U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
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CLERK, U.S. DISTRICT COURT
By Tammy Shipley
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

MISCELLANEOUS ORDER NO. 61

Miscellaneous Order No. 61 dated February 21, 2003, is hereby amended to read as follows:

Opening Paragraph

Federal Rules of Civil Procedure 5 and 83 and Federal Rule of Criminal Procedure 57 authorize the courts to establish practices and procedures for the filing, signing, service, maintenance, and verification of documents by electronic means. Subject to LR 83.1 and LCrR 57.1 and unless otherwise ordered in an individual case, the procedures in this Order and in the clerk's office ECF User Guide shall control electronic filing in the Northern District of Texas.

Rule 12. Public Access; Attorney Responsibility to Redact

Any person holding a login and password to the court's public access to electronic records system ("PACER") may read, download, store, and print the full text of certain court documents, including documents filed using the ECF system, via the Internet. This is true even if the person is not a party to, or an attorney appearing in, the case. Only an ECF user may file documents in a case.

The following documents will not be available for inspection through PACER, even if a party holds a login and password:

1) a sealed document
2) a document in a social security case; and
3) in general, a document in a criminal case that the Judicial Conference has determined should not be in a public case file, such as an unexecuted summons or warrant, the statement of reasons in a judgment of conviction, and a financial affidavit filed in seeking representation pursuant to the Criminal Justice Act.

In a social security case only counsel of record may retrieve a document other than the case docket sheet.

An attorney or a pro se party should not include private or sensitive information in any document filed with the court. If a social security number, tax identification number, a minor's name, a person's birth date, or a financial account number must be included, include only:

1) the last four digits of the social security number or tax identification number;
2) the minor's initials;
3) the year of birth; or
4) the last four digits of the financial account number.

In a criminal case, if a home address must be included, only the city and state should be included.

Because documents may also contain information implicating not only privacy but also personal security concerns, an attorney or pro se

party should also exercise caution when filing a document that contains any of the following information:

1) Medical records, treatment, and diagnosis;
2) Employment history;
3) Individual financial information;
4) Proprietary or trade secret information;
5) Information regarding the victim of any criminal activity;
6) National security information;
7) Sensitive security information as described in 49 U.S.C. § 114(s); or
8) Information regarding an individual's cooperation with the government.

In connection with the filing of any material using the ECF 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.

The court will consider a motion to seal or for a protective order on its individual merits.

SO ORDERED this 8 day of March, 2006.

A. Joe Fish

A. JOE FISH, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

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MISCELLANEOUS ORDER NO. 61

The Northern District of Texas is participating in a pilot project to implement electronic case filing (ECF). Subject to LR 83.1 and unless otherwise ordered in an individual case, the procedures in this Order and in the clerk's office ECF User's Manual shall control electronic filing in the Northern District of Texas.

Rule 1. **Scope of Electronic Filing**

The presiding judge will decide *sua sponte* or on written request by an attorney whether to select a case for ECF and shall notify each attorney of record and the clerk's office accordingly. A magistrate judge assigned to an action selected for ECF is deemed to permit use of ECF.

An "ECF user" is an attorney who meets the court's minimum requirements for participation and has been issued a user identification name and password by the clerk's office. An ECF user may only electronically file documents in a case that has been designated for ECF by the presiding judge. In a case designated for ECF, each attorney designated to receive copies of orders and judgments pursuant to LR 77.1 or LCrR 49.4 must become an ECF user unless the presiding judge otherwise orders on a showing of good cause.

The filing of the initial papers in a civil case, including the complaint and the issuance and service of the summons, will be accomplished in the conventional manner on paper rather than electronically. In a criminal case, the charging documents, including the complaint, information, indictment, and any superseding indictment, shall be filed in the conventional manner on paper or as a scanned document. All subsequent documents must be filed electronically except as provided

in these rules or as ordered by the court. The presiding judge may require an ECF user to provide the judge with a courtesy paper copy of any document filed in a particular case.

Rule 2. **Eligibility, Registration, Passwords**

An attorney admitted to the bar of this court, including an attorney admitted pro hac vice, may register as an ECF user by completing the approved form and submitting it to the clerk. By registering as an ECF user, an attorney consents to electronic service of all documents as provided in these rules in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure. An ECF user must comply with the applicable procedures established by the clerk. An ECF user may be subject to sanctions for failure to protect the security of the ECF user's password.

Rule 3. **Consequences of Electronic Filing**

Electronic transmission of a document to the ECF system consistent with these rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes 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 kept by the clerk under FED. R. CIV. P. 58 and 79 and entry in the records kept by the clerk under FED. R. CRIM. P. 49 and 55. A document electronically filed must otherwise satisfy the format requirements of the relevant portions of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the local rules.

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is

bound by the document as filed. A document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight Central Time to be considered timely filed that day.

Rule 4. **Entry of Court Orders**

All orders, decrees, judgments, and proceedings of the court will be electronically filed in a case selected for ECF in accordance with these rules. Such filing constitutes entry on the docket kept by the clerk under FED. R. CIV. P. 58 and 79 and entry in the records kept by the clerk under FED. R. CRIM. P. 49 and 55.

Any order filed electronically without the original signature of a judge but with the name of the judge preceded by an "s/" and typed in the space where the judge's signature would otherwise appear, or attachment of a graphical signature block of the judge in the space where the judge's signature would otherwise appear, has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in the conventional manner.

Any document filed electronically without the original signature of the clerk but with the name of the clerk preceded by an "s/" and typed in the space where the clerk's signature would otherwise appear, or attachment of a graphical signature block of the clerk in the space where the clerk's signature would otherwise appear, has the same force and effect as if the clerk had affixed the clerk's signature to a paper copy of the document and it had been entered on the docket in the conventional manner.

In a case designated for ECF, an ECF user submitting a document that requires a judge's signature must file it electronically and also in such other form as the court requires. If the document is a proposed order, the ECF user must submit it separately and clearly identify it as "proposed".

Rule 5. **Exhibits and Attachments**

In a case assigned to the ECF system, an ECF user must electronically file each document referenced as an exhibit or attachment unless the court permits or requires conventional filing. In the ECF User's Manual, the clerk may establish a limit on the electronic file size of an exhibit or attachment. If an exhibit or attachment exceeds the electronic file size limitation, it must be submitted and served conventionally. An ECF user submitting an exhibit or attachment conventionally shall electronically file a Notice of Manual Filing.

Rule 6. **Sealed Documents**

A document ordered to be placed under seal must be filed conventionally and not filed electronically unless specifically authorized by the court. A motion to file a document under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of a document under seal may be filed electronically unless prohibited by law. A paper copy of the order must be attached to the document to be filed under seal and must be delivered to the clerk.

Rule 7. **Retention Requirements**

Except as provided below, any original document filed electronically that bears an original signature other than that of the ECF user must be maintained in paper form by the ECF user who filed it until five (5) years after final resolution of the action, including final disposition of all appeals. On request of the court, the ECF user must provide the original document for review.

Rule 8. **Signatures**

The log-in and password required to file a document using the ECF system serve as the ECF user's signature on all electronic documents filed with the court.

They also serve as a signature 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. If possible, an ECF user must note on each document that the document has been electronically filed. In addition to the signature block required by LR 10.1(b) or LCrR 49.3(b), the name of the ECF user under whose login and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear, or the ECF user must attach the graphical signature block of the ECF user in the space where the signature would otherwise appear.

No ECF user or other person may knowingly permit or cause to permit an ECF user's password to be used by anyone other than an authorized agent of the ECF user.

Signature of a Party. Except for a defendant in a criminal case, a document requiring the signature of a party other than the ECF user must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other party on the document; or (3) in any other manner permitted or required by the court. Any document containing the original signature of a defendant in a criminal case must be filed in paper form, retained by the clerk, and served conventionally. However, such a document may be scanned, filed and served electronically so long as the document containing the original signature is delivered to the clerk's office within three (3) days of the filing.

Signature of a Non-Party. A document requiring the signature of a non-party must be electronically filed by submitting a scanned document containing the non-party's signature, or in any other manner approved or required by the court.

Rule 9. **Service of Document by Electronic Means**

An ECF user is authorized to use the Notice of Electronic Filing automatically generated by the ECF system as service of any electronically filed pleading or other document on each party who is an ECF user. Each ECF user agrees that the Notice of Electronic Filing automatically generated by the ECF system upon docketing of a pleading shall be service of that document on the ECF user by electronic means pursuant to FED. R. CIV. P. 5(b)(2)(D) and FED. R. CRIM. P. 49. An ECF user may not request to become a non-ECF user in an individual case unless the presiding judge orders otherwise on a showing of good cause.

Rule 10. **Notice of Court Orders and Judgments**

Immediately upon entry of an order, judgment, or other document the clerk is required to serve on the parties, the clerk will transmit electronically to each party who is an ECF user a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by FED. R. CIV. P. 77(d), LR 77.1(a), FED. R. CRIM. P. 49(c), and LCrR 49.4(a).

Rule 11. **Technical Failure**

Due to the possibility of a technical failure, an ECF user is cautioned not to attempt to electronically file a document on a due date after the clerk's office has closed for that day. An ECF user who experiences such a technical failure may seek a delayed filing date by filing a motion with the court, accompanied by a declaration or an affidavit attesting to the ECF user's failed attempts to file electronically on a timely basis.

Rule 12. **Public Access; Attorney Responsibility to Redact**

Any person holding a login and password to the court's public access to electronic records system ("PACER") may read, download, store, and print the full text of certain court documents, including documents filed using the ECF system, via the Internet. This is true even if the person is not a party to, or an attorney appearing in, the case. Only an ECF user may file documents in a case.

The following documents will not be available for inspection through PACER, even if a party holds a login and password:

1) a sealed document;
2) a document in a social security case; or
3) in general, a document in a criminal case other than the case docket sheet or an order or judgment of the court.

In a criminal case, unless otherwise ordered by the presiding judge, only counsel for the government and for a defendant may retrieve a document other than the case docket sheet or an order or judgment of the court. In a social security case, only counsel of record may retrieve a document other than the case docket sheet.

An attorney or a *pro se* party must not include private or sensitive information in an original document filed with the court, must redact or mask over such information when included in a copied document that is filed, or must move for an appropriate protective order to keep the information from being disclosed via the PACER system. The types of information an attorney or a *pro se* party must exclude or redact include:

1) a social security number, except as required in a social security case, or other personal identifier, such as a driver's license number;
2) date of birth;
3) medical treatment or diagnosis;
4) employment history;

5) individual financial information, including a financial account number;

6) proprietary or trade secret information; or

7) the name or address of a minor child.

In connection with the filing of any material using the ECF 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.

The court will consider a motion to seal or for a protective order on its individual merits.

Rule 13. **Administrative Procedures**

The clerk of court is authorized to establish administrative procedures regarding access and use of the ECF system. In the event of a conflict between the administrative procedures and this Miscellaneous Order, the Order shall govern.

Rule 14. **Correction of Clerical Errors on the Docket by Clerk's Office**

Once a document has been electronically filed by an ECF user, the clerk's office may correct docketing errors but may not alter the document or determine the sufficiency of the document filed. The clerk's office must file a "Corrective Entry Event" whenever a docketing error is corrected. The clerk's office must notify the presiding judge of repetitive docketing errors or other deficiencies in the filing of electronic documents. The presiding judge may order the clerk to unfile a document, remove the party from the privileges of being an ECF user, or impose other sanctions.

Rule 15. **Trial Transcripts and Trial Exhibits**

In a case designated for electronic filing, the trial transcript and trial exhibits will not be filed electronically unless otherwise ordered by the presiding judge.

The clerk of the court is directed to make appropriate distribution of this Order.

SO ORDERED.

DATED: February 21, 2003.

A. JOE FISH, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS