



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
OFFICE OF THE CLERK  
1 COURTHOUSE WAY  
BOSTON, MASSACHUSETTS 02210

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ROBERT M. FARRELL  
CLERK OF COURT

**PUBLIC NOTICE**  
**REVISION TO LOCAL RULES**  
**OF THE UNITED STATES DISTRICT COURT**

**March 5, 2019**

The Judges of this Court present the attached revisions to the following Local Rules for public comment:

RULE 5.1 FORM AND FILING OF PAPERS  
RULE 5.2 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS  
RULE 5.4 FILING AND SERVICE BY ELECTRONIC MEANS  
RULE 7.2 IMPOUNDED AND CONFIDENTIAL MATERIALS  
RULE 62.2 SUPERSEDEAS BOND  
RULE 77.2 OFFICE OF THE CLERK  
RULE 83.5.5 PRACTICE BY *PRO SE* LITIGANTS

These revisions conform the Local Rules to the recent amendments to the Federal Rules of Civil and Criminal Procedure or the current practice of the court. The comment period will expire on until May 6, 2019

These amendments and the full Local Rules may be found on the court's website at <http://www.mad.uscourts.gov/general/rules-home.htm>.

Please send any public comments via email to: [rules@mad.uscourts.gov](mailto:rules@mad.uscourts.gov)

*Robert M. Farrell*  
Clerk of Court

## RULE 5.1 FORM AND FILING OF PAPERS PLEADINGS

(a) **Form and Signing of Papers.**

- (1) The provisions of Fed. R. Civ. P. 10 and 11 concerning the form and signing of pleadings, motions, and other papers-documents shall be applicable to all papers documents filed in any proceeding in this court. The board of bar overseers registration number of each attorney signing such documents, except the United States Attorney and his or her staff, shall be inscribed below the signature.
- (2) All papers-documents filed in the court shall be adapted for flat filing, be filed ~~on in~~ 8 ½" x 11" ~~paper without backers and be bound firmly by staple or some such other means (excluding paper or binder clip or rubber band)~~ printable format. All papers documents, except discovery requests and responses, shall be double-spaced except for the identification of counsel, title of the case, footnotes, quotations and exhibits. Discovery requests and responses shall be single-spaced. Except for complaints and notices of appeal, papers-documents that do not conform to the requirements of this subsection shall be returned by the clerk.

(b) **Time and Place of Filing.** Except as noted in Fed. R. Civ. P. 33-36, ~~the original of~~ all papers documents required to be served under Fed. R. Civ. P. 5(d) shall, unless otherwise submitted to the court, be electronically filed ~~in~~ with the office of the clerk within 7 days after service has been made.

(c) **Requests for Special Action.** When any pleading or other paper-document filed in the court includes a request for special process or relief, or any other request such that, if granted, the court will proceed other than in the ordinary course, the request shall, unless it is noted on the category sheet (see L.R. 40.1(a)(1)), be noted on the first page to the right of or immediately beneath the caption.

(d) **Additional Copies.** Whenever, because of the nature of a proceeding, such as a proceeding before a three-judge district court under 28 U.S.C. § 2284, additional courtesy copies ~~of a paper required to be filed are~~ necessary either for the use of the court or to enable the clerk to carry out his or her duties, it is the responsibility of the party filing or having filed the paper-document to provide the necessary copies.

~~(e) **Removal of Papers.** Except as otherwise provided, papers filed in the office of the clerk shall not be removed from the office except by a judge, official, or employee of the court using the papers in official capacity, or by order of the court. All other persons removing papers from the office of the clerk shall prepare, sign and furnish to the clerk a descriptive receipt therefor in a form satisfactory to the clerk.~~

## RULE 5.2 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

**(a) Manner of Service.** Service of all pleadings subsequent to the original complaint and of all other papers required to be served shall be made in the manner specified by Fed. R. Civ. P. 5.

~~**(b) Proof of Service.**~~

~~(1) Except as otherwise provided by the Federal Rules of Civil Procedure, proof of service of all pleadings and other papers required to be served (except discovery papers that in accordance with Fed. R. Civ. P. 33-36 are not to be filed) shall be filed with the clerk promptly after service has been made. The proof shall show the time and manner of service, and may be made by written acknowledgment of service, a certificate of a member of the bar of this court, or an affidavit of the person who served the paper.~~

~~(2) A certificate of service of a member of the bar shall appear at the bottom of or on the margin of the last page of the paper to which it relates. The certificate shall be a brief, single-spaced statement and may be in the following form:~~

~~I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each other party by mail (by hand) on (date). (Signature)~~

~~Documents not conforming to the requirements of this rule (except notices of appeal) shall be returned by the clerk.~~

~~(3) Failure to make proof of service does not affect the validity of the service.~~

**(e)(b) Service on Nonresident Attorney or Party Acting Pro Se.**

(1) **Nonresident Attorney.** On application of a party, the court may order an attorney who represents any other party and who does not maintain an office within this district where service can be made on the attorney by delivery as provided by Fed. R. Civ. P. 5(b) to designate a member of the bar of this court who does maintain such an office to receive service of all pleadings and other papers in his or her behalf.

(2) **Party Acting Pro Se.** On application of a party, the court may order any other party who is appearing without an attorney and who does not maintain an office or residence within this district where service can be made on the party by delivery as provided by Fed. R. Civ. P. 5(b) to designate an address within the district at which service can be made on him or her by delivery.

~~(a)~~

#### **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 L.R. 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.** All ECF filers registered in this district must file civil case opening documents, such as a complaint (or petition or notice of removal), civil action cover sheet, or category sheet, electronically. 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. *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 submitted in paper format, the filing party may also file a disk with the clerk 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 28 days after filing a notice of removal in a civil action, a party removing an action under 28 U.S.C. §§ 1441-52 must electronically file certified or attested copies of all docket entries, records, and proceedings in the state ~~court in paper format~~. ~~Unless-If~~ exempt from electronic filing 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:~~

- (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)~~(D) 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:

- (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;~~

~~(a)~~

~~(I)~~ ~~executed service of process documents under Fed. R. Civ. P. 4; and~~

~~(JH)~~ such other types of documents as the clerk may direct in the ECF Administrative Procedures.

*Adopted October 3, 2005 to be effective January 1, 2006; amended effective January 1, 2009; December 1, 2009. Amended effective XXXX 1, 2019*

## RULE 7.2 IMPOUNDED AND CONFIDENTIAL MATERIALS

- (a) **Generally.** Whenever a party files a motion to impound, the motion shall contain a statement of the earliest date on which the impounding order may be lifted, or a statement, supported by good cause, that the material should be impounded until further order of the court. ~~The motion shall contain suggested custody arrangements for the post-impoundment period. The impounded material will be scanned and docketed in CMECF and restricted from public access.~~
- ~~(b) **Copy of Order.** The clerk shall attach a copy of the order to any envelope or other container holding the impounded material.~~
- ~~(e)(b) **Expiration of Period.** If the impoundment order provides a cut-off date but no arrangements for custody, the clerk (without further notice to the court or the parties) shall place the material in the public information file, remove the restriction in CMECF and make the material available to the public upon expiration of the impoundment period. If the order provides for post-impoundment custody by counsel or the parties, the materials must be retrieved immediately upon expiration of the order, or the clerk (without further notice to the court or the parties) shall place the material in the public file.~~
- ~~(d)(c) **Rulings on Motions.** Motions for impoundment must be filed and ruled upon prior to submission of the actual material sought to be impounded, unless the court orders otherwise.~~
- ~~(e)(d) **No Blanket Orders.** The court will not enter blanket orders that counsel for a party may at any time file material with the clerk, marked confidential, with instructions that the clerk withhold the material from public inspection. A motion for impoundment must be presented each time a document or group of documents is to be filed.~~

*Effective September 1, 1990. Amended effective XXXX 1, 2019*

**RULE 62.2 ~~SUPERSEDEAS~~ STAY BY BOND OR OTHER SECURITY**

A ~~supersedeas~~-bond or other security staying execution of a money judgment shall be in the amount of the judgment plus 10% of the amount to cover interest and any award of damages for delay plus \$500 to cover costs, unless the court directs otherwise.

*Effective September 1, 1990. Amended effective XXXX 1, 2019*



## **RULE 77.2 OFFICE OF THE CLERK**

The offices of the clerk at Boston, ~~and~~ Worcester, ~~and Springfield~~ shall be open from 8:30 a.m. until 5:00 p.m. on all days except Saturdays, Sundays, legal holidays, and other days so ordered by the court and announced in advance, if feasible.

The office of the clerk at Springfield shall be open from 8:30 a.m. until 4:30 p.m. on all days except Saturdays, Sundays, legal holidays and other days so ordered by the court and announced in advance, if feasible.

*Effective September 1, 1990. Amended effective XXXX 1, 2019*

### RULE 83.5.5 PRACTICE BY *PRO SE* LITIGANTS

- (a) **Generally.** An individual who is not represented by counsel and who is a party in a pending proceeding may appear *pro se* and represent himself or herself in the proceeding.
- (b) **No Representation of Other Parties.** An individual appearing *pro se* may not represent any other party and may not authorize any other individual who is not a member of the bar of this district to appear on his or her behalf.
- (c) **Corporations and Other Entities.** A corporation, partnership, limited liability company, trust, estate, or other entity that is not an individual may not appear *pro se*. An individual officer, director, partner, member, trustee, administrator, or executor may not appear on behalf of an entity; provided, however, that if such an individual is also an attorney who is otherwise permitted to practice in this court, the attorney may represent the entity if the representation is otherwise appropriate under the circumstances. The court may strike any pleading filed on behalf of any entity that purports to appear *pro se*.
- (d) **Requirement to Follow Rules.** A *pro se* party is required to comply with these local rules.
- (e) **Requirement to Provide Mailing Address.** Any party who appears *pro se* must provide the clerk and all parties a mailing address at which service upon the *pro se* party can be made. Service of pleadings and other papers under Rule 5 of the Federal Rules of Civil Procedure and L.R. 5.2 may be made on a *pro se* party by sending copies by regular mail to the party at the designated address.
- (f) **E-Mail Address.** Any party who appears *pro se* may also provide the clerk and all parties an e-mail address at which service upon that party may be made, ~~and a signed written consent to be served electronically at that address.~~ A *pro se* party may thereafter be served electronically at the designated e-mail address.
- (g) **Requirement for Documents Filed with Court.** Any document requiring a signature that is filed by a party appearing *pro se* shall bear the words “*pro se*” following that party’s signature. Any such document shall also state the party’s mailing address, telephone number (if any), and e-mail address (if any). ~~(if the party has consented to service by e-mail).~~
- (h) **Requirement to Update Addresses.** Every party appearing *pro se* shall inform the clerk and all parties in writing of any change of name, address, telephone number, or e-mail address within 14 days of the change. It is the responsibility of the *pro se* party to notify the clerk and the parties of any change. Any notice sent by the clerk or any party to a *pro se* party shall be deemed delivered and properly served if sent to the most recent address or e-mail address provided by the *pro se* party.

Effective January 1, 2015. Amended effective XXXX 1, 2019