

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**PUBLIC NOTICE  
REGARDING  
ADOPTION OF NEW LOCAL RULE 5.4 and  
AMENDMENT OF LOCAL RULE 67.2**

By public notice dated June 20, 2005, this Court provided notice and solicited comment regarding proposed new Local Rule 5.4 and amended Local Rule 67.2. After review, the Judges of the United States District Court have determined to adopt such rules as proposed, with certain modifications to new Local Rule 5.4 based upon comments received and subsequent reconsideration.

(A) Local Rule 5.4 - This new Local Rule has been adopted to reflect the court's determination that unless exempt or otherwise ordered by the court, all pleadings or other papers submitted to the court must be filed, signed, verified and served by electronic means. New Local rule 5.4 will become effective January 1, 2006.

(B) Local Rule 67.2 - This Local Rule has been rewritten to detail and regularize the procedure for deposit of funds in the registry of the court in civil actions. The court has determined that amended Local rule 67.2 should be effective immediately.

/s/ Sarah A. Thornton  
Sarah A. Thornton  
Clerk of Court

Date: October 3, 2005

## **RULE 5.4 FILING AND SERVICE BY ELECTRONIC MEANS**

(A) **Electronic Filing Generally.** Unless exempt or otherwise ordered by the court, all pleadings and other papers submitted to the court must be filed, signed, and verified by electronic means as provided herein.

(B) **ECF Administrative Procedures.** Subject to the supervision of the court, the clerk will maintain Electronic Case Filing (ECF) Administrative Procedures, including procedures for the registration of attorneys and other authorized users and for distribution of passwords to permit electronic filing. All electronic filings must be made in accordance with the ECF Administrative Procedures. The ECF Administrative Procedures will be generally available to the public and shall be posted on the court's web site.

(C) **Service of Pleadings.** Unless exempt or otherwise ordered by the court, all pleadings and other papers must be served on other parties by electronic means. Transmission of the Notice of Electronic Filing (NEF) through the court's transmission facilities will constitute service of the filed document upon a registered ECF user. Any pleading or other paper served by electronic means must bear a certificate of service in accordance with Local Rule 5.2(b).

(D) **Deadlines.** Although the ECF system is generally available 24 hours a day for electronic filing, that availability will not alter filing deadlines, whether set by rule, court order, or stipulation. All electronic transmissions of documents must be completed prior to 6:00 p.m. to be considered timely filed that day.

(E) **Civil Case Opening Documents.** Civil case opening documents, such as a complaint (or petition or notice of removal), summons, civil action cover sheet, or category sheet, must be filed and served in paper format, not electronically. Emergency motions and supporting materials presented contemporaneously with civil case opening documents may be filed and served initially in paper format and not electronically. Unless exempt or otherwise ordered by the court, at the time a civil case is opened, the filing party must also file a disk with the clerk's office containing in PDF format the opening documents and any emergency motions and supporting papers not filed electronically.

(F) **State Court Record in Removal Proceedings.** Within thirty days after filing a notice of removal in a civil action, a party removing an action under 28 U.S.C. §§ 1441-52 must file certified or attested copies of all docket entries, records, and proceedings in the state court in paper format. Unless exempt or otherwise ordered by the court, the removing party must also file a disk with the clerk's office containing the state court record in PDF format.

(G) **Exemptions.**

(1) *Documents That Should Not Be Filed Electronically.* The following types of documents must not be filed electronically, and will not be scanned into the ECF system by the clerk's office:

- (a) sealed documents;
- (b) ex parte motions;
- (c) documents generated as part of an alternative dispute resolution (ADR) process;
- (d) the administrative record in social security and other administrative proceedings;
- (e) the state court record in proceedings under 28 U.S.C. § 2254; and
- (f) such other types of documents as the clerk may direct in the ECF Administrative Procedures.

(2) *Documents That Need Not Be Filed Electronically.* The following types of documents need not be filed electronically, but may be scanned into the ECF system by a filing party or the clerk's office:

- (a) handwritten pleadings;
- (b) documents filed by pro se litigants who are incarcerated or who are not registered ECF users;
- (c) indictments, informations, criminal complaints, and the criminal JS45 form;
- (d) affidavits for search or arrest warrants and related documents;
- (e) documents received from another court under Fed. R. Crim. P. 20 or 40;
- (f) appearance bonds;
- (g) any document in a criminal case containing the original signature of a defendant, such as a waiver of indictment or a plea agreement;
- (h) petitions for violations of supervised release;
- (i) executed service of process documents under Rule 4; and
- (j) such other types of documents as the clerk may direct in the ECF Administrative Procedures.

## **Rule 67.2 DEPOSIT IN COURT**

The following procedures apply to deposits into the registry of the Court in civil actions.

### **(A) Receipt of Funds.**

(1) No money may be sent to the Court or its officers for deposit into the Court's registry without a Court order by the presiding judge in the case or proceeding.

(2) All money ordered to be paid into the Court or received by its officers in any case pending or adjudicated must be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S. C. § 2041 through depositories designated by the Treasury to accept such deposit on its behalf.

(3) The party making the deposit or transferring funds to the Court's Registry must serve the order permitting the deposit or transfer on the Clerk of Court.

### **(B) Investment of Registry Funds.**

(1) Funds on deposit with the Court will be placed in interest-bearing instruments in the Court Registry Investment System (CRIS) administered through the United States District Court for the Southern District of Texas, which is the only investment mechanism authorized.

(2) Under CRIS, monies deposited in each case under Local Civil Rule 67.2(a) will be "pooled" together with those on deposit with the Treasury to the credit of other courts in the CRIS and used to purchase Treasury Securities, which will be held at the Federal Reserve Bank, Dallas/Houston Branch, in a safekeeping account in the name and to the credit of the Clerk, United States Court for the Southern District of Texas, hereby designated custodian for the Court Registry Investment System.

(3) An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment in the System. Income received from fund investments will be distributed to each case based on the ratio each account's principal and income has to the aggregate principal and income total in the fund each week. Weekly reports showing the income earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in CRIS and made available to litigants and/or their counsel.

### **(C) Registry Investment Fee.**

The custodian is authorized and directed by this Local Civil Rule to deduct the registry fee for maintaining accounts in the Fund. The proper registry fee is to be determined on the basis of the rates published by the Director of the Administrative Office as approved by the Judicial Conference.