

United States District Court
Western District of Texas

Administrative Policies and Procedures for Electronic Filing
in Civil and Criminal Cases

Adopted January 20, 2006
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(Effective January 15, 2009)
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United States District Court for the Western District of Texas
Administrative Policies and Procedures for Electronic Filing

Section 1
Title

These Procedures may be known and cited as Administrative Policies and Procedures for Electronic Filing in Civil and Criminal Cases in the United States District Court for the Western District of Texas (“Electronic Filing Procedures”).

Section 2
Definitions and Related Requirements

- a. Court is defined as the “United States District Court for the Western District of Texas.”
- b. Court User is defined as an employee of the “United States District Court for the Western District of Texas” who is authorized use of the Court’s automated system (CM/ECF).
- c. Electronic Filing is defined as uploading a pleading or document, in PDF format, directly from the registered user’s computer, using the Court’s Internet-based system to file that pleading or document in the Court’s case file. Sending a document or pleading to the Court via electronic mail (e-mail) as an attachment does not constitute “electronic filing.”
- d. Electronic Filing System refers to the Court’s automated system that receives and stores documents filed in electronic form. The program is part of the CM/ECF (Case Management/Electronic Case Files) software developed for the Federal Judiciary by the Administrative Office of the United States Courts.
- e. Electronically Created Document is defined as a document generated from computer software programs. The document is available, and/or stored by means of a computer device, such as disks, CD’s, or DVD’s and can be transmitted in an electronic data interchange in various formats between computers utilizing computer software.
- f. Filing User is defined as a person who has registered to file documents electronically with the Court. Filing Users must be one of the following: (1) admitted to practice before the United States District Court for the Western District of Texas and a member in good standing of the Court pursuant to Local Court Rule AT-1; (2) admitted *pro hac vice*; (3) authorized to represent the United States of America; or (4) proceeding as a nonprisoner *pro se* litigant approved as a Filing User by the Court. A Filing User must receive a login and password from this district to use the Court’s electronic filing system.
- g. Hyperlink is a reference in a hypertext document to another document or other

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resource. It is similar to a citation in literature. However, combined with a data network and suitable access protocol, it can be used to retrieve the resource referenced. A Hyperlink document can be saved, viewed, or displayed as part of the referencing document.

- h. Notice of Electronic Filing (“NEF”) is an electronic notice automatically generated by the Electronic Filing System at the time a document is docketed. The NEF includes the time of filing and docketing, the name of the party and Filing User filing the document, the type of document, the text of the docket entry, the name of the party and Filing User receiving the notice. If a document is attached to the docket entry, the NEF will contain a Hyperlink to the filed document allowing recipients to retrieve the document.
- i. Notice Only Party is someone who is not an attorney of record, but may be an interested third person. Examples of Notice Only Parties include but are not limited to: Administrative Law Judges, Social Security Liaisons, Trustees, and Victim's Coordinators.
- j. PACER (“Public Access to Court Electronic Records”) is an automated system that allows a person to view, print and download Court docket information over the Internet. Users must register with the PACER Service Center at <http://pacer.psc.uscourts.gov/>.
- k. Portable Document Format (“PDF”) is a document file created with a word processor, or a paper document that has been scanned and converted to PDF. Documents must be converted into PDF format to be filed electronically with the Court. Converted files contain the file name extension “.pdf”.
- l. Pro Se Litigant is defined as a person who represents himself or herself in a Court proceeding without the assistance of an attorney. A *Pro Se* Litigant who is incarcerated or on probation or supervised release may not participate in the Electronic Filing System and must file all documents by Traditional Filing.
- m. Scanned Documents are defined as paper documents that are converted to PDF via a scanner or multifunction copier or scanner, as opposed to converting an electronic document from a word processor. When scanning paper documents that will subsequently be filed electronically, Filing Users should make certain their scanners are configured for 300 pixels per inch (ppi) and black and white rather than color scanning. *PDF Files submitted for electronic filing shall not exceed a file size of 5 megabytes. Larger electronic documents shall be divided into smaller PDF files.* For example, an eight (8) megabyte PDF File could be divided into one 5 megabyte file and one 3 megabyte file. Files exceeding 5 megabytes will be rejected by the CM/ECF system.

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- n. Technical Failure is defined as a malfunction of Court owned or leased hardware, software, or telecommunications equipment that results in the inability of a Filing User to submit a document electronically. Technical Failure does not include malfunctioning of a Filing User's hardware, software or telecommunications equipment.
- o. Traditional Filing or Traditionally Filed, also referred to as "conventional filing," is defined as submitting paper copies of pleadings and documents in the traditional or conventional manner either in person, by courier, or via United States Postal Service. Traditional Filing includes submitting pleadings and documents via drop boxes.

Section 3
Scope of Electronic Filing

- a. Effective date. Electronic Filing in accordance with these Electronic Filing Procedures began **September 1, 2006**. On **November 1, 2006**, all documents submitted for filing in all new or pending matters were required to be filed electronically using the Electronic Filing System, unless otherwise permitted by these Electronic Filing Procedures or authorized by the Court.
- b. These Electronic Filing Procedures do not supersede the FEDERAL RULES OF CIVIL PROCEDURE, or the FEDERAL RULES OF CRIMINAL PROCEDURE, or the FEDERAL RULES OF APPELLATE PROCEDURE. However, in the event of a conflict with the Local Court Rules for the Western District of Texas ("Local Court Rules"), these Electronic Filing Procedures govern.
- c. All civil, criminal, and miscellaneous cases will be assigned to the Electronic Filing System. Except as expressly provided in section 5.a. below, or elsewhere in these Electronic Filing Procedures, or in other exceptional circumstances, a Filing User must file electronically all documents in PDF format.
 - (1) Word processing documents converted to PDF format must be converted with a fully licensed PDF conversion program. Documents converted by unlicensed (trial) versions will be rejected.
 - (2) All documents submitted for electronic filing shall maintain a minimum one inch margin at the top of each page to allow room for the electronic file stamp to be affixed to the document.
 - (3) Paper documents larger than 8.5" x 11" shall not be electronically reduced in size prior to or during the scanning process. Paper documents larger than 8.5" x 11" shall be filed traditionally.
 - (4) The text for all electronically created documents shall be created with a font

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size of 12.

- (5) All documents submitted for filing shall be double spaced.
- d. Social security cases. All documents in social security cases must be filed electronically, except as noted below:
- (1) Complaint. The complaint and other documents typically submitted at the time a social security case is initiated in Federal Court will be filed by Traditional Filing.
 - (2) Social security transcripts of administrative hearings may be filed by Traditional Filing. Traditionally Filed transcripts will not be placed into the ECF system, but will be available in paper format with the Clerk.
 - (3) Privacy. To address the privacy issues inherent in a social security review, Internet access to documents other than judgments, opinions and orders, will be limited to counsel and Court staff. Docket sheets will be available over the Internet to nonparties. Nonparties will continue to have direct access to view documents on file in the Clerk's Office.
 - (4) Good cause. Upon a showing of good cause approved by the Court, the parties may file documents by Traditional Filing.
- e. The Filing User is responsible for the legibility of the scanned document. If a scanned document is not legible, the Filing User must file the paper document by Traditional Filing.
- f. Pursuant to Judicial Conference Policy regarding the electronic availability of transcripts of court proceedings and the Court's General Order on Electronic Filing of Transcripts, entered May 8, 2008, all transcripts of court proceedings are to be filed electronically. This includes transcripts of sealed proceedings, which must also be filed electronically under seal.
- g. With the exception of motions for leave to file detailed under section 4(c), each filing must consist of only one pleading. Multiple pleadings (e.g., an answer and a motion to dismiss, or a notice of appeal and a motion for certificate of appealability) must be filed as separate documents.

Section 4
Method of Electronic Filing

- a. Docketing by Filing Users
- (1) The Electronic Filing System requires Filing Users to prepare the electronic

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docket entry for all electronically filed documents.

- (2) Docket entries prepared by Filing Users are immediately posted to the official Court docket and made available to the Court, parties, and the public via PACER.
 - (3) If a document is submitted in error, the Filing User must file a motion to amend the pleading or a motion to strike the pleading in its entirety. If the Court grants such motion, the Filing User may resubmit the corrected document.
- b. In order to preserve the integrity of the Court record, Filing Users who insert Hyperlinks shall also cite the authority by the traditional citation method. A Hyperlink reference is extraneous to any filed document and is not part of the record.
- c. If the filing of a document requires leave of Court, the Filing User must include for the Court's review the document as a PDF attachment to the motion requesting leave to file. If the Court grants the motion, the Clerk will file the document, unless the Filing User is otherwise required to file traditionally as set forth in section 5.a. below or by order of the Court.
- (1) For purposes of any deadline, a document is deemed filed on the date the Court grants the motion for leave to file, unless otherwise ordered by the Court.
 - (2) For purposes of service and computation of time for any response, a document is not deemed filed until filed by the Clerk or Filing User, unless otherwise ordered by the Court.
- d. Filing Users must comply with the provisions of this Court's General Order dated October 29, 2004 regarding the E-Government Act of 2002.

Section 5

Traditionally Filed Documents: Filing, Scanning and Service

- a. The following documents must be submitted traditionally:
- (1) all civil and criminal case initiating documents;
 - (2) answers, amended answers, amended complaints and other civil pleadings which add parties, (if no new parties are added, these documents shall be filed electronically);
 - (3) motions to intervene;
 - (4) motions to appear *amicus curiae*;
 - (5) documentary exhibits submitted at trial;

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- (6) notices of appeal;
 - (7) waivers;
 - (8) writs; and
 - (9) transcript orders (forms DKT-13 and AO 435).
- b. Traditionally Filed documents will be scanned by the Clerk when possible and made part of the electronic record.
- c. Unless otherwise ordered by the Court, the following Traditionally Filed documents will not be scanned by the Clerk and will not be available on the electronic docket:
- (1) documents including attachment or exhibits exceeding 200 unbound pages or 10 megabytes;
 - (2) documents bound by a binding machine;
 - (3) documents greater than 8 ½ by 11 inches;
 - (4) two-sided documents; and
 - (5) illegible documents.
- d. Paper clips or binder clips are preferred over the use of staples for all Traditionally Filed documents.
- e. Traditionally Filed documents must be served in accordance with Rule 5, FEDERAL RULES OF CIVIL PROCEDURE, Rule 49, FEDERAL RULES OF CRIMINAL PROCEDURE, and Local Court Rules CV-5(b)(2) and CR-49(a). (Note: Although a NEF will be generated for Traditionally Filed documents that are scanned by the Clerk, the NEF does not constitute service of Traditionally Filed documents.)

Section 6
Eligibility, Registration, Passwords

- a. Attorneys admitted or otherwise authorized to practice in this Court must register as Filing Users. Newly admitted attorneys must register within 10 days of their admission. Attorneys admitted *pro hac vice* must register within 10 days of the order granting the motion to proceed *pro hac vice*. An eligible *Pro Se* Litigant may file papers with the Clerk by Traditional Filing, but is not precluded from filing electronically as approved by the Court.
- b. The registration form prescribed by the Clerk and located at www.txwd.uscourts.gov requires:
- (1) the Filing User's name, address, and telephone number;
 - (2) the Filing User's Internet e-mail address; and
 - (3) a declaration that the attorney is admitted or authorized to practice in this Court or that the party has been approved to register as a *Pro Se*

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Litigant.

The Filing User will receive notification of the Filing User's login and password within 48 hours of receipt of the registration form by the Clerk.

- c. Registration as a Filing User constitutes consent to electronic service on all documents as provided both in these procedures and by Rule 5(b)(2)(D), FEDERAL RULES OF CIVIL PROCEDURE, and Rule 49(b), FEDERAL RULES OF CRIMINAL PROCEDURE.
- d. A Filing User agrees to protect the security of the Filing User's login and password, and shall immediately notify the Clerk if either the login or password has been compromised. The Court may sanction a Filing User for failure to comply with this provision.
- e. A Filing User shall update the Filing User's Internet e-mail address and access password via the Electronic Filing System and must keep this information current to ensure timely electronic noticing of case activity. Filing Users may make firm address and phone number changes via the Electronic Filing System, thus superceding Local Rule AT-9.
- f. Any attorney who is not a Filing User must submit to the Court in writing good cause why it is necessary that the attorney be authorized to file and serve documents by Traditional Filing.
- g. If a *Pro Se* Litigant retains an attorney, the attorney must advise the Clerk to terminate the *Pro Se* Litigant's registration as a Filing User upon the attorney's appearance.
- h. If it is determined by the Court that the Filing User is abusing the privilege to electronically file documents or is consistently error prone in electronic filing, the Filing User's registration may be rescinded.
- i. An attorney no longer licensed in this Court shall withdraw from participating as a Filing User by providing the Clerk with a notice of withdrawal.
- j. The registration of an attorney's admission to proceed pro hac vice will be rescinded 60 days after the termination of the case, unless that attorney has a pending application for admission to practice in the Western District of Texas.

Section 7
Consequences of Electronic Filing

- a. Electronic transmission of a document through the Electronic Filing System constitutes the filing of the document pursuant to Rule 5(e), FEDERAL RULES OF CIVIL

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PROCEDURE, and Rule 49, FEDERAL RULES OF CRIMINAL PROCEDURE.

- b. The transmission of a NEF constitutes entry on the docket pursuant to Rules 58 and 79, FEDERAL RULES OF CIVIL PROCEDURE, and Rules 49 and 55, FEDERAL RULES OF CRIMINAL PROCEDURE.
- c. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight, Court's local time, to be considered timely filed that day.

Section 8

Entry of Case-Related Documents by the Court

All documents signed by the Court will be filed in accordance with these procedures and will constitute entry on the docket maintained by the Clerk pursuant to Rules 58 and 79, FEDERAL RULES OF CIVIL PROCEDURE, and Rules 49 and 55, FEDERAL RULES OF CRIMINAL PROCEDURE. Any document electronically signed by a Judge or Clerk has the same force and effect as if the Judge or Clerk had signed a paper copy of the document and the document had been entered by the Clerk on the docket in the traditional manner.

Section 9

Attachments and Exhibits

- a. A Filing User must submit in electronic form all documents referenced as exhibits or attachments, unless the Court permits Traditional Filing. A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are relevant to the matter under consideration by the Court.
- b. The record of an administrative agency or judicial proceeding may be filed by Traditional Filing.
- c. PDF Files submitted as attachments for electronic filing shall not exceed a file size of 5 megabytes. Larger electronic documents shall be divided into smaller PDF files. For example, an eight (8) megabyte PDF File could be divided into one 5 megabyte file and one 3 megabyte file. Files exceeding 5 megabytes will be rejected by the CM/ECF system.
- d. Proposed orders for electronically filed motions must be filed in PDF as an electronic attachment to the motion or included with the motion, unless otherwise directed by the Court. Other documents must be submitted as separate PDF documents; e.g., an Appendix, an Exhibit, an Affidavit, a Supplement, or a Volume.
- e. Unless authorized by the Court, trial exhibits will not be placed into the Electronic Filing System, but will be available in paper or electronic format with the Clerk.

Section 10
Sealed Documents

- a. Sealed documents shall be electronically filed in cases that are not sealed. A sealed document in a civil case requires leave of the Court before being filed. Therefore, a Motion to Seal must be electronically filed and the Filing User must include for the Court's review the document as a PDF attachment to the motion. If the Court grants the Motion to Seal, the sealed document will be filed by the Clerk unless otherwise ordered by the Court. Unless otherwise directed by a specific divisional office standing order, a sealed document in a criminal case does not require leave of court. (Effective January 20, 2009)
- b. Sealed documents cannot be electronically accessed by attorneys or the public. A NEF will be generated for the sealed document, but the document will not be viewable. When a sealed plea agreement is filed, a NEF will be generated to the Government and applicable defendant only. Accordingly, parties may not use the Court's electronic notice facilities to serve sealed documents. Service must be by other means. (Effective January 20, 2009)

Section 11
Consent to Proceed Before a U.S. Magistrate Judge

Abrogated by unanimous vote at Judges Meeting, July 11, 2008.

Section 12
***Ex Parte* Documents**

Ex Parte documents shall be electronically filed in cases that are not sealed. When an ex parte motion or document is filed, a NEF is generated only to the Filing User. Sealed Ex parte document(s) cannot be electronically accessed by attorneys or the public, including the Filing User. (Effective January 20, 2009)

Section 13
Electronic Document Size Limitation

- a. Filings including attachments or exhibits that exceed ten (10) megabytes in size, or 200 pages, shall be Traditionally Filed with the Court. (See Section 5.) This limit includes the main document and attachments in toto if applicable. It is the responsibility of the Filing User to ensure that PDF Files meet file size restrictions.
- b. PDF Files submitted for electronic filing shall not exceed a file size of 5 megabytes, shall be created with a font size of 12, and shall be double spaced.

Larger electronic documents shall be divided into smaller PDF files. For example, an eight (8) megabyte PDF File could be divided into one 5 megabyte file and one 3 megabyte file. Files exceeding 5 megabytes will be rejected by the CM/ECF system.

- c. With leave of the Court, a Filing User encountering technical difficulties in electronically filing a voluminous document may file the document by Traditional Filing.

Section 14 **Signatures and Retention Requirements**

- a. A Filing User's login and password will serve as the Filing User's signature for any purpose. An electronically filed document must include a signature block in compliance with Local Court Rule CV-7(a). The name of the Filing User under whose login and password the document is submitted must include an electronic signature image or be preceded by a /s/, which is typed in the space where the signature would otherwise normally appear.
- b. A Filing User must not permit the Filing User's password to be used by anyone other than an agent authorized by the Filing User.
- c. Unless otherwise required by law, a Filing User who electronically files any document requiring the signature of other individuals must either (1) submit a scanned document containing the necessary signatures; or (2) indicate on the filed document by the designation /s/ that the original document has been signed. A designation on a document that one person has affixed another person's signature "by permission" may be used under circumstances when signing by permission would be acceptable on a document filed by Traditional Filing.
- d. A document containing the signature of a defendant in a criminal case must be filed in a scanned format that contains an image of the defendant's actual signature. The original document must be retained for one year after final resolution of the action, including any appeal.
- e. A Filing User filing a document electronically or traditionally must retain, in paper or electronic form, a copy of the filed document for one year after final resolution of the action, including any appeal.

Section 15 **Service of Documents by Electronic Means**

- a. The NEF constitutes service of the unsealed electronically filed document on Filing Users. A Filing User may also notify another Filing User of electronically filed documents by other means, but the service date will be determined by the NEF. Parties who are not Filing Users must be served in accordance with the

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Federal Rules and the Local Court Rules.

- b. A NEF will be generated when a sealed document is filed, but the document will not be viewable. Accordingly, parties may not use the court's electronic notice facilities to serve sealed documents. Service must be by other means.
- c. A certificate of service must be included with all filed documents reflecting that service on known Filing Users will be accomplished through the NEF and indicating the manner of service on any party who is not a Filing User. For sample language to use in the certificate of service, see Exhibit 1.
- d. For purposes of creating the certificate of service, Filing Users can determine who is registered with the Electronic Filing System using three methods:
 - (1) the Electronic Filing System includes a program called "Mailing Information for a Case" that the Filing User can execute to list registered users on a case-by-case basis;
 - (2) the docket includes the party's e-mail address if the party is a registered user of the Electronic Filing System; and
 - (3) the NEF details who will and who will not receive electronic service by the Court.
- e. If a NEF has not been successfully transmitted to an intended recipient, the Clerk will notify the Filing User who originated the filing of the failure in transmission. Service by electronic means is not effective if the Filing User learns that attempted service did not reach an intended recipient.
- f. For the purpose of computation of time, the three-day mailing provision found in Rule 6(d), FEDERAL RULES OF CIVIL PROCEDURE, applies to service by electronic means.
- g. In multidefendant criminal cases, all Filing Users will receive all NEFs, except when a sealed plea agreement is filed. When a sealed plea agreement is filed, a NEF will be generated to the Government and applicable defendant only.

Section 16
Notice of Court Orders and Judgments

- a. Immediately upon entry of an order or judgment, the Clerk will transmit a NEF to Filing Users. Transmission of the NEF constitutes the notice required by Rule 77(d), FEDERAL RULES OF CIVIL PROCEDURE, and Rule 49(c), FEDERAL RULES OF CRIMINAL PROCEDURE. The Clerk will send paper copies of orders and judgments to non-Filing Users.

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- b. Judgments in a Criminal Case including the Statement of Reasons page will be distributed to the appropriate agencies in the traditional manner.
- c. The Statement of Reasons page of the Judgment in a Criminal Case will not be available on the docket. The Clerk will send a paper copy of the Statement of Reasons to the parties.

Section 17
Technical Failures/Difficulties

- a. Due to the possibility of Technical Failure or system outage, a Filing User is cautioned not to attempt to electronically file a document on a due date after the Clerk's office has closed for that day. Known Court system outages will be posted at www.txwd.uscourts.gov.
- b. A Filing User whose electronic filing is or would be made untimely as the result of a technical failure in the Court's electronic filing system may seek appropriate relief from the Presiding Judge in the case.
- c. Technical difficulties with the Filing User's system or Internet service provider do not excuse an untimely filing. A Filing User who cannot file a document electronically because of difficulties with the Filing User's system or Internet service provider must file the document by Traditional Filing and submit a "declaration of technical difficulties" (see Exhibit 2) to the Clerk.
- d. Undeliverable NEF to a Primary E-mail Address
 - (1) If a NEF cannot be delivered to a recipient's primary e-mail address due to difficulties with the recipient's system or Internet service provider, the Clerk will attempt to resend the NEF, but there cannot be any guarantee of timely transmission. If the second attempt fails, the Clerk will attempt to contact the recipient to resolve the problem. If the problem cannot be resolved, the Court will be notified of the recipient's noncompliance with these procedures.
 - (2) If a NEF cannot be delivered due to difficulties with Court's System, the NEF will be resent as soon as possible (normally within one business day) with an explanation for the delay.
- e. Undeliverable NEF to a Secondary E-mail Address or Notice Only Party
 - (1) Because a secondary e-mail address is optional, the Clerk will not attempt to correct problems resulting from an undeliverable NEF, and the e-mail address will be deleted from the profile of the recipient without notification.
 - (2) For Notice Only Parties, an undeliverable NEF will result in one attempt by

the Clerk to have the recipient correct the problem.

(3) Failing timely action by the Notice Only recipient, that address will be deleted from the profile of the recipient without further notification.

- f Due to the possibility of unsuccessful transmissions of the NEF, parties are strongly encouraged to check the docket at regular intervals. A PACER account is necessary to check the electronic docket.

Section 18

Confidentiality and Public Access

- a. A Filing User must comply with the provisions of this Court's General Order dated October 29, 2004, regarding the E-Government Act of 2002, a copy of which is available for review at:
<http://www.txwd.uscourts.gov/rules/stdord/district/privacyorder.pdf>.
- b. All public filings are available for review. A person may access the Electronic Filing System at <http://www.txwd.uscourts.gov/> by obtaining a PACER login and password. A person who has PACER access may retrieve docket sheets and documents.
- c. A person may purchase copies of documents filed by Traditional Filing, or certified and exemplified copies of electronically filed documents, from the Clerk in person or by mailing a request designating the case number and document by title or docket number. Requests submitted by mail must include a self-addressed, stamped return envelope and payment of the applicable fee as set forth in 28 U.S.C. § 1914.

Section 19

Support Issues

The Clerk will provide assistance to Filing Users via online support documentation and e-mail at <http://www.txwd.uscourts.gov/ecf/>. Court personnel cannot and will not provide any advice, direction, or guidance on the Filing User's computer system, or any legal matter or the content of legal documents. Support is limited to the administration and proper use of the Electronic Filing System.

(Sample Language)

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of October, 2004, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Jacob Smith
Attorney at Law
123 South St. Mary's Street
San Antonio, Texas 78212

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

JoAnn JoHansson
Attorney at Law
745 East Mulberry Avenue
San Antonio, Texas 78212
Attorney for James Jameson

/s/Peter Peterson

EXHIBIT 1 - Certificate of Service

United States District Court for the Western District of Texas
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
_____ **DIVISION**

DECLARATION THAT FILING USER WAS UNABLE TO FILE
IN A TIMELY MANNER DUE TO TECHNICAL DIFFICULTIES

Case Number: _____ Party: _____

Filing User: _____ State Bar Number: _____

E-mail Address: _____ Telephone Number: _____

Title of Document: _____

Filing Deadline Date: (if any): _____

Please take notice that the above named Filing User was unable to file the attached document in a timely manner due to technical difficulties. The reason(s) that I was unable to file this document(s) in an electronic format and the good faith efforts I made prior to the filing deadline to both file in a timely manner and to inform the Court and the other parties that I could not do so are set forth below.

Please check all that apply:

_____ Malfunction of Filing User's computer hardware

_____ Malfunction of Filing User's scanner

_____ Malfunction of Filing User's software

_____ Malfunction of Filing User's telecommunications capability

I declare under penalty of perjury that the foregoing is true and correct.

EXHIBIT 2

United States District Court for the Western District of Texas
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U.S. District Court [LIVE]
Western District of Texas

Notice of Electronic Filing

The following transaction was entered on 10/14/2005 at 4:42 PM CDT and filed on 10/14/2005

Case Name: Jones v. Doe
Case Number: 1:05-cv-150
Filer: James Doe
Document Number: 10

Docket Text:

MOTION TO Dismiss by James Doe. (James, Doe)

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1080075687 [Date=10/14/2005] [FileNumber=71428-0]
[40a012c27475ba6fb0d1a468a60f5962228243fbc57e1ff2c42e51ed9dfd5a17bfc
c831fb5a747c4834dc51e8a5b7957a40e44746c31f9a05cb9aa2b07d0cd5]]

1:05-cv-150 Notice will be electronically mailed to:

William B. Smith smith@lawfirm.net , peterson@lawfirm.net

1:05-cv-150 Notice will be delivered by other means to:

Mary Simmons
Attorney at Law
111 2nd Street
Austin, TX 78745

EXHIBIT 3

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APPENDIX A DOCUMENT REVISION HISTORY

Date	Revision
May 22, 2006	Added language to 17.d. to include Notice Only Parties.
May 22, 2006	Changed 17.d.1 regarding undeliverable NEFs.
May 22, 2006	Added definition 2.m. Notice Only Parties.
August 1, 2006	Significant revisions regarding traditionally filed documents (see 5.a.)
August 1, 2006	Revised electronic filing specifications for size of documents (see 2.j., 9.c., and 13.)
August 1, 2006	Revised e-filing start date to September 1, 2006.
October 6, 2006	Revised section 3.c., added paragraphs 1-3.
October 6, 2006	Added nonconsents to 5.a.8.
July 11, 2008	Added new definition 2.b. "Court User"; added new definition 2.e. "Electronically Created Document"; added font size requirement of 12 to 3.c. (4); revised transcript policy in 3.f.; revised traditionally filed document section 5.a.; added 10 megabyte requirement, 5.c.(1); added 6.j. regarding pro hac vice attorney; added one year requirement; modified pdf file size requirement to 5 megabytes at 9.c. and 13.b.; deleted section 11, consents; modified document retention requirement to include traditionally filed document of 14.e.
December 11, 2008	Added documents submitted for filing shall be double spaced to 3.c; deleted Section 5.e., retention of traditionally filed documents by Clerk; authorized e-filing of sealed documents section 10; authorized e-filing of ex parte documents section 12; added one year retention requirement for document containing signature of a defendant in a criminal case section 14(c); added parties may not use NEF for service in sealed documents section 14(b); added NEF will not be sent when a sealed plea agreement is filed to all defendants section 15(g); modified section 17 to include procedures for court technical failures with ecf system.
November 4, 2009	Per AO recommendation modified that scanner settings of 300 pixels per inch (ppi) be used rather than 200 dpi, paragraph m of Section 2