

Jan 3, 2025

Vicki Kinkade
Chief Deputy Clerk

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:

AMENDED ELECTRONIC CASE
FILING PRACTICES AND
PROCEDURES

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Administrative Order No. 167-1


ADMINISTRATIVE ORDER

This Administrative Order amends and supersedes Administrative Order 167-1 and the Amended Administrative Practices and Procedures for Electronic Case Filing entered August 21, 2015. The amendments are made to facilitate the electronic filing of documents in the Court's NexGen CM/ECF system by attorneys practicing before the Court. The complete text of the Administrative Practices and Procedures for Electronic Case Filing is available on the Court's website at www.tnmd.uscourts.gov.


It is so ORDERED.




William L. Campbell, Jr.
Chief United States District Judge



Aleta A. Trauger
United States District Judge



Waverly D. Crenshaw, Jr.
United States District Judge



Eli J. Richardson
United States District Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
ADMINISTRATIVE PRACTICES AND PROCEDURES
ELECTRONIC CASE FILING

1. Scope

Unless otherwise provided by the Local Rules of Court, Federal Rules of Civil Procedure or Federal Rules of Criminal Procedure, these policies and procedures apply to all cases filed in this Court via the NextGen CM/ECF system.

2. Definitions

- 2.1 “Filing Error” means an error in submission of a filing in NextGen CM/ECF, *e.g.*, a filing with an incorrect case number, filing event, docket entry text, or PDF file attached to a docket entry.
- 2.2 “Filing User” means an individual who has established a PACER account, and who has applied for and been granted permission by the Court to file documents via NextGen CM/ECF.
- 2.3 “NextGen CM/ECF” means the Court's automated Next Generation Case Management/Electronic Case Files system for receipt, retention, and retrieval of documents filed in electronic form.
- 2.4 “Notice of Electronic Filing” or “NEF” means the electronic notice generated by NextGen CM/ECF which is e-mailed to participating Filing Users after a document is filed. The NEF sets forth the time the document is filed, the names of the party and attorney filing the document, the type of document filed, the text of the docket entry describing the document as it will appear on the Court's docket, the name of each recipient of the NEF and a hyperlink to access the filed document.
- 2.5 “PACER” (Public Access to Court Electronic Records) is a public access service established by the Administrative Office of the United States Courts that allows public access to electronic federal court records. A PACER account is required to file, view, print, and download documents filed via NextGen CM/ECF.
- 2.6 “PDF” means Portable Document Format. PDF is the format in which electronically filed documents must be transmitted to NextGen CM/ECF.
- 2.7 “Technical Failure” means a malfunction of NextGen CM/ECF or the Court's telecommunications facilities through which the system is accessed that prevents a Filing User from filing a document electronically. Technical Failure does not include a malfunction of a Filing User's computer and/or his/her telecommunications facilities that prevent a Filing User from electronically filing a document.

3. Filing by Facsimile or E-mail Generally Prohibited

The Clerk's Office does not accept filings by e-mail or facsimile transmission unless the filings are:

- (a) authorized by Court order;
- (b) case initiating documents or pleadings to be filed under seal. Such documents should be submitted to the Clerk's Office by mail, hand-delivery, or by e-mail to sealedcivilcase@tnmd.uscourts.gov; or
- (c) motions for admission pro hac vice submitted via email to phv@tnmd.uscourts.gov by attorneys who are not yet "Filing Users" in this Court.

4. Scope of Electronic Filing via NextGen CM/ECF

- 4.1 General. Except as expressly provided herein, by local rule, by order of the Court, or in exceptional circumstances (e.g., a Technical Failure), a Filing User shall electronically file all documents required to be filed in civil, criminal, and miscellaneous cases. *See* L.R.5.02 (a).
- 4.2 Maximum Size of Filings. Filed documents should not be greater than 40 MB in size. Documents greater than 40 MB in size should be divided into separate documents of 40 MB or less in size and filed as attachments to the primary document with an appropriate notation in the docket text (e.g., Part 2 of 4, Part 3 of 4, etc.). The system will alert the Filing User if the file is too large.
- 4.3 Civil Case Initiating Documents - Represented Parties. Civil complaints, petitions, notices of removal from state court, or other civil case initiating documents should be filed electronically except in exceptional circumstances. *See* LR 5.02(b)(2). In the case of removal, a copy of all documents filed in the state court action, as required by 28 U.S.C. § 1441, *et seq.*, must be attached to the notice of removal.
- 4.4 Filing Case Initiating Documents in Hard Copy. In the event civil case initiating documents are filed in hard copy, the Filing User must provide the Clerk's Office with an electronic version in PDF format on a USB storage device. Filing Users are advised that, if there is a discrepancy between the paper document and the electronic version, the electronic version is controlling. All subsequent documents shall be filed electronically.
- 4.5 Civil Case Initiating Documents - Pro Se Parties. Parties not represented by an attorney ("Pro Se Parties") must file case initiating documents (i.e., complaints, petitions, notices of removal, etc.) in hard-copy by delivering the documents to the Clerk's Office by mail or in person.

- 4.6 Charging Documents in Criminal Cases. Any indictment or information must be filed in hard copy and not electronically. The Filing User must provide the Clerk's Office with an electronic version in PDF format on a USB storage device. Filing Users are advised that, if there is a discrepancy between the paper document and the electronic version, the electronic version is controlling. The electronic copy of charging documents, including the information, indictment, and superseding information or indictment, shall contain a scanned image of any legally required signature. All subsequent documents shall be filed electronically. Criminal complaints shall be submitted to the Court in hard copy and not electronically. Once the complaint has been properly executed and approved by the Court, it will be scanned and converted to PDF format by the Clerk's Office.
- 4.7 Exhibits and Attachments. Filing Users shall electronically file all exhibits or attachments to filed documents, unless the Court permits filing in paper form. When uploading exhibits and attachments in NextGen CM/ECF, Filing Users are required to select the appropriate document category and enter a brief description of each document. Failure to include the document description may result in the issuance of a deficiency notice requiring the Filing User to file a notice with a description of the documents or to refile the documents in their entirety with the required description.
- 4.8 Sealed Documents. A Filing User seeking to file documents under seal must follow these instructions carefully. Failure to do so may result in the documents being immediately accessible to all parties or members of the public. The Clerk's Office cannot seal documents erroneously filed by the Filing User without Court order.
- (a) File a motion for Leave to File Document Under Seal via the Court's NextGen CM/ECF. DO NOT attach the document to be sealed to this motion at this stage.
- (b) Immediately after filing the motion, file the proposed sealed documents by selecting the "Sealed Document" event in NextGen CM/ECF.
- Any documents purported to be filed under seal without leave of Court will automatically become part of the public record. When documents are ordered to be placed under seal, the Clerk will officially file the documents and such documents will be electronically accessible only to the Court.
- 4.9 Proposed Orders. Proposed orders accompanying electronically filed motions should be filed as attachments to the motions.
- 4.10 Administrative Record in Social Security Cases, State Court Record in Habeas Cases and Other Large Records. The administrative record in social security cases and the state court record in habeas cases shall be filed electronically, unless otherwise ordered by the Court.

4.11 Redaction of Personal Information from Complaint and Filed Documents. 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 identifiers from all documents filed with the Court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court.¹

- (a) **Social Security numbers.** If an individual's social security number must be included in a document, only the last four digits of that number should be used.
- (b) **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of the child should be used.
- (c) **Dates of birth.** If an individual's date of birth must be included in a document, only the year should be used.
- (d) **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.
- (e) **Home Addresses.** If home addresses must be included in a document, only the city and state should be used. (Criminal cases only)

Also in compliance with the E-Government Act of 2002, a party seeking to file a document containing the personal data identifiers listed above may, with permission of the Court sought pursuant to a motion to file under seal:

- (a) file an unredacted version of the document under seal, or
- (b) file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its 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 identifier. The reference list must be filed under seal, and may be amended as of right.

The unredacted version of the document or the reference list shall be retained by the Court as part of the record. The Court may, however, still require the party to file a redacted copy for the public file.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk's Office will not review each pleading for compliance

¹ This redaction requirement does not extend to documents exempted from redaction under Federal Rule of Civil Procedure 5.2 and Federal Rule of Criminal Procedure 49.1.

with the required procedures nor will the Clerk's Office staff redact documents.

4.12 Service of Electronically Filed Documents

- (a) Case initiating documents, such as complaints and summonses in a civil case, must be served in accordance with Rule 4 of the Federal Rules of Civil Procedure and not via NextGen CM/ECF.
- (b) For all other electronic filings, pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim. P. 49(b), the Notice of Electronic Filing generated by the NextGen CM/ECF shall constitute service of the electronically filed document on persons registered as Filing Users.

5. **Effect of Electronic Filing**

- 5.1 Electronic transmission of a document to NextGen CM/ECF, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes under the Federal Rules of Civil and Criminal Procedure and the Local Rules of this Court, and constitutes entry of the document on the docket kept by the Clerk under Fed. R. Civ. P. 58 and 79 and Fed. R. Crim. P. 49 and 55.
- 5.2 Each electronically filed document, as stored by the Court, becomes a part of the Court's official record and the filing party is bound by the document as filed. An electronically filed document is deemed filed as of the date and time stated in the Notice of Electronic Filing generated by the NextGen CM/ECF system.
- 5.3 Filing a document electronically does not alter the filing deadline for that document. For a document to be considered timely filed on a deadline date, the filing must be completed on the deadline date before midnight (local time at the Court's location).

6. **Registration and Passwords**

- 6.1 Only a registered Filing User may electronically file documents with NextGen CM/ECF.
- 6.2 Attorneys practicing before the Court, including those admitted pro hac vice and those authorized to represent the United States, shall, absent good cause shown, obtain a PACER account and request filing access to the Court's NextGen CM/ECF via PACER. NextGen CM/ECF Registration Information is available on the Court's website: <https://www.tnmd.uscourts.gov/nextgen-cmecf-registration-information>.
- 6.3 Pro Se Parties may, with the Court's permission, register as a Filing User solely for purposes of filing documents in their case. Instructions on how to obtain a PACER account and how to request permission to file via NextGen CM/ECF is available on the Court's website at the link above. If, during the course of the

proceeding, the party retains an attorney who is a registered Filing User, the attorney shall, upon entering an appearance, advise the Clerk to terminate the party's Filing User's permissions.

- 6.4 Registration as a Filing User constitutes consent to electronic service of all documents filed via NextGen CM/ECF.
- 6.5 No Filing User may knowingly permit a Filing User's login and password to be used by anyone other than the Filing User or an authorized agent.
- 6.6 Filing Users agree to protect the security of their passwords and immediately notify the Clerk and the PACER Service Center if they learn that their password has been compromised. Filing Users may be sanctioned by the Court for failure to comply with this provision.

7. Signatures

- 7.1 Electronically filed documents shall set forth the Filing User's name, address, telephone number, e-mail address, and, in the case of licensed attorneys, their Board of Professional Responsibility registration number.
- 7.2 Filing Users, who are licensed attorneys, may sign documents electronically. Their names shall be:
 - (1) typed in the space where the signature would otherwise appear preceded by the symbol "s/ [NAME]"; or
 - (2) inserted by facsimile signature.
- 7.3 Pro Se Parties may not sign documents electronically. Documents must contain an original signature. If a Pro Se Party has been permitted to file electronically, the documents filed must include a scanned image of the filer's original signature.
- 7.4 Documents requiring an original signature (e.g., affidavits and declarations) shall be filed by transmitting a scanned image of the document to NextGen CM/ECF in PDF format.
- 7.5 An electronically filed document that requires an original signature other than that of the Filing User (e.g., affidavits and declarations) shall be maintained in paper form by counsel representing the party on whose behalf the document was filed for one year after all time periods for all appeals expire. On request of the Court, counsel must provide the original document for review.
- 7.6 A document containing the signature of a defendant in a criminal case may, at the option of the presiding Judge, be filed: (1) in paper form with an original written signature; or (2) in electronic form as a scanned image of the document containing an image of the defendant's original signature.

7.7 In order to file a document required to contain the signature of more than one person, the Filing User shall: (1) file a scanned image of the document containing all necessary signatures; (2) file the document without the requisite signatures but with a representation by the Filing User that all signatories have consented to the filing of the document; or (3) file the document in any other manner approved by the Court.

7.8 A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures must file an objection to the document within seven (7) days of the Notice of Electronic Filing.

8. Filing and Issuance of Court Documents

8.1 Any order or other court issued document entered electronically without the handwritten signature of a Judge or Clerk has the same force and effect as if the Judge or Clerk had signed a paper copy of the document and it had been entered on the docket in paper form.

8.2 The Court may enter text only orders as entries on the Court's docket without entering a separate PDF-based order in NextGen CM/ECF. Such orders are complete as they appear on the docket and are official and binding upon the parties.

9. Technical Failures

A Filing User whose filing is made untimely as the result of a Technical Failure may seek appropriate relief from the Court.

10. Filing Errors

NextGen CM/ECF will not allow a Filing User to correct a filing after it has been electronically submitted. Filing Users shall report Filing Errors to the Clerk's Office. If appropriate, the Clerk will make an entry in NextGen CM/ECF indicating the document was filed in error. The Clerk's Office cannot remove erroneously filed documents from the docket without a Court order. As noted in Section 4.8 above, the Clerk's Office cannot seal documents erroneously filed by the Filing User without Court order. Filing Users may file a motion with the Court requesting specific relief.

11. Public Access

Members of the public may review docket sheets and unsealed documents contained in NextGen CM/ECF at the Clerk's Office or through the Court's internet site, www.tnmd.uscourts.gov, after opening a PACER account.