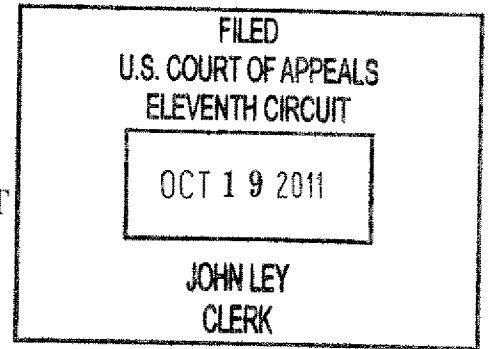


**U.S. COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

GENERAL ORDER 37



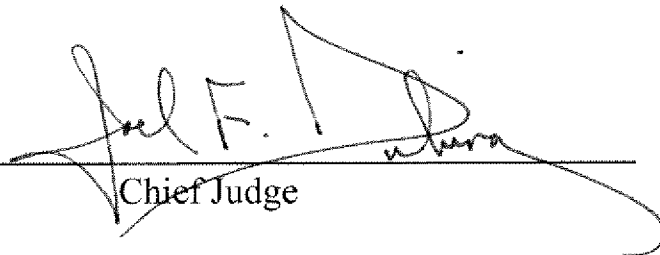
Before: DUBINA, Chief Judge, TJOFLAT, EDMONDSON, CARNES,
BARKETT, HULL, MARCUS, WILSON, PRYOR, and MARTIN, Circuit Judges.

In re: ELECTRONIC CASE FILING

The Court hereby adopts and incorporates by reference the “Eleventh Circuit Guide to Voluntary Electronic Filing” (“the Guide”) to govern the voluntary electronic filing of documents in Court cases. Counsel may begin filing documents electronically in pending appeals in accordance with the Guide on a voluntary basis on 1 January 2012.

The Guide will be posted on the Court’s website, www.ca11.uscourts.gov, and may be amended, as necessary, without prior notice.

FOR THE COURT:



Chief Judge

Dated: OCT 19 2011

ELEVENTH CIRCUIT GUIDE TO VOLUNTARY ELECTRONIC FILING

Introduction

The United States Court of Appeals for the Eleventh Circuit authorizes attorneys to file documents electronically, subject to exceptions set forth in the Eleventh Circuit Rules and this Guide, using the Electronic Case Files (“ECF”) system.

Voluntary Participation in the ECF System

Participation in the ECF system by attorneys is voluntary. See General Order 37.

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1. Definitions

- 1.1. **Attorney Filer** means an attorney who has registered as described in Section 2 of this Guide and is therefore authorized to file documents electronically and to receive service through the ECF system.
- 1.2. **Document** means any order, opinion, judgment, petition, application, notice, transcript, motion, brief, or other document filed in a case.
- 1.3. **ECF (Electronic Case Files)** means the system maintained by the Court for receiving and storing documents in electronic format.
- 1.4. **NDA (Notice of Docket Activity)** is a notice generated automatically by the ECF system at the time a document is filed and a docket entry results. This notice sets forth the time of filing, the text of the docket entry, and the names of the attorneys required to receive notice of the filing. If a PDF document is attached to the docket entry, the NDA will also identify the person filing the document, the type of document, and a hyperlink to the filed document. Any document filed by the Court will similarly list those to whom electronic notice of the filing is being sent.
- 1.5. **PACER (Public Access to Court Electronic Records)** is an electronic system that allows Internet users to view, print, and download electronically maintained docket information and federal court documents.
- 1.6. **PDF (Portable Document Format)** means a non-modifiable electronic file containing the “.pdf” file extension. Text-Searchable PDF means a PDF file generated from an original word-processing file rather than scanned.

2. Registration/Passwords

- 2.1. To participate in the ECF system, an attorney must register to file and serve documents electronically.
- 2.2. To be eligible to register as a user of the ECF system, an attorney must be a member of the Eleventh Circuit bar in good standing, admitted for a particular proceeding under 11th Cir. R. 46-3, or admitted pro hac vice in a

particular case. An attorney must also have submitted to the PACER Service Center a completed ECF Attorney Registration form. PACER Service Center contact information is shown in Section 13.

- 2.3. In addition to ECF registration, the attorney or the attorney's firm must have a PACER account and an e-mail address. The PACER Service Center assigns two sets of log-ins and passwords – one for PACER access and one for ECF access. The log-in and password for ECF access will be used to file documents electronically with the Court.
- 2.4. Upon receipt of the attorney's registration information from the PACER Service Center, the clerk will determine eligibility and activate the Attorney Filer's account. Authorized use of an attorney's log-in and password by another is deemed to be the act of the attorney. If a log-in and/or password should become compromised, the attorney is responsible for notifying the PACER Service Center (see contact information in Section 13).
- 2.5. An Attorney Filer whose e-mail address, mailing address, telephone number, or fax number changes from that disclosed on the attorney's original ECF Attorney Registration form must promptly notify the PACER Service Center. Service by the clerk on an obsolete e-mail address will still constitute valid service on an Attorney Filer if the attorney has failed to notify the PACER Service Center of a new e-mail address.

3. Signatures

- 3.1. Attorneys – An Attorney Filer's use of the assigned log-in and password to submit a document electronically serves as that attorney's signature on that document for all purposes. The identity of the Attorney Filer submitting the electronically filed document must be reflected at the end of the document by means of an "s/[attorney's name]" block showing the attorney's name, followed by the attorney's business address, telephone number, and e-mail address. Graphic and other electronic signatures are discouraged.
- 3.2. Multiple attorney signatures – The Attorney Filer of any electronically filed document requiring multiple signatures (e.g., stipulations) must list thereon all the names of other attorney signatories by means of an "s/[attorney's

name]” block for each. By submitting such a document, the Attorney Filer certifies that each of the other attorneys has expressly agreed to the form and substance of the document, and that the Attorney Filer has their authority to submit the document electronically.

- 3.3. Clerk of Court and Deputy Clerks – The electronic filing of any document by the clerk of court or a deputy clerk by use of that individual’s log-in and password shall be deemed the filing of a signed original document for all purposes.

4. Electronic Filing/Exceptions

- 4.1. Except as otherwise required by circuit rule, this Guide, or by order of the Court, all documents submitted by attorneys in cases filed with the Eleventh Circuit may be filed electronically, using the Electronic Case Files (“ECF”) system. The circuit rules and this Guide govern electronic filings.
- 4.2. All electronically filed documents must be in PDF form and must conform to all technical and format requirements established by the Court and, if any, the Judicial Conference of the United States. Whenever possible, documents must be in Text-Searchable PDF and not created by scanning.
- 4.3. The maximum size of a document that may be filed electronically is 5 MB (megabytes). If a document exceeds 5 MB, it must be filed in separate volumes, each not to exceed 5 MB.
- 4.4. The electronic filing of a Certificate of Interested Persons (CIP) in ECF does not relieve an Attorney Filer of the requirement to also complete and keep updated the web-based CIP on the Court’s web site. To complete the web-based CIP, counsel must obtain from the clerk an Eleventh Circuit password that is independent of PACER and ECF passwords.
- 4.5. The following documents are exempted from the electronic filing requirement and are to be filed in paper format:
 - (1) Any document filed by a party who is not represented by counsel;
 - (2) A petition for permission to appeal under FRAP 5;

- (3) A petition for review of an agency order under FRAP 15;
- (4) A petition for a writ of mandamus, writ of prohibition, or other extraordinary writ under FRAP 21;
- (5) Any other document initiating an original action in the court of appeals;
- (6) An application for leave to file a second or successive habeas corpus petition or motion to vacate, set aside or correct sentence;
- (7) A document filed under seal or requested to be filed under seal;
- (8) A voucher and associated documents pertaining to a claim for compensation and reimbursement of expenses when representation is provided under the Criminal Justice Act or Addendum Five;
- (9) Any document that exceeds the limit that the Court has set for the size of electronic filings; and
- (10) Record Excerpts and Expanded Record Excerpts.

4.6. No unrepresented party may file electronically; unrepresented parties must submit documents in paper format. The clerk will scan such documents into the ECF system, and the electronic version scanned in by the clerk will constitute the official record of the Court as reflected on its docket. The clerk may divide an oversized pro se document into separate volumes for purposes of scanning.

5. Entry on the Docket/Official Court Record

- 5.1.** The electronic transmission of a document, together with transmission of the NDA from the Court, in accordance with the policies and procedures adopted by the Court, constitutes the filing of the document under the Federal Rules of Appellate Procedure and constitutes the entry of that document onto the official docket of the Court maintained by the clerk pursuant to FRAP 45(b)(1).
- 5.2.** The electronic version of filed documents, whether filed electronically in the first instance or received by the clerk in paper format and subsequently scanned into electronic format, constitutes the official record in the case.
- 5.3.** Later modification of a filed document or docket entry by the Attorney Filer is not permitted except as authorized by the Court. The clerk may edit the

docket entry to correct or supplement the text. A notation will be made indicating the entry was edited. A document submitted electronically is deemed to have been filed on the date and at the time indicated in the system-generated NDA.

- 5.4. When the clerk scans a document into ECF, the clerk will discard the paper document once it has been scanned and made a part of the official record, unless the electronic file thereby produced is incomplete or of questionable quality.
- 5.5. Except as otherwise provided by circuit rule or Court order, all orders, decrees, judgments, and proceedings of the Court relating to cases filed and maintained in the ECF system will be filed in accordance with the circuit rules and this Guide and will constitute entry on the docket kept by the clerk under FRAP 36 and FRAP 45(b)(1) and (c). Any order or other court-issued document filed electronically without the original signature of a judge or authorized Court personnel has the same force and effect as if the judge or clerk had signed a paper copy of the order.

6. Filing Deadlines/Technical Failure

- 6.1. Filing documents electronically does not in any way alter any filing deadlines. When a specific time of day deadline is set by Court order or stipulation, the electronic filing must be completed by that time. Otherwise, electronic filing must be completed by 11:59 p.m. Eastern Time to be considered timely filed that day. An electronically filed document is deemed filed upon completion of the transmission and issuance of an NDA.
- 6.2. The uploading of an incorrect document does not constitute compliance with filing deadlines. In the event that an Attorney Filer uploads an incorrect document, the clerk will send the Attorney Filer an e-mail indicating that an incorrect document was uploaded. The Attorney Filer will be requested to reply to the e-mail within three days and attach the correct document to the reply. If the filing deadline has passed when the Attorney Filer e-mails the correct document to the clerk, the Attorney Filer must on that day also electronically file in the case a motion to file the document out of time.

6.3. An Attorney Filer whose filing is untimely as the result of a technical failure may seek appropriate relief from the Court. To resolve a technical failure that may be attributable to the PACER Service Center or the Court, counsel should communicate with the appropriate contact person as shown in Section 13:

- a. Technical issues such as log-in and password questions, and creating and uploading PDF documents, should be directed to the **PACER Service Center help desk**.
- b. Procedural questions concerning how to docket a specific event should be directed to the **Eleventh Circuit ECF help desk**. This includes any instance in which an Attorney Filer has transmitted a document to the ECF system and did not thereafter receive an NDA.

7. **Service of Documents**

7.1. Registration to use the ECF system constitutes consent to receive electronic service of all documents as provided by the Federal Rules of Appellate Procedure and the circuit rules, as well as to receive electronic notice of correspondence, orders, and opinions issued by the Court.

7.2. A certificate of service is required for all documents, and an Attorney Filer must comply with FRAP 25 when filing electronically. The ECF system will automatically generate and send by e-mail an NDA to all Attorney Filers participating in the case. This notice constitutes service on those Attorney Filers. Independent service, either by paper or otherwise, need not be made on any Attorney Filer. The NDA generated by the ECF system does not replace the certificate of service required by FRAP 25. In other words, a document filed electronically by an Attorney Filer must still contain a certificate of service conforming to the requirements of FRAP 25.

7.3. Pro se litigants and attorneys who are not registered for electronic filing must be served by the filing party through the conventional means of service set forth in FRAP 25.

7.4. Except as may otherwise be provided by circuit rule or Court order, all orders, opinions, judgments, and other Court-issued documents in cases maintained in the ECF system will be filed and served on Attorney Filers electronically.

8. Access to Documents

8.1. Access to all documents maintained electronically, except those under seal, is available to any person through the PACER system. PACER accounts are established through the PACER Service Center. See contact information in Section 13.

9. Documents Under Seal

9.1. A motion to file documents under seal may be filed electronically unless prohibited by law, circuit rule, or Court order. Do not attach to the motion the sealed documents or documents requested to be sealed. Documents requested to be sealed must be submitted in paper format in a sealed envelope, and must be received by the clerk within 10 days of filing the motion. The face of the envelope containing such documents must contain a conspicuous notation that it contains "DOCUMENTS UNDER SEAL," or substantially similar language.

9.2. Documents filed under seal in the court from which an appeal is taken will continue to be filed under seal on appeal to this Court.

10. Briefs/Record Excerpts/Expanded Record Excerpts

10.1. The electronically filed brief is the official record copy of the brief.

10.2. Use of ECF does not modify the requirements of the circuit rules that counsel must provide seven paper copies of briefs to the Court. Counsel will be considered to have complied with this requirement if, on the day the electronic brief is filed, counsel sends seven paper copies of briefs to the clerk using one of the following methods outlined in FRAP 25(a)(2)(B):

- a. mail to the clerk by First-Class Mail, or other class of mail that is at least as expeditious, postage prepaid; or
- b. dispatch to a third-party commercial carrier for delivery to the clerk within three days.

10.3. Use of ECF does not modify the requirements of the circuit rules for the filing of record excerpts or expanded record excerpts in a particular case. Attorneys in districts that are not participating in the Electronic Records on Appeal Program must continue to file record excerpts in conformance with 11th Cir. R. 30-1 and 30-2. Attorneys in districts that are participating in the Electronic Records on Appeal Program, and whose cases are included in the Program, must continue to file expanded record excerpts in conformance with the applicable General Orders and the Electronic Records on Appeal Program Components.

11. Record on Appeal

11.1. Adoption and use of ECF by this Court does not modify the requirements of the Federal Rules of Appellate Procedure and circuit rules pertaining to the record on appeal. District courts that are not participating in the Electronic Records on Appeal Program must continue to forward the record on appeal in conformance with the Federal Rules of Appellate Procedure and circuit rules. District courts that are participating in the Electronic Records on Appeal Program will continue to be governed by the applicable General Orders and the Electronic Records on Appeal Program Components.

12. Privacy Protection and Redactions

12.1. In accordance with FRAP 25(a)(5) and 11th Cir. R. 25-5, an Attorney Filer must redact all documents, including briefs, consistent with the privacy policy of the Judicial Conference of the United States. Required redactions include social security numbers and taxpayer identification numbers (use last four digits only), names of minor children (use initials only), birth dates (use year of birth only), financial account numbers (use last four digits only), and home addresses (use city and state only). It is the responsibility of the filer to redact pleadings appropriately.

12.2. Pursuant to the privacy policy of the Judicial Conference of the United States and applicable statutory provisions, remote electronic access to immigration and social security dockets is limited. In this regard, the clerk will restrict electronic public access in these cases to judges, Court staff, and the parties and attorneys in the appeal or agency proceeding. The Court will not restrict access to orders and opinions in these cases. Parties seeking to restrict access to orders and opinions must file a motion explaining why that relief is required in a given case.

13. Contacts

PACER Service Center

Technical issues such as log-in and password questions, and creating and uploading PDF documents, should be directed to the PACER Service Center help desk:

PACER Service Center
P.O. Box 780549
San Antonio, TX 78278
Tel. 800-676-6856 or 210-301-6440
www.pacer.gov

Eleventh Circuit ECF help desk

Procedural questions concerning how to docket a specific event should be directed to the Eleventh Circuit ECF help desk at 404-335-6125. This includes any instance in which an Attorney Filer has transmitted a document to the ECF system and did not thereafter receive an NDA.