Eastern District of Virginia
Electronic Case Filing
Policies and Procedures Manual

Chapter Four:
Electronic Filing and Service of Documents

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Electronic Filing and Service of Documents

Electronic Filing	Electronic transmission of a document to ECF in accordance with these procedures, together with the transmission of a Notice of Electronic Filing (NEF) from the Court with a hyperlink to the electronically filed document, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the Local Rules of this Court.

Electronic Filing and Service of Documents

Filing Deadline

Filing must be completed before midnight, Eastern Standard Time or Daylight Savings Time, whichever is in place at the time a filing is effected, in order to be considered timely filed that day. However, if time of day is of the essence, the assigned judge may order a document filed by a certain time. Filing a document electronically does not alter the filing deadline for that document.

Note: The time of filing is not when the process of filing the document is begun, but when the NEF is generated.

Electronic Filing and Service of Documents

Notice of Electronic Filing (NEF) As Proof of Filing

A document filed electronically is deemed filed on the date and time stated on the Notice of Electronic Filing (NEF), so you should print out or store electronically a copy of the NEF as proof of filing. (See: *Filing Procedures - Civil Documents*, Block: *Filing a Motion in a Civil Case: Notice of Electronic Filing (NEF)* for instructions on how to save a NEF.)

Note: E-mailing a document to the clerk's office or to the assigned judge does not constitute filing of the document, nor does simply submitting a document via the CM/ECF system. A document is not filed until the system generates a NEF with a hyperlink to the electronically filed document.

Electronic Filing and Service of Documents

Official Record

The official record is the electronic recording as stored by the Court, whether the document has been filed electronically or filed on paper and scanned into the system.

Note: The filing party is bound by the document as filed.

Electronic Filing and Service of Documents

Service by Electronic Means Like Service by Mail	In accordance with Fed.R.Civ.P. 6(d) and Fed.R.Crim.P. 45(c), service by electronic means is treated the same as service by mail: when a party may or must act within a specified time after service and service is made under Rule 5(b)(2)(C),(D), (E), or (F), three days are added after the period would otherwise expire under Rule 6(a).

Docket Entry Creation and Modification

When a filing user files a document, the system creates a docket entry that uses the information provided by the filing user. Clerk's office staff will, where necessary and appropriate, modify the docket entry description to comply with quality control standards.

Filing in the Wrong Case or Attaching an Incorrect PDF

In the event a filing user electronically files a document in the wrong case or attaches an incorrect PDF document, the clerk of court, or a designee, is authorized to strike the document from the record. If a document is removed, a NEF will be sent to all parties in the case.

Electronic Filing and Service of Documents

Consent to Electronic Service

By participating in the electronic filing process, the parties consent to the electronic service of all documents and will make available electronic mail addresses for service. Upon the filing of a document by a filing user, an e-mail message containing the NEF, with a hyperlink to the electronically filed document, will be automatically generated by the ECF system and sent via electronic mail to the e-mail addresses of all parties who have registered in the case.

Note: Recipients of the e-mailed NEF get ONE free look at the linked document within the NEF. This free look expires after the recipient has clicked on the link or after 15 days have elapsed from receipt of the NEF. Further looks at the document must be taken through PACER. Therefore, recipients are encouraged to print out and/or electronically save the document during the free look.

Electronic Filing and Service of Documents

Service of Documents to Non-Filing Users

A party who is not a registered filing user is entitled to a paper copy of any electronically filed document, as well as of the NEF that constitutes proof of filing. Therefore, filing users must provide non-filing users, including terminated parties or attorneys, if appropriate, with a paper copy of the document and a copy of the NEF, pursuant to Fed.R.Civ.P. 5(b) and Fed.R.Crim.P. 49(b). The service of a paper copy of the document and of the NEF is only necessary for documents filed by the filing user.

Electronic Filing and Service of Documents

Filing Documents That Require Leave of Court	If the filing of an electronically submitted document requires leave of Court, such as an amended complaint, filing users should attach the proposed document to the motion requesting leave to file. If the Court grants the motion, the filing user should then electronically file the document.

Motions to Intervene in a Civil Case

Motions to intervene must be granted by the Court before filing users can file any documents other than the motion itself and any supporting memoranda. Filing users should attach any proposed documents to the motion to intervene. If the Court grants the motion, the filing user should then electronically file the documents.

Note: The filing user is required to add the intervening party as a movant during the process of electronically filing the motion (See *Filing Procedures: Adding/Creating a New Party*).

Electronic Filing and Service of Documents

Service of Process

A certificate of service must be included with all documents filed electronically. Such a certificate must indicate that service was accomplished pursuant to the Court's electronic filing procedures and that the document filed was sent via U.S. mail to any non-filing users. The certificate of service should have the filing user's full nine-element signature block at the bottom of the page. (For further guidance, see the sample Certificate of Service in this manual and the Internet tip sheet on preparing certificates of service.)

In accordance with Fed.R.Civ.P.6(d), service by electronic means is treated the same as service by mail: when a party may or must act within a specified time after service and service is made under Rule 5(b) (2)(C), (D), (E), or (F), three days are added after the period would otherwise expire under Rule 6(a).

Sample Certificate of Service

The following is a sample certificate of service by NEF and U.S. mail:

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, 20___, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Jacob Smith
Attorney at Law
123 Main Street
Any Town, VA 22310
jsmithatty@goodlaw.com

And I hereby certify that I will mail the document by U.S. mail to the following non-filing user:

Jane Jones
224 Ivy Lane
Any Town, VA 22214

_____/s/_____
Frank Counsel, Esq.
Virginia bar number 12345
Attorney for John L. Robinson
Counsel and Parker, Attorneys at Law
987 Court Way
Any Town, VA 22315
Phone: 703-555-6745
Fax: 703-555-6746
franknstine@service.net

Courtesy Copies and Other Division Specific Information

Filing users need to stay current with each chambers' desires about courtesy copies and with other information that may be specific to filing in a particular division.

Division-specific information includes a list of civil and criminal documents that may be filed in open court by attorneys.

Filing users may find this information under the *General Information* section of the CM/ECF main page of the EDVA Internet site at www.vaed.uscourts.gov.

Policies and Procedures – Electronic Transcripts

Introduction

Effective March 1, 2009, court transcripts that are transcribed for any trial or hearing occurring after March 1, 2009, in an electronic case is available electronically. To ensure that personal identifiers are not revealed in such transcripts the following procedures must be followed.

90-Day Restriction Period

Once a transcript for a trial or hearing occurring after March 1, 2009 in an electronic case is ordered and paid for it will be electronically filed, but will not be remotely available to the general public or any attorney who has not paid for it, for 90 days from the date the transcript is filed. Attorneys and members of the public may purchase a transcript from the court reporter during the 90-day period and any time thereafter.

During the 90-day restriction period:

- Public access to view an electronic transcript will be restricted to the public terminals at the Alexandria, Richmond, Norfolk, and Newport News courthouses.
- Remote electronic access to an electronic transcript will be available only to attorneys who have purchased the transcript from the court reporter.
- No copies of the transcript will be made for attorneys or the general public by clerk's office staff.
- Once an electronic transcript is filed, it is the responsibility of all counsel of record and pro se litigants to review their portion of the electronically filed transcript to ensure it does not contain any of the personal identifiers referenced in the E-Government Act and to file proper requests for redaction if an identifier is found.

The transcript will be electronically available remotely through PACER after the 90-day restriction period unless the restriction period is extended by court order.

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Review for Redaction

Attorneys of record must review the transcript for redaction purposes and electronically file a *Redaction Request* within thirty (30) calendar days of the filing date of the transcript if redaction is necessary.

Pro Se litigants must review the transcript for redaction purposes and file, on paper, a *Redaction Request* within thirty (30) calendar days of the filing date of the transcript if redaction is necessary.

If no *Redaction Request* is filed, the transcript will be made remotely electronically available without redaction at the end of the 90-day restriction period.

Redaction Request

The *Redaction Request* should state where the personal identifier appears in the transcript by page and line number and the manner in which the information is to be redacted. For example, if a party wants to redact a Social Security Number appearing on page 12, line 9 of the transcript, the statement would read: Social Security Number on page 12, line 9 should be redacted to read xxx-xx-6789.

Because the *Redaction Request* will not be sealed it MUST NOT quote the personal identifier, rather it should refer to the identifier generically (i.e., Social Security Number, date of birth, etc.).

Only the personal identifiers listed below are subject to a *Redaction Request*, and the redaction should be performed as indicated in the "Redacted" portion of the chart below:

Personal Identifiers	Redacted
Social Security Numbers	To the last four digits.
Financial Account Numbers	To the last four digits.
Names of Minor Children	To the initials.
Dates of Birth	To the year.
Home Addresses in Criminal Cases	To the city and state.

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New Form

The following form is available on the EDVA Internet site, www.vaed.uscourts.gov, in both the civil and criminal forms categories:

Form Name	Purpose
Redaction Request	Attorneys and pro se litigants complete and file this form, **and** submit a copy to the court reporter.

New CM/ECF Filing Events

The chart below describes the CM/ECF filing events to be used:

Event	Category	Function
Redaction Request	• Civil Events – Other Documents • Criminal Events – Other Documents	Used by attorneys to electronically file the restricted *Redaction Request*. Pro Se litigants must file this document on paper.
Motion to extend time re: transcript	• Civil Events – Motions • Criminal Events – Motions	Used by attorneys to electronically file a request for an extension of time to: • File and submit a *Redaction Request* to the court reporter. • Extend the 90-day restriction period. Pro Se litigants must file this document on paper.

Redacted Transcript

If a *Redaction Request* is filed, the court reporter will file a redacted transcript within 31 calendar days from the receipt of the *Redaction Request*, or longer if ordered by the court. The redacted transcript will be remotely electronically available at the expiration of the original 90-day restriction period. The originally filed unredacted transcript will remain sealed.

CJA Attorneys

Counsel appointed pursuant to the Criminal Justice Act may claim compensation, at the applicable rate, for the time spent reviewing the transcript and preparing a *Redaction Request*, as well as for costs associated with obtaining a copy of the transcript.

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NOTE: **TO MINIMIZE REDACTIONS AND PREVENT HARMFUL DISCLOSURES OF PERSONAL DATA IDENTIFIERS, COUNSEL AND PRO SE LITIGANTS SHOULD NOT ELICIT SUCH INFORMATION DURING COURT PROCEEDINGS.**