

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

***CASE MANAGEMENT/
ELECTRONIC CASE FILING
(CM/ECF)
PROCEDURES MANUAL***

Revised on 11-1-2019

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

CASE MANAGEMENT/ELECTRONIC CASE FILING (CM/ECF) PROCEDURES

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PREFACE

This manual addresses policies and procedures governing CM/ECF (Case Management/Electronic Case Filing) in the Eastern District of Missouri, and is not intended as a technical guide for using the electronic case filing system. Information on training in the use of CM/ECF can be obtained on the Court's website at <http://www.moed.uscourts.gov/cm-ecf>, including access to computer-based tutorials, <http://www.moed.uscourts.gov/CMECF-Training>.

I. THE ELECTRONIC FILING SYSTEM

A. IN GENERAL

Unless otherwise permitted by these procedures or authorized by the assigned judge or the Clerk of Court, documents submitted for filing in this district, no matter when a case was originally filed, will be filed electronically using the Electronic Case Filing System (ECF or the System). Electronic filing means uploading a document in PDF format¹ directly from the registered user's computer, using the Court's electronic public access System, to file that document in the Court's case file. Electronic filers also may use public computers located in the Clerk's Office to electronically file PDF documents from CD-ROMs or USB drives. Sending a document to the Court by email or fax does not constitute electronic filing. Persons attempting to file any document in paper format will be directed to the public scanner and public computer terminal to file the paper document electronically.

Parties proceeding pro se are exempt from the electronic filing requirement, but

¹ A document created with almost any word-processing program can be converted to PDF. The PDF program in effect takes a picture of the original document and allows anyone with Adobe Acrobat to open the converted document with layout, format, links, and images intact. Because conversion to PDF may affect the pagination of a document, paper copies of electronic filings should be made from the PDF version.

non-prisoner pro se parties may request to receive electronic notice of filings. See Form Request by Non-Prisoner Self-Represented Party for Electronic Noticing, <http://www.moed.uscourts.gov/sites/default/files/moed-0061.pdf>.

The Clerk or any judge of this Court may deviate from these procedures in specific cases, without prior notice, if deemed appropriate in the exercise of discretion, considering the need for the just, speedy, and inexpensive determination of matters pending before the Court. The Court may also amend these procedures at any time without prior notice.

B. ATTORNEY REGISTRATION FOR CM/ECF

The Eastern District of Missouri has upgraded its software to the Next Generation of CM/ECF, or "NextGen". In order to file electronically, each attorney must have an individual, upgraded Public Access to Court Electronic Records, or "PACER," account and must be admitted to the Eastern District of Missouri. Instructions can be found at <https://www.moed.uscourts.gov/attorney-applications>. The Court will grant e-filing access only to attorneys in good standing. To be in good standing, an attorney must meet the requirements of Local Rule 12.01, including timely payment of any assessment required by that rule. A PACER Username and Password, issued to an individual attorney (not a law firm or administrator), must be used for the retrieval and filing of official court documents. PACER Accounts are not maintained by the Court.

1. Pro Hac Vice Admissions

An Attorney not admitted to the bar of the Eastern District of Missouri who enters an appearance in any case, except as listed below, may seek admission pro hac vice pursuant to Local Rule 12(F). Unless allowed by a judge for good cause, an attorney may not be granted admission pro hac vice if the applicant resides in the Eastern District of Missouri, is regularly employed in the Eastern District of Missouri, or is regularly engaged in the practice of law in the Eastern District of Missouri. After being granted e-filing access, the attorney must file the

appropriate motion in the case in which he wishes to practice. Attorneys may only file a pro hac vice motion on behalf of himself; motions filed by another attorney on his or her behalf will be stricken by the Clerk.

2. Exceptions to Admission Requirements

Attorneys who are employed by the United States or any state or local government, may apply for special Government access to practice in the Eastern District of Missouri without obtaining general or pro hac vice admission. Please note, however, that the issuance of a government account does not entitle the attorney to the same privileges enjoyed by those who are generally admitted. If the attorney leaves the government and enters private practice, he will need to seek general admission or admission pro hac vice to participate in an active case in this Court.

Admission to the bar is not required in order to file or appear in (1) a miscellaneous case, (2) a case transferred to this Court on an order of the Judicial Panel on Multidistrict Litigation pursuant to 28 U.S.C. § 1407, or (3) any other case transferred to this Court from another federal district court on an order of that district court. Attorneys must obtain e-filing access by completing the appropriate registration. See <https://www.moed.uscourts.gov/attorney-applications>.

C. E-FILING ACCOUNTS

Each attorney must have his or her own individual PACER account in order to E-File in the Eastern District of Missouri. Because these accounts are maintained by PACER and not the Court, any changes to Username, Password, Firm, Address, E-mail, or Phone Number must be made through PACER. When changing any type of contact information, you must instruct PACER to share this information with the Court as it is your responsibility to be sure

the Court has your updated information. For assistance with your account, please contact PACER at www.pacer.gov or 800-676-6856.

The use of an attorney's PACER account to file a document, along with the electronic signature on the document, constitutes the signature of that attorney on that document, as required by Fed.R.Civ.P. 11. An attorney should therefore use all due care to ensure that his or her password is safeguarded to prevent unauthorized filings. In the event of any dispute on the question, the attorney whose PACER account was used to electronically file will bear the burden of proof and persuasion if he disclaims a particular filing. If an attorney comes to believe that the security of an existing password has been compromised, the attorney must change his or her password immediately and must notify the CM/ECF Help Desk at (314) 244-7650.

D. BROWSER REQUIREMENTS AND TECHNICAL SPECIFICATIONS

CM/ECF Version 6.1 is compatible with Internet Explorer 8 and 9, Firefox, and Safari.

All documents to be electronically filed should be scanned at 300 dpi before being uploaded to the System. The filing attorney is required to verify the legibility of scanned documents before filing them electronically with the Court.

The System will reject any PDF file in excess of 35 megabytes. Any document in excess of 35 megabytes must be separated into smaller segments and filed as directed in this Manual. See Section I.C. (complaints); Section I.D. (notices of removal); and Section II.F. (exhibits).

II. ELECTRONIC FILING AND SERVICE OF DOCUMENTS

A. ELECTRONIC FILING IN GENERAL

With few exceptions, all documents in a case will be electronically filed on the System. The official Court record will be the electronic file maintained on the Court's servers, along with any documents or exhibits permitted to be filed in paper format. In the event that the Clerk scans a paper filing and converts it to electronic format, the Clerk may dispose of the paper document and it will not be returned to the filer.

Electronic filing is permitted at all times, except when the System is temporarily unavailable due to routine or necessary emergency maintenance. An electronic filing completed at any time before midnight Central time will be entered on the docket as of that date. The System determines the date and time when a filing is completed. A document will not be considered electronically filed for purposes of the Federal Rules of Civil Procedure until the filing party receives a System-generated "Notice of Electronic Filing." The "Notice of Electronic Filing" will state the official date and time of the filing.

B. DOCUMENTS REQUIRING LEAVE TO FILE

When a document requires leave of court to be filed (other than documents to be filed under seal and ex parte), the attorney of record should electronically file a motion for leave, and submit the document requiring leave as an attachment to the motion. If the Court grants the motion, the Clerk will file the document. For instructions concerning the filing of documents under seal or ex parte, see Section VI of this Manual.

C. COMPLAINTS

With the exception of Qui Tam (False Claims Act) complaints, civil cases may be filed through ECF by an attorney of record as long as that attorney meets the following requirements:

- The attorney must be a member of the bar of this Court, have been previously admitted Pro Hac Vice in another case and must file with the complaint a Verified Pro Hac Vice Motion (See Local Rule 12.01 for requirements) and pay the Pro Hac Vice fee, have been granted a government attorney of record limited admission to this Court, or be filing a miscellaneous case.
- The attorney must have an e-filing login and password assigned by this Court. The Attorney Registration System should be used to register for an e-filing login. See <http://www.moed.uscourts.gov/AttorneyReg>.
- The attorney must have a valid credit card, debit card, or ACH draft for the payment of fees, or file a Motion to Proceed Without Prepayment.

Attorneys who wish to appear as co-counsel with the filing attorney of record must file a separate Entry of Appearance using the e-filing login and password assigned to them by the Court.

The documents required for filing all new civil actions are as follows:

- Complaint
- Civil Cover Sheet
- Original Filing Form
- Disclosure of Organizational Interests Certificate (if the plaintiff is a corporation, LLC, or LLP)
- Service documents (i.e., summons or waiver of service of summons forms – see Fed.R.Civ.P. 4)
- Notice of Process Server form (if service is to be effected by summons on a defendant who is not a government agency)
- Verified Motion for Pro Hac Vice and Fee (if applicable)
- Motion for Temporary Restraining Order and Notice Requesting Hearing on Temporary Restraining Order (if applicable)
<http://www.moed.uscourts.gov/sites/default/files/moed-0062.pdf>

When opening a case through ECF, the attorney of record will enter the data required on the Civil Cover Sheet, then enter the parties as they appear on the Complaint.

(See Civil Case Opening instructions at

[http://www.moed.uscourts/gov/sites/default/files/Case Opening Instructions.pdf](http://www.moed.uscourts/gov/sites/default/files/Case%20Opening%20Instructions.pdf). When

all parties have been entered, the Complaint may then be filed. Attachments to the Complaint must include any exhibits (labeled with both the exhibit designation and a brief description of the exhibit; see Section II.F., infra), the Civil Cover Sheet, the Original Filing Form and the completed service documents.

All documents must be converted to PDF format and should not be over 35 megabytes. If any document is over 35 megabytes, it must be divided into segments and filed separately, each segment to be appropriately identified as related, e.g., “Ex. 1A – May 2016 Agreement (Part 1),” “Ex. 1B – May 2016 Agreement (Part 2).” After the Complaint and all attachments have been uploaded, the Pay.gov screen will appear and payment information is entered at this time.

The Clerk’s Office will be electronically notified when the case is filed, and will review the filing for errors or omissions, assign a judge and issue service. The attorney for Plaintiff will be electronically notified of the judge assignment. If the selected method of service is summons, the summons will be electronically signed and sealed and returned to the plaintiff’s attorney by email.

D. NOTICES OF REMOVAL

Cases being removed from the state court to this Court may be filed through ECF by an attorney of record as long as that attorney meets the following requirements:

- The attorney must be a member of the bar of this Court or have been previously admitted Pro Hac Vice in another case and must file with the removal a Verified Motion for Pro Hac Vice (see Local Rule 12.01 for requirements) and pay the Pro Hac Vice fee, or have been granted a government counsel limited admission to this Court (see Section I. B., supra).

- The attorney must have an e-filing login and password assigned by this Court.
- The attorney must have a valid credit card, debit card, or ACH draft for the payment of fees, or file a Motion to Proceed Without Prepayment.

All counsel listed as same on the state court docket sheet will be added to the Eastern District case. Attorneys not listed on the state court docket sheet wishing to appear as co-counsel of record must file a separate Entry of Appearance using the e-filing login and password assigned to them by the Court.

When removing a case through ECF, the attorney of record will enter the data required on the Civil Cover Sheet, then enter the parties as they appear on the state court Complaint, beginning with the party(ies) the attorney represents. (See Civil Case Opening Instructions,

<http://www.moed.uscourts.gov/sites/default/files/CaseOpeningInstructions.pdf>). When all parties have been entered, the Notice of Removal may then be filed.

Attachments to the Notice of Removal should include a copy of the complete state court case, the current state court docket sheet, the Civil Cover Sheet, and the Original Filing Form. If any document is over 35 megabytes, it must be divided into segments and filed separately, each segment to be appropriately identified as related, e.g., “Ex. 1A – May 2016 Agreement (Part 1),” “Ex. 1B – May 2016 Agreement (Part 2).”

After the Notice of Removal and all attachments have been uploaded, the Pay.Gov screen will appear and payment information is entered at this time. The Clerk’s Office will be electronically notified when the case is filed and will review the filing for errors or omissions and assign a judge. The attorney of record will be electronically notified of the judge assignment.

The documents required for filing all Notices of Removal are as follows:

- Notice of Removal
- Civil Cover Sheet
- Original Filing Form
- Disclosure of Organizational Interests Certificate (if the filing party is a corporation, LLC, or LLP)
- Verified Motion for Pro Hac Vice and Fee (if applicable)
- Notice to Plaintiff
- Notice to State Court
- Copy of the complete state court file including summons, return of summons (if any) for all defendants, and a current state court docket sheet.

Within three business days of filing the notice of removal, the attorney will file through ECF the Notice to State Court that has been acknowledged by the Clerk of the State Court.

E. SUMMONSES

Fed.R.Civ.P. 4 does not permit electronic service of the complaint and summons or waiver of service. A summons submitted by a filing party will be electronically signed and sealed by the Clerk and returned to the filing party by email.

F. EXHIBITS

Each exhibit is to be filed as a separate PDF attachment. Each such attachment must be identified by a name that includes both the exhibit designation and a brief description of the exhibit, for example:

Ex. 1 - May 2016 Agreement

Ex. A - Affidavit of Michael Smith

The System will reject any PDF file in excess of 35 megabytes. Therefore, larger

documents must be divided into segments and filed as separate attachments, each attachment to be appropriately identified as related, e.g., “Ex. 1A -- May 2016 Agreement (Part 1),” “Ex. 1B - May 2016 Agreement (Part 2),” “Ex. B1 - Affidavit of Michael Smith (Part 1),” “Ex. B2 - Affidavit of Michael Smith (Part 2).”

If these requirements cannot be met, the Clerk may permit an oversized exhibit to be filed in paper format along with a Notice of Exhibit Filing (see Appendix A, <http://www.moed.uscourts.gov/sites/default/files/moed-0008.pdf>). The Notice of Exhibit Filing must be filed electronically as an attachment to the primary filing. A paper copy of the Notice of Exhibit Filing must be served and filed with the paper exhibits.

In addition to the foregoing, a judge may require a paper courtesy copy of exhibits in some instances; check the Case Management Order and/or the “Judges’ Contact Information and Requirements” section of the Court’s website, <http://www.moed.uscourts.gov/judges-contact-info-and-requirements> for this information.

All documents should be scanned at 300 dpi before being uploaded to the System. The filing party is required to verify the legibility of scanned documents before filing them electronically with the Court.

G. SERVICE UNDER FED.R.CIV.P. 5

Whenever a document is filed electronically, the System will generate a “Notice of Electronic Filing” to the filing party and to any other party to the action who is a registered user. If the recipient is a registered user, the System’s emailing of the “Notice of Electronic Filing” will constitute service pursuant to Fed.R.Civ.P. 5. No certificate of service is required when a public paper is served by filing it with the Court’s electronic filing system. An unrepresented party who is not a registered user is entitled

to service of a paper copy of any electronically filed documents. A paper copy for service should be generated from the PDF version of the document to preserve uniform pagination. A certificate of service will reflect that service was made by means other than the Court's electronic filing system. A sample certificate of service is at Appendix B.

Note: An attorney filing a sealed motion or sealed document must serve opposing counsel and any pro se parties by means other than CM/ECF as no service of sealed filings occurs by CM/ECF. See Section VI of this Manual for filing instructions for sealed motions and sealed documents.

H. SIGNATURES

Every document filed electronically shall include a self-represented party or attorney signature block and an original or representation of the filing party or attorney's signature. To represent the signature on the document, use the following format for the signature block:

/s/ Judith Attorney
Judith Attorney #12345(MO)
Attorney for (Plaintiff/Defendant) ABC
Law Firm
123 South Street
St. Louis, Missouri 63102 Telephone:
(314) 977-4567
Fax: (314) 977-4567
Email: judith_attorney@law.com

Alternatively, a facsimile signature of the filing attorney can be used. Documents without the filing party or attorney's signature may be ordered stricken by the Court.

The use of an attorney's e-filing login and password to file a document constitutes the signature of that attorney on that document for purposes of Fed.R.Civ.P.11. The login

and password issued to an individual attorney may be used only to file documents on behalf of that attorney. For a document filed in paper format, only an attorney whose original signature appears on the document will be entered as an attorney of record. For an electronic filing, only the attorney whose login and password are used to file the document will be entered as an attorney of record. **Additional attorneys who wish to appear of record must enter their appearances separately using their own e-filing logins and passwords.**

The electronic filing of pre-existing documents, not created for the litigation, requires no verification as to signatures (e.g., a contract that is a subject of litigation). When a document to be electronically filed has been created for the litigation, but is signed by other than the filing attorney (e.g., an affidavit), the document must be physically signed, and the paper copy bearing the original signature(s) must be retained by the filing attorney during the pendency of the litigation including all possible appeals. The electronic filing of such a document with a blank signature line must be accompanied by a verification in which the filing attorney attests to the existence of the signed original. A sample of the required verification form is at Appendix C, <http://www.moed.uscourts.gov/sites/default/files/moed-0009.pdf>.

I. ORDERS

All orders will be electronically filed. An electronically signed order has the same force and effect as if the judge had affixed his/her signature to a paper copy of the order. A judge's electronic signature may take one of two forms: (1) "/s/" followed by the judge's typed name; or (2) a facsimile signature having the appearance of the judge's handwritten signature. The Clerk's Office will mail paper copies of an electronically filed order to a party who is not a registered participant of the System.

J. PROPOSED ORDERS

Any proposed order or proposed judgment should be filed electronically as a pdf attachment to the motion or memorandum to which it pertains. Additionally, a courtesy copy of the proposed order or judgment should be sent to the Court in a word processing format as an email attachment. Send courtesy copies to:

MOED_Proposed_Orders@moed.uscourts.gov

The subject line of a proposed order e-mail should state the case name and number (including the judge's initials) and the document to which it pertains:

Example - Subject: Smith v. U.S., 4:16cv3000-CDP proposed default judgment

It is generally not necessary to submit proposed orders for informal matters such as motions for extension of time, or for leave to file in excess of the page limitation. Proposed orders or judgments should be filed for documents that involve substantive relief or may require modification by the Court, including but not limited to: protective orders, orders amending case management orders, orders dismissing parties or claims, orders approving settlements involving minors, orders confirming sales or approving the distribution of proceeds, default judgments, and consent judgments.

For any judge-specific instructions concerning proposed orders, review the requirements of the assigned judge's "Judges' Requirements," <http://www.moed.uscourts.gov/judges-contact-info-and-requirements>, or contact the assigned judge's chambers to ask whether a proposed order is required in a specific situation.

K. CORRECTING DOCKET ENTRY ERRORS

Once a document is submitted it becomes part of the Court file, and corrections can be made only by the Clerk's Office. The System will not permit the filing party to make changes to the document(s) or docket entry once a document has been filed. The filing party should not attempt to refile the document. As soon as possible after an error is discovered, the filing party should contact the assigned judge's case management team. Errors include posting the wrong PDF file to a docket entry, selecting the wrong document type from the menu, or entering the wrong case number. The filing party will be advised what corrective steps need to be taken, and should not attempt to refile the document unless instructed to do so.

L. TECHNICAL FAILURES

If technical failure of the System prevents timely electronic filing of any document, the filing party may seek relief from the Court. Problems on the filer's end, such as phone line problems, problems with the filer's Internet Service Provider or hardware or software problems, will not constitute a technical failure under these procedures nor excuse an untimely filing. A filer who cannot file a document electronically because of a problem on the filer's end may use the public computer facilities in the Clerk's Office to upload the document to the System.

M. PRIVACY AND REQUIRED REDACTION

In compliance with Fed.R.Civ.P. 5.2 and Local Rule 2.17, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate

interests, parties will refrain from including, or will partially redact where inclusion is necessary, the following personal identifiers:

- a. **Social security and tax identification numbers.** Include only the last four digits.
- b. **Names of minor children.** Include only the minor's initials.
- c. **Dates of birth.** Include only the year.
- d. **Financial account numbers.** Include only the last four digits of the account number.
- e. **Home Addresses.** The home address of a non-party should not appear in any filing. If it must be included, list only the city and state.

N. NOTICE REGARDING MAGISTRATE JUDGE JURISDICTION

Pursuant to Fed.R.Civ.P. 73(b)(1), parties in cases assigned to a Magistrate Judge must complete a Notice re: Magistrate Judge Jurisdiction form. The instructions can be found at <http://www.moed.uscourts.gov/sites/default/files/moed-0041.pdf>. If all parties consent to the jurisdiction of the Magistrate Judge, the Clerk's Office will docket all consent forms which will then become public documents.

III. FILING OF DOCUMENTS IN PAPER FORMAT

A. PRO SE LITIGANTS

Pro se litigants are exempt from electronic case filing. Pro se litigants will submit all documents for filing in paper format unless otherwise permitted by the assigned judge. The Clerk's Office will convert all pro se documents into electronic format for filing, and will retain the paper documents in chronological order. Non-prisoner pro se litigants may request to receive electronic notice of filed documents. See <http://www.moed.uscourts.gov/sites/default/files/moed-0061.pdf>.

B. SOCIAL SECURITY CASES

Social Security appeals will be electronically filed, including the Administrative Record. A paper courtesy copy of the Social Security Administrative Record must be provided to the assigned judge. To address the privacy issues inherent in a Social Security review, electronic public access to the individual documents will be limited to attorneys of record and court staff. Docket sheets, however, will be available by electronic public access to non-parties. Non-parties will continue to have direct access to the documents on file at the Clerk's Office.

C. HABEAS CORPUS CASES - STATE COURT RECORD

If the state court record required by Rule 5 of the Rules Governing 2254 cases totals 500 pages or less, it must be electronically filed. If the state court record exceeds 500 pages, it may be filed in paper format.

D. QUI TAM (FALSE CLAIMSACT) CASES

All Qui Tam complaints must be filed in paper format by mail or in person.

E. OTHER DOCUMENTS

The Court or Clerk may also authorize the filing of other documents in paper format.

F. EXHIBITS FILED IN PAPER FORMAT PURSUANT TO SECTIONS C AND E

If any exhibits or attachments to an electronic document are filed in paper format pursuant to Sections C or E above, a Notice of Exhibit Filing is required. Notice of Exhibit Filing forms are available on the Court's website, <http://www.moed.uscourts.gov/sites/default/files/moed.0008.pdf>, and a sample form is at Appendix A. The Notice of Exhibit Filing must be filed electronically as the first attachment to the primary filing. A paper copy of the Notice of Exhibit Filing must be

served and filed with the paper exhibits.

IV. DOCUMENTS FILED IN CRIMINAL CASES

Filings in criminal cases include standard forms for which case-specific information is entered, documents created for signature by someone other than the filing attorney, documents submitted under seal, and documents signed by the defendant after arrest. In addition, throughout the post-indictment stage motions and pleadings are created electronically for filing in the case. The method and manner of filing in criminal cases will vary depending on the type of document being submitted. For each of the categories of documents described below, the following filing procedures will govern unless a judge orders otherwise:

A. COMPLAINTS, INDICTMENTS AND INFORMATIONS

Complaints, indictments and informations will be filed by the government in paper format, and the Court will scan them for permanent electronic storage. The paper filings will be retained in a master chronological file, but the electronic version will serve as the official record. Documents accompanying a charging instrument, such as motions for detention, arrest warrants, entries of appearance and motions to seal may be filed in paper format, but those will be discarded after scanning by the Court. The government will provide courtesy copies of indictments to Magistrate Judges' chambers.

B. INITIAL APPEARANCE DOCUMENTS

Documents created in connection with a defendant's initial appearance under Fed.R.Crim.P. 5 may be filed in paper format and will then be scanned by the Court. The paper will not be retained. A financial affidavit signed by the defendant will be scanned and filed electronically and the paper version discarded.

C. BOND DOCUMENTS

Bond orders and conditions of release will be signed by a defendant in open court. Agreements to forfeit property requiring signatures of property owners will be signed in paper format. All such documents containing original signatures will be scanned by the Court and filed in the case electronically. Paper documents may be discarded, except that the Court may retain attachments to bond documents such as deeds and tax records in chambers.

D. HEARING EXHIBITS

Parties offering affidavits or other documentary evidence at hearings before a United States Magistrate Judge will provide only paper copies, which will be scanned for filing in electronic format. The admitted copies will be discarded. The offering party will retain any document bearing an original signature. Exhibits that cannot be scanned will be retained by the Court.

E. OTHER DOCUMENTS

Any other document existing only in paper format in a criminal case will be scanned and filed in the record electronically and may thereafter be discarded. All documents filed in a criminal case will be created and filed electronically except as provided above or as ordered by a judge.

V. PUBLIC ACCESS TO THE SYSTEM

A. PUBLIC ACCESS AT THE COURT

Access to the electronic docket and to documents filed in the System is available to the public at no charge at the Clerk's Office during regular business hours. Copies are

available for a fee.

B. ELECTRONIC PUBLIC ACCESS

Only PACER (Public Access to Court Electronic Records) subscribers have remote access to the System. Parties' initial access to a document filed electronically is free of charge. Parties are encouraged to download or print the filed document when it is initially accessed by the Notice of Electronic Filing generated by the System. If parties remotely access the document again, they will be charged a fee of ten cents per page, up to a maximum of \$3.00 per document. Each attachment in CM/ECF is considered a separate document. Therefore, the cap will apply separately to each attachment over 30 pages. The cap of \$3.00 does not apply to transcripts of federal court proceedings.

VI. SEALED AND EX PARTE DOCUMENTS

A. BACKGROUND

Attorneys can electronically file (1) sealed motions and documents, and (2) ex parte motions and documents. The filing attorney, attorneys of record and PACER users will be able to view ONLY the document number and the docket entry of sealed motions or documents. Only the filing attorney will be able to view ex parte docket entries and numbers. Opposing counsel and PACER users cannot see any ex parte docket entry or the document number.

B. SEALED MOTIONS AND DOCUMENTS

Filing sealed motions and documents requires two separate entries in the CM/ECF system. The first entry is a motion requesting leave to file a sealed motion or document; the second entry is the motion or document to be sealed and any supporting exhibits or documents. **Note: If a Protective Order granting leave to file documents under seal has**

already been entered in a case, it is not necessary to file a motion for leave and the sealed motion or sealed document may be filed directly. Qui Tam (False Claims Act) complaints must be filed under seal in paper format.

Follow these steps to file a sealed motion or document:

1. File a motion for leave to file a sealed motion or document using the ECF event:

Motion > For Leave to File Sealed Motion, or
For Leave to File Sealed Document, as appropriate

2. File the sealed motion or document using one of the following ECF events:

Motion > Sealed Motion, or
Other Documents > Sealed Document

Note: The sealed motion or document is provisionally sealed pending the assigned judge’s ruling on the Motion for Leave to File Sealed Motion/Document. If the Motion for Leave is granted, the motion or document will remain sealed. If the judge denies the Motion for Leave, he or she may instruct the Clerk’s Office to remove the sealed access level on the motion or document in question and it will become publicly available.

1. **Exhibits to Sealed Motions and Documents**

Attach all exhibits in support of the sealed motion or document to the sealed motion or document. Each exhibit is to be filed as a separate PDF attachment. Each such attachment should be identified by a name that includes both the exhibit designation and a brief description of the exhibit, for example:

Ex. 1--May 2016 Agreement

Ex. A--Affidavit of Michael Smith

(For additional information on filing exhibits see Section II.F. of this Manual.)

2. **Proposed Orders Relating to Sealed Motions**

Attorneys should not send courtesy copies of proposed orders containing restricted or sealed information to the Court's proposed orders email address. Such orders should be mailed or hand-delivered to the Clerk's Office in paper format.

If a proposed order relating to a sealed motion does not contain restricted or sealed information, email the proposed order to:

MOED_Proposed_Orders@moed.uscourts.gov

In the subject line of the email include the case name and number (including the assigned judge's initials), and the document number of the sealed motion or sealed document provisionally filed.

3. Electronic Notice and Access to Sealed Filings

Electronic notice of the filing of a sealed motion or document goes ONLY to the attorneys of record and indicates the document number; however, the sealed motion or document IS NOT accessible from the Notice of Electronic Filing (NEF). The docket entry appears for Court users and all attorneys of record active in the case. The docket text will read "SEALED MOTION" or "SEALED DOCUMENT." ONLY court users CAN ACCESS OR VIEW sealed motions or documents from the System.

4. Service of Sealed Filings

The attorney filing the sealed motion or sealed document will have to serve opposing counsel by other means as service will not occur by the CM/ECF System, as no service of sealed filings occurs via the Court's electronic filing system. The sealed paper shall include a certificate of service reflecting the means by which service was made.

C. SEALED ORDERS AND MINUTE ENTRIES

Parties and attorneys will receive electronic notice of a sealed order or sealed courtroom entry unless the entire entry is sealed. The parties or attorneys will not be able to access a sealed order or minute sheet from the docket sheet or notice of electronic filing.

Sealed orders will be distributed by U.S. mail to non-governmental parties or attorneys and by secure email to government parties or attorneys.

D. EX PARTE MOTIONS AND DOCUMENTS

An attorney wishing to file an ex parte motion or ex parte document must use the ECF filing events Motion > Ex Parte Motion or Other Documents > Ex Parte Document. Ex parte documents in support of an ex parte motion, such as an affidavit or brief in support of a motion, should be attached to the motion.

DO NOT USE the sealed motion or sealed document event to file ex parte matters, as all case participants have access to the docket entries for sealed motions and documents.

Electronic notice of an ex parte motion or document is **ONLY** sent to the filing attorney and indicates the document number. The docket entry and document number can **ONLY** be accessed and viewed by court users and the filing attorney. The docket text will read “(Ex Parte) MOTION,” and “(Ex Parte) DOCUMENT” and can only be viewed by court users and the filing attorney. Opposing counsel and PACER users cannot see any ex parte docket entry or the document number.

SAMPLE FORMAT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
_____ DIVISION

_____,)	
)	
Plaintiff(s),)	
)	
vs.)	Case No. _____
)	
_____,)	
)	
Defendant(s).)	

NOTICE OF EXHIBIT FILING

Exhibit _____ to _____
(title of document)
will be filed with the Clerk’s Office in paper format.

I certify that within 24 hours of the filing of this Notice, I will file and serve paper copies of the document identified above.

Date

Attorney’s Name and Bar Number
Attorney for Plaintiff/Defendant
Law Firm Name
Law Firm Address
Law Firm Telephone Number

SAMPLE FORMAT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
_____ DIVISION

_____)	
)	
Plaintiff(s),)	
)	
vs.)	Case No. _____
)	
_____)	
)	
Defendant(s).)	

SAMPLE FORMATS - CERTIFICATE OF SERVICE

I hereby certify that on _____ (Date) _____, the foregoing was mailed by United States Postal Service to the following non-participants in Electronic Case Filing: _____.

I hereby certify that on (Date) _____, the foregoing was mailed by United States Postal Service/hand-delivered/sent by email to all counsel of record and to the following non-participants in ECF: _____.

Date

Attorney's Name and Bar Number
Attorney for Plaintiff/Defendant
Law Firm Name
Law Firm Address
Law Firm Telephone Number

SAMPLE FORMAT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
_____ DIVISION

_____)	
)	
Plaintiff(s),)	
)	
vs.)	Case No. _____
)	
_____)	
)	
Defendant(s).)	

VERIFICATION OF SIGNED ORIGINAL DOCUMENT

Pursuant to Local Rule 11-2.11, _____ (Attorney for Plaintiff or Defendant) hereby attests to the existence of a paper copy of _____ bearing the original signature(s) of _____. The document was filed electronically on _____ with a blank signature line. Counsel will retain the paper copy bearing the original signature(s) during the pendency of the litigation including all possible appeals.

Date

Attorney's Name and Bar Number
Attorney for Plaintiff/Defendant
Law Firm Name
Law Firm Address
Law Firm Telephone Number