

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
501 POTTER STEWART U.S. COURTHOUSE
100 EAST FIFTH STREET
CINCINNATI, OHIO 45202-3988**

**Deborah S. Hunt
Clerk**

513-564-7000

December 13, 2022

**NOTICE OF PROPOSED AMENDMENTS TO
SIXTH CIRCUIT LOCAL RULES**

Pursuant to 28 U.S.C. § 2071(e), and 6 Cir. R. 47 United States Court of Appeals for the Sixth Circuit provides notice that it adopted the attached amendments to Sixth Circuit Local Rules 25 and 205, effective January 1, 2023.

The court hereby invites public comment on the amendments. Comments should be submitted by April 1, 2023 and addressed to:

Deborah S. Hunt, Clerk
Sixth Circuit Court of Appeals
501 Potter Stewart U.S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202-3988

OR

RulesComments@ca6.uscourts.gov

PREVIOUS 6 CIR. R. 25:

6 Cir. R. 25 Filing and Service; Electronic Case Filing

(a) Electronic Filing Required.

- (1) **Requirement.** All documents must be filed electronically using the Electronic Case Filing (ECF) system unless these rules or a court order provide otherwise. These rules and the Guide to Electronic Filing govern electronic filing.
- (2) **Form of Electronic Filing.** Electronically filed documents must be in PDF format and must conform to technical requirements established by the Judicial Conference or the court. When possible, documents must be in Native PDF format and not created by scanning.
- (3) **Paper Filings Not Accepted.** When these rules require electronic filing, the clerk will not accept a paper filing.

(b) Exceptions to Electronic Filing.

(1) Case Initiating Documents - Exceptions to Electronic Filing.

- (A) **Definition.** The following are “case initiating documents” governed by this subrule (b)(1):
 - (i) A petition for permission to appeal under Fed. R. App. P. 5;
 - (ii) A petition for review or application for enforcement of an agency order under Fed. R. App. P. 15;
 - (iii) A motion for a stay filed with a petition for review of an agency order;
 - (iv) A petition for a writ of mandamus or prohibition or other extraordinary writ under Fed. R. App. P. 21;
 - (v) A motion to authorize filing in the district court of a second or successive application for a writ of habeas corpus under 6 Cir. R. 22(b); and
 - (vi) Any other document initiating an original action in this court.
- (B) **Manner of Filing.** A party represented by counsel must file a case initiating document electronically, as either a PDF file attached to an e-mail directed to the clerk's office or in CD format, as provided in the Guide to Electronic Filing.

(2) Other Exceptions. The following must be filed in paper format:

- (A) **In Pro Per Filings.** A document filed by a party not represented by counsel.

- (B) **Attorney Misconduct Proceedings.** Documents involving complaints of attorney misconduct.
- (C) **CJA Representation.** Documents involving compensation or expense reimbursement for representation under the Criminal Justice Act.
- (D) **Large Documents.** A document that exceeds the limit for the size of electronic filing, as specified in the electronic case filing section of the court's web site.

- (3) **Filing in Paper Format.** Unless these rules require otherwise, a party filing in paper format must file only a signed original.
- (4) **Proof of Filing in Paper Format.** When the court allows or requires filing in paper format, the filer may obtain a file-stamped copy at the time of filing in person or by providing the clerk with a preaddressed stamped envelope and an extra copy of the document.

(c) **ECF Registration and Use.**

- (1) **Requirements for ECF Registration.** To use the ECF system, an attorney must register. To register, an attorney must:
 - (A) be permitted to practice in this court and be in good standing;
 - (B) have a valid Public Access to Court Electronic Records (PACER) account or be a member of an office that has a valid PACER account;
 - (C) register for appellate court electronic filing at the PACER Service Center; and
 - (D) have a valid e-mail address.
- (2) **Registration Is Consent to Electronic Service.** An attorney's registration is written consent:
 - (A) to electronic service of documents as provided by the Federal Rules of Appellate Procedure and these rules, and
 - (B) to receive electronic correspondence, orders, and opinions from the court.
- (3) **Login Name and Password.** The clerk will issue a login name and password to an attorney who registers. The attorney may change the password after receiving it. Use of an attorney's login name and password by another, with the attorney's authorization, is deemed the attorney's use. If a login name or password is compromised, the attorney must notify the court as provided in the Guide to Electronic Filing.

(4) **Changes in Information.**

- (A) **Requirement to Give Notice.** An attorney whose email address, mailing address, telephone number, or fax number has changed must change the information in his or her PACER account accordingly, and must file a notice of the change with the clerk and serve the notice on the parties in cases in which the attorney entered an appearance.
- (B) **Service on Obsolete Address.** Service on an obsolete email address is valid service if the attorney failed to give notice of a change.

(d) **Signatures.**

- (1) **Attorney Signature.** An attorney's use of the attorney's login name and password to submit a document electronically serves as that attorney's signature on the document. The attorney must use a signature block in substantially the following form, without a graphic or electronic signature:

/s/ Attorney Name
Attorney Name
ABC Law Firm
1234 First Street
Cincinnati, Ohio 45202
Telephone: (513) 987-6543
E-mail: AttorneyName@abclawfirm.com
Attorney for _____

- (2) **Multiple Attorney Signatures.** The filer of a document with multiple signatures (such as a stipulation) must file in one of the following forms:
- (A) Use an “/s/ Attorney Name” signature block for each attorney. By submitting the document, the filer certifies that the other attorneys expressly agreed to the form and substance of the document and authorized the filer to submit it electronically.
- (B) Submit a scanned document with the signatures.
- (3) **Clerk and Deputy Clerks; Court-Issued Documents.** The clerk's or a deputy clerk's filing of a document using that individual's login and password is the filing of a signed original. An order, opinion, judgment, or other court-issued document filed electronically without the signature of the judge, clerk, or deputy clerk has the same effect as if it were signed.

(e) **Filing; Entry; Official Record.**

- (1) **Filing and Entry – ECF – Filed Documents.**
- (A) **Filing by Party.**

- (i) **Filing and Entry.** Electronic transmission of a document and transmission of the Notice of Docket Activity (NDA) from the court constitute filing the document under the Federal Rules of Appellate Procedure and entry of that document in the docket under Fed. R. App. P. 45(b)(1).
 - (ii) **Time of Filing.** An electronically-filed document is filed at the time shown on the NDA. Electronic filing does not alter a filing deadline. Where the deadline is a specific time of day, the electronic filing must be completed by that time.
 - (B) **Filing by Court.** Electronic filing of an order, decree, notice, opinion, or judgment constitutes entry in the docket under Fed. R. App. P. 36 and 45(b)(1) and (c).
 - (2) **Official Record.** The electronic version of filed documents—including those originally filed in paper format—is the official record. Modification of a filed document or docket entry is not permitted unless the court authorizes it.
 - (3) **Disposal of Paper Filings.** The clerk will discard paper documents once they have been made a part of the electronic record, unless the electronic copy is incomplete or of questionable quality or unless the court orders otherwise.
- (f) **Service of Documents Filed Electronically.**
- (1) **Method of Service.**
 - (A) **NDA Constitutes Service.** The ECF system sends a Notice of Docket Activity (NDA) to registered attorneys in the case. This constitutes service on them and no other service is necessary.
 - (B) **Service on Unregistered Parties and Attorneys.** The filer must serve parties not represented by counsel and attorneys not registered for electronic filing by other means under Fed. R. App. P. 25(c).
 - (2) **Certificate of Service.** A document presented for filing must contain a proof of service. Fed. R. App. P. 25(d). The NDA does not replace the proof of service.
- (g) **ECF Technical Failures.**
- (1) **Extension of Time.** There is a technical failure in the ECF system if the clerk finds that the system is unable to accept filings continuously or intermittently for more than one hour after 12:00 noon Eastern time. In that case, filings due that day that were not filed because of that technical failure are due the next business day. A delayed filing must include a declaration or affidavit attesting to the filer's failed attempts to file electronically at least two times after 12:00 noon separated by at least one hour on each day of delay because of the technical failure.
 - (2) **Help Desk.** A filer experiencing difficulty with electronic filing should contact the ECF help desk, as provided on the court's website and in the Guide to Electronic Filing.

(h) **Sealed Documents.**

- (1) **Sealing or Limiting Access to Orders and Opinions.** An order or opinion is generally part of the public record. A party that seeks to seal or restrict access to an order or opinion must do so by motion.
- (2) **Motion.** A motion to file sealed documents may be filed electronically unless prohibited by law, local rule, or court order. At the same time as filing the motion, the movant must provide the court and other parties a copy of the documents at issue. The movant must consult with the clerk before submitting the documents. The movant may provide the court's copy by sending a CD or an email to the clerk's office with a PDF file as provided in the Guide to Electronic Filing.
- (3) **Order.** If the court grants the motion, the order authorizing filing of sealed documents may be filed electronically unless prohibited by law.
- (4) **Filing.** Upon this court's entry of an order granting a motion to seal documents, those documents are to be filed via the court's electronic filing system (ECF).
- (5) **Sealed Documents From Lower Court or Agency.** Documents sealed in the lower court or agency must continue to be filed under seal in this court. The filing must comply with the requirements of the court or agency that originally ordered or authorized the documents to be sealed.

AMENDED 6 CIR. R. 205(f):

6 Cir. R. 25 Filing and Service; Electronic Case Filing

(a) **Electronic Filing Required.**

- (1) **Requirement.** All documents must be filed electronically using the Electronic Case Filing (ECF) system unless these rules or a court order provide otherwise. These rules and the Guide to Electronic Filing govern electronic filing.
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 - (vi) Any other document initiating an original action in this court.
- (B) **Manner of Filing.** A party represented by counsel must file a case initiating document electronically, as either a PDF file attached to an e-mail directed to the clerk's office or in CD format, as provided in the Guide to Electronic Filing.
- (2) **Other Exceptions.** The following must be filed in such electronic format as directed by the court or provided for in the Guide to Electronic Filing or in paper format:
- (A) **Pro Se Filings.** A document filed by a non-incarcerated party in a civil action who is not represented by counsel, also referred to as a *pro se* or in *pro per* party, may file in paper format or by submitting permissible documents to an email box designated for that purpose.
 - (B) **Attorney Misconduct Proceedings.** Documents involving complaints of attorney misconduct should be transmitted in paper format, or such means as authorized by the clerk.
 - (C) **CJA Representation.** Documents involving compensation or expense reimbursement for representation under the Criminal Justice Act must be submitted in the e-Voucher system.
 - (D) **Large Documents.** A document that exceeds the limit for the size of electronic filing, as specified in the electronic case filing section of the court's web site, should be provided electronically as directed by the court.
- (3) **Filing in Paper Format.** Unless these rules require otherwise, a party filing in paper format must file only a signed original.
- (4) **Proof of Filing in Paper Format.** When the court allows or requires filing in paper format, the filer may obtain a file-stamped copy at the time of filing in person or by providing the clerk with a preaddressed stamped envelope and an extra copy of the document.

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 - (C) register for appellate court electronic filing at the PACER Service Center; and
 - (D) have a valid e-mail address.
- (2) **Registration Is Consent to Electronic Service.** An attorney's registration is written consent:
 - (A) to electronic service of documents as provided by the Federal Rules of Appellate Procedure and these rules, and
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- (3) **Login Name and Password.** The clerk will issue a login name and password to an attorney who registers. The attorney may change the password after receiving it. Use of an attorney's login name and password by another, with the attorney's authorization, is deemed the attorney's use. If a login name or password is compromised, the attorney must notify the court as provided in the Guide to Electronic Filing.
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 - (A) Use an “/s/ Attorney Name” signature block for each attorney. By submitting the document, the filer certifies that the other attorneys expressly agreed to the form and substance of the document and authorized the filer to submit it electronically.
 - (B) Submit a scanned document with the signatures.
 - (3) **Pro Se Filers Signatures.** Pro Se filers must provide a written signature on documents submitted via electronic or paper means.
 - (4) **Clerk and Deputy Clerks; Court-Issued Documents.** The clerk's or a deputy clerk's filing of a document using that individual's login and password is the filing of a signed original. An order, opinion, judgment, or other court-issued document filed electronically without the signature of the judge, clerk, or deputy clerk has the same effect as if it were signed.
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 - (B) **Filing by Court.**
 - (i) Electronic filing of an order, decree, notice, opinion, or judgment constitutes entry in the docket under Fed. R. App. P. 36 and 45(b)(1) and (c).
 - (ii) The filing by the court of documents electronically transmitted to the clerk by a pro se party will constitute entry in the docket. An electrically

transmitted document filed via email pursuant to § (b)(2) of this rule will be deemed filed at the time it is received by the court via email.

- (2) **Official Record.** The electronic version of filed documents—including those originally filed in paper format—is the official record. Modification of a filed document or docket entry is not permitted unless the court authorizes it.
- (3) **Disposal of Paper Filings.** The clerk will discard paper documents once they have been made a part of the electronic record, unless the electronic copy is incomplete or of questionable quality or unless the court orders otherwise.

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- (5) **Sealed Documents From Lower Court or Agency.** Documents sealed in the lower court or agency must continue to be filed under seal in this court. The filing 54 must comply with the requirements of the court or agency that originally ordered or authorized the documents to be sealed.

PREVIOUS 6 CIR. R. 205:

(f) **Committees.** The chief judge may appoint the following committees to help plan and carry out conferences:

(1) **Standing Committee on Judicial Conference Planning.** The Standing Committee on Judicial Conference Planning consists of a representative number of circuit, district, bankruptcy, and magistrate judges of this circuit and members of the bar. Members serve five-year terms unless the chief judge extends the term. Terms rotate, so approximately one-fifth of the members' terms end each year. The committee plans and organizes the annual conferences. The chief judge appoints the chair of the Standing Committee on Judicial Conference Planning. The Chair may appoint ad hoc committees to arrange particular aspects of an annual conference.

AMENDED 6 CIR. R. 205(f):

(f) **Committees.** The chief judge may appoint the following committees to help plan and carry out conferences:

(1) **Committee on Judicial Conference Planning.** The Committee on Judicial Conference Planning consists of a representative number of circuit, district, bankruptcy, and magistrate judges of this circuit and members of the bar. The committee plans and organizes the annual conferences. The chief judge appoints the chair and members of the Committee on Judicial Conference Planning. The Chair may appoint subcommittees to arrange particular aspects of an annual conference.