

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

IN RE: PROPOSED LOCAL RULE
AMENDMENTS REGARDING FILING
AND SERVICE BY ELECTRONIC MEANS

Administrative Order
No. 17-RL-105

_____/

Pursuant to 28 U.S.C. § 2071 and Rule 83 of the Federal Rules of Civil Procedure, the Court hereby gives notice of its consideration of amendments to Local Civil Rule 5.7(d)(i) and (ii) and 5.7(i), governing electronic filing and service. The purpose of the amendments is to provide an opportunity for a *pro se* non-prisoner party to electronically file and receive electronic service, and to add clarifying language regarding an exception to Local Civil Rule 5.7(d)(ii)(D).

The Court is considering adopting a Pro Se E-Filing and Service Protocol that would allow, on a case-by-case basis, a *pro se* non-prisoner to electronically file and to be served electronically. The *pro se* party will be required to file a motion seeking leave and complete an application confirming they meet the technical requirements, providing their consent to electronic service and waiving their right to service by mail under Local Civil Rule 5.7(i)(iii). In addition, the *pro se* party would be required to consent to Fed. R. Civ. P. 11 sanctions for misuse of electronic filing.

The proposed amendments have been reviewed and tentatively approved by the Judges of this Court at a regular meeting conducted September 8, 2017. The text of the proposed rule amendments is attached to this order and is also available on the Court's website or in paper form at the Clerk's Office.

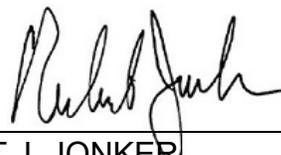
NOTICE IS HEREBY GIVEN to all members of the public of their opportunity to review and comment on the attached proposed rule amendments. A copy of this order will be available in each divisional office and on the Court's website. In addition, the Clerk shall send electronic notice to all attorneys registered to use the CM/ECF system. The Clerk shall provide a copy of the proposed amendment to the Federal Bar Association, West Michigan Chapter, the State Bar of Michigan Committee on United States Courts, and the Michigan Lawyer's Weekly.

All comments should be in writing and must be received by the Court no later than November 1, 2017. Comments should be addressed to:

Thomas L. Dorwin, Clerk
United States District Court
399 Ford Federal Building
110 Michigan St., N.W.
Grand Rapids, MI 49503

or submitted electronically to ecfhelp@miwd.uscourts.gov. The Court will consider all comments before promulgating a final version of the proposed rules.

FOR THE COURT:



Dated: October 2, 2017

ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE

Local Civil Rule 5.7

(d) Electronic filing

(i) Mandatory Electronic Filing - All attorneys must file all pleadings and other papers permitted by the Federal Rules and the Local Rules of this Court electronically in all civil cases, subject to the exceptions set forth below. All electronically filed documents must be in PDF digital format and must be submitted in accordance with the instructions set forth in the User's Manual. ~~Pro se parties who are not members of the bar of the Court may not file pleadings or other papers electronically, but must submit them in paper form.~~

(ii) Papers that may not be filed electronically - The following documents must not be filed electronically, but must be submitted in paper form:

(A) Documents submitted by a person who is not a registered attorney (for example, a *pro se* litigant **who is not registered under the "Pro Se E-Filing and Service Protocol," posted by the Clerk on the Court's Website**);

(B) [Repealed]

(C) Documents that are required by statute to be filed in camera, such as complaints and certain other filings submitted under the Federal False Claims Act or analogous state statutes.

(D) Papers filed in cases that have been sealed in their entirety, **except as authorized under Local Civil Rule 83.3(c)**.

(E) Garnishee disclosures and other documents submitted by unrepresented third parties in response to writs or other court process.

(Note: *subsequent subsections of 5.7(d) are unaffected by this proposed amendment*)

Local Civil Rule 5.7

- (i) Service of electronically filed documents
 - (i) Summons and initial pleading - Summons, writs and other court process may be issued in electronic form with electronically affixed signatures and seal. Service of the summons and complaint or other initial pleading, however, must be made by one of the methods allowed by Rule 4 of the Federal Rules of Civil Procedure and may not be made electronically.
 - (ii) Service on registered attorneys - By registering under this rule, an attorney automatically consents to electronic service by both the Court and any opposing attorney of any electronically filed document in any civil action in which the registered attorney appears. Consequently, service of an electronically filed document upon a registered attorney is deemed complete upon the transmission of an NEF to that attorney under subsection (i)(iv) of this rule and no separate certificate of service should be filed. Traditionally filed documents and sealed documents must be served on registered attorneys by nonelectronic means of service. A proof of service must be filed.
 - (iii) Service on unregistered attorneys and pro se parties - Counsel filing any pleading or other paper must serve attorneys not registered under this rule and pro se parties **not registered under the “Pro Se E-Filing and Service Protocol,” posted by the Clerk on the Court’s Website**, by nonelectronic means of service under Rule 5. A proof of service must be filed.
 - (iv) Method of electronic service - At the time a document is filed either electronically or by scanning paper submissions, the Court’s system will generate an NEF, which will be transmitted by e-mail to the filer and all registered attorneys who have appeared on that case. The NEF will contain a hyperlink to the filed document. The attorney filing the document should retain a paper or digital copy of the NEF, which serves as the Court’s date-stamp and proof of filing. Except in the case of sealed documents (see Local Civil Rule 10.6(d)) and *ex parte* filings (see Local Civil Rule 10.5(a)), transmission of the NEF to the registered e-mail address constitutes service of an electronically filed document upon any registered attorney. Only service of the NEF by the Court’s system constitutes electronic service; transmission of a document by one party to another by regular e-mail does not constitute service.
 - (v) [Repealed]

Pro Se E-Filing and Service Protocol (to be posted on the Court's Website)

On a case by case basis, a judge may grant the privilege of electronic filing and service to a non-prisoner *pro se* party who seeks leave of court to do so. To be considered, the *pro se* litigant must also complete and submit a Pro Se Application for Electronic Filing and Service. By registering under this protocol, the *pro se* party is confirming they meet the technical requirements, consenting to electronic service, and waiving their right to service by mail under Local Civil Rule 5.7(i)(iii). The judge may revoke permission to participate in electronic filing at any time.

Name: _____

Address: _____

Phone Number: _____ E-mail Address: _____

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

PLAINTIFF(S)

CASE NUMBER: _____

v.

**PRO SE APPLICATION FOR
ELECTRONIC FILING AND SERVICE**

DEFENDANT(S)

As the (Plaintiff/Defendant) _____ in the above-captioned matter, I respectfully ask the Court for permission to participate in electronic filing (e-filing) and electronic service in this case. I hereby affirm that:

1. I have reviewed Western District of Michigan Local Civil Rule 5.7 and the instructions available at the Pro Se E-Filing web page located on the Court's website.
2. I understand that if my application is approved, I hereby consent to receive electronic service of all electronically filed documents, and waive the right to receive documents in paper form under Local Civil Rule 5.7(i)(iii). This means I will receive all documents by e-mail in this case and not by U.S. mail.
3. I understand that if my use of the Case Management/Electronic Case Filing (CM/ECF) system is unsatisfactory, my e-filing privileges may be revoked and I will be required to file and serve documents in paper.
4. I understand that I may not e-file on behalf of any other person in this or any other case.
5. I consent to Federal Rule of Civil Procedure 11 sanctions for any misconduct or misuse of electronic filing.
6. I have obtained a Public Access to Court Electronic Records (PACER) account.
7. I have regular access to the technical requirements necessary to successfully e-file:

Check all that apply:

- A computer with Internet access.
- An e-mail account to receive notifications from the Court and notices from the e-filing system, that I am able to access on a daily basis.
- A scanner to convert documents that are only in paper format into electronic files.
- A printer or copier to create required paper copies such as chambers copies.
- A word processing program to create documents; and
- A PDF reader and a PDF writer to convert word processing documents into PDF format, the only format in which documents can be e-filed.

Date: _____

Signature: _____

