Eastern District of Virginia
Electronic Case Filing
Policies and Procedures Manual

Chapter Three:
Policies and Procedures

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Policies and Procedures – Overview

Overview

Effective March 26, 2007, all new cases must be filed using ECF, including these associated documents:

- Proceedings,
- Motions,
- Memoranda of law, and
- Other documents.

Civil exceptions can be found on page 21 and criminal exceptions can be found on page 23 of this manual.

For criminal cases filed before March 26, 2007 (paper cases) where a fugitive defendant is apprehended, that defendant's case will be converted to an electronic (e-filing) case no matter what the date the case originated. Thereafter, all documents pertaining to that defendant only must be electronically filed, with the exceptions noted in this manual.

Official Court Record

The official Court record is the electronic file maintained on the Court's servers.

Note: The clerk's office will dispose of paper documents that have been scanned and docketed.

Criminal Case Sealed Documents

ALL sealed documents in criminal cases are **exempt** from electronic filing. Unless otherwise provided by law or Court rule, no document may be filed under seal without an order entered by the court in accordance with Local Criminal Rule 49.

Filing users who wish to motion the Court to file a sealed document or seal a pending criminal case must do the following:

- File the motion, the required non-confidential supporting documentation, and the Local Criminal Rule 49(D) Notice electronically.
- Submit to the clerk's office in a sealed envelope the document to be sealed and any confidential memorandum in support, if filed, as instructed in Local Criminal Rule 49.

Civil Case Sealed Documents

Documents filed in **sealed civil cases** are **exempt** from electronic filing. Sealed filings in these cases must be filed in paper form in a sealed envelope marked "Under Seal" in accordance with Local Civil Rule 5(E).

Sealed **documents** filed in **public civil cases** are to be electronically filed by registered filing users in accordance with Local Civil Rule 5 and procedures set forth in *Chapter 4, Electronic Filing of Sealed Documents in Civil Cases*, of this manual.

Filing users who wish to motion the Court to file a sealed document or seal a pending civil case must electronically file the motion to seal, the required non-confidential supporting documentation, LCvR 5(C) Notice and the sealed document.

Policies and Procedures

Redaction of Personal Identifiers

Pursuant to the Local Rules of this Court and the E-Government Act of 2002, filing users must redact the following kinds of information before filing a document either electronically or on paper:

- Social Security Number,
- Minor name,
- Birth date,
- Account number, and
- Home addresses (criminal cases only, unless the Court directs otherwise).

For more information, please refer to Local Civil Rule 7, Local Criminal Rule 47, and the Guide to Redacting Personal Identifiers which was made available by the Court in 2005 when the aforementioned Local Rules were amended.

The easiest and best way to redact a document is to print it, mark through the personal identifiers, and then scan the document to PDF. If you choose to electronically redact a document, please be aware that you may need to take extra steps to insure that personal identifiers remain redacted. Please see the links below for additional information.

http://www.fas.org/sgp/othergov/dod/nsa-redact.pdf

Civil Case Exceptions

Exceptions to electronic case filing must be filed as unbound paper documents. The following are the civil case exceptions to electronic filing:

Document Type	Manner of Processing
The following initiating documents: • Cases to be filed under seal. • Qui Tam Cases • Ship Attachment Cases • Receiverships. • Certifications of Registration in Another District. • Cases filed by pro se litigants.	• Submitted on paper by filer and • Scanned by clerk's office staff.
Consent Orders	• Submitted on paper by filer, • Submitted by clerk's office staff to chambers for judge's signature, and then • Scanned by clerk's office staff.
• Returns of Service (with the exception of subpoena returns). • Waivers of Service of Summons • Garnishment Requests and Suggestions for Garnishment Summons. • Documents filed by ➢ prisoner pro se litigants, ➢ other pro se litigants, ➢ other agencies (e.g., USMS).	• Submitted on paper by filer and • Scanned by clerk's office staff.
• Documents in Sealed Cases, • In camera documents, • Registrar Certificates, • Trial exhibits, • Offers of judgment, and • State court records.	Submitted on paper by filer and not made available electronically.
Any other document that the Court orders not to be electronically filed, imaged, or maintained in the ECF system.	Submitted on paper by filer and not made available electronically.

Policies and Procedures – Documents that May be Filed in Open Court

Civil and Criminal Documents That May Be Filed in Open Court by Attorneys

For division-specific lists of civil and criminal documents that may be filed in open court by attorneys, please see the divisional documents entitled *Courtesy Copies and Other Division-Specific Information* found on the CM/ECF section of our Internet site at www.vaed.uscourts.gov

Criminal Case Exceptions

Exceptions to electronic case filing must be filed as unbound paper documents. The following are the criminal case exceptions to electronic filing:

Document Type	Manner of Processing
Initiating documents, such as complaints, informations, indictments, or superseding indictments.	• Submitted on paper by filer and • Scanned by clerk's office staff.
Consent Orders	• Submitted on paper by filer, • Submitted by clerk's office staff to chambers for judge's signature, and then scanned by clerk's office staff.
• CJA Forms. • Documents filed by an attorney as a first appearance by an interested party. All subsequent filings on behalf of the interested party should be done electronically. • Garnishment Requests and Suggestions for Garnishment. • Documents filed by ➢ prisoner pro se litigants, ➢ other pro se litigants, ➢ other agencies (e.g., USMS).	• Submitted on paper by filer and • Scanned by clerk's office staff.
• Sealed documents, • In camera documents, • Grand jury documents, • Search warrants; Seizure warrants, • Pen registers; Wire taps, • Extradition matters, • Reports of medical or mental evaluations, and • Trial exhibits	Submitted on paper by filer and not made available electronically.
Any other document that the Court orders not to be electronically filed, imaged, or maintained in the ECF system.	Submitted on paper by filer and not made available electronically.

Note: For criminal cases filed before March 26, 2007 (paper cases) where a fugitive defendant is apprehended, that defendant's case will be converted to an electronic (e-filing) case no matter what date the case originated. Thereafter, all documents pertaining to that defendant only must be electronically filed, with the exceptions noted in this manual.

Policies and Procedures – Orders and Judgments

Entry of Orders and Judgments

Orders and judgments entered or issued by the Court will be filed in accordance with these *E-Filing Policies and Procedures*. Such filing shall constitute entry on the docket kept by the clerk under Fed.R.Civ.P. 58 and 79 and Fed.R.Crim.P. 55.

All signed orders and judgments will be electronically filed and entered on the docket by the clerk's office. Orders and judgments bearing the electronic signature of a judge shall have the same force and effect as if the judge had affixed a signature to a paper copy, which had been entered on the docket in a conventional manner.

Filing users should submit proposed and consent orders as follows:

- Proposed orders should be submitted as PDF attachments to the motion.
- Consent orders should be submitted on paper, as outlined in the Civil and Criminal Exceptions above and in the block below.

Consent Orders

Consent orders are not filed until a judge has signed them. Therefore, consent orders are exceptions to electronic filing for the filing user and will be electronically filed by the clerk's office once a judge has signed them.

Take the following steps when presenting a consent order to the Court:

Step	Action
1	Circulate the consent order for endorsement amongst counsel or parties to the case.
2	Submit the endorsed consent order on paper to the clerk's office.

Note: Once the consent order is signed by a judge, clerk's office staff will scan the consent order and electronically file the scanned version. The electronic consent order will become the original version, and the endorsed paper consent order will be destroyed.

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Notice of Court Orders and Judgments

Immediately following the entry of an order or judgment on the docket, the CM/ECF system will transmit to filing users in the case, in electronic form, a Notice of Electronic Filing (NEF). Electronic transmission of the NEF, with a hyperlink to the document, constitutes the notice required by Fed.R.Civ.P. 77(d) and Fed.R.Crim.P. 49(c). To the extent that notice is required, the clerk will give notice in paper form to people who are not registered ECF filing users.

Policies and Procedures - Signatures

Signatures: Judges

A judge signs a document by either (a) writing his or her signature in the traditional manner or (b) affixing or causing to be affixed the mark "/s/" above or beside the judge's name on the document. A judge can sign any document in either manner, and the judge's signature is effective immediately upon so doing for purposes of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Local Rules of this Court, and any other purpose for which a signature is required in connection with proceedings before this Court.

Then, when the judge has caused a signed document to be converted into an electronic file in PDF format and docketed by the Clerk, the representation of the judge's handwritten or printed signature in the court's database becomes the judge's signature for that document for all purposes thereafter.

When a judge rules on a motion electronically, or approves an electronic record reflecting one or more dispositions or other actions on a petty offense docket managed through the Central Violations Bureau, that judge's user login and password for the ECF system constitute the judge's signature for all purposes related to the motion, dispositions, or other actions.

Signatures: Filing Users

The user login and password required to submit documents to the ECF system serve as the filing user's signature on all electronic documents filed with the Court. They serve as a signature for purposes of Fed.R.Civ.P. 11, all other Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Local Rules of this Court, and any other purpose for which a signature is required in connection with proceedings before the Court.

Therefore, it is the filing users' responsibility to safeguard their login and password.

Note: No filing user or other person may knowingly permit or cause to permit a filing user's password to be used by anyone other than an authorized agent of the filing user.

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Signatures: Nine Element Signature Block

An electronically filed document must include a nine-element signature block that contains the following typed information about the filing user:

- "/s/" typed in the space where the signature would otherwise appear,
- Name,
- Virginia bar number,
- Attorney for [party name]
- Firm name,
- Firm address,
- Telephone number,
- Fax number, and E-mail address.

Signatures: Non-Filing Users

Filing users who are electronically filing a document for a non-filing user (e.g., a defendant in a criminal case or an affiant) will electronically file such documents in the following way:

- Obtain the non-user's actual signature on a paper version of the document.
- Scan and file the document electronically.
- Retain the signed paper version of the document for the duration of the case, including any period of appeal.

Signatures: More Than One Party/Signatory

A document requiring signatures of more than one party/signatory must be filed electronically by the filing user as follows:

- Obtain from all parties/signatories either physical or facsimile signatures which constitute authorization for an electronic signature on their behalf.
- Create an electronic version of the document with the filing user's regular signature block, as well as a typed signature block for all other parties/signatories.
- PDF the electronically signed version of the document.
- File electronically the electronically signed document.
- Retain the signed authorizations for the duration of the case, including any period of appeal.

Technical Failures

The Court considers the CM/ECF system subject to a technical failure on a given day if the system is unable to accept filings for longer than three continuous hours during the clerk's office hours of 8:30 a.m. – 5:00 p.m. that day.

If the Court concludes that the system has experienced a technical failure, the following would occur:

- A party whose filing was untimely as the result of a technical failure of the Court's CM/ECF system could seek appropriate relief from the Court.
- The court may require that filings be made via paper during a system outage.
- Known system outages and filing instructions will be posted on the EDVA Internet site, if possible.

Note: Problems on the filing users' end, such as problems with the filing users' phone lines, Internet Service Provider (ISP), hardware, or software, do not constitute a technical failure under the *ECF Policies and Procedures*, nor excuse an untimely filing. **Filing users who experience technical failures on their end are still expected to file both timely and electronically.**