

# **GUIDE FOR FILING IN THE DISTRICT OF MONTANA**



## **UNITED STATES DISTRICT COURT DISTRICT OF MONTANA**

**Note: While this document references many Local Rules, it is not intended to substitute the Local Rules. Parties filing in the District of Montana should be familiar with both the Local Rules and this manual.**

September 2021

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## 1. **Technical Specifications for E-filing**

### a. Minimum requirements

- i. Computer.
- ii. Word Processing software with the ability to convert documents to PDF format.
- iii. High-speed Internet access, or an Internet dial-up line with a minimum of 56K. DSL or cable is preferred for better access speed.

(1) CM/ECF may “time out” during the filing process if you’re filing extremely large documents and your internet access is not fast enough.

### b. Scanning Specifications

- i. Scanned documents: The scanner should be configured no finer than 300 dpi (dots per inch) and black and white rather than color scanning for imaging non-computerized documents.
- ii. Scanning photographs: When photographs are not available digitally, they should be scanned using a color setting on your scanner rather than scanning them in black and white.
- iii. If for any reason a document cannot be easily viewed after scanning and e-filing, the filing party will be instructed to re-scan and e-file the document. If the issue cannot be resolved by re-scanning, the party will be asked to nonelectronically file the document within a specified period of time.
- iv. Documents larger than 200 megabytes must be split up into 200 megabyte segments and e-filed as attachments, properly naming each document.

### c. Web Browser

- i. CM/ECF has been tested and works with any version of Firefox and Internet Explorer 8 and 9 only.

## 2. **Access to Electronic Records**

### a. Public access at the Clerk’s Office

- i. Access to the electronic record is available for all parties and the public at each divisional office of the District Court during regular business hours.

- ii. A copy fee for an electronic reproduction is required.
  - (1) Certified copies may also be purchased.
    - (a) See the Court's website <http://www.mtd.uscourts.gov/fee-schedule> for fee schedule.
- b. Internet Access
  - i. CM/ECF user access:
    - (1) Only registered users may e-file in CM/ECF.
    - (2) Registered users who are parties to a case will receive e-mail notification of a filing and the e-filed document in their e-mail accounts. The e-mail notification is referred to as an NEF.
    - (3) Parties are encouraged to view and/or download filings at the time of the notification to avoid future PACER fees.
    - (4) A party to a case who remotely accesses a document after the initial notification of filing will be charged the applicable access fee.
  - ii. PACER access
    - (1) Remote access to view the electronic record is limited to subscribers to the PACER system.
    - (2) Please see the PACER website at [www.pacer.gov](http://www.pacer.gov) for details on access fees.

### **3. Availability**

- a. CM/ECF is designed to provide service 24 hours per day, seven days per week.
- b. Nonelectronic filing: The Clerk's Office is open for nonelectronic filing Monday through Friday, 8 a.m. to 5 p.m., except federal holidays.
- c. Help Desk: The help desk is available Monday through Friday, excluding federal holidays, from 8:00 a.m. to 5:00 p.m. Parties are encouraged to e-file during those hours in the event assistance is needed.

#### 4. Electronic Filing Generally

- a. Authorization (L.R. 1.4, Fed.R.Civ.P. 5(d)(3), and Fed.R.Crim.P.57)
  - i. To the greatest extent possible, the record of each case, including exhibits, will be maintained in ECF and available to remote public access.
  - ii. Local Rule 1.4(b) directs all attorneys and self-represented litigants to follow the guidance of the Clerk's Office to facilitate electronic filing and to make the record legible and complete. This Guide for Filing is designed to provide such guidance.
  - iii. With a few exceptions, all documents filed after November 7, 2005 are available electronically.
- b. Definitions
  - i. Guide for Filing
    - (1) Procedures and instructions for using the Court's filing system, both electronic and nonelectronic; can be found on the Court's website, <http://www.mtd.uscourts.gov/manuals-training>.
  - ii. CM/ECF
    - (1) CM: Case Management portion of the electronic filing system used by the Clerk's Office to maintain the electronic record.
    - (2) ECF: Electronic Case Files refers to the Court's electronic filing system and the cases maintained therein.
  - iii. Nonelectronic Filer
    - (1) Those filers who are not registered to file electronically.
  - iv. ECF User or Registered User
    - (1) A person who is registered to e-file in the electronic case files.
  - v. Electronic Filing
    - (1) Uploading a document directly from the registered user's computer to the Court's CM/ECF system.
      - (a) Sending a document to the Court via e-mail/fax does not constitute

electronic filing, except in those cases in which the clerk has agreed in writing to accept e-mail filings from a self-represented litigant per L.R. 83.8(c)(1).

vi. Nonelectronic Filing

- (1) Hard copy documents or other items that are submitted to the Clerk's Office for filing because
  - (a) The filer is a nonelectronic filer; or
  - (b) The document or item is unable to be scanned and filed electronically.

vii. Document

- (1) Includes pleadings, motions, exhibits, declarations, affidavits, memoranda, papers, orders, notices, and any other filing by or to the Court.

viii. Internet Service Provider or ISP

- (1) Refers to the entity/company registered users use to connect to the internet.

ix. Notice of Electronic Filing or NEF

- (1) Generated automatically by the ECF system upon completion of an electronic filing. The judge and all electronic users in the case will immediately receive the NEF at their e-mail addresses.
- (2) The NEF will appear in your e-mail in-box from sender MT\_CMECF and the subject line will be "Activity in Case" followed by the case number and case name, e.g., Activity in Case 4:08-cv-8000, *Jones v. James*. Do not delete these e-mails without reviewing them first.
- (3) If an NEF is received, single click on the document number to download it. If you double click on the document number, PACER will not allow free access.

x. Portable Document Format or PDF

- (1) Allows anyone to open the converted document across a broad range of hardware and software, with layout, format, links, and images intact. CM/ECF will only accept PDF and PDF/A documents.

- (2) PDF/A is a standard document format that allows for the long-term archiving of electronic documents, assuring that documents will be accessible in the future.
- (3) When using a fillable PDF, be sure to flatten the file by printing the document to PDF, rather than saving the file, before e-filing the document. This ensures that the document cannot be edited when downloaded. This process will also decrease the file size significantly.
- (4) Please call the CM/ECF Help Desk at (866) 463-4052 for assistance with flattening a file.

xi. System

- (1) Used to reference the Case Management Electronic Case Files (CM/ECF) system adopted and implemented by the District Court.

c. Case Numbers

- i. Within CM/ECF, civil and criminal case numbers start with the divisional office number, followed by the year, CV or CR, the case number, and the presiding judge's and referral judge's (if referred) initials, i.e., 1:05-cv-100-RFC-CSO.
  - (1) 1 ' Billings Division
  - (2) 2 ' Butte Division
  - (3) 4 ' Great Falls Division
  - (4) 6 ' Helena Division
  - (5) 9 ' Missoula Division
- ii. When querying a case number within CM/ECF, you need only enter the year and the case number, i.e., 05-100 or 05100, then select the appropriate case from the available list.
- iii. Documents must include the entire case number, i.e., CV 05-100-M-DWM-JCL, in the caption.

d. E-filing Documents

- i. All documents must be e-filed using the appropriate event within CM/ECF.

- ii. When given the option, the filer may add limited text to a docket entry to supplement the title of the document.
- e. Filing Fees
  - i. Credit card
    - (1) Electronic users may pay online by credit card when filing electronically.
    - (2) Credit cards are also accepted at the counter or by telephone.
    - (3) Credit card numbers are not maintained by the Clerk's Office.
  - ii. Check
  - iii. Money Order
  - iv. Cash
- f. Registration (L.R. 1.4(c))
  - i. All attorneys practicing in the District of Montana are required to register in CM/ECF and file electronically unless they have received an exemption. (See ' 4.g below for exemptions.) The Clerk will not serve by mail any attorney who has not received an exemption. L.R. 1.4(b).
  - ii. PACER (Public Access to Court Electronic Records)
    - (1) In order to view and query documents, reports, etc., you must use your PACER login and password.
    - (2) PACER is regulated in Washington, DC. The District of Montana does not maintain PACER logins and passwords.
    - (3) To register with PACER, a user must register online on the PACER website: <http://pacer.psc.uscourts.gov>.
  - iii. CM/ECF District of Montana User Registration
    - (1) In order to e-file documents, you must use your PACER login and password.
    - (2) After an attorney completes the online CM/ECF User Training available

on the Court's website, the Court will approve their electronic e-filing registration.

- (3) The training requirement will be waived for attorneys who have received training in another district or bankruptcy court. Such attorneys and their support staff are encouraged to review the District of Montana's training materials available on the Court's website.
- (4) Once an attorney completes the training and becomes a registered user in CM/ECF, he/she waives the right to receive service of documents filed in the electronic record by any other means other than electronic.
- (5) NOTE: Support staff delegated by the registered attorney to e-file on his or her behalf, or to receive NEFs, are encouraged to complete the District's online training program so that they are familiar with the procedures regarding electronic filing as well as the procedures for viewing documents.
- (6) CM/ECF registration for all NextGen courts must be obtained through PACER.
- (7) Registered users are required to maintain an electronic mailbox sufficient to receive orders and other documents transmitted electronically.
  - (a) Registered users are responsible for maintaining a working e-mail address and keeping their e-mail address, mailing address, telephone number, and firm name current within PACER.
  - (b) Secondary e-mail addresses may be added to your CM/ECF account through the utility event "Maintain your E-mail" in CM/ECF and will receive notification in all cases unless you remove selected cases through your Configuration options.
  - (c) If you wish to add or delete cases in which you will receive electronic notice, you may do so by selecting "Maintain your E-mail", Primary email address, and following the on-screen instructions under Configuration options.

g. Nonelectronic Filing

- i. When an attorney is unable to file electronically in a case, he or she must seek an exemption by filing a Motion for Leave to File Nonelectronically in This Case, L.R. Form G. Exemption must be sought in each case in which the attorney

participates. L.R. 1.4(c).

- ii. Documents filed by nonelectronic filers will be scanned and filed electronically at all divisional offices, unless the nonelectronically filed document(s) falls under L.R. 1.4(g).
- iii. Nonelectronically filed documents will be disposed of after e-filing.
- iv. Documents or items that cannot be scanned must be nonelectronically filed and served.
  - (1) Prepare and nonelectronically sign a Certificate of Service that indicates who was served, the manner of service with a description of the document(s) being filed. Submit the item(s) that cannot be scanned along with the original Certificate of Service to the Clerk's Office.
    - (a) Do not e-file the Certificate of Service. The Clerk's Office will e-file it.
  - (1) Nonelectronically serve the Certificate of Service and the item on all other parties.
  - (2) Documents or items that cannot be scanned must be delivered to the Division of venue, unless otherwise directed by the Clerk. L.R. 1.4(ed).
  - (3) Documents that cannot be scanned and e-filed will be kept in the Clerk's custody until archived. L.R. 1.4(g)(1).
  - (4) Items that cannot be scanned will not be permanently retained by the Court. L.R. 1.4(g)(2).
    - (a) At the conclusion of a trial or hearing, each party is responsible for reclaiming exhibits that cannot be scanned, unless the presiding judge orders otherwise.
    - (b) Motion-related exhibits that cannot be scanned must be reclaimed within seven days after the motion's termination.
    - (c) If a returned exhibit is later needed by this or another court, including the Court of Appeals, the parties will be notified to resubmit the exhibit as directed by the Clerk. At the conclusion of any proceeding or appeal involving the exhibit, the exhibit will be returned to the District Court, which will then return the exhibit to the parties. *See* Ninth Circuit General Order 12.7 (Nov. 2011).



- h. Nonelectronic Service
  - i. Service by means other than CM/ECF
  - ii. Nonelectronic service is required when:
    - (1) A self-represented litigant has not agreed to in writing to receive electronic service of all documents filed electronically in CM/ECF. L.R. 83.8(c).
    - (2) One or more attorneys is a nonelectronic filer.
    - (3) A document or item is nonelectronically filed at the Clerk's Office.
    - (4) A document, such as a Lodged Sealed Document, is not served via CM/ECF.
  - iii. All nonelectronically served documents or items must include a Certificate of Service that states the manner of service or notice and include a description of what is being served.
- i. Correction of Filing or Docketing Errors
  - i. Under no circumstance should the filing party attempt to correct a filing by refileing the document.
  - ii. If errors are discovered, immediately call the Help Desk for assistance 1-866-463-4052.
  - iii. If appropriate, the Court will make an entry indicating that the document was e-filed in error.
  - iv. The filing party will be advised if the document needs to be refiled.
- j. Court's Technical Failures (L.R. 1.4(c)(4)(B))
  - i. System outages will be posted on the website if possible. Registered users are authorized to file nonelectronically until 5:00 p.m. on the day such a notice is posted.
  - ii. A notice may be posted on the website extending filing deadlines for registered users to 9:00 a.m. the business day following an outage. Registered users unable to meet the extended deadline may seek relief from the presiding judge.

- k. User's Technical Failures (L.R. 1.4(c)(4)(a))
  - i. Problems on the e-filer's end, such as phone line problems, problems with the e-filer's internet service provider, or hardware or software problems, will not excuse untimely filing.
  - ii. Parties must contact the Help Desk (1-866-463-4052) to obtain permission to send a document by e-mail OR file the document nonelectronically at the Clerk's Office.
- l. Help Desk
  - i. Call the Help Desk for assistance 1-866-463-4052.
    - (1) The Help Desk is available from 8:00 a.m. to 5:00 pm., Monday through Friday, excluding Federal holidays.
- m. Computing Time (Fed.R.Civ.P.6, and Fed.R.Crim.P.45)
  - i. Count every day, including intermediate Saturdays, Sundays, and all legal holidays.
  - ii. The three-day rule for service by mail applies to service by electronic means when a party must act within a specified time after **service**. However, the three-day rule does not apply when a party must act within a specified time after **filing**.
  - iii. Review Local Rule 83.8(c) for computation of time in cases involving self-represented litigants.
- n. Orders
  - i. All orders shall be e-filed and served with the same force and effect as if a judge had affixed an original signature to a paper copy.
  - ii. Text Orders
    - (1) A text order may be entered by a judge.
    - (2) A docket entry will be created but a document will not be generated or attached.
    - (3) CM/ECF will generate an NEF which will be forwarded to all parties and will have the full force and effect of a regular order.

## **5. Court Reporters and Transcripts**

### **a. Transcripts of Proceedings**

- i. Ordering a transcript of a court-reported proceeding can be done by e-filing your Transcript Designation and Ordering Form (available on the Court's website at <http://www.mtd.uscourts.gov>) using the following events:
  - (1) Civil Transcripts: Other Filings → Other Documents → Transcript Designation Order Form.
  - (2) Criminal Transcripts: Other Filings → Other Documents → Transcript Designation Order Form.
- ii. The Transcript Designation and Ordering Form must be served on the Court Reporter.
- iii. To order transcripts or audio CDs of recorded proceedings, complete the FTR Gold Recording/Transcript Order Form (also available on the Court's website) and e-file using the events above.
- iv. The Transcript Designation and Ordering Form or FTR Gold Recording/Transcript Order Form must be filed in the case in which the proceeding took place.
- v. The Transcript Designation and Ordering Form must be filed nonelectronically if the requesting party is not an attorney of record in the case.
- vi. A transcript is an official record only if it is certified by a reporter or transcriber and filed separately by the Clerk's Office. L.R. 1.3(b)(4).
- vii. Redaction of Personal Identifiers from Transcripts of Proceedings
  - (1) See the Court's website (<http://www.mtd.uscourts.gov>) for procedures regarding deadlines for redacting personal identifiers from transcripts. There are several deadlines that parties must be aware of when transcripts are filed electronically.

## **6. Public Access, Privacy, and Sealing (L.R. 5.1)**

### **a. Sealed/Ex Parte/Restricted Documents**

- i. Sealed documents are:

- (1) Not available to the public.
  - (2) Always available to the Court.
  - (3) May be accessible to all parties or only to the filing party.
- ii. Ex Parte documents are only accessible to the Court and counsel of record for the filing party.
- (1) An attorney who has access to view an ex parte or otherwise restricted document or order, must complete the following steps when they receive an NEF:
    - (a) Click **once** on the docket number (NOT the case number) in the NEF. Double clicking on the document number will prevent access to the document and you will have to contact the Clerk's Office for guidance.
    - (b) A login screen will appear. Enter the CM/ECF login and password **of the counsel of record**.

b. Civil Cases

- i. Under L.R. 5.1(b), there is no need to file a Motion for Leave to File under Seal, if
- (1) the case itself is sealed;
  - (2) a protective order is sought under L.R. 26.4; or
  - (3) filing under seal is otherwise preauthorized by state or federal law or an order has already been entered in the case.
  - (4) Any document preauthorized to be filed under seal must have a cover sheet that includes the phrase "FILED UNDER SEAL" in the caption, followed by the citation to the authority for sealing, e.g., per Fed.R.Civ.P.45(e)(2)(B)" or "L.R. 5.1(b), 26.4".
  - (5) Use the event **Exparte Motion** under **Motions** when you are filing a motion that is preauthorized to file under seal.
    - (a) Neither the docket text nor the document will be accessible to the public or any other party in the case.

- (b) Use the event **Exparte Brief/Memorandum in Support** found under **Responses and Replies** to file a support brief.
  - (c) Nonelectronically serve any party who should have access to the Ex Parte Motion and Brief. Each of the filings should include a Certificate of Service.
- (6) Use the event **Sealed Document Unredacted** under **Other Documents** when you are e-filing documents that are preauthorized to be filed under seal.
  - (a) Link the filing to the applicable motion, if it is motion-related.
  - (b) Describe the documents filed under seal in the space provided, taking care to not divulge the purpose of sealing the document. The docket text will be available in the public record, although the documents themselves will not be accessible by the public.
  - (c) The documents will be accessible to all parties. Therefore, there is no need to nonelectronically serve other parties with the documents.
- (7) Use the event **In Camera Document**, when you intend to file documents that are preauthorized to be filed under seal but that should not be accessible to anyone other than the filing party.
  - (a) Link the filing to the applicable motion, if it is motion-related
  - (b) Describe the documents filed under seal in the space provided, taking care to not divulge the purpose of sealing the document. The docket text will be available in the public record, although the documents themselves will not accessible by the public.
- ii. Filing a Motion for Leave to File under Seal, L.R. 5.1(d),(e) and (g).
  - (1) The event itself, Motion for Leave to File under Seal, is not sealed.
  - (2) After e-filing the Motion for Leave to File under Seal, immediately e-file the proposed sealed document as the next document in the case using the **Lodged Sealed Document** event, linking back to the Motion for Leave to File under Seal.
  - (3) The filing party will be responsible for nonelectronically serving a hard

copy of the sealed document on all necessary parties, unless ex parte filing is authorized.

- (4) When the Motion for Leave to File under Seal is granted, the “Lodged” sealed document is deemed filed in the record. The attorney is not required to file the sealed document again.
- (5) If a judge orders that a document be redacted rather than sealed, you must e-file the redacted document using the event **Redacted Document** under **Other Documents**.

iii. Nonelectronically filed sealed documents must be placed in an envelope with the case number, date, and “Filing Under Seal Requested” clearly printed on the envelope.

- (1) Nonelectronic filers must accompany the document with a Motion for Leave to File Under Seal, if such a motion is required.

iv. Motions for Protective Order, L.R. 26.4

- (1) The Motion for Protective Order shall be filed in the public record.
- (2) If you wish to accompany a Motion for Protective Order with documents for *in camera* review, prepare a cover sheet for the documents, including in the caption the phrase “FILED UNDER SEAL, L.R. 5.1(b), 26.4”.
  - (a) E-file the documents using the event **In Camera Document** and link it to the Motion for Protective Order.
- (3) File the brief in support of the motion in the public record.
- (4) If you wish to file a supplemental brief in support of the motion in accordance with L.R. 26.4(a)(3), e-file it using the event **Exparte Brief/Memorandum in Support** found under **Responses and Replies**.
- (5) If you have received leave to file a redacted document subject to a protective order, you may either attach it to your brief or e-file it separately using the event **Redacted Document** under **Other Documents** and linking it to the motion, if it is motion related.

c. Criminal Cases

- i. A Motion for Leave to File Under Seal is always required if a party wants to seal a plea agreement. L.R. CR 49.1(a)(1).

- ii. L.R. CR 49.1(a)(2) lists filings that are preauthorized to be filed under seal.
  - i. Follow the procedures set forth for Civil Cases in § 6.b.i,ii, and iii, above, to file documents preauthorized to be filed under seal or for filing a motion to file under seal.
- d. E-Government Act of 2002, F.R.Civ.P.5.2, F.R.Crim.P. 49.1.
- i. Parties shall redact personal data identifiers from all documents filed with the Court, including exhibits thereto, whether the document is made available electronically or only in paper, unless otherwise ordered by the Court.
    - (1) Personal identifiers:
      - (a) Social Security Numbers redacted to the last four numbers: xxx-xx-5271.
      - (b) Tax-Payer Identification Numbers redacted to last four numbers: xx-xxxx4578.
      - (c) Names of minor children redacted to initials only.
      - (d) Dates of birth redacted to the year only: xx/xx/2001.
      - (e) Financial account numbers redacted to the last four digits of the account numbers: xxxxxxxxxxxxxxxxxxxxxx3567.
      - (f) Personal address redacted to the city and state in criminal cases only.
    - ii. The responsibility for redacting these personal identifiers rests solely with counsel and the parties. Personnel in the Clerk's Office will not review each document for compliance with this rule.
    - iii. The following are not available for public access:
      - (1) Criminal summonses.
      - (2) Unexecuted criminal warrants.
      - (3) Pretrial bail reports and presentence investigation reports.

- (4) The sentencing judge's statement of reasons in a criminal judgment.
- (5) Juvenile records.
- (6) Documents containing identifying information about jurors or potential jurors.
- (7) Financial affidavits filed by persons seeking representation pursuant to the Criminal Justice Act.
- (8) Sealed documents, including but not limited to motions for subpoenas under Fed.R.Crim.P. 17(b).
- (9) Motions for downward departures for substantial assistance.
- (10) Minutes and transcripts from sealed court proceedings.
- (11) Transcripts of Voir Dire in criminal cases.
- (12) Petitions for summons or warrant, until defendant appears on the petition.
- (13) Grand jury matters, if ordered filed in a case.
- (14) Supporting documentation relating to payment of Court appointed counsel or experts.
- (15) Other documents or proceedings as provided by statute, rule or policy.

**7. Motions (L.R. 7.1 and L.R. CR 47)**

a. Multiple Motions

- i. If you are filing two or more motions in one document, you must select all motion types from the drop-down list during the initial filing process.
  - (1) If you only click on one motion and then text in the other motions, those added motions will not be dealt with as they should. If you are filing a Motion for Summary Judgment or in the Alternative a Motion to Dismiss, you must select both motion types, Summary Judgment and Dismiss, from the drop-down list in the Motion category.

b. Motion to Intervene (L.R. 24.1)



- i. Motion, Brief in Support and proposed supplemental documents must be filed nonelectronically with the Clerk's Office and nonelectronically served on all parties.
  - ii. Must be signed with a nonelectronic signature.
  - iii. Upon leave of court, the Clerk's Office will enter the intervening parties. Supplemental pleadings can then be e-filed.
- c. Motion for Leave to File an Amicus Brief (L.R. 7.5)
  - i. Must be filed nonelectronically with the Clerk's Office and nonelectronically served on all parties.
  - ii. Must be signed with a nonelectronic signature.
  - iii. Upon leave of court, the Clerk's Office will enter your appearance as an amicus party and your brief can then be e-filed.
- d. Nonparty Motions.
  - i. If a nonparty seeks relief in a case, e.g., to quash a subpoena, the moving papers must be filed nonelectronically with the Clerk, signed with a nonelectronic signature, and served nonelectronically on the parties to the case.
  - ii. The Clerk will enter the nonparty's appearance as an interested party, and any remaining papers can then be e-filed.
- e. Motion to Appear Pro Hac Vice (L.R. 83.1(c))
  - i. You must file one pro hac vice motion for each attorney requesting leave of court to proceed pro hac vice. CM/ECF will only allow one filing fee of \$250 per motion.
  - ii. If the Court grants permission to appear pro hac vice, the attorney must immediately register to become a registered user in the District of Montana. The Clerk's Office will not serve by mail any non-registered attorney who has not obtained an exemption under L.R. 1.4(c)(1).
  - iii. See the Registration section of this manual for information regarding registering with the District of Montana (L.R. 1.4(c)).
- f. Unopposed Motions (L.R. 7.1(c) and L.R. CR 47.1)

- i. The word “unopposed” must appear in the title of all unopposed motions.
  - ii. A proposed order is required with a motion for extension of time or with an unopposed motion.
    - (1) The proposed order must be attached to the motion as an exhibit (in PDF format) with “Text of Proposed Order” selected from the Category drop-down menu.
    - (2) The proposed order should be e-mailed (in WordPerfect or Word, or a compatible program) to the judge’s e-mail address for proposed orders. Omit macros or special coding in formatting other than appropriate citation format.
    - (3) Proposed Order e-mail addresses:
      - (a) Judge Watters: [spw\\_propord@mtd.uscourts.gov](mailto:spw_propord@mtd.uscourts.gov)
      - (b) Judge Molloy: [dwm\\_propord@mtd.uscourts.gov](mailto:dwm_propord@mtd.uscourts.gov)
      - (c) Judge Christensen: [mailto:dlc\\_propord@mtd.uscourts.gov](mailto:dlc_propord@mtd.uscourts.gov)
      - (d) Judge Haddon: [mailto:seh\\_propord@mtd.uscourts.gov](mailto:seh_propord@mtd.uscourts.gov)
      - (e) Judge Morris: [mailto:bmm\\_propord@mtd.uscourts.gov](mailto:bmm_propord@mtd.uscourts.gov)
      - (f) Judge Lovell: [mailto:ccl\\_propord@mtd.uscourts.gov](mailto:ccl_propord@mtd.uscourts.gov)
      - (g) Judge Cavan: [tjc\\_propord@mtd.uscourts.gov](mailto:tjc_propord@mtd.uscourts.gov)
      - (h) Judge DeSoto: [kld\\_propord@mtd.uscourts.gov](mailto:kld_propord@mtd.uscourts.gov)
      - (i) Judge Johnston: [jtj\\_propord@mtd.uscourts.gov](mailto:jtj_propord@mtd.uscourts.gov)
      - (j) These e-mail addresses are not to be used to communicate with the Court unless otherwise permitted or when communications are solicited by the Court.
- g. Briefs (L.R. 7.1(d)(2) and L.R. CR 47.2)
  - i. Support Brief
    - (1) A motion must be accompanied by a supporting brief.
    - (2) The support brief must be filed separately from the motion and linked

back to the related motion.

- ii. Parties are encouraged to file response and reply briefs as separate documents.
  - (1) Use the events under the Responses and Replies category.
- iii. Link all briefs and any separately filed supporting documents to the relevant motion so that all materials pertinent to the motion appear on the Judge's CM Motions Report.
- iv. Time for Filing (L.R. 7.1(d)(1), L.R. CR 47.2(a) and Fed.R.Civ.P. 6(d)).
  - (1) The time for filing response and reply briefs is calculated in multiples of seven. All weekends and holidays are counted.
  - (2) Three days will no longer be added to the time for filing response and reply briefs because the time period begins to run upon the **filing** of motions or briefs.
    - (a) Exception: Unless a response is due on a date certain, three days for mailing are added to the time for filing when a self-represented litigant nonelectronically serves a document or is served nonelectronically with a document. L.R. 83.8(c)(4)(B) and (d)(4)(B).
- v. Refer to L.R. 7.1 and L.R. CR 47.1 and 47.2 for other briefing requirements including, but not limited to, length of briefs and tables of contents.
- h. Exhibits and Attachments (L.R. 7.2, L.R. 1.4(d) and L.R. CR 47.3)
  - i. Exhibits e-filed as attachments to documents must be identified so as to allow the Court, the parties and the public easy access to a specific exhibit. Use a short descriptive name when prompted for a description, for example: Range Rover Vehicle Registration or, alternatively, Exhibit A - Range Rover Vehicle Registration.
    - (1) If you select a Category from the drop down box, there is no need to text in the selected category in the Description Box. For example, when e-filing Exhibit A - Range Rover Vehicle Registration, select Exhibit from the Category box and text in A - Range Rover Vehicle Registration in the Description box.
  - ii. See § 4.g.iv. for directions on nonelectronically filing exhibits.

- iii. Anything larger than 200 megabytes shall be e-filed and attached in 200 megabyte segments.
- iv. Preferences for Judge Haddon
  - (1) If you forget to attach all of your exhibits to a motion in a case assigned to either Judge Haddon, prepare and e-file a **Withdrawal of Motion** and then e-file an Amended Motion with the correct exhibits attached.
  - (2) If you forget to attach your exhibits to a document that is not a motion, prepare an Amended Document with the correct exhibits attached and e-file using the event **Amended Document (NOT motion)** found under **Other Documents**.
- v. Preferences for all other judges
  - (1) If you forget to file your exhibits with a particular document, DO NOT E-FILE AN AMENDED DOCUMENT. Instead, prepare a Notice of Filing Exhibits and e-file it with the exhibits attached under **Other Filings, Notices, Notice of Filing Exhibits**. Link the Notice of Filing Exhibits back to the originally e-filed document and, if the exhibit is motion related, to the applicable motion.
  - (2) Contact divisional Clerk's Office to see if chambers requires a courtesy copy of any document over 20 pages.
- i. Hyperlinks (L.R. 1.5)
  - i. Hyperlinks to cited authority will be considered no more than a convenient mechanism for accessing material cited in the document.
  - ii. The hyperlink will be extraneous and will not be considered a part of the Court's record.
  - iii. Hyperlinks should not be used to circumvent word count limitations.
- j. Findings and Recommendations of USMJ
  - i. Civil (L.R. 72.3): Objections must be filed within 14 days of service of the F&R. Responses must be filed within 14 days of service of the objection. No replies are allowed.
    - (1) When filing a response, use the event **Reply to Objection to Findings and Recommendations** found under **Responses and Replies**.

- ii. Criminal (L.R. CR 59.2): Objections must be filed within 14 days of service of the F&R. Responses and replies are not permitted absent order of the Court.
- iii. Service is the triggering event under L.R. 72.3 and L.R. CR 59.2. Therefore, unless the F&R provides otherwise, add three days for mailing when computing time for filing objections and, in civil cases, responses to objections.

## 8. Civil

### a. Filing a New Case (L.R. 3.1)

#### i. Complaints and Other Initiating Documents

- (1) Complaints and other initiating documents can be filed electronically before a case is opened using the shell case.
  - (a) It's recommended that you view the electronic learning module on the Court's website ([http://media.mtd.uscourts.gov/elms/Attorney%20Complaint%20Procedure\\_demo.exe](http://media.mtd.uscourts.gov/elms/Attorney%20Complaint%20Procedure_demo.exe)) for instructions on e-filing in a shell case. Filers can use the shell case when e-filing any type of initiating document. The electronic learning module and the "Overview for E-filing Complaints" (also on the Court's website) will supply the e-filer with complete instructions relating to filing Complaints and Notices of Removal.
  - (b) Use the appropriate Division's shell case to file initial pleadings with the Court.
    - (i) Billings: 1:08-CV-8000
    - (ii) Butte: 2:08-CV-8000
    - (iii) Great Falls: 4:08-CV-8000
    - (iv) Helena: 6:08-CV-8000
    - (v) Missoula: 9:08-CV-8000
  - (c) When filing an initiating document in the shell case, it's advantageous for the filer to pay online with a credit card. This will allow the e-filer 24-hour access to file Complaints and Notices of Removal. A filer who elects to pay the filing fee with a check, money order, or cash must wait for the Clerk's Office to provide them with a receipt number before filing the document.
    - (i) The e-filing attorney SHOULD NOT add themselves to the

shell case when filing an initiating document.

- (d) During regular business hours, the Clerk's Office will view the shell case, assign a judge, issue a case number, and file the initiating document(s) from the shell case accordingly. Cases are opened as of the date of the initial filing in the shell case. Once the clerk e-files all the documents into the new case, the parties will receive an NEF of their documents. Displayed on the header will be all the information including case number, judge and original date the initiating documents(s) were filed.

(2) Complaints filed without using the shell case

- (a) Complaints may be filed nonelectronically by delivering the initiating documents and the filing fee to the Clerk's Office. All documents filed nonelectronically must bear nonelectronic signatures.
- (b) Any summons accompanying the complaint will be issued by the Clerk's Office at the time of the filing of the complaint.

ii. Notice of Removal (L.R. 3.3)

- (1) Can be filed using the same procedures as for filing complaints.
- (2) When filing in the shell case, file the Notice of Removal by selecting Complaints, Other Initiating Documents → Notice of Removal.
- (3) Once the removing party delivers a copy of the notice of removal to State Court, the State Court will send the original state court record to the Clerk's Office to be scanned and e-filed into the federal case.
- (4) Motions and other requests directed to the State Court are automatically terminated upon removal.

b. Social Security Cases

- i. These cases are restricted to court users, case participants, and public terminal users.
- ii. Because there is a special restriction applied to these cases, follow these steps to view filed documents.
  - (1) Click once on the docket number (NOT the case number) in the NEF.

- (2) A login screen will appear. Enter the CM/ECF login and password, NOT the login and password to PACER.
- iii. If a Motion to Proceed in Forma Pauperis is being filed in the shell case, the e-filing attorney shall attach the following to the motion:
- (1) Complaint (which shall be considered “lodged”).
  - (2) Civil Cover Sheet.
  - (3) Proposed Order.
  - (4) Once the Order granting the motion for IFP is filed, the Clerk’s Office will download the Complaint and e-file it as of the date of the Motion to Proceed IFP. (L.R. 3.1(d)(2)). The Clerk’s Office will arrange for service of the Complaint upon the government, unless the Order granting IFP states otherwise.
- c. Summons and Service of Process (L.R. 4.1 and Fed.R.Civ.P.4)
- i. The filing party may attach an unissued summons as an exhibit to the Complaint. After the summons is issued, the Clerk’s Office will return it to the party via U.S. Mail.
  - ii. A summons can be issued at a later date by delivering the original to the Clerk’s Office. The Clerk’s Office will issue the summons, return the original, and e-file a copy.
- d. Signing of Pleadings, Motions and Other Papers (L.R. 11.1)
- i. Electronic Signature Format.
    - (1) Except as provided by L.R. 11.2 regarding multiple signatures, each document filed electronically by a registered user may be signed with a nonelectronic hand signature or in the following electronic signature format: /s/ John E. Attorney.
    - (2) Only an attorney can use the /s/ signature form, and except as provided by L.R. 11.2 regarding multiple signatures, only when signing the document as the e-filer. All other signatures, including those on affidavits, must be handwritten.
    - (3) When any hand signature is used, the name of the signer must be printed

or typed under the signature line. L.R. 1.5(b).

- (4) Your login and password serve as a signature for purposes of Rule 11. Therefore, the signature on the document must match the login and password.

ii. Signing on Behalf of Another Attorney

- (1) If someone in your office has asked you to e-file a document for them you must use your own login and password.
- (2) The attorney signing for someone else should not associate themselves to the case when prompted by CM/ECF.

iii. Multiple Signatures (L.R. 11.2)

- (1) No signature page should contain both hand signatures and /s/ electronic form signatures.
- (2) If more than one signature is required, the filing party should file the document
  - (a) Using /s/ electronic signature as to ALL parties if all signers are registered users and all consent to the filing.
  - (b) Using handwritten signatures by ALL parties by scanning and filing the document electronically WITHOUT the /s/ signature of any party.
  - (c) By scanning one or more identical documents with handwritten signatures and attaching each document as an exhibit to a document bearing the registered user's /s/ electronic signature.

e. Answers or Other First Appearance by an Attorney

- i. An attorney making a first appearance in a case by filing an answer or other paper must associate him or herself with the party he or she represents.
- ii. By default, the system will create a case association by placing a check mark next to the party's name. If the attorney is lead counsel in the case, a check mark may be placed in the "Lead" box. By default, the system will also place a check mark in the "Notice" box. **It is critical** that this box remain checked as this will determine whether a Notice of Electronic Filing (NEF) is generated to the new attorney.



- iii. If multiple attorneys represent the same party, each additional attorney should create an association with the party by filing a Notice of Appearance.
- f. Social Security Administrative Records
  - i. Upon filing of the answer, the electronic Certified Administrative Record (eCAR) shall be electronically filed. Additionally, a hard copy of the Administrative Record shall be submitted to the clerk's office for the court's use.
- g. Amended Pleadings (L.R. 15.1)
  - i. When a party moves to file a pleading that requires leave of court (e.g., an amended complaint), the filer must e-file the proposed pleading as an attachment to the motion for leave to amend.
  - ii. Upon receiving leave of court, the attorney MUST E-FILE the amended pleading unless otherwise ordered.
- h. Consolidated Cases
  - i. Review the Order consolidating for the proper caption.
  - ii. All documents shall be e-filed in the LEAD case and spread to the appropriate member case(s), unless otherwise ordered.
- i. Discovery (L.R. 26.2)
  - i. Discovery documents shall not be routinely filed.
  - ii. Discovery documents must be attached as exhibits to any motion relating to discovery.
  - iii. Discovery responses or admission used as exhibits to any other type of motion may be filed without leave of court.
- j. Consent to Proceed Before a U.S. Magistrate Judge (L.R. 73)
  - i. Parties will receive a "Mailing of Consent to Proceed before USMJ" by electronic notice with the consent/objection form attached.
  - ii. Consent forms shall be returned to the Clerk's Office by NONELECTRONIC means and NOT e-filed electronically in CM/ECF. They will be held under seal in the Clerk's Office unless all parties consent.

- iii. If all parties consent to the magistrate judge's jurisdiction, all consent forms will be scanned into the electronic record of the case as the "Consents to USMJ".
  - iv. If one or more parties do not consent to the magistrate judge jurisdiction, an order notifying the parties that the Article III Judge will retain jurisdiction will issue. The returned consent forms will be shredded at the conclusion of the case in this Court.
- k. Withdrawal & Substitution of Attorney
- i. Withdrawal (L.R. 83.3)
    - (1) If the attorney's withdrawal will leave any party without counsel for a period of time, the attorney must file a motion for leave to withdraw by using the event **Motion to Withdraw** found under the **Motions** menu.
      - (a) The motion must include the client's last known mailing address.
      - (b) If the attorney wishes to file an affidavit ex parte under L.R. 83.3(b)(2)(B), they may use the event **In Camera Document**. It should be linked to the Motion to Withdraw.
  - ii. Substitution
    - (1) Substitution of an attorney is accomplished by filing a Notice of Substitution of Counsel using the event of the same name, found under the **Notices** menu.
    - (2) It is the duty of new counsel to ensure that he or she is added to the case and designated to receive the NEFs. This is done by associating yourself to the party you represent.
- l. Patent, Trademark, and Copyright Cases, L.R. 3.1(b)
- i. Within 30 days after filing a patent, trademark, or copyright case or claim, the filer must complete the appropriate AO-120 or AO-121 form, found on the Court's website.
  - ii. Submit the completed form to the clerk's office. A deputy clerk will sign the form and return it to you.
  - iii. After obtaining the deputy clerk's signature, e-file the form in the record.

- (1) Patent or trademark (Form AO 120): use the event **Patent/Trademark** found under the **Other Events** menu. The event will generate an e-mail to the appropriate office.
  - (2) Copyright cases (Form AO 121): use the event **Copyright** found under **Other Events**. Mail the form to the Copyright Office in Washington, DC.
- iv. Update, file and send new forms:
- (1) Each time an amended pleading, answer, cross or counterclaim involving any additional patent, trademark or copyright is filed.
  - (2) Upon termination of the action.
- m. Deposit or Disperse Registry or Interpleader Funds
- i. **Filing a Motion to Deposit Funds:**
    - (1) **Prior to filing your motion in CM/ECF, a draft motion, a proposed order, and a Registry Deposit Information Form must be reviewed and approved by the court's finance department.**
      - (a) In CM/ECF use the search function to locate the Deposit Funds or Interpleader Deposit event. Following Local Rule 67, docket the appropriate motion event. Attach the Registry Deposit Information form, and a proposed order to the entry. Serve documents on all parties who have appeared in the case.
  - ii. **Filing a Motion for Disbursement of Funds:**
    - (1) **Prior to filing your motion in CM/ECF, a draft motion and proposed order must be reviewed and approved by the court's finance department.**
      - (a) File a Redacted Motion to Disburse:
        - (i) In CM/ECF use the search function to locate the Disbursement of Funds or Interpleader Disbursement event. Following Local Rule 67, docket the appropriate motion event. The motion to disburse shall include the following information for each payee: name, **redacted** address, **redacted** social security number or **redacted** tax identification number, and the amount of the principal and interest to be paid. Serve documents on all parties who

have appeared in the case.

(b) File an Unredacted Motion to Disburse:

- (i) In CM/ECF use the search function to locate the Personal Identifiers for Disbursing Funds event. Following Local Rule 67, docket the unredacted motion using the Personal Identifiers for Disbursing Funds event. The document shall include the following information for each payee: name, **unredacted** address, **unredacted** social security number or **unredacted** tax identification number, and the amount of the principal and interest to be paid. The document will be restricted to the filing party in CM/ECF, and should **NOT** be served on other parties.

**9. Criminal**

- a. Civil Parts 8.e. and d. also apply to criminal cases.
- b. Motion for Interim Payment of Attorney Fees
- i. Pre-judgment, if an attorney files a motion for interim payment of attorney fees because the case is considered complex or for interim payment of authorized fees, i.e, interpreter or investigator fees, the attorney must e-file the motion *ex parte* and must include the phrase (Circuit Approval Required) immediately below the title of the motion.
- c. Sentencing Letters
- i. Prepare a document called "Defendant's Letters in Aid of Sentencing" and file using **Notice (Other)**, with the letters as attachments to the document.
- ii. Judge Molloy allows no more than ten letters of support to be filed.
- d. Plea Agreements
- i. A motion for leave to file under seal is required if a party wants to seal a plea agreement. L.R. CR 11.1 and 49.1(a)(1).
- e. Motion to Vacate (2255)
- (1) The Motion to Vacate must be filed nonelectronically because the event, which is only available to the Clerk's office, automatically opens a civil case for statistical purposes.

- (2) No filing fee is required for a 2255 Motion.
- (3) Do not serve the motion on other defendants or defense counsel. L.R. 49.2.
- (4) After the 2255 motion has been e-filed by the Clerk's Office, counsel should e-file all subsequent documents. The documents should be filed only in the criminal case, although the caption should bear the numbers of both the criminal and civil cases.
- (5) When the 2255 motion has been finally decided, the Clerk's Office will file a judgment in the civil case. Any notice of appeal, however, should be filed in the criminal case.