

By Matthew C. Baltay

Electronic Filing in D. Mass.:

Moving Towards the Paperless Practice



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Like it or not, electronic filing is quickly becoming a fact of life for lawyers practicing in Massachusetts federal courts. For the past year, the United States District Court for the District of Massachusetts has been implementing procedures for electronic filing. The new Case Management/Electronic Case Filing (CM/ECF) system permits attorneys to file documents directly with the court over the internet, rather than filing paper copies with the clerk's office.

Electronic filing is now mandatory in all cases before Judges Young and Gertner, is ordered routinely by Judge Woodlock, and is often required by other judges on a case-by-case basis. Electronic filing is permitted, but not required, in all other cases. The most current practice for each judge is available in the standing orders on the court's web site. Proposed local rule amendments making electronic filing mandatory in all Massachusetts district court sessions are expected in 2005. Electronic filing is required in Massachusetts bankruptcy courts as of January 1, 2005. Presently, there are no definite plans for electronic filing in either the First Circuit Court of Appeals or in Massachusetts state courts.

SETTING UP

Getting started is relatively straightforward. The district court website (www.mad.uscourts.gov or Google "Massachusetts United States District Court") contains the "CM/ECF E-Filing" hyperlink which leads to the portal for registering and making electronic filings, as well as a

User's Manual, an administrative procedures guide, applicable orders and other useful information. Registration takes less than a minute, although it may take a week to receive a password once registered. Attorneys admitted *pro hac vice* may also register.

Because all documents filed with the court must be in portable document format (PDF), users will need Adobe Acrobat or a comparable program and a scanner to upload documents not currently in electronic form (such as hard copy exhibits, etc.).

WHAT IS FILED ELECTRONICALLY

Nearly all motions, other papers and attachments may be filed electronically. Documents that must still be filed in paper include complaints, notices of removal, documents filed under seal, *ex parte* motions and large exhibits (generally those in excess of 2 MB—or roughly 30 pages of scanned material—although longer exhibits may still be e-filed if separated into smaller files). Some judges still require submission of paper "courtesy copies" of certain electronically filed dispositive motions (which should be clearly marked, "COURTESY COPY—DO NOT SCAN").

MAKING THE ELECTRONIC FILING

The User's Manual, available on the court's website, should be consulted before making the first few e-filings, as it walks the filer through each step. Additionally, the court offers bi-weekly live training sessions, a training program

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on its website, and telephone and e-mail help lines.

The basic procedure is that motions and other papers to be electronically filed must be converted from full-text word processing format to PDF on the practitioner's computer. This seemingly daunting task is in fact easy and clearly explained in the User's Manual. The signature on each document is simply typed in, and must match the name of the attorney whose password is used to make the filing. Affidavits and verified documents may also be "signed" and filed in this manner. In all such cases, the practitioner must keep the signed originals on file. Documents not already on the lawyer's computer (such as exhibits) must be scanned in as PDF documents.

The actual filing is made by logging onto the ECF system and following each step that prompts the user to specify the case number, type of filing, etc. The document or documents, including attachments, are then linked and filed as PDFs one at a time. While e-filings may be made 24 hours a day, an e-filing must be completed by 6:00 p.m. in order to be considered timely filed that day. If a filing contains an error, the lawyer should not simply refile the document, but should either call the courtroom or docket clerk for instructions, or simply e-mail

the corrected PDF page(s) to them, and allow them to make the necessary substitutions.

NOTIFICATION AND SERVICE OF FILING

Once the practitioner completes an electronic filing, the court's ECF system sends an instantaneous e-mail notification to all attorneys and parties involved in the case who have registered for ECF. The e-mail notice provides a link to the document on the PACER system. Users receive one look at the document for free—subsequent views cost \$.08 per page, so users should print or save such documents. The court will use the same system to notify registered parties of all court rulings; paper copies will no longer be sent by mail. Because the court electronically notifies other registered parties, service under Fed. R. Civ. P. 5, including the ubiquitous certificate of service, is no longer necessary. The filing party is still responsible for traditional service on any party not identified as an electronic recipient.

LOOKING AHEAD

For anyone practicing in federal court, electronic filing and notification is inevitable. To those who have not yet used the system, it may seem unapproachable, but after a few electronic filings, the system is as easy to use as e-mail. Give it a try—while you still have a choice! ■