

# CRIMINAL CASES

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## *Administrative Procedures*

FOR FILING, SIGNING, AND VERIFYING PLEADINGS AND DOCUMENTS IN  
THE DISTRICT COURT UNDER THE  
CASE MANAGEMENT/ELECTRONIC CASE FILES SYSTEM  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA

**ADMINISTRATIVE PROCEDURES FOR FILING, SIGNING, AND VERIFYING  
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**I. THE CASE MANAGEMENT/ELECTRONIC CASE FILES SYSTEM**

**A. AUTHORIZATION**

**General Order No. 04-0001** adopts the Case Management/Electronic Case Files (“CM/ECF”) System and authorizes electronic filing in conjunction with Federal Rule of Criminal Procedure 57. Pursuant to this order, the following procedures govern electronic filing in this district unless, due to extraordinary circumstances in a particular case, a judicial officer determines that the requirements of these policies and procedures should be modified in the interest of justice. **The General Order and these Procedures are effective November 1, 2004.**

**B. DEFINITIONS AND INSTRUCTIONS**

The following definitions and instructions shall apply to these Procedures for the CM/ECF System:

- ▶ The term “document” shall include pleadings, motions, exhibits, declarations, affidavits, memoranda, papers, orders, notices, and any other filing by or to the court.
- ▶ The term “party” shall include counsel of record, pro se litigants, and other persons or entities eligible to receive notice.
- ▶ The terms “CM/ECF” and “the System” refer to the court’s Case Management/Electronic Case Files System.
- ▶ The term “CM/ECF website” refers to the official Internet site of the Northern District of Alabama at <http://www.alnd.uscourts.gov>. Click on the CM/ECF link.
- ▶ A “CM/ECF user” is a person who is registered to use the CM/ECF system. A “CM/ECF noticed user” is a person who is initially signed up only for electronic noticing and is able to browse the System. A “CM/ECF filer” is a person who is also registered to file electronically.
- ▶ “Electronic filing” means uploading a document directly from the registered user’s computer, using the court’s Internet-based System, to file that document in the court’s case file. Sending a document to the court via email does not constitute “electronic filing.”

- ▶ The “Email Address of Record” refers to the Internet email address(s) of each party to the case as maintained by the Clerk.
- ▶ A “Notice of Electronic Filing” (“NEF”) is generated automatically by the ECF System upon completion of an electronic filing. The NEF emailed to the email addresses of record in the case acts as the proof of service, except as noted in these procedures.
- ▶ The term “PDF” refers to Portable Document Format. A PDF document allows anyone to open the converted document across a broad range of hardware and software, with layout, format, links, and images intact. For information on PDF, users may visit the websites of PDF vendors, such as <http://www.adobe.com/products/acrobat> or <http://www.fineprint.com>. Users are encouraged to use Adobe to save PDF documents.
- ▶ The term “conventional filing” refers to documents filed in paper.
- ▶ The term “charging document” refers to any document that results in the opening of a criminal case in this court.
- ▶ Procedures and instructions for using the court’s CM/ECF System consistent with these policies may be found on the court’s CM/ECF website.
- ▶ All hours stated shall be Central time.

### **C. TECHNICAL SPECIFICATIONS**

1. While the System requirements may be set forth more completely in a User’s Manual or other court publication, it is expected that the following hardware and software will be needed to electronically file, view and retrieve documents in the electronic file System. Other specifications are also indicated for optimum performance.
  - a. A computer running a Windows or a Macintosh operating system.
  - b. Software able to convert documents from a word processor such as WordPerfect or Word to PDF. Adobe is preferred as the software for conversion to PDF.
  - c. Netscape browser version 4.7x or higher or Internet Explorer 5.5 or higher, each with 128 bit encryption is strongly recommended.
  - d. High speed internet access.
  - e. A scanner, if non-computerized documents need to be imaged.

2. When scanning documents to be subsequently filed electronically, filing parties should make certain their **scanners are configured for 200 dpi and black and white** rather than color scanning. The filing party is responsible for the legibility of the scanned document. If for any reason a document cannot be easily read after scanning, the filing party should not electronically file the document. Instead, the filing party must conventionally file it with the Clerk's office.
3. Because large documents may not upload properly to the System or download within a reasonable amount of time for users with a 56K modem, documents more than 5 megabytes will be rejected by the System and may be filed conventionally if the filer cannot break the document into segments of not more than 5 megabytes. As an estimate, PDF documents produced by converting a normal text file using conversion software can yield between 300 and 500 pages per 1 megabyte depending on the software used; scanned documents will yield considerably fewer pages (approximately one-tenth the number of pages depending on the scanner settings). Documents with color and graphics may yield even fewer pages.

#### **D. SYSTEM AVAILABILITY**

The court's System is designed to provide service 24 hours a day. The parties, however, are encouraged to file documents in advance of filing deadlines and during normal business hours. Several judges restrict filing times to normal business hours of the Clerk of Court, 8:30 a.m. to 4:30 p.m. Restrictions are listed on the webpages of the individual judges which can be accessed on the court's Internet site at [www.alnd.uscourts.gov](http://www.alnd.uscourts.gov). Clerk's office staff is available to respond to questions regarding the electronic files system and the registration process and to receive voice mail messages. The criminal docket clerks are available from 8:30 a.m. to 4:30 p.m. Monday through Friday and will accept voice mail messages at any time. Calls received after 4:30 p.m. will be returned the morning of the next business day.

If a party misses a filing deadline due to an inability to file electronically, the party may seek relief by filing an appropriate motion.

#### **E. SELECTION OF CASES**

Unless otherwise permitted by these administrative procedures or unless otherwise authorized by the assigned judge, all documents<sup>1</sup> submitted for filing in this district after the official implementation date, currently January 1, 2005 in criminal cases, no matter when a case was originally filed, shall be filed electronically, with the following exceptions:

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<sup>1</sup>The requirement that "all documents" be filed electronically includes briefs, transcripts of proceedings, and deposition transcripts used in support of motions.

1. Parties proceeding pro se shall not file electronically. Attorneys appearing in cases with pro se parties may electronically file documents and serve pro se parties conventionally.
2. A criminal case previously filed under seal will be maintained in paper form and will not be placed on the System unless the assigned judge orders the case unsealed.
3. Juvenile criminal matters shall not be filed electronically unless, after hearing, the court rules that the juvenile shall be tried as an adult.
4. While registered attorneys of record will have remote access to documents in criminal cases, no public remote access will be available until further order of the court.<sup>2</sup> Public access to docket sheets in criminal cases, however, will be available. Also, members of the public may view electronic criminal files at the public terminals in the Clerk's office.
3. A registered CM/ECF filer may apply in a particular case to the assigned judge for permission to file documents conventionally. Even if the assigned judge initially grants an attorney permission to file documents conventionally, the assigned judge may withdraw that permission at any time during the pendency of a case and require that subsequent documents be filed electronically using the System.
4. The Clerk's office or any judge of this court may deviate from the requirements of 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. The most current version of Criminal Administrative Procedures can always be found on the court's website at [www.alnd.uscourts.gov](http://www.alnd.uscourts.gov).

## **F. REGISTRATION**

1. Each attorney who wishes to practice in this court will register for CM/ECF Electronic Noticing. The Attorney Update and Registration for E-Noticing form is available on the court's website at <http://www.alnd.uscourts.gov>; click on the CM/ECF link.

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<sup>2</sup> On March 13, 2002, the Judicial Conference of the United States approved an exception to the prohibition on public access to criminal case records. In a high-profile criminal case where the demand for documents will "impose extraordinary demands on a court's resources," that court is authorized to provide Internet access to criminal case files "if all parties consent and the trial judge or presiding judge of an appellate panel finds that such access would be warranted."

On September 19, 2001, the Judicial Conference determined that the policy restricting remote public access to criminal records would be "re-examined within the next two year."

2. The court will issue logins and passwords to attorneys in good standing in the Northern District of Alabama. To be in good standing, an attorney must meet the requirements in N.D. ALA. LR 83.1. The login assigned will correspond to the attorney's Alabama State Bar identification number. The initial password will be assigned by the court. Attorneys should change their password as soon as possible after registering. The court will issue logins and passwords to attorneys practicing pro hac vice in the Northern District of Alabama. The login assigned will correspond to the Bar identification number assigned in his/her state of residence. Attorneys should contact the Clerk's office to resolve any question regarding assignment of the login.
3. To ensure that the Clerk's office has correctly entered a registering attorney's email address in the System, the Clerk's office will send the attorney an email message after the registration is processed. The user must reply to the email for confirmation to activate the account.
4. Each attorney filing electronically must complete and submit an Attorney Electronic Filing Registration Form. The form is available on the court's website at <http://www.alnd.uscourts.gov>; click on the CM/ECF link.
5. Once registered, attorneys may withdraw from participating in CM/ECF only with permission from the court for good cause shown. Upon entry of an order withdrawing an attorney, the Clerk's office will immediately cancel the attorney's password and delete the attorney's name from applicable electronic service lists.
6. After registering, attorneys should change their passwords. If an attorney has information that the security of an existing password may have been compromised, the attorney should immediately change his or her password and notify the Clerk's office about the potential breach of security.
7. An attorney whose email address, mailing address, telephone or fax number has changed shall timely file a Notice of Change of Address with the Clerk of Court who will effectuate the change in every active case in which that attorney is attorney of record.

The Clerk's office will update the account of counsel in the System. This update will be effected with the electronic filing of a Notice of Change of Address. **Training materials and instruction are provided as part of the CM/ECF Electronic Filing Registration.**

8. **A PACER login is required in addition to the CM/ECF login and password issued by the court in order to file electronically and to access the System.** To register for PACER, a user must complete the online form or submit a registration form, available on the PACER website at <http://pacer.psc.uscourts.gov>.

## **G. LOGIN AND PASSWORD**

Each attorney admitted to practice in the Northern District of Alabama shall be entitled to one login and password from the District Court. The login and password permit the attorney to participate in the electronic retrieval and filing of pleadings and other papers.

1. No attorney shall knowingly permit or cause to permit his or her password to be utilized by anyone other than an authorized employee of his or her office.
2. Once registered, the attorney shall be responsible for all documents filed with his or her password.
3. Registration for a login and password is governed by Section I(F).
4. An attorney admitted pro hac vice must register for a login and password in accordance with these Administrative Procedures. The \$50 fee may be paid online via **Pay.gov** during the filing of the event or mailed to the Clerk at the time the motion for pro hac vice admission is electronically filed.
5. To comply with CM/ECF requirements, the password must consist of (a) at least eight characters, (b) contain both uppercase and lowercase characters, and (c) contain at least one numeral or special character (such as \$, %, #, \*, &, ?).

## **II. ELECTRONIC FILING AND SERVICE OF DOCUMENTS**

### **A. FILING**

1. Electronically filed documents must meet the requirements of Rule 47 of the Federal Rules of Criminal Procedure.
2. All charging documents (complaint, information, indictment, Rule 20 order) must be filed in conventional paper format. The Clerk will maintain the paper documents as required by records management rules. The Clerk will scan the initiating charging document, save it to PDF format and electronically file it in the System. All subsequent pleadings, motions, applications, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, or other miscellaneous documents in a case shall be electronically filed in the System except as otherwise provided by these administrative procedures.

Emailing a document to the Clerk's office or to the assigned judge shall not constitute "filing" of the document. A document shall not be considered filed for purposes of the Federal Rules of Criminal Procedure until the filing party receives a System-generated "Notice of Electronic Filing" described in Section II(B)1 of these procedures.

3. Pleadings or documents will be deemed timely filed on any particular date if filed prior to midnight on that date unless otherwise limited by order of this court. The time of filing is governed by the Notice of Electronic Filing which is generated after the document is uploaded to the court's CM/ECF server. Counsel should be aware that, in the case of large electronic filings initiated close to midnight, the filing may not be completed by midnight. Extensions of time and allowances for late filings are permitted only by the judicial officer.
4. Documents which require leave of court shall be attached as an exhibit to the motion for leave to file as set out in Section IV(B). If the court grants the motion, the attorney must electronically file an exact duplicate of the attachment.
5. Attachments and exhibits larger than 5 megabytes may be filed electronically in separate 5 megabyte segments. Documents and exhibits which cannot be produced in digital format may be filed in paper format with conventional service on opposing counsel. Lengthy documents submitted to the Clerk's office in paper form shall not be bound or stapled or paper clipped, but rather, shall be held together by removable spring binding clips. The filing party must additionally file an electronic notice of filing of paper documents in the CM/ECF system.
6. The Clerk's office shall not maintain a paper court file in any case begun after the effective date of these procedures except as otherwise provided in these procedures. The official court record shall be the electronic file maintained on the court's servers. The official record shall include, however, any conventional documents or exhibits filed in accordance with these procedures.
7. For all filings electronic or conventional, the style of the criminal case number on the face of the document shall read as follows:

[Division#]:[2-digit year]-cr-[case #][Initials of presiding judge][Initials of referral judge]

Division numbers: 1-Eastern, 2-Southern, 3-Northwestern, 4-Middle, 5-Northeastern, 6-Jasper, 7-Western

For example, 2:04-cr-500-LSC-SGC is the court's 500<sup>th</sup> criminal case filed in 2004. The case was filed in the Southern Division and is assigned to Judge Coogler and referred to Magistrate Judge Cornelius. The system will read case number with or without dashes and will find the case with only the year and number.

8. Pursuant to the policy set forth in Rule 13 of the Model Local Rules for Electronic Case Filing, endorsed by the Judicial Conference in October 2005, a hyperlink contained in a filing is no more than a convenient mechanism for accessing material cited in a document. **A hyperlink reference is extraneous to a filed document and is not a part of the court's record.** In order to preserve the integrity of the court record, users wishing to insert hyperlinks in court filings shall continue to use the conventional citation method for the cited authority, in addition to the hyperlink. Hyperlinks are only permissible for legal references and citations and are not to include advertisements. The court may direct the Clerk to strike any pleading which contains an inappropriate hyperlink.

## **B. SERVICE**

1. Whenever a pleading or other paper is filed electronically in accordance with these procedures, the System shall generate a NEF to the filing party and to any other party who is a registered user and has requested electronic notice in that case.<sup>3</sup>
  - (a) If the recipient is a registered participant in the System, the System's emailing of the NEF shall be the equivalent of service of the pleading or other paper by hand delivery.
  - (b) Service of the NEF on a party who is not a registered participant in the System may be accomplished by email, subject to the additional service requirements of paragraph B(3) below.
2. A certificate of service on all parties entitled to service or notice is still required when a party files a document electronically. The certificate must state the manner in which service or notice was accomplished on each party so entitled. Sample language for a certificate of service is attached to these procedures as Form A.
3. A party who is not a registered participant of the System is entitled to a paper copy of any electronically filed pleading, document, or order. The filing party must therefore provide the non-registered party with the pleading, document, or order according to the Federal Rules of Criminal Procedure. When mailing paper copies of documents that have been electronically filed, the filing party must include the NEF to provide the recipient with proof of the filing.

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<sup>3</sup>To determine whether another party is a registered user, the filer can select the System's "Utilities" category, and then click on "Mailing Information for a Case" on the pull-down menu. The filer then enters the case number and the System information will appear, stating whether or not the filer must mail a copy or if the System will electronically generate one.

4. A filer who elects to bring a document to the Clerk’s office for scanning and uploading to the System due to technical difficulties, must serve conventional copies on all non-registered parties to the case. Some delay in the uploading and subsequent electronic noticing of the document may be expected. If time of receipt by opposing counsel is an issue, filers should consider paper service or notice by an alternate means on registered parties, such as email or fax.

### C. SIGNATURES AND AFFIDAVITS

1. A pleading or other document requiring an attorney’s signature shall be signed personally if submitted in paper format or signed in electronic format with digital signature or “s/(attorney name).” The correct format for an attorney signature is as follows:

**s/E. Cape Able** [or electronic signature]  
Able Attorney  
Bar Number: 12345  
Attorney for (Government/Defendant)  
ABC Law Firm  
123 Biscuit Street  
Birmingham, Alabama 35203  
Telephone: (205) 123-4567  
Fax: (205) 123-7654  
Email: [ecapeable\\_attorney@law.com](mailto:ecapeable_attorney@law.com)

2. Documents that must contain original signatures, such as affidavits, contracts, bonds, etc., or which require either verification or an unsworn declaration under any rule or statute, shall be filed electronically with originally executed copies maintained by the filer. The electronic filing must include a certificate that the filer currently holds the original signature document complete with all the legal formalities. The pleading or other document electronically filed shall indicate a signature, *e.g.*, “s/Jane Doe,” or the original may be scanned and electronically filed in the ECF System. The filing party or attorney shall retain the hard copy of the document containing the original signatures for at least one (1) year after expiration of all time periods for appeals, or resolution of appeals, whichever is later.
3. In the case of a stipulation or other document to be signed by two or more persons, the following procedure should be used:

Documents requiring signatures of more than one party shall be filed by submitting a scanned document containing all necessary signatures.

**D. FEES PAYABLE TO THE CLERK**

Any fee required for filing a pleading or paper in District Court is payable to the Clerk of the Court by check, money order, or cash. The Clerk's office will document receipt of fees on the docket with a text-only entry. The court will not maintain electronic billing or debit accounts for lawyers or law firms.

**E. ORDERS**

1. The assigned judge or the Clerk's office shall electronically file all signed orders. Any order signed electronically has the same force and effect as if the judge's signature was affixed to a paper copy of the order and it had been entered on the docket conventionally.
2. The court will fax or mail copies of orders entered electronically to pro se parties who are not registered participants of the CM/ECF System.
3. **Submitting Proposed Orders**

Proposed orders may be electronically submitted directly to chambers as an attachment to an email and not submitted electronically through the court's CM/ECF System. The email should include the case number and style in the subject line. Attorneys are encouraged to send proposed orders directly to chambers in Word or WordPerfect format. Special email addresses for each judge are listed on the court's website. If the judge approves the proposed order, it will be electronically signed and filed in CM/ECF by court staff.

(a) A filing party moving for issuance of a writ, warrant, or summons should advise the judge if a prompt ruling is required. Any proposed writ or summons should be emailed directly to chambers in WordPerfect or Word format.

(b) A motion to file documents under seal shall be made in the manner specified in paragraph III(A) of these procedures.

4. **Filing Proposed Documents**

If leave of court is required before a party may file a document, the proposed document shall be attached as an exhibit to the motion requesting leave of court. If the court grants the motion, the attorney must file electronically an exact duplicate of the proposed document into the System.

## F. TITLE OF DOCKET ENTRIES

The party electronically filing a pleading or other document shall be responsible for designating a docket entry title for the document by using one of the docket event categories prescribed by the court.<sup>4</sup>

## G. CORRECTING DOCKET ENTRIES

1. Once a document is filed electronically and becomes part of the case docket, corrections to the docket are 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 filed in error once the transaction has been accepted and the Notice of Electronic Filing has been displayed.
2. A document incorrectly filed in a case may be the result of posting the wrong PDF file to a docket entry, selecting the wrong document type from the menu, or entering the wrong case number and not catching the error before the transaction is completed. **The filing party should not attempt to re-file the document.**
3. As soon as possible after an error is discovered, the filing party should contact the Clerk's office with the case number and document number for which the correction is being requested. If appropriate, the court will make an entry indicating that the document was filed in error. The filing party will be advised *if* the document needs to be re-filed.
4. The Clerk will correct filing-process errors, such as errors related to case numbers, document-type selection, filing in the wrong case, and obviously erroneous filings, but will not remove or correct documents correctly filed in a case simply because counsel requests removal or correction for reasons unrelated to errors in the process of electronic filing.

## H. TECHNICAL FAILURES

1. The Clerk's office shall deem the Northern District of Alabama CM/ECF site to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 10:00 a.m. that day. Scheduled maintenance outages of the system will be posted on the website prior to the outage.

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<sup>4</sup>Readers may view the "CM/ECF Criminal Menu for Attorneys" on the CM/ECF link on the court's website: [www.alnd.uscourts.gov](http://www.alnd.uscourts.gov).

2. Technical problems encountered by the filer, such as phone line problems, problems with the filer's Internet Service Provider ("ISP"), 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 his own technical problems may bring a disk to the Clerk's office for filing.
3. A filing party whose filing is made untimely as the result of a technical failure of the court's CM/ECF site may seek relief from the court by filing an appropriate motion.

## I. PRIVACY

To address the privacy concerns created by Internet access, you should not include certain types of sensitive information in any document filed with the court unless such inclusion is necessary and relevant to the case. You must remember that any personal information not otherwise protected will be made available over the Internet via CM/ECF. If sensitive information must be included, the following **five (5)** personal data identifiers **must be redacted** from electronically filed documents, unless otherwise ordered by the court:

1. **Social Security numbers.** If an individual's social security number must be included in a document, only the last four digits of that number should be used.
2. **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
3. **Dates of birth.** If an individual's date of birth must be included in a document, only the year should be used.
4. **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.
5. **Addresses of Individuals.** If the address of an individual is relevant, only the city and state should be used.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers specified above may file, with leave of court, an un-redacted document under seal. This document shall be retained by the court as part of the record. The court, however, will require a redacted version of the pleading to be filed electronically for the public file. Caution is recommended with regard to other personal identifiers, such as driver's license, medical records, treatment and diagnosis, employment history, individual financial information, and proprietary or trade secret information.

Counsel is strongly urged to share this information with all clients so that an informed decision about inclusion of materials may be made. It is the **sole responsibility of counsel and the parties** to ensure that redaction of personal identifiers is done. The Clerk **will not** review each pleading for compliance with the rule.

### III. CONVENTIONAL FILING OF DOCUMENTS

The following procedures govern documents filed conventionally. The court, upon application, may also authorize conventional filing of other documents otherwise subject to these procedures.

#### A. DOCUMENTS TO BE FILED UNDER SEAL

**Before a document is filed under seal, the filing party first must obtain permission from a judicial officer by filing a motion or application seeking leave to file a sealed document. At the same time, the document(s) proposed to be sealed is to be submitted to the Clerk in conventional paper format with a PDF copy of the document(s) on a disk.** A party must electronically file the motion or application for leave to file documents under seal, but **the filer should not electronically attach the document(s) proposed to be sealed.** A motion or application for leave to file documents under seal which is not filed electronically shall be presented in conventional paper format to the Clerk's office, together with a PDF version of the motion and sealed document(s) on a disk, along with a proposed order in paper format. If the motion or application is granted, the assigned judge, or designee, will enter an order authorizing the filing of the document(s) under seal, and the Clerk will file electronically the PDF version of the sealed document(s). **The filer should not undertake to electronically file the sealed document(s).** Documents so filed will be available for viewing only by counsel in the case and court staff assigned to the presiding judicial officer(s). Counsel must serve copies of seal documents on opposing counsel by mail.

#### B. PRO SE LITIGANTS

Pro se litigants shall conventionally file paper originals of all pleadings, motions, affidavits, briefs, and other documents which must be signed or which require either verification or an unsworn declaration under any rule or statute. The Clerk's office will scan and file the document electronically and retain the paper original. The official court record will be the electronic file maintained on the court's servers.

#### C. SERVICE OF CONVENTIONAL FILINGS

A filer who files documents conventionally, pursuant to these Administrative Procedures, by bringing a document to the Clerk's office for scanning and uploading to the System must serve conventional copies on all non-registered parties to the case in accordance with the Federal Rules of Criminal Procedure. Some delay in the

uploading and subsequent electronic noticing of the document may be expected. If time of receipt by opposing counsel is an issue, filers should serve paper copies on registered parties conventionally or by alternate means, such as email or fax.

**D. RETENTION OF ORIGINALS OF DOCUMENTS REQUIRING SCANNING**

Originals of documents which have been scanned by counsel and filed electronically must be retained by the filing party and made available upon request to the court and other parties for a period of at least one (1) year following the expiration of all time periods for appeals, or resolution of appeals, whichever is later.

**E. COPY REQUIREMENT FOR OVERSIZE DOCUMENTS**

For all electronic filings of twenty-five (25) pages or more, counsel is required to supply **one** conventional (paper) copy of the filing to the Clerk of Court. Such paper copies of the documents are to be submitted to the Clerk's office, **not to chambers**, within twenty-four hours after the electronic filing. The electronically filed document shall remain the official filing, and any discrepancy between it and the paper copy is resolved in favor of the electronically filed version. **Some judges have waived this requirement with selected filings which can be determined by reviewing the judge's personal webpage linked to the court's webpage.**

**F. WAIVERS OF ARRAIGNMENT**

A Waiver of Arraignment and Plea of Not Guilty as authorized by Rule 10(b) of the Federal Rules of Criminal Procedure, is not effective if filed electronically and will not excuse a defendant or counsel from appearing if notified to appear for arraignment. A waiver under Rule 10(b)(2) is not effective until accepted and approved by the court (Rule 10(b)(3)). A document styled as a Waiver is a legal nullity unless and until accepted by the court. The only circumstance under which a written Waiver of Arraignment and Plea of Not Guilty has been accepted by the court has involved a superseding indictment in which there has been no substantive change to the charge made against a waiving defendant. The Waiver of Arraignment and Plea of Not Guilty must be on a paper form provided directly to counsel by a judge of this court, and signed by both counsel and the defendant. The Waiver of Arraignment and Plea of Not Guilty is to be returned directly to the chambers of the judge providing the form, not filed with the Clerk of the Court. **The waiver is valid only upon its acceptance by the court as certified by the judge's signature on the same form which contains the original signatures of both the defendant and defendant's counsel.** No other method of waiver of arraignment and plea of not guilty pursuant to Rule 10 has been or will be accepted by the United States District Court for the Northern District of Alabama without special order.

#### **IV. EXHIBITS**

##### **A. ATTACHMENTS/EVIDENCE NOT IN SUPPORT OF A MOTION**

This section applies to exhibits other than those submitted in support of a motion. Exhibits submitted in support of a motion are governed by Section IV(B) of these procedures.

1. Attachments and exhibits to documents which are too large to convert to a usable electronic format, such as books, large color pictures or old documents of poor quality, may be conventionally filed with the Clerk and served on opposing counsel. The conventional charging document or electronically filed document with exhibits must include a statement that the attachments and/or exhibits are being conventionally filed. Documents so filed shall be retained by the Clerk in accordance with the records management guide.
2. If possible, a filing party should electronically image, *i.e.*, “scan,” a paper exhibit that is fewer than 5 megabytes and submit the exhibit as a PDF file. Because PDF files containing scanned documents take up considerably more space on the System than PDF files containing electronically generated documents, filing parties may submit PDF files containing scanned documents of more than 5 megabytes only if they are filed in separate 5-megabyte segments. Electronically filed documents with large attachments and/or exhibits must attach an appendix clearly identifying the exhibits and attachments. Additionally, each PDF attachment of exhibits or evidence should clearly identify the content in the description field on the electronic filing.
3. If the scanner is set to scan in color, documents will take much longer to upload; filing parties should configure their scanners to scan documents at 200 dpi and in black and white, not in color. Documents appearing in color in their original form, such as color photographs, may be scanned in color and then uploaded to the System.
4. The filing party must verify the readability of scanned documents before filing them electronically with the court.
5. Exhibits submitted conventionally shall be served on other parties conventionally.

##### **B. EVIDENCE IN SUPPORT OF OR IN OPPOSITION TO A MOTION**

1. A party electronically submitting evidentiary materials to the Clerk’s office in support of, or in opposition to, a motion shall reference the base motion being supported or opposed in the caption of the pleading and include as the first attachment an index listing each item of evidence being filed.

Attachments and exhibits which are too large to file electronically shall be filed in accordance with Sections IV(A)(1)&(2).

2. If possible, filing parties should electronically image, *i.e.*, “scan,” a paper exhibit and attach the resulting PDF file(s) to the electronically filed motion if the attached files are no more than 5 megabytes each. Note that multiple files can be attached to a filing, so long as each does not exceed the 5 megabyte limitation. Each separate file attachment must be clearly identified in the index of the attachment for easy recognition.
3. If the scanner is set to scan in color, documents will take much longer to upload; filing parties should configure their scanners to scan documents at 200 dpi and in black and white, not in color. Documents appearing in color in their original form, such as color photographs, may be scanned in color and then uploaded to the System.
4. The filing party is required to verify the readability of scanned documents before filing them electronically with the court.
5. A party submitting evidentiary materials in conventional format shall also file in conventional format an index of evidence listing each item of evidence being filed and identifying the motion to which it relates. Lengthy documents submitted to the Clerk’s office in paper form shall not be bound or stapled or paper clipped, but rather, shall be held together by removable spring binding clips.
6. Copies of conventionally filed supporting materials shall be served on other parties conventionally.

### **C. TRIAL AND HEARING EXHIBITS**

Effective December 1, 2016, the United States Court of Appeals for the Eleventh Circuit adopted changes to its Local Rules and Internal Operating Procedures that impact the manner in which trial or hearing exhibits are transmitted to the court of appeals in connection with appeals. For purposes of CM/ECF, there are three (3) important requirements:

- “The district court clerk must include in the electronic record on appeal electronic versions of all documentary exhibits admitted into evidence at trial or any evidentiary hearing”;
- “If documentary exhibits have been sealed or marked confidential by the district court or the district court clerk, the district court clerk must transmit any such sealed or confidential documentary exhibits to this court either in their original form or in electronic form provided the electronic access is appropriately restricted,...”; and

- “As to non-documentary physical exhibits, the parties are required to include photographs or other reproductions of such exhibits in the electronic record on appeal.”
1. In order to comply with the Eleventh Circuit’s requirements, beginning December 1, 2016, counsel offering any **documentary exhibit** at a trial or hearing must supply the courtroom deputy assigned to the trial or hearing a full, complete, and unaltered electronic version of each offered documentary exhibit, scanned or created in PDF format. (Counsel should refer to paragraph I(C)(2) of this Administrative Procedures Manual for specifications related to scanning and creating PDF-formatted files). To enable the courtroom deputy to electronically docket each separate exhibit, each exhibit shall be a separate PDF-formatted electronic file (*i.e.*, trial or hearing exhibits should NOT be combined in one large PDF file).
  2. At the beginning of the trial or hearing, counsel must supply the courtroom deputy with a disk or other electronic medium on which such separate exhibit files have been stored so that the courtroom deputy may upload each such exhibit file to CM/ECF at the conclusion of the trial or hearing. The labeling of each electronic exhibit file must correspond to the exhibit number or other identification on the documentary exhibit. If counsel offers an exhibit for which he or she has not supplied an electronic version at the beginning of the trial or hearing, counsel shall provide such an electronic version before the end of the proceeding.
  3. In the event counsel desires to keep an exhibit confidential or sealed, counsel should bring that to the attention of the court and the courtroom deputy so that appropriate docketing can occur.
  4. For every **non-documentary physical exhibit**, counsel must supply the courtroom deputy with one or more unaltered and unannotated photographs, drawings, diagrams, or other depictions of the exhibit, scanned or created in PDF format for electronic filing. Multiple photographs, drawings, diagrams, or depictions of the same physical exhibit may be combined into one PDF-formatted file, but separate electronic files will be provided for each separate exhibit.
  5. At the beginning of a trial or hearing, counsel shall provide the courtroom deputy with a disk or other electronic medium on which such PDF-formatted electronic files depicting physical exhibits have been stored. The courtroom deputy will upload and docket into CM/ECF the electronic files related to admitted exhibits at the conclusion of the trial or hearing. The labeling of each electronic exhibit file must correspond to the exhibit number or other identification on the physical exhibit. If counsel offers an exhibit for which he or she has not supplied an electronic depiction at the beginning of the trial

or hearing, counsel shall provide such an electronic depiction before the end of the proceeding.

6. Counsel may request that the court instruct the courtroom deputy to upload and docket a documentary exhibit or depictions of a physical exhibit not admitted into evidence by the court for purposes of preserving for appeal an offer of proof as to such an exhibit, but such exhibit shall not be displayed to or revealed to the jury.

## **V. PUBLIC ACCESS TO THE SYSTEM DOCKET**

### **A. PUBLIC ACCESS AT THE COURT**

Electronic access to the electronic docket and documents filed in the System is available at no charge at the Clerk's office during regular business hours. A copy fee for an electronic reproduction is required in accordance with 28 U.S.C. § 1930.

### **B. INTERNET ACCESS**

1. Remote electronic access to the System for viewing purposes is limited to subscribers to the Public Access to Court Electronic Records ("PACER") system. The Judicial Conference of the United States has ruled that a user fee will be charged for remotely accessing certain detailed case information, such as filed documents and docket sheets in criminal cases, but excluding review of calendars and similar general information.<sup>5</sup>
2. Until further order of the court, no one but an attorney of record may remotely view records in criminal cases. Public remote access will be limited to viewing docket sheets only.
3. An exception to the prohibition on public remote access to criminal case filings is possible in a high-profile criminal case where the demand for documents will impose extraordinary demands on the court's resources. The district court is authorized to provide Internet access to the documents filed in that case if all parties consent and the trial judge finds that such access is warranted.

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<sup>5</sup>According to a memorandum from the Administrative Office of the United States Courts dated April 9, 2002, non-judiciary CM/ECF users will be charged a fee of seven cents per page starting on July 1, 2002, to access electronic data such as docket sheets and case documents obtained remotely through the PACER system. The maximum charge per document is \$2.10.

The access fee does not apply to official recipients of electronic documents, *i.e.*, parties legally required to receive service or to whom service is directed by the filer in the context of service under Federal Rules of Criminal Procedure. Official recipients will receive the initial electronic copy of a document free to download as they see fit, but if they remotely access the document again, they will be charged seven cents a page.

**C. CONVENTIONAL COPIES AND CERTIFIED COPIES**

Conventional copies and certified copies of electronically filed documents may be purchased at the Clerk's office. The fee for copying and certifying will be in accordance with 28 U.S.C. § 1914.

# **FORM ATTACHMENT**

# FORM A

## SAMPLE FORMAT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
vs.	)	Case No. 2:04-cr-500-LSC-SGC
	)	
Defendant.	)	

### CERTIFICATE OF SERVICE

I hereby certify that on (Date), I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

\_\_\_\_\_, and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: \_\_\_\_\_  
\_\_\_\_\_.

Respectfully submitted,

s/[Name of Password Registrant]  
Name of Password Registrant  
Address  
City, State, Zip Code  
Phone: (xxx) xxx-xxxx  
Fax: (xxx) xxx-xxxx  
Email: xxx@xxx.xxx  
[attorney bar number, if applicable]