

**CM/ECF
ADMINISTRATIVE PROCEDURES
MANUAL**

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**



EFFECTIVE August 28, 2006

As Revised April 22, 2011

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1. MANDATORY ELECTRONIC CASE FILING & PRIVACY

- (a) **Mandatory Electronic Filing.** As authorized by Administrative Order effective August 28, 2006, and Local Rules, unless otherwise excepted as set forth in Section 9(b) of this manual, electronic filing is mandatory in the United States District Court for the District of New Mexico.
- (1) **Enforcement of Mandatory E-Filing**
- (A) Attorneys filing in paper, without prior authorization of the court, will receive a Notice of Deficiency for Failure to E-File.
 - (B) Subsequent paper filings from attorneys without prior authorization, will result in a second Notice of Deficiency and may result in an Order to Show Cause requiring an appearance before the Chief Judge or designated Judicial Officer to explain why the party is unable to comply with the mandatory electronic filing requirement.
 - (C) As needed, the Chief Judge or designated Judicial Officer will schedule monthly hearings to address all orders issued to show cause for failure to comply with the mandatory e-filing policy and recommend monetary sanctions or other action.
- (2) **Exemption to Mandatory E-Filing Requirement**
- (A) Individual filers may encounter situations or circumstances that hinder their ability to electronically file documents. In these exceptional circumstances, an attorney may petition the Court for permission to file documents in paper format.
 - (B) An application for leave to file in paper format is available on the Court's website or from the Clerk's Office. Applications shall be submitted, in duplicate, to the Clerk's Office. Applicants will be notified of the Court's decision by mail.
 - (C) All documents filed in paper form, subsequent to approval, must be accompanied by a copy of the approval document.
- (b) **Local Rules And Manual Govern Electronic Filing.** This manual, together with Rule 5 of Local Civil Rules of the United States District Court for the District of New Mexico and Rule 49 of the Local Criminal Rules of the United States District Court for the District of New Mexico, govern the procedures for electronic filing.
- (c) **Privacy Concerns.**
- (1) **Privacy Policy.** In compliance with the privacy policy of the Judicial Conference of the United States and the E-Government Act of 2002, sensitive information should not be included in any document filed with the Court unless such inclusion is necessary and relevant to the case.
 - (2) **Personal Information.** Any personal information not otherwise protected will be made available over the Internet via PACER.
 - (3) **Local Rules.** D.N.M.LR-Cr. 57.5 and the Court's Privacy Policy, on the Court's website, set forth the rules governing privacy protection for any filing made with the Court. Filers must familiarize themselves with the rules governing mandated redaction, exceptions from the redaction requirement, the sealed pleadings and protective order options, and waiver of privacy protections.
- (d) **Manual Modifications/Additional Assistance.** Modifications to this manual may be made from time to time by the Clerk of Court. Notice of all modifications to these CM/ECF Procedures will be given via the Court's website at www.nmcourt.fed.us. In

addition to this manual, the Court's website also contains "training manuals," "frequently asked questions" and "helpful hints" sections for CM/ECF Procedures.

2. ELECTRONIC RECORD

- (a) **The Electronic Record is the Official Record.** The electronic record is the official record of the Court and it replaces the traditional paper record. The Electronic Record includes documents filed electronically by Participants, as well as documents originally filed in paper format that have been scanned and electronically submitted by the Clerk's Office. Any document in the Electronic Record has the same legal effect as a paper document.
- (b) **Electronic Filing or "e-filing."** Electronic Filing or "e-filing" is the process by which a Participant electronically transfers a PDF document to the Court's CM/ECF system for processing into the Electronic Record.
- (c) **Electronic Submission or "e-submitting."** Electronic submission or "e-submitting" is the process by which the Clerk's Office transmits an originally filed paper document to the Electronic Record. This function is performed only by the Clerk's Office.
- (d) **Retention of paper originals of documents.** The Clerk will maintain paper originals of documents only as long as required to ensure that the information has been accurately transferred to the Court's database, for other Court purposes, or as required by other applicable laws or rules.

3. PARTICIPANT REGISTRATION

- (a) **Registration Constitutes Waiver Of Service.** Registration constitutes waiver of the right, under Rule 5 of the Federal Rules of Civil Procedure, to personal service or service by first class mail.
- (b) **Required and Permitted Registrants.**
 - (1) **Members of the Federal Bar Must Register.** All members of the New Mexico Federal Bar must register for a CM/ECF account to facilitate service of notices and orders from the Court, as well as meeting the service requirements of the other parties in the case. Failure to register will result in a loss of good standing.
 - (2) **Attorneys Who Are Not Federal Bar Members May Register.** An attorney who is not a member of the New Mexico Federal Bar, but who is licensed to practice in New Mexico and is in good standing, may register for a CM/ECF account.
 - (3) **Non-Resident Attorneys and *Pro Se* Individuals May Register And, If Permitted, May File Electronically.**
 - (A) Anyone may register and waive service, but registration does not entitle everyone to file electronically. Attorneys who are not members of the New Mexico Federal Bar or licensed in New Mexico may register for a CM/ECF account. *Pro se* parties may register for a CM/ECF account, but must request permission from the Court to electronically file.
 - (B) Attorneys licensed outside the District seeking permission to participate as a non-resident attorney, must file their D.N.M.LR-Civ. 83.3 application electronically.
 - (C) Parties who are not represented by an attorney are called "*pro se*" parties. The *pro se* party must familiarize himself or herself with the District's *pro se* packet, and comply with all applicable rules, including the District's Local Rules. The *pro se* party must also pay particular attention to D.N.M.LR-

Civ. 83.5 and 83.6. With the Court's order, a *pro se* party may file documents electronically in a particular action. When any such *pro se* party wishes to participate in a particular action electronically, he or she may electronically file a "Pro Se Petition For Permission To File Electronically."

(c) Registration Requirements.

- (1) Registered Participants.** A Registered Participant (Participant) is any person who has successfully completed the registration and training requirements, and has been issued a CM/ECF login and password. A Participant may authorize employees to act on his or her behalf.
- (2) Overview Of Requirements.** To become a Participant in the Court's CM/ECF system, individuals must:
 - (A) maintain an Internet e-mail address where notice and service will be made;
 - (B) secure and maintain a National PACER account for viewing documents at www.pacer.psc.uscourts.gov, which charges for viewing docket sheets and documents;
 - (C) complete and sign the registration form found on the Court's website at www.nmcourt.fed.us; and
 - (D) demonstrate proficiency with electronic filing in CM/ECF.
- (3) Training Requirements.**
 - (A) Participants and authorized employees acting on behalf of a Participant who have not electronically filed in the past, either in this Court or in another federal court, are strongly encouraged to attend a Court-sponsored training class to become a CM/ECF Participant in this Court.
 - (B) Participants and authorized employees acting on behalf of a Participant, who have previously filed electronically with the Court, are not required to attend a Court-sponsored training class to become a CM/ECF Participant.
 - (C) Those who demonstrate they have successfully filed electronically using a CM/ECF system in another federal court may apply to become a Participant in this District without having to attend the Court-sponsored training. However, such persons or entities must be conversant with this District's Local Rules and this Procedures Manual.
 - (D) If the Court determines that a participant demonstrates a lack of understanding of e-filing practices and procedures, additional training will be required.

(d) Logins and Passwords.

- (1) Registration.** Participants will receive their login and password after the Court has received and processed their CM/ECF account registration form. The login and password will be e-mailed to the registered participant via the e-mail address provided on the registration form.
- (2) Changing Passwords.** Upon receipt of a password, the Participant is responsible for immediately changing it. Those attending training will be shown how to do this during training; those who already are proficient in CM/ECF procedures are responsible for changing the password online.
- (3) Participant Usage.** Any CM/ECF password issued for electronic filing must be used exclusively by the Participant to whom the password is assigned or by his or her authorized employee(s).

- (4) **Authorization.** No Participant may knowingly permit a password to be used by anyone who is not authorized to use the password and no person may knowingly use the password of a Participant unless such person is so authorized.
- (5) **Security.** If an employee of a Participant is no longer authorized to use the password, or if the Participant has reason to believe that the security of a password has been compromised, it is the Participant's responsibility to change the password.
- (6) **Account Deactivation.** In the event the Court rejects or suspends Login and Password privileges, the Participant will be notified.

4. PUBLIC ACCESS, "ONE FREE LOOK" AT DOCUMENTS, AND COPYING CHARGES

- (a) **Free Public Access At Clerk's Office Terminals.** Free on-line access to the electronic docket and documents is available during regular business hours at public computer terminals located at each Clerk's Office.
- (b) **"One Free Look" Upon E-Mail Notice.**
 - (1) **Free Look.** Upon receipt of an e-mail notification of an electronic filing, the recipient will have one opportunity to look at the document, save it, or print it, without incurring any PACER fees.
 - (2) **Secondary Emails.** Participants may specify additional e-mail addresses to receive the electronic notification of filings. Each of these addresses will also be entitled to the "one free look."
 - (3) **Expiration.** The one-free-look period expires 15 calendar days from the date of the e-mail.
- (c) **Online Access Anytime For A Fee.** PACER services are available on-line at any time, but a fee will be charged for electronically viewing docket sheets and documents.
- (d) **Clerk's Office Copying Services And Charges.** Conventional copies and certified copies of electronically-filed documents may be obtained at the Office of the Clerk. The fee for such copying and certification is governed by 28 U.S.C. § 1914 and 28 U.S.C. § 1930. Refer to the Court's Fee Schedule at www.nmcourt.fed.us for the costs associated with copies.

5. PAYMENT OF FEES

- (a) **On-Line Payment of Fees.** Payment for CM/ECF transactions that require a fee may be made on-line on the same day that the transaction is electronically filed.
- (b) **Acceptable Credit Cards.** Only VISA, Mastercard, American Express, Discover and Diners Club credit cards will be accepted. Debit cards from the above mentioned providers that do not require a "PIN" code will also be accepted.
- (c) **Rejected Credit Card.** Any transaction declined by the credit card issuer for any reason must be paid to the Court by counsel in cash or by check or money order by the close of business on the next business day after notification by Court staff of the deficiency. Failure to timely submit the fees will result in revocation of the CM/ECF password.
- (d) **Requesting Refunds.** Should a filing fee paid through Pay.Gov be erroneously charged, the Registered Participant must move the Court for a refund by filing a *Motion to Refund Filing Fees Paid Online*. The motion must state the reason for the refund, and the amount to be refunded. All refunds will be credited back to the credit card used during the initial payment process.

6. SIGNATURES AND VERIFIED DOCUMENTS

(a) Filing Constitutes Signature.

- (1) **Electronic Signatures.** An electronic signature for CM/ECF purposes does not mean a digital image of a person's signature. Rather, the "electronic signature" is the CM/ECF login and password that a person uses to either electronically file or electronically submit a document.
 - (A) When e-filing, the electronic signature constitutes the signature of the Participant for all purposes under the Federal Rules.
 - (B) When e-submitting, the electronic signature represents the certification of the submitter that the electronic submission is a true and valid copy of the paper copy of the document.
- (2) **Signature block.** The following is an example of the language that can be used for a signature block in an electronically filed document:

Electronically Filed

/s/ John Doe, Attorney at Law
Attorney's Address

(b) Electronic Filing of Verified Documents.

- (1) **Verified Document.** A "Verified Document" is:
 - (A) a document that must contain an original third-party signature;
 - (B) a document that requires verification under the Federal Rules;
 - (C) an unsworn declaration as provided in 28 U.S.C. § 1746; or
 - (D) an affidavit or pleading in which a person verifies, certifies, affirms or swears under oath or penalty of perjury concerning the truth of matters set forth therein.
- (2) **Conformity.** A Participant who files a Verified Document electronically must ensure that the electronic version conforms to the original signed document.
- (3) **Signing.** The full, printed name of each person signing a Verified Document must appear in the electronic version.

(c) Retention of Verified Documents.

- (1) **Possession.** Electronic filing of a Verified Document constitutes Participant's representation that the original signed document is in Participant's possession at the time of filing.
- (2) **Retention.** A Participant who electronically files a Verified Document in a case must retain the original of the document for not less than (a) one year after the maximum allowed time to complete appellate proceedings, or (b) one year after the case is closed, whichever is later. The original document must be produced upon order of the Court.

7. ENTRY OF APPEARANCE

- (a) **Requirement.** As required by D.N.M.LR-Civ. 83.4 and D.N.M.LR-Cr. 44.1, all attorneys participating in a case who were not appointed by the Court or appearing in the initiating document, must file an entry of appearance.

- (b) **Documents.** Documents that constitute an entry of appearance include:
 - All initiating documents, such as complaints and notices of removal
 - Amicus Curiae* Appearance
 - Interpleader
 - Notice of Appearance
 - Notice of Attorney Substitution
 - Motion to Appear (for non-resident attorneys)
- (c) **Compliance.** Failure to make an entry of appearance will prevent you from receiving notification of case activity and may result in a Notice of Deficiency.

8. SERVICE & NOTICE

- (a) **Complaints.** Service of a civil complaint is governed by Rule 4 of the Federal Rules of Civil Procedure.
- (b) **Service of Documents Not Governed by Rule 4, Rule 4.1, or Rule 45 of the Federal Rules of Civil Procedure.**
 - (1) **Notice of Electronic Filing.** Whenever a pleading or other document is filed electronically in accordance with these procedures, CM/ECF will generate a Notice of Electronic Filing (NEF) which is an e-mail verification that the Court received the e-filed document. The NEF is the official notice of the filing to all parties and includes the text of the docket entry, as well as a link to the filed document.
 - (2) **Participants.** If the recipient is a Participant in CM/ECF, e-mailing of the NEF is the equivalent of service by first class mail.
 - (3) **Non-Participants.** If the recipient is not a Participant in CM/ECF, service must be made under the Federal Rules of Civil and Criminal Procedure
 - (4) **Service.** Whenever a pleading or other document is filed in paper form, the filer must serve conventional copies on all parties to the case.
 - (5) **Restricted Access Pleadings or Pleadings Filed in Sealed Cases.**
 - (A) Whenever a pleading or other document is e-filed in a sealed case, service must be effected outside of CM/ECF.
 - (B) No e-mail NEFs will be sent from e-filings generated by the Court in sealed cases. In these instances, the Court will effect service to the parties by mail.
- (c) **Certificates of Service.**
 - (1) **Requirement.** A certificate of service on all parties is still required when a document is filed electronically. The certificate must state the manner in which service was accomplished on each party and must appear as the last page of the document being electronically filed.
 - (2) **Example.** The following is an example of the language that includes different methods of service:

I HEREBY CERTIFY that on the ___ day of _____, 2006, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Robert Jones, Attorney for Defendant Samuel Jones
 (e-mail address)
 Joe Roberts, Attorney for Defendant Smith
 (e-mail address)

AND I FURTHER CERTIFY that on such date I served the foregoing on the following non-CM/ECF Participants in the manner indicated:

Via first class mail, postage prepaid addressed as follows:

John and Jane Idaho Construction Corp., Inc.
1234 South 1st Street c/o BR Corporation
Smalltown, NM 88001

Via certified mail, return receipt requested, addressed as follows:

USA First Bank, N.A.
Attn: I. M. Rich, President
616 Parkway Drive
Las Cruces, NM 45454

_____/s/_____
R. Johnson, Attorney for Movant

9. ELECTRONIC FILING

(a) PDF Format.

- (1) **Format.** “PDF” means “portable document format.” Documents in their native format (such as WordPerfect), as well as paper documents that have been scanned, can be converted to PDF format. The benefit of the PDF format is that it generally can be opened by a different hardware and software without changing the layout, format, links, and images of the original document.
- (2) **Conversion.** All electronically-filed documents must be converted into portable document format (PDF) before filing.
- (3) **Legibility.** The Participant is responsible for the legibility of the scanned image of any document not generated directly from a word processing application.

(b) Documents Excepted from Mandatory Electronic Filing.

The following types of cases and/or documents are not to be filed electronically, unless otherwise authorized by the Court:

- (1) **Pro Se.** Any document filed by a party proceeding *pro se*, who has not secured prior approval to file electronically.
- (2) **Social Security transcripts.**
- (3) **State court records submitted in habeas corpus proceedings.**
- (4) **Unable to convert or scan.** Any document that cannot be scanned or otherwise converted to electronic format.

(c) File Date.

- (1) Unless otherwise ordered by the Court, an electronic document is considered filed on the date of the electronic transfer, including weekends and holidays. A filing day is defined as 12:00:00 a.m. to 11:59:59 p.m.
- (2) A Judge may specifically require an electronic document to be filed on a certain date and/or by a certain time.

(d) Filing Civil Complaints and Removals.

- (1) Initiating Documents.** Civil Complaints, Notices of Removal, and Civil Case Cover Sheets must be filed through CM/ECF, and accompanied by the applicable fee, payable by credit card.
- (2) Cover Sheets.** The Civil Case Cover sheet must be submitted in PDF format as an attachment to the Complaint or Notice of Removal.
- (3) Removal Documents.** When filing a Notice of Removal, the copies of the state court documents are to be filed electronically as attachments to the Notice of Removal. Each document is to be added as a separate attachment.
 - (A)** When filing the record and proceedings from the state court action under D.N.M.LR-Civ. 81.1(a), documents are to be filed electronically and linked to the Notice of Removal.

(e) Filing Summonses.

- (1) Submission.** When initiating a new civil proceeding, the Participant must prepare the standard summons for a civil proceeding and e-mail the summons to the Court at summons@nmcourt.fed.us in PDF format. The Clerk will thereafter, electronically issue the summons and return it via e-mail to the party who submitted it.
- (2) Affidavits of service.** Affidavits of service, which may include executed summonses, are filed electronically through CM/ECF.

(f) Motions and Related Documents.

- (1) Captions In Responsive Documents Must Contain Docket Numbers.** A Document that is submitted in response to, in support of, or in opposition to another document must reference the docket number of the other document in the caption.
- (2) Each Motion Is Filed As A Separate Document.** Motions and responses are always filed as separate documents. For example, a Cross-Motion for Summary Judgment should never be combined with a Response to a Motion for Summary Judgment. It is critical that the Cross Motion be filed separately so that it will appear on the Pending Motions Report and can be properly linked to any subsequent Responses, Replies, Notices and Orders.
- (3) Supporting Exhibits or Affidavits Are Filed As Attachments.** Exhibits or affidavits that are filed *concurrently* in support of a motion or memorandum are filed electronically as attachments. The filer is given the option of including attachments when the PDF file is selected for filing and should list the attachments in a logical sequence.
- (4) Linking Separately-Filed Documents.** If a brief, exhibit, or affidavit in support is filed after a separately-filed document, the original document must not be refiled. As with other separately-filed documents, the filer references the original document in the caption and during e-filing, chooses the option that will link the two documents.

(g) Attachments, Large Documents, and Administrative Records.

- (1) Attachments.** Unless otherwise ordered by the Court, Participants must submit attachments in electronic form. Attachments that consist of excerpted material must be clearly and prominently identified as such.
- (2) PDF.** Attachments that are not in paper format must be scanned or converted by the filer into PDF format for electronic submission into the System.

- (3) **Large Files.** Scanned documents that exceed the allowable document size will fail to file due to transmission time, and CM/ECF will issue an error message. Therefore, documents that exceed allowable document size will need to be divided into logical segments for filing as attachments, with each segment easily understood as a stand alone document. The CM/ECF system will allow multiple attachments to any pleading/document to be filed electronically.
- (4) **Administrative Records.** Administrative records, including voluminous records proper, may be filed in paper; however, these documents will not be scanned by the Clerk's Office. The party filing an administrative record in paper must also electronically file a notice with the Clerk regarding the paper filing.
- (A) The notice must be in the form prescribed in D.N.M.LR-Civ. 10.1 and D.N.M.LR-Civ. 10.2.
- (h) **Setting Document Access Restrictions.**
- (1) **Responsibility.** CM/ECF allows for various levels of restricted access to documents filed with the Court. It is the Participant's duty to ensure the appropriate access restriction level for the document being filed and that permission of the Court for the restricted filing has been granted. (Leave of Court is not required to file documents sealed under Fed. R. Civ. P. 5.2(f), Fed. R. Crim. P. 49.1(f), or pursuant to statute.)
- (2) **Restrictions.** The three document restriction levels available in CM/ECF are:
- (A) Available to the Court, case participants and the public only
- (B) Available to the Court and case participants only
- (C) Available to the Court and the filer only.
- (3) **Incorrect Selections.** In the event that the document is filed with an incorrect access restriction level, the participant should contact the Clerk's Office immediately. The Clerk's Office will make every attempt to assist the participant and correct the error.

10. DOCKET ENTRIES AND CORRECTIONS OF DOCKET ENTRIES

- (a) **Participant Designates Docket Entry.** A Participant who electronically files a pleading or other document is responsible for designating a docket entry title for the document by using one of the docket event categories prescribed by the Court.
- (b) **Abbreviations Not Allowed in Docket Text.** In some instances, during the e-filing process, Participants may enter additional text which will appear in the final docket entry. Participants are not permitted to use abbreviations when entering any additional text.
- (c) **Participant Withdrawing/Re-Filing To Correct Mistakes Is Not Permitted.** The CM/ECF system will not permit a Participant to withdraw an incorrectly filed document or to change the form of an incorrect docket entry once the transaction has been accepted. Participants must not attempt to re-file a document incorrectly filed or docketed unless otherwise ordered by the Court.
- (d) **Only Clerk's Staff Authorized To Correct Docket Entry Mistakes.** Once a pleading/document is electronically filed and becomes part of the electronic record, corrections to the docket may be made only by the Clerk's Office staff.

- (e) **Notice of Deficiency.** If a Participant notifies the Clerk’s Office that a filing or docketing error has been made by Participant, or if the Court determines the same, the Clerk may enter a Notice of Deficiency, notifying all parties of record of the error and what correction is to be made. Some errors, such as errors within the docket text or incorrect linking of documents may be corrected by the Clerk’s Office without further action by the Participant. In these situations the Participant will be notified of the error via phone or email.

11. COURT-ISSUED DOCUMENTS & “TEXT-ONLY” ENTRIES.

- (a) **Court Files Electronically.** All orders, decrees, judgments, and proceedings of the Court will be filed in accordance with these procedures, which will constitute entry on the docket kept by the Clerk.
- (b) **Court Signatures On Court Electronically-Filed Documents.** All signed orders will be filed electronically by the Court. Any order or other Court-issued document filed electronically without the original signature of a Judge or Clerk has the same force and effect as if a signed paper document had been entered on the docket.
- (c) **Notice To Non-Participants Of Court Electronically-Filed Documents.** When mailing paper copies of an electronically-filed order to a party who is not a Participant, the Clerk’s Office will include the NEF to provide the non-participant with the proof of filing.
- (d) **“Text-Only” Entries.**
 - (1) **Entry.** Disposition of routine matters such as notices of hearing or orders on unopposed or routine motions may be entered on the docket by using a text-only entry. **THESE TEXT-ONLY ENTRIES HAVE THE SAME FORCE AND EFFECT AS IF A SIGNED PAPER DOCUMENT OR AN E-FILED DOCUMENT HAD BEEN ENTERED ON THE DOCKET**
 - (2) **Docket Entries.** If a “text-only” entry is made, no PDF document will be created or associated with the entry, and the text of the entry constitutes the Court’s only action on the matter. Each text-only docket entry will be clearly labeled to convey that it is a text-only entry and that no documents are attached.
 - (3) **NEF.** The CM/ECF system will generate a “NEF” for “text-only” entries, as described previously in these procedures.

12. PROPOSED ORDERS

- (a) **Proposed Orders MUST NOT Be E-Filed Of Record Or Submitted In Paper Form To Chambers Unless Otherwise Ordered.** Proposed orders **SHOULD NOT** be filed or submitted to the Clerk or Judges’ chambers unless otherwise required by the Judge.
- (b) **Format and Procedure For Submitting Proposed Orders Required By The Judge.**
 - (1) **Submission.** Proposed orders will rarely be required to be submitted because text-only docket entries will be used by the assigned judge or the Clerk’s office for most routine or unopposed motions. When proposed orders are required by the assigned judge, the proposed orders are submitted as an attachment to an e-mail to the Judge who is to sign the order.
 - (2) **Email Addresses.** E-mail addresses and chambers-specific requirements are available on the Court’s website at www.nmcourt.fed.us.

- (3) **Format.** The subject line of the e-mail must include the following: (1) the case number, (2) the Judge’s initials, (3) the docket number of the motion filed electronically which is the subject of the proposed document, and (4) a very brief description of the proposed document (**Example: 06cv01234, MV, 10, Order Dismissing**). The document itself should be similarly named to convey the same information (**Example: 06cv01234_MV_10_Order_Dismissing.wpd**)

13. CM/ECF BOUNCE BACK E-MAIL PROCEDURES

- (a) **Bounce Back.** A bounce back e-mail occurs when an NEF e-mail message generated by the Court for purposes of notice is not delivered to a Participant’s e-mail account.
- (b) **Primary Email Accounts.** Only bounce back NEF e-mails from a Participant’s primary e-mail account are addressed by this policy. Bounce back NEF e-mail messages from secondary accounts will be ignored.
- (c) **Out of Office Emails.** All “out of office” reply messages received by the Court will be deleted without further action.
- (d) **Participant Notification.** Bounce back NEF e-mails that are received due to a Participant’s mailbox being full or an incorrect mailbox address will be followed up with a phone call to the Participant. The Participant will be notified to correct the problem and will be advised that the NEF e-mail will be forwarded to Participant. If the Court receives a subsequent bounce back from Participant’s primary e-mail address, the Participant will again be notified to correct the problem, and the e-mail will be forwarded to Participant. Participant will be further advised that should the e-mail bounce back occur again, no further attempt to notify Participant will be made. If the e-mail is bounced back for a third time, an entry will be made on the docket indicating that the Court sent notice three times and has informed the Participant of the failure to deliver notice on two occasions. In this situation, it is the Participant’s responsibility to obtain a copy of the document at the Participant’s expense.

14. CM/ECF REPLICATION/FAILOVER SERVICES

- (a) **System Unavailability.** When the court’s local CM/ECF system fails or becomes inaccessible due to expected or unexpected events, the Court will provide an alternate service: a temporary “failover” to a replication server. The replication server will allow court staff, attorneys and the public to continue to use CM/ECF until service from the local court systems can be restored.
- (b) **Failover.** There are two modes the Court will use to supply a continuation of service:
- (1) **Read-Only** mode allows all users access to the query and report menus available in CM/ECF. E-Filing, docketing, scheduling and all other data entry functionality are not available in this mode. Additionally, sealed cases are not available under read-only mode. This mode is used for short periods of service interruptions or for planned outages (planned power outages or system upgrades).
- (2) **Read-Write** mode provides all users access to all facilities to which they normally have access, including e-filing. While read-write mode is active, only the replication server is being updated. Since the replication server is located outside the District, CM/ECF performance can be degraded. When the event causing the interruption is corrected, the updates made on the replication server must be duplicated onto the Court’s database on its local server.

- (c) **Notification of Downtime.** Any time a planned or unplanned disruption of service occurs, notice will be posted on the Court’s web site, www.nmcourt.fed.us, as soon as practicable.

15. TRANSCRIPT REDACTION PROCEDURES

- (a) **Review of Transcript.** Upon filing of a transcript, each party’s attorney is required to review the transcript for information that should be redacted under the Judicial Conference’s privacy policy: Social Security number to the last four digits; birth dates to year of birth; minors to their initials only; and financial account numbers to the last four digits. In criminal cases, home addresses should reveal only the city and state of residence. Transcripts will be available for public inspection (but not copying) at the Clerk’s Office as soon as they are filed. They will also be available for purchase from the court reporter or transcriber within 90 days of the filing date. Transcripts purchased from the court reporter or transcriber will be made electronically available to the purchaser.
- (b) **Notice of Intent to Redact.** Within **seven calendar days** of the filing date of the transcript, an attorney must file a notice with the court of his or her intention to request redaction of such information from the transcript. An attorney is responsible for reviewing the opening and closing statements made on behalf of the party he or she represents, any statements made by the party, and the testimony of any witnesses called by the party. If no notice is filed during this seven-day period, the court will assume that redaction of personal data is not necessary. An attorney serving as “standby counsel” to assist a pro se defendant in his or her defense has the same responsibilities as if he or she were the *pro se* party’s attorney of record in the case.
- (c) **Redaction Requests.** Once an attorney has filed a notice of intent to request redaction, he or she has **21 calendar days** from the filing of the transcript to review the transcript and file a list of the places in the transcript where the personal data to be redacted appears. The list (or “redaction request”) shall set forth the data to be redacted, noting the page and line number of such information without revealing the personal information itself (e.g., redact the Social Security number page 12, line 9 to read xxx-xx-6789.)] The court may order this time extended, for good cause shown. If a notice of intent to request redaction is filed, and subsequently no redaction request is filed, it is the movant’s responsibility to file a notice withdrawing the notice of intent to request redaction.
- (d) **Additional Information.** During this 21-day time period, an attorney could, by motion, request that additional information be redacted. No remote electronic public access to the transcript is to be allowed until the court has ruled on any such motion.
- (e) **Time to Perform Redaction.** Upon the filing of a redaction request, the court reporter or transcriber must redact the identifiers, as directed by the party, within **31 calendar days** of the filing of the original transcript. In the event the court reporter/transcriber cannot meet this deadline, the Court may extend the deadline for good cause shown.
- (f) **Redacted Transcript.** Once the court reporter or transcriber has made the requested redactions, he or she shall promptly file the redacted transcript. The redacted transcript will be made available for public inspection in accordance with paragraph (a).
- (g) **Remote Access to Transcript.** After **90 days** from the filing of the transcript, the original transcript will be remotely available to the public for viewing or download from PACER. Copies will also be available at the Clerk’s Office. If redactions have been made, then the redacted transcript will be remotely available after 90 days of the filing

date of the original unredacted transcript. The original transcript will continue to be restricted from remote access by the public.

(h) Sealed Transcript. The transcript policy described in this section does not apply to sealed transcripts or transcripts filed in sealed cases. No deadlines will be created for such transcripts.

Dated this 22nd day of April, 2011.

On behalf of the Court,

Matthew J. Dykman

Clerk of Court