

ELECTRONIC FILING IN THE NINTH CIRCUIT COURT OF APPEALS

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In 2008, the United States Court of Appeals for the Ninth Circuit implemented a new case management and electronic filing system (CM/ECF). Effective January 2, 2009, use of the CM/ECF system is mandatory for all attorneys and all court reporters filing in the court, unless they are granted an exemption from using the CM/ECF system. Use of the CM/ECF system is voluntary for all pro se parties proceeding without counsel.

Users must register for electronic filing (which includes electronic noticing), even if they previously registered for electronic noticing earlier in 2008. According to the court, the registration process may take up to 10 days.

Once registered, users will be able to file and serve most documents online, including motions and briefs. There is no extra charge for filing electronically. Registered users will receive, via e-mail, notice of electronically filed documents and a link for a free look at the filed documents.

Attorneys using the system will also be able to access most documents in the appellate court docket online using their PACER accounts. Regular PACER charges will apply.

The most notable exception to electronic filing is the excerpts of record, which still have to be filed and served in paper format. Also, once the clerk's office has approved

the form of the electronically filed brief, 10 paper copies of the bound brief will have to be mailed to the court.

Please keep in mind that with the exception of attached exhibits, documents must be saved in Adobe PDF format using a word processing program such as Word or WordPerfect. Documents which are printed and then scanned will be rejected by the court.

Also keep in mind that registration is by individual attorney name, not law firm or governmental entity. Unless they first file a notice of appearance, individual attorneys who have not previously "appeared" in the Ninth Circuit in a given case will not be allowed to file documents electronically, even though they are registered with the system. Accordingly, upon receipt of a notice of appeal, appellee's counsel is advised to review the docket and file a notice of appearance for each attorney not listed by appellant.

The Ninth Circuit reports that, while it may never be a paperless operation, the court is making a successful transition to the use of electronic documents, with nearly 15,000 attorneys signed up to use ECF as of March 2009.

"I think we're making good progress," Clerk of Court Molly C. Dwyer said of the ECF implementation. "It has been a learning experience for the attorneys, for staff and for judges. I am grateful to everyone for their continued patience as we continue to refine the process."

Registration information, complete rules for use of the CM/ECF system, forms and information about training opportunities are available on the Ninth Circuit website at www.ca9.uscourts.gov/cmecf. **NL**

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