

**UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII**

IN THE MATTER OF ESTABLISHING  
PROCEDURES FOR FILING, SIGNING,  
VERIFICATION AND SERVICE OF  
DOCUMENTS BY ELECTRONIC MEANS.

ORDER

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

2/1/2006 3:55 pm

SUE BEITIA, CLERK

**AMENDED GENERAL ORDER ADOPTING  
ELECTRONIC CASE FILING PROCEDURES**

Pursuant to Rules 5 and 83 of the Federal Rules of Civil Procedure, and Rule 49 of the Federal Rules of Criminal Procedure,

IT IS HEREBY ORDERED that the following amended procedures shall govern the filing, signing, verification, and service of documents by electronic means in the United States District Court for the District of Hawaii, effective February 1, 2006.

DATED: Honolulu, Hawaii, February 1, 2006.



  
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Helen Gillmor  
Chief United States District Judge

## 1. DEFINITIONS

- 1.1 **CM/ECF (“Case Management / Electronic Case Files”).** The electronic case management and filing system developed by the Administrative Office of the United States Courts and implemented by this court in the District of Hawaii. Any references in these procedures to an electronic filing system means the court’s CM/ECF system.
- 1.2 **ECF User.** An individual authorized to file documents in the CM/ECF system through the Internet with a court-issued ECF login and password. An ECF User (Registered Participant) may file documents at <http://ecf.hid.uscourts.gov>.
- 1.3 **Electronic Filing.** The electronic transmission of a document in PDF form for uploading and storing in the court’s CM/ECF system.
- 1.4 **PDF.** Portable Document Format (PDF). Only PDF files maybe uploaded in CM/ECF system. A document created in a word processing application may be saved or converted to a PDF document. A paper document may be scanned and its image saved as a PDF.
- 1.5 **Electronic Recording.** The act of scanning a paper document submitted to the court, creating an electronic image of the document, and uploading it for storing in the court’s CM/ECF system.
- 1.6 **Notice of Electronic Filing (NEF).** The notice generated automatically upon the filing of a document in CM/ECF and transmitted by email to parties in a case who are ECF Users. The notice includes a link to an image of the document that was filed.
- 1.7 **PACER (“Public Access to Court Electronic Records”).** The Federal Judiciary’s centralized registration, billing, and technical support center for electronic access to federal courts. The viewing of documents in the PACER system is subject to fees approved by the Judicial Conference and requires a PACER login and password. Further information is available at <http://pacer.psc.uscourts.gov>.
- 1.8 **Electronic Signature.** Any document that is filed electronically is deemed signed when filed by an attorney using a valid ECF login and password.

## 2. SCOPE OF ELECTRONIC FILING

**2.1 Applicability; Effective Date.** Except as prescribed by local rule, order, or other procedure, the court has designated all cases to be included in the CM/ECF system, effective January 1, 2006. Documents filed in paper form will be scanned and docketed into CM/ECF by the clerk's office. Unless otherwise expressly provided in these procedures or in exceptional circumstances preventing a Registered Participant from filing electronically, all documents, other than those that must be filed in paper form, required to be filed with the court by a Registered Participant in connection with a case assigned to the court's electronic filing system must be electronically filed.

**2.2 Documents Required to be Filed in Paper Form.** Documents that must be filed in the traditional manner on paper rather than by electronic filing include:

- (a) Initial papers in a civil case, including the complaint;
- (b) The charging documents in a criminal case, including the complaint, information, indictment and superseding information or indictment; and
- (c) Documents that are sealed under a court order or those pleadings proposed to be under seal,
- (d) Consents to proceed before a Magistrate Judge, or
- (e) Any other document or filing that the court orders not to be electronically filed, imaged or maintained in the CM/ECF system.

**2.3 Electronic Recording of Documents in Paper Form.** Unless the court orders otherwise (sealed documents will never be electronically filed), the clerk shall make an electronic recording of all documents permitted to be filed with the court in paper form. Except as provided elsewhere in these procedures such documents will be treated as if they had been filed electronically, except that the date and time of filing shall be the date and time stamped on the paper document, rather than the date and time indicated on the Notice of Electronic Filing.

**2.4 Further Detailed Procedures.** To provide further clarification of these procedures, the clerk is authorized to issue notices, guidelines, user guides, and the like that provide more detailed requirements concerning the electronic filing of documents. These will be available on the court's website at [www.hid.uscourts.gov](http://www.hid.uscourts.gov).

**2.5 Courtesy Copies.** Two courtesy copies of an electronically filed document must be submitted to the clerk's office with an indication as to which judge should receive the copies. Paper courtesy copies must comply with all Local Rule requirements, including the tabbing of exhibits. Courtesy copies are required for all filings except routine discovery notices. To verify electronic filing, a copy of

the Notice of Electronic Filing (NEF) must precede the first page of each courtesy copy. The courtesy copies must be hand-delivered to the clerk's office or postmarked by the first business day following the electronic filing.

- 2.6 Exhibits.** Each exhibit referenced in a pleading, motion, brief or other electronic filing shall be submitted as a separate ECF attachment to the main document, regardless of the size of the file containing the exhibit. The filer must label each exhibit clearly when attaching in ECF. Although the total size of the documents may be less than the three megabyte limit, the pleadings must be filed as:

Motion	(main document)
Exhibit A	(first attachment)
Exhibit B	(second attachment)

A party may conventionally file exhibits that are not available in electronic format (e.g. videotapes, maps etc). The clerk's office will note on the docket receipt of the exhibits in a text-only entry.

### **3. CONSEQUENCES OF ELECTRONIC FILING**

- 3.1 Transmission to CM/ECF System.** Electronic transmission of a document to the CM/ECF system consistent with the administrative and technical procedures established by this court, together with the transmission of a Notice of Electronic Filing from the court, constitutes the 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 Rules 58 and 79 of the Federal Rules of Civil Procedure and Rules 49 and 55 of the Federal Rules of Criminal Procedure.
- 3.2 Official Record.** 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. The clerk shall not be required to retain any paper document after making an electronic recording thereof in a manner consistent with the technical standards, if any, established by the Judicial Conference of the United States and the requirements, if any, prescribed by the Administrative Office of the United States Courts. If a paper document filed with the court has not been electronically recorded by the clerk, the original paper document as maintained by the court is the official record.
- 3.3 Time of Filing.** Except in the case of a document originally filed in paper form with a date and time stamp and subsequently uploaded in the CM/ECF system, a document filed electronically is deemed filed at the date and time (Hawaiian

Standard Time) stated on the Notice of Electronic Filing. The time stamp on the Notice of Electronic Filing is based on the time of the electronic receipt of the document by the court, not the time of transmission by the ECF User.

**3.4 Filing Deadlines.** Filing a document electronically does not alter filing deadlines.

#### **4. ELIGIBILITY, REGISTRATION, PASSWORDS**

**4.1 Eligibility.** An attorney who is a member of the bar of this court or who is otherwise permitted to practice before this court under LR83.1 may request a login and password as an ECF User. An ECF User must have and maintain a functioning email address suitable for accepting the Notices of Electronic Filing transmitted from the court. An ECF User must also have and utilize anti-virus software to verify that files transmitted to the court are not infected with any virus or worm.

**4.2 Registration.** An individual eligible to be an ECF User must complete a registration form to be issued a login and password for participation in the CM/ECF system. The registration form requires the individual's agreement to certain provisions, including the individual's acknowledgment that the use of the ECF login and password is equivalent to the individual's signature, the individual's consent in writing to accept service of documents by electronic means, and an agreement that failure to abide by the CM/ECF procedures may result in sanctions.

**4.3 Login and Password.** The clerk will issue a login and password for access to the CM/ECF system to an eligible individual after completion of registration and a training course. Any login and password issued to an ECF User shall be used exclusively by that individual or by a legal assistant and other staff member to whom authorization has been given by the ECF User. No ECF User shall knowingly permit a login and password to be used by anyone not so authorized and no person shall knowingly use an ECF User's login and password unless so authorized. ECF Users shall safeguard the security of their passwords and immediately notify the clerk upon discovery or suspicion that security has been compromised.

**4.4 Suspension or Deactivation of CM/ECF Access.** Upon appropriate notice and for cause shown, the court at any time may suspend or deactivate an ECF User's access to electronic filing. The court may require that additional training be taken in order to reactivate ECF participation.

## 5. SIGNATURES

- 5.1 Use of Login and Password.** The use of a login and password assigned to an ECF User in the electronic filing of a document shall constitute the ECF User's signature on the document, for purposes of Rule 11 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1746, the local rules of this court, and any other purpose for which a signature is required in connection with matters before the court.
- 5.2 ECF User's Signature.** The name of the ECF User under whose login and password the document is being electronically filed must be preceded by "/s/" and typed in the space where the signature otherwise would appear (e.g. /s/ John Lawyer).
- 5.3 Third Party Signatures.** An electronically filed document requiring the signature of an individual other than the ECF User, such as a stipulation or declaration, must contain a scanned image of that individual's signature.
- 5.4 Retention of Documents with Third Party Signatures.** Documents that are electronically filed and require original signatures other than the ECF User's must be maintained in paper form by the ECF User until 30 days after expiration of any appeal period. Upon request by the court, an ECF User must provide for review any such document requiring a third party signature. A non-filing signatory or party who disputes the authenticity, or their alleged endorsement, of an electronically filed document must file an objection to that document.

## 6. SERVICE OF DOCUMENTS

- 6.1 Service of Documents by Electronic Means.** The issuance of the Notice of Electronic Filing generated by the CM/ECF system constitutes service of the document(s) being filed to ECF Users and any other parties who have consented in writing to receive service by electronic means.
- 6.2 Conventional Service of Electronically Filed Documents.** Parties who are not ECF Users or who have not consented to service by electronic means must be served by conventional means. If a filed copy of a document is required to be served, the paper copy of the subject document(s) shall be accompanied by a copy of the Notice of Electronic Filing showing the date and time of filing.
- 6.3 Certificate of Service.** A certificate of service on all parties entitled to service is required when a document is filed (electronically or conventionally). The certificate must state the manner in which service was accomplished on each party and shall appear as the last page of the document. The certificate of service should

be in the form shown below:

I hereby certify that, on the dates and by the methods of service noted below, a true and correct copy of the foregoing was served on the following at their last known addresses:

Served Electronically through CM/ECF:

Jane Dow      jane\_dow@hotmail.com      January 1, 2006

John Dow      john\_dow@law.net      January 1, 2006

Served by First Class Mail:

Robert Jones      January 2, 2006  
321 S. King St  
Honolulu, HI 96813

Served by hand-delivery:

Carol Smith      January 3, 2006  
123 Bishop St  
Honolulu, HI 96813

**6.4 Sealed Filings.** Service of sealed documents must be made by non-electronic means.

## **7. COURT-ISSUED DOCUMENTS**

**7.1 Orders and Judgments.** All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these procedures and will constitute entry on the docket kept by the clerk under Rules 58 and 79 of the Federal Rules of Civil Procedure, and Rules 49 and 55 of the Federal Rules of Criminal Procedure.

**7.2 Docket Orders.** Orders may be issued as text-only entries on the docket without an attached document. Such orders are official and binding. For purposes of Rule 58 of the Federal Rules of Civil Procedure, a text order is deemed set forth as a separate document in the Notice of Electronic Filing created by the docketing of the order.

**7.3 Notice of Entry of Orders.** Electronic transmission of the Notice of Electronic Filing of an order or judgment docketed by the clerk constitutes the notice required

under Rule 77(d) of the Federal Rules of Civil Procedure and Rule 49(c) of the Federal Rules of Criminal Procedure to those parties who have consented to receive notice by electronic means. The clerk shall give notice using non-electronic means to those parties who have not consented to receive electronic notice.

**7.4 Summons.** The clerk may sign, seal, and issue a summons electronically, although a summons may not be served electronically.

## **8. SEALED DOCUMENTS**

**8.1 Sealing.** Sealed documents will be maintained by the court only in paper format, with access restricted to those indicated in the sealing order, the Judge, and authorized court staff.

## **9. SUBMISSION OF PROPOSED ORDERS**

**9.1 Proposed Orders.** Proposed orders are to be submitted by e-mail in a format compatible with Word Perfect, unless directed by the court to be submitted differently.

**9.2 E-mailing of Proposed Orders.** All proposed orders must list in the e-mail subject line the following items:

- (A) The case number;
- (B) The docket number of the motion filed electronically that is the subject of the proposed order; and
- (C) The title of the related pleading (e.g. CV05-236-Doc5-Motion To Compel).

### **9.3 E-mail addresses for order submission to Chambers:**

Judge David A. Ezra	ezra_orders@hid.uscourts.gov
Judge Helen Gillmor	gillmor_orders@hid.uscourts.gov
Judge Susan Oki Mollway	mollway_orders@hid.uscourts.gov
Judge J. Michael Seabright	seabright_orders@hid.uscourts.gov
Judge Samuel P. King	king_orders@hid.uscourts.gov
Judge Alan C. Kay	kay_orders@hid.uscourts.gov
Judge Barry M. Kurren	kurren_orders@hid.uscourts.gov

Judge Leslie E. Kobayashi  
Judge Kevin S. C. Chang  
Visiting Judges

kobayashi\_orders@hid.uscourts.gov  
chang\_orders@hid.uscourts.gov  
visit\_orders@hid.uscourts.gov

## 10. TECHNICAL FAILURES

Any ECF User or other person whose filing is untimely or who is otherwise prejudiced by a technical failure of the CM/ECF system should document the incident and may seek appropriate relief from the court. The assigned judge in a case shall determine whether a technical failure has occurred and whether relief should be afforded under the particular circumstances.

## 11. PUBLIC ACCESS TO ELECTRONIC CASE FILES

**11.1 Personal Identifiers.** To comply with the policy of the Judicial Conference of the United States and the E-government Act of 2002, and to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents and pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court:

- (a) Social Security numbers. If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.
- (b) Names of minor children. If a minor child must be mentioned, only the initials of that child should be used.
- (c) Dates of birth. If an individual's date of birth must be included in a pleading, only the year should be used.
- (d) Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.

**11.2 Redaction / Reference List.** In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may:

- (a) file an unredacted document under seal, or

- (b) file a reference list under seal. The reference list shall contain the complete personal identifiers and the redacted identifiers used in their place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifiers. The reference list must be filed under seal, and may be amended as of right.

A redacted version of the document or the reference list shall be filed and become part of the public file. The unredacted versions shall be retained by the court as part of the record in sealed form.

**11.3 Responsibility of Counsel.** The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The clerk will not review each document for compliance with this provision.

## **12. HYPERLINKS**

Electronically filed documents may contain hyperlinks to (a) other portions of the same document and (b) a location on the Internet that contains a source document for reference. Hyperlinks do not replace standard citation format. Complete citations must be included in the text of the filed document. Hyperlinks are convenient mechanisms for accessing material, but neither a hyperlink, nor any site to which it refers, shall be considered part of the record. The court accepts no responsibility for, and does not endorse, any product, organization, or content at any hyperlinked site, or at any site to which that site may be linked. The court accepts no responsibility for the availability or the functionality of any hyperlink.