

ADMINISTRATIVE PROCEDURES FOR FILING, SIGNING, AND VERIFYING



PLEADINGS AND PAPERS BY ELECTRONIC MEANS

December 2015 (Fourth Edition)

Table of Contents

| | |
|---|----|
| Introduction | 2 |
| A. DEFINITIONS | 3 |
| B. GENERAL INFORMATION | 4 |
| C. REGISTRATION | 5 |
| D. ELECTRONIC FILING OF DOCUMENTS | 6 |
| 1. General Procedures | 6 |
| 2. Civil Case Initiating Documents | 7 |
| 3. Summons | 7 |
| 4. Pro Se Litigation | 8 |
| 5. Social Security Cases | 8 |
| E. SERVICE OF ELECTRONICALLY FILED DOCUMENTS | 9 |
| F. DEADLINES | 10 |
| G. TITLE OF DOCKET ENTRIES | 10 |
| H. SPECIAL FILING REQUIREMENTS AND EXCEPTIONS | 10 |
| I. ATTACHMENTS AND EXHIBITS TO FILINGS | 11 |
| J. TRANSCRIPTS | 12 |
| K. SIGNATURES | 13 |
| 1. Attorney Signature | 13 |
| 2. Multiple Attorney Signatures | 14 |
| L. ORDERS AND JUDGMENTS | 14 |
| M. PRIVACY | 15 |
| 1. Redacted Documents | 15 |
| 2. Unredacted Documents | 16 |
| 3. The responsibility for redacting personal data identifiers | 16 |
| N. DOCUMENTS TO BE FILED UNDER SEAL | 16 |
| O. PUBLIC ACCESS | 17 |
| P. CONVENTIONAL COPIES AND CERTIFIED COPIES | 17 |
| Q. RETENTION | 17 |
| R. FEES PAYABLE TO THE CLERK | 18 |
| S. CORRECTING DOCKET ENTRIES | 18 |
| T. TECHNICAL FAILURE | 19 |
| APPENDIX A | 20 |
| SAMPLE FORMATS - CERTIFICATE OF SERVICE | 20 |
| SCHEDULE OF REVISIONS TO ADMINISTRATIVE PROCEDURES | 21 |

Introduction

To the extent these *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means* (“electronic filing procedures”) conflict with the Court’s existing Local Rules, the Local Rules take precedence. The Clerk or any judge of this court may deviate from these electronic filing procedures in specific cases without prior notice, if appropriate in the exercise of discretion, considering the need for the just, speedy, and inexpensive determination of matters pending before the court. The Court may also amend these electronic filing procedures at any time without prior notice and will post the revised versions to the Court’s web page at www.vawd.uscourts.gov.

The Court and Clerk’s Office are committed to making the continued use of CM/ECF as convenient and easy to use as possible. If you have any comments or suggestions, please e-mail them to: ecf@vawd.uscourts.gov.

Michael F. Urbanski
Chief United States District Judge

Julia C. Dudley
Clerk of Court

ADMINISTRATIVE PROCEDURES FOR FILING, SIGNING, AND VERIFYING PLEADINGS AND PAPERS BY ELECTRONIC MEANS

A. DEFINITIONS

1. “**Case Management/Electronic Filing System**” (CM/ECF) refers to the court’s automated system that receives documents filed in electronic form. The program was developed for the Federal Judiciary by the Administrative Office of the United States Courts. It is also referred to as the “**Electronic Case Filing System**” (ECF).
2. “**Documents**” are all pleadings, memoranda, briefs, exhibits, orders, transcripts of depositions actually used in support of motions or at trial, transcripts of proceedings required to be filed, and other writings filed in the court’s case file by the parties or the court.
3. “**Electronic Filing**” means uploading a document directly from the filing user’s computer using CM/ECF to file that document in the court’s case file. Sending a document or pleading to the Court via email does not constitute “electronic filing.”
4. “**Filing User**” is an individual who has a court-issued login and password to file documents electronically.
5. “**Notice of Electronic Filing**” (NEF) is the e-mail notice automatically generated by the CM/ECF system at the time a document is filed with the system, setting forth the time of filing, the name of the party and attorney filing the document, the type of document, the text of the docket entry, the name of the party and/or attorney receiving the notice, and electronic links (hyperlinks) to the filed document and the docket report. The NEF is confirmation of the electronic filing.
6. “**Public Access to Court Electronic Records**” (PACER) is an automated system that allows an individual to view, print and download court docket information and remotely accessible case records over the Internet.
7. “**Portable Document Format**” (PDF). A document created with a word processor or a scanned paper document must be converted to portable document format to be filed electronically with the Court. Converted files contain the extension “.pdf”. The program takes a “picture” of the original document and allows anyone to open the converted document across a broad range of hardware and software, with layout, format, links and images intact.
8. “**Technical Failure**” is defined as a malfunction of the Court’s hardware, software, and/or telecommunications facility which results in the inability of a filer to submit a

document electronically. Technical failure does not include the malfunctioning of a filer's equipment or internet connection.

B. GENERAL INFORMATION

1. All documents submitted for filing in this district in criminal and civil cases, regardless of the original filing date of the case, shall be filed electronically using the Electronic Case Filing system (ECF) or, if filed conventionally¹, will be scanned and uploaded to ECF, unless otherwise permitted by these administrative procedures or otherwise authorized by the assigned judge.
2. The official court record for all cases filed after February 9, 2004, will be the electronic file maintained on the court's servers, together with any conventionally filed attachments and exhibits filed in accordance with these procedures, that are not converted to electronic format.
3. The Clerk's Office will not maintain a paper court file in any civil or criminal case commenced after February 9, 2004, except as otherwise provided herein. The court will not maintain a paper copy of the original document except as otherwise provided in these administrative procedures, or as otherwise required by law.
4. All members of the bar of this court, including any attorney admitted *pro hac vice*, must request a user login and password from the Clerk's Office and are required to submit documents electronically.
5. Notwithstanding the requirement contained in paragraph B.4. above, an attorney may, upon showing of good cause, be permitted by the assigned judge to submit documents conventionally. The assigned judge may withdraw that permission at any time during the pendency of a case and require the attorney to submit documents electronically using the court's CM/ECF system.
6. The Clerk's Office may discard any paper document after it has been uploaded to the CM/ECF system.
7. 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.
8. The Clerk's Office or any 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.

¹ As used in these administrative procedures, a "conventionally" filed or submitted document or pleading is one presented to the court or a party in paper or other non-electronic, tangible format.

9. A non-filing signatory or party who disputes the authenticity of an electronically filed document or the authenticity of the signature on that document must file an objection to the document within ten days of receiving the Notice of Electronic Filing.
10. The court may also amend these procedures at any time without prior notice.

C. REGISTRATION

1. Each attorney admitted to practice in the Western District of Virginia who is in good standing, including an attorney admitted *pro hac vice*, will be entitled to one CM/ECF system login identification and password. The login and password permit the attorney to participate in the electronic submission and retrieval of pleadings and other papers.
2. Each attorney must complete and sign an Attorney ECF Registration Form, a copy of which is on the court's web site at <http://www.vawd.uscourts.gov>.
3. All signed original Attorney Registration Forms must be mailed to the United States District Court, Office of the Clerk, 210 Franklin Road SW, Suite 540, Roanoke, Virginia 24011-2208, or delivered to any divisional Clerk's Office.
4. The Clerk's Office will e-mail login identification and password information to the attorney.
5. Non-incarcerated parties to a civil action who are proceeding pro se may be issued user login identifications and passwords and may be permitted to submit documents or pleadings electronically only with the approval of the judge assigned to their case. Once authorized by the court, pro se users will register in the same manner as provided in these procedures for an attorney. User login identifications and passwords of pro se users will only be functional in cases in which they have approval of the presiding judge.
6. Unrepresented incarcerated parties will not be permitted to submit documents or pleadings electronically.
7. Once registration is complete, a filing user may not withdraw from participation in the CM/ECF system except by order of the Court.
8. If a filing user believes that the security of an existing password has been compromised and that a threat to the CM/ECF system exists, the filing user must change his or her password immediately. In addition, filing users may change their passwords as they deem appropriate.

9. A filing user whose e-mail address, mailing address, telephone or fax number has changed from that of the original registration form must immediately file a notice of a change of address and serve a copy of the notice on all other parties in pending litigation with the filing user.
10. No attorney will knowingly permit or cause to permit his or her login identification and password to be utilized by anyone other than an authorized employee of his or her office. Pro se users will not allow another person to submit a document using their login and password.
11. Each registered attorney is responsible for all filings submitted with his or her login identification and password.
12. The login and password of an attorney constitutes a signature on the document being filed. The login and password of the filing attorney must match the attorney whose signature block appears on the document filed.
13. Registration constitutes the user's consent to service of all documents by electronic means as provided in these procedures and in accordance with Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim P. 49(e).

D. ELECTRONIC FILING OF DOCUMENTS

1. General Procedures

- a. The electronic transmission of a document to CM/ECF, together with the transmission of the Notice of Electronic Filing, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and constitutes entry of the document on the docket maintained by the Clerk pursuant to Fed. R. Civ. P. 58 and 70, and Fed. R. Crim. P. 55.
- b. All electronic transmissions of documents must be completed before midnight Eastern Time, in order to be considered timely filed that day. A document submitted electronically will be deemed filed by the filed-on date and time reflected on the Notice of Electronic Filing.
- c. E-mailing or faxing a document to the Clerk's Office or to the assigned judge will not constitute "electronic submission" of the document for filing.
- d. In civil and criminal cases, all motions, applications, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, or other documents in a criminal case which constitute the case file must be filed electronically

in CM/ECF except as otherwise provided by these administrative procedures.

2. Civil Case Initiating Documents

- a. Case initiating documents (complaints, petitions, or notices of removal, together with summons and civil cover sheets) may be submitted electronically in CM/ECF or sent by United States mail, similar means, or delivered in person to the Clerk's Office. The proper filing fee or "Application to Proceed without Prepayment of Fees and Affidavit" must accompany the documents. When submitted electronically, payment of the appropriate filing fees must be submitted via Pay.gov concurrent with filing the documents in CM/ECF.
- b. Attorneys submitting civil case initiating documents electronically must use the following case numbers ("XX" represents the last two digits of the current calendar year):

| | |
|---------------------------------|-------------|
| Abingdon Division cases: | 1:XXat99999 |
| Big Stone Gap Division cases: | 2:XXat99999 |
| Charlottesville Division cases: | 3:XXat99999 |
| Danville Division cases: | 4:XXat99999 |
| Harrisonburg Division cases: | 5:XXat99999 |
| Lynchburg Division cases: | 6:XXat99999 |
| Roanoke Division cases: | 7:XXat99999 |

- c. New cases are generally deemed filed the day the Clerk's Office receives the complaint and any required filing fee. Upon verification that the proper fee has been paid, or when an "Application to Proceed without Prepayment of Fees and Affidavit" has been filed, the Clerk's Office will assign a unique case number and file the documents in ECF. The submitting party will then receive a Notice of Electronic filing confirming the case has been filed. Upon good cause shown, the court may deem the case filed as of the date the case opening document was first received by the clerk's office or CM/ECF.
- d. Only case opening documents may be submitted using the case numbers listed in subsection b above. The only docket events that can be used to file case opening documents can be found on the Civil menu under "*Initial Pleadings for at-99999 Cases Only.*"

3. Summons

- a. A proposed summons may be filed electronically with the case initiating documents, filed electronically to the appropriate civil action, or submitted

in paper form to the clerk's office for issuance. The party requesting the summons must complete the top portion of the summons form and, if submitting the summons via United States mail, should also submit a self-addressed, stamped return envelope.

- b. For a proposed summons filed electronically with the case initiating documents or filed electronically to an existing civil case, the Clerk's Office will issue the summons by affixing an electronic seal and filing the summons to ECF. Upon receipt of the NEF, the requesting party is required to print copies of the electronic summons as needed for service. No paper summons will be mailed.
- c. For a proposed summons that is presented at the Intake Counter or received in the mail, the Clerk's Office will manually issue the summons, file to ECF, and return the original paper summons with raised court seal affixed to the requesting party.

4. Pro Se Litigation

- a. Unless authorized to file electronically by the judge assigned as provided in these procedures, pro se filers will file paper originals of all complaints, pleadings, motions, affidavits, briefs, and other documents which must be signed or which require either verification or an unsworn declaration under any rule or statute.
- b. The Clerk's Office will scan these original documents and file to the appropriate case in CM/ECF.
- c. When filing a document conventionally, if the filing party would like the Clerk's Office to return a file-stamped copy of the document, an additional copy of the document as well as a self-addressed, postage-paid envelope, must be provided at the time of filing. The postage must be enough to cover the mailing costs of the document.

5. Social Security Cases

Individual documents in Social Security review case files are accessible via PACER only by the attorneys of record in each case. Remote access by anyone other than counsel of record is limited to the docket sheet, any opinion, order, judgment, report and recommendation classified as an opinion or other disposition of the court. The case files will continue to be accessible by the public at the Clerk's Office public terminal.

- a. Absent a showing of good cause, all documents, including but not limited to all case initiating documents, briefs, notices, and orders in Social

Security review cases filed in CM/ECF will be filed and noticed electronically, except as noted below.

- b. Consents to Proceed Before a United States Magistrate Judge are to be e-mailed to vawd_consents@vawd.uscourts.gov.
- c. Social security transcripts will be filed electronically in segments not to exceed twenty megabytes. This will be the official record of the Court. One paper copy will also be filed for chambers use during the pendency of the case. When the case is concluded, the paper transcript will be destroyed.
- d. Upon the filing of the Administrative Transcript, a Social Security Briefing Notice will be filed by the court, setting the plaintiff's brief deadline. The plaintiff shall file their brief using the event "Plaintiff Brief - Social Security Case (located under *Responses and Replies* on the ECF menu). This event will automatically set the defendant's briefing deadline and will prompt the plaintiff to indicate whether or not they are requesting oral argument. The defendant shall file their brief using the event "Defendant Brief - Social Security Case (also located under *Responses and Replies*).

E. SERVICE OF ELECTRONICALLY FILED DOCUMENTS

1. **A party may not electronically serve a complaint**, but instead must effect service according to Rule 4 of the Federal Rules of Civil Procedure.
2. Whenever a pleading or other paper is filed electronically, a "Notice of Electronic Filing" (NEF) will be generated through CM/ECF to the filing party, any other party who is a registered user and has requested electronic notice in that case, and the assigned judge.
3. If the recipient is a registered user in CM/ECF, the receipt of the NEF will be the equivalent of service as provided in these procedures and in accordance with Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim. P. 49(b).
4. A certificate of service on all parties entitled to service or notice is still required when a party files a document electronically. The certificate must state the manner in which service or notice was accomplished on each party entitled to service or notice. Sample language for a certificate of service is attached to these procedures as Appendix A.
5. A party who is not a registered user in ECF is entitled to a paper copy of any electronically filed pleading, document, or order. The filing party must, therefore,

provide the non-registered party with the pleading, document, or order according to the Federal Rules of Criminal or Civil Procedure.

6. When mailing paper copies of documents that have been electronically filed, the filing party may include the NEF to provide the recipient with proof of the filing.
7. A filer who elects to bring a document to the Clerk's Office for filing, scanning and uploading to ECF must serve conventional copies on all non-registered parties to the case and should expect some delay in the uploading and subsequent electronic noticing of the document.

F. DEADLINES

Submitting documents electronically does not alter any filing deadlines. All electronic transmissions of documents must be completed before midnight Eastern Time, in order to be considered timely filed that day. However, if time of day is of the essence, the assigned judge may order that document filed by a time certain.²

G. TITLE OF DOCKET ENTRIES

The party electronically filing a pleading or other document shall be responsible for designating a docket entry title for the document by using one of the docket event categories prescribed by the court.³

H. SPECIAL FILING REQUIREMENTS AND EXCEPTIONS

1. The following documents **must be filed only in paper form** in the conventional manner:
 - a. The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings.
2. The following documents **must be filed in paper form and will, as applicable, be filed in CM/ECF** by the Clerk's Office:
 - a. The state court record filed in 28 U.S.C. §1446 removal proceedings;

² Attorneys should be aware for the response due date, which appears when either electronically filing a motion or querying deadlines, is for court use only and should not be relied upon as an accurate computation of the response date.

³ Users may search for a particular event in CM/ECF through the Search function.

- b. All pleadings and documents filed by pro se litigants who are incarcerated or who are not registered filing users in the CM/ECF system as provided in these procedures;
 - c. The charging document in a criminal case, such as the complaint, indictment, and information, as well as the criminal data sheet;
 - d. Affidavits for search and arrest warrants and related papers;
 - e. Documents in criminal cases which require the signature of a non-attorney, such as a grand jury foreperson, or a third-party custodian;
 - f. Any document where an order has been entered allowing it to be filed or placed under seal or a motion to seal the document is pending (will be filed by Clerk as a Sealed Document);
 - g. An unredacted version of a document or a reference list containing personal data identifiers, in compliance with the E-Government Act (will be filed by the Clerk as a Sealed Document);
 - h. Psychiatric or psychological evaluations (will be filed by Clerk as a Sealed Document); and
 - i. Forms indicating consent to the exercise by a magistrate judge of civil jurisdiction over the case pursuant to Fed. R. Civ. P. 73(b).
3. All Presentence Reports and Objections to Presentence Reports are to be electronically filed under seal. The filer shall authorize access to the applicable parties who shall have access to the document(s).
 4. If the filing of a document requires leave of the court, such as an amended complaint or a motion to submit a reply brief, the attorney will attach the proposed document as an exhibit to the motion according to the procedures in Section I below. If the court grants the motion, the order will require the attorney to submit the document electronically for filing in the case.
 5. Attachments and exhibits larger than twenty (20) megabytes should be filed electronically in separate twenty (20) megabyte segments.

I. ATTACHMENTS AND EXHIBITS TO FILINGS

1. A filing user may submit as attachments excerpts of the referenced documents only when those excerpts 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.
2. Filers will not attach as an exhibit any pleading or other paper already on file with the court in that case, but will merely refer to that document.

3. A filing party should scan all paper exhibits and file electronically to ECF.
4. Parties submitting documents 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 the CM/ECF system. Scanned images of textual records must meet the following minimum requirements set by the National Archives and Records Administration (NARA) effective July 1, 2009, for scanning resolution and pixel (bit) depth to support archival preservation and continued use:
 - 3.2.1 Bitonal (1-bit) scanned at 300-600 ppi (pixels per inch). This is appropriate for documents that consist exclusively of clean printed type possessing high inherent contrast (e.g., laser printed or typeset on a white background). Scanning at 600 ppi is recommended.
 - 3.2.2 Gray scale (8-bit) scanned at 300-400 ppi. This is appropriate for textual documents of poor legibility because of low inherent contrast, staining or fading (e.g., carbon copies, thermofax, or documents with handwritten annotations or other markings), or that contain halftone illustrations or photographs. Scanning at 400 ppi is recommended.
 - 3.2.3 Color (24-bit RGB [Red, Green, Blue]) scanned at 300-400 ppi. Color mode (if technically available) is appropriate for text containing color information important to interpretation or content. Scanning at 400 ppi is recommended.
5. The filing party is required to verify the readability of scanned documents before submitting them electronically with the court.
6. A party may conventionally submit exhibits which are not available in electronic form. The Clerk's Office will note on the docket the receipt of the exhibit(s) with a text-only entry. A party submitting evidentiary materials in conventional format also must submit electronically an index listing each item of evidence being filed and identifying the motion to which it relates. Exhibits submitted conventionally must be served on other parties as if not subject to electronic filing procedures.

J. TRANSCRIPTS

Effective May 5, 2008, the Western District of Virginia, in accordance with Judicial Conference Policy and amendments to Federal Rule of Civil Procedure 5.2 and Federal

Rule of Criminal Procedure 49.1, implemented the following policy regarding official court transcripts:

1. A transcript provided to the court by a court reporter or transcriber will be available at the Clerk's Office, for inspection only, for a period of 90 days after it is filed.
2. During the 90-day period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference. The transcript will be remotely electronically available to any attorneys of record who have purchased a copy from the court reporter.⁴
3. After the 90-day period has ended, the transcript will be available for copying in the Clerk's Office and for download through PACER.

The complete Judicial Conference Policy regarding Transcripts is available on the public web site at www.vawd.uscourts.gov.

K. SIGNATURES

1. Attorney Signature

- a. A pleading or other document requiring an attorney's signature must be signed in the following manner, when submitted electronically to the CM/ECF system: "s/ (**attorney name**)."⁴ The correct format for an attorney signature is as follows:

s/ Judith Attorney
Virginia Bar Number: 12345
Attorney for (Plaintiff/Defendant)
ABC Law Firm
123 South Street
Roanoke, Virginia 24001
Telephone: (540) 123-4567
Fax: (540)123-7890
[E-mail: judith.attorney@law.com]

⁴ The Attorney will incur PACER charges for each time the transcript is accessed even though he/she may have purchased it from the court reporter and obtained remote access through CM/ECF. There is no "free look" for transcripts, and no PACER page cap on costs.

2. **Multiple Attorney Signatures.** The following procedure applies when a stipulation or other document requiring two or more attorney signatures is submitted electronically:
 - a. The filing party or attorney must initially confirm that the content of the document is acceptable to all attorneys required to sign the document and must obtain the signatures of all attorneys on the document. For purposes of this rule, physical, facsimile, or electronic signatures are permitted.
 - b. The filing party or attorney then must submit the document electronically to the CM/ECF system, indicating the signatories, e.g., “s/ Jane Doe,” “s/ John Smith,” etc.

L. ORDERS AND JUDGMENTS

1. The assigned judge, chambers staff, or the Clerk’s Office will electronically file all signed orders.
2. Any order signed electronically (by either a digital signature, electronic signature or by using the “s/Judge’s Name” convention) has the same force and effect as if the judge had affixed a signature to a paper copy of the order.
3. Proposed orders must be submitted as outlined below:
 - a. A moving party shall submit to the judge, after filing a motion for which no supporting brief is required, a proposed order granting the motion and setting forth the requested relief.
 - b. Proposed orders must be filed in ECF as an attachment to the Motion (not combined with the motion in one document).
 - c. The proposed order must also be e-mailed to assigned judge, in a format compatible with Microsoft Word. Judges will not accept a PDF file of the attachment. The judges’ e-mail addresses for this purpose only are as follows:

| | |
|---------------------------|--|
| Judge Jones: | james_jones@vawd.uscourts.gov |
| Judge Moon: | moon.ecf@vawd.uscourts.gov |
| Judge Conrad: | conrad.ecf@vawd.uscourts.gov |
| Judge Kiser: | kiser.ecf@vawd.uscourts.gov |
| Judge Urbanski: | urbanski.ecf@vawd.uscourts.gov |
| Judge Dillon: | dillon.ecf@vawd.uscourts.gov |
| Magistrate Judge Sargent: | pamela_sargent@vawd.uscourts.gov and |

Magistrate Judge Ballou: robin_bordwine@vawd.uscourts.gov
ballou.ecf@vawd.uscourts.gov
Magistrate Judge Hoppe: hoppe.ecf@vawd.uscourts.gov and
Karen_dotson@vawd.uscourts.gov

- d. A filing party moving for issuance of a writ, warrant, or summons should apprise the judge that a prompt ruling is being sought, and attach the writ, warrant, or summons as a PDF file to the proposed order (if one is needed).
4. If a judge enters an order during a hearing, copies of the order will be distributed electronically after the hearing.
5. When mailing paper copies of an electronically filed order to a party who is not a registered participant of the System, the Clerk's Office will include the "Notice of Electronic Filing" to provide the non-participant with proof of the filing.
6. The assigned judge may grant routine orders by a text-only entry upon the docket. In such cases, no document will be issued; the text-only entry will constitute the court's only order on the matter. A "Notice of Electronic Filing" (NEF) as described in section E. 2. of these procedures will be generated to registered users, and the Clerk's Office will mail a paper copy of the NEF to non-registered participants.

M. PRIVACY

1. Redacted Documents

- a. To comply with the policy of the Judicial Conference of the United States and the E-Government Act of 2002, Pub. L. No. 107-347, along with Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, **filing parties must omit** or, where inclusion is necessary, partially redact the following personal data identifiers from all pleadings, documents, and exhibits, *filed with the court*⁵, whether **electronically or in paper form**.

Minor's name: Use the minor's initials;

Financial account numbers: Identify the name or type of account and the financial institution where maintained, but use only the last four numbers of the account number;

⁵ The requirement to exclude or partially redact personal identifier data from public records does not preclude the parties from serving unredacted copies of pleadings and other documents on other parties in a case. All documents filed with the court, however, must be partially redacted for inclusion in the public record.

Social Security numbers: Use only the last four digits;
Taxpayer Identification numbers: Use only the last four digits;
Dates of birth: Use only the year;
Home address: Use only city and state (criminal cases only); and
Other data as permitted by order of the court.

- b. Whether filed electronically or in paper form, the filing party should **omit** or **partially redact** where inclusion is necessary the following confidential information from all pleadings, documents, and exhibits, unless the assigned judge orders otherwise:

Personal identifying number, such as driver's license number;
Medical records, treatment and diagnosis;
Employment history;
Individual financial information; and
Proprietary or trade secret information.

2. Unredacted Documents.

- a. Pursuant to the E-Government Act of 2002, along with Local Rule 9, Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, a party may file under seal a document containing the unredacted personal data identifiers listed above.
- b. The filing party will submit the unredacted paper document to the Clerk's Office. The paper document must have a cover page or notation on the first page stating the following: "Document filed under seal pursuant to the E-Government Act." The court will scan the document and docket "Personal Identifiers Reference List - Unredacted (sealed)" as part of the record.
- c. The assigned judge may require the party to also submit a redacted copy for the public record.

- 3. The responsibility for redacting personal data identifiers rests solely with counsel and the parties.** The Clerk's Office **will not** review documents for compliance with this rule, seal on its own motion documents containing personal data identifiers, or redact documents, whether submitted electronically or on paper.

N. DOCUMENTS TO BE FILED UNDER SEAL

A motion or application to file documents under seal may be filed electronically, or may be presented to the Clerk's Office in conventional format. A proposed order shall be presented conventionally for presentation to the presiding judge, or e-mailed to the presiding judge in accordance with Section L above. The party must file an unsealed written motion containing:

- a generic, non-confidential description of the document to be sealed;
- the bases upon which the party seeks the order, including the reasons why alternatives to sealing are inadequate; and
- the duration for which sealing is requested.

The document that is to be placed under seal shall be presented to the Clerk's Office in conventional format for review by the presiding judge. If the motion or application is granted, the assigned judge will enter electronically the order authorizing the filing of the documents under seal. The Clerk's Office will then scan and docket the document(s) under seal. If the documents to be placed under seal are voluminous, they shall be presented to the Clerk's Office on a disk or flash drive for upload to the system. See Local Rule 9 for further details on sealed documents.

O. PUBLIC ACCESS

1. Public access to the docket and unsealed documents filed in CM/ECF is available for viewing at the Clerk's Office during regular business hours. A fee is required in accordance with 28 U.S.C. § 1914 for any copies of documents requested from the Clerk's Office.
2. Remote access to CM/ECF for viewing purposes is limited to subscribers to PACER. The Judicial Conference of the United States requires a user fee be charged for remotely accessing certain detailed case information via PACER, excluding review of calendars and similar general information.⁶

P. CONVENTIONAL COPIES AND CERTIFIED COPIES.

Conventional copies and certified copies of electronically filed documents may be purchased at the Clerk's Office. The fee for copying and certifying will be in accordance with 28 U.S.C. § 1914.

Q. RETENTION

1. The Clerk's Office will not maintain a paper court file in any case begun after the effective date of these procedures except as otherwise provided in these

⁶ The Electronic Public Access Fee Schedule outlines the fee charged to users of the PACER system. A cap of thirty pages per document has been approved, with the exception of transcripts. The access fee does not apply to official recipients of electronic documents, i.e., parties legally required to receive service or to whom service is directed by the filer in the context of service under Federal Rules of Civil Procedure. Official recipients will receive the initial electronic copy of a document free to download as they see fit, but if they remotely access the document again, they will be charged pursuant to the fee schedule.

procedures. The official court record will be the electronic file maintained on the court's servers. The official record will include, however, any conventional documents or exhibits filed in accordance with these procedures.

2. The Clerk's Office will return to the United States Attorney's Office all original indictments, informations and petitions to enter plea of guilty and plea agreements after they are scanned and uploaded to ECF.
3. The filer shall retain all documents containing original signatures of anyone other than the filer for a period of not less than two (2) years after all dates for appellate review have expired.
4. An attorney who wishes to have an original document or a document with original signature returned after the Clerk's Office scans and uploads it to ECF may, prior to submitting the document to the Clerk's Office, seek authorization from the assigned judge for the document's return. Authorization will be granted on a case-by-case basis. No standing authorizations for the return of all original documents filed by an attorney or office will be allowed.

R. FEES PAYABLE TO THE CLERK

Any fee required for filing a pleading or paper in the United States District Court is payable to the Clerk of the Court by credit card, check, money order, or cash; or electronically via Pay.gov. The court will not maintain electronic billing or debit accounts for lawyers or law firms.

S. 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. ECF will not permit the filing party to make changes to the document(s) or docket entry filed in error once the transaction has been accepted.
2. A document incorrectly filed in a case may be the result of posting the wrong PDF file to a docket entry, or selecting the wrong document type from the menu, or entering the wrong case number and not catching the error before the transaction is completed. **The filing party should not attempt to refile the document.**
3. As soon as possible after an error is discovered, the filing party should contact the Clerk's Office with the case number and document 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 refiled.

T. TECHNICAL FAILURE

1. The Clerk's Office will deem the Western District of Virginia CM/ECF site to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 10:00 a.m. that day. Known systems outages will be posted on the Court's public website, if possible.
2. Problems on the filer's end, such as phone line problems, problems with the filer's Internet Service Provider (ISP), or hardware or software problems, will not constitute a technical failure under these procedures nor excuse an untimely filing. A filer who cannot file a document electronically because of a problem on the filer's end must file the document conventionally.
3. A filing party whose filing is made untimely as the result of a technical failure of ECF may seek appropriate relief from the court.

APPENDIX A

SAMPLE FORMATS - CERTIFICATE OF SERVICE

Sample A

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

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

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

Sample B

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

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

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

SCHEDULE OF REVISIONS TO ADMINISTRATIVE PROCEDURES

UPDATES SINCE APRIL, 2011

| <u>Date</u> | <u>Section, Title and Page Number</u> | <u>Comments</u> |
|-------------|---|---|
| 10/17/11 | K. - Orders and Judgments - Page 14 | Changed Judge Urbanski's title from U. S. Magistrate Judge to U. S. District Judge. Added Magistrate Judge Ballou. |
| 06/18/12 | D. - Social Security Case - Page 8 | At D(3)(d)(v.) sets out new procedures for filing briefs in Social Security Cases. |
| 05/07/14 | K. - Orders and Judgments - Page 14 | Added Magistrate Judge Hoppe. |
| 1/09/15 | Entire Document | Overall rewrite of the manual. Removed references to 10 megabytes filing size due to upgrade to 20 megabytes filing size; added information regarding submission via email of Consent to Jurisdiction of US Magistrate Judge in Social Security review cases. |
| 2/25/15 | L. – Orders and Judgments - Page 15 | Added Judge Dillon. |
| 12/28/15 | L. – Orders and Judgments – Page 15 | Removed Judge Welsh due to his retirement. |
| 12/1/16 | E. Service of Electronically Filed Documents – Page 9 | 3. Corrected to read Fed. R. Civ. P. 5(b)(2)(E). |
| 12/1/16 | E. Service of Electronically Filed Documents – Page 10 | Removed paragraph 7 re: three-day mail rule for service by electronic means. |
| 2/1/17 | D. 3. Summons – Page 8 | Added information regarding the electronic issuance of summons. |
| 5/1/18 | L. Orders and Judgments – Page 14 | Updated language in Paragraph 2 regarding signatures. |
| 6/1/18 | H. Special Filing Requirements and Exceptions – Page 11 | Added Paragraph 3 covering the electronic filing of presentence reports and objections to presentence reports. |