

U.S. District Court Selected Policies and Procedures

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GENERAL ORDER RE: ELECTRONIC CASE FILING (SEPT. 2, 2003)

Fed. R. Civ. P. 5(e) authorizes this Court to establish practices and procedures for the filing, signing and verification of documents by electronic means.

Accordingly, the United States District Court for the District of Massachusetts hereby orders that all cases filed within this District are eligible for electronic case filing according to the rules and procedures outlined in the following:

- A) The Electronic Case Filing Administrative Procedures
- B) Electronic Case Filing User's Manual
- C) Standing Orders concerning ECF implementation

and the provision of courtesy copies. Unless otherwise specified by the particular court in its session order, each session will adopt a standing order of the form attached.

Please Note: Counsel should pay particular attention to the rules with regard to sealed documents and ex parte submissions. Under ECF, if sealed documents or ex parte submissions are inadvertently filed electronically, they become immediately available to the public.

After September 8, 2003, counsel who have registered for ECF and who have received information concerning login and passwords will receive electronic notice of court orders and decisions. After October 1, 2003, counsel who have registered for ECF and have received login and password information will be eligible to file documents electronically, according to the rules and procedures outlined above.

ELECTRONIC CASE FILING ADMINISTRATIVE PROCEDURES

(Amended effective Jul. 26, 2011.)

ELECTRONIC FILING AND PDF

Electronic Filing is the process of uploading a document from the registered user's computer, using the court's Internet-based Case Management/Electronic Case Files (CM/ECF) system, to file the document in the court's official case file. The CM/ECF system only accepts documents in a 'portable document format' (PDF). There are two types of PDF documents:

Electronically converted PDF documents are created from word processing documents (MS Word, WordPerfect, etc) using any appropriate software. These documents are text searchable and their file size is generally smaller than a scanned document. CM/ECF users may use any brand of software to convert documents to PDF.

Scanned PDF documents are created from paper documents run through an optical scanner. Scanned PDF documents are generally not searchable and have a larger file size. Please note that software used to create scanned documents may (and should) be set in such a way that the document is "text-searchable."

Documents converted to PDF, rather than scanned, are preferred for filing in CM/ECF.

NOTE: the court will begin requiring submission of documents in PDF/A format in the foreseeable future. PDF/A is an enhanced version of the traditional PDF format. Newer versions of most PDF software will be able to convert to this format. Additional information on PDF/A documents may be found on the court's website at <http://www.mad.uscourts.gov/pdf/pdfa.pdf>.

ADMINISTRATIVE PROCEDURES

A. General Information

1. The court began accepting filings electronically through the CM/ECF system on October 1, 2003. Local Rule 5.4, (LR) as modified on January 1, 2006, mandates that all documents submitted for filing in all pending civil and criminal cases, except those documents specifically exempted in subsection (L) of these procedures, must be filed electronically using the ECF system. Any variation of these requirements can be made only by standing orders issued by individual judges.

2. On January 1, 2006 the court integrated the United States Treasury's "pay.gov" service into CM/ECF to accept case-related fees. LR 67.4, effective January 1, 2009 requires that all CM/ECF users pay case-related fees through CM/ECF and pay.gov.

3. The clerk's office will not maintain a paper court file in any civil or criminal case commenced after October 1, 2003, except as otherwise provided herein or as ordered by the Judge in a particular session. (The official case files in actions commenced prior to October 1, 2003 may contain both paper versions of those documents filed prior to October 1, 2003 and electronic files of the documents filed on or after October 1, 2003). The official court record in ECF cases shall be the electronic file maintained on the court's database servers together with any paper documents, attachments and exhibits filed in accordance with these procedures.

Documents delivered to the court as a courtesy copy will not be maintained in the official court record.

4. The clerk's office will maintain a paper case file for cases involving *pro se* litigants, but may discard any original document after it has been scanned and uploaded to ECF.

5. All documents filed by electronic means must comply with technical standards established by the Judicial Conference of the United States or by this court.

6. The court adopted its Transcript Redaction Policy effective May 5, 2008.

7. The procedures governing electronic case filing shall be known as the "Administrative Procedures for Electronic Case Filing in the United States District Court for

the District of Massachusetts.” They shall be cited as “APECF.”

8. These administrative procedures are intended to supplement the local rules of the United States District Court for the District of Massachusetts to the extent necessary to establish procedures for the signing, filing, service, maintenance and verification of documents by electronic means. Unless modified by an order of the court, all Federal Rules of Civil/Criminal Procedure, local rules, and standing orders of the court shall continue to apply to cases that are subject to electronic case filing.

B. Modifications

The court may modify these administrative procedures without prior notice as justice may require.

C. Relief From Administrative Procedures; Failure to Comply

1. *Relief From Administrative Procedures.* The 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.

2. *Relief From Failure to Comply.* The court may excuse a failure to comply with any administrative procedure whenever justice so requires.

3. *Sanctions for Failure to Comply.* Except as provided by law, the court may impose sanctions as provided in LR 1.3 for failure to comply with these administrative procedures or with LR 5.4.

D. Definitions

CM/ECF means the court’s Case Management/Electronic Case Filing System, which is an automated system that received and stores documents in electronic form.

Document means any written matter filed by or with the court, whether filed conventionally or electronically, including but not limited to motions, pleadings, applications, petitions, notices, declarations, affidavits, exhibits, briefs, memoranda of law, orders, and deposition transcripts.

Electronic Filing or Electronically Filed means the transmission of a document in a portable document format (“PDF”) for filing using the ECF system facilities.

Electronic Order or Electronic Notice means any order (or notice) of the court that is not accompanied by a PDF document.

Event is the term used to describe the menu items that may be selected to file documents in CM/ECF. For example, a memorandum in opposition is an event.

Filer means the attorney (or *pro se* litigant) with a CM/ECF login and password.

MBD means cases filed on the Miscellaneous Business Docket. (With a docket type of “mc”)

Notice of Electronic Filing or NEF means the notice automatically generated by CM/ECF each time a document is electronically filed.

PDF or PDF/A means Portable Document Format. This includes both “Electronically Converted PDF Documents,” and “Scanned PDF Documents.” Electronically converted PDF documents are created from a word proc-

essing system (MS Word, WordPerfect, etc.) using PDF creation software and are text searchable. Scanned PDF documents are created from paper documents run through an optical scanner. Scanned documents may not be text-searchable.

E. Registration

1. *Attorneys Admitted to the Bar of this Court.* Attorneys admitted to the bar of this court, including attorneys admitted *pro hac vice*, are required to register as users of the court’s CM/ECF system prior to filing any pleadings electronically. Registration can be accomplished by using the on-line CM/ECF registration or by completing a CM/ECF Registration Form, a copy of which is on the court’s website (www.mad.uscourts.gov). If not submitted on-line, completed CM/ECF Registration Forms should be mailed or hand delivered to:

Clerk, United States District Court
Attn: CM/ECF Registration
John Joseph Moakley United States Courthouse
1 Courthouse Way, Suite 2300
Boston, MA 02210

Once an account has been established by the court, the CM/ECF login and password will be sent to the registered user by the clerk’s office via email.

Failure to file electronically. The clerk’s office shall issue a notice regarding the mandatory use of CM/ECF to any attorney who files a document on paper, except as provided by subsection L. If the attorney continues to file documents on paper, the clerk’s office shall prepare an Order to Show Cause for consideration by the judge to whom the case is assigned.

2. *Pro Se Litigants.* Anyone who is a party to a civil action, and not a prisoner, and who is not represented by an attorney may register as a filer in the CM/ECF system. The party must (1) have the approval of the judicial officer assigned to the case; and (2) attend a training session offered by the clerk’s office on the ECF system or otherwise prove their proficiency on the use of the CM/ECF system before an ECF log-in is issued.

The *pro se* litigant’s filing access will be restricted to just those pending cases in which he/she is appearing *pro se*. *Pro se* litigants will be given access to all pending cases he or she has filed once written notice of these additional cases has been made to the clerk’s office at the address above. The *pro se* litigant is obligated to notify the clerk’s office should he or she obtain counsel for any case pending in this court.

3. *Use of the Login and Password.* A registered user shall not allow another person to file a document using the user’s log-in and password, except for an authorized agent of the filing user. Use of a user’s log-in and password by an authorized agent shall be deemed to be the act of the registered user.

4. *Obligation to Update Information.* Each registered user has an obligation to maintain his/her CM/ECF account, following the instructions found in this court’s CM/ECF Attorney User Manual. The user must maintain current information for his/her: name; mailing address (street and email); firm name or affiliation; and telephone number. If participating in an active CM/ECF case, the

user shall inform the court and parties of such a change through the use of the “Notice of Change of Address” event in CM/ECF in each active case as directed in LR 83.5.2(e).

NOTE: due to system configuration, some attorneys are unable to update law firm affiliation and street address information. Attorneys unable to update account information are asked to contact the Bar Liaison clerk at 617-748-9165 for assistance.

5. *PACER Registration.* All registered CM/ECF users also shall apply for a PACER account, and maintain a current user ID and password.

6. *Service.* Registering to use CM/ECF constitutes consent to service of all documents by electronic means as provided in these procedures and Federal Rule of Civil Procedure (Fed. R. Civ. P.) 5(b) and 77(d), and Federal Rule of Criminal Procedure (Fed. R. Crim. P.) 49(b).

7. *Email.* Every registered user must maintain an electronic mailbox of sufficient capacity, with the appropriate email permissions, to receive electronic notice of case-related transmissions.

F. Filing and Service of Civil and Miscellaneous Case Opening Documents

1. Registered CM/ECF users shall file electronically any and all civil (“cv” case type) and miscellaneous (sometimes referred to as MBD or “mc” case type) case opening documents, such as a complaint, petition, or notice of removal in accordance with the guidelines and restrictions described in subsection L of this document. For civil cases only, filers shall submit the required civil cover and category sheets, both available on the court’s website. Pursuant to LR 67.4, all case-related fees shall be paid by credit card in conjunction with CM/ECF and the United States Treasury’s pay.gov service.

2. The clerk’s office shall create an electronic summons, when appropriate, and provide it to counsel via CM/ECF. Recipients are directed to download the PDF file from the Notice of Electronic Filing (NEF) and create a summons for each party to be served. A party may not electronically serve a civil complaint but shall affect service in the manner required by Fed.R.Civ.P. 4. The return of service of the summons (or other acknowledgment of service) shall be filed with the court electronically.

3. If the attorney filing the new case is not yet registered to use CM/ECF, the clerk’s office will issue the summons on paper, along with a notice regarding LR 5.4 and the mandatory use of CM/ECF.

G. 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 at the completion of the transaction, constitutes the filing of the document for all purposes of the Federal Rules of Procedure and constitutes entry of the document on the docket maintained by the clerk pursuant to Fed.R.Civ.P. 58 and 79 and Fed.R.Crim.P. 55.

2. A document filed electronically shall be deemed filed as of the time and date stated on the NEF received from the court.

3. All pleadings filed electronically shall be titled in accordance with the approved dictionary of civil or criminal events of the CM/ECF system of this court. A list of events is available on the CM/ECF Training Information page of the court’s website. The clerk’s office may, when necessary and appropriate, modify the docket entry description, or delete and re-enter the docket entry in order to comply with the court’s quality assurance standards.

4. Any memorandum of law or other attachment filed in support of a main document shall be filed as a separate document, using the proper event.

5. If the filer is contemporaneously filing an objection or opposition with a cross motion, the cross motion must be filed as a separate docket entry.

6. The filer shall verify the accuracy and readability of any PDF file before electronically filing it in CM/ECF.

7. Electronically filed documents may contain the following types of hyperlinks:

(1) Hyperlinks to other portions of the same document;

(2) Hyperlinks to other documents filed within the CM/ECF system; and

(3) Hyperlinks to a location on the Internet that contains a source document for a citation. Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of the filed document. Neither a hyperlink, nor any site to which it refers, shall be considered part of the record, but are simply convenient mechanisms for accessing material cited in a document filed in CM/ECF. Instructions on creating hyperlinks may be found in the CM/ECF User Manual.

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 the availability or functionality of any hyperlink.

NOTE regarding PDF/A: In the near future, the CM/ECF software will be upgraded to require filers to submit documents in PDF/A.

One feature of PDF/A documents is that hyperlinks are commonly “masked,” meaning that the full address of the referenced file is not written out; for example, clicking the word brief may open a brief which was previously filed in CM/ECF.

An “unmasked” hyperlink has the full address visible to the user, such as “<https://ecf.dcd.uscourts.gov/doc1/4512244142>”.

Masked hyperlinks may or may not work in a PDF/A document, depending on how it was created. Currently, masked hyperlinks are preserved in PDF/A documents produced by the “Save As” method in Microsoft Word 2007 and 2010; the “PDFMaker” method in Microsoft Word 2007; and OpenOffice 2.4 (“PDF Export”). With other production methods, such as WordPerfect, the PDF/A document includes underlined words that appear to be links, but clicking them has no effect.

8. CM/ECF will not accept PDF documents containing tracking tags, embedded systems commands, password protections, access restrictions or other security features, special tags or dynamic features.

H. Service of Electronically Filed Documents

1. Whenever a pleading or other document is filed electronically, the CM/ECF system will automatically generate and send an NEF (via email) to the filer and all CM/ECF registered users of record in the case.

2. Unless exempt or otherwise ordered by the court, all pleadings and other papers must be served on other parties by electronic means, through CM/ECF. Any pleading or other document filed with the court must bear a certificate of service in accordance with LR 5.2(b). The certificate of service shall state that the filer: (1) filed the document electronically, (2) that it will be served electronically to registered CM/ECF participants via the NEF and (3) that the filer will send paper copies to non-registered participants as indicated on the NEF.

Example:

Certificate of Service

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the NEF (NEF) and paper copies will be sent to those indicated as non registered participants on (date).

3. Transmission of the NEF through the court's transmission facilities will constitute service of the filed document upon a registered CM/ECF user and shall be deemed to satisfy the requirements of Fed.R.Civ.P. 5(b)(2)(E) and 77(d) and Fed.R.Crim.P. 49(b). The party filing the document electronically is responsible for serving a paper copy of the document by mail in accordance with Rule 5(b) to those case participants who have not been identified on the NEF as electronic recipients.

4. Service by electronic means shall be treated the same as service by mail. In accordance with LR 7.1, a party opposing a motion, shall file an opposition within 14 days after the motion is served, unless (1) the motion is for summary judgment, in which case the opposition shall be filed within 21 days after the motion is served or (2) another period is fixed by rule or statute, or by order of the court.

NOTE regarding NEFs received in error: CM/ECF users are obligated not to disseminate any notices received in error, electronically or on paper. Such notices shall be deleted immediately from the recipient's email. The recipient shall notify the clerk's office immediately.

5. In general, the court does not accept documents by email or by fax. If the court, in special circumstances, does authorize the submission of a document in that manner, the document shall not be considered files until an NEF is generated by CM/ECF at the completion of the transaction.

I. Documents with Fee Requirement

Documents filed in a case that require a fee, such as new civil and miscellaneous cases, notices of appeal and motions for leave to appear *pro hac vice* shall be electronically filed. The court uses the United States Treasury's pay.gov service to process the payment of case-related fees during the transaction, by credit or debit card. There is no additional registration required to use this service.

Should the filer not pay the fee during the entry of the fee-related document, the filer will be notified by the clerk's office to pay the fee electronically. To do that, the filer must first create a PDF document for filing captioned as "Notice of Attorney Payment of Fees" (see Appendix II) and then file that document on the CM/ECF docket using the docket entry of the same name, found under the Notices menu. That entry will allow the user to identify what fee is being paid, and process the credit card information.

J. Courtesy Copies for Judicial Officers

COURTESY COPIES OF DOCUMENTS FILED ELECTRONICALLY SHALL NOT BE SUBMITTED ROUTINELY.

Judicial officers, on a case-by-case basis, may require courtesy copies for specific cases, or types of motions, etc. A few Judicial Officers have entered Standing Orders, which may be found on their respective pages on the court's website (under Divisions). Any document filed on paper with the court as a courtesy copy must be clearly labeled as such (Example: COURTESY COPY--DO NOT SCAN). Documents delivered to the court as a courtesy copy will not be maintained in the official court record.

K. Deadlines

Filing documents electronically does not alter any filing deadlines.

Although CM/ECF is generally available 24 hours a day for filing, all electronic transmissions of documents must be completed prior to 6:00 PM, Eastern Standard (or Daylight Savings) Time, on the date on which it is due, in order to be considered timely filed that day. When a specific time of day deadline is set by court order or stipulation, the electronic filing must be completed by that time. Documents may be filed at any time of the day on days prior to the date on which it is due.

Documents are not considered filed with the court until the NEF is generated by CM/ECF.

L. Special Filing Requirements and Exceptions

1. The following documents **shall be filed only on paper**:

a. Sealed documents. These documents shall be conventionally filed, clearly labeled as a "Sealed Document," following the requirements of LR 7.2. The filer shall also contemporaneously provide the court with a compact disk of the main document and any accompanying memorandum of law or exhibits as separate documents in PDF format, which shall be named and organized in a manner that clearly identifies each document.

A party shall electronically file a motion, pursuant to LR 7.2, to file a document under seal (unless the motion to seal itself is to be filed under seal). Motions for impoundment shall be specific about what is to be sealed (the document and/or the related docket entries). The motion for impoundment shall be filed and ruled upon prior to submission of the actual material sought to be impounded, unless the court orders otherwise. If the motion is granted, the assigned judge will electronically file an order authorizing the filing of the document under seal. The filing party shall then deliver the document to the clerk's office for conventional filing under seal. A paper copy of the order

shall be attached to the documents filed under seal and delivered to the clerk.

b. *Ex parte* motions and applications. *Ex parte* motions and documents shall be filed on paper. These will be handled by CM/ECF in a similar fashion as sealed documents (except for the requirement to file a separate motion to seal for each document).

- c. Pretrial hearing and trial exhibits.
- d. Voluminous documents.
- e. Medical Records.

2. The following documents shall be filed on paper. As a rule, they will be scanned and filed into the CM/ECF system by the clerk's office:

a. The charging document in a criminal case, such as the complaint (and supporting affidavit), indictment, and information, as well as the criminal JS45 form for the District of Massachusetts.

b. Applications and affidavits for search, seizure or arrest warrants and related papers.

3. The following types of documents *may* be filed on paper. However, the documents may be scanned and filed into the CM/ECF system by a filing party or the clerk's office, and will be accessible through PACER, where appropriate.

a. The state court record filed in 28 U.S.C. § 1446 removal proceedings.

b. The state court record filed in *habeas corpus* (28USC§2254) proceedings.

c. All handwritten pleadings.

d. Pleadings and documents filed by *pro se* litigants.

e. Papers received from another court pursuant to Fed.R.Crim.P. 5, 20 and 21.

f. Appearance bonds.

g. Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement.

4. The following documents may be received by the clerk's office, but are not filed, electronically or otherwise, unless ordered by the court:

a. Pretrial service reports.

b. Pre-sentencing reports and other papers submitted prior to sentencing.

c. Documents filed in relation to Alternative Dispute Resolution (ADR) proceedings. Other than the Order of Reference to ADR and the subsequent reports from the ADR Provider, all documents generated by the parties in the ADR process should be sent or delivered on paper (or email, if directed to do so) to the ADR Provider, clearly identified as a document for the ADR Provider. ADR documents are not part of the public case file and are not to be filed electronically.

M. Signature

1. *Attorneys.* The user login 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 Procedure and the local rules of this court. All electronically filed documents must include a signature block and must set forth the attorney's name, bar number, address, telephone number and email address. The name of

the CM/ECF user under whose log-in and password the document is submitted must be preceded by a "/s/" and typed in the space where the signature would otherwise appear. For example:

/s/ John A. Smith

John A. Smith BBO#123456

123 Main Street

Boston, MA 02210

617-987-6543

jasmith@internetprovider.com

2. *Multiple Signatures.* The filer of any document requiring more than one signature (e.g. stipulations, joint motions, joint status reports, magistrate judge consent forms, etc.) must list thereon all the names of other signatories by means of a "/s/ name of signatory" block for each. 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 concurrence for future production, if necessary, until two (2) years after the expiration of the time for filing a timely 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 (14) days of the date on the NEF.

3. *Affidavits.* Except as provided in subsection L, affidavits shall be filed electronically; however, the electronically filed version must contain a "/s/ name of signatory" block indicating that the paper document bears an original signature. 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. The court will also accept a scanned version of the original, signed document.

N. Privacy

Sensitive information including any subsequent amendments, should not be included in any document filed with the court, in compliance with Fed.R.Civ.P. 5.2, Fed.R.Crim.P. 49.1 and the E-Government Act of 2002, unless such inclusion is necessary and relevant to the case. Personal information not otherwise protected will be made available over the Internet via PACER. Personal data identifiers must be partially redacted from the pleading, whether it is filed traditionally or electronically.

The following personal identifiers shall not be included:

1. Minors' names (Use the minors' initials only)
2. Social security numbers (Use the last four numbers only)
3. Dates of birth (Use the year of birth only)
4. Financial account numbers (Identify the type of account and the financial institution, but use only the last four numbers of the account number)
5. Home addresses (Use the city and state only) – in criminal proceedings only.

The clerk's office is not responsible for reviewing documents filed with the court to determine whether pleadings have been redacted and are in the proper form.

CM/ECF now includes a reminder on the login screen to all external filers regarding the requirements of Fed.R.Civ.P. 5.2 and Fed.R.Crim.P. 49:

“IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer-identification numbers; dates of birth; names of minor children; financial account numbers; and, in criminal cases, home addresses, in compliance with Fed. R. Civ. P. 5.2 or Fed. R. Crim. P. 49.1. This requirement applies to all documents, including attachments.

I understand that, if I file, I must comply with the redaction rules. I have read this notice.”

The Judicial Conference adopted Fed.R.Civ.P. 5.2 that specifically changes this access in social security and immigration cases, allowing public Internet access to “an opinion, order, judgment, or other disposition of the court, but not any other part of the case file or administrative record.”

Therefore, remote electronic access to documents in certain types of cases (social security and immigration matters) is limited to case participants with CM/ECF log-ins. However, these cases and documents are available electronically to anyone wishing to view the record at the public terminals found in the clerk’s office.

O. Attachments to Filings and Exhibits

1. Attachments to filings and exhibits must be filed in accordance with the court’s CM/ECF User Manual, unless otherwise ordered by the court.

2. Filers 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.

3. Filers 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. (See subsection G for information on using hyperlinks in PDF documents filed in CM/ECF.)

P. File Size Limitations and Conventional Filing of Documents

1. Documents submitted electronically or on paper are subject to the page limitations set by LR 7.1(b)(4) or by order of the court.

2. A filing party shall limit the size of each PDF file to no more than seven (7) megabytes. PDF files larger than seven megabytes will be rejected by the CM/ECF system. The filer will see a message advising of the size limitation.

Larger documents or exhibits may be submitted electronically if split into separate PDF files each less than seven megabytes, attached to the main document and clearly labeled.

3. The filing party is required to verify the accuracy and readability of scanned documents before filing the documents electronically with the court.

4. Documents or exhibits submitted conventionally shall be served on other parties by the filer using traditional means.

5. When documents or exhibits (other than those filed *ex parte* or under seal) are submitted conventionally, a “Notice of Filing with clerk’s office” shall be filed electronically and attached to the main document. A paper copy of the “Notice of Filing with clerk’s office” must accompany the documents submitted to the court. The “Notice of Filing with clerk’s office” (see Appendix I) shall describe each of the documents that will be filed as paper copies in the clerk’s office, or shall include an index of the documents if those documents are voluminous.

6. If an attachment or exhibit is conventionally filed, it shall be maintained and available for inspection in the clerk’s office and will not be scanned and added to the court’s electronic docket unless specifically directed to do so by the court. However, the clerk’s office will make an entry on the docket stating that the manual filing has been received.

Q. Orders and Judgments

1. The assigned judge, chambers staff or deputy clerk shall file electronically all signed orders. Any order signed electronically has the same force and effect as if the judge had affixed his/her signature to a paper copy of the order and it had been entered on the docket conventionally. An electronically signed order shall include, but is not limited to, the signatory’s name preceded by a “/s/” typed in the document. Both judicial officers and deputy clerks may electronically sign orders, as appropriate.

2. A judge, or deputy clerk, may rule on routine motions and enter other orders by a text-only entry upon the docket entitled “Electronic Order” or “Endorsed Order.” In such cases, no PDF document will be created or attached to the docket entry; the text-only entry shall constitute the court’s only order on the matter and counsel will receive a system-generated NEF. The clerk’s office will send a hard copy of the NEF to any attorney or party listed on the NEF as not receiving email notice. The clerk’s office will also send the attorney a reminder of his/her obligation to register for CM/ECF.

R. Motions for Leave to File

If a party electronically files a motion, pursuant to LR 7.1, for leave to file a document, or amend a previously filed document, the party shall attach a copy of the proposed document to the motion for leave to file or amend. The attachment must be marked “Proposed [document designation].” Once leave to file is granted, the party proposing the document shall electronically file the original document, indicating in the caption when leave was granted. Example:

JOHN DOE)
)
) 09-12345-MLW
) v.) Amended Complaint
) (Leave to file granted 5/20/11)
ABC CORP.)

S. Submitting Redacted Documents

The parties may request or the court may require the submission of documents that have been redacted/stripped of sensitive or confidential information. The redacted document prepared for electronic filing shall include the original caption of the document, and be clearly labeled as "Redacted Document." A specific event is available for this purpose ("Redacted Document"), found under the Other Filings/Other Documents menu option.

Attorneys and *pro se* litigants are advised to take extra care when creating PDF documents intended for submission to CM/ECF. Steps shall be taken to ensure the documents are free of any hidden data (metadata) that may contain redacted information, or traces of information edited or deleted are not hidden in the final document. Even PDF content that has been encrypted may be recovered. An advisory document with additional information on this topic may be found on the court's website.

T. Submitting Proposed Order

Proposed orders usually are not required by this court. However, the court may request the party to submit such a document. In those situations, unless otherwise directed by the clerk's office, electronically file the proposed document/order using the entry for "Proposed Documents submitted to the court," found under the Other Documents menu, or as an attachment to the motion to which it relates.

U. Transcripts

1. *Proceedings of this Court.* A transcript of a proceeding of this court shall be prepared in PDF format and submitted to the clerk's office by the court reporter. The transcript will be filed electronically, following the practices established by the court's Transcript Redaction Policy. Within twenty-one (21) days after the date on the NEF of a Transcript, any party who purchased an original or a copy of the transcript shall:

- a. Review the transcript to determine whether it contains any personal identifiers listed in Fed.R.Civ.P. 5.2 and Fed.R.Crim.P. 49.1, whichever is applicable, and
- b. Electronically file a Transcript Redaction Request if that party concludes the transcript contains personal identifiers that must be redacted.

2. *Transcripts from Other Courts and Depositions.* A transcript of a proceeding of another court, or a deposition transcript shall be filed electronically, if so available, otherwise on paper.

V. Correcting Docket Entries

1. Once a document is submitted and becomes part of the official record, 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 docket entry once the transaction has been accepted.

2. A document incorrectly filed in a case may be the result of posting an incorrect PDF file to a docket entry, selecting an incorrect document type from the menu, or entering an incorrect case number and not recognizing the error before the transaction is completed. The filing party shall not attempt to refile the document unless specifically instructed to do so by clerk's office staff.

3. As soon as possible after an error is discovered, the filing party should contact the docket clerk assigned to

support the presiding judicial officer, and provide the docket clerk 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 whether the document should be refiled.

W. Technical Failures and Planned Unavailability of System

1. From time to time, CM/ECF will be taken off line so that upgrades and other maintenance may be performed.

2. Scheduled systems outages will be posted on the court's website, at <http://www.mad.uscourts.gov>, whenever possible. A user whose filing is made untimely as the result of a technical failure of the court's CM/ECF system may seek appropriate relief from the court.

3. Technical difficulties on the filer's end, with telephone, cable lines, 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 such technical difficulty on the filer's end shall file the document conventionally along with a copy of the document in PDF format on a compact disk or contact the clerk's office for permission to submit the PDF document via email. As help desk support is available during normal business hours, filers are strongly urged to electronically file any documents during that period.

The court has made available a public terminal (computers and scanner) in each clerk's office for registered users to scan and electronically file documents. This equipment is available during normal business hours. Users should bring their prepared document and a valid CM/ECF login and password.

X. Access to Electronically Stored Documents

The public may review at public terminals in the clerk's office all case documents that have not been filed under seal. The public may access case files in CM/ECF through the court's website (www.mad.uscourts.gov) by obtaining a PACER login and password. PACER logins are available through the PACER Service Center, at 800-676-6856 or at <http://www.pacer.uscourts.gov>.

Y. Retention

Unless otherwise ordered by the court, documents that are filed on paper and subsequently uploaded to the CM/ECF system may be destroyed and need not be maintained in its paper form by the clerk's office. Any document requiring an original signature shall be maintained by the attorney until two (2) years after the expiration of the time for filing a timely appeal. (See subsection M)

UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

APPENDIX A

v. _____ CASE NO. _____

NOTICE OF FILING WITH CLERK'S OFFICE

Notice is hereby given that the documents, exhibits or attachments listed below have been manually filed with the Court and are available in paper form only:

The original documents are maintained in the case file in the Clerk's Office.

Date

Attorney for

**NOTICE OF ELECTRONIC AVAILABILITY
OF CASE FILE INFORMATION
(JAN. 1, 2006)**

The Office of the Clerk is now accepting electronically filed pleadings and making the content of these pleadings available on the Court's Internet web site via WebPACER. Any subscriber to WebPACER will be able to read, download, store and print the full content of electronically filed documents. The Clerk's Office will not make electronically available documents that have been sealed or otherwise restricted by court order.

In compliance with the Policy of the Judicial Conference of the United States and the E-Government Act of 2002, do not include sensitive information in any document filed with the Court unless such inclusion is necessary and relevant to the case. Any personal information not otherwise protected will be made available over the Internet via WebPACER. If sensitive information must be included, the following personal data identifiers must be partially redacted from the pleading, regardless of whether the document is filed traditionally or electronically: social security numbers; financial account numbers; dates of birth; names of minor children and home addresses.

a. **Social security numbers.** If an individual's social security number must be included in a pleading, only the last four digits of that number should be identified.

b. **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be identified.

c. **Dates of birth.** If an individual's date of birth must be included in a pleading, only the year should be identified.

d. **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be identified.

e. **Home Addresses.** If a home address must be included, only the city and state should be identified.

In compliance with the E-Government Act of 2002 and the August 2, 2004 Amendments, a party filing a document that contains the personal data identifiers specified above may:

a. File an unredacted document under seal pursuant to LR 7.2. This document shall be retained by the Court as part of the record; or

b. File a reference list under seal pursuant to LR 7.2. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifier. The reference list must be filed under seal, and may be amended as of right. It shall be retained by the Court as part of the record.

The Court may, however, still require the party to file a redacted copy for the public file. In addition, exercise caution when filing documents that contain the following:

a. Personal identifying number, such as driver's license number;

b. Medical records, treatment and diagnosis;

c. Employment history;

d. Individual financial information; and

e. Proprietary or trade secret information.

Counsel is requested to share this notice with all clients so that an informed decision about the inclusion of certain materials may be made. **If a redacted document is filed, it is the sole responsibility of counsel and the parties to be sure that all pleadings comply with the rules of this Court requiring redaction of personal data identifiers. The Clerk will not review each pleading for redaction.**

SPECIAL NOTICE TO SOCIAL SECURITY ATTORNEYS

It is your responsibility to provide the U.S. Attorney's Office with the social security number of the plaintiff upon the filing of a social security action.

**GENERAL ORDER 06-5 RE: ACCESS TO DOCUMENTS AND INFORMATION UNDER SEAL
(NOV. 27, 2006)**

It is hereby ORDERED that no document, transcript, or other record of information that has been filed under seal or otherwise impounded shall be provided by the District Court to a party, counsel for a party, or any one else unless a motion seeking access to the sealed document, transcript, or record of information has been made and granted.

/s/ Honorable Mark L. Wolf

Chief Judge, U.S. District Court

**GENERAL ORDER 07-4 RE: ASSIGNMENT OF CIVIL CASES TO MAGISTRATE JUDGES]
(DEC. 4, 2007)**

In order to increase the utilization of the Magistrate Judges and increase the availability of civil trials, the Court has approved a pilot program to randomly assign, at the time of filing, a limited number of civil cases directly to the Magistrate Judges sitting in Boston. This new process is modeled after a successful program implemented in Springfield. This pilot project will continue for two years, absent further Order of the Court.

It is hereby ORDERED that, effective January 1, 2008, the automated case assignment system for civil cases will be modified so that one out of twelve civil cases will be randomly assigned to one of the Magistrate Judges sitting in Boston. Exceptions to this program will be bankruptcy appeals, cases seeking an immediate Temporary Restraining Order and cases filed pursuant to 28 U.S.C. § 2255.

The Clerk shall provide this Order and a form for designating the parties' consent or refusal to the Magistrate Judge's jurisdiction to counsel, or to a party appearing *pro se*, upon the filing of a new civil action. It will be the responsibility of that attorney or *pro se* litigant to serve this notice along with the Summons and Complaint or Notice of Removal. That person will also be responsible for obtaining the other parties' decisions concerning proceeding

before the Magistrate Judge and for filing the document within thirty days after the date of service on the last party. The document shall indicate either unanimous consent to final referral of the case to the Magistrate Judge for all purposes including jury or non-jury trial, or that consent to the referral to the Magistrate Judge has been declined. In the latter event, the case will be randomly re-drawn to a District Judge. The previously assigned Magistrate Judge shall continue to be assigned to the case to hear matters referred by the District Judge, in accordance with 28 U.S.C. § 636(b) and Rule 72 of the Federal Rules of Civil Procedure.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing to consent, submission of the executed form, memorializing consent or refusal to consent to final assignment to the Magistrate Judge, is mandatory.

Until the Court receives for filing either a consent to the Magistrate Judge's jurisdiction or the reassignment of the case to a District Judge, the initial assignment of a civil case to the Magistrate Judge is a referral to the Magistrate Judge under 28 U.S.C. § 636(b) for all pretrial nondispositive matters other than the Rule 16(b) scheduling conference.

[s/ U.S. District Judges for the District
of Massachusetts]

**STANDING ORDER RE: COURTESY COPIES
IN CASES BEFORE JUDGE TAURO
(JAN. 10, 2008)**

Counsel shall provide ONE courtesy copy to the District Court Clerk's Office of all documents constituting, supporting or opposing a **DISPOSITIVE MOTION**, including: motions to dismiss, motions for judgment on the pleadings, motions for summary judgment, motions to suppress, motions for temporary restraining orders and motions for preliminary relief (including motions for attachment of real or personal property).

Counsel shall provide ONE courtesy copy to the District Court Clerk's Office of all documents constituting, supporting or opposing a proceeding for the construction of a claim in a patent case.

The courtesy copy must include the **DOCKET NUMBER** assigned by CM/ECF on the first page, and must be stamped or otherwise prominently marked as follows:

"**COURTESY COPY—DO NOT SCAN, Original Filed Electronically**"

The courtesy copy must be delivered to the District Court Clerk's Office within **THREE** business days of the electronic filing.

IT IS SO ORDERED.

[s/ Joseph L. Tauro
United States District Judge]

**NOTICE: TRANSCRIPT REDACTION POLICY
(MAY 1, 2008)**

Effective May 5, 2008, the District of Massachusetts, in accordance with Judicial Conference Policy and the amendments to Rule 5.2 of the FRCvP and Rule 49.1 of

the FRCrP, will implement a *Transcript Redaction Policy* regarding official court transcripts.

A copy of the policy is attached to this notice, and may be found on the court's web site at www.mad.uscourts.gov.

Summary of the Policy:

(1) Counsel of record are obligated to review the transcript for personal identifying information.

(2) Any transcript filed with the clerk of court by a court reporter or transcriber will be available electronically at the office of the clerk of court, for inspection only, for a period of ninety (90) days.

(3) During the ninety (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 available electronically at the public terminal at the courthouse and remotely available through PACER to any attorneys of record who have purchased a copy from the court reporter.

(4) If personal identifiers are found in the transcript, a "Notice of Intent to Redact" must be filed with the clerk (via CM/ECF) within seven (7) business days of the date the transcript was filed.

(5) A "Redaction Request" that includes the specific page and line numbers to be redacted must be filed with the clerk (via CM/ECF) within twenty one (21) calendar days of the date the transcript was filed.

(6) The transcript (or redacted transcript) will be made available electronically to the public ninety (90) days after the transcript was filed, without further notice to the parties.

Counsel are urged to share this notice with their clients so that an informed decision about the inclusion of certain materials may be made. Every transcript filed electronically in the Court's CM/ECF database will be accompanied by a notice to counsel regarding their duties under the policy. **The responsibility for redacting personal identifiers rests solely with counsel and the parties.** Neither the clerk nor the court reporter will review transcripts for compliance with this policy.

Sarah Allison Thornton
Clerk of Court

**TRANSCRIPT REDACTION POLICY
(AMENDED MAY 5, 2008)**

INTRODUCTION

The United States District Court for the District of Massachusetts shall make transcripts of court proceedings, filed on and after May 5, 2008, available through its electronic case files (CM/ECF) system.

The primary purpose of the Transcript Redaction Policy is to provide guidance to the Court's Official Court Reporters and the attorneys of this bar when preparing and reviewing transcripts of official court proceedings to be filed with the Court.

AUTHORITY

At its September 2007 session, the Judicial Conference approved a new policy regarding the availability of transcripts of court proceedings.

In addition, amendments to the Federal Civil and Criminal Rules of Procedure implementing requirements of the E-Government Act of 2002 to protect the privacy

and security of publicly available electronic filings took effect on December 1, 2007. The amendments to Rule 5.2 of FRCvP and Rule 49.1 of FRCrP require that personal identification information (social security numbers, names of minor children, financial account numbers, dates of birth, and, in criminal cases, home addresses) be redacted from documents filed with the Court.

POLICY DESCRIPTION

The effective date of this Policy is May 5, 2008.

It applies only to transcripts of proceedings held before a Judicial Officer of this Court, not depositions taken outside of court or proceedings of state courts or other jurisdictions.

It establishes a procedure for counsel to request the redaction from the transcript of specific personal data identifiers before the transcript is made electronically available to the general public.

It does not change any rules or policies with respect to sealing or redaction of court records for any other purpose.

It does not affect or limit the right of any party (or any other person or entity) to order production of a transcript on an expedited basis. This policy does not affect any court rules or ruling requiring the sealing of materials or the protection of sealed materials.

There is no obligation on the part of the Office of the Clerk to perform any redaction. It is the responsibility of counsel to advise the court reporter what to redact, and the responsibility of the court reporter to perform the redaction.

Redaction responsibilities apply to counsel, even if the requestor of the transcript is a judge or a member of the public or media.

Unless otherwise ordered by the Court, counsel shall review the following portions of the transcript:

- (1) opening and closing statements made on the party's behalf;
- (2) statements of the party;
- (3) the testimony of any witnesses called by the party; and
- (4) any other portion of the transcript as ordered by the Court.

PROCEDURES

A. Notice of Intent to Redact

Within seven (7) business days of the filing of an official court transcript, each party wishing to redact a transcript shall inform the Court by filing (via CM/ECF) with the Clerk's Office a "Notice of Intent to Redact." A sample form is available on the Court's website and is attached to this policy.

B. Redaction Request

If a redaction is requested, unless the Court shall otherwise order, counsel shall file (via CM/ECF) with the Clerk's Office, a "Redaction Request" within twenty one (21) days from the filing of the transcript, indicating where the personal identifiers appear in the transcript by page and line, and how they are to be redacted. A sample form is available on the Court's website and is attached to this policy.

This procedure is limited to the redaction of the specific personal data identifiers listed below:

- (1) Social security numbers to the last four digits;
- (2) Financial account numbers to the last four digits;

- (3) Dates of birth to the year;
- (4) Names of minor children to the initials; and
- (5) Home addresses to the city and state.

If counsel files a "Notice of Intent to Redact," but later determines that no redaction is necessary, counsel shall file a "Withdrawal of Notice of Intent To Redact."

If counsel fails to timely file a Redaction Request or Motion to Extend Time or a Withdrawal of the Intent to Redact, the Office of the Clerk shall issue an Order to Show Cause requiring the attorney to file the redaction request, a notice of withdrawal of the intent to redact, or show cause why the transcript should not be released to the public after ninety (90) calendar days from the date the original transcript was filed.

C. Additional Copies of Transcript Purchased

The court reporter shall notify the court reporter supervisor if additional copies of the transcript are purchased by other counsel of record. The court reporter supervisor will provide electronic access for those additional attorneys during the ninety (90) day period.

D. Redacted Transcript

If a redaction is requested, the court reporter shall file the redacted transcript with the Office of the Clerk within thirty one (31) days after the filing of the original transcript. The title page of the redacted transcript shall indicate that it is a redacted transcript by including "REDACTED TRANSCRIPT" immediately below the case caption and before the volume number and the name and title of the Judge.

E. Sealed and Partially Sealed Transcripts

If a transcript is to be filed under seal, the court reporter shall submit that transcript clearly labeled as "SEALED." The court reporter supervisor shall electronically file the PDF document with the appropriate restrictive setting.

If only a portion of a transcript has been ordered sealed, the court reporter shall extract the sealed portions from the original transcript as a separate PDF document (clearly labeled as "SEALED"). The remaining public portion of the transcript shall be created and both PDF documents, clearly labeled, submitted to the court reporter supervisor for electronic filing.

Counsel shall review the remaining public portion of the transcript for any necessary redactions.

F. Requests for Additional Redactions

Further redactions require the filing of a "Motion for Redaction of Electronic Transcript." Until the Court has ruled on any such motion, the transcript shall not be electronically available, even though the ninety (90) day restriction period may have expired.

G. Remote Public Access to Transcripts

If the original transcript is filed without redaction, that original transcript shall be remotely electronically available through PACER after ninety (90) calendar days.

If a redacted transcript is filed with the Court, that redacted transcript shall be remotely electronically available through PACER ninety (90) calendar days from the date of filing of the original transcript. The original transcript shall not be made publicly available.

H. CJA Panel Attorneys

An attorney who is serving as appointed “standby” counsel for a *pro se* litigant must review the transcript as if the *pro se* party were his/her client. If an attorney represents a client pursuant to the Criminal Justice Act (CJA), including serving as standby counsel, the attorney conducting the review of the transcript is entitled to compensation under the CJA for functions reasonably performed to fulfill that obligation, and for reimbursement of reasonable expenses related to the transcript review.

I. PACER Fees

PACER fees shall be applied both during and after the ninety (90) day restriction period. Charges shall accrue for all pages of the transcript. The user shall incur PACER charges 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. Unlike other documents filed electronically, there is no ‘free look’ for transcripts.