

# UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

## CASE MANAGEMENT ELECTRONIC CASE FILING ADMINISTRATIVE POLICIES AND PROCEDURES

### 1. DEFINITIONS

- (a) **“CASE MANAGEMENT/ ELECTRONIC CASE FILING” (CM/ECF)** refers to the United States Judicial Panel on Multidistrict Litigation’s (the Panel’s) automated system that receives and stores documents filed in electronic form. The program is part of the CM/ECF (Case Management/Electronic Case Files) software developed for the Federal Judiciary by the Administrative Office of the United States Courts.
- (b) **“CLERK OF THE PANEL”** means the official the Panel appoints to that position. The Clerk of the Panel shall perform such duties that the Panel or the Panel Executive delegates.
- (c) **“FILING USER”** is an individual who has a Panel-issued login and password to file documents electronically. In accordance with Rule 1.4 of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation (the Panel Rules), every member in good standing of the Bar of any district court of the United States is entitled to practice before the Panel.
- (d) **“NOTICE OF ELECTRONIC FILING” (NEF)** is a notice automatically generated by CM/ECF at the time a document is filed with the system, setting forth the time of filing, the date the document is entered on the docket, the name of the party and attorney filing the document, the type of document, the text of the docket entry, the name of the party and/or attorney receiving the notice, and an electronic link (hyperlink) to the filed document, which allows recipients to retrieve the document automatically. A document shall not be considered filed for the purposes of the Panel’s Rules until the filing party receives a system generated Notice of Electronic Filing with a hyperlink to the electronically filed document.
- (e) **“PACER” (Public Access to Court Electronic Records)** is an automated system that allows an individual to view, print and download Panel docket information over the Internet.
- (f) **“PDF” (Portable Document Format).** A document file created with a word processor, or a paper document which has been scanned, must be converted to portable document format to be filed electronically with the Panel. Converted files contain the extension “.pdf”.

(g) “**TECHNICAL FAILURE**” is defined as a failure of Panel owned or leased hardware, software, and/or telecommunications facility that results in the inability of a Filing User to submit a filing electronically. Technical failure does not include malfunctioning of a Filing User’s equipment.

## 2. **SCOPE OF ELECTRONIC FILING**

- (a) All multidistrict litigation matters (MDLs) brought before the Panel under 28 U.S.C. § 1407 and multicircuit petitions for review (MCPs) brought before the Panel under 28 U.S.C. § 2112(a)(3) shall be assigned to the CM/ECF system. All MDLs, MCPs, proceedings, motions, memoranda of law and other case documents filed with the Panel in new and existing dockets must be filed using CM/ECF unless otherwise specified herein.
- (b) The filing of all MDL papers shall be accomplished electronically under procedures outlined in the Panel’s CM/ECF User Manual.
- (c) A party proceeding *pro se* shall not file electronically, unless otherwise permitted by the Panel. *Pro se* filers shall file paper originals of all documents. The clerk’s office will scan these original documents into the JPML’s CM/ECF system.

## 3. **ELIGIBILITY, REGISTRATION, PASSWORDS**

- (a) Any attorney admitted to the Bar of any United States district court is eligible to practice before the Panel. To become a Filing User, an attorney must register as a Filing User by completing registration through PACER with an upgraded account.
- (b) Registration as a Filing User constitutes consent to electronic service of all documents filed with or issued by the Panel in accordance with the Panel Rules.
- (c) By submitting the registration form through PACER, the Filing User certifies that they have read and are familiar with the Panel Rules and these administrative policies and procedures governing electronic filing. The clerk’s office will send notification through PACER once the registration has been completed.
- (d) Once the registration is processed by the clerk’s office through PACER, the Filing User shall protect the security of the User password and immediately notify the clerk if the Filing User learns that the password has been compromised. Filing Users may be subject to sanctions for failure to comply with this provision. After registering, attorneys may change their password through PACER. If an attorney comes to believe that the security of an existing password has been compromised and that a threat to the System exists, the attorney must change his or her password immediately.

- (e) Exemptions from mandatory electronic filing may be granted upon submission of a written request to the clerk. The written request shall include a supporting affidavit showing a substantial undue hardship. Final authority to grant such request is vested in the Clerk of the Panel or the Clerk's designee.
- (f) Counsel substitutions:
  - (1) Attorneys are responsible for keeping their contact information updated through PACER. If an attorney is leaving a law firm and is the attorney of record on an existing case and representation in the case will remain with the law firm, withdrawal and a new notice of appearance must be filed by the substituted attorney of record. Until a new attorney can be substituted, the law firm should ensure that it still is receiving and checking CM/ECF notices.
  - (2) If the attorney leaving the firm is taking active cases from the firm, the attorney must change their email address through PACER as soon as possible, otherwise the attorney will not receive electronic notices from CM/ECF.

#### 4. **ELECTRONIC FILING AND SERVICE OF DOCUMENTS**

- (a) Electronic transmission of a document to the CM/ECF system in accordance with these procedures, together with the transmission of a (System) Notice of Electronic Filing from the Panel with a hyperlink to the electronically filed document (unless the document has been filed under seal), constitutes filing of the document for all purposes of the Panel Rules.
- (b) Emailing a document to the clerk's office does not constitute filing the document. A document shall not be considered filed until the System generates a Notice of Electronic Filing (NEF) with a hyperlink to the electronically filed document (unless the document has been filed under seal).
- (c) Before filing a scanned document with the Panel, a Filing User must verify its legibility.
- (d) When a document has been filed electronically, the official record of that document is the electronic recording as stored by the Panel and the filing party is bound by the document as filed. A document filed electronically is deemed filed on the date and time stated on the Notice of Electronic Filing (NEF) from the Panel.
- (e) Filing a document electronically does not alter the filing deadline for that document. Filing must be completed by 11:59 pm, **EASTERN TIME**, in order to be considered timely filed that day. However, if time is of the essence, the Clerk

of the Panel may order a document filed by a certain time.

- (f) Upon the filing of a document, a docket entry will be created using the information provided by the Filing User. The clerk's office, where necessary and appropriate, will modify the docket entry description to comply with quality control standards. In the event a Filing User electronically files a document in the wrong MDL or associated civil action, or the incorrect PDF document is attached, counsel of record will be asked to withdraw the incorrect case document and refile. The Clerk of the Panel, or the Clerk's designee, shall file the non-complying case document, but the Chair may order it stricken from the docket. An order striking the document from the record shall be served on all parties in the involved case(s).
- (g) By participating in the electronic filing process, the parties consent to the electronic service of all documents and shall make available electronic mail addresses for service. Except for documents filed under seal, upon the filing of a document by a Filing User, a Notice of Electronic Filing, with a hyperlink to the electronic document and an email message will be automatically generated by the electronic filing system and sent via electronic mail to the email addresses of all parties who are represented by an attorney in the MDL. In addition to receiving email notifications of filing activity, the Filing User is strongly encouraged to sign on to CM/ECF periodically to check the docket in their MDL and civil action.

Transmission of the Notice of Electronic Filing with a hyperlink to the electronic document constitutes service of the filed document. If the Filing User becomes aware that the NEF was not transmitted successfully to a party, or that the notice is deficient (*i.e.*, the electronic link to the document is defective) the filer shall serve the electronically filed document by email, or by first-class mail postage prepaid immediately upon notification of the NEF deficiency.

- (h) If the filing of an electronically submitted document requires leave of the Panel, such as a request to file out-of-time, the attorney shall attach the proposed document as an attachment to the motion requesting leave to file. If the Clerk of the Panel grants the motion, the document will be electronically filed by the clerk's office.
- (i) Pursuant to Panel Rule 4.1, service through CM/ECF shall constitute service of case documents. A party who is not a registered CM/ECF participant with any United States federal court is entitled to a copy of any electronically filed case document or order pursuant to Panel Rule 4.1. A proof of service on all parties who do not receive electronic service through CM/ECF must be included with all case documents filed electronically. **Note that, in general, case documents that require the creation of a new docket on CM/ECF—such as a motion to transfer, a notice of potential tag-along action, or a notice of related action—will require a proof of service.** Additionally, all parties to the matter before the Panel must be served with a copy of any case documents filed under seal pursuant

to Panel Rule 3.4(b). A proof of service on all parties must be included with all case documents filed under seal.

The following is a suggested proof of service for parties who do not receive electronic service through CM/ECF or for case documents filed under seal:

### **PROOF OF SERVICE**

On [Date], I [mailed] [hand delivered] this document and the notice of electronic filing to: [Attorney/Party Name], [Address], [Parties Represented], [Civil Action(s)] (attach list if necessary).

/s/ [typed name of attorney]

Attorney's name

Law Firm Name (if applicable)

Address

Phone Number

Attorney's Email address

Attorney for: plaintiff/defendant [name of party]

### **5. ENTRY OF CASE DOCUMENTS**

- (a) A document entered or issued by the Panel will be filed in accordance with these procedures and such filing shall constitute entry on the docket kept by the Clerk.
- (b) All signed orders will be electronically filed or entered. An order containing the electronic signature of a Panel Judge or the Clerk of the Panel shall have the same force and effect as if the Panel Judge or Clerk of the Panel had affixed a signature to a paper copy of the order and the order had been entered on the docket in a conventional manner.
- (c) Orders may also be issued as "text-only" entries on the docket, without an attached document. Such orders are official and binding.

### **6. NOTICE OF PANEL ORDERS AND NOTICES**

Immediately upon the entry of an order or notice by the Panel, the Clerk will transmit to Filing Users in affected cases in the MDL, in electronic form, a Notice of Electronic Filing (NEF), with a hyperlink to the electronic document. Electronic transmission of the NEF, along with a hyperlink to the electronic document, constitutes the notice required by Panel Rule 4.1. The clerk must give notice in paper form to a *pro se* party or an attorney who is not a Filing User to the extent notice is required.

## 7. **ATTACHMENTS AND EXHIBITS**

Documents referenced as exhibits or attachments shall be filed in accordance with these administrative policies and procedures and the Panel's CM/ECF User Manual, unless otherwise ordered by the Panel. A Filing User shall submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the Panel. Excerpted material must be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under these procedures do so without prejudice to their right to file timely additional excerpts or the complete document. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane. The Panel may require parties to file additional excerpts or the complete document.

## 8. **SEALED CASE DOCUMENTS.**

A motion to file a document under seal must be filed electronically, unless prohibited by law or otherwise ordered by the Panel. To request sealing of a document, please consult the **SEALED DOCUMENTS** guide, available on the Panel's website and found [here](#). When seeking to file a document under seal, the Filing User must file a motion to seal, a redacted version of the document, and an unredacted version of the document, as follows:

- (a) File the motion to seal on the MDL docket using CM/ECF. The motion, with proof of service, must state the reason and show good cause for restricting remote access to the case documents. The motion to seal will be visible to the public, and CM/ECF users will be served with the motion by NEF.
- (b) File a redacted version of the case document to be sealed on the MDL docket using CM/ECF, redacting the portions proposed for sealing as well as such portions of attached exhibits with a proof of service. The redacted document will be visible to the public and CM/ECF users will be served with the document by NEF.
- (c) File an unredacted version of the document to be sealed on the MDL docket using CM/ECF. The docket entry for this document will be available to the public for viewing, but only limited court personnel will be able to access the document on CM/ECF. Service for the provisionally sealed document shall not be made through CM/ECF; attorneys must use another method of service and state how the parties were served.

## 9. **MOTIONS FOR RECONSIDERATION OF MCP CONSOLIDATION ORDER**

- (a) Counsel may challenge the Panel's consolidation order by filing a motion for reconsideration pursuant to Panel Rule 25.7(a).
- (b) Counsel may challenge the Clerk's decision not to issue a consolidation order by

filing a motion seeking reconsideration pursuant to Rule 25.7(b).

## 10. **RETENTION REQUIREMENTS**

The clerk's office may choose to discard certain documents brought to the clerk's office for filing in paper form after those documents are scanned and uploaded to CM/ECF (to include *pro se* filings). Therefore, counsel and *pro se* filers shall provide the Panel with a copy of the original documents with intrinsic value for scanning, rather than the original.

## 11. **SIGNATURES**

- (a) The user login and password required to submit documents to CM/ECF serve as the Filing User's signature on all electronic documents filed with the court. They serve as a signature for purposes of the Panel Rules and any other purpose for which a signature is required in connection with proceedings before the Panel.
- (b) An electronically filed document must include a signature block in compliance with Panel Rule 3.2(a), and must set forth the name, address, telephone number, and email address of the filing attorney. In addition, the name of the Filing User under whose login and password the document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear. No Filing User or other person may knowingly permit or cause to permit a Filing User password to be used by anyone other than an authorized agent of the Filing User.
- (c) A document requiring signatures of more than one party must be filed either by:
  - (1) electronically filing a scanned document containing all necessary signatures; or
  - (2) representing the consent of the other parties on the document; or
  - (3) identifying on the document the party whose signature is required and by the submission of a notice of endorsement by the other parties no later than three (3) business days after filing; or
  - (4) any other manner approved by the Panel.
- (d) A non-filing signatory or party who disputes the authenticity of an electronically filed document with a non-attorney signature, or the authenticity of the signature on that document; or the authenticity of an electronically filed document containing multiple signatures or the authenticity of the signature themselves, must file an objection to the document within seven (7) days of service of the document.
- (e) Any party challenging the authenticity of an electronically filed document or the attorney's signature on that document must file an objection to the document within three (3) days of service of the document.

- (f) If a party wishes to challenge the authenticity of an electronically filed document or signature after the three (3) day period, the party shall file a motion to seek a ruling from the Panel.

## 12. **TECHNICAL FAILURES**

- (a) If CM/ECF is unable to accept filings continuously or intermittently for more than one (1) hour occurring after 12:00 noon Eastern Time that day, the Clerk of the Panel shall deem the Panel's CM/ECF web site to be subject to a technical failure.
- (b) If a Filing User experiences a technical failure as defined herein, the Filing User may submit the document to the Clerk of the Panel by email through the helpdesk at [jpml-cmecf-helpdesk@jpml.uscourts.gov](mailto:jpml-cmecf-helpdesk@jpml.uscourts.gov), provided that the document is accompanied by a certification, signed by the Filing User, that the Filing User has attempted to file the document electronically at least twice, with those unsuccessful attempts occurring at least one (1) hour apart after 12:00 noon Eastern Time that day.
- (c) The initial point of contact for a Filing User experiencing technical difficulty filing a document electronically will be the Panel's clerk's office at 202-502-2800.
- (d) A Filing User who suffers prejudice as a result of a technical failure as defined herein or a Filing User who cannot file a time-sensitive document electronically due to unforeseen technical difficulties, such as the malfunctioning of a Filing User's equipment, may seek relief from the Clerk of the Panel.

## 13. **PUBLIC ACCESS**

- (a) A person who has PACER access may retrieve docket sheets and documents (unless otherwise sealed or restricted) in MDL dockets and associated civil cases. Any case or document under seal shall not be available electronically (except to limited court personnel) or through any other means.
- (b) If a case or document has been restricted, the docket sheet can be retrieved through PACER, but the restricted case document will not be available for viewing by counsel or the public.
- (c) Electronic access to electronic docket sheets and all case documents filed in CM/ECF, unless sealed, is available to the public for viewing through PACER. A copy fee for an electronic reproduction is required in accordance with 28 U.S.C. §1932.
- (d) Conventional copies of electronically filed case documents may be requested through the Panel's helpdesk and fees may be applicable. A fee for copying and

certifying such documents shall be imposed in accordance with 28 U.S.C. §1932.

- (e) Since the public may access certain case information through the Panel's CM/ECF system, sensitive information should not be included in any document filed with the court unless such inclusion is necessary and relevant. In accordance with these Administrative Policies and Procedures, if sensitive information must be included, certain personal and identifying information such as Social Security numbers, financial account numbers, dates of birth and names of minor children shall be redacted from the pleading, whether it is filed electronically or on paper. The Panel recognizes that parties may need to include in the record a document containing information such as driver's license number; medical records, treatment and diagnosis; employment history; individual financial information; and proprietary or trade secret information. If personal and identifying information cannot be redacted, the Filing User may request to file a case document under seal in accordance with Panel Rule 3.4, as discussed above at Section 8.

**It is the sole responsibility of counsel and the parties to ensure that all documents filed with the Panel comply with these Administrative Policies and Procedures, regarding public access to electronic case files. The Clerk will not review any document for redaction.**

Counsel are strongly urged to share this information with all clients so that an informed decision about the inclusion, redaction, and/or exclusion of certain materials may be made.