

1.3 Case Filings; Appearance and Withdrawal of Attorneys; Pro Se Litigants.

(a) Electronic Case Filing (“CM/ECF”).

The district court uses an electronic case filing (“CM/ECF”) system (“System”). Failure to comply with CM/ECF procedures may result in sanctions on an attorney or party. Information about CM/ECF is on the court’s website at <https://www.ned.uscourts.gov/attorney/electronic-case-filing>.

(1) Public Access to the System.

Public remote electronic access to the System for viewing purposes is limited to subscribers of the Public Access to Court Electronic Records (“PACER”) system, <https://www.pacer.psc.uscourts.gov>. The Judicial Conference of the United States ruled that a user fee must be charged for remotely accessing certain detailed case information including docket sheets and filed documents but excluding written opinions and general information.

(A) Exemptions from PACER User Fees.

The PACER user fee does not apply to:

- (i) official recipients of electronic documents, *i.e.*, parties legally required to receive service or to whom service is directed under the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure. Official recipients receive the initial electronic copy of a document free to download as they see fit, but if they remotely access the document again, they are charged the standard PACER user fee;
- (ii) persons to whom the court grants an exception, see https://pspsc.psc.ao.dcn/documents/epafee_sched.pdf; or
- (iii) individuals who access the electronic docket and documents filed in the System at the clerk’s office during regular business hours. Paper and certified copies of electronically filed documents may be purchased from the clerk for a fee collected under 28 U.S.C. § 1914.

(B) Restrictions on Remote Access.

(i) Sealed Documents.

A sealed case or document is placed on the System but is not remotely accessible to the public or available at the terminals in the clerk’s office unless the court orders the case or document unsealed. See NECivR 7.5; NECrimR 12.5.

(ii) Restricted Access Documents.

Remote access to documents containing personal identifying information protected by the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (Dec. 17, 2002) (codified at 5 U.S.C. §§ 3701-3707 and scattered sections) (“E-Government Act”), is restricted to case participants and court users. Public access to these documents is not allowed at terminals in the clerk’s office. See NECivR 5.3; NECrimR 49.1.1.

(iii) Administrative Documents and Records.

Public access will not be available to the court’s internal administrative documents and records filed on the System.

(2) Electronic Orders and Judgments.

All court orders, judgments, and proceedings are filed under these rules, resulting in entry on the clerk’s docket. Court personnel file signed orders electronically. Any order or other court-issued document filed electronically with an electronic signature has the same effect as an originally signed, nonelectronically filed document. Orders issued as “text-only” docket entries (*i.e.*, without an attached .pdf document) are also official and binding.

(A) Oral Orders.

Copies of oral orders are distributed electronically as minutes, text-only orders, or .pdf documents.

(B) Notice to Unregistered Users.

The clerk mails paper copies of orders to parties who are not registered users of the System. A paper copy is accompanied

by an NEF.

(3) Filing Errors.

Once a document is submitted and becomes part of the case docket, only the clerk may correct the document. The System does not allow the filing party to change a document or its docket entry once a transaction is accepted. If an error is discovered, the filing party should immediately contact the clerk with the relevant case and document numbers. If necessary, the clerk notifies a party to refile a document or file a motion to strike.

(4) Striking .PDF Documents and Text-Only Entries.

The clerk may enter an order striking a .pdf document filed electronically and note in the docket entry of the stricken document that the document is “STRICKEN” if the document is (A) a duplicate of a document already filed electronically in the same case; (B) filed in the wrong case; (C) empty, upside down or illegible; or (D) related to an application to clerk for refund under NEGenR 1.2(e)(2). The stricken document or entry remains visible and electronically available on the docket unless otherwise ordered by the court. The clerk may also enter an order striking a text-only entry if a court employee uploaded the entry in error.

(5) Technical Failures.

A filing party whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

(b) Registration for CM/ECF.

(1) District Court Registration.

Before electronically filing a document with the court, an attorney must register with PACER at the following web address: <https://www.pacer.gov/>. A pro se party, *i.e.*, one not represented by an attorney, to a pending civil case may register with PACER at the following web address: <https://www.pacer.gov/>. Registration constitutes a party's consent to electronic service and waiver of the right to service by personal service or first class mail. Once registration is complete, a login and password are issued by PACER and serve as part of the user's electronic signature on documents filed on the System. See NECivR 11.1; NECrimR 49.2.

- (A) An attorney must not knowingly facilitate the use of the attorney’s password by anyone other than an authorized agent. If an attorney believes that a password’s security is compromised and that a threat to the System exists, the attorney must immediately change the password.
- (B) Once registered, an attorney is responsible for all documents filed with the attorney’s password.
- (C) An attorney admitted pro hac vice must register for a password with PACER at <https://www.pacer.gov/>.
- (D) If a pro se party retains an attorney who appears in a pending action, only the attorney receives future NEFs.

(2) Withdrawal from System.

A registered user may withdraw from the System by sending the clerk a written notice of withdrawal, either on paper or electronically. Upon receipt, the clerk immediately terminates access in the System. Withdrawal does not constitute authorization to file cases or documents nonelectronically.

(c) Privacy Policy.

Federal rules support compliance with the E-Government Act. See Fed. R. Civ. P. 5.2; Fed. R. Crim. P. 49.1. Parties and their attorneys are responsible under the rules for preventing the disclosure of certain confidential information in case filings. The clerk does not review case filings for compliance or independently redact or seal noncomplying filings.

(d) Attorney Appearances.

An attorney appears in a case by (1) filing a written entry of appearance or signed pleading or (2) personally appearing at a hearing. An attorney who orally enters an appearance must promptly file and serve a written appearance. A written appearance or pleading signed by an attorney must show the attorney’s bar number, office address, telephone number, fax number, and e-mail address.

(e) Change of Address, Telephone, Fax, or E-Mail.

An attorney whose address, telephone number, fax number, or e-mail address changes during a pending case must file and serve notice of the change within 30 days.

(f) Withdrawal of Appearance.

An attorney of record may withdraw upon showing good cause, but is relieved of duties to the court, the client, and opposing attorneys only after (1) filing a motion to withdraw, (2) providing proof of service of the motion on the client, and (3) obtaining the court's leave to withdraw.

(g) Proceedings by Persons Without an Attorney (Pro Se).

Unless stated otherwise, parties who proceed pro se are bound by and must comply with all local and federal procedural rules.

(h) Attorney Appointments.

Any indigent pro se civil litigant may file a motion requesting appointment of an attorney. If filed with an original complaint, the motion must be a separate document. Attorneys are appointed under statute, court rule, or in the court's discretion. If an appointed attorney moves to withdraw, the court may appoint a substitute attorney. This rule does not limit the court's authority to appoint an attorney on its own motion.

(i) Communication with Court.

Once an attorney is appointed or retained, all further documents and other communications with the court must be submitted through the attorney, unless the court permits otherwise. Any further pro se documents or other communications submitted to the court may be (1) returned unfiled to the sending party or (2) forwarded to the sending party's attorney.