

Electronic Case Filing Policies and Procedures District of South Carolina



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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Electronic Case Filing Policies and Procedures

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Electronic Case Filing Policies and Procedures

1. Definitions

Defined Terms are italicized in this document.

- 1.1 *Attorney Resource Manuals* are documents which are posted on the District of South Carolina's website under [Attorney > Resource Manuals](#). They are intended to provide instructional information and all *Filing Users* are required to periodically check the court's [website](#) for updates. See www.scd.uscourts.gov.
- 1.2 *Electronic Case Filing (ECF) System* refers to the District of South Carolina's automated system for receiving and storing documents filed in electronic form. This program is part of the Case Management/Electronic Case Files software developed by the Administrative Office of the United States Courts. Access to the *ECF System* is available through a link on the District Court's website (www.scd.uscourts.gov) or through an internet browser at <https://ecf.scd.uscourts.gov>.
- 1.3 *Filing User* is an attorney who has a court-issued login and password allowing electronic filing of documents on the *ECF System*. Only attorneys admitted in this district or counsel in multi-district litigation transferred to this district may be *Filing Users*. An attorney admitted *pro hac vice* in an individual case is not a *Filing User*, unless otherwise ordered by the court.
- 1.4 *Local Rules* means the Local Civil Rules and the Local Criminal Rules for the District of South Carolina.
- 1.5 *Notice of Electronic Filing (NEF)* is a notice automatically generated by the *ECF System* at the time a docket entry, with or without a hyperlinked document, is created in the system. This notice sets forth the time of filing, text of the docket entry, and name of the party and/or attorney(s) required to receive the notice. If a *PDF* document is attached to the docket entry, the *NEF* will also identify the person filing the document, the type of document, and a hyperlink to the filed document. The hyperlink will allow recipients one opportunity to view and download the document without cost. See *infra* §§ 2.4 (Consent to Electronic Service), 5 (Notice of Court Orders, Judgments and Hearings), and 11.2.1 (Service on *Filing User*).
- 1.6 *PACER* (Public Access to Court Electronic Records) is an automated system that allows an individual to view, print, and download court docket information over the internet. See *infra* §3.4 (website addresses for *PACER*).
- 1.7 *Pay.gov* is the U.S. Department of Treasury's Internet payment module in ECF. *Pay.gov* provides the ability for *Filing Users* to pay filing fees by credit card or electronic check over the Internet and to review their Internet transaction payment history.

- 1.8** *PDF* refers to a Portable Document Format file. To be filed electronically, a document must be converted to portable document format. Converted documents must contain the “.pdf” file extension.
- 1.9** *Pro Hac Vice Participant* is an attorney admitted *pro hac vice* and who is registered to receive *Notice of Electronic Filings* in the specific case for which the *pro hac vice* attorney is admitted. *Pro Hac Vice Participants* may not, however, file documents electronically. Except to the extent notice is provided through the *NEF*, service will not be provided by the court. *See also* Local Civil Rule 83.I.06.
- 1.10** *Pro Se Party* is a party in a case who is not represented by an attorney.
- 1.11** *Proposed Order* is a draft document submitted for a district judge’s or magistrate judge’s signature. *See infra* § 4.3 (Proposed Orders).
- 1.12** *Technical Failure* is defined as a malfunction of court-owned or court-leased hardware, software, or telecommunications facilities which results in the inability of a *Filing User* to submit a court filing electronically. ***Technical Failure does not include malfunctioning of a Filing User’s equipment, hardware or software.*** *See infra* §§ 11.2.1(c) (Failed Transmission of *NEF*), 12 (*Technical Failure*), and 12.3 (Other Technical Difficulties).
- 1.13** *Traditional Filing Method* means filing original paper documents bearing the signature(s) of the attorney or the *Pro Se Party*.
- 1.14** *Traditional Service* means service of a paper copy of a document using the forms of service authorized under the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

2. Scope of Electronic Filing

2.1 Cases Subject to Electronic Filing

All civil, criminal, and miscellaneous cases shall be managed using the *ECF System*. Except as expressly provided herein or by order of a court, or in exceptional circumstances including *Technical Failure* (§ 1.12), a *Filing User* shall file all documents electronically on the *ECF System*. *See infra* §§ 12 (*Technical Failure*).

2.2 Submission of Scanned Documents and Documents on Disc or External Drive

By filing a scanned version of a document in *PDF* format, the *Filing User* certifies the legibility of the document. If the court directs submission of a document on disc or external drive, the person submitting the document on disc or external drive shall ensure that the media utilized is virus-free. *See supra* § 1.8 (*PDF* definition).

2.3 Initiation of Actions

The filing of initial documents shall be accomplished electronically under procedures outlined in the District of South Carolina's [Attorney Resource Manual: Filing of Initial Case Document](#) and related documents.

Filing Users who file new cases electronically must use the *pay.gov* system, or electronically file an Application to Proceed Without Prepayment of Fees (in forma pauperis) as outlined in the District of South Carolina's [Attorney Resource Manual: Filing of Initial Case Document](#). Failure to pay any filing fee may delay or prevent the *Filing User* from filing the document.

2.4 Consent to Electronic Service

Registration as a *Filing User* or *Pro Hac Vice Participant* in the District of South Carolina constitutes consent to electronic service of all documents (except service of a summons and complaint under Fed. R. Civ. P. 4). *See infra* § 11 (Service). Registration as a *Filing User* or *Pro Hac Vice Participant* also constitutes consent to the alternative methods of service provided under § 11.2.1(c) in the event of a failure of the *Notice of Electronic Filing* or under § 12.1 in the event of a *Technical Failure*.

The document is deemed served on *Filing Users* and *Pro Hac Vice Participants* upon transmission of the *NEF* indicating that the document was sent electronically. *See infra* § 11.2.1 (a) (Automatic Service), § 11.2.1(c) (Failed Transmission of *NEF*), and § 11.2.2 (Service on Persons Other Than *Filing Users* and *Pro Hac Vice Participants*).

2.5 Removed Cases

In a case removed from state court to federal court, the *Filing User* is required to file electronic copies of all documents previously filed in the state court together with the electronically filed Notice of Removal.

2.6 Scope

Nothing in the Electronic Case Filing Policies and Procedures supercedes the Federal Rules of Civil Procedure (Fed. R. Civ. P.), the Federal Rules of Criminal Procedure (Fed. R. Crim. P.), the *Local Rules* of this District, or other order of this court.

3. Participation, Registration, and Passwords

3.1 Participation

Unless excused as set forth below, all members of the District of South Carolina Bar shall register as *Filing Users*. Counsel in multi-district litigation are allowed to participate as *Filing Users* in the case(s) transferred into this district pursuant to the Rules of Procedure of the Judicial Panel on Multi-District Litigation. Upon registration and receipt of a password and login, a *Filing User* shall file all documents pursuant to these Policies and Procedures. Once registration is complete, a *Filing User* may not withdraw from participation in the *ECF System* except by order of the court. An attorney admitted *pro hac vice* may not participate as a *Filing User*, but shall be required to participate as a *Pro Hac Vice Participant*, unless otherwise ordered by the court. *See*

supra § 1.9 (definition) and *infra* § 3.4 (registration). Participation as a *Filing User* is a privilege and may be denied or revoked by the court.

3.2 Attorneys Excused from Participation

Attorneys shall be excused from participation in the *ECF System* only upon a showing of good cause why the attorney should not be required to participate. Such showing shall require attorneys to establish that participation would impose a substantial and undue hardship. Requests to be excused shall be submitted to the Clerk of Court and shall be accompanied by affidavits establishing the basis of the claim of hardship. Final authority to grant such requests is vested in the Chief Judge. Attorneys Excused from Participation shall file using the *Traditional Filing Method*. See *supra* §1.13 (*Traditional Filing Method* definition).

3.3 Pro Se Participation

A *Pro Se Party* may not register as a *Filing User* to file electronically in the *ECF System*. A *Pro Se Party* shall file papers in the *Traditional Filing Method*. See *supra* § 1.13 (definition); *infra* § 11.2.2 (Service on Persons Other Than *Filing Users* and *Pro Hac Vice Participants*). A member of the District Court Bar who represents himself or herself *pro se* is NOT exempt from the electronic filing of documents, unless he or she has been exempted from the electronic filing of documents due to substantial and undue hardship. See *supra* § 3.2 (Attorneys Excused from Participation).

3.4 Registration

To be registered as a *Filing User*, an attorney must be admitted as a member of the District of South Carolina Bar or be counsel in multi-district litigation transferred to this district pursuant to the Rules of Procedure of the Judicial Panel on Multi-District Litigation. Counsel for multi-district litigation cases who wish to register as a *Filing User* must use the appropriate form. An attorney admitted *pro hac vice* shall register as a *Pro Hac Vice Participant* by providing the court with an e-mail address on the Application/Affidavit for *Pro Hac Vice* Admission.

To register as a *Filing User*, an attorney must: (1) establish a *PACER* account; (2) certify in writing that *ECF System* training has been completed; (3) complete and submit the appropriate registration form to the Clerk of Court via facsimile or mail as provided on the form; and (4) provide ONE internet e-mail address. (Additional e-mail addresses may be added by the *Filing User* as outlined in the [Attorney Resource Manual: Managing Your Email Account](#).) Information on registering to use *PACER*, and associated access fees, can be found at <http://pacer.psc.uscourts.gov>.

It is the responsibility of all *Filing Users* to notify the Clerk of Court about a change of name, address, phone number, or facsimile number in a timely manner. It is also the responsibility of all *Filing Users* to keep their e-mail addresses current in the *ECF System*. *Pro Hac Vice Participants* must timely provide the Clerk of Court with any changed name, address, phone number, facsimile number, or e-mail address.

3.5 Passwords

Once the registration is processed by the Clerk of Court, the *Filing User* will receive notification of the *Filing User*'s login and password. A *Filing User* shall protect the security of the *Filing User*'s password. *See infra* § 10.3 (misuse).

4. Signing and Entry of Court Orders and Related Papers

4.1 Filing and Entry of Orders

All orders, decrees and judgments of the court will be entered electronically by the court or court personnel. Electronic filing of these documents shall constitute entry on the docket under Fed. R. Civ. P. 58 and 79, and Fed. R. Crim. P. 55.

The court may issue orders by a text-only docket entry for which a *Notice of Electronic Filing* will be generated. In such cases, a *PDF* document will not be issued, and the text-only entry shall constitute the court's order on the matter. Such docket text orders are official and binding.

4.2 Signing of Electronic Orders

All orders, including docket text orders, and judgments shall be electronically filed by the court or court personnel. Electronically filed court orders and judgments shall have the same force and effect as if the judge had affixed a signature to a paper copy of the document and the document had been entered on the docket in the traditional manner. The judge's signature on an electronic order may appear as "s/" followed by the judge's name where the signature would otherwise appear or as a digital signature.

4.3 Proposed Orders

A *Filing User* submitting a proposed order shall submit the document in accordance with the [Judges' Filing Preferences](#) and [Local Civil Rule 7.10 \(Rules for Submission of Draft Orders in Civil Cases\)](#).

5. Notice of Court Orders, Judgments and Hearings

Immediately upon the entry of an order or judgment in an action, the Clerk of Court shall electronically transmit through the *ECF System* a *Notice of Electronic Filing* to *Filing Users* and *Pro Hac Vice Participants* in the case. Electronic transmission of the *NEF* constitutes the notice required by Fed. R. Civ. P. 77 and Fed. R. Crim. P. 49(c). Notices of hearings will be sent by the Clerk of Court through the *ECF System* to *Filing Users* and *Pro Hac Vice Participants*. The Clerk of Court must give notice of court orders, judgments and court hearings in paper form to *Pro Se Parties* and to attorneys who are not *Filing Users* or *Pro Hac Vice Participants* to the extent notice is required. *See supra* §§ 3.2 (Excused Attorneys) and 3.3 (*Pro Se* Participation).

6. Consequences of Electronic Filing

6.1 Filing and Entry

Electronic transmission of a document to the *ECF System*, together with the transmission of the *Notice of Electronic Filing (NEF)*, in accordance with the Order adopting these Policies and Procedures, as well as the District of South Carolina Attorney Resource Manuals, constitutes filing of the document for all purposes under the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the *Local Rules*, and effects entry of the document on the docket maintained by the Clerk of Court under Fed. R. Civ. P. 5, 58 and 79, as well as Fed. R. Crim. P. 49 and 55. *See supra* § 2.6 (Scope).

6.2 Official Record

When a document is filed electronically in the *ECF System*, the electronic record constitutes the official record. The filed document is binding as the official record. Later modifications of a previously-filed document or docket entry are only allowed by the court or court personnel. An electronically filed document is deemed filed on the date and time stated on the court-generated *NEF*. *See supra* § 1.5 (*NEF* definition).

6.3 Timeliness

Timeliness of electronic filing is based on local time in the District of South Carolina (Eastern time zone). Filing must be completed with a court generated *NEF* before midnight in the eastern time zone to be considered timely filed that day. Nothing in these policies and procedures should be construed to change or extend any deadlines set by statutes of limitations prescribed by law, Federal Rules of Procedure, *Local Rules*, or orders of the court.

The *ECF System* automatically calculates final dates for filing a response to certain pleadings, memoranda, and orders. The computer-generated deadline is contained in the docket entry for the document to which a response is due and is on the *NEF* if an *NEF* is issued. Unless the presiding judge has specified a different deadline by either oral or written order, or service is made pursuant to Fed. R. Civ. P. 6(d) (allowing an additional three days if service is made by mail, leaving with the clerk, or other means consented to) and Fed. R. Crim. P. 45(c) (same), the date calculated by the *ECF System* controls as the deadline. The judges' oral or written ruling controls even if issued prior to the computer-generated deadline.

7. Attachments and Exhibits

7.1 Electronic Submission Required

All documents referenced as exhibits or attachments to an electronically filed document shall be submitted in electronic form, as electronic attachments to the main document, subject to requirements and limitations of the Attorney Resource Manuals, or, as otherwise ordered by the court.

7.2 Excerpts

A *Filing User* shall submit as exhibits or attachments only those excerpts of referenced documents that are directly pertinent to the matter under consideration by the court together with the cover sheet or other excerpts necessary to identify the source of the information (e.g., deposition cover page). Excerpted materials must be clearly and prominently identified as such. *Filing Users* who file excerpts of documents as exhibits or attachments under this provision do so without prejudice to their right to file additional excerpts or the complete document. Responding parties or attorneys may file the complete document or additional excerpts that they believe are directly pertinent to the matter under consideration.

7.3 Filing of Original Deposition

Filing Users shall not be required to file the original deposition from which excerpts were drawn absent a court order to the contrary.

7.4 Bookmarks and Hyperlinks

Electronically-filed documents may contain bookmarks to locations within the same document. Hyperlinks to other documents or external sites are not permitted, unless otherwise directed by the court, due to the risk of broken links and the possibility of introducing a virus or malicious code from another website.

8. Sealed Documents

8.1 Filing of Motions

A document subject to an existing sealing order or sealing statute (e.g., initial documents in a *qui tam* action) shall be filed electronically under seal pursuant to procedures established by the Clerk of Court. No other document may be filed under seal, **except upon motion**. A motion to file any document under seal shall be filed electronically, unless prohibited by law. The document for which sealing is sought shall be submitted for *in camera* review and shall **not** be filed.

An order of the court granting a motion to seal shall be filed electronically and shall not itself be sealed, unless prohibited by law or unless the court finds that electronic filing of the order without seal would be inappropriate. *See infra* §§ 13.3 (Sealed Case and Documents) and 13.4 (Privacy); see also Local Civil Rule 5.03, and Local Criminal Rule 49.01.

8.2 In Camera Submissions

In Camera submissions shall be presented to the court by paper copy, unless otherwise directed by the court.

9. Document Retention Requirements

A document that is electronically filed and requires an original signature other than that of the *Filing User* must be maintained in paper form by the *Filing User* and/or the firm representing the party on whose behalf the document was filed. The document must be retained for six (6) years after the time for all appeals has expired or the judgment otherwise becomes final. On request of the court, the *Filing User* or law firm must provide the original document.

Such papers in criminal cases filed on behalf of the government shall be retained by the Office of the United States Attorney or the United States Department of Justice. On request of the court, the Office of the United States Attorney must provide the original document for review.

10. Electronic Signatures of *Filing Users*

10.1 Effectiveness of Electronic Signature

The *Filing User's* login, password, and s/ [typed name] or digital signature serve as the *Filing User's* signature on all electronically filed documents and for the purposes of Fed. R. Civ. P. 11, all other Federal Rules of Civil Procedure (including the Section 2254 Rules, Section 2255 Rules, and the Rules for Admiralty Cases), the Federal Rules of Criminal Procedure, the *Local Rules*, and any other purpose for which a signature is required in connection with proceedings before the court. Documents submitted under a *Filing User's* login and password must include a digital signature or s/ followed by the *Filing User's* name typed in the space where the *Filing User's* signature would otherwise appear.

10.2 Identifying Information Required

An electronically filed document must include a signature block and must set forth the name, address, telephone number, facsimile number, and e-mail address of the *Filing User* along with the District Court Bar number provided to the attorney upon admission. Out-of-state attorneys in multi-district litigation must also include the name of the District Court Bar to which they have been admitted.

10.3 Misuse of *Filing User* Login and Passwords

A *Filing User* is solely responsible for and shall protect the security of the *Filing User's* password. No *Filing User* may knowingly or willfully permit or cause a *Filing User's* login and password to be used by anyone other than an authorized agent of the *Filing User*. A *Filing User* shall immediately notify the Clerk of Court if the *Filing User* learns or suspects that his or her login or password has been used without authorization. A *Filing User* may change his or her password without contacting the court, using the procedure set forth in the [Attorney Resource Manual: Managing Your ECF Account](#). A *Filing User* is responsible for overseeing non-attorney employees with respect to electronic filing done on the attorney's behalf. *See supra* § 3.5 (Passwords).

10.4 Multiple Signatures

A document requiring the signatures of more than one person shall be electronically filed by a single *Filing User* unless otherwise ordered by the court or authorized in the [Attorney Resource Manuals](#).

A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures or the representation as to consent of a named signatory must file an objection to the document within ten days of receiving the *Notice of Electronic Filing*.

Unless otherwise ordered by the court, or authorized in the [Attorney Resource Manuals](#), there are two methods of filing a document requiring multiple signatures. First, the *Filing User* who files the document may obtain original signatures on a paper copy of the document to be filed. The *Filing User* will then electronically file the document, representing the consent of the signatories by an s/ and the name typed in the space where a signature would appear. In the alternative, the *Filing User* who files the document may obtain digital signatures on the document and electronically file the document with the digital signatures. The *Filing User*'s signature must comply with the signature requirements of § 10.1 *supra*.

The *Filing User* who files the document(s) shall retain the hard copy of the document(s) containing the original signatures or an accessible copy of the document with digital signatures in compliance with the court's retention requirements. *See supra* § 9 (Document Retention Requirements).

10.5 Signatures of Persons Other Than *Filing Users*

Except as provided in the preceding section, documents containing the signature of persons other than *Filing Users* are to be filed electronically as a scanned image. Documents must be retained in compliance with the court's retention requirements. *See supra* § 9 (Document Retention Requirements).

11. Service

11.1 Service of Process (Summons)

Service of process must be made in accordance with Fed. R. Civ. P. 4, which does not allow for electronic service of process. *See* Fed. R. Civ. P. 4.

11.2 Service of Other Papers

11.2.1 Service on *Filing User* and *Pro Hac Vice Participants*

(a) Automatic Service

Upon the electronic filing of a pleading or other document, the court's *ECF System* will automatically generate and send a *Notice of Electronic Filing (NEF)* to all *Filing Users* and *Pro Hac Vice Participants* associated with that case. Transmission of the *NEF* constitutes service of the filed document on *Filing Users* and *Pro Hac Vice Participants*. *See supra* §§ 1.5 (*NEF* definition), 2.4 (Consent to Electronic Service), and 6 (Consequences of Electronic Filing). *See infra* § 11.2.2 (Service on Persons other than *Filing Users* and *Pro Hac Vice Participants*).

Service of the *NEF* on *Pro Hac Vice Participants* is provided as a courtesy and does not override the general rule that *pro hac vice* attorneys need not be served. *See supra* § 1.9 (*Pro Hac Vice Participant* definition). Local counsel remains responsible for insuring notice to associated *pro hac vice* attorneys.

(b) Content of Notice of Electronic Filing

The *NEF* will include the time of filing, text of the docket entry, and name of the party and/or attorney(s) required to receive the notice. If a *PDF* document is attached to the docket entry, the *NEF* will also identify the person filing the document, the type of document, and a hyperlink to the filed document. The hyperlink will allow anyone receiving the notice by e-mail one opportunity to retrieve and download the document without cost. *See supra* § 1.5 (*NEF* definition).

(c) Failed Transmission of NEF

If the *Filing User* becomes aware that the *NEF* was not transmitted successfully to other *Filing Users* or *Pro Hac Vice Participants*, or that the notice is deficient, i.e., the hyperlink to the document on the docket is defective, the *Filing User* shall, upon learning of the deficiency, serve the electronically-filed document by e-mail, hand delivery, facsimile, or first-class mail. *See supra* § 2.4 (Consent to Electronic Service). Proof of such service shall be filed with the court electronically within one (1) business day after service, and shall be made in accordance with the procedures in the [Attorney Resource Manuals](#).

11.2.2 Service on Persons Other Than Filing Users and Pro Hac Vice Participants

Pro Se Parties and attorneys who are members of this District's bar but are not *Filing Users* shall be served with electronically-filed documents through *Traditional Service*. *See supra* § 1.14. Service of the filed documents must be accompanied by a copy of the *NEF*. Proof of such service shall be electronically filed with the court within one (1) business day after the electronic filing of the document. *See supra* §§ 3.2 (Attorneys Excused from Participation), and 3.3 (*Pro Se* Participation).

11.2.3 Time to Respond After Being Served

In accordance with Fed. R. Civ. P. 6(d) and Fed. R. Crim. P. 45(c), three (3) days are added to the prescribed period to respond if service is made under Rule 5(b)(2)(C) (mail), (D) (leaving with the clerk), or (F) (other means consented to). *See supra* § 6.3 (Timeliness). The three (3) additional days are not added to the prescribed period to respond if service is made by electronic means under Fed. R. Civ. P. 5(b)(2)(E). Consent to electronic service in registering for *Electronic Case Filing* does not count as consent to service “by any other means” of delivery under subparagraph (F).

12. Technical Failure

The point of contact for a *Filing User* who is experiencing technical difficulty shall be the court's ECF Help Desk at the telephone number listed in the [Attorney Resource Manual: Technical Failure](#). The court's ECF Help Desk is open during normal hours of operation.

The Clerk of Court shall deem the *ECF System* to be subject to a *Technical Failure* (§ 1.12) if the *ECF System* is unable to accept filings continuously or intermittently for more than one (1) hour occurring after 12:00 noon local time (Eastern time zone) on a given day. If a *Filing User* experiences such a *Technical Failure*, the *Filing User* may submit the document to the Clerk of Court using one of the alternative methods listed below (§ 12.1), provided that the document is accompanied by a certification, signed by the *Filing User*, that the *Filing User* has attempted to file the document electronically at least twice, with those unsuccessful attempts occurring at least one (1) hour apart after 12:00 noon.

The alternative method of submission is not in itself a proper filing. The submission shall be effective only to preserve the time for filing. The subsequent electronic filing will be deemed filed at the time the alternative submission was accomplished if electronic filing is accomplished within one (1) business day after the *Technical Failure* is remedied. See generally § 6.3 (Timeliness).

12.1 Methods of Alternative Submission

In the event of a *Technical Failure*, the *Filing User* may preserve the time for filing by submitting the document using one of the following alternative methods of submission:

- (a) **E-mail**
via e-mail with an attachment containing the document with digital signature or s/ [typed name] for the signature in *PDF* format, sent to the e-mail address for *Technical Failures* as instructed in the [Attorney Resource Manual: Technical Failure](#);
- (b) **Facsimile**
through facsimile transmission of the first and signature pages of the document to the Clerk's Office; or
- (c) **Physical Presentation**
by physically delivering a copy of the document to the Clerk's Office during normal hours of operation, if neither of the above methods is available.

12.2 Relief From Technical Failure

A *Filing User* who suffers prejudice as a result of a *Technical Failure* may seek appropriate relief from the court. *See supra* §1.12 (defining *Technical Failure* as excluding malfunctioning of a *Filing User's* equipment, hardware or software).

12.3 Other Technical Difficulties

The Clerk of Court may make provisions in the [Attorney Resource Manuals](#) to accommodate unforeseen technical difficulties, such as failure of the *Filing User's* equipment, that are not *Technical Failures*.

13. Public Access and Sensitive Information

13.1 PACER Access

With limited exceptions, a person may retrieve information from the *ECF System* through the court's [website](#) by obtaining a *PACER* (Public Access to Court Electronic Records) login and password. Any person, whether a registered *Filing User* or not, who has *PACER* access may retrieve docket sheets and documents in civil and criminal cases. Only registered *Filing Users* may file documents using the *ECF System*. *See supra* §§ 1.6 (*PACER* definition), 1.3 (*Filing User* definition), and 3 (Participation).

13.2 Limited Access to Cases and Documents

The Clerk of Court shall implement any privacy policy or similar protection required by the Judicial Conference of the United States, the Federal Rules of Civil or Criminal Procedure, *Local Rules*, these ECF Policies and Procedures, and local operating orders of this Court. The implementing procedures shall be set forth in the aforementioned documents, as well as information on the court's website, and shall be narrowly tailored to protect those privacy interests addressed by the authority requiring the protection. Judicial review and modification of limited electronic or other access may be initiated in a specific case by motion of any person.

13.3 Sealed Cases and Documents

Any case or document under seal shall not be available to the public through electronic or any other means; however, attorneys may be permitted access to sealed documents in cases in which they appear with permission of the court.

13.4 Privacy

Attorneys are responsible for ensuring that their clients have sufficient information to make informed decisions regarding the inclusion, redaction and exclusion of personal information in filings in this court, and for implementing those decisions. Redaction may not be necessary, but should be considered, in cases with limited electronic access because documents which have been designated for limited electronic access may be available to the public at the courthouse. Only sealed documents are protected from all public access. *See supra* § 13.2 (Limited Access to Cases and Documents).

13.4.1 Compliance with E-Government Act of 2002 (as amended)

In compliance with the E-Government Act of 2002 (as amended), along with Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, a party or attorney wishing to file

a document containing personal identifiers listed below in Section 13.4.2, or other sensitive information in Section 13.4.3, may:

- (a) file an unredacted version of the document under seal (*see supra* § 8); or
- (b) file a reference list under seal. The reference list shall contain the complete data identifier(s) (e.g., social security number) and the redacted identifier(s) (e.g., last four digits of a social security number) used in its/their place in the filing. All references in the case to the redacted identifiers 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.

The unredacted version of the document or the reference list shall be retained by the court as part of the record. The court may, however, still require the attorney or party file a redacted copy for the public file.

13.4.2 Redaction of Certain Personal Identifiers

To protect personal privacy and other legitimate interests, attorneys and parties shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers in all documents filed with the court, whether filed electronically or by the *Traditional Filing Method*:

- (a) **Social Security numbers.** If an individual's social security number must be included, only the last four digits of that number shall be used.
- (b) **Names of Minor Children.** If the involvement of a minor child must be mentioned, only the initials of that child shall be used.
- (c) **Dates of Birth.** If an individual's date of birth must be included, only the year shall be used.
- (d) **Financial Account Numbers.** If financial account numbers are relevant, only the last four digits of these numbers shall be used.
- (e) **Home Address Information in Criminal Cases ONLY.** If the home address of a person must be included, only the city and state shall be listed.
- (f) **Juror Information.** If a document containing identifying information about a juror or potential juror must be filed (e.g., verdict form or indictment), all personal information identifying a juror or potential juror must be redacted.

13.4.3 Protection of Other Sensitive Information

Attorneys and parties shall exercise caution and shall consider redaction or consider filing a motion to seal if any of the following information is referenced in a document to be filed:

- (a) any personal identifying number, such as driver's license number;
- (b) medical records, treatment records, or diagnoses;
- (c) employment history;
- (d) individual financial information;
- (e) proprietary or trade secret information;
- (f) information regarding an individual's cooperation with the government;
- (g) information regarding the victim of any criminal activity;
- (h) national security information; or
- (I) sensitive security information as described in 49 U.S.C. § 114(s).
- (j) information or materials which would otherwise be inappropriate for display or distribution through the *PACER* or *ECF System* (including materials with graphic, pornographic, obscene, or scandalous content.)

Items (a) through (d) and (j) above must be afforded maximum protection from public dissemination. A document containing this information shall be filed electronically in a redacted version **with all the protected information removed** or be presented for “*in camera*” review with a motion to seal. *See supra* § 8 (Sealed Documents).

Attorneys or a party wishing to file a document containing information described by items (e) through (I) above shall first consult opposing attorneys or the opposing party (if unrepresented) to determine if an alternative to filing under seal is available. Alternatives may include stipulations or filing of a redacted document. If no alternative is found and the information must be filed, the attorney or party may seek to file the document in compliance with the procedures for sealed documents in these Policies and Procedures. *See supra* § 8 (Sealed Documents). The court may still require electronic filing of a redacted copy of the document.

13.4.4 Compliance and Sanctions

Responsibility for redacting the above-listed information rests solely with attorneys and the parties. The Clerk of Court will not review filings for compliance. Attorneys and the parties are cautioned that failure to protect the above-listed information may subject them to the disciplinary power of the court.