



DISTRICT COURT OF GUAM

Case Management

CM / ECF

Electronic Case Files

**ADMINISTRATIVE PROCEDURES
FOR THE ELECTRONIC FILING, SIGNING,
VERIFYING, AND SERVING OF
CIVIL AND CRIMINAL DOCUMENTS**

rev. June 26, 2009

I. SCOPE OF CM/ECF PROCEDURES

A. Applicability

The provisions of these Administrative Procedures for the filing of documents through the Case Management / Electronic Case Files (“CM/ECF”) system apply in all pending Civil cases (including Admiralty and Tax cases) and Criminal cases in the District Court of Guam. These procedures contain provisions for both the electronic filing of documents through the Internet and the filing of paper documents and their electronic recording and storage by the court.

B. Participation

A person registered as a participant in the CM/ECF system (“ECF User”) may file documents in accordance with these procedures. Non-ECF Users, including pro se parties, shall continue to file documents conventionally by submitting paper documents to the court.

II. CONSEQUENCES OF ELECTRONIC FILING

A. Effectiveness of Electronically Filed Document

The electronic filing of a document consistent with these procedures, together with the transmission of a Notice of Electronic Filing from the court, constitutes the 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, and constitutes entry of the document on the docket by the Clerk under Fed. R. Civ. P. 5, 58, and 79, and Fed. R. Crim. P. 49 and 55. The official record of all documents is the electronic record of the document as stored by the court.

B. Time of Filing

Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight Chamorro Standard Time (ChST) in order to be considered timely filed that day. The date and time of filing is that stated on the Notice of Electronic Filing from the court. This time stamp is based on the time of the electronic receipt of the document by the court, not by the time of transmission by the ECF User.

C. Virtual Documents

Virtual documents are certain documents (including some orders) which are frequently used by the court and the text of which does not vary from case to case. A virtual document consists entirely of the text contained in the docket entry and is not embodied in any other document or electronic record. The docket entry for a virtual document shall be fully effective despite the absence of a document or electronic record apart from the docket entry.

III. SIGNATURES

A. Filing Party

1. **Use of login and password.** The use of a login and password assigned to an ECF User in the electronic filing of a document shall constitute the ECF User's signature on the document, 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 the court.
2. **Signature block.** Electronically filed documents must include the name (preceded by "/s/"), address, and telephone number of the ECF User filing the document.
3. **Authority to sign.** An ECF User may authorize one or more employees or office staff members to use the ECF User's login and password for the electronic filing of a document. No ECF User or other person may knowingly permit or cause to permit an ECF User's login and password to be used by anyone other than an authorized agent of the ECF User, and all ECF Users shall take reasonable precautions to prevent such unauthorized use. The use of the ECF User's login and password, whether authorized or not, constitutes the ECF User's signature on the document for all purposes, including those under Fed. R. Civ. P. 11(a).
4. **Multi-signature Documents**
 - a. **Civil cases.** Documents which must bear original signatures or which require either verification or an unsworn declaration under any rule or statute, shall be filed electronically with originally executed copies maintained by the filer for two (2) years after final resolution of the action, including final disposition of all appeals. The pleading or other document electronically filed shall indicate a signature, e.g., "/s/ Jane Doe".
 - b. **Criminal cases.** Documents requiring signatures of more than one party must be electronically filed by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other parties on the document; and (3) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than three business days after filing; or (4) in any other manner approved by the court. The pleading or other document electronically filed shall indicate a signature, e.g., "/s/ Jane Doe".

5. **Virtual documents.** A virtual document that is a court notice or order entered by the court shall be deemed signed by the individual whose name appears as Judge or Clerk.

B. Party Other than Filing Party

A document requiring the signature of a person other than the filing party must contain an image of the other party's signature. An ECF User may satisfy this requirement by attaching to the document a counterpart signature page containing an image of the other party's signature. Seals may be noted by expressions such as "Legal Seal," "L.S.," "Notary Seal," etc., if the seal is not readily apparent in the scanned image of the document. The electronic filing of a document signed by a person other than the ECF User shall be deemed to include the ECF User's representation to the court that, to the best of the ECF User's knowledge, the document is a true and correct copy of the original document bearing such other person's signature.

C. Retention Requirements

Documents that are electronically filed and require original signatures other than that of the ECF User must be maintained in paper form by the ECF User until two (2) years after all time periods for appeals expire. On request of the court, the ECF User must provide original documents for review.

IV. ELIGIBILITY, REGISTRATION, TRAINING, PASSWORDS

A. Eligibility

Attorneys admitted to practice before the District Court of Guam, including those admitted *pro hac vice*, attorneys representing the United States of America, and others as the court deems appropriate, may register as ECF Users.

B. Registration

1. **Registration form.** Registration as an ECF User shall be made by using a form prescribed by the clerk. At a minimum, the form will require the registrant's name, address, telephone and fax numbers, e-mail address, and a statement that the attorney has been admitted to practice before this court. The registration form is available at the court's website: www.gud.uscourts.gov. A completed registration form may be delivered in person or by mail to: Clerk, District Court of Guam, 4th Floor, U.S. Courthouse, 520 West Soledad Avenue, Hagatna, Guam 96910.

2. **Consent to receive notice and service electronically.** Submission to the court of a completed and signed registration form indicating the consent to electronic service shall constitute: (i) consent in writing to receive notice electronically and waiver of any right to receive notice by any other means; and (ii) consent in writing to electronic service, except with regard to service of a summons and complaint under Fed. R. Civ. P. 4, and service of other process as required by Fed. R. Civ. P. 4.1, and waiver of any right to service by any other means. The waiver includes, without limitation, notice of the entry of an order or judgment under Fed. R. Civ. P. 77(d). The consent and waiver is effective upon activation of the ECF User's login and password in the ECF live database.

C. **Training**

The court will provide training as necessary to attorneys and staff for participation in the CM/ECF system. Training may be a combination of classroom and online computer based training (CBT). Following registration, an ECF User applicant will be issued a login and temporary password limited to use in the CM/ECF training database (<https://ecf-train.gud.uscourts.gov>). The court may require satisfactory completion of a training program as qualification for CM/ECF participation and issuance of a password for use in the "live" database.

D. **Login and Password**

1. **Full activation.** After satisfactory completion of training or waiver thereof, a registrant will receive a password for filing documents in the "live" database (<https://ecf.gud.uscourts.gov>).
2. **Use of login and password.** The login and password assigned to an ECF User shall be used exclusively by the registered ECF User and any non-attorney employee or staff member explicitly authorized by the ECF User to use the login and password. The ECF User shall not knowingly permit use of the login and password by any person not so authorized, shall take reasonable steps to prevent such unauthorized use, and shall be fully responsible for all use of the login and password whether authorized or unauthorized. If authorization to use a login and password is withdrawn (e.g., when a staff member leaves employment) or if unauthorized use of a login and password is suspected, the ECF User shall forthwith select and activate a new password for use in the ECF system. The ECF User also shall immediately notify the court's Clerk's Office upon learning of any unauthorized use. Failure to change the password and notify the court under the aforementioned circumstances may result in sanctions against the registered ECF user.
3. **Suspension or cancellation by court.** Upon appropriate notice and for

cause shown, the court at any time may suspend or cancel an ECF User's use of a login and password. The court may require that additional training be taken in order to reactivate ECF participation.

4. **Withdrawal.** An ECF User may withdraw from ECF participation by giving notice of not less than 30 days to all parties in matters in which the ECF User is a party or represents a party. Such withdrawal will be deemed to be cancellation of the consent to receive notice and service by electronic means, unless otherwise stated in writing by the withdrawing party.

V. ELECTRONIC FILING PROTOCOLS

A. Format

A document filed electronically must be submitted as a Portable Document Format ("PDF") file. Such files may be created by using Adobe® Acrobat® software or through certain other software for word processing and scanning of documents. In creating the PDF file, the "Document Security" must be the "No Security" default setting in order for the PDF document to be filed in the CM/ECF system.

B. Size of Documents

Document files must be no larger than 2 megabytes (MB) in size, or approximately 40 pages of text in a standard word processing format, converted into a PDF image. A file containing non-text items such as scanned photographs may be considerably larger, requiring adjustment before electronic transmission is attempted. Transmission of a large document as a single file may not be successful due to security constraints on the length of time taken by an electronic filing. Large-sized documents should be broken down into sections and filed as consecutively numbered attachments.

C. Name of Docket Entry

The ECF User shall select the most appropriate description of the type of document from the docketing event "pick list" presented. The ECF User shall call the Clerk's Office for assistance if the type of document to be filed does not appear as a selection. The ECF User may add appropriate descriptive text before submitting the final docket text entry.

D. Single Docket Entry

All documents with exhibits and attachments capable of electronic imaging and filing shall be filed together as a single docket entry. Related documents generally signed by the filing individual, such as supporting memoranda, declarations, etc., may be filed separately but, if available for filing at the same time, should be filed as attachments to the underlying document in a single docket entry.

E. Hyperlinks

Electronically filed documents may contain the following types of hyperlinks:

- a. Hyperlinks to other portions of the same document; and
- b. Hyperlinks to a location on the Internet that contains a source document for a citation.

Hyperlinks to other documents filed within the CM/ECF system are not permitted. 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.

F. Correcting Docket Entries

1. **No Changes After Submittal.** Once a document is submitted and becomes part of the case docket, corrections to the docket are made only by the Clerk's Office. The system will not permit the filing party to make changes to the document(s) or docket entry filed in error once the transaction has been accepted.
2. **No Refiling of Incorrect Entries.** A document incorrectly filed in a case may be the result of posting the wrong .pdf file to a docket entry, selecting the wrong document type from the menu, or entering the wrong case number and not catching the error before the transaction is completed. The filing party should not attempt to refile the document.
3. **Contacting the Clerk's Office.** As soon as possible after an error is discovered, the filing party should contact the Clerk's Office with the case number and document number for which the correction is being requested. If appropriate, the court will make an entry indicating that the document was filed in error. The filing party will be advised if the document needs to be refiled.

G. Attachments and Exhibits

1. **Identification of attachments.** Each attachment to a document must be concisely but adequately identified in additional text. E.g.: *Declaration of Jane Doe in Support of Motion*. A large document being broken down to 2 or more smaller sized attachments should clearly identify the sections. E.g.: *Memorandum in Support - Part 1*; *Memorandum in Support - Part 2*, etc. Documents related to a motion or other pleading which are not available for attachment to the main document may be filed later as a separate document. E.g.: *Declaration of Jane Doe* (relating it to the underlying motion or other pleading).

2. **Compound documents.** As an alternative to attaching separate documents to a main document, a series of related documents may be filed together as a single PDF file, subject to the 2 MB size restriction of the file. E.g.: *Motion with Memorandum in Support and Declaration of Luke Lender.*
3. **Relevant excerpts only.** An exhibit to an electronic filing shall include only excerpts of the referenced document that are directly germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. A party filing excerpts of a document under this provision does so without prejudice to the right to file timely additional excerpts or the complete document. A responding party may file timely additional excerpts or the complete document that the party believes to be directly germane to the subject matter.

H. Sealed Documents

A motion to file one or more documents under seal shall be filed conventionally in paper form. Until the court has ruled on any motion to seal, no document that is the subject of a motion to seal, nor the motion itself or any response thereto, will be available electronically or in paper form.

Pre-Sentence Investigation Reports shall be electronically filed under seal by the U.S. Probation Office. Electronic or other access to the Pre-Sentence Investigation Reports shall be restricted to Court staff, U.S. Probation Office staff, and the attorneys of record for both the United States Attorney's Office and the Defendant.

I. Emergency Motions

An emergency motion or other matter requiring expedited attention by the court, such as an application for a temporary restraining order or a motion for a protective order, may be filed electronically in the same manner as other documents. The moving party shall contact the Clerk's Office by telephone at (671) 473-9100 to alert the court to the filing and the emergency nature of the motion.

J. Verification of Document Image

An ECF User shall verify, by checking the link in the Electronic Notice of Filing or by reviewing the docket within 2 business days after the electronic filing, that the image of the document filed is a correct and complete copy of the document intended to be filed. An ECF User shall immediately notify the court of the discovery of an incorrect or incomplete image of a document.

K. Anti-Virus Software

Each ECF User shall utilize updated anti-virus software at all locations from which Internet ECF access is made. The filing party must check all electronic files submitted on disk or transmitted by e-mail to the clerk's office or a judge's chambers for viruses and worms.

VI. SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

A. Consent to Electronic Service

An entity which is not a registered ECF User may consent in writing to electronic service of all documents, except a summons and copy of a complaint, through the CM/ECF system by completing a court-approved consent form available at the court's website. The consent shall apply in all cases in which the consenting entity is a party. Pursuant to Fed. R. Civ. P. 6(e) and Fed. R. Crim. P. 45(c), the three additional days allowed for responding to service by mail shall also apply to electronic service. The entity may withdraw the consent to electronic service by giving notice of not less than 30 days to all parties in matters in which the entity is a party.

B. Notice of Electronic Filing

Electronic transmission of the Notice of Electronic Filing through the court's transmission facilities constitutes service or notice of the filed document to those parties who have consented in writing to accept such service or notice. A paper copy of the Notice of Electronic Filing, together with a paper copy of the electronically filed document, shall be served in accordance with the Federal Rules of Civil and Criminal Procedure and the Local Rules, upon parties not deemed to have consented in writing to electronic service or notice.

VII. SUBMISSION OF PROPOSED ORDERS

A. Orders Requiring Judge's Signature Only

Orders requiring only the judge's signature may be submitted in electronic form, in a standard word processing format, such as WordPerfect® or Word®, which may be edited as necessary by the judge. The proposed order or other document may be submitted to the judge on a computer diskette, other removable media, or by e-mail to chambers@gud.uscourts.gov.

B. Orders Requiring Additional Signatures

Orders requiring the signatures of one or more parties in addition to that of the judge should be submitted in paper form.

VIII. NOTICE OF ORDERS AND JUDGMENTS

A. Electronic Transmission

Immediately upon the entry of an order or judgment, the clerk will transmit to ECF Users in the case or proceeding a Notice of Electronic Filing through the court's transmission facilities. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Civ. P. 77(d). The clerk must give notice in paper form to a person who has not consented to electronic service in accordance with the Federal Rules of Civil and Criminal Procedure.

B. Notice by Mail

To the extent required by Fed. R. Civ. P. 5(b), the clerk shall give notice of the entry of an order or judgment by mail to parties who have not consented to notice by electronic transmission.

C. Service of Orders

If the court directs a party to prepare a proposed order or judgment, the drafting party shall serve, as soon as practicable after notification of the entry of the order or judgment, a paper copy of the order on all parties who have not consented to service by electronic transmission. Conformed copies of orders and judgments will be available for collection at the clerk's office. The clerk will mail conformed copies to the drafting party if a stamped, self-addressed envelope is included with the copies of the proposed order or judgment submitted to chambers.

IX. TECHNICAL FAILURES

An ECF User who is unable to effect a filing through the Internet due to a technical failure should document the incident and report the occurrence to the Clerk's Office. An ECF User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

X. PUBLIC ACCESS

A. Internet Access

- 1. Viewing documents** Any person or organization may access the ECF system at <https://ecf.gud.uscourts.gov> by establishing an account with the Public Access to Electronic Records (PACER) Service Center and obtaining a login and password. Registration may be made online at <http://pacer.psc.uscourts.gov> or by calling the PACER Service Center at (800) 676-6856 or (210) 301-6440. Such access will allow only retrieval of docket sheets and documents.

2. **Filing documents** In addition to the ability to retrieve documents at the court's ECF site, ECF Users may file documents with the court over the Internet. ECF Users receiving a Notice of Electronic Filing via e-mail will not be charged for an initial, single retrieval of a filing download, viewing or printing of a document when accessing the document directly through the link in the e-mail notification.

B. Access at Court

During regular business hours (8:00 a.m. to 3:00 p.m.), electronic access to documents is available at the court (4th Floor, U.S. Courthouse, 520 West Soledad Avenue, Hagatna, Guam). There are no fees for the electronic viewing of docket records and documents at the clerk's office. For printing copies of any record or document accessed electronically at a public terminal at the court, there is a fee of 10 cents per page.

C. Conventional Copies; Certified or Exemplified Copies

Conventional and certified/exemplified copies of electronically filed documents may be obtained from the clerk at fees specified in the District Court Miscellaneous Fee Schedule as authorized by 28 U.S.C. § 1914.

D. Electronic Public Access Charges

Charges for electronic access to court records and documents are described in the Electronic Public Access Fee Schedule set by the Judicial Conference, pursuant to 28 U.S.C. § 1914. For public users obtaining information through a federal judiciary Internet site, there is a fee of 8 cents per page, with the total for any document not to exceed the fee for 30 pages (\$2.40). Note that each attachment to a document in a docket entry is a separate document for purposes of this rule.

XI. FILING OF PAPER DOCUMENTS

- A. **Non-ECF Users.** Non-ECF Users may continue to file documents conventionally by submitting paper documents in accordance with the following provisions. Pursuant to the order adopting these procedures, the provisions below shall govern in the event of any conflict with a local rule or general order.
- B. **Conventional Filings.** The following documents shall be filed conventionally in paper form and not electronically unless specifically authorized by the Court:
 - (1) Civil case opening documents, such as the complaint, petition, or notice of removal, together with the summons and civil cover sheet.

- (2) Charging documents in a criminal case, including the complaint, information, indictment, and superseding information or indictment.
- (3) Transcripts.
- (4) Document(s) to be filed under seal. (See p. 7, Section V, Subsection H, above entitled, "Sealed Documents.")
- (5) Handwritten papers or pleadings.

C. Paper Quality

Documents must be printed on white, unglazed, opaque, medium weight (20 lb.) paper capable of producing a good quality image when scanned using the court's equipment and software. Text must not be highlighted.

D Paper Size

All documents, including exhibits, must be on standard letter size (8.5" x 11") paper. The filing party is responsible for reducing larger size documents to the standard letter size and for copying smaller size documents on standard letter size sheets of paper.

E. Assembly

Documents submitted for filing shall be bound only by binder clips or clamps. Documents shall not be bound by staples, prong fasteners, or standard metal or plastic paper clips. Documents may not contain tabs. Exhibits may be marked by noting the exhibit letter or number at the bottom of the first page of the exhibit or by including a separation sheet marked with the exhibit letter or number.

F. Text and Margins

The Local Rules with respect to formatting and margins do not apply to local forms (generally identified by a form ID at the bottom of the document), and any other papers as directed by the court.

G. Length

A document exceeding 40 pages must be separated into 2 or more parts. Multiple parts of a separated document shall be identified, for example, as being "Part 1 of 3," "Part 2 of 3," and "Part 3 of 3." A document should attach only the germane part of an exhibit rather than the entire exhibit, without prejudice to the filing party's right to file a supplemental or complete exhibit, or to a responding party's right to file an alternate or more complete exhibit.

H. Number of Copies

Only the original document and one copy need to be presented for filing, in addition to copies being returned to the filing party (limited to five).

XII. PRIVACY CONCERNS

- A.** In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents and pleadings filed with the Court, including exhibits thereto, whether filed electronically or by paper, unless otherwise ordered by the Court, or required by statute, or a federal rule of procedure:

1. 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 used (*i.e.*, XXX-XX-6789).

2. Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.

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

4. Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.

5. Home addresses for criminal cases. If a home address must be included in criminal case documents, only the city and state should be listed.

- B.** In compliance with the E-Government Act of 2002, a party (other than the U.S. Probation Office) wishing to file a document containing the personal data identifiers listed above may:

(1) file an unredacted version of the document in paper form under seal with the Clerk's Office; or

(2) file a reference list in paper form under seal with the Clerk's Office. The reference list shall contain the complete personal data identifiers and the redacted identifiers used in their 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 personal data identifiers. The reference list may be amended as of right.

The document or reference list must contain the following heading: "SEALED DOCUMENT PURSUANT TO E-GOVERNMENT ACT OF 2002." The unredacted version of the document or reference list shall be retained by the Court as part of the record until further order of the Court. The party must also file a redacted copy of the document for the public file.

C. Because of remote electronic availability, caution should be exercised and the necessity to seal considered when filing documents that contain any of the following information:

- (1) any personal identifying number, such as driver's license number;
- (2) medical records, treatment and diagnosis;
- (3) employment history;
- (4) individual financial information;
- (5) proprietary or trade secret information;
- (6) information regarding an individual's cooperation with the government;
- (7) information regarding the victim of any criminal activity;
- (8) national security information; and
- (9) sensitive security information as described in 49 U.S.C. § 114(s).

D. Without a Court order, the following documents shall not be included in the public case file and should not be made available to the public at the courthouse or via remote electronic access:

- (1) unexecuted summonses or warrants of any kind (e.g., search warrants, arrest warrants);
- (2) pretrial bail or pre-sentence investigation reports;
- (3) statements of reasons in the judgment of conviction;
- (4) juvenile records;
- (5) documents containing identifying information about jurors or potential jurors;
- (6) financial affidavits filed in seeking representation pursuant to the Criminal Justice Act;
- (7) ex parte requests for authorization of investigative, expert or other services pursuant to the Criminal Justice Act; and
- (8) sealed documents.

If the Court seals a document after it has already been included in the public file, the Clerk shall restrict viewing of the document from both the electronic and paper files as soon as the order sealing the document is entered.

- E.** The responsibility for redacting personal data identifiers and properly filing documents to be sealed rests solely with counsel and the parties. The Clerk's Office will not review each pleading for compliance with this section.