

ADMINISTRATIVE PROCEDURES FOR FILING, SIGNING, AND VERIFYING



PLEADINGS AND PAPERS BY ELECTRONIC MEANS

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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. “**Electronic Filing**” means uploading a pleading or document directly from the registered user’s Computer, using the Court’s ECF system, to file that pleading or document in the court’s case file. Sending a document or pleading to the Court via email does not constitute “electronic filing.”
3. “**Notice of Electronic Filing**” (NEF) is the e-mail notice automatically generated and sent at the time an entry is made in the ECF system, setting forth the time and date 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 a hyperlink(s) to any filed document. The NEF is confirmation of the electronic filing.
4. “**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.
5. “**Portable Document Format**” (PDF) is a type of document formatting which allows a document to be transmitted electronically without changing the document’s appearance or layout. Anyone with a PDF reader may view the document, regardless of operating system, original design application or fonts.
 - a. A PDF Text document is a document converted from a word processing program directly into PDF format without the use of a scanner. **A PDF Text document is the preferred document for filing** because it is considerably smaller than a scanned document and is text searchable.
 - b. A PDF scanned document is a document converted to PDF by means of a document scanner. When scanning documents to be subsequently filed electronically, filing parties must configure their scanners at 300 dpi or higher. The filing party is responsible for the legibility of the scanned image. Scanning a document to PDF creates a file larger than a PDF text document

and does not allow for text searches with the document. Note: Do not use a scanner's OCR setting as this can alter the scanned document.

- c. Avoid scanning when possible. Use the **Insert Pages** function of Adobe Acrobat to combine scanned and unscanned PDF files into a single PDF whenever possible; e.g., when only the last page of a document contains an ink signature.
6. “**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 court’s ECF system 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 electronic transmission of a document to 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 and Criminal Procedures 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.
4. 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.
5. 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.

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.

6. 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 ECF except as otherwise provided by these administrative procedures
7. 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.
8. All members of the bar of this court, including any attorney admitted *pro hac vice*, are required to submit documents electronically using the court's ECF system.
9. Notwithstanding the requirement contained in paragraph B.8. 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 ECF system.
10. The Clerk's Office may discard any paper document after it has been uploaded to the ECF system.
11. 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.
12. 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.
13. 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.
14. 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 individual PACER login for filing. Additional PACER accounts are available

from the PACER Service Center, as needed, for firm billing and staff use for document retrieval.

2. With the conversion to NextGen, each attorney must register for an individual, upgraded PACER account through the PACER website, www.pacer.gov. An attorney who registered to file in this district prior to October 13, 2020 must link their individual PACER account to the court's ECF account. An attorney who registers to file in this district for the first time on or after October 13, 2020 must request e-file access through PACER. Instructions on this process appear on the Court's website at www.vawd.uscourts.gov.
3. Upon approval of an e-filing request, the attorney will be notified through the primary email address registered with PACER.
4. An attorney may register one mail address when completing the initial e-filing registration request through PACER. Once the Clerk's Office has activated access to ECF, other secondary email addresses may be added to the filing account in ECF to receive notification of docket entries.
5. Non-incarcerated parties to a civil action who are proceeding pro se 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 registered user may not withdraw from participation in the ECF system except by order of the Court.
8. After registering through PACER, the registered user is responsible for protecting the security of the password and may change it at any time. If a registered user believes that the security of an existing password has been compromised and/or that a threat to ECF exists, the registered user must change his or her password immediately at www.pacer.gov and notify the PACER Service Center and the Clerk's Office.
9. A registered user must keep their email address, mailing address, telephone and fax number up to date with this court by updating the information in their PACER account. They must also immediately file a notice of change of address in ECF

and serve a copy of the notice on all parties in pending litigation with the registered user.

10. Once registered, the attorney shall be responsible for all filings submitted with his or her login . No attorney will knowingly permit or cause to permit his or her login 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. 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.
12. The Court does not monitor undeliverable email (i.e., bounce-backs) or delayed mail from a registered user’s primary or secondary email accounts. It is the registered user’s responsibility to update email address, monitor email spam filters, and maintain sufficient email storage to prevent undeliverable or untimely delivery of email notifications from the ECF system.

D. ELECTRONIC FILING OF DOCUMENTS

1. Civil Case Initiating Documents

- a. Civil Case initiating documents (complaints, petitions, or notices of removal, together with summons and civil cover sheets) may be submitted electronically in 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 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 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.*"

2. 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.

3. 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 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.

4. 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 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 Administrative Transcripts will be filed electronically in segments not to exceed ECF's established megabyte limit. 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 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 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(a)(3)(A).
4. A certificate of service on all parties entitled to service or notice is only required when a party serves a document through a means other than filing it in the ECF system. 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

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.

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 **may be filed in paper form and will, as applicable, be filed in ECF** by the Clerk's Office or **may be electronically filed by the state court user in ECF**:
 - a. The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings.
 - b. The state court record filed in 28 U.S.C. §1446 removal proceedings.
2. The following documents **must be filed in paper form and will, as applicable, be filed in ECF** by the Clerk's Office:
 - a. All pleadings and documents filed by pro se litigants who are incarcerated or who are not registered users in the ECF system as provided in these procedures.
 - b. The charging document in a criminal case, such as the complaint, indictment, and information, as well as the criminal data sheet.
 - c. Affidavits for search and arrest warrants and related papers.
 - d. Documents in criminal cases which require the signature of a non-attorney, such as a grand jury foreperson, or a third-party custodian.
 - e. 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).
 - f. 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).
 - g. Psychiatric or psychological evaluations (will be filed by Clerk as a Sealed Document).
 - h. 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 Users may search for a particular event in ECF through the Search function.

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 fifty (50) megabytes should be filed electronically in separate fifty (50) 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. 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 ECF system.
4. The filing party is required to verify the readability of scanned documents before submitting them electronically with the court.
5. 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 shall be signed in the following manner, when filed electronically to the ECF system: “**(attorney name)**.” The correct format for an attorney signature is as follows:

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 ECF. There is no “free look” for transcripts, and no PACER page cap on costs.

The attorney's signature must match the login of the filing attorney.

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 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 attorney then must submit the document electronically to the ECF system, indicating the signatories, e.g., "Jane Doe," "John Smith," etc.
 - c. One of the attorney's signatures must match the login of the filing attorney.

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 the 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 Urbanski:	urbanski.ecf@vawd.uscourts.gov

Judge Dillon: dillon.ecf@vawd.uscourts.gov
Judge Cullen: cullen.ecf@vawd.uscourts.gov
Judge Ballou: ballou.ecf@vawd.uscourts.gov
Magistrate Judge Sargent: pamela_sargent@vawd.uscourts.gov and
robin_bordwine@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 ECF 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**.

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. Unless otherwise stated, all documents filed with the court must be partially redacted for inclusion in the public record.

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.

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).

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.

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.
- d. Items identified in Fed. R. Crim. P. 49.1(b) are exempt from the redaction requirement.

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 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

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.

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 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. REFUND OF ELECTRONICALLY PAID FEES

1. The Clerk of Court has delegated authority to approve a refund of electronically paid fees in the following two situations:

- a. When an ECF user inadvertently paid the filing fee more than once in the same case, resulting in two or more identical credit card charges; and
 - b. When an ECF user inadvertently made a fee payment when none was due.
2. In order to obtain a refund, the payor must complete the Application for Refund of Fees Paid Electronically located on the court's website. The application should explain the circumstances leading to the request. The completed application shall be submitted to the Clerk's Office via email at refund@vawd.uscourts.gov.
 3. The Clerk will review the application and upon verification, shall process the refund through the electronic credit card system.

T. 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 detecting the error before the transaction is completed. **The filing party should not attempt to refile the document.**
3. If the docket entry is correct, but the document filed is incorrect, the filing party may be advised to refile the document electronically. Refiling the document does not entitle the filer to an extension of filing deadlines. If the docket entry is incorrect, but the attachment document is correct, the Clerk's office may make the appropriate corrective changes to the docket entry consistent with Clerk's Office internal procedures. If the entry was made in the wrong case, the document should be refiled in the correct case.
4. 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 a corrective entry indicating that the original error. The filing party will be advised if the document needs to be refiled.

U. TECHNICAL FAILURE

1. The Clerk's Office shall deem the Western District of Virginia 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 and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

_____.

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, and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

_____.

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.

12/1/18	C. Registration; E. Service of Electronically Filed Documents; K. Signatures; Appendix A – Certificate of Service	Updated document in accordance with the FRCP and FRCrP Rule amendments effective 12/1/2018.
3/20/19	H. Special Filing Requirements and Exceptions – Page 10	Added information regarding the electronic filing of state court records by state court users.
10/22/19	H. Special Filing Requirements and Exceptions – Page 10	Removed references to 20 megabytes filing size due to upgrade to 50 megabytes filing size.
10/22/19	S. Refund of Electronically Paid Fees – Page 18	New section added.
10/22/19	T. Correcting Docket Errors; U. Technical Errors – Page 19	Changed section heading.
9/17/20	L. Orders and Judgments – Page 14	Added Judge Cullen.
10/13/20	Sections A, B, C and D	Updated in accordance with the implementation of NextGen
5/10/21	M. Privacy – Page 17	Added subparagraph 2(d).
6/21/21	L. Orders and Judgments – Page 14	Corrected Judge Cullen’s email address.
8/4/21	L. Orders and Judgments – Page 14	Removed Judge Kiser and Judge Conrad’s email address information
5/25/23	L. Orders and Judgments – Page 15	Removed “Magistrate” next to Judge Ballou.