

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

NOTICE

**AMENDMENT TO LOCAL RULE 5.4
REGARDING MANDATORY CIVIL CASE OPENING
AND
AMENDMENT OF LOCAL RULE 67.4
REGARDING ONLINE PAYMENT OF CASE RELATED FEES**

Effective **JANUARY 1, 2009**, the United States District Court for the District of Massachusetts will require all attorneys registered with the Court's Case Management/Electronic Case Files (CM/ECF) system to file new civil cases electronically pursuant to Local Rule (LR) 5.4. Also, all case related fees, including civil case openings (complaints), notices of appeal and motions to appear *pro hac vice*, must be paid by credit card in conjunction with CM/ECF and Pay.gov. Local Rules 5.4 and 67.4 have been amended to reflect these requirements.

Counsel registered to use the CM/ECF system in the District of Massachusetts have had the option to file new civil cases electronically since January 1, 2007. Beginning on January 1, 2009, all CM/ECF registered attorneys will be required to file new civil cases electronically, except for those cases filed under seal or *ex parte*. *Pro se* filers, and those who have been exempted from electronic filing in this Court, may file civil action cases by submitting, in person or by mail, the case opening materials along with the required fee, by check or money order. Whenever possible a PDF version of the documents on a compact disc also should be filed.

When electronically filing any pleading or paper through CM/ECF that requires a fee, counsel will be directed to the Treasury Department's Internet payment process (pay.gov).

The court has determined that pursuant to 28 U.S.C. § 2071(e) there is an immediate need for this amendment to the Local Rules. Those wishing to comment on the amendment to LR 5.4 and LR 67.4 may do so in writing. All comments must be received on or before January 23, 2009 and should be addressed to:

Hon. F. Dennis Saylor IV
Chairman, Rules Committee
c/o Helen M. Costello, Operations Manager
United States District Court
United States Courthouse - Suite 2300
1 Courthouse Way
Boston, MA 02210

Training on the CM/ECF civil case opening process and pay.gov, as well as electronic filing, is offered regularly through the Clerk's Offices in Boston, Springfield and Worcester.

To register for training, complete the registration form located on our web site by selecting:

Case Information
Electronic Filing (CM/ECF)
CM/ECF Training Information.
www.mad.uscourts.gov/training/cm-ecf-training-info.htm

December 2, 2008

Sarah Allison Thornton
Clerk of Court

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 All ECF filers registered in the District of Massachusetts must file 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 Cases which include sealed or ex parte documents and supporting materials presented contemporaneously with civil case opening documents may be filed and served initially in paper format and not electronically. Unless Pro se filers, others exempt from electronic filing, or otherwise ordered by the court, may file case opening documents in paper format and not electronically. Whenever possible, at the time a civil case is opened submitted in paper format, the filing party must may 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.

Effective January 1, 2006. Amended effective January 1, 2009.

RULE 67.4 PAYMENTS AND DEPOSITS MADE WITH THE CLERK

(a) The clerk will not routinely accept payments or deposits in cash; but the court, on motion of any party, may order that the clerk accept cash in a particular instance.

(b) All checks must be made payable to "Clerk, United States District Court." The clerk is authorized to refuse any check not so made payable.

(c) The clerk may, in his discretion, require any payment to be made by certified check or its equivalent. The clerk shall require payment of bail to be made by certified check or its equivalent, unless otherwise ordered by the court.

(d) When electronically filing any pleading or paper through CM/ECF that requires a fee, all registered ECF users are to pay the fee electronically through the Treasury Department's Internet payment process (pay.gov). Pro se filers and those who have been exempted from electronic filing and/or electronic payment of fees may submit payments by check or money order made payable to "Clerk, U.S. District Court".

Effective September 1, 1990. Amended Effective January 1, 2009.