

# U.S. District Court for the Eastern District of Texas

## Local Rule CV-5: Service and Filing of Pleadings and Other Documents

(a) **Electronic Filing Required.** Except as expressly provided or in exceptional circumstances preventing a Filing User from filing electronically, all documents filed with the court shall be electronically filed in compliance with the following procedures.

(1) **Exemptions from Electronic Filing Requirement.** The following are exempted from the requirement of electronic filing:

(A) In a criminal case, the charging documents, including the complaint, information, indictment, and any superseding indictment; affidavits in support of search and arrest warrants, pen registers, trap and trace requests, wiretaps, and other related documentation; and *ex parte* documents filed in connection with ongoing criminal investigations;

(B) Documents filed by *pro se* litigants (prisoner and non-prisoner);

(C) Official administrative records or transcripts of prior court or administrative proceedings from other courts or agencies that are required to be filed by law, rule, or local rule; and

(D) Sealed civil complaints (these documents should be filed with the clerk along with a motion to seal the case pursuant to submission instructions provided by the clerk's office). *See* Local Rule CV-5(a)(7)(A).

(2) **Registration for Electronic Filing.**

(A) The clerk shall register all attorneys admitted to the bar of this court, including those admitted *pro hac vice*, as Filing Users of the court's Electronic Filing System. Registration as a Filing User constitutes consent to electronic service of all documents as provided in these rules in accordance with the Federal Rules of Civil and Criminal Procedure. The clerk shall provide Filing Users with a user login and password once registration is completed. Filing Users agree to protect the security of their passwords and immediately notify the clerk if they learn that their password has been compromised. After registration, attorneys are required to maintain their own account information, including changes in e-mail address. Documents sent from the court will be deemed delivered if sent to the last known e-mail address given to the court.

(B) With court permission, a *pro se* litigant may register as a Filing User in the Electronic Filing System solely for purposes of the action. If, during the course of the proceeding, the party retains an attorney who appears on the party's behalf, the attorney must advise the clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

(C) A Filing User may apply to the court for permission to withdraw from participation in the Electronic Filing System for good cause shown.

### **(3) Significance of Electronic Filing.**

(A) Electronic transmission of a document to the Electronic Filing 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 and constitutes entry of the document on the docket kept by the clerk. Receipt by the filing party of a Notice of Electronic Filing from the court is proof of service of the document on all counsel who are deemed to have consented to electronic service.

(B) 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 “entered on” date and time stated on the Notice of Electronic Filing from the court.

(C) Service is deemed completed at the “entered on” date and time stated on the Notice of Electronic Filing from the court, except that documents filed electronically after 5:00 p.m. Central Time shall be deemed served on the following day.

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

**(4) File Size Limitations.** No single electronic file, whether containing a document or an attachment, may exceed fifteen megabytes in size. Documents or attachments in excess of fifteen megabytes must be divided into multiple files and accurately described to the court. *See* Local Rule CV-7 (page requirements for motions and responses).

**(5) Signatures.** The user log-in and password required to submit documents to the Electronic Filing System serves as the Filing User’s signature on all electronic documents filed with the court. The name of the Filing User under whose log-in and password the document is submitted must be preceded by either an image of the Filing User’s signature or an “/s/” typed in the space where the signature would otherwise appear. *See* Local Rule CV-11(b) (“Signing the Pleadings”).

**(6) Attachments and Exhibits.** Filing Users must submit and describe each exhibit or attachment with specificity as a separate PDF document, unless the court permits conventional filing. *See* Local Rules CV-5(a)(4) (“File Size Limitations”), CV-7(b) (“Documents Supporting Motions”), and CV-56(d) (“Proper Summary Judgment Evidence”). Non-documentary exhibits to motions (e.g., CD-ROM disks) should be filed with the clerk’s office with a copy to the presiding judge.

### **(7) Sealed Documents.**

(A) All sealed documents must state “Filed Under Seal” at the top of the document.

(B) Unless authorized by statute or rule, a document in a civil case shall not be filed under seal unless it contains a statement by counsel following the certificate of service that certifies that (1) a motion to seal the document has been filed, or (2) the court already has granted authorization to seal the document.

(C) A motion to file document(s) under seal must be filed separately and immediately before the document(s) sought to be sealed. If the motion to seal is granted, the document will be deemed to have been filed as of the original date of its filing. If the motion is denied, the document will be struck. A motion to seal that is filed as a sealed document does not need to include the certification specified in Section (B) above. *See* Local Rule CR-49(b) (additional rules regarding the filing of sealed documents in criminal cases).

(D) Documents requested or authorized to be filed under seal or *ex parte* shall be filed in electronic form. Service in “electronic form” shall be of documents identical in all respects to the documents(s) filed with the court; service copies shall not include encryption, password security, or other extra steps to open or access unless the same are found in the document as filed. All sealed or *ex parte* documents filed with the court must comply with the file size and other form requirements of Local Rules CV-5(a) and CV-7. Counsel is responsible for serving documents under seal to opposing counsel and may do so in electronic form. Counsel is also responsible for complying with Local Rule CV-5(a)(9) regarding courtesy copies of filings. When a sealed order is entered by the court, the clerk will send a copy of the sealed order to each party's lead attorney who is responsible for distributing the order to all other counsel of record for that party. *See* Local Rule CV-11.

(E) Except as otherwise provided by Local Rule CR-49, a party filing a document under seal must publicly file a version of that document with the confidential information redacted within two days, unless the entire document is confidential information. For purposes of this rule, “confidential information” is information that the filing party contends is confidential or proprietary in a pending motion to file under seal; information that has been designated as confidential or proprietary under a protective order or non-disclosure agreement; or information otherwise entitled to protection from disclosure under a statute, rule, order, or other legal authority.

#### **(8) Entry of Court Orders.**

(A) All orders, decrees, judgments, and court proceedings will be filed electronically by the court or court personnel in accordance with these rules, which will constitute entry on the docket kept by the clerk. Any order filed electronically has the same force and effect as if the judge had signed a paper copy of the order and it had been entered on the docket in a conventional manner.

(B) A Filing User submitting a document electronically that requires a judge's signature must promptly deliver the document in such form as the court requires.

**(9) Paper Copies of Lengthy Documents.** Unless otherwise ordered by the presiding judge, if a document to be filed electronically exceeds ten pages in length, including attachments, a paper copy of the filed document must be sent contemporaneously to the presiding judge's chambers.

A copy of the “Notice of Electronic Filing” must be attached to the front of the paper copy of the filed document. The paper copy should be sent directly to the judge’s chambers and not to the clerk’s office. *See* Local Rule CV-10(b) (regarding tabs and dividers for voluminous documents). Judges may opt out of this rule by entering an order. Such orders can be found on the court’s website, located at [www.txed.uscourts.gov](http://www.txed.uscourts.gov).

(10) **Technical Failures.** A technical failure does not relieve a party from exercising due diligence to timely file and serve documents. A Filing User whose filing is made untimely as the result of a technical failure of the court will have a reasonable grace period to file from the time that the technical failure is cured. There will be a notice on the court’s website indicating when the database was down and the duration of the grace period. A Filing User whose filing is made untimely as the result of a technical failure not attributable to the court may seek appropriate relief from the court.

(b) **Filing by Paper.** When filing by paper is permitted, the original pleadings, motions, and other papers shall be filed with the clerk.

(c) **Certificates of Service.** The certificate of service required by Fed. R. Civ. P. 5(d) shall indicate the date and method of service. Sealed documents in civil cases must indicate that the sealed document was promptly served by means other than the CM/ECF system (e.g., e-mail, conventional mail).

(d) **Service by Facsimile or Electronic Means Authorized.** Except with regard to *pro se* litigants that have not consented in writing to receiving service by electronic means, parties may serve copies of pleadings and other case related documents to other parties by facsimile or electronic means in lieu of service and notice by mail. Such service is deemed complete upon sending. Service after 5:00 p.m. Central Time shall be deemed served on the following day for purposes of calculating responsive deadlines.

(e) **Service of Documents Filed by *Pro Se* Litigants.** A document filed by a *pro se* litigant shall be deemed “served” for purposes of calculating deadlines under the Local Rules or Federal Rules of Civil Procedure on the date it is electronically docketed in the court’s CM/ECF system.