review by clerk's office staff prior to being assigned a permanent case number and judge. A NEF will be sent to CM/ECF filers indicating the permanent case number **once the case has been opened by the court**. CM/ECF filers must only file the initiating documents in the temporary case. Subsequent and/or additional pleadings are to be filed in the permanent case once the case number is received.

D. Original Complaint or Petition:

When filing an original complaint, the CM/ECF filer will select the event "Electronic Intake - COMPLAINT" from the Civil "Complaints, Other Initiating Documents" category. Documents to be filed as attachments to the complaint include the civil cover sheet, the proposed summons form(s) and, where appropriate, a motion, affidavit and proposed order allowing the plaintiff to proceed without prepayment of fees.

F. Notice of Removal:

When filing a notice of removal, the CM/ECF filer will select the event "Electronic Intake - NOTICE OF REMOVAL" from the Civil "Complaints, Other Initiating Documents" category. Documents to be attached to the notice of removal include the civil cover sheet and, when appropriate, the state court docket sheet and state court documents. If the removing party seeks to proceed without prepayment of fees, attachments should also include a motion, affidavit and proposed order allowing the plaintiff to proceed without prepayment of fees.

G. Clerk's Office Follow-Up:

After a CM/ECF filer has completed the transaction for opening a new civil case, the Clerk's Office will complete the full case opening process, including assignment of a civil action number, assignment to a judge, and uploading the case documents into the ECF system. If applicable, the Clerk's Office will print and issue the summons for service by counsel, **following receipt and processing of the filing fee**.

NOTE: Pursuant to Rule 3 of the Federal Rules of Civil Procedure, the statute of limitations is not tolled by this procedure until the complaint, petition, notice of removal, or other initiating document is FILED with this Court. Pursuant to this Court's Local Rules the Clerk of Court may decline to process a FILING until receiving the required filing fee. Failure to timely submit filing fees may result in an *Order to Show Cause* requiring appearance before the Chief Judge or designated judicial officer.

9. Service.

9.1. Service of Process.

- A. Summons: A Summons must be signed and sealed. Pursuant to Fed.R.Civ.P. 4, the plaintiff must prepare the summons in paper and provide it to the Clerks' office. The Clerk's office staff will sign and seal the completed form and return it to counsel for the plaintiff for service of process. It is the responsibility of the parties, not the Clerk's office, to serve the summons.
- B. Summons Forms: Summons forms are available at www.wvnd.uscourts.gov.
- C. All other Documents: Upon consent of the person served, service of all other case documents may be accomplished electronically.³ Use of the CM/ECF login and password constitute consent on the part of the CM/ECF user.

9.2. Service of Electronically Filed Documents: When a document is filed electronically, CM/ECF sends a NEF to all electronic filers signed up to receive NEFs for that particular case. Documents are deemed filed at the time and date stated on the NEF. The emailing of the NEF is equivalent to service of the document by first class mail in compliance with Fed. R. Civ. P. 5(b)(2)(D), Fed. R. Civ. P. 77(d), and Fed. R. Crim. P. 49(b).

9.3. Certificate of Service: A certificate of service is required for all filings, even electronic. Filers shall attach the certificate to the filing and state the manner

³ *Federal Rule of Civil Procedure 5(b)(d)(D):* Service shall be accomplished by “[d]elivering a copy by any other means, including electronic means, consented to in writing by the person served. Service by electronic means is complete on transmission; service by other consented means is complete when the person making service delivers the copy to the agency designated to make delivery. If authorized by local rule, a party may make service under this subparagraph (D) through the court’s transmission facilities.”

in which service or notice was accomplished on each party. Sample certificates of service are attached as Appendix 2 and are available at www.wvnd.uscourts.gov.

- 9.4. Service Upon Non-CM/ECF Filers:** Parties not using CM/ECF are entitled to paper copies of all documents. The filer must therefore provide all non-CM/ECF filers with the document according to the Federal Rules of Civil Procedure.
- 9.5. Time to Respond Under Electronic Service:** Pursuant to Fed.R.Civ.P. 6(d) and Fed.R.Crim.P. 45, service by electronic means is treated the same as service by mail for purposes of adding three days to the prescribed period to respond.
- 9.6. Service of Sealed Filing:** Counsel may file sealed documents in CM/ECF only upon permission of the Court pursuant to LR Gen P 6.01, and the filer must effect service of sealed documents by any traditional method.

10. Motions Practice.

10.1 Submit Motions and Responses Separately: Always file motions and responses separately. For example, never file a cross-motion for summary judgment with a response to a motion for summary judgment. It is critical that the cross motion be filed separately so that it will appear on the Court's Pending Motions Report and can be properly linked to any subsequent responses, replies, notices and orders.

10.2. Multiple Motions:

A. Best Practice: The best practice when filing multiple motions is to file each motion as a separate document. It is also best to file the memorandum in support as an attachment instead of with the motion in one, combined document.

B. Alternate Practice: If you must file a single document containing more than one motion, you must choose multiple reliefs on the motions menu in CM/ECF (e.g., motion for Bill of Particulars and motion for Brady Materials). Choose multiple reliefs by holding the *Control* button while clicking on the individual reliefs sought. If you have multiple "miscellaneous" motions, each must be filed separately. If a particular relief is not listed, choose Miscellaneous Relief.⁴ The Court must account statistically and administratively for each motion filed, which cannot be accomplished if

⁴ Contact the Clerk's office if you have questions about filing this, or any, document.

several motions are combined into one document that is filed incorrectly.

10.3 Attachments and Exhibits:⁵ When filing exhibits in support of a motion, make them attachments to the motion, not to the memorandum in support of the motion. Do not attach as an exhibit any document already on file with the Court in that case; instead, merely refer to that document by document number. *See section 14 for more discussion on Exhibits.*

11. Proposed and/or Amended Documents.

- A. When filing a motion to amend a document, attach the proposed amended document to the underlying motion by selecting Attachments to Document on the Browse screen.
- B. Do not include the word “Proposed” in the title of proposed documents. Describe them as “proposed” in the description box in CM/ECF, but do not put “Proposed” on the document itself. To accept a document on which “Proposed” is typed, the Court must either cross “Proposed” out, block it in Adobe, or retype the entire document.
- C. File proposed Jury Instructions and Voir Dire Questions electronically. They are located under Trial Documents in CM/ECF. A generic Proposed Order is located in Other Documents in CM/ECF. Counsel must submit copies of the proposed jury instructions, verdict forms, special interrogatories and voir dire questions, in Word Perfect format, to the presiding Judge in accordance with the instructions set forth in his/her respective Scheduling Order.⁶

12. Sealed Documents, Sealed Cases, Documents Presented for In Camera Review, and Documents Filed with the Court.

12.1 General: A case or document filed under seal in CM/ECF will not be available to the public through the public terminals in the Clerk’s Office or through a CM/ECF login. The case or document will become available only if the Court orders the case or document unsealed.

12.2. Sealed Documents in Public (unsealed) Cases:

- A. Motion to Seal: To file a document under seal, a party must first

⁵ This section applies to exhibits to CM/ECF filings, not to trial exhibits.

⁶ Parties not filing electronically must provide paper copies of the respective documents.

electronically file a motion for leave to file under seal. If the motion for leave to file under seal itself contains sensitive information, the party may file the motion for leave to file under seal. Along with the motion, either present the sensitive information in a sealed envelope marked “sealed” to the Clerk’s office or attach it to the Motion to Seal. If the Court grants the motion to seal, the judge will electronically enter the order authorizing the filing of the documents in the appropriate manner (i.e. under seal, filed with the Court, etc.). If the Court denies the motion, the Court will issue an order directing the parties to file the documents electronically.

- B. Service: Filers must effect service of sealed documents through traditional means.
- C. Response/Reply to Sealed Document: In some instances, parties may not have access to electronically file responses or replies to sealed documents. In these instances, the filer must file the response or reply traditionally.
- D. E-Government Act:
1. **Privacy Data**: Parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court:
 - (1) **Social Security Numbers**: If an individual’s social security number must be included in a filing, 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 child’s initials.
 - (3) **Dates of Birth**: if an individual’s date of birth must be included in a filing, use only the year.
 - (4) **Financial Account Numbers**: If financial account numbers are relevant, use only the last four digits of these numbers.
 - (5) **Home Address in Criminal Cases**: If a home address must be included in a document to be filed, include only the city and state.
 2. **Redaction Policy**: A party wishing to file a document containing the personal data identifiers listed above must:
 - (1) File a redacted, unsealed version of the document along with 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 must refer to the corresponding complete personal data identifier. The reference list

must be filed under seal, and may be amended as a right, or

(2) With approval of the Court, file an unredacted version of the document under seal. The Court may, however, still require the party to file a redacted copy for the public file. The unredacted version of the document or the reference list shall remain sealed and retained by the Court as part of the record.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each filing for compliance.

- E. Indictments and Informations: Counsel shall redact addresses from indictments and informations except to the extent that an address is necessary to provide the defendant notice that a crime has been committed at a specific location.

12.3. Sealed Cases:

- A. Filing: In sealed cases, parties shall file all documents traditionally.
- B. Service: Filings in sealed cases are completed traditionally and do not produce an NEF. Therefore, the filing party must serve documents in sealed cases traditionally. If the case is unsealed, parties may then file electronically.

13. Discovery.

Parties shall not file discovery with the Court. Parties will serve Discovery on the respective parties, and file with the Court **only** the Certificate of Service. The Certificate of Service event is located under “Service of Process” and also under “Other Documents” in CM/ECF.

14. Documents.

14.1. Attachments and Exhibits.⁷

- A. Filers must submit, in electronic form, all documents referenced as attachments, unless the Court expressly permits conventional filing. Attach the documents via the “Attachments to Document” function in CM/ECF. Submit only those excerpts of the referenced documents that are germane to the matter under consideration, and clearly and prominently identify

⁷ All “Attachments” shall include attachments, exhibits, supplements, etc.

excerpted material. Filers who file excerpts of documents as attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document.

- B. Filers shall not attach as an exhibit any document already on file with the Court in that respective case, but shall merely refer to that document by docket number.
- C. For scanning documents for CM/ECF filing, set the scanner at 300 dpi or higher.

14.2. Large Documents: Filers must split documents larger than 7 megabytes⁸ into separate segments of 7 megabytes or smaller.⁹ Title each segment appropriately, e.g., Continuation, pp 51-100, Continuation pp 101-end.

14.3. Color Documents: Do not scan text documents in color if color is not essential to the presentation of the material. However, filers may file documents scanned in color if color is essential to the document, such as color photographs or color graphs.

14.4. Legibility: The filer is responsible for the legibility of scanned documents.

14.5. Document Retention: The filer shall retain all documents containing original signatures of anyone other than the filer for a period of not less than sixty (60) days after all dates for appellate review have expired.

14.6 Judge's Working Copy: For documents filed within the page limits set by the Local Rules, no paper copies are necessary. Upon obtaining permission to exceed the respective page limit, or upon filing of an attachment which exceeds twenty (20) pages, counsel shall provide an indexed, tabbed paper copy of the entire document to the assigned judge and magistrate judge within three (3) days of electronic filing, but not less than two (2) working days before any hearing on such filing.

Counsel must submit both the attachments and the filing they support

⁸ Apx 300 pages text-written PDF document; 200 pages of scanned PDF document.

⁹ To check the size of a document, hold the mouse pointer over the document's title in the Adobe file folder. A small menu box will pop up containing the type and size of the document. An alternative is to open the document and go to File, Document Properties, and Description. The size is noted under PDF Information.

(i.e., if the attachments support a motion, provide the motion as well as the attachments).

15. Signatures.

15.1. 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 Fed.R.Civ.P. 11. Any document requiring an attorney's signature shall be signed in the following manner "s/ (attorney name)." The correct format for an attorney signature is as follows:

s/ Judith Attorney

Judith Attorney Bar Number: 12345

Attorney for (Plaintiff/Defendant)

ABC Law Firm

123 South Street

Clarksburg, WV 26301

Telephone: (304) 555-1234

Fax: (304) 555-5678

E-mail: judith_attorney@law.com

15.2. Visiting Attorney/Local Attorney Signature: Visiting attorneys and their local counsel, as defined in L.R.Gen.P. 83.02 and Rule 8.0 of the *Rules for Admission to Practice* of West Virginia, shall fully comply with this Administrative Procedures for Electronic Case Filing and the Local Rules of this Court.

15.3. Non-Attorney Signature/Multiple Signatures: If an original document contains the signature of a non-attorney, or multiple signatures of attorneys or non attorneys, the filer may scan the original document with the original signature(s) to electronically file on CM/ECF. In the alternative, the filer may convert the document into PDF text format and submit using "s/" for the signature(s) of all signatories. The filer shall retain all documents containing original signatures of anyone other than the filer 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 filer to produce the original document.

15.4. 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 NEF, or, if a non-CM/ECF filer, within ten days of receiving the document. If the authenticity of a document is questioned, the Court may require the filer to produce the original document.

16. Fees Payable to the Clerk.

Any fee required for filing a document in this Court is payable to the Clerk of the Court by law firm or company check (no personal checks), money order, or credit card (Visa, MasterCard, Diners Card, Discover, American Express). The Clerk's Office will not accept cash. The Clerk's Office will docket the fee payments with a scanned copy of the receipt. Until further notice, the Court will not maintain electronic billing or debit accounts for attorneys or law firms.

17. Orders.

17.1 General: The Court will electronically file all signed orders. Upon filing, CM/ECF will send a NEF to all filers in that case.¹⁰ The Clerk's Office will send a paper copy of the order to non-CM/ECF filers in the case. Any order signed electronically has the same force and effect as if the judge had affixed his/her signature to a paper order docketed conventionally.

17.2. Text-Only (Paperless) Orders: The Court may enter orders by a text-only docket entry with no PDF document. The text-only entry shall constitute the Court's order on the matter, and will carry the same force and effect as if the judge had affixed his/her signature to a paper order. The Clerk's Office will send a paper copy of the NEF to non-CM/ECF filers in these instances.

17.3. Proposed Orders.

- A. Parties may electronically submit proposed orders as attachments to the motion, response, reply, etc.
- B. If a proposed order requires no motion, parties may electronically file using the Proposed Order event under Other Documents in CM/ECF.
- C. Do not include the word "Proposed" in the title of proposed orders. Describe them as proposed when browsing them into CM/ECF, but do not put "Proposed" on the title of the order itself. Without "Proposed" typed on the order, if the Court accepts the order, the Court can simply e-sign the order

¹⁰ CM/ECF also sends the NEF to all persons signed up to receive NEFs for that particular case. The NEF contains a list of all those who received it electronically.

and enter it. If “Proposed” is typed on the order, the Court must either remove “Proposed” from the order, cross it out, block it in Adobe, or retype the entire order.

- D. A filing party moving for issuance of a writ, warrant, or summons should apprise the judge that a prompt ruling is critical, and attach the writ, warrant, or summons in PDF format to the proposed order, if one is needed.

18. Correcting Docket Entries.

Only the Clerk’s Office can make corrections to erroneous docket entries. CM/ECF will not permit the filing party to change the document(s) or docket entry filed in error. Errors may include posting the wrong PDF document to a docket entry, selecting the wrong document type from the menu, or entering the wrong case number.

If you notice an error, **DO NOT RE-FILE THE DOCUMENT**. Instead, contact the Clerk’s Office to advise of the error. If appropriate, the Clerk will enter a notice of docket correction that will correct the mistake and specify the error.

No substitution or deletion of documents by the Clerk’s Office staff is permissible. If an entry is stricken by the Judge, the Clerk’s Office will seal the document(s) and add a remark noting the entry has been stricken.

19. Technical Failures.

19.1. Technical Failure of System.

- A. The Clerk’s Office shall deem the Northern District of West Virginia 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 web site, if possible. In such instances, the filer may file documents traditionally.
- B. A filer whose filing is made untimely as the result of a technical failure of the Court’s CM/ECF site may seek appropriate relief from the Court. However, 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).

19.2. Technical Failure of Filer’s System: Problems with the filer’s system, such as phone line problems, problems with the filer’s Internet Service Provider, or hardware or software problems, will not constitute a technical failure nor excuse an untimely filing. A filer who cannot file electronically because of the filer’s system must contact the Clerk’s office and seek permission to file the

document traditionally or by fax.¹¹

20. Public Access and Privacy Concerns.

- A. Social Security Cases: In accordance Judicial Conference policy, social security cases are not available for public view over the Internet. In social security cases, only counsel in the case may retrieve certain documents.
- B. Sensitive Information: As the public may access case information through the Court's internet site, the Court has issued a Notice of Availability of Case File Information in Compliance with the August 2, 2004 Amendments to the E-Government Act of 2002 [Appendix 3] and a Policy Addressing Judicial Conference Privacy Policy Regarding Public Access to Electronic Case Files in Compliance with the August 2, 2004 Amendments to the E-Government Act of 2002 [Appendix 4]. Counsel must comply with the Court's Policy.

21. Public Access to the CM/ECF Docket.

- A. Public Access at the Court: Documents filed in CM/ECF, except certain filings that are sealed or otherwise restricted, are electronically accessible for viewing to the public at no charge at the Clerk's Office during regular business hours. For documents printed at the public terminal in the Clerk's office, a fee of 10 cents per page is required in accordance with 28 U.S.C. § 1930.
- B. Internet Access: A PACER account is required to view documents through CM/ECF. PACER, which is independent of this Court, charges a fee for remotely accessing case information. Information on PACER is available at www.wvnd.uscourts.gov.
- C. Conventional Copies and Certified Copies: Conventional copies and certified copies of electronically filed documents are available at the Clerk's Office. The fee for copying and certifying will be in accordance with 28 U.S.C. § 1914.

22. Hyperlinks

Electronically filed documents may contain the following types of hyperlinks:

- A. Hyperlinks to other portions of the same document; and

¹¹ If a filer is unable to file electronically because of technical failures, the filer must serve the opposing parties in the traditional manner.

B. Hyperlinks to an internet site that contains a source document for a citation.

Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of the filed document. Neither a hyperlink, nor any site to which it refers, shall be considered part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filed document. The Court accepts no responsibility for the availability or functionality of any hyperlink.

Appendix 1

LR Gen P 83.02. Visiting Attorneys.

(a) General: Whenever it shall appear that a person, who has not been lawfully licensed and admitted to the practice of law in the State of West Virginia, has been duly licensed to be admitted to practice before a court of record of general jurisdiction in any other state or country or in the District of Columbia, and is in good standing as a member of the bar of such jurisdiction but has not been admitted to the bar of the United States District Court for the Northern District of West Virginia or the United States Bankruptcy Court for the Northern District of West Virginia, he or she may appear in a particular action, suit, proceeding or other matter in this Court:

(1) upon providing this Court a verified statement of application for *pro hac vice* admission listing:

- (i) the action, suit, proceeding or other matter that is the subject of the application;
- (ii) the name, address and telephone number of the registration or disciplinary agency of all state courts, the District of Columbia or of the country in which such person is admitted;
- (iii) the name and address of the member of the West Virginia State Bar who will be a responsible local attorney in the matter;
- (iv) all matters before West Virginia tribunals or bodies in which such person is or has been involved in the preceding (24) twenty-four months, unless such person is admitted to practice in West Virginia;
- (v) all matters before West Virginia tribunals or bodies in which any member of applicant's firm, partnership, corporation or other operating entity is or has been involved in the preceding twenty-four (24) months, unless such person is admitted to practice in West Virginia;
- (vi) a representation by the applicant for each state, the District of Columbia or any other country where the applicant has been admitted to practice, stating that the applicant is in good standing with the bar of every such jurisdiction and that he or she has not been disciplined in any such jurisdiction within the preceding twenty-four (24) months; and
- (vii) an agreement to comply with all laws, rules and regulations of West Virginia state and local governments, where applicable, including taxing authorities and any standard for *pro bono* civil and criminal indigent defense legal services;

(2) upon payment of a fee established by the Court and paid to the Clerk of Court for the United States District Court for the Northern District of West Virginia, if like courtesy or privilege is extended to members of the West Virginia State Bar in such other jurisdiction; and

(3) upon certification that the *pro hac vice* applicant has paid to the West Virginia State Bar the *pro hac vice* fee required by Rule 8.0 of the Rules of Admission for the West Virginia State Bar.

(b) Responsible Local Attorney: The responsible local attorney to be associated with the applicant shall be as follows:

The applicant shall be associated with an active member in good standing of the state bar, having an office for the transaction of business within the State of West Virginia, who shall be a responsible local attorney in the action, suit, proceeding or other matter that is subject of the application. Service of notices and other papers upon such responsible local attorney shall be binding upon the client and upon such person. The local attorney shall be required to sign all pleadings and filings and affix his or her West Virginia State Bar identification number thereto and to attend all hearings, trials or proceedings actually conducted before the judge, tribunal or other body of the State of West Virginia for which the applicant has sought admission *pro hac vice*. The local attorney shall further attend the taking of depositions and other actions that occur in the proceedings that are not actually conducted before the judge, tribunal or other body of the State of West Virginia for which the applicant has sought admission *pro hac vice* and shall be a responsible attorney in the matter in all other respects. With prior permission of the Court, local counsel will not be required to attend routine court hearings or proceedings. To be a responsible local attorney, the local attorney must maintain an actual physical office equipped to conduct the practice of law in the State of West Virginia, being the primary office from which the responsible local attorney practices law on a daily basis. The responsible local attorney shall evidence his or her agreement to participate in the matter by his or her endorsement upon the verified statement of application, or by written statement attached to the application.

(c) Exceptions to Payment of Visiting Attorney Fee:

(1) Bankruptcy Cases. The Visiting Attorney fee will apply in every bankruptcy case in which the reference to the Bankruptcy Court has been withdrawn, and in every appeal of a bankruptcy case to the District Court. Otherwise, the imposition of a Visiting Attorney fee in a bankruptcy case will be governed by the Local Rules for Bankruptcy Court.

(2) Multidistrict Litigation Cases. Pursuant to the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, a Visiting Attorney fee will not be charged in any case filed in this Court pursuant to a transfer under said Rules.

(3) Miscellaneous Cases. A Visiting Attorney who files a miscellaneous case which does not require judicial action (e.g., one filed in order to obtain a subpoena) is exempt from paying the Visiting Attorney fee, from associating with a Sponsoring Attorney, and from filing the Statement of Visiting

Attorney. A Visiting Attorney who files a miscellaneous case which does require judicial action (e.g., motion to compel testimony at a deposition) must comply with LR Gen P 83.02(a).

(4) Federal Government Attorneys. Attorneys employed by the United States Department of Justice or any other Federal department or agency will not be required to pay the Visiting Attorney fee.

(5) Law Students. Law students who participate in a case in accordance with these Rules will not be charged a Visiting Attorney fee.

Appendix 2

Samples of Certificate of Service

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

CERTIFICATE OF SERVICE

Sample A

I hereby certify that on __[date]__, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following: _____, and I hereby certify that I have mailed, by United States Postal Service, the document to the following non-CM/ECF participants: _____

/s/ _____
Attorney's Name and Bar Number
Attorney for (Plaintiff/Defendant)
Law Firm Name
Law Firm Address
Law Firm Phone Number
Law Firm Fax Number
Attorney's E-mail Address

Sample B

I hereby certify that on __[date]__, I presented the foregoing to the Clerk of the Court for filing and uploading to the CM/ECF system, which will send notification of such filing to the following: _____, and I hereby certify that I have mailed, by United States Postal Service, the document to the following non-CM/ECF participants: _____

/s/ _____
Attorney's Name and Bar Number
Attorney for (Plaintiff/Defendant)
Law Firm Name
Law Firm Address
Law Firm Phone Number
Law Firm Fax Number
Attorney's E-mail Address

Appendix 3

United States District Court

Northern District of West Virginia

Notice of Electronic Availability of Case File Information

IN COMPLIANCE WITH THE AUGUST 2, 2004 AMENDMENTS TO THE

E-GOVERNMENT ACT OF 2002

The Office of the Clerk has been imaging pleadings for posting to WebPACER/RACER, through the court's Internet website for over two years and will soon begin accepting filed pleadings via CM/ECF and making the content of these pleadings available on the court's Internet website. Any subscriber to WebPACER/RACER will be able to read, download, store and print the full content of imaged documents. The clerk's office is not imaging or posting documents sealed or otherwise restricted by court order nor will such documents be made available electronically once electronic filing begins.

To comply with privacy policy, you should not include sensitive information in any document filed with the court unless such inclusion is necessary and relevant to the case. You must remember that any personal information not otherwise protected will be made available over the Internet via WebPACER. If sensitive information must be included, certain personal data identifiers must be partially redacted from the pleading, whether it is filed traditionally or electronically: social security numbers, financial account numbers, dates of birth, home addresses and the names of minor children.

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

(a) File a redacted, unsealed version of the pleading along with 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. It shall be retained by the court as part of the record, or

(b) with approval of the court, file an unredacted document under seal. This document shall be retained by the court as part of the record. The court may, however, still require the party to file a redacted copy for the public file.

In addition, exercise caution when filing documents that contain the following:

- 1) Personal identifying number, such as 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 share this notice with all clients so that an informed decision about the inclusion of certain materials may be made. **If a party files a redacted document, it is the sole responsibility of counsel and the parties to ensure that all filings comply with the rules of this court requiring redaction of personal data identifiers. The clerk will not review each filing for redaction.**

Appendix 4

United States District Court

Northern District of West Virginia

Policy

Addressing Judicial Conference Privacy Policy

Regarding Public Access to Electronic Case Files

IN COMPLIANCE WITH THE AUGUST 2, 2004 AMENDMENTS TO THE

E-GOVERNMENT ACT OF 2002

In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court.

- a. **Social Security numbers.** If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.
- b. **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- c. **Dates of birth.** If an individual's date of birth must be included in a pleading, only the year should be used.
- d. **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.
- e. **Home Addresses in Criminal Cases.** If a home address must be included in a document to be filed, only the city and state shall be included.

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

- a. File a redacted, unsealed version of the pleading along with 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, or

b. with approval of the court, file an unredacted version of the document under seal. The court may, however, still require the party to file a redacted copy for the public file.

The unredacted version of the document or the reference list remain sealed and retained by the court as part of the record.

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.