UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FILED RECEIVED
SERVED ON
COUNSEL/PARTIES OF RECORD

2005 SEP 30 P 3:42

CLERK US DISTRICT COURT
DISTRICT OF NEVADA
DEPUTY

| | | |
|---|---|---|
| In re<br><br>AUTHORIZATION FOR CONVERSION TO CASE MANAGEMENT/ELECTRONIC CASE FILING (CM/ECF) | )<br>)<br>)<br>)<br>)<br>) | SPECIAL ORDER # 109 |

WHEREAS Fed. R. Civ. P. 5(e) and 83, Fed. R. Crim. P. 49(d) and Local Rules ("LR") IA 2-1 and IA 3-1 authorize this Court to enter a Special Order to establish a "Case Management/ Electronic Case Filing System ("CM/ECF System") for the purpose of the filing, signing and verification of documents by electronic means; and

WHEREAS, the CM/ECF System is consistent with and furthers the responsibility of the Clerk of the Court for the control of the Court's docket under Fed. R. Civ. P. 79, including safeguarding the integrity of the Court's docket; and

WHEREAS, the CM/ECF System does not impose fees inconsistent with the present fee structure adopted by the Judicial Conference of the United States pursuant to 28 U.S.C. §§ 1914 through 1917; and

WHEREAS, the CM/ECF System provides adequate procedures for the filing, review and retrieval of documents by parties who are not able to access the Electronic Filing System from a remote location; and

WHEREAS, the Electronic Filing Procedures provide the means for a signature on documents through the mechanism of a password in compliance with Fed. R. Civ. P. 11.

Based upon the foregoing findings and conclusions of the Court and good cause appearing,

IT IS HEREBY ORDERED that:

1. Effective November 7, 2005 ("Effective Date"), the Clerk of the Court is hereby authorized to maintain the official files for all cases filed on or after the Effective Date in electronic form.

2. The Electronic Filing Procedures ("Electronic Filing Procedures") attached hereto are approved by this Court.

3. Access to the files maintained in electronic form shall be available free of charge in the Clerk's Office during regular business hours, Monday through Friday. Access shall also be available through PACER via the Internet at the charge per page as established by the Judicial Conference of the United States.

4. Electronic files, consisting of the images of documents filed in cases or proceedings and documents filed by electronic means, are designated as and shall constitute the official record of the Court together with the other records kept by the Court. The Clerk of the Court will not be required to establish or maintain paper ("hard copy") files after the Effective date.

5. The filing of a document through the use of an authorized user's User Log-In and Password shall constitute the "signature" of that attorney for purposes of Fed. R. Civ. P. 11.

6. Participation in the CM/ECF system kept by registration and receipt of a login and password from the Clerk of Court shall constitute consent to the electronic service of pleadings and other papers pursuant to the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

7. No authorized user shall knowingly allow the use of his or her User Log-In and Password by any other person unless that person is a member or an employee of the authorized user's law firm or place of business.

8. The electronic filing of a document in accordance with the Electronic Filing

Procedures shall constitute entry of that document on the docket kept by the Clerk under Fed. R. Civ. P. 79 and shall be deemed accepted for filing by the Office of the Clerk.

9. The Clerk's Office shall enter all orders, decrees, judgments and proceedings of the Court in accordance with the Electronic Filing Procedures. The electronic entry of such a document on the docket shall constitute entry of the order, decree, judgment or proceeding on the docket kept by the Clerk under Fed. R. Civ. P. 58 and 79 and Fed. R. Crim. P. 49 and 55.

10. The original of this Special Order shall be filed in accordance with both the Electronic Filing Procedures and conventionally by the Clerk of the Court. A copy of this Special Order shall be posted on the Court's website.

11. Amendments to this Special Order and the Electronic Filing Procedures may be entered from time to time in keeping with the needs of the Court.

12. This Special Order shall become effective on the Effective Date defined above and shall apply to all cases or other proceedings filed on or after that date.

**IT IS SO ORDERED**, this 29th day of September, 2005.

CHIEF JUDGE PHILIP M. PRO
UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

# UNITED STATES DISTRICT COURT

# DISTRICT OF NEVADA

# ELECTRONIC FILING PROCEDURES

***Revised September 6, 2005***

# TABLE OF CONTENTS

Page No.


## I. SCOPE OF ELECTRONIC FILING

A. Requirement for Electronic Filing . . . . . 1
B. Parties Required to be Filing Users . . . . . 1
C. Non-Attorney Eligibility . . . . . 1

## II. REGISTRATION, TRAINING AND PASSWORDS

A. Registration . . . . . 1
B. Passwords . . . . . 2
1. Receipt of Password . . . . . 2
2. Change of Password . . . . . 2
3. Password Security . . . . . 2
i. Prohibited Use . . . . . 2
ii. Notice to Clerk's Office of Compromised Password . . . . . 2
C. User Information . . . . . 2
D. Training . . . . . 2

## III. ELECTRONIC FILING

A. Time . . . . . 3
1. When Documents are Deemed Filed . . . . . 3
2. Additional Time After Service by Electronic Means . . . . . 3
B. Filing and Entry on Docket. . . . . 3
C. Legibility . . . . . 3
D. Official Record . . . . . 3
E. Title of Docket Entries . . . . . 3
F. Form of Documents . . . . . 3
1. PDF Format . . . . . 4
2. Size of Documents . . . . . 4
3. Pagination . . . . . 4
G. Exceptions to Electronic Filing . . . . . 4
H. Privacy Act . . . . . 4
I. Emergency Motions . . . . . 5
J. Non-Compliant Documents . . . . . 5

## IV. SERVICE

A. Consent to Electronic Service . . . . . 5
B. Electronic Service . . . . . 5
C. Paper Service . . . . . 5
D. Paper Copies for Chambers . . . . . 6

**V. SIGNATURES**

A. Filing User Signatures . . . . . 6
B. Non-Filing User Signature. . . . . 6
C. Multiple Signatures . . . . . 6

**VI. ENTRY OF COURT-ISSUED DOCUMENTS**

A. Electronic Filing by Court . . . . . 6
B. Submission of Proposed Orders . . . . . 7

**VII. NOTICE OF JUDGMENT OR ORDER** . . . . . 7

**VIII. RETENTION REQUIREMENTS**

A. Time for Retention . . . . . 7
B. Review of Retained Documents . . . . . 7

**IX. TECHNICAL FAILURES** . . . . . 7

**X. PUBLIC ACCESS** . . . . . 7

A. Internet Access . . . . . 7
B. Access in Clerk's Office . . . . . 7
C. Limiting Electronic Filing or Access . . . . . 8
D. Prohibited Use . . . . . 8

**XI. COPIES OF ELECTRONICALLY FILED DOCUMENTS** . 8

**XII Definitions** . . . . . 9

# I. SCOPE OF ELECTRONIC FILING

## A. Requirement for Electronic Filing

All cases and proceedings filed on or after January 1, 2006 shall be assigned to the Electronic Filing System. Except as provided elsewhere in these Procedures, all documents filed in connection with a case that has been assigned to the System will be filed electronically. Unless specified elsewhere, Electronic Documents shall otherwise conform to all applicable statutes, rules or Court Orders.

## B. Parties Required to be Filing Users

Attorneys who are admitted to the bar of this court, admitted to participate in a case pro hac vice, or who are authorized to represent the United States and its agencies, shall register as Filing Users of the System. Registration shall be in the form prescribed by the Clerk of the Court and by these Electronic Filing Procedures.

## C. Non-Attorney Eligibility

Non-attorneys shall not register as Filing Users unless, after motion, authorized to do so by the court.

# II. REGISTRATION, TRAINING AND PASSWORDS

## A. Registration

An Applicant seeking to become a Filing User shall submit a Registration Form provided by the Clerk of the Court.

Registration Forms may be obtained from, and submitted to, one of the following addresses, as appropriate, depending on the location of the Applicant's place of business or residence:

www.nvd.uscourts.gov

OR

United States District Court
333 Las Vegas Boulevard South
Room 1334
Las Vegas, NV 89101
(702) 464-5460

OR

United States District Court
400 South Virginia, Suite 301
Reno, NV 89501
775-686-5800

## B. Passwords

1. Receipt of Password

Each Filing User shall be issued a Log-In and Password to permit the Filing User to access and file documents in the System.

2. Change of Password

Filing Users are encouraged to change their Password periodically. The Clerk of the Court shall not maintain a record of a Filing User's Password.

3. Password Security

i. Prohibited Use

No person may knowingly permit another person to use a Filing User's Password without authorization of the Filing User.

ii. Notice to Clerk's Office of Compromised Password

A Filing User is responsible for safeguarding his or her User Log-In and Password. In the event a Filing User believes that the security of an existing Password has been compromised, the Filing User shall immediately (by telephone) notify the Clerk of the Court of the apparent breach of security. The Filing User shall also promptly confirm the apparent security breach to the clerk in writing. Filing Users may be subject to sanctions for failure to comply with this provision.

## C. User Information

It shall be the responsibility of each Filing User to maintain and update their user account information.

## D. Training

The clerk's office shall provide training at scheduled dates, times and locations. Users may register for training and obtain training information from the court's website at www.nvd.uscourts.gov or by contacting the Clerk's Office at the above referenced

addresses and telephone numbers.

## III. ELECTRONIC FILING

### A. Time

1. When Documents are Deemed Filed

An Electronic Document is deemed filed as of the date and time stated on the "Notice of Electronic Filing." The date and time stated in the "Notice of Electronic Filing" is determined by the date and time where the court is located. Deadlines will be at 11:59 p.m. on the date due, unless otherwise ordered.

2. Additional Time After Service by Electronic Means

When there is a right or requirement to do some act or undertake some proceeding within a prescribed period after service and the notice or paper other than process is served electronically, three (3) days shall be added to the prescribed period as allowed pursuant to Fed. R. Civ. P. 6 and Local Rules.

### B. Filing and Entry on Docket.

Electronic transmission of a document to the System consistent with these Electronic Filing Procedures, together with the System's transmission of a "Notice of Electronic Filing," constitutes filing of the document for all purposes of the Federal Rules of Civil and Criminal Procedure and Local Rules. Electronic filing of a document constitutes entry of the document on the docket kept by the clerk under Fed. R. Civ. P. 79.

### C. Legibility

Before filing a scanned document with the court, a Filing User must verify its legibility. Illegible documents are subject to being stricken.

### D. Official Record

When a document has been filed electronically, the official court record is the Electronic Document as stored in the System.

### E. Title of Docket Entries

The Filing User is responsible for designating the title of a document filed in the System using the categories provided by the System.

### F. Form of Documents

### 1. PDF Format

All documents shall be filed in PDF format. To every extent possible, the PDF format for the documents shall be searchable. (This can generally be accomplished by converting the document from a word processing format to PDF rather than scanning the document directly to a PDF format.) It will be acceptable for exhibits/attachments to be scanned or imaged in a non searchable format.

### 2. Size of Documents

Documents shall be no larger than 2 MB (approximately 40 typed pages.) Documents which exceed 2 MB shall be divided into separate documents.

### 3. Pagination

Only documents to which reference is made shall be filed. The documents shall be paginated and page numbers shall be referenced when a document is cited. An index of exhibits shall be provided. Attachments and parts of documents that must be separated due to size shall be identified, i.e., "Affidavit of Joe Smith", Pgs 1-30, Pgs 31-45, etc.

## G. Exceptions to Electronic Filing

Unless otherwise ordered, the following documents will not be filed electronically:

(1) Miscellaneous cases
(2) Documents filed in open court
(3) Settlement conference statements
(4) Documents presented for in camera review;
(5) Administrative records (The administrative record created by the administrative agency shall be filed in paper however, all documents original to this court's case shall be filed electronically.)
(6) Consents to proceed before a Magistrate Judge
(7) Documents pertaining to Grand Jury proceedings
(8) Documents initiating a criminal case
(9) Bond documents
(10) Documents not susceptible to electronic filing, such as large maps, diagrams, photographs and drawings as prescribed in LR 10-3.
(11) Other documents as directed by the court.

A "Notice of Manual Filing" shall be filed electronically with each document filed in paper form.

## H. Privacy Act

Documents shall comply with the court's "Policy on Privacy and Public Access to

Electronic Case Files" as set forth in Special Order 108. Documents redacted pursuant to Special Order 108 shall be electronically filed as a public document. Un-redacted documents and "keys" to redacted information shall be identified with the redacted document to which they relate and electronically filed under seal.

### I. Emergency Motions

Filing Users will file emergency motions electronically. Concurrent with, or promptly after the emergency motion is filed, the moving party shall advise the court's chambers that the motion has been filed.

### J. Non-Compliant Documents

Documents which do not comply with the Local Rules, Special Orders or these procedures are subject to being stricken.

## IV. SERVICE

### A. Consent to Electronic Service

Registration as a Filing User constitutes consent to receive service through the Electronic Filing System.

### B. Electronic Service

Electronic transmission of the "Notice of Electronic Filing" constitutes service of a document on Filing Users. Non-Filing Users shall be served conventionally in accordance with applicable rules or Court Order. A certificate of service must accompany all Electronic Documents, indicating how service was accomplished.

### C. Paper Service

Service of documents in paper form will be required in the following circumstances:

1. A Summons and Complaint, Petition or other document initiating a civil case will be served in accordance with Federal Rules of Civil Procedure or Court Order.
2. A Summons or Warrant arising from an Indictment shall be served in accordance with Fed. R. Civ. P. 8.
3. A Subpoena will be served in accordance with applicable Federal Rules of Procedure.
4. Documents that are sealed.
5. Documents that are filed exclusively in paper form.
6. All documents to be served on Non-Filing Users.

7. When otherwise ordered by the court.

### D. Paper Copies for Chambers

Unless otherwise ordered by the court, Filing Users shall provide to chambers a paper copy of all electronic documents that exceed 50 pages in length.

## V. SIGNATURES

### A. Filing User Signatures

A filing User Signature in the signature block of an Electronic Document will constitute a signature for all purposes under applicable rules, statutes, or orders.

### B. Non-Filing User Signature

An electronic signature in the signature block of an electronic document will constitute the signature of a Non-Filing User for all purposes under applicable rules, statutes, or orders. . The original signed document will be maintained by the Filing User who filed the document for the duration of the case and any subsequent appeal.

### C. Multiple Signatures

The Filing User shall attest to the consent of the other parties and apply electronic signatures for each of the parties. The electronic signature in the signature block of an electronic document will constitute the signature of the parties for all purposes under applicable rules, statutes, or orders. The original signed document will be maintained by the Filing User who filed the document for the duration of the case and any subsequent appeal.

## VI. ENTRY OF COURT-ISSUED DOCUMENTS

### A. Electronic Filing by Court

All orders, decrees, judgments and proceedings of the court will be filed in accordance with these Electronic Filing Procedures, which will constitute entry on the docket kept by the clerk under Fed. R. Civ. P. 79. For all cases assigned to the System, every order, judgment, or other court-issued document requiring a judge's signature, including orders to show cause, shall be filed electronically by the court. Any order or other court-issued Electronic Document without the original 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 a conventional manner. [The court may sign, seal and issue a summons electronically, although a summons may not be served electronically.]

### B. Submission of Proposed Orders

A Filing User who submits a proposed order, judgment, findings of fact, or other document requiring a judge's signature may submit the proposed order electronically in a searchable PDF format. A judge may direct proposed documents be submitted by other means and formats.

## VII. NOTICE OF JUDGMENT OR ORDER

Upon the entry of a judgment or order that has been generated by the court in a case assigned to the System, the clerk shall promptly transmit to Filing Users a "Notice of Electronic Filing. The clerk shall give notice to any person who has not consented to electronic service in paper form in accordance with the Federal Rules of Civil and/or Criminal Procedure and Local Rules.

## VIII. RETENTION REQUIREMENTS

### A. Time for Retention

Documents that are electronically filed and require original signatures other than that of the Filing User must be maintained in original paper form by the Filing User who made the filing for the duration of the case or any subsequent appeals.

### B. Review of Retained Documents

Upon request, the original document must be provided to other parties or the court for review.

## IX. TECHNICAL FAILURES

A Filing 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

Any person or organization may access the System at the court's internet site www.nvd.uscourts.gov by obtaining a PACER log-in and password. Those who have PACER access but who are not Filing Users may retrieve docket sheets and documents, but may not file documents.

### B. Access in Clerk's Office

Internet access to the documents filed on the System and internet access to the docket is available for viewing, without obtaining a Password, in the Office of the Clerk during regular business hours, Monday through Friday.

### C. Limiting Electronic Filing or Access

In connection with the filing of any material in an action assigned to the System, any person may apply by motion for an order limiting electronic access to, or prohibiting the electronic filing of, certain specifically-identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests

### D. Prohibited Use

Information posted on the Electronic Filing System must not be used for any purpose inconsistent with the privacy concerns of any person or entity.

## XI. COPIES OF ELECTRONICALLY FILED DOCUMENTS

Conventional copies and certified copies of electronically filed documents may be obtained from the Office of the Clerk during regular business hours, Monday through Friday, at the following address:

Unofficial Southern Division: United States District Court
333 Las Vegas Boulevard South
Room 1334
Las Vegas, NV 89101

Unofficial Northern Division: United States District Court
400 South Virginia
Suite 301
Reno, NV 89501

The fee for copying and certification shall be in accordance with 28 U.S.C. § 1930.

## DEFINITIONS

**Adobe Acrobat** - a universal application used to create and view documents in "PDF" format.

**Attachment/Exhibit** - supporting document filed with a pleading, motion or other paper.

**Applicant** - a person who is eligible to be a Filing User and has filed a Registration Form but has not been approved to be a Filing User.

**Case Management/Electronic Case Filing System ("CM/ECF")** - a software application designed by the Administrative Office of the United States Courts to provide for the electronic filing of documents via the internet.

**Docket Entry Number** - a number assigned to each document filed with the court in a given case and which appears in the official court docket.

**Document** - any pleading, petition, motion, affidavit, declaration, or other paper filed with the court.

**Electronic Case Filing Order Template** - the form of order required for the submission of proposed orders in the Electronic Filing System.

**Electronic Document** - a document filed in the Electronic Filing System.

**Electronic Filing Procedures ("Procedures")** - procedures adopted by the court for the filing of documents in the Electronic Filing System.

**Electronic Filing System ("System")** - the court's system that receives Electronic Documents.

**Electronic Service List** - the list of Filing Users in the case to whom the System automatically sends the "Notice of Electronic Filing."

**Electronic Signature** - a non-Filing User's original signature filed in PDF format.

**Filing User** - a person who has been issued a User Log-In and Password from the court.

**Filing User Signature** - an "/s/" preceding the Filing User's typed name, such as "/s/ Jane Doe."

**Local Rules ("LR")** - the Local Rules of Practice for the United States District Court for the District of Nevada.

**Notice of Electronic Filing** (NEF) - an Electronic Document generated by the System which indicates the date and time of filing.

**PDF Format ("Portable Document Format")** - a format used for images created by various means, including Adobe Acrobat.

**PACER ("Public Access to Court Electronic Records")** - a web-based system which provides access to federal case dockets and filings that have been stored electronically. A PACER account, a log-in and a password are required for access to PACER.

**Password** - a unique identifier issued by the Clerk of the Court for Filing Users.

**Private Document -** a document the public cannot view.

**Registration Form** - the form provided by the Clerk of the Court for persons seeking to register as a Filing User.

**Sealed Document -** a document filed in the Electronic Filing System that is not accessible to the public.

**User Login-In** - a unique code issued to a Filing User for access to the System.