UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

IN THE MATTER OF
ELECTRONIC CASE FILING.

Misc. No. 03-149 (HL)

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U.S. DISTRICT COURT
SAN JUAN, P.R.

STANDING ORDER NO. 1

Effective January 26, 2004, most existing court filing procedures will be modified when court documents are filed in electronic form. This Standing Order is entered to implement the electronic case filing capabilities of the federal judiciary's Case Management/Electronic Case Filing (CM/ECF) project. The electronic filing procedures may be updated by this Court as needed after the CM/ECF project starts in January 2004.

This Standing Order for electronic case filing is based to a significant extent on the procedures used in courts that served as prototype courts for the federal judiciary's CM/ECF project. The Order uses the same terminology utilized by other courts to the extent possible and appropriate.

Fed. R. Civ. P. 5 and 83 and Fed. R. Crim. P. 57 authorize a court to permit filing, signing, and verification of documents by electronic means. Thus, this Court intends to allow electronic filing, and this Standing Order will serve as a basis for the eventual adoption of an electronic case filing local rule.

The use of this standing order as an action precedent to the adoption of a local rule will allow for input from the bar and for the utilization of the practical experiences accumulated during the

implementation process. The Standing Order gives the Court the flexibility to modify requirements and eventual rules of electronic filing practice in response to changing circumstances.

The Clerk is authorized to publish administrative procedure manuals, in both civil and criminal cases, for filing, signing and verifying pleadings and papers by electronic means, as well as a user's manual to implement the instant Order.

This Standing Order uses the term "Electronic Filing System" to refer to the court's system that receives documents filed in electronic form. The term "Filing User" is used to refer to those who have a court-issued log-in and password to file documents electronically.

1. Scope of Electronic Filing

As a general rule, civil and criminal cases, including Social Security cases, are assigned to the Electronic Filing System. The Court may further designate which cases will be assigned to the Electronic Filing System and what exceptions to the system will be made. All petitions, motions, memoranda of law, or other pleadings and documents required to be filed with the Court in a case assigned to the Electronic Filing System shall be electronically filed, except where expressly provided or in exceptional circumstances preventing electronic filing.

Until further order by the Court, the filing of the initial papers, including the indictment, criminal complaint, civil

complaint, and the issuance and service of the summons, shall be accomplished in the traditional manner on paper, rather than electronically. In a case assigned to the Electronic Filing System, parties shall promptly provide the Clerk with electronic copies of all documents previously provided in paper form.

After the electronic file has been opened by the Clerk, the original document may be returned to the Filing User or discarded at the discretion of the Clerk of Court.

In cases removed to the federal court assigned to the Electronic Filing System, parties are required to provide electronic copies of all previous filings at the state courts. Where documents filed in paper form were previously scanned by the Court, electronic filing will not be necessary.

Until further order by this Court, electronic filings requiring fees will be paid in the traditional manner. Nothing in this order will constrain the Court in providing for a desired method of payment of fees once electronic payment of fees procedures are adopted.

2. Eligibility, Registration, Passwords

Attorneys admitted to the bar of this Court, including those admitted *pro hac vice*, shall register as Filing Users of the Court's Electronic Filing System. Registration is in a form prescribed by the Clerk and requires the Filing User's name, address, telephone number, Internet e-mail address, a declaration that the attorney is admitted

to the bar of this Court, and the bar identification number if applicable.

If the Court permits, a party to a pending action who is not represented by an attorney may register as a Filing User in the Electronic Filing System solely for purposes of the action. Registration is on a form prescribed by the Clerk and requires identification of the action, as well as the name, address, telephone number, and Internet e-mail address of the party. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the attorney shall advise the Clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

Provided that a Filing User has an Internet e-mail address, registration as a Filing User constitutes consent to electronic service of all documents as provided in these rules in accordance with the Federal Rules of Civil and Criminal Procedure.

Once registration is completed, the Filing User will receive notification of the user log-in and password. Filing Users agree to protect the security of their passwords and immediately notify the Clerk if they learn that their password has been compromised. Users may be subject to sanctions for failure to comply with this provision.

3. Consequences of Electronic Filing

Electronic transmission of a document to the Electronic Filing System consistent with the terms of this Order, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil and Criminal Procedure and the local rules of this Court, and constitutes entry of the document on the docket kept by the Clerk under the Federal Rules of Civil and Criminal Procedure.

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. Except in the case of documents first filed in paper form and subsequently submitted electronically under paragraph 1 above, a document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the Court.

Filing a document electronically does not alter the filing deadline for that document. Filing shall be completed before midnight local time where the Court is located in order to be considered timely filed that day.

4. Entry of Court Orders

All orders, decrees, judgments, and proceedings of the Court will be filed in accordance with the terms of this order, which will constitute entry on the docket kept by the Clerk under the Federal Rules of Civil and Criminal Procedure. All signed orders will be filed electronically by the Court or Court personnel. Any order filed

electronically without the original signature of a Judge has the same force and effect as if the Judge had affixed the Judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

A Filing User submitting a document electronically that requires a Judge's signature shall promptly deliver the document in such form as the Court requires.

5. Attachments and Exhibits - General Rule

Filing Users shall submit in electronic form all documents referenced as exhibits or attachments, unless the Court permits conventional filing. 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 Court. Excerpted material shall be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this order do so without prejudice to their right to timely file additional excerpts or the complete document. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane.

6. Conventional Filing of Documents, Attachments or Exhibits

The following documents will be filed conventionally and not electronically unless specifically authorized by the Court:

(a) Attachments to a pleading or motion that are not capable of conversion to PDF electronic format.

(b) Exhibits or documents not capable of efficient conversion to PDF electronic format and which exceed fifty (50) pages.

(c) *Pro se* practice, including federal and state habeas corpus proceedings.

(d) Administrative and medical records in Social Security practice. These administrative and medical records in an otherwise electronic Social Security case shall be filed in the conventional form to safeguard privacy concerns.

7. Sealed Documents

Until otherwise ordered by this Court, documents placed under seal shall be filed conventionally rather than electronically, unless specifically authorized by the Court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the Court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order shall be attached to the documents under seal and be delivered to the Clerk.

8. Retention Requirements

Documents that are electronically filed and require original signatures other than that of the Filing User shall be maintained in paper form by the Filing User until five (5) years after all time periods for appeals expire. On request of the Court, the Filing User shall provide original documents for review.

9. Signatures

The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the Court. They also serve as a signature for purposes of Fed. R. Civ. P. 11, the Federal Rules of Civil Procedure, the local rules of this Court, and any other purpose for which a signature is required in connection with proceedings before the Court. Each document filed electronically shall, if possible, indicate that it has been electronically filed. Electronically filed documents shall include a signature block in compliance with local rule number 11 and shall set forth the name, address, telephone number and the attorney's bar identification number if applicable. In addition, the name of the Filing User under whose log-in and password the document is submitted shall 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's password to be used by anyone other than an authorized agent of the Filing User.

Documents requiring signatures of more than one party shall be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other parties on the document; (3) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than three

business days after filing; or (4) in any other manner approved by the Court.

10. Service of Documents by Electronic Means

Each person electronically filing a pleading or other document shall serve a "Notice of Electronic Filing" to parties entitled to service under the Federal Rules of Civil or Criminal Procedure and the local rules. The "Notice of Electronic Filing" shall be served by e-mail as required by CM/ECF program prompts. Electronic service of the "Notice of Electronic Filing" constitutes service of the filed document.

Parties who have not yet appeared as Filing Users shall be notified by paper copy according to the Federal Rules of Civil Procedure and the local rules of this Court.

11. Notice of Court Orders and Judgments

Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the Clerk shall transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Civ. P. 77(d) and Fed. R. Crim. P. 49. The Clerk shall give notice to a person who has not become a Filing User in paper form in accordance with the Federal Rules of Civil and Criminal Procedure.

12. Technical Failures

A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.

13. Public Access

A person may review filings that have not been sealed by the Court at the Clerk's Office. A person may also access the Electronic Filing System at the Court's Internet site http://pacer.prd.uscourts.gov by obtaining a PACER log-in and password. A person who has PACER access may retrieve docket sheets and documents. Only a Filing User under paragraph 2 of this order may file documents.

BY ORDER OF THE COURT

Héctor M. Laffitte
Chief Judge

Juan M. Pérez-Giménez
U.S. District Judge

Carmen C. Cerezo
U.S. District Judge

José Antonio Fusté
U.S. District Judge

Salvador E. Casellas
U.S. District Judge

Daniel R. Domínguez
U.S. District Judge

Jay A. García-Gregory
U.S. District Judge