



UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA

FILING OF COURT PAPERS IN
ELECTRONIC FORM

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STANDING ORDER 2003-1

Rules 5 and 83 of the Federal Rules of Civil Procedure, and Rule 57 of the Federal Rules of Criminal Procedure, authorize courts to establish practices and procedures for filing, signing, and verifying documents by electronic means. Consistent with the general authorization contemplated in these rules, this court has implemented an electronic case filing (ECF) system for civil and criminal cases. After the court and counsel gain some experience in utilizing the ECF system, the court will publish and invite comment from the practicing bar concerning proposed amendments to the court's local rules. In the interim, this Standing Order will set forth those rules that are necessary and appropriate to implement ECF.

In consideration of the foregoing,
IT IS HEREBY ORDERED.

Scope of Electronic Filing

The United States District Court has determined that all cases shall be assigned to the court's Electronic Filing System. All petitions, motions, memoranda of law, or other pleadings and documents required to be filed with the court in connection with a case assigned to the Electronic Filing System may be electronically filed. Exceptions to this general assignment of all cases to the Electronic Filing System may be made by the Chief Judge or by a judge to whom a particular case is assigned. The Electronic Filing System does not apply to service of discovery between the parties.

The filing of the initial papers, including the complaint and the issuance and service of the summons in a civil case and the complaint, information, indictment, superseding information or superseding indictment in a criminal case, will be accomplished in the traditional manner on paper rather than through the Electronic Filing System. All subsequent documents in those cases assigned to the Electronic Filing System may be filed electronically except as provided in these rules or as ordered by the court.

Notwithstanding the foregoing, those who are not registered attorneys in the Electronic Filing System are not required to electronically file pleadings and other papers in a case assigned to the System. Once registered, an attorney may withdraw from participation in the Electronic Filing System by providing the clerk's office with written

notice of the withdrawal.

Attorneys who are not registered in the Electronic Filing System may file large documents with the clerk by delivering the documents on a computer readable disc, in .pdf format. Counsel who file documents in electronic form shall also provide a courtesy copy, in paper form, if they so desire.

Eligibility, Registration, Passwords

Attorneys admitted to the bar of this court, including those admitted pro hac vice and attorneys authorized to represent the United States, may register to use the court's Electronic Filing System. Registration is to be made by using a form prescribed by the clerk which requires the attorney's name, address, telephone number, Internet e-mail address, and a declaration that the attorney is admitted to the bar of this court.

Provided that the registered attorney has an Internet e-mail address, registration constitutes consent to electronic service of all documents as provided in these rules in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

Once registration is completed, the registered attorney will receive notification of the user log-in and password. Registered attorneys agree to protect the security of their passwords and immediately notify the clerk if they learn that their password has been compromised. Registered Attorneys may be subject to sanctions for failure to comply with this provision.

Consequences of Electronic Filing

Electronic transmission of a document to the Electronic Filing System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the local rules of this court, and constitutes entry of the document on the docket kept by the clerk under Fed.R.Civ.P. 58 and 79 and Fed.R.Crim.P. 49 and 55.

Before filing an electronic document with the court, a registered attorney must verify its legibility.

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. A document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight Central time in order to be considered timely filed that day.

Entry of Court-Issued Documents

All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these rules which will constitute entry on the docket kept by the clerk under Fed.R.Civ.P. 58 and 79 and Fed.R.Crim.P. 49 and 55. All signed orders will be filed electronically by the judge or court personnel. 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 the judge or clerk had signed a paper copy of the order and it had been entered on the docket in a conventional manner.

Orders may also be issued as “text-only” entries on the docket, without an attached document. Such orders are official and binding.

The court may sign, seal and issue a summons or warrant electronically, although a summons or warrant may not be served electronically.

A registered attorney submitting a document electronically that requires a judge's signature must promptly deliver the document in such form as the judge requires.

Attachments and Exhibits

Registered attorneys may submit in electronic form all documents referenced as exhibits or attachments, unless the court requires conventional filing. An attorney must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the judge. Excerpted material must be clearly and prominently identified as such. Attorneys who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane. The judge may require parties to file additional excerpts or the complete document.

Sealed Documents

Documents ordered to be placed under seal must be filed conventionally and not

electronically unless specifically authorized by the court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A copy of the order granting the motion to file a document under seal must be attached to the document that is to be filed under seal when the document is delivered to the clerk. Ex parte documents will not be filed under seal unless a motion to file the ex parte document under seal has been granted by the court and a copy of the order is attached to the ex parte document at the time the ex parte document is filed with the clerk.

Retention Requirements

Documents that are electronically filed and require original signatures other than that of the registered attorney must be maintained in paper form by the registered attorney until five years after all time periods for appeals expire unless the court directs that it be retained for a different period. On request of the court, the registered attorney must provide original documents for review.

Signatures

The user log-in and password required to submit documents to the Electronic Filing System serve as the registered attorney's signature on all electronic documents filed with the court. They also serve as a signature for purposes of Fed.R.Civ.P. 11, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the local rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court. Each document filed electronically must, if possible, indicate that it has been electronically filed. Electronically filed documents must include a signature block and must set forth the name, address, telephone number and bar registration number, if applicable, of the registered attorney under whose log-in and password the document is submitted. The signature block must include either an "s/" typed in the space where the signature would otherwise appear or a facsimile signature of the attorney under whose log-in the document is submitted.

No registered attorney or other person may knowingly permit or cause to permit a registered attorney's password to be used by anyone other than an authorized agent of the registered attorney.

A document containing the signature of a defendant in a criminal matter must be filed in paper form with an original written signature.

If a document requiring signatures of more than one party is filed electronically, the party must either: (1) submit a scanned document containing all necessary signatures; (2) represent the consent of the other parties on the document; (3) identify on the

document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than three business days after filing; or (4) in any other manner approved by the judge.

Service of Documents by Electronic Means

The "Notice of Electronic Filing" that is automatically generated by the court's Electronic Filing System constitutes service of the filed document on Filing Users. Parties who are not Filing Users must be served with a copy of any pleading or other document filed electronically in accordance with the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure or the local rules.

A certificate of service must be included with all documents filed electronically, indicating that service was accomplished through the Notice of Electronic Filing for parties and counsel who are Filing Users and indicating how service was accomplished on any party or counsel who is not a Filing User.

Notice of Court Orders and Judgments

Immediately upon the entry of an order or judgment in an action the clerk will transmit to registered attorneys in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed.R.Civ.P. 77(d) and Fed.R.Crim.P. 49 (c). The clerk must give notice in paper form to any person who has not consented to electronic service.

Technical Failures

A registered attorney whose filing is made untimely as the result of a technical failure may seek appropriate relief from the judge to whom the case is assigned

Dated this 18th day of December, 2003.


LAWRENCE L. PIERSOL
Chief Judge