

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Filed on: May 15, 2009

BEFORE: Sentelle, Chief Judge; Ginsburg, Henderson, Rogers, Tatel, Garland, Brown, Griffith, and Kavanaugh, Circuit Judges

ADMINISTRATIVE ORDER

REGARDING ELECTRONIC CASE FILING

Pursuant to Federal Rule of Appellate Procedure 25(a)(2)(D) and 25(c), the United States Court of Appeals for the District of Columbia Circuit has authorized the filing and service of documents by electronic means. See D.C. Cir. Rule 25 (as amended, effective June 8, 2009). To implement the Case Management/Electronic Case Files (CM/ECF) system, the court hereby adopts the following provisions that will govern in cases before the court, effective June 8, 2009. These provisions may be amended from time to time as necessary, with or without prior notice, by further order of the court. The court may deviate from these provisions in specific cases if deemed appropriate in the exercise of its discretion.

ECF-1. Scope of Electronic Filing System

Except as otherwise prescribed by Circuit rule or order of the court, all cases filed on and after September 1, 2009, will be assigned to the court's CM/ECF system. Case-initiating documents, including petitions for permission to appeal, petitions for review or notices of appeal from agency action, and petitions for writ of mandamus and other original proceedings in this court, must be filed in paper form. Except as otherwise prescribed by Circuit rule or court order, all briefs, motions, petitions for rehearing, and other documents subsequently filed in any case by a filer registered in accordance with ECF-2 must be filed electronically using the CM/ECF system. Upon the court's request, an ECF filer must promptly provide the clerk, in a format designated by the court, an identical electronic version of any paper document previously filed in the same case by that filer.

ECF-2. Registration as an ECF Filer; Passwords; Consent to Service

(A) Attorneys who appear before this court must register for the court's CM/ECF system. An attorney must enter an appearance in each case in which the attorney wishes to participate as an ECF filer. Registration requirements will be posted on the court's web site and may include training as a prerequisite to registration as an ECF filer.

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(B) At the discretion of the court, a party to a pending civil case who is not represented by an attorney may be permitted to register as an ECF filer solely for purposes of that case. A pro se party who desires to register as an ECF filer must file a motion in this court, describing the party's access to the internet and confirming the capacity to file and receive documents electronically on a regular basis. If permission is granted, the pro se party may be required to complete CM/ECF training provided by the clerk as a prerequisite to registration as an ECF filer. If a pro se party retains an attorney, the attorney must enter an appearance.

(C) ECF filers agree to protect the security of their passwords and to notify the PACER Service Center and the clerk immediately if they learn that their password has been compromised. ECF filers may be sanctioned for failure to comply with this provision.

(D) Registration as an ECF filer constitutes consent to electronic service of all documents as provided in the Federal Rules of Appellate Procedure and the rules of this court. See D.C. Cir. Rule 25(c).

ECF-3. Electronic Signatures

(A) **The ECF Filer.** The filer log-in and password required to submit documents to the CM/ECF system serve as the filer's signature for all purposes under the Federal Rules of Appellate Procedure and the rules of this court. The name of the filer under whose log-in and password a document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear, followed by the firm name, if any, and the attorney's or party's street address, telephone number, and e-mail address. No ECF filer or other person may knowingly permit or cause to permit a filer's log-in and password to be used by anyone other than an authorized agent of the ECF filer.

(B) **Other Signatures.** Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other parties on the document; or (3) in any other manner approved by the court. Electronically represented signatures of all parties and ECF filers as described above are presumed to be valid signatures. If any party, counsel of record, or ECF filer objects to the representation of his or her signature on an electronic document as described above, he or she must, within 14 days of the filing, file a notice setting forth the basis of the objection.

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ECF-4. CM/ECF Retention Requirements

Documents that are electronically filed and require original signatures other than that of the filer must be maintained in paper form by the filer until issuance of the mandate (or entry of the final order, in a case in which no mandate will issue) or until such later date as the court prescribes. On request of the court, the filer must provide original documents for review.

ECF-5. Consequences of Electronic Filing

(A) **The Docket.** Electronic transmission of a document to the CM/ECF system consistent with this order, together with the transmission of a Notice of Docket Activity from the court, constitute filing of the document under the Federal Rules of Appellate Procedure and the rules of this court, and constitute under FRAP 36 and 45(b) entry of the document on the docket maintained by the clerk. If the court requires a party to file a motion for leave to file, both the motion and document at issue should be submitted electronically. If leave is granted, the underlying document will remain on the docket; if leave is denied, the docket will so reflect.

(B) **Format.** Before filing a document with the court, an ECF filer must verify its legibility and completeness. Documents created by the filer and filed electronically must be in Portable Document Format (PDF), which is generated from an original word-processing file and is text searchable. PDF images created by scanning paper documents do not comply with this requirement. Appendix items and attachments to an electronically-filed document may be scanned if a word-processing version is not available. When a document has been filed electronically, the official record is the electronic document stored by the court, and the filing party is bound by the document as filed.

(C) **Time of Filing.** Except in the case of documents first filed in paper form and subsequently submitted electronically under ECF-1, a document filed electronically is deemed filed on the date and at the time stated on the Notice of Docket Activity from the court. Unless a time for filing is specified by court order, filing must be completed before midnight Eastern Time to be considered timely filed that day.

(D) **Technical Failures.** An ECF filer whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

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ECF-6. Paper Copies of Electronic Filings

(A) **In General.** Except for documents listed below or unless the court directs otherwise, documents filed by an ECF filer in accordance with this order are not to be submitted to the court in paper form.

(B) **Motions.** In addition to filing electronically, paper copies must be filed with the court of the following motions, including any accompanying documents, and any responses thereto, and replies: dispositive motions (e.g., motions for summary disposition, motions to transfer or remand, and motions to dismiss except those seeking voluntary dismissal in civil cases and in criminal cases where the government is the appellant), procedural motions unless the motion states it is unopposed, motions for stay and emergency relief pursuant to Circuit Rules 8 and 18, motions to expedite, motions or applications under Circuit Rule 9, motions for leave to proceed in forma pauperis, motions for appointment of counsel, and motions to exceed the length limits. The number of paper copies is governed by Circuit Rule 27(b); the “original” is the electronic filing.

(C) **Other Documents.** Except as provided in ECF-8(C), electronic filing is required for any portion of an appendix that is available in electronic format and fully text searchable. In addition to filing electronically, paper copies of the following documents must be filed with the court: briefs, appendices, memoranda of law and fact, responsive pleadings to petitions and replies thereto, letters pursuant to FRAP 28(j), proposed judgments in a National Labor Relations Board proceeding, petitions for panel rehearing and hearing or rehearing en banc, and responses to orders to show cause. The number of paper copies is governed by the rules pertaining to that document or by order in a particular case; the “original” is the electronic filing.

(D) **Time of Filing Paper Copies.** Unless the court has ordered filing by hand or other means, filing of paper copies of non-emergency documents may be accomplished by First-Class Mail addressed to the clerk, or other class of mail that is at least as expeditious, postage prepaid, within two business days of the electronic filing.

ECF-7. Service of Documents by Electronic Means

The Notice of Docket Activity that is generated by the court's CM/ECF system constitutes service of the filed document on all parties who have registered for the CM/ECF system but does not replace the certificate of service required by FRAP 25. Any party who has not consented to electronic service must be served by an alternative method of service, in accordance with the Federal Rules of Appellate Procedure and this court's rules. See D.C. Cir. Rule 25(c).

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ECF-8. Exceptions to Requirement of Electronic Filing And Service

(A) A party proceeding pro se must file documents in paper form with the clerk and must be served with documents in paper form, unless the pro se party has been permitted to register as an ECF filer for that case.

(B) A motion to file documents under seal, including any exhibits and attachments, and all documents containing material under seal may not be filed or served electronically unless the court orders otherwise. Matters under seal are governed by Circuit Rule 47.1.

(C) Exhibits, attachments, or appendix items that (1) exceed 500 pages or 1500 kilobytes; (2) are not in a format that readily permits electronic filing, such as odd-sized documents; or (3) are illegible when scanned into electronic format may be filed in paper form. Documents filed pursuant to this subsection must be served by an alternative method of service authorized by FRAP 25, and the filer must file electronically a notice of paper filing.

(D) Upon motion and a showing of good cause, the court may exempt a party from the electronic filing requirements and authorize filing by means other than use of the CM/ECF system. See D.C. Cir. Rule 25(b).

ECF-9. Privacy Protection

Unless the court orders otherwise, parties must refrain from including or must redact the following personal data identifiers from documents filed with the court to the extent required by FRAP 25(a)(5):

- Social Security numbers. If an individual's Social Security number must be included, use the last four digits only.
- Financial account numbers. If financial account numbers are relevant, use the last four digits only.
- Names of minors. If the involvement of an individual known to be a minor must be mentioned, use the minor's initials only.
- Dates of birth. If an individual's date of birth must be included, use the year only.
- Home addresses. In criminal cases, if a home address must be included, use the city and state only.

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The filer bears sole responsibility for ensuring a document complies with these requirements. Guidance on redacting personal data identifiers is posted on the court's web site and must be followed.

ECF-10. **Hyperlinks**

(A) Electronically filed documents may contain the following types of hyperlinks:

- Hyperlinks to other portions of the same document or to other documents filed in the case;
- Hyperlinks to documents that are part of the record on appeal or the record on review or enforcement of an agency order;
- Hyperlinks to authorities cited in the document.

(B) Hyperlinks do not replace standard citations to authority and parts of the record; standard citations must be provided in addition to any hyperlink. Hyperlinks are simply mechanisms for accessing material cited in a filed document and are not considered part of this court's record. The court accepts no responsibility for the availability or functionality of any hyperlink and does not endorse any product, organization, or content at any hyperlinked site.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

/s/ Mark J. Langer