

UNITED STATES DISTRICT COURT MIDDLE
DISTRICT OF NORTH CAROLINA



ELECTRONIC CASE FILING ADMINISTRATIVE POLICIES AND
PROCEDURES MANUAL

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**UNITED STATES DISTRICT COURT MIDDLE
DISTRICT OF NORTH CAROLINA**

**ADMINISTRATIVE PROCEDURES GOVERNING
THE FILING AND SERVICE BY ELECTRONIC MEANS**

ELECTRONIC FILING AND PDF DOCUMENTS

Local Rule 5.3 requires electronic filing in conjunction with Federal Rules of Civil Procedure 5(d) (3) and 83 and Federal Rules of Criminal Procedure 49 and 57. The following procedures govern electronic filing in this district unless, due to extraordinary circumstances in a particular case, a judicial officer determines that these policies and procedures should be modified in the interest of justice.

Electronic filing is the process of uploading a document from the registered user's computer, and then using the Court's internet-based case management/electronic case files (CM/ECF) system to file the document in the Court's electronic case file.

The ECF system only accepts documents in a portable document format (PDF). The two types of PDF documents that are accepted for filing in CM/ECF are as follows:

1. Electronically converted PDFs are created from word processing documents (MS Word®, WordPerfect® etc.) using Adobe Acrobat® or similar software. They are text searchable and their file size is small.

2. Scanned PDF's are created from paper documents processed through an optical scanner. Most scanned PDFs are not searchable and have a large file size. Because documents scanned in color or containing a graphic take much longer to upload, filing parties must configure their scanners to scan documents at 300 dpi and in black and white rather than in color. Documents appearing in color in their original form, such as color photographs, may be scanned in color and then uploaded to CM/ECF.

Glossary of Terms

Clerk's Office – The office of the Middle District of North Carolina that serves as the official custodian of the records and assists the public with filing.

CM/ECF or CM/ECF system – The Case Management/Electronic Case Filing system that serves as the official filing record in the Middle District of North Carolina.

Conventionally – Filing a document with the in paper either in person with the Clerk's Office or by mail.

Duplicate Payment – Electronic payment that is inadvertently made twice in the CM/ECF system.

Filing User – An attorney who is registered to file electronically or a pro se party who has filed a motion and received approval of the assigned Judge to file electronically in a particular case.

NEF – Notice of Electronic Filing email that is generated by the CM/ECF system to all Filing Users and Registered Users as notice of a filed pleading or activity in a federal court case.

Non-Registered Party – A party who does not file electronically nor receive electronic service of documents by CM/ECF.

Registered User – A pro se party who has consented to receive electronic service of documents to the extent and in the manner authorized by the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the Local Rules and signed an Authorization Form to Receive Documents Electronically.

A. General Information

- (1) **Effective March 1, 2005**, registered CM/ECF users were authorized to file documents electronically, except those exempted in Section G of the administrative procedures. **Effective January 1, 2006**, attorneys were required to use CM/ECF to file all documents not otherwise exempted.
- (2) Any document electronically filed or converted by the United States District Court for the Middle District of North Carolina (Clerk's Office) to electronic format on or after **March 1, 2005** shall be the official record of the Court. As such, the Clerk's Office will not maintain a paper record for these documents.
- (3) All documents filed by electronic means must comply with technical standards, if any, established by the Judicial Conference of the United States or by this Court.
- (4) A case filed under seal will be sealed electronically in CM/ECF until the assigned Judge orders the case unsealed.
- (5) An attorney may for good cause move to file documents conventionally. Even if the assigned judge initially grants an attorney permission to file documents conventionally, the assigned judge may withdraw that permission at any time during the pendency of a case and require the attorney to file documents electronically using the CM/ECF system.
- (6) The Clerk's Office or any assigned judge of this Court may deviate from these procedures in specific cases, without prior notice, if deemed 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 procedures at any time without prior notice.
- (7) Nothing in these Administrative Procedures shall be construed to nullify or contradict the provision set forth in Rule 26.1 of the Local Rules of Civil Procedure, directing that interrogatories, requests for production and inspection and requests for admission under Rules 33, 34 and 35 of the Federal Rules of Civil Procedure; that answers, responses and objections to interrogatories pursuant to Rules 34 and 36; and, notices of depositions and depositions, under Rules 30 and 31 of Federal Rules of Civil Procedure, shall not be filed with the Court pursuant to Local Rule 26.1(b)(3).
- (8) Nothing in these Administrative Procedures shall be construed to nullify or contradict the provisions set forth in Rule 79 of the Federal Rules of Civil Procedure and Rule 55 of the Federal Rules of Criminal Procedure, both of which require the Clerk of Court to maintain custody of records in a manner

prescribed by the Director of the Administrative Office of the U.S. Courts.

- (9) All cases filed in the CM/ECF system in which a notice of appeal is filed shall be governed by Rule 10 of the Federal Rules of Appellate Procedure and relevant Local Rules and internal operating procedures of the United States Court of Appeals for the Fourth Circuit, with any differences about whether the record truly discloses what occurred in the district court to be submitted to and settled by the assigned judge. Cases in which there is a right of direct appeal to the United States Supreme Court shall be governed by the rules of the United States Supreme Court.
- (10) Nothing in this Electronic Case Filing and Administrative Policies and Procedures Manual supersedes the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, or the Local Rules of this district.
- (11) When multiple attorneys in a law firm appear in a case, and at least one attorney is a Filing User, service of any Court generated document (i.e. orders, notices, etc.) will only be made on the Filing User(s). It is the responsibility of the law firm's electronic users to notify and serve all other firm members appearing in the case who are not receiving paper copies from the Court.
- (12) An attorney who enters a case after the case initiating document and response have been filed shall file a Notice of Appearance, which will include the attorney's name and the name of the attorney's law firm. The attorney also shall file contemporaneously a disclosure statement in accordance with Federal Rules of Civil Procedure 7.1 and Federal Rules of Criminal Procedure 12.4, unless already filed by the lead attorney. An attorney may not file a notice of appearance on behalf of another attorney. Each attorney must file his or her own notice of appearance.

B. Registration & Passwords – Attorneys and Pro Se Parties

- (1) Attorneys admitted to the bar of this Court, including attorneys appearing by special appearance pursuant to Local Rule 83.1, shall register as Filing Users of the Court's CM/ECF system prior to filing any pleadings. Registration shall be submitted on an Attorney Registration Form, a copy of which is on the Court's web page (www.ncmd.uscourts.gov). All signed original Attorney Registration Forms shall be mailed to the United States District Court, Middle District of North Carolina, 324 West Market Street, Greensboro, N.C. 27401.
- (2) The Court will issue passwords only to attorneys in good standing. To be in good standing, an attorney must meet the requirements in Local Rule 83.1.
- (3) A party who is not represented by counsel must file documents with the Clerk's Office conventionally, unless otherwise authorized by this Court.

- (4) Upon the approval of the assigned judge, a party to a case who is not represented by an attorney (pro se party) may register as a Filing User in the CM/ECF system solely for the purpose of the action. Registration is in a form prescribed by the Clerk of Court and requires identification of the case as well as the name, address, telephone number and Internet e-mail address of the party. If, during the course of the case, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk of Court to terminate the party's registration as a Filing User upon the attorney's appearance. Termination of the pro se party's access as a Filing User will automatically occur at the close of the case.
- (5) A pro se party (non-prisoner) may consent to receive service of documents and NEFs to the extent and in the manner authorized by the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the Local Rules of this Court (Registered User). Consent must be given by completion of an "Authorization Form to Receive Documents Electronically" available on the Court's website. See Form A in the Forms Section of these Administrative Procedures. Consent may only be provided in a particular case and may be revoked by the pro se party at any time upon written notice to the Clerk's office. Sealed documents must continue to be served in a conventional manner.
- (6) A Filing User shall not allow another person to file a document using the users log-in and password, except for an authorized agent of the Filing User. Use of a Filing User's log-in and password by a staff member shall be deemed to be the act of the registered user. Once registered, the Filing User shall be responsible for all documents filed with his or her password.
- (7) Registration in CM/ECF as a Filing User or a Registered User constitutes consent to service of all documents by electronic means as provided in these procedures and in accordance with the Federal Rules.
- (8) An attorney whose mailing address, telephone number, or fax number has changed from the original Attorney Registration Form shall notify the Clerk's Office in writing. The Clerk's Office will update the CM/ECF system accordingly. If that attorney has active cases pending with the Court, the attorney shall send a copy of the notice to all other counsel and/or parties in each active case.
- (9) All pro se parties whose mailing address has changed from the time of the case opening must file a Notice of Change of Address with the Clerk's Office. Once filed, they shall serve a copy of the Notice on all other counsel and/or parties in their case. *See* Local Rule 11.1.

- (10) After registering, Filing Users may change their passwords. If a Filing User believes that the security of an existing password has been compromised and that a threat to the system exists, the Filing User shall change his or her password immediately.

C. Filing and Service of Civil Case Opening Documents

- (1) **New cases are deemed filed the day the Clerk's Office receives the complaint accompanied by either a completed *In Forma Pauperis* Application or the required filing fee.**
- (2) **Except** for cases requesting to be placed under seal, cases shall be filed electronically using the CM/ECF system with filing fees being paid online (i.e., using a credit card or debit card with a credit card symbol) contemporaneously with the electronic case opening via the pay.gov application. The pay.gov link will appear when docketing the case initiating event (i.e., complaint, notice of removal, etc.)
- (3) Except for duplicate payments, the Clerk's Office will not make any filing fee refunds without an order from the Court. Counsel must move for a refund (using the CM/ECF event "Motion For Refund of Fees Paid Electronically") and attach a proposed order. If a duplicate payment is made during case opening, contact the Clerk's Office immediately. Once verified by the Clerk's Office, a refund will be initiated.
- (4) When filing a case with a motion for a temporary restraining order (TRO), the filing attorney shall notify the Clerk of Court by telephone that a TRO will be filed. The filing attorney should be prepared to appear in person at the Greensboro or Winston-Salem Courthouse should the Court request an immediate hearing. The filer shall submit via e-mail to the Clerk at clerk@ncmd.uscourts.gov WordPerfect or Word versions of **any proposed order, including the TRO and preliminary injunction.**
- (5) When filing a case that is related to another case in this district, the filing attorney shall disclose the related case when prompted in CM/ECF.
- (6) If a case cannot be filed electronically due to technical difficulties, please refer to Section P of these Administrative Procedures. Problems with the online credit card program (Pay.gov) can be addressed by calling Pay.gov at 1-800-624-1373. If you are unable to docket the complaint or notice of removal after two attempts in one hour increments after 10:00 a.m. that day, you may e-mail the complaint in PDF format to newcases@ncmd.uscourts.gov. **Please contact the Clerk's**

Office at 336-332-6000 after doing so. Filing users are cautioned that, 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).

- (7) Counsel should complete the summons (form is located on the Court's website under the Forms tab) in Adobe® interactive format (located in our forms directory at our website) and e-mail it to newcases@ncmd.uscourts.gov. The Clerk's Office will electronically issue the summons(es) and e-mail them to the attorney who initiated the action. They should be printed for service. Filing Users will receive a NEF that summons have issued. Because Federal Rule of Civil Procedure 5(b) does not permit electronic service of process for purposes of obtaining personal jurisdiction, service of process must be performed in the traditional manner in accordance with the Federal Rules.

D. Electronic Filing

- (1) Electronic transmission of a document to the CM/ECF system, together with the transmission of a Notice of Electronic Filing (NEF) from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and constitutes entry of the document on the docket maintained by the Clerk of Court pursuant to Rules 58 and 79 of the Federal Rules of Civil Procedure and Rules 49 and 55 of the Federal Rules of Criminal Procedure.
- (2) A document filed electronically shall be deemed filed at the time and date stated on the NEF received from the Court.
- (3) A document will be deemed timely filed if filed prior to midnight Eastern Standard Time. However, if the time of day is of the essence, the assigned judge may order that a document be filed by a time certain.
- (4) If filing a document requires leave of the Court, such as an amended complaint, the attorney shall attach the proposed document as an attachment to the motion according to procedures in Section K of these Administrative Procedures. If the Court grants the motion, the order may direct the attorney to file the document electronically with the Court.
- (5) The Clerk's Office shall not maintain an official paper Court file in any case begun after the effective date of these procedures except as otherwise provided in these procedures. The official Court record shall be the electronic file maintained on CM/ECF. The official record shall include any conventional documents or exhibits filed in accordance with these procedures.
- (6) All pleadings and documents filed electronically shall be transmitted in the form prescribed by Rule 10(a) of the Federal Rules of Civil Procedure and Local Rule 7.1 of this Court. All pleadings filed electronically should, when possible, be

titled in accordance with the approved dictionary of civil or criminal events of the CM/ECF system of this Court.

E. Service of Electronically Filed Documents

- (1) Whenever a pleading or other document is filed electronically, the CM/ECF system will automatically generate and send a NEF to all Filing and Registered Users. The user filing the document shall retain a paper or digital copy of the NEF, which shall serve as the Court's date-stamp and proof of filing.

If a document is filed electronically under seal, the Filing User can select applicable parties of record to receive the NEF and access the related document. To view a sealed document from the NEF, the Filing User who has been given access must enter their CM/ECF (not PACER) login ID and password. Registered Users do not have access to view sealed documents in CM/ECF. Filing Users who have not been selected for document access in CM/ECF, or a pro se party to the case (including Registered Users), must be served a paper copy of a sealed document in a conventional manner.

- (2) Parties who have not yet registered as a Filing User and pro se litigants who have not registered as a Registered User shall be served a paper copy of any electronically filed pleading or other document in accordance with the provisions of Rule 5 of the Federal Rules of Civil Procedure. The filing party may include the "Notice of Electronic Filing" to provide the recipient with proof of the filing. See Form C in the Forms Section of these Administrative Procedures for format of certificate of service that should be used.
- (3) Transmission of the NEF shall constitute service of the filed document and shall be deemed to satisfy the requirements of Rules 5(b)(2)(D) and 77(d) of the Federal Rules of Civil Procedure, Rule 49(b) of the Federal Rules of Criminal Procedure, and Local Rule 5.3 (b)(2).
- (4) All documents filed using the CM/ECF system shall include a certificate of service identifying the manner in which the service on each party was accomplished. A sample certificate of service form is attached as Form B in the Forms Section of these Administrative Procedures.
- (5) A filer who is permitted to hand deliver a document to the Clerk's Office for scanning and uploading to the System must serve conventional copies on all Non-Registered Parties to the case.

F. Deadlines

Filing documents electronically does not in any way alter any filing deadlines. All electronic transmissions of documents must be **completed** prior to midnight, Eastern Standard Time, in order to be considered timely filed that day. For example, a filing procedure commenced at 11:58 p.m. on March 1, but completed on March 2 at 12:03 a.m. will be considered filed on March 2. The NEF will note the official date and time of filing. Where a specific time of day deadline is set by Court order or stipulation, the electronic filing must be completed by that time.

G. Special Filing Requirements and Exceptions

- (1) The following documents **shall be filed conventionally**.
 - (a) All handwritten pleadings;
 - (b) Sealed and Qui Tam Cases;
 - (c) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. § 2254 proceedings;
 - (d) Consent to Proceed before Magistrate Judge.
 - (e) All pleadings and documents filed by pro se litigants (prisoner and non-prisoner);
 - (f) The charging document in a criminal case, such as the complaint, indictment, and information, as well as the criminal synopsis form;
 - (g) Applications/Affidavits for search and arrest warrants and related papers;
 - (h) CJA 7 (Order Terminating Appointment of Counsel,
 - (i) Fed. R. Crim. P.20 and Fed. R. Crim. P. 5 papers received from another court;
 - (j) Any pleading or document in a criminal case containing the signature of a defendant, such as Appearance Bonds, Orders Setting Conditions of Release, a Waiver of Indictment or Plea Agreement, letters from a defendant requesting specific relief;
 - (k) Petitions for violations of supervised release;
 - (l) All pleadings and documents filed by attorneys who have obtained leave of the Court to file in paper form; and
 - (m) Rule 4 executed service of process documents from the United States Marshal Service.
- (2) Pretrial service reports are electronically filed by the United States Probation Office under seal. The filer shall authorize access to the applicable parties who shall receive a NEF. Upon the filing of a Waiver of Detention Hearing or at the conclusion of the detention hearing the Clerk's Office shall reset access to the documents to court users only.

- (3) All Presentence Investigation Reports, Objections to Presentence Investigation Reports, and Position of Parties with Respect to Sentencing Factors Reports are electronically filed under seal. The filer shall authorize access to the applicable parties who shall receive a NEF.
- (4) Psychiatric and psychological reports received by the Clerk's Office in criminal cases are scanned, and then filed under seal, unless ordered by the Court.
- (5) Settlement position papers, when required for cases on the Master Calendar and requested, shall be e-mailed to the trial Judge's e-mail address listed in Section L of these Administrative Procedures.
- (6) A document subject to an existing sealing order or sealing statute shall be filed electronically under seal. A motion to file any document under seal shall be filed pursuant to Local Rule 5.4 and in accordance with the Court's Sealed Document Guidance located on the Court's website. A proposed order shall be submitted to the appropriate Judge's e-mail address listed in Section L of these Administrative Procedures. In addition, a L.R. 5.4(d) Checklist and Summary Chart must be submitted to the assigned District Judge's ECF mailbox within 3 business days and if not already filed, a L.R. 5.5 Report should be filed within 10 days pursuant to L.R. 5-4 and the Sealed Document Guidance located on the Court's website.

All parties must bear ultimate responsibility for ensuring that information is properly redacted and/or sealed. Refer to Section E of these Administrative Procedures for service of sealed documents.

H. Hyperlinks in Documents

- (1) Electronically filed documents may contain the following types of hyperlinks:
 - a. Hyperlinks to other portions of the same document;
 - b. Hyperlinks to a document filed in the Court's CM/ECF system;
 - c. Hyperlinks to a document filed in another court's CM/ECF system;
 - and
 - d. Hyperlinks to a location on the Internet that contains a source document for citation.
- (2) Hyperlinks to personal websites, inclusive of law firms, are forbidden.
- (3) The Court is appreciative of attorneys using hyperlinks so that their citations may be more easily referenced. Hyperlinks allow immediate access by the reader to the referenced materials saving time and providing pinpoint access to pertinent information.

- (4) Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of a filed document in accordance with Local Rule 7.2. Neither a hyperlink, nor any site to which it refers, must be considered part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filed document.
- (5) A user cannot access a hyperlink to a restricted document (e.g., a private entry, sealed document) unless the user has appropriate permissions.

The Court accepts no responsibility for, and does not endorse, any product, organization, or content at any hyperlinked site, or at any site to which that site may be linked. The Court accepts no responsibility for any availability or functionality of any hyperlink.

I. Signature

- (1) Attorneys. The user log-in and password required to submit documents to the CM/ECF system shall serve as that user's signature for purposes of Fed. R. Civ. P. 11 and for all other purposes under the Federal Rules of Civil and Criminal Procedures and the Local Rules of this Court. All electronically filed documents must include a signature block and must set forth the attorney's name, address, telephone number, bar number and e-mail address and, for criminal cases, whether the attorney was appointed or retained in the case. The name of the Filing User under whose login and password the document is submitted must be preceded by a “/s/” and typed in the space where the signature would otherwise appear. The correct format for an attorney signature is as follows:

/s/ Judith Attorney
Judith Attorney Bar Number: 12345
Attorney for (Plaintiff/Defendant)
(for criminal cases, note if appointed or retained)
ABC Law Firm
123 South Street
Greensboro, North Carolina 27401
Telephone: (336) 123-4567
E-mail: judith_attorney@law.com

Any party challenging the authenticity of an electronically filed document or the attorney's signature on that document must file an objection to the document within fourteen days of receiving the NEF.

- (2) Special Appearance: Attorneys who are members in good standing of the bar of the highest court of any state or the District of Columbia may practice in this

Court for a particular case in association with a member of the bar of this Court. See LR 83.1(d). A motion is not required to appear by special appearance.

An attorney who wants to appear by special appearance:

- (a) Shall register as a filing user with the Court's CM/ECF system by completing the Electronic Filing Attorney registration form that is located on the Court's website under the CM/ECF tab. See LR 5.3(c) and Form D in the Forms Section of these Administrative Procedures.
- (b) Shall electronically file a notice of appearance and identify the associated member of the bar of this Court.
- (c) Will not receive electronic notifications until the attorney is registered as a Filing User with the Court's CM/ECF system and has made a Notice of Appearance in the case.

By completing an Electronic Filing Attorney registration form, entering an appearance, and complying with Section I(1) of these Administrative Procedures, an attorney agrees to the requirements set forth in Local Rule 83.1(d) governing special appearances.

- (3) Non-Attorney Signature, Generally. If the document requires the signature of a non-attorney, the filing party or the Clerk's Office shall scan the original document, and then electronically file it on the CM/ECF system. If an attorney believes a document with original signatures has intrinsic value, the attorney shall retain the original document until two (2) years after the expiration of the time for filing a timely appeal of a final judgment or decree, or after receipt by the Clerk of Court an order terminating the action on appeal.
 - (a) The electronically filed document as it is maintained on the Court's servers shall constitute the official version of that record. The Clerk's Office will discard all original documents received for filing two months after they are scanned and uploaded to the system.
 - (b) 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 fourteen days of receiving the NEF.
- (4) Multiple Signatures. The filing user of any document requiring more than one signature (e.g., pleadings filed by visiting lawyers, stipulations, joint status reports) must list thereon all the names of other signatories by means of "/s/" block for each pursuant to Local Rule 5.3(4). By submitting such a document, the filing attorney certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filing attorney has their actual authority to submit the document electronically. The filing attorney shall retain any records evidencing this

concurrency for future production, if necessary, until two (2) years after the expiration of the time for filing a timely appeal of a final judgment or decree, or after receipt by the Clerk of Court an order terminating the action on appeal. A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures must file an objection to the document within fourteen days of the date on the Notice of Electronic Filing.

- (5) Affidavits. Except as provided in Section G (2) (d), affidavits shall be filed electronically. The filing party shall scan the original signed affidavit, then electronically file it in the CM/ECF system. The filing attorney shall retain the original for future production, if necessary, for two (2) years after the expiration of the time for filing a timely appeal of a final judgment or decree, or after receipt by the Clerk of Court an order terminating the action on appeal.

J. Privacy

Unless otherwise ordered by the Court, pursuant to Federal Rules of Civil Procedure 5.2 and Federal Rules of Criminal Procedure 49.1, the filing attorney shall modify certain personal data identifiers in pleadings and other papers as follows:

- (1) Names of minor children: Use of the minors' initials only;
- (2) Social Security numbers: Only the last four digits shall be used;
- (3) Dates of birth: Only the year of birth shall be used;
- (4) Financial account numbers: Identify the type of account and the financial institution, but use only the last four numbers of the account number; and
- (5) Home addresses (criminal cases only): Only the city and state shall be used.

It is not the responsibility of the Clerk's Office to review each document to determine if pleadings have been modified and are in the proper form. All parties bear ultimate responsibility for ensuring that information is properly redacted and/or sealed. Refer to Section E (1) for service of sealed documents.

K. Attachments to Filings and Exhibits (other than hearing and trial exhibits)

(1) GENERALLY

- (a) Attachments to filings and exhibits must be filed in accordance with the Court's CM/ECF User's Manual, unless otherwise ordered by the Court.
- (b) A Filing User must submit as attachments only those excerpts of the referenced documents that are directly germane to the matter under

consideration by the Court. Excerpted material must be clearly and prominently identified as such. Users who file excerpts of documents do so without prejudice to their right to timely file additional excerpts or the complete document, as may be allowed by the Court. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane.

- (c) Filing Users shall not attach as an exhibit any pleading or other paper already on file with the Court in that case, but shall merely refer to that document.
- (d) All exhibits and attachments, whether filed electronically or conventionally, must contain on their face a prominent exhibit number or exhibit letter.
- (e) Attachments and exhibits must be identified with a clear and complete description of the document. (Example: Exhibit 1 is insufficient. Affidavit of James Johnson would meet the requirement).
- (f) If one or more attachments or exhibits to a motion, brief, or other electronically filed documents are being submitted conventionally pursuant to Section K(1)(a), the motion, brief, or other document must contain a notice of that fact in its text. For example:

(Exhibits 1, 2 and 3 to this Motion are filed electronically; Exhibits 4 and 5 are filed conventionally)

or

(All exhibits to this brief are filed in paper form.)

- (g) For guidance on tabbing and submission of working copies of **any** pleading which has an appendix and/or exhibits, see Local Rule 5.1 and the Court's Judicial Preferences set forth on the Court's website.
- (2) **EVIDENCE NOT IN SUPPORT OF A MOTION.** This section applies to exhibits other than those submitted in support of a motion (example: an attachment to a complaint). Exhibits submitted in support of a motion are governed by Section K (3) of these procedures.
- (a) A Filing User should scan or electronically image a paper exhibit and submit the exhibit as a PDF file as an attachment to the main pleading.
 - (b) The Filing User is required to verify the readability of scanned

documents before filing them electronically with the Court.

- (c) A party may conventionally submit exhibits which are not available in electronic form. See Form E or F in the Forms Section of these Administrative Procedures. Exhibits submitted conventionally shall be served on other parties by the Filing User.
- (3) **EVIDENCE IN SUPPORT OF A MOTION.** In general, evidence in support of a motion should not be filed conventionally, but rather, be filed electronically.
- (a) If possible, however, a filing party should electronically image, i.e., “scan,” a paper exhibit that is less than two megabytes (approximately forty-five pages of PDF text), and submit the exhibit as a PDF file. Because PDF files containing scanned documents utilize considerably more space on the System than PDF files containing electronically generated documents, filing parties may submit PDF files containing scanned documents of more than two megabytes only if they are filed in separate two-megabyte segments.
 - (b) The Filing User is required to verify the readability of scanned documents before filing them electronically with the Court.
 - (c) A party submitting evidentiary materials in conventional format shall also file in conventional format an index of evidence listing each item of evidence then being filed and identifying the motion to which it relates.
 - (d) Copies of conventionally filed supporting materials shall be served on other parties as if not subject to electronic filing procedures.

L. Orders and Judgments

- (1) All orders, decrees, judgments and proceedings of this Court will be filed in accordance with these rules which constitute filing of the document for all purposes of the Federal Rules of Civil Procedure and constitute entry of the document on the docket maintained by the Clerk of Court pursuant to Rules 58 and 79 of the Federal Rules of Civil Procedure and Rules 49 and 55 of the Federal Rules of Criminal Procedure. The assigned Judge or the Clerk’s Office shall electronically file all signed orders. Any order signed electronically has the same force and effect as if the Judge had affixed the Judge’s signature to a paper copy of the order and it had been entered on the docket conventionally.
- (2) Proposed orders may be submitted as outlined below:

- (a) In accordance with Local Rules 7.3(j) and 77.2, a moving party shall submit to the District Judge after filing a motion for which no supporting brief is required, a proposed order granting the motion and setting forth the requested relief. The proposed order shall be e-mailed to the assigned District Judge at the address listed below.

If the action is assigned to a Magistrate Judge upon consent pursuant 28 U.S.C. § 636(c), the proposed order shall be e-mailed to the assigned Magistrate Judge.

NOTE: Please see Rule 29 of the Federal Rules of Civil Procedure for the discovery related extensions of time, upon written stipulation of counsel, that do not require Court approval.

- (b) A copy of proposed orders should be electronically submitted with the motion as an attachment to the motion. The motion must be docketed prior to submitting the proposed order to the assigned Judge, and the e-mail for the proposed order must refer to the resulting docket entry number for the motion.
- (c) All proposed orders must be submitted in an editable format compatible with WordPerfect® or Word®. District Judges and Magistrate Judges will not accept proposed orders in PDF format.
- (d) A proposed order should be e-mailed to the assigned District Judge or Magistrate Judge as defined below. The e-mail should be entitled “Proposed Order” and contain the case number. For example, “Proposed Order 1:04 CV 567.”

The District Judge/Magistrate Judge e-mail addresses are as follows:

JOsteen@ncmd.uscourts.gov

JSchroeder@ncmd.uscourts.gov

JEagles@ncmd.uscourts.gov

JBiggs@ncmd.uscourts.gov

JTilley@ncmd.uscourts.gov

JBeaty@ncmd.uscourts.gov

JAuld@ncmd.uscourts.gov

JPeake@ncmd.uscourts.gov

JWebster@ncmd.uscourts.gov

If the action has no assigned Judge please use:

unassignedjudge@ncmd.uscourts.gov

- (3) When mailing paper copies of an electronically filed order to a Non-Registered Party, the Clerk's Office will mail a copy of the applicable docketed order containing the electronic footer as proof of filing.
- (4) The assigned Judge or the Clerk's Office, if appropriate, may grant routine orders by a text-only entry which shall constitute the Court's only order on the matter. In such cases, no PDF document will be issued; the text-only entry shall constitute the Court's only order on the matter. These text-only orders shall have the same force and effect as if the Judge had affixed the Judge's signature to a paper copy of the order and the order had been entered on the docket conventionally. The CM/ECF system will generate a NEF as described in Section E (1) of these procedures. The Clerk's Office will mail a paper copy of the text-only order to Non-Registered Parties in the case.
- (5) Proposed orders on motions for enlargements of time made pursuant to Local Rule 77.2, requests for entry of default and proposed temporary restraining orders in new cases should be filed as an attachment in a format compatible with WordPerfect® or Word® and shall be emailed to:

clerk@ncmd.uscourts.gov

The motion must be docketed prior to submitting the proposed order to the Clerk, and the proposed order must refer to the resulting docket entry number for the motion. No other documents or pleadings may be sent to the Clerk's Office at this e-mail.

M. Correcting Docket Entries

- (1) Once a document is submitted and becomes part of the case docket, corrections to the docket are made only by the Clerk's Office. The CM/ECF system will not permit the filing party to make changes to the document(s) or the docket entry in error once the transaction has been accepted.
- (2) A document incorrectly filed in a case may be the result of posting the wrong PDF file to a docket entry, selecting the wrong document type from the menu, or

entering the wrong case number and not correcting the error before the transaction is completed. **The filing party should not attempt to refile the document.**

As soon as possible after an error is discovered, the filing party should contact the Clerk's Office with the case number and docket entry number for which the correction is being requested. If appropriate, the Court will make an entry indicating that the document was filed in error. The filing party will be advised if the document needs to be re-filed.

N. Transcripts

- (1) Proceedings of this Court. Transcripts prepared by court reporters shall be filed electronically and are available to the public electronically pursuant to guidelines established by the Judicial Conference of the United States.
- (2) Transcripts from other courts. A transcript of a proceeding of another Court shall be filed electronically in PDF, if available, otherwise in paper.
- (3) Depositions. Depositions shall be filed electronically using ECF only if filed in support of a dispositive motion or ordered by the Court. When so filed, it should be filed in accordance with Section K (3).

O. Facsimile Transmissions

No pleadings or other documents shall be submitted to the Court for filing by facsimile transmission without prior permission from the Court.

P. Technical Failures

The Clerk's Office shall deem the Court's 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. Eastern Standard Time that day. Known systems outages will be posted on the Court's web page, if possible. The initial point of contact for any Filing User experiencing difficulty filing a document electronically should be the Clerk's Office.

The telephone numbers are:

Clerk's Office	336-332-6000
Toll free	1-800-659-2212

- (1) If the Court's CM/ECF site experiences a technical failure, a Filing User may

submit documents to the Court that day in an alternate manner provided that the documents are accompanied by the Filing User's affidavit explaining the reason for not filing the document electronically. See Form E in the Forms Section of these Administrative Procedures.

- (2) The following methods are acceptable alternate means for filing documents in the case of a technical failure:
 - (a) via electronic mail in a PDF attachment sent to the e-mail address for technical failures (techfailures@ncmd.uscourts.gov); or
 - (b) in person, by bringing the document to the Clerk's Office on paper.
- (3) A filing user, whose filing is untimely as the result of a technical failure of the Court's CM/ECF system, may seek appropriate relief from the Court. However, Filing Users are cautioned that, 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).
- (4) Problems with the Filing User's system, such as Internet Service Provider ("ISP"), hardware or software problems, will not constitute a technical failure under these Administrative Procedures nor excuse an untimely filing. A Filing User who cannot file documents electronically because of a problem on the Filing User's system shall file the documents conventionally along with an affidavit explaining the reason for not filing the documents electronically. Please see Form D in the Forms Section of these Administration Policies.

Q. Access to Electronically Stored Documents

Electronic access to the electronic docket and documents filed in the CM/ECF system is available for viewing by the public at no charge at the Clerk's Office in Greensboro during regular business hours of 8 a.m. – 5 p.m. Eastern Standard Time. A copy fee for an electronic reproduction is required in accordance with 28 U.S.C. § 1930. Remote electronic access to the CM/ECF system for viewing purposes is limited to subscribers to the Public Access to Court Electronic Records ("PACER") system (www.pacer.gov). The Judicial Conference of the United States has ruled that a user fee will be charged for remotely accessing certain detailed information, such as filed documents and docket sheets in civil cases, but excluding review of calendars and similar general information. If you are entitled to service of a document, you are entitled to one free viewing of the document by clicking on the document number on the Notice of Electronic Filing.

The public may review at the Clerk's Office filings that have not been sealed. Except for Social Security cases, the public may access civil files in ECF at the Court's Internet site (www.ncmd.uscourts.gov) by obtaining a PACER log-in and password. Access to

documents filed in Social Security cases shall be restricted to the attorneys of record.

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**PRO SE (NON PRISONER)
AUTHORIZATION FORM TO RECEIVE DOCUMENTS ELECTRONICALLY**

Pursuant to Fed. R. Civ. P. 5(b), Fed. R. Civ. P. 77(d), and Local Civil Rule 5.3(b)(2), documents may be served through the Court’s transmission facilities by electronic means. Documents that are not permitted to be served electronically are pleadings that are to be served with process under Fed. R. Civ. P. 4.

I _____ hereby consent to receive service of documents and notices of electronic filing (NEFs) via the Court's Electronic Filing System to the extent and in the manner authorized by the above rules and waive the right to receive notice by first class mail pursuant to Fed. R. Civ. P. 5(b)(2)(D) and Fed. R. Civ. P. 77(d). I will promptly notify the Court in writing if there is a change in my personal data, such as name, address, telephone number and/or e-mail address. I will also promptly notify the Court in writing of my request to cancel this electronic service. I understand that this authorization to receive documents electronically automatically ceases upon expiration of the time for filing an appeal of a final judgment or decree.

Pro se parties who have consented to receive documents electronically will be sent a Notice of Electronic Filing (NEF) by e-mail. Upon receipt of the notice, pro se parties are permitted one “free look” at the document by clicking on the hyperlinked document number. The one “free look” will expire 15 days from the date the notice was sent. After the “free look” is used or expires, the document can only be accessed through PACER (Public Access to Court Electronic Records). It is recommended that pro se parties create a PACER account by visiting the PACER web site at <https://pacer.gov>. PACER will allow an individual to view, print, and download documents for a fee. Parties can also obtain records through PACER, without setting up an account, by accessing the public terminals located in the Clerk’s Office. Parties are able to view documents for free; however, any printing of documents will incur a fee.

My e-mail address is: _____

My case number is: _____ (One case number per Authorization Form)

Signature of Pro Se Party

Mailing Address

City, State, Zip Code

Telephone Number

Date: _____

SAMPLE FORMAT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Plaintiff,
Vs
Defendant.
Case No.

CERTIFICATE OF SERVICE

I hereby certify that on (Date), I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and have verified that such filing was sent electronically using the CM/ECF system to the following: (Name of Party), and I hereby certify that I have mailed the document to the following non-CM/ECF participants: (Name of Party/Attorney and Address)

Respectfully submitted,

/s/[Signature of Password Registrant]
Name of Password Registrant Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
Email: xxx@xxx.xxx
[attorney bar number, if applicable]

Form C

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

)	
)	
Plaintiff)	
)	Cases No.
v.)	
)	
Defendant(s))	

CERTIFICATE OF SERVICE

I hereby certify that on (Date) , I conventionally filed the foregoing with the Clerk of the Court and have verified that such filing was sent manually to the following: (Name of Party/Attorney and Addresses).

This the day of ,

Respectfully submitted,

Signature of Filing Party
Name of Filing Party
Address
City, State, Zip Code
Phone:
Email:

Form D

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
ELECTRONIC FILING ATTORNEY REGISTRATION FORM**

This form is used to register for an account on the Middle District of North Carolina Electronic Filing System. Registered attorneys will have privileges to electronically submit documents and to view the electronic docket sheets and documents. By registering, attorneys consent to receiving electronic notice of filings as well as agreeing to file all documents electronically through the system. The following information is required for registration:

PLEASE TYPE

Mr. / Mrs. / Ms. (circle one)

First Name: _____ Middle Initial: _____

Last Name: _____ If appropriate circle one: Senior / Junior / II / III

Bar ID Number: _____

Are you currently in good standing to practice in the Middle District of North Carolina? (If registering to file by special appearance, skip this question.) Yes _____ No _____

Firm Name: _____

Address _____

City: _____ State: _____ Zip Code: _____

Have you relocated to this address within the past year? Yes _____ No _____

Voice Telephone Number: _____ Fax Number: _____

Internet E-Mail Address: _____

Attorneys seeking to file documents electronically must be admitted to practice in the United States District Court for the Middle District of North Carolina, unless you are appearing by special appearance. If you are an attorney appearing by special appearance, LR 83.1(d) applies.

Other Courts of Registration for Electronic Filing System: _____

By submitting this registration form, the undersigned agrees to abide by all Court rules, orders and policies and procedures governing the use of the electronic filing system. The undersigned also consents to receiving notice of filings pursuant to Fed. R. Civ. P. 5(b) and 77(d) and Fed. R. Crim. P. 49(b)-(d) via the Court's electronic filing system as well as agreeing to file all documents electronically. The combination of user id and password will serve as the signature of the attorney filing the documents. Attorneys must protect the security of their passwords and immediately notify the Court if they learn that their password has been compromised by an unauthorized user.

Signature of Registrant

Date

Submit completed Registration Form to: John S. Brubaker, Clerk
United States District Court
Attention: ECF Attorney Registration
Room 401
324 W. Market Street
Greensboro, NC 27401

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Plaintiff,
vs.
Defendant.
Case No.

NOTICE OF MANUAL FILING

Please take notice that [Plaintiff/Defendant, Name of Party] has manually filed the following document or item

[Title of Document or Object].

This document has not been filed electronically because:

- the document or item cannot be converted to an electronic format
Plaintiff/Defendant is excused from filing this document or item by Court order.

The document or item has been manually served on all parties.

(Date)

Respectfully submitted,

/s/[Signature of Password Registrant]
Name of Password Registrant Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
Email: xxx@xxx.xxx
[attorney bar number, if applicable]

Form F

S A M P L E F O R M A T

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

)	
)	
Plaintiff(s),)	
)	
Vs)	Case No.
)	
)	
Defendant(s).)	

NOTICE REGARDING EXHIBIT ATTACHMENT

Exhibit _____ which is an attachment to _____
is in paper form only and is being maintained in the case file in the Clerk’s Office.

(Date)

Respectfully submitted,

/s/ [Name of Password Registrant]
Name of Password Registrant
Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
Email: xxx@xxx.com

SAMPLE FORMAT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Plaintiff,
vs
Defendant.
Case No.

DECLARATION OF TECHNICAL DIFFICULTIES

Please take notice that [Plaintiff/Defendant, Name of Party] was unable to file the attached [Title of Document] in a timely manner due to Court technical difficulties. The deadline for filing the [Title of Document] was [Filing Deadline Date]. The reason(s) that I was unable to file the [Title of Document] in a timely manner and the good faith efforts I made prior to the filing deadline to both file in a timely manner and to inform the Court and the other parties that I could not do so are set forth below.

[Statement of reasons and good faith efforts to file and to inform (including dates and times)]

I declare under penalty of perjury that the foregoing is true and correct.

(Date)

Respectfully submitted,

/s/[Signature of Password Registrant]
Name of Password Registrant Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
Email: xxx@xxx.xxx
[attorney bar number, if applicable]