

**GENERAL ORDER NO. 45**

**ELECTRONIC CASE FILING**

**I. Rules and Orders.**

**A. Authorization.** Local Rule 5-4 authorizes electronic filing in conjunction with Federal Rule of Civil Procedure 5(e). The following policies shall govern electronic filing in this district.

**B. Modification by the court.** In extraordinary circumstances in a particular case, a judge may modify these policies in the interest of justice.

**C. Applicability of Other Rules and Orders.** Unless modified by approved stipulation or order of the court or a judge, all Federal Rules of Civil Procedure, Local Rules, and orders of the court shall continue to apply to cases which are subject to electronic filing.

**II. Definitions and Instructions.**

The following definitions and instructions shall apply to these policies regarding electronic filing:

A. The term “ECF” refers to the court’s Electronic Case File program.

B. The term “ECF Web site” refers to the official Electronic Case File Internet site of the Northern District of California at <https://ecf.cand.uscourts.gov>.

C. “Electronic Filing” refers to the process of logging in to the court web site and completing a transaction which includes the uploading of the document(s) comprising the filing to the court’s system. Sending a document by email does not constitute an electronic filing.

D. The term “party” shall include counsel of record.

E. An “ECF User”, as set forth in Section 4 below, is a person who is registered to use the ECF site. An ECF login is an attorney’s individual electronic signature equivalent.

F. The “E-Mail Address of Record” is the e-mail address of each party to the case as maintained by the Clerk.

G. A “Notice of Electronic Filing” is generated automatically by the ECF system upon completion of an electronic filing. The Notice of Electronic Filing when e-mailed to the e-mail addresses of record in the case acts as the proof of service.

H. The term “participating judicial officers” refers to judges and magistrate judges of this court who permit the use of electronic case filing.

I. All hours stated shall be Pacific time.

J. All days are calculated according to the provisions of F.R.Cv.P 6(a).

K. “PACER” is the Federal Judiciary’s system for Public Access to Court Electronic Records. A PACER account is necessary for retrieving documents from the ECF system as it is for most Judiciary online systems. A firm may register for a PACER account by visiting the PACER Service Center’s web site at <http://pacer.psc.uscourts.gov>.

L. Procedures and instructions for using the Court’s ECF system consistent with these policies may be found on the ECF Web site. The ECF Web site, as well as providing access to filing and retrieval of documents also contains instructions, a user manual, tutorials, an extensive posting concerned with Frequently Asked Questions (“FAQs”), bulletins of changes in the program, including its software, etc.

M. The term “PDF” refers to Portable Document Format, a specific computer file format which is the only format in which a document may be electronically filed. Information about PDF can be found on the ECF web site. (See also Sec. VI.B.)

### **III. Selection of Cases.**

**A. Judges.** The Clerk shall maintain and post on the ECF Web site a list of judicial officers whose initial assignment to the case will designate it for the ECF program.

**B. Participation.** Except for certain types of cases, cases assigned to judges who permit the use of ECF, pursuant to Section A, shall be presumptively designated for participation in the court’s ECF program. A list of the types of cases exempt from e-filing may be found on the ECF Web site.

**C. Subsequent Termination Or Modification.** The assigned judge may terminate or modify application of ECF to any action.

### **IV. Registration and Access.**

**A. Obligation to Register.** Each attorney of record is obligated to become an ECF User and be assigned a user ID and password for access to the system upon notification that the action is subject to ECF. Registration shall be on a form prescribed by the Clerk. Attorneys of record who fail to register timely shall be subject to such sanctions as may be imposed by the Court.

**B. Obligation to Keep Account Information Current.** An e-filer login account is a permanent, individual electronic signature equivalent for a particular attorney. Registered attorneys are required to keep their account information current. Account information may be updated online at the ECF Web site.

**C. Authorizing Use of User ID and Password by Others.** An ECF User may authorize another person to file a document using the User ID and Password of the ECF User, and the ECF User shall retain full responsibility for any document so filed.

**V. Filing and Service of Documents.**

**A. Initiating Documents.** Complaints and other initiating documents shall be filed, fees paid, and summons issued and served in the traditional manner on paper rather than electronically. For cases subject to ECF pursuant to Section III.B. above, all previously filed documents shall be submitted in electronic form (PDF format only) within ten days. Submission of initiating documents must be made by email rather than by e-filing. In Bankruptcy Appeal and Social Security appeal cases, the record from the court or agency below shall not be submitted electronically, but shall be submitted on paper only. Failure to email PDF copies of initiating documents timely shall be subject to such sanctions as may be imposed by the Court.

**B. Documents Filed on Paper in Cases Designated for ECF.** Whenever a paper filing is made of any document in a case designated for e-filing, the document shall be submitted in electronic form (PDF format only) within ten days.

**C. Documents E-Filed in Cases Not Designated for ECF.** Filings in cases not designated for electronic filing should be made on paper only. In the event a document is e-filed in a case not designated for electronic filing, the document must be submitted to the court for the purpose of completing the paper file; the document should not be filed again. The filer of the document should mark the paper copy clearly with "E-filed on [date]. Copy for paper file".

**VI. Electronic Filing.**

**A. Generally.** In any case subject to electronic filing, all documents required to be filed with the Clerk shall be filed electronically on the ECF Web site, except as provided otherwise in section VII or authorized otherwise by the court.

**B. Format.** Documents filed electronically must be submitted in the PDF format. Documents which the filer has in an electronic format must be converted to PDF from the word processing original, not scanned, to permit text searches and to facilitate transmission and retrieval. Only documents of which the filer possesses only a paper copy may be

scanned to convert them to PDF format. (See Section X. for rules governing the filing of documents with signatures not those of the e-filer.)

**C. Completion of Filing.** Electronic transmission of a document consistent with the procedures adopted by the court shall, upon the complete receipt of the same by the Clerk and together with the receipt of a Notice of Electronic Filing from the court, constitute filing of the document for all purposes of the Federal Rules of Civil Procedure and the Local Rules of this Court, and shall constitute entry of that document onto the docket maintained by the Clerk pursuant to Federal Rules of Civil Procedure 58 and 79.

**D. Deadlines.** Filing documents electronically does not alter any filing deadlines. All electronic transmissions of documents must be completed (i.e., received completely by the Clerk's Office) prior to midnight in order to be considered timely filed that day. Where a specific time of day deadline is set by Court order or stipulation, the electronic filing shall be completed by that time. Although parties can file documents electronically 24 hours a day, attorneys and parties are strongly encouraged to file all documents during normal working hours of the Clerk's Office when assistance is available.

**E. Technical Failures.** The Clerk shall deem the ECF Web 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 12:00 noon that day, in which case filings due that day which were not filed due solely to such technical failures shall become due the next business day. Such delayed filings shall be accompanied by a declaration or affidavit attesting to the filing person's failed attempts to file electronically at least two times after 12:00 noon separated by at least one hour on each day of delay due to such technical failure. The initial point of contact for any practitioner experiencing difficulty filing a document into the ECF system shall be the toll-free number posted on the ECF Web site.

**F. Docket.** The record of filings and entries created by the ECF system for each case shall constitute the docket.

## **VII. Manual Filing.**

**A. Generally.** Parties otherwise participating in ECF may be excused from filing a particular component electronically if it is not available in electronic format and it is not feasible for the filer to convert it to electronic format by scanning it. Such component shall not be filed electronically, but instead shall be manually filed with the clerk of court and served upon the parties in accordance with the applicable Federal Rules of Civil Procedure and the Local Rules for filing and service of non-electronic documents. Parties manually filing a component shall file electronically a Notice of Manual Filing setting forth the reason(s) why the component cannot be filed electronically.

**1. Exhibits.** Exhibits whose electronic original is not available to the filer and must therefore be scanned to PDF should be filed electronically only when the size of the document does not exceed the limit specified on the ECF web site. Scanning documents often produces files which are too large to be readily usable. Exhibits which are filed on paper because they are too large to scan should be represented in the electronic filing by a Notice of Manual Filing attached in place of the actual document.

**B. Exclusions.** Some types of documents shall only be filed conventionally and not electronically unless specifically authorized by the court. A list of documents to be filed manually may be found on the ECF Web site.

### **VIII. Proposed Orders.**

**A. Generally.** Proposed orders shall be lodged with the court by being transmitted by electronic mail to the specific addresses for that purpose which may be found on the ECF Web site.

**B. Format.** Documents transmitted pursuant to this section shall be submitted in an approved format, a list of which can be found on the ECF Web site. When a proposed order accompanies a filing, a copy of the proposed order in PDF format should also be attached to its electronically filed document (e.g., stipulations and motions.)

### **IX. Service of Electronically Filed Documents.**

**A. Generally.** Parties in cases subject to ECF shall make available electronic mail addresses for service. Upon the filing of a document by a party, an e-mail message will be automatically generated by the electronic filing system and sent to all parties in the case. Receipt of this message shall constitute service on the receiving party. In addition to receiving e-mail notifications of filing activity, the parties are strongly encouraged to check the docket in their case on the electronic filing system at regular intervals. A PACER account will be necessary to check the electronic docket.

**B. Parties in Cases Subject to ECF.** The automatic e-mail message generated by the ECF system and sent to all parties whose e-mail addresses have been registered in the case, as described in Section A. above, shall constitute service on the attorney or other persons in a case subject to ECF.

#### **C. Parties Who Have Not Registered as ECF Users.**

**1. Third Party Defendants.** Upon the filing of a third-party complaint in an action which is subject to ECF, the third-party plaintiff(s) shall serve notice upon the third-party defendant that the action is subject to ECF, and shall serve an ECF

User registration form together with the third-party complaint. If the third-party defendant is a registered ECF User pursuant to Section II(D) above, the third-party answer shall be filed electronically. Otherwise, concurrent with the non-electronic filing of the third-party answer or other documents responsive to the third-party complaint, the third-party defendant shall file with the Clerk the information required to become a registered ECF User pursuant to Section IV (A) above. The third-party defendant shall within ten days submit the answer or other responsive documents in electronic form ( PDF format only), to an e-mail address for that purpose which may be found on the ECF Web site, for attachment to docket entries previously made by the Clerk's Office.

**2. Others.** In an action subject to ECF, when service of a document other than a third-party complaint is required to be made upon a person who is not a registered ECF User, a paper copy of the document shall be served on the person (as otherwise required by the Federal Rules of Civil Procedure or the Local Rules), along with an ECF User registration form. If the person so served is permitted or required to respond to the document, such time to respond shall be computed without regard to ECF. Such person must submit to the Clerk's Office a completed ECF User registration form and receive a User ID and Password, and thereby become subject to ECF for the purposes of the action. The party shall, within ten days of manually filing any responsive documents, submit those documents in electronic form (PDF format) to an e-mail address for that purpose which may be found on the ECF Web site, for attachment to docket entries previously made by the Clerk's Office.

**D. Service of the Court's Orders.** Orders filed by the court in cases designated for electronic filing will be served only via the email Notice of Electronic Filing. No paper service will be made by the court.

## **X. Signatures.**

A document filed with the court electronically shall be deemed to be signed by a person (the "Signatory") when the document identifies the person as a Signatory and the filing complies with either subparagraph (A) or (B). Any filing in accordance with any of these methods shall bind the Signatory as if the document were physically signed and filed, and shall function as the Signatory's signature, whether for purposes of Rule 11 of the Federal Rules of Civil Procedure, to attest to the truthfulness of an affidavit or declaration, or for any other purpose.

**A. ECF Users.** In the case of a Signatory who is an ECF User, such document shall be deemed signed, regardless of the existence of a physical signature on the document, provided that such document is filed using the User ID and Password of the Signatory.

**B. Others.** In the case of a Signatory who is not an ECF User, or who is an ECF User but whose User ID and Password will not be utilized in the electronic filing of the document, as in the case of documents requiring multiple signatures, the filer of the document shall list thereon all the names of any other signatory or signatories. The filer shall attest that concurrence in the filing of the document has been obtained from each of the other signatories, or from the single signatory (in the case, e.g., of a declaration) which shall serve in lieu of their signature(s) on the document. The filer's attestation may be incorporated in the document itself, or take the form of a declaration to be attached to the document. The filer shall maintain records to support this concurrence for subsequent production for the court if so ordered or for inspection upon request by a party until one year after final resolution of the action (including appeal, if any). The filer may attach a scanned image of the signature page(s) of the document being electronically filed in lieu of maintaining the paper record for subsequent production if required.

**XI. Record on Appeal.**

Until such time as the United States Courts of Appeals for the Ninth Circuit and the Federal Circuit institute rules and procedures to accommodate Electronic Case Filing, notices of appeal to those courts shall be filed, and fees paid, in the traditional manner on paper rather than electronically. All further documents relating to the appeal shall be filed and served in the traditional manner as well. Appellant's counsel shall provide paper copies of the documents that constitute the record on appeal to the District Court Clerk's Office.

**XII. Access to Rules.**

These policies, as well as operational guidelines and instructions, shall be posted on the ECF Web site and may be published in official legal newspapers in this district. Any amendments to ECF procedures shall be similarly published.

ADOPTED: 12/15/98  
AMENDED: 1/16/01  
AMENDED: 2/12/02  
AMENDED: 4/8/03

FOR THE COURT:

          /S/ Marilyn Hall Patel            
MARILYN HALL PATEL  
Chief Judge