



INTERNAL PROCEDURES MANUAL  
AS OF 3/3/2021

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## **INSTRUCTIONS**

1. Attorney shall e-file on behalf of his/her client the appeal of conditions of release document using the “Notice of Appeal - Conditions of Release” event found under the Appeal documents category.
  - a. Pursuant to [18 U.S.C. § 3145](#) the attorney may file a motion to revoke or motion to amend conditions of release. Do not term the motion or enter a docket annotation.

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<b>Chapter</b>	<b>APPELLATE PROCEDURES</b>
<b>Subject</b>	<b>Appeal of a Conviction by a Magistrate Judge in a CVB Misdemeanor Case</b>

**AUTHORITY**

[Fed.R. Crim.P. 58\(g\)\(2\)](#)  
[District Court Clerk's Manual Chapter 6 § 6.06](#)

**DEFINITION**

A Notice of Appeal to a District Judge by a party appealing a conviction by a Magistrate Judge in a Central Violation Bureau (CVB) *misdemeanor* case.

CVBs have a ticket number. Once the party appeals and the District Judge is selected, a criminal case number is then assigned.

**DOCUMENT**

An appeal for a CVB must be filed conventionally with the filing fee. Use event [Appeal of Magistrate Judge Decision to District Court - Magistrate Case](#).

**FILING FEE**

See [Schedule of Fees](#) or an original IFP motion in lieu of the filing fee.

**SAMPLE CASE**

[1:10-cr-108](#)

Ignore docket entry 12/22/2010  
(Court Only) \*\*\* JS-2 Opening  
Information

**INSTRUCTIONS**

For appeals of CVB (Central Violations Bureau) ticket(s):

1. Prepare the receipt;
2. Assign the next criminal case number - (cr);
3. Assign to the next District Judge up for assignment;
4. Docket Violation Notice(s) as a Remark and text in the violation number(s);
5. Add counts under Utility Events;

6. Use docket event Order when filing the Judgment from which the appeal is being taken; link this document to the violation notice which should be Document #1; change docket text to say Judgment instead of Order; (if Judgment event is used it will bring up the closing statistical screen);
7. Docket the Notice of Appeal using Appeal of Magistrate Judge Decision to District Court - Magistrate Case; link the appeal to the Judgment (document #2).

**NOTE**

Docket Clerk is responsible for contacting US Attorney's office to determine which assistant USA is handling CVB court at this time. Add the appropriate USA to the case.

Add probation as an interested party.

**FLAGS**

Set MAGAPP

---

<b>Chapter</b>	<b>APPELLATE PROCEDURES</b>
<b>Subject</b>	<b>Appeal of a Conviction by a Magistrate Judge in a Misdemeanor Case</b>

**DEFINITION** A Notice of Appeal to a District Judge by a party appealing a conviction by a Magistrate Judge in a misdemeanor case. An information usually begins the case and a criminal number is issued from the start.

**DOCUMENT** “Notice of Docketing Appeal from Magistrate Judge Decision” should be filed electronically by counsel.

**FILING FEE** See [Schedule of Fees](#). Counsel will be prompted to pay the appeal fee electronically.

**INSTRUCTIONS** If, by consent of the defendant(s) and designation by the District Court, a Magistrate Judge has conducted a trial and imposed sentence in a misdemeanor case, appeal of right in such a case must be taken to the district court as set out below:

1. Review to determine that a judgment has been entered by the Magistrate Judge. (Court staff - A new case number will not be assigned, and the appeal will be reassigned to the District Judge originally assigned to the case).
2. Attorney should use the event “Notice of Docketing Appeal from Magistrate Judge Decision”. (Court staff - during QC move the procedural interval to P7 as attorneys cannot perform this action). If court staff docket the “Notice of Docketing Appeal from Magistrate Judge Decision”, you will be prompted to move the count from P6 to P7 (Appeal).
3. Complete JS-2 Reopening Information with proceeding code 7, Appeal from Magistrate Judge Decision.

**SAMPLE CASE** [5:08-cr-11](#)

<b>Chapter</b>	<b>APPELLATE PROCEDURES</b>
<b>Subject</b>	<b>Appeal of a Conviction by a Magistrate Judge in a Petty Offense Case</b>

**AUTHORITY**

[Fed.R.Crim.P. 58\(g\)\(2\)](#)  
[District Court Clerk's Manual Chapter 6 § 6.06](#)

**DEFINITION**

A petty offense is a special classification of a misdemeanor. A petty offense is a Class B or C misdemeanor, or an infraction, for which the maximum fine is not more than \$5,000.00 for an individual or not more than \$10,000.00 for an organization. [18 U.S.C. §19](#)

A Notice of Appeal to a District Judge by a party appealing a conviction by a Magistrate Judge in a petty offense case.

Once the party appeals and the District Judge is selected, a petty offense (po) case number is then assigned.

**DOCUMENT**

An appeal from a petty offense judgment must be filed conventionally with the filing fee. Use event Appeal of Magistrate Judge Decision to District Court - Magistrate Judge Case.

**FILING FEE**

See [Schedule of Fees](#) or an original IFP motion in lieu of the filing fee.

**SAMPLE CASE**

[1:10-cr-108](#)

Ignore docket entry 12/22/2010  
(Court Only) \*\*\* JS-2 Opening  
Information

**INSTRUCTIONS**

For appeal of petty offense conviction:

1. prepare the receipt;
2. assign the next petty offense (po) number;
3. assign to the next District Judge up for assignment;

4. docket charging document (usually a ticket) as a Remark;
5. add counts under Utility Events;
6. docket the Judgment from which the appeal is being taken as an Order (generic);
7. docket the Notice of Appeal.

**NOTE**

Copy of record must be made available to defendant who establishes his inability to pay.

Judge will determine if the filing of the appeal is timely.

**FLAGS**

Set MAGAPP

---

<b>Chapter</b>	<b>APPELLATE PROCEDURES</b>
<b>Subject</b>	<b>Appeal of a Decision by a Magistrate Judge to a District Judge in a MJ Criminal Case</b>

**AUTHORITY**      [Fed.R. Crim.P. 58\(g\)\(2\)\(A\)](#)  
[L.U.Civ.R. 72\(a\)\(1\)](#)

**DEFINITION**      A Notice of Appeal to a District Judge by a party appealing a decision by a Magistrate Judge in a MJ case. Either party may appeal an order of a magistrate judge to a district judge within 14 days of its entry if a district judge's order could similarly be appealed. The party appealing must file a notice with the clerk specifying the order being appealed and must serve a copy on the adverse party.

**DOCUMENT**      The attorney will bring the appeal document to the clerk's office. Use event Appeal of Magistrate Judge Decision to District Court - Magistrate Case to docket this filing.

**FILING FEE**      See [Schedule of Fees](#) or an original IFP motion in lieu of the filing fee.

**SAMPLE CASE**    [3:11-mj-148](#)    [Doc #10](#)      Motion to be construed as a Notice of Appeal  
[3:11-cr-65](#)    [Doc #1](#)      Order of Detention  
                         [Doc #2](#)      Notice of Appeal

**INSTRUCTIONS**

1. Open a new criminal case using the next criminal case number and next District Judge up for assignment;
2. Do not assign a magistrate judge to this case;
3. Assign the USA and defense counsel to case (same counsel as in MJ case);



4. Add probation as an interested party.
5. Docket the order being appealed;
6. Enter a \*REMARK\* stating that the original counts from the MJ case are added to the new case for appeal purposes only;
7. Docket the Notice of Appeal using Appeal of Magistrate Judge Decision to District Court - Magistrate Case; link the appeal to the Order, Doc #1.

**NOTE**

There is no JS-2 created with this type of case.

**FLAGS**

Do Not Set MAG flag - MAGAPP flag is set automatically.

<b>Chapter</b>	<b>APPELLATE PROCEDURES</b>
<b>Subject</b>	<b>Appeal of a Decision by a Magistrate Judge to a District Judge in an Existing Civil Case</b>

**AUTHORITY**      [Fed.R.Civ.P. 72](#)  
[L.U.Civ.R. 72\(a\)\(1\)](#)

**DEFINITION**      A Notice of Appeal to a District Judge by a party appealing a decision by a Magistrate Judge in an existing civil case. Either party may appeal an order of a magistrate judge to a district judge within 14 days of its entry if a district judge's order could similarly be appealed. The party appealing must file a notice with the clerk specifying the order being appealed and must serve a copy on the adverse party.

**DOCUMENT**      Attorney will attempt to file using the event Appeal of Magistrate Judge Decision to District Court; however, the CM/ECF system directs the filer "*Docket as Motion for Review of Magistrate Judge Order.*" No docket annotation is necessary as the attorney has filed the appeal appropriately using the event Motion for Review of Magistrate Judge Order. See sample screen below.



**FILING FEE**      N/A (existing case)



5. Browse and select PDF document > next;
6. Select link document to another document in this case > next;
7. Select appropriate document > next;
8. Modify text screen displays > next;
9. Final text screen appears > next;
10. NEF sent.

<b>Chapter</b>	<b>APPELLATE PROCEDURES</b>
<b>Subject</b>	<b>Appeal of a Decision by a Magistrate Judge to a District Judge in an Existing Criminal Case</b>

**AUTHORITY**      [Fed.R.Crim.P. 58\(g\)\(2\)\(A\)](#)

**DEFINITION**      A Notice of Appeal to a District Judge by a party appealing a decision by a Magistrate Judge in an existing criminal case. Either party may appeal an order of a magistrate judge to a district judge within 14 days of its entry if a district judge's order could similarly be appealed. The party appealing must file a notice with the clerk specifying the order being appealed and must serve a copy on the adverse party.

**NOTE**      The event Appeal of Magistrate Judge Decision to District Court - Criminal Case **should not** be used by the attorney or the clerk's office to file an appeal of a magistrate judge's decision. If attorney attempts to file an appeal using that event, he/she will be prompted to docket the appeal as "Motion for Review of Magistrate Judge Decision". See sample screen below.



**FILING FEE**      N/A (existing case)

**SAMPLE CASE** N/A

**INSTRUCTIONS** If the filer is a pro se filer, docket the appeal as follows:

1. File stamp appeal (motion) document;
2. Scan appeal/motion document into PDF format;
3. Criminal > Motions > enter/verify case number > next;
4. Attorney screen appears > next > OK to no attorney being selected;
5. Select pro se party/filer > next;
6. Select Review of Magistrate Judge Order > next;
7. Browse and select the PDF document > next;
8. Select Should the document you are filing link to another document in this case > next;
9. Select appropriate document > next;
10. Modify text screen displays > next;
11. Final text screen appears > next;
12. NEF sent.

**FLAG** Set MAGAPP flag (I have tested this procedure in both the test and train databases. This flag does not automatically appear on the docket sheet in the test or train databases.)

**ATTORNEY FILING**

1. Criminal > Motions > enter/verify case number > next;
2. Select attorney > next;
3. Select party/filer > next;
4. Select Review of Magistrate Judge Order > next;
5. Browse and select PDF document > next;
6. Select Should the document you are filing link to another document in this case > next;

7. Select appropriate document > next;
8. Modify text screen displays > next;
9. Final text screen appears > next;
10. NEF sent.





[Doc #2](#)

Appeal of Magistrate Judge  
Decision to District Court -

[Doc #5](#)

Magistrate Judge Case event used  
District Judge Order

## INSTRUCTIONS FOR DEFENDANT WITH AN ATTORNEY

### FILING FEE:

1. See [Schedule of Fees](#) for appeal of magistrate decision in a magistrate judge case to a district judge;
2. Print receipt;
3. Make notation of receipt number to use in docketing the appeal entry.

## INCORRECT FILING BY ATTORNEY IN MAG CASE

**NOTE:** *Attorney may file the appeal of a magistrate decision by using a motion event of REVOKE or AMEND/CORRECT in the mag case. Follow procedures to correct inaccurate filing:*

1. Contact the attorney and inform him/her the appeal should be brought to the clerk's office for filing and a new criminal case will be opened upon this filing. See [Schedule of Fees](#).
2. Term the motion;
3. Stop the excludables for this motion if necessary by checking the box and entering the date the motion was filed;
4. Enter a docket annotation re motion stating: "Motion termed. Attorney instructed to bring appeal of the magistrate judge's decision document to clerk's office for filing along with appropriate filing fee."

## OPENING OF CRIMINAL CASE

### OPEN CRIMINAL CASE AND FILE INITIATING DOCUMENTS:

1. File stamp appeal document;
2. Scan appeal document and any attachments;
3. Print and scan Magistrate Judge's order relating to appeal;
4. Open a new criminal case: Criminal > Criminal Case > Division: where MJ case was opened > Case Type: CR > Case Number: next criminal number > Date Filed > file stamp date of appeal > Presiding Judge: next DJ up > **no Referral judge and no Referral type** > next;
5. Parties and Attorneys: the USA is automatically entered as the plaintiff - enter the AUSA from the mag case; enter the defendant from the mag case - enter the defendant's attorney(s);
6. Enter Probation as an Interested Party;
7. Create Case > Case will be created, Proceed? Yes;
8. Docket Lead Event? Click on Criminal > Other Orders/Judgments > you will be docketing the magistrate judge's order being appealed > select the appropriate order event type which is being appealed > next;
9. Enter/verify criminal case number > next;
10. Verify case name and number > next;
11. Enter date of Order (date order signed) > next;
12. Select judge who entered order (mag judge) > next;
13. Date document filed: leave as today's date which is the opening of the criminal case - Do not back date;
14. Browse and select order > next;
15. No deadlines to term > next;
16. Modify text screen appears > next;
17. Docket Text: Final Text screen appears > next;
18. NEF screen appears - notices sent.

**ENTER COUNT INFORMATION:** if the count information is not entered you cannot file the appeal of the MJ's decision

1. Criminal > Utility Events > Add Counts > next;
2. Enter/verify criminal case number > next;
3. Verify case name and number > next;
4. Date document filed > enter today's date > next;
5. Enter citation from mag case > enter count number > offense level entered automatically > make sure defendant's name is selected > save to list > finished entering court(s);
6. No need to enter correct interval with Speedy Trial - Procedural Interval Start utility event > next;
7. Modify text screen appears > next;
8. Docket Text: Final Text screen > next;
9. NEF screen appears.

**DOCKET APPEAL OF MAGISTRATE JUDGE DECISION:**

(attorney's document)

1. Criminal > Appeal Documents > Appeal of Magistrate Judge Decision to District Court - Magistrate Judge Case > next;
2. Enter/verify case number > next;
3. Verify case name and number > next;
4. Date document filed is date of file stamp on appeal;
5. Browse and select appeal document and any attachments > next;
6. Select filer > next;
7. Skip appeal case number and procedural interval > next;
8. Verify case name and number > next;

9. In order to select the document being appealed check the box to link documents > next;
10. Select Magistrate Judge order > next;
11. Modify docket text screen as follows: add "Filing Fee Paid \$37.00 and receipt #" > next;
12. Docket Text: Final Text screen appears > next;
13. NEF screen appears.

## **FLAG**

MAGAPP flag automatically set in the criminal case.

## ENTER REMARK AND APPEAL DOCUMENT INTO MAGISTRATE JUDGE CASE:

1. Criminal > Utility Events > Remark > next;
2. Enter MJ case number > next;
3. Verify case name and number > next;
4. Date document filed is date of opening of criminal case > browse and select appeal document > select any attachments if necessary > next;
5. Modify Text screen appears. After the word Remark enter "Appeal of Magistrate Judge decision has been filed in criminal case - criminal case # here" > next;
6. Docket Text: Final Text screen appears > next;
7. NEF goes out to Magistrate Judge notifying him of appeal.

This is necessary in case the attorney brings the appeal of the magistrate judge's decision to the clerk's office without first e-filing in the magistrate case.

## **TERMINATION OF CASE** watch for ruling of DJ's decision re MJ's decision

1. After ruling by the District Judge, terminate the defendant:  
Criminal > Utility Events > Terminate Defendant > next;

2. Enter/verify case number > next;
3. Verify case name and number > next;
4. Enter date of District Judge's order > next;
5. Documents to term screen > next;
6. Deadlines to term screen > next;
7. Select defendant (party) to term > next;
8. Modify text screen appears > next;
9. Docket Text: Final Text screen appears > next;
10. NEF appears.
11. Set CLOSED flag.

<b>Chapter</b>	<b>APPELLATE PROCEDURES</b>
<b>Subject</b>	<b>Direct Appeal to U. S. Supreme Court from a Three Judge Panel</b>

**AUTHORITY**        [28 U.S.C. § 1253](#)  
[Rules of the Supreme Court of the U.S. - Rule 18](#)

**BACKGROUND**    When a direct appeal from a decision of a U.S. district court is authorized by law, the appeal is commenced by filing a notice of appeal with the Clerk of the district court within the time provided by law after entry of the judgment sought to be reviewed.

**DEFINITION**        Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by an Act of Congress to be heard and determined by a district court of a **Three Judge Panel**.

**FILING FEE**        See [Schedule of Fees](#) for appeals  
See [Schedule of Fees](#) for filing petition for rehearing

**SAMPLE CASE**    [3:11-cv-159](#)    [Doc #130](#)        Order  
                                 [Doc #131](#)        Notice of Appeal to US Supreme  
   Court  
   Staff Note  
   Letter to Office of the Clerk,  
   Supreme Court of the U.S.  
   Letter from the Supreme Court of  
   the U.S.  
   [6/8/2011](#)  
   [Doc #132](#)  
   [Doc #133](#)

**INSTRUCTIONS**

1. Once an Order is entered and a notice of appeal to the U.S. Supreme Court is filed:
2. Do **not** receipt any monies;

3. Docket the appeal: CIVIL > NOTICES > NOTICE (Other) - DO NOT USE FOR APPEALS OR DISCOVERY. You must use this Notice as this is not an appeal to the Fifth Circuit, but to the US Supreme Court;
4. Enter a staff note that a certified copy of the US.D.C. docket sheet, Notice of Appeal, cover letter, and check were mailed to the U. S. Supreme Court;
5. Civil > Other Events > Letter > browse and select letter > enter District Court Clerk when asked who letter is from;
6. Modify docket text to read "Letter from District Court Clerk mailed to Office of the Clerk, Supreme Court of the United States along with the notice of appeal, certified copy of docket sheet and attorney's check (see sample letter attached);
7. You should receive a letter back from the U.S. Supreme Court. Docket as follows: Civil > Other Events > Letter > browse and select letter > enter **name of person letter is from: Supreme Court of the United States** > modify docket text to read: Letter from the Supreme Court of the United States; Supreme Court case number \_\_\_\_\_.

## **FLAGS**

Add APPEAL flag

UNITED STATES DISTRICT COURT  
OFFICE OF THE CLERK  
SOUTHERN DISTRICT OF MISSISSIPPI  
Jackson, Mississippi

November 26, 2016

Arthur Johnston  
CLERK

501 E. Court St., Suite 2.500  
Jackson, MS 39201

Mailing Address:

P. O. Box 23552  
Jackson, MS 39225-3552

TELEPHONE  
(601) 608-4000

DIVISIONS

SOUTHERN at Gulfport  
2012 15th Street, Suite 403  
Zip 39501

HATTIESBURG at Hattiesburg  
701 Main St., Suite 200 Zip 39401

JACKSON at Jackson  
501 E. Court St., Suite 2.500  
Zip 39201

EASTERN & WESTERN at Jackson  
501 E. Court St., Suite 2.500  
Zip 39201

Office of the Clerk  
Supreme Court of the United States  
One First Street, N.E.  
Washington, DC 20543

Re: Notice of Appeal  
enter case name here  
enter our case number here

Dear Intake Clerk:

Our Court is enclosing a certified copy of the above referenced Notice of Appeal filed in our Court enter date notice of appeal filed, along with a certified copy of our Docket Sheet and the attorneys check in the amount of \$300.00 filing fee.

Please let us know if you need additional information.

Yours very truly,

Arthur Johnston, Clerk

enter your name here  
Deputy Clerk

Enclosures



**Chapter                    APPELLATE PROCEDURES**

**Subject                    Notice of Appeal to the 5th Circuit**

**DEFINITION**            A Notice of Appeal filed to the 5th Circuit Court of Appeals by a party appealing a ruling of the District Court Judge.

**DOCUMENTS**            An original Notice of Appeal.

**FILING FEE**            See [Schedule of Fees](#) or an original IFP motion in lieu of the filing fee (optional at the time of filing). Fee made be paid either by check, cash, money order, or credit card. An appellant granted leave to proceed in forma pauperis in the District Court may proceed on appeal in forma pauperis without further authorization unless the District Court certifies that the appeal is not taken in good faith, in which event the District Court shall state in writing the reasons for such certification [FRAP 24(a)].

**NOTE: Re: AMENDED NOTICE OF APPEAL**

An additional appeal filed by the same appellant(s) including the previously appealed order and any new orders, is considered an “Amended” Appeal. No fee is required. The Fifth Circuit Court of Appeals will determine if the appeal is properly qualified as “Amended” and will request the fee if needed.

The docket clerk should choose the event code “Amended Notice of Appeal”.

An additional appeal filed by **new appellant(s) is not considered an “Amended” Appeal and the fee is required.**

**INSTRUCTIONS**    **Notice of Appeal:** Accept all Notices of Appeals for filing. A Notice of Appeal may be prepared and filed by the clerk on behalf of a criminal defendant if so requested, pursuant to [F.R.Cr.P. 32\(j\)\(2\)](#). [To docket all appeal transactions, click on Appeal Documents (Civil or Criminal) under Other Filings]. When a Notice of Appeal is docketed in the district courts, the court of appeals is automatically notified.

**Transcript Order Form:** (Form AO435) If any hearings or trial were held, the appealing party should file a Transcript Order Form for each court reporter involved in reporting the proceedings. The only exception is a Spears or Omnibus hearing tape. If no hearings/trials were held, it is not necessary to file the transcript order form.

**Transcripts:** For information on the filing/redacting of transcripts, see “Transcript Guide for Court Reporters” which is found under the Training link on our home page.

**Record on Appeal:** The notice of certified record is due: (1) fifteen days from the date of the filing of the Notice of Appeal in cases where no transcript will be filed; (2) fifteen days after ruling on a pending motion has been filed; or (3) fifteen days from the filing of the transcript(s) ordered by the Appellant. With the exception of 530/habeas and 510/2255 appeals **or** if a motion for IFP **or** appointment of counsel is pending before the 5th Circuit, the record is due for filing with the court of appeals after the appellee’s brief is filed.

**THE ABOVE IS FOR INFORMATION PURPOSES ONLY. AN EMAIL WILL BE SENT TO THE ORDER BOX FROM USCA REQUESTING THE ELECTRONIC RECORD AND SETTING THE DEADLINE FOR THE CLERK TO SUBMIT THE ELECTRONIC RECORD.**

**To Create and Certify the Record on Appeal**

Print the docket sheet and circle any documents that go in a special category or need to be deselected.

To begin the process of creating and certifying the record follow these steps:

1. Go to the 5<sup>th</sup> Circuit website by going to our homepage and click on: (you can also get to the 5<sup>th</sup> Circuit website by going to [coa.circ5.dcn](http://coa.circ5.dcn))
2. Other Court Links
3. 5<sup>th</sup> Circuit Court of Appeals (Intranet)
4. Court of Appeals
5. Electronic Records
6. Create Record

7. Type USCA case number
8. Select Documents to Include in Filing (this is where you will make sure documents are in the correct category and deselect any disregarded or unrelated (in criminal cases) documents.
9. Accept Documents
10. Submit Request
11. You will receive an email from USCA with the links to the record, including a separate link for sealed documents. Verify the record is actually there before proceeding to certify the record.
12. Return to the USCA site
13. Click on Electronic Records
14. Manage Records
15. Certification Required
16. Click on your Case
17. Accept Certification
18. OK
19. Docket “**Appeal Record Sent to USCA**” (Add this to the text: Once the record has been accepted, a separate docket entry will be entered notifying the parties that they may then access the record via the Fifth Circuit website.

Once USCA notifies you by email of acceptance of the record, docket the event code “**Electronic Record on Appeal Accepted**”. (If you have a pro se party, add the text: Pro se parties may request the record from the clerk’s office.)

### NOTES

Hearing type and date for transcripts should be listed (you can edit under the event column if needed).

Deselect any “Disregarded” documents

Deselect criminal cover sheets to unrelated defendants

Deselect audio recordings

Deselect Sentencing Recommendations

Restricted Documents go in Sealed category

Leave State Court Records in State Court Record category in habeas cases. Do not move to sealed even though they are restricted

Motion and Order to proceed IFP go in sealed category

Exhibits to Hearings go in Exhibits category

Sealed Exhibits to Hearings go in Sealed Exhibits category

Exhibits to Pleadings go in Pleadings category  
Sealed Exhibits to Pleadings go in Sealed Documents category  
Exhibit List goes in Pleadings category

### **PSI CATEGORY**

PSIR

Statement of Reasons

Letters of Reference

Addendum to PSR

Appendix to PSR

Attachments to PSR

Objections to PSR

Plea Agreement

Plea Supplement

If the 5th Circuit should request a paper copy of the appeal record, the District Court should furnish it within 7 days. After the record on appeal has been printed, certify the docket sheet. Put the appeal record in a binder, approximately 250 pages per binder. Transcripts should be bound separately.

When you ship the court record or supplement to the 5th Circuit **and** if the record consists of more than one package, place a copy of the transmittal letter in each package, which will help them identify the contents. Please mark the packages 1 of \_\_, 2 of \_\_\_\_, etc., so they will know the record consists of multiple packages.

The appeal record may be furnished to the attorneys on CD upon request.

Pro se litigants may request the record from the district court upon payment of mailing costs. Parties proceeding in forma pauperis may receive the record without payment of costs. If you get a verbal request for the record, verify the address for pro se party and make a remark no number when you mail record.

If the incarcerated pro se appellant requests a copy of the physical record for use in preparing appeal briefs or filing a motion for COA and brief in support, you will send a copy of the record directly to the prisoner by CERTIFIED MAIL, RETURN RECEIPT REQUESTED where he/she is incarcerated. The form letter can be found under Local Court Forms>Records Transmittal to Prisoner. Best to check with the prison for specific procedures before mailing.

**Appeals in Prisoner Civil Rights Cases (540, 550, and 555):**

IFP status does not carry over to the appeal. When notice of appeal is docketed, 5th Circuit checks for payment of fee or for the filing of a motion for IFP in the district court. If the fee has not been paid and no motion is filed, 5th Circuit sets a 55-day deadline for appellant to either pay the fee or file a motion for IFP. When the motion is filed, briefing notice is issued. If the motion for IFP is granted by the district court and an initial partial filing fee is assessed, the notice of certified record is due for filing. The Fifth Circuit is now automatically notified by NEF when an IFP motion is granted or denied. The physical record is due once briefing is complete. The Fifth Circuit will request the record via e-mail.

**Appeals in Habeas Cases (2241 and 2254):** IFP status carries over (**once IFP, always IFP**). If appellant paid the \$5.00 docketing fee in district court, he/she can either pay the full appeal fee of \$455.00 (See Current Fee Schedule) or file a motion for IFP in the district court. Fifth Circuit monitors for ruling on the IFP motion before the case proceeds.

Rule 11(a) now requires the district court to issue or deny a certificate of appealability when it enters a final order adverse to the petitioner. If COA is granted OR denied in the district court AND the fee is paid or IFP if granted OR denied, 5<sup>th</sup> Circuit will email a request to certify the record and simultaneously request the motion for COA and brief in support (and possibly the fee or motion for IFP) be filed at 5<sup>th</sup> Circuit by the appellant. The certified record is due 15 days from ruling on the motion for COA.

**Transfer of Successive Habeas Cases (not an appeal):** When an order is entered transferring a case to the 5th Circuit Court of Appeals for determination whether this successive habeas petition should be allowed (not an appeal of an existing case), the docket clerk should choose the correct event code ORDER EPPS SUCCESSIVE which will automatically notify the 5<sup>th</sup> Circuit of filing by NEF. This event code will close the case and the docket clerk should include it on the closing list.

**Appeals in 2255 (Motion to Vacate) Case:** Docket the notice of appeal. The COA will be entered at the time of the Order ruling

adversely on the [2255](#). Select the order denying the motion to vacate ([2255](#)). There is no fee if you have a CJA appointed counsel. If counsel is retained or petitioner is proceeding pro se, the filing fee is required. (Appeal flag is automatically set by CM/ECF).

**\*2255 Appeals:** When creating the appeal record, under Add Additional Case, type in the Criminal Case Number exactly like this: 1:10-cr-1-1 (must include dashes) Click Add and then Remove/Delete the civil case they list.

**Appeals in Non-Prisoner Pro Se Cases:** The “rule” once a pauper always a pauper applies (except in 2255’s and Prisoner Civil Rights cases). Of course, if IFP status is decertified, then a filing fee or a motion for IFP would become necessary. Usually if a motion for IFP is pending the record will not be requested until that motion is ruled on. However, there are exceptions (such as cases [3:03-cv-1297](#) and [2:08-cv-138](#) [non-prisoner pro se appeals]) in which the 5th Circuit requested the record to be sent to them or to the non-prisoner pro se litigant. In both of these cases, IFP motions were still pending in our court.

**Sealed Documents:** Per recently adopted procedures, **sealed documents should now be scanned and attached to the sealed event.** Do not send sealed documents to the attorneys unless directed to do so by the 5th Circuit. A motion to view sealed documents must be directed to the 5th Circuit, and in turn the 5th Circuit will notify the district court when the motion is granted. If an attorney is granted access to sealed documents that they can’t access electronically, we burn to a CD from the email link from 5<sup>th</sup> Circuit containing the sealed documents.

**THE SENTENCING RECOMMENDATIONS ARE NEVER RELEASED TO THE PARTIES.**

**Consolidated Cases:** The closing order from which the appeal is taken should be docketed in all member cases. Records in lead and all member cases must be certified. Fee is required for each Notice of Appeal filed. (See consolidation procedures for details)

**Appeal Bonds:**

If an order is entered requiring the filing of a bond, either supersedeas bond or bond for costs on appeal, and a bond is presented, verify that the surety company is one that is listed as doing business in Mississippi by checking the Court's main web page, "General Info", Treasury Approved Sureties. Once the company is found, it will list the company's address, phone number, underwriting limitations and a list of states in which it is authorized to write bonds. Make sure the agent writing the bond has a power of attorney either on record in our office or attached to the bond. If neither is found, the agent should be contacted. The agent will be required to pay the fee (See [Schedule of Fees](#) ) for power of attorney registration (per division in which they wish to write bonds [[31 USC § 9306\(b\)](#)]).

The clerk cannot approve or sign off on the appeal bond. This must be done by the judge. When the executed appeal bond is received from chambers, enter it on the docket using event code "bond".

In criminal cases, the bond must be personally signed by the defendant, and copies are provided by NEF to the U.S. Attorney and the U.S. Marshal.

**Motion for Interlocutory Appeal:** If the district court grants a motion for an interlocutory appeal, we do nothing. The movant has 10 working days from the date the district court certifies the case for appeal to file a motion with the 5th Circuit for permission to appeal. If permission is granted, our office would certify the record on appeal. The 5th Circuit order granting interlocutory appeal serves as the notice of appeal. Add the 5th Circuit appeal number to your case through a docket entry (Appeal documents, USCA case number), not the miscellaneous case number assigned to the motion by the 5th Circuit. [For more information concerning interlocutory appeals, see [District Clerks' Manual, Chapter 13.](#)]

**Supplemental Records:** Follow the same procedure as when creating an initial record. Select Supplemental Record from the 5th Circuit website and only include the new documents. Uncheck the box "include all documents initially." (**Note:** You may

not be able to uncheck the “new supplemental” box, but the procedure should work as long as you click on “supplemental record.”) The numbering of pages does not pick up where the original record left off, but starts over.

**If you have a second supplemental record**, click **both** “supplemental” and “new supplemental record.” (**Note:** It is important to remember if you are creating the first supplemental record, make sure “supplemental record” is checked. If not, and only the “new supplemental record” is checked, the “new supplemental” may replace the original record that was certified, and you may be required to re-certify the entire record.)

**Subsequent Appeals in the same case:** The 5th Circuit treats second, or subsequent, appeals as one only if the appeals are from the same district court order. If there is more than one appeal in the same case from different orders, the appeals may be assigned different appeal numbers. However, the original record on appeal remains with that case. Even if the original appeal, or even a subsequent appeal, has been terminated, the record for subsequent appeals is treated as a supplemental record.

For the supplemental record, choose the documents to be included in this subsequent appeal record those which have been filed in the district court since the original record, or succeeding supplemental record(s) was certified. The physical record for a subsequent appeal(s) will consist of the original record and all certified supplemental records.

The preceding appeal records can be found on the 5th Circuit’s website, Login>View Case>Case Number (if known). If case number is not known, search by name>Retrieve Case Information. All prior appeal(s) will be listed under “Select Case to View.” Select case>print appeal records from column “Record on Appeal.”

**Filing of the Mandate:** There are several types of mandates:



1. Stipulation for Dismissal: If the parties sign and file an agreement that an appeal be dismissed, the clerk of the court of appeals will enter the case as dismissed. [Fed.R.App.P. 42\(b\)](#).
2. Dismissal of Appeal by Court of Appeals: Each court of appeals, pursuant to local rule, may authorize the dismissal of an appeal for lack of a fee or noncompliance with a local rule of the court of appeals.
3. Remand: A remand returns the case to the district court for the purpose of having the district court take further action. The mandate remanding the case to the district court should be docketed, and the case may be reopened for further action by the district court in conformity with the instructions from the court of appeals.
4. Reversal or Vacation of Judgment: A reversal or vacation of judgment actually annuls or voids the district court's judgment. The judgment or order reversing the decision of the district court should be docketed; the case may or may not be reopened in the district court for further action.
5. Affirmance: The judgment or order affirming the decision of the district court should be docketed.

**BE SURE TO REVIEW THE MANDATE CAREFULLY FOR INSTRUCTIONS REGARDING REOPENING OF THE CASE.**

[Fed.R.App.P. 41](#) requires that a mandate (certified copy of the judgment, copy of the court's opinion, if any, and direction about costs) must be issued to the district court seven days after the expiration of the time for filing a petition for rehearing **unless** such petition is filed or the time is shortened or enlarged by an order. When received, the mandate should be docketed and the appeal flag removed. See Appeal Documents, USCA Judgment/Mandate.

## General Notes

If a designation of record is filed by counsel/litigant specifying only certain documents to be included in the record, **ignore it and include everything in the record.**

In the event of a **voluminous record**, a request could be made by the district court to the 5th Circuit to ask that only certain portions of the record be sent in the appeal. The 5th Circuit would then issue an order specifying the documents they require. The order will state the time frame for filing the **joint designation** of

record with the district court. The 5th Circuit copies the district court with the order allowing designation of the record. Once the attorneys file their **joint designation** of record with the district court, the record can be created and certified.

Retained attorneys in criminal cases are not obligated to represent a defendant on appeal. A different attorney could be representing defendant on appeal.

CJA appointments in criminal cases may extend to appeals. If the CJA attorney is allowed to withdraw, a different attorney may be appointed. If an attorney is appointed for purposes of appeal, the appointment voucher should be created by the 5th Circuit from the date of the district court's order of appointment. The CJA attorney should submit any request for transcript to the 5th Circuit for approval. The Federal Public Defender will handle crack reduction appeals, including those which are filed pro se.

District court orders entered after a notice of appeal is filed should be e-mailed to the following panel of 5th Circuit Clerks per e-mail dated 07/13/2011:

LA/MS/Agency Case Team

<a href="#">Brown, Connie</a>	Case Manager	(504) 310-7808
<a href="#">Lopez, Allison G.</a>	Case Management	(504) 310-7808
<a href="#">Washington, Monica R.</a>	Death Pently Cases	(504) 310-7708
<a href="#">Pertuit, Shea E.</a>	Case Management Clerk	(504) 310-7808
<a href="#">Stewart, Mary C.</a>	Case Management Clerk	(504) 310-7808
<a href="#">Johnston, Dantrell</a>	Case Management Clerk	(504) 310-7808

<a href="#">Sutton, Majella M.</a>	Generalist	(504) 310-7808
<a href="#">Jett, Whitney</a>		(504) 310-7772

Quality Assurance/Training Team

<a href="#">Short, Sabrina B.</a>	Clerical Support Clerk	(504) 310-7947
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## APPELLATE PROCEDURES

**Chapter**

**Subject**

**Writ of Certiorari**

### DEFINITION

Certiorari is a Latin word meaning “to be informed of, or to be made certain in regard to”. It is also the name given to certain appellate proceedings for re-examination of actions of a trial court. The U.S. Supreme Court still uses the term certiorari in the context of appeals.

**Petition for Writ of Certiorari** is a document which a losing party files with the Supreme Court asking the Supreme Court to review the decision of a lower court. It includes a list of the parties a statement of the facts of the case, the legal questions presented for review, and arguments as to why the court should grant the writ.

**Writ of Certiorari** is a decision by the Supreme Court to hear an appeal from a lower court.

### BACKGROUND

Someone with a legal claim files a lawsuit in a trial court, such as a U.S. District Court, which receives evidence, and decides the facts and law. Someone who is dissatisfied with a legal decision of the trial court can appeal. In the federal system, this appeal usually would be to the U.S. Court of Appeals, which is required to consider and rule on all properly presented appeals. The highest federal court in the U.S. is the Supreme Court. Someone who is dissatisfied with the ruling of the Court of Appeals can request the U.S. Supreme Court to review the decision of the Court of Appeals. This request is named a Petition for Writ of Certiorari. The Supreme Court can refuse to take the case. In fact, the Court receives thousands of “*Cert Petitions*” per year, and denies all but about one hundred. If the court accepts the case, it grants a Writ of Certiorari.

**A writ of certiorari may be returned in a case on appeal to the fifth circuit granting or denying the lower court’s decision.**

## DOCUMENT/EVENT

Writ of Certiorari Issued - Supreme Court

**SAMPLE CASE**    [3:12-cr-007](#)    Doc [#56](#)  
                          [3:10-cr-016](#)    Doc [#23](#)

## INSTRUCTIONS

Filing the Writ of Certiorari Issued - Supreme Court

1. If a Writ of Certiorari issued by the Supreme Court is received from the Fifth Circuit file stamp and scan both documents;
2. Docket: Civil or Criminal > Appeal Documents > Writ of Certiorari Issued - Supreme Court > enter case number, and if necessary appropriate defendant > verify case name and number;
3. Enter date of file stamp as date filed > browse and select document;
4. Link to Notice of Appeal;
5. Modify text screen appears > final text screen appears;
6. NEF screen.

August 24, 2011



### **Documents with Restricted Access**

**\*\*\* Documents listed require CM/ECF Login and Password**

**\*\*\* Prior to entering PACER Login and Password**

- \*\*\* Any document set with Ex Parte restriction \*\*\*
- \*\*\* Any document set with Applicable Party restriction \*\*\*
- \*\*\* Every document in a Social Security Case \*\*\*
- Financial Affidavit - CJA 23
- Redaction Request
- Restricted Document
- State Court Record - Habeas
- Unredacted Document
- Sentencing Memorandum
- Statement of Reasons
- Motion for Downward Departure
- Motion to Reduce Sentence
- Motion to Proceed In Forma Pauperis
- CJA 20 - Authorization to Pay
- CJA 21 - Appointment
- CJA 21 - Authorization to Pay
- CJA 30 - Authorization to Pay
- CJA 31 - Appointment
- CJA 31 - Authorization to Pay
- Order on Motion for Downward Departure
- Order on Motion for Ex Parte
- Order on Motion to Reduce Sentence
- Order on Motion to Proceed In Forma Pauperis
- Pretrial Order
- Warrant in rem - Application Denied
- Seizure or Inspection Warrant - Application Denied
- Seizure Warrant Issued
- Seizure Warrant Returned Unexecuted
- Summons Returned Unexecuted
- Search Warrant Issued
- Seizure Warrant Issued
- Search Warrant Returned Unexecuted
- Warrant Returned Unexecuted
- Jury Verdict (Un-redacted)

**Forms for Appellate Procedures**  
Sample Letter to U.S. Supreme Court  
How to Burn EROA Files to CD

## Sample Letter to U.S. Supreme Court

UNITED STATES DISTRICT COURT  
OFFICE OF THE CLERK  
SOUTHERN DISTRICT OF MISSISSIPPI  
Jackson, Mississippi

November 27, 2016

ARTHUR JOHNSTON  
CLERK

Mailing Address:

501 E. Court St., Suite 2.500  
Jackson, MS 39201

TELEPHONE  
(601) 608-4000

*DIVISIONS*

SOUTHERN at Gulfport  
2012 15th Street, Suite 403  
Zip 39501

EASTERN at Hattiesburg  
701 Main St., Suite 200 Zip 39401

NORTHERN & WESTERN at Jackson  
501 E. Court St., Suite 2.500  
Zip 39201

Office of the Clerk  
Supreme Court of the United States  
One First Street, N.E.  
Washington, DC 20543

Re: Notice of Appeal  
*enter case name here*  
*enter our case number here*

Dear Intake Clerk:

Our Court is enclosing a certified copy of the above referenced Notice of Appeal filed in our Court *enter date notice of appeal filed*, along with a certified copy of our Docket Sheet and the attorneys check in the amount of \$300.00 filing fee.

Please let us know if you need additional information.

Yours very truly,

Arthur Johnston, Clerk

*enter your name here*  
Deputy Clerk

Enclosures

## Burning EROA Files to CD

Figures 18 through 24 in your EROA instructions detail how to extract and verify the files contained in the ZIP file.

To copy (burn) the files to a CD, do the following:

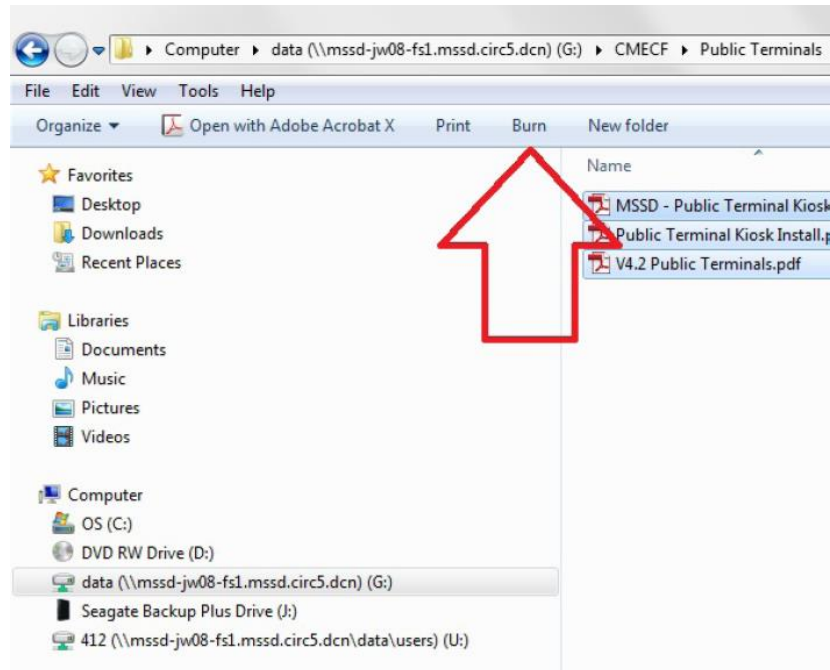
- Insert a blank CD into the CD/DVD tray on your computer
- An AutoPlay window will appear after a few seconds. Close this window



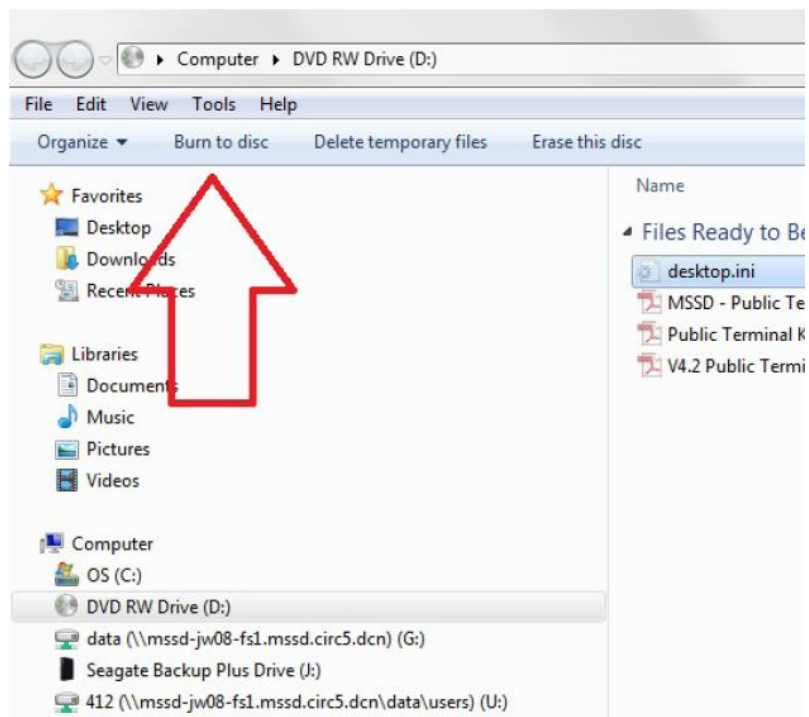
- Open Windows Explorer to the files needed for the EROA as shown in Figure 24 of your EROA instructions
- Highlight each file of the EROA by clicking with Ctrl key held down, or **select “Edit” ...” Select All” from the Windows Explorer menu** (easiest method) or hit Ctrl-A combination on your keyboard. All files for the EROA should be selected.



- Click “Burn” in the Windows Explorer toolbar



- Click “Burn to disc” in the next step



- Click “Next”. Disc title is optional and can be left as today’s date.
- Wait for files to be burned to CD. CD should automatically eject when finished. Click the “Finish” button if a window appears saying it is complete.

**Chapter:**

**Attorney Proceedings**

<b>Chapter</b>	<b>ATTORNEY PROCEEDINGS</b>
<b>Subject</b>	<b>Adding Attorney to CM/ECF Database</b>

**AUTHORITY** See "General Admission to the Federal Court, Southern District of Mississippi" procedure

### **ADDING ATTORNEY TO CM/ECF DATABASE:**

The attorney admissions clerk or designee must perform the following:

1. Check to see if all information is completed on the Oath on Admission card:
  - a. Mississippi Bar Number;
  - b. Oath: Attorney's printed name, social security number, signatures, date, and bar number.
  - c. Back of card: Firm name, telephone number, firm address, signature of person administering oath (Magistrate/District Judge, or other authorized person, and Sponsoring Attorney's signature (Movant);
  - d. Check for current admission fee (See Fee Schedule), payable to Clerk, United States District Court;
  - e. Copy of certificate of admission to practice from the Mississippi Bar or the Mississippi Supreme Court, dated no later than 60 days prior to submission
2. Receipt check for the Southern District of MS (do not receipt a check for admission to the Northern District).

### **Add NEW attorney to attorney database and ADD NEW LAW FIRM:**

1. Click Big Utilities
2. Click Attorney Admission
3. Type in attorney's bar number, last name, first name, and middle initial, click 'Next'
4. Search names by scrolling down to be sure the attorney is not listed in the database;
5. \*\*\*Add New person\*\*\* should be highlighted. Click on Next;
6. Enter the generation (Jr., Sr., etc.), if applicable, and bar number;

7. Search to see if the firm name is in the system. If not, add Office, address(es), city, state, zip and phone number; click next;
8. Click "*Perform attorney admissions function for this one*";
9. Adding Bar membership information screen appears: Division: accept default; bar member status - active; method of admission leave blank; fee status - fees paid; slip opinion - skip; fee year - enter year attorney admitted; date of admission to the bar - date listed on oath of admission card; submit;
10. Next screen says bar-member record has been inserted.
11. **DO NOT CLICK NEXT.**

**Add NEW attorney to attorney database and ASSOCIATING WITH EXISTING LAW FIRM:**

1. Click Big Utilities;
2. Click Attorney Admission;
3. Type in attorney's bar number, last name, first name, and middle initial, click 'Next';
4. Search names by scrolling down to be sure the attorney is not listed in the database;
5. **\*\*\*Add New person\*\*\*** should be highlighted. Click on Next;
6. Enter the generation (Jr., Sr., etc.), if applicable, and bar number;
7. Find the firm name in the system;
8. Select the firm and click Add/Modify firm. Verify that the address is correct and click next;
9. You can choose to edit another firm or click next, whichever is applicable; If you click next you are returned to the Update Person Information screen.
10. Enter the attorney's phone number and primary e-mail address. Click next.
11. You have now successfully entered the new attorney into the CM/ECF database;
12. Click "perform attorney admissions function for this one"
13. The "Adding Bar membership record for appears;
14. All you should change at this point is "Fee Status" - fees paid, Fee Year - enter current year; Date of Admission to Bar - enter date the oath was administered (judge signs the back of card); Click 'Submit'. Next screen reflects bar\_member record has been inserted.
15. **DO NOT CLICK NEXT.**

**It is up to the attorney to keep his/her information current in the system.**

Prepare Letter of Welcome (see attached):

1. Address to new attorney and enter his/her bar number in the body of the letter;
2. Have clerk of court sign.

Prepare Certificate of Admission (see attached):

1. Enter the attorney's name;
2. Enter the date of admission (taken from the back of the card);
3. Enter the date certificate prepared;
4. Attach gold seal and apply court seal to the gold seal;
5. Have clerk of court sign.

Letter, Certificate, Oath on Admission card, receipt and information sheet on CM/ECF registration is to be taken to clerk of court for signatures. Documents are returned to attorney admission clerk and oath on admission card is filed in the card index. The letter, the certificate, receipt and information sheet are mailed to the attorney in a large envelope with a tack board so as to prevent bending/folding.

<b>Chapter</b>	<b>ATTORNEY PROCEEDINGS</b>
<b>Subject</b>	<b>Adding a Government Attorney</b>

**AUTHORITY**      [L.U.Civ.R. 83.1\(d\)\(10\)](#)

**BACKGROUND**      Attorneys representing the United States or any of its departments/agencies are added to the attorney database in the same manner as a generally admitted attorney, except no bar number is assigned. The government attorney can only be searched for by name only, and his/her status is reflected on as a government attorney.

## **INSTRUCTIONS**

1. **To enter a government attorney and associate with existing agency:**
  - a. Utilities > Attorney Admissions > type in attorney's last name > next;
  - b. Scroll through all names to be certain attorney is not previously listed in database;
  - c. Highlight **\*\*\*Add New Person\*\*\*** > next;
  - d. **Update Person Information** screen appears:
    - i. Enter attorney's last name, first name, middle name or middle initial (if available), and generation if applicable, (Sr., Jr., III, IV, etc.);
    - ii. Do not type in a bar number for government attorney - leave blank;
    - iii. **Office:** Scroll to find the department/agency name in the Firm box area; highlight the firm name and click on **'Add/Modify Firm** verify that you have selected the correct agency. Click 'Next'. The office screen appears again, click next; Office information is entered, click next;
    - iv. Click on "Perform attorney admissions function for this one";
    - v. Make sure "Bar Member Status" is set to Active;
    - vi. **Method of Admission:** from drop down select Government;
    - vii. Click submit;

- viii. **Do not click next - you are finished adding the government attorney.**

Note: If a government attorney leaves the government and begins practice in a non-government agency or private practice, he/she is no longer allowed to practice in this court without being admitted generally or by the pro hac vice process.

**Chapter                    ATTORNEY PROCEEDINGS**

**Subject                    General Admission to the Federal Court, Southern  
District of Mississippi**

**AUTHORITY**            [L.U.Civ.R. 83.1](#) Attorneys: Admission and Conduct

**BACKGROUND**        Every attorney who files on behalf of a party in the Southern District of Mississippi must be admitted to practice either by general or pro hac vice process in the Southern District of Mississippi. This excludes government attorneys and MDL attorneys.

**FEE**                        General Admission – See Current Fee Schedule for admission fee, payable to “Clerk, U. S. District Court”

**DOCUMENTS**        Oath on Admission (see attorney admission’s clerk for card; we do not use the AO-153 form)  
Certificate to practice before MS Supreme Court

**INSTRUCTIONS**

1. must be a member of the Mississippi Bar;
2. must produce a photocopy of a certificate to practice before the Mississippi Supreme Court or, if not available, a certificate of good standing from the Mississippi Supreme Court;
3. must be sponsored by another attorney admitted to practice in this court;
4. as a courtesy between the Northern District of Mississippi and the Southern District of Mississippi, [1] the attorney may be admitted to one or both courts, and [2] the attorney may appear before a judge in either district for admission to either district. If admission is to both courts the attorney must specify to the Magistrate/District Judge at the time of admission;
5. the attorney seeking admission, along with the sponsoring attorney, must make an appointment with a Magistrate/ District Judge in order to make a personal appearance;
6. the attorney must pay the current fee per district; if attorney wants to be admitted in both the Northern and Southern districts, he/she will have to make two separate checks payable to Clerk, U.S. District Court;



7. in the southern district, the clerks office and/or chambers will have the Oath on Admission cards (which serve as a motion) and must be completed by the attorney seeking admission. If being admitted to both courts (Northern & Southern), the attorney will need to complete two Oath on Admission cards; in the northern district the Oath on Admission cards are kept in the clerk's office;
  8. the attorney seeking admission will present certificate of admission to practice in Mississippi wither from the Mississippi Bar or the Mississippi Supreme Court, dated no later than 60 days prior to submission, take the Oath (for one or both districts), and sign the Oath on Admission card(s) (for one or both districts). The sponsoring attorney will sign on the back of the card above the line "Admitted on Motion Of: (signature of movant)". The Magistrate/District Judge, or whoever administers the Oath, will then sign the back of the card beneath "Sworn to and Subscribed before Me";
  9. after the oath is administered, documentation and payment should be sent to the clerk's office:
    - a. the admitted attorney can take to the local clerk's office the (1) Oath on Admission card, (2) a copy of his/her certificate to practice, and (3) a check for current fee, payable to Clerk, U. S. District Court. If admitted to practice in both districts, duplicates of all documentation will be required;
- OR
- b. the courtroom deputy can forward everything (Oath on Admission card, copy of certificate to practice before the MS Supreme Court, and check to the Jackson Clerk's office;
  10. If admitted to the Southern District only, it will be receipted and entered into the database by the attorney admissions clerk or designee in **Jackson**;
  11. If admitted to the Northern District but oath administered in the Southern division, the attorney admissions clerk will forward necessary documentation to the Northern District. Make copies of all information before mailing.

The mailing address is:

Chief Deputy  
United States District Court  
Northern District of Mississippi  
911 Jackson Avenue, Room 369  
Oxford, MS 38655-3622

*NOTE: The General Bar Admission Ceremony, occurring twice a year, admits attorney(s) to the Southern and Northern Districts, if the attorney(s) elect to do so. At this time, attorney(s) also have the opportunity to be admitted to the Circuit Court of Hinds County, the Mississippi Supreme Court, and the Fifth Circuit Court of Appeals. Judges from each court give the oath to the attorney(s) during the ceremony. Attorney(s) electing to be admitted to the Southern District of Mississippi must have their Mississippi Bar Number, an oath on admission card (previously signed by a sponsoring attorney admitted to the Southern District of Mississippi, but who does not have to make an appearance with the admitted attorney), and current fee, payable to Clerk, U. S. District Court.*

**KATHERINE SAYS NOT TO USE THIS ONE**

AO 153 (Rev. 6/96)

NAME: (LAST, FIRST, MI)

SOCIAL SECURITY NO.

<b>OATH ON ADMISSION</b>
I, _____ DO SOLEMNLY (OR AFFIRM) THAT AS AN ATTORNEY AND AS A COUNSELOR OF THIS COURT I WILL CONDUCT MYSELF UPRIGHTLY AND ACCORDING TO LAW, AND THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES.

DATE:

SIGNATURE:

BAR I.D. NO.

**COMPLETE REVERSE SIDE**

AO 153 (Rev. 6/96)

FIRM NAME		TEL. NO.
FIRM ADDRESS		
CITY	STATE	ZIP CODE
<b>BELOW FOR OFFICE USE ONLY</b>		
SWORN AND SUBSCRIBED BEFORE ME,		DATE
ADMITTED ON MOTION OF: (Movant)		

**Chapter                    ATTORNEY PROCEEDINGS**

**Subject                    Pro Hac Vice Admissions**

**AUTHORITY**            [L.U.Civ.R. 83.1\(d\)](#)

**BACKGROUND**        The term “Resident Attorney” means the attorney has been admitted to the Southern District of Mississippi; “non-resident attorney” means the attorney has not been admitted to practice in the Southern District of Mississippi and lives out of state.

**DEFINITION**        Pro Hac Vice: Latin “for this occasion” or “for this event” is a legal term usually referring to a lawyer who has not been admitted to practice in a certain jurisdiction but has been allowed to participate in a particular case in that jurisdiction one time only. **Mississippi attorneys not admitted to practice in the Southern District of Mississippi cannot be admitted pro hac vice.**

**FILING FEE**            \$100.00 per attorney per case set by general order of the court; payable to Clerk, U.S. District Court at the time the PHV motion is filed; **non-refundable**

Pro bono projects or nonprofit legal services organizations or those appearing in a habeas corpus proceeding for indigent defendant(s) may request waiver of fee.

**REQUIREMENTS OF ATTORNEY**

1. Must have local counsel representative [L.U.Civ.R. 83.1\(d\)\(3\)](#);
2. Certificate of Good Standing (L.U.Civ.R. 83.1(d)(4); (usually Supreme Court where admitted)
3. Application for Pro Hac Vice Admission (L.U.Civ.R. 83.1(d)(4)(A-K), L.U.Civ.R. form 6); serves as the motion and must be docketed as Motion to Appear Pro Hac Vice by local counsel;
4. Fee (L.U.Civ.R. 83.1(d)(5)(A and B));

5. Attorney prepares Proposed Order and e-mails to magistrate judge in case (L.U.Civ.R. 7(b)(2)(E).

**DOCUMENTS**      Application for Pro Hac Vice Admission

<b>SAMPLE CASE</b>	<a href="#">3:11-cv-535</a>	Doc #6	motion to appear pro hac
		Attachments <a href="#">1</a> & <a href="#">2</a>	Certificates of Good Standing
		10/04/2011	pro hac vice fee paid
		10/05/2011	text only order granted pro hac vice
		10/05/11	PHV attorney added to case

**INSTRUCTIONS**

1. Only function of clerk's staff is to QC the motion to appear pro hac vice for proper style of case, certificate of service, and signatures;
2. Receipt fee: Civil > Other Events > Pro Hac Vice fee paid;
3. After receiving assigned bar number from Attorney Admissions Clerk, add pro hac vice counsel to case;
4. Civil/Criminal > utility events > add/terminate attorney > enter case number > verify case name and number > next > date document filed > next.
5. Add attorney screen appears, search by bar number > click search > select attorney by highlighting name and then click on select attorney > attorney information screen appears, change Pro Hac Vice to **Yes**; lead attorney **No**; associate PHV attorney to appropriate party(s).
6. Add attorney to selected parties > click next > skip screen which asks you to terminate attorney > next > modify text screen appears > next > Docket Text:Final Text screen appears > next > NEF appears.

**Chapter:**

**Bankruptcy Proceedings**

**Chapter                    BANKRUPTCY PROCEEDINGS**

**Subject                    Appeal Record Withdrawn**

**AUTHORITY**            [28 U.S.C. §157\(d\)](#)  
[District Court Clerk's Manual Chapter 12 §12.21](#)

**BACKGROUND**        Though all district courts have orders or local rules referring cases and proceedings until Title 11, United States Code, to the bankruptcy judges, the district court never relinquishes its power to hear and resolve these matters itself. The district court may, on the district judge's own motion or upon the motion of a party, withdraw any case or proceeding or any part of any case or proceeding referred to the bankruptcy judge.

**FILING FEE**            N/A

**DOCUMENTS**         Motion to Withdraw (filed in Bankruptcy Court)

**INSTRUCTIONS**

1. Motions for withdrawal should be filed with the bankruptcy court clerk's office. [\[Fed.R.Bankr.P. 5011\]](#)
  - a. If a motion for withdrawal of a reference is erroneously submitted to the district court, the district court clerk's office, after noting the date or receipt, should transmit the document to the bankruptcy court clerk's office. [\[Fed.R.Bankr.P. 5005\(c\)\]](#)
  - b. The bankruptcy judge may, in the interest of justice, order that the paper be deemed filed as of the date of its original delivery [\[Fed.R.Bankr.P. 5005\(c\)\]](#)
2. The motion for withdrawal of a case or proceeding must be heard by a district judge [\[Fed.R.Bankr.P. 5011\(a\)\]](#)
3. The bankruptcy court clerk's office should transmit the motion and any responses to the district court clerk's office within a timely manner

### **District Court Clerk's Office Responsibilities with respect to Motions for Withdrawal**

1. If there are **objections to the motion** for withdrawal, it is recommended that a civil action number be assigned to the file, since a bankruptcy matter that is contested before a district judge should be reported to the Statistics Division as a civil action.
2. If there are no **objections to the motion** for withdrawal, it is recommended that a miscellaneous number be assigned to the file, since uncontested bankruptcy matters before a district judge are considered miscellaneous matters and are not reported. If the motion for withdrawal is granted, then a new civil case should be opened with the nature of suit as 423 - Bankruptcy Withdrawal.
3. The order will be served on all parties via U.S. Postal Service or NEFs and a certified copy will be transmitted to the bankruptcy court clerk's office.

<b>SAMPLE CASE</b>	<a href="#">1:05-cv-404</a>	Doc #1	Motion to Withdraw Reference
		Doc #3	Order granting Motion
		9/19/06	Certified copy to Bankruptcy court
		Doc #10	Order transferring case to USDC
		11/17/06	Intradistrict transfer to Jackson division
		11/21/06	New case number 3:06-cv-655

### **INSTRUCTIONS**

1. Civil > civil case > select correct division > case type:cv > case number assigned: next number;
2. Date filed is date document(s) received from bankruptcy court;
3. Presiding Judge is the District Judge assigned to the case;
4. Referral Judge is the Magistrate Judge assigned to the district judge;
5. Referral Type: (Full pretrial, no dispositive motion), next;
6. Other court name: U.S. Bankruptcy Court, SD/MS;
7. Other court number: case number in Bankruptcy court; next
8. Jurisdiction: 3 - Federal Question;
9. Cause of action: 28:0157 Motion for Withdrawal of Reference;



10. Nature of suit: 423 (Bankruptcy Withdrawal);
11. Origin: always (1) Original Proceeding;
12. Citizenship plaintiff/defendant: only used in diversity matters;
13. Jury demand: check for jury demand;
14. Demand: check for dollar amount;
15. County: taken from where bankruptcy was filed;
16. Fee status: none (no fee required); next;

## **PARTY SCREEN APPEARS:**

Add all parties and their attorneys after reviewing the bankruptcy docket sheet, cover letter, and appeal record.

If the bankrupt person is an appellant/appellee, add them in this capacity **first** (with their attorney). Then add the same person as a debtor (without adding the attorney). This aligns the parties correctly on the docket sheet.

All Trustees should be added as pro se parties so you can add or select their mailing address in order for the address to show on the docket sheet. Role type will be "Trustee".

Always add the United States Bankruptcy Court (**check the address to make sure you have selected the bankruptcy court in the appropriate division**) as an interested party for role type and pro se for party type.

1. Search for party's last name in Last/Business Name text box. If correct name is found, highlight name and click "select party" button.
  - a. Select correct role type: refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.;
  - b. Add party text is applicable;
  - c. Click "Add party" button.
2. If party name is not found, click on "Create New Party" button. Enter the last name, first name and middle name/initial.
  - a. Select role of party: refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.;

- b. Add party text is applicable;
    - c. Click “Add Party” button.
  3. Search for United States Bankruptcy Court (correct division) in the Last/Business Name text box:
    - a. Highlight party name and click select party;
    - b. Select Interested Party (ip:pty) as role type;
    - c. Change Pro Se NO to YES so address shows on docket sheet;
    - d. Add party text is applicable;
    - e. Click “Add Party” button: you have now added U.S. Bankruptcy as an interested party
- If a Trustee is listed add Trustee:
4. Search for the Trustee’s Name in the Last/Business name text box:
    - a. If correct name is found, highlight name and click “select party” button. If party name is not found, click on “Create New Party” button. Enter the last name, first name and middle name/initial.
    - b. Select Trustee as role type: trustee:pty
    - c. Change Pro Se from NO to YES so address shows on docket sheet;
    - d. Add party text is applicable;
    - e. Click “Add Party” button to add Trustee.
  5. Pro Se filer: Search for pro se party name. If correct name is found, highlight name and click “select party” button.
    - a. Select correct role type (refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.);
    - b. Change pro se from “NO” to “Pro Se but not allowed to file electronically”;
    - c. “Show this address on the docket sheet” should be selected;
    - d. If requested, enter Pro Se party’s e-mail address for electronic notification;
    - e. Enter party text if applicable;
    - f. Click “Add party” button.
  6. If Pro Se party name is not found, click on “Create New Party” button.
    - a. Enter the last name, first name and middle name/initial;

- b. Select role of party: (refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.);
- c. Change pro se from “NO” to “Pro Se but not allowed to file electronically”;
- d. Enter the complete pro se party’s address and phone number;
- e. “Show this address on the docket sheet” should be selected;
- f. If requested, enter Pro Se party’s e-mail address for electronic notification;
- g. Enter party text if applicable;
- h. Click “Add Party” button.

### **ADD ATTORNEY(S) FOR PARTY(S):**

1. Click on the attorney icon under the Party’s name;
2. Enter the bar number or name of attorney, click search;
3. If the attorney name is found, highlight the name and click select attorney;
4. Verify firm name and address is correct;
5. If lead attorney, change no to yes;
6. Make sure notice is set to yes (default);
7. Make sure start date is the same date the party was added;
8. Click add attorney.
9. Create case > Yes to Proceed with case opening > docket lead event >

### **Attorney Name Not Found:**

1. Click on the attorney icon under the party’s name;
2. Enter the bar number or name of attorney, click search;
3. If the **attorney name is not found, immediately e-mail** the attorney admissions clerk that attorney is not in our system. The attorney must be admitted to practice in the Southern District of Mississippi and also be registered in our CM/ECF system in order to file and receive notice of electronic filing;
4. At this point you cannot add the attorney but you can begin to docket the initiating document;
5. Click create case;

6. Answer Yes to Proceed;
7. Click Docket Lead Event.

**OR IF APPLICABLE** (see below)

***COPY ATTORNEY INFORMATION:*** Click the attorney's copy icon below the Party's name. Click on the other party's attorney copy icon. Split screen appears, in right pane check the attorney name and click "Copy Attorneys". You have now added the same attorney for the other party.

### **DOCKET THE LEAD EVENT:**

1. Civil > Motions > Withdraw Reference > next;
2. Verify case number; next
3. Select the attorney if applicable, next
4. Select the filer; next
5. Browse to find the Motion to Withdraw Reference, select it;
6. Attachments: (1) Transmittal/Cover Letter, (2) Docket Sheet, and any other attachments. Select each document as a separate attachment and enter a short description in the description text box; click next;
7. The modify docket text screen appears. Click next;
8. The final text screen appears. Click next;
9. The NEF screen appears. This is your proof of filing.
10. Mail and NEFs and documents if necessary to non electronic filers.

**FLAGS** ADMINISTRATIVE, MAG initials

**Note:** Refer to [District Court Clerk's Manual](#) for further information on bankruptcy

**Chapter                    BANKRUPTCY PROCEEDINGS**

**Subject                    Bankruptcy Appeal**

**AUTHORITY**            [28 U.S.C. §158](#)  
[District Court Clerk's Manual Chapter 12](#)

**DEFINITION**            Bankruptcy is a legally declared inability or impairment of ability of an individual or organization to pay its creditors. Creditors may file a bankruptcy petition against a business or corporate debtor in an effort to recoup a portion of what they are owed or initiate a restructuring. In the majority of cases, however, bankruptcy is initiated by the debtor (a “voluntary bankruptcy” that is filed by the insolvent individual or organization). An involuntary bankruptcy petition may not be filed against an individual consumer debtor who is not engaged in business.

**BACKGROUND**            Under the Bankruptcy Reform Act of 1978, as modified by the Bankruptcy Amendments and Federal Judgeship Act of 1984, the United States District Courts are vested with federal jurisdiction over bankruptcy matters. Jurisdiction over bankruptcy cases and proceedings is set forth at [28 U.S.C. §1334](#). The United States district courts have original and exclusive jurisdiction over all cases under Title 11, United States Bankruptcy Code. [28 U.S.C. §1334(a)]

Under [28 U.S.C. §158](#), the District Courts of the United States shall have jurisdiction to hear appeals (1) from final judgments, orders, and decrees; (2) with leave of court, from other interlocutory orders and decrees; and (3) from interlocutory orders and decrees of bankruptcy judges entered in cases and proceedings referred to bankruptcy judges. An appeal shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving.

**FILING FEE**            N/A

**DOCUMENTS**            1.     **Bankruptcy Appeal** (Under Initial Pleadings) Usually includes the Notice of Appeal, Docket Sheet and

transmittal letter. The Notice of Appeal will be your main document and other documents are attachments to the Notice of Appeal within one entry.

2. **Transmission of Bankruptcy Appeal Record Received** (Under Appeal Documents) This is the appeal record we receive from Bankruptcy Court 30 days after opening the appeal. [[Fed.R.Bankr.P. 8007\(b\)](#)] The record may include:  
Transmittal Letter (This will be your main document) (other documents will be attachments to the main document within one entry.
  - a. Transcripts or other items designated by parties
  - b. The notice of appeal
  - c. The judgment order or decree being appealed
  - d. Any opinion, findings of fact and conclusions of law of the court [[Fed.R.Bankr.P. 8006](#)]

## INSTRUCTIONS

1. Civil > civil case > select correct division > case type:cv > case number assigned: next number;
2. Date filed is date document(s) received from bankruptcy court;
3. Presiding Judge is the District Judge assigned to the case;
4. Referral Judge is the Magistrate Judge assigned to the district judge;
5. Referral Type: (Full pretrial, no dispositive motion), next;
6. Other court name: U.S. Bankruptcy Court, SD/MS;
7. Other court number: case number in Bankruptcy court; next
8. Jurisdiction: 3-Federal Question;
9. Cause of action: 28:1334 Bankruptcy Appeal;
10. Nature of suit: 422 (Bankruptcy Appeal (801));
11. Origin: always (1) Original Proceeding;
12. Citizenship plaintiff/defendant: only used in diversity matters;
13. Jury demand: none;
14. Demand: no demand;
15. County: taken from where bankruptcy was filed;

16. Fee status: none (no fee required); next;

## **PARTY SCREEN APPEARS:**

Add all parties and their attorneys after reviewing the bankruptcy docket sheet, cover letter, and appeal record.

If the bankrupt person is an appellant/appellee, add them in this capacity **first** (with their attorney). Then add the same person as a debtor (without adding the attorney). This aligns the parties correctly on the docket sheet.

All Trustees should be added as pro se parties so you can add or select their mailing address in order for the address to show on the docket sheet. Role type will be "Trustee".

Always add the United States Bankruptcy Court (**check the address to make sure you have selected the bankruptcy court in the appropriate division**) as an interested party for role type and pro se for party type.

1. Search for party's last name in Last/Business Name text box. If correct name is found, highlight name and click "select party" button.
  - a. Select correct role type: refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.;
  - b. Add party text is applicable;
  - c. Click "Add party" button.
2. If party name is not found, click on "Create New Party" button. Enter the last name, first name and middle name/initial.
  - a. Select role of party: refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.;
  - b. Add party text is applicable;
  - c. Click "Add Party" button.
3. Search for United States Bankruptcy Court (correct division) in the Last/Business Name text box:
  - a. Highlight party name and click select party;
  - b. Select Interested Party (ip:pty) as role type;

- c. Change Pro Se NO to YES so address shows on docket sheet;
- d. Add party text is applicable;
- e. Click “Add Party” button: you have now added U.S. Bankruptcy as an interested party

If a Trustee is listed add Trustee:

- 4. Search for the Trustee’s Name in the Last/Business name text box:
  - a. If correct name is found, highlight name and click “select party” button. If party name is not found, click on “Create New Party” button. Enter the last name, first name and middle name/initial.
  - b. Select Trustee as role type: trustee:pty
  - c. Change Pro Se from NO to YES so address shows on docket sheet;
  - d. Add party text is applicable;
  - e. Click “Add Party” button to add Trustee.
- 5. Pro Se filer: Search for pro se party name. If correct name is found, highlight name and click “select party” button.
  - a. Select correct role type (refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.);
  - b. Change pro se from “NO” to “Pro Se but not allowed to file electronically”;
  - c. “Show this address on the docket sheet” should be selected;
  - d. If requested, add Pro Se filer’s e-mail address for electronic notification;
  - e. Enter party text if applicable;
  - f. Click “Add party” button.
- 6. If Pro Se party name is not found, click on “Create New Party” button.
  - a. Enter the last name, first name and middle name/initial;
  - b. Select role of party: (refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.);
  - c. Change pro se from “NO” to “Pro Se but not allowed to file electronically”;
  - d. Enter the complete pro se party’s address and phone number;
  - e. “Show this address on the docket sheet” should be selected;
  - f. If requested, enter Pro Se party’s e-mail address for electronic notification;
  - g. Enter party text if applicable;



- h. Click "Add Party" button.

### **ADD ATTORNEY(S) FOR PARTY(S):**

1. Click on the attorney icon under the Party's name;
2. Enter the bar number or name of attorney, click search;
3. If the **attorney name is found**, highlight the name and click select attorney;
4. Verify firm name and address is correct;
5. If lead attorney, change no to yes;
6. Make sure notice is set to yes (default);
7. Make sure start date is the same date the party was added;
8. Click add attorney.
9. Create case > Yes to Proceed with case opening > docket lead event >

### **Attorney Name Not Found:**

1. Click on the attorney icon under the party's name;
2. Enter the bar number or name of attorney, click search;
3. If the **attorney name is not found, immediately e-mail** the attorney admissions clerk that attorney is not in our system. The attorney must be admitted to practice in the Southern District of Mississippi and also be registered in our CM/ECF system in order to file and receive notice of electronic filing;
4. At this point you cannot add the attorney but you can begin to docket the initiating document;
5. Click create case;
6. Answer Yes to Proceed;
7. Click Docket Lead Event.

### **OR IF APPLICABLE (see below)**

***COPY ATTORNEY INFORMATION:*** Click the attorney's copy icon below the Party's name. Click on the other party's attorney copy icon. Split screen appears, in right pane check the attorney name and click "Copy Attorneys". You have now added the same attorney for the other party.

**DOCKET THE LEAD EVENT:**

1. Civil > Complaints and Other Initiating Documents > Bankruptcy Appeal, next;
2. Verify case number > next;
3. Select the attorney if applicable > next;
4. Select the filer > next;
5. Select the party the filing is against: you will find this information by reading the notice of appeal, transmittal letter, order, or if unable to determine contact the attorney;
6. Browse and select the scanned Notice of Appeal;;
7. Attachments: (1) Clerk's Certificate, (2) Transmittal/Cover Letter, and (3) Docket Sheet. Select each document as a separate attachment and enter a short description in the description text box; (these should be attachments to the Notice of Appeal within one docket entry)
  - a. The Transmittal/Cover letter may state a date for the transcript to be released to the public. If so, mark your calendar appropriately to release the document. If a **transcript is docketed** it should be **restricted to court users** behind the scenes by following these steps:
    - i. Big Utilities
    - ii. Maintain Case Data;
    - iii. Edit Docket Entries;
    - iv. Enter case number > next;
    - v. Select entry which has the transcript attached;
    - vi. Select Modify a document description or security > next;
    - vii. Find the transcript area and click on "court users only" > submit;
    - viii. The transcript has now been restricted to court users only.
8. Appellant's Brief Deadline screen appears: Use the calendar provided to calculate 21 days from the entry of the Appeal on the docket (not the filed date). By entering the date, the NEF will advise all parties of the brief filing deadline > click next;
9. Enter the Bankruptcy Court Case Number > click next;

10. The modify docket text screen appears. The Appellant Brief due date appears. Click next;
11. The Docket Text:Final text screen appears. Click next;
12. The NEF screen appears. This is your proof of filing.

**FLAGS** ADMINISTRATIVE, MAG initials

**Noticing of Parties to Appeal:** Parties will be notified by NEF that the docketing of the appeal starts the briefing schedule.

Additional Information [[Fed.R.Bankr.P. 8009a](#)]:

- Appellant's brief due within 21 calendar days after entry of appeal on the docket
- Appellee's brief due within 21 calendar days after the service of appellant's brief
- Appellant's reply brief due within 14 calendar days of service of appellee's brief

30 Days from opening the appeal, we should receive the transmittal of the Bankruptcy record from the Bankruptcy Court. Docket as "**Transmission of Bankruptcy Appeal Record Received**" which can be found under "Civil Events-Other Filings-Appeal Documents. The cover/transmittal letter should be your main document with any other documents as attachments to the main document within one entry.

**CLOSING CASE**

Bankruptcy Court Requirements  
[District Court Clerk's Manual Chapter 12 §12.17 Judgments](#)  
[Fed.R.Bankr.P. 8016\(b\)](#)

Immediately upon entry of the judgment, the district court clerk's office is required to transmit a notice of the entry of judgment and a copy of any opinion respecting the judgment or order to each party. The bankruptcy court will receive electronic notification (NEF) therefore; no documents are to be sent to that court. The clerk of the district court shall return to the bankruptcy court clerk any original papers, including transcripts, transmitted as to the record on appeal. Copies of documents need not be returned.

<b>Chapter</b>	<b>BANKRUPTCY PROCEEDINGS</b>
<b>Subject</b>	<b>Bankruptcy Interlocutory Appeal</b>

**AUTHORITY** [District Court Clerk's Manual Chapter 12](#), §12.07  
[28 U.S.C. §158\(a\)](#)

**DEFINITION** Interlocutory is a legal term which can refer to an order, sentence, decree or judgment, given in an intermediate stage between the commencement and termination of a cause of action, used to provide a temporary or provisional decision on an issue. An interlocutory appeal is an appeal of a ruling by a trial court that is made before the trial itself has concluded.

**BACKGROUND** Under [28 U.S.C. §158](#), the District Courts of the United States shall have jurisdiction to hear appeals (1) from final judgments, orders, and decrees; (2) with leave of court, from other interlocutory orders and decrees; and (3) from interlocutory orders and decrees of bankruptcy judges entered in cases and proceedings referred to bankruptcy judges. An appeal shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving.

When a party is seeking to appeal from an order or decree of a bankruptcy judge that is interlocutory, i.e. not final, the consent of the district court must be obtained before the appeal can go forward. ([28 U.S.C. §158\(a\)](#))

Under the Bankruptcy Reform Act of 1978, as modified by the Bankruptcy Amendments and Federal Judgeship Act of 1984, the United States District Courts are vested with federal jurisdiction over bankruptcy matters.

**Motion:** A party seeking the consent of the district court to appeal an interlocutory order or decree must file a "Motion for Leave to Appeal" with the bankruptcy court clerk's office at the time of the filing of the notice of appeal. [[Fed.R.Bankr.P.8003](#)] The party must also serve copies of the motion on all parties to the appeal at or

before the time of the filing. An acknowledgment of service must accompany the motion when filed. [[Fed.R.Bankr.P.8008\(b\)](#)]

**Answer:** An adverse party may file an answer in opposition to the motion for leave to appeal with the bankruptcy court clerk's office within 14 days of service of the motion. [[Fed.R.Bankr.P.8003\(a\)](#)]

**Order:** If the motion is granted, the district judge will order the bankruptcy court to send the record to the district court. The case will then proceed as a Bankruptcy Appeal.

## **FILING FEE**

N/A

## **DOCUMENTS**

Received from Bankruptcy Court Clerk's Office:

- 1) Notice of Appeal document;
- 2) Motion for Leave to Appeal;
- 3) Answer or Opposition to the Motion (may be included);

At the time the district court clerk's office receives the above documents the district court should open a miscellaneous case to facilitate keeping track of motions. Interlocutory Appeals start out as "no count"; if the motion is granted, the case will become a civil action and countable.

The district court clerk's office should transmit that court's determination on the motion for leave to appeal to the bankruptcy court clerk's office in a timely fashion. If the motion for leave to appeal is denied, no other action on the part of the bankruptcy court clerk's office is required apart from the entry of the order on the docket. If the motion is granted, the bankruptcy court clerk's office should proceed with assembling the record for transmittal to the district court.

## **INSTRUCTIONS**

1. Civil > civil case > select correct division > case type:mc > case number assigned: next number;
2. Date filed is date documents received from bankruptcy court;
3. Presiding Judge is the District Judge assigned to the case;

4. Referral Judge is the Magistrate Judge assigned to the district judge;
5. Referral Type: (Full pretrial, no dispositive motion), next;
6. Other court name: U.S. Bankruptcy Court, SD/MS;
7. Other court number: case number in Bankruptcy court; next

**PARTY SCREEN APPEARS:**

Look at the documents received as to party name and role type.

16. Search for party's last name in Last/Business Name text box. If correct name is found, highlight name and click "select party" button.
  - a. Select correct role type: refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.;
- a. Add party text is applicable;
- b. Click "Add party" button.
  
17. If party name is not found, click on "Create New Party" button. Enter the last name, first name and middle name/initial.
  - a. Select role of party: refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.;
  - b. Add party text is applicable;
  - c. Click "Add Party" button.
  
18. Search for U.S. Bankruptcy (MSSD) in the Last/Business Name text box:
  - a. Highlight party name and click select party;
  - b. Select Interested Party (ip:pty) as role type;
  - c. Add party text is applicable;
  - d. Click "Add Party" button: you have now added U.S. Bankruptcy as an interested party
  
- If a Trustee is listed add Trustee:
19. Search for the Trustee's Name in the Last/Business name text box:
  - a. If correct name is found, highlight name and click "select party" button. If party name is not found, click on "Create New Party" button. Enter the last name, first name and middle name/initial.
  - b. Select Trustee (trust:pty) as party type;

- c. Add party text is applicable;
  - d. Click "Add Party" button to add Trustee.
20. Pro Se filer: Search for pro se party name. If correct name is found, highlight name and click "select party" button.
- a. Select correct role type (refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.);
  - b. Change pro se from "NO" to "Pro Se but not allowed to file electronically";
- a. "Show this address on the docket sheet" should be selected;
  - b. If requested, enter Pro Se party's e-mail address for electronic notification;
  - c. Enter party text if applicable;
  - d. Click "Add party" button.
21. If Pro Se party name is not found, click on "Create New Party" button.
- a. Enter the last name, first name and middle name/initial;
  - b. Select role of party: (refer to documents as role type could be plaintiff, appellant, debtor, interest party, appellee, creditor, etc.);
  - c. Change pro se from "NO" to "Pro Se but not allowed to file electronically";
  - d. Enter the complete pro se party's address and phone number;
  - e. "Show this address on the docket sheet" should be selected;
  - f. If requested, enter Pro Se party's e-mail address for electronic notification;
  - g. Enter party text if applicable;
  - h. Click "Add Party" button.

### **ADD ATTORNEY(S) FOR PARTY(S)**

1. Click on the attorney icon under the Party's name;
2. Enter the bar number or name of attorney, click search;
3. If the **attorney name is found**, highlight the name and click select attorney;
4. Verify firm name and address is correct;
5. If lead attorney, change no to yes;
6. Make sure notice is set to yes (default);
7. Make sure start date is the same date the party was added;

8. Click add attorney.
9. Create case > Yes to Proceed with case opening > docket lead event >

**Go to docket lead event section below**

***COPY ATTORNEY INFORMATION:*** Click the attorney's copy icon below the Party's name. Click on the other party's attorney copy icon. Split screen appears, in right pane check the attorney name and click "Copy Attorneys". You have now added the same attorney for the other party.

**Attorney Name Not Found:**

1. Click on the attorney icon under the party's name;
2. Enter the bar number or name of attorney, click search;
3. If the **attorney name is not found, immediately e-mail** the attorney admissions clerk that attorney is not in our system. The attorney must be admitted to practice in the Southern District of Mississippi and also be registered in our CM/ECF system in order to file and receive notice of electronic filing;
4. At this point you cannot add the attorney but you can begin to docket the initiating document;
5. Click create case;
6. Answer Yes to Proceed;
7. Click Docket Lead Event.

**DOCKET THE LEAD EVENT:**

1. Civil > Motions > Leave to Appeal, next
2. Verify case number; next
3. Select the attorney if applicable, next
4. Select the filer; next
5. Browse to find the scanned Motion to Appeal, select it;



6. Attachments: (1) any answer or objection to the motion, (2) the notice of appeal, and if received (3) the Transmittal Letter; browse and select each document as a separate attachment and enter a short description in the description text box;
7. The modify docket text screen appears. Modify text to read *MOTION FOR LEAVE TO Appeal (Interlocutory) by party name*. Click next;
8. The final text screen appears. Click next;
9. The NEF screen appears. This is your proof of filing.

If the motion has been denied, the district court will close the miscellaneous case:

1. Utilities > Maintain Case Data > enter case number > submit;
2. Enter **date terminated** at the top of the screen and in the statistical data portion at the bottom of the screen, submit;
3. Set closed flag.

No other action on the part of the bankruptcy court clerk's office is required other than entered the order on the docket.

If the motion is granted the party can now appeal to the district court. The bankruptcy court clerk's office should proceed with assembling the record for transmittal to the district court. Once we receive the appeal record refer to the Bankruptcy Appeal procedures.



**Chapter:**

**Bonds**

**Chapter**                    **BONDS**  
**Subject**                    **Appeal Bond**

**AUTHORITY**            [Fed.R.App.P. 7](#)

**BACKGROUND**        In a civil case, the district court may require an appellant to file a bond or provide other security in any form and amount necessary to ensure payment of costs on appeal. Discretion is left to the district courts as to whether or to require such bond.

A stay of the judgment in a civil case pending appeal may be conditioned upon the filing of a bond or other security.

**NOTE**                    For other information, see Supersedeas (Civil Appeal Bond) procedure.

<b>Chapter</b>	<b>BONDS</b>
<b>Subject</b>	<b>Different Types of Bonds</b>

**All original bonds [civil and criminal], once scanned into case, should be placed in the vault until final disposition of case, including appeal. At this time the bond can then be shredded.**

## **CIVIL BONDS**

**Unsecured Bonds:** are executed when a defendant is released without posting cash or collateral. The court may require a co-signer(s). The defendant and co-signer(s), if any, agree to have a lien placed against them in the amount of the bond.

## **Secured Bonds**

1. **Cash bonds:** Cash bonds should be tendered to the cashier located in the District Court clerk's Office. The term "cash" bail includes certified checks, cashier's checks or money orders. The court suggests avoiding the deposit of cash. The individual posting cash must sign an Affidavit of Cash Security stating the money belongs to him/her. The name and address on the affidavit will be used to return the money after cancellation of the bond. This document can be found on the Court's website under [GENERAL/LOCAL COURT FORMS/AFFIDAVIT CASH BOND](#). There are two forms listed: one you can print and fill in the blanks; the other you can merge the information into the form. Cashiers and Financial Staff should be aware these forms are available and should be used any time a cash bond is received by the Court.
2. **Refund/Release:** Upon receipt of a signed Order from the judge, the Clerk's Office Financial Department will issue a check for the refund.
3. **Property Bonds:** Property (real property) may be approved by the judge as collateral to secure a bond. Certain documents may be required by the court (i.e. deed, mortgage statement, tax bill,

photo identification of property owner and property valuation, etc.).

4. **Non-Cash Collateral Bonds:** The court may allow collateral other than cash such as titles to vehicles, stock notes bonds, etc. to be posted.
5. **Corporate Surety Bonds:** The use of bail bondsmen must be pre-approved by the Court. Bail bondsmen used on federal bonds must comply with certain guidelines. All sureties used must be on the Department of Treasury's Listing of Approved Sureties (Circular 570). This listing is available on the internet at <http://www.fms.treas.gov/c570/c570.html>

The individual who executes the bond on behalf of the surety company must be listed on the Power of Attorney. The Power of Attorney should be attached to the bond when filed.

6. **Replevin Bond:** An action to recover personal property said or claimed to be unlawfully taken. A replevin bond is usually requested by counsel upon filing a complaint of replevin.

The replevin bond must be approved by a District or Magistrate Judge before the clerk's office can issue a Writ of Replevin. The signed Order directs counsel to post a good and valid Replevin Bond and also directing clerk of court to issue the Writ of Replevin.

SAMPLE CASE: [3:09-cv-108](#)

Doc [#1](#) Verified Complaint for Replevin under Bond

Doc [#3](#) Replevin Bond

Doc [#4](#) Order directing Issuance of Writ

Doc [#5](#) Writ of Replevin

7. **Injunction Bond:**

SAMPLE CASE: [1:07-cv-655](#)

Doc [#14](#)

8. **Sequestration Bond:**

SAMPLE CASE: [1:09-cv-170](#)

Doc [#109](#)

## **CRIMINAL BONDS**

**Unsecured Bonds:** are executed when a defendant is released without posting cash or collateral. The court may require a co-signer(s). The defendant and co-signer(s), if any, agree to have a lien placed against them in the amount of the bond.

AO-98 Agreement to Forfeit Property (Other Than Real Property) To Obtain A Defendant's Release; also known as an Appearance Bond

## **Secured Bonds**

1. **Cash bonds:** Cash bonds should be tendered to the cashier located in the District Court clerk's Office. The term "cash" bail includes certified checks, cashier's checks or money orders. The court suggests avoiding the deposit of cash. The individual posting cash must sign an Affidavit of Cash Security stating the money belongs to him/her. The name and address on the affidavit will be used to return the money after cancellation of the bond.

AO-98 Agreement to Forfeit Property (Other Than Real Property) To Obtain A Defendant's Release; also known as an Appearance Bond

2. **Refund/Release:** Upon receipt of a signed Order from the judge, the Clerk's Office Financial Department will issue a check for the refund.
3. **Property Bonds:** Property (real property) may be approved by the judge as collateral to secure a bond. Certain documents may be required by the court (i.e. deed, mortgage statement, tax bill, photo identification of property owner and property valuation, etc.).

AO-100 Agreement to Forfeit Real Property To Obtain A Defendant's Release; also known as an Appearance Bond

4. **Non-Cash Collateral Bonds:** The court may allow collateral other than cash such as titles to vehicles, stock notes bonds, etc. to be posted.

AO-98 Agreement to Forfeit Property (Other Than Real Property)  
To Obtain A Defendant's Release; also known as an Appearance  
Bond

5. **Corporate Surety Bonds:** The use of bail bondsmen must be pre-approved by the Court. Bail bondsmen used on federal bonds must comply with certain guidelines. All sureties used must be on the Department of Treasury's Listing of Approved Sureties (Circular 570). This listing is available on the internet at <http://www.fms.treas.gov/c570/c570.html>

AO-98 Agreement to Forfeit Property (Other Than Real Property)  
To Obtain A Defendant's Release; also known as an Appearance  
Bond

**NOTE:** If our court receives a request by an out of district court for someone to come in our office and sign an appearance bond in a case unrelated to our court, we may do so without approval; however, if the bond requires a monetary payment, we must get approval from one of our magistrate judges first. Our finance office will need to be notified to set up a "dummy" case so that we may receipt the payment.

**NOTE:** If we get a call from another district to witness a signature on an appearance surety bond in a criminal case, this is handled by the Magistrate Judge's office. They must have a driver's license. The courtroom deputy will witness the signature and forward the documents to the other district.



**Chapter**

**BONDS**

**Subject**

**Registering a Company**

**AUTHORITY**

Federal Register

**INSTRUCTIONS**

1. The company must be registered with the MS State Insurance Department.
2. The individual must be affiliated with an insurance company with the Federal Registry. The Federal Registry contact person is Wanda J. Rogers, (202) 874-6850.
3. Anyone associated with the individual's company must file a Power of Attorney to write bonds.

**Chapter**

**BONDS**

**Subject**

**Supersedeas (Civil Appeal Bond)**

**AUTHORITY**

[Fed.R.Civ.P. 62\(d\)](#)  
[Fed.R.App.P. 7](#) and [8](#)  
[District Court Clerk's Manual Chapter 13 '13.04\(a\) and \(b\)](#)

**BACKGROUND**

A supersedeas bond is required of one who petitions to set aside a judgment or execution and from which the other party may be made whole if the action is unsuccessful.

A supersedeas bond is in an amount for 110% of the judgment in a civil case. The bond may be given at or after the time of the filing of a notice of appeal or of procuring the order allow the appeal to the 5th Circuit. It is posted to prevent any writ of garnishment or execution from being issued.

When an appeal is taken, the appellant, by giving a supersedeas bond, may obtain a stay subject to certain exceptions. The stay becomes effective when the supersedeas bond is approved by the court.

**DEFINITION**

A bond is a written agreement by which a person insures he will pay a certain sum of money if he does not perform certain duties properly. A supersedeas bond, also known as a defendant's appeal bond, is a type of surety bond that a court requires from an appellant who want to delay payment of a judgment until the appeal is over.

**FILING FEE**

N/A

**DOCUMENTS**

Motion for Approval of Supersedeas bond  
Order granting Supersedeas Bond

**SAMPLE CASE**

[1:06-cv-97](#) Doc [#353](#) Motion to Stay/Supersedeas Bond  
Doc [#354](#) Order granting Stay/Bond  
Doc [#355](#) Supersedeas Bond  
*Motions to stay may or may not be included*

**INSTRUCTIONS**

**The clerk of court cannot approve the supersedeas bond.** If an attorney contacts the clerk's office, direct the attorney to the District Judge assigned to the case.

A party would obtain the bond through a bonding company authorized to serve as surety on bonds. The Treasury maintains

a nationwide list of bonding companies. MSSD's home page > General > Treasury Approved Sureties > Sureties Listing > Certified Companies or <http://www.fms.treas.gov/c570/c570.html> then click on Certified companies.

Chambers need to log into the above site to verify that the bonding company is (1) AO approved, (2) authorized to write bonds in or above the dollar amount of the supersedeas bond, and (3) approved to do business in the State of Mississippi.

**The district court clerk's office is not responsible for the handling of this matter.**

Any District Judge or Magistrate Judge can approve the bond as long as it is approved by the District Judge assigned to the case.

Check Qualifying Power of Attorney procedures section.

**Chapter:**

**CM/ECF Case Assignment**

<b>Chapter</b>	<b>CM/ECF CASE ASSIGNMENT MODULE</b>
<b>Subject</b>	<b>CM/ECF Case Assignment Module and Automatic Case Numbering</b>

**CM/ECF Case Assignment Module and Automatic Case Numbering**  
**GENERAL NOTES**

1. **When initially assigning cases, DO NOT ENTER A CASE NUMBER.**
2. **DO NOT USE the BACK BUTTON, esp. in the Initial Case Assignment (Random) and (Direct) modules.** If you do, you will get a warning message stating the data has already been saved. If you make a mistake, simply click on a category name on the toolbar [CIVIL – CRIMINAL – QUERY]. This will give you a clean slate to restart the process. (Thank Larry for that tip)
3. Use Direct Case Assignment in Civil Events for “Death Penalty” Cases.
4. Use Direct Case Assignment in Criminal Events when the “Notice of Judicial Assignment” is included with the original Indictment or Information. (See 1:20cr1-HSO-RHW, Doc #2; 3:20cr81, Doc #11, merged mag/information. Always docket the Indictment or Information before docketing the “Notice of Judicial Assignment”)
5. Be sure to select the correct presiding judge deck at assignment. There will be a Civil/Criminal District Judge deck for each division.

## I. NEW CASE OPENING: INITIAL ASSIGNMENT OF JUDGES

- 1 At **“INITIAL ASSIGNMENT (RANDOM)”** – ALWAYS SELECT **“AUTO-SELECT REFERRAL JUDGE”**, EXCEPTION: SOCIAL SECURITY and 2254 CASES.

**Initial Civil Case Assignment (Random)**

Office  Case type  Case number

Presiding judge assignment deck

Referral judge assignment deck

Auto-select referral judge

Assignment date

Is this a Death Penalty Habeas Case?

Print  assignment label(s)

2. Click “Submit”. Note the “blip” “Case has not been opened” at the top left-hand corner. Type in the “Case Short Title” and click on “Next”.

**Initial Civil Case Assignment (Random)**

Case has not been opened

Office: 2 Case type: cv Year: N/A Number: N/A Assignment date: 12/15/2020

Case Short Title

### Initial Civil Case Assignment (Random)

Shuffling cards in deck.

Presider Card selected.

Shuffling cards in deck.

Referral Card selected.

Next

Clear

3. “Remember to check Conflict Checking List”. Here is where you will go to big “Utilities” > “Miscellaneous” > “Conflict Checking” and run your conflict list. No Conflicts – click on “Process Assignment Labels”.

Case: 2:20-cv-02014  
Assigned To : Starrett, Keith  
Referral Judge: Parker, Michael T.  
Assign. Date : 12/15/2020  
Description: Bugs Bunny, et al v.  
Roger Rabbit, et al

### 4. CIVIL CASE REASSIGNMENT/RECUSAL

If there is a **conflict for either judge**, the reassignment will be done via the “Reassignment/Recusal (Random)” menu. Civil Events > Case Assignment > Reassignment/Recusal (Random). Put in the Office > case type defaults to “cv” > put in the case number > click on “Reason” > select the reason > click on “Next”.

#### Civil Case Reassignment/Recusal (Random)

Office  Case type  Case number   
Reason   
Next Clear

In Civil, **always select “Reassign Presiding Judge” and “Auto-Select Referral Judge”, no matter which judge has the conflict.** In the “Reassignment Notes” box type a short description of the reason for the reassignment, specify the judge and specific conflict, ex: “Plaintiff party, KS conflict”. Click through to get the new judge assignment. Do a conflict check. If no conflict, open the case as civil “assigned” or “assigned sealed”.

### Civil Case Reassignment/Recusal (Random)

Case Number: 2:20-cv-02014 Bugs Bunny, et al v. Roger Rabbit, et al

Assignment date: 12/15/2020

Presiding judge: Keith Starrett

Referral judge: Michael T. Parker

Reassign presiding judge

Reassign referral judge

Remove referral judge

Auto-select referral judge

Reassignment date

Reassignment Notes

Plaintiff party, KS conflict

Is this a Death Penalty Habeas Case?

Print  assignment label(s)

Case: 2:20-cv-02014

Assigned To : Ozerden, Halil S.

Referral Judge: Gargiulo, John C

Assign. Date : 12/15/2020

Description: Bugs Bunny, et al v.

Roger Rabbit, et al

## II. OPENING THE CIVIL CASE: (ASSIGNED or SEALED)

**OPEN THE CASE:** Open the case from either “Civil Case -Assigned” or Civil Case – Assigned (Sealed) > put in the Division> case type defaults to



“cv” > put in the assigned case number > verify “Date Filed” > Next. “Create Referral Judge Record”: yes > Select correct “Referral Type” for magistrate judge.

### Open Assigned Civil Case

Presiding judge: Starrett, Keith

Referral judge: Parker, Michael T.

Create referral judge record  yes  no

Referral Type

Continue to open the case as usual.

### Open Assigned Civil Case

Jurisdiction

Cause of action  Filter:

Nature of suit  Filter:

Origin

Citizenship plaintiff

Citizenship defendant

Jury demand  Class action  Demand (\$000)

Arbitration code  County

Fee status  Fee date  Date transfer

### III. OPENING SOCIAL SECURITY CASES:

1. Select Presiding Judge Assignment Deck (by Division)
2. Select “Referral Judge Assignment Deck”, and select the choice: “Civil Social Security Act – Magistrate Judge”
3. **DO NOT CHECK THE “AUTO-SELECT REFERRAL JUDGE BOX**

## SOCIAL SECURITY CASE: (INITIAL SCREEN)

### Initial Civil Case Assignment (Random)

Office  Case type  Case number

Presiding judge assignment deck

Referral judge assignment deck

Auto-select referral judge

Assignment date

Is this a Death Penalty Habeas Case?

Print  assignment label(s)

#### IV. OPENING 2254 CASES:

1. Select Presiding Judge Assignment Deck (by Division)
2. Select "Referral Judge Assignment Deck", and select the choice: "Civil Pro Se 2254 – Magistrate Judge"
3. **DO NOT CHECK THE "AUTO-SELECT REFERRAL JUDGE BOX"**

## 2254 (INITIAL SCREEN)

**Initial Civil Case Assignment (Random)**

Office  Case type  Case number

Presiding judge assignment deck

Referral judge assignment deck

Auto-select referral judge

Assignment date

Is this a Death Penalty Habeas Case?

Print  assignment label(s)

- V. **CAPITAL HABEAS (DEATH PENALTY) CASES** will be assigned via the “Initial Assignment (Direct)” process. **Contact Stacey Spears, pro se attorney, office (601) 608-4062 or cell (601) 209-6522 for the next District Judge to be assigned.**
- Civil Events: **Direct Case Assignment**
  - Select: **Initial Civil Case Assignment (Direct).**
  - Select: Office > Case Type> Presiding Judge (Select the judge Stacey has assigned > Assign from Deck: “Civil Capital Habeas Corpus. DO NOT SELECT A REFERRAL JUDGE OR CHECK THE “AUTO-SELECT REFERRAL JUDGE BOX. Move down to “Reason”.
  - REASON click on the arrow and choose: **Death Penalty Case.** You may leave the “Remarks” box blank.

## DEATH PENALTY CASE (INITIAL SCREEN)

### Initial Civil Case Assignment (Direct)

Office  Case type  Case number

Residing judge  Assign from deck

Referral judge  Assign from deck

Auto-select referral judge

Assignment date

Reason  Remarks

Print  assignment label(s)

## VI. MOTION TO VACATE – CRIMINAL FILING

1. Docket the Motion to Vacate in the “Criminal Case” as usual in the Criminal case then when prompted to enter the civil case number, **SKIP THAT SCREEN.**

### Motions

[2:14-cr-02000-KS-MTP USA v. Mouse et al](#)

**REMINDER:** Docket the following event in the civil case.

Example: DOCKET ANNOTATION: See Criminal Case No. 11111111-HTW-LRA for docket entries.

Click “Next”

**Motions**

[2:14-cr-02000-KS-MTP USA v. Mouse et al](#)

MOTION to Vacate under 28 U.S.C. 2255 by Peter Rabbit as to Harold Mouse. |

(Regan, Linda)

Next

Clear

**FINAL TEXT:**

**Motions**

[2:14-cr-02000-KS-MTP USA v. Mouse et al](#)

Docket Text: Final Text

**MOTION to Vacate under 28 U.S.C. 2255 by Peter Rabbit as to Harold Mouse. (Regan, Linda)**

**Attention!!** Pressing the NEXT button on this screen commits this transaction. You will have no further opportunity to modify this transaction if you continue.

Next

Clear

- 2. DO NOT PUT IN A CIVIL CASE NUMBER. CLICK ON NEXT.** Error Message will appear: "You did not enter a case number. Proceed to open case? Click "OK".

**Motions**

[2:14-cr-02000-KS-MTP USA v. Mouse et al](#)

Civil Case Number

99-12345

Next

Clear

**3. NOTICE OF ELECTRONIC FILING APPEARS. NOTE in “Docket Text” - Civil Case 2:21-cv-0003 opened. (The case is opened but not ASSIGNED)**

**Motions**

[2:14-cr-02000-KS-MTP USA v. Mouse et al](#)

U.S. District Court [TEST]  
Southern District of Mississippi

**Notice of Electronic Filing**

The following transaction was entered on 2/9/2021 at 12:02 PM CST and filed on 2/9/2021

Case Name: USA v. Mouse et al  
Case Number: [2:14-cr-02000-KS-MTP](#)  
Filer: Dft No. 1 - Harold Mouse  
Document Number: 25(No document attached)

**Docket Text:**

**MOTION to Vacate under 28 U.S.C. 2255 by Peter Rabbit as to Harold Mouse. (Regan, Linda)**  
**Civil case 2:21-cv-00003 opened.**

2:14-cr-02000-KS-MTP-1 Notice has been electronically mailed to:

Perry Mason [larry\\_weathersby@mssd.uscourts.gov](mailto:larry_weathersby@mssd.uscourts.gov), [cmecfhelpdesk@mssd.uscourts.gov](mailto:cmecfhelpdesk@mssd.uscourts.gov)

2:14-cr-02000-KS-MTP-1 Notice has been delivered by other means to:

Jack Rabbitt

Peter Rabbit

**4. Under CIVIL EVENTS: DIRECT CASE ASSIGNMENT, Select: INITIAL ASSIGNMENT (DIRECT):**

- a. Select the correct “Division”, “Case Type” defaults to “cv”, type in the Civil Case Number that was automatically assigned.
- b. Select the “Presiding Judge” - select the same district judge assigned to the criminal case.
- c. “Assign from deck” select: “Existing Case Presider Reassignment Deck”
- d. **DO NOT SELECT A REFERRAL JUDGE**
- e. **KEEP AUTO SELECT REFERRAL JUDGE BLANK.**

f. In the “REASON” box select: “2255 Motion” – click “Submit”

**Initial Civil Case Assignment (Direct)**

Division  Case type  Case number

Presiding judge  Assign from deck

Referral judge  Assign from deck

Auto-select referral judge

Assignment date

Reason  Remarks

Print  assignment label(s)

**Initial Civil Case Assignment (Direct)**

**Case has already been opened**

g. Click “Next”

**Initial Civil Case Assignment (Direct)**

**Presider Card selected.**

**No referral deck selection was made**

h. Click “Next”

---

### **Initial Civil Case Assignment (Direct)**

**Case 2:21-cv-00003 has been directly assigned to:  
presiding Judge Keith Starrett from deck Existing Case Presider Reassignment Deck**

[Assign another case \(Direct\)?](#)

[Process Assignment Labels](#)

- i. Click “Process Assignment Labels”. Now you have the civil case label showing the district judge assigned and the date of assignment. Use this label to assign the district judge in big “UTILITIES”.

Case: 2:21-cv-00003  
Assigned To : Starrett, Keith  
Assign. Date : 2/9/2021  
Description: Mouse v. USA

5. **FINAL STEP: ASSIGNING YOUR JUDGE TO THE NEW CIVIL CASE**
  - a. Under “Edit Data”, select “Maintain Case Data”, select “Edit Case Participants – Judges.
  - b. **Put in the Civil Case Number** and click on “Add Judge”. Click “Next”



### Case Judge Editor

Case Number

2:21-cv-3

When a Judge's role in a case has ended, use the Modify function to terminate the Judge (set the End Date).

- Add Judge
- Modify Judge
- Delete Judge

Next

Clear

- c. Add the assigned judge from the dropdown, verify the “Start Date”, verify judge’s role is “presiding”, click “Next”

### Case Participant Editor

Add judge Starrett, Keith

Start date 2/9/2021

Select new judge's role

presiding (pre)

Select referral type (if new judge is referral judge)

Next

Clear

Click “Next”

### Case Judge Editor

Judge Keith Starrett will be added to case [2:21-cv-00003](#)

#### Select hearings to link to new judge

No pending hearings to link.

Press Continue to Add Judge

Continue

Click "Continue" to Add Judge.

#### FINAL SCREEN IN EDITOR:

Judge Keith Starrett has been added to Case 2:21-cv-00003

[Edit Other Case Judges?](#)

- d. Make the docket annotation in the Civil Action case:  
*DOCKET ANNOTATION: See Criminal Case No. X:xx-cr-xxx for docket entries.*

U.S. District Court [TEST]  
Southern District of Mississippi (Eastern (Hattiesburg))  
CIVIL DOCKET FOR CASE #: 2:21-cv-00003-KS  
Internal Use Only

Mouse v. USA  
Assigned to: District Judge Keith Starrett  
Related Case: [2:14-cr-02000-KS-MTP-1](#)  
Cause: 28:2255 Motion to Vacate Sentence

Date Filed: 02/09/2021  
Jury Demand: None  
Nature of Suit: 510 Prisoner: Vacate Sentence  
Jurisdiction: U.S. Government Defendant

**Petitioner**  
Harold Mouse

represented by **Harold Mouse**  
PRO SE

V.

**Respondent**  
USA

[Email All Attorneys](#)

Date Filed	#	Docket Text
02/09/2021		DOCKET ANNOTATION: See Criminal Case No. 2:14cr2000 for docket entries. (Regan, Linda) (Entered: 02/09/2021)

**VII. REASSIGNMENT/RECUSAL PER ORDER – DIRECT CASE ASSIGNMENT [FOR CASES BEFORE DECEMBER 21, 2020]**

When entering an Order Reassigning Case, a **direct reassignment must first be performed.** Use for both CIVIL and CRIMINAL

**Civil Events**

[Divisional County Map](#)

**Case Assignment**

[Initial Assignment \(Random\)](#)

[Reassignment/Recusal \(Random\)](#)

**Direct Case Assignment**

[Initial Assignment \(Direct\)](#)

[Reassignment/Recusal \(Direct\)](#)

### 1. Civil Case Reassignment/Recusal (Direct)

- a. Put in the case number being reassigned
- b. Reason: "Order Reassigning Case"
- c. Review the case and answer the questions, which default to "no":
  1. Is this a Social Security Act case?
  2. Is this a pro se prisoner habeas relief (2254) case?
  3. Is this a Death Penalty Habeas Case?
- d. Click "Next"

#### Civil Case Reassignment/Recusal (Direct)

Division  Case type  Case number

Reason

Is this a Social Security Act case?

Is this a pro se prisoner habeas relief (2254) case?

Is this a Death Penalty Habeas Case?

FOR CASES WITH ASSIGNMENTS BEFORE THE AUTOMATIC JUDGE ASSIGNMENT OF 12/21/2020, YOU WILL GET THIS MESSAGE: **Original assignment not found**

- e. Check the Order of Reassignment as to whether both or one judge is being reassigned. Select from the "Existing Case \_\_\_ Deck"

### Civil Case Reassignment/Recusal (Direct)

**Original assignment not found --**

**one will be generated from the current judge information for this case.**

**Current Presiding Judge: Starrett, Keith**

**Current Referral Judge: Parker, Michael T.**

**Specify deck(s) to credit for original assignment.**

**Presider assignment deck**

**Referral assignment deck**

Click "Next"

- f. Click on the appropriate "Reassign" box, verify the date, type short reason for the reassignment in the "Reassignment Notes"

### Civil Case Reassignment/Recusal (Direct)

**Case Number: 2:09-cv-00109-KS-MTP Taylor v. Hartford Casualty Insurance Co.**

**Assignment date: 11/10/2009**

**Presiding judge: Keith Starrett**

**Referral judge: Michael T. Parker**

**Reassign presiding judge**

**Reassign referral judge**

**Remove referral judge**

**Reassign to**

**Reassign to**

**from deck**

**Auto-select referral judge**

**Reassignment date**

**Reassignment Notes**

Order of Reassignment filed  
2/10/2021

**Print**  **assignment label(s)**

Click "Next"

### Civil Case Reassignment/Recusal (Direct)

Next

Clear

Click "Next"

### Civil Case Reassignment/Recusal (Direct)

**Presider Card selected.**

**No referral deck selection was made**

Next

Clear

This screen shows the Presider Card has been selected and no referral or magistrate judge deck was selected. Click "Next"

- g.** The reassignment is complete and the case has successfully been reassigned to Judge Ozerden. Click on "Process Assignment Labels" for your label.

### Civil Case Reassignment/Recusal (Direct)

**Case 2:09-cv-00109 has been directly reassigned to:  
presiding Judge Halil S. Ozerden from deck Existing Case Presider Reassignment Deck**

[Reassign another case \(Direct\)?](#)

[Process Assignment Labels](#)

This process assigns the judge only, it does not automatically change the judge.

**U.S. District Court [TEST]  
Southern District of Mississippi (Eastern (Hattiesburg))  
CIVIL DOCKET FOR CASE #: 2:09-cv-00109-KS-MTP  
Internal Use Only**

Taylor v. Hartford Casualty Insurance Co.  
Assigned to: District Judge Keith Starrett  
Referred to: Magistrate Judge Michael T. Parker  
Cause: 28:1332 Diversity-Insurance Contract

Date Filed: 11/10/2009  
Jury Demand: Plaintiff  
Nature of Suit: 110 Insurance  
Jurisdiction: Diversity

**h. Docket the Order of Reassignment/Recusal in the usual manner.**

**U.S. District Court [TEST]  
Southern District of Mississippi (Eastern (Hattiesburg))  
CIVIL DOCKET FOR CASE #: 2:09-cv-00109-HSO-MTP  
Internal Use Only**

Taylor v. Hartford Casualty Insurance Co.  
Assigned to: District Judge Halil S. Ozerden  
Referred to: Magistrate Judge Michael T. Parker  
Cause: 28:1332 Diversity-Insurance Contract

Date Filed: 11/10/2009  
Jury Demand: Plaintiff  
Nature of Suit: 110 Insurance  
Jurisdiction: Diversity

-- . . .

## VIII. ORDER OF REASSIGNMENT/ORDER OF RECUSAL

Using the CIVIL/CRIMINAL EVENTS, click on REASSIGNMENT/RECUSAL (DIRECT).

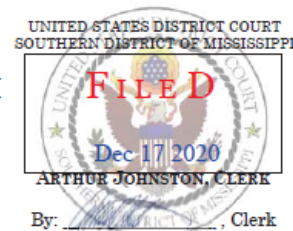
1. **Before docketing the Order of Recusal or the Order Reassigning the Case, go to Internal Rule 1, Assignment of Judges and Magistrates.** On pages 8 and 9 of the Order there is a sequence of how the judges are to be selected. Internal Rule 1 can be located at 3:40-mc-00011, Doc #71 or you can save the PDF to your desktop to gain quicker access.

[Case 3:40-mc-00011](#) [Document 71](#) [Filed 12/17/20](#) [Page 1 of 10](#)

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

INTERNAL RULE 1

*as amended effective December 21, 2020*



### ASSIGNMENT OF CASES TO JUDGES AND MAGISTRATE JUDGES

Beginning on page 8, you will find Section X. RECUSAL, which shows the reassignment sequence for the district judges and continue to page 9 for the magistrate judges:

- X. **RECUSAL** - When the presiding district judge must recuse himself or herself

from a case, the reassignment will be conducted in the following sequence:

2. After you have selected the proper judge, run a conflict check. In accordance with the Order from the judge, go to CIVIL EVENTS or CRIMINAL EVENTS, under “**DIRECT CASE ASSIGNMENT**”, click on “**Reassignment/Recusal (Direct)**” and begin the process of reassignment.



### Civil Events

[Divisional County Map](#)

#### Case Assignment

[Initial Assignment \(Random\)](#)

[Reassignment/Recusal \(Random\)](#)

#### Direct Case Assignment

[Initial Assignment \(Direct\)](#)

[Reassignment/Recusal \(Direct\)](#)

- Put in the Case information and click “Next”

### Civil Case Reassignment/Recusal (Direct)

Division  Case type  Case number

Reason

- At this screen, you will select either the “Presider assignment deck” or for the magistrate judge, select “Referral assignment deck”. Click on the dropdown for the appropriate deck and select the appropriate choice. For the reassignment of district judges your choices are limited to Civil District Judge – and the Division name.

### Civil Case Reassignment/Recusal (Direct)

**Original assignment not found --**

**one will be generated from the current judge information for this case.**

**Current Presiding Judge: McNeel, Taylor B.**

**Current Referral Judge: Parker, Michael T.**

**Specify deck(s) to credit for original assignment.**

**Presider assignment deck**

**Referral assignment deck**

5. Click "Next".

This screen is where you will select the next judge.

### Civil Case Reassignment/Recusal (Direct)

Case Number: 2:19-cv-00193-TBM-MTP PennyMac Loan Services, LLC v. SITCOMM Arbitration Association et al

Assignment date: 12/18/2020

Presiding judge: Taylor B. McNeel

Referral judge: Michael T. Parker

Reassign presiding judge

Reassign referral judge

Remove referral judge

Reassign to

Reassign to

from deck

Auto-select referral judge

Reassignment date

Reassignment Notes

Is this a Death Penalty Habeas Case?

Print  assignment label(s)

6. According the Order of Recusal (2:19cv193, Doc #169) only the presiding judge will be reassigned and in accordance with the sequence of judges in Internal Rule 1, reassignments from Judge

McNeel will go to Judge Ozerden (if he has no conflicts with either parties or attorneys in the case). If there is a conflict, then move to the next judge in the sequence and do a conflict check. If there is a conflict with all the judges in sequence, notify the Chief Judge's CRD and the Chief Judge will select a judge.

### Civil Case Reassignment/Recusal (Direct)

Case Number: 2:19-cv-00193-TBM-MTP PennyMac Loan Services, LLC v. SITCOMM Arbitration Association et al  
Assignment date: 12/18/2020

Presiding judge: Taylor B. McNeel

Referral judge: Michael T. Parker

Reassign presiding judge

Reassign referral judge

Remove referral judge

Reassign to  ▾

Reassign to  ▾

from deck  ▾

Auto-select referral judge

Reassignment date

Reassignment Notes

Is this a Death Penalty Habeas Case?  ▾

Print  assignment label(s)

7. Click "Next" – This screen comes up.

### Civil Case Reassignment/Recusal (Direct)

8. Click "Next". This screen notifies you that the new presiding judge and no referral judge has been selected from the "Presider Card". Click "Next"

### Civil Case Reassignment/Recusal (Direct)

**Presider Card selected.**

**No referral deck selection was made**

This screen will show that the case has been “directly reassigned” to the new judge.

### **Civil Case Reassignment/Recusal (Direct)**

**Case 2:19-cv-00193 has been directly reassigned to:  
presiding Judge Halil S. Ozerden from deck Civil District Judge - Eastern Division**

[Reassign another case \(Direct\)?](#)

[Process Assignment Labels](#)

#### **9. Click “Process Assignment Labels”**

Here your new assignment for the case reflecting the reassigned judge, the referral judge, the assignment date (which should be the same as the Order date) and the short title of the case.

Case: 2:19-cv-00193

Assigned To : **Ozerden, Halil S.**

Referral Judge: **Parker, Michael T.**

Assign. Date : 2/9/2021

Description: **PennyMac Loan Services,**

**LLC v. SITCOMM Arbitration**

**Association et al**

- 10.** Docket the Order of Reassignment/Recusal. Check “Select hearings to be link to new judge”.
- 11. Make a “Remark” no number:** Attorneys/Parties are advised to include the case number and new judge assignment of 2:19-cv-193-HSO-MTP on future filed pleadings.
- 12.** If there are pro se parties in the case, make a “Staff Note” that reflects the Order/NEF/Remark was mailed to pro se parties.

- 13.** As a courtesy, email the CRDS for all judges involved regarding the reassignment.

**Chapter:**

**Criminal Cases**



warrant/summons. Stamp the warrant with the sealed stamp if case is sealed. Only need to include the description in the body of the warrant, not the statute.

1. Cover the signature of the foreperson and make a copy of the original indictment. In place of the original signature, use the stamp which reads "s/signature redacted". This will be your redacted indictment.
2. Scan the criminal cover sheet, notice of maximum penalty, the original unredacted indictment, the motion/order to seal, and the redacted indictment.
3. Criminal > Criminal Case (Sealed). (Select this event so you will be able to unseal certain documents).
4. Enter division, case type = cr (default), case number, date filed, county of offense (taken from criminal cover sheet or body of indictment), presiding judge, referral judge, referral judge type: full pretrial, no dispositive motion. Rarely other court's name and number. Next.
5. Click on the USA "+" (plus sign) to add attorney. Attorney icon "add attorney > enter attorney's last name > search. If found, select attorney's name > select attorney. Verify attorney information (address). If lead attorney change No to Yes. Click "add attorney". (*Usually there will only be one AUSA*).

If the US Attorney does not appear in the database, contact the attorney admissions clerk, Katherine Alexander. Do not add the attorney.

6. Defendant(s): Add new party > enter last name > search. If found, select name > select party. Role type: defendant > add party.
7. Defendant(s): enter last name > search > not found > create new party > (check role type (defendant); possibly defendant #) > add party.

Continue to add defendants if necessary using above steps. If new parties, add them making sure you number the defendants according to their listing on the indictment. *If you fail to number the defendants correctly, click on the defendant edit icon and change the defendant number, then save changes.*

8. Alias: "Expand All" > click add alias icon > search for alias name > if found highlight name and select alias > change type to appropriate abbreviation, > add alias; if not found create new alias > change type to appropriate abbreviation > add alias.



9. Probation: Interested Party: search Probation > selection Probation: [Jackson, Hattiesburg or Gulfport] > select party > role type: interested party (system defaults to defendant no. 8888) > add party.
10. Create Case > “Case will be created. Proceed?” > Yes.
11. Criminal case defaults to standard access > next.
12. Do not click Docket Lead Event link as motion/order to seal is the first docketing entry.

#### **Docket Motion and Order**

13. Criminal > Motions > enter case number > check case name > next.
14. Select attorney (AUSA), next.
15. Select filer (party - USA), next.
16. Select “Seal Case” event, next.
17. “Date document filed” is file stamp date. Browse to select motion/order > next.
18. Reminder screen: *“If necessary, seal this entry and attached documents”*, next.
19. Modify docket text screen appears, click next.
20. Docket Text; Final Text screen appears, click next.
21. NEF screen appears (no NEF sent due to sealed case).
22. Criminal > Orders on Motions > verify case number > select case > verify case name/number > enter judge’s signature date of order > select mag judge > select motion to seal [as to all defendants] > “granting” as the action > date document filed (file stamp date) > browse and select motion/order > next.
23. Written opinion screen: No. Next.
24. Modify docket text screen, next.
25. Docket Text:Final Text screen, next.
26. The NEF screen appears. No NEFs sent.

#### **Docket Indictment (Redacted and Unredacted) (Charging Instrument)**

27. Criminal > **Indictment (Sealed)** > enter criminal case number/select case name/number, not defendant(s) > verify case number/name > “date document filed” = file stamp date > browse and select your redacted indictment PDF > attachment: notice of maximum penalty, criminal cover sheet > next.

Compare the criminal cover sheet to the indictment for citation and counts; if discrepancy go by indictment.

28. Count addition screen: CITATION box: enter entire citation code > search > click drop down arrow > select citation > select > citation text entered. (Can modify citation text to same text as “*description of offense charged*” on criminal cover sheet/indictment.)

**NOTE:** The citation will be followed by a letter denoting **F = felony** (grand jury impaneled; punishable by death or imprisonment for more than one year, **M = misdemeanor** (no grand jury impaneled; acts more serious than petty offenses; punishable by a fine or incarceration for less than one year), **P = petty offense** (may be tried before a magistrate judge usually on the date of the first appearance; punishment is the imposition of a fine).

29. Count(s) citation applies to, i.e. 1; 2-4 > select defendant(s) for count(s) > save to list. Additional citations: “clear above fields”, continue steps until all citations have been entered for all defendants. When completed click “finished entering counts”.

30. JS-2 (Opening) Information: Proceeding code: (determines how case originated). Defaults to event selected: S - Sealed Indictment, next.

31. No deadlines to terminate, next.

32. Modify docket text screen to read: “SEALED REDACTED INDICTMENT....”, next.

33. Docket Text: Final Text screen, next.

34. NEF screen appears. No NEFs sent due to sealed filings.

35. **Criminal > Other Documents > Restricted Document** > case number and select entire case > next > verify case name/number > next > date document filed (file stamp date) > browse/select **unredacted** PDF document > attachment: notice of maximum penalty, criminal cover sheet; > next.

36. Modify Docket Text screen: Modify to read “*RESTRICTED DOCUMENT (Unredacted Indictment) .....*”. Next.

37. Docket Text:Final Text screen appears. Next

38. NEF screen appears. No NEFs sent.

39. FLAGS: Criminal > Utility Events > Set/Clear Flags > verify case number/select entire case > verify case name/number > date filed > Mag initials, SEALED (automatic). Add any other applicable flags as necessary, i.e. FEMA, etc. Next.

40. Modify docket text screen appears. Modify to read: *\*\*\* Set Flags: mag initials as to ....* > Next.
41. Docket Text:Final Text screen appears. Next
42. NEF screen appears (flags internal to clerk's office).
43. Praecipe for summons/warrant: Criminal > Service of Process > Praecipe for Summons or Praecipe for Warrant > enter case number > must do independently for each defendant > verify case name/number > date filed (file date on praecipe) > browse and select Praecipe as to that defendant > next > select filer - USA (plaintiff) > no linkage > next.
44. Modify docket text screen appears. Next
45. Docket Text:Final Text screen appears. Next
46. NEF screen appears. No NEFs sent.
47. If Summons issued go to step 48. If Warrant issued go to step 53.
48. Criminal > Service of Process > Summons Issued > next > enter case number > select defendant screen appears if multiple defendants > verify case name/number > select magistrate judge > date filed is date summons issued > browse and select summons > summons issued on behalf of defendant - select party (defendant). This event is sealed behind the scenes.
49. Screen prompt "Review case for proper location of defendant(s)". Next. Set Hearing screen: Initial Appearance date taken from Praecipe. Do not docket arraignment. Next.
50. Modify docket text screen appears reflecting summons issued and date/time/judge of initial appearance. Next.
51. Docket Text:Final Text Screen appears. Next.
52. NEF screen appears. No NEFs sent.
53. Criminal > Service of Process > Warrant Issued > verify/enter case number > verify case name/number > select judge > date is date warrant issued > browse/select warrant > select filer (USA) > enter the word "Arrest" > Excludables: Select "XM" Unavailable Witness/Defendant > date is date warrant issued.
54. Modify Docket text screen to read *"Arrest Warrant Issued in case as to defendant's name"*. Next.
55. Docket Text:Final Text Screen appears, next.

56. NEF screen appears. No NEFs sent.
57. Set Location Start as to defendant: Criminal > Utility Events > Speedy Trial - Location Start > verify case number > verify case name/number > date filed = date warrant issued > Location: select LF (fugitive).
58. Modify Docket text screen to read "*Location fugitive start as to defendant's name*". Next.
59. Docket Text:Final Text Screen appears, next.
60. NEF screen appears. No NEFs sent.



1. Cover the signature of the foreperson and make a copy of the original indictment. In place of the original signature, use the stamp which reads “s/signature redacted”. This will be your redacted indictment.
2. Scan the notice of maximum penalty, criminal cover sheet, the original unredacted indictment, and the redacted indictment.
3. Criminal > Criminal Case > enter division, case type = cr (default), case number, date filed, county of offense (taken from criminal cover sheet or body of indictment), presiding judge, referral judge, referral judge type: full pretrial, no dispositive motion. Rarely other court’s name and number. Next.
4. Click on the USA “+” (plus sign) to add attorney. Attorney icon “add attorney” > enter attorney’s last name > search. If found, select attorney’s name > select attorney. Verify attorney information (address). If lead attorney change No to Yes. Click “add attorney”. (*Usually there will only be one AUSA*).  

If the US Attorney does not appear in the database, contact the attorney admissions clerk, Katherine Alexander. Do not add the attorney.
5. Defendant(s): Add new party > enter last name > search. If found, select name > select party. Role type: defendant > add party.
6. Defendant(s): enter last name > search > not found > create new party > (check role type (defendant); possibly defendant #) > add party.  

Continue to add defendants if necessary using above steps. If new parties, add them making sure you number the defendants according to their listing on the indictment. *If you fail to number the defendants correctly, click on the defendant edit icon and change the defendant number, then save changes.*
7. Alias: “Expand All” > click add alias icon > search for alias name > if found highlight name and select alias > change type to appropriate abbreviation, > add alias; if not found create new alias > change type to appropriate abbreviation > add alias.
8. Probation: Interested Party: search Probation > selection Probation: [Jackson, Hattiesburg or Gulfport] > select party > role type: interested party (system defaults to defendant no. 8888) > add party.
9. Create Case > “Case will be created. Proceed?” > Yes.
10. Criminal case defaults to standard access > next.

11. Click Docket Lead Event link to file Indictment: Indictment - Redacted > next > enter criminal case number/select case name/number, not defendant(s) > verify case number/name > “date document filed” = file stamp date > browse and select **REDACTED** indictment > attachment: notice of maximum penalty, criminal cover sheet > next.

Compare the criminal cover sheet to the indictment for citation and counts; if discrepancy go by indictment.

12. Count addition screen: CITATION box: enter entire citation code > search > click drop down arrow > select citation > select > citation text entered. (Can modify citation text to same text as “*description of offense charged*” on criminal cover sheet/indictment.)

**NOTE:** The citation will be followed by a letter denoting **F = felony** (grand jury impaneled; punishable by death or imprisonment for more than one year, **M = misdemeanor** (no grand jury impaneled; acts more serious than petty offenses; punishable by a fine or incarceration for less than one year), **P = petty offense** (may be tried before a magistrate judge usually on the date of the first appearance; punishment is the imposition of a fine).

13. Count(s) citation applies to, i.e. 1; 2-4 > select defendant(s) for count(s) > save to list. Additional citations: “clear above fields”, continue steps until all citations have been entered for all defendants. When completed click “finished entering counts”.

14. JS-2 (Opening) Information: Proceeding code: (determines how case originated). Defaults to event selected: 1 (Indictment), next.

15. No deadlines to terminate, next.

16. Modify docket text screen appears: “REDACTED INDICTMENT....” , next.

17. Docket Text: Final Text screen, next.

18. NEF screen appears and is proof of filing.

19. Criminal > Other Documents > Restricted Document > case number and select entire case > next > verify case name/number > next > date document filed (file stamp date) > browse/select unredacted document > attachment: notice of maximum penalty, criminal cover sheet; > next.

20. Modify Docket Text screen: Modify to read “*RESTRICTED DOCUMENT (Unredacted Indictment) .....*”. Next.

21. Docket Text:Final Text screen appears. Next.

22. NEF screen appears and is proof of filing.

23. FLAGS: Criminal > Utility Events > Set/Clear Flags > verify case number/select entire case > verify case name/number > date filed > Mag initials. Next.
24. Modify docket text screen appears. Modify to read: “\*\*\*Set Flags: mag initials as to ....” > Next. Add other flags i.e. FEMA, etc. as applicable.
25. Docket Text:Final Text screen appears. Next
26. NEF screen appears - flags internal to clerk’s office.
27. Praeipce for summons/warrant: Criminal > Service of Process > Praeipce for Summons or Praeipce for Warrant > enter case number > must do independently for each defendant > verify case name/number > date filed (file date on praecipce) > browse and select Praeipce as to that defendant > next > select filer - USA (plaintiff) > no linkage > next.
28. Modify docket text screen appears. Next.
29. Docket Text:Final Text screen appears. Next.
30. NEF screen appears and is proof of filing.
31. If Summons issued go to step 32. If Warrant issued go to step 37.
32. Criminal > Service of Process > Summons Issued > next > enter case number > select defendant screen appears if multiple defendants > verify case name/number > select magistrate judge > date filed is date summons issued > browse and select summons > summons issued on behalf of defendant - select party (defendant). This event is sealed behind the scenes.
33. Screen prompt “Review case for proper location of defendant(s)”. Next. Set Hearing screen: Initial Appearance date taken from Praeipce. Do not docket arraignment. Next.
34. Modify docket text screen appears reflecting summons issued and date/time/judge of initial appearance. Next.
35. Docket Text:Final Text Screen appears. Next.
36. NEF screen appears and is proof of filing.
37. Criminal > Service of Process > Warrant Issued > verify/enter case number > verify case name/number > select judge > date is date warrant issued > browse/select warrant > select filer (USA) > enter the word “Arrest” > Excludables: Select “XM” Unavailable Witness/Defendant > date is date warrant issued.
38. Modify Docket text screen to read “Arrest Warrant Issued in case as to defendant’s name”. Next.



39. Docket Text:Final Text Screen appears, next.
40. NEF screen appears and is proof of filing.
41. Set Location Start as to defendant: Criminal > Utility Events > Speedy Trial - Location Start > verify case number > verify case name/number > date filed = date warrant issued > Location: select LF (fugitive).
42. Modify Docket text screen to read “*Location fugitive start as to defendant’s name*”. Next.
43. Docket Text:Final Text Screen appears, next.
44. NEF screen appears and is proof of filing.

**Chapter                      CRIMINAL CASES**

**Subject                      New Criminal Case – Information – Felony – Sealed**

**AUTHORITY**            [Fed.R.Crim.P 7](#) (Indictment and Information)  
[District Court Clerk's Manual Chapter 6](#)

**DEFINITION**            Information is a formal criminal charge made without a grand jury indictment by a prosecutor in a document called an information.

- DOCUMENTS**
- (1) Motion/Order
  - (2) Information
  - (3) Notice of Maximum Penalty
  - (4) Criminal Cover Sheet
  - (5) Praecipe for Summons/Warrant

**VENUE**                    Case will usually proceed in the district/division in which the crime takes place. Refers to the location where a proceeding will be held.

<b>SAMPLE CASE</b>	<a href="#">1:10-cr-49</a>	Doc <a href="#">#1</a>	Motion to Seal
		Doc <a href="#">#2</a>	Order to Seal
		Doc <a href="#">#3</a>	Information Felony (sealed)

**INSTRUCTIONS    Creating a criminal case based upon Information felony (sealed)**

All documents should be file stamped except the notice of maximum penalty; assigned a criminal number, and judge by the clerk's office. Criminal number and district judge and mag judge initials are listed on the information. At this time prepare/scan summons/warrant. Only the description is needed in the body of the warrant, not the statute.

1. Scan the notice of maximum penalty, criminal cover sheet, motion/order to seal, sealed information, and summons/warrant.

2. Criminal > Criminal Case > enter division, case type = cr (default), case number, date filed, county of offense (taken from criminal cover sheet), presiding judge, referral judge, referral judge type: full pretrial, no dispositive motion. Rarely other court's name and number. Next.
3. Click on the USA "+" (plus sign) to add attorney. Attorney icon "add attorney" > enter attorney's last name > search. If found, select attorney's name > select attorney. Verify attorney information (address). If lead attorney change No to Yes. Click "add attorney". *(Usually there will only be one AUSA).*

If the US Attorney does not appear in the database, contact the attorney admissions clerk, Katherine Alexander. Do not add the attorney.
4. Defendant(s): Add new party > enter last name > search. If found, select name > select party. Role type: defendant > add party.
5. Defendant(s): enter last name > search > not found > create new party > add defendant's first and last name > role type (defendant); [possibly multiple defendants] > defendant number 1 > add party.

Continue to add defendants if necessary using above steps. If new parties, add them making sure you number the defendants according to their listing on the information. *If you fail to number the defendants correctly, click on the defendant edit icon and change the defendant number, then save changes.*
6. Alias: "Expand All" > click add alias icon > search for alias name > if found highlight name and select alias > change type to appropriate abbreviation, > add alias; if not found create new alias > change type to appropriate abbreviation > add alias.
7. Probation: Interested Party: search Probation > selection Probation: [Jackson, Hattiesburg or Gulfport] > select party > role type: interested party (system defaults to defendant no. 8888) > add party.
8. Create Case > "Case will be created. Proceed?" > Yes.
9. Do not click "Docket Lead Event" link because first filing is motion/order. Criminal > Motions > verify case number > next > select attorney > next > select filer (USA) > next > select "Seal Case" event > next > date filed same as file stamp date > browse and select motion > next > reminder to seal and attach documents > next.
10. Modify Docket Text screen appears, next.

11. Docket Text:Final Text screen appears, next.
12. NEF screen appears and is proof of filing.
13. Criminal > Orders on Motions > verify case number > next > verify case name/number > next > enter date order signed > next > select mag judge > next > linkage to motion > next > order action “granting” > next > date document filed - file stamp date > browse to select motion/order > next > written opinion = no > next.
14. Modify Docket Text screen appears, next.
15. Docket Text:Final Text screen appears, next.
16. NEF screen appears and is proof of filing.
17. Criminal > Indictment, Information, Complaint > Information - Felony (Sealed) > next > enter criminal case number > next > verify case name/number > next (SEALED flag automatically set) > “date document filed” = file stamp date > browse and select information > attachment: notice of maximum penalty, criminal cover sheet >next,  
compare the criminal cover sheet to the information for citation and counts; if discrepancy go by information.
18. Count addition screen: CITATION box: enter entire citation code > search > click drop down arrow > select citation > select > citation text entered. (Can modify citation text to same text as “*description of offense charged*” on criminal cover sheet/information.)  
**NOTE:** The citation will be followed by a letter denoting **F = felony** (grand jury impaneled; punishable by death or imprisonment for more than one year, **M = misdemeanor** (no grand jury impaneled; acts more serious than petty offenses; punishable by a fine or incarceration for less than one year), **P = petty offense** (may be tried before a magistrate judge usually on the date of the first appearance; punishment is the imposition of a fine).
19. Count(s) citation applies to, i.e. 1; 2-4 > select defendant(s) for count(s) > save to list. Additional citations: “clear above fields”, continue steps until all citations have been entered for all defendants. When completed click “finished entering counts”.
20. There are no deadlines to term. Next.
21. Skip arraignment hearing screen. Next.
22. Modify docket text screen to read: “*SEALED INFORMATION as to ...*”, next.

23. Docket Text: Final Text screen, next.
24. NEF screen appears and is proof of filing.
25. Praecipe for summons/warrant: Criminal > Service of Process > Praecipe for Summons/  
Warrant > enter case number > must do independently for each defendant > verify case name/number > date filed (file date on praecipe) > browse and select Praecipe as to that defendant > next > select filer - USA (plaintiff) > no linkage > next.
26. Modify Docket Text screen appears > next.
27. Docket Text: Final Text screen appears > next.
28. NEF screen appears and is proof of filing.
29. **FLAGS:** Criminal > Utility Events > Set/Clear Flags > verify case number > verify case name/number > date filed > Mag initials. (Any other applicable flags such as FEMA, etc.). Next. SEALED flag automatically set.
30. Modify docket text screen appears. Modify to read: *\*\*\*Set Flags: mag initials as to ....* > Next.
31. Docket Text:Final Text screen appears. Next.
32. NEF screen appears (flags internal to clerk's office).
33. If Summons issued go to step 34. If Warrant issued go to step 39.
34. Criminal > Service of Process > Summons Issued > next > enter case number > select defendant screen appears if multiple defendants > verify case name/number > select magistrate judge > date filed is date summons issued > browse and select summons > summons issued on behalf of defendant - select party (defendant). This event is sealed behind the scenes.
35. Screen prompt "Review case for proper location of defendant(s)". Next. Set Hearing screen: Initial Appearance date taken from Praecipe. Do not docket arraignment. Next.
36. Modify docket text screen appears reflecting summons issued and date/time/judge of initial appearance. Next.
37. Docket Text:Final Text Screen appears. Next.
38. NEF screen appears and is proof of filing.
39. Criminal > Service of Process > Warrant Issued > verify/enter case number > verify case name/number > select judge > date is date warrant issued >

browse/select warrant > select filer (USA) > enter the word “Arrest” > Excludables: Select “XM” Unavailable Witness/Defendant > date is date warrant issued.

40. Modify Docket text screen to read “*Arrest Warrant Issued in case as to defendant’s name*”. Next.
41. Docket Text:Final Text Screen appears, next.
42. NEF screen appears and is proof of filing.
43. Set Location Start as to defendant: Criminal > Utility Events > Speedy Trial - Location Start > verify case number > verify case name/number > date filed = date warrant issued > Location: select LF (fugitive).
44. Modify Docket text screen to read “*Location fugitive start as to defendant’s name*”. Next.
45. Docket Text:Final Text Screen appears, next.
46. NEF screen appears and is proof of filing.

**\*\*\*NOTE: Waiver of Indictment:**

1. A Felony Information is not statistically counted until the defendant signs the Waiver of Indictment. The Waiver will be filed by courtroom deputy.
2. The Proceeding Code should be “L (Sealed Felony Information with Waiver of Indictment)”.
3. Once wavier is filed, docket clerk is responsible to QC and list the criminal defendant’s name and case number as an opened case on the criminal case ledger at the Clerk’s counter.



attorney. Verify attorney information (address). If lead attorney change No to Yes. Click “add attorney”. (*Usually there will only be one AUSA*).

If the US Attorney does not appear in the database, contact the attorney admissions clerk, Katherine Alexander. Do not add the attorney.

4. Defendant(s): Add new party > enter last name > search. If found, select name > select party. Role type: defendant > add party.
5. Defendant(s): enter last name > search > not found > create new party > add defendant’s first and last name > role type (defendant); [possibly multiple defendants] > make sure defendant #1 > add party.

Continue to add defendants if necessary using above steps. If new parties, add them making sure you number the defendants according to their listing on the indictment. *If you fail to number the defendants correctly, click on the defendant edit icon and change the defendant number, then save changes.*

6. Alias: “Expand All” > click add alias icon > search for alias name > if found highlight name and select alias > change type to appropriate abbreviation, > add alias; if not found create new alias > change type to appropriate abbreviation > add alias.
7. Probation: Interested Party: search Probation > selection Probation: [Jackson, Hattiesburg or Gulfport] > select party > role type: interested party (system defaults to defendant no. 8888) > add party.
8. Create Case > “Case will be created. Proceed?” > Yes.
9. Click Docket Lead Event link to file Information: Information - Felony > next > enter criminal case number > verify case name/number > “date document filed” = file stamp date > browse and select information > attachment: notice of maximum penalty>Category=notice of maximum penalty, criminal cover sheet > Category = Criminal Cover sheet > next.

Compare the [criminal cover sheet](#) to the [information](#) for citation and counts; if discrepancy go by information.

10. Count addition screen: CITATION box: enter entire citation code > search > click drop down arrow > select citation > select > citation text entered. (Can modify citation text to same text as “*description of offense charged*” on criminal cover sheet/information.)



**NOTE:** The citation will be followed by a letter denoting **F = felony** (grand jury impaneled; punishable by death or imprisonment for more than one year, **M = misdemeanor** (no grand jury impaneled; acts more serious than petty offenses; punishable by a fine or incarceration for less than one year), **P = petty offense** (may be tried before a magistrate judge usually on the date of the first appearance; punishment is the imposition of a fine).

11. Count(s) citation applies to, i.e. 1; 2-4 > select defendant(s) for count(s) > save to list. Additional citations: "clear above fields", continue steps until all citations have been entered for all defendants. When completed click "finished entering counts".
12. There are no deadlines to term.
13. Arraignment screen appears. Information handled in mag judge chambers. Click Next.
14. Modify docket text screen appears: "INFORMATION FELONY....", next.
15. Docket Text: Final Text screen, next.
16. NEF screen appears and is proof of filing.
17. Praecipe for summons/warrant: Criminal > Service of Process > Praecipe for Summons or Praecipe for Warrant > enter case number > must do independently for each defendant > verify case name/number > date filed (file date on praecipe) > browse and select Praecipe as to that defendant > next > select filer - USA (plaintiff) > no linkage > next.
18. Modify Docket Text screen appears > next.
19. Docket Text: Final Text screen appears > next.
20. NEF screen appears and is proof of filing.
21. **FLAGS:** Criminal > Utility Events > Set/Clear Flags > verify case number > verify case name/number > date filed > Mag initials, FEMA, etc. if applicable. Next.
22. Modify docket text screen appears. Modify to read: "\*\*\*Set Flags: mag initials as to ...." > Next.
23. Docket Text: Final Text screen appears. Next
24. NEF screen appears, (flags internal to clerk's office).
25. If Summons issued go to step 26. If Warrant issued go to step 31.
26. Criminal > Service of Process > Summons Issued > next > enter case number > select defendant screen appears if multiple defendants > verify case

name/number > select magistrate judge > date filed is date summons issued > browse and select summons > summons issued on behalf of defendant - select party (defendant). This event is sealed behind the scenes.

27. Screen prompt "Review case for proper location of defendant(s)". Next. Set Hearing screen: Initial Appearance date taken from Praecipe. Do not docket arraignment. Next.
28. Modify docket text screen appears reflecting summons issued and date/time/judge of initial appearance. Next.
29. Docket Text:Final Text Screen appears. Next.
30. NEF screen appears and is proof of filing.
31. Criminal > Service of Process > Warrant Issued > verify/enter case number > verify case name/number > select judge > date is date warrant issued > browse/select warrant > select filer (USA) > enter the word "Arrest" > Excludables: Select "XM" Unavailable Witness/Defendant > date is date warrant issued.
32. Modify Docket text screen to read "*Arrest Warrant Issued in case as to defendant's name*". Next.
33. Docket Text:Final Text Screen appears, next.
34. NEF screen appears and is proof of filing.
35. Set Location Start as to defendant: Criminal > Utility Events > Speedy Trial - Location Start > verify case number > verify case name/number > date filed = date warrant issued > Location: select LF (fugitive).
36. Modify Docket text screen to read "*Location fugitive start as to defendant's name*". Next.
37. Docket Text:Final Text Screen appears, next.
38. NEF screen appears and is proof of filing.

**\*\*\*NOTE: Waiver of Indictment:**

A Felony Information is not statistically counted until the defendant signs the Waiver of Indictment. The Waiver will be filed by courtroom deputy.

The Proceeding Code should be "3 (Felony Information with Waiver of Indictment)".

Once wavier is filed, docket clerk is responsible to QC and list the criminal defendant's name and case number as an opened case on the criminal case ledger at the Clerk's counter.

**Chapter**                      **CRIMINAL CASES**

**Subject**                     **New Criminal Case - Information - Misdemeanor -  
Sealed**

**AUTHORITY**                [Fed.R.Crim.P 7](#) (Indictment and Information)  
[District Court Clerk's Manual Chapter 6](#)

**BACKGROUND**            Charge handed down by US Attorneys office. Used primarily for a lesser felony charge - charged and then pleas to a lesser offense. Ninety nine percent of the time the defendant consents to proceed before the magistrate judge.

**DEFINITION**             A misdemeanor is an offense for which the maximum penalty is one year or less imprisonment. Types of misdemeanors are Class A (1 year but more than 6 months); Class B (6 months but more than 30 days); Class C (30 days but more than 5 days). Infraction (5 days or no imprisonment).

**DOCUMENTS**             (1) Motion/Order  
(2) Information  
(3) Notice of Maximum Penalty  
(4) Criminal Cover Sheet  
(5) Praecipe for Summons/Warrant

**VENUE**                    Case will usually proceed in the district/division in which the crime takes place. Refers to the location where a proceeding will be held.

**SAMPLE CASE**            N/A

**INSTRUCTIONS**          **Creating a criminal case based upon  
Information/misdemeanor (sealed)**

All documents should be file stamped except the notice of maximum penalty; assigned a criminal number, and judge by the clerk's office. Criminal number and district judge and mag judge initials are listed on the information. At this time prepare/scan summons/warrant. Include description only in body of warrant.

1. Scan the notice of maximum penalty, criminal cover sheet, motion/order to seal, sealed information, and summons/warrant.
2. Criminal > Criminal Case > enter division, case type = cr (default), case number, date filed, county of offense (taken from criminal cover sheet), presiding judge, referral judge, referral judge type: full pretrial, no dispositive motion. Rarely other court's name and number. Next.
3. Click on the USA "+" (plus sign) to add attorney. Attorney icon "add attorney" > enter attorney's last name > search. If found, select attorney's name > select attorney. Verify attorney information (address). If lead attorney change No to Yes. Click "add attorney". (*Usually there will only be one AUSA*).

If the US Attorney does not appear in the database, contact the attorney admissions clerk, Katherine Alexander. Do not add the attorney.

4. Defendant(s): Add new party > enter last name > search. If found, select name > select party. Role type: defendant > add party.
5. Defendant(s): enter last name > search > not found > create new party > add defendant's first and last name > role type (defendant); [possibly multiple defendants] > defendant number 1 > add party.

Continue to add defendants if necessary using above steps. If new parties, add them making sure you number the defendants according to their listing on the information. *If you fail to number the defendants correctly, click on the defendant edit icon and change the defendant number, then save changes.*

6. Alias: "Expand All" > click add alias icon > search for alias name > if found highlight name and select alias > change type to appropriate abbreviation, > add alias; if not found create new alias > change type to appropriate abbreviation > add alias.
7. Probation: Interested Party: search Probation > selection Probation: [Jackson, Hattiesburg or Gulfport] > select party > role type: interested party (system defaults to defendant no. 8888) > add party.
8. Create Case > "Case will be created. Proceed?" > Yes.
9. Do not click "Docket Lead Event" link because first filing is motion/order. Criminal > Motions > verify case number > next > select attorney > next > select filer (USA) > next > select "Seal Case" event > next > date filed same as file stamp date > browse and select motion > next > reminder to seal and attach documents > next.

10. Modify Docket Text screen appears, next.
11. Docket Text:Final Text screen appears, next.
12. NEF screen appears and is proof of filing.
13. Criminal > Orders on Motions > verify case number > next > verify case name/number > next > enter date order signed > next > select mag judge > next > linkage to motion > next > order action "granting" > next > date document filed - file stamp date > browse to select motion/order > next > written opinion = no > next.
14. Modify Docket Text screen appears, next.
15. Docket Text:Final Text screen appears, next.
16. NEF screen appears and is proof of filing.
17. Criminal > Indictment, Information, Complaint > Information - ALL Misdemeanor (Sealed) > next > enter criminal case number > next > verify case name/number (SEALED flag should appear) > next > "date document filed" = file stamp date > browse and select information > attachment: notice of maximum penalty, criminal cover sheet > next.  

Compare the criminal cover sheet to the information for citation and counts; if discrepancy go by information.
18. Count addition screen: CITATION box: enter entire citation code > search > click drop down arrow > select citation > select > citation text entered. (Can modify citation text to same text as "*description of offense charged*" on criminal cover sheet/information.)  

**NOTE:** The citation will be followed by a letter denoting **F = felony** (grand jury impaneled; punishable by death or imprisonment for more than one year, **M = misdemeanor** (no grand jury impaneled; acts more serious than petty offenses; punishable by a fine or incarceration for less than one year), **P = petty offense** (may be tried before a magistrate judge usually on the date of the first appearance; punishment is the imposition of a fine).
19. Count(s) citation applies to, i.e. 1; 2-4 > select defendant(s) for count(s) > save to list. Additional citations: "clear above fields", continue steps until all citations have been entered for all defendants. When completed click "finished entering counts".
20. JS-2 (Opening) Information: H (Sealed Misdemeanor Information). Click Next.
21. There are no deadlines to term. Next.

22. Modify docket text screen appears: "SEALED INFORMATION as to ...", next.
23. Docket Text: Final Text screen, next.
24. NEF screen appears and is proof of filing.
25. Praecipe for summons/warrant: Criminal > Service of Process > Praecipe for Summons > enter case number > must do independently for each defendant > verify case name/number > date filed (file date on praecipe) > browse and select Praecipe as to that defendant > next > select filer - USA (plaintiff) > no linkage > next.
26. Modify Docket Text screen appears > next.
27. Docket Text: Final Text screen appears > next.
28. NEF screen appears and is proof of filing.
29. **FLAGS:** Criminal > Utility Events > Set/Clear Flags > verify case number > verify case name/number > date filed > Mag initials, FEMA, etc. if applicable. SEALED flag automatically set. Next.
30. Modify docket text screen appears. Modify to read: "\*\*\*Set Flags: mag initials as to ...." > Next.
31. Docket Text: Final Text screen appears. Next
32. NEF screen appears (flags internal to clerk's office).
33. If Summons issued go to step 26. If Warrant issued go to step 31.
34. Criminal > Service of Process > Summons Issued > next > enter case number > select defendant screen appears if multiple defendants > verify case name/number > select magistrate judge > date filed is date summons issued > browse and select summons > summons issued on behalf of defendant - select party (defendant). This event is sealed behind the scenes.
35. Screen prompt "Review case for proper location of defendant(s)". Next. Set Hearing screen: Initial Appearance date taken from Praecipe. Do not docket arraignment. Next.
36. Modify docket text screen appears reflecting summons issued and date/time/judge of initial appearance. Next.
37. Docket Text: Final Text Screen appears. Next.
38. NEF screen appears and is proof of filing.
39. Criminal > Service of Process > Warrant Issued > verify/enter case number > verify case name/number > select judge > date is date warrant issued >

browse/select warrant > select filer (USA) > enter the word "Arrest" > Excludables: Select "XM" Unavailable Witness/Defendant > date is date warrant issued.

40. Modify Docket text screen to read "*Arrest Warrant Issued in case as to defendant's name*". Next.
41. Docket Text:Final Text Screen appears, next.
42. NEF screen appears and is proof of filing.
43. Set Location Start as to defendant: Criminal > Utility Events > Speedy Trial - Location Start > verify case number > verify case name/number > date filed = date warrant issued > Location: select LF (fugitive).
44. Modify Docket text screen to read "*Location fugitive start as to defendant's name*". Next.
45. Docket Text:Final Text Screen appears, next.
46. NEF screen appears and is proof of filing.

**\*\*\*NOTE:**

In order to proceed before a Mag judge, the defendant must sign a "Consent to Proceed before a Magistrate Judge in a Misdemeanor Case" AO 86A (see attached). This document is filed by the courtroom deputy. The CONSENT flag is automatically added.

QC: Once the consent has been filed by the courtroom deputy, the docket clerk should remove the mag judge flag. The deputy clerk is responsible for adding the case to the reassignment list after quality control has been performed.





and district judge and mag judge initials are listed on the information. At this time prepare/scan summons/warrant. Only the description is needed on warrant.

1. Scan the notice of maximum penalty, criminal cover sheet, the information, and summons/warrant.
2. Criminal > Criminal Case > enter division, case type = cr (default), case number, date filed, county of offense (taken from criminal cover sheet), presiding judge, referral judge, referral judge type: full pretrial, no dispositive motion. Rarely other court's name and number. Next.
3. Click on the USA "+" (plus sign) to add attorney. Attorney icon "add attorney" > enter attorney's last name > search. If found, select attorney's name > select attorney. Verify attorney information (address). If lead attorney change No to Yes. Click "add attorney". (*Usually there will only be one AUSA*).

If the US Attorney does not appear in the database, contact the attorney admissions clerk, Katherine Alexander. Do not add the attorney.

4. Defendant(s): Add new party > enter last name > search. If found, select name > select party. Role type: defendant > add party.
5. Defendant(s): enter last name > search > not found > create new party > add defendant's first and last name > role type (defendant); [possibly multiple defendants] > defendant number 1 > add party.

Continue to add defendants if necessary using above steps. If new parties, add them making sure you number the defendants according to their listing on the information. *If you fail to number the defendants correctly, click on the defendant edit icon and change the defendant number, then save changes.*

6. Alias: "Expand All" > click add alias icon > search for alias name > if found highlight name and select alias > change type to appropriate abbreviation, > add alias; if not found create new alias > change type to appropriate abbreviation > add alias.
7. Probation: Interested Party: search Probation > selection Probation: [Jackson, Hattiesburg or Gulfport] > select party > role type: interested party (system defaults to defendant no. 8888) > add party.
8. Create Case > "Case will be created. Proceed?" > Yes.
9. Click Docket Lead Event link to file Information: Information - ALL Misdemeanor > next > enter criminal case number > verify case name/number > "date

document filed” = file stamp date > browse and select information > attachment:  
notice of maximum penalty, criminal cover sheet > next.

Compare [the criminal cover sheet](#) to the [information](#) for citation and  
counts; if discrepancy go by information.

10. Count addition screen: CITATION box: enter entire citation code > search > click drop down arrow > select citation > select > citation text entered. (Can modify citation text to same text as “*description of offense charged*” on criminal cover sheet/information.)

**NOTE:** The citation will be followed by a letter denoting **F = felony** (grand jury impaneled; punishable by death or imprisonment for more than one year, **M = misdemeanor** (no grand jury impaneled; acts more serious than petty offenses; punishable by a fine or incarceration for less than one year), **P = petty offense** (may be tried before a magistrate judge usually on the date of the first appearance; punishment is the imposition of a fine).

11. Count(s) citation applies to, i.e. 1; 2-4 > select defendant(s) for count(s) > save to list. Additional citations: “clear above fields”, continue steps until all citations have been entered for all defendants. When completed click “finished entering counts”.
12. JS-2 (Opening) Information: 2 (Misdemeanor Information, or Notice of Criminal Contempt 42(b)FRCrP). Click Next.
13. There are no deadlines to term. Next.
14. Modify docket text screen appears: “INFORMATION MISDEMEANOR....” next.
15. Docket Text: Final Text screen, next.
16. NEF screen appears and is proof of filing.
17. Praecipe for summons/warrant: Criminal > Service of Process > Praecipe for Summons/Warrant > enter case number > must do independently for each defendant > verify case name/number > date filed (file date on praecipe) > browse and select Praecipe as to that defendant > next > select filer - USA (plaintiff) > no linkage > next.
18. Modify Docket Text screen appears > next.
19. Docket Text: Final Text screen appears > next.
20. NEF screen appears and is proof of filing.
21. **FLAGS:** Criminal > Utility Events > Set/Clear Flags > verify case number > verify case name/number > date filed > Mag initials, FEMA, etc. if applicable. Next.

22. Modify docket text screen appears. Modify to read: “\*\*\*Set Flags: mag initials as to ....” > Next.
23. Docket Text: Final Text screen appears. Next.
24. NEF screen appears (flags internal to clerk’s office).
25. If Summons issued go to step 26. If Warrant issued go to step 31.
26. Criminal > Service of Process > Summons Issued > next > enter case number > select defendant screen appears if multiple defendants > verify case name/number > select magistrate judge > date filed is date summons issued > browse and select summons > summons issued on behalf of defendant - select party (defendant). This event is sealed behind the scenes.
27. Screen prompt “Review case for proper location of defendant(s)”. Next. Set Hearing screen: Initial Appearance date taken from Praecipe. Do not docket arraignment. Next.
28. Modify docket text screen appears reflecting summons issued and date/time/judge of initial appearance. Next.
29. Docket Text:Final Text Screen appears. Next.
30. NEF screen appears and is proof of filing.
31. Criminal > Service of Process > Warrant Issued > verify/enter case number > verify case name/number > select judge > date is date warrant issued > browse/select warrant > select filer (USA) > enter the word “Arrest” > Excludables: Select “XM” Unavailable Witness/Defendant > date is date warrant issued.
32. Modify Docket text screen to read “*Arrest Warrant Issued in case as to defendant’s name*”. Next.
33. Docket Text:Final Text Screen appears, next.
34. NEF screen appears and is proof of filing.
35. Set Location Start as to defendant: Criminal > Utility Events > Speedy Trial - Location Start > verify case number > verify case name/number > date filed = date warrant issued > Location: select LF (fugitive).
36. Modify Docket text screen to read “*Location fugitive start as to defendant’s name*”. Next.
37. Docket Text:Final Text Screen appears, next.
38. NEF screen appears and is proof of filing.

**\*\*\*NOTE:**

In order to proceed before a Magistrate Judge, the defendant(s) must sign a "Consent to Proceed before a Magistrate Judge in a Misdemeanor Case" AO 86A (see attached). This document is filed by the courtroom deputy. The CONSENT flag is automatically added. If the criminal case involves multiple defendants a Consent to Proceed before a Magistrate Judge must be signed by each defendant before the entire case can be reassigned to the Magistrate Judge.

QC: Once the consent has been filed by the courtroom deputy, the docket clerk should remove the MAG judge flag. The deputy clerk is responsible for adding case to the reassignment list after quality control has been performed.

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<b>Chapter</b>	<b>CRIMINAL CASES</b>
<b>Subject</b>	<b>New Criminal Case - Sealed Indictment(s) with Merged Magistrate Case</b>

**AUTHORITY**      [Fed.R.Crim.P 6](#) (Grand Jury)  
[District Court Clerk's Manual Chapter 6](#)

**BACKGROUND**    When the Grand Jury has indictments to return, the U.S. Attorney's Office calls the Magistrate Judge's chambers and arranges for the foreperson, an Assistant U.S. Attorney, and a special Court Reporter to appear before the Magistrate Judge. The Magistrate reviews the Indictment and record of grand jurors concurring.

**DEFINITION**     Indictment is a formal accusation originating with the Prosecutor (U.S. Attorney) and issued by a grand jury against a party charged with a crime.

**DOCUMENTS**      (1) Motion/Order to seal  
(2) Original Indictment(s)  
(3) Notice of Maximum Penalty  
(4) Criminal Cover Sheet  
(5) Praecipe for Summons/Warrant

**VENUE**            Case will usually proceed in the district/division in which the crime takes place.

**SAMPLE CASE**    [1:10-cr-39](#) (Not a merged case but good documents)  
                              Doc [#1](#)                Motion to Seal Case  
                              Doc [#2](#)                Order granting Motion  
                              Doc [#3](#)                Sealed Redacted Indictment  
                              Doc [#4](#)                Restricted Document: Unredacted Indictment

**INSTRUCTIONS**    **Merge mag case, file motion/order, indictment, warrant/summons (term mag. case after merging)**

## Merging the Mag Case

**A magistrate judge criminal case can only be merged once into a criminal case. After the case has been merged into the criminal case, no further filing should be done in the mag case.** All documents should be file stamped except the notice of maximum penalty; assigned a criminal number, and judge by the clerk's office. Criminal number and district judge and mag judge initials are listed on the indictment. At this time prepare/scan warrant/summons.

1. Cover the signature of the foreperson and make a copy of the original indictment. In place of the original signature, use the stamp which reads "s/signature redacted". This will be your redacted indictment.
2. Scan the notice of maximum penalty, criminal cover sheet, the original unredacted indictment, the motion/order to seal, and the redacted indictment.
3. Query the name of the defendant(s) to find the Magistrate case. The criminal cover sheet should provide the magistrate case number; however, this is not always the case; therefore, you cannot rely on the information provided on the criminal cover sheet. Make a note of the mag case number.
4. Criminal > Criminal Case (Sealed). (Select this event so you will be able to unseal certain documents).
5. Enter division, case type = cr (default), case number, date filed, county of offense (taken from criminal cover sheet or body of indictment), presiding judge, referral judge, referral judge type: full pretrial, no dispositive motion. Rarely other court's name and number. Next.
6. Merge mag case(s) into criminal case: "Merge MJ Cases" > enter the MJ case number > find this case > select case number or defendant number > get case. (*If there are more mag cases to merge, continue until all mag cases have been merged.*)
7. Click on the USA "+" (plus sign) to expand party information and verify if attorney is listed. Click add attorney icon to verify the AUSA is the same attorney listed on the criminal cover sheet. If not, add the new AUSA by searching for the attorney's last name. Enter attorney's last name > search. If found, select attorney's name > select attorney. Verify attorney information (address). If lead attorney change No to Yes. Click "add attorney". (*Usually there will only be one AUSA*).

If the US Attorney does not appear in the database, contact the attorney admissions clerk, Katherine Alexander. Do not add the attorney.

8. If new parties, add them making sure you number the defendants according to their listing on the indictment. *If you fail to number the defendants correctly, click on the defendant edit icon and change the defendant number, then save changes.*
9. Alias: "Expand All" > click add alias icon > search for alias name > if found highlight name and select alias > change type to appropriate abbreviation, > add alias; if not found create new alias > change type to appropriate abbreviation > add alias. San Antonio advises us to keep the original name of the defendant(s) [which are merged into the criminal case] as an alias so no "links" will be broken with the merge. Even if they come in and correct the spelling of the name, you want to keep that original as an alias so everything is linked together.
10. Add Probation as an Interested Party: Add New Party > enter probation in last name field > search > selection Probation: [Jackson, Hattiesburg or Gulfport] > select party > role type: interested party (system defaults to defendant no. 8888) > add party.
11. Create Case > "Case will be created. Proceed?" > Yes.
12. Criminal case defaults to standard access > next.
13. Do not click on docket lead event as motion/order to seal is the first docketing entry.

#### **Docket Motion and Order**

14. Criminal > Motions > enter case number > check case name > next.
15. Select attorney (AUSA), next.
16. Select filer (party - USA), next.
17. Select "Seal Case" event, next.
18. "Date document filed" is file stamp date. Browse to select motion > next.
19. Reminder screen: "*If necessary, seal this entry and attached documents*", next.
20. Modify docket text screen appears, click next.
21. Docket Text; Final Text screen appears, click next.
22. NEF screen appears (no NEF sent due to sealed case).
23. Criminal > Orders on Motions > verify case number > select case > verify case name/number > enter judge's signature date > select mag judge > select motion



to seal [as to all defendants] > “granting” as the action > date document filed (file stamp date) > browse and select motion/order > next.

24. Written opinion screen: No. Next.

25. Modify docket text screen, next.

26. Docket Text: Final Text screen, next.

27. The NEF screen appears and is proof of filing.

### **Docket Indictment (Redacted and Unredacted) (Charging Instrument)**

28. Criminal > Indictment (Sealed) > enter criminal case number/select case name/number, not defendant(s) > verify case number/name > “date document filed” = file stamp date > browse and select **REDACTED** indictment > attachment: notice of maximum penalty, criminal cover sheet > next.

Compare the [criminal cover sheet](#) to the [indictment](#) for citation and counts; if discrepancy go by indictment.

29. Count addition screen: CITATION text box: enter entire citation code > search > click drop down arrow > select citation > select; citation text entered. (Can modify citation text to same text as “*description of offense charged*” on criminal cover sheet/indictment.)

**NOTE:** The citation will be followed by a letter denoting **F = felony** (grand jury impaneled; punishable by death or imprisonment for more than one year, **M = misdemeanor** (no grand jury impaneled; acts more serious than petty offenses; punishable by a fine or incarceration for less than one year), **P = petty offense** (may be tried before a magistrate judge usually on the date of the first appearance; punishment is the imposition of a fine).

30. Count(s) citation applies to, i.e. 1; 2-4 > select defendant(s) for count(s) > save to list. Additional citations: “clear above fields”, continue steps until all citations have been entered for all defendants. When completed > “finished entering counts”.

31. JS-2 (Opening) Information: Proceeding code: (determines how case originated). Defaults to event selected: S - Sealed Indictment, next.

32. No deadlines to terminate, next.

33. Modify docket text screen to read: “SEALED REDACTED INDICTMENT....”, next.

34. Docket Text: Final Text screen, next.

35. NEF screen appears. No NEFs sent due to sealed filings.

36. Criminal > Other Documents > Restricted Document > case number and select entire case > next > verify case name/number > next > date document filed (file stamp date) > browse/select unredacted document > attachment: notice of maximum penalty, criminal cover sheet; next.
37. Modify Docket Text screen: Modify to read "*RESTRICTED DOCUMENT (Unredacted Indictment) .....*". Next.
38. Docket Text:Final Text screen appears. Next.
39. NEF screen appears. No NEFs sent.
40. FLAGS: Criminal > Utility Events > Set/Clear Flags > verify case number/select entire case > verify case name/number > date filed > Mag initials, SEALED (automatic). Add any other applicable flags such as FEMA, etc. Next.
41. Modify docket text screen appears. Modify to read: "*\*\*\*Set Flags: mag initials as to ....*" > Next.
42. Docket Text:Final Text screen appears. Next.
43. NEF screen appears (flags internal to clerk's office).
44. Praecipe for summons/warrant: Criminal > Service of Process > Praecipe for Summons or Praecipe for Warrant > enter case number > must do independently for each defendant > verify case name/number > date filed (file date on praecipe) > browse and select Praecipe as to that defendant > next > select filer - USA (plaintiff) > no linkage > next.
45. Modify docket text screen appears. Next.
46. Docket Text:Final Text screen appears. Next.
47. NEF screen appears. No NEFs sent.
48. If Summons issued go to step 48. If Warrant issued go to step 53.
49. Criminal > Service of Process > Summons Issued > next > enter case number > select defendant screen appears if multiple defendants > verify case name/number > select magistrate judge > date filed is date summons issued > browse and select summons > summons issued on behalf of defendant - select party (defendant). This event is sealed behind the scenes.
50. Screen prompt "Review case for proper location of defendant(s)". Next. Set Hearing screen: Initial Appearance date taken from Praecipe. Do not docket arraignment. Next.
51. Modify docket text screen appears reflecting summons issued and date/time/judge of initial appearance. Next.

52. Docket Text:Final Text Screen appears. Next.

53. NEF screen appears. No NEFs sent.

54. Criminal > Service of Process > Warrant Issued > verify/enter case number > verify case name/number > select judge > date is date warrant issued > browse/select warrant > select filer (USA) > enter the word "Arrest" > Excludables: Select "XM" Unavailable Witness/Defendant > date is date warrant issued.

55. Modify Docket text screen to read "*Arrest Warrant Issued in case as to defendant's name*". Next.

56. Docket Text:Final Text Screen appears, next.

57. NEF screen appears. No NEFs sent.

58. Set Location Start as to defendant: Criminal > Utility Events > Speedy Trial - Location Start > verify case number > verify case name/number > date filed = date warrant issued > Location: select LF (fugitive).

59. Modify Docket text screen to read "*Location fugitive start as to defendant's name*". Next.

60. Docket Text:Final Text Screen appears, next.

NEF screen appears. No NEFs sent.

NOTE: ADD PROBATION OFFICER IF THERE IS ONE IN THE MAGISTRATE CASE.

NOTE: TERMINATE MERGED MAGISTRATE CASE AND SET CLOSED FLAG IN MAGISTRATE CASE.



**filing should be done in the mag case.** All documents should be file stamped except the notice of maximum penalty; assigned a criminal number, and judge by the clerk's office. Criminal number and district judge and mag judge initials are listed on the indictment. At this time prepare/scan warrant/summons.

1. Cover the signature of the foreperson and make a copy of the original indictment. In place of the original signature, use the stamp which reads "s/signature redacted". This will be your redacted indictment.
2. Scan the notice of maximum penalty, criminal cover sheet, the original unredacted indictment, the motion/order to seal, and the redacted indictment.
3. Query the name of the defendant(s) to find the Magistrate case. The criminal cover sheet should provide the magistrate case number; however, this is not always the case; therefore, you cannot rely on the information provided on the criminal cover sheet. Make a note of the mag case number.
4. Criminal > Criminal Case > enter division, case type = cr (default), case number, date filed, county of offense (taken from criminal cover sheet or body of indictment), presiding judge, referral judge, referral judge type: full pretrial, no dispositive motion. Rarely other court's name and number. Next.
5. Merge mag case(s) into criminal case: "Merge MJ Cases" > enter the MJ case number > find this case > select case number or defendant number > get case. *(If there are more mag cases to merge, continue until all mag cases have been merged.)*
6. Click on the USA "+" (plus sign) to expand party information and verify if attorney is listed. Click add attorney icon to verify the AUSA is the same attorney listed on the criminal cover sheet. If not, add the new AUSA by searching for the attorney's last name. Enter attorney's last name > search. If found, select attorney's name > select attorney. Verify attorney information (address). If lead attorney change No to Yes. Click "add attorney". *(Usually there will only be one AUSA).*

If the US Attorney does not appear in the database, contact the attorney admissions clerk, Katherine Alexander. Do not add the attorney.

7. Alias: "Expand All" > click add alias icon > search for alias name > if found highlight name and select alias > change type to appropriate abbreviation, > add alias; if not found create new alias > change type to appropriate abbreviation > add alias. San Antonio advises us to keep the original name of the defendant(s) (which are merged into the criminal case) as an alias so no "links" will be broken with the merge. Even if they come in and correct the spelling of the name, you want to keep that original as an alias so everything is linked together.

8. Add Probation as an Interested Party: Add New Party > enter probation in last name field > search > selection Probation: [Jackson, Hattiesburg or Gulfport] > select party > role type: interested party (system defaults to defendant no. 8888) > add party.
9. If new parties, add them making sure you number the defendants according to their listing on the indictment. *If you fail to number the defendants correctly, click on the defendant edit icon and change the defendant number, then save changes.*
10. Create Case > “Case will be created. Proceed?” > Yes.
11. Criminal case defaults to standard access > next.
12. Click on docket lead event as redacted indictment is initial filing document.

**Docket Indictment (Redacted and Unredacted) (Charging Instrument)**

13. Criminal > Redacted Indictment > enter criminal case number/select case name/number, not defendant(s) > verify case number/name > “date document filed” = file stamp date > browse and select **REDACTED** indictment > attachment: notice of maximum penalty, criminal cover sheet > next.  
Compare the criminal cover sheet to the indictment for citation and counts; if discrepancy go by indictment.
14. Count addition screen: CITATION text box: enter entire citation code > search > click drop down arrow > select citation > select; citation text entered. (Can modify citation text to same text as “*description of offense charged*” on criminal cover sheet/indictment.)  
**NOTE:** The citation will be followed by a letter denoting **F = felony** (grand jury impaneled; punishable by death or imprisonment for more than one year, **M = misdemeanor** (no grand jury impaneled; acts more serious than petty offenses; punishable by a fine or incarceration for less than one year), **P = petty offense** (may be tried before a magistrate judge usually on the date of the first appearance; punishment is the imposition of a fine).
15. Count(s) citation applies to, i.e. 1; 2-4 > select defendant(s) for count(s) > save to list. Additional citations: “clear above fields”, continue steps until all citations have been entered for all defendants. When completed > “finished entering counts”.
16. JS-2 (Opening) Information: Proceeding code: (determines how case originated). Defaults to event selected: 1 (Indictment), next.
17. No deadlines to terminate, next.
18. Modify docket text screen to read: “REDACTED INDICTMENT....”, next.

19. Docket Text: Final Text screen, next.
20. NEF screen appears and is proof of filing.
21. Criminal > Other Documents > Restricted Document > case number and select entire case > next > verify case name/number > next > date document filed (file stamp date) > browse/select unredacted document > attachment: notice of maximum penalty, criminal cover sheet > next.
22. Modify Docket Text screen: Modify to read “*RESTRICTED DOCUMENT (Unredacted Indictment) .....*”. Next.
23. Docket Text:Final Text screen appears. Next.
24. NEF screen appears and is proof of filing.
25. FLAGS: Criminal > Utility Events > Set/Clear Flags > verify case number/select entire case > verify case name/number > date filed > Mag initials. Add any other applicable flags, i.e. FEMA, etc. Next.
26. Modify docket text screen appears. Modify to read: “\*\*\**Set Flags: mag initials as to ....*” > Next.
27. Docket Text:Final Text screen appears. Next.
28. NEF screen appears (flags internal to clerk’s office).
29. Praecipe for summons/warrant: Criminal > Service of Process > Praecipe for Summons or Praecipe for Warrant > enter case number > must do independently for each defendant > verify case name/number > date filed (file date on praecipe) > browse and select Praecipe as to that defendant > next > select filer - USA (plaintiff) > no linkage > next.
30. Modify docket text screen appears. Next.
31. Docket Text:Final Text screen appears. Next.
32. NEF screen appears and is proof of filing.
33. If Summons issued go to step 34. If Warrant issued go to step 39.
34. Criminal > Service of Process > Summons Issued > next > enter case number > the defendant screen will appear if multiple defendants > verify case name/number > select magistrate judge > date filed is date summons issued > browse and select summons > summons issued on behalf of defendant - select party (defendant). This event is sealed behind the scenes.
35. Screen prompt “Review case for proper location of defendant(s)”. Next. Set Hearing screen: Initial Appearance date taken from Praecipe. Do not docket Arraignment. Next.

36. Modify docket text screen to reflect summons issued. Next.
37. Docket Text:Final Text Screen appears. Next.
38. NEF screen appears and is proof of filing.
39. Criminal > Service of Process > Warrant Issued > verify/enter case number > verify case name/number > select judge > date is date warrant issued > browse/select warrant > select filer (USA) > enter the word "Arrest" > Excludables: Select "XM" Unavailable Witness/Defendant > date is date warrant issued.
40. Modify Docket text screen to read "*Arrest Warrant Issued in case as to defendant's name*". Next.
41. Docket Text:Final Text Screen appears, next.
42. NEF screen appears and is proof of filing.
43. Set Location Start as to defendant: Criminal > Utility Events > Speedy Trial - Location Start > verify case number > verify case name/number > date filed = date warrant issued > Location: select LF (fugitive).
44. Modify Docket text screen to read "*Location fugitive start as to defendant's name*". Next.
45. Docket Text:Final Text Screen appears, next.
46. NEF screen appears and is proof of filing.

NOTE: Once the docket clerk merges a magistrate case defendant into a new criminal case, the docket clerk should immediately go into the magistrate case and docket *terminate merged defendant* selecting the proper defendant or defendants that were merged to the new criminal case. This event can be found at: Criminal>Court Events>Utility Events>Terminate Merged Defendant. If all defendant(s) were merged, docket clerk is to set closed flag in the magistrate merged case. If defendants are still pending in the magistrate case do not set the closed flag.

NOTE: ADD PROBATION OFFICER IF THERE IS ONE IN MAGISTRATE CASE.

NOTE: TERM MERGED MAGISTRATE CASE AND SET CLOSED FLAG IN MAGISTRATE CASE.





## INSTRUCTIONS

Superseding indictment should be file stamped; same criminal number and judge previously assigned by the clerk's office. Criminal number and district judge and mag judge initials are listed on the superseding indictment. At this time prepare/scan warrant/summons for superseding indictment. Stamp Sealed on Warrant.

1. Cover the signature of the foreperson and make a copy of the original indictment. In place of the original signature, use the stamp which reads "s/signature redacted". This will be your redacted indictment.
2. Scan the criminal cover sheet, notice of maximum penalty, the original unredacted superseding indictment, the motion/order to seal, and the redacted indictment.
3. If new party added, go to step 4. If no new party is added go to step 6.
4. Add new party > enter last name > search. If found, select name > select party. Role type: defendant > add party. If party name not found > create new party > (check role type (defendant); possibly defendant #) > add party.

Continue to add defendants if necessary using above steps. If new parties, add them making sure you number the defendants according to their listing on the superseding indictment. *If you fail to number the defendants correctly, click on the defendant edit icon and change the defendant number, then save changes.*

5. If applicable, Alias: "Expand All" > click add alias icon > search for alias name > if found highlight name and select alias > change type to appropriate abbreviation, > add alias; if not found create new alias > change type to appropriate abbreviation > add alias.
6. Docket motion and order.

## Docket Motion and Order

1. Criminal > Motions > enter case number > check case name > next.
2. Select attorney (AUSA), next.
3. Select filer (party - USA), next.

4. Select "Seal Case" event, next.
5. "Date document filed" is file stamp date. Browse to select motion/order > next.
6. Reminder screen: "*If necessary, seal this entry and attached documents*", next.
7. Modify docket text screen appears, click next.
8. Docket Text; Final Text screen appears, click next.
9. NEF screen appears (no NEF sent due to sealed case).
10. Criminal > Orders on Motions > verify case number > select case > verify case name/number > enter judge's signature date of order > select mag judge > select motion to seal [as to all defendants] > "granting" as the action > date document filed (file stamp date) > browse and select motion/order > next.
11. Written opinion screen: No. Next.
12. Modify docket text screen, next.
13. Docket Text:Final Text screen, next.
14. The NEF screen appears. No NEFs sent.

### **Docket Superseding Indictment (Redacted and Unredacted) (Charging Instrument)**

1. Criminal > Indictment (Sealed) > enter criminal case number/select case name/number, not defendant(s) > verify case number/name > "date document filed" = file stamp date > browse and select **REDACTED** indictment > attachment: notice of maximum penalty, criminal cover sheet > Category = Criminal Cover sheet > next.  

Compare the criminal cover sheet to the superseding indictment for citation and counts; if discrepancy go by superseding indictment.
2. Count addition screen: CITATION box: enter entire citation code > search > click drop down arrow > select citation > select > citation text entered. (Can modify citation text to same text as "*description of offense charged*" on criminal cover sheet/superseding indictment.)  

**NOTE:** The citation will be followed by a letter denoting **F = felony** (grand jury impaneled; punishable by death or imprisonment for more than one year, **M = misdemeanor** (no grand jury impaneled; acts more serious than petty offenses; punishable by a fine or incarceration for less than one

year), **P = petty offense** (may be tried before a magistrate judge usually on the date of the first appearance; punishment is the imposition of a fine).

3. Count(s) citation applies to, i.e. 1; 2-4 > select defendant(s) for count(s) > save to list. Additional citations: "clear above fields", continue steps until all citations have been entered for all defendants. When completed click "finished entering counts".
4. JS-2 (Opening) Information: Proceeding code: (determines how case originated). Defaults to event selected: S - Sealed Indictment, next.
5. No deadlines to terminate, next.
6. Modify docket text screen to read: "SEALED REDACTED SUPERSEDING INDICTMENT....", next.
7. Docket Text: Final Text screen, next.
8. NEF screen appears. No NEFs sent due to sealed filings.
9. Criminal > Other Documents > Restricted Document > case number and select entire case > next > verify case name/number > next > date document filed (file stamp date) > browse/select unredacted document > attachment: criminal cover sheet; category "criminal cover sheet" > next.
10. Modify Docket Text screen: Modify to read "*RESTRICTED DOCUMENT (Unredacted Superseding Indictment) .....*". Next.
11. Docket Text: Final Text screen appears. Next
12. NEF screen appears. No NEFs sent.
13. Praecipe for summons/warrant: Criminal > Service of Process > Praecipe for Summons or Praecipe for Warrant > enter case number > must do independently for each defendant > verify case name/number > date filed (file date on praecipe) > browse and select Praecipe as to that defendant > next > select filer - USA (plaintiff) > no linkage > next.
14. Modify docket text screen appears. Next
15. Docket Text: Final Text screen appears. Next
16. NEF screen appears. No NEFs sent.
17. If Summons issued go to step 44. If Warrant issued go to step 49.
18. Criminal > Service of Process > Summons Issued > next > enter case number > select defendant screen appears if multiple defendants > verify case name/number > select magistrate judge > date filed is date summons issued >

browse and select summons > summons issued on behalf of defendant - select party (defendant). This event is sealed behind the scenes.

19. Screen prompt "Review case for proper location of defendant(s)". Next. Set Hearing screen: Initial Appearance date taken from Praecipe. Do not docket arraignment. Next.
20. Modify docket text screen appears reflecting summons issued and date/time/judge of initial appearance. Next.
21. Docket Text:Final Text Screen appears. Next.
22. NEF screen appears. No NEFs sent.
23. Criminal > Service of Process > Warrant Issued > verify/enter case number > verify case name/number > select judge > date is date warrant issued > browse/select warrant > select filer (USA) > enter the word "Arrest" > Excludables: Select "XM" Unavailable Witness/Defendant > date is date warrant issued.
24. Modify Docket text screen to read "*Arrest Warrant Issued in case as to defendant's name*". Next.
25. Docket Text:Final Text Screen appears, next.
26. NEF screen appears. No NEFs sent.
27. Set Location Start as to defendant: Criminal > Utility Events > Speedy Trial - Location Start > verify case number > verify case name/number > date filed = date warrant issued > Location: select LF (fugitive).
28. Modify Docket text screen to read "*Location fugitive start as to defendant's name*". Next.
29. Docket Text:Final Text Screen appears, next.
30. NEF screen appears. No NEFs sent.

**NOTE: if the initial case/indictment is not sealed but the superseding indictment is sealed, you must first seal the case first before adding any new defendants or docketing the motion to seal. You seal the case using the event "Case Sealed" under "Small Utilities". It is extremely important to seal the case before any docketing is done.**



mag judge initials are listed on the superseding indictment. At this time prepare/scan warrant/summons for superseding indictment.

1. Cover the signature of the foreperson and make a copy of the original indictment. In place of the original signature, use the stamp which reads "s/signature redacted". This will be your redacted indictment.
2. Scan the notice of maximum penalty, criminal cover sheet, the original unredacted superseding indictment, and the redacted superseding indictment.
3. If new party added, go to step 4. If no new party is added go to step 6.
4. Add new party > enter last name > search. If found, select name > select party. Role type: defendant > add party. If party name not found > create new party > (check role type (defendant); possibly defendant #) > add party.

Continue to add defendants if necessary using above steps. If new parties, add them making sure you number the defendants according to their listing on the superseding indictment. *If you fail to number the defendants correctly, click on the defendant edit icon and change the defendant number, then save changes.*

5. If applicable: Alias: "Expand All" > click add alias icon > search for alias name > if found highlight name and select alias > change type to appropriate abbreviation, > add alias; if not found create new alias > change type to appropriate abbreviation > add alias.
6. Click Criminal > Indictment: Indictment - Redacted > next > enter criminal case number/select case name/number, not defendant(s) > verify case number/name > "date document filed" = file stamp date > browse and select **REDACTED** indictment > attachment: notice of maximum penalty, criminal cover sheet > next.

Compare the criminal cover sheet to the superseding indictment for citation and counts; if discrepancy go by superseding indictment.

7. Count addition screen: CITATION box: enter entire citation code > search > click drop down arrow > select citation > select > citation text entered. (Can modify citation text to same text as "*description of offense charged*" on criminal cover sheet/indictment.)

**NOTE:** The citation will be followed by a letter denoting **F = felony** (grand jury impaneled; punishable by death or imprisonment for more than one year, **M = misdemeanor** (no grand jury impaneled; acts more serious than petty offenses; punishable by a fine or incarceration for less than one year), **P = petty offense** (may be tried before a magistrate judge usually on the date of the first appearance; punishment is the imposition of a fine).

8. Count(s) citation applies to, i.e. 1; 2-4 > select defendant(s) for count(s) > save to list. Additional citations: "clear above fields", continue steps until all citations have been entered for all defendants. When completed click "finished entering counts".
9. JS-2 (Opening) Information: Proceeding code: (determines how case originated). Defaults to event selected: 1 (Indictment), next.
10. No deadlines to terminate, next.
11. Modify docket text screen appears: "REDACTED SUPERSEDING INDICTMENT....", next.
12. Docket Text: Final Text screen, next.
13. NEF screen appears and is proof of filing.
14. Criminal > Other Documents > Restricted Document > case number and select entire case > next > verify case name/number > next > date document filed (file stamp date) > browse/select unredacted document > attachment: notice of maximum penalty, criminal cover sheet; category "criminal cover sheet" > next.
15. Modify Docket Text screen: Modify to read "*RESTRICTED SUPERSEDING DOCUMENT (Unredacted Superseding Indictment) .....*". Next.
16. Docket Text: Final Text screen appears. Next.
17. NEF screen appears and is proof of filing.
18. Praecipe for summons/warrant: Criminal > Service of Process > Praecipe for Summons or Praecipe for Warrant > enter case number > must do independently for each defendant > verify case name/number > date filed (file date on praecipe) > browse and select Praecipe as to that defendant > next > select filer - USA (plaintiff) > no linkage > next.
19. Modify docket text screen appears. Next.
20. Docket Text: Final Text screen appears. Next.
21. NEF screen appears and is proof of filing.
22. If Summons issued go to step 23. If Warrant issued go to step 28.
23. Criminal > Service of Process > Summons Issued > next > enter case number > select defendant screen appears if multiple defendants > verify case name/number > select magistrate judge > date filed is date summons issued > browse and select summons > summons issued on behalf of defendant - select party (defendant). This event is sealed behind the scenes.



24. Screen prompt "Review case for proper location of defendant(s)". Next. Set Hearing screen: Initial Appearance date taken from Praecepte. Do not docket arraignment. Next.
25. Modify docket text screen appears reflecting summons issued and date/time/judge of initial appearance. Next.
26. Docket Text:Final Text Screen appears. Next.
27. NEF screen appears and is proof of filing.
28. Criminal > Service of Process > Warrant Issued > verify/enter case number > verify case name/number > select judge > date is date warrant issued > browse/select warrant > select filer (USA) > enter the word "Arrest" > Excludables: Select "XM" Unavailable Witness/Defendant > date is date warrant issued.
29. Modify Docket text screen to read "*Arrest Warrant Issued in case as to defendant's name*". Next.
30. Docket Text:Final Text Screen appears, next.
31. NEF screen appears and is proof of filing.
32. If new defendant Set Location Start: Criminal > Utility Events > Speedy Trial - Location Start > verify case number > verify case name/number > date filed = date warrant issued > Location: select LF (fugitive).
33. Modify Docket text screen to read "*Location fugitive start as to defendant's name*". Next.
34. Docket Text:Final Text Screen appears, next.
35. NEF screen appears and is proof of filing.

<b>Chapter</b>	<b>CRIMINAL CASES</b>
<b>Subject</b>	<b>Request for Modifying the Conditions or Terms of Supervision with Consent of the Offender and Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Terms of Supervision [PROB 12B]</b>

**DEFINITION** The probation officer is petitioning the court, with the written consent of the offender, to change the terms of the supervised release due to a violation by the offender of his/her terms of release.

**DOCUMENTS** (1) Request for Modifying the Conditions or Term of Supervision with Consent of the Offender [PROB 12B]  
(2) Waiver [PROB 49]

**SAMPLE CASE** [1:07-cr-45](#) Doc # [47](#) and [49](#) Request for modifying conditions or term of supervision with consent of the offender

## **INSTRUCTIONS**

Chambers instructions:

1. The probation officer will present documents to the judge: (1) Request for Modifying the Conditions or Term of Supervision with Consent of the Offender (form 12B) and (2) Waiver of Hearing (Probation Form 49).
  - a. The Waiver of Hearing shall be signed by the probation officer and defendant/probationer and dated.
2. Upon the signature of the judge on the petition, the courtroom deputy shall file stamp the document.
3. Chambers staff will then scan the documents into PDF format.
4. CRD shall docket the entry as follows: Criminal > OtherOrders/Judgments > Order on Petition re: Probation/Supervised Release (12B) > next > enter/verify case number (if multi-defendant case select correct defendant) > next > verify

case name/number > next > date document filed is same as file stamped date > select judge who signed the order > next > select the Order on Petition. Browse and select the waiver as an attachment including category and description.

5. Modify text screen appears: modify to read as follows: "Order on Probation/Supervised Release (12B). The Court orders the Modification of Conditions as noted in the Petition. Signed by **District Judge** \_\_\_\_\_ **on** **xx/xx/xxxx.**" Next.
6. Docket text - final text screen appears > next > NEF appears.

**Chapter**                    **CRIMINAL CASES**

**Subject**                    **Request for Modifying the Conditions or Term of  
Supervision with Consent of the Offender & Waiver  
of Hearing [Probation Form 12B]**

**DEFINITION**            Offender has violated his/her probation/supervised release and the probation officer has issued a Request to Modify the conditions or term of supervision [Request for Modifying the Conditions or Term of Supervision with Consent of the Offender [Probation Form 12B]. The probation officer is petitioning the court to change the terms with the consent of the offender.

**DOCUMENTS**            (1) Request for Modifying the Conditions or Term of Supervision with Consent of the Offender  
(2) Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision

**SAMPLE CASE**    [1:07-cr-45](#)            Doc #[47](#) and [49](#) Request for modifying conditions or term of supervision with consent of the offender

**NOTE** the Probation office uses form **PROB 12B** for this type request.

## **INSTRUCTIONS**

Probation & Chambers instructions:

1. The probation officer will present two documents to the judge: (1) Request for Modifying the Conditions or Term of Supervision with Consent of the Offender and (2) Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision. The Waiver of Hearing shall be signed by the probation officer and probationer.
2. Upon the signature of the judge, the courtroom deputy is to file stamp the request (which is considered the order) and the wavier of hearing.
3. Chambers staff will scan the request/order and the wavier of hearing.

4. Docket the entry as follows: Criminal > Other Documents > Petition on Probation/Supervised Release > next > enter/verify case number (if multi-defendant case select correct defendant) > next > verify case name/number > next > date document filed is same as file stamped date > select request/order and wavier of hearing as main document > next > **select correct Probation office as the filer/party** > next;
5. Modify text screen appears: modify to read as follows: "Petition on Probation/Supervised Release filed by Probation (division name) as to (text in defendant's name). **Text in:** The Court Orders the Modification of Conditions as noted in the Petition. Signed by **District Judge** \_\_\_\_\_ **on xx/xx/2014.**"
6. Docket text - final text screen appears > next > NEF appears.

**NOTE:** The request/order and wavier of hearing should be filed as one entry.

**Chapter**                    **CRIMINAL CASES**

**Subject**                    **Petition for Action on Conditions of Pretrial Release  
– PS8**

**INSTRUCTIONS:**

1. Criminal > Other Orders/Judgments > Order on Petition re: Pretrial Release (PS8) > next;
2. Enter criminal case number > next;
3. Verify case name/number > next;
4. Enter date order signed by judge;
5. Select the judge who entered the order;
6. Browse and select the document > if warrant or summons issued select as an attachment (category and description to be entered) > next;
7. **If warrant/summons is to be issued** entered type of warrant > next (**blip: send hard copy of warrant to U.S. Marshal, U.S. Attorney and U.S. Probation**);
8. Screen displays **blip “Order may or may not direct issuance of warrant or summons. Modify docket text accordingly.”** Next;
9. Modify text screen appears: Modify to read:

---

```
ORDER granting Petition on Condition of Pretrial Release. Arrest
WARRANT/SUMMONS issued as to Sue Carter. Copies of petition and order
distributed only to U.S. Attorney, U.S. Marshal and U.S. Probation. Signed by
District Judge Daniel P. Jordan, III on 09/09/14; (Attachments: # (1) Exhibit
warrant)
(DT)
```

10. Next;
11. Docket text: Final text > next;
12. No NEF sent.

**1:09-cr-00919-DPJ-FKB-1 No electronic public notice will be sent because the case/entry is sealed.**

**Chapter                    CRIMINAL CASES**

**Subject                    Petition for Warrant or Summons for Offender Under  
Supervision/Probation – Probation Form 12C**

**DEFINITION**            Offender has violated his/her probation/supervised release and the probation officer has issued a Petition for Warrant or Summons for Offender Under Supervision/Probation [Probation Form 12C]. The probation officer is petitioning the court to arrest the offender for offenses committed while on supervised release/probation. Judge signs authorizing the issuance of an arrest warrant or summons.

**DOCUMENTS**            Petition for Warrant or Summons for Offender Under Supervision/Probation (PROB 12C form)

**SAMPLE CASE**        [1:07-cr-130](#)        Doc [#114](#)            Order granting Petition for Warrant for Offender Under Supervision attachment: Arrest Warrant or Summons

**INSTRUCTIONS:**

**Probation & Chambers instructions:**

1. The probation officer will email to the judge the petition for issuance of a summons or warrant to be signed. At the **very end** of the petition is the area where the court orders the action and the judge signs and dates the petition.
2. Chambers will email the order/petition to the clerk's office for issuance of the arrest warrant or summons.

**FILING INSTRUCTIONS for clerk's office:**

1. Clerk's office staff will prepare the warrant or summons and save as pdf. Next you will docket the petition for warrant or summons for offender under supervision/probation.

2. Docket the entry as follows: Criminal > Other Orders/Judgments > Order on Petition for Warrant/Summons (12C) > next > enter/verify case number > next > verify case name/number > next > signature date of judge > next > select judge who signed petition > next.
3. Browse and select the order/petition as the main document; **and select the warrant/summons as an attachment** (including a category and description) > next.
4. Enter type of warrant [**you are prompted to send a hard copy to the U.S. Attorney, and U.S. Probation**] > next. (U.S. Marshal receives electronically)
5. Modify text screen appears - see sample below:

```
ORDER granting Petition For Warrant or Summons For Offender Under Supervision.  
Arrest WARRANT/SUMMONS issued as to Sue Carter. Copies of petition and  
order distributed only to U.S. Attorney, U.S. Marshal and U.S. Probation.  
Signed by Judge _____ on xx/xx/xxxx. (Attachments: #  
(1) Exhibit warrant)  
(DT)
```

6. Edit text accordingly for warrant or summons issued. Next.
7. Docket text - final text screen appears > next.
8. NEF appears. No electronic public notice will be sent because the case/entry is sealed.

**NOTE:** The petition and order should be filed as one entry; not two.

The arrest warrant issued or summons issued should be an attachment to the petition/order.



**Chapter**                      **CRIMINAL CASES**

**Subject**                      **Report on Offender Under Supervision [PROB 12A]**

**BACKGROUND:** This form is used by probation when they are not asking the judge for a summons or warrant to be issued. It is only used to update the judge on the offender's status.

**INSTRUCTIONS:**

1. **Do not file stamp or docket this form.**
2. After the Judge signs the report the courtroom deputy should hand the form back to the Probation Officer (if the officer is waiting). If the probation officer has left the form for the judge to sign, the CRD should then send the form to the Probation Office.
  - a. If the form somehow makes it way to the clerk's office, please send the form to the necessary probation office.

**Chapter**                    **CRIMINAL CASES**  
**Subject**                   **Sentencing Recommendations**

**AUTHORITY**            Fifth Circuit Court of Appeals

**BACKGROUND**        It is the preference of the Southern District of Mississippi to send Sentencing Recommendations outside of the EROA and **only** upon request by the Fifth Circuit. The Fifth Circuit Judges may want to review the sentencing recommendations on criminal appeal cases. Sentencing Recommendations are no longer filed in the criminal case, but shredded by chambers or returned to probation after sentencing. (The Sentencing Recommendations form now contains the stamp: DO NOT FILE: PLEASE SHRED AFTER SENTENCING.) The Probation Office keeps an electronic copy of the Sentencing Recommendations.

If you have an older case where the Sentencing Recommendations were made a part of the record, you should **de-select Sentencing Recommendations when preparing your appeal.**

If Fifth Circuit requests a copy of the Sentencing Recommendations, you can obtain a copy from Probation and provide to the Circuit in a sealed envelope with the necessary identifying information on the outside.

**Forms for Criminal Cases**

Arrest Warrant Issued

Petition for Warrant

PROB 12C

PS8

Summons Issued

### Arrest Warrant Issued

Case 2:14-cr-00008-KS-MTP \*SEALED\* Document 7 \*SEALED\* Filed 03/06/14 Page 1 of 1

AO 442 (Rev. 11/11) Arrest Warrant

## UNITED STATES DISTRICT COURT

for the  
Southern District of Mississippi

United States of America  
v.  
RALPH LEON STINSON

Case No. 2:14cr8-KS-MTP

Defendant

### ARREST WARRANT

To: Any authorized law enforcement officer

**YOU ARE COMMANDED** to arrest and bring before a United States magistrate judge without unnecessary delay  
(name of person to be arrested) RALPH LEON STINSON,  
who is accused of an offense or violation based on the following document filed with the court:

- Indictment     Superseding Indictment     Information     Superseding Information     Complaint
- Probation Violation Petition     Supervised Release Violation Petition     Violation Notice     Order of the Court

This offense is briefly described as follows:

18:1344 - BANK FRAUD

Date: 03/06/2014

ARTHUR JOHNSTON, Clerk

*[Handwritten Signature]*  
Issuing officer's signature

City and state: HATTIESBURG, MS

L. Regan, Deputy Clerk  
Printed name and title

#### Return

This warrant was received on (date) \_\_\_\_\_, and the person was arrested on (date) \_\_\_\_\_  
at (city and state) \_\_\_\_\_.

Date: \_\_\_\_\_

Arresting officer's signature

Printed name and title

## Petition for Warrant

Case 1:08-cr-00085-WJG-RHW Document 123 Filed 01/23/13 Page 1 of 1

United States District Court

for the

Southern District of Mississippi

**Petition for Warrant or Summons for Offender Under Supervision**

Name of Offender: William C. Breland Jr.

Case Number: 1:08cr85WJG-RHW-1

Name of Sentencing Judicial Officer: Honorable Walter J. Gex III

Date of Original Sentence: January 7, 2009

Original Offense: False or Fraudulent Claims (count 1 & 2); False Statements (count 3); Theft of Government Funds (count 5), and; Mail Fraud (counts 7, 8, & 9)

Original Sentence: 24 months imprisonment (BOP) on each count to run concurrently followed by three years supervised release on each count to run concurrently; \$29,619.66 restitution. (On July 7, 2010, Breland's term of supervised release was revoked, and he was sentenced to serve five months on Counts 1, 2, 3, 5, 7, 8, and 9, to run consecutively, for a total term of 35 months.)

Type of Supervision: Supervised Release      Date Supervision Commenced: November 2, 2012

Asst. U.S. Attorney: Gaines Cleveland      Defense Attorney: None at this time.

**PETITIONING THE COURT**

- To issue a warrant (information released only to U.S. Marshal, U.S. Attorney, and U.S. Probation)  
 To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
Special Condition	The offender shall complete a three-month placement in a Community Correction Center and abide by all the rules of the center. On January 15, 2013, Breland was terminated from the Community Correction Center for failure to abide by the rules of the center.
Special Condition	The offender shall participate in a program of testing and/or treatment for drug abuse as directed by the probation office until such time as he is released from the program by the probation office. The offender has failed to report for drug testing as directed on January 15, January 16, and January 17, 2013.
Special Condition	The offender has failed to pay restitution as ordered.

Respectfully submitted,

by

*Kevin H. Hayward*

Kevin Hayward  
U.S. Probation Officer  
Date: January 22, 2013

AUSA Receipt: \_\_\_\_\_

**THE COURT ORDERS**

- No Action  
 The Issuance of a Warrant  
 The Issuance of a Summons  
 Other

SO ORDERED, this the 22<sup>nd</sup> day of January, 2013.

*Walter J. Gex III*

UNITED STATES SENIOR DISTRICT JUDGE

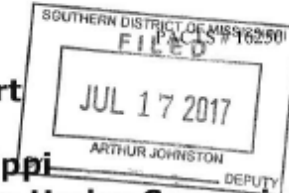
**PROB 12C**

Case 1:06-cr-00041-LG-JMR Document 145 Filed 07/17/17 Page 1 of 2

PROB 12C  
(01/12)

**United States District Court  
for the  
Southern District of Mississippi**

**Petition for Warrant or Summons for Offender Under Supervision**

**Name of Offender:** Demetrius S. Rankin      **Docket No.** 1:06cr41LG-JMR-001**Name of Sentencing Judicial Officer:** Honorable Louis Guirola, Jr.**Date of Original Sentence:** April 17, 2007**Original Offense:** Possession with Intent to Distribute Controlled Substance and Criminal Forfeiture**Original Sentence:** 143 months incarceration (BOP) followed by five years supervised release. Special conditions included: Provide financial information; participate in a program of testing and/or treatment for drug abuse as directed by the probation office; pay \$7,500 fine, and a \$100 special assessment. (Pursuant to U.S.C. 3582, Rankin received a sentencing reduction on February 18, 2015, reducing his imprisonment to 120 months imprisonment.)**Type of Supervision:** Supervised Release    **Date Supervision Commenced:** 10/30/15**Assistant U.S. Attorney:** John Meynardie    **Defense Attorney:** To be determined**PETITIONING THE COURT**

This information to be released to U.S. Marshal Service, U.S. Attorney's Office and U.S. Probation only.

- To issue a warrant** (Offender is in custody in the Calcasieu Parish Correctional Facility, Lake Charles, Louisiana)
- To issue a summons**

<b>Violation Number</b>	<b>Nature of Non-Compliance</b>
1) Mandatory Condition	<b>The defendant shall not commit another federal, state, or local crime.</b> On July 12, 2017, Rankin was arrested and charged by the Louisiana State Police with Distribution/Manufacture or Possession with Intent of a Schedule II Controlled Substance. This case (17-6905.1) is pending.
2) Mandatory Condition	<b>The defendant shall not commit another federal, state, or local crime.</b> On July 12, 2017, Rankin was arrested and charged by the Louisiana State Police with

MSS Prob 12C

Petition for Warrant or Summons  
For Offender Under Supervision

Name of Offender: Rankin, Demetrius S.

Case Number: 1:06cr41LG-RHW-001

Following Vehicles to Close. This case (17-6905.1) is pending.

3) Standard Condition

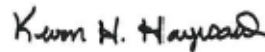
**The defendant shall not leave the juridical district without permission of the court or probation officer.** On July 12, 2017, Rankin traveled to Louisiana without approval.

4) Special Condition

**The defendant shall pay any fine that is imposed in this judgement.** The offender was ordered to pay a \$7,500 fine at a rate of \$75.00 per month. The offender has failed to make monthly payments as ordered.

Reviewed and Approved:

Respectfully submitted,



Kurt Raymond  
Supervisory U.S. Probation Officer

Kevin Hayward  
U.S. Probation Officer  
**Date:** July 17, 2017

Name of AUSA Notified: John Meynardie

**THE COURT ORDERS:**

- No Action
- Issue an arrest warrant
- Issue a Summons for Hearing on \_\_\_\_\_
- Other



Signature of Judicial Officer

7/17/17

Date

AO 442 (Rev. 11/11) Arrest Warrant

UNITED STATES DISTRICT COURT

for the
Southern District of Mississippi

United States of America
v.
DEMETRIUS S. RANKIN

Case No. 1:06cr41 LG-JMR

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
(name of person to be arrested) Demetrius S. Rankin
who is accused of an offense or violation based on the following document filed with the court:

- Indictment
Superseding Indictment
Information
Superseding Information
Complaint
Probation Violation Petition
Supervised Release Violation Petition
Violation Notice
Order of the Court

This offense is briefly described as follows:

VIOLATION OF CONDITIONS OF SUPERVISED RELEASE



ARTHUR JOHNSTON, CLERK

Date: 07/17/2017

Handwritten signature of J. Hough

Issuing officer's signature

City and state: Gulfport, MS

J. Hough, Deputy Clerk

Printed name and title

Return

This warrant was received on (date) and the person was arrested on (date)
at (city and state)

Date:

Arresting officer's signature

Printed name and title



**PS8**

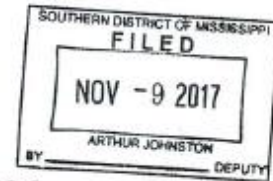
PS 8 Case 1:17-cr-00056-HSO-JCG Document 213 Filed 11/09/17 Page 1 of 2  
(Rev. 12/04)

FACTS # 3747243  
ONLY TO BE RELEASED TO U.S. MARSHAL  
SERVICE, AUSA AND USPO

UNITED STATES DISTRICT COURT

for

Southern District of Mississippi



U.S.A. vs. Thomas Elliott Williams Docket No. 1:17cr00056-HSO-JCG-8

**Petition for Action on Conditions of Pretrial Release**

COMES NOW Brandon Bang, pretrial services/probation officer, presenting an official report upon the conduct of defendant Thomas Elliott Williams, who was placed under pretrial release supervision by the Honorable John C. Gargiulo, sitting in the court at Gulfport on the 29 date of June, 2017

under the following conditions:

- 1) The defendant must not violate federal, state, or local law while on release.
- 2) The defendant must cooperate in the collection of a DNA sample if authorized.
- 3) The defendant must advise the court or the pretrial services officer in writing before making any change in residence or telephone number.
- 4) The defendant must appear in court as required and, if convicted, must surrender as directed to serve a sentence.
- 5) The defendant must sign an Appearance Bond, if ordered.
- 6) The defendant must submit to supervision and report for supervision.
- 7) The defendant must continue or actively seek employment.
- 8) The defendant must surrender any passport.
- 9) The defendant must not obtain a passport.
- 10) The defendant must restrict travel to within the Southern District of MS. Other travel must be pre-cleared with the Pretrial Services Officer.
- 11) The defendant must avoid all contact with any person who is a victim or witness, codefendant, any person under indictment, bond parole, probation or supervised release for a felony offense.
- 12) The defendant must not possess a firearm, destructive device, or other weapon.
- 13) The defendant must not use alcohol excessively.
- 14) The defendant must not use or unlawfully possess a narcotic drug or other controlled substances unless prescribed by a licensed medical practitioner.
- 15) The defendant must submit to testing for prohibited substance if required by the pretrial services officer.
- 16) The defendant must report as soon as possible, to the pretrial services officer, every contact with law enforcement personnel, including arrests, questioning, or traffic stops.
- 17) The defendant must, prior to having a prescription filled, check with the Probation Officer to confirm that the drug is not on a restricted list.
- 18) The defendant must not frequent places where controlled substances are illegally sold, used distributed, or administered, and shall not associate with any persons engaged in criminal activity.
- 19) The defendant shall refrain from the use of any mood altering substance.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:**

(If short, insert here. If lengthy, write on separate sheet and attach.)

On August 20, 2017, the defendant provided a urine sample that tested presumptive positive for marijuana. The defendant admitted to the use of marijuana by signing an admission form. The defendant was placed in the Code-A-Phone drug testing program. The sample was sent to the lab for confirmation and returned positive for marijuana. On October 13, 2017, the defendant provided a urine sample that tested presumptive positive for marijuana. The defendant denied any marijuana usage and signed a denial form. On October 16, 2017, the lab confirmed the sample as positive for marijuana. On October 25, 2017, the defendant provided a urine sample that tested presumptive positive for marijuana. The defendant admitted to smoking marijuana prior the test on October 13, 2017. The defendant signed an admission form. The sample was sent to the lab for confirmation and returned positive for marijuana.

Case 1:17-cr-00056-HSO-JCG Document 213 Filed 11/09/17 Page 2 of 2

WILLIAMS, Thomas Elliott

Page 2 of 2

PRAYING THAT THE COURT WILL ORDER the issuance of a warrant.

ORDER OF COURT

Considered and ordered this the 9<sup>th</sup> day of November, 2017 and ordered filed and made a part of the records in the above case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11/07/2017

THE COURT ORDERS

- No Action
- The Issuance of a Warrant
- The Issuance of a Summons
- Other

  
\_\_\_\_\_  
U.S. District Judge/Magistrate Judge

  
\_\_\_\_\_  
U.S. Pretrial Services/Probation Officer

Place Gulfport, MS

AO 442 (Rev. 11/11) Arrest Warrant

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

United States of America  
v.

Thomas Elliott Williams

Defendant

Case No. 1:17cr56HSO-JCG-8

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay (name of person to be arrested) Thomas Elliott Williams, who is accused of an offense or violation based on the following document filed with the court:

- Indictment, Superseding Indictment, Information, Superseding Information, Complaint, Probation Violation Petition, Supervised Release Violation Petition, Violation Notice, Order of the Court

This offense is briefly described as follows:

Violation of Pretrial Release Supervision

ARTHUR JOHNSTON, CLERK

Date: 11/09/2017

City and state: Gulfport, MS

P. Stokes (signature)

P. Stokes, Deputy Clerk



Return

This warrant was received on (date) \_\_\_\_\_, and the person was arrested on (date) \_\_\_\_\_ at (city and state) \_\_\_\_\_.

Date: \_\_\_\_\_

Arresting officer's signature

Printed name and title

### Summons Issued

Case 1:13-cr-00077-HSO-RHW Document 107 \*SEALED\* Filed 01/09/14 Page 1 of 1  
AO 83 (Rev. 06/09) Summons in a Criminal Case

## UNITED STATES DISTRICT COURT

for the  
Southern District of Mississippi

United States of America  
v.

Jessey Bellais  
*Defendant*

Case No. 1:13cr77HSO-RHW

### SUMMONS IN A CRIMINAL CASE

**YOU ARE SUMMONED** to appear before the United States district court at the time, date, and place set forth below to answer to one or more offenses or violations based on the following document filed with the court:

- Indictment       Superseding Indictment       Information       Superseding Information       Complaint
- Probation Violation Petition       Supervised Release Violation Petition       Violation Notice       Order of Court

U.S. District Court Place: 2012 15th Street Gulfport MS 39501	Courtroom No.: G881
	Date and Time: 01/21/2014 11:00 am

This offense is briefly described as follows:  
21 USC 841 Possession with Intent to Distribute a Controlled Substance (Aiding and Abetting)  
18 USC 922 Unlawful Transport of Firearm  
26 USC 5861 Unlawful to Receive a Firearm Not Registered

Date: 01/09/2014

J. T. NOBLIN, CLERK

*[Handwritten Signature]*  
Issuing officer's signature

W. Duggan, Deputy Clerk  
Printed name and title

I declare under penalty of perjury that I have:

- Executed and returned this summons
- Returned this summons unexecuted

Date: \_\_\_\_\_

\_\_\_\_\_  
Server's signature

\_\_\_\_\_  
Printed name and title

**Chapter:**

**Digital Audio Files**

**Chapter                    DIGITAL AUDIO FILES**

**Subject                    Creating a Transcript from a Digital Audio File of a  
Plea or Sentencing Hearing to a CD/RW**

**AUTHORITY**            [28 U.S.C. § 753](#)  
[Guide to Judiciary Policy Vol. 6 - Court Reporting](#)

**BACKGROUND**        It is the duty of any court reporter to file an official transcript (PDF document) or file an electronic transcript (digital audio file) with the court, without charge, of all pleas and sentencings in criminal cases. Audio recordings of plea hearings and sentencing hearings, filed by official court reporters with the clerk of court, are public records and must be accompanied by a certification.

The court reporter must authenticate all original (PDF) transcripts with a certification on the last page. For all electronic (digital audio file) transcripts the certification must be filed as a separate PDF filing immediately after the filing of the digital audio file using [AO Form 35](#) - Certificate of Official Court Reporter for Pleas and Sentencing (revision date 03/2010). [See attached form.]

**NOTE:**                    **Digital Audio Recordings filed after 9/1/2016 are docketed as public without restrictions. Digital Audio Recordings docketed prior to 9/1/2016 will be made available on request. The Clerk's Office will have to give the attorney access by removing the restriction.**

*When performing quality control of digital audio files, checks should be made to ascertain that the quality of the audio is clear and understandable and that the certification is filed by the court reporter.*

Requests for transcripts of electronic hearings by the party/attorney must be submitted to the clerk's office on [AO Form 436 – Audio Recording Order](#) (revision date 04/2013). [See attached form.] The fee is due at the time the form is received. Transcripts are only available in Recordable Compact Disc - CD

form or by an electronic file such as e-mail, digital download, or other Judicial Conference Approved Media.

Upon request by a party/attorney, the court shall create a copy of the official record (digital audio file) onto a CD to sell at the prevailing rate prescribed by the miscellaneous fee schedule in effect at the time. [January, 2014, the [fee](#) for a CD is \$30.00 per compact disk.]

## DEFINITION

Dependent upon how the digital audio file transcript was recorded, determines who receives payment of the fee and who produces the transcript. Regardless of what equipment was used to record the hearing, it is the responsibility of the court reporter to e-file the electronic transcript of the plea/sentencing hearing.

If the court reporter used the court's equipment, in its entirety, without any use of the court reporter's equipment, the responsibility for the production of the transcript lies with the clerk's office. The fee collected then becomes the property of the court.

***This digital audio file was produced using court owned equipment and the following procedure should be used to produce the transcript on a CD.***

## DOCUMENTS

Digital Audio File docketing entry filed by court reporter;  
Certification of Court Reporter ([AO Form 35](#)) filed by court reporter;  
Audio Recording Order ([AO Form 436](#)) filed by requesting party;  
Transcript of Digital Audio file for party/attorney

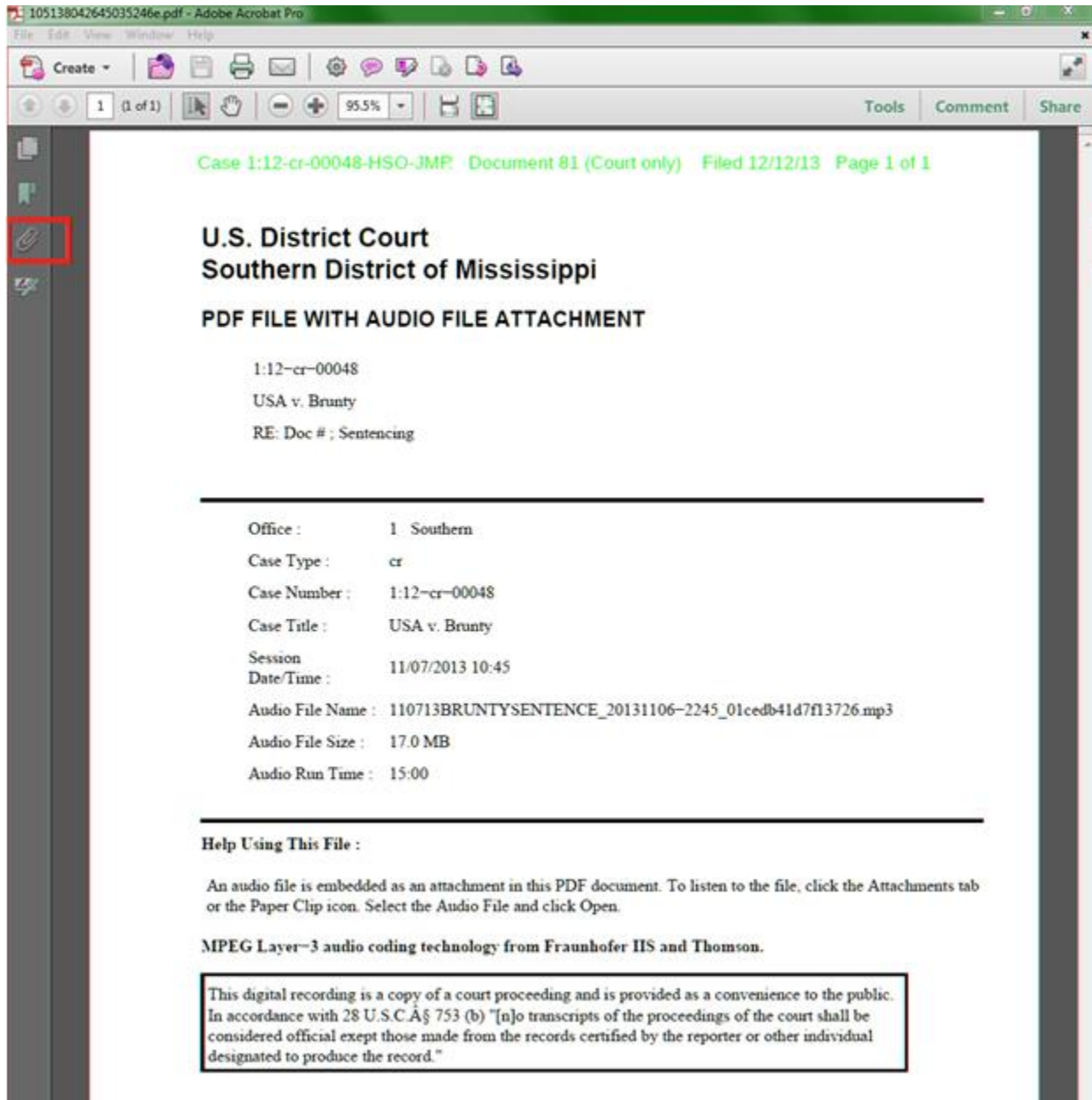
**FEE:** See Schedule of Fees - for creation of digital audio file to CD/RW

## INSTRUCTIONS:

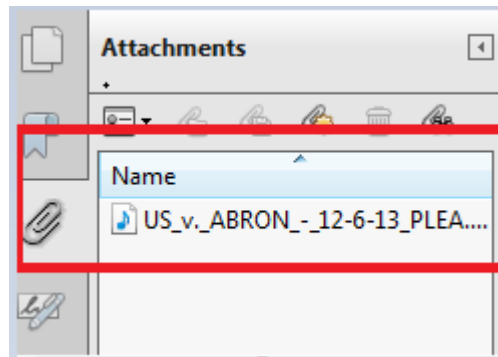
1. Party/Attorney requesting transcript must use the [AO Form 436](#) – Audio Recording Order form (see attached and linked form);

2. Once the Audio Recording Order form and fee has been received in the clerk's office a copy/transcript of the digital audio file can be created using a CD/RW compact disc (read/write);
3. Log into CM/ECF and run the docket report for the requested case;
4. Locate the correct digital audio file docketing entry;
5. Click on the document number;
6. A warning screen will display > click "View Document";
7. The document screen will appear;





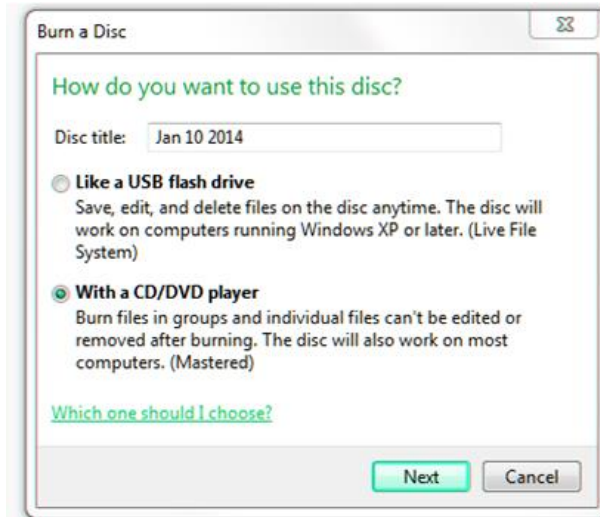
8. Click on the paperclip (attachment) which is the digital audio file; the name of the file will appear;



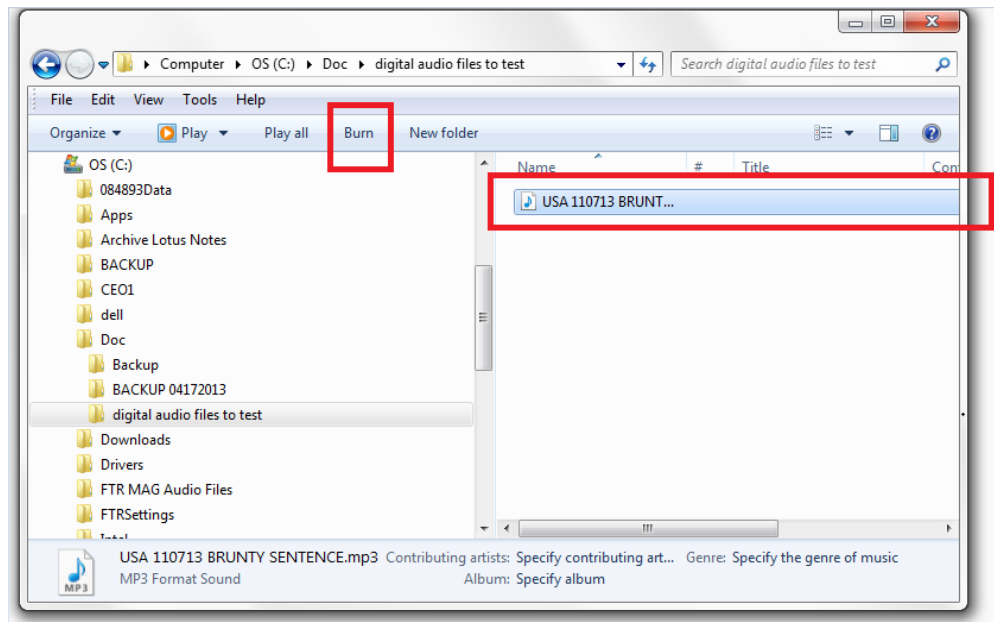
9. *Right click* on the digital audio file (MP3 format);
10. Click on "Save Attachment";
11. Save file in an appropriate folder so you can retrieve the file at a later date to be copied to the CD > click save;
12. Close out of the CM/ECF document screen;
13. Insert a CD/RW compact disc into the computer's DVD drive;
14. An "AutoPlay" dialog box will appear > click Burn files to disc/CD;



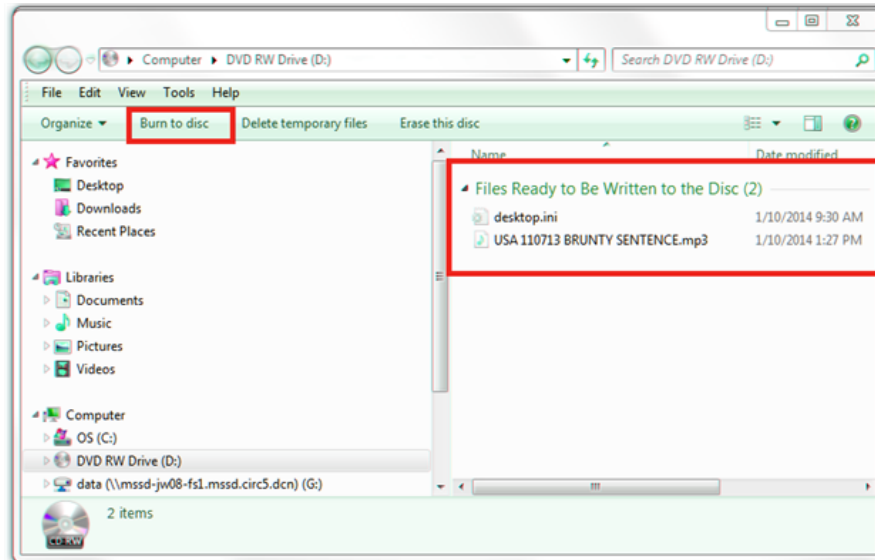
15. The “Burn a Disc” dialog box will open: Disc title will default to today’s date - accept > select with a CD/DVD player > next;



16. The Windows Explorer application window will open > navigate and open the folder where you stored the digital audio file > select the MP3 digital file > click Burn;

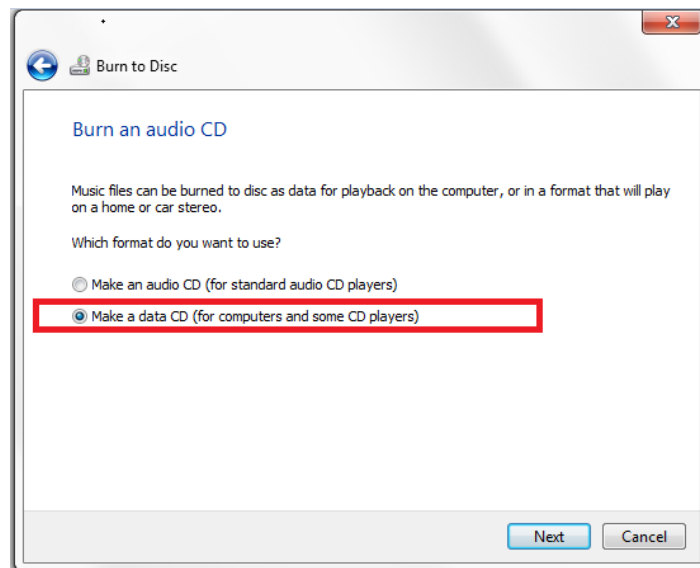


17. Another dialog box will open. You will see the files to be written to the CD. Click “Burn to disc”;



18. A burn to disc/prepare this disc dialog displays. The disc title will default to today's date: accept > click next;

19. Another burn to disc/burn an audio CD windows appears > make sure you select the radio button for “Make a data CD (for computers and some CD players)” > click next;



20. The system is now burning the MP3 file to the disc. When completed the dialog box will close returning you to windows explorer, and the DVD drive door will open. Remove the CD/RW, close drive door, and label the CD. Exit out of windows explorer.
21. Verify the CD is playable by inserting the CD/RW back into your computer DVD drive.
22. An AutoPlay dialog box opens > select Play (using windows media player which is the first option) > the windows media player screen opens and the transcript should begin to play. Listen to the recording to verify the recording is clear, audible and complete. Once the recording has played you may exit out of the windows media player.



23. The transcript is now ready for the party/attorney. **How is this to be accomplished?**

AO 35 (03/10) Certificate of Official Court Reporter

## UNITED STATES DISTRICT COURT

for the \_\_\_\_\_ District of \_\_\_\_\_

### CERTIFICATE OF OFFICIAL COURT REPORTER

Arraignments, Pleas, and Sentencing Proceedings

I, (*print full name*) \_\_\_\_\_, certify that I am a duly appointed Official Court Reporter for the United States district court named above, and that I was present in the courtroom of this court on (*date*) \_\_\_\_\_. On this date during the regular course of my profession, I made electronic sound recording(s) of the proceedings, for the following cases:

Name of Defendant	Docket Number	Nature of Proceeding ( <i>Arraignment, plea, sentence</i> )
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I have played back the recording and certify that it is a true and correct record of the proceedings, that it is sufficiently intelligible when played on (*machine or equipment – make and model or format*) \_\_\_\_\_, that it can be transcribed without undue difficulty, and that I have filed the original recording with the clerk of court.

I further certify that I have filed my original steno-notes, stenomask recordings, or other original records taken of these proceedings with the clerk as required by 28 USC § 753(b).

Date: \_\_\_\_\_

\_\_\_\_\_  
(*Court Reporter's Signature*)

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

**AUDIO RECORDING ORDER**

Read Instructions.

1. NAME		2. PHONE NUMBER		3. EMAIL ADDRESS	
4. MAILING ADDRESS		5. CITY		6. STATE	7. ZIP CODE
8. CASE NUMBER	9. CASE NAME		DATES OF PROCEEDINGS		
		10. FROM	11. TO		
12. PRESIDING JUDGE		LOCATION OF PROCEEDINGS			
		13. CITY	14. STATE		

15. ORDER FOR

<input type="checkbox"/> APPEAL	<input type="checkbox"/> CRIMINAL	<input type="checkbox"/> CRIMINAL JUSTICE ACT	<input type="checkbox"/> BANKRUPTCY
<input type="checkbox"/> NON-APPEAL	<input type="checkbox"/> CIVIL	<input type="checkbox"/> IN FORMA PAUPERIS	<input type="checkbox"/> OTHER (Specify)

16. AUDIO RECORDING REQUESTED (Specify portion(s) and date(s) of proceeding(s) for which duplicate recordings are requested.)

PORTION (S)	DATE(S)	PORTION(S)	DATE(S)
<input type="checkbox"/> VOIR DIRE		<input type="checkbox"/> TESTIMONY (Specify Witness)	
<input type="checkbox"/> OPENING STATEMENT (Plaintiff)			
<input type="checkbox"/> OPENING STATEMENT (Defendant)			
<input type="checkbox"/> CLOSING ARGUMENT (Plaintiff)		<input type="checkbox"/> PRE-TRIAL PROCEEDING (Specify)	
<input type="checkbox"/> CLOSING ARGUMENT (Defendant)			
<input type="checkbox"/> OPINION OF COURT			
<input type="checkbox"/> JURY INSTRUCTIONS		<input type="checkbox"/> OTHER (Specify)	
<input type="checkbox"/> SENTENCING			
<input type="checkbox"/> BAIL HEARING			

17. ORDER

	NO. OF COPIES REQUESTED	COSTS
<input type="checkbox"/> DUPLICATE TAPE(S) FOR PLAYBACK ON A STANDARD CASSETTE RECORDER		
<input type="checkbox"/> RECORDABLE COMPACT DISC - CD		
<input type="checkbox"/> ELECTRONIC FILE (via email, digital download, or other Judicial Conference Approved Media)		
<b>ESTIMATE TOTAL</b>		

CERTIFICATION (18. & 19.) By signing below, I certify that I will pay all charges (deposit plus additional) upon completion of the order.

18. SIGNATURE	19. DATE
---------------	----------

PROCESSED BY			PHONE NUMBER
ORDER RECEIVED	DATE	BY	DEPOSIT PAID
DEPOSIT PAID			TOTAL CHARGES
TAPE / CD DUPLICATED (if applicable)			LESS DEPOSIT
ORDERING PARTY NOTIFIED TO PICK UP TAPE/CD (if applicable)			TOTAL REFUNDED
PARTY RECEIVED AUDIO RECORDING			TOTAL DUE

**DISTRIBUTION:** COURT COPY ORDER RECEIPT ORDER COPY

## INSTRUCTIONS GENERAL

**Use.** Use this form to order duplicate audio recordings of proceedings. Complete a separate order form for each case number for which audio recordings are ordered.

**Completion.** Complete Items 1-19. Do not complete shaded areas which are reserved for the court's use.

**Order Copy.** Keep a copy for your records.

**Mailing or Delivering to the Court.** Mail or deliver two copies to the Office of the Clerk of Court.

**Deposit Fee.** For orders of 20 or more audio recordings, the court will notify you of the amount of the required deposit fee which may be mailed or delivered to the court. Upon receipt of the deposit, the court will process the order.

**Delivery Time.** Delivery time is computed from the date of receipt of the deposit fee (if requested, otherwise computed from the court's receipt date).

**Completion of Order.** The court will notify you when the audio recordings are completed.

**Balance Due.** If the deposit fee was insufficient to cover all charges, the court will notify you of the balance due which must be paid prior to receiving the completed order.

## SPECIFIC

Items 1-19.        These items should always be completed.

Item 8.            Only one case number may be listed per order.

Item 15.          Place an "X" in each box that applies.

Item 16.          Check specific portion(s) and list specific date(s) of the proceedings for which a copy is requested.

Item 17.          Place an "X" in each box that applies. Indicate the number of additional copies ordered.

Item 18.          Sign in this space to certify that you will pay all charges upon completion of the order. (This includes the deposit plus any additional charges.)

Item 19.          Enter the date of signing.

Shaded Area. Reserved for the court's use.



**Chapter:**

**Exhibits**

**t**                                      **EXHIBITS**  
**Subject**                              **Trial Exhibits**

**AUTHORITY**                      [Federal Rules of Appellate Procedure 10\(a\)](#)  
[Fifth Circuit Rules 10.2 and 11\(3\)](#)

**BACKGROUND**                  As part of the Fifth Circuit’s implementation of the Electronic Record on appeal, it will now be necessary to scan and docket exhibits offered into evidence at trial **and** during other evidentiary hearings in civil and criminal cases in which a notice of appeal has been filed. **Effective October 1, 2015.**

**DEFINITION**                      A document or other object produced in a court as evidence.

**INFORMATION**                   Courtroom Deputies (CRDs) must **retain** all exhibits offered into evidence in civil and criminal matters until such **appeal time has expired**. CRD is to bring exhibits to the Clerk’s Office for docketing of Notice of Disposal of Trial Exhibits by the Deputy Clerk assigned to that case once the appeal time has expired.

**SAMPLE CASE:** 1:14cv315    Documents [330],[331],[332],[333]

The Deputy Clerk assigned to each case by terminal digit on which a notice of appeal is received **will be available** to assist the CRD as needed in cases involving voluminous exhibits.

**NOTE: The only time you will use the event code EXHIBIT LIST is when you are filing the list by itself.**

The CRD **will have previously** docketed the Exhibit list for the trial choosing the event code EXHIBIT LIST. If an appeal is filed, **within ten (10) days of the filing of the notice of appeal**, the CRD must scan each individual’s Party’s Exhibit List (choosing event code TRIAL/HEARING EXHIBITS) and attach each exhibit offered and admitted into evidence as an attachment. **Each exhibit attachment is to be filed separately and independently of each other.**

**NOTE: This procedure is only referring to trial exhibits. This policy does not change procedures in place for exhibits to motion or evidentiary hearings. These exhibits will still be made a part of the record immediately following the hearing.**

Review the various trial exhibit events to ensure you select the appropriate ones: Other Filings > Trial Documents > Trial/Hearing Exhibits

## **INSTRUCTIONS:**

1. In a single party case, as well as a multi-party case, the CRD must provide an identifier for each party.
2. Scan the Party's Exhibit list.
3. **Scan** the back page of each exhibit first (this displays the courtroom stamp which shows exhibit #, cause #, witness, Clerk, and date of exhibit admitted into evidence). Now scan the actual exhibit and make this one document. Continue until all exhibits have been scanned individually into PDF format.
4. Civil/Criminal > Other Filings > Trial Documents > select the Trial/Hearing Exhibits > next > enter case number > next;
5. Verify case name and number > next; **(IN CRIMINAL CASES SELECT APPROPRIATE DEFENDANT)**
6. Date document filed is today's date (current date);
7. Browse and find the appropriate party's exhibit list as the main document. First attachment is first exhibit numerically numbered and admitted into evidence and continue with the next exhibit admitted into evidence. Browse and select the first exhibit. From the category list select "Exhibit"; in the Description text box type the P-1, D-1, G-1, or whatever is applicable. Continue with the next attachment/exhibit - and so on and so forth; > next;
8. Do not select a party/filer > next.
9. A screen will appear asking if you want to link this to another document in this case. **IGNORE and click next;**

10. Select party type that admitted the exhibit into evidence from the drop down button > next
  - a. Drop down options are:
    - i. Court
    - ii. Plaintiff
    - iii. Defendant
    - iv. Government
    - v. Joint
    - vi. Other
  
11. You will be prompted to pick a restriction, only if the exhibit should have a restriction > next
  - a. Options are:
    - i. Sealed
    - ii. Private
    - iii. Ex Parte
    - iv. Applicable Party
    - v. Transcript
    - vi. Case Participants
    - vii. Case Participants and Public Terminals
    - viii. Other

**NOTE: If you do not select a Restriction, Exhibit(s) will be public.**

12. In criminal cases, on the Modify Text Screen **change “by” to “as to”** the defendant’s name. Review for accuracy > next
  
13. Final docket text screen appears > next
  
12. The NEF screen appears and the NEF is sent to the appropriate parties.

***Exhibits marked for identification purposes only (and not admitted into evidence) will not be scanned and docketed as part of this procedure unless the appeal relates to the admissibility of such exhibits. In this case the Judge, the Court of Appeals, or the attorney for the party alleging that the document should have been admitted must advise the court that the document should be included as part of the record. Attorney may also file a motion to supplement the record if he wants the ID exhibits included. This applies to bench of jury trials.***

***At that point the CRD shall docket the exhibit marked for identification only as a***

**restricted document using the event Trial Exhibit ID Only - \*Restricted\***

After exhibits have been scanned and docketed for appeal purposes, the exhibits should be taken to the clerk's office and the docket clerk will make a staff note that Trials Exhibits were received



**Chapter:**

**General**

**Chapter**                      **General**  
**Subject**                      **Hours of Operation/Telephone**

**AUTHORITY**

[Fed.R.Civ.P. Rule 77](#)  
[District Court Clerk's Manual Chapter 2](#) § 2.01

**GENERAL HOURS**

Divisional offices will be open to customers for counter and telephone services from 8:00 a.m. until 5:00 p.m. on all days except Saturdays, Sundays and legal holidays. No receipts are written after 4:30 pm due to close out of cash drawers.

After hours and emergency filings: The district courts are deemed "always open" for the purposes of filing documents and or issuing and returning process.

With CM/ECF, parties have the ability to file documents 24/7.

**TELEPHONE SUPPORT**

Telephone support for CM/ECF users (internal and external) will be provided by the staff in each division from 8:00 a.m. to 5:00 p.m.

Jackson	601/608-4000
Hattiesburg	601/583-2433
Gulfport	228/563-1700



<b>Chapter</b>	<b>GENERAL</b>
<b>Subject</b>	<b>Location of Case Files</b>

## **LOCATION**

**Prisoner** Pro se paper documents are maintained by the court for 30 days after the appeal time has expired. Original documents are indexed by the date they were entered on the Court's docket.

After conversion to electronic case filing, paper files slowly became obsolete. Old paper files were shipped periodically to the Federal Records Center for storage.

The last shipment of files to the FRC was the end of 2010.

**Chapter**                    **GENERAL**  
**Subject**                    **Privacy Policy**

**AUTHORITY**            E-Government Act of 2002 ([44 U.S.C. §§ 3601-3606](#))  
Public Law 107-347; 197th Congress; 116 STAT. 2899  
[Fed.R.Civ.P. Rule 5.2](#) and [5\(d\)\(4\)](#)  
[L.U.Civ.R. 5.2](#) and [L.U.Civ.R. 79](#)  
[U.L.Cr.R. 49.1](#)  
[Fed.R.Crim.P. 49.1](#)

**BACKGROUND**        Congress enacted the E-Government Act of 2002 on December 17, 2002, with an effective date for most provisions by April 17, 2003. The stated purpose is to improve the management and promotion of electronic government services and processes via a framework of measures that require using Internet-based information technology to improve citizen access to government information and services and to protect privacy.

**INSTRUCTIONS**      The clerk's office is ***not*** responsible for reviewing party filings for compliance with the privacy policy. However, if filings are not in compliance, the clerk may make the filer aware of personal data identifiers. These type filings violate the privacy policy but will still be accepted by the clerk. [Fed.R.Civ.P. 5\(d\)\(4\)](#)

Unsealed documents containing the personal data identifiers set forth below must be redacted by the filing party, whether the document is filed conventionally or electronically, unless otherwise ordered by the court. Any personal information not otherwise protected will become part of the public record.

- **Social Security numbers:** If a social security number must be included in a document, only the last four digits of the number should be used, identified as follows: xxx-xx-1234.

- **Names of minor children:** If the name of a minor child must be mentioned in a document, only the initials of the child should be used.
- **Dates of birth:** If an individual's date of birth must be included in a document, only the year should be used, as follows: xx/xx/1970.
- **Financial account numbers:** If a financial account number is required in a document, only the last four digits of the number should be used, as follows: xxx-xxx-1234.
- **Criminal only: Home addresses (in criminal cases):** If a home address must be included in a document, only the city and state should be used.

## **CIVIL**

### Fed.R.Civ.P. 5.2(b) EXEMPTIONS FROM THE REDACTION REQUIREMENT

The redaction requirement does not apply to the following:

1. A financial-account number that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;
2. the record of an administrative or agency proceeding;
3. the official record of a state-court proceeding;
4. the record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;
5. a filing covered by Rule 5.2(c) or (d); and
6. a pro se filing in an action brought under 28: U.S.C. §§ 2241, 2254, or 2255.

## **CRIMINAL**

### Fed.R.Crim.P. 49.1 EXEMPTIONS FROM THE REDACTION REQUIREMENT

**Note:** Some of the items listed below are sealed automatically pursuant to our local rules.

The redaction requirement does not apply to the following:

1. A financial-account number or real property address that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;
2. the record of an administrative or agency proceeding;
3. the official record of a state-court proceeding;
4. the record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;
5. a filing covered by Rule 49.1(d);
6. a pro se filing in an action brought under 28: U.S.C. §§ 2241, 2254, or 2255;
7. a court filing that is related to a criminal matter or investigation and that is prepared before the filing of a criminal charge or is not filed as part of any docketed criminal case;
8. an arrest or search warrant; and
9. a charging document and an affidavit filed in support of any charging document.

<b>Chapter</b>	<b>GENERAL</b>
<b>Subject</b>	<b>Public Retrieval of Case Files or Documents from the Federal Records Center</b>

**BACKGROUND** Conventional case files are maintained in the divisional office where they are filed. If a filed document is scanned, it is maintained in the original form by the clerk of court for at least 30 days at the location where it was scanned and docketed. **Prisoner** Pro Se filed documents are maintained in the court file for 30 days after the appeal time has run. Original documents are indexed by the date they were entered on the court's docket.

Cases closed prior to 2005 are maintained at the [Federal Records Center \(FRC\)](#) in [Georgia](#). Divisional offices maintain an index of accession and location numbers of the archived files.

## **RETRIEVAL OF CASE FILE(S)/DOCUMENT(S) BY THE PUBLIC**

Once the person has obtained the accession number and box number of the file, they may contact the [FRC](#) directly at (404) 736-2900 or fax a request to (404) 736-2927.

Please see attached documentation including forms, e-mails, and letters.

## **RETRIEVAL OF CASE FILE(S)/DOCUMENT(S) BY THE COURT**

The cost to retrieve files for the public from the FRC is \$53.00\* per file. For court's internal use there is no retrieval fee.

Court contact numbers: (404) 736-2842  
(770) 968-2575

If the court needs to request a file/document e-mail: [atlanta.reference@nara.gov](mailto:atlanta.reference@nara.gov) and include the information (accession number, box number, short title) in the body of the e-mail.

\*fee change 2012

**AUTHORITY**

Pursuant to letter of May 16, 2011, from the National Archives and the AO memorandum of July 26, 2011, the National Archives and Records Administration (NARA) has announced it will no longer provide on-site court case review services to the public at its Federal Records Centers. This change applies to all closed bankruptcy, civil, criminal, and court of appeals case files that remain in the legal custody of the courts but are physically stored at NARA's Federal Records Centers. NARA will continue to provide public access to court records by mail, fax, telephone, or on-line.



**Public Request for copies of Case files and/or Docket Sheets**

**Sandra Campbell** to: MSSDml\_District\_Docketing

Cc: Melvin Sawyer

05/24/2011 04:53 PM

[Show Details](#)

Effective July 1, 2011, the Federal Records Center in Atlanta will close its public research room. Attached you will find instructions with applicable forms, phone number and website information the public can use to request copies of Bankruptcy, Civil, Criminal and Court of Appeals cases, documents or docket sheets.

I would suggest placing a copy in your procedures manual and have a supply at the counter. I will see if Melvin can make these forms available to the public on our website (**after** we get settled in the new courthouse).



[NARA public request forms.pdf](#)

Sandra Campbell  
Chief Deputy  
Southern District of Mississippi  
(601) 965-6007



SOUTHEAST  
REGION

NATIONAL ARCHIVES and  
RECORDS ADMINISTRATION  
4712 SOUTH PARK BOULEVARD  
ELLENWOOD, GA 30294-3595  
[www.archives.gov](http://www.archives.gov)

May 16, 2011

J. T. Noblin – Clerk of Court  
United States District Court – Southern District of Mississippi  
245 East Capitol Street, Suite 316  
Jackson, MS 39201

Dear Mr. Noblin:

As of July 1, 2011, the Federal Records Center – Atlanta (FRC) will close its public research room. This change will affect members of the public requesting direct access to Court records. The public will no longer be able to view Court records at the FRC.

The Federal Records Center - Atlanta will continue to provide copies of court case files directly to the public via our current fax, mail, and scan order services. The public can learn more about our services by visiting:

<https://eservices.archives.gov/orderonline/start.swe?SWECmd=Start&SWEHo=eservices.archives.gov>

In addition, the public can contact the FRC's Court Reference Staff at 404-736-2900 for more information.

For your use and distribution, I have enclosed revised copies of NATF Forms 90, 91, 92, and 93 to assist public customers wanting to use the FRC's fax, mail, or scan order services. Please discontinue the use of all previous editions of this form.

If you have any questions about this policy change, please contact me at 404-736-2851 or at [frederick.abrahamian@nara.gov](mailto:frederick.abrahamian@nara.gov).

FREDERICK ABRAHAMIAN  
Director, Federal Records Center

Enclosures (4)





JAMES C. DUFF  
Director

ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

MICHEL ISHAKIAN  
Chief  
Public Access and  
Records Management Division  
Office of Court Administration

JILL C. SAYENGA  
Deputy Director

WASHINGTON, D.C. 20544

July 26, 2011

MEMORANDUM

To: Clerks, United States Courts

From: Michel Ishakian *M. Ishakian*

RE: CLOSURE OF PUBLIC RESEARCH ROOMS AT FEDERAL RECORDS CENTERS

The National Archives and Records Administration (NARA) has announced that it will no longer provide on-site court case review services to the public at its Federal Records Centers. This change applies to all closed bankruptcy, civil, criminal, and court of appeals case files that remain in the legal custody of the courts but are physically stored at NARA's Federal Records Centers. Following the closures, NARA will continue to provide public access to court records by mail, fax, telephone, or online (see <https://eservices.archives.gov/orderonline> and click on "Order Reproductions," then "Court Records,"). The schedule for the closing of the on-site case review is as follows:

July 1, 2011: Atlanta, GA; Dayton, OH; Denver, CO; Philadelphia, PA; Seattle, WA; and Suitland, MD; and

October 1, 2011: Chicago, IL; Fort Worth, TX; Lee's Summit, MO; Lenexa, KS; Riverside, CA, and San Bruno, CA.

For more information or assistance, please contact your servicing Federal Records Center, or the Judiciary Records Management support line at 202-502-3400 or by e-mail at [AO\\_Records\\_Management@ao.uscourts.gov](mailto:AO_Records_Management@ao.uscourts.gov)

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A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

<b>NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)</b> <b>ORDER FOR COPIES OF</b> <b>BANKRUPTCY CASES</b>	
<b>Copy Packages Available</b>	
<p><b>Pre-Selected Documents (Individual only):</b> Includes the following documents, to the extent that they are contained in the case file: <b>Discharge of Debtor</b> (or Order of Dismissal or Final Decree), <b>Voluntary Petition</b>, <b>Summary of Debts and Property</b>, <b>Schedules D, E and F</b> (Note in some jurisdictions Schedules may be listed as A1, A2 and A3). No substitutions will be made for these documents.</p> <p><b>Entire Case File:</b> Includes all documents in a Business and Individual case file.</p> <p><b>Docket Sheet:</b> A list of documents filed in a Bankruptcy case; an outline of the case.</p> <p>* <b>Certification:</b> A seal certifying copies to be a valid reproduction of the file. This is available for an additional charge for all packages delivered by mail or express shipping. Certification for fax copies is not available.</p>	
If you <b>do not</b> want the <b>Pre-Selected Documents or Entire Case File copied</b> , please make an appointment to review the file at our facility to select the documents needed, or you may contact the court where the case was closed or filed to make arrangements to review the case at the court location.	<b>To make an appointment to review the file</b> , call us at: 650-238-3500, Monday-Friday (excluding Federal holidays), 7:30 a.m. to 3:30 p.m. Appointments should be made at least 24 hours in advance.
<b>General Information</b>	
<ul style="list-style-type: none"><li>• Use a separate NATF Form 90 for <u>each</u> file you request. <u>Blocks 3-7</u> must be completed on the order form to perform a search for the file. Please <u>discard</u> this instruction sheet. Allow up to 14 days from receipt of payment for processing your order.</li><li>• When paying by check or money order for <u>mailed or fax</u> request, a <u>separate</u> payment is required for <u>each individual request</u>. If paying by credit card, you may fax your request form to the fax number provided in <u>Block 1</u>.</li><li>• Orders can be sent by <u>overnight</u> delivery (FedEx) at an additional charge.</li><li>• Orders can be <u>faxed</u> if the page count is <u>25 pages or less</u>. All orders exceeding 25 pages will need to be mailed.</li><li>• Request may be <u>returned</u> if the necessary information is not supplied or if the credit card is declined. Case information <u>must be obtained</u> from the Court in which the case was filed.</li><li>• Please note that contents of <u>recent cases</u> may be in both electronic and paper form. If NARA cannot provide you with documents you requested, we will refer you to the Court that adjudicated the case.</li></ul>	
Questions? Concerns? Contact our Research Room staff at the number shown above or visit us at <a href="http://www.archives.gov">www.archives.gov</a> .	
<b>PRIVACY ACT STATEMENT</b> Collection of this information is authorized by 44 U.S.C. 2108. Disclosure of the information is voluntary; however, we will be unable to respond to your request if you do not furnish your name and address and the minimum required information about the records. The information is used by NARA employees to search for the record; to respond to you; to maintain control over information requests received and answered; and to facilitate preparation of internal statistical reports. If you provide credit card information, that information is used to bill you for copies.	
<b>PAPERWORK REDUCTION ACT PUBLIC BURDEN STATEMENT</b> A Federal agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a current valid OMB control number. The OMB Control No. for this information collection is 3095-0063. Public burden reporting for this collection of information is estimated to be 10 minutes per response. Send comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing this burden, to National Archives and Records Administration (NHP), 8601 Adelphi Road, College Park MD 20740. <b>DO NOT SEND COMPLETED FORMS TO THIS ADDRESS. SEND COMPLETED FORMS TO THE ADDRESS INDICATED ON THE FORM ITSELF.</b>	

National Archives Trust Fund Board NATF Form 90 (10-2010)

OMB Control No. 3095-0093 Expires 01-31-2012

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ORDER FOR COPIES OF BANKRUPTCY CASES		
<b>1. LOCATION</b> NARA - Pacific Region, San Francisco Federal Records Center (Attn: TF Copy Service) 1000 Commodore Drive, San Bruno, CA 94066-2350 Fax: (650) 238-3507		<b>2. AREAS SERVED</b> Northern California, Hawaii & Nevada (except Clark County)
<b>3. SELECT COPY PACKAGE (select only one)</b>		
Copy Package <u>Not Certified</u>		Copy Package <u>Certified</u>
<input type="checkbox"/> Pre-Selected Documents — <b>\$35.00</b> <input type="checkbox"/> Entire Case File — <b>\$90.00</b> (150 page maximum) <input type="checkbox"/> Docket Sheet — <b>\$35.00</b>		(Certification for fax copies is not available) <input type="checkbox"/> Pre-Selected Documents Certified — <b>\$50.00</b> <input type="checkbox"/> Entire Case File Certified — <b>\$105.00</b> <input type="checkbox"/> Docket Sheet — <b>\$50.00</b>
<b>4. CASE INFORMATION (obtain from the court in which the case was filed)</b>		
COURT LOCATION (city & state)	DEBTOR NAME(S)	CASE NUMBER
TRANSFER NUMBER	BOX NUMBER	LOCATION NUMBER
<b>5. DELIVERY METHOD (select only one)</b> <input type="checkbox"/> Fax - 25 page limit <input type="checkbox"/> Mail <input type="checkbox"/> Overnight express (additional \$25.00) or <input type="checkbox"/> Charge Fed Ex Account -# _____ or <input type="checkbox"/> Charge UPS Account -# _____		
<b>6. YOUR DELIVERY INFORMATION</b>		
<b>MAIL COPIES TO:</b>		<b>FAX COPIES TO:</b>
NAME		FAX NUMBER
ADDRESS APT. # / SUITE #		
CITY		ATTENTION
STATE AND ZIP		
DAYTIME TELEPHONE NUMBER		DAYTIME TELEPHONE NUMBER
<b>7. YOUR PAYMENT INFORMATION</b> Save time by ordering online: <a href="http://archives.gov/research/court-records/bankruptcy.html">http://archives.gov/research/court-records/bankruptcy.html</a>		
<b>Credit Card</b>		<b>Check or Money Order</b>
CARD TYPE <input type="checkbox"/> VISA <input type="checkbox"/> MasterCard <input type="checkbox"/> American Express <input type="checkbox"/> Discover		Make your check or money order payable to:  <b>National Archives Trust Fund (NATF)</b>  Mail your request with payment to the address shown in <b>block 1</b> at the top of this page.
ACCOUNT NUMBER	EXPIRATION DATE	
NAME ON CARD		
SIGNATURE or THREE DIGIT SECURITY CODE (on back of charge card). Order <u>can not</u> be processed if one of these two items is not provided.		
<b>NARA USE ONLY</b>		
SEARCHER	DATE	PAYMENT:
REMARKS	<input type="checkbox"/> Review - Date: _____ Time: _____	<input type="checkbox"/> Paid Check # _____

<b>NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)</b> <b>ORDER FOR COPIES OF</b> <b>CIVIL CASES</b>	
<b>Copy Packages Available</b>	
<b>Entire Case File:</b> Includes all documents in a case file.	
<b>Docket Sheet:</b> A list of documents filed in a civil action; an outline of the case.	
<b>*Certification:</b> A seal certifying copies to be a valid reproduction of the file. This is available for an additional charge for all packages delivered by mail or express shipping. Certification for fax copies is not available.	
If you <b>do not</b> want the <b>Entire Case File copied</b> , please make an appointment to review the file at our facility to select the documents needed, or you may contact the court where the case was closed or filed to make arrangements to review the case at the court location.	<b>To make an appointment to review the file</b> , call us at: 816-268-8100, Monday–Friday (excluding Federal holidays), 9:00 a.m. to 2:00 p.m. Appointments should be made one day in advance.
<b>General Information</b>	
<ul style="list-style-type: none"><li>• Use a separate NATF Form 91 for <u>each</u> file that you request. <u>Blocks 3-7</u> must be completed on the order form to perform a search for the file. Please <u>discard</u> this instruction sheet. Allow 3 business days from receipt of payment for processing your order.</li><li>• When paying by check or money order for any <u>mailed or fax</u> request, a <u>separate</u> payment is required for <u>each individual request</u>. If paying by credit card, you may fax your request form to the fax number provided in <u>Block 1</u>.</li><li>• Orders can be sent by <u>overnight</u> delivery at an additional charge.</li><li>• Orders can be <u>faxed</u> if the page count is <u>70 pages or less</u>. All orders exceeding 70 pages will need to be mailed.</li><li>• Request may be <u>returned</u> if the necessary information is not supplied or if the credit card is declined. Case information <u>must be obtained</u> from the Court in which the case was filed.</li><li>• Please note that contents of <u>recent cases</u> may be in both electronic and paper form. If NARA cannot provide you with documents you requested, we will refer you to the Court that adjudicated the case.</li></ul>	
Questions? Concerns? Contact our Research Room staff at the number shown above or visit us at <a href="http://www.archives.gov">www.archives.gov</a> .	
<b>PRIVACY ACT STATEMENT</b> Collection of this information is authorized by 44 U.S.C. 2108. Disclosure of the information is voluntary; however, we will be unable to respond to your request if you do not furnish your name and address and the minimum required information about the records. The information is used by NARA employees to search for the record; to respond to you; to maintain control over information requests received and answered; and to facilitate preparation of internal statistical reports. If you provide credit card information, that information is used to bill you for copies.	
<b>PAPERWORK REDUCTION ACT PUBLIC BURDEN STATEMENT</b> A Federal agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a current valid OMB control number. The OMB Control No. for this information collection is 3095-0063. Public burden reporting for this collection of information is estimated to be 10 minutes per response. Send comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing this burden, to National Archives and Records Administration (NHP), 8801 Adelphi Road, College Park MD 20740. <b>DO NOT SEND COMPLETED FORMS TO THIS ADDRESS. SEND COMPLETED FORMS TO THE ADDRESS INDICATED ON THE FORM ITSELF.</b>	
<b>NATIONAL ARCHIVES AND RECORDS ADMINISTRATION</b>	

National Archives Trust Fund Board NATF Form 91 (10-2010)

OMB Control No. 3095-0063 Expires 01-31-2012

Save time by ordering online: <http://www.archives.gov/research/order/orderonline.html>

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ORDER FOR COPIES OF CIVIL CASES		
<b>1. LOCATION</b> NARA, Central Plains Region 200 Space Center Drive, Lee's Summit, MO 64064 Fax: (816) 268-8159		<b>2. AREA SERVED</b> New York, New Jersey, Puerto Rico and Virgin Islands
<b>3. SELECT COPY PACKAGE ( select only one)</b>		
<b>Copy Package <u>Not Certified</u></b>		<b>Copy Package <u>Certified</u></b>
<input type="checkbox"/> Entire Case File — <b>\$90.00</b> (150 page maximum) <input type="checkbox"/> Docket Sheet — <b>\$35.00</b>		(Certification for fax copies is not available) <input type="checkbox"/> Entire Case File Certified — <b>\$105.00</b> <input type="checkbox"/> Docket Sheet — <b>\$50.00</b>
<b>4. CASE INFORMATION (obtain from the court in which the case was filed)</b>		
COURT LOCATION (city & state)	CASE NAME(S)	CASE NUMBER
TRANSFER NUMBER	BOX NUMBER	LOCATION NUMBER
<b>5. DELIVERY METHOD (select only one)</b>		
<input type="checkbox"/> Fax - 25 page limit <input type="checkbox"/> Mail <input type="checkbox"/> Overnight express (additional \$25.00) or <input type="checkbox"/> Charge Fed Ex Account -# _____ or <input type="checkbox"/> Charge UPS Account -# _____		
<b>6. YOUR DELIVERY INFORMATION</b>		
<b>MAIL COPIES TO:</b>		<b>FAX COPIES TO:</b>
NAME		FAX NUMBER
ADDRESS	APT. # / SUITE #	
CITY		ATTENTION
STATE AND ZIP		
DAYTIME TELEPHONE NUMBER		DAYTIME TELEPHONE NUMBER
<b>7. YOUR PAYMENT INFORMATION</b>		
<b>Credit Card</b>		<b>Check or Money Order</b>
CARD TYPE <input type="checkbox"/> VISA <input type="checkbox"/> MasterCard <input type="checkbox"/> American Express <input type="checkbox"/> Discover		Make your check or money order payable to:  <b>National Archives Trust Fund (NATF)</b>  Mail your request <b>with payment</b> to the address shown in <b>block 1</b> at the top of this page.
ACCOUNT NUMBER	EXPIRATION DATE	
NAME ON CARD		
SIGNATURE or THREE DIGIT SECURITY CODE (on back of charge card). Order <u>can not</u> be processed if one of these two items is not provided.		
<b>NARA USE ONLY</b>		
SEARCHER	DATE	PAYMENT:
REMARKS	<input type="checkbox"/> Review - Date:                      Time:	<input type="checkbox"/> Paid Check # _____

<b>NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)</b> <b>ORDER FOR COPIES OF</b> <b>CRIMINAL CASES</b>	
<b>Copy Packages Available</b>	
<b>Pre-Selected Documents:</b> Includes the following documents, to the extent that they are contained in the case file: <b>Judgment, Commitment or Probation/Commitment Order or Sentence, Indictment.</b> No substitutions will be made for these documents.	
<b>Entire Case File:</b> Includes all documents in a case file.	
<b>Docket Sheet:</b> A list of documents filed in a criminal case action; an outline of the case.	
<b>*Certification:</b> A seal certifying copies to be a valid reproduction of the file. This is available for an additional charge for all packages delivered by mail or express shipping. Certification for fax copies is not available.	
If you <b>do not</b> want the <b>Pre-Selected Documents</b> or <b>Entire Case File copied</b> , please make an appointment to review the file at our facility to select the documents needed, or you may contact the court where the case was closed or filed to make arrangements to review the case at the court location.	<b>To make an appointment to review the file</b> , call us at: 650-238-3500, Monday-Friday (excluding Federal holidays), 7:30 a.m. to 3:30 p.m. Appointments should be made at least 24 hours in advance.
<b>General Information</b>	
<ul style="list-style-type: none"><li>• Use a separate NATF Form 92 for <u>each</u> file that you request. Blocks 3-7 must be completed on the order form to perform a search for the requested file. Please <u>discard</u> this instruction sheet. Allow up to 14 business days from receipt of payment for processing your order.</li><li>• When paying by check or money order for any <u>mailed or fax</u> request, a <u>separate</u> payment is required for <u>each individual request</u>. If paying by credit card, you may fax your request form to the fax number provided in <u>Block 1</u>.</li><li>• Orders can be sent by <u>overnight</u> delivery at an additional charge.</li><li>• Orders can be <u>faxed</u> if the page count is <u>25 pages or less</u>. All orders exceeding 25 pages will need to be mailed.</li><li>• Request may be <u>returned</u> if the necessary information is not supplied or if the credit card is declined. Case information <u>must be obtained</u> from the Court in which the case was filed.</li><li>• Please note that contents of <u>recent cases</u> may be in both electronic and paper form. If NARA cannot provide you with documents you requested, we will refer you to the Court that adjudicated the case.</li></ul>	
Questions? Concerns? Contact our Research Room staff at the number shown above or visit us at <a href="http://www.archives.gov">www.archives.gov</a> .	
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National Archives Trust Fund Board NATF Form 92 (10-2010)

OMB Control No. 3095-0063 Expires 01-31-2012

Save time by ordering online: <http://www.archives.gov/research/order/orderonline.html>

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ORDER FOR COPIES OF CRIMINAL CASES		
<b>1. LOCATION</b> NARA - Pacific Region, San Francisco Federal Records Center (Attn: TF Copy Service) 1000 Commodore Drive, San Bruno, CA 94066-2350 Fax: (650) 238-3507		<b>2. AREA SERVED</b> Northern California, Hawaii & Nevada (except Clark County)
<b>3. SELECT COPY PACKAGE (select only one)</b>		
<b>Copy Package <u>Not Certified</u></b>		<b>Copy Package <u>Certified</u></b>
<input type="checkbox"/> Pre-Selected Documents — <b>\$35.00</b> <input type="checkbox"/> Entire Case File — <b>\$90.00</b> (150 page maximum) <input type="checkbox"/> Docket Sheet — <b>\$35.00</b>		(Certification for fax copies is not available) <input type="checkbox"/> Pre-Selected Documents Certified — <b>\$50.00</b> <input type="checkbox"/> Entire Case File Certified — <b>\$105.00</b> <input type="checkbox"/> Docket Sheet — <b>\$50.00</b>
<b>4. CASE INFORMATION (obtain from court in which the case was filed)</b>		
COURT LOCATION (city & state)	CASE NAME(S)	CASE NUMBER
TRANSFER NUMBER	BOX NUMBER	LOCATION NUMBER
<b>5. DELIVERY METHOD (select only one)</b>		
<input type="checkbox"/> Fax - 25 page limit <input type="checkbox"/> Mail <input type="checkbox"/> Overnight express (additional \$25.00) or <input type="checkbox"/> Charge Fed Ex Account -# _____ or <input type="checkbox"/> Charge UPS Account -# _____		
<b>6. YOUR DELIVERY INFORMATION</b>		
<b>MAIL COPIES TO:</b>		<b>FAX COPIES TO:</b>
NAME	FAX NUMBER	
ADDRESS	APT. # / SUITE #	
CITY	ATTENTION	
STATE AND ZIP		
DAYTIME TELEPHONE NUMBER	DAYTIME TELEPHONE NUMBER	
<b>7. YOUR PAYMENT INFORMATION</b>		
<b>Credit Card</b>		<b>Check or Money Order</b>
CARD TYPE <input type="checkbox"/> VISA <input type="checkbox"/> MasterCard <input type="checkbox"/> American Express <input type="checkbox"/> Discover		Make your check or money order payable to:  <b>National Archives Trust Fund (NATF)</b>  Mail your request <b>with payment</b> to the address shown in <b>block 1</b> at the top of this page.
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NAME ON CARD		
SIGNATURE or THREE DIGIT SECURITY CODE (on back of charge card). Order <u>can not</u> be processed if one of these two items is not provided.		
<b>NARA USE ONLY</b>		
SEARCHER	DATE	PAYMENT:
REMARKS	<input type="checkbox"/> Review - Date: _____ Time: _____	<input type="checkbox"/> Paid Check # _____

National Archives Trust Fund Board NATF Form 93 (10-2010)

OMB Control No. 3095-0063 Expires 01-31-2012

**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)  
ORDER FOR COPIES OF  
COURT OF APPEALS CASES**

**Copy Packages Available**

**Entire Case File:** Includes all documents in a case file.

**Docket Sheet:** A list of documents filed in a Court of Appeals Case; an outline of the case.

\* **Certification:** A seal certifying copies to be a valid reproduction of the file. This is available for an additional charge for all packages delivered by mail or express shipping. Certification for fax copies is not available.

**General Information**

- Use a separate NATF Form 93 for each file that you request. Blocks 3-7 must be completed on the order form to perform a search for the file. Please discard this instruction sheet. Allow 3 business days from receipt of payment for processing your order.
- When paying by check or money order for any mailed or fax request, a separate payment is required for each individual request. If paying by credit card, you may fax your request form to the fax number provided in Block 1.
- Orders can be sent by overnight delivery at an additional charge.
- Orders can be faxed if the page count is 25 pages or less. All orders exceeding 25 pages will need to be mailed.
- Request may be returned if the necessary information is not supplied or if the credit card is declined. Case information must be obtained from the Court in which the case was filed.
- Please note that contents of recent cases may be in both electronic and paper form. If NARA cannot provide you with documents you requested, we will refer you to the Court that adjudicated the case.

Questions? Concerns? Contact our Research Room staff at the number shown above or visit us at [www.archives.gov](http://www.archives.gov).

**PRIVACY ACT STATEMENT**

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**PAPERWORK REDUCTION ACT PUBLIC BURDEN STATEMENT**

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National Archives Trust Fund Board: NATF Form 93 (10-2010)

OMB Control No. 3095-0063 Expires 01-31-2012

Save time by ordering online: <http://www.archives.gov/research/order/orderonline.html>

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ORDER FOR COPIES OF COURT OF APPEALS CASES		
<b>1. LOCATION</b> Washington National Records Center 4205 Suitland Road, Suitland, MD 20746-8001 Fax: (301) 778-1534		<b>2. AREAS SERVED</b> District of Columbia
<b>3. SELECT COPY PACKAGE (Select only one)</b>		
<b>Copy Package <u>Not Certified</u></b>		<b>Copy Package <u>Certified</u></b>
<input type="checkbox"/> Entire Case File — \$90.00 (150 page maximum) <input type="checkbox"/> Docket Sheet — \$35.00		(Certification for fax copies is not available) <input type="checkbox"/> Entire Case File Certified — \$105.00 <input type="checkbox"/> Docket Sheet — \$50.00
<b>4. CASE INFORMATION (obtain from the court in which the case was filed)</b>		
COURT LOCATION (city & state)	CASE NAME(S)	CASE NUMBER
TRANSFER NUMBER	BOX NUMBER	LOCATION NUMBER
<b>5. DELIVERY METHOD (select only one)</b>		
<input type="checkbox"/> Fax - 25 page limit <input type="checkbox"/> Mail <input type="checkbox"/> Overnight express (additional \$25.00) or <input type="checkbox"/> Charge Fed Ex Account -# _____ or <input type="checkbox"/> Charge UPS Account -# _____		
<b>6. YOUR DELIVERY INFORMATION</b>		
<b>MAIL COPIES TO:</b>		<b>FAX COPIES TO:</b>
NAME		FAX NUMBER
ADDRESS	APT. # / SUITE #	
CITY		ATTENTION
STATE AND ZIP		
DAYTIME TELEPHONE NUMBER		DAYTIME TELEPHONE NUMBER
<b>7. YOUR PAYMENT INFORMATION</b>		
<b>Credit Card</b>		<b>Check or Money Order</b>
CARD TYPE <input type="checkbox"/> VISA <input type="checkbox"/> MasterCard <input type="checkbox"/> American Express <input type="checkbox"/> Discover		Make your check or money order payable to:  <b>National Archives Trust Fund (NATF)</b>  Mail your request with payment to the address shown in block 1 at the top of this page.
ACCOUNT NUMBER	EXPIRATION DATE	
NAME ON CARD		
SIGNATURE or THREE DIGIT SECURITY CODE (on back of charge card). Order <u>can not</u> be processed if one of these two items is not provided.		
<b>NARA USE ONLY</b>		
SEARCHER	DATE	<b>PAYMENT:</b>
REMARKS	<input type="checkbox"/> Review - Date: _____ Time: _____	<input type="checkbox"/> Paid Check # _____

**Chapter**

**GENERAL**

**Subject**

**Public Terminals and Searches**

**LOCATIONS**

All clerk's offices (Jackson, Hattiesburg, Gulfport) are equipped with public-use terminals in the Intake lobby areas. The terminals may be used to conduct case searches by party name or case number.

**AVAILABILITY**

The docket is available for civil cases filed from 1992 to the present and for criminal cases from 1994 to the present.

All public documents filed in civil and criminal cases after December 20, 2004, are available at public terminals. Any documents filed prior to this date are in paper form and available from the records center.

**FEE**

Members of the public may research case information themselves at no charge; however, if a member of the clerk's office staff is asked to conduct the search, the fee is \$30.00\* *per name*.

The fee will be charged for requests from the United States only if the requested information is available through electronic means. Unreasonable requests for searches may be refused by the clerk of court.

**AUTHORITY**

Miscellaneous Fee Schedule at [28 U.S.C § 1914](#).

\*fee changed 2012

**Chapter                    GENERAL**  
**Subject                    Restricted Documents**

RESTRICTED DOCUMENTS: provided by Larry Weathersby

August 24, 2011



**Documents with Restricted Access**

\*\*\* Documents listed require CM/ECF Login and Password

\*\*\* **Prior to** entering PACER Login and Password

- \*\*\* Any document set with Ex Parte restriction \*\*\*
- \*\*\* Any document set with Applicable Party restriction \*\*\*
- \*\*\* Every document in a Social Security Case \*\*\*
- Financial Affidavit - CJA 23
- Redaction Request
- Restricted Document
- State Court Record - Habeas
- Unredacted Document
- Sentencing Memorandum
- Statement of Reasons
- Motion for Downward Departure
- Motion to Reduce Sentence
- Motion to Proceed In Forma Pauperis
- CJA 20 - Authorization to Pay
- CJA 21 - Appointment
- CJA 21 - Authorization to Pay
- CJA 30 - Authorization to Pay
- CJA 31 - Appointment
- CJA 31 - Authorization to Pay
- Order on Motion for Downward Departure
- Order on Motion for Ex Parte
- Order on Motion to Reduce Sentence
- Response to Motion to Reduce Sentence - RESTRICTED
- Order on Motion to Proceed In Forma Pauperis
- Pretrial Order
- Warrant in rem - Application Denied
- Seizure or Inspection Warrant - Application Denied
- Seizure Warrant Issued
- Seizure Warrant Returned Unexecuted
- Summons Returned Unexecuted
- Search Warrant Issued
- Search Warrant Returned Unexecuted
- Warrant Returned Unexecuted
- Jury Verdict (Un-redacted)

**Chapter**                    **GENERAL**

**Subject**                   **What Division to File in**

**LOCATION**                    Conventional/pro se documents must be filed in the division of proper venue. If Court permission is granted, another divisional office may accept the document(s) for filing and forward to the appropriate division.

See attached pages for Northern and Southern districts, as well as divisions and counties for each division.

**NOTE**                        Southern District will not accept pleadings for the Northern District.

**Chapter:**

**Issuance of Process**



charged were actually and necessarily performed. ([28 U.S.C. § 1924](#); [District Court Clerk's Manual, Chapter 17](#))

## **INSTRUCTIONS**

1. After 14 days the clerk of court, (Arthur) completes the "Taxation of Costs" portion of the document, signs and affixes the Court seal, and electronically files the document as 'Costs Taxed'. (Court Events > Other Events > Costs Taxed)
2. After the Costs Taxed document is filed by the court, attorneys have seven (7) days to file a motion for review of the clerk's actions.

NOTE: Arthur receives notification when the bill of costs is filed and will calendar it to tax in 14 days.

**Chapter                   ISSUANCE OF PROCESS**

**Subject                   Civil Subpoena**

**AUTHORITY**           [Fed.R.Civ.P. 45](#)  
[District Court Clerk's Manual §2.03c. Subpoenas](#)

**DEFINITION**        A formal written order issued by the court or by an attorney which compels testimony by a witness or production of evidence under a penalty for failure.

**BACKGROUND**      Attorneys can request subpoenas in the name of any court in which they are authorized to practice and, in the case of a deposition or a production of documents taking place in another district, in the name of the court where the deposition or production is to take place.

It is not required that the attorney be a member of the bar or admitted to practice pro hac vice in the district in whose name the subpoena is issued, as long as the deposition or production pertains to a primary action in a court in which the attorney is authorized to practice.

**NOTES**

Hearing/Trial:        Civil Subpoena to be issued from the court for the district where the hearing or trial is to be held;

Deposition:           Civil Subpoena to be issued from the court for the district where the deposition is to be taken.

Production/Inspection: Civil Subpoena to be issued from the court for the district where the production/inspection to be made.



**Subpoena issued to someone outside the jurisdictional radius of MSSD:**

A subpoena issued for attendance at a deposition, hearing, trial, or for production/inspection which is outside the radius of this court's jurisdiction [pursuant to [45\(a\)\(2\) and 45\(b\)\(2\)](#)] should have other court's name above the style of the case pending in this district.

**EXAMPLE**

*In the District Court for the Western District of Texas  
\_\_\_\_\_ Division*

John Q. Public

versus

Civil Action No. \_\_\_\_\_  
(Southern District of Mississippi)  
*(If the action is pending in another district, state where:)*

ABC Corporation

**Subpoena issued from another court to someone in our jurisdictional radius:**

A subpoena issued from another court for attendance at a deposition, hearing, trial or for production or inspection which is inside the radius of this court's jurisdiction [pursuant to 45(a)(2) and 45(b)(2)] should have our court's name above the style of the case pending in their district.

**EXAMPLE**

*In the District Court for the Southern District of Mississippi  
\_\_\_\_\_ Division*

John Q. Public

versus

Civil Action No. \_\_\_\_\_  
(Western District of Texas)  
*(If the action is pending in another district, state where:)*

ABC Corporation

**SEE SAMPLE OUT OF STATE SUBPOENA ATTACHED**

**FILING FEE**           None

**DOCUMENTS**        [AO Form 88](#): Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action;  
[AO Form 88A](#): Subpoena to Testify at a Deposition in a Civil Action;  
[AO Form 88B](#): Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

**SAMPLE CASE**    [4:10-cv-1](#)           Doc [# 3](#) (completed sample subpoena attached; no seal necessary)

**INSTRUCTIONS FOR ISSUING**   Attorney(s) may issue and sign a subpoena as an officer of a court in which the attorney is authorized to practice or a court for a district where a deposition is to be taken or production is to be made, if the attorney is authorized to practice in the court where the action is pending.

When so requested, a clerk shall issue a subpoena, signed but otherwise blank, to the party requesting it. Deputy clerks execute the subpoenas by placing their signatures at the appropriate place; there is no longer any requirement to affix a seal to the subpoena.

If a subpoena is being served to someone outside our district, and the case is a Southern District of Mississippi case, the attorney should reflect the district of the person being served on the subpoena, but reflect the MSSD case number.

Pro se litigants must have subpoenas issued by the clerk's office. In prisoner litigant cases, subpoenas are issued only by court order.

1. Civil > Service of Process > Subpoena Issued, next;
2. Enter case number, find this case, next;
3. Verify case name and number, next;
4. Browse for subpoena, select, next;
5. Select the filer, next;
6. The modify docket screen appears, next;
7. The Docket Text: Final Text screen appears, next;
8. NEF appears on screen

**INSTRUCTIONS SUBPOENA RETURNED EXECUTED ELECTRONICALLY:**

**SAMPLE CASE:** [3:09-cv-489](#) Doc [# 25](#) (completed subpoena returned/executed with attachments)

**INSTRUCTIONS:** For a subpoena return filed electronically by counsel, court staff should verify that the case style and heading is proper, the return on the subpoena has been executed, and proof of service on subpoena has been completed. A return should not be filed without the first page preceding the return. Postal return receipt should be filed as an exhibit to the return.

**INSTRUCTIONS SUBPOENA RETURNED EXECUTED CONVENTIONALLY:**

**INSTRUCTIONS:** For a subpoena return brought to the clerk's office by pro se litigants, court staff should verify the case style and heading is proper and the return on the subpoena has been executed. The return will then be scanned by court staff and docketed.



## **INSTRUCTIONS**

1. Verify proof of service;
2. Verify no responsive pleading has been filed within the time limit;
3. Verify the defendant is not in the military service;
4. Complete the form document Clerk Entry of Default found on our Intranet (Homepage, General Link, Local Forms, Issue the Clerk's Entry of Default);
5. File the Clerk's Entry of Default: Civil > Other Events > Clerks Entry of Default > next;
6. Enter case number, next;
7. Verify case name and number, next;
8. Browse to select document, next;
9. Select party as to whom default entered against, next;
10. Reminder screen to term "Motion for Entry of Default", next;
11. Select appropriate motion, next;
12. Modify Docket Text screen appears, next;
13. Docket text: Final Text screen appears, next;
14. NEF screen appears - proof of filing.

**Chapter                   ISSUANCE OF PROCESS**

**Subject                   Confirmation of Sale**

**AUTHORITY**           L.A.R. (Admiralty & Maritime Rules, District Courts of Mississippi)  
Fed.R.Civ.P.: Supplemental Rules for Admiralty or Maritime  
Claims and Asset Forfeiture Actions

**DEFINITION**           A civil suit, in which the named defendant is a thing rather than a  
person, is known as an action in rem. The in rem defendant will  
usually be a vessel or the cargo of a vessel, as opposed to the  
owner of the vessel or property.

**BACKGROUND**

**Notice of Sale:**           In an action in rem or quasi in rem, and except in suits filed  
on behalf of the United States of America where notice is  
prescribed by statute, the United States Marshal must  
publish notice in any of the newspapers approved under  
L.A.R. Rule A(9).

Unless otherwise ordered by the court, applicable  
Supplemental Rule, or Local Admiralty Rule, publication of  
the notice of sale must be made at least twice, the first  
publication must be at least one (1) calendar week before  
the date of the sale, and the second at least three (3)  
calendar days before the date of the sale.

**Report of Sale:**           At the conclusion of the sale, the United States Marshal  
must file a written report of the sale to include the date of the  
sale, the price obtained, and the name and address of the  
buyer.

**Confirmation of Sale:**    Unless an objection is timely filed in accordance with this  
rule or the bidder is in default for failing to pay the balance of  
the purchase price, plaintiff must have the sale confirmed on  
the day following the last day for filing objections.

To confirm the sale, plaintiff's counsel must file a "Request for Confirmation of Sale" on the day following the last day for filing an objection. The "Request for Confirmation of Sale" must substantially conform to Admiralty Form No. 20 on courts' Websites. Plaintiff's counsel must also prepare and offer for filing a "Confirmation of the Sale." The "Confirmation of the Sale" must substantially conform to Admiralty Form 21 on the courts' Websites. The clerk will file and docket the confirmation and promptly transmit a certified copy of the "Confirmation of Sale" to the United States Marshal's office.

Unless otherwise ordered by the court, if the plaintiff fails timely to file the "Request for Confirmation of Sale" and proposed "Confirmation of Sale," the United States Marshal will assess any continuing costs or expenses for custody of the vessel or property against the plaintiff.

**FILING FEE** N/A

**SAMPLE CASE** [1:08-cv-106](#)

Please refer to the entire case as it contains (1) motions for issuance of warrant in rem; (2) motions for service by publication; (3) motions for sale of vessel; (4) proof of publication; (5) U.S. Marshal's Return Executed; (6) Order for sale; (7) order confirming sale of vessel; etc.

**INSTRUCTIONS** Open case and file court related documents.

**FLAGS** MAG

**Chapter                   ISSUANCE OF PROCESS**

**Subject                   Criminal Subpoena**

**AUTHORITY**           [Fed.R.Crim.P. 17](#) (Subpoena)

**BACKGROUND**       Clerk must issue all criminal subpoenas; subpoenas may not be issued by attorneys. *Pro se* litigants may not have any criminal subpoenas issued. (The subpoena must state the court's name and title of the proceeding, include the seal of the court, and command the witness to attend and testify at the time and place the subpoena specifies.) The clerk must issue a blank subpoena – signed and sealed – to the party requesting it, and that party must fill in the blanks before the subpoena is served.

**DEFINITION**       A subpoena is a written document issued by a court that has the authority **to compel testimony** by a witness or to **produce documents**, electronically stored information, etc.

A subpoena requiring a witness **to attend** a hearing or trial may be served at any place within the United States.

Attorneys must obtain an order of the court before we may issue a subpoena to produce documents in a criminal case (Form AO 89B) if that subpoena directs that documents or objects are to be produced **at some place or at some time other than at trial.** (12/1/19 Amendment to Local Criminal Rule 17).

If there is added language giving the person or entity the right to submit the records to the attorney's office **before trial**, an order is required.

A subpoena requiring a **deposition** to be taken should be issued by the Clerk in the district where the deposition is to be held.

**FILING FEE**           N/A

**DOCUMENTS**       [AO Form 89](#)       (Subpoena to Testify at a Hearing or Trial in a Criminal Case)



[AO Form 90](#) (Subpoena to Testify at a Deposition in a Criminal Case)

[AO Form 110](#) (Subpoena to Testify Before a Grand Jury)

forms attached

**SAMPLE CASE** [1:10-cr-25](#) sealed Doc [#18](#) Subpoena Issued (sealed)  
[1:10-cr-9](#) sealed Doc [#11](#) Subpoena Issued (sealed)

**NOTE** Criminal subpoenas are sealed and no NEF will go out. Docket clerks scan and docket subpoenas that are completely filled out. Do Not scan in blank subpoenas.

**INSTRUCTIONS** To docket a subpoena prepared by attorney and issued by clerk:

1. Criminal > Service Of Process > Subpoena Issued, next;
2. Enter case number, select appropriate defendant if applicable, next;
3. Verify case name and number, next;
4. Browse to select subpoena, next;
5. Select the filer, next;
6. Modify Docket Text screen appears, next;
7. Docket Text: Final Text screen appears, next;
8. NEF screen appears.

**Chapter**                      **ISSUANCE OF PROCESS**  
**Subject**                      **FIAT – Complaint for Replevin**

**AUTHORITY**                      [Fed.R.Civ.P. Rule 64 & 64\(a\)](#)

**DEFINITION**                      Fiat is a Latin term meaning “***let it be done.***” It can be (1) an official sanction; (2) an authoritative permission; or (3) an arbitrary order or decree; any command, decision, or act of will that brings something about. A Judge’s fiat directs that some action occur. A fiat signed by a judge is binding as a court order.

**Seizing a person or Property - Remedies Under State Law**

At the commencement of and throughout an action, every remedy is available that, under the law of the state where the court is located, provides for seizing a person or property to secure satisfaction of the potential judgment. But a federal statute governs to the extent it applies. Remedies available under this rule include arrest; attachment; garnishment; replevin; sequestration; and other corresponding or equivalent remedies.

**BACKGROUND**                      The fiat document will be filed in an existing case as a generic order [Order/Order] and the Fiat orders the issuance of a writ of replevin and related matters.

**DOCUMENTS**                      Complaint for Replevin  
Summons for Replevin Issued  
Fiat signed (by magistrate judge) ordering issuance of writ of replevin and related matters.  
Writ of Replevin Issued  
Replevin Bond posted by plaintiff for the amount of property which is set out in the complaint for replevin

**FILING FEE**                      N/A

**SAMPLE CASE**                      [3:08-cv-711](#)

## **INSTRUCTIONS**

1. After creation of case, the initiating document will be the complaint for replevin docketed using the “complaint” event; attachments to the complaint for replevin may include but are not limited to a loan agreement, finance statement, list of inventory, and civil cover sheet.
2. Set MAG and NO\_CMC flags;
3. Issue Summons for Replevin as to defendant;
4. The magistrate judge shall issue a fiat which directs the issuance of the writ of replevin and summons: Other Orders/Judgments > Order > enter case number > verify case name and number > enter date order/Fiat signed by judge > select judge who entered order > date document filed is date of order > select FIAT and any attachments > “No” = written opinion > link Fiat to complaint for replevin > modify text screen appears: change ORDER to FIAT > final text screen appears > NEF.
5. Writ of Replevin: Service of Process > Writ Issued > verify/enter case number > verify case name and number > date document filed is date writ issued > browse and select writ as main document > select plaintiff as filer > modify text screen appears > final text screen appears > NEF.
6. Once Plaintiff’s Replevin Bond is received in the clerk office, check the Power of Attorney to ensure the company is approved to write bonds. Then file stamp and docket: Other Events > Bond > verify/enter case number > verify case name and number > date document filed is file stamp date > browse and select bond > select plaintiff as filer > Type of Bond: REPLEVIN > enter amount of bond > modify text screen appears > final text screen appears > NEF.
7. Enter a \*\*\*Staff note - Original Replevin Bond filed in vault.

## **FLAGS**     MAG & NO\_CMC

**Chapter**                    **ISSUANCE OF PROCESS**  
**Subject**                    **Notice of Intent to Serve Subpoena**

**AUTHORITY**            [Fed.R.Civ.P. Rule 45 \(a\)\(4\)](#)

**Notice to Other Party(s) Before Service:** If the subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, then before it is served on the person to whom it is directed, a Notice and a copy of the Subpoena must be served on each party.

**INSTRUCTIONS**    Attorney is to file the Notice of Intent to Serve Subpoena. The subpoena must be issued by the attorney. The attorney shall attach as an exhibit to the Notice a copy of each subpoena to be served on each and every party(s).

**Chapter                   ISSUANCE OF PROCESS**

**Subject                    Notice of Publication**

For any case in which a motion for service by publication is filed and an order granting the motion is entered, counsel is responsible for the publication and proof of publication.

<b>SAMPLE CASE</b>	<a href="#">1:08-cv-106</a>	Doc <a href="#"># 8</a>	Motion for Service by Publication
		6/20/2008	Text Only Order granting in part motion for publication
		Doc <a href="#">#17</a>	Notice of Proof of Publication with newspaper's proof of publication

**INSTRUCTIONS** Upon entry of a court order allowing notice by publication, counsel will provide the Notice to the Clerk's Office for issuance. Once the Notice has been issued, it is the responsibility of counsel to publish the Notice as directed by Court order and to file proof of publication.

**NOTE**                   Event:       Civil/Crim > Service of Process > Service by Publication should be used by the attorney to file the proof of publication

**Chapter**                    **ISSUANCE OF PROCESS**

**Subject**                   **Service of Summons Abroad via the Hague  
Convention**

**AUTHORITY**            [28 U.S.C. 1696](#)  
[Fed.R.Civ.P. 4](#)  
[District Court Clerk's Manual Chapter 18 §18.04](#)

**BACKGROUND**        [The Hague Convention on the Service Abroad of Judicial and  
Extra-Judicial Documents in Civil and Commercial Matters \(1969\)](#),  
to which the United States and many nations are signatories,  
provides for the efficient, inexpensive, and effective service of  
documents in civil or commercial cases. T.I.A.S. #6638, 20 U.S.T.  
361.

**FILING FEE**            N/A

## **INSTRUCTIONS**

1. Issue summons (see Issuance of Process - Summons procedure); service of process in a foreign country is still the primary responsibility of the litigant;
2. If the party requests service by the court pursuant to Fed.R.Civ.P. 4(f)(2)(C)(ii), the clerk's office will be involved in the mailing of the summons and complaint;
3. The attorney must provide an affidavit that they have determined that service by mail is authorized by the domestic law of the foreign country;
4. Certain countries have objected to service of foreign process by mail within their border. The court should not address process to defendants in any of these countries unless the person requesting service can provide documentation that these countries have changed their policies and allow service by mail;
5. It is the responsibility of the litigant to pay the cost for mailing;
6. The 120-day requirement for effecting service of process contained in Fed.R.Civ.P. 4(m) expressly does not apply to service in a foreign country pursuant to Rule 4(f);
7. The Federal Rules of Civil Procedure also allow flexibility with respect to proof of service. Proof of service in a foreign country must be made in the manner required by the applicable treaty or convention, or if service is made by the

Clerk's office pursuant to Rule 4(f)(2)(C)(ii), proof of service must include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court. [Fed.R.Civ.P. 4\(l\)\(2\)](#).



## REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

DEMANDE  
AUX FINS DE SIGNIFICATION OU DE NOTIFICATION À L'ETRANGER  
D'UN ACTE JUDICIAIRE OU EXTRAJUDICIAIRE

**Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, November 15, 1965.**

*Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée à La Haye, le 15 novembre 1965.*

**Identity and address of the applicant**  
*Identité et adresse du requérant*

**Address of receiving authority**  
*Adresse de l'autorité destinataire*

The undersigned applicant has the honour to transmit -- in duplicate-- the documents listed below and, in conformity with article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e., (identity and address)

*Le requérant soussignée a l'honneur de faire parvenir--en double exemplaire--à l'autorité destinataire les documents ci-dessous énumérés, en la priant, conformément à l'article 5 de la Convention précitée, d'en faire remettre sans retard un exemplaire au destinataire, à savoir:*  
*(identité et adresse)*

\_\_\_\_\_

(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention.\*  
*a) selon les formes légales (article 5 alinéa premier, lettre a).*

(b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of article 5)\*:  
*b) selon la forme particulière suivante (article 5, alinéa premier, lettre b) :*

\_\_\_\_\_

(c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of article 5)\*:  
*c) le cas échéant, par remise simple (article 5, alinéa 2).*

**The authority is requested to return or to have returned to the applicant a copy of the documents and of the annexes with a certificate as provided on the reverse side.**

*Cette autorité est priée de renvoyer ou de faire renvoyer au requérant un exemplaire de l'acte - et de ses annexes - avec l'attestation figurant au verso.*

List of documents  
Énumération des pièces

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Done at \_\_\_\_\_, the \_\_\_\_\_  
Fait à \_\_\_\_\_, le \_\_\_\_\_

Signature and/or stamp  
*Signature et/ou cachet*

\_\_\_\_\_

\*Delete if inappropriate  
*Rayer les mentions inutiles.*



**CERTIFICATE  
ATTESTATION**

The undersigned authority has the honour to certify, in conformity with article 6 of the Convention,  
*L'autorité soussignée a l'honneur d'attester conformément à l'article 6 de ladite Convention,*

1) that the document has been served \*

1) *que la demande a été exécutée*

-- the (date) -- *le (date)* \_\_\_\_\_

-- at (place, street, number) - à (*localité, rue, numéro*) \_\_\_\_\_

-- in one of the following methods authorized by article 5:

-- *dans une des formes suivantes prévues à l'article 5:*

(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention\*.  
*a) selon les formes légales (article 5. alinéa premier, lettre a)*

(b) in accordance with the following particular method:  
*b) selon la forme particulière suivante:* \_\_\_\_\_

(c) by delivery to the addressee, who accepted it voluntarily.\*  
*c) par remise simple.*

The documents referred to in the request have been delivered to:

*Les documents mentionnés dans la demande ont été remis à:*

- (*identity and description of person*)

- (*Identité et qualité de la personne*)

\_\_\_\_\_

- relationship to the addressee family, business or other

- *liens de parenté de subordination ou autres avec le destinataire de l'acte:*

\_\_\_\_\_

2) that the document has not been served, by reason of the following facts\*:

2) *que la demande n'a pas été exécutée, en raison des faits suivants:*

\_\_\_\_\_

In conformity with the second paragraph of article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement\*

*Conformément à l'article 12, alinéa 2, de ladite Convention, le requérant est prié de payer ou de rembourser les frais dont le détail figure au mémoire ci-joint.*

**ANNEXES**

*Annexes*

Documents returned:

*Pieces renvoyées*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

In appropriate cases, documents establishing the service:

*Le cas échéant, les documents justificatifs de l'exécution:*

\_\_\_\_\_

\_\_\_\_\_

Done at \_\_\_\_\_, the \_\_\_\_\_  
*Fait à \_\_\_\_\_, le \_\_\_\_\_*

Signature and/or stamp  
*Signature et/ou cachet*

\_\_\_\_\_

**SUMMARY OF THE DOCUMENT TO BE SERVED**  
*ÉLÉMENTS ESSENTIELS DE L'ACTE*

**Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, November 15, 1965.**

*Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée à La Haye, le 15 novembre 1965.*

**(article 5, fourth paragraph)**  
*(article 5, alinéa quatre)*

**Name and address of the requesting authority:**  
*Nom et adresse de l'autorité requérante:*

---

**Particulars of the parties:**  
*Identité des parties:*

---

**JUDICIAL DOCUMENT**  
*ACTE JUDICIAIRE*

**Nature and purpose of the document:**  
*Nature et objet de l'acte:*

---

**Nature and purpose of the proceedings and, where appropriate, the amount in dispute:**  
*Nature et objet de l'instance, le cas échéant, le montant du litige:*

---

**Date and place for entering appearance:**  
*Date et lieu de la comparution:*

---

**Court which has given judgment\*\*:**  
*Jurisdiction qui a rendu la décision:*

---

**Date of judgment\*\*:**  
*Date de la décision:*

---

**Time limits stated in the document\*\*:**  
*Indication des délais figurant dans l'acte:*

---

**EXTRAJUDICIAL DOCUMENT**  
*ACTE EXTRAJUDICIAIRE*

**Nature and purpose of the document:**  
*Nature et objet de l'acte:*

---

**Time limits stated in the document\*\*:**  
*Indication des délais figurant dans l'acte:*

---

**Chapter                   ISSUANCE OF PROCESS**

**Subject                    Summonses**

**AUTHORITY**           [F.R.Civ.P. 4\(a\) and \(b\)](#)  
[District Court Clerk's Manual Chapter 2, § 2.03a. and b.](#)

**BACKGROUND**       The summons must be prepared by counsel or *non prisoner pro se* plaintiff, and must contain (1) name of court, (2) case number, (3) one party per summons, (4) name and address of the plaintiff's attorney (if any) or name and address of the plaintiff if proceeding *pro se*. The summons (1) should be directed to the defendant(s) as named in the style of the complaint, and (2) must state the time within which the defendant(s) must appear and defend [21 days for private persons, 60 days for the United States or an officer or agency thereof, and 90 days in a Social Security case].

ISSUANCE OF JOHN DOE SUMMONSES: Fed.R.Civ.P. 4(a)(1) a summons must: (A) name the court and the parties; (B) be directed to the defendant. Pro se litigants should provide a name and complete address of a defendant on the summons before process can be issued. The U.S. Marshal will need this information in order to serve summonses. See example orders: 1:08cv1505HSO-JMR [doc. 9], 2:14cv202KS-MTP [doc. 90].

Attorneys may have summons issued to John Doe defendants where the defendants are unknown at the time of the filing and issuance of the summons. The names shall be later determined and substituted in its place. The names of the defendants are listed as John Doe or Jane Doe. An address for a defendant is not a pre requisite for issuance. Clerk may issue summons with an unknown address for attorneys only.

In any civil case that involves the USA as a defendant, the answer due date should always be computed by the service upon the local U.S. Attorney.

The summons must also notify the defendant(s) that a failure to appear and defend will result in a default judgment against the defendant(s) for the relief demanded in the complaint.

An original and one copy of the summons must be issued “forthwith” by the clerk, if the filing fee for the civil action has been paid, or upon the entry of a court order allowing the action to proceed *in forma pauperis*.

The Plaintiff has 120 days after filing the complaint to have the summons issued or 120 days after the Order granting IFP. The summons can be mailed or brought to the clerk’s office.

The clerk’s office requires 2 copies, 1 copy should have the front page and the return of service page, the other copy can just have the front page.

It is the responsibility of counsel to serve the defendants. It is the responsibility of a *pro se* litigant to serve the defendant(s), although the court MAY order service of the defendant(s) by the U.S. Marshal.

**PRO SE PRISONER ACTIONS**, the court will enter an order directing that the clerk prepare and issue process to specified defendant(s), attaching specific documents, and that the U.S. Marshal will serve the summons. *Sample case [2:10-cv-70](#); doc [#13](#), Order; doc [#14](#) Summons Issued.*

The summons is issued by the addition of the Clerk’s name, the signature of the deputy clerk, and the impressing of the court seal. The summons is scanned and docketed by court staff.

A summons must be served with a copy of the complaint. The plaintiff is responsible for having the summons and complaint served within the time allowed by Fed.R.Civ.P. Rule 4(m) and must furnish the necessary copies to the person who makes service.

## DEFINITION

A judicial summons is a notice addressed to a defendant in a legal proceeding. Typically, the summons will announce to the person to whom it is directed that a legal proceeding has been started

against that person, and that a file has been started in the court records. The summons announces a date by which the defendant(s) must either appear in court, or respond in writing to the court or the opposing party or parties.

## FILING FEE

There is no fee for issuing a summons, *per se*; however, summonses should not be issued if the filing fee due upon the filing of the initial complaint has not been paid or there is no court order allowing the action to proceed *in forma pauperis*.

## DOCUMENTS

[AO Form 440](#): Summons in a Civil Action (original and copy for each defendant) State forms are not acceptable.

## SAMPLE CASE

[1:10-cv-210](#)

Doc [#2](#) Summons Issued

Doc [#5](#), [#6](#) Summons Returned

## INSTRUCTIONS

### QUERY

1. Query the case to make sure that the defendant listed on the summons is actually listed on the style of the case;
2. Check docket report to make sure that summons for that defendant has not already been issued;
  - a. We cannot reissue a summons (alias) unless a return has been filed either executed or unexecuted. If no return has been made, the attorney's office must either file a return or file a letter of explanation as to why the summons should be re-issued by the clerk.

### CHECK SUMMONS

1. Check summons for accuracy and completeness, i.e., check to make sure the attorney/pro se plaintiff's address information is complete. This is an area commonly overlooked and must be completed.

### COMPLETING SUMMONS

1. The clerk's name should be stamped in the appropriate space above Clerk of Court;
2. The deputy clerk will sign and date with the current date;
3. The court seal is placed over the docket clerk's signature;
4. The docket clerk issuing the summons will make a copy for the appropriate docket clerk for scanning and filing.

### **SUMMONS RETURNED EXECUTED**

1. Attorneys will file their own return electronically and set the correct answer due date in CM/ECF;
2. *Pro Se* litigants will file their return conventionally;
  - a. Deputy clerk will docket the pro se return:
    - i. Civil > Service of Process > Summons Returned Executed/Un-executed, next; (if summonses are issued for USA or Social Security there are separate events for summons issued and returned);
    - ii. Enter case number, find this case, next;
    - iii. Verify case name and number, next;
    - iv. Browse to select summons, next;
    - v. Select the filer, next;
    - vi. Select the party served, next;
    - vii. If executed, enter date served, tab, answer due date is automatically completed by system, next;
    - viii. Modify Docket Text screen appears, next;
    - ix. Docket Text: Final Text screen appears, next
    - x. NEF screen appears - proof of filing.

UNITED STATES DISTRICT COURT

for the

Jackson District of Mississippi

John Doe
Plaintiff
v.
Jane Doe
Defendant

Civil Action No. 3:xx-cv-xxxx

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Jane Doe
123 Main Street
Jackson, MS 12345

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

J. T. NOBLIN

CLERK OF COURT

Date: August 18, 2010

Handwritten signature: J. T. Noblin
Signature of Clerk or Deputy Clerk

**Chapter                   ISSUANCE OF PROCESS**

**Subject                    Waiver of Summons**

**AUTHORITY**           [Fed.R.Civ.P. 4\(d\)](#)  
[District Court Clerk's Manual Chapter 2, § 2.03b.](#)

**DEFINITION**           In lieu of summons, plaintiff or plaintiff's attorney may choose to utilize the waiver of service method. An individual, corporation, or association, that is subject to service, has a duty to avoid unnecessary expenses of serving the summons. The plaintiff may notify such a defendant that an action has been commenced and request that the defendant waive service of a summons.

**BACKGROUND**       All actions in regard to the waiver of summons are the responsibility of the plaintiff or plaintiff's counsel. Defendants have 30 days (60 days if outside of the U.S.A.) to return the waiver to the plaintiff or plaintiff's counsel.

When the waiver is returned, the defendant's deadline to answer the complaint is then calculated as 60 days (90 days if outside the U.S.A.) *from the date the request for waiver was sent.*

The clerk's office should verify the defendant party, the case style, and case number. Verify the waiver has been signed and dated, and that the correct date has been entered by counsel to set the answer due date.

*If a waiver of service is filed, the clerk should be careful not to apply the time table for summons when entering a default. If a waiver is executed, the party has 30 days instead of 21 to answer.*

Fed.R.Civ.P. Rule 4 identifies certain defendants for whom a waiver of service cannot be used, as well as the consequences for failure to comply with a request for waiver. Plaintiffs or plaintiffs' counsel choosing to use this method should refer to this rule for more specific information.



**For pro se plaintiffs**, the clerk's office shall provide the plaintiff with copies of [AO 398](#) and [AO 399](#). Upon receipt of the executed waiver, the pro se plaintiff shall forward same to the clerk's office for filing. The waiver should be file stamped and docketed when it is returned to court, upon verification that it has been signed and dated by the defendant. The waiver will be scanned and docketed.

The CM/ECF system will set an answer due date of 60 or 90 days after the date the waiver was sent.

**FILING FEE** Not applicable

**DOCUMENTS** [AO Form 399](#) - Wavier of the Service of Summons  
[AO Form 398](#) - Notice of a Lawsuit and Request to Waive Service of a Summons

**SAMPLE CASE** [5:09-cv-140](#) Doc [#2](#) Request for Waiver  
Doc [#4](#) Waiver of Service Executed by USA  
[3:09-cv-714](#) Doc [#4](#) Notice of Lawsuit and Request to Waive Service of Summons  
Doc [#6](#) Waiver of the Service Summon returned executed  
Doc [#12](#) Answer

**INSTRUCTIONS** Request for Waiver of Service, Waiver of Service Executed, and Wavier of Service Un-executed filed by attorney

**Pro se litigant**

1. File stamp the returned executed waiver;
2. Scan the returned executed waiver;
3. Civil > Service of Process > Waiver of Service Executed, next;
4. Enter case number;
5. Verify case name and number, next;
6. Browse for scanned waiver, select, next;
7. Select the party who filed the Notice of Wavier of Service of Summons, next;
8. "Was defendant addressed outside any judicial district of the United States?", usually answer No, small possibility of a YES answer, next;

9. Select the party who has waived service, next;
10. Enter the date the waiver was sent, press tab. CM/ECF will enter the answer date;
11. Modify docket text screen appears, click next;
12. Final docket Text screen appears, click Next;
13. NEF appears - proof of service.



**INSTRUCTIONS** Issue the Warrant of Arrest in Rem after the complaint is filed by the attorney and the Court issues an order to the clerk. An order is necessary if the property is not in the government's possession. See attached memo from Clerk of Court dated August 27, 2008.

**NOTES** Upon filing an application for warrant to arrest property, a warrant may be issued without a court order if the property is in the government's possession, custody, or control - then the warrant can be issued by the clerk. Please note that the request must include the affidavit affirming the government's possession of the property.

If the property is not in the government's custody then an order has to be entered for issuance of a warrant.

Clerk will issue the warrant and then make a copy for docketing.

**See memo from Clerk of Court dated August 27, 2008 on next page.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
OFFICE OF THE CLERK

MEMORANDUM

**TO:** Docket Staff  
**FROM:** J. T. Noblin  
**SUBJECT:** Rule G Forfeiture Actions in REM  
Rule G.(3)(b)(I)

**DATE:** August 27, 2008

We have recently discussed with the U. S. Attorney's office Rule G. (3)(b)(i) of the Admiralty Maritime Claim, *Federal Rules of Civil Procedure*, to wit:

**Rule G. Forfeiture Actions In Rem**  
**(3) Judicial Authorization and Process.**

- (a) Real Property. If the defendant is real property, the government must proceed under 18 U.S.C. § 985.
- (b) Other Property; Arrest Warrant. If the defendant is not real property:
  - (i) the clerk must issue a warrant to arrest the property if it is in the government's possession, custody or control;
  - (ii) the court – on finding probable cause – must issue a warrant to arrest the property if it is not in the government's possession, custody or control and is not subject to a judicial restraining order; and
  - (iii) a warrant is not necessary if the property is subject to a judicial restraining order.

This language reflects a 2006 amendment to the Admiralty Rules. Previously, local court procedures provided that an order was required to issue a warrant in most forfeiture cases. The current language of the rule, however, provides that the clerk "must issue a warrant to arrest the property" if the (non real) property is in the government's possession.

Accordingly, upon filing an application for warrant to "arrest property ... **in the government's possession, custody or control**" [**emphasis supplied**], the clerk's office must issue the requested warrant. Please note that the request must include the affidavit affirming the government's possession of the property.

This is a departure from the prior court policy regarding admiralty procedures. Please let us know if you have any questions in this regard.

**Chapter                   ISSUANCE OF PROCESS**

**Subject                   Writ of Attachment**

**AUTHORITY**           [Fed.R.Civ.P. 64](#)  
[Fed.R.Civ.P. 70\(d\)](#)  
[District Court Clerk's Office Manual Chapter 16 § 16.12.c.2.ii.](#)

**DEFINITION**           A writ of attachment is similar to a writ of execution. A writ of attachment requires the U. S. Marshal or law enforcement officer to take the property of the judgment debtor into custody but does not require the sale of the property. Attachment is used before a judgment has been entered and is designed to safeguard assets so that they may be available for execution after final judgment has been entered. When any order or judgment is for the delivery of possession of property, a party in whose favor it is entered is entitled to a writ of execution or a writ of assistance (to aid in the execution of a judgment), upon application to the clerk's office.

**FILING FEE**           N/A

**SAMPLE CASE**       [1:15-cv-45](#)           Doc [#4](#) Motion for Writ of Attachment  
Doc [#5](#) Bond for Order of Attachment  
Doc [#6](#) Order for Writ of Attachment  
Doc [#7](#) Writ of Attachment

**INSTRUCTIONS**

1. After order grants motion for writ of attachment, the writ should be prepared by the requesting party for the clerk's review and signature;
2. Writ is executed by the signing and placement of court seal on the writ by the deputy clerk;
3. Scan the writ;
4. Civil > Service of Process > Writ Issued, next;
5. Enter case number, next;
6. Verify case name and number, next;
7. Browse and select scanned writ, select, next;

8. Select party to whom writ is against, next;
9. Modify docket text screen appear, next;
10. Final docket Text screen appears, next;
11. NEF screen appears;
12. A certified copy of the order is attached to each copy of the writ provided and given to requesting party;
13. Return of service is filed with the court.

**Chapter                   ISSUANCE OF PROCESS**

**Subject                   Writ of Execution/Writ of Sequestration**

**AUTHORITY**           Fed.R.Civ.P. Rule 69  
                              Fed.R.Civ.P. Rule 62(a)  
                              District Court Clerk’s Manual Chapter 16 § 16.12(c)2

**BACKGROUND**       Some defendants ignore judgments against them and thereby force plaintiffs to employ writs of execution to actually enforce judgments. This procedure on execution must be in accordance with the procedure of the state where the court is located, but a federal statute governs to the extent the state law applies.

Rule 62(a) Automatic Stay: Except as provided in Rule 62(c) and (d), execution on a judgment and proceedings to enforce it are stayed for 30 days after its entry, unless the court orders otherwise. (Effective 12/1/18)

A writ of execution cannot be issued until 30 days after a judgment is entered on the docket - Fed.R.Civ.P. 62(a). The court can stay the execution pending the resolution of a motion under FedR.CivP. 59 or 60, such as a motion for a new trial or to alter or amend a judgment.

**DEFINITION**           A writ of execution (a general term that includes all measures to collect on a judgment) is a court order which allows the officer to whom the writ is addressed to seize property belonging to the judgment debtor and see the property, with the proceeds used to satisfy the judgment. A writ of execution also may be called a writ of sequestration.

**FILING FEE**            N/A

**SAMPLE CASE**        5:08-cv-301    Doc #12 (Motion for Writ of Execution)  
  Doc #16 (Order granting Execution)  
  Doc #17 (Writ Issued)  
  Doc #19 (Writ of Execution Returned)



## **INSTRUCTIONS**

1. Motion for writ of execution filed by attorney or by clerk's office if filed by pro se filer;
2. If order grants Writ of Execution then the **CLERK OF COURT** will issue the writ of execution. Writ of Execution Form can be found under Local Forms on our website.
3. The original writ is given to the person requesting the writ and the return of service is filed with the court. Same procedure as issuance or summons and return of service.
4. It is the responsibility of the party seeking the writ to arrange for its service by the US Marshal.
5. US Marshal should file the return (form USM 285).

**Chapter                   ISSUANCE OF PROCESS**

**Subject                   Writ of Garnishment (CIVIL)**

**AUTHORITY**           Fed.R.Civ.P. Rule 64  
District Court Clerk’s Manual Chapter 16 §16.12.c.2.iii.

**BACKGROUND**       A writ of garnishment may be issued pre- or post-judgment, according to state law and practice. The requesting party may be required to provide an indemnity bond and an advance deposit to cover the U.S. Marshal’s estimated out-of-pocket expenses. Garnishment can be requested both before and after final judgment. A prejudgment writ of garnishment is more difficult to obtain. State law may require that the writ be issued **only by the judge** and also may require the posting of a bond. Garnishments after the final judgment have been entered, generally may issue **from the clerk’s office** without an order from the judge.

**DEFINITION**       A writ of garnishment is similar to a writ of execution but deals with money or property which is owed to or belongs to the judgment debtor but is under the control of a third party. The writ of garnishment freezes the asset in the hands of the third party and prohibits the release of the asset to the judgment debtor. The most common garnishments are wage garnishments and bank account garnishments. State law governs most garnishments in the district court. Wage garnishment, the most common type of garnishment, is the taking of money to pay off a debt such as child support, defaulted student loans, taxes, unpaid court fines, etc.

Writ of Garnishment is the process of deducting money from an employee’s monetary compensation (salary) as a result of a court order. When served on an employer, garnishments are taken as part of the payroll process.

**FILING FEE**           N/A

**SAMPLE CASE**       5:10-cv-121     Doc #26 (Application for Writ of Garnishment)  
Doc #31 (Writ issued)

## **INSTRUCTIONS**

1. Application for Writ is filed by attorney;
2. During QC the clerk should add “garnishee” (the person or entity to whom the writ is addressed) in the system as of the date the application was filed if the attorney did not do so;
3. The attorney will provide to the clerk’s office sufficient writs for issuance;
4. After the writ has been properly executed and dated by the Deputy Clerk, scan writ.
5. Civil > Other Events > Writ of Garnishment, next;
6. Enter case number > next;
7. Verify case name and number > next;
8. Browse for writ > select > next;
9. Screen appears - Note: There are no documents to terminate, next;
10. Select the judge who entered order or held hearing, choose presiding judge > next;
11. Modify Docket Text Screen appears. Modify docket text to add name of garnishee. Text should read WRIT OF GARNISHMENT issued as to (insert name of garnishee), next;
12. Docket Text: Final Text appears > next;
13. NEF appears;
14. Term the Motion if the Application for Writ of Garnishment was filed as a “motion” for writ. This step is not necessary if the document was originally filed correctly as “Application for Writ”;
15. Return necessary writs and attachments to the attorney for service of process.

**NOTE**        The US Attorney also provides a Clerk’s Notice of Garnishment to be issued.



## **INSTRUCTIONS**

1. Application for Writ is filed by attorney;
2. During QC the clerk should add “garnishee” (the person or entity to whom the writ is addressed) in the system as of the date the application was filed if the attorney did not do so;
3. The attorney will provide to the clerk’s office sufficient writs for issuance;
4. After the writ has been properly executed and dated by the Deputy Clerk, scan writ.
5. Criminal > Service of Process > Writ Issued, next;
6. Enter case number > next;
7. Verify case name and number > next;
8. Browse for writ > select > next;
9. Select filer (usually USA) who filed application for writ > next;
10. Modify Docket Text Screen appears > next;
11. Modify docket text to delete “USA” (or name of other filer) and add “of Garnishment” after the word “Writ.” Text should read “Writ of Garnishment issued as to (insert name of garnishee)”.
12. Docket Text: Final Text appears > next;
13. NEF appears;
14. Term the Motion if the Application for Writ of Garnishment was filed as a “motion” for writ. This step is not necessary if the document was originally filed correctly as “Application for Writ”.
15. Return necessary writs and attachments to the attorney for service of process.

**NOTE** The US Attorney also provides a Clerk’s Notice of Garnishment to be issued.

**Chapter                   ISSUANCE OF PROCESS**

**Subject                   Writ of Habeas Corpus ad Prosequendum**

**AUTHORITY**           U.S.C. 28 § 1651  
                              U.S.C. 28 § 2241

**DEFINITION**           A writ of ***habeas corpus*** (“you may have the body”) ad prosequendum document requires a person in custody to be brought before a judge or into court. The writ is issued for the purpose of removing a prisoner in order to prosecute him/her in the proper jurisdiction, wherein the act was committed, or to enable him/her to become the prosecuting witness in a criminal case. It is addressed to the custodian (a prison official for example) and demands that a prisoner be taken before the court.

**DOCUMENTS**           Petition/Motion/Application for Writ of Habeas Corpus ad Prosequendum  
                              Order granting Petition (Motion)  
                              Writ of Habeas Corpus ad Prosequendum Issued

<b>SAMPLE CASE</b>	1:14-mj-1	Doc #3	Motion/Petition for Writ
		Doc #4	Order granting Motion/Petition
		Doc #5	Writ Issued
	2:06-cr-17	Doc #17	Motion/Petition for Writ
		Doc #18	Order granting Motion/Petition
		Doc #19	Writ Issued

**INSTRUCTIONS**

1. Attorney to file Application/Motion/Petition for Writ of Habeas Corpus ad Prosequendum; [attorneys may use an event entitled Application for Writ of Habeas Corpus ad Prosequendum or a motion event entitled Writ of Habeas Corpus ad Prosequendum]

2. Judge will need to grant the motion/petition/application in order for the clerk's office to issue the writ. Chambers will provide the writ to the clerk's office;
3. Issuance of writ: Criminal/Civil > Service of Process > Writ of Habeas Corpus ad Prosequendum Issued > enter/verify case number and select appropriate defendant if applicable > verify case name and number > date filed is date of issuance > browse and select writ > enter court date for appearance > modify text screen appears > final text screen appears. NEF.

**NOTE** U.S. Marshal's Office receives the order and writ electronically so we no longer provide hard certified copies.

**Chapter                   ISSUANCE OF PROCESS**

**Subject                   Writ of Habeas Corpus ad Testificandum**

**AUTHORITY**           U.S.C. 28 § 1651  
                              U.S.C. 28 § 2241

**DEFINITION**           A writ of ***habeas corpus*** ad testificandum document requires a person to appear before a judge to give testimony for use at a hearing or a trial.

**DOCUMENTS**           Application for Writ of Habeas Corpus ad Testificandum  
                              Writ of Habeas Corpus ad Testificandum

**SAMPLE CASES**   5:11-cv-136   Doc #16           Order Setting Omnibus Hearing  
  Doc #17           Writ of Habeas Corpus ad  
  Testificandum

  1:14-cv-17   Doc #19           Order Setting Omnibus Hearing  
  Doc #20           Writ of Habeas Corpus ad  
  Testificandum Issued

**INSTRUCTIONS**

1. Judge enters an order setting an omnibus hearing and orders the clerk to issue the Writ of Habeas Corpus ad Testificandum.
2. Issuance of writ: Civil/Criminal > Service of Process > Writ of Habeas Corpus ad Testificandum Issued > enter/verify case number > verify case name and number > date filed is date of issuance > browse and select writ > enter name of person being writted > enter date of hearing > modify text screen appears > final text screen appears > NEF.



**NOTE** For civil cases provide to the Warden 3 writs with 3 certified copies of the order attached. The U.S. Marshal's Office receives criminal writs electronically so we no longer provide hard copies to them.

Enter a Staff Note if you mail civil orders and writs indicating where you mailed the order and writs.

**Chapter                   ISSUANCE OF PROCESS**

**Subject                   Writ of Replevin**

**AUTHORITY**           District Court Clerk’s Manual Chapter 16 §16.12c.2.iv.

**DEFINITION**        A writ of replevin is used to recover possession of goods that were unlawfully taken. A writ of replevin orders property to be held during the pendency of the lawsuit to determine the ultimate ownership of the goods. The party seeking the writ may be required to post bond in order to protect the officer who executes on the writ from action by the party in possession.

**BACKGROUND**      Property seized by the US Marshal shall be held in the Marshal’s custody or that of another designated official, under order and supervision of the court, until the court determines otherwise. The writ is normally limited to execution within the state in which the district court is located unless extended by federal statute, rule or court order.

**FILING FEE**         N/A

**SAMPLE CASE**      1:10-cv-567      Doc #3 Motion for Writ of Replevin  
                          1:10-cv-261      Doc #3 Motion for Writ of Replevin  
  Doc #4 Bond

**INSTRUCTIONS**

1. Motion for Writ of Replevin is filed by a party;
2. If order grants motion, issue writ;
3. Writ to be issued by the clerk’s office under the seal of the court and signed by the deputy clerk;
4. A bond may be required;
5. The writ is served by the US Marshal or another person specially appointed by the court;
6. The individual who effects service will provide proof of service by recording on the writ a description of the action taken according to the instructions contained

in it. The instructions may require an inventory to be done, including the proper value of the property seized.

**Chapter                   ISSUANCE OF PROCESS**

**Subject                   Writs in General**

**AUTHORITY**           28 U.S.C. §1651(a)  
                              28 U.S.C. §1691  
                              Fed.R.Civ.P. 54(2)  
                              Fed.R.Civ.P. 62(a) (Amended 12/1/18)  
                              District Court Clerk's Manual Chapter 16 §16.12

**INFORMATION**       Persons in whose favor judgment has been granted by the court and entered on the docket have the right to request the court's assistance in collecting their judgment. All courts established by an Act of Congress are authorized to issue all types of writs that are necessary or appropriate in aid of their respective jurisdictions.

The clerk's office may issue a variety of writs in aid of the execution of judgments. However, no writs to collect a judgment may be issued by the clerk's office during the 30 days automatic stay after judgment has been entered on the docket. If the judgment has been entered pursuant to Fed.R.Civ.P. 54(b), the court may stay the enforcement of that judgment until the entering of subsequent judgments and may also prescribe conditions to protect the party in whose favor the judgment is entered.  
Fed.R.Civ.P. 62(h)

Fed.R.Civ.P. 69 provides that the procedures for execution on a judgment must accord with those of the state where the court is located, except that any statute of the United States governs to the extent it applies.

All writs and process issued by the court are to be under the seal of the court and signed by the clerk. The party requesting the writ should be required to prepare the writ for the CLERK'S review and signature. The writs are executed by the signing and sealing of the writs. The original is given to the person requesting the writ and the return of service is filed with the court. (This is the same

procedure as the issuance of summons and the filing of the return of service.)

The United States Marshal is required to execute all writs issued under the authority of the United States. The marshal is to “command all necessary assistance” in the execution of duties. 28 U.S.C. §566(c). In executing the laws of the United States within a state, the United States Marshal and deputies exercise the same powers which a sheriff of the state may exercise in executing the laws of the state. 28 U.S.C. §564. Expenses of the United States Marshal are expenses that may be taxed as costs by the clerk of court. 28 U.S.C. §§ 1920,1921.

**Chapter:**

**Judgments**

<b>Chapter</b>	<b>JUDGMENTS</b>
<b>Subject</b>	<b>Certification for Registration of Judgment</b>

**AUTHORITY** 28 U.S.C. § 1963

**BACKGROUND** Judicial Improvements Act of 1988

**DEFINITION** The process by which a judgment creditor in one district may register that judgment in another district for the purpose of seizing property in that second district, when the judgment has become final by appeal or expiration of the time for appeal, as set forth in 28 U.S.C. 1963. This judgment is referred to as a “foreign judgment” by the second court district.

**FILING FEE** \$11.00 certification charge  
\$.50 per page for the copy

**DOCUMENTS** (1) AO Form 451: Clerk’s Certification of a Judgment to be Registered in Another District  
(2) Judgment

**INSTRUCTIONS** The Clerk’s office will prepare form AO 451, Clerk’s Certification of a Judgment to be Registered in Another District, certifying that no motion listed in Fed.R.App.P. 4(a)(4)(A) is pending before this court and that no appeal has been filed, or, if one was filed, that is no longer pending. Place court seal on this document. A certified copy of the judgment is attached to the AO451; the certification charge is \$11.00, in addition to .50 per page for the copy of the judgment.

If there is a pending appeal, a judgment may be registered in a second court when ordered for good cause by the court which enters the judgment; in this case, the AO 451 form is not necessary when the originating court has entered an order allowing the registration of the judgment pending appeal. A copy of the order allowing registration will suffice to notify the clerk’s office that it is asked to registered the judgment. The Clerk’s

office will certify the copy of the judgment, with a certification charge of \$11.00, in addition to .50 per page for the copy.

There is no docket entry made in the existing case in this court for the issuance of a certification of judgment.

See next page for form



# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

*Plaintiff*

v.

*Defendant*

)  
)  
)  
)  
)

Civil Action No. \_\_\_\_\_

## CLERK'S CERTIFICATION OF A JUDGMENT TO BE REGISTERED IN ANOTHER DISTRICT

I certify that the attached judgment is a copy of a judgment entered by this court on *(date)* \_\_\_\_\_

I also certify that, as appears from this court's records, no motion listed in Fed. R. App. P. 4(a)(4)(A) is pending before this court and that no appeal has been filed or, if one was filed, that it is no longer pending.

Date: \_\_\_\_\_

CLERK OF COURT

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

\_\_\_\_\_

<b>Chapter</b>	<b>JUDGMENTS</b>
<b>Subject</b>	<b>Interest Rates</b>

**AUTHORITY** Board of Governors of the Federal Reserve System

**INSTRUCTIONS** Finding Current interest rates:

1. From our [Home page](#)
2. Click on [Links](#)
3. Click on [MSSD Internet Site](#)
4. Click on [General Information](#)
5. From list click on [Interest Rates on Judgment](#)



## **INSTRUCTIONS**

1. Attorney(s) are responsible for making an offer of judgment 14 days or more prior to trial;
2. All parties must accept or refuse the offer of judgment within the 14 day time frame;
3. If all parties accept the offer of judgment, a Notice of Acceptance with Offer of Judgment can be filed by either party along with proof of service;
4. The court will then enter the judgment.

<b>Chapter</b>	<b>JUDGMENTS</b>
<b>Subject</b>	<b>Renewal of a Federal Court Judgment in State Court</b>

**AUTHORITY** Miss. Code Ann. §15-1-43 and §15-1-47

**DEFINITION** Miss. Code Ann. § 11-7-303  
Filing copy of foreign judgment; enforcement

A copy of any foreign judgment authenticated in accordance with the act of Congress or the statutes of this state or any rule promulgated and adopted by the Mississippi Supreme Court may be filed in the office of the clerk of the circuit court of any county in this state. Said clerk shall treat the foreign judgment in the same manner as a judgment of the circuit court of any county in this state.

§15-1-43: Limitations applicable to actions founded on domestic judgment or decrees:

All actions founded on any judgment or decree rendered by any court of record in this state, shall be brought within seven (7) years next after the rendition of such judgment or decree, or last renewal of judgment or decree, whichever is later.

**SAMPLE CASE** 3:05-cv-451 Doc #32 plus all attachments  
Notice of Renewal of Judgment or Decree

### **NOTICE OF RENEWAL OF JUDGMENT OR DECREE**

A judgment or decree can be renewed only if, at the time of renewal, the existing judgment or decree has not expired. A judgment or decree may be renewed by filing with the clerk of the court that rendered such judgment or decree a Notice of Renewal of Judgment or Decree.

Notice is given of renewal of judgment that was rendered and filed in this action as follows:

(i) Date that judgment was filed;(ii) Case number of such judgment;(iii) Judgment was taken against;(iv) Judgment was taken in favor of;(v) Current holder of such judgment;(vi) Current amount owing of such judgment; and(vii) Certification that at the time of the filing of the notice the judgment remains valid and has not been satisfied or barred.

### **PREVIOUS FILING OF A NOTICE OF RENEWAL OF JUDGMENT OR DECREE**

1. The renewal of such judgment is effective as of the date of the filing of the Notice of Renewal with the Clerk of the Court that rendered such judgment. The renewal of judgment shall be treated in the same manner as the previously rendered judgment. The circuit clerk shall enroll the Notice of Renewal showing the date of the filing of the Notice of Renewal, and the lien of the renewal of such judgment continues from the date of the enrollment of the existing judgment. The right to renew a judgment in any other manner allowed by law instead of using the above Notice of Renewal remains unimpaired.
2. At the time of the filing of the Notice of Renewal of Judgment, the judgment creditor or his attorney shall make and file with the Clerk of the Court that rendered the judgment an affidavit setting forth the name and last-known post office address of the judgment debtor and the judgment creditor.
3. Promptly upon the filing of the Notice of Renewal of Judgment, the clerk shall mail notice of the filing of the Notice of Renewal of Judgment to the judgment debtor at the address given and shall make a staff note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's attorney, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the Notice of Renewal of Judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the validity of the renewal of judgment if proof of mailing by the judgment creditor has been filed.
4. It is not the responsibility of the clerk to prepare the Notice or the affidavit. That responsibility is on the judgment creditor or his attorney. The clerk merely files what is presented by the party or his attorney to the clerk.

§15-1-47: A judgment or decree rendered in any court held in this state shall not be a lien on the property of the defendant therein for a longer period than seven years from the rendition thereof, unless an action be brought thereon before the expiration of such time. However, the time during which the execution of a judgment or decree shall be stayed or enjoined by supersedeas, injunction or other process, shall not be computed as any part of the period of seven years.

**To renew a judgment from our court which is about to expire in state court, the attorney should obtain another certified copy from the district court to be filed with the state court.**

<b>Chapter</b>	<b>JUDGMENT</b>
<b>Subject</b>	<b>Voluntary (Stipulation) of Dismissal and Involuntary Dismissal</b>

**AUTHORITY** District Court Clerk’s Manual Chapter 7 §7.05 I. (Voluntary and Involuntary Dismissals)  
Fed.R.Civ.P. Rule 41

## **DEFINITION**

**INVOLUNTARY DISMISSALS:** a defendant may, under the appropriate circumstances, obtain a dismissal by motion to the court. The most common grounds for such involuntary dismissals are:

- failure of the plaintiff to prosecute the action;
- failure of the plaintiff to comply with the Federal Rules of Civil Procedure; and
- failure of the plaintiff to comply with an order of the court.

**VOLUNTARY DISMISSALS:** also commonly known as a **Stipulation of Dismissal**. A plaintiff may dismiss an action without a court order by filing:

- a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or
- a stipulation of dismissal signed by all parties who have appeared.

**COURT ORDER:** an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper. If a defendant has pleaded a counterclaim before being served with the plaintiff’s motion to dismiss, the action may be dismissed over the defendant’s objection only if the counterclaim can remain pending for independent adjudication. Unless the order states otherwise, a dismissal is without prejudice.

**SAMPLE CASE** 1:09-cv-79 Doc #26 Stipulation of Dismissal  
9/25/2009 Civil Case Terminated



## **INSTRUCTIONS**

1. Once the Stipulation of Dismissal is filed, check to make sure all attorneys or pro se parties have executed (by wet or electronic signature) the dismissal document;
2. If the stipulation of dismissal is executed properly, then term the civil case (Civil > Utility events > Terminate Civil Case).
3. Clear flags – No CMC, Administrative etc. **AGS** set CLOSED flag if necessary

<b>Chapter</b>	<b>JUDGMENTS</b>
<b>Subject</b>	<b>Denial of Federal Benefits</b>

**AUTHORITY** 21 USC 862  
<https://www.law.cornell.edu/uscode/text/21/862>

**BACKGROUND** Pursuant to 21 U.S.C. 862(d), denial of federal benefits does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

**DEFINITION** Denial of Federal Benefits to Drug Traffickers and Possessors

**Drug Traffickers**

Any individual who is convicted of any Federal or State offense consisting of the distribution of controlled substances shall—

- (A) at the discretion of the court, upon the first conviction for such an offense be ineligible for any or all Federal benefits for up to 5 years after such conviction;
- (B) at the discretion of the court, upon a second conviction for such an offense be ineligible for any or all Federal benefits for up to 10 years after such conviction; and
- (C) upon a third or subsequent conviction for such an offense be permanently ineligible for all Federal benefits

**Drug Possessors**

Any individual who is convicted of any Federal or State offense involving the possession of a controlled substance (as such term is defined for purposes of this subchapter) shall—

- (A) upon the first conviction for such an offense and at the discretion of the court—



**Chapter:**

**MDL**

<b>Chapter</b>	<b>MDL</b>
<b>Subject</b>	<b>Opening a MDL Case</b>

**AUTHORITY** Fed.R.Civ.P. Rules of Procedure of the Judicial Panel on Multidistrict Litigation  
28 U.S.C §1407  
District Court Clerk’s Manual Chapter 11 Ten Steps to Better Case Management (2008 Pamphlet)

**BACKGROUND** Civil Actions involving one or more common questions of fact that are pending in different federal district courts may be transferred to a single district court designated by the U. S. Judicial Panel on Multidistrict Litigation (Panel) for coordinated or consolidated pretrial proceedings. The Panel must find that the transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation for the transfer to occur.

The MDL statute is 28 U.S.C. §1407 and was enacted in 1968 as a belated response to a price-fixing scandal at General Electric in the early 1960s which badly swamped the federal courts with a flood of criminal prosecutions and related civil litigation.

Website [www.jpml.uscourts.gov](http://www.jpml.uscourts.gov): Docket information; docket type, MDL cases.

**DEFINITION** Multidistrict litigation (MDL) refers to a special federal legal procedure designed to speed the process of handling complex cases such as air disaster litigation or complex product liability suits

MDL cases are "civil actions involving one or more common questions of fact and are pending in different districts." In order to speed trials that could involve thousands of plaintiffs, the Judicial Panel on Multidistrict Litigation decides whether cases should be consolidated under MDL and where to transfer the cases. Cases subject to MDL are sent from one court, known as the transferor,

to another, known as the transferee, for all pretrial proceedings and discovery. If a case is not settled or dismissed in the transferee court, it is remanded to the transferor court for trial.

**FILING FEE** See [Schedule of Fees](#).

<b>SAMPLE CASE</b>	1:21-cv-9	Doc #1	Complaint
		Doc #2	Letter sent to MDL clerk
		Doc #3	Copy of Conditional Transfer Order
		Doc #4	Certified Copy of Conditional Transfer Order
		1/25/2021	Remark No Number: Notified IT Department to Electronically Transfer case to the Northern District of Ohio
		Doc. #5	Remark: Confirmation of Receipt Case Electronically transferred from Southern District of MS to Northern District of Ohio

**DOCUMENTS**

- (1) Notice of Removal or Complaint
- (2) MDL Letter to Panel Clerk (John W. Nichols 4/1/19)
- (3) Copy of Conditional Transfer Order
- (4) Certified Copy of Conditional Transfer Order
- (5) Confirmation or Receipt of Transfer

Email to IT Dept. should include the case number, style, name of court being transferred to, MDL number and CTO number.

**NOTE:** Each MDL transferee court may have different procedures.

**INSTRUCTIONS** Overview

When a potential MDL case is filed and opened in our court, the deputy clerk is to send a letter to the MDL Panel advising them of same along with a copy of docket sheet and initiating document. \*\*This letter is sent via email to [panelmdl@jpmi.uscourts.gov](mailto:panelmdl@jpmi.uscourts.gov).

If the case is deemed a MDL case, a non-certified conditional transfer order is received from the MDL panel. A certified copy of the conditional transfer order is then received from transferee court (MDL court).

\*\*As of 10/12/10, the U.S. Judicial Panel on Multidistrict Litigation (JPML) informed the Courts that “all notifications now come by way of Notice of Electronic Filing (NEF). We will no longer use paper, mail or fax.” Example of this NEF is attached. (JPML e-mail announcement dated 10/8/10 notifying Courts of the change).

\*\*As of 10/27/10, Dale Radosta with the Transferee Court in Louisiana, Eastern District of Louisiana, advised we will no longer receive a copy of the CTO or Conditional Transfer Order marked “Certified” from their court. If the CTO has a filing header, indicating that it has been filed in that Court, it is considered an original, therefore, there is no need to certify.

\*\*MDL case information/documentation is sent to the Transferee Court in accordance with the request letter. Usually only a copy of the docket sheet, complaint/notice of removal, and the certified copy of the Transfer Order are requested. Pursuant to the Transferee Court’s request letter, documents are sent one of the three ways listed below:

(1) Via e-mail to the address given in the Transferee Court’s letter

OR

(2) Notify the CM/ECF system manager to electronically transfer the case to the transferee (MDL) court. Notification comes from the CM/ECF system manager when the case has been opened in the transferee (MDL) court

OR

(3) If the court is not set up for electronic transfer mail certified copy of the docket sheet, certified copy of the Transfer Order, complaint/notice of removal, along with cover letter to transferee court.

**OPENING POTENTIAL MDL CASE: (SEE GENERAL COMPLAINT INSTRUCTIONS)**

*If Notice of Removal a separate filing of Request for Jury Demand must be filed. All jury demands must be requested in this court.*

**ENTERING PARTIES - INDIVIDUALS: (SEE GENERAL COMPLAINT INSTRUCTIONS)**

**ENTERING PARTIES – BUSINESSES (SEE GENERAL COMPLAINT INSTRUCTIONS)**

**CASE OPENING PARTIES - Pro Se Civilian (SEE GENERAL COMPLAINT INSTRUCTIONS)**

**ALIAS INFORMATION: (SEE GENERAL COMPLAINT INSTRUCTIONS)**

**ADDING ATTORNEYS: (SEE GENERAL COMPLAINT INSTRUCTIONS)**

**FILING OF DOCUMENTS:**

1. Select Complaint or Notice of Removal (SEE GENERAL COMPLAINT/NOTICE OF REMOVAL INSTRUCTIONS)

**LETTER TO MDL CLERK:** (Form is under Local Forms)

1. Prepare MDL letter to John W. Nichols, or current Clerk of Judicial Panel on Multidistrict Litigation and convert to PDF; see attached form letter;
2. Send the letter to Mr. Nichols and enclosures listed therein by e-mail to: [PANELMDL/DCA/JPL/USCOURTS@USCOURTS.GOV](mailto:PANELMDL/DCA/JPL/USCOURTS@USCOURTS.GOV)
3. Civil > Other Documents > MDL letter, next;
4. Verify case number > next;
5. Verify case name and number > next;
6. Browse and select letter > next;
7. Modify Docket Text screen appears > next;
8. Docket Text:Final Text screen appears > next
9. NEF appears



**NOTE:** In the event the case is dismissed in our district court before you receive the “Copy of Conditional Transfer Order” or before you receive the “Certified Copy of Conditional Transfer Order” perform the following:

1. Docket MSSD order;
2. Convert the order to PDF format;
3. E-mail the PDF order which closes the case to  
<mailto:MDLPanelOrders/JPML/DCA/JPML/USCOURTS@USCOURTS.GOV>

**SAMPLE CASE:** 5:10-cv-92

**DOCKETING COPY (not certified) OF CONDITIONAL TRANSFER ORDER from MDL Panel:**

1. Civil > Utility Events > Remark > next > verify case number > next; verify case name and number > click next;
2. Confirm date document filed is same as file stamp date;
3. Browse and select PDF of Conditional Transfer Order, next;
4. Modify the screen to read: (Remove the word “remark”) COPY OF CONDITIONAL TRANSFER ORDER transferring case to the District of enter name of state, next;
5. Docket Text:Final Text screen appears, next;
6. NEF appears.

**DOCKETING CERTIFIED COPY OF CONDITIONAL TRANSFER ORDER from TRANSFEREE COURT:**

1. Civil > Other Orders/Judgments > Certified Copy of Conditional Transfer Order > next;
2. Verify case number > next;
3. Verify case name and number > next;
4. Leave blank signature date > next;
5. Select unassigned for judge > next;
6. Verify date document filed is same as file stamp date > browse and select the Copy of Conditional Transfer Order > next.
7. Does this order close the case, answer Y > next;

8. If there are documents/deadlines/case associations to term, do so at this time > next;
9. Civil Case Closing Statistics Information screen appears: Disposition "00  
\*\*(Transfer/Remand-MDL Transfer) > next;
10. Modify docket text screen: enter district court name and the word certified if you receive a certified copy of the conditional transfer order> next;
11. Docket Text:Final Text screen > next;
12. NEF appears. The CLOSED flag is automatically set.

\*\*Pursuant to the instructions of the Transferee Court's letter, send documents as requested. Usually documents are converted into PDF format and forwarded via the e-mail address provided in the letter. If electronic transfer of the case is required, notify CM/ECF system manager to electronically transfer case to transferee court. If the court is not set up for electronic transfer, mail all requested items to transferee (MDL) court (see attached transferee form letter). If case contains minors, you will need to mail redacted and unredacted complaint. Docket the event "Remark" stating that case has been transferred to name of court so an NEF goes to all concerned.

1. Civil > Utility Events > Remark > next > verify case number > next > verify case name and number > next;
2. Date document filed date docket sheet/letter mailed to transferee court;
3. There is no document to select > next;
4. Do not assign a document number > next;
5. Modify the docket text screen: (remove word remark) specify the method by which the documents were forwarded to the Transferee court and list all the documents you sent to the Transferee Court , i.e., complaint, docket sheet, CTO, and state the new case number if it is given > next;
6. Docket Text:Final text screen > next;
7. NEF appears (this notifies parties that certified docket sheet sent to transferee court).

FLAGS        MAG initials, JURY if applicable (CLOSED flag set automatically after the docketing of the CTO)

PUT ON CLOSING LIST

\*        \*\*NEW MDL PROCEDURES IN ACCORDANCE WITH JPML TRANSITION TO CM/ECF. (JPML e-mail dated 10/8/10)

\*As of 10/12/10, the U.S. Judicial Panel on Multidistrict Litigation (JPML) informed the Courts that “all notifications now come by way of Notice of Electronic Filing (NEF). We will no longer use paper, mail or fax.”

Example of what the Courts will receive by way of email:

1. From the Panel to the Transferee Court, the electronic (original) of the Conditional Transfer Order Finalized (CTO-xx). This is the transferee Court’s official notice that the cases are ready to be transferred.

Forwarded by Nathan Dean/MSSD/05/USCOURTS on 11/08/2010 11:00 AM

From: JPMLCMECF@jpml.uscourts.gov  
To: JPMLCMDECF@jpml.uscourts.gov  
Date: 10/27/2010 08:50 AM  
Subject: Activity in Case MDL No. 1873 IN RE: FEMA Trailer Formaldehyde Products Liability Litigation Conditional Transfer Order Finalized

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

United States  
United States Judicial Panel on Multidistrict Litigation  
Notice of Electronic Filing

The following transaction was entered on 10/27/2010 at 9:49 AM EDT and filed on 10/27/2010

Case Name: IN RE: FEMA Trailer Formaldehyde Products Liability Litigation  
Case Number: MDL No. 1873

Filer:  
Document Number: 127

Docket Text:

CONDITIONAL TRANSFER ORDER FINALIZED (CTO-33) 19 actions re: pldg. (125 in MDL No. 1873, 1 in MSS/1:09-cv-00851, 1 in MSS/1:10-cv-00001, 1 in MSS/1:10-cv-00195, 1 in MSS/1:10-cv-00351, 1 in MSS/1:10-cv-00384, 1 in MSS/1:10-cv-00408, 1 in MSS/1:10-cv-00424, 1 in MSS/1:10-cv-00425, 1 in MSS/1:10-cv-00426, 1 in MSS/1:10-cv-00436, 1 in MSS/1:10-cv-00437, 1 in MSS/1:10-cv-00438, 1 in MSS/1:10-cv-00439, 1 in MSS/1:10-cv-00449, 1 in MSS/1:10-cv-00450, 1 in MSS/1:10-cv-00451, 1 in MSS/1:10-cv-00454, 1 in MSS/2:10-cv-00234, 1 in MSS/3:10-cv-00529) Inasmuch as no objection is pending at this time, the stay is lifted.

Signed by Clerk of the Panel Jeffery N. Luthi on 10/27/2010.

Associated Cases: MDL No. 1873, MSS/1:09-cv-00851, MSS/1:10-cv-00001, MSS/1:10-cv-00195, MSS/1:10-cv-00351, MSS/1:10-cv-00384, MSS/1:10-cv-00408, MSS/1:10-cv-00424, MSS/1:10-cv-00425, MSS/1:10-cv-00426, MSS/1:10-cv-00436, MSS/1:10-cv-00437, MSS/1:10-cv-00438, MSS/1:10-cv-00439, MSS/1:10-cv-00449, MSS/1:10-cv-00450, MSS/1:10-cv-00451, MSS/1:10-cv-00454, MSS/2:10-cv-00234, MSS/3:10-cv-00529 (JM)

2. From the Panel to the Transferee Court, the NEF of Conditional Transfer Order,  
instructing the Transferee Court to send a "certified" copy of the Panels CTO to the district court from which the action is being transferred.

Forwarded by Nathan Dean/MSSD/05/USCOURTS on 11/08/2010 11:03 AM

From: JPMLCMECF@jpml.uscourts.gov  
To: JPMLCMDECf@jpml.uscourts.gov  
Date: 10/27/2010 08:57 AM  
Subject: Activity in Case MDL No. 1873 IN RE: FEMA Trailer Formaldehyde Products Liability Litigation CTO Final Minute Order (Clerks)

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

United States  
United States Judicial Panel on Multidistrict Litigation  
Notice of Electronic Filing

The following transaction was entered on 10/27/2010 at 9:57 AM EDT and filed on 10/27/2010

Case Name: IN RE: FEMA Trailer Formaldehyde Products Liability Litigation  
Case Number: MDL No. 1873

Filer:  
Document Number: No document attached

Docket Text:  
\*\*\*TEXT ONLY ENTRY\*\*\*

MINUTE ORDER - TO INVOLVED CLERKS - Conditional Transfer Order (CTO-33) Finalized on 10/27/10. Please see pleading (127 in MDL No. 1873, 3 in MSS/1:09-cv-00851, 3 in MSS/1:10-cv-00001, 3 in MSS/1:10-cv-00195, 3 in MSS/1:10-cv-00351, 3 in MSS/1:10-cv-00384, 3 in MSS/1:10-cv-00408, 3 in MSS/1:10-cv-00424, 3 in MSS/1:10-cv-00425, 3 in MSS/1:10-cv-00426, 3 in MSS/1:10-cv-00436, 3 in MSS/1:10-cv-00437, 3 in MSS/1:10-cv-00438, 3 in MSS/1:10-cv-00439, 3 in MSS/1:10-cv-00449, 3 in MSS/1:10-cv-00450, 3 in MSS/1:10-cv-00451, 3 in MSS/1:10-cv-00454, 3 in MSS/2:10-cv-00234, 3 in MSS/3:10-cv-00529).

As stipulated in Rule 7.1(c) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), transmittal of the order has been stayed 7 days to give any party an opportunity to oppose the transfer.

The 7-day period has now elapsed, no opposition was received, and the order is directed to the Clerk of the United States District Court for the E.D. Louisiana for filing. The Panels governing statute, 28 U.S.C. 1407, requires that the transferee clerk transmit a certified copy of the Panels order to transfer to the clerk of the district court from which the action is being transferred.

Signed by Clerk of the Panel Jeffery N. Luthi on 10/27/10.

Associated Cases: MDL No. 1873, MSS/1:09-cv-00851, MSS/1:10-cv-00001, MSS/1:10-cv-00195, MSS/1:10-cv-00351, MSS/1:10-cv-00384, MSS/1:10-cv-00408, MSS/1:10-cv-00424, MSS/1:10-cv-00425, MSS/1:10-cv-00426, MSS/1:10-cv-00436, MSS/1:10-cv-00437, MSS/1:10-cv-00438, MSS/1:10-cv-00439, MSS/1:10-cv-00449, MSS/1:10-cv-00450, MSS/1:10-cv-00451, MSS/1:10-cv-00454, MSS/2:10-cv-00234, MSS/3:10-cv-00529 (JM)

3. From the Transferee Court (which is not always the Eastern District of Louisiana) we will receive a "certified" copy of the CTO or in the case of the Eastern District of Louisiana, the electronic original (with the header showing it has been filed in their Court) "copy" of the CTO.

From: Bridget Gregory/LAED/05/USCOURTS  
To: Porfi Stokes/MSSD/05/USCOURTS@USCOURTS, Rena White/MSSD/05/USCOURTS@USCOURTS, Linda Regan/MSSD/05/USCOURTS@USCOURTS, Molly

Simms/MSSD/05/USCOURTS@USCOURTS, Nathan  
Dean/MSSD/05/USCOURTS@USCOURTS

Date: 10/27/2010 02:12 PM

Subject: CTO-33: IN RE: MDL 1873 FEMA TRAILER FORMALDEHYDE  
PRODUCTS LIABILITY LITIGATION

IN RE: MDL 1873  
FEMA TRAILER FORMALDEHYDE PRODUCTS LIABILITY LITIGATION

Attached is a certified copy of the transfer order received from the Multidistrict Litigation Panel in Washington, D.C. It instructs that the case(s) listed be transferred to our district for disposition pursuant to Title 28 USC 1407, as soon as possible. The order includes the case number(s) assigned to each action by the Eastern District of Louisiana.

The Honorable Kurt D. Engelhardt, U.S. District Judge, issued an order directing that the transferred records consist of only a copy of the complaint (including notice of removal, if applicable), any amendments, the docket sheet and the MDL Transfer Order.

Please forward the above requested documents, preferably as PDF documents attached to an email addressed to [trailer\\_mdclerk@laed.uscourts.gov](mailto:trailer_mdclerk@laed.uscourts.gov). Please attach separate PDFs for each of the documents. If this is not possible, please forward the printed copies of the requested documents via mail.

Should you have any questions regarding this request, please contact Bridget Gregory at (504)589-7684.

Very truly yours,  
Loretta G. Whyte, Clerk  
Eastern District of Louisiana

<b>Chapter</b>	<b>MDL</b>
<b>Subject</b>	<b>Conditional Remand Order</b>

**AUTHORITY** U. S. Judicial Panel on MultiDistrict Litigation - Panel rules effective July 6, 2011 ([www.jpml.uscourts.gov](http://www.jpml.uscourts.gov))  
District Court Clerk’s Manual - Chapter 11  
Ten Steps to Better Case Management: A Guide for Multidistrict Litigation Transferee Court Clerks  
28 U.S.C. §1407

**BACKGROUND** The U.S. Judicial Panel on MultiDistrict Litigation, known informally as the MDL Panel, was created by an Act of Congress in 1968. The panel’s job is to determine if multiple civil actions in multiple federal districts should be transferred into one federal district for consolidated pretrial proceedings and to select the judge or judges and court to conduct such proceedings.

**DEFINITION** A special federal legal procedure designed to speed the process of handling complex cases such as air disaster litigation or complex product liability suits. MDL cases are “civil actions involving one or more common questions of fact pending in different districts”.

**SAMPLE CASE** 2:03-cv-104 Doc #25 NEF of the Minute Entry Order re Conditional Remand Order  
Doc #18 NEF of the Conditional Transfer Order Finalized (prior to CM/ECF)  
Doc #27 Certified Copy of the Conditional Remand Order  
Doc #22 Pretrial Order  
Doc #23 MDL Docket Sheet  
Doc #24 MDL Master Docket Sheet

## **INSTRUCTIONS**

### **Docket NEF of Minute Entry Order and NEF of Conditional Transfer Order Finalized from MDL Panel: (docket each event separately)**

1. Civil > Utility Events > Remark > next > type case number > next; verify case name and number > click next;
2. Date document as of the date we receive NEF;
3. Browse and select PDF'd NEF for "Minute Entry Order", next;
4. Modify the screen to read: (Remove the word "remark") type COPY OF NEF of Minute Order re: Conditional Remand Order, entered by JPML In Re: (enter the of multidistrict litigation information; ex: In Re: PremproProducts Liability Litigation, MDL No. 1507), next;
5. Docket Text:Final Text screen appears, next;
6. NEF appears.
7. Follow same procedures to docket the NEF for the "Conditional Transfer Order Finalized".
8. Wait for the transferee court to send the required documents to our Interdistrict mailbox. Larry will send you an email with all the documents needed to either "reopen" the old case; or if the plaintiffs have been severed, open a new case.

### **Docketing Certified Copy of Conditional Remand Order from Transferee Court:**

1. Review the docket sheet from the Transferee Court, it will indicate whether or not plaintiffs were severed or terminated.
2. If the plaintiffs were not severed; or if only one plaintiff remains in the case, reopen the case.
  - a. If plaintiffs were severed, open a new case for each severed plaintiff.
3. In any event, the Conditional Remand Order should be docketed in the old case with reference to newly opened cases.

### **To Reopen Case:**

1. Civil > Utility Events > Case Reopened > Next;
2. Type case number > next;



3. verify case number and name > next;
4. Date (our "Filed" stamp date);
5. Do not "Browse and select a PDF document > next;
6. "Date Reopen" put in the "Filed" stamp date of the Conditional Remand Order > next;
7. Modify docket text to read: Case Reopened "per MDL Conditional Remand Order dated 1/14/11." > next;
8. Docket Text: Final Text screen appears, next;
9. NEF appears.

### **To Reassign Judges:**

*Due to judge rotations, recusals and reassignments, you will need to review the case of possible reassignment of district and magistrate judges.*

Civil > Utility Events > Case Assigned/Reassigned > next;

1. Type case number > next;
2. Verify case name and number > next;
3. Date: same as the stamp "Filed" date of the Remand Order > (There is no document to browse) > next;
4. Assign a document number? "No" > next;
5. Assigned? Reassigned? (Type "reassigned")
6. "Add judge": click on the scroll down bar, select new judge
7. "Select new judge's role (if district judge, click "presiding"; if magistrate judge, click A referral (ref)" and "Full pretrial, no dispositive motion (ptn)"
8. Warning: There is already a pending judge in this case – click Next to continue and terminate the existing judge; click "NEXT" >
9. "No pending hearings to link" > next; verify case name and number > next;
10. Screen returns to "Add Judge"; only one judge can be added at a time. When you have completed adding judges, click "NEXT">
11. Modify the docket text to read in accordance the administrative order that allows the Clerk's Office to reassign judges; > next;
12. Docket Text: Final Text screen appears, > next;

13.NEF appear.

**NOTE**      Review the docket sheet from MDL for the addition and/or termination of attorneys. Make the appropriate additions and/or terminations to our docket sheet. The letter regarding applying for pro hac vice should be mailed and the letter docketed.

**FLAGS**      Check all flags, set new flags: NO\_CMC, MAG initials

**DOCKET CONDITIONAL REMAND ORDER:**

Civil > Other Orders/Judgments > Order > next;

1. Type case number > next;
2. Verify case name and number > next;
3. Leave blank signature date > next;
4. Select **unassigned** for judge > next;
5. Verify date document filed is same as file stamp date > browse and select the Certified Copy of Conditional Remand Order > next;
6. Does this document constitute a written opinion “no” > next;
7. “Should the document you are filing link...” do not click on this box > next;
8. Modify docket text screen to read: Conditional Remand Order In Re: (put in the title of the multidistrict litigation case, including the MDL No.) > next;
9. Docket Text: Final Text screen > next;
- 10.NEF appears.

**DOCKETING THE PRETRIAL ORDER AND DOCKET SHEETS:**

**PRETRIAL ORDER:**

Civil > Other Orders/Judgments > Order > next;

1. Type case number > next;
2. Verify case name and number > next;
3. Leave blank signature date > next;

4. Select unassigned for judge > next;
5. Verify date document filed is same as file stamp date > browse and select the Pretrial Order > next;
6. Does this document constitute a written opinion “no” > next;
7. “Should the document you are filing link. ..” do not click on this box < next;
8. Modify docket text screen to read: MDL Pretrial Order > next;
9. Docket Text: Final Text screen > next;
10. NEF appears.

**MDL DOCKET SHEET - Master and Individual Case Docket Sheets: (docket separately)**

Civil > Utility Events > Remark > next;

1. Type case number > next;
2. Verify case name and number > next;
3. Verify date document filed is same as file stamp date > browse and select the docket sheet > next.
4. Modify docket text screen to read: MDL Docket Sheet for (type in the individual case name and civil action number assigned by the transferee court > next;
5. Docket Text: Final Text screen > next;
6. NEF appears.



<b>Chapter</b>	<b>MDL</b>
<b>Subject</b>	<b>MDL Cases and Origin Codes</b>

An explanation of when to use what:

Any case with an origin code of 1, 2, 5, or 6 can have a JPML number. Usually it is a 1 or 6. However the situation can occur with removed cases or a case transferred in from another district court. Remanded cases should use origin code of 4.

**EXAMPLE:**

**2:07-MD-1872**                      USDC/MSSD Hosting Court

This case began with a transfer order from the JPML. We became the hosting court for this MDL action. This case has a JPML number of 1872 which came from the transfer order. When the case was opened the origin code was "1 - Original Proceeding".

Cases 2:07-cv-1000 through 2:07-cv-1011 were opened in our court by Transfer Orders from the JPML. Each case was assigned a JPML number of 1872 and the origin code would be "6 - Transfer-in Per MDL Order".

Disposition: 13 (Dismissed - Settled); Class Action (at Term.): n (No class Action Alleged)

If we are the hosting court of a MDL case, when the original case is opened the origin code should be 1 - Original Proceeding and the JPML number entered at that time.

All other cases which come to us as part of this MDL case shall have an origin code of 6 - Transfer-in Per MDL Order and shall have the same JPML number.

**In short:**

Host court - original proceeding and JPML number; all related cases - transfer in per MDL order and JPML number.

**EXAMPLE**

**2:06-CV-70**                      Conditional Remand order

This case began with 2:03-cv-74 on 02/06/2003. On September 17, 2003 a Transfer Order was entered transferring the case to the West District of Washington. On March 13, 2006, a Conditional Remand Order was entered severing the case and returning same to our court.

Once the case came back to our court, the **original case** should have been re-opened (Civil > Utilities > Case Reopened) and the origin code should have been changed to a 4 - (Reinstated/Reopened Case).

Instead a new case was opened (2:06-cv-70) with an origin code of 5 - (Transfer-In from Other District) which was incorrect.

**In short:**

Conditional Remand Orders: reopen original case with origin code of 4 - (Reinstated/Reopened Case). There is no JPML number.

The cases we corrected were those with an origin code of 5 (transfer in).

<b>Chapter</b>	<b>MDL</b>
<b>Subject</b>	<b>Housing a MDL Case</b>

**AUTHORITY** Fed.R.Civ.P. Rules of Procedure of the Judicial Panel on Multidistrict Litigation

28 U.S.C. § 1407

**BACKGROUND** Civil Actions involving one or more common questions of fact that are pending in different federal district courts may be transferred to a single district court designated by the U.S. Judicial Panel on Multidistrict Litigation for coordinated or consolidated pretrial proceedings. The Panel must find that the transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation for the transfer to occur.

The MDL statute is 28 U.S.C. § 1407 and was enacted in 1968 as a belated response to a price-fixing scandal at General Electric in the early 1960s, which badly swamped the federal courts with a flood of criminal prosecutions and related civil litigations.

Website: [www.jpml.uscourts.gov](http://www.jpml.uscourts.gov)

**DEFINITIONS** Multidistrict Litigation (MDL) refers to special federal legal procedure designed to speed the process of handling complex cases.

“Panel” means the members of the United States Judicial Panel on Multidistrict Litigation appointed by the Chief Justice of the United States pursuant to 28 U.S.C. ‘ 1407.

“Transferee district” is the federal district court to which the Panel transfers an action pursuant to Section 1407, for inclusion in an MDL.

“Transferor district” is the federal district court where an action was pending prior to its transfer pursuant to Section 1407, for

inclusion in an MDL, and where the Panel may remand that action at or before the conclusion of pretrial proceedings.

**DOCUMENTS**      Transfer Order  
                         Notice of Electronic Filing

**SAMPLE CASE**    2:11-md-2202

**INSTRUCTIONS**    After a district judge in our district accepts the assignment of a multidistrict litigation docket and obtains the approval of the chief judge, the process of housing an MDL begins. Within a week of the consent of the chief judge, the Panel sends the Clerk of our district the transfer order and notice of electronic filing transferring a group of cases to the transferee judge.

The Clerk will then forward the transfer order and notice of electronic filing to the Division designated to handle that MDL. A physical “certified” copy of the order will not be received.

### **Creating a Master Docket Sheet for the MDL**

The master docket sheet is referred to as the lead case and will include all activity in the MDL.

#### **Opening the master Case:**

1. Assign the case number given by the Panel. The case number for the master case will be the same case number given by the Panel. The master case number format will be the division + the year + md + the assigned multidistrict litigation number.
2. Open the case: Civil > civil case > select correct division > select type: md > case number assigned: year-assigned MDL number.
3. Date filed is the date you open the master case
4. Presiding judge is the district judge that accepted the assignment
5. Referral judge is the magistrate judge assigned to that district judge
6. Referral type: full pretrial, no dispositive motion
7. Association type: Multidistrict Litigation
8. Other court name: enter type of litigation,



9. Other court number: enter MDL number > next
10. Jurisdiction: federal question
11. Cause of Action: 28:1331 Fed Question
12. Nature of Suit: Choose in relation to MDL litigation
13. Origin: 1 (original proceeding)
14. County: Enter county case filed in
15. Fee status: waived > next

#### Naming the Master Case and Entering Parties

1. For the "plaintiff" use the short case title that the Panel has assigned. For example: In Re: Regions Bank ATM Fee Notice
  - a) Enter the short title > search
  - b) Select create new party
  - c) Role: plaintiff
  - d) Click add party
2. Add the following as interested parties, including address and phone number:
  - a) The Clerk of the MDL Panel
    - 1) Click add new party
    - 2) Search the clerk of the MDL Panel's name
    - 3) Select Party or create new party
    - 4) Role: interested party
    - 5) Enter contact information or confirm it is correct
    - 6) Click add party
  - b) The Clerk of Court from each transferor court
    - 1) Click add new party
    - 2) Search the Clerk of Court's name
    - 3) Click create new party
    - 4) Role: interested party
    - 5) Enter contact information

6) Click add party

**\*\*Complete step (b) for each Clerk of the transferor courts**

c) The attorneys noticed on the Notice of Electronic Filing received from the Panel

**\*\*NOTE:** Each attorney included on the Notice of Electronic Filing will be entered as an interested party and receive notice when something is filed in the master case. Create a list of the attorneys included on the Notice of Electronic Filing received from the Panel. Send this list to Katherine Alexander and she will assign a MDL PHV number for each attorney that is not admitted to our court. The attorneys outside of our court **DO NOT** need to pay a PHV fee.

1) Click add new party

2) Search the attorney's name

3) Select party or create new party

4) Role: interested party

5) Click add party

6) After a MDL PHV number has been assigned to the attorney, Click the attorney icon under the Interested Party-attorney's name.

7) Enter the bar number or attorney's name > search

8) Select the correct attorney and click select attorney

9) Verify attorney's name and contact information

10) Make sure notice is set to yes

11) Click add attorney

12) After all attorneys have been added click create case, answer yes to proceed

## **Filing of Documents**

The first document filed will be the Transfer Order and the Notice of Electronic Filing

1) Convert Transfer Order and Notice of Electronic Filing to pdf document;

2) Click Other Orders/Judgments > Order > next;

3) Enter/verify case number > next:

4) Verify case number and name > next;

- 5) Do not enter signature date > next
- 6) Select unassigned for the judge > next
- 7) Browse and select the transfer order
- 8) Browse and select the notice of electronic filing as an attachment > next
- 9) Do not connect to another document > next
- 10) Enter docket text:  
*TRANSFER ORDER from the Judicial Panel on Multidistrict Litigation, pursuant to 28 USC 1407, the actions listed pending outside the Southern District of Mississippi are transferred to the Southern District of Mississippi, (correct division), creating (MDL number). > click next*
- 11) Final text screen > next
- 12) NEF screen
- 13) Enter a remark on the master docket sheet: Click on Utility Events > Remark > case number > verify case number > verify date, no document, next > assign a document number, no > insert the wording below.  
*REFERENCE MUST BE MADE TO THE INDIVIDUAL DOCKET SHEET FOR ENTRIES RELATING ONLY TO INDIVIDUAL ACTIONS*
- 14) Set the Magistrate Judge and Master Case Flag
- 15) Docket a notice to all counsel. Utility Events > Remark (no number) > Modify docket text to remove "Remark." Docket text should read: *NOTICE TO ALL COUNSEL: (the case number) has been opened and assigned to (correct judge). Please see docket for further entries.*

### **Send the Required Notifications**

After the opening of the master case and all associated cases send notification to the Panel at the following address: [ANELMDL@jpmi.uscourts.gov](mailto:ANELMDL@jpmi.uscourts.gov). Notification should also be sent to the Panel for most orders filed in the master and associated cases including orders dismissing parties, closing cases and counsel changes.

\*\*The attorneys will receive notification when the notice to all counsel is entered in the master case

## **Request Transfer of Cases**

The transfer order and notice of electronic filing will list the cases to be transferred. To request the cases be transferred, you should e-mail the transferor district and request the case be transferred using the CM/ECF case transfer utility. When requesting the case from the transferor district, be sure to attach the transfer order and notice of electronic filing.

## **Opening the Transferred Cases**

Assign the case number to the case:

The case number(s) assigned to the transferred case(s) will not follow the numbering used in the normally filed civil cases. Choose a group of numbers that will not be used within the year, e.g. 2:11cv1000. Open the first transferred case with the first number chosen and then assign each case with a consecutive case number.

After being notified the transferred case is ready to be opened, follow the directions received on transferring civil cases between districts. When selecting information needed to open case, import the case information, the parties, and the attorneys. You only need to import two documents: the complaint and the filed transfer order. You do not need to import the motions, deadlines, answers or hearings.

**FLAGS**    MAG Flag

<b>Chapter</b>	<b>MDL</b>
<b>Subject</b>	<b>Origin Code and JPML Number</b>

**CHANGING THE ORIGIN CODE FOR NON-MDL CASES:**

Utilities > Maintain Case Data > Edit Case Data > enter case number > submit > select correct origin code from the drop down list > submit.

**ADDING THE JPML NUMBER:**

Utilities > Maintain Case Data > Edit Case Data > enter case number > submit > enter JPML number > submit.

**Chapter:**

**Miscellaneous**

<b>Chapter</b>	<b>MISCELLANEOUS</b>
<b>Subject</b>	<b>Amicus Curiae</b>

**AUTHORITY** Federal Rules of Appellate Procedure - Rule 29

**DEFINITION** Latin term meaning “friend of the court”.

**BACKGROUND** An *amicus curiae* is someone [professional person or organization] that is not a party to a case, who volunteers to offer information to assist a court in deciding a matter before it. The information provided may be a legal opinion in the form of a brief (which is called an *amicus* brief when offered by an *amicus curiae*), a testimony that has not been solicited by any of the parties, or a learned treatise on a matter that bears on the case. The decision on whether to admit the information lies at the discretion of the court unless the *amicus* brief is being filed by the federal government or a United States state.

**DOCUMENTS** Notice of Amicus Curiae Appearance [cv/cr]  
Leave to File Brief of Amicus Curiae (motion - cv/cr)  
Order granting leave to file amicus curiae brief  
Brief of Amicus Curiae

**SAMPLE CASE** 1:13-cv-379 Doc #34 Notice of Appearance  
Doc #35 Amicus Curiae Appearance  
Doc #36 Motion for Leave to File as Amicus Curiae  
11/18/2013 text only order granting doc #36  
Doc #39 Brief of Amicus Curiae

The documents regarding *amicus curiae* filed in the above sample case are not the correct ones. The court added the correct events after those filings were made per Judge Guriola.

## **INSTRUCTIONS**

1. Attorney should file a Notice of *Amicus Curiae* appearance entering himself/herself as counsel of record as amicus curiae.
2. The *Amicus curiae* attorney should file a Motion entitled "Leave to File Brief of Amicus Curiae" with the court.
3. After the filing of the amicus curiae motion, the court will determine if the brief will be admitted into the record.
4. Once an order granting the motion for leave to file brief of amicus curiae is entered, the amicus curiae attorney shall file his/her *amicus brief* using Civil > Responses & Replies > Brief of Amicus Curiae or Criminal > Responses & Replies > Brief of Amicus Curiae. Usually this document will be related to another filing.

SEE NEXT PAGE FOR LISTING OF EVENTS. The events are in the same location for court users as well as attorneys.



<b>Chapter</b>	<b>MISCELLANEOUS</b>
<b>Subject</b>	<b>Certificate of Service – Civil and Criminal</b>

**AUTHORITY**      [Fed.R.Civ.P. 5\(d\)\(1\)\(B\)](#)  
[Fed.R.Crim.P. 49\(b\)\(1\)](#)  
[Administrative Procedures for Electronic Case Filing, Section 4.B.](#)

**DEFINITION**      No certificate of service is required when a paper is served on all parties when filing it with the court’s electronic-filing system.  
(Effective 12/1/18)

**INSTRUCTIONS**      No Certificate of Service is required when service is made using CM/ECF. However, when service is made by other means (such as upon a pro se litigant via U.S. Mail or hand delivering and who has not consented to receiving CM/ECF electronic notifications) a certificate of service will be required.

See Local Rules Form 2(e) for Certificate of Service sample.

	<b>MISCELLANEOUS</b>
<b>Subject</b>	<b>Conflict Checking for Judges</b>

**AUTHORITY** Judicial Conference (September 19, 2006) voted to require all federal courts to implement the automated conflict-checking feature in the CM/ECF system.

**DEFINITION** Software which identifies cases in which judges may have a financial conflict of interest or nonfinancial conflicts and should disqualify themselves in keeping with the Code of Conduct for United States Judges.

### **INSTRUCTIONS**

1. When a new case is opened, review the conflict checking report for the judge who is to be assigned to the case for any conflicts.
2. UTILITIES > Conflict Checking... > Run Conflict List Report.
3. Select the appropriate judge from the drop-down list. Uncheck Exclusion List and Terminated Entries. Click Run Report.
4. Compare the list of conflicts to the parties, attorneys, etc. to determine if the judge should be assigned or the next judge on the list should be assigned.

<b>Chapter</b>	<b>MISCELLANEOUS</b>
<b>Subject</b>	<b>Consolidation of Civil Cases</b>

**AUTHORITY** Fed.R.Civ.P. Rule 42

**BACKGROUND** When actions pending before the court share common issues of law or fact, the court can consolidate the actions, either completely or for limited proceedings or stages. Consolidation is achieved by motion of any party or by the court *sua sponte*.

**DEFINITION** If actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.

**DOCUMENTS** Possible motion by attorneys requesting consolidation of cases;  
Order consolidating cases and designating lead case

<b>SAMPLE CASES</b>	2:11-cv-23	Doc # 15	Motion to Consolidate Cases
		Doc # 24	Order granting Motion to Consolidate Cases
	3:11-cv-59	Doc #14	Motion to Consolidate Cases
		Doc #22	Order granting Motion to Consolidate Cases
	2:11-cv-41	10/31/2011	Joint Ore Tenus Motion to Consolidate Cases
		Doc #20	Order granting Joint Ore Tenus Motion to Consolidate Cases
	2:11-cv-199	Doc #4	Order Consolidating Cases

**INSTRUCTIONS** Make sure Order consolidating cases is entered in the lead and all member cases. Order should designate lead case.

**Consolidation of Cases:**

1. Utilities > Maintain Case Data > Edit Case Associations;

2. Enter LEAD case number > defaults to pending case associations, select Add lead-member cases > next;
3. Enter MEMBER case number > association type: consolidated > association start date is date of order consolidating cases > add;
4. "Add Case Associations" screen appears with a "Do it again" link for the addition of another member case. Continue until you are finished adding the member cases. If you use the "Do it again" link make sure to enter the correct Lead case number.

**Note:** *Check to verify that the same District Judge is assigned in both the lead and member cases. If not the same Judge, re-assign the member case to match the judge in the lead case.*

**Flags:**

1. Set LEAD and MEMBER flags accordingly [Civil > Utility Events > Set/Clear Flags]

**Parties:** If the parties in the member case(s) differ from those in the lead case, add those parties to the lead case in one of the following designations, as appropriate:

Consol Claimant  
Consol Counter Claimant  
Consol Counter Defendant  
Consol Cross Claimant  
Consol Cross Defendant  
Consol Defendant  
Consol Plaintiff  
Consol Third Party Defendant  
Consol Third Party Plaintiff

1. Utilities > Maintain Case Data > Edit Case participants - All Other;
2. Enter lead case number > next;
3. Click Add New Party > enter last name > search:

- a. If found highlight name > click select party > change role type appropriately > start date should be date of Order consolidating cases > click Add Party (repeat as necessary);
  - b. If name not found click Create New Party > enter party name appropriately > change role type > start date should be date of Order consolidating cases > click Add Party;
4. After all parties added click Update Case > case will be modified. Proceed?  
YES
  5. If necessary, associate the proper attorney(s) with each party added.

**Closing:**

1. Once an order is signed by the judge to close the cases, enter the order in the LEAD and all MEMBER cases;
2. Complete the statistical closing data (JS6) for all cases.
3. Be sure and leave the check mark on "Terminate Case Association" screen so that the lead and member information will not be removed from the docket sheets.

**Appeals:**

1. A Notice of Appeal must be docketed in the lead case **and each member** case;
2. The Order/Judgment from which the appeal is taken is docketed in the lead case and **should also** be docketed in all member cases;
3. Records in the lead and all member cases must be certified;
4. The appeal fee is required for each Notice of Appeal. "Consolidation is permitted as a matter of convenience and economy in administration, but does not merge the suits into a single cause" Hall v. Hall, 138S.Ct.1118,1127 (2018)(citations omitted). Consolidated cases remain separate and independent actions. Id. At 1128. (per Timothy Phares at USCA 11/2/2020)

<b>Chapter</b>	<b>MISCELLANEOUS</b>
<b>Subject</b>	<b>Flags</b>

**AUTHORITY** Clerk's Office Internal Procedures

**SAMPLE CASE** 3:10-cv-230

## INSTRUCTIONS

### Set Initial Flags

1. Civil/Criminal > Utility Events > set/clear flags > next;
2. Enter or verify case number;
3. Verify case name and number;
4. Verify date document filed (file stamp date);
5. Select flag(s) by clicking on appropriate flag or to select multiple flags hold down the control key while clicking on the flags you need, i.e., NO\_CMC, Jury (if applicable), Magistrate Judge's initials, FEMA, FORMALDEHYDE, OIL SPILL, etc. as needed. When finished selecting flags click next;
6. The modify docket text screen will appear. Revise the text to read as follows:  
*\*\*\*\*Set NO\_CMC, Jury (if applicable), Magistrate XXX, (add any others flags as necessary) Flags.* Click next;
7. The final docket text screen appears. Click next;
8. The NEF screen appears; no NEF goes out. Flags are a private entry viewable only by court staff.

### Re-set Flags

1. Civil/Criminal > Utility Events > set/clear flags > next;
2. Enter or verify case number;
3. Verify case name and number;
4. Verify date document filed (file stamp date);

5. Select any flag(s) which need to be set. To select multiple flags hold down the control key while clicking on the flags you need.
6. Select any flag(s) which need to be cleared by clicking on appropriate flag or to select multiple flags hold down the control key while clicking on the flags you need. When finished selecting flags click next;
7. The modify docket text screen will appear. If flags were added or cleared, revise the text to read as follows: *\*\*\*Set flags: list specific flags set; Clear flags: list specific flags cleared.* Click next;
8. The final docket text screen appears. Click next;
9. The NEF screen appears; no NEF goes out. Flags are a private entry viewable only by court staff.

Note: Remember to clear the case referral flag when a report and recommendation is filed.

<b>Chapter</b>	<b>MISCELLANEOUS</b>
<b>Subject</b>	<b>Notice of Conventional Filing Regarding Other Documents</b>

**AUTHORITY** Administrative Procedures of Electronic Case Filing Section 6.A.1

**BACKGROUND** Some documents cannot be filed electronically (usually exhibits). Any conventionally filed document must be accompanied by a Notice of Conventional Filing document. The attorney must bring to the clerk's office the document and the Notice of Conventional Filing document.

**SAMPLE CASE** 1:18-cv-381 Doc #39 Notice of Conventional Filing  
Doc #40 Conventional Document

## **INSTRUCTIONS**

### **Docket Notice of Conventional Filing document**

1. Attorney should bring to clerk's office the (1) Notice of Conventional Filing with **original signature(s) of counsel**, and (2) the document to be filed;
2. Docket Clerk: check to make sure all documents are presented;
3. File stamp and scan the Notice of Conventional Filing document;
4. Docket: Civil/Criminal > Other Documents > Notice of Conventional Filing > enter case number > verify case name and number > date document filed is date of file stamp > browse and select Notice of Conventional Filing document;
5. Select the filer;
6. Modify text screen appears;
7. Docket Text: Final Text Screen appears;
8. NEF screen appears.



**Docket the Conventional Document using the appropriate event code:**

Exhibit (Document), Exhibit (Sealed) Document, Exhibit (Restricted) Document, Sealed Document, etc. (Order required if document is sealed or restricted, see separate procedure for details)

Include in your entry that the document, CD, or whatever you receive is maintained in the clerk's office.

<b>Chapter</b>	<b>MISCELLANEOUS</b>
<b>Subject</b>	<b>Notice of Conventional Filing Regarding Sealed Documents</b>

**AUTHORITY** Administrative Procedures of Electronic Case Filing Section 6.A.1

**BACKGROUND** Most conventionally filed documents are sealed documents. An attorney must file a motion requesting a document be filed under seal and the court must issue an order granting the motion to file under seal. In order to file the sealed document conventionally, the attorney must bring to the clerk's office the "sealed" document, the order granting the document be sealed, and the Notice of Conventional Filing document.

**SAMPLE CASE** 1:13-cv-504 Doc #57 Motion to Seal Document  
03/3102014 Text Only Order granting Motion to Seal Document  
Doc #61 Notice of Conventional Filing  
Doc #62 \*Sealed\* Document

## INSTRUCTIONS

### Docket Notice of Conventional Filing document

1. Attorney should bring to clerk's office the (1) order granting the motion to seal document, (2) the Notice of Conventional Filing with **original signature(s) of counsel**, and (3) the document to be sealed;
2. Docket Clerk: check to make sure all documents are presented;
3. File stamp and scan the Notice of Conventional Filing document;
4. File stamp and scan the sealed document;
5. Docket: Civil/Criminal > Other Documents > Notice of Conventional Filing > enter case number > verify case name and number > date document filed is date of file stamp > browse and select Notice of Conventional Filing document;
6. Select the filer;

7. Modify text screen appears;
8. Docket Text:Final Text Screen appears;
9. NEF screen appears.

**Docket Sealed Document:**

1. Civil/Criminal > Other Documents > Sealed Document;
2. Enter/verify case number > verify case name and number > date filed same as file stamp date of sealed document;
3. Browse and select the sealed document;
4. Link the sealed document to the Notice of Conventional filing document and the Order granting the motion to seal;
5. If the sealed document(s) are exhibit(s) to an existing document, link to the existing document as well;
6. Modify text screen appears > links will display;
7. Final text screen appears;
8. NEF appears - notices sent the document is sealed.

<b>Chapter</b>	<b>MISCELLANEOUS</b>
<b>Subject</b>	<b>Notice of Lis Pendens</b>

**DEFINITION** This is a latin term for “a suit pending”. The term may refer to any pending lawsuit. A written notice that a lawsuit has been filed concerning real estate, involving the title to the property or a claimed ownership interest in it. The notice is usually filed in the county land records office. Recording a lis pendens alerts a potential purchaser or lender that the property’s title is in question, which makes the property less attractive to a buyer or lender. After the notice is filed, anyone who nevertheless purchases the land or property described in the notice takes it subject to the ultimate decision of the lawsuit.

**DOCUMENTS** Notice of Lis Pendens

**FILING FEE** N/A

**SAMPLE CASES** 1:13-cv-388 Doc #2 - Notice of Lis Pendens  
3:14-cv-29 Doc #2 - Notice of Lis Pendens

**INSTRUCTIONS** filed by the attorney

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<b>Chapter</b>	<b>MISCELLANEOUS</b>
<b>Subject</b>	<b>Notice Concerning Waiver of Judicial Disqualification</b>

Canon 3D of the Code of Conduct for United States Judges provides (with exceptions not pertinent to this case) that when a judge is disqualified in a proceeding because “the judge’s impartiality might reasonably be questioned,” the judge may participate in the proceeding if all the parties and lawyers, after notice of the basis of the disqualification, agree in writing to waive the disqualification under a procedure independent of the judge’s participation.

Notice Concerning Waiver of Judicial Disqualification – Barbour

Notice Concerning Waiver of Judicial Disqualification – Gulfport

Notice Concerning Waiver of Judicial Disqualification – Hattiesburg

Notice Concerning Waiver of Judicial Disqualification – Jackson

NOTICE CONCERNING WAIVER OF JUDICIAL  
DISQUALIFICATION

FROM: Arthur Johnston, Clerk of Court  
501 E. Court St., Suite 2.500  
Jackson, MS 39201

DATE: \_\_\_\_\_

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Counsel

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Counsel

RE: \_\_\_\_\_  
Civil Action No. \_\_\_\_\_

Canon 3D of the Code of Conduct provides (with exceptions not pertinent to this case) that when a judge is disqualified in a proceeding because “the judge’s impartiality might reasonably be questioned,” the judge may participate in the proceeding if all the parties and lawyers, after notice of the basis for the disqualification, agree in writing to waive the disqualification under a procedure independent of the judge’s participation. A copy of the pertinent parts of Canon 3 and commentary are enclosed for your reference.

Unless a waiver is obtained from all parties and all counsel, Judge William H. Barbour, Jr. intends to disqualify in this proceeding because the law firm of McCoy, Wilkins, Stephens & Tipton represents one of the parties in the case and his son-in-law, Paul A Hurst, is an associate of that firm.

If you and your client(s) wish to waive the Judge’s disqualification, letters to that effect from you and from your client(s) must be sent to me by \_\_\_\_\_. The letters should not be sent to the Judge and copies should not be sent to other counsel. If all parties and all counsel submit such letters, this Notice and all responses will be made part of the record, as required by Canon 3D, and the Judge will continue to participate in the proceeding. If a waiver is not received from all parties and all counsel, this Notice and any responses will be kept under seal by the Clerk and not shown to the Judge, nor will the Judge be informed of the identity of any party or lawyer who declined to waive the disqualification. If the disqualification is not waived, the case will be reassigned to another Judge.

NOTICE CONCERNING WAIVER OF  
JUDICIAL DISQUALIFICATION

FROM: The Clerk of Court  
U. S. District Court for the Southern District of Mississippi  
Dan M. Russell, Jr. U. S. Courthouse  
2012 15th Street - Suite 403  
Gulfport, MS 39501

TO:

RE:

Canon 3D of the Code of Conduct for United States Judges provides (with exceptions not pertinent to this case) that when a judge is disqualified in a proceeding because “the judge’s impartiality might reasonably be questioned,” the judge may participate in the proceeding if all the parties and lawyers, after notice of the basis for the disqualification, agree in writing to waive the disqualification under a procedure independent of the judge’s participation.

Unless a waiver is obtained from all parties and all counsel, U. S. District Judge \_\_\_\_\_ intends to disqualify in this proceeding because \_\_\_\_\_.

If you and your client wish to waive the judge’s disqualification, letters to that effect from you and from your client must be sent to the above address within fifteen (15) days of the date of this Notice. **The letters should not be sent to the judge, nor e-filed, and copies should not be sent to other counsel.** If all parties and all counsel submit such letters, this Notice and all responses will be made a part of the record, as required by Canon 3D, and the judge will continue participation in the proceeding. If a waiver is not received from all parties and all counsel, this Notice and any responses will be kept under seal by the clerk and not shown to the judge, nor will the judge be informed of the identity of any party or lawyer who declined to waive the disqualification. If the disqualification is not waived, the case will be assigned to another judge.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NOTICE CONCERNING WAIVER OF  
JUDICIAL DISQUALIFICATION

FROM: The Clerk of Court  
U. S. District Court for the Southern District of Mississippi  
William J. Colmer U. S. Courthouse  
701 N. Main Street - Suite 200  
Hattiesburg, MS 39401

TO:

RE:

Canon 3D of the Code of Conduct for United States Judges provides (with exceptions not pertinent to this case) that when a judge is disqualified in a proceeding because “the judge’s impartiality might reasonably be questioned,” the judge may participate in the proceeding if all the parties and lawyers, after notice of the basis for the disqualification, agree in writing to waive the disqualification under a procedure independent of the judge’s participation.

Unless a waiver is obtained from all parties and all counsel, U. S. District Judge \_\_\_\_\_ intends to disqualify in this proceeding because \_\_\_\_\_.

If you and your client wish to waive the judge’s disqualification, letters to that effect from you and from your client must be sent to the above address within fifteen (15) days of the date of this Notice. **The letters should not be sent to the judge, nor e-filed, and copies should not be sent to other counsel.** If all parties and all counsel submit such letters, this Notice and all responses will be made a part of the record, as required by Canon 3D, and the judge will continue participation in the proceeding. If a waiver is not received from all parties and all counsel, this Notice and any responses will be kept under seal by the clerk and not shown to the judge, nor will the judge be informed of the identity of any party or lawyer who declined to waive the disqualification. If the disqualification is not waived, the case will be assigned to another judge.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



NOTICE CONCERNING WAIVER OF  
JUDICIAL DISQUALIFICATION

FROM: The Clerk of Court  
U. S. District Court for the Southern District of Mississippi  
Jackson Federal Courthouse  
501 East Court Street - Suite 2.500  
Jackson, MS 39201

TO:

RE:

Canon 3D of the Code of Conduct for United States Judges provides (with exceptions not pertinent to this case) that when a judge is disqualified in a proceeding because “the judge’s impartiality might reasonably be questioned,” the judge may participate in the proceeding if all the parties and lawyers, after notice of the basis for the disqualification, agree in writing to waive the disqualification under a procedure independent of the judge’s participation.

Unless a waiver is obtained from all parties and all counsel, U. S. District Judge \_\_\_\_\_ intends to disqualify in this proceeding because \_\_\_\_\_.

If you and your client wish to waive the judge’s disqualification, letters to that effect from you and from your client must be sent to the above address within fifteen (15) days of the date of this Notice. **The letters should not be sent to the judge, nor e-filed, and copies should not be sent to other counsel.** If all parties and all counsel submit such letters, this Notice and all responses will be made a part of the record, as required by Canon 3D, and the judge will continue participation in the proceeding. If a waiver is not received from all parties and all counsel, this Notice and any responses will be kept under seal by the clerk and not shown to the judge, nor will the judge be informed of the identity of any party or lawyer who declined to waive the disqualification. If the disqualification is not waived, the case will be assigned to another judge.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Chapter:**

**Motions**

<b>Chapter</b>	<b>MOTIONS</b>
<b>Subject</b>	<b>Modify Judge Association Data (Entering an Association Term Date for Motion)</b>

**AUTHORITY** AO - SDSA Knowledge Base

**BACKGROUND** The motion section of the CJRA Report shows a motion for a District Judge which was termed. The CM/ECF Motions Report shows the motion as termed.

**DEFINITION** Modify Judge Association Data is a utility which allows for the motion start date and motion term date to be revised and/or entered for the correct judge. The filing of a motion inserts the Association Start date and upon filing the order on motion, the Association Term date is automatically entered. If a motion needs to be terminated, an Association Term date will need to be entered manually in order for the motion(s) to be termed properly.

**THIS IS TO REMOVE A PENDING MOTION THAT HAS BEEN RULED ON FROM THE 6 MONTH REPORT**

**INSTRUCTIONS**

1. Utilities;
2. Maintain Case Data;
3. Edit Docket Entries;
4. Enter Case Number > next;
5. Select appropriate docket entry;
6. Select "Modify judge association data" > next;
7. Enter the Association Term date > next;
8. Motion will now be termed behind the scenes and removed from all reports.

<b>Chapter</b>	<b>MOTIONS</b>
<b>Subject</b>	<b>Ex parte Motion</b>

## **DEFINITION**

*Ex parte* is a Latin legal term meaning “from (by or for) one party”. An *ex parte* decision is one decided by a judge without requiring all of the parties to the controversy to be present. In U.S. legal doctrines, *ex parte* means a legal proceeding brought by one person in the absence of and without representation or notification of other parties. It is also used more loosely to refer to improper unilateral contracts with a court, arbitrator or represented party without notice to the other party or counsel for that party.

## **INSTRUCTIONS**

1. Only function of clerk staff as to the *ex parte* motion is to check for a proper style and signature. **No certificate of service is required.** It is not the responsibility of the clerk’s staff to term this motion for any other reason than improper signature or if document is filed in wrong case.
2. Ex parte motions and orders ruling on those type motions are only viewable by the filer and the court.

<b>Chapter</b>	<b>MOTIONS</b>
<b>Subject</b>	<b>Add or Delete a Judge's Association to a Specific Motion or Part</b>

**BACKGROUND** A motion, in some instances, can be dispositive or non-dispositive. In the event a dispositive motion is associated with the magistrate judge, the motion would need to be removed from the judge's motion list.

**DOCUMENTS** Motion(s)

## **INSTRUCTIONS**

1. Big Utilities;
2. Maintain Case Data;
3. Edit Docket Entries;
4. Enter case number > next;
5. Select the radio button for the appropriate Motion - scroll down;
6. Select the radio button for **Add or Delete Judge Association with Documents and Schedules** > next;
7. Select the radio button for the motion or motion part > next;
8. Select the magistrate judge which should no longer be associated with this motion or motion part > next;
9. Submit;
10. Run a pending motions report on the case to see that the motion or motion part no longer appears on the Magistrate Judge motion list.

**NOTE**

By using the Utilities feature, no docket entry is made and no NEFs are sent to attorneys or parties.

The "Modify Judge Association Data" feature on the Edit docket entries screen **does not** remove the information *Referred to: (Magistrate Judge name)* on the District Judge's motion report.

<b>Chapter</b>	<b>MOTIONS</b>
<b>Subject</b>	<b>Temporary Restraining Order/Preliminary Injunction</b>

**AUTHORITY** Fed.R.Civ.P. Rule 65

**BACKGROUND** To obtain a TRO, a plaintiff must prove four elements: (1) likelihood of success on the merits; (2) the extent to which the plaintiff is being irreparably harmed by the defendant's conduct; (3) the extent to which the defendant will suffer irreparable harm if the TRO issues; and (4) the public interest.

**DEFINITION** A temporary restraining order (TRO) may be issued for short term. A TRO usually lasts while a motion for preliminary injunction is being decided, and the court decides whether to drop the order or to issue a preliminary injunction.

A TRO may be granted *ex parte*, without informing in advance the party to whom the TRO is directed. Usually, a party moves *ex parte* to prevent an adversary from having notice of one's intentions. The TRO is granted to prevent the adversary from acting to frustrate the purpose of the action, for example, by wasting or hiding assets (as often occurs in divorce) or disclosing a trade secret that had been the subject of a non-disclosure agreement.

**Security:** The court may issue a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. The United States, its officers, and its agencies are not required to give security.

**FILING FEE** \$350.00 - If opening a new case with a complaint for Temporary Restraining Order; otherwise no charge

**SAMPLE CASE** 2:10-cv-191 Doc #1 Complaint  
Doc #2 Motion for TRO

Doc #3	Order Granting Motion for TRO and Setting Bond
Doc #4	Posting of Bond (Exhibit: copy of receipt)

## INSTRUCTIONS

Attorney should file motion for TRO  
Order should rule on Motion

### Preliminary Injunction

After the issuance of the TRO, usually a preliminary injunction is issued.

A preliminary injunction, in equity, is an injunction entered by a court prior to a final determination of the merits of a legal case, in order to restrain a party from going forward with a course of conduct or compelling a party to continue with a course of conduct until the case has been decided. If the case is decided against the party that has been enjoined, then the injunction will usually be made permanent. If the case is decided in favor of the party that has been enjoined, the injunction will usually be dissolved or dismissed.

**Security:** The court may issue a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. The United States, its officers, and its agencies are not required to give security.

In most courts in the United States, the party seeking the *Preliminary Injunction* must demonstrate all four things together: (same as TRO)

1. That there is a substantial likelihood of *success on the merits* of the case;
2. That they face a substantial threat of *irreparable damage or injury* if the injunction is not granted;
3. That the *balance of harms* weighs in favor of the party seeking the preliminary injunction;
4. That the grant of an injunction would serve the public interest.



<b>SAMPLE CASE</b>	1:07-cv-105	Doc #2	Motion for TRO
		Doc #4	Order Granting Motion for TRO and setting security requirements
		Doc #7	Posting of security bond
	1:09-cv-367	Doc #2	Motion for TRO & Motion and Preliminary Injunctive relief
		Doc #14	Order granting Motion for Preliminary Injunctive relief; denying as moot TRO; and setting surety bond
		Doc #15	Preliminary Injunction

This case does not show bond ever paid.

**Chapter:**

**New Civil Cases**

<b>Chapter</b>	<b>NEW CIVIL CASES</b>
<b>Subject</b>	<b>Acceptance of Electronically Filed Case Initiating Documents</b>

**AUTHORITY** The [Administrative Procedures](#) have been amended to allow for electronically filed case initiation documents, and the new version is available on the court’s intranet and internet websites.

Beginning August 15, 2017, our District will accept case initiating documents in CM/ECF filed by attorneys electronically.

**BACKGROUND** The following procedures explain what Intake Clerks and Docket Clerks must do to utilize this new feature. Please familiarize yourself with them. Attorney Instructions are found as Appendix A to our revised Administrative Procedures, which is posted on our internet (public) and intranet (internal) websites. [Attorney Case Opening Instructions](#)

**DEFINITION** Processing electronic case filings of new complaints and notice of removals by attorneys.

**FILING FEE** See [Schedule of Fees](#)

## **INSTRUCTIONS**

1. **New Cases will Appear in “New Cases Buckets.”** We have has created a “New Cases Bucket” for each division, and a folder has been added to your Lotus Notes email account containing a link to it. Periodically throughout each day, our intake clerks (and their backups when they are out) at each divisional office will need to check this bucket and assign a case number and judges for each complaint or notice of removal which may be found there. As always, be sure to run a conflicts check before assigning judges.

2. **Case and Judge Assignment Cards will Still be Used.** We will continue to use the assignment card decks at the front counter in each divisional office to select the case number in sequence and assign the next judges in rotation. Attorneys will submit their complaint or notice of removal in CM/ECF and the documents will be sent to the “New Cases Buckets.” The attorneys must attach a civil cover sheet as an exhibit, and they may also attach other exhibits to the complaint or notice of removal just as they would with any other document they may file currently. In the case of removals, one exhibit will be the state court record or such of the pleadings in the state court record as may have been served upon the removing party already.
3. **Summonses may be Submitted to us Electronically for Issuance.** The attorneys may also attach a proposed summons(es) (Form AO 440) as an exhibit to their initial filing, or, they may still bring the summons(es) to the counter for issuance. If submitted electronically as an exhibit to the complaint, please do not docket it as an exhibit; rather, print it out and issue it in hard copy form. Then separately docket it as issued. The attorneys are free to retrieve the summons as issued in person or we will mail them up to three summonses. If there are more than three, the attorney should submit a self-addressed stamped envelope for returning the summonses by mail. (You may have to contact the filing attorney and ask whether he or she would like to retrieve the summons(es) in person or by having us mail them.)
4. **Complaints and Notices of Removal will Still be Accepted in Paper at the Counter and by Mail.** We will continue to accept paper filings of new cases at the counter and by mail just as we have always done.
5. **Electronic Filing of New Cases is Available to Attorneys Only.** This procedure is available only to attorneys admitted to practice in our court. Pro se litigants must still file conventionally and may not file complaints or notices of removal electronically.
6. **Payment of Filing Fees will be by [www.pay.gov](http://www.pay.gov) Only.** Payment of filing fees will be handled through [www.pay.gov](http://www.pay.gov). This is the only acceptable method of payment for attorneys filing case initiating documents electronically. Current

methods of payment for conventionally filed civil complaints and removals will still apply – and [www.pay.gov](http://www.pay.gov) will not be available for conventional filers.

7. **How it Works.** When an attorney completes the “Open a New Civil Case” feature in CM/ECF, the system will create a “dummy” or “shell” case number, as follows:
  6. 3:18-**mc**-9999 for Northern Division cases;
  7. 1:18-**mc**-9999 for Southern Division cases;
  8. 2:18-**mc**-9999 for Eastern Division cases; and
  9. 5:18-**mc**-9999 for Western Division cases.
  10. This case number is not official and should never be found on any pleading. When you open each new filing in the “New Cases Bucket,” you will see an NEF with this “dummy” or “shell” case number on it. Disregard it. The official case number will be assigned once you complete the case opening steps for that case. The NEF should contain a receipt from [www.pay.gov](http://www.pay.gov) which will need to be added into CM/ECF when the new case is opened by our office.
  11. The year prefix will change with each new calendar year for the “dummy” case numbers.
8. **Electronic Signatures will be Accepted.** For new civil complaints and removals filed using this new feature, an attorney’s electronic signature will be acceptable. Do not reject the filing for that reason or make any docket annotation about the lack of a “wet” signature.
9. **Date and Time of Filing.** New cases submitted using this procedure will be deemed filed the day and time the Clerk’s Office receives the initiating document and the required filing fee through the “dummy” or “shell” case. Please put that date as the filed date on the docket when you open the case.
10. **Step-by-Step Internal Procedure for Intake and Docket Clerks.** The following steps are to be utilized internally to implement this procedure:

- (1) **Intake Clerks** (or their backups when they are out) will check the “New Cases Bucket” periodically throughout the day, and for each new case.
- (a) Review the NEF, noting the document number in the “dummy” or “shell” case, the parties, the filing attorney, the date and time of filing, and the [www.pay.gov](http://www.pay.gov) receipt number.
  - (b) Assign the case number, perform the usual conflict check, and assign the judges from the proper assignment deck (cards).
  - (c) Open CM/ECF and navigate to Reports. Type in the appropriate “dummy” or “shell” case number for the division, e.g., 3:17-**mc**-9999 and **uncheck the box next to “Include headers when displaying PDF documents.”** Click Sort by: “Most recent date first.” Click “Run Report.”
  - (d) Click on the document number corresponding to the *complaint or notice of removal* in the case noted in (a) above.
  - (e) Save the complaint or the notice of removal as a PDF file on your desktop in a place and manner that will be easy to find later. Separately do the same for each attachment (including civil cover sheet and summons if any).
  - (f) Open the complaint or notice of removal in Adobe Acrobat Pro, type the case number in the blank on the first page by doing the following:
    - i. In Adobe Acrobat Pro, click on the “Tools” tab in the upper right corner and navigate to “Content.”
    - ii. From the drop down menu, select “Add or Edit Text Box” (with the typewriter icon).

- iii. Place the cursor at the beginning of the blank line for the case number on the first page of the complaint or notice of removal.
  - iv. Type the complete case number including dashes and judges' initials.
  - v. Re-save the complaint or notice of removal **by going to File, then Print, then selecting Adobe PDF for the printer. Click "Print" and then name the document at the "Save PDF as" window. Another option to save is to click on File, in the dropdown menu click on "Save As", then click on C:\PDF Files\, Name document and click Save.**
- (g) Open the PDF containing the *civil cover sheet* found as an attachment to the document in the same manner described in (d) and (e) above, and type the case number following the same process as above. You must also type in the receipt number from the NEF following the same steps. (Type both numbers in the top right hand area of each document or anywhere else on the document that you may find free space.) Save the civil cover sheet by going to "File," then "Save as," then "Reader Extended PDF," then "Enable Adding Text in Documents (that are not fillable forms)."
- (h) Forward the NEF from the "New Cases Bucket" for this case to the appropriate divisional "Orders Bucket" as follows:

Northern Division	jackson_docket@mssd.uscourts.gov
Southern Division	docket@mssd.uscourts.gov
Eastern Division	hatt_docket@mssd.uscourts.gov
Western Division	jackson_docket@mssd.uscourts.gov

**Be certain to attach the complaint or notice of removal, the civil cover sheet, the summons(es) if any, and any other exhibits to this email.**

**Be sure the subject line in the email contains the words “NEW CASE” in all caps, the case number you have assigned to the case and the judges’ initials as well as a short title. Here is an example of a good subject line –**

*Re: NEW CASE 3:17-cv-546-DPJ-FKB Brown v. Montgomery*

Delete the email from the “New Cases Bucket” once you have forwarded the NEF with the attachments.

- (2) **Docket Clerks** will then regularly check their respective divisional “Orders Bucket” for new case submissions by the intake clerks. Please use the current terminal digit assignments. Then –
- (a) Open the documents attached to the email and verify all are correctly completed and all information is readable, etc.
  - (b) Open the case in CM/ECF, assigning the judge, adding parties and attorneys, and adding the receipt number found in the original NEF or on the civil cover sheet.
  - (c) Docket the complaint or notice of removal, together with the civil cover sheet and any exhibits.
  - (d) Print the summon(es), fill in the case number by hand, issue conventionally, and contact the attorney to ascertain whether to mail them back to have them picked up.
  - (e) Docket the summon(es) after issuance.
  - (f) Docket Remark No Number: Original summons(es) mailed to plaintiff’s attorney for service via regular U.S. Mail.



**The following instructions are for the attorneys who are submitting the complaint electronically:**

The Clerk's Office in the United States District Court for the Southern District of Mississippi now accepts civil case opening documents submitted electronically on the CM/ECF system in PDF format.

**Types of Documents Accepted.** Documents accepted by this means include, primarily, any new civil Complaint as defined by Rule 3 of the Federal Rules of Civil Procedure or any new Notice of Removal under 28 USC § 1446, together with any exhibits, a completed civil cover sheet, and any summons or summonses sought to be issued. If an attorney submits other, non-case opening documents or pleadings, those pleadings will be rejected, and the attorney will be contacted by the Clerk's Office and instructed to electronically file them using the correct case number in CM/ECF once the case is officially opened. All documents must be submitted in PDF format.

**Payment of Filing Fee.** To utilize this feature, payment of the appropriate filing fees must be submitted through the U. S. Treasury Internet credit card program ([www.pay.gov](http://www.pay.gov)) within the court's CM/ECF system. The proper filing fee paid through [www.pay.gov](http://www.pay.gov) must accompany case opening documents.

**Available Only to Attorneys Admitted to Practice in our Court.** Only attorneys admitted to practice in the Southern District of Mississippi are allowed to file new cases electronically.

**New Cases Are Still Accepted in Paper at the Counter and by Mail.** The Clerk's office will continue to accept and process new cases filed conventionally either in person or by mail. Those procedures and payment options have not changed and are still available to both attorneys and pro se litigants.

**Date and Time of Filing.** New cases submitted using this procedure will be deemed filed the day the Clerk's Office receives the initiating document and the required filing fee, although official case opening in CM/ECF may not take place until the following day.

Judge and Case Number Assignments Will Still be Made by the Clerk's Office. Upon verification that the proper fee has been paid, the Clerk's Office will assign a District Judge and a Magistrate Judge in accordance with Internal Rule No. 1, assign an official case number, and enter the initiating document(s) in CM/ECF. The submitting attorney will then receive a Notice of Electronic Filing (NEF) containing the official case number and listing the assigned judges. The case number contained in this NEF will be the official case number for the matter and must be used on all further filings in the case.

Summons. Although summons(es) may be submitted electronically as attachment(s) to the complaint, they will still be issued by the Clerk's Office conventionally - that is, in paper. Attorneys must still prepare and submit a summons or summonses to the Clerk's Office for issuance in the form promulgated by the Administrative Office of U. S. Courts. Once the case is opened, the summons will be issued by the Clerk's Office and will be returned to the filing attorney by regular mail (upon receipt of a self-addressed stamped envelope), or may be picked up at the front counter of the Clerk's Office. Service of the summons and complaint must still be made under Rule 4 of the Federal Rules of Civil Procedure.

Attorney Case Filing Procedure. To file a new civil case electronically, the attorney will:

1. Log in to CM/ECF using his or her assigned username and password.
2. Click on the "Civil" tab in the blue menu bar.
3. Click on one of the following links corresponding to the division in which the case is to be filed:
  - a. Open a New Civil Case (Northern Division)
  - b. Open a New Civil Case (Southern Division)
  - c. Open a New Civil Case (Eastern Division)
  - d. Open a New Civil Case (Western Division)

Pay careful attention to this step and be sure to select the correct division for the case. Cases filed in the wrong division are subject to dismissal by the presiding judge.

4. Highlight Civil Case Request by Attorney.
5. Follow all prompts.
6. Attach the Complaint or Notice of Removal as the main initiating document.
7. Attach all supporting documents, proposed summons(es), and the civil cover sheet as separate exhibits to the complaint or notice of removal. Please do not combine the complaint, civil cover sheet, exhibits and summons as one single document. Additionally, with a Notice of Removal, all pleadings served on the defendant in the state court below should be attached as an exhibit and the entire state court record must be filed as a separate document within 14 days after the Notice of Removal is filed.
8. Pay the proper filing fee using [www.pay.gov](http://www.pay.gov) when prompted.

Upon completion of the filing transaction, the Clerk's Office will open the case and the filing attorney will receive a Notice of Electronic Filing (NEF) confirming the case number and judge assignment. The case number received in this NEF will be the official case number for the case and must be used on all further filings in the case.

For assistance, please contact Chief Deputy Clerk Sandra Campbell at 601-608-4000.

<b>Chapter</b>	<b>NEW CIVIL CASES</b>
<b>Subject</b>	<b>Complaint-General (Individual, Business, Pro Se Civilian)</b>

**AUTHORITY**

Fed.R.Civ.P. Rules 2 and 3  
District Court Clerk’s manual Chapter 4

**DEFINITION**

A complaint is a formal, legal document that sets out the facts and legal reasons that the filing party (plaintiff) believes are sufficient to support a claim against another person(s) or entity(s) (defendant) that entitles the plaintiff(s) to a remedy of money damages or injunctive relief. The complaint is the first pleading in a civil action.

**FILING FEE**

See Schedule of Fees for civil filing fee (check, cash or money order; payable to Clerk, United States Courts); IFP motion

**DOCUMENTS**

- 1) Civil Cover Sheet (scan in) JS-44;
- 2) Complaint (scan in);
- 3) Exhibits (scan in) pertaining specifically to the Complaint, i.e. insurance policy, maps, etc.;
- 4) Summons (to be discussed in the section on Service of Process; the summons may or may not accompany the complaint at the time of filing.).

**SAMPLE CASE**

3:10-cv-247 Doc #1 Complaint with attachments

**NOTES**

Intake should verify that all necessary original documents are present and signed by an attorney or pro se plaintiff (wet signature). A receipt should be provided by a deputy clerk to the attorney or pro se plaintiff for the correct filing fee [if pro se plaintiff files a motion to proceed *in forma pauperis* then no filing fee is required until motion is ruled on]. All documents should be file stamped. Summonses are not file stamped because these documents are issued.

For pro se prisoner case openings consult section in manual.

**Assignment of Case Number:**

1. Each case accepted for filing is assigned a case number;
2. All case numbers start with one digit indicating the divisional office: 1-Southern; 2-Hattiesburg; 3-Jackson; 4-Eastern; 5-Western;
3. Next is the two-digit indicator of the year in which the case was filed;
4. The notation “cv” for civil cases follows the year number;
5. The chronological case number is last (up to five digits);

*EXAMPLE: 1:10-cv-12345*

6. District judge’s and magistrate judge’s initials end the case number.

*EXAMPLE 1:10-cv-12345-HTW-LRA*

**Assignment of District Judge:**

CM/ECF allows the court to manage the judge assignment process during case opening. In addition, CM/ECF software contains enhanced Conflict Checking functionality that can assist judges in determining whether recusal is appropriate in a particular case.

1. Intake, upon receipt of initial pleading(s), will assign the district judge by consulting the court’s index cards to see which judge is next in the rotation.
2. The conflict checking process is begun to ensure that a party is not on the judge’s recusal list. Check the judge’s recusal list to see if a conflict exists. UTILITIES > Conflict Checking... > Run Conflict List Report > Select appropriate judge > deselect “Exclusion List” and “Terminated Entries” > Run Report. Compare the list of conflicts to the parties, attorneys, etc. to determine if the judge should be assigned or the next judge on the list should be assigned.
3. If no conflict exists assign the next judge in the rotation.
4. If a conflict exists, go to the next judge in the court’s index cards and begin the conflict checking for this judge. Continue until a district judge is found without a conflict.

MAGISTRATE JUDGES are automatically assigned to District Judges in civil cases. This assignment is done through an administrative order from the Chief Judge.

Write case number, district judge name, and magistrate judge name on civil cover sheet, complaint and summons

## **INSTRUCTIONS FOR OPENING CASE AND FILING OF DOCUMENTS**

### **CASE OPENING STATISTICS:**

1. Civil > civil case > select correct division > case type:cv > case number assigned;
2. Date filed - defaults to current date (check to ensure the date filed matches the file stamp date on the pleading);
3. Presiding Judge is the District Judge assigned to the case;
4. Referral Judge is the Magistrate Judge assigned to the district judge;
5. Referral Type: (Full pretrial, no dispositive motion), next;
6. Jurisdiction: check civil cover sheet against complaint for jurisdiction, i.e. 3-Federal Question, etc.; make choice according to complaint;
7. Cause of action: check civil cover sheet against complaint, i.e. 28:1331pi (28:1331 Fed. Question: Personal Injury); make choice according to complaint;
8. Nature of suit: check civil cover sheet against complaint, i.e., 360 (P.I.: Other); make choice according to complaint;
9. Origin: always (1) Original Proceeding;
10. Citizenship plaintiff/defendant: only used in diversity matters;
11. Jury demand: must be taken from the complaint, not the civil cover sheet;

*If the civil cover sheet lists a jury demand and the complaint does not, contact the attorney via phone and explain that he/she will have to file a Notice of Jury Demand; only enter jury demand if listed in the complaint and select p (Plaintiff);*

12. Demand: enter money demand only if listed in the complaint, demand is entered in thousands; the system will only accept 9 digits, *i.e. 99,000,000 is entered as 99000; the system adds the final three zeroes;*
13. County: taken from the civil cover sheet, enter the name of the county where the first listed plaintiff resides at the time the case is filed. If the U.S. Government is the plaintiff, enter the name of the county in which the first listed defendant resides at the time the case is filed;
14. Fee status: paid (paid); Next;
15. The screen allowing for the adding of parties appears.

**PARTY TEXT INFORMATION:** Party text is additional information related to a party such as in the case of a minor child, a business, a deceased person, etc.

- EXAMPLES:**
- (1) Party name: Dr. Marcus Welby, party text “individually and in his official capacity;
  - (2) Party name: ABC Corporation, *party text “and its divisions BAC, Inc.;*
  - (3) Party name: Nancy Reagan, *party text “as Administratrix of the Estate of Ronald Reagan, deceased and on behalf of all wrongful death beneficiaries of Ronald Reagan, deceased”;*
  - (4) Party name: John Doe, *party text “as the natural father and next friend of James Doe, a minor;*

**CASE OPENING PARTIES - INDIVIDUALS:**

**DO NOT ADD PRO SE LITIGANT’S EMAIL ADDRESS AT THIS SCREEN. IF THE PRO SE PARTY IS ALREADY IN THE DATABASE WITH AN EMAIL ADDRESS, YOU MUST STILL MAIL THEM THE CONSENT FORM AS THEIR EMAIL ADDRESS COULD HAVE CHANGED SINCE BEING ADDED TO THE DATABASE. DO NOT DELETE THE EMAIL ADDRESS. KATHERINE WILL UPDATE THE EMAIL ADDRESS TO MATCH THE RECENT CONSENT FORM.**

1. Search for party’s last name in Last/Business Name text box. If correct name is found, highlight name and click “select party” button.
  - a. Select correct role type (plaintiff);
  - b. Enter party text if necessary;

- c. For alias see below;
  - d. Click "Add party" button.
2. If party name is not found, click on "Create New Party" button. Enter the last name, first name and middle name/initial.
  - a. Select role of party (plaintiff);
  - b. Enter party text if necessary;
  - c. For alias see below;
  - d. Click "Add Party" button.
3. Continue the above steps to add all defendant party(s).

### **CASE OPENING PARTIES - BUSINESSES**

1. Search for business by typing entire business name in the last name text box. If correct name is found, highlight name and click "select party" button.
  - a. Select correct role type (plaintiff/defendant);
  - b. Enter party text if necessary;
  - c. Corporation: Select "YES" if applicable;
  - d. Click "Add party" button.
2. If party name is not found, click on "Create New Party" button. Enter entire business name in the last name text box.
  - a. Select role of party (plaintiff/defendant);
  - b. Enter party text if necessary;
  - c. Corporation: Select "YES" if applicable;
  - d. Click "Add Party" button.
3. Continue the above steps to add all businesses as parties.

### **CASE OPENING PARTIES - Pro Se Civilian**

1. Search for pro se party name. If correct name is found, highlight name and click "select party" button.

Verify address and phone number are correct in system (compare CM/ECF address with new filing) If discrepancy exist, contact attorney admissions clerk.

  - a. Select correct role type (plaintiff);



- b. Change pro se from “NO” to “Pro Se but not allowed to file electronically”;
  - c. “Show this address on the docket sheet” should be selected;
  - d. Enter party text if necessary;
  - e. If provided enter e-mail address for electronic notification;
  - f. Click “Add party” button.
2. If party name is not found, click on “Create New Party” button.
- a. Enter the last name, first name and middle name/initial;
  - b. Select role of party;
  - c. Change pro se from “NO” to “Pro Se but not allowed to file electronically”;
  - d. Enter the complete pro se party’s address and phone number;
  - e. “Show this address on the docket sheet” should be selected;
  - f. Enter party text if necessary;
  - g. If provided enter e-mail address for electronic notification;
  - h. Click “Add Party” button.

**ALIAS INFORMATION:**

An alias can be an assumed name, former name, or nickname affiliated with a person or business. A name used other than the given name of a person or business. Types of aliases are as follows:

agent (representative); aka (also known as); dba (doing business as); fdba (formerly doing business as); fka (formerly known as); nee (maiden name); obo (or best offer); other (other); rpi (); ta ()

**PARTY ALIAS:**

1. If an alias needs to be added, click the Alias icon found under the party’s name;
2. Enter the last/business name to search for an alias, click Search;
3. **If the correct alias is found**, highlight and click Select Alias;
4. Select the correct alias type;

5. Start date should be the same date as when the party was added;
6. Click Add Alias.

OR

1. If an alias needs to be added, click the Alias icon found under the party's name;
2. Enter the last/business name to search for an alias, click Search;
3. **If the correct alias is not found**, click Create New Alias;
4. Enter the alias information;
5. Select the correct alias type;
6. Start date should be the same date as when the party was added;
7. Click Add Alias.

#### **CORPORATE PARENT INFORMATION:**

A parent company is a company that owns enough voting stock in another firm (subsidiary) to control management and operations by influencing or electing its board of directors. A parent company could simply be a company that wholly owns another company. This would be known as a "wholly owned subsidiary" and should be entered as party text to the named business party.

During the filing of the Corporate Disclosure Statement, the filer will be prompted to enter the corporate parent information.

#### **ADDING ATTORNEYS:**

##### **Attorney Name Found:**

1. Click on the attorney icon under the plaintiff's name;
2. Enter the bar number or name of attorney, click search;
3. If the **attorney name is found**, highlight the name and click select attorney;
4. Verify firm name and address is correct;

5. If lead attorney, change no to yes;
6. Make sure notice is set to yes (default);
7. Make sure start date is the same date the party was added;
8. Click add attorney;
9. Click create case, answer Yes to Proceed;
10. Click Docket Lead Event;

***COPY ATTORNEY INFORMATION:*** If more than one plaintiff/defendant uses the same attorney, you can copy the same attorney to other party(s). Click the attorney's copy icon below the party name. Select attorney and "Copy Attorneys". You have now added the same attorney for another party.

**Attorney Name Not Found:**

1. Click on the attorney icon under the party's name;
2. Enter the bar number or name of attorney, click search;
3. If the **attorney name is not found, immediately e-mail** the attorney admissions clerk that attorney is not in our system. The attorney must be admitted to practice in the Southern District of Mississippi and also be registered in our CM/ECF system in order to file and receive notice of electronic filing;
4. At this point you cannot add the attorney but you can begin to docket the complaint as the initiating document;
5. Click create case;
6. Answer Yes to Proceed;
7. Click Docket Lead Event.

**FILING OF DOCUMENTS:**

1. Select Complaint, click next;
2. Verify case number, click next;
3. Select the attorney filing the complaint, click next;
4. Select the plaintiff(s) [the filing party], click next;

5. Select the defendant(s) [the party whom the filing is against], *do not select “• all defendants” as each defendant’s name will not appear on the docket report individually ;*
6. Verify date document filed is the same as the file stamp date;
7. Browse to find the scanned complaint, select it;
8. Browse to find the scanned civil cover sheet, select it, select “civil cover sheet” as the category;
9. If necessary, browse to find an exhibit, select the scanned exhibit, choose “exhibit” from the category drop down list and text in a description of the exhibit. **Each exhibit must be attached individually, not filed together as one exhibit;**
10. Continue to attach other exhibits, including category and description, click next;
11. Enter receipt number and fee, click next;
12. The modify docket text screen will appear. Text in Jury Trial if applicable, review to ensure correct spellings and all documents have been included. If changes need to be made, start over with step one. If correct, click next;
13. The final text screen appears. Click next;
14. The NEF screen appears. This is your proof of filing.

**FLAGS:** NO\_CMC flag, JURY (if applicable), MAG flag, and any other applicable flags such as FORMALDEHYDE, etc.  
**NOTE:** If case is filed by a pro se litigant, set PRO SE NON-PRISONER flag.

**TO SET FLAGS:**

1. Civil > Utility Events > set/clear flags > next;
2. Verify or enter case number;
3. Verify case name and number;
4. Verify date document filed (file stamp date);
5. To select multiple flags hold down the control key while clicking on each applicable flag: NO\_CMC, Jury (if applicable), Magistrate Judge’s initials, and

any other applicable flags such as FORMALDEHYDE, OIL SPILL, etc. Click next;

6. The modify docket text screen will appear. Revise the text to read as follows:  
*\*\*\*NO-CMC, Jury (if applicable), Magistrate XXX, (add any others flags as necessary) Flags.* Click next;
7. The final docket text screen appears. Click next;
8. The NEF screen appears;
9. The public does not see the flag entry as this is a private entry viewable by only court staff.

Print and review docket report.

<b>Chapter</b>	<b>NEW CIVIL CASES</b>
<b>Subject</b>	<b>Complaint with Minor Parties</b>

**AUTHORITY**      [Fed.R.Civ.P. Rules 2, 3, 4, 5, 5.2, 10\(a\), and 17](#)  
[E-Government Act of 2002 \(amended August 2, 2004\)](#)  
[44 U.S.C. §3500](#)  
[L.U.Civ.R. 5.2](#)

**BACKGROUND**    A civil action is commenced by filing a complaint with the court.

**DEFINITION**      A complaint is a formal, legal document that sets out the facts and legal reasons that the filing party (plaintiff) believes are sufficient to support a claim against another person(s) or entity(s) (defendant) that entitles the plaintiff(s) to a remedy of money damages or injunctive relief. The complaint is the first pleading in a civil action.

**FILING FEE**        See [Schedule of Fees](#) for civil filing fee (payable to Clerk, United States Courts), check, cash, or money order

## **DOCUMENTS**

1. Civil Cover Sheet (scan in) JS-44;
2. Complaint (there is a possibility you will receive 2 copies of the complaint; an original unredacted complaint complete with the full name of the minor parties and a redacted copy with minor's names replaced with initials only); scan both complaints;
3. Exhibits (scan in) pertaining specifically to the Complaint, i.e. insurance policy, maps, etc.;
4. Summons

In the following sample case, the attorney filed the initiating paperwork correctly. The first complaint being a redacted document and the other complaint being unredacted. The unredacted complaint is filed as a **restricted** document whereas the redacted complaint is filed using the complaint event since it is a **redacted** document.

**NOTE:** The redacted complaint should be the first complaint filed, then docket flag information, and next file the unredacted, restricted complaint.

<b>SAMPLE CASE</b>	1:10-cv-436	Doc #1	<b>(Complaint - Redacted Complaint)</b> Attachments #1 (Exhibit A- Redacted list of Plaintiffs) #2 (Civil Cover Sheet)
		Doc #2	<b>( Restricted Document- Unredacted Complaint)</b> Attachments #1 (Exhibit A- Unredacted List of Plaintiffs) #2 (Civil Cover Sheet)
	1:20cv57		

## NOTES

Intake should verify that all necessary original documents are present and signed by an attorney or pro se plaintiff. A receipt should be provided by a deputy clerk to the attorney or pro se plaintiff for the correct filing fee [if pro se plaintiff files a motion to proceed *in forma pauperis* then no filing fee is required until motion is ruled on]. All documents should be file stamped. Summonses are not file stamped because these documents are issued.

**Assignment of Case Number:** (See General Complaint Instructions)

**Assignment of District Judge:** (See General Complaint Instructions)

## INSTRUCTIONS FOR OPENING CASE AND FILING OF DOCUMENTS

### CASE OPENING STATISTICS:

1. Civil > Civil Case > select correct division > case type:cv > case number assigned;
2. Date filed - defaults to current date (check to ensure "date filed" matches the file stamp date on the pleading);
3. Presiding Judge is the District Judge assigned to the case;

4. Referral Judge is the Magistrate Judge assigned to the district judge;
5. Referral Type: (Full pretrial, no dispositive motion), click next;
6. Jurisdiction: check civil cover sheet against complaint for jurisdiction, i.e. 3-Federal Question, etc.; make choice according to complaint;
7. Cause of Action: check civil cover sheet against complaint, i.e. 28:1331pi (28:1331 Fed. Question: Personal Injury); make choice according to complaint;
8. Nature of Suit: check civil cover sheet against complaint, i.e., 360 (P.I.: Other); make choice according to complaint;
9. Origin: always (1) Original Proceeding;
10. Citizenship plaintiff/defendant: only used in diversity matters;
11. Jury demand: must be taken from the complaint, not the civil cover sheet.

*If the civil cover sheet lists a jury demand and the complaint does not, contact the attorney via phone and explain that he/she will have to file a Notice of Jury Demand;*

Only enter jury demand if listed in the complaint and select p (Plaintiff);

12. Demand: enter money demand only if listed in the complaint, demand is entered in thousands/millions; the system will only accept 9 digits, *i.e. 99,000,000 is entered as 99000; the system adds the final three zeroes;*
13. County: taken from the civil cover sheet, county where first listed plaintiff resides at the time the case is filed;
14. Fee status: paid (paid);
15. Next;
16. The screen allowing for the adding of parties appears.

NOTE: In all cases (even those which involve minors), Fed.R.Civ.P. Rule 10(a) states "...the **title of the complaint must name all of the parties**; the title of other pleadings, after naming the first party on each side, may refer generally to other parties..."

Therefore, even though minors' names fall under the E-Government Act of 2002 [amended in 2004], you must take the party names and party text directly from the style of the case on the Redacted Complaint. If there is no redacted complaint, enter the style of case exactly as it appears on the



complaint. **It is the responsibility of the attorney to redact and not the Clerk's office.**

After opening the case involving a minor, if a discrepancy is found between the parties in the style of the case and the body of the complaint **and/or** the complaint was not redacted as to the minor's name(s), as a courtesy, contact the attorney. Inform the attorney of the problem (parties and party text can only be taken from the style, minor names not redacted, etc.) and let the attorney know he/she may wish to file an amended complaint pursuant to Fed.R.Civ.P. 15(a).

**PARTY TEXT INFORMATION:** Party text is additional information related to a party such as in the case of a minor child, a business, a deceased person, etc.

**EXAMPLES:**

<b>Individual</b>	Party name: Marcus Welby, <i>party text "individually and in his official capacity"</i> ;
<b>Corporation</b>	Party name: Bank of America, N.A., <i>party text "as successor and interest to Countrywide Bank, F.S.B."</i> ;
<b>Deceased</b>	Party name: Nancy Reagan, <i>party text "as Administratrix of the Estate of Ronald Reagan, deceased and on behalf of all wrongful death beneficiaries of Ronald Reagan, deceased"</i> ;
<b>Minor</b>	(Use Redacted Complaint for party text information) Party name: John Doe, <i>party text "as the natural father and next friend of J. D., a minor"</i> ; J.D. <i>party text "by and through his father and next friend, John Doe"</i> . <b><u>You must take this information from the style of the case exactly as it appears on the redacted complaint.</u></b>

**CASE OPENING PARTIES - INDIVIDUALS:** (See General Complaint Instructions)

**CASE OPENING PARTIES – BUSINESSES** (See General Complaint Instructions)

**CASE OPENING PARTIES - Pro Se Civilian** (See General Complaint Instructions)

**ALIAS INFORMATION:** (See General Complaint Instructions)

**PARTY ALIAS:** (See General Complaint Instructions)

**CORPORATE PARENT INFORMATION:** (See General Complaint Instructions)

**ADDING ATTORNEYS:** (See General Complaint Instructions)

**FILING OF REDACTED COMPLAINT (if received):**

1. Select Civil > Complaints & Other Initiating Documents > Complaint, > next;
2. Verify or enter case number, next;
3. If necessary, verify case name and number, next;
4. Select attorney filing complaint, next;
5. Select filer (plaintiff), next;
6. Select party filing is against (defendant), next;
7. Verify date document filed is the same as the file stamp date;
8. Browse to find the scanned redacted complaint, select it
9. Browse to find the scanned civil cover sheet, select it, select "civil cover sheet" as the category;
10. If necessary, browse to find an exhibit, select the scanned exhibit, choose "exhibit" from the category drop down list and text in a description of the exhibit. **Each exhibit must be attached individually, not filed together as one exhibit;**
11. Continue to attach other exhibits, including category and description, next;
12. Enter receipt number, fee is entered for you, next;
13. The modify docket text screen will appear. Add the word REDACTED in front of COMPLAINT. Review to ensure correct spellings and all documents have been included. If changes need to be made, start over with step one. If correct, click next;
14. The final text screen appears, next;
15. The NEF screen appears. The NEF is proof of filing.

**FILING OF UNREDACTED COMPLAINT if received:**

1. Select Civil > Other Documents > Restricted Document, click next;
2. Verify or enter case number, click next;
3. If necessary, verify case name and number, next;
4. Verify date document filed is the same as the file stamp date;
5. Browse to find the scanned unredacted complaint, select it;
6. Browse to find the scanned civil cover sheet, select it, select “civil cover sheet” as the category;
7. If necessary, browse to find an exhibit, select the scanned exhibit, choose “exhibit” from the category drop down list and text in a description of the exhibit. **Each exhibit must be attached individually, not filed together as one exhibit;**
8. Continue to attach other exhibits, including category and description, click next;
9. The modify docket text screen will appear. Modify to read *RESTRICTED DOCUMENT (Unredacted Complaint) (Attachments . . .)*, review to ensure correct spellings and all documents have been included. If changes need to be made, start over with step one. If correct, click next;
10. The final text screen appears. Click next;
11. The NEF screen appears.

**FLAGS:** NO\_CMC, JURY (if applicable), MAG flag, any other applicable flags

**ISSUANCE OF SUMMONS:**

Fed.R.Civ.P. Rule 4(g) defers to state rule;

Mississippi Rules Annotated: Rule 4(d)(2)(A) states:

“Upon an unmarried infant by delivering a copy of the summons and complaint to any one of the following: the infant’s mother, father, legal guardian (of either the person or the estate), or the person having care of such infant or with whom he lives, and if the infant is 12 years of age, or older, by delivering a copy of the summons and complaint to **both** the infant and the appropriate person as designated above.”

See section “ISSUANCE OF PROCESS”; Summonses.

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Copyright</b>

**AUTHORITY**      17 U.S.C. §101      (Copyright)  
                         17 U.S.C. §501      (Infringement)  
                         17 U.S.C. §504      (Remedies for infringement)  
                         17 U.S.C. §508      (Filing/Determination of actions)  
                         17 U.S.C. §508:      Notification of filing and determination of  
                         actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

**DEFINITION**      Copyright is a set of exclusive rights granted to the author or creator of an original work, including the right to copy, distribute and adapt the work. Copyright symbol is ©.

**FORMS:**            AO-121      Report on the Filing or Determination of an Action or Appeal Regarding a Copyright

**FILING FEE**      See [Schedule of Fees](#). (civil filing fee)



9. Origin: always (1) Original Proceeding;
10. Citizenship plaintiff/defendant: only used in diversity matters;
11. Jury demand: must be taken from the complaint, not the civil cover sheet;  
*If the civil cover sheet lists a jury demand and the complaint does not, contact the attorney via phone and explain that he/she will have to file a Notice of Jury Demand; only enter jury demand if listed in the complaint and select p (Plaintiff);*
12. Demand: enter money demand only if listed in the complaint, demand is entered in thousands; the system will only accept 9 digits, *i.e. 99,000,000 is entered as 99000; the system adds the final three zeroes;*
13. County: taken from the civil cover sheet, enter the name of the county where the first listed plaintiff resides at the time the case is filed. If the U.S. Government is the plaintiff, enter the name of the county in which the first listed defendant resides at the time the case is filed;
14. Fee status: paid (paid); Next;
15. The screen allowing for the adding of parties appears.

**PARTY TEXT INFORMATION:** (See General Complaint Instructions)

**CASE OPENING PARTIES - INDIVIDUALS:** (See General Complaint Instructions)

**CASE OPENING PARTIES – BUSINESSES** (See General Complaint Instructions)

**ALIAS INFORMATION:** (See General Complaint Instructions)

**CORPORATE PARENT INFORMATION:** (See General Complaint Instructions)

**ADDING ATTORNEYS:** (See General Complaint Instructions)

**AO-121 “Report on the Filing or Determination of an Action or Appeal Regarding a Copyright”:**

1. MSSD homepage > General > AO forms > Form AO-121 > PDF format > complete the top portion of the form when the case is filed listing the copyright information, print for mailing purposes and save the form so if additional copyrights are added to the case, these copyrights can be added to this form. Also upon final decision or judgment in the case the form must be completed and sent to the Register of Copyrights:

- a. Mail to Register of Copyrights at address shown on top left of form.
2. If, during the course of the case, additional copyright(s) are included, the form should be retrieved and the lower section of form AO-121 should be completed by adding the additional copyright(s); print for mailing purposes and save the form so upon final decision or judgment the form can be completed and sent to the Register;
  - a. Mail form to Register of Copyrights (address at top of form);
3. Upon final decision or judgment, complete the decision/judgment portion of AO-121, Clerk: Arthur Johnston, Clerk stamp, sign your name electronically s/your name, and date form. Print and save form. Mail form along with copy of judgment to Register of Copyrights.

**Docketing AO form 121:**

1. Civil > Notices > Notice (Copyright, Patent, Trademark) > next;
2. Verify case number, next;
3. Verify case name and number, click next;
4. Browse to find the AO-121 form, select it; click next;
5. Select the filing party, do not select a party just click next;
6. Check the box to link this form to the complaint > next;
7. Select the complaint > next;
8. Modify docket text screen to read "NOTICE of mailing of "Report on the Filing or Determination of an Action of Appeal Regarding a Copyright" ...."
9. Docket Text:Final Text screen appears, click next;
10. NEF screen appears - proof of filing.

Each time the form is revised, continue with steps 1 through 7 above to docket the AO-121 form.

**FLAGS:** NO\_CMC flag, JURY (if applicable), MAG flag, Copyright flag, any other applicable flags.

**TO SET FLAGS:**

1. Civil > Utility Events > set/clear flags > next;
2. Verify or enter case number;
3. Verify case name and number;
4. Verify date document filed (file stamp date);
5. Select multiple flags by holding down the control key while clicking on NO\_CMC, Jury (if applicable), Magistrate Judge's initials, Copyright flag, and any other applicable flags. Click next;
6. The modify docket text screen will appear. Revise the text to read as follows:  
*\*\*\*NO\_CMC, Jury (if applicable), Magistrate XXX, Copyright (add any others flags as necessary) Flags.* Click next;
7. The final docket text screen appears. Click next;
8. The NEF screen appears;
9. The public does not see the flag entry as this is a private entry viewable by only court staff.

Print and review docket report.



<b>Chapter</b>	<b>NEW CIVIL CASES</b>
<b>Subject</b>	<b>Death Penalty (28:2254 and 535) - Petition for Writ of Habeas Corpus - Stay of Execution</b>

**AUTHORITY** 28 U.S.C. Chapter 154 - Special Habeas Corpus Procedures in Capital Cases (§§ 2261, 2262, 2263, 2264, 2265, and 2266)  
District Court Clerk’s Manual Chapter 8, §8.03 b.2.  
The Antiterrorism and Effective Death Penalty Act (“AEDPA”)  
28 U.S.C. §2244  
18 U.S.C. §3599

**BACKGROUND** The appeal process for someone facing the death penalty is a long one. Before reaching the federal habeas corpus petition phase, one must first go through the automatic appeal and the state habeas corpus petition phase. Any person charged with a crime which may be punishable by death shall be entitled to the appointment of one or more attorneys. (18 U.S.C. §3599)

**DEFINITION** A state prisoner charged in a capital case awaiting the death penalty may file a petition for writ of habeas corpus in federal court. The habeas corpus petition is usually filed by the person who objects to his/her detention. The timing of the filing of habeas corpus petitions is governed by the “AEDPA” of 1996. Death penalty cases begin with the filing of a motion for the appointment of counsel.

**FILING FEE** \$5.00 or IFP

**DOCUMENTS** (1) Motion to Appoint Counsel  
(2) Motion for Leave to Proceed IFP

**SAMPLE CASE**

1:12-cv-67	Doc #1	Motion to Appoint Counsel
	Doc #2	Motion for Leave to Proceed IFP
2:11-cv-72	Doc #1	Motion to Appoint Counsel
	Doc #2	Motion for Leave to Proceed IFP

## **INSTRUCTIONS**

File stamp and scan all documents before opening the case.

1. Civil > (Open a Case) Civil Case;
2. Division: county where the conviction occurred;
3. Case type: cv;
4. Case number (next number up);
5. Date filed (same as file stamp);
6. Presiding judge: only district judges are assigned to death penalty cases and they are assigned in rotation; contact Stacey Spears, pro se attorney, Jackson, MS, (601) 608-4962 for the next district judge to be assigned;
7. Referral judge: there is no referral judge in a death penalty case;
8. Referral type is not applicable since no referral judge;
9. Next;
10. Jurisdiction: federal question;
11. Cause of action: 28:2254se (28:2254 Petition for Writ of H/C - Stay of Execution);
12. Nature of suit: 535 (Death Penalty - Habeas Corpus);
13. Origin: 1 (Original Proceeding);
14. Jury demand: None
15. Demand: not applicable;
16. County: where prisoner was sentenced;
17. Fee status: fp (in forma pauperis);
18. Fee date: only enter date if fee paid; otherwise leave blank;
19. Next.

### **NOTE:**

when entering the parties, remember not to add an attorney even though an attorney(s) may have filed the motion to appoint counsel for the plaintiff and/or the motion to proceed IFP for the plaintiff. An order must be entered for appointment of counsel before counsel can be added.

## **ENTERING THE PARTIES:**

### Plaintiff

1. Search for party name. If correct name is found, highlight name and click “select party” button.
  - a. Select correct role type (plaintiff);
  - b. Enter party text if necessary;
  - c. Uncheck “show this address on the docket sheet”;
  - d. Change Notice to No;
  - e. Click “Add party” button.
2. If party name is not found, click on “Create New Party” button. Enter the last name, first name and middle name/initial.
  - a. Select role type (plaintiff);
  - b. Enter party text if necessary;
  - c. Uncheck “show this address on the docket sheet”;
  - d. Change Notice to No;
  - e. Click “Add Party” button.

### Defendant Party(s)

3. Search for party name. If correct name is found, highlight name and click “select party” button.
  - a. Select correct role type (defendant);
  - b. Uncheck “show this address on the docket sheet”;
  - c. Enter party text if necessary;
  - d. Change Notice to No;
  - e. Click “Add party” button.
4. If party name is not found, click on “Create New Party” button. Enter the last name, first name and middle name/initial.
  - a. Select role of party (defendant);
  - b. Uncheck “show this address on the docket sheet”;

- c. Enter party text if necessary;
  - d. Change Notice to No;
  - e. Click “Add Party” button;
  - f. Continue until all defendant parties are added.
5. Add Terryl Rushing, Death Penalty law clerk, as an Interested Party.
- a. Search for Rushing;
  - b. Select Terryl Rushing;
  - c. Click “select party”;
  - d. Change role type to Interested Party;
  - e. Uncheck “show this address on the docket sheet”;
  - f. Click “Add Party”.

#### **CREATING THE CASE:**

1. Click “Create Case”
2. Case will be Created. Proceed? Yes;
3. Civil > Motions > Appoint Counsel > next;
4. Enter or verify case number, next;
5. Attorney filing screen appears: click next > you are reminded an attorney has not been selected, click OK;
6. Select the plaintiff as the filer > next;
7. Browse and select the motion > browse and select all attachments remembering to enter a category and description > next;
8. Modify Docket Text screen appears, next;
9. Docket Text: Final Text screen appears, next;
10. NEF screen appears.

#### **DOCKET Motion for Leave to Proceed IFP:**

1. Civil > Motions > select “Proceed In Forma Pauperis” > next;
2. Verify/enter case number > next;
3. Attorney filing screen appears > click next, select OK selected;
4. Select party filing Motion (plaintiff) > next;
5. Browse and select the motion > browse and select any applicable attachments > next;
6. Modify Docket Text screen appears, next;
7. Docket Text: Final Text screen appears, next;
8. NEF screen appears.

**FLAGS**      HABEAS and DEATH\_PENALTY

1. Civil > Utility Events > Set/Clear Flags, next;
2. Enter/verify case number > next;
3. Verify case name and number > next;
4. Select DEATH\_PENALTY (Death Penalty Case) and Habeas (Habeas Corpus) > next; (remember to control + click in order to select more than one flag);
5. Change the Modify Text screen box to read: \*\*\* *Set Death\_Penalty and Habeas flags* > next;
6. Docket Text: Final text screen appears > next;
7. NEF screen appears.

Flags are for in house use only and no NEFs are sent, nothing needs to be mailed.

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Eminent Domain – Land Condemnation</b>

**AUTHORITY** 28 U.S.C. §1358  
F.R.Civ.P. 71.1  
District Court Clerk’s Manual Chapter 18 §18.03

**DEFINITION** The United States of America has the sovereign power of eminent domain, which is the power to take private property for public use. However, the Fifth Amendment to the Constitution of the United States provides that the power of eminent domain cannot be exercised “without just compensation.”

A condemnation action commences in the same manner as other civil actions, with the filing of a complaint, but the complaint is not served, although notice and delivery is given pursuant to Fed.R.Civ.P. 71.1(d). The clerk’s office is provided with at least one copy for use by the defendants and additional copies at the request of the clerk’s office or a defendant. (Fed.R.Civ.P. 71.1(c)(5)).

**FILING FEE** See Schedule of Fees (civil filing fee)

**DOCUMENTS**

- Complaint:
- Caption per F.R.Civ.P 71.1(c)(1)
  - Body of complaint F.R.Civ.P 71.1(c)(2)
    - Caption must name defendants (property and at least one owner of some part of or interest in the property.)
    - Body of complaint must state (1) authority, (2) uses for which the property is to be taken, (3) description to identify the property, (4) interests to be acquired, and (5) for each piece of property a designation for each defendant who has been joined as an owner or has an interest therein
  - Joinders F.R.Civ.P. 71.1(c)(3)
    - When the action commences, the plaintiff need join as defendants only those persons who have or claim an

interest in the property and whose names are then known. But before any hearing on compensation, the plaintiff must add as defendants all those persons who have or claim an interest and whose names have become known or can be found by a reasonably diligent search of the records, considering both the property's character and value and the interests to be acquired. All others may be made defendants under the designation "Unknown Owners".

Process F.R.Civ.P. 71.1(d)(1),(2),(3)

- Plaintiff must deliver to the Clerk joint or several notices directed to the named defendants;
- Contents: Each notice must name the court, the title of the action, and the defendant to whom it is directed. It must describe the property sufficiently to identify it, but need not describe any property other than that to be taken from the named defendant. The notice must also state the action is to condemn property; the interest to be taken; the authority for the taking; the uses for which the property is to be taken; that the defendant may serve an answer on the plaintiff's attorney within 21 days after being served with the notice; that the failure to so serve an answer constitutes consent to the taking and to the court's authority to proceed with the action and fix the compensation; and that a defendant who does not serve an answer may file a notice of appearance.

The notice must conclude with the name, telephone number, and e-mail address of the plaintiff's attorney and an address within the district in which the action is brought where the attorney may be served.

\*\*Delivering the notice to the Clerk and serving it has the same effect as serving a summons under F.R.Civ.P 4

<b>SAMPLE CASE</b>	2:07-cv-367	Doc #1	Complaint
		Doc #2	Notice of Filing of Verified Complaint of Condemnation
		Doc #10	Service by Publication
	4:09-cv-071	Doc #1	Complaint

Doc #2	Notice of Filing of Verified Complaint of Condemnation
Doc #41	45 Service by Publication

**NOTE TO DOCKET CLERK:** *in land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved*

## **INSTRUCTIONS**

**Open a civil case using Open New Civil Case General procedure, then:**

1. Civil > Complaints, Other Initiating Documents > Complaint > next;
2. Enter case number > next;
3. Select attorney filing case > next;
4. Select filer (plaintiff) > next;
5. Select the party this filing is against (defendant) > next;
6. Date filed is file stamped date. Browse to select complaint. Select all attachments including category and description > next;
7. Enter receipt number > next;
8. Modify docket text screen appears > next;
9. Docket Text: Final Text screen appears > next;
10. NEF appears.

\*\*\*Attorney docket notice using event Notice (do not use for appeals or discovery).  
Docket text wording should fall along the lines of: Notice of filing of verified complaint of condemnation.

\*\*\*Notice of Service of Publication is docketed by attorney using event service of publication found under service of process or motions.

**FLAGS**      MAG & NO\_CMC



<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>General Information Regarding Civil Complaints (non pro se)</b>

1. A civil action is commenced by filing a complaint with the court (Fed.R.Civ.P. Rule 3).
2. Before opening a civil case, **compare** the **style** of the case to the **body** of the complaint for parties. All parties should be listed in both areas. If there is a discrepancy, notify the attorney before opening the case. **Fed.R.Civ.P. Rule 10(a) Caption; Names of Parties.** “. . .The title of the complaint must name all the parties; the title of other pleadings, after naming the first party on each side, may refer generally to other parties.”
  - a. The attorney can choose to replace the complaint before the case is opened or otherwise the case will be opened with the parties listed only in the style of the case.
3. Summons upon a minor. **Fed.R.Civ.P. Rule 4(g) Serving a Minor or an Incompetent Person.** :A minor or an incompetent person in a judicial district of the United States must be served by following state law for serving a summons or like process on such a defendant in an action brought in the courts of general jurisdiction of the state where service is made. A minor or an incompetent person who is not within any judicial district of the United States must be served in the manner prescribed by Rule 4(f)(2)(A), (f)(2)(B), or (f)(3)states that a minor can be served according to state law.”
  - a. **2009-2010 Mississippi Rules Annotated Rule 4(d) Summons and Complaint: Person to Be Served (1) (2)(A).** “Upon an unmarried infant by delivering a copy of the summons and complaint to any one of the following: the infant’s mother, father, legal guardian (of either the person or the estate), or the person having care of such infant or with whom he lives, and if the infant be 12 years of age or older, by delivering a copy of the summons and complaint to both the infant and the appropriate person as designated above.”

4. Party Information: When selecting a party, explicitly check the party information once a party's name has been found to ensure this is the correct party being entered into the case.
  
5. Party Titles vs Party Text vs Generation (surname):
  - a. Party Title is a prefix or suffix added to someone's name to signify either veneration, an official position or a professional or academic qualification.
  
  - b. Party Text is used for additional descriptive text about the position of a party in a case; party text appears after the name on the cover of the docket sheet; a person can have a different one for each case; it is specific to that case; and can be added/changed for each case.
    - i. Examples: executor for the estate of Howard Hughes; trustee for the estate of Jimmy Hoffa; Governor of Texas; a Connecticut corporation; Warden, Attica State Prison; Chief of Police.
  
  - c. Generation is the same as a surname (a surname is a name added to a given name and is part of a personal name), i.e., Jr., Sr., III.

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Interpleader Complaint</b>

**AUTHORITY** 28 U.S.C. § 1335

**BACKGROUND** Form of action originally developed under equity jurisprudence. It allows a plaintiff to initiate a lawsuit in order to compel two or more other parties to litigate a dispute. An interpleader action originates when the plaintiff holds property on behalf of another, but does not know to whom the property should be transferred.

**DEFINITION** The district courts shall have original jurisdiction of any civil action of interpleader or in the nature of interpleader filed by any person, firm or corporation, association or society (1) having in his or its custody or possession money or property of the value of \$500 or more, or (2) having issued a note, bond, certificate, policy of insurance, or other instrument of value or amount of \$500 or more, or (3) providing for the delivery or payment or the loan of money or property of such amount or value, or (4) being under any obligation written or unwritten to the amount of \$500 or more.

1. If two or more adverse claimants, of diverse citizenship are claiming or may claim to be entitled to such money or property;
2. If the plaintiff has deposited such money or property or has paid the amount due under such obligation into the registry of the Court, or has given bond payable to the Clerk of Court in such amount and with such surety as the Court or Judge may deem proper, conditioned upon the compliance by the plaintiff with the future order or judgment of the Court with respect to the subject matter of the controversy.

**FILING FEE** See Schedule of Fees (civil filing fee)

**DOCUMENTS** Civil cover sheet (JS-44);  
Complaint;  
Summons;

Motion for Leave to Deposit Funds (docket if presented with Complaint);  
Order (cannot accept funds into the Registry without an Order. Order should specify whether funds are deposited into an interest bearing account or regular account);  
If an interpleader is removed from State Court, it is the responsibility of the removing party to see that any funds on deposit in State Court are transferred to this Court.

<b>SAMPLE CASE</b>	3:05-cv-453	Doc #1	Complaint
		Doc #2	Motion for Leave to Deposit Funds and for an Order Directing the Clerk to Accept Funds

**INSTRUCTIONS** Open a new civil case

1. Open civil case entering case data, parties, attorney(s), and docket Civil cover sheet, complaint and motion. (For further information on opening a civil case refer to “New Civil Cases” > “Open New Civil Case Generic”)

**FLAGS** NO-CMC, MAG

**NOTES**

1. Pursuant to e-mail from Jackie Niven, Financial Manager in Jackson, dated 10/05/2009: “all deposits into the Registry of the Court will be receipted in Jackson. Please forward monies and pertinent orders to the finance office”.
2. When the check is received, make a copy of the check, and send a certified copy of the Order and the check to Jackie. Then docket a remark (no number in docket report) acknowledging receipt and transmittal of check.
3. Registry funds are only distributed upon Order of the Court. E-mail copy of the Order for disbursing funds to Jackie Niven.

You can appoint a guardian ad litem for the interpleader action, but eventually, when the settlement is reached and the parties are to receive money, the parties will have to petition for guardianship in the Chancery Court. So for now we will enter an order appointing each of them.

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Notice of Removal</b>

**AUTHORITY** 28 U.S.C. §1441-1450  
F.R.C.P. 81(c)(3)  
District Court Clerk’s Manual Chapter 4 §4.01b.1. and §7.09  
L.U.Civ.R. 5(b) and L.U.Civ.R.38

**DEFINITION** A removal is the transfer of a case by the defendant from a state court to a U.S. District Court. A removal is generally carried out with an action commenced, but not finally determined, in State Court.

**FILING FEE** See [Schedule of Fees](#). (civil filing fee)

**DOCUMENTS**

- (1) Civil Cover Sheet
- (2) Notice of Removal
- (3) State Court Complaint
- (4) Exhibits pertaining specifically to the Complaint, i.e. insurance policy, maps, order dismissing/terminating state court party, etc.

**SAMPLE CASE**

2:10-cv-14	Doc #1	Notice of Removal with attachments
1:11-cv-158	Doc #1	Notice of Removal with attachments

**NOTES**

**Pursuant to the e-mail from Sandra (dated 10/23/2013 with Chief Judge Louis Guirola’s e-mail attached)** effective immediately [10/23/2013] a new screening procedure for the *Pro Se* law clerks has been implemented concerning removed prisoner pro se cases. When opening a Notice of Removal in which the plaintiff is a pro se prisoner, add the Pro Se Department as an interested party.

**Pursuant to L. U. Civ. R. 38(a)** [effective December 5, 2012] and F.R.C.P. 81(c)(3) cases removed from state court, whether it be Circuit Court or County

Court, will automatically be assigned a jury trial. Removals from Chancery Court are designated non-jury and parties will need to request a jury in this court, if desired. A JURY flag and REMOVAL flag will automatically be assigned to each notice of removal filed from state courts. Counsel of record should notify the court if they prefer a non-jury trial in removals from Circuit or County courts. A JURY flag will automatically be assigned to the notice of removal event; therefore, if the removal is from Chancery Court please remove the JURY flag.

**Pursuant to L.U.Civ.R. 5(b)**, effective December 1, 2010, and to the Administrative Procedures for the Southern District of Mississippi, within fourteen (14) days (after the docketing in the electronic filing system of a removed action), the removing party must electronically file the entire State Court record as a single docket filing.

The parties shall within 14 days after the Case Management Conference, file as **separate docket items** any unresolved motions that were filed in state court which they wish to advance.

**Pursuant to 28 U.S.C. §1446**: defendant must file a notice of removal (signed) together with a copy of all process, pleadings, and orders served upon the removing party.

**SUMMONS:** **Pursuant to 28 U.S.C. § 1448**: In all cases removed from any State court to any district court of the United States in which any one or more of the defendants has not been served with process or in which the service has not been perfected prior to removal, or in which process served proves to be defective, such process or service may be completed or new process issued in the same manner as in cases originally filed in such district court.

## **INSTRUCTIONS FOR OPENING CASE AND FILING OF DOCUMENTS**

### **CASE OPENING STATISTICS:**

1. Civil > civil case > select correct division > case type:cv > case number assigned;
2. Date filed - check to ensure the date filed matches the file stamp date on the pleading;

3. Presiding Judge is the District Judge assigned to the case. Intake, upon receipt of initial pleading(s), will assign the district judge by consulting the court's index cards to see which judge is next in the rotation;
  - a. The conflict checking process is begun to ensure that a party is not on the judge's recusal list. Check the judge's recusal list to see if a conflict exists. UTILITIES > Conflict Checking... > Run Conflict List Report > Select appropriate judge > deselect "Exclusion List" and "Terminated Entries" > Run Report. Compare the list of conflicts to the parties, attorneys, etc. to determine if the judge should be assigned or the next judge on the list should be assigned;
  - b. If no conflict exists assign the next judge in the rotation;
  - c. If a conflict exists, go to the next judge in the court's index cards and begin the conflict checking for this judge. Continue until a district judge is found without a conflict;
4. Referral Judge is the Magistrate Judge assigned to the district judge;
5. Referral Type: (Full pretrial, no dispositive motion) ;
6. Other court name: Name of the State Court, i.e., Hinds County Circuit Court;
7. Other court number: case number assigned in the state court, next;
8. Jurisdiction: usually diversity (check civil cover sheet against notice of removal/state court complaint);
9. Cause of action: check civil cover sheet against notice of removal/state court complaint;
10. Nature of suit: check civil cover sheet against notice of removal/state court complaint;
11. Origin: always (2) Removal from State Court;
12. Citizenship plaintiff/defendant: used only if jurisdiction is diversity, select appropriate item; (check civil cover sheet against notice of removal/state court complaint);
13. Jury demand: jury (refer to notes on page 1-2 for detailed explanation);
14. Demand: enter amount if listed on state court complaint;
15. County: from which the state court case was removed;
16. Fee status: fee paid;
17. Fee paid: check to make sure same as file stamp date, next;

18. This screen allows for the adding of parties, attorney(s), etc.

**PARTY TEXT INFORMATION:** Party text is additional information related to a party such as in the case of a minor child, a business, a deceased person, etc.

**EXAMPLES:**

- (1) Party name: Marcus Welby, *party text “individually and in his official capacity”;*
- (2) Party name: Bank of America, N.A., *party text “as successor in interest to Countrywide Bank, F.S.B.”;*
- (3) Party name: Nancy Reagan, *party text “as Administratrix of the Estate of Ronald Reagan, deceased and on behalf of all wrongful death beneficiaries of Ronald Reagan, deceased”;*
- (4) Party name: John Doe, *party text “as the natural father and next friend of James Doe, a minor”;*

**CASE OPENING PARTIES - INDIVIDUALS:** (Seen General Complaint Instructions)

**NOTE:** *Compare the caption of the Notice of Removal to the caption of the state court complaint. If there is a difference in parties named, contact the attorney filing the Notice of Removal to inquire as to the difference. If a party to the original complaint has been dismissed or terminated, a copy of the state court order should be filed with the notice of removal as an attachment.*

**CASE OPENING PARTIES – BUSINESSES** (See General Complaint Instructions)

**CASE OPENING PARTIES - Pro Se Civilian** (See General Complaint Instructions)

**CASE OPENING PARTIES - Prisoner Pro Se as Plaintiff**

1. Search for pro se party name. If correct name is found, highlight name and click “select party” button.
  - a. Select plaintiff as role type;
  - b. Change pro se from “NO” to “Pro Se but not allowed to file electronically”;
  - c. “Show this address on the docket sheet” should be selected;
  - d. Enter party text if necessary;



- e. Set "Notice" to "No";
  - f. Click "Add party" button.
2. If party name is not found, click on "Create New Party" button.
    - a. Enter the last name, first name and middle name/initial;
    - b. Select plaintiff as party role;
    - c. Change pro se from "NO" to "Pro Se but not allowed to file electronically";
    - d. Enter the complete pro se party's address and phone number;
    - e. "Show this address on the docket sheet" should be selected;
    - f. Enter party text if necessary;
    - g. Set "Notice" to "No";
    - h. Click "Add Party" button.
3. **INTERESTED PARTY:**
    - a. Enter Pro Se in the last/business name field > search;
    - b. Highlight *Pro Se Department* from the search results;
    - c. Click "Create new Party";
    - d. Role of party: select "Interested Party (ip:pty);
    - e. Add party;

**ALIAS INFORMATION:** (See General Complaint Instructions)

**CORPORATE PARENT INFORMATION:** (See General Complaint Instructions)

**ADDING ATTORNEYS:** (See General Complaint Instructions)

**NOTE:** *Add only the removing party's attorney who signs off on the notice of removal and the plaintiff's attorney from the state court complaint as counsel of record.*

1. When asked whether you want to docket the lead event, proceed to step 1 under **Filing of Documents** below
  1. When the case opening box appears and you are asked to Proceed, click Yes;
  2. Do not click the docket lead event link. Proceed to step 1 below under **Filing of Documents**.

**FILING OF DOCUMENTS:**

1. Civil > Notices > Notice of Removal, next;
2. Enter case number if necessary, click next;
3. Verify case name and number, click next;
4. Verify date document filed is the same as the file stamp date;
5. Browse to find the notice of removal, select it;
6. Browse to find the civil cover sheet, select it, select "civil cover sheet" as the category;
7. Browse to find the lower state court complaint, select it, select "exhibit" as the category and text in "State court complaint" as the description;
8. Continue to attach any other exhibits, including category and description, then click next;
9. Select filer (always the defendant), click next;
10. Enter name of other court, i.e., Hinds County Circuit Court;
11. Enter case number in other court (take from lower court complaint);
12. Enter receipt number and fee, click next;
13. The modify docket text screen will appear, review to ensure correct spellings and that all documents have been included. **DO NOT REMOVE/DELETE AND STRANGE FONT CODES. THESE ARE THERE TO ENSURE THAT ATTORNEY INFORMATION IS SHOWN IN THE COLOR RED.** If changes need to be made, start over with step one. If correct, click next;
14. The final text screen appears. Click next;
15. The NEF screen appears and is proof of filing.

The NEF will inform attorneys of the 14 day time-frame in which they must electronically file the entire State Court record as a single docket filing.

## **FLAGS**

Add NO\_CMC and MAG flag;  
JURY and REMOVAL flags added automatically. *Please remove the JURY flag if this case is removed from Chancery Court.*

## **TO SET FLAGS:**

1. Civil > small utilities > set/clear flags > next;
2. Verify or enter case number;
3. Verify case name and number;
4. Verify date document filed (file stamp date);
5. Select multiple flags by holding down the control key and clicking on each applicable flag. When finished selecting flags click next;
6. The modify docket text screen will appear. Revise the text to read as follows:  
*\*\*\*\*Set NO\_CMC, Magistrate initials, (and any other flags as necessary) Flags.  
Click next;*
7. The final docket text screen appears. Click next;
8. The NEF screen appears;
9. The public does not see the flag entry as this is a private entry viewable by only court staff.

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Patent</b>

**AUTHORITY** 35 U.S.C. §145 (patent appeal)  
35 U.S.C. §183 (patent compensation)  
35 U.S.C. §271 (patent infringement)  
35 U.S.C. §290 (patent suit)  
35 U.S.C. §292 (false marking)  
15 U.S.C. §1116 (injunction)

**DEFINITION** A patent is a set of exclusive rights granted by a state (national government) to an inventor or their assignee for a limited period of time in exchange for a public disclosure of an invention. A patent gives the patent holder the right to stop others from producing, selling, or using his/her invention.

**35 U.S.C. §290 Notice of Patent suits:**

The clerks of the courts of the United States, within one month after the filing of an action under this title, shall give notice thereof, in writing, to the director, setting forth so far as known the names and addresses of the parties, name of the inventor, and the designating number of the patent upon which the action has been brought. (AO form 120 attached). If any other patent is subsequently included in the action he shall give like notice thereof. Within one month after this decision is rendered or a judgment issued, the clerk of court shall give notice thereof to the director. The director shall, upon receipt of such notices, enter the name in the file of such patent. (AO form 120 attached).

**35 U.S.C. §292 False Marking:**

(a) Whoever, without the consent of the patentee, marks upon, or affixes to, or uses an advertising in connection with anything made, used, offered for sale, or sold by such person within the United States, or imported by the person into the United States, the name of any imitation of the name of the patentee, the patent number, or the words "patent," "patentee," or the like, with the

intent of counterfeiting or imitating the mark of the patentee, or of deceiving the public and inducing them to believe that the thing was made, offered for sale, sold, or imported into the United States by or with the consent of the patentee; or Whoever marks upon, or affixes to, or uses an advertising in connection with any unpatented article the word "patent" or any word or number importing the same is patented, for the purpose of deceiving the public; or Whoever marks upon, or affixes to, or uses an advertising in connection with any article the words "patent applied for," "patent pending," or any word importing that an application for patent has been made, when no application for patent has been made, or if made, is not pending for the purpose of deceiving the public - shall be fined not more than \$500.00 for every such offense.

(b) Any person may sue for the penalty, in which event one-half shall go to the person suing and the other to the use of the United States.

## FORMS

AO-120 Report on the Filing or Determination of an Action Regarding a Patent or a Trademark

## FILING FEE

See [Schedule of Fees](#). (civil filing fee)

## DOCUMENTS

- (1) Civil Cover Sheet (scan in) JS-44;
- (2) Complaint (scan in);
- (3) Exhibits (scan in) pertaining specifically to the Complaint, i.e. insurance policy, maps, etc.;
- (4) Summons (to be discussed in the section on Service of Process; the summons may or may not accompany the complaint at the time of filing.).

## SAMPLE CASE

3:09-cv-346	Doc #1	Complaint with attachments
	Doc #3	AO 120 form

## NOTES

Intake should verify that all necessary original documents are present and signed by an attorney (wet signature). A receipt should be provided by a deputy clerk to the attorney for the correct filing fee. All documents should be file stamped.

Summonses are not file stamped because these documents are issued.

**Assignment of Case Number:** (See General Complaint Instructions)

**Assignment of District Judge:** (See General Complaint Instructions)

## INSTRUCTIONS FOR OPENING CASE AND FILING OF DOCUMENTS

### CASE OPENING STATISTICS:

1. Civil > civil case > select correct division > case type:cv > case number assigned;
2. Date filed - defaults to current date (check to ensure the date filed matches the file stamp date on the pleading);
3. Presiding Judge is the District Judge assigned to the case;
4. Referral Judge is the Magistrate Judge assigned to the district judge;
5. Referral Type: (Full pretrial, no dispositive motion), next;
6. Jurisdiction: check civil cover sheet against complaint for jurisdiction, i.e. 3-Federal Question, etc.; make choice according to complaint;
7. Cause of action: check civil cover sheet against complaint, (i.e., 35:145, 35:183, or 35:271); make choice according to complaint;
8. Nature of suit: check civil cover sheet against complaint, (i.e., 835 Patent (if involves drug companies); make choice according to complaint. **NOTE: Cases filed before June 1, 2017 are reported with a Nature of Suit Code 830 and should not be modified per attached link (<https://infoweb.ao.dcn/bcastpdf/JDAO17-0016.pdf>)**
9. Origin: always (1) Original Proceeding;
10. Citizenship plaintiff/defendant: only used in diversity matters;
11. Jury demand: must be taken from the complaint, not the civil cover sheet; *If the civil cover sheet lists a jury demand and the complaint does not, contact the attorney via phone and explain that he/she will have to file a Notice of Jury Demand*; only enter jury demand if listed in the complaint and select p (Plaintiff);
12. Demand: enter money demand only if listed in the complaint, demand is entered in thousands; the system will only accept 9 digits, *i.e. 99,000,000 is entered as 99000; the system adds the final three zeroes*;

13. County: taken from the civil cover sheet, enter the name of the county where the first listed plaintiff resides at the time the case is filed. If the U.S. Government is the plaintiff, enter the name of the county in which the first listed defendant resides at the time the case is filed;
14. Fee status: paid (paid); Next;
15. The screen allowing for the adding of parties appears.

**PARTY TEXT INFORMATION:** (See General Complaint Instructions)

**CASE OPENING PARTIES - INDIVIDUALS:** (See General Complaint Instructions)

**CASE OPENING PARTIES – BUSINESSES** (See General Complaint Instructions)

**ALIAS INFORMATION** (See General Complaint Instructions)

**CORPORATE PARENT INFORMATION:** (See General Complaint Instructions)

**ADDING ATTORNEYS:** (See General Complaint Instructions)

**FILING OF DOCUMENTS:**

1. Select Complaint, click next;
2. Verify case number, click next;
3. Select the attorney filing the complaint, click next;
4. Select the plaintiff(s) [the filing party], click next;
5. Select the defendant(s) [the party whom the filing is against], *do not select “● all defendants” as each defendant’s name will not appear on the docket report individually ;*
6. Verify date document filed is the same as the file stamp date;
7. Browse to find the scanned complaint, select it;
8. Browse to find the scanned civil cover sheet, select it, select “civil cover sheet” as the category;
9. If necessary, browse to find an exhibit, select the scanned exhibit, choose “exhibit” from the category drop down list and text in a description of the exhibit.  
**Each exhibit must be attached individually, not filed together as one exhibit;**

10. Continue to attach other exhibits, including category and description, click next;
11. Enter receipt number and fee, click next;
12. The modify docket text screen will appear. Text in Jury Trial if applicable, review to ensure correct spellings and all documents have been included. If changes need to be made, start over with step one. If correct, click next;
13. The final text screen appears. Click next;
14. The NEF screen appears. This is your proof of filing.

**AO-120 “Report on the Filing or Determination of an Action Regarding a Patent or Trademark”:**

Each time the form is completed it should be mailed to the Director.

1. MSSD homepage > General > AO forms > Form AO-120 > PDF format > complete top portion of form, (see attached form with highlighted areas); print for mailing purposes and save the form so if additional patents are added to the case, these patents can be added to this form. Also upon final decision or judgment in the case the form must be completed and sent to the director;
  - a. Mail to Director at address shown on top left of form.
2. If, during the course of the case, documents are filed which add additional patents, the form should be retrieved and the middle section of form AO-120 should be completed by adding the additional patents and patent holders (see attached form with highlighted areas); print for mailing purposes and save the form so upon final decision or judgment the form can be completed and sent to the director;
  - a. Mail completed form to Director (address at top of form);
3. Upon final decision or judgment, complete the decision/judgment portion of AO-120 (see attached form with highlighted areas), Clerk: Arthur Johnston, Clerk stamp, sign your name electronically s/your name, and date form. Print and save form. Mail form along with copy of judgment to Director.

**Docketing AO form 120:**



1. Civil > Notices > Notice (Copyright, Patent, Trademark) > next;
2. Verify case name and number, click next;
3. Browse to find the AO-120 form, select it; click next;
4. Select the filing party, do not select a party just click next
5. Check the box to link this form to the complaint > next;
6. Select the complaint > next;
7. Modify docket text screen to read "NOTICE of mailing of "Report on the Filing or Determination of an Action Regarding a Patent or Trademark" ....
8. Docket Text:Final Text screen appears, click next;
9. NEF screen appears - proof of filing.

Each time the form is revised, continue with steps 1 through 7 above to docket the AO-120 form.

**FLAGS** NO\_CMC flag, JURY (if applicable), MAG flag, Patent flag

**TO SET FLAGS:**

1. Civil > Utility Events > set/clear flags > next;
2. Verify or enter case number;
3. Verify case name and number;
4. Verify date document filed (file stamp date);
5. Select multiple flags by holding down the control key while clicking on NO\_CMC, Jury (if applicable), Magistrate Judge's initials, Patent flag, and any other applicable flags. Click next;
6. The modify docket text screen will appear. Revise the text to read as follows:  
*\*\*\*\*Set NO\_CMC, Jury (if applicable), Magistrate XXX, Patent (add any others flags as necessary) Flags. Click next;*
7. The final docket text screen appears. Click next;
8. The NEF screen appears;
9. The public does not see the flag entry as this is a private entry viewable by only court staff.

Print and review docket report.

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Petition for Writ of Mandamus</b>

**AUTHORITY** 28 USC 1361, 28 USC 1651, 05 USC 0701, Fed.R.Civ.P.20(3)(a)

**DEFINITION** The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff. (28 USC 1361)

A higher court is permitted to issue supervisory writs to lower courts. (28 U.S.C. 1651) Litigants often use writs of mandamus or prohibition to ask an appellate court to review a lower court's non-appealable orders or to compel the lower court to act.

Applications for a writ of mandamus or of prohibition directed to a judge or judges shall be made by filing a petition with the clerk of the court of appeals (Fifth Circuit) with proof of service on the respondent judge or judges and on all parties to the action in the trial court. The petition shall contain a statement of the facts necessary to an understanding of the issues presented by the application; relief sought; a statement of the reasons why the writ should issue; and copies of any order or opinion of the parts of the record which may be essential to an understanding of the matters set forth in the petition. Upon receipt of the prescribed docket fee, the **Fifth Circuit clerk shall docket the petition** and submit it to the court. (FRAP 21)

**DOCUMENTS** Petition for Writ of Mandamus  
Motion to Proceed In Forma Pauperis (if filing fee not paid)

**SAMPLE CASE** 1:12cv48, 1:14cv342, 1:11cv92

- FILING FEE** Current civil filing fee or \$5.00 if Pro Se Prisoner  
See Schedule of Fees for Current Fee
- INSTRUCTIONS** Open a new civil case (See General Complaint for  
Instructions)
- FLAGS** MANDAMUS and MAGISTRATE  
ADMINISTRATIVE (if filed by pro se prisoner)  
PRO SE-NON- PRISONER (if filed by pro se party)
- NOTE:** Docket any pleadings received from the Fifth Circuit in  
mandamus actions using the event code “letter” or other  
appropriate event code. Add language in the docket text  
to describe the document being transmitted and the case  
number assigned by the Fifth Circuit. Email a copy to  
Arthur and Porfi.

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Prisoner – 42:1983</b>

**AUTHORITY** 42 U.S.C. §1983  
District Court Clerk’s Manual Chapter 8

**BACKGROUND** Section 1983 made equitable relief available to those whose constitutional rights had been violated by an actor acting under State or Federal Authority. Ninety eight percent of these cases are prisoner pro se cases and must be initiated by a 42:1983 complaint (see attached). Defendant should be a state actor (warden, prison employee, etc.)

**DEFINITION** Civil right petition filed by a prisoner. The petitions (complaint) are generally related to conditions of the prisoner’s confinement or events surrounding a criminal prosecution.

**FILING FEE** Civil Filing Fee (See Schedule of Fees) or Motion to Proceed in Forma Pauperis

**DOCUMENTS**

- (1) pink cover sheet (contains notes from pro se department)
- (2) 42:1983 Complaint (take all information from this document)
- (3) Motion for Leave to Proceed IFP
- (4) Notice of Assignment

**SAMPLE CASE** 4:10-cv-100 Doc #1 42:1983 Complaint  
Doc #2 Motion for IFP

**INSTRUCTIONS** Opening a 42:1983 case

1. Civil > (Open a Case) Civil Case;
2. Division: is the county where claim of relief arose or where one or more defendants reside (determined by pro se department);
3. Case type: cv;
4. Case number (next number up);
5. Date filed (same as file stamp);

6. Presiding judge (next judge up);
7. Referral judge: one assigned to district judge;
8. Referral type: full pretrial, no dispositive motion;
  
9. Jurisdiction: federal question;
10. Cause of action: 42:1983pr (Prisoner Civil Rights);
11. Nature of suit: 555 (Prison Condition);
12. Origin: Original Proceeding;
13. Jury demand: select if applicable;
14. Demand: enter if applicable;
15. County: where *pro se* prisoner is detained;
16. Fee status: fp (in forma pauperis);
17. Fee date: only enter date if fee paid otherwise leave blank.

ENTERING THE PARTIES:                      Pro Se Plaintiff

1. Search for party name. If correct name is **found**, highlight name and click “select party” button.
  - a. Select correct role type (plaintiff);
  - b. Change Pro Se to “*Pro Se but not allowed to file electronically*”;
  - c. If necessary enter address listed on petition;
  - d. “Show this address on the docket sheet” should be selected;
  - e. Enter party text if necessary;
  - f. Leave Notice set to YES;
  - g. Click “Add party” button.
  
2. If party name is **not found**, click on “Create New Party” button. Enter the last name, first name and middle name/initial.
  - a. Select role type (plaintiff);
  - b. Change Pro Se to “*Pro Se but not allowed to file electronically*”;
  - c. Enter address listed on complaint;

- d. “Show this address on the docket sheet” should be selected;
- e. Enter party text if necessary;
- f. Click “Add Party” button.

#### Defendant Party(s)

3. Search for party name. If correct name is found, highlight name and click “select party” button.
  - a. Select correct role type (defendant);
  - b. Enter party text if necessary;
  - c. Click “Add party” button.
  
4. If party name is not found, click on “Create New Party” button. Enter the last name, first name and middle name/initial.
  - a. Select role of party (defendant);
  - b. Enter party text if necessary;
  - c. Click “Add Party” button.
  
5. Add Pro Se Department as an Interested Party
  - a. Search for Pro Se;
  - b. Select Pro Se Department;
  - c. Click “select party”;
  - d. Change role type to Interested Party;
  - e. Click “Add Party”.

#### **CREATING THE CASE:**

1. Click “Create Case”;
2. Case will be Created. Proceed? YES;
3. Click “Docket Lead Event”;
4. Select “Complaint”, next;

5. Verify/enter case number, next;
6. Select attorney filing petition. If no attorney filing for *pro se* prisoner, click next (when reminded you have not selected attorney, click OK);
7. Select filer (*pro se* prisoner), next;
8. Select party filing is against (if more than one defendant do not select all defendants as this will not show names of each defendant in the docket entry); select each individual defendant if necessary, next;
9. Date filed is same as file stamp date. Browse and select complaint; Browse and select all attachments, such as a cover letter, envelope, and notice of assignment. Be sure to enter a category and description, next;
10. If receipt screen appears do not enter receipt number if a Motion for IFP is received, next; if paid enter receipt number;
11. Modify Docket Text screen appears, next;
12. Docket Text: Final Text screen appears, next;
13. NEF screen appears;
14. Mail NEF and Notice of Assignment to *pro se* prisoner.

**DOCKET Motion for Leave to Proceed IFP:**

1. Civil > Motions > Proceed IFP 1983 > next;
2. Enter/verify case number, next;
3. Select attorney if applicable, otherwise just click next;
4. Select filer (plaintiff), next;
5. Date filed same as file stamp date; browse and select motion for IFP; include any attachments if necessary, next;
6. Modify Docket Text screen appears, next;
7. Docket Text: Final Text screen appears, next;
8. NEF screen appears;
9. Mail NEF to *pro se* prisoner.

**FLAGS**

ADMINISTRATIVE, MAG, JURY (if applicable)



<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Prisoner – Federal Court Habeas 2255</b>

**AUTHORITY** 28 U.S.C. §2255  
District Court Clerk’s manual Chapter 8  
Rules Governing Section 2255 Cases in the United States District Courts (Rules 1-12)

**BACKGROUND** A prisoner has been sentenced (serving time in a federal prison) and seeks to set aside or correct the sentence. A 2255 case gets a new civil case number, but all the work is done in the criminal case and documents are housed in the criminal case. The judge who sentenced the defendant must handle this case.

**DEFINITION** A prisoner in custody under sentence of a court claiming the right to be released upon (1) the ground that the sentence was imposed in violation of the Constitution or laws of the U.S.; or (2) the court was without jurisdiction to impose such sentence; or (3) that the sentence was in excess of the maximum authorized by law, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

**FILING FEE** N/A

**DOCUMENTS** (1) Motion Under 28 U.S.C. §2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody  
(2) Memorandum in Support (maybe)

**SAMPLE CASE** 1:18cr8 Doc #47 Motion to Vacate  
Doc #48 Memorandum in Support of Motion  
Doc.#58 Memorandum Opinion and Order  
Doc.#59 Final Judgment (Judgment 2255)  
Doc.#60 Certificate of Appealability (COA)

1:19cv130 Docket Annotation  
Doc. #1 Final Judgment (Judgment 2255)

## **INSTRUCTIONS Filing a 2255 Motion**

\*Assign civil case to sentencing district judge from criminal case. No magistrate is assigned to new civil case. If that judge is no longer on the bench, the Chief Judge will provide an Order of Assignment.

1. Criminal > Motions > enter criminal case number > click next through attorney, select filer (pro se petitioner), next;
2. Vacate (2255) \*FILE CONVENTIONALLY\*, next
3. Does this motion request the retroactive application of sentencing guidelines for a crack cocaine offense? NO, next;
4. Date filed same as file stamp date, browse and select the Motion to Vacate, browse and select any attachments, such as an envelope and include category and description, next;
5. REMINDER screen appears: docket annotation in civil case; filings in criminal case, next
6. Modify Docket Text screen appears, next;
7. Docket Text: Final Text screen appears, next
8. Enter new civil case number, (i.e. year-case number), next;
9. NEF screen appears (print NEF)
10. Civil > Other Documents > Docket Annotation > enter case number > verify case name/number > do not browse > next > ok to prompt no document selected > no to document number > next.
11. Modify the docket annotation to read: *DOCKET ANNOTATION: See Criminal Case No. X:xx-cr-xxx for docket entries.*
12. The civil case will have a related case link to the criminal case and the criminal case will have a related case link to the civil case.

**FLAGS** M2255 Set automatically in criminal case.  
Set JOHNSON 2255 flag if case references Johnson Decision. Set Johnson 2255 flag in civil case also.

### **COURT RULING ON A 2255 MOTION:**

1. The order ruling on the motion should be placed in the appropriate divisional inbox because statistical data must be entered to close the civil case.
2. Criminal > Orders on Motions > enter/verify case number > next > verify case name and number > next;
3. Enter date of order > next;
4. Select judge who signed the order > next;
5. Select the appropriate motion to which this order relates > next;
6. Select Order Action > next;
7. Browse and select order > next;
8. Reminder screen for docket clerk to notify chambers to prepare ruling on COA > next;
9. Written Opinion = No > next;
10. Procedural interval screen - skip, case has already been closed > next;
11. Verify case name and number > next;
12. Modify docket text screen > next;
13. Docket Text: Final Text screen > next;
14. Civil Case Closing Statistics Division Information screen appears. Select 06 (Judgment - Motion Before Trial) for "Disposition"; select 4 (Unknown/other) for "Judgment For" > next; NEF screen appears.
15. (you must go into editor and add Progress at Term (04) After Issue Joined- Judgment on Motion; Nature of Judgment (0) No Monetary Award; Class Action (n) No Class Action.
16. Judge may also enter a Judgment and the docket clerk should choose the event "Judgment 2255" and file in both the criminal and civil case. If you only receive an order ruling on the motion, use the event code Order on Motion to docket in the criminal case and Order on Motion to Vacate/Set Aside/Correct Sentence (2255) to docket in the civil case. (event is under other orders/judgments)

**NOTE:** After docketing the Order ruling on the Motion to Vacate (2255), notify chambers to enter order regarding COA if COA has not been submitted (refer to step 8 above).

**When closing a Motion to Vacate Case, the Civil Case Closing Statistics Division Information should be as follows:**

- 1. Progress at Term (04) After Issued Joined – Judgment on Motion**
- 2. Nature of Judgment (0) No Monetary Award**
- 3. Judgment For (4) Unknown**
- 4. Disposition (06) Judgment – Motion Before Trial**
- 5. Class Action (n) No Class Action**

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Prisoner 28:2241</b>

**AUTHORITY** 28 U.S.C. §2241  
 District Court Clerk’s Manual Chapter 8

**BACKGROUND** Petitions used in which an inmate challenges the legality of confinement (other than 2254, 2255, and 1983). Situations in which this procedure would be used include but are not limited to (1) review of a denial of parole; (2) denial of work-release to a fed prisoner; (3) review of federal prison disciplinary proceedings; (4) review of commitments to psychiatric or juvenile facilities; etc. [District Court Clerk’s manual §8.02(c)(2)(i)(3)]. Proper division is determined by where petitioner is housed.

**DEFINITION** Civil rights petition filed by a prisoner. The petition generally relates to conditions set forth above.

**FILING FEE** \$5.00  
 Motion for IFP

- DOCUMENTS**
- (1) Cover Sheet from Pro Se Department;
  - (2) A Civil Cover Sheet (JS-44) is required when the case is filed by an attorney; however, when the case is filed by a *pro se* prisoner, a JS-44 is not required;
  - (3) Petition for Writ of Habeas Corpus (handwritten or form);
  - (4) Motion for Leave to Proceed in forma pauperis;
  - (5) Notice of Assignment.

**SAMPLE CASE**

1:10-cv-112	Doc #1	Petition for Writ of Habeas Corpus
	Doc #2	Motion for Leave to Proceed in forma pauperis
5:10-cv-17	Doc #1	Petition for Writ of Habeas Corpus
	Doc #2	Motion for Leave to Proceed in forma pauperis

1:10-cv-154 Doc #1 Petition for Writ of Habeas Corpus  
Filing Fee: \$5.00, receipt number xxxxx

**INSTRUCTIONS** Initial and all original documents filed by plaintiff are retained in the civil action folder assigned to the case. Do not shred. It is no longer necessary to send address changes to the attorney admissions clerk. Scan all documents before opening case.

**OPENING THE 2241 CASE:**

1. Civil > (Open a Case) Civil Case;
2. Division: is the county where the *pro se* prisoner **is housed**;
3. Case type: cv;
4. Case number (next number up);
5. Date filed (same as file stamp);
6. Presiding judge (next judge up);
7. Referral judge: one assigned to district judge;
8. Referral type: R&R (report and recommendation);
9. Jurisdiction: (3) Federal Question or (2) U.S. Government Defendant
10. Cause of action: 28:2241 (28:2241 Petition for Writ of Habeas Corpus (Federal));
11. Nature of suit: 530 (Habeas Corpus (General)); 463 for Western Division cases with prisoners housed in Adams County Correctional Center (1/27/20 email)  
(Do a staff note if *pro se* ask you to change Nature of Suit)
12. Origin: Original Proceeding;
13. Jury demand: select if applicable;
14. Demand: enter if applicable;
15. County: where *pro se* prisoner is detained;
16. Fee status: either paid (paid) or fp (in forma pauperis);
17. Fee date: paid date or blank.

## **ENTERING THE PARTIES:**

### Pro Se Prisoner Plaintiff

1. Search for party name. If correct name is found, highlight name and click “select party” button.
  - a. Select correct role type (plaintiff);
  - b. Change Pro Se to “*Pro Se but not allowed to file electronically*”;
  - c. Enter address listed on petition, if necessary;
  - d. “Show this address on the docket sheet” should be selected;
  - e. Enter party text if necessary;
  - f. Leave Notice set to YES;
  - g. Click “Add party” button.
  
2. If party name is not found, click on “Create New Party” button. Enter the last name, first name and middle name/initial.
  - a. Select role type (plaintiff);
  - b. Change Pro Se to “*Pro Se but not allowed to file electronically*”;
  - c. Enter address listed on petition;
  - d. “Show this address on the docket sheet” should be selected;
  - e. Enter party text if necessary;
  - f. Click “Add Party” button.

### Defendant Party(s)

1. Search for party name. If correct name is found, highlight name and click “select party” button.
  - a. Select correct role type (defendant);
  - b. Enter party text if necessary;

- c. Click “Add party” button.
2. If party name is not found, click on “Create New Party” button. Enter the last name, first name and middle name/initial.
  - a. Select role of party (defendant);
  - b. Enter party text if necessary;
  - c. Click “Add Party” button.

*(If the State of Mississippi is a defendant, add current attorney general (Lynn Fitch) as attorney until appearance is made by the Attorney General’s office; at that time term Lynn Fitch as attorney) and add other attorney; if the defendant is the U.S. Government do not add any attorney).*

Add Pro Se Department as an Interested Party:

1. Search for Pro Se;
2. Select Pro Se Department;
3. Click “select party” Change role type to Interested Party;
4. Click “Add Party”,

If the Pro Se Prisoner (Plaintiff) has retained counsel, add the attorney at this time.

### **CREATING THE CASE:**

1. Click “Create Case”;
2. Case will be Created. Proceed? YES;
3. Click “Docket Lead Event”;
4. Select “Petition for Writ of Habeas Corpus”, next;
5. Verify case number, next;
6. Select attorney filing petition. If no attorney filing for *pro se* prisoner, click next (when reminded you have not selected attorney, click OK);
7. Select filer (*pro se* prisoner), next;
8. Select party filing is against (if more than one defendant do not select all defendants as this will not show names of each defendant in the docket entry); select each individual defendant if necessary, next;



9. Browse and select petition. Browse and select all attachments including the notice of assignment, possible cover letter, and envelope making sure to enter a category and description, next;
10. Modify Docket Text screen appears, next;
11. Docket Text: Final Text screen appears, next;
12. NEF screen appears;
13. Mail NEF to *pro se* prisoner as well as Notice of Assignment.

**DOCKET Motion for Leave to Proceed IFP:**

1. Civil > Motions > Proceed In Forma Pauperis, next;
2. Verify/enter case number, next;
3. Select attorney if applicable; otherwise click next, select OK if you did not select an attorney;
4. Select party filing Motion, next;
5. Browse and select the motion and any attachments if necessary, next;
6. Modify Docket Text screen appears, next;
7. Docket Text: Final Text screen appears, next;
8. NEF screen appears;
9. Mail NEF to *pro se* prisoner.

Continue to docket any other pleadings as necessary.

Once the Filing fee has been received, docket "Filing Fee Received" from Civil Events > Other Events.

**FLAGS** HABEAS and ADMINISTRATIVE are set automatically; set MAG and CASREF flags (CASREF flag pursuant to internal rule amended 11/1/2011)  
Set JOHNSON 2241 if case references Johnson Decision

1. CIVIL > Utility Events > Set/Clear Flags, next;
2. Enter/verify case number, next; verify case name and number, next;
3. From the top flag box select the magistrate judge's initials;
4. Change the Modify Text screen box to read: \*\*\* *Set Mag flag*, next;

5. Docket Text: Final text screen appears, next;
6. NEF screen appears.

Flags are for in house use only and no NEFs are sent automatically.

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Prisoner – State Court Habeas 2254</b>

**AUTHORITY** 28 U.S.C. § 2254 (State Custody; Remedies in Federal Courts)  
Rules Governing Section 2254 Cases in the United States District  
Courts (Rules 1 - 12); Appendix of Forms: 28:2254 form  
District Court Clerk’s Manual Chapter 8

**BACKGROUND** A person has been sentenced in a state court and wishes to challenge the constitutionality of the sentence. It has nothing to do with the guilt or innocence of the party. The proper division for filing a 2254 is determined by the place of conviction. Only when the conviction is outside our district would we go by the county where they are housed to determine division.

**DEFINITION** A District Court shall entertain an application for a writ of habeas corpus on behalf of a person in custody pursuant to a judgment of a State court.

**FILING FEE** \$5.00 or IFP motion in lieu of fee

**DOCUMENTS**

- (1) Cover sheet (contains notes from pro se dept);
- (2) A Civil Cover Sheet (JS-44) is required when the case is filed by an attorney; however, when the case is filed by a *pro se* prisoner, a JS-44 is not required;
- (3) Petition or Motion for Writ of Habeas Corpus;
- (4) Motion for Leave to proceed In forma Pauperis (maybe);
- (5) Memorandum in Support of Petition (maybe)
- (6) Notice of Assignment.

**SAMPLE CASE**

3:10-cv-318	Doc #1	Petition for Writ of Habeas Corpus
	Doc #2	Motion for Leave to Proceed in forma pauperis
	Doc #4	Memorandum in Support of Petition

**INSTRUCTIONS** All original documents filed by plaintiff are retained in the civil action folder assigned to the case. Shred 30 days from closing if no appeal.

**OPENING THE 2254 CASE:**

1. Civil > (Open a Case) Civil Case;
2. Division: is the county where the pro se prisoner was convicted. If the prisoner was convicted outside our district, the case will be filed in the division where the prisoner is housed and will then be reviewed by the pro se department and transferred to the proper district;
3. Case type: cv;
4. Case number (next number up);
5. Date filed (same as file stamp);
6. Presiding judge (next judge up);
7. Referral judge: one assigned to district judge;
8. Referral type: Report and Recommendation;
9. Jurisdiction: federal question;
10. Cause of action: 28:2254 (28:2254 Petition for Writ of Habeas Corpus (State));
11. Nature of suit: 530 (Habeas Corpus (General));
12. Origin: Original Proceeding;
13. Jury demand: select if applicable;
14. Demand: enter if applicable;
15. County: where *pro se* prisoner is detained;
16. Fee status: fp (in forma pauperis);
17. Fee date: only enter date if fee paid; otherwise leave blank.

**ENTERING THE PARTIES:**

**Plaintiff**

1. Search for party name. If correct name is found, highlight name and click “select party” button.
  - a. Select correct role type (plaintiff);
  - b. Change Pro Se to “*Pro Se but not allowed to file electronically*”;
  - c. Enter address listed on petition, if necessary;
  - d. “Show this address on the docket sheet” should be selected;

- e. Enter party text if necessary;
  - f. Leave Notice set to YES;
  - g. Click “Add party” button.
2. If party name is not found, click on “Create New Party” button. Enter the last name, first name and middle name/initial.
- a. Select role type (plaintiff);
  - b. Change Pro Se to “*Pro Se but not allowed to file electronically*”;
  - c. Enter address listed on petition;
  - d. “Show this address on the docket sheet” should be selected;
  - e. Enter party text if necessary;
  - f. Click “Add Party” button.

#### Defendant Party(s)

3. Search for party name. If correct name is found, highlight name and click “select party” button.
- a. Select correct role type (defendant);
  - b. Enter party text if necessary;
  - c. Click “Add party” button.
4. If party name is not found, click on “Create New Party” button. Enter the last name, first name and middle name/initial.
- a. Select role of party (defendant);
  - b. Enter party text if necessary;
  - c. Click “Add Party” button.

(do not list the State of Mississippi or Lynn Fitch as defendants unless they are listed in the area of Respondent on the 2254 petition)

5. Add Pro Se Department as an Interested Party.
- a. Search for Pro Se;

- b. Select Pro Se Department;
  - c. Click “select party”;
  - d. Change role type to Interested Party;
  - e. Click “Add Party”.
6. Attorney for defendant(s) should be current attorney general (Lynn Fitch);
- a. Click on attorney icon for defendant;
  - b. Enter Hood as last name, search;
  - c. Select attorney or enter Lynn Fitch as an attorney;
  - d. Click “Add Attorney”.

(once an assistant Attorney General files on behalf of the State, term Lynn Fitch as the attorney for Respondent.

#### **CREATING THE CASE:**

1. Click “Create Case”
2. Case will be Created. Proceed? YES;
3. Click “Docket Lead Event”;
4. Select “Petition for Writ of Habeas Corpus”, next;
5. Verify case number, next;
6. Select attorney filing petition. If no attorney filing for *pro se* prisoner, click next (when reminded you have not selected attorney, click OK);
7. Select filer (*pro se* prisoner), next;
8. Select party filing is against (if more than one defendant do not select all defendants as this will not show names of each defendant in the docket entry); select each individual defendant if necessary, next;
9. Browse and select petition. Browse and select all attachments entering a category and description, next;
10. Modify Docket Text screen appears, next;
11. Docket Text: Final Text screen appears, next;
12. NEF screen appears;
13. Mail Notice of Assignment and NEF to *pro se* prisoner.

**DOCKET Motion for Leave to Proceed IFP:**

1. Civil > Motions > Proceed In Forma Pauperis, next;
2. Verify case number, next;
3. Select attorney if applicable; otherwise click next, select OK if you did not select an attorney;
4. Select party filing Motion, next;
5. Browse and select the motion, next;
6. Modify Docket Text screen appears, next;
7. Docket Text: Final Text screen appears, next;
8. NEF screen appears;
9. Mail NEF to *pro se* prisoner.

Continue to docket any other pleadings as necessary.

If a Filing fee is received, docket "Filing Fee Received" from Civil Events > Other Events.

**FLAGS** HABEAS and ADMINISTRATIVE are set automatically; set MAG and CASREF

1. CIVIL > Utility Events > Set/Clear Flags, next;
2. Enter/verify case number, next; verify case name and number, next;
3. From the top flag box select both CASREF (case referred) and the magistrate judge's initials;
4. Change the Modify Text screen box to read: \*\*\* *Set Mag and CASREF flags*, next;
5. Docket Text: Final text screen appears, next;
6. NEF screen appears.

Flags are for in house use only and no NEFs are sent, nothing needs to be mailed.

NOTE: Once Report and Recommendation is entered, change Magistrate role to full pretrial, non-dispositive and remove case referred flag.

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Pro se Prisoner Generic</b>

**AUTHORITY** 28 U.S.C. §§ 2241 - 2255;  
Rules Governing Section 2254 Cases in the United States District Courts (Rules 1 - 12)  
Rules Governing Section 2255 Cases in the United States District Courts (Rules 1-12)  
42 U.S.C. 1983;  
District Court Clerk Manual Chapter 8

**BACKGROUND** A case filed with the court by a pro se prisoner. All filings from prisoners are done conventionally. Types: 28:2254 (in prison challenging the state court sentencing [Petition for Writ of Habeas Corpus]); 28:2255 (in prison asking for sentencing to be set aside [motion to vacate]); 42:1983 (in prison complaining about prison conditions [complaint]); 28:2241 (in federal prison challenging speedy trial problem or execution of their sentence [Petition for Writ of Habeas Corpus]).

**DEFINITION** Pro Se legal representation refers to the instance of a person representing himself or herself without a lawyer in a court proceeding, whether as a defendant or a plaintiff and whether the matter is civil or criminal.

**FILING FEE** See [Schedule of Fees](#)  
42:1983 – Civil Filing Fee or Motion to Proceed IFP 1983;  
28:2241 - \$5.00 or Motion to Proceed in Forma Pauperis;  
28:2254 - \$5.00 or Motion to Proceed in Forma Pauperis;  
28:2255 - no filing fee

**DOCUMENTS**

- (1) 42:1983 - complaint;  
28:2241 - Petition for Writ of Habeas Corpus;  
28:2254 - Petition for Writ of Habeas Corpus by a Person in State Custody;  
28:2255 - Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody;
- (2) Any exhibits pertaining specifically to the initiating document;



Notice of Assignment.

<b>SAMPLE CASE</b>	3:10-cv-132	28:2241
	3:10-cv-318	28:2254
	3:10-cv-320	28:2255
	3:10-cv-321	42:1983

**NOTES** Intake should verify that all necessary original documents are signed. A receipt should be mailed back to the prisoner. If pro se prisoner files a motion to proceed *in forma pauperis* then no filing fee is required until motion is ruled on. All documents should be file stamped.

**Assignment of Case Number:**

1. Each case accepted for filing is assigned a case number;
2. All case numbers start with a one digit number indicating the divisional office: 1-Southern; 2-Hattiesburg; 3-Jackson; 4-Eastern; 5-Western;
3. Next is the two-digit indicator of the year in which the case was filed;
4. The notation "cv" for civil cases follows the year number;
5. The chronological case number is last (up to five digits)

*EXAMPLE: 1:10-cv-12345;*

6. District judge's and magistrate judge's initials and the case number

*EXAMPLE 1:10-cv-12345-HTW-LRA.*

**Assignment of District Judge:**

CM/ECF allows the court to manage the judge assignment process during case opening. In addition, CM/ECF software contains enhanced Conflict Checking functionality that can assist judges in determining whether recusal is appropriate in a particular case.

1. Intake, upon receipt of initial pleading(s), will assign the district judge by consulting the court's index cards to see which judge is next in the rotation;

2. The conflict checking process is begun to ensure that a party is not on the judge's recusal list. Check the judge's conflict checking report to see if a conflict exists;
3. If no conflict exists assign the next judge in the rotation;
4. If a conflict exists, go to the next judge in the court's index cards and begin conflict checking for this judge. Continue until a district judge is found without a conflict.

MAGISTRATE JUDGES are automatically assigned to District Judges in civil cases.

Write case number, district judge initials, and magistrate judge initials on all initiating documents.

## **INSTRUCTIONS FOR OPENING CASE AND FILING OF DOCUMENTS**

### **CASE OPENING STATISTICS:**

1. Civil > civil case > select correct division: determined by Pro Se Department > case type:cv > case number next up;
2. Date filed - defaults to current date (check to ensure the date filed matches the file stamp date on the pleading);
3. Presiding Judge is the District Judge assigned to the case;
4. Referral Judge is the Magistrate Judge assigned to the district judge;
5. Referral Type: Full pretrial, no dispositive motion [42:1983] and [28:2241]; Report and Recommendation [28:2254], no referral on 28:2255, click next;
6. Jurisdiction: Federal Question except for 28:2255 which is U.S. Government Defendant;
7. Cause of action: 28:2241, 28:2254, 28:2255, or 42:1983;
8. Nature of suit: 42:1983 - 555 prison condition; 28:2241 - 530 general; 28:2254 - 530 general; and 28:2255 - Motion to Vacate;
9. Origin: always (1) Original Proceeding;
10. Citizenship plaintiff/defendant: N/A;
11. Jury demand: must be taken from the initiating document, read through documentation; only enter jury demand if listed and select p (Plaintiff);

12. Demand: enter money demand only if listed, demand is entered in thousands; the system will only accept 9 digits, *i.e. 99,000,000 is entered as 99000; the system adds the final three zeroes;*
13. County: Based on residence of defendant or where incident occurred; determination is made by pro se department;
14. Fee status: paid (paid) or fp (in forma pauperis).

**PARTY TEXT INFORMATION:** Party text is additional information related to a party such as in the case of a minor child, a business, a deceased person, etc.

- EXAMPLES:**
- (1) Party name: Dr. Marcus Welby, *party text “individually and in his official capacity”;*
  - (2) Party name: ABC Corporation, *party text “and its divisions BAC, Inc.”;*
  - (3) Party name: Nancy Reagan, *party text “as Administratrix of the Estate of Ronald Reagan, deceased and on behalf of all wrongful death beneficiaries of Ronald Reagan, deceased”;*
  - (4) Party name: Christopher Epps, *party text “Commissioner”;*
  - (5) Party name: John Doe, *party text “as the natural father and next friend of James Doe, a minor”.*

### **CASE OPENING PARTIES - Pro Se Prisoner**

1. Search for pro se party name. If correct name is found, highlight name and click “select party” button:
  - a. Select correct role type (plaintiff);
  - b. Change pro se from “NO” to “Pro Se but not allowed to file electronically”;
  - c. Verify the prisoner id number;
  - d. If party is found, verify that address and phone number are correct in the system (compare CM/ECF address with new filing). If discrepancies in the address/phone number, contact the attorney admissions clerk;
  - e. “Show this address on the docket sheet” should be selected;
  - f. Enter party text if necessary;
  - g. Click “Add party” button.

2. If party name is not found, click on "Create New Party" button. Enter the last name, first name and middle name/initial:
  - a. Select role of party (plaintiff);
  - b. Change pro se from "NO" to "Pro Se but not allowed to file electronically";
  - c. Enter the prisoner's id number;
  - d. Enter the complete pro se party's address and phone number;
  - e. "Show this address on the docket sheet" should be selected;
  - f. Enter party text if necessary;
  - g. Click "Add Party" button.
  
3. Add Pro Se Department as Interested Party:
  - a. Search for "pro se department" name;
  - b. Highlight name and click "select party" button;
  - c. Select role of party - Interested Party;
  - d. Click "Add party" button.

**ALIAS INFORMATION:**

An alias can be an assumed name, former name, or nickname affiliated with a person or business. A name used other than the given name of a person or business. Types of aliases are as follows:

agent (representative); aka (also known as); dba (doing business as); fdba (formerly doing business as); fka (formerly known as); nee (maiden name); obo (or best offer); other (other); rpi (); ta ()

**PARTY ALIAS:**

1. If an alias needs to be added, click the Alias icon found under the party's name;
2. Enter the last/business name to search for an alias, click Search;
3. **If the correct alias is found**, highlight and click Select Alias;
4. Select the correct alias type;
5. Start date should be the same date as when the party was added;
6. Click Add Alias.

OR

1. If an alias needs to be added, click the Alias icon found under the party's name;

2. Enter the last/business name to search for an alias, click Search;
3. **If the correct alias is not found**, click Create New Alias;
4. Enter the alias information;
5. Select the correct alias type;
6. Start date should be the same date as when the party was added;
7. Click Add Alias.

**ADDING ATTORNEYS (if necessary):**

1. Click on the attorney icon under the plaintiff's name;
2. Enter the bar number or name of attorney, click search;
3. If the **attorney name is found**, highlight the name and click select attorney;
4. Verify firm name and address is correct;
5. If lead attorney, change no to yes;
6. Make sure notice is set to yes (default);
7. Make sure start date is the same date the party was added;
8. Click add attorney;
9. Click create case, answer Yes to Proceed;
10. Click Docket Lead Event.

OR

1. Click on the attorney icon under the party's name;
2. Enter the bar number or name of attorney, click search;
3. If the **attorney name is not found, immediately email** the attorney admissions clerk that attorney is not in our system. The attorney must be admitted to practice in the Southern District of Mississippi and also be registered in our CM/ECF system in order to file and receive notice of electronic filing;
4. At this point you cannot add the attorney but you can begin to docket the complaint as the initiating document;
5. Click create case;

6. Answer Yes to Proceed;
7. Click Docket Lead Event.

### **CREATE CASE:**

1. Click create case, answer Yes to Proceed;
2. Click Docket Lead Event.

### **FILING OF DOCUMENTS:**

1. Select initiating document (Civil > Complaints, Other Initiating Documents > Petition for Writ of Habeas Corpus (28:2241 and 28:2254), Civil > Motions > Vacate (28:2255); Civil > Complaints, Other Initiating Documents > complaint (42:1983), click next;
2. Enter or verify case number, click next;
3. For attorney filing screen click next;
4. Select the plaintiff(s) [the filing party], click next;
5. Select the defendant(s) [the party who the filing is against], *do not select “● all defendants” as each defendant’s name will not appear on the docket report individually* ;
6. Verify date document filed is the same as the file stamp date;
7. Browse to find the scanned document, select it;
8. Browse to find any attachments completing the category and description boxes. **Each exhibit must be attached individually, not filed together as one exhibit;**
9. Enter receipt number if applicable, click next;
10. The modify docket text screen will appear, review to ensure correct spellings and all documents have been included. If changes need to be made, start over with step one. If correct, click next;
11. The final text screen appears. Click next;
12. The NEF screen appears. The NEF is proof of filing. See each separate procedure for mailings.

**FLAGS** 3:10-cv-321 (42:1983) ADMINISTRATIVE, MAG, JURY (if applicable)  
1:11-cv-472 (28:2255) M2255 (M2255 set automatically in original  
criminal case)  
3:10-cv-318 (28:2254) ADMINISTRATIVE, HABEAS, CASREF, MAG  
3:10-cv-132 (28:2241) ADMINISTRATIVE, HABEAS, MAG

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Qui Tam</b>

**AUTHORITY** False Claims Act ("FCA") 31 U.S.C. 3729-33

**DEFINITION** (kwee tam) A law suit brought by a private citizen (popularly called a "whistle blower") against a person or company who is believed to have violated the law in the performance of a contract with the government or in violation of a government regulation, when there is a statute which provides for a penalty for such violations. Qui tam suits are brought for "the government as well as the plaintiff." In a qui tam action the plaintiff (the person bringing the suit) will be entitled to a percentage of the recovery of the penalty (which may include large amounts for breach of contract) as a reward for exposing the wrong-doing and recovering funds for the government. Sometimes the federal or state government will intervene and become a party to the suit in order to guarantee success and be part of any negotiations and conduct of the case. This type of action is generally based on significant violations which involve fraudulent or criminal acts, and not technical violations and/or errors.

**BACKGROUND** Qui Tam cases are submitted under seal and will not be made public record until unsealed by the court. The complaint shall be filed *in camera*, **shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders.** Summonses are not issued to the defendants at the time of filing. It is the responsibility of the filing party to serve the complaint, and it should only be served to the Attorney General of the United States and the appropriate U.S. Attorney. And, in addition, furnishes the government a statement of material evidence in support of the complaint's allegation of fraud. Although the plaintiff is filing on behalf of the United States, the civil complaint filing fee will be collected by the clerk.

The government has an initial 60 days to investigate the allegations. However, pursuant to §3730 (b)(c), the department of



justice may (and almost always does) request extensions of time. Eventually, the government must either "intervene" and litigate the case or "decline" to do so and let the relator (whistle-blower) pursue it.

Once a complaint has been filed, no person other than the government may intervene or bring a related action based on the facts underlying the pending action (the so called "first to file" rule). §3730(b)(5)

The False Claims Act directs that the government has primary responsibility for prosecuting the action. § 3730(c)(1)

## **FILING FEE**

See [Schedule of Fees](#) (civil filing fee)(check, cash or money order; payable to Clerk, United States Courts); or IFP motion.

## **SAMPLE CASE**

1:12-cv-393	Doc #1:	Order permitting filing under seal; if received (By statute the complaint shall be filed in camera)
	Doc #2:	Complaint; Flags
	Doc #3:	Government's motion for additional time

## **INSTRUCTIONS**

**Assignment of Case Number:** (See General Complaint Instructions)

**Assignment of District Judge:** (See General Complaint Instructions)

SUMMONS SHALL NOT BE SERVED ON THE DEFENDANT(S) UNTIL THE COURT SO ORDERS.

## **INSTRUCTIONS FOR OPENING QUI TAM CASE AND FILING OF INITIAL DOCUMENTS**

### **CASE OPENING STATISTICS:**

1. Civil > civil case (sealed) > select correct division > case type:cv > case number assigned;

2. Date filed - defaults to current date (check to ensure the date filed matches the file stamp date on the pleading);
3. Presiding Judge is the District Judge assigned to the case;
4. Referral Judge is the Magistrate Judge assigned to the district judge;
5. Referral Type: (Full pretrial, no dispositive motion), next;
6. Jurisdiction: 1 (U.S. Government Plaintiff);
7. Cause of action: 31:3729 (31:3729 False Claims Act);
8. Nature of Suit: 376 (Qui Tam 31 U.S.C. &sect; 3729(a)); **effective 11/15/2015**;
9. Origin: always (1) Original Proceeding;
10. Jury demand: must be taken from the complaint, not the civil cover sheet;  
*If the civil cover sheet lists a jury demand and the complaint does not, contact the attorney via phone and explain that he/she will have to file a Notice of Jury Demand; only enter jury demand if listed in the complaint and select p (Plaintiff);*
11. Demand: enter money demand only if listed in the complaint, demand is entered in thousands; the system will only accept 9 digits, *i.e. 99,000,000 is entered as 99000; the system adds the final three zeroes*;
12. County: taken from the civil cover sheet, enter the name of the county where the first listed plaintiff resides at the time the case is filed. If the U.S. Government is the plaintiff, enter the name of the county in which the first listed defendant resides at the time the case is filed;
13. Fee status: paid (paid); Next;
14. The screen allowing for the adding of parties appears.

**PARTY TEXT INFORMATION:** (See General Complaint Instructions)

**NOTE:** In Qui Tam cases the United States of America, ex rel. should be entered as the plaintiff/relator. If other relator names are listed be sure and add them individually.

1. The United States of America should be added to the case as "United States of America" as the Plaintiff.
2. In party text include "ex rel".

3. Add any other Plaintiff(s) into the case as usual adding *Relator* as party text. Add the attorney for these Plaintiffs and not the United States of America.

**NOTE: QUI TAM CASE ATTORNEYS:**

**The attorney who filed for the Plaintiff should not be associated with the United States of America. If, and when, the United States decides to intervene, an attorney should be added for the United States of America at that time.**

**CASE OPENING PARTIES - INDIVIDUALS:** (See General Complaint Instructions)

**CASE OPENING PARTIES – BUSINESSES** (See General Complaint Instructions)

**CASE OPENING PARTIES - Pro Se Civilian** (See General Complaint Instructions)

**ALIAS INFORMATION:** (See General Complaint Instructions)

**ADDING ATTORNEYS:** (See General Complaint Instructions)

**FILING OF DOCUMENTS:**

Order Permitting Filing Under Seal:

1. Civil > Other Orders/Judgments > Order > next;
2. Enter/verify case number > next;
3. Enter date of signature taken from order > next;
4. Select judge who signed the order > next;
5. Verify date document filed is same as on the order;
6. Browse and select order > next;
7. No to E-Government Act question > next;
8. Do not link Order to any other document > next;
9. The modify docket text screen will appear. Modify to read “Order Permitting filing under seal. Text in Jury Trial if applicable. Review to ensure correct spellings. If changes need to be made, start over with step one. If correct, click next.

10. The final text screen appears > next;
11. The NEF screen appears. This is your proof of filing. No NEF will be sent as this case is SEALED.

Complaint:

1. Civil > Complaints and Other Initiating Documents > Complaints > next;
2. Enter/Verify case number, click next;
3. Select the attorney filing the complaint > next;
4. Select all plaintiffs as the filing party > next;
5. **DO NOT** associate the attorney with the United States of America. Uncheck the box > next;
6. Select the defendant(s) [the party whom the filing is against], select each defendant individually. *Selecting "all defendants" will not show each defendant's name on the docket report individually* > next;
7. Verify date document filed is the same as the file stamp date;
8. Browse and select scanned complaint > browse and select the scanned civil cover sheet. Select "civil cover sheet" as the category > next;
9. Enter receipt number and fee > next;
10. The modify docket text screen will appear. Text in Jury Trial if applicable. Review to ensure correct spellings and all documents have been included. If changes need to be made, start over with step one. If correct, click next;
11. The final text screen appears. Click next;
12. The NEF screen appears. No NEF will be sent as this case is SEALED;
13. Mail a copy of the NEF and a copy of the complaint to the attorney of record.

**NOTE**

**Since no NEF will generate for this case, the docket clerk must print and mail a copy of the filed complaint and the NEF to the attorney of record. At this point you will do nothing further until directed by chambers.**

**FLAGS**

Set MAG judge initials manually, set JURY flag (if applicable)  
manually; set QUI TAM manually; set NO\_CMC manually;  
SEALED flag set automatically

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>RICO (Racketeer Influenced and Corrupt Organization Act) Notice</b>

**AUTHORITY** 18 U.S.C. §§1961 - 1968  
L.U.Civ.R. 83.8 (RICO)

In all cases in this court in which claims are asserted under the Racketeer Influenced and Corrupt Organization Act ("RICO"), 18 U.S.C. § 1961, a RICO Statement, conforming to the requirements of this order, must accompany the filing of the RICO complaint.

**BACKGROUND** RICO was enacted by section 901(a) of the Organized Crime Control Act of 1970. RICO is codified as Chapter 96 of Title 18 of the United States Code, 18 U.S.C. § 1961- 1968.

While RICO's original use was to prosecute the Mafia as well as others who were actively engaged in organized crime, its application has been more widespread.

**DEFINITION** The Racketeer Influenced and Corrupt Organizations Act, commonly referred to as the RICO Act or simply RICO, is a United States federal law that provides for extended criminal penalties and a civil cause of action for acts performed as part of an ongoing criminal organization. The RICO Act focuses specifically on racketeering, and it allows for the leaders of a syndicate to be tried for the crimes which they *ordered* others to do or assisted them, closing a perceived loophole that allowed someone who told a man to, for example, murder, to be exempt from the trial because they did not actually do it.

**FILING FEE** SEE CURRENT FEE SCHEDULE (Civil Filing Fee)

**SAMPLE CASE** 1:13-cv-292 Doc #1 Complaint  
Set Flags  
Doc #2 RICO Statement  
Summons Issued

**INSTRUCTIONS**

Cause: 18:1964 Racketeering (RICO) Act  
18:1961 Racketeering (RICO) Act  
18:1962 Racketeering (RICO) Act

Nature of Suit: 470 Racketeer/Corrupt Organization

1. Scan and file the complaint as the first docket entry.
2. Issue summons.
3. Set flags. (RICO)
4. If the RICO statement is filed at the time the complaint is filed, the docket clerk should docket the event "RICO Statement" as a separate document and not as an attachment. [Civil > Other Documents > RICO Statement].
5. If no RICO STATEMENT is filed at the time the complaint is filed, you should print the RICO NOTICE found at our Home Page, General, Local Court forms, RICO NOTICE. Complete the form (style of case, etc.). Print the form and scan into PDF format. Now docket the RICO Notice.

**FLAGS** Add RICO flag

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
\_\_\_\_\_ DIVISION

VS.

PLAINTIFF(S)  
CIVIL ACTION NO.  
DEFENDANT(S)

RICO NOTICE

In this action, claims have been asserted under the Racketeer Influenced and Corrupt Organization Act (“RICO”), 18 U.S.C. § 1961. Under the current practice of the presiding judge, all parties filing RICO claims must file a RICO statement conforming to this Notice.

The Plaintiff shall file, within twenty (20) days hereof, a RICO case statement. This statement shall include the facts the Plaintiff is relying upon to initiate this RICO complaint as a result of the “reasonable inquiry” required by Federal Rule of Civil Procedure 11. This statement shall be in a form which both uses the numbers and letters as set forth below, and states in detail and with specificity the following information:

1. State whether the alleged unlawful conduct is in violation of 18 U.S.C. §§ 1962(a), (b), (c), and/or (d).
2. List each Defendant and state the alleged misconduct and basis of liability of each Defendant.



3. List the alleged wrongdoers, other than the Defendant(s) listed above, and state the alleged misconduct of each wrongdoer.

4. List the alleged victims and state how each victim was allegedly injured.

5. Describe in detail the pattern of racketeering activity or collection of unlawful debts alleged for each RICO claim. A description of the pattern of racketeering shall include the following information:

a. List the alleged predicate acts and the specific statutes which were allegedly violated;

b. Provide the dates of the predicate acts, the participants in the predicate acts, and a description of the facts surrounding the predicate acts;

c. If the RICO claim is based on the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities, the “circumstances constituting fraud or mistake shall be stated with particularity.” Fed. R. Civ. P. 9(b). Identify the time, place and contents of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made;

d. State whether there has been a criminal conviction for violation of the predicate acts;

e. State whether civil litigation has resulted in a judgment in regard to the predicate acts;

f. Describe how the predicate acts form a “pattern of racketeering activity”; and

g. State whether the alleged predicate acts relate to each other as part of a common plan. If so, describe in detail.

6. Describe in detail the alleged enterprise for each RICO claim. A description of each enterprise shall include the following information:

a. State the names of the individuals, partnerships, corporations, associations, or other legal entities, which allegedly constitute the enterprise;

b. Describe the structure, purpose, function and course of conduct of the enterprise;

c. State whether any Defendants are employees, officers or directors of the alleged enterprise;

d. State whether any Defendants are associated with the alleged enterprise;

e. State whether you are alleging that the Defendants are individuals or entities separate from the alleged enterprise, or that the Defendants are the enterprise itself, or are members of the enterprise; and

f. If any Defendants are alleged to be either the enterprise itself or members of the enterprise, explain whether such Defendants are perpetrators, passive instruments, or victims of the alleged racketeering activity.

7. State whether you are alleging that the pattern of racketeering activity and the enterprise are separate or have merged into one entity. In either event, describe in detail.

8. Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual and daily activities of the enterprise, if at all.

9. Describe what benefits, if any, the alleged enterprise receives from the alleged pattern of racketeering.

10. Describe the effect of the activities of the enterprise on interstate or foreign commerce.

11. If the complaint alleges a violation of 18 U.S.C. § 1962(a), provide the following information:

a. State who received the income derived either from the pattern of racketeering activity or through the collection of an unlawful debt; and

b. Describe the use, investment or locus of such income.

12. If the Complaint alleges a violation of 18 U.S.C. § 1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.

13. If the complaint alleges a violation of 18 U.S.C. § 1962(c), provide the following information:

a. State who is employed by or associated with the enterprise; and

b. State whether the same entity is both the liable "person" and the "enterprise" under § 1962(c).

14. If the complaint alleges a violation of 18 U.S.C. § 1962(d), describe in detail the alleged conspiracy.

15. Describe the direct causal relationship between the alleged injury and the violation of the RICO statute.

16. List the actual damages for which Defendant is allegedly liable.

17. List all other federal causes of action, if any, and provide citations to the relevant statute(s).

18. List all pendent state claims, if any.

19. Provide any additional information that you feel would be helpful to the Court in considering your RICO claim.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF  
MISSISSIPPI

BY: ARTHUR JOHNSTON, CLERK OF  
COURT

BY: \_\_\_\_\_, D.C.

<b>Chapter</b>	<b>SOCIAL SECURITY AND CONSENTS</b>
<b>Subject</b>	<b>Social Security Case</b>

**AUTHORITY** 42 U.S.C. §205 (Denial)  
42 U.S.C. §206 (Benefits)  
42 U.S.C. §402 (Benefits)  
42 U.S.C. §405id (Review of HHS decision of SSID)(sup.security)  
42 U.S.C. §405wc (Review of HHS decision DIWC)(ins. Worker)  
42 U.S.C. §405ww (Review of HHS decision DIWW)(widow)  
42 U.S.C. §416 (Denial)  
42 U.S.C. §427 (Benefits)  
42 U.S.C. §1383 (Review of HHS decision)  
42 U.S.C. §2005 (Review of agency action-HHS)

**BACKGROUND** Social Security Act of 1935 signed into law by President Franklin D. Roosevelt.

**DEFINITION** Social security is primarily a social insurance program providing social protection, or protection against socially recognized conditions, including poverty, old age, disability, unemployment, and others.

**FILING FEE** See [Schedule of Fees](#). (Civil Filing Fee)

**DOCUMENTS** 1) Complaint & Civil Cover Sheet  
2) Cover Letter and AO 85 Form

**SAMPLE CASE** 1:20-cv-1

## **INSTRUCTIONS**

### **Opening a Social Security Case:**

Intake should verify that all necessary original documents are present and signed by an attorney or pro se plaintiff (wet signature). A receipt should be provided by a deputy clerk to the attorney or pro se plaintiff for the correct filing fee [if pro se plaintiff files a motion to proceed in forma pauperis then no filing fee is required until motion is ruled on]. All documents should be file stamped. Summonses are not file stamped because these documents are issued.

**Assignment of Case Number: (See General Complaint Instructions)**

**Assignment of District Judge: (See General Complaint Instructions)**

## **INSTRUCTIONS FOR OPENING CASE AND FILING OF DOCUMENTS**

### **CASE OPENING STATISTICS:**

- 1) Civil > civil case > select correct division> case type:cv > case number assigned;
- 2) Date filed - defaults to current date (check to ensure the date filed matches the file stamp date on the pleading);
- 3) Presiding Judge is the District Judge assigned to the case;
- 4) Referral Judge is the Magistrate Judge assigned to the district judge;
- 5) Referral Type: Report and Recommendation, next;
- 6) Jurisdiction: check civil cover sheet against complaint for jurisdiction, e.g. 2-U. S. Government Defendant;
- 7) Cause of action: check civil cover sheet against complaint, see below:
  - 42 U.S.C. §205 (Denial)
  - 42 U.S.C. §206 (Benefits)
  - 42 U.S.C. §402 (Benefits)
  - 42 U.S.C. §405id (Review of HHS decision of SSID)(supp. Security)
  - 42 U.S.C. §405wc (Review of HHS decision DIWC)(insured worker)
  - 42 U.S.C. §405ww (Review of HHS decision DIWW)(widows)
  - 42 U.S.C. §416 (Denial)
  - 42 U.S.C. §427 (Benefits)
  - 42 U.S.C. §1383 (Review of HHS decision)
  - 42 U.S.C. §2005 (Review of agency action-HHS)
- 8) Nature of suit: check civil cover sheet against complaint, see below:
  - 861 HIA (1395ff)
  - 862 Black Lung (923)
  - 863 DIWC/DIWW (405(g))
  - 864 SSID Title XVI
  - 865 RSI (405(g))
- 9) Origin: always (1) Original Proceeding;
- 10) Citizenship plaintiff/defendant: only used in diversity matters;

- 11) Jury demand: no jury demand because the U.S. Government is a party to the action;
- 12) Demand: no demand in SS cases;
- 13) County: taken from the civil cover sheet, enter the name of the county where the first listed plaintiff resides at the time the case is filed. If the U.S. Government is the plaintiff, enter the name of the county in which the first listed defendant resides at the time the case is filed;
- 14) Fee status: paid (paid) or fp (in forma pauperis), next;
- 15) The screen allowing for the adding of parties appears.

**CASE OPENING PARTIES (See General Complaint Instructions)**

**DEFENDANT PARTIES:**

Search for *Commissioner of Social Security in last name* and enter current Commissioner in party text: ex: Andrew Saul, *Commissioner*. Always choose *Commissioner of Social Security* as the party in last name even though the complaint may have the defendant listed differently.

**INTERESTED PARTIES:**

- 1) Add SSA General Counsel as an interested party to the Social Security Case.

**ADDING ATTORNEYS: (See General Complaint Instructions)**

**FILING OF DOCUMENTS (See General Complaint Instructions)**

**FLAGS** ADMINISTRATIVE, MAG, CASREF

**TO SET FLAGS: (See General Complaint Instructions)**

**ISSUING SUMMONS: (If no summons to issue, proceed to CONSENT PROCEDURES)**

- 1) When issuing a summons in a Social Security case use event "Summons Issued as to USA". Summons to be served on the following:

U. S. Attorney  
Southern District of Mississippi  
501 East Court Street  
Suite 4.430  
Jackson, MS 39201

Attorney General  
United States of America  
Department of Justice  
Constitution Avenue & 10<sup>th</sup> St. NW  
Washington, D.C. 20530

Social Security Administration  
Office of Regional Counsel  
1301 Young Street, A-702  
Dallas TX 75202 (address per 1/11/17 email)

See Fed.R.Civ.P. 4(i): *Serving the United States and its Agencies, Corporations, Officers, or Employees.*

- 2) If a motion for IFP is filed, a summons cannot be issued until IFP is granted.
- 3) When the return of summons is filed, use event "Summons Returned Executed as to USA (Social Security)". This sets the 90 day answer deadline.

**CASREF Flag:**

After the Report and Recommendation has been filed, the CASREF flag should be removed. The referral type for the magistrate judge should be changed to "full pretrial, no dispositive motion", using UTILITIES> Maintain Case Data, Edit Case Participants - Judges.

**SOCIAL SECURITY REMAND:**

**Sample Case:** 1:15cv390 #15 Order  
#16 Final Judgment  
Remark No Number (2/8/17)

Address for Social Security:

Social Security Administration  
Office of Adjudication and Review  
5107 Leesburg Pike  
Suite 802  
Falls Church, VA 22041-3255  
Attn: CCPRB IV

A certified copy of the Order of Remand must be mailed to the above address.

**APPEAL FROM DISTRICT COURT TO 5TH CIRCUIT AND THEN REMANDED TO SECRETARY OF HHS:**

If a party is granted IFP and an appeal is filed, no appeal fee is required. If an attorney makes an appearance and begins to represent a party *proceeding in forma pauperis* no filing fee is required. Fed.R.App.P. 24(a)(3): Prior Approval. A party who was permitted to proceed in forma pauperis in the district court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without



further authorization “.

Upon appeal the Fifth Circuit can remand the case to Secretary of HHS for further proceedings. Notify the CRD when the Mandate is received. The District Judge will enter an Order complying with the 5th Circuit’s Mandate.

A certified copy of the Order of Remand must be mailed to the above address.

<b>Chapter</b>	<b>SOCIAL SECURITY AND CONSENTS</b>
<b>Subject</b>	<b>Obtaining Consents in Social Security Cases</b>

**AUTHORITY** Fed.R.Civ.P Rule 73(b)  
28 U.S.C. § 636(c)  
28 U.S.C. § 636(c)(2)  
Local Uniform Civil Rules of the United States District Courts for  
the Northern and Southern Districts of Mississippi Rule 73(b)

**BACKGROUND** Rule 73(b) of the FEDERAL RULES OF CIVIL PROCEDURE states that “the clerk must give parties written notice of their opportunity to consent under 28 U.S.C. § 636(c).” The parties are then free to “jointly or separately file a statement consenting to the referral.” The duty is placed on the clerk in order to isolate the judges from the consenting process and to remove any hint of bias should one or more of the parties decline the offer.

Although the parties may consent at any time before trial of the case, 28 U.S.C. § 636(c)(2) indicates that the clerk’s notice advising the parties of their right to consent shall occur “at the time the action is filed.”

**Effective September 1, 2015, all cases involving an action for benefits under the Social Security Act and all appeals related thereto, shall be given an opportunity to consent to a U.S. Magistrate Judge (Consent Procedures start with #15 below)**

**SAMPLE CASE** 1:20cv1

**DOCUMENTS** 1. Complaint with Civil Cover Sheet

Social Security Staff Note, Cover Letter, Form AO 85 and self-addressed envelope mailed separately to counsel of record advising party of opportunity to consent to a Magistrate Judge.

2. AO Form 85 (Notice of Consent by Plaintiff)
3. AO Form 85 (Notice of Consent by Defendant)

4. AO Form 85 (Reference Order Reassigning Case)
5. Remark No Number – advising attorneys of the case number and new judge assignment.

**PROCEDURES FOR OBTAINING CONSENTS:**

1. Mail the filing party (plaintiff/attorney) [1] Form AO 85, [2] a cover letter advising the party of the opportunity to consent, and [3] a self-addressed envelope. **Be sure to add the style and case number on the AO Form 85 before mailing.**
2. Mail the Chief of the Civil Division, Office of the U.S. Attorney (Marc Perez) or such other individual in said office as the U.S. Attorney may designate, [1] Form AO 85, [2] a cover letter advising the party of the opportunity to consent, and [3] a self-addressed envelope. **Be sure to add the style and case number on the AO Form 85 before mailing. Northern and Western Division only will place the consent Form AO 85 in the AUSA box. All other divisions will mail the form to Chief of the Civil Division, Office of the U.S. Attorney, at 501 East Court Street, Suite 4.430, Jackson, MS 39201 with a self-addressed envelope.**
3. The Deputy Clerk shall make a docket entry (**Social Security Staff Note**) reflecting that the Cover Letter, Form AO 85, and self-addressed envelope have been mailed to the claimant or his/her counsel and the U.S. Attorney. Civil Utility Events > Social Security Staff Note > enter/verify case number > verify case name and number > modify text screen appears: add the following text ***Cover Letter, AO 85 Consent Form, and Self- Addressed Envelope mailed to Plaintiff/Plaintiff's Counsel [if applicable] and U.S. Attorney Designee.***

**DO NOT DOCKET THE CONSENT FORMS UNTIL YOU HAVE RECEIVED BOTH FORMS FROM THE PARTIES.**

4. Once the consent forms have been signed and returned conventionally by **both parties** the Deputy Clerk shall file stamp, scan and **docket separately each Form AO 85** using the event “Consent to Jurisdiction by U.S. Magistrate Judge.” The Deputy Clerk should email the executed forms with **PLAINTIFF’S** form on top and transmit the forms to the assigned District Judge for signature.
  - a. Civil > Other Documents > Consent to Jurisdiction by *U.S. Magistrate Judge* > next > enter case number >
  - b. Enter case number > next.

- c. Verify case name and number > next.
  - d. Date document filed is file stamped date > browse and select the AO 85 form > next > select the filer > next > reminder to remove the CASREF flag and MJ flag > next.
  - e. Modify text screen appears > next > final text screen appears > next > NEF.
5. If the District Judge concurs in the consent, **the Courtroom Deputy (CRD) for the District Judge will secure the judge's signature and date on the AO Form 85, place a file stamp on the lower half, scan the form and place it in the "order bucket" for docketing by the Docket Clerk. Only the Plaintiff's form needs to be signed by the District Judge.**
  6. Once the executed Form AO 85 is received in the clerk's office the Deputy Clerk must terminate the Magistrate Judge before docketing the executed Form AO 85: Big Utilities > Maintain Case Data > Edit Case Participants-Judges > Modify Judge > Add Case Number and Find Case > Select Magistrate from Drop Down > Enter End Date > next.
  7. Now the Deputy Clerk will file the consented Form AO 85 using event "*Order Reassigning Case Upon Consent*".
    - a. Civil > Other Orders/Judgments > Order Reassigning Case Upon Consent > next > enter case number > next > verify case name and number > next.
    - b. Enter the date of the District Judge's signature as the signature date > next.
    - c. Select the previously assigned District Judge who entered the order > next.
    - d. Date document filed is the file stamped date > browse and find the AO form 85 document as the main document > next.
    - e. Add the magistrate judge as the presiding judge > next.
    - f. If hearings are listed, **do not** link hearings to newly assigned Magistrate Judge > next.
    - g. Another add judge screen will appear (skip) > next.
    - h. The flag screen appears: CONSENT flag should set automatically; select the MJ initials and CASREF flags for removal > next.
    - i. Modify text screen appears "ORDER REASSIGNING CASE UPON CONSENT. Case reassigned to Magistrate Judge \_\_\_\_\_ for all further proceedings ...." > next.

- j. Final text screen appears > next.
  - k. NEF appears.
8. Remark No Number: Attorneys are advised to include the case number and new judge assignment of 1:18cv116MTP on future filed pleadings.
  9. Put case number and new judge assignment on Reassignment Sheet.

**NOTE: CRD's are responsible for terminating and resetting hearings on the calendar for their Judge.**

**(SHORT VERSION OF CONSENT PROCEDURES)**

**1. New Case Filed**

**2. Send AO 85 form, cover letter (local forms) and self-addressed return envelope to the plaintiff's attorney and to Chief of Civil Division of the U.S. Attorney's Office, Marc Perez, 501 E. Court Street, Ste. 4.430, Jackson, MS 39201. (Northern and Western Division will place AO 85 form in AUSA box)**

**3. Make a Social Security Staff Note that cover letter, AO 85 form and return envelope mailed to both parties.**

1. When clerk is in receipt of both executed forms, file stamp and docket separately as Consent to Jurisdiction by Magistrate Judge and email the forms to the District Judge for signature of the Order portions.
  2. When Order is received, (add end date for Magistrate Judge), docket as Order Reassigning Case Upon Consent. Consent flag should set automatically, remove Mag. Flag and CASREF flag. (Scan both orders together)
  3. Remark No Number: Attorneys advised to use the new judge assignment of 1:18cv86LRA on future filings.
- 7. Put on Reassignment List.**

UNITED STATES DISTRICT COURT  
OFFICE OF THE CLERK  
SOUTHERN DISTRICT OF MISSISSIPPI  
Jackson, Mississippi

March 4, 2021

Arthur Johnston  
CLERK

*Mailing Address:*  
501 E. Court St., Suite 2.500  
Jackson, MS 39201

TELEPHONE:  
(601) 608-4000

*DIVISIONS*

SOUTHERN at Gulfport  
2012 15<sup>th</sup> Street, Suite 403  
Zip 39501

EASTERN at Hattiesburg  
701 Main St., Suite 200 Zip 39401

NORTHERN & WESTERN at Jackson  
501 E. Court St., Suite 2.500  
Zip 39201

RE: Case No.

Dear:

Rule 73(b) of the Federal Rules of Civil Procedure and 28 U.S.C. ' 636(c) allow the parties to any civil case, including a case arising under the Social Security Act, to consent to have the matter heard by a United States Magistrate Judge instead of a United States District Judge.

If you would like to consent to having the above-referenced matter heard by the assigned Magistrate Judge, please fill out and sign the enclosed AO Form 85 and return it to our office using the enclosed self-addressed envelope.

Sincerely,

Arthur S. Johnston, III  
Clerk of Court

By: \_\_\_\_\_  
Deputy Clerk

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>Trademark</b>

- AUTHORITY** 15 U.S.C. §1051 (trademark infringement/application for registration)  
15 U.S.C. §1114 (trademark infringement/innocent infringement by printers and publishers)  
15 U.S.C. §1121 (trademark infringement/no alteration of a trademark)  
15 U.S.C. §1125 (trademark infringement/false or misleading description) (the Lanham Act)  
15 U.S.C. §1127 (trademark infringement/definitions)  
28 U.S.C. §1338 (trademark infringement/federal courts jurisdiction)
- DEFINITION** Trademark is a distinctive sign or indicator used by an individual, business organization, or other legal entity to identify that the products or services to consumers with which the trademark appears originate from a unique source and to distinguish its products and services from those of other entities. A trademark is a typical name, word, phrase, logo, symbol, design, image or a combination of these elements. The Trademark identifier is ®.
- FORMS** AO-120 Report on the Filing or Determination of an Action Regarding a Patent or a Trademark
- FILING FEE** See [Schedule of Fees](#) (Civil Filing Fee)(check, cash or money order; payable to Clerk, United States Courts)
- DOCUMENTS**
- (1) Civil Cover Sheet (scan in) JS-44;
  - (2) Complaint (scan in);
  - (3) Exhibits (scan in) pertaining specifically to the Complaint, i.e. insurance policy, maps, etc.;
  - (4) Summons (to be discussed in the section on Service of Process; the summons may or may not accompany the complaint at the time of filing.).

<b>SAMPLE CASE</b>	3:09-cv-207	Doc #1	Complaint with attachments
		4/3/2009	AO-120 form mailed upon case opening
		4/28/2009	AO-120 form mailed upon order closing case

**Assignment of Case Number:** (See General Complaint Instructions)

**Assignment of District Judge:** (See General Complaint Instructions)

## **INSTRUCTIONS FOR OPENING CASE AND FILING OF DOCUMENTS**

### **CASE OPENING STATISTICS:**

1. Civil > civil case > select correct division > case type:cv > case number assigned;
2. Date filed - defaults to current date (check to ensure the date filed matches the file stamp date on the pleading);
3. Presiding Judge is the District Judge assigned to the case;
4. Referral Judge is the Magistrate Judge assigned to the district judge;
5. Referral Type: (Full pretrial, no dispositive motion), next;
6. Jurisdiction: check civil cover sheet against complaint for jurisdiction, i.e. 3-Federal Question, etc.; make choice according to complaint;
7. Cause of action: check civil cover sheet against complaint, make choice according to complaint; see below:
  - i. 15 U.S.C. §1051 (trademark: application).
  - ii. 15 U.S.C. §1114 (trademark: innocent infringement by printers and publishers)
  - iii. 15 U.S.C. §1121 (trademark: no alteration of a trademark)
  - iv. 15 U.S.C. §1125 (trademark: false or misleading description, Lanham Act),
  - v. 15 U.S.C. §1127 (trademark: definitions)
  - vi. 28 U.S.C. §1338 (trademark: federal question)
  - vii. 28 U.S.C. §1441 (trademark: notice of removal)



8. Nature of suit: check civil cover sheet against complaint, (i.e., 840 Trademark); make choice according to complaint;
9. Origin: always (1) Original Proceeding;
10. Citizenship plaintiff/defendant: only used in diversity matters;
11. Jury demand: must be taken from the complaint, not the civil cover sheet;  
*If the civil cover sheet lists a jury demand and the complaint does not, contact the attorney via phone and explain that he/she will have to file a Notice of Jury Demand; only enter jury demand if listed in the complaint and select p (Plaintiff);*
12. Demand: enter money demand only if listed in the complaint, demand is entered in thousands; the system will only accept 9 digits, *i.e. 99,000,000 is entered as 99000; the system adds the final three zeroes;*
13. County: taken from the civil cover sheet, enter the name of the county where the first listed plaintiff resides at the time the case is filed. If the U.S. Government is the plaintiff, enter the name of the county in which the first listed defendant resides at the time the case is filed;
14. Fee status: paid (paid); Next;
15. The screen allowing for the adding of parties appears.

**PARTY TEXT INFORMATION:** (See General Complaint Instructions)

**CASE OPENING PARTIES - INDIVIDUALS:** (See General Complaint Instructions)

**CASE OPENING PARTIES – BUSINESSES** (See General Complaint Instructions)

**ALIAS INFORMATION:** (See General Complaint Instructions)

**CORPORATE PARENT INFORMATION:** (See General Complaint Instructions)

"

**ADDING ATTORNEYS:** (See General Complaint Instructions)

**FILING OF DOCUMENTS:**

1. Complaint (See General Complaint Instructions)
2. AO-120 Form

**AO-120 “Report on the Filing or Determination of an Action Regarding a Patent or Trademark”:**

Each time the form is completed it should be mailed to the Director.

1. MSSD homepage > General > AO forms > Form AO-120 > PDF format > complete top portion of form, (see attached form with highlighted areas); print for mailing purposes and save the form so if additional patents are added to the case, these patents can be added to this form. Also upon final decision or judgment in the case the form must be completed and sent to the director;
  - a. Mail to Director at address shown on top left of form.
2. If, during the course of the case, documents are filed which add additional patents, the form should be retrieved and the middle section of form AO-120 should be completed by adding the additional patents and patent holders (see attached form with highlighted areas); print for mailing purposes and save the form so upon final decision or judgment the form can be completed and sent to the director;
  - a. Mail completed form to Director (address at top of form);
3. Upon final decision or judgment, complete the decision/judgment portion of AO-120 (see attached form with highlighted areas), Clerk: Arthur Johnston, Clerk stamp, sign your name electronically s/your name, and date form. Print and save form. Mail form along with copy of judgment to Director.

**Docketing AO form 120:**

1. Civil > Notices > Notice (Copyright, Patent, Trademark) > next;
2. Verify case number, next;
3. Verify case name and number, click next;
4. Browse to find the AO-120 form, select it; click next;

5. Do not select a party - just click next;
6. Check the box to link this form to the complaint > next;
7. Select the complaint > next;
8. Modify docket text screen to read "NOTICE of mailing of "Report on the Filing or Determination of an Action Regarding a Patent or Trademark" ....
9. Docket Text: Final Text screen appears, click next;
10. NEF screen appears - proof of filing.

Each time the form is revised, continue with steps 1 through 7 above to docket the AO-120 form.

**FLAGS** CJRA-P flag, JURY (if applicable), MAG flag, Trademark flag

**TO SET FLAGS:** (See General Complaint Instructions)

<b>Chapter</b>	<b>NEW CIVIL CASE</b>
<b>Subject</b>	<b>USERRA</b>

**AUTHORITY** USERRA (Uniformed Services Employment and Re-employment Rights Act) Section 4323(h)(1)

**BACKGROUND** Many U.S. military personnel will be returning home and claiming the right to re-employment in their pre-service civilian jobs, in accordance with the USERRA 38 U.S.C. §§4301-4335. As employers violate USERRA through ignorance or malice, there will be an increasing number of USERRA cases filed in federal district courts.

**DEFINITION** USERRA Section 4323(h)(1) “No fees or court costs shall be charged or taxed against any person claiming rights under this chapter”. This means the plaintiff filing a USERRA case is exempt from the usual requirement to pay the \$350 filing fee. This provision also means that, regardless of the outcome, the USERRA plaintiff cannot be charged court costs or the defendant’s attorney fees, even if the charging of such costs or fees would be required under any other law.

**FILING FEE** N/A

**SAMPLE CASES**

2:09-cv-31	Doc #29	Motion (letter)
	Doc #30	Order granting
3:11-cv-265	Doc #34	Motion (letter)
	Doc #35	Order granting
3:08-cv-611	Doc #13	Motion (letter)
	08/21/2012	Text Only Order granting

**NOTE** at the time the above cases were filed, filing fees were collected. Mike Farrell, counsel for plaintiff, filed a Motion (letter) requesting

a refund of the filing fee in each case. An order was prepared and filed directing the clerk of the court to refund the filing fee in the amount of \$350.00 to counsel.

## INSTRUCTIONS

1. Civil > civil case > select correct division > case type:cv > next case number assigned;
2. Date filed - defaults to current date (check to ensure the date filed matches the file stamp date on the pleading);
3. Presiding Judge is the District Judge assigned to the case;
4. Referral Judge is the Magistrate Judge assigned to the district judge;
5. Referral Type: (Full pretrial, no dispositive motion), next;
6. Jurisdiction: 3 (Federal Question) check against civil cover sheet;
7. Cause of action: 38:2021 (Right to re-employment of inducted persons);
8. Nature of suit: 790 (Labor: Other);
9. Origin: (1) Original Proceeding;
10. Citizenship plaintiff/defendant: only used in diversity matters;
11. Jury demand: must be taken from the complaint, not the civil cover sheet;  
*If the civil cover sheet lists a jury demand and the complaint does not, contact the attorney via phone and explain that he/she will have to file a Notice of Jury Demand; only enter jury demand if listed in the complaint and select p (Plaintiff);*
12. Demand: enter money demand only if listed in the complaint, demand is entered in thousands; the system will only accept 9 digits, *i.e. 99,000,000 is entered as 99000; the system adds the final three zeroes*;
13. County: taken from the civil cover sheet, enter the name of the county where the first listed plaintiff resides at the time the case is filed;
14. Fee status: none (no fee required) > next;
15. The screen allowing for the adding of parties appears.

**ADDING PARTIES** (See General Complaint Instructions)

**ADDING ATTORNEY** (See General Complaint- attorney found

**FILING OF COMPLAINT:** (See General Complaint Instructions)

**FLAGS**                      MAG, JURY (if applicable), NO-CMC

<b>Chapter</b>	<b>NEW MISCELLANEOUS CASES</b>
<b>Subject</b>	<b>Appointment of Receiver of Property in Different Districts</b>

**AUTHORITY** 28 U.S.C. 754 and 28 U.S.C. 959

**DEFINITION** An indifferent person between the parties to a cause, appointed by the court to receive and preserve the property or fund in litigation, and receive its rents, issues, and profits, and apply or dispose of them at the direction of the court when it does not seem reasonable that either party should hold them.

**BACKGROUND** A receiver is a person who is (1) not holding any civil office, (2) not holding any military office, (3) not employed by the United States, and (4) not employed by any justice or judge of the United States.

The receiver shall, within ten days after the entry of his order of appointment, file copies of the complaint and such order of appointment in the district court for each district in which property is located. The failure to file such copies in any district shall divest the receiver of jurisdiction and control over all such property in that district.

**FILING FEE** See Schedule of Fees (Miscellaneous Filing Fee) (payable to Clerk, United State District Court: cash, or money order

**SAMPLE CASE** 3:11-mc-493 Doc #1 Copy of Complaint  
Doc #2 Copy of Order  
Doc #3 Notice of Filing

Cause: 28:754 Receiver of Property in Different Districts

## **INSTRUCTIONS**

1. Open the miscellaneous case using the generic miscellaneous case procedure;
2. File the necessary documents;
3. Once all documents are filed close the case (civil, utility events, terminate civil case).
4. Set closed flag

**FLAGS**    MAG, CLOSED



<b>Chapter</b>	<b>NEW MISCELLANEOUS CASES</b>
<b>Subject</b>	<b>Generic Miscellaneous Case</b>

**AUTHORITY** District Court Clerk's Manual Chapter 4 §4.03

**DEFINITION** Miscellaneous numbers are assigned to a variety of matters filed with the court which are not properly considered civil or criminal cases. These matters, however, may be directly or indirectly related to civil or criminal cases pending with the district or another district. In general, miscellaneous actions are used for administrative matters that require resolution through the judicial system.

**CASE TYPES**

General	
Foreign Subpoenas	
3:10-mc-3	Registration of Foreign Judgment from Another District
1:11-mc-34	Motion to Quash Deposition Subpoena
3:08-mc-2	Motion for Protective Order
3:10-mc-4	Motion to Quash Subpoena Duces Tecum
1:10-mc-440	Application to Perpetuate Testimony
3:10-mc-1	Receiverships
1:10-mc-16	Letters Rogatory from Other Districts
	Warrant for Arrest of Juror
	Pen Registers
2:11-mc-101	Wire Interceptions
	Video Interceptions
	Grand Jury Matters
	Motion to Quash IRS Subpoena
	Proceedings Against Sureties

**FILING FEE** See Schedule of Fees (Misc. Filing Fee). If filed by government there is no filing fee

**DOCUMENTS** Dependent upon case type

## **INSTRUCTIONS**

1. Civil > Civil case > Select Division > Enter Case Type as MC > Enter Case number (year-number);
2. Select presiding [district] judge > select referral [magistrate] judge;
3. Entered related case data if applicable;
4. Next;
5. Since this is a miscellaneous case, there is no statistical screen;
6. Search for the party's name > either select the party or add a new party;
7. Continue to add all parties;
8. Create Case > Yes > Docket Lead Event;
9. Select the appropriate initiating document > select any attachments > next;
10. Verify case number > next;
11. Add attorney > next;
12. Pick filer > next;
13. Attorney/party association screen appears > next;
14. Select PDF document and any attachments > next;
15. Continue to NEF screen.

## **FLAGS**    MAG

## **CLOSING CASE**

1. Once an order is entered ruling on the initiating document, close the case by using civil, utility events, terminate civil case

<b>Chapter</b>	<b>NEW MISCELLANEOUS CASES</b>
<b>Subject</b>	<b>Letters Rogatory/Request for Judicial Assistance</b>

**AUTHORITY**

Fed.R.Civ.P. Rule 4(f)  
Fed.R.Civ.P. Rule 28(b)  
Fed.R.Civ.P. Rule 45(b)(3)  
28 U.S.C. §1696  
28 U.S.C. §§1781-1783  
District Court Clerk's Manual Chapter 18 §18.04; §18.06

**BACKGROUND**

The Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, more commonly called the Hague Service Convention, is a multilateral treaty which was signed on November 15, 1965, by members of the Hague Conference on Private International Law. It allows service of judicial documents from one signatory state to another without recourse to consular and diplomatic channels.

**DEFINITION**

A letter rogatory is a letter of request from a court in one country to a court in another country requesting international judicial assistance. It is a device used by a tribunal of one sovereign nation to request a tribunal of another sovereign nation to obtain testimony or other evidence from a person located in the latter country. A district court may find itself at either end of the process, i.e., as the recipient of a letter rogatory from a foreign tribunal or as the issuer of a letter rogatory to a foreign tribunal.

**FILING FEE**

If this is an existing case no fee required.

If no case is pending Miscellaneous Filing fee required, except if filed by government. (See Schedule of Fees)

**SAMPLE CASE**

1:10-cv-477	Doc # 14	Motion for Letters Rogatory
	Doc # 26	Order granting Motion for Letters Rogatory
	Doc # 27	Letters Rogatory issued
	Doc # 28	Exemplification Certificate

**INSTRUCTIONS See Generic Miscellaneous Case Opening procedure**

Incoming letters rogatory are docketed as a new miscellaneous case; outgoing letters are entered on the docket of the case pending in this court.

1. The Letters Rogatory will be filed by the clerk's office under seal of the court and is signed by the judge;
2. The Exemplification Certificate (AO form 132) is completed by the clerk's office and the court seal affixed. Describe the documents attached to the certificate. The certificate should be filed as an attachment to the Letters Rogatory. It is signed by:

Clerk of Court by Deputy Clerk

District Judge

Deputy Clerk

3. Original Letters Rogatory and the Exemplification Certificate are to be returned to the attorney after filing;
4. Close Miscellaneous case and enter termination date: civil, utility events, terminate civil case.

**FLAGS**    MAG flag

<b>Chapter</b>	<b>NEW MISCELLANEOUS CASES</b>
<b>Subject</b>	<b>Motion/Petition to Perpetuate Testimony</b>

**AUTHORITY** Fed.R.Civ.P. 27 (Motion to Perpetuate Testimony)  
Fed.R.Civ.P. 45 (Subpoena)  
District Court Clerk's Manual Chapter 4 - §4.03 (vii) Application to Perpetuate Testimony

**DEFINITION** Motion/Petition to Perpetuate Testimony is filed when there is no existing case in any court but it is essential that testimony be taken from a person prior to a case being filed.

**DOCUMENTS** (1) Civil Cover Sheet (JS-44)  
(2) Original Motion/Petition to Perpetuate Testimony  
(3) Proposed Order (e-mailed directly to judge)  
(4) Order (filed by chambers)  
(5) Subpoena (not issued until Order entered);

(issuance of subpoena in accordance with Fed.R.Civ.P. 45 (a)(3). If requested, the clerk can issue to the party requesting the subpoena; or the attorney may issue and sign a subpoena as an officer of the court.)

**FILING FEE** Miscellaneous Filing Fee (See Schedule of Fees)

**SAMPLE CASE** 2:10mc26 & 2:10-mc-80 Both district and magistrate judges are assigned to miscellaneous cases.

## **INSTRUCTIONS**

1. Open a miscellaneous case using MC as your case type;
2. Civil Events > Complaint, Other Initiating Documents > Petition to Perpetuate Testimony;
3. Select attorney, select filer, select party this filing is against;

4. Check “date document filed”, browse to find the motion/petition, attach the civil cover sheet and any other necessary attachments including a category and description;
5. Enter the name of the person who will testify;
6. Continue until NEF is received;
7. Set MAG flag.
8. Once the Motion/Petition has been ruled on by the judge the docket clerk should close the case: Civil > Utility Events > Terminate Civil Case.



<b>Chapter</b>	<b>NEW MISCELLANEOUS CASES</b>
<b>Subject</b>	<b>Motion to Enforce/Quash/Compel/Arbitration Award</b>

**AUTHORITY** U.S. Arbitration Act Title 9  
28 U.S.C. §657

**BACKGROUND** When a motion to Enforce/Quash/Compel an Arbitration Award is filed as a new case, it is only because a party to a completed arbitration is seeking to enforce, quash or compel an award that has been set by an arbitrator without a case having been brought, thus there is no existing case.

**FILING FEE** Miscellaneous Filing Fee (See Schedule of Fees) check, (payable to Clerk, United States Court), cash or money order

**DOCUMENTS** Motion filed by attorney with attachment of Award

**SAMPLE CASE**

**INSTRUCTIONS** Open as a MC case

**FLAGS** Set MAG flag

**NOTE** This type of case remains open until an order is entered ruling on the motion to enforce or quash. Once the order is entered close case (civil > utility events > terminate civil case).



<b>Chapter</b>	<b>NEW MISCELLANEOUS CASES</b>
<b>Subject</b>	<b>Motion to Enforce/Quash Deposition Subpoena</b>

**AUTHORITY** Fed.R.Civ.P. Rule 45

**BACKGROUND** Deposition subpoena requires a non-party to provide copies of business records to, or appear, before a subpoenaing party. A deposition subpoena is issued by an officer of the court or an attorney of record in the case and served on a named individual, department or office.

When a Motion to /Enforce Quash a Deposition Subpoena is filed as a new case, it is only because the subpoena is being issued from a federal court *outside* the district on a party residing *inside* the district; thus there is no existing case number.

**DEFINITION** A subpoena for a deposition or production can be served within the district of the court by which it is issued, or any place outside the district that is within 100 miles of where the hearing, trial, deposition or production is to be taken, of, if state law permits, anywhere with the state. However, if a deposition or production subpoena requires a deponent or producer who is not a party or an officer of a party to travel more than 100 miles, the court may quash or modify the subpoena on timely motion.

**FILING FEE** Miscellaneous Filing Fee (See Schedule of Fees)check (payable to Clerk, United States Courts), cash or money order.

**DOCUMENTS** Civil Cover Sheet  
Motion to Enforce/Quash a Deposition Subpoena  
Copy of Subpoena attached to Motion

**SAMPLE CASE** 2:09-mc-97 Doc #1 Motion to Quash

## **INSTRUCTIONS**

1. Open Civil Miscellaneous Case (division, type, number, add parties, attorneys);

2. Docket Enforce/Quash (Civil > Motions);
3. Select motion and attach exhibits;
4. Proceed to NEF screen.

**FLAGS**

MAG

**NOTE**

This type of miscellaneous case remains opened until an Order is entered ruling on the Motion to Enforce/Quash. Close the case (civil > utility events> terminate civil case).

<b>Chapter</b>	<b>NEW MISCELLANEOUS CASES</b>
<b>Subject</b>	<b>Motion to Quash IRS Summons; Motion to Enforce IRS Summons</b>

**AUTHORITY** 26 U.S.C. §7604  
26 U.S.C. §7609 (b)

**DEFINITION** If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, records, or other data, the United States District Court for the district in which such person resides or is found, shall have jurisdiction by appropriate process to compel such attendance, testimony or production of books, papers, records, or other data.

**Enforcement:** Whenever any person summoned under §§ 6420(e)(2), 6421(g)(2), 6427(j)(2) or 7602, neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony as required, the Secretary may apply to the judge of the district court (or to a U.S. magistrate judge for the district within which the person so summoned resides or is found) for an attachment against him as for a contempt. It shall be the duty of the judge or magistrate judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or the U.S. magistrate judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

**Quash:** Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under 26 U.S.C. §7609 (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

**Requirement:** If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A), such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a) (1).

**Intervention:** Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in any proceeding under subparagraph (A). Such person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding).

**MOTION TO QUASH IRS SUMMONS:** (company or individual)

**BACKGROUND** When a Motion to Quash an IRS Summons is filed as a new case, it is only because the Summons is being issued by the IRS as an administrative summons; thus, there is no existing case in the district.

Motions to quash are filed by an individual or a company.

**FILING FEE** Miscellaneous Filing Fee (See Schedule of Fees)

**DOCUMENTS** Motion to Quash - initiating document  
Civil Cover Sheet  
Copy of Summons  
Summons issued to the Government  
Order ruling on Motion

**SAMPLE CASE** 1:05-mc-322 (Case filed by a company)  
Doc #1 Motion to Quash IRS Summons  
Attachment: civil cover sheet  
7/1/2005 Summons issued to government  
Doc #8 Order ruling on Motion which closes case

I

## INSTRUCTIONS

1. Open a new miscellaneous case (see miscellaneous case opening);
2. Docket Motion to Quash;
3. Attach civil cover sheet and any exhibits;
4. Issue Summons;
5. Set MAG flag;
6. This type of case will be closed upon Order entered on Motion;
7. Civil > Utility Events > Terminate Civil Case;

### **MOTION TO ENFORCE IRS SUMMONS:** (U.S. Government)

**FILING FEE** N/A - filed by government

**DOCUMENTS** Motion to Enforce IRS Summons (filed by government)  
Civil Cover Sheet  
Copy of Summons  
Summons issued to defendant  
Order ruling on Motion

**SAMPLE CASE** 4:93-mc-108 (case filed by U.S.)  
Doc #1 Motion by U.S. to enforce IRS  
summons  
10/4/1993 Summons issued  
1/6/94 Order ruling on Motion which closes  
case

## INSTRUCTIONS

1. Open a new miscellaneous case using (see miscellaneous case opening procedures);
2. Docket Motion to Enforce;
3. Attach civil cover sheet and any exhibits;
4. Issue Summons;
5. Set MAG file;
6. This type of case will be closed upon Order entered on Motion;
7. Civil > Utility Events > Terminate Civil case - this sets the termination date and sets the CLOSED flag.

<b>Chapter</b>	<b>NEW MISCELLANEOUS CASES</b>
<b>Subject</b>	<b>Registration of a Foreign Judgment from Another District</b>

**AUTHORITY** 28 U.S.C. §1963  
District Court Clerk’s Manual Chapter 16 §16.06  
Judicial Improvement Act of 1995 §307

**BACKGROUND** The Judicial Improvements Act of 1998, as amended, permits judgments for money or property to be registered for immediate execution in another district.

42 USC 292f(3): “With respect to any state court judgment that is obtained by a lender or holder against a borrower for default on a loan insured under this subpart and that is subrogated to the United States under subsection (b) of this section, any U.S. Attorney may register such judgment with the federal court for enforcement”.

**DEFINITION** A judgment in an action for the recovery of money or property entered in any court of appeals, district court, bankruptcy court, or in the Court of International Trade may be registered by filing a certified copy of the judgment in any other district or, with respect to the Court of International Trade, in any judicial district, when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown. Such a judgment entered in favor of the United States may be so registered any time after judgment is entered. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.

**FILING FEE** Miscellaneous Filing Fee (See Fee Schedule) or No fee if filed by the U.S. Attorney

**DOCUMENTS** Civil Cover Sheet (JS-44) OR Cover Letter  
Original Certification of Judgment for Registration in Another District

Certified Copy of Judgment from Another District OR Certified Copy of the Order allowing the judgment to be registered elsewhere

<b>SAMPLE CASE</b>	1:06-mc-697	Doc #1	Registration attachment #1 civil cover sheet (bankruptcy)
	1:08-mc-117	Doc #1 Doc #2	Registration Filing fee
	2:09-mc-108	Doc #1 Doc #2	Registration Certification: (US attorney registration of state court judgment)
	1:13-mc-26	Doc #1 1/31/2013 1/31/2013 1/31/2013 Doc #2	Registration Filing Fee docketed Flag set MC terminated Abstract of Judgment Issued

## INSTRUCTIONS

### Open Miscellaneous Case

1. Civil > civil case > division > case type "mc" > presiding judge > referral judge > referral type > other court name and number if applicable;
2. Search for party name(s), **if found**, select party > role type > add party; **if not found**, create new party > add name > change role type appropriate > add party;
3. Attorney(s); if attorneys are representing a party click on "add attorney" icon. If attorney name found, select attorney, add attorney. If attorney name not found, create new attorney (enter necessary information), add attorney;
4. Create Case > Case will be created. Proceed? Yes;
5. Docket Lead Event > Registration of Foreign Judgment (complaints/other initiating documents);
6. Enter case number if necessary;
7. Select attorney filing registration;
8. Select party filing registration;
9. Select party filing is against;

10. Browse and find registration of foreign judgment > browse and select any attachments > select category and enter description of attachments;
11. Modify Docket Text screen appears > next;
12. Docket Text:Final Text screen appears > next;
13. NEF appears - proof of filing.

**Docket Filing Fee:**

1. Docket filing fee: Other Events > Filing Fee Received > enter/verify case number > enter receipt # and fee > next;
2. Modify text screen appears > next;
3. Final text screen appears > next;
4. NEF sent.

**Set Flag:**

1. Civil > Utility Events > Set/Clear Flags > enter/verify case number > verify case name and number > select MAG initials > revise Modify Docket Text screen to read "Set Magistrate XXX flag" > next;
2. Docket Text:Final Text screen appears > next;
3. NEF appears - proof of filing (no NEFs sent; flags internal).

**Close Miscellaneous Case:** set CLOSED flag and enter termination date

1. Civil > Utility Events > Set/Clear Flags > and Terminate civil Case > enter/verify case number > verify case name and number > select CLOSED > next;  
Terminate documents screen appears > next > do not terminate any transcript deadlines screen appears > next > there are no deadlines to terminate screen appears > next > answer due date screen appears > next > no associations to term screen appears > next > modify to read "Set CLOSED flag" > next;
2. Docket Text:Final Text screen appears > next;
3. NEF appears - proof of filing (no NEFs sent; flags internal);
4. Utilities > Maintain Case Data > Edit Case Data > enter/verify case number > submit > Date Terminated same as date opened > select n (No class Action Alleged) > submit;

**FLAGS**      MAG and CLOSED



<b>Chapter</b>	<b>NEW MISCELLANEOUS CASES</b>
<b>Subject</b>	<b>Registration of Judgments for Enforcement in Other Districts</b>

**AUTHORITY** 28 U.S.C. §1963 (Title 28, Part V, Chapter 125)

**DEFINITION** A judgment in an action for the recovery of money or property entered in any court of appeals, district court, bankruptcy court, or in the Court of International Trade may be registered by filing a certified copy of the judgment in any other district or, with respect to the Court of International Trade, in any judicial district, when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown. Such a judgment entered in favor of the United States may be so registered any time after judgment is entered. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.

1. A certified copy of the satisfaction of any judgment in whole or in part may be registered in like manner in any district in which the judgment is a lien.
2. The procedure prescribed under this section is in addition to other procedures provided by law for the enforcement of judgments.

<b>Chapter</b>	<b>NEW MISCELLANEOUS CASES</b>
<b>Subject</b>	<b>Wire Intercept/Taps</b>

**AUTHORITY**

18 U.S.C. § 2516 - Authorization for Interception of Wire, Oral, or Electronic Communications

18 U.S.C. § 2517 - Authorization for Disclosure and Use of Intercepted Wire, Oral or Electronic Communications

18 U.S.C. § 2518 - Procedure for Interception of Wire, Oral, or Electronic Communications

District Court Clerk's Manual Chapter 4 §4.03(a)(1)(xii)

Judge Jordan's General Order filed 1/7/2021 re: Highly Sensitive Documents (HSDs)

**DEFINITION**

Wire Interceptions are requests made by the U.S. Attorney seeking approval from the court (district judge) to authorized agents to intercept wire communications to and from certain telephone lines located in the district. This application is filed pursuant to 18 USC 2516 and is kept sealed. A miscellaneous case number should be assigned to these proceedings (Clerk's Manual 4.03(a)(1)(xii).

Wire taps will be brought to the clerk's office to receive a Miscellaneous case number and a random District Judge assignment, no Magistrate Judge.

- All documentation (application, affidavit, and/or warrant) should be presented by the U.S. Attorney to the district judge assigned for judge's signature.
- The application for an order for a wire intercept may also include other reliefs such as cell phone location data, etc. If this is the case, the U.S. Attorney should present to the district judge a warrant for cell phone location data and the warrant must be signed by the district judge.
- If a warrant is presented to the judge, after the judge signs the warrant, the U.S. Attorney should give the warrant to the Task Force Agent for service.
- The U.S. Attorney should return to the clerk's office with the original signed application/affidavit for the miscellaneous shell case to be opened. The U.S.

Attorney should provide the clerk with two copies to be file stamped and certified.  
**(Clerk cannot make the copies)**

- **A warrant is not issued by the clerk's office in wire intercept cases.**
- Upon execution of the warrant, the U.S. Attorney should return same to chambers for handling.

**FILING FEE:** No filing fee required since the filer is the government.

**ASSIGNMENT OF CASE NUMBER AND JUDGE:**

When presented with the Application in the clerk's office, assign only a District Judge and Miscellaneous case number by the Initial Assignment (Random) module. Unclick the Auto-select referral judge box. Put USA Vs. Sealed Defendant in the Short title box.

**INSTRUCTIONS**

**CASE OPENING:**

Once the application has been signed the U. S. Attorney brings the paperwork to the clerk's office for the opening of the miscellaneous shell case. **No documents will be scanned or docketed.**

1. Civil > Civil Case-Assigned (Sealed) > Choose correct division > Case type - mc > enter case number assigned > Date filed > Presiding Judge - choose District Judge assigned > no Magistrate Judge, no referral type > next;
2. Screen appears for adding parties. Add United States of America as Plaintiff **(you will have to double click on United States of America parties in order to select the one which DOES NOT have an attorney or an address)** > add Assistant U.S. Attorney who signed the Application > add Sealed Defendant as defendant > create case. Accept standard access;
3. Make a Docket Annotation: All documents in this case will be maintained in the Clerk's office.
4. Once the order is filed ruling on the motion, close the case. Civil-Utility Events-Terminate Civil Case.

**CLOSED, SEALED** flags added automatically

**Chapter:**

**Orders**

<b>Chapter</b>	<b>ORDERS</b>
<b>Subject</b>	<b>Order Reassigning Case Upon Consent to Magistrate Judge</b>

**DO NOT USE THIS PROCEDURE FOR CONSENTS IN SOCIAL SECURITY CASES**

**INSTRUCTIONS: MAG CRD**

1. Once all counsel have signed the consent form, the MAGISTRATE JUDGE CRD will file stamp the consent form;
2. Scan and docket *Consent to Jurisdiction by U.S. Magistrate Judge*;
3. Sign the File Stamp;
4. Forward via e-mail to the District Judge for his signature on the Order of Reference.

**INSTRUCTIONS: DJ CRD**

1. Query the case to ensure the consent has been docketed;
2. The DJ CRD will obtain the judge's signature and date on the order;
3. File stamp on the lower half of the document;
4. Scan the document;
5. Place the document in the appropriate clerk's office "bucket".

**INSTRUCTIONS: Docket Clerk**

1. The Docket Clerk must put an end date for the magistrate using BIG UTILITIES. The presider role will be assigned to the magistrate judge by the docket clerk after docketing step 2 (see step 3);
2. Docket the event *Order Reassigning Case upon Consent* using the date of the file stamp;

3. Change Magistrate to Presider Role;
4. Remove the Magistrate Judge's initials and the CASREF (if applicable);
5. CONSENT flag should set automatically.
6. Remark No. Number advising parties to use newly assigned Judge's initials on future filings.

**Clerk's office will add the case to the reassignment list for statistical reporting.**

<b>Chapter</b>	<b>ORDERS</b>
<b>Subject</b>	<b>Order Unsealing Indictment</b>

**BACKGROUND** The US Attorney's office will (usually) request that a criminal case which is opened on an indictment be sealed. There are various ways in which the three divisional US Attorney's offices in the southern district make this request. It may be filed in the form of (1) a motion to seal; (2) a motion to seal document; (3) a motion to seal case; or (4) a motion and order [combined] to seal provided by the AUSA.

The request to unseal the case or indictment can be made by (1) Motion to Unseal Indictment; (2) Motion and Order [combined] to Unseal Indictment; or (3) Motion to Unseal Case. The order granting the unsealing can be made in the form of (1) Order to Unseal Case; (2) Order to Unseal Indictment; (3) Order to Unseal Document; or (4) Motion and Order [combined] to unseal provided by AUSA.

The unsealing of one defendant in a multi-defendant case cannot be done. Once all defendants have been arrested then the AUSA will move for the unsealing of the case.

## **DOCUMENTS & SAMPLE CASES:**

- Motion to Seal Case [Doc #1]                      **2:12-cr-11**  
(this document is a combined motion and order to seal, filing events are Motion > Seal)
- Order Granting Motion to Seal Case        [Doc #2]  
(duplicate of Doc #1)
- Motion to Unseal Indictment [Doc #7]  
(A combined motion and order to unseal; filing events are Motion > Unseal Case)
- Order granting Motion to Unseal Indictment [Doc #8]  
(Duplicate of Doc #7; filing events are Order > Order on Motion to Unseal Case)

## **INSTRUCTIONS:**

1. Orders unsealing indictments will be filed by the clerk's office;
2. The events chosen for the filing of the order will depend upon the filing of the request to seal. It could be an Order on Motion, Order Unsealing Indictment, etc. If the Order rules on a Motion, link to the appropriate motion;
3. Date of filing is date of Order > browse and select order;
4. The filer is prompted to update the proceeding code if needed.
5. Select any documents to remain sealed if necessary; otherwise only the arrest warrant issued will remain sealed;
6. Modify text screen appears;
7. Docket Text:final text screen appears;
8. NEF appears.
9. The \*SEALED\* flag is removed automatically.

## **Update Proceeding Code:**

1. Utilities > Maintain Case Data > Edit Case Data;
2. Enter/verify case number;
3. Change proceeding code to X (Indictment Unsealed)
4. Submit
5. Repeat for each defendant if this is a multi-defendant case.

## **Criminal Ledger:**

1. List the defendant(s) name and case number in the criminal case ledger at the Clerk's counter.



<b>Chapter</b>	<b>ORDERS</b>
<b>Subject</b>	<b>Order to Unseal Indictment</b>

**SAMPLE CASE** 1:13-cr-048  
1:13-cr-063

## INSTRUCTIONS

1. Criminal > Other Orders/Judgment > Order to Unseal Indictment > case number > verify case name and number > enter signature date of order > select judge who signed order > date document filed is signature date of order > browse and select order > update proceeding code if needed > JS-2 (Opening) Information: select X (Indictment Unsealed) > does this order unseal case as to defendant: only if one defendant in case; **no to multi-defendant case**; all defendants must be arrested and the order must be to unseal the entire case.

Select any documents to be unsealed; leave the arrest warrant issued sealed, redacted indictment sealed, etc.

\*\*\* If Order to Unseal Case event is used, you are prompted:

If the party docketing the Order to Unseal Indictment does not change the proceeding code, then to go Edit Case Data and change the proceeding code to X (Indictment Unsealed).

**Chapter**

**ORDERS**

**Subject**

**Unsealing Indictment – Orders on Motions**

**BACKGROUND**

Case is opened with a document entitled “Motion and Order to Seal” filed by the USA. This document asks for the Indictment to be sealed. After the arrest of the defendant, the USA will present a “Motion to Unseal” and an “Order to Unseal” to the magistrate judge for the unsealing of the Indictment.

**NOTE:**

Orders on Motions DOES NOT bring up the JS-2 screen where you change the proceeding code to X (Indictment Unsealed). It also DOES NOT bring up the PROCEDURAL INTERVAL screen for you to move the defendant to P2.

**SAMPLE CASE**

1:12-cr-5	Doc #1	Motion to Seal Case
	Doc #2	Order granting Motion to seal case
	Doc #7	Motion to Unseal Case
	Doc #8	Order granting Motion to Unseal Case
	1/31/2012	JS-2 opening information
	1/31/2012	Procedural Interval

**INSTRUCTIONS:**

**Unsealing Indictment via event “Orders on Motions”**

1. Criminal > Orders on Motions > enter case number > next;
2. Verify case name and number > next;
3. Enter date of order > next;
4. Select judge who signed order > next;
5. Select Motion to Unseal Case > next;
6. Enter action on order > next;
7. Date document filed is date of order > browse and select order > next;
8. No to written opinion > next;

9. Reminder to update proceeding code > next;
10. Select any documents which need to remain sealed > next;
11. Modify Text screen appears > next;
12. Docket Text: Final Text screen appears > next;
13. NEF.

**UPDATE PROCEEDING CODE and PROCEDURAL INTERVAL:**

1. Criminal > Utility Events > select **JS-2 Opening Information and Speedy Trial - Procedural Interval Start** > next;
2. Enter case number > next;
3. Verify case name and number > next;
4. Enter correct date for proceeding date (date indictment unsealed which is date of order) > next;
5. Proceeding code: X (Indictment Unsealed) > next;
6. Procedural Intervals: P2 - Awaiting Trial > next;
7. Verify case name and number > next;
8. Modify text screen appears > next;
9. Docket Text: Final Text screen appears > next;
10. NEF

**\*\*\*NOTE:** Once order to unseal is entered, docket clerk should QC and list the criminal defendant's name and case number as an opened case on the criminal case ledger at the Clerk's counter.

**FLAGS:** SEALED flag is removed automatically



12. Docket Text: Final Text Screen appears > next;
13. NEF.

**Term Motion to Unseal Case: if applicable**

1. Criminal > utility events > terminate motions > next;
2. Enter case number > next;
3. Verify case name and number > next;
4. Date document filed is date order signed; Stop Excludable XE: check box > date of excludable is date of order > next;
5. Select motion > next;
6. Modify Text Screen appears > next;
7. Docket Text: Final Text Screen appears > next;
8. NEF.

**Change Procedural Interval:**

1. Criminal > utility events > speedy trial - procedural interval start > next;
2. Enter case number > next;
3. Verify case name and number > next;
4. Date document filed is date of order unsealing indictment > next;
5. Procedural Intervals: move to P2 - Awaiting Trial > next;
6. Verify case name and number > next;
7. Modify Text Screen appears > next;
8. Docket Text: Final Text Screen appears > next;
9. NEF.

**\*\*\*NOTE:** Once order to unseal is entered, docket clerk should QC and list the criminal defendant's name and case number as an opened case on the criminal case ledger at the Clerk's counter.

**FLAGS:** SEALED flag is removed automatically

**Chapter                    ORDERS**

**Subject                    Unsealing Indictment – Order Orders/Judgments  
[Order to Unseal Case]**

**BACKGROUND**    Case is opened with a document entitled “Motion and Order to Seal” filed by the USA. This document asks for the Indictment to be sealed. Usually after the arrest of the defendant, the USA will present an “Order to Unseal” to the magistrate judge for the unsealing of the Indictment. Be sure to file stamp this document.

**NOTE:**                    Order to Unseal Case DOES NOT bring up the JS-2 screen where you change the proceeding code to X (Indictment Unsealed). It also DOES NOT bring up the PROCEDURAL INTERVAL screen for you to move the defendant to P2 - Awaiting Trial.

<b>SAMPLE CASE</b>	1:11-cr-82	Doc #1	Motion to Seal Case
		Doc #2	Order granting Motion to seal case
		Doc #7	Order to Unseal Case

**INSTRUCTIONS:**

**Unsealing Indictment via event “Order to Unseal Case”**

1. Criminal > Other Orders/Judgments > Order to Unseal Case > next;
2. Enter case number > next;
3. Verify case name and number > next;
4. Enter date of order unsealing case > next;
5. Select judge who signed order > next;
6. Date document filed is date of order > browse and select order > next;
7. Prompt “if this is an order to unseal the indictment \*only\*, please use the event Order to Unseal Indictment” > next;
8. Prompt: Update Proceeding Code if needed > next;
9. Written Opinion: NO > next;
10. Select any documents which need to remain sealed > next;

11. Modify Text screen appears > next;
12. Docket Text: Final Text screen appears > next;
13. NEF.

**UPDATE PROCEEDING CODE and PROCEDURAL INTERVAL:**

1. Criminal > Utility Events > select **JS-2 Opening Information and Speedy Trial - Procedural Interval Start** > next;
2. Enter case number > next;
3. Verify case name and number > next;
4. Enter correct date for proceeding date (date indictment unsealed which is date of order) > next;
5. Proceeding code: X (Indictment Unsealed) > next;
6. Procedural Intervals: P2 - Awaiting Trial > next;
7. Verify case name and number > next;
8. Modify text screen appears > next;
9. Docket Text: Final Text screen appears > next;
10. NEF

**\*\*\*NOTE:** Once order to unseal is entered, docket clerk should QC and list the criminal defendant's name and case number as an opened case on the criminal case ledger at the Clerk's counter.

**FLAGS:** SEALED flag is removed automatically

<b>Chapter</b>	<b>ORDERS</b>
<b>Subject</b>	<b>Report and Recommendation</b>

## REPORT & RECOMMENDATION

A district judge who adopts the magistrate judge's Report & Recommendation

1. Civil/Criminal > Other Orders/Judgments > Order Adopting Report & Recommendations;
2. Enter case number > verify case name and number;
3. Enter date of order > select district judge who adopts R&R;
4. Enter date filed (date of order) > select document;
5. Select "should the document you are filing link to another document in this case"?
6. Select **both** the motion and the Report & Recommendations order;
7. Select the motion (associated with the R&R) and the Report & Recommendation for termination;
8. If order closes case, send to clerk's office for closing and entry of statistical data otherwise the modify text screen appears;
9. Final Text screen appears;
10. NEF sent.
11. Go to Big Utilities > Maintain Case > Edit Case Participants-Judges
12. Enter Case Number > Modify Judge > Choose Magistrate Judge
13. Go to Referral Type > Click down error > full pretrial, no dispositive motion > next
14. Remove CASREF flag

By the filing of the order adopting the R&R, the CM/ECF system will automatically make public the motion associated with the R&R and the Report and Recommendation will be listed under written opinions. The screen asking whether the filing is considered a written opinion will not appear.



**Chapter:**

**Pardon**

<b>Chapter</b>	<b>PARDON</b>
<b>Subject</b>	<b>Executive Grant of Clemency</b>

**AUTHORITY** Article II, Section 2, Clause 1 of the Constitution of the United States

**BACKGROUND** The power of a President in federal criminal cases, and the Governor in state convictions, to pardon a person convicted of a crime, commute the sentence (shorten it, often to time already served) or reduce it from death to another lesser sentence.

**DEFINITION** The definition of a **presidential pardon** is the right of the leader of a country to forgive someone for a crime, or to excuse someone from a punishment. In the U.S., Article II of the United States Constitution gives the **President** the power to **pardon** people for federal crimes.

**DOCUMENTS** Order

**SAMPLE CASE** [2:04cr22](#) [Doc. #326](#) Executive Grant of Clemency Order

## INSTRUCTIONS

1. The President's clemency power is conferred by Article II, Section 2, Clause 1 of the Constitution of the United States, which provides: "The President . . . shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment."
2. File stamp Executive Grant of Clemency Order and docket event code (Order) and attach Executive Grant of Clemency Order.
3. (Docket Entry) Executive Grant of Clemency as to (Defendant's Name). Signed by the President of the United States of America (Name of President) on (Date).

4. Docket Clerk should email the Judge's Chambers notifying the Judge of order entered.

**Chapter:**

**Passports**

<b>Chapter</b>	<b>PASSPORTS</b>
<b>Subject</b>	<b>Passports – Surrender of United States Passport</b>

**AUTHORITY** F.R.Crim.P. 18 § 3142(c)(1)(B)

**BACKGROUND** An Order Setting Conditions of Release may require the defendant to surrender his/her passport to the court.

## **INSTRUCTIONS**

1. If the Order Setting Conditions of Release demands surrender of a US passport, the passport will be given to the probation officer at the hearing;
2. Probation officer will receipt the surrender of passport on form PS 40 (Rev 09/10) NOTICE REGARDING UNITED STATES PASSPORT FOR CRIMINAL DEFENDANT;
3. Probation officer keeps passport and notices (redacted and unredacted) in a secure area at the Probation office;
4. If defendant
  - a. **is not convicted**, form PS 41 (Rev 07/93) PASSPORT RECEIPT is completed and signed by Probation officer and defendant. Passport is returned at time of signing or by mail.
  - b. **convicted** no passport returned
5. Disposition of case: Once case has been disposed of, probation officer will complete PS 40 - Notice Regarding United States Passport for Criminal Defendant and place original in case file, send a copy of the Department of State, the Defendant and Clerk of Court.

**Chapter:**

**Power of Attorney**

<b>Chapter</b>	<b>POWER OF ATTORNEY</b>
<b>Subject</b>	<b>Qualifying Power of Attorney</b>

## **AUTHORITY**

### **DEFINITION**

A Power of Attorney is a legal instrument that is used to delegate legal authority to another individual. The person who signs (executes) a Power of Attorney is called the "Principal". The Power of Attorney gives the legal authority to another person called an "Agent" or "Attorney-in-Fact" to make property, financial and other legal decisions for the Principal. Power of Attorney is an authorization to act on someone else's behalf in a legal or business matter.

The Power of Attorney is an original (certified copy) document which lists (1) surety company(s); (2) its agent(s), and (3) the monetary limitation for each bond. This is the Power of Attorney used by the surety company for the agent.

### **BACKGROUND**

A Surety Company/Agent must have a current Power of Attorney on file in order to post a surety or supersedeas bond pursuant to a Court ruling. The Power of Attorney is filed in order to give the Agent authorization to execute bonds for companies and usually is filed in each divisional office.

### **FILING FEE**

Current Miscellaneous Filing/Registration Fee per division  
Receipt code: 204 (Power of Attorney) (\$46.00)

### **DOCUMENTS**

- (1) Qualifying (Certified Copy) Power of Attorney from Surety Company
- (2) MS Insurance Commission License

## INSTRUCTIONS

### Filing a Power of Attorney

1. Chamber's staff will call the clerk's office to verify that a Power of Attorney is on file and is current. Clerk's staff will:
  - a. Verify the Qualifying Power of Attorney on file has not expired;
  - b. Verify the Qualifying Power of Attorney is a certified copy and the notary seal is applied (duly certified and authenticated);
  - c. Verify the company and/or individual is licensed with the Mississippi Insurance Commission. (Individual must be licensed as an agent.);
  - d. Verify the license with the Mississippi Insurance Commission has **not** expired;
  - e. Verify the surety company is licensed to do business in the State of Mississippi;
  - f. Verify the surety corporation's monetary limitations for the bond;
  - g. You must check the Qualifying Power of Attorney verbage for the following wording: *KNOW ALL MEN BY THESE PRESENTS: .....whether criminal or civil; supersedeas bonds, peace bonds, appeal bonds or any other kind of appearance bond in any State Court, county Court or Municipal court, and in all U.S. Federal courts, and all U.S. Federal Agencies, not to exceed ...*
2. After verification is made the bail bondsman will come to the clerk's office to post the bond.
3. File stamp each copy of the power of attorney and sign all file stamps;
4. If requested, complete the certificate or form acknowledging the filing of the power of attorney. (The surety company must provide this form.)
5. If power of attorney is to be provided to each division, forward filed copy of power of attorney to appropriate divisions, together with cover memorandum;
6. If the Power of Attorney has expired, another one may be filed at the time the bond is posted by paying the registration fee and providing an up-to-date qualifying Power of Attorney. Verify that the company is listed in the federal register at the Treasury Approved Sureties site (<http://www.fms.treas.gov/c570/c570.html>). If problems arise with finding the surety company on the website, contact Wanda J. Rogers at (202) 874-6850.



7. If the surety corporation meets the requirement of the appointment of an agent, the surety corporation shall file a certified copy of the power of attorney with the clerk of the district court in the division in which a surety bond is to be given or the certified copy of the power of attorney may be filed at each division in the district. [31 U.S.C. §9306(b)]

<b>Chapter</b>	<b>POWER OF ATTORNEY</b>
<b>Subject</b>	<b>Registering a Company</b>

**AUTHORITY** Federal Register

## **INSTRUCTIONS**

1. The company must be registered with the MS State Insurance Department.
2. The individual must be affiliated with an insurance company with the Federal Registry. The Federal Registry contact person is Wanda J. Rogers, (202) 874-6850.
3. Anyone associated with the individual's company must file a Power of Attorney to write bonds.
4. See procedure on Power of Attorney.

<b>Chapter</b>	<b>POWER OF ATTORNEY</b>
<b>Subject</b>	<b>Revocation of Power of Attorney</b>

## **AUTHORITY**

**BACKGROUND** If a party has a Power of Attorney on file and wants to change or revoke that power, they must file a Revocation of Power of Attorney with each divisional office that the Power of Attorney is filed in.

**DEFINITION** Revocation is the act of recall or annulment. It is the reversal of an act the recalling of a grant, or the making void of some previously existing deed.

**FILING FEE** Miscellaneous filing fee per division  
Receipt codes: 086900; 510000

**DOCUMENTS** Revocation of Power of Attorney

## **INSTRUCTIONS**

1. Verify the clerk's office has on file the power of attorney for the company or agent individually listed in the revocation request;
2. If the power of attorney is on file, file stamp each copy of the revocation and sign all file stamps;
3. If requested, complete certificate or form acknowledging the filing of the revocation of power of attorney (surety company must supply this document);
4. Forward filed copy of revocation of power of attorney to appropriate divisions, along with a cover memorandum.

**Chapter:**

**Pro Se (Non-Prisoner) Party**

<b>Chapter</b>	<b>PRO SE (NON-PRISONER) PARTY</b>
<b>Subject</b>	<b>Consent Form to Receive Electronic Notification of Documents (existing case)</b>

**AUTHORITY** Fed.R.Civ.P. 5(b)(2)(E)

**BACKGROUND** The Federal Rule states service can be made by “*sending it by electronic means if the person consented in writing – in which event service is complete upon transmission, but is not effective if the serving party learns that it did not reach the person to be served*”.

**DEFINITION** Service is an official act of notifying a person of some action or proceeding or document in which that person is concerned.

**DOCUMENTS** Pro Se (Non-Prisoner) Consent & Registration Form to Receive Documents Electronically

**SAMPLE CASE** 3:13-cv-253 Doc #13 Pro-Se Registration for Electronic Receipt of Court Filings

**Pro Se Parties are not allowed to consent to a Social Security Case and must receive electronic filings through the mail. Social Security Cases are restricted to all parties.**

## INSTRUCTIONS

### Existing Case:

1. When the clerk’s office receives a Consent & Registration Form to Receive Documents Electronically from a pro se non prisoner filer, file stamp the form and give to the appropriate docket clerk;
2. Filing the Consent & Registration form: Scan the form. Civil > Utility Events > Remark > next > enter/verify case number > next > verify case name/number > next > date filed: date of file stamp > browse and select the form > next; [using

the **REMARK** event will allow all parties to see the entry and notify them of electronic notification for the pro se filer];

3. Modify Text Screen appears: Revise to read: *Pro Se Registration for Electronic Receipt of Court Filings* > next;
4. Docket Text: Final Text Screen appears > next;
5. NEF appears on screen.
6. **Notify the attorney admission's clerk**, Katherine Alexander, by e-mailing to Katherine a copy of the consent and registration form completed by the pro se non prisoner party. **At this time Katherine will complete the process of allowing the pro se non prisoner party to receive electronic notification and will add the email address of the pro se litigant.**
7. Place the Consent and Registration form in your 30 day file folder.

<b>Chapter</b>	<b>PRO SE (NON-PRISONER) PARTY</b>
<b>Subject</b>	<b>Consent Form to Receive Electronic Notification of Documents (New Case)</b>

**AUTHORITY** Fed.R.Civ.P. 5(b)(2)(E)

**BACKGROUND** The Federal Rule states service can be made by “*sending it by electronic means if the person consented in writing – in which event service is complete upon transmission, but is not effective if the serving party learns that it did not reach the person to be served*”.

**DEFINITION** Service is an official act of notifying a person of some action or proceeding or document in which that person is concerned.

**DOCUMENTS** Pro Se (Non-Prisoner) Consent & Registration Form to Receive Documents Electronically

(see attached forms - there is a specific form for each divisional office)

**SAMPLE CASE** 3:13-cv-253 Doc #13 Pro-Se Registration for Electronic Receipt of Court Filings

**Pro Se Parties are not allowed to consent to a Social Security Case and must receive electronic filings through the mail. Social Security Cases are restricted to all parties.**

## INSTRUCTIONS

New Case:

1. **INTAKE:** When a pro se non prisoner person presents a complaint at the front counter, check the complaint for an e-mail address. If an e-mail address is listed for the pro se non-prisoner filer, ask the filer if they would like to have electronic

- notification via e-mail. If so, present the filer with the divisional Consent & Registration Form to Receive Documents Electronically;
2. If the form is completed at the counter by the pro se non prisoner filer, file stamp the form and give the form, complaint, and civil cover sheet to the appropriate docket clerk;
  3. Create the case following our procedure New Civil Cases > Complaint [Individual, Business, Pro Se Civilian (non-prisoner)].
  4. Party Information: enter the pro se party's last and first name. Search for the party. If several party names appear check each name to verify the correct party will be selected. If the party name does not appear add new party **ensuring** the role type is correct; pro se is set to Pro Se but not allowed to file electronically, enter party's address, Notice: Yes, Add Party. **DO NOT ADD PRO SE LITIGANT'S EMAIL ADDRESS AT THIS SCREEN. IF THE PRO SE PARTY IS ALREADY IN THE DATABASE WITH AN EMAIL ADDRESS, YOU MUST STILL MAIL THEM THE CONSENT FORM AS THEIR EMAIL ADDRESS COULD HAVE CHANGED SINCE BEING ADDED TO THE DATABASE. DO NOT DELETE THE EMAIL ADDRESS. KATHERINE WILL UPDATE THE EMAIL ADDRESS TO MATCH THE RECENT CONSENT FORM.**
  5. Continue to create the case using our procedure listed in step 1 above.
  6. After the initial filings of the complaint and docket entry of flags, create a separate filing for the Consent & Registration form: Civil > Utility Events > Remark > next > enter/verify case number > next > verify case name/number > next > date filed: date of file stamp > browse and select the form > next; [using the **REMARK** event will allow all parties to see the entry and notify them of electronic notification for the pro se filer];
  7. Modify Text Screen appears: Revise to read: *Pro Se Registration for Electronic Receipt of Court Filings* > next;
  8. Docket Text: Final Text Screen appears > next;
  9. NEF appears on screen.
  10. **Notify the attorney admission's clerk**, Katherine Alexander, by e-mailing to Katherine a copy of the consent and registration form completed by the pro se non prisoner party. **At this time Katherine will complete the process of allowing the pro se non prisoner party to receive electronic notification and will add the email address of the pro se litigant.**
  11. Place the Consent and Registration form in your 30 day file folder.



**Attached are separate Consent and Registration forms for each divisional office.  
Please make copies and keep at the intake counter.**

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**Pro Se (Non-Prisoner)  
Consent & Registration Form to Receive Documents Electronically**

Pursuant to Fed.R.Civ.P. 5(b), and Fed.R.Civ.P. 77(d), L.U.Civ.R. 5(c) and the Court's Administrative Procedures for Electronic Case Filing, documents may be served through the court's transmission facilities by electronic means. Documents that are not permitted to be served electronically are pleadings that are to be served with process under Fed.R.Civ.P. 4.

I, \_\_\_\_\_, hereby consent to receive service of documents and notice of electronic filings via the Court's electronic filing system to the extent and in the manner authorized by the above rules and waiving the right to receive notice by first class mail pursuant to Fed.R.Civ.P. 5(b)(2)(D) and Fed.R.Civ.P.77(d).

I will promptly notify the court if there is a change in my personal data, such as name, address, and/or e-mail address. I will promptly notify the Court to request cancellation of electronic service.

*Litigants who have consented to receive documents electronically will be sent a Notice of Electronic Filing (NEF) via e-mail. Upon receipt of the notice, they are permitted one "free look" at the document by clicking on the hyperlinked documents. The one "free look" will expire when the document is opened or 15 days from the date the notice was sent, whichever occurs first. After the "free look" is used or expires, the document can only be accessed through PACER (Public Access to Court Electronic Records.) It is recommended that litigants establish a PACER account. This can be accomplished by visiting the PACER website at [www.pacer.gov](http://www.pacer.gov). PACER is an automated system that allows an individual to view, print, and download documents for a fee.*

My e-mail address is: \_\_\_\_\_

My case number is: \_\_\_\_\_

\_\_\_\_\_  
Printed name of Litigant

\_\_\_\_\_  
Signature of Litigant

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip Code

Date: \_\_\_\_\_

\_\_\_\_\_  
Telephone Number

Mail this form to: Clerk, U. S. District Court, 501 East Court Street, Suite 2.500, Jackson, MS 39201

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

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My e-mail address is: \_\_\_\_\_

My case number is: \_\_\_\_\_

\_\_\_\_\_  
Printed name of Litigant

\_\_\_\_\_  
Signature of Litigant

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip Code

Date: \_\_\_\_\_

\_\_\_\_\_  
Telephone Number

Mail this form to: Clerk, U. S. District Court, 701 N. Main St., Suite 200, Hattiesburg, MS 39401

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**Pro Se (Non-Prisoner)  
Consent & Registration Form to Receive Documents Electronically**

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I, \_\_\_\_\_, hereby consent to receive service of documents and notice of electronic filings via the Court's electronic filing system to the extent and in the manner authorized by the above rules and waiving the right to receive notice by first class mail pursuant to Fed.R.Civ.P. 5(b)(2)(D) and Fed.R.Civ.P.77(d).

I will promptly notify the court if there is a change in my personal data, such as name, address, and/or e-mail address. I will promptly notify the Court to request cancellation of electronic service.

*Litigants who have consented to receive documents electronically will be sent a Notice of Electronic Filing (NEF) via e-mail. Upon receipt of the notice, they are permitted one "free look" at the document by clicking on the hyperlinked documents. The one "free look" will expire when the document is opened or 15 days from the date the notice was sent, whichever occurs first. After the "free look" is used or expires, the document can only be accessed through PACER (Public Access to Court Electronic Records.) It is recommended that litigants establish a PACER account. This can be accomplished by visiting the PACER website at [www.pacer.gov](http://www.pacer.gov). PACER is an automated system that allows an individual to view, print, and download documents for a fee.*

My e-mail address is: \_\_\_\_\_

My case number is: \_\_\_\_\_

\_\_\_\_\_  
Printed name of Litigant

\_\_\_\_\_  
Signature of Litigant

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip Code

Date: \_\_\_\_\_

\_\_\_\_\_  
Telephone Number

Mail this form to: Clerk, U. S. District Court, 2012 15th St., Suite 403, Gulfport, MS 39501

**Chapter:**

**Probation**

<b>Chapter</b>	<b>PROBATION</b>
<b>Subject</b>	<b>Add as Interested Party</b>

**AUTHORITY** Carolyn Romano, Chief U.S. Probation Officer  
J.T. Noblin, Clerk of Court

**BACKGROUND** The Probation Office has requested that we add the individual Probation Officer assigned to the Defendant at Plea or at Supervised Release hearing to the case for notice so the Probation Officer will receive NEFs of anything occurring for the defendant after that date. All current Probation Officers have been added to our database as of March 25, 2011, so select the proper officer to add to your case as an Interested Party for noticing.

**SAMPLE CASE** 3:11-cr-69

## **INSTRUCTIONS**

1. Big Utilities
2. Maintain Case Data
3. Edit Case Participants - All Other
4. Enter Case Number > next;
5. Add New Party;
6. Enter name of Probation Officer > search;
7. Highlight name of officer, click select party;
8. Party information screen appears - change role type to Interested Party > add party

## **FLAGS**

**Chapter:**

**Processing Mail**

<b>Chapter</b>	<b>PROCESSING MAIL</b>
<b>Subject</b>	<b>Mail – Checks Received</b>

## PROCEDURE

1. Checks and money orders received in the mail will be logged in and totaled by the deputy clerk designated for such duty pursuant to the internal operating procedures of the Court.
2. The deputy clerk shall clip each check or money order to the envelope in which it was received, and “receive” stamp each envelope.
3. The deputy clerk shall affix the “U.S. Treasury” endorsement stamp on the reverse side of all checks and money orders.
4. All checks and money orders will be listed on the control sheet, and this sheet shall contain the name of the employee logging in the funds, the date, the amount(s) of the check(s) or money order(s), and include a signed total for all funds received.
5. Upon completion of control sheet, deputy clerk should run a tape of the checks received in the mail **and a separate tape** for the checks listed on the control sheet to ensure monies balance. Tapes should be initialed and forwarded to deputy clerk designated by the internal control procedures to write receipts.

\*\*\*\*NOTE: Check(s) should be made payable to Clerk, U.S. District Court; however, checks payable to U.S. Probation, U.S. Attorney, or Department of Justice may be accepted and endorsed for deposit.



<b>Chapter</b>	<b>PROCESSING MAIL</b>
<b>Subject</b>	<b>Mail – Pleadings, Documents, and Cases</b>

## **PROCEDURE**

1. As the mail is opened, the Deputy Clerk will “receive” stamp the envelope and clip the envelope to the contents.
2. Mail shall be sorted out to the clerks according to case assignment.
3. Mail containing the return address of the Clerk’s office and returned as “undeliverable” will be forwarded to the appropriate docket clerk to docket in case.
4. Mail containing the return address of other judicial offices and returned as “undeliverable” will be forwarded to that office.

<b>Chapter</b>	<b>PROCESSING MAIL</b>
<b>Subject</b>	<b>Mail – Sorting and Distribution</b>

## **PROCEDURE**

1. Deputy Clerks assigned to process the mail are responsible for opening and sorting mail.
2. Court mail (i.e., mail from attorneys, pro se civil/criminal, mail from other official agencies, etc.) will be opened by the mail clerk(s) for distribution. Court mail addressed to the clerk's office and marked "Personal" will be stamped "Received" and forwarded to the appropriate person.
3. Mail intended for other adjunct agencies or judicial offices will be placed in the designated pick-up areas for those offices.
4. Refer to the section "Mail - Checks Received" for processing monies received through the mail.

**Chapter:**

**Quality Control**

<b>Chapter</b>	<b>QUALITY CONTROL</b>
<b>Subject</b>	<b>Data Quality for Civil and Criminal CM/ECF Cases</b>

The Docket Activity Report (DAR) shall be monitored daily to ensure the consistency of case processing in CM/ECF. Each division is responsible for monitoring their cases. Each division shall also have procedures for monitoring absent docket clerk's cases. The DAR shall be run first thing each morning for the previous day's filings. The DAR should be signed and dated by the docket clerk and turned in to the Quality Control Analyst after all errors have been corrected.

**1. NEW CASES**

After opening a new case, set it aside for a day. Return to it the next day and check the following to insure accuracy:

<b>CIVIL CASES</b>					
<b>Case Opening Information:</b>					
title of case (short title)					
date filed					
presiding judge (ck recusal list)					
magistrate judge (ck recusal list)					
mag judge referral type					
jury demand					
flags: CJRA, mag initials, jury, etc.					
money demand (enter actual amount)					

nature of suit					
cause of action					
jurisdiction					
plaintiff name(s)					
attorney for plaintiff(s)					
defendant name(s)					
add defendant's attorney if case is a removal					
fee status paid					
county					
origin					
related cases (for removal, enter state court's case number or enter case number(s) for any related cases, members cases)					
initiating instruments scanned and docketed					
for civil pro se cases add Pro Se Department as interested party					

CRIMINAL CASES					
Case Opening Information:					
BE SURE to query defendant's name to ensure there are no mag papers to be merged into the criminal case.....					
office					
case type (CR, MJ, PO)					
case number					
date filed					
county					
presiding judge					
magistrate judge & referral type					
other court information					
Merge Magistrate Case?					
US Attorney (plaintiff infor)					
designation of attorney: CJA, retained, etc.					
Pro Hac Vice?					

Enter Mag Case number if applicable					
enter defendant's name					
enter defendant's number					
initial documents filed					
pending count(s)					
flags: mag judge initials					
defendant attorney(s) if known					
Add U.S. Probation as interested party					

<b>CLOSED CIVIL CASES</b>					
<b>JS-6 Reports</b>					
report period dates					
office					
closing list vs statistical list					
all statistical infor entered					
closed flag set					
remove CJRA flag and CASREF flag					

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CLOSED CRIMINAL CASES					
JS-2 Reports					
report period dates					
office					
defendant termed					
closing list vs statistical list					
all statistical infor entered					
closed flag set; others removed					
check for bonds in vault & shred if case is closed					

**2. GENERATE AND PRINT DOCKET ACTIVITY REPORT**

**a. Reports, Docket Activity**

- i. Docket Clerks will QC the previous day's entries. On Monday QC from Friday through Sunday.
- ii. Enter your terminal digits, office, case type, previous day's date and select full docket text. For weekends use Friday as the beginning date and Sunday as the end date. Same entry of dates apply to holidays. Remember to always select full docket text.

see following pages



<b>DOCKET ACTIVITY REPORT</b>					
review docket text					
open PDF document					
correct event used					
title of document match event					
correct filer(s)/attorney(s)					
Verify PDF header displays at top					
PDF formatted correctly					
PDF readable					
all pages intact					
correct case number					
correct case caption					
correct flags (CJRA-?, judge initials, jury, etc.)					
signature line correct					
certificate of service included if applicable					
proper attachments filed					
all attachment pages included and properly labeled with description					
correct misspelled words in docket text					
filing date vs file stamp date					
does a motion need to be termed (if filed incorrectly)					

any copies to be sent					
is linkage correct					
proper referral to judge					
if hearing(s), check calendar					
if answer filed is jury demand correct					
does answer state jury demand					
closed flag set on closed case					
any hearings held, make sure hearings are termed					
scheduling order entered check hearings on calendar					
check for 1 trial date (either jury or bench trial)					
correct return of srvc dates					
proper relief used for motions					
jury demand correct					
any judge recusal					
correct judge assigned, list reassignment on board (monthly report)					
attorney contacted, if necessary					
docket annotation entered					
TEXT ONLY ORDERS@ must include no further written order to follow@ in docket text					
if Social Security case is the Standing Order mailed					

if Order of Referral to Mag Judge entered, is Consent flag set? Remove CASREF					
attorney termed - set notice to AN@					
IF R&R entered, remove CASREF if for the <u>entire</u> case					

<b>ATTORNEY INFORMATION</b>					
if new attorney (check style for each party represented and noticing)					
answer filed - check for proper jury demand					
does answer state jury demand					
substitution of atty, term old atty (term atty only with an order)					

<b>PARTY INFORMATION</b>					
party name(s) added correctly					
new parties listed on style of case					
party text necessary					
minor names should be initials					
aliases					
do any parties need to be termed? Term party					
enter AN@ for party's atty notice					

enter stop date for party's atty					
----------------------------------	--	--	--	--	--

<b>CHAMBERS ENTRIES</b>					
correct any spelling, if applicable					
correct linkage, if applicable; advise chambers					
PDF problem - advise chambers					
if hearing(s) set, check calendar					
Scheduling Order: check dates of deadlines and hearings entered					
order staying a case, set CJRA- SU flag					

<b>Chapter</b>	<b>QUALITY CONTROL</b>
<b>Subject</b>	<b>Minute Entries</b>

When docketing a minute entry where a court reporter is present, remember to include that court reporter's phone number after their name.

When a transcript is filed and a court reporter is selected from the drop down box, the phone number is automatically entered with the court reporter's name. There is no way to include a drop down box in a minute entry since it is "open text". Below are the Court Reporter's names and numbers or you can also find them on the Court's directory.

Canice Crane 601-608-4187

Tamika Bartee 601-608-4188

Amy Key 601-608-4186

Fred Jeske 601-255-6432

Teri Norton 228-563-1780

Sherri Penny 228-563-1781

Docket clerks should watch for this when QCing minute entries.

**Chapter:**

**Realignment**

<b>Chapter</b>	<b>REALIGNMENT</b>
<b>Subject</b>	<b>Civil Realignment Transfers</b>

**AUTHORITY** Realignment Act of 2013; Administrative Order dated December 26, 2013

**BACKGROUND** Due to the closure of the Meridian, MS, federal courthouse, divisional lines were redrawn.

## INSTRUCTIONS

### Docket Text Only Order, Copy Case, and Transfer Case Out:

1. Print Docket Report of the case being transferred out. You will need it for progress at termination.
2. Check to make sure case is still pending.
3. Docket the text only order below which directs the old case be transferred to another division. ***Be sure and enter the correct division name in the modify text screen.*** (You may copy the text below, paste into each case, and enter the correct division name.)

TEXT ONLY ORDER OF TRANSFER pursuant to the new Realignment Act signed into law on December 20, 2013, and the Administrative Order filed December 26, 2013, this case is hereby transferred to the **enter correct division name here** Division of this district. The Act and Administrative Order are posted on the Court's website at <a href=http://www.mssd.uscourts.gov/ target=\_blank>www.mssd.uscourts.gov</a>. The district judge and magistrate judge assignments in this case will remain the same. Signed by Chief District Judge Louis Guirola, Jr., on December 26, 2013. NO FURTHER WRITTEN ORDER WILL FOLLOW.

4. Civil > Other Order/Judgments > Order > verify/enter case number > verify case name and number > enter December 26, 2013, which is the date the order was signed > select Guirola as judge who signed order > date document filed is December 26, 2013 (same as date on text only order) > no document > no number > NO to written opinion > no linkage to other document > modify text screen appears: copy and paste the text above making necessary division correction as needed; remove duplicate wording of "signed by District Judge

Louis Guirola, Jr. On December 26, 2013” > final docket text screen appears > check to ensure text is correct > next > NEF appears. *If a pro se prisoner case or notice needs to be delivered by other means, mail a copy of the NEF to appropriate folks.*

5. Copy the case being transferred out: Utilities > Maintain Case Data > Copy Case > enter case number of case being transferred out > next > enter **new** case number > case type - civil > select correct division/office > transfer date is December 26, 2013 (date of text only order > remark: enter division names to/from, example: Jackson to Eastern, submit;
6. A screen will appear showing you the old case number and the new case number and that the case was copied successfully;
7. Docket that the case was transferred out: Civil > Utility Events > Case Transferred Out - Divisional Transfer > next;
8. Enter the case number you are transferring out (not the new case number) > next;
9. Verify case number and name > next;
10. You will be prompted to copy the case to a new case **IGNORE** - this has already been done; date document filed is December 26, 2013 (date of order > no document to select > next > no number > next;
11. Enter name of division you are transferring to, example: Eastern Division > next;
12. Terminate Pending Deadlines screen appears. This screen also includes all hearings; **DO NOT TERMINATE ANY DEADLINES OR HEARINGS WHICH APPEAR. UNCHECK ALL DEADLINES AND HEARINGS.** No motions will appear at this time to term or transfer > next; (there may be no deadlines or hearings set in some cases);
13. The next screen to appear should state you did not select any deadlines > next;
14. The Modify Text screen appears: the division receiving the case should be indicated in the docket text. **Add the new division case number** > next; (sample: Intradistrict Transfer to Eastern Division; new case number X:XX-CV-XXX);
15. Final Docket Text screen appears > verify for accuracy > next;
16. NEF appears. *If a pro se prisoner case or notice needs to be delivered by other means, mail a copy of the NEF to appropriate folks.*



**Receive Transferred Case in for other Division:**

1. Civil > Other Events > Case Transferred In - Divisional Transfer > next;
2. Enter new case number > find this case > next;
3. Verify case name and number > next;
4. Filing date is December 26, 2013 (date of text only order) > no document to select > next > no number > next;
5. From which division - enter division which sent case > next;
6. Prompt "Intra-District record already exists" > next;
7. A reminder screen appears prompting you to terminate presiding and referral judges from transferring division; add newly assigned judges; and to docket utility events to terminate and reset deadlines and hearings, as needed > next;
8. **Do not change judges. The district judge and magistrate judge will not change.** Next;
9. Modify text screen appears > verify the text states which division transferred the case in and the old case number > next; (sample: Case transferred in from Southern division on 12/26/2013; former Case Number X:XX-CV-XXX);
10. Docket Text:Final Text screen appears > next;
11. NEF appears. *If a pro se prisoner case or notice needs to be delivered by other means, mail a copy of the NEF to appropriate folks.*

**Close Transferred Case, Term Motions and Deadlines/Hearings:**

1. Utilities > Maintain Case Data > Edit Case Data;
2. Enter "old" transferred case number > submit;
3. Progress at Term: to be determined at the time the transferred case is closed; refer to the docket sheet for correct selection; will either be 02 (Before Issue joined - Order Entered) or 10 (After Issue Joined - Other)
4. Disposition: select 18 (Statistical Closing);
5. Class Action (at Term.) Select n (No Class Action alleged);
6. Date Terminated: December 26, 2013 (date of Text Only Order transferring case);

7. Submit;
8. Set CLOSED flag, term deadlines & hearings, and term motions: Civil > Utility Events > select Set/Clear Flags, select Terminate Deadlines and Hearings, and Terminate Motions > enter/verify case number > verify case name/number > date filed: enter December 26, 2013 (date of order); select the CLOSED flag > next;
9. Select all deadlines/hearings by clicking on "Select All" and clicking on "All Cancelled" > next;
10. No to Answer Due date termination > next;
11. Motions to term screen appears > select all motions if any appear > next;
12. Modify Text Screen appears: Revise to read "\*\*\*\*Set CLOSED flag"  
\*\*\*Deadlines/Hearings terminated, \*\*\*Motions terminated > next;
13. Final Docket Text screen appears > next;
14. NEF appears.

<b>Chapter</b>	<b>REALIGNMENT</b>
<b>Subject</b>	<b>Criminal Realignment Transfers</b>

**AUTHORITY** Realignment Act of 2013; Administrative Order dated December 26, 2013

**BACKGROUND** Due to the closure of the Meridian, MS, federal courthouse, divisional lines were redrawn.

## INSTRUCTIONS

### Docket Text Only Order, Copy Case, and Transfer Case Out:

1. Check to make sure case is still pending.
2. Check to see if any pending defendants.
3. Docket the text only order below which directs the old case be transferred to another division. ***Be sure and enter the correct division name in the modify text screen.*** (You may copy the text below, paste into each case, and enter the correct division name.)

TEXT ONLY ORDER OF TRANSFER pursuant to the new Realignment Act signed into law on December 20, 2013, and the Administrative Order filed December 26, 2013, this case is hereby transferred to the **enter correct division name** here Division of this district. The Act and Administrative Order are posted on the Court's website at <a href=http://www.mssd.uscourts.gov/ target=\_blank>www.mssd.uscourts.gov</a>. The district judge and magistrate judge assignments in this case will remain the same. Signed by Chief District Judge Louis Guirola, Jr., on December 26, 2013. NO FURTHER WRITTEN ORDER WILL FOLLOW.

4. Criminal > Other Order/Judgments > Order > verify/enter case number **if a multi-defendant case select entire case, not an individual defendant** > verify case name and number > enter December 26, 2013, which is the date the order was signed > select Guirola as judge who signed order > date document filed is current date > no document > no number > NO to written opinion > no linkage to other document > modify text screen appears: copy and paste the text above making necessary division correction as needed; remove duplicate wording of

“signed by District Judge Louis Guirola, Jr. on December 26, 2013” > final docket text screen appears > check to ensure text is correct > next > NEF appears. *If a pro se prisoner case or notice needs to be delivered by other means, mail a copy of the NEF to appropriate folks.*

5. Copy the case being transferred out: Utilities > Maintain Case Data > Copy Case > enter case number of case being transferred out (**if multi-defendant case select entire case, not individual defendant**) > next > enter **new** case number > case type - criminal > select correct division/office > transfer date is current date > remark: enter division names to/from, example: Hattiesburg to Northern, submit;
6. A screen will appear showing you the old case number and the new case number and that the case was copied successfully;
7. Docket that the case was transferred out (docket this in the old case): Criminal > Transfer Documents > Case Transferred Out - Divisional Transfer > next;
8. Enter the case number you are transferring out (not the new case number) **making sure to select entire case if multi-defendant case** > next;
9. Verify case number and name > next;
10. You will be prompted to copy the case to a new case **IGNORE** - this has already been done; date document filed is current date > no document to select > next > no number > next;
11. Enter name of division you are transferring to (example: Northern Division) > **be sure and select any defendants not termed** (need to term all defendants in old case) > next;
12. Terminate Pending Documents (motions) screen displays. **Do not term any documents - uncheck all documents** > next;
13. A screen displays which states you did not select any documents > next;
14. Terminate Pending Deadlines screen appears. *This screen also includes all hearings*; **DO NOT TERMINATE ANY DEADLINES OR HEARINGS WHICH APPEAR. UNCHECK ALL DEADLINES AND HEARINGS.** (In some cases there may be no deadlines/hearings/motions > next;
15. The next screen which appears states you did not select any deadlines > next;
16. The Modify Text screen appears: the division receiving the case should be indicated in the docket text as well as the defendant(s) name. **Add the new division case number** > (sample: Intradistrict Transfer to Northern Division. New case number X:XX-CR-XXX); next;
17. Final Docket Text screen appears > verify for accuracy > next;

18. NEF appears. *If a pro se prisoner case or notice needs to be delivered by other means, mail a copy of the NEF to appropriate folks.*

### Receive Transferred Case in for other Division:

1. Criminal > Transfer Documents > Case Transferred In - Divisional Transfer > next;
2. Enter new division case number > find this case > **if multi-defendant case select entire case** > next;
3. Verify case name and number > next;
4. Filing date is current date > no document to select > next > no number > next;
5. From which division - enter division which sent case > next;
6. Intra-District Transfer screen displays showing names of all defendant(s) transferred > next;
7. A reminder screen appears prompting you to terminate presiding and referral judges from transferring division; add newly assigned judges; and to docket utility events to terminate and reset deadlines and hearings, as needed > next;
8. **Do not change judges. The district judge and magistrate judge will not change.** Next;
9. Modify text screen appears > verify the text states which division transferred the case in and the old case number > next; (**sample:** Intradistrict Transfer of defendant(s) name here. Transferred from Hattiesburg; former Case Number X:XX-CR-XXX); next;
10. Docket Text:Final Text screen appears > next;
11. NEF appears. *If a pro se prisoner case or notice needs to be delivered by other means, mail a copy of the NEF to appropriate folks.*

### Close Transferred Case, Term Motions and Deadlines/Hearings:

1. Set CLOSED flag, term deadlines & hearings, and term motions: Criminal > Utility Events > select Set/Clear Flags, select Terminate Deadlines and Hearings, and Terminate Motions > enter old case number > **select case not individual defendants** > verify case name/number > date filed current date; select the CLOSED flag > next;

2. Select all pending deadlines/hearings by clicking on "Select All" and clicking on "All Cancelled" > next;
3. Select all excludables (if any) and enter current date > next;
4. Terminate Pending documents (motions) screen displays, select all documents > next;
5. Modify Text Screen appears: Revise to read "\*\*\*\*Set CLOSED flag as to ..."  
\*\*\*Deadlines/Hearings terminated, \*\*\*Motions terminated > **ADD**: Closed due to divisional realignment > next;
6. Final Docket Text screen appears > next > no NEF sent.

<b>Chapter</b>	<b>REALIGNMENT</b>
<b>Subject</b>	<b>Magistrate Criminal Realignment Transfers</b>

**AUTHORITY** Realignment Act of 2013; Administrative Order dated December 26, 2013

**BACKGROUND** Due to the closure of the Meridian, MS, federal courthouse, divisional lines were redrawn.

## INSTRUCTIONS

### Docket Text Only Order, Copy Case, and Transfer Case Out:

1. Print Docket Report of the case being transferred out. Check for any pending defendant(s).
2. Check to make sure case is still pending.
3. Docket the text only order below which directs the old case be transferred to another division. ***Be sure and enter the correct division name in the modify text screen.*** (You may copy the text below, paste into each case, and enter the correct division name.)

TEXT ONLY ORDER OF TRANSFER pursuant to the new Realignment Act signed into law on December 20, 2013, and the Administrative Order filed December 26, 2013, this case is hereby transferred to the **enter correct division name** here Division of this district. The Act and Administrative Order are posted on the Court's website at <a href=http://www.mssd.uscourts.gov/ target=\_blank>www.mssd.uscourts.gov</a>. The district judge and magistrate judge assignments in this case will remain the same. Signed by Chief District Judge Louis Guirola, Jr., on December 26, 2013. NO FURTHER WRITTEN ORDER WILL FOLLOW.

4. Criminal > Other Order/Judgments > Order > verify/enter case number **if a multi-defendant case select entire case, not an individual defendant** > verify case name and number > enter December 26, 2013, which is the date the order was signed > select Guirola as judge who signed order > date document filed is current date > no document > no number > NO to written opinion > no linkage to

other document > modify text screen appears: copy and paste the text above making necessary division correction as needed; remove duplicate wording of Assigned by District Judge Louis Guirola, Jr. on December 26, 2013" > final docket text screen appears > check to ensure text is correct > next > NEF appears. *If a pro se prisoner case or notice needs to be delivered by other means, mail a copy of the NEF to appropriate folks.*

5. Copy the case being transferred out: Utilities > Maintain Case Data > Copy Case > enter case number of case being transferred out (**if multi-defendant case select entire case, not individual defendant**) > next > enter **new** case number > case type - criminal > select correct division/office > transfer date is current date > remark: enter division names to/from, example: Hattiesburg to Northern, submit;
6. A screen will appear showing you the old case number and the new case number and that the case was copied successfully;
7. Docket that the case was transferred out (docket this in the old case): Criminal > Transfer Documents > Case Transferred Out - Divisional Transfer > next;
8. Enter the case number you are transferring out (not the new case number) **making sure to select entire case if multi-defendant case** > next;
9. Verify case number and name > next;
10. You will be prompted to copy the case to a new case **IGNORE** - this has already been done; date document filed is current date > no document to select > next > no number > next;
11. Enter name of division you are transferring to (example: Northern Division) > select any defendants not termed > next;
12. Terminate Pending Documents (motions) screen displays. **Do not term any documents - uncheck all documents** > next;
13. A screen displays which states you did not select any documents > next;
14. Terminate Pending Deadlines screen appears. This screen also includes all hearings; **DO NOT TERMINATE ANY DEADLINES OR HEARINGS WHICH APPEAR. UNCHECK ALL DEADLINES AND HEARINGS.** (In some cases there may be no deadlines/hearings/motions > next;
15. The next screen which appears states you did not select any deadlines > next;
16. The Modify Text screen appears: the division receiving the case should be indicated in the docket text as well as the defendant(s) name. **Add the new division case number** > (sample: Intradistrict Transfer to Northern Division. New case number X:XX-MJ-XXX); next;



17. Final Docket Text screen appears > verify for accuracy > next;
18. NEF appears. *If a pro se prisoner case or notice needs to be delivered by other means, mail a copy of the NEF to appropriate folks.*

### **Receive Transferred Case in for other Division:**

1. Criminal > Transfer Documents > Case Transferred In - Divisional Transfer > next;
2. Enter new division case number > find this case > **if multi-defendant case select entire case** > next;
3. Verify case name and number > next;
4. Filing date is current date > no document to select > next > no number > next;
5. From which division - enter division which sent case > next;
6. Intra-District Transfer screen displays showing names of all defendant(s) transferred > next;
7. A reminder screen appears prompting you to terminate presiding and referral judges from transferring division; add newly assigned judges; and to docket utility events to terminate and reset deadlines and hearings, as needed > next;
8. **Do not change judges. The district judge and magistrate judge will not change.** Next;
9. Modify text screen appears > verify the text states which division transferred the case in and the old case number > next; (**sample:** Intradistrict Transfer of defendant(s) name here. Transferred from Hattiesburg; former Case Number X:XX-MJ-XXX); next;
10. Docket Text:Final Text screen appears > next;
11. NEF appears. *If a pro se prisoner case or notice needs to be delivered by other means, mail a copy of the NEF to appropriate folks.*

### **Close Transferred Case, Term Motions and Deadlines/Hearings:**

1. Set CLOSED flag, term deadlines & hearings, and term motions: Criminal > Utility Events > select Set/Clear Flags, select Terminate Deadlines and Hearings, and Terminate Motions > enter old case number > **select case not individual**

- defendants** > verify case name/number > date filed current date; select the CLOSED flag > next;
2. Select all pending deadlines/hearings by clicking on “Select All” and clicking on “All Cancelled” > next;
  3. Select all excludables (if any) and enter current date > next;
  4. Terminate Pending documents (motions) screen displays, select all documents > next;
  5. Modify Text Screen appears: Revise to read “\*\*\*Set CLOSED flag as to ...”  
\*\*\*Deadlines/Hearings terminated, \*\*\*Motions terminated > **ADD**: Closed due to divisional realignment > next;
  6. Final Docket Text screen appears > next > no NEF sent.

**Chapter:**

**Remands**

<b>Chapter</b>	<b>REMANDS</b>
<b>Subject</b>	<b>State Court Remand</b>

**AUTHORITY** 28 U.S.C. §1447

**DEFINITION** Remand, as a court procedure, is an action by a district court in which it sends back a case to the state court for action. The case would have been removed from state court to district court by the plaintiff. You cannot appeal an order from a remand.

**DOCUMENTS** Motion to Remand  
Order granting Motion to Remand

<b>SAMPLE CASE</b>	1:18-cv-16	<a href="#">Doc #4</a>	Motion to Remand one party back to State Court
		<a href="#">Doc #12</a> <a href="#">Doc #13</a>	Order granting Motion to Remand Letter to Circuit Clerk transmitting certified copies of order of remand and docket sheet
		2/20/18 <a href="#">Doc #15</a>	Terminated party remanded Acknowledgement of Receipt of Letter by Circuit Clerk
	1:17cv294	<a href="#">Doc #3</a> <a href="#">Doc #10</a>	Motion to Remand Case Opinion and Order granting Motion to Remand
		<a href="#">Doc #11</a>	Letter to Circuit Clerk transmitting certified copies of order of remand and docket sheet
		<a href="#">Doc #12</a>	Acknowledgement of Receipt of Letter by Circuit Clerk

## INSTRUCTIONS

4. Order granting Motion to Remand is placed in the order bucket by chambers.
  - a. Civil > Order on Motion next;
  - b. Enter case number > next;

- c. Verify case name and number > next;
- d. Date entered is date order signed > next;
- e. Modify text screen appears. Modify text to read: Order granting Motion to Remand. (text in what court case is being remanded to)
- f. Docket Text: Final Text screen appears > next;
- g. NEF appears.

**NOTE: If remand is to one party, terminate party. Choose Utility Event > Add and Terminate Parties > Next > Enter Case Number > Next > File Date of Order > Next > Next > Select the party or parties for termination from the case > NEF Party terminated.**

5. Docket letter to clerk of state court, transmitting the certified copies of the Order to Remand and docket sheet.
  - a. Civil > Other Events > Letter > next > enter case number > next > verify case name and number > date document filed current date > browse and select letter > next;
  - b. Letter to \_\_\_\_\_ (State Court Clerk) > next;
  - c. Modify text screen appears. Modify text to read Letter to \_\_\_\_\_, (state court clerk's name), Clerk, transmitting **certified copies** of Order to Remand and docket sheet;
  - d. Docket Text: Final Text screen appears > next;
  - e. NEF appears.

NOTE: If remand is to one defendant, term defendant. See entry on 2/20/18.

6. Docket letter received from (State Court Clerk). Docket Clerk is to file stamp the letter the day it is received.

- a. Civil > Service of Process > Acknowledgment of Receipt > next > enter case number > next > verify case name and number > date document filed current date > browse and select letter > next;
- b. Do not select a filer > next;
- c. Docket text: Final Text screen appears > Acknowledgment of Receipt by (State Court Clerk) received on (enter date received by the State Court).
- d. NEF appears.

**FLAGS** Set CLOSED flag if the entire case is remanded and not just one defendant.

**Chapter:**

**Special Matters**

<b>Chapter</b>	<b>SPECIAL MATTERS</b>
<b>Subject</b>	<b>Apostilles</b>

**AUTHORITY**

District Court Clerk's Manual Chapter 18 §18.04 & §18.05  
Fed.R.Civ.P. 44(a)(1)

**BACKGROUND**

Since October 15, 1981, the United States has been part of the 1961 Hague Convention abolishing the Requirement of Legalization for Foreign Public Documents (only). The Convention provides for the simplified certification of public (including notarized) documents to be used in countries that have joined the convention. Apostilles are strictly for the use of public documents abroad.

Clerks of court and deputy clerks are the officials in this country authorized under the Convention to issue certificates regarding the official records of the district court.

**DEFINITION**

An Apostille is a certificate which is the vehicle by which official documents of one country are authenticated for use in another country. The Apostille is issued by the clerk's office.

The Convention only applies to public documents. Whether or not a document is a public document is determined by the law of the country in which the document was issued. Countries typically apply the Convention to a wide variety of documents. Most Apostilles are issued for documents of an administrative nature, including birth, marriage and death certificates;

documents emanating from an authority or an official connected with a court, tribunal or commission; extracts from commercial registers and other registers; patents; notarial acts and notarial attestations (acknowledgments) of signatures; school, university and other academic diplomas issued by public institutions.

The Apostille serves as a certification by the clerk that the last signature on the document or record is genuine, and that any seal is the seal of the court served by the clerk or deputy clerk. Apostille may be issued only for documents generated within the court. Besides case files, these documents consist of those generated by court personnel as an official act (e.g. local rules, administrative orders, court plans, attorney admission certificates). See Fed.R.Civ.P. 44(a)(1).

## **REQUIREMENTS**

1. **APOSTILLE:** AO Form 390, (see attached). No variance is permitted from the format and size of the Apostille. Print on heavy card stock and cut to 3 x 5 size.

Upon completion of the Apostille, a copy of AO Form 393, Statement of Effect of Apostille, should be issued to the person who has requested the certification as well as the original Apostille. The clerk should keep for the Court's records the Apostille Specimen Signature Card, the Apostille Index Card, a copy of the Apostille, and a copy of the State of Effect of Apostille with the document which has been certified.

2. **SIGNATURE CARD:** Since the clerk's office is certifying the validity of a signature and seal, the clerk should have a means by which the signature of the involved, judge, deputy clerk or other court employee may be verified. AO Form 391, Apostille Specimen Signature Card should be used for this purpose (see attached).
3. **INDEX CARD:** Each Apostille must be numbered and maintained in the manner discussed herein, and an index card of each Apostille issued must be maintained for that purpose. AO Form 392, Apostille Index Card should be used for this purpose (see attached). Any changes to the form provided by the



Administrative Office must be approved by the Office of the General Counsel before use.

Maintain the Index Cards numerically so you know what number to assign next. The Index Card should contain the date the Apostille was issued, its number, the name of the party whose name was certified, the capacity in which that person acted, and the country in which the documents is to be used. The index is a permanent court record.

The clerk who issues the Apostille card also signs the Index Card. Another deputy will sign the signature card and certify the document. As a matter of policy, the documents should be certified and the Apostille issued by different individuals.

4. **MAINTAINING RECORDS:** The index cards should be maintained numerically according to the number assigned to each apostille issued. Signature-card files should be maintained alphabetically and updated regularly to reflect the current personnel.

## **ISSUANCE**

Apostilles may be issued only for original signatures and seals.

Copies of court records must be certified by the clerk's office in order to provide the original signature and seal upon which the Apostille is based. As a matter of policy, the documents should be certified and the Apostille issued by different individuals. The clerk who issues the Apostille card also signs the Index Card. Another deputy will sign the signature card and certify the document. As a matter of policy, the documents should be certified and the Apostille issued by different individuals.

The court seal should always cover all or at least some part of the signature of the clerk or the deputy clerk issuing the Apostille. All items of information on the Apostille must be completed. Care should be taken to assure that the form is securely attached to the page bearing the signature certified.

**FILING FEE**      \$57.00 plus .50 per page (for copies)

The fee for filing or indexing any document not in a case or proceeding (\$46.00) is charged for the Apostille in accordance with the Judicial Conference Schedule of Fees in district courts pursuant to 28 USC § 1914, District Court Miscellaneous Fees Schedule (1). The fee for the Apostille is in addition to any fee imposed for copying (.504 per page) and certifying (\$11.00) the underlying documents. §18.05 d [fees]

**DOCUMENTS**

Apostille  
Apostille Specimen Signature Card  
Apostille Index Card  
Statement of Effect of Apostille

**SEE ATTACHED FORMS**

**APOSTILLE**

(Convention de La Haye du 5 octobre 1961)

- 1. Country: United States of America  
This public document
- 2. has been signed  
by .....
- 3. acting in the capacity  
of .....
- 4. bears the seal/stamp of .....

**CERTIFIED**

- 5. at ..... 6. the .....
- 7. by .....
- 8. No. ....
- 9. Seal/Stamp ..... 10. Signature: .....

**APOSTILLE**

(Convention de La Haye du 5 octobre 1961)

- 1. Country: United States of America  
This public document
- 2. has been signed  
by .....
- 3. acting in the capacity  
of .....
- 4. bears the seal/stamp of .....

**CERTIFIED**

- 5. at ..... 6. the .....
- 7. by .....
- 8. No. ....
- 9. Seal/Stamp ..... 10. Signature: .....

O AO 391  
(Rev. 5/81)

**APOSTILLE SPECIMEN SIGNATURE CARD**

SIGNATURE

DATE

SIGNATURE (PRINT OR TYPE)

(AFFIX SEAL/STAMP)

CAPACITY OR TITLE

O AO 391  
(Rev. 5/81)

**APOSTILLE SPECIMEN SIGNATURE CARD**

SIGNATURE

DATE

SIGNATURE (PRINT OR TYPE)

(AFFIX SEAL/STAMP)

CAPACITY OR TITLE

O AO 392  
(Rev. 5/81)

**APOSTILLE INDEX CARD**

APOSTILLE NUMBER

DATE ISSUED

SIGNATURE CERTIFIED (PRINT OR TYPE)

CAPACITY OR TITLE AND/OR SEAL/STAMP OF

ISSUING DEPUTY CLERK

O AO 392  
(Rev. 5/81)

**APOSTILLE INDEX CARD**

APOSTILLE NUMBER

DATE ISSUED

SIGNATURE CERTIFIED (PRINT OR TYPE)

CAPACITY OR TITLE AND/OR SEAL/STAMP OF

ISSUING DEPUTY CLERK

## **STATEMENT OF EFFECT OF APOSTILLE**

Apostilles certify only the authenticity of the signature of the official who signed the document, the capacity in which that official acted, and where appropriate, the identity of the seal or stamp which the document bears. An apostille does not imply that the contents of the document are correct, nor that they have the approval of the United States Courts.

Clerk, United States District Court

<b>Chapter</b>	<b>SPECIAL MATTERS</b>
<b>Subject</b>	<b>Search Warrants</b>

**AUTHORITY** This procedure is pursuant to Judge Jordan’s General Order filed 1/7/2021 re: Highly Sensitive Documents (HSDs) and Rule 41 of the Federal Rules of Criminal Procedure.

**DEFINITION** A search warrant is a court order that a magistrate or judge issues to authorize law enforcement officers to conduct a search of a person, location, or vehicle for evidence of a crime and to confiscate any evidence they find.

**SAMPLE CASE** 1:21mj1

**ASSIGNMENT OF MJ CASE NUMBER**

Applications for Search Warrants, Pen Registers, and Trap and Trace Devices will be Assigned a magistrate (mj) case number by the courtroom deputy.

Courtroom deputy will click on “Initial Case Assignment (Direct)” option from the Criminal menu.

You will enter the mj case number, select your judge as the presiding judge, and select “Magistrate Judge (mj) Case” from the “Assign from deck” drop down list.

A reason is required, so select “Magistrate Case” from the Reason drop down.

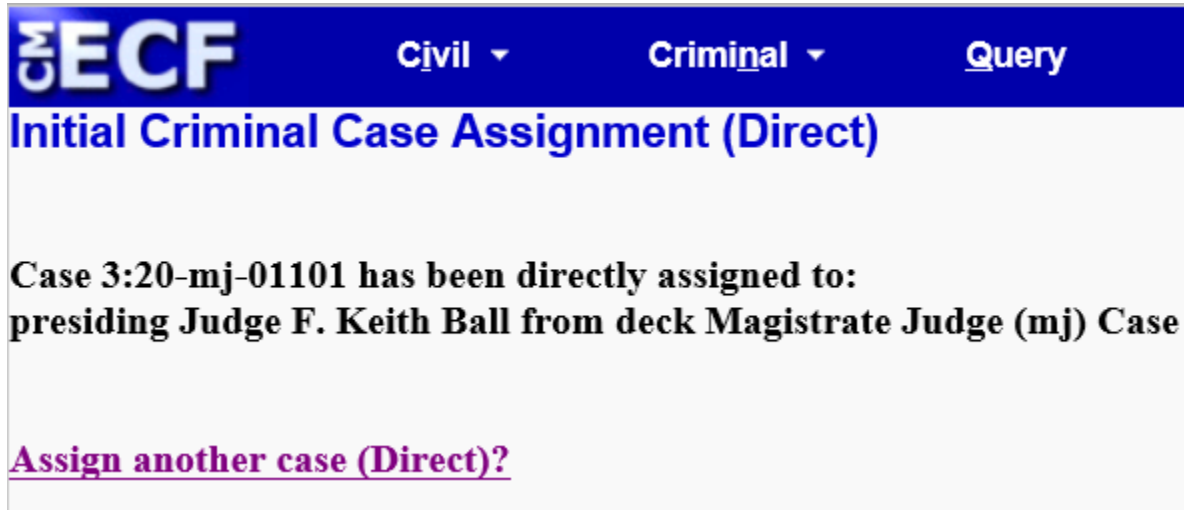
Click Submit

The screenshot shows the ECF Initial Criminal Case Assignment (Direct) form. At the top, there is a navigation bar with the ECF logo and menu items: Civil, Criminal, Query, Reports, and Utilities. The form title is "Initial Criminal Case Assignment (Direct)". The form contains several fields: "Division" (Northern (Jackson) (3)), "Case type" (mj), "Case number" (20-1101), "Presiding judge" (Ball, F. Keith), "Assign from deck" (Magistrate Judge (mj) Case), "Referral judge" (empty), "Assign from deck" (empty), "Auto-select referral judge" (checkbox), "Assignment date" (12/22/2020), "Reason" (Magistrate Case), and "Remarks" (empty). At the bottom, there is a "Print" button with a value of 1, and "assignment label(s)" text. Below the print button are "Submit" and "Clear" buttons.

On the next screen, the Case Short Title is for case assignment reference only and is

not required since most of these will be USA vs. Sealed. Click “Next”.

The case assignment record is created for the case and judge specified. If you have Another case to set up, click the “Assign another case (Direct)?” link.



The screenshot shows the ECF (Electronic Case Filing) system interface. At the top, there is a blue navigation bar with the ECF logo on the left and three menu items: "Civil", "Criminal", and "Query", each with a downward arrow. Below the navigation bar, the page title is "Initial Criminal Case Assignment (Direct)". The main content area displays a notification: "Case 3:20-mj-01101 has been directly assigned to: presiding Judge F. Keith Ball from deck Magistrate Judge (mj) Case". Below this notification, there is a purple link that reads "Assign another case (Direct)?".

Once you are finished setting up the case assignment records, you are ready to open The MJ case.

### OPENING THE SEALED MJ CASE

The courtroom deputy will open the sealed shell case using the event code “Open MJ Case (Sealed)” and make a docket entry for each document received but **will not upload any of the documents to CM/ECF**; therefore, no document number will be assigned to each entry.

The defendant should be entered as “Sealed Defendant”

Add the Assistant U.S. Attorney that signed the application.

Set Closed flag and any other applicable flags. Ex: Pen Register, Search Warrant.  
(Utility Event: Set/Clear Flags)

Terminate Defendant (Utility Event: Terminate Defendant)

The courtroom deputy will place the documents in a manila file folder with the assigned number and judge’s initials. The courtroom deputy will bring the manila file folder to the clerk’s office and give to the assigned docket clerk.

Upon receipt of the file folder from the courtroom deputy, the docket clerk will enter a Staff Note on the docket: (It is not necessary to make future staff notes if you receive more documents in the case.



**STAFF NOTE**

Staff Note as to Sealed Defendant: The HSD filed with the court was received and is Maintained in the clerk's office.

**Chapter:**

**Subsequent Complaints**

<b>Chapter</b>	<b>SUBSEQUENT COMPLAINTS</b>
<b>Subject</b>	<b>Amended Complaints</b>

**AUTHORITY** Fed.R.Civ.P. Rule 15 (a)

**DEFINITION** An Amended Complaint is filed to replace a previously filed Complaint.

**BACKGROUND** Any amendment to a pleading (Fed.R.Civ. P. 7(a), a “complaint” or an “answer”), whether filed as a matter of course or upon a successful motion to amend, except by leave of court, must reproduce the entire pleading as amended.

**DOCUMENTS** Amended Complaint

**SAMPLE CASE** 5:10-CV-42 Doc #3 Amended Complaint

**FEE** None

**INSTRUCTIONS**

1. Leave of court is required if an amended complaint is filed more than twenty-one (21) days after a responsive pleading has been filed;
2. Amended Complaint is electronically filed by the attorney;
3. Attorney should deliver summons for issuance to the Clerk’s Office;
4. Check for addition/omission of parties (make sure they have been added or terminated);
5. Check attorneys (make sure they have been added or terminated);
6. Check jury demand;
7. Check flags (i.e., if no jury demand when case was opened and plaintiff now demands jury in amended complaint, a jury flag must be added).

OR

1. **If a responsive pleading has been filed**, the party must move the Court for an order allowing the amended complaint to be filed. Once order is granted, amended complaint can be electronically filed by attorney. Continue with steps (3) through (7) above.

<b>SAMPLE CASE</b>	3:08-cv-329	Doc #104	Motion
		Doc #113	order granting
		Doc #116	amended complaint

<b>Chapter</b>	<b>SUBSEQUENT COMPLAINTS</b>
<b>Subject</b>	<b>Counterclaims and Crossclaims</b>

**AUTHORITY** Fed.R.Civ.P. Rule 13

**DEFINITION** A Counterclaim is a claim presented by a defendant in opposition to the claim of the plaintiff. This pleading is usually titled “Answer and Counterclaim”.

A Crossclaim is a claim by one party against a co-party arising out of the occurrence that is the subject either of the original complaint or of a counterclaim or relating to any property that is the subject of the original complaint.

**FILING FEE** None

**DOCUMENTS** Answer  
Counterclaim  
Crossclaim or any combination of these documents or filed as individual documents

**SAMPLE CASE** 2:09-cv-101 Doc #5 Answer, Crossclaim, and Counterclaim

## **INSTRUCTIONS**

1. Document filed electronically by attorney;
2. Counterclaim and/or Crossclaim are usually included in the Answer;
3. Occasionally, an attorney may include a Third-Party Complaint within his answer;
4. Quality Control check for correct party roles (the party filing a crossclaim becomes a Cross Claimant; the party filing a counterclaim becomes a Counter Claimant).

### **ATTORNEY FILING MENUS:**

1. Answer to Complaint will allow an attorney to check counterclaim, cross-claim and third party complaint
2. If the counterclaim, crossclaim and third party complaint is not included in the answer to complaint, the attorney should use Civil > Complaints and Other Initiating Documents > Crossclaim/Counterclaim or Third Party Complaint.

### **NOTES**

**Correcting party roles:** (1) Big Utilities, (2) Maintain Case Data, (3) Edit Case Participants - All Others, (4) enter case number, (5) click on the pencil icon next to the appropriate party name, (6) and change role type.

**Correcting misspelled party names:** (1) Big Utilities, (2) Maintain Case Data, (3) Edit Case Participants - All Others, (4) enter case number, (5) click on the green arrow icon next to the appropriate party name, (6) enter correctly spelled name and search, if no name found click create new party, (8) enter correctly spelled name, and (9) click add party. The party name will now be changed to the correct spelling.



2. Once an Order grants leave to file the Intervening Complaint, the party type **must be changed from Movant to Intervenor Plaintiff or Defendant**. Choose correct type. See above instructions A - G for changing party's role.
3. Attorneys will electronically file the Intervenor Complaint.



<b>Chapter</b>	<b>SUBSEQUENT COMPLAINTS</b>
<b>Subject</b>	<b>Third Party Complaint</b>

**AUTHORITY** Fed.R.Civ.P. 14

**DEFINITION** A Third-Party Complaint is filed in an existing case by a defendant against someone not initially a party to the action. This person would be considered a third party. A third-party complaint should state the third party is or may be liable for all or part of the damages which the plaintiff may win from the defendant.

A defending party, as a third-party plaintiff, may cause a summons and complaint to be served upon a person who is not a party to the action or who may be liable for all or part of the plaintiff's claim against him.

The third-party plaintiff need not obtain leave to make the service if he files the third-party complaint not later than 14 days after he serves his original answer. Otherwise, he must obtain leave on motion upon notice to all parties to the action.

The third-party defendant shall make his defense to the third-party plaintiff's claim as provided in Fed.R.Civ.P. Rule 12 and his counterclaim and crossclaims as provided in Fed.R.Civ.P. Rule 13.

**DOCUMENTS**

- (1) Motion for Leave to File a Third-Party Complaint
- (2) Proposed Order (e-mailed directly to the judge)
- (3) Order granting Motion
- (4) Third-Party Complaint electronically filed by attorney
- (5) Third party summon(s) if any

**FILING FEE** None

**SAMPLE CASE** 2:08-cv-257 Doc #38 Motion for Leave to File Third-Party Complaint  
Doc #42 Order granting motion  
Doc #44 Third-Party Complaint

## INSTRUCTIONS

1. Filing a Third-Party Complaint causes a change in the party role of the defendant and new party;
2. The existing defendant, who files the Third-Party Complaint, becomes both a “defendant” and a “Third-Party Plaintiff” which is automatically changed by the CM/ECF system;
3. (The new party, who is being filed against, becomes the “Third-Party Defendant”;
4. The name and the role of the “Third-Party Defendant” is added automatically when the attorney docket the Third-Party Complaint; (check to make sure the party roles are correct on the docket sheet and spelling of party names are correct);

### **Correcting party roles:**

- (1) Big Utilities;
- (2) Maintain Case Data;
- (3) Edit Case Participants - All Others;
- (4) Enter case number;
- (5) Click on the pencil icon next to the appropriate party name;
- (6) Change role type;
- (7) Save changes;
- (8) Update Case - case will be modified - Proceed? Yes.

### **Correcting misspelled party names:**

- (1) Big Utilities;
- (2) Maintain Case Data;
- (3) Edit Case Participants - All Others;
- (4) Enter case number;
- (5) Click on the green arrow icon next to the appropriate party name;
- (6) Enter correctly spelled name > search. If **no name found** click create new party, enter correctly spelled name, click add party, click Update Case, Case will be modified - Proceed? Yes. The party name will now be changed to the correct spelling.

**Chapter:**

**Statistical Reporting**

<b>Chapter</b>	<b>Statistical Reporting</b>
<b>Subject</b>	<b>Criminal JS-3 Reporting</b>

**BACKGROUND** Following the CM/ECF version 6.0 upgrade, the statistical disposition reporting screen for criminal cases has changed to include additional sentencing calculation options. This is the same screen previously seen when docketing a judgment in a criminal case following a defendant's sentencing.

**Judgments**  
2:13-cr-00225-CJC USA v. Math

**STATISTICAL DISPOSITION REPORTING**  
Enter count disposition codes.

Case number: 2:13-cr-00225-CJC -1  
Defendant name: Fatynas Math Location:

Ref #	Count	Citation	Disposition Code	Prison	Probation	Supervised Release	Fine (\$)	Special Assess. (\$)
1	1	21.841A-CDF (21.841(a)(1)(b)(IX)(vii)- POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE)		Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months	Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months	Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months		
2	2	21.963-NIF (21.963,953(d),960(a)(1),09)(1)(D): ATTEMPTED EXPORTATION OF METHAMPHETAMINE)		Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months	Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months	Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months		
Totals				Term <input type="text"/> Months	Term <input type="text"/> Months	Term <input type="text"/> Months		

\* -- comma-separated list of numbers from first column. ■ does not match calculated total

NEXT Clear

New Features

The sentencing calculation enhancements that were added in the upgrade include:

1. A column named **Ref #**. This is a reference number, or label, for particular count or group of counts. The reference number is used to relate to another count or group of counts to assist with calculating a sentence. Reference numbers do not necessarily correspond to count numbers.
2. A field called **To Ref #s**. This is where the reference number is entered to relate to another count or group of counts. It is only used for guilty dispositions. If a count or group of counts does not relate to another count or group of counts, then leave this field blank (i.e., only use this field for concurrent or consecutive sentences).
3. A **Totals** row. This displays the totals calculated for prison term, probation term, supervised release, fine, and special assessment based on the data selected and entered. The totals fields can be manually altered at any time.

**Judgments**  
2:13-cr-00225-CJC USA v. Math

STATISTICAL DISPOSITION REPORTING  
Enter count disposition codes.

Case number: 2:13-cr-00225-CJC -1  
Defendant name: Fatymas Math Location:

Ref #	Count	Citation	Disposition Code	Prison	Probation	Supervised Release	Fine (\$)	Special Assess. (\$)
1	1	21-84A-CD F ( 21-84(A)(1),(b)(1)(A)(vii)- POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE)		Code [dropdown] To Ref #s [input] Term [input] Months [input]	Code [dropdown] To Ref #s [input] Term [input] Months [input]	Code [dropdown] To Ref #s [input] Term [input] Months [input]		
2	2	21-963-HF F ( 21-963,953(j),960(A)(1),(b)(1)(F)- ATTEMPTED EXPORTATION OF METHAMPHETAMINE)		Code [dropdown] To Ref #s [input] Term [input] Months [input]	Code [dropdown] To Ref #s [input] Term [input] Months [input]	Code [dropdown] To Ref #s [input] Term [input] Months [input]		
<b>Totals</b>				Term [input] Months [input]	Term [input] Months [input]	Term [input] Months [input]		

\* -- comma-separated list of numbers from first column. ■ does not match calculated total

NEXT Clear

Other Minor Changes

Note that the options available in the **Disposition Code** column remain the same, but the names of some options have been abbreviated.

**Judgments**  
2:13-cr-00225-CJC USA v. Math

STATISTICAL DISPOSITION REPORTING  
Enter court disposition codes.

Case number: 2:13-cr-00225-CJC -1  
Defendant name: Fatymas Math Location:

Ref #	Count	Citation	Disposition Code	Prison	Probation	Supervised Release	Fine (\$)	Special Assess. (\$)
1	1	21-841A-CD F (21-841(a)(1),(b)(1)(A)(vii); POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE)	<ul style="list-style-type: none"> <li>- (NARA Titles I and II)</li> <li>0 (Rule 20(e)/21 Trans)</li> <li>1 (Dismissed; gov mot gr)</li> <li>2 (Acq'd by crt. alt mot gr)</li> <li>3 (Acquitted by jury)</li> <li>4 (Conv/Fnl plea of gilty)</li> <li>5 (Conv/Fnl plea of nolo)</li> <li>8 (Conv by court alt trf)</li> <li>9 (Conv by jury alt trf)</li> <li>A (Nolle prosequi)</li> <li>B (Pretrial diversion)</li> <li>C (Mistrial)</li> <li>D (Dism w/o prejudice)</li> <li>E (Nt Gilty/Inson (crt trf))</li> <li>F (Gilty/Inson (crt trf))</li> <li>G (Nt Gilty/Inson (jry trf))</li> <li>H (Gilty/Inson (jry trf))</li> <li>K (Continued)</li> <li>M (Mod crack smf 2007)</li> </ul>	Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months	Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months	Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months		
2	2	21-963-NLF (21-963,953(c),960(a)(1),(b)(1)(F); ATTEMPTED EXPORTATION OF METHAMPHETAMINE)		Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months	Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months	Code <input type="text"/> To Ref # <input type="text"/> * Term <input type="text"/> Months		

\* -- comma-separated list of numbers from first column.  does

Continue to make the appropriate selection for this field as indicated in the judgment.

The same is true for the sentencing Code. The options available for each sentencing Code (i.e., Prison, Probation, and Supervised Release) column remain the same, but the names of some of the options may be abbreviated.

**Judgments**  
2:13-cr-00225-CJC USA v Math

STATISTICAL DISPOSITION REPORTING  
Enter count disposition codes.

Case number: 2:13-cr-00225-CJC -1  
Defendant name: Fatymas Math Location:

Ref #	Count	Citation	Disposition Code	Prison	Probation	Supervised Release	Fine (\$)	Special Assess. (\$)
1	1	21.841A-CD F ( 21.841(a)(1),(b)(IX)(vii). POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE)		Code <input type="text"/> To Ref #s <input type="text"/> Term <input type="text"/> Months	Code <input type="text"/> To Ref #s <input type="text"/> Term <input type="text"/> Months	Code <input type="text"/> To Ref #s <input type="text"/> Term <input type="text"/> Months		
2	2	21.963-HI F ( 21.963,933(c),960(a)(1),(b)(I)(I) ATTEMPTED EXPORTATION OF METHAMPHETAMINE)		Code <input type="text"/> To Ref #s <input type="text"/> Term <input type="text"/> Months	Code <input type="text"/> To Ref #s <input type="text"/> Term <input type="text"/> Months	Code <input type="text"/> To Ref #s <input type="text"/> Term <input type="text"/> Months		
Totals				Term <input type="text"/> Months	Term <input type="text"/> Months	Term <input type="text"/> Months		

\* -- comma separated list of numbers from first column.   does not match calculated total

NEXT Clear

Continue to make the appropriate selection for this field as indicated in the judgment.

Example 1 – Standard Disposition

In the example below, the defendant was sentenced to custody in prison for 144 months on Count 1 and supervised release for 300 months on Count 1. A special assessment of \$100 was imposed, all fines were waived, and Counts 2-3 were dismissed.

Ref #	Count	Citation	Disposition Code	Prison	Probation	Supervised Release	Fine (\$)	Special Assess. (\$)
1	1	18-2251.F ( 18-2251(d)(e) ADVERTISING OF CHILD PORNOGRAPHY)	4 (Conv/Fnl plea of gty)	Code M (Single co.) To Ref#s * Term 144 Months	Code To Ref#s * Term Months	Code M (Single co.) To Ref#s * Term 300 Months		100
4	2	18-2252A.F ( 18-2252A(a)(2)(A),(b)(1) DISTRIBUTION OF CHILD PORNOGRAPHY)	1 (Dismissed: gvt mot gr)	Code To Ref#s * Term Months	Code To Ref#s * Term Months	Code To Ref#s * Term Months		
5	3	18-2252A.F ( 18-2252A(a)(2)(A),(b)(1) DISTRIBUTION OF CHILD PORNOGRAPHY)	1 (Dismissed: gvt mot gr)	Code To Ref#s * Term Months	Code To Ref#s * Term Months	Code To Ref#s * Term Months		
3	4	18-2252A.F ( 18-2252A(a)(5)(B),(b)(2) POSSESSION OF CHILD PORNOGRAPHY)	1 (Dismissed: gvt mot gr)	Code To Ref#s * Term Months	Code To Ref#s * Term Months	Code To Ref#s * Term Months		
Totals				Term 144 Months	Term Months	Term 300 Months	0.00	100

\* -- comma-separated list of numbers from first column. ■ does not match calculated total

NEXT Clear

Notes:

- Reference numbers can be different. They should simply be treated as labels for referencing to other counts.
- The To Ref #s fields are blank because there is no concurrent or consecutive sentence.



**Example 2 – Standard Disposition (Concurrent Exception)**

In the example below, the defendant was sentenced to a 12-month custody term on each of Counts 1-9 and a 24-month supervised release term on each of Counts 1-9, with each count running concurrently to each other. A special assessment of \$100 was imposed on each of Counts 1-9 and all fines were waived.

Ref #	Count	Citation	Disposition Code	Prison	Probation	Supervised Release	Fine (\$)	Special Assess. (\$)
1	1-9	18-641.F (18-641: THEFT OF GOVERNMENT PROPERTY)	4 (Conv/Fnl plea of gby)	Code M (Single co...) To Ref #s Term 12 Months	Code To Ref #s Term Months	Code M (Single co...) To Ref #s Term 24 Months		900
<b>Totals</b>				Term 12 Months	Term Months	Term 24 Months	0.00	900

\* ... comma-separated list of numbers from first column. ■ does not match calculated total

NEXT Clear

**Notes:**

- In this situation, the **M (Single co...)** option is selected for the **Prison Code**. Do not select the **C (Concurrent)** option to reference counts to each other that are in the same range.
- Although this is a concurrent sentence, it is not necessary to split the counts to enable referencing, so the **To Ref #s** fields should be left blank.

**Example 3 – Split-Count Disposition**

In the example below, the defendant was sentenced to a total of 30 months of custody time on Counts 1-8, 48 months of supervised release on Counts 1-8, fine of \$6,000, and special assessment of \$800. Count 9 was dismissed. The prison term consisted of 24 months of custody on Counts 1-3 and 12 months of custody on Counts 4-7, with Counts 1-3 and 4-7 running concurrently to each other, and 6 months of custody on Count 8, running consecutively to Counts 1-3. The supervised release term consisted of 36 months on Counts 1-3 and 12 months on Counts 4-7, with Counts 1-3 and 4-7 running concurrently with each other, and 12 months on Count 8, running consecutively to Counts 1-3. The fine imposed consisted of \$5,000 on Counts 1-3 and \$1,000 on Count 8. The fine for Counts 4-7 was waived. The special assessment ordered consisted of \$300 on Counts 1-3, \$400 on Counts 4-7, and \$100 on Count 8.

Ref #	Count	Citation	Disposition Code	Prison	Probation	Supervised Release	Fine (\$)	Special Assess. (\$)
1.1	1-3	18-1347 F ( 18-1347: HEALTH CARE FRAUD)	4 (Conv/Fnl plea of gby)	Code C (Concurrent) To Ref #s 1.2 * Term 24 Months	Code To Ref #s * Term Months	Code C (Concurrent) To Ref #s 1.2 * Term 36 Months	5000	300
1.2	4-7	18-1347 F ( 18-1347: HEALTH CARE FRAUD)	4 (Conv/Fnl plea of gby)	Code C (Concurrent) To Ref #s * Term 12 Months	Code To Ref #s * Term Months	Code C (Concurrent) To Ref #s * Term 12 Months		400
2.1	8	18-1956-4999 F ( 18-1956(a)(1)(B)(i,2)(b),3147: MONEY LAUNDERING, CAUSING AN ACT TO BE DONE, PENALTY FOR COMMITTING AN OFFENSE WHILE ON PRE-TRIAL RELEASE)	4 (Conv/Fnl plea of gby)	Code S (Consecutive) To Ref #s 1.1 * Term 6 Months	Code To Ref #s * Term Months	Code S (Consecutive) To Ref #s 1.1 * Term 12 Months	1000	100
2.2	9	18-1956-4999 F ( 18-1956(a)(1)(B)(i,2)(b),3147: MONEY LAUNDERING, CAUSING AN ACT TO BE DONE, PENALTY FOR COMMITTING AN OFFENSE WHILE ON PRE-TRIAL RELEASE)	1 (Dismissed: gov mot gr)	Code To Ref #s * Term Months	Code To Ref #s * Term Months	Code To Ref #s * Term Months		
<b>Totals</b>				Term 30 Months	Term Months	Term 48 Months	6000.00	800

\* -- comma-separated list of numbers from first column.   does not match calculated total

NEXT Clear

Notes:

- Reference numbers change if counts are split. Typically, split counts are assigned the same whole number assigned to the original count range with a decimal number following in numerical order. For example, Counts 1-7 carry the same charge of 18:1347.F (18:1347: HEALTH CARE FRAUD), but so that the appropriate sentence can be applied, the counts were split into two ranges: Counts 1-3 and Counts 4-7. As a result Counts 1-3 received a new reference number of 1.1 and Counts 4-7 received a new reference number of 1.2. Previously, Counts 1-7 were assigned the reference number 1.
- It is not necessary to cross-reference related counts. Once reference suffices. For example, below, *Entry 1* is sufficient for referencing, whereas *Entry 2* is redundant and unnecessary.

Entry 1		Entry 2	
Prison		Prison	
Code	C (Concurrent) ▼	Code	C (Concurrent) ▼
To Ref #s	1.2 *	To Ref #s	1.2 *
Term	24 Months	Term	24 Months
Code	C (Concurrent) ▼	Code	C (Concurrent) ▼
To Ref #s	*	To Ref #s	1.1 *
Term	12 Months	Term	12 Months
Code	S (Consecutive) ▼	Code	S (Consecutive) ▼
To Ref #s	1.1 *	To Ref #s	1.1 *
Term	6 Months	Term	6 Months
Code	▼	Code	▼
To Ref #s	*	To Ref #s	*
Term	Months	Term	Months
Term	30 Months	Term	30 Months

- Because it is not necessary to cross-reference counts, several referencing patterns are possible. For example, below, *Entry 1*, *Entry 2*, *Entry 3*, and *Entry 4* are all the same, and hence, are all correct.

Entry 1	Entry 2	Entry 3	Entry 4
Prison	Prison	Prison	Prison
Code C (Concurrent) ▼	Code C (Concurrent) ▼	Code C (Concurrent) ▼	Code C (Concurrent) ▼
To Ref#s 1.2 *	To Ref#s *	To Ref#s 1.2 *	To Ref#s *
Term 24 Months	Term 24 Months	Term 24 Months	Term 24 Months
Code C (Concurrent) ▼	Code C (Concurrent) ▼	Code C (Concurrent) ▼	Code C (Concurrent) ▼
To Ref#s *	To Ref#s 1.1 *	To Ref#s *	To Ref#s 1.1 *
Term 12 Months	Term 12 Months	Term 12 Months	Term 12 Months
Code S (Consecutive) ▼	Code S (Consecutive) ▼	Code S (Consecutive) ▼	Code S (Consecutive) ▼
To Ref#s 1.1 *	To Ref#s 1.1 *	To Ref#s 1.2 *	To Ref#s 1.2 *
Term 6 Months	Term 6 Months	Term 6 Months	Term 6 Months
Code ▼	Code ▼	Code ▼	Code ▼
To Ref#s *	To Ref#s *	To Ref#s *	To Ref#s *
Term Months	Term Months	Term Months	Term Months
Term 30 Months	Term 30 Months	Term 30 Months	Term 30 Months

<b>Chapter</b>	<b>Statistical Reporting</b>
<b>Subject</b>	<b>Speedy Trial Guide</b>

**Procedural Intervals**

\*\* The first day of the procedural interval is NOT counted.  
\*\* The last day of the procedural interval IS counted.

Code	Meaning (time limit)	Start	End
P0	Case Opened Pre-Speedy Trial Interval  (no time limit)	Complaint or indictment/information filed (or superseding document with new charges)	Arrest, service of summons, service of writ of habeas corpus ad prosequendum (to P1), or initial appearance (to P2)
P1	Awaiting Indictment  30-Day Clock  (applies to magistrate cases only)	Arrest, service of summons, or service of writ of habeas corpus ad prosequendum	Filing and making public of indictment/information, waiver of indictment, or consent to trial by magistrate (if after initial appearance, to P2)
P2	Awaiting Trial  70-Day Clock  (no move to P2 if indictment, but no first appearance)	Filing and making public of indictment/information, waiver of indictment, consent to trial by magistrate on complaint, or first appearance (whichever is last), declaration of mistrial, order allowing withdrawal of plea (guilty/nolo contendere), or order or appellate mandate for new trial	Accepted plea of guilty or nolo contendere (to P5), start of bench trial/voir dire (to P4), or dismissal (to P9)
P4	Trial  (no time limit)	Start of bench trial/voir dire	Verdict (to P5 or P9), declaration of mistrial (to P2), order for new trial (to P2)
P5	Awaiting Sentencing  (court determined time limit, if any - generally 30 to 60 days)	Accepted plea of guilty or nolo contendere, guilty verdict, granting of 2255 motion, or appellate mandate for re- sentencing	Sentencing (to P6)

Code	Meaning (time limit)	Start	End
P6	Post Sentencing  (no time limit)	Sentencing	Appeal of final judgment (to P7), or probation violation (to P8)
P7	Appeal  (no time limit)	Appeal of final judgment	USCA mandate received. (If denied, to P6, if affirmed, to P6 or P9, if reversed/remanded for retrial, back to P2, if reversed/remanded for sentencing, back to P5)
P8	Probation Violation Probation or supervised release  (no time limit)	Filing of petition to revoke probation	Court ruling (to P5 or P6) (Hearing held to determine violation or not)
P9	Disposition of Count  (no time limit)	Dismissal, acquittal, deferral of prosecution – (if defendant complies to certain conditions in agreement), nolle prosequi, or rule 20 or 21 transfer out	--
PNT	Procedural Non-Trial Defendant cannot be forced to trial without time to prepare  <u>30-Day Minimum</u> (can be waived)  Criminal or consent cases only	Filing and making public of indictment/information, waiver of indictment, consent to trial by magistrate on complaint, or appearance action with counsel or pro se ( <b>whichever is last</b> )	30 days after it starts, or by written waiver of the defendant

*Notes:*  
*Filing of indictment – by grand jury*  
*Filing of information – by U.S. Attorney*  
*Consent to trial by Magistrate – misdemeanors only*

**Excludable Intervals**

*\*\* BOTH the first day and the last day of the excludable interval are counted.*

Code	Description	Start	Stop
<b>XA</b>	<b>Physical or Mental Exam</b> (‘Proceedings to determine mental competency or physical capacity’)	Motion for exam is filed or made orally	Exam report report and any related briefs have been filed, and any necessary hearing has been held (order or under advisement)
<b>XC</b>	<b>Trial on other charges</b> (State or Federal)	First court day of any pretrial proceeding or of trial	Last court day of proceeding or trial
<b>XD</b>	<b>Interlocutory Appeal</b> (NOT appeal of custody or conditions of release)	Filing of notice of appeal	Appellate mandate or order received
<b>XE</b>	<b>Pretrial Motion</b>	Motion is filed or made orally	Any related briefs have been filed and any necessary hearing has been held (order or under advisement)
<b>XF</b>	<b>Transfer Proceedings</b> under Rule 20 or 21 or <b>Removal of Proceedings</b> under Rule 5	<b>R20</b> - Defendant’s request for Rule 20 transfer <b>R21</b> - Motion for change of venue is filed or made orally <b>R5</b> - The day after the relevant time period starts (30-day indictment clock or 90-day custody clock)	<b>R20</b> - Case file is received <b>R21</b> - Any related briefs have been filed and any necessary hearings have been held. If the motion is granted, when the case file is received. <b>R5</b> - The initial appearance in the district of prosecution
<b>XG</b>	<b>Motion Under Advisement</b>  (30-day maximum)	Motion taken under advisement (normally day after XE stopped)	Disposition, oral or written, or the 30-day maximum

Code	Meaning (time limit)	Start	Stop
XH	Miscellaneous Pretrial Proceedings, such as bail, bond, parole, or probation hearings, preliminary examinations, arraignment proceedings, pretrial conferences, and depositions	First day of proceeding	Last day of proceeding  <i>Examples: Proceeding starts Tuesday, ends Thursday: 3 days excluded. Proceeding held Tuesday, not held Wednesday, held Thursday: 2 days excluded. Proceeding starts Thursday, continues through Tuesday: entire period, 6 days, excluded.</i>
XI	Prosecution deferred (to allow demonstration of good conduct) (Put count(s) in P9, submit JS-3)	Court approval of the deferral agreement	Filing of a notice of intent to resume prosecution, or dismissal of the case
XJ	Transportation from another district  (10-day maximum)	Order directing transportation	Defendant's arrival at destination
XK	Consideration of proposed plea agreement	Proposed plea agreement is filed	Court's decision on plea agreement is filed or announced
XM	Absence (location unknown) or Unavailability (location known) of defendant or essential (government) witness	Absence: earlier of failure to appear or notice of absence filed Unavailability: failure to appear	Absence: location determined Unavailability: day before availability



Code	Meaning (time limit)	Start	Stop
XN	<b>Mental incompetence or Physical Incapacity to stand trial</b>	If by motion/exam, day after the XA or XG stopped. Otherwise, date of event defendant was unfit to attend	Notice of competence/capacity to stand trial, or dismissal
XP	<b>Superseding indictment and/or new charges</b>	Dismissal of original charges on government motion	Earliest of arrest, service of summons, or appearance on new charges
XR	<b>Awaiting proceedings of co-defendant</b>  (‘reasonable period’ maximum)	Day after ‘70-day clock’ ends, or start date of co-defendant’s exclusion, whichever is earlier	Co-defendant’s 70-day clock expires or exclusion is stopped, joinder ends, or trial for both begins  <i>Example: Dft A is ready for trial, dft B, on the same case, is not. To have just one trial for both, use XR for dft A.</i>
XT	For ‘ends of justice’ to be served	Day after 30-day or 70-day clock ends, as appropriate (date specified in order)	Date proceedings (indictment or trial) are continued (date specified in order)
XU	<b>Withdrawal of plea of guilty or nolo contendere</b>  <i>Note: Not technically an exclusion of time, this event in effect restarts P2 and the 70-day clock.</i>	Date P2 started	Date of withdrawal of plea and entry of not guilty plea
XW	<b>Delay for grand jury to convene to consider indictment</b>  (30-day maximum extension to P1 time)	31 <sup>st</sup> day after arrest or service of summons	Filing on indictment, or 30-day maximum

***Excludable Notes:***

*Excludables stop the P1 (30-day), P2 (70-day), LC and LH clocks.  
They do not stop the PNT clock.*

***Excludable Examples:***

<u><i>Event</i></u>	<u><i>Start</i></u>	<u><i>Stop</i></u>
<i>Motion for Physical/Mental Exam</i>	<i>XA</i>	
<i>Motion Taken Under Advisement</i>	<i>XG</i>	<i>XA</i>
<i>Order Granting Motion – Directing Treatment</i>	<i>XN</i>	<i>XG</i>
<i>Treatment Complete</i>		<i>XN</i>
<i>Motion for Psychiatric Exam</i>	<i>XA (or XE)</i>	
<i>Motion Taken Under Advisement</i>	<i>XG</i>	<i>XA (or XG)</i>
<i>Order for Psychiatric Exam</i>	<i>XA</i>	<i>XG</i>
<i>Exam Report Received – Order – Dft unfit</i>		
<i>To stand trial – Directing Treatment</i>	<i>XN</i>	<i>XG</i>
<i>Treatment Complete</i>		<i>XN</i>

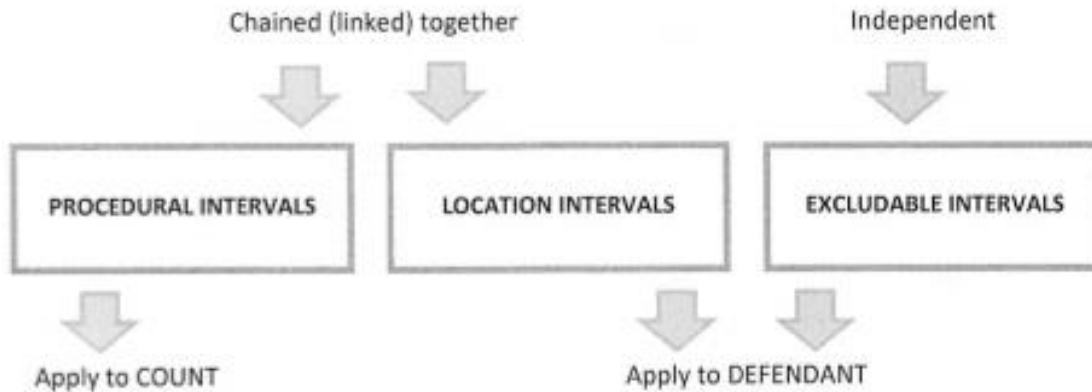
**Location Intervals**

*\*\* The first day of the location interval is NOT counted.*

*\*\* The last day of the location interval IS counted.*

<b>Code</b>	<b>Meaning (time limit)</b>	<b>Start</b>	<b>End</b>
<b>LC</b>	<b>Location Custody</b>  <b>90-Day Custody Clock</b>  (90 days to trial)	In continuous federal custody solely for the purpose of awaiting trial on federal charges (usually arrest)	Plea of guilty or nolo contendere, start of bench trial/voir dire, or release on bond
<b>LR</b>	<b>Location Release</b>  (no time limit)	Service of summons, release on bond, or termination of high risk (if not arrested)	Custody or designation as high risk
<b>LF</b>	<b>Location Fugitive</b>  (no time limit)	Court-determined time after warrant issued	Arrest, withdrawal of warrant, or voluntary appearance
<b>LH</b>	<b>Location High Risk</b>  (90-day limit)	Designation as high risk by U.S. Attorney	Bench trial/voir dire, custody, or termination of high risk status
<b>LO</b>	<b>Location Other Custody</b>  (no time limit)	In state or local custody, or federal custody other than LC	Release, federal custody (LC) status, or fugitive
<b>LU</b>	<b>Location Unreported</b>  (no time limit)	It is determined that the defendant's location is unknown	Location is determined

### SPEEDY TRIAL INTERVAL RELATIONSHIPS



- Procedural intervals apply to individual counts.
- Location intervals apply to a defendant.
- Excludable intervals apply to a defendant.
  
- Procedural intervals track the progress of a case and monitor compliance with the 30-Day Awaiting Indictment and 70-Day Awaiting Trial Clocks.
- Significant events in the case, such as the arrest, filing of a complaint or indictment, and the beginning of trial, move counts from one procedural interval to the next.
- Procedural intervals are linked.
- The start of one procedural interval automatically stops the previous interval.
- A count can only be in one procedural interval at a time.
- Procedural interval time calculation:
  - The first day of the procedural interval is **NOT** counted.
  - The last day of the procedural interval **IS** counted.
  
- Location intervals track a defendant's location. Is the defendant in custody, or has the defendant been released? And, monitor a court's compliance with the 90-Day Custody Clock.
- Location intervals are also linked.
- Starting one location interval stops the prior interval.
- A defendant can only be in one location interval at a time.
- Location interval time calculation:
  - The first day of the location interval is **NOT** counted.
  - The last day of the location interval **IS** counted.
  
- Excludable intervals track authorized delays.
- If an excludable is running, the affected 30-day, 70-day, and 90-day clocks are not running, and delay time is added to the time allowed to file the indictment or start the trial.
- Excludable intervals are totally independent of one another.
- They are not linked and multiple excludable intervals may be running at the same time.
- Excludable interval time calculation:
  - **BOTH** the first day and the last day of the excludable interval are counted.

**Chapter:**

**Transfers**

<b>Chapter</b>	<b>TRANSFERS</b>
<b>Subject</b>	<b>CIVIL: Intra-District Transfer Out/In (Division to Division)</b>

**AUTHORITY** 28 U.S.C. §1404, §1406, §1631

**DEFINITION** When a case is transferred to another division within the Southern District of Mississippi in the interest of justice

**SAMPLE CASE** 4:09-cv-74 Transfer out of Eastern Division

Doc #7	Motion to Change Venue (not always applicable)
Doc #11	Order granting motion (not always applicable)
7/21/09	Intra-district transfer to Jackson Division

3:09-cv-426 Transfer in to Jackson Division  
7/21/09 Case transferred in

## INSTRUCTIONS

### Transferring case out:

1. An order is entered directing that the case be transferred to another division. This order may be filed by chambers or the clerk's office (Civil > Other Orders/Judgments > Order (or Orders on Motions if a motion was filed));
2. Contact receiving division to obtain case number for transfer in;
3. Copy the case being transferred out: Utilities > Maintain Case Data > Copy Case > enter transferring case number > next > enter new case number > case type - civil > select correct division/office > transfer date is date of order > remark: enter division names to/from, i.e. Jackson to Southern, submit;
4. A screen will appear showing you the old case number and the new case number and that the case was copied successfully;
5. Docket that the case was transferred out: Civil > Utility Events > Case Transferred Out - Divisional Transfer > next;

6. Enter the case number you are transferring out (not the new case number you received from the receiving divisional office) > next;
7. Verify case number and name > next;
8. You will be prompted to copy the case to a new case IGNORE - this has already been done; date document filed should be date of order > no document to select > next;
9. Enter name of division you are transferring to, i.e. Southern Division > next;
10. Terminate Pending Deadlines screen appears. This screen also includes all hearings; if there are no deadlines/hearings > next; if deadlines and hearings appear, terminate all > next;
11. No motions will appear at this time to term or transfer.
12. The Modify Text screen appears > the division receiving the case should be indicated in the docket text > next;
13. Docket Text: Final Text screen appears > next;
14. NEF appears.

#### **Term Motions and Close transferred case:**

1. Civil > Utility Events > Terminate Motions > next;
2. Enter/verify case number > next;
3. Verify case name and number > next;
4. Enter date of order transferring case as date filed > next;
5. Select all Motions > next;
6. Modify Text screen appears stating all motions terminated > next;
7. Docket Text: Final Text screen appears > next;
8. NEF screen appears. No NEF sent as this is a private entry;
9. Utilities > Maintain Case Data > Edit Case Data;
10. Enter case number > submit;
11. Progress at Term: select appropriate item 02 (Before Issue Joined - Order Entered) or 10 (After Issue Joined - Other);
12. Disposition: select 18 (Statistical Closing);

13. Date Terminated: date of order transferring case;
14. Submit;
15. Set CLOSED flag and clear any unnecessary flags;
16. Notify receiving divisional office that the case has been closed and transferred.

## **INSTRUCTIONS**

### **Court Receiving transferred case:**

1. Civil > Other Events > Case Transferred In - Divisional Transfer > next;
2. Enter new case number > find this case > next;
3. Verify case name and number > next;
4. Filing date is date transfer order was entered > no document to select > next;
5. No number > next;
6. From which division - enter division which sent case > next;
7. Prompt "Intra-District record already exists" > next;
8. Prompt: terminate presiding and referral judges from transferring division; add newly assigned judges; docket utility events to terminate and reset deadlines and hearings, as needed > next;
9. Add new presiding judge; start date current date, make sure judge's role is presiding, no referral type for district judge > next;
10. Prompt: Warning there is already a presiding judge. Click Next to term the original existing judge;
11. Prompt: Select hearings to link to new judge. If no pending hearings to link > next; if scheduled hearings appear, select all and send advisory e-mail to new judge's courtroom deputy that hearings were set in the original case and exist in the new case > next; (the transferring out division more than likely has termed the deadlines and hearings);
12. Verify case number and name > next;
13. Select referral judge, start date is current date, change judge's role to referral and select referral type "full pretrial, no dispositive motion" > next;
14. Prompt: "Warning there is already a pending referral judge in this case – click Next to continue and terminate the existing judge" > next;



15. Prompt: Select hearings to link to new judge. No pending hearings to link > next;
16. If motions were pending in the original case, screen will appear with options “select motions for referral to this judge” or “don’t refer motions”. Click on first option “select motions for referral to this judge” > next;
17. Verify case number and name > next;
18. Screen appears with all pending motions. Select all pending motions to be referred to the new judge(s).
19. Modify text screen appears > next;
20. Docket Text:Final Text screen appears > next;
21. NEF appears.
22. Check case flags for MAG initials, NO\_CMC, etc. Clear or modify flags as needed.

**NOTE: FOR PRO SE CASES, THE COURT RECEIVING THE TRANSFER IN SHOULD SEND A NOTICE OF ASSIGNMENT OF THE NEW CASE NUMBER AND JUDGE ASSIGNMENT TO THE PRO SE LITIGANT FOR FUTURE FILED DOCUMENTS.**

<b>Chapter</b>	<b>TRANSFERS</b>
<b>Subject</b>	<b>CIVIL: Inter-District – Transfer In Case From Another District Court</b>

**AUTHORITY** CM/ECF Application Administrator’s Guide Release v3.1

**DEFINITION** When a case, for whatever reason, is transferred to our district (Southern District of Mississippi).

**BACKGROUND** The CM/ECF system administrator, Larry Weathersby, is notified when a case is transferred into our district. The administrator runs the Aextract civil case@ procedure and selects the court the case is being transferred to. Intake is then notified of the transferred case.

**FILING FEE** N/A

## INSTRUCTIONS

1. Big Utilities > Open Transferred Case > From Court: select transferee court from drop down list > Transferred case number: field populates automatically with transferee’s case number. If multiple cases have been transferred in at the same time, select correct case number from drop-down list.
2. Office: select proper division > Case type: cv > New case number: enter next case number > No lead case number > no association type > next.

Open Transferred Case

From court Mississippi Southern Transferred case number 1:13-cv-00080

Office Southern (1) Case type cv New case number

Lead case number Association type

Next Clear

**Open Transferred Case**

From court: mssd Transferred case number: 1:13-cv-00080  
New case number: 13-4113 Office: 1 Type: cv

Presider  Referral  Ref. Type

Prepare	Records to Create	Prepare	Records to Create	Prepare	Records to Create
<input type="button" value="Case"/>		<input type="button" value="Docket Entries"/>		<input type="button" value="Deadlines"/>	
<input type="button" value="Parties"/>		<input type="button" value="Documents"/>		<input type="button" value="Answers"/>	
<input type="button" value="Attorneys"/>		<input type="button" value="Motions"/>		<input type="button" value="Display Hearings"/>	

3. Open Transferred Case screen appears: Select presiding judge > select referral judge > select referral type as “full pretrial, no dispositive motion.”
4. When processing the case, you must click on the windows in the following order: case, parties, attorneys, docket entries, documents, motions, deadlines, answers, and display hearings. Click on Case.

**IMPORT CASE DATA SCREEN DISPLAY:** for these instructions we are using a transferred case from our train database to our test database

**Import Case Data (into 1:13-cv-04113)**

Case Number: 1:13-cv-00080-WHB-RHW[mssd]		Filed: 02/05/2013	Fee Status: pd (paid)
Security	<input type="checkbox"/> Sealed Case All documents in this case are restricted to these users:		Fee Date: 02/05/2013
	<input type="checkbox"/> case participants (non-public) <input type="checkbox"/> case participants & public terminals (non-public and terminal)		County: 88888 (XX US, Outside State)
Short Title: Bird v. Cat			Jurisdiction: 3 (Federal Question)
<b>STATISTICAL DATA</b>			
Origin	5 (Transfer-in from Other District) ▼	Date Filed	4/25/2013
Nature of Suit: 442 (Civil Rights: Jobs)		\$ Demand (000):	Jury Demand: p (Plaintiff)
Citizenship Plaintiff: N/A		Class Action: n (No Class Action Alleged)	
Citizenship Defendant: N/A		Arbitration: N/A	
Cause of Action: 42:1981cv (42:1981 Civil Rights)			
<input type="button" value="Apply"/> <input type="button" value="Reset"/>			

All data is brought over during the transfer. No changes are needed. Click Apply. You are returned to the Open Transferred Case screen. Click “Parties”.

**IMPORT PARTY DATA SCREEN DISPLAYS:**

**Import Party Data (into 1:13-cv-04113)**

<input checked="" type="checkbox"/> Import	SET ALL	<b>EXISTING PERSON</b> <input type="checkbox"/> Mapped <input type="checkbox"/> Exact Match <input checked="" type="checkbox"/> Last Name Match <input type="checkbox"/> No Match	<input type="checkbox"/> Create New Person No Translation ▼
<input checked="" type="checkbox"/> Import	Bird, Tweety Type: pty <input type="button" value="Party Info"/> Role: pla (Plaintiff)	Bird, Tweety (917) Bird, Big (1487) Bird, Tweetie (1441) Role: pla Plaintiff	<input checked="" type="radio"/> Match Existing Person <input type="radio"/> Create New Person
<input checked="" type="checkbox"/> Import	Cat, Sylvester Type: pty <input type="button" value="Party Info"/> Role: dft (Defendant)	Cat, Sylvester (918) Cat, Tom (1021) Role: dft Defendant	<input checked="" type="radio"/> Match Existing Person <input type="radio"/> Create New Person
<input type="button" value="Apply"/> <input type="button" value="Reset"/>			

The party information is imported at the time of the transfer. Click Apply. You are returned to the Open Transferred Case screen. Click Attorneys button.

**IMPORT ATTORNEYS SCREEN DISPLAYS:**

Attorneys are imported into the new case, click Apply.

**NOTE:** The Open Transferred Case screen now displays how many cases are being transferred in, the number of parties, and number of attorneys.

Prepare	Records to Create
Case	1
Parties	2
Attorneys	2

Click on Docket Entries.

**DOCKET ENTRIES SCREEN DISPLAYS:**

- \*\*\* Import Docket Data takes a few minutes to import all docket entries.
- \*\*\* Docket Entries will display in a color(s).

No applicable\_party data to import.

No schedule data to import.

Import Docket Data (into 1:13-cv-04113)

<input checked="" type="checkbox"/> Import	SET ALL	<input type="checkbox"/> Mapped <input type="checkbox"/> Exact Match <input checked="" type="checkbox"/> Type Match <input type="checkbox"/> No Match
<input checked="" type="checkbox"/> Import	# 1 Type: cmp / cmp Filed: 02/05/2013 <input type="button" value="Display Text"/> <input type="button" value="Filer(s)"/>	Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public Type cmp cmp Complaint <input type="checkbox"/> List All Types Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public
<input checked="" type="checkbox"/> Import	Type: utility / flags Filed: 02/05/2013 <input type="button" value="Display Text"/>	Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input checked="" type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public Type utility flags Set/Clear Flags <input type="checkbox"/> List All Types Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public
<input checked="" type="checkbox"/> Import	# 2 Type: service / sm Filed: 02/05/2013 <input type="button" value="Display Text"/>	Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public Type service sm Summons Issued <input type="checkbox"/> List All Types Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public
<input checked="" type="checkbox"/> Import	# 3 Type: service / smxc Filed: 02/22/2013 <input type="button" value="Display Text"/> <input type="button" value="Filer(s)"/>	Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public Type service smxc Summons Returned Executed <input type="checkbox"/> List All Types Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public
<input checked="" type="checkbox"/> Import	# 4 Type: answer / ans Filed: 03/01/2013 <input type="button" value="Display Text"/> <input type="button" value="Filer(s)"/>	Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public Type answer ans Answer to Complaint <input type="checkbox"/> List All Types Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public
<input checked="" type="checkbox"/> Import	# 5 Type: motion / dism Filed: 03/01/2013 <input type="button" value="Display Text"/> <input type="button" value="Filer(s)"/>	Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public Type motion dism Dismiss <input type="checkbox"/> List All Types Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public
<input checked="" type="checkbox"/> Import	# 6 Type: respn / memsup Filed: 03/01/2013 <input type="button" value="Display Text"/> <input type="button" value="Filer(s)"/>	Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public Type respn memsup Memorandum in Support of Motion <input type="checkbox"/> List All Types Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public
<input checked="" type="checkbox"/> Import	# 7 Type: motion / extres Filed: 03/05/2013 <input type="button" value="Display Text"/> <input type="button" value="Filer(s)"/>	Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public Type motion extres Extension of Time to File Response/Reply <input type="checkbox"/> List All Types Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public
<input checked="" type="checkbox"/> Import	Type: utility / sethrg Filed: 03/15/2013 <input type="button" value="Display Text"/>	Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public Type utility sethrg Set/Reset Hearings <input type="checkbox"/> List All Types Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public
<input checked="" type="checkbox"/> Import	Type: minutes / telmgcnf Filed: 03/22/2013 <input type="button" value="Display Text"/>	Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public Type minutes telmgcnf Telephonic Case Management Conference <input type="checkbox"/> List All Types Security <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public

The “Type” box should not be empty.



**NOTE:**



Mapped (turquoise): if a docket entry appears in this color (turquoise) it means we have imported a case from that district before and mapped one of our events with that court’s event in the dictionary. No changes are needed.

Exact Match (lime green): the events match from court to court, no changes needed.

Type Match (dark green): no exact event match was found but a comparable event was found. If an entry shows up in this color, click display Text to display the docket entry text. Read the entry to determine which event from our dictionary should be chosen. CLOSE the docket text window. From the type drop-down list, select the correct event from our dictionary’s list.

No Match (gray): if a docket entry imports with an event which is not in our dictionary, the entry will appear in gray. Click Display Text to display docket entry text. Read the docket entry to determine which event from our dictionary should be chosen. CLOSE the docket text window. From the type drop-down list, select the correct event from our listings.

**ALL ENTRIES MUST BE CORRECTED OR MODIFIED IN ORDER TO CLICK APPLY.**

There should be no reason to uncheck Import in the first column.

For a large case with numerous docket entries, all entries must be checked and modified at this time. Do not stop this process and return to it at a later time due to temporary files being deleted after a certain period time. You will not be able to start back where you left off.

Once completed, click Apply. You are returned to the Open Transferred Case screen.

The number of records to create (docket entries) is listed:

Prepare	Records to Create
<input type="button" value="Docket Entries"/>	dkentry: 10 dktpart: 10 dkttxt: 10

**IMPORT DOCUMENTS SCREEN DISPLAYS:** Click Documents

**Import Documents (into 1:13-cv-04113)**

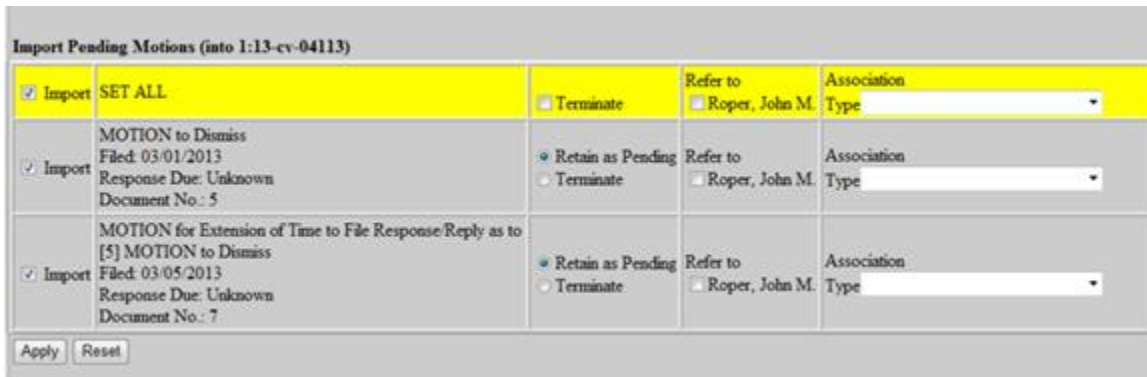
<input checked="" type="checkbox"/> Import	SET ALL		Security
<input checked="" type="checkbox"/> Import	Type: cmp Filed: 02/05/2013	Document No.: 1 Main Document <a href="#">Review</a>	<input type="checkbox"/> special document <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public <input type="checkbox"/> non-public and terminal
	Type: cmp Filed: 02/05/2013	Document No.: 1 Civil Cover Sheet <a href="#">Review Attachment</a>	<input type="checkbox"/> special document <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public <input type="checkbox"/> non-public and terminal
<input checked="" type="checkbox"/> Import	Type: service Filed: 02/05/2013	Document No.: 2 Main Document <a href="#">Review</a>	<input type="checkbox"/> special document <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public <input type="checkbox"/> non-public and terminal
<input checked="" type="checkbox"/> Import	Type: service Filed: 02/22/2013	Document No.: 3 Main Document <a href="#">Review</a>	<input type="checkbox"/> special document <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public <input type="checkbox"/> non-public and terminal
<input checked="" type="checkbox"/> Import	Type: answer Filed: 03/01/2013	Document No.: 4 Main Document <a href="#">Review</a>	<input type="checkbox"/> special document <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public <input type="checkbox"/> non-public and terminal
<input checked="" type="checkbox"/> Import	Type: motion Filed: 03/01/2013	Document No.: 5 Main Document <a href="#">Review</a>	<input type="checkbox"/> special document <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public <input type="checkbox"/> non-public and terminal
	Type: motion Filed: 03/01/2013	Document No.: 5 Exhibit map <a href="#">Review Attachment</a>	<input type="checkbox"/> special document <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public <input type="checkbox"/> non-public and terminal
	Type: motion Filed: 03/01/2013	Document No.: 5 Exhibit photo <a href="#">Review Attachment</a>	<input type="checkbox"/> special document <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public <input type="checkbox"/> non-public and terminal
<input checked="" type="checkbox"/> Import	Type: resp Filed: 03/01/2013	Document No.: 6 Main Document <a href="#">Review</a>	<input type="checkbox"/> special document <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public <input type="checkbox"/> non-public and terminal
<input checked="" type="checkbox"/> Import	Type: motion Filed: 03/05/2013	Document No.: 7 Main Document <a href="#">Review</a>	<input type="checkbox"/> special document <input type="checkbox"/> applicable party <input type="checkbox"/> sealed <input type="checkbox"/> private <input type="checkbox"/> ex parte <input type="checkbox"/> non-public <input type="checkbox"/> non-public and terminal



No changes should be needed. Click Apply. You are returned to the Open Transferred Case screen: the number of documents and attachments are shown:



**MOTIONS SCREEN DISPLAYED:** Click Motions

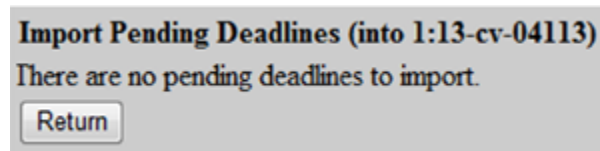


If motions were not terminated when the case was transferred out of the transferee court, review each motion to determine which judge the motion should be assigned to. Motions should remain as pending (default). After selecting the correct judge, click Apply. You are returned to the Open Transferred Case screen.

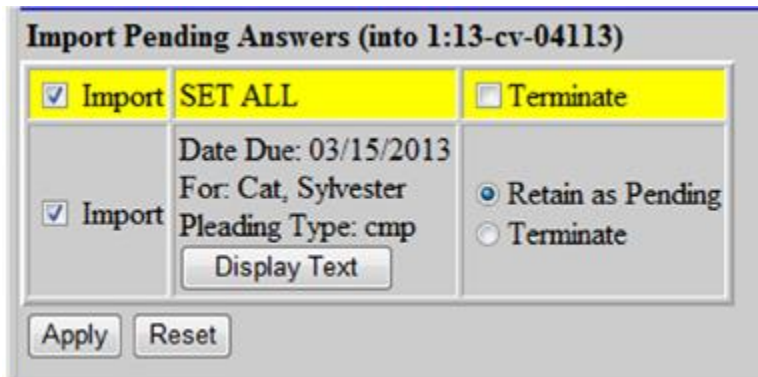
**DEADLINES SCREEN DISPLAYED:** Click Deadlines

If there are no deadlines this screen appears, click Return.

If deadlines appear, term all deadlines and click Apply.



IMPORT PENDING ANSWERS SCREEN DISPLAYS:

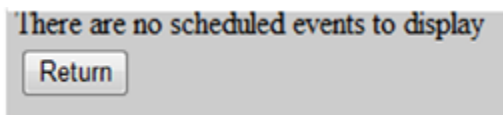


Click Answers

Click Apply

DISPLAY HEARINGS SCREEN DISPLAYS:

Click Hearings



In this case there are no pending hearings, click Return.

**Hearings are not imported.** Click Return.

5. When completed with the case, parties, attorneys, docket entries, documents, motions, deadlines, answers and hearings, click Submit.

6. Creating case and docket, please wait ...

Case ##-#### has been opened.

Sending e-mail to [InterdistrictTransfer\\_MSSD.@mssd.uscourts.gov](mailto:InterdistrictTransfer_MSSD.@mssd.uscourts.gov)

An NEF will appear.

If case has imported properly an NEF will display. If, after about 5 minutes, an NEF has not appeared on the screen, run a docket report to see if the case has been created. (SEE NEXT PAGE FOR NEF).

7. Set flags: Magistrate Judge Initials, NO-CMC and Jury if applicable.

8. Docket Staff Notes: Notified K. Alexander, Attorney Admission Clerk, of out of town counsel regarding admission to our district.
9. If you have a pro se prisoner, add pro se department as interested party, verify the prisoner's address is correct, mail a notice of assignment and docket using the event code "Notice (other)".

**NOTE:** If you receive a transferred case in on one date and actually transfer the case in on a later date, you will need to go and check the docket sheet "Date Filed" date on the case transferred in entry. The CM/ECF system will insert the actual entered date. You can changed the date filed by following these steps:

Utilities > Maintain Case Data > Edit Docket Entries > next > select appropriate docket entry (probably the last one) > select "edit all docket entry information" > next > change the "date filed" to the correct date > submit. Now your filed date is the same as the date you actually received the transferred case.

The screenshot shows a web-based form titled "Edit All Docket Entry Information" for case "2:13-cv-00106-KS-MTP Newman v. Carter". The form contains two input fields: "Document Number" with the value "12" and "Date Filed" with the value "12/01/2013". The "Date Filed" field is highlighted with a red rectangular box.

**NOTE:** Check motions. Run a motions report to verify that motions have been assigned to the correct judge while transferring in the case.

Creating case and docket, please wait ...

Case 13-4113 has been opened.

Sending e-mail to InterdistrictTransfer\_MSSD@mssd.uscourts.gov

U.S. District Court [TEST]

Southern District of Mississippi

**Notice of Electronic Filing**

The following transaction was entered on 4/25/2013 at 12:03 PM CDT and filed on 4/25/2013

Case Name: Bird v. Car

Case Number: [1:13-cv-04113-LG-JMR](#)

Filer:

Document Number: [8](#)

**Docket Text:**

Case transferred in from District of Mississippi Southern; Case Number 1:13-cv-00080. Original file certified copy of transfer order and docket sheet received.

1:13-cv-04113-LG-JMR Notice has been electronically mailed to:

Lucas Davenport ldavenport@nowhere.com

Stone Barrington barrington@noattorneys.com

1:13-cv-04113-LG-JMR Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

Document description:Main Document Public Docket Sheet

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp\_ID=1081288797 [Date=4/25/2013] [FileNumber=121656-0]  
[583dbcacad036ad61a2dd0ce8e88eae9312c92159d346cd50602ea8b782277da9ef  
7eca37e3075e7a0e2bb75b858059025d579e2e7e43946bba21c987d95c83]]

Document description:Attachment Non-Public Docket Sheet

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp\_ID=1081288797 [Date=4/25/2013] [FileNumber=121656-1]  
[01cd6166aaa3e53d9f8cedf1de5e04b7c62322afaa2d40a6e4bdcd9a24039336160e  
a78c3d6ce125b25038cbd46c952bfa6358147cbb6705921da11d5863a06a]]

<b>Chapter</b>	<b>TRANSFERS</b>
<b>Subject</b>	<b>CIVIL: Inter-District Transfer Out to Another District Court</b>

**AUTHORITY** For the convenience of parties and witnesses, in the interest of justice, a District Court may transfer any civil action to any other district or division where it might have been brought. 28 U.S.C. 1404(a)

**DEFINITION** When a case is transferred from the Southern District of MS to a district court outside our district.

<b>SAMPLE CASE</b>	<a href="#">1:17cv168</a>	<a href="#">Doc #8</a>	Motion to Change Venue
		<a href="#">Doc #20</a>	Order Granting Motion
		9/8/17	Case Transferred Out - District
			Transfer event code
		9/8/17	Remark No Number: Order
			transferring case emailed to IT
			Department to electronically
			transfer case
		<a href="#">Doc #21</a>	Remark: Confirmation of case
			electronically transferred
	<a href="#">1:18cv35</a>	<a href="#">Doc #2</a>	Order Transferring Case
		3/7/18	Case Transferred Out - District
			Transfer event code
		3/7/18	Remark No Number: Order
			transferring case emailed to IT
			Department to electronically
			transfer case
		<a href="#">Doc #3</a>	Remark: Confirmation of case
			electronically transferred

**NOTE: If this case is being transferred out pursuant to an order ruling on a motion, be sure to click “NO” to the blip that asks “does this order close the case?” or the event code “Case Transferred Out-District” will not work and you will receive an error message “Case has already been closed”.**

**“Case Transferred Out-District” event prompts you to close the case and enter the JS-6 closing information.**

**MDL Conditional Transfer Order prompts you to close case, so it is not necessary to docket this event “Case Transferred Out-District” for those types of case.**

## **INSTRUCTIONS:**

1. Order directing that the case be transferred to another district court outside the Southern District of MS should be entered by docket clerk.
2. Docket event code (Case Transferred Out – District) found under small utility event codes. This event allows for the JS-6 screen to appear to close out the case.
3. Docket “Remark” (no number): Order Transferring Case [document # of order] emailed to IT Department to electronically transfer case to the United States District Court for the \_\_\_\_\_ District of \_\_\_\_\_. Clerk will docket confirmation email when received from the \_\_\_\_\_ District of \_\_\_\_\_.

NOTE: Your email to IT should include case number, style of case, and the name of the court being transferred to. If it is an MDL case, include the MDL number and CTO number.

4. Docket “Remark” (include document number) . Clerk is to scan in the confirmation receipt received from the IT Department. Docket text should read: Confirmation of case electronically transferred from the Southern District of MS to the \_\_\_\_\_ District of \_\_\_\_\_ on date of \_\_\_\_\_ and assigned case number \_\_\_\_\_.
5. Add case number and judge assignment to closing list.

## **FLAGS**

Closed

**Chapter TRANSFERS**

**Subject CRIMINAL: Transfer (In) of Jurisdiction Supervised  
Release or Probation**

**AUTHORITY** [18 U.S.C. § 3605](#)

**BACKGROUND** A court, after imposing a sentence, may transfer jurisdiction over a probationer or person on supervised release to the district court for any other district to which the person is required to proceed as a condition of his probation or release, or is permitted to proceed, with the concurrence of such court.

**SAMPLE CASE** 2:11cr33 Doc #1 Transfer of Jurisdiction (PROB 22)

**Note:** **This document must be executed by both transferor and transferee judges before the case can be opened by the transferee court.**

Attachments: Certified copies of transferor court's docket sheet, Indictment and Judgment.

**Note:** **Some courts no longer send certified copies of the above documents, but refer transferee court to PACER to obtain copies or receive copies by e-mail.**

## **INSTRUCTIONS**

### Open Criminal Case:

1. Criminal > Criminal Case > Division > Case Type: cr > Case Number - next number up > Date Filed > County (if not indicated, check with Probation) > Presiding Judge > Referral Judge > Referral Type: Full pretrial, no dispositive motion (ptn) > Other Court > Name (court from which defendant has transferred) > Number (number assigned to case in transferor district) > Next;
2. Add Parties: USA is automatically included as plaintiff . (In these cases usually no AUSA is specifically assigned;
3. Search for Defendant's name (create new party if necessary) > Add as Defendant > Alias, if applicable > Add Probation as interested party > Create Case > Yes;
4. Do not choose "Docket Lead Event?"
5. Criminal > Transfer Documents > Transfer In/Supervised Release or Probation > Next > Verify Case Number > Next > Verify case name and Number > Next > Date document filed > Browse and select main document (Transfer of Jurisdiction PROB 22 signed by transferee and transferor judges) > Select attachments: certified copies of docket sheet, indictment and judgment from transferor court > Next > Transfer from > Enter name of transferor court (Ex: SD/GA) > Next;
6. Add counts for which defendant is on supervised release or probation > locate this information on copy of judgment > Citation > Search > Count (will be indicated on judgment) > Save to List > repeat for all counts of conviction > Finished Entering Count(s);
7. Procedural Intervals > prompted to move counts to P6 (post sentencing) > Next > Verify Case name and number > Next > Modify Docket Text Screen appears > check for errors and content > Next > Docket Text:Final Text Screen appears > Next > NEF appears.
8. Criminal > Utility Events > Terminate Defendant > enter case number > next > verify case name and number > next > enter date you opened case (which should be the same day) next > no documents to term > next > no deadlines to term > next > select the party(s) to be terminated > next > modify text screen appears > next > Docket Text:Final Text screen appears > next > NEF appears.

## **FLAGS**

Add Mag and Closed Flags



NOTE: If transfer case was transferred out from our Court and then transferred back in to our Court assign the (Return) Transfer a new criminal case number. See example in 1:18cr57.

**Chapter TRANSFERS**

**Subject CRIMINAL: Transfer (Out) of Jurisdiction (Probation or Supervised Release)**

**AUTHORITY** [18 U.S.C. § 3605](#)

**BACKGROUND** A court, after imposing a sentence, may transfer jurisdiction over a probationer or person on supervised release to the district court for any other district to which the person is required to proceed as a condition of his probation or release, or is permitted to proceed, with the concurrence of such court.

**SAMPLE CASE** 1:11cr58      Doc #35      Transfer of Supervised Release (PROB 22)

**Note:**      **This document must be signed by both transferor and transferee judges before the Transfer of Jurisdiction can be docketed by the transferor court.**

Doc #36      Remark: Memo to receiving court  
Doc. #37      Remark: Acknowledgment of receipt of transfer and certified documents

**INSTRUCTIONS**

**Transfer Out of Probation/Supervised Release**

1. Criminal > Transfer Documents > Transfer Out/Probation or Transfer Out/Supervised Release > Next > Enter or verify Case Number (choose Defendant if multiple defendants listed) > Verify Case name and number > next > Enter date > Browse and select document (Transfer of Jurisdiction PROB 22 signed in duplicate by transferor and transferee judges) > Next > Transfer to (insert name of transferee court Ex: SD/TX) > Next > Modify Text screen appears > check for errors and text > Next > Docket Text:Final Text screen appears > Next > NEF appears.
2. Transmit duplicate original of Transfer of Jurisdiction signed by both transferor and transferee judges along with certified copies of our docket sheet, indictment

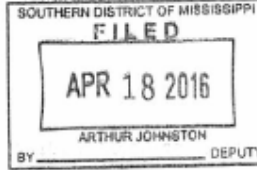
and judgment to the transferor court with memorandum (sample attached), copy of memorandum for return and postage prepaid, self-addressed envelope.

3. Remark: Memo to (Name of Receiving Court) transferring Probation or Supervised Release as to defendant.
4. Acknowledgement of receipt of transfer of Probation or Supervised Release by (Name of District Court) as to defendant.

See attached sample memorandum on next page.

Case 1:11-cr-00058-HSO-RHW Document 37 Filed 04/18/16 Page 1 of 1

UNITED STATES DISTRICT COURT  
OFFICE OF THE CLERK  
SOUTHERN DISTRICT OF MISSISSIPPI



**MEMORANDUM**

**TO:** Clerk, United States District Court  
200 NW 4th Street, #1210  
Oklahoma City, OK

**DATE:** April 11, 2016

**FROM:** ARTHUR JOHNSTON, CLERK  
By: P. Stokes, Deputy Clerk

**RECEIVED**

APR 14 2016

CAROLANN REED SHINN  
CLERK, U.S. DISTRICT COURT  
BY \_\_\_\_\_  
DEPUTY

**SUBJECT:** Transfer of Jurisdiction of Supervised Release  
U.S. vs. Travis Earl Seat.  
Criminal No. 1:11cr58HSO-RHW

To effect transfer of jurisdiction in the above matter the following documents are enclosed:

1. Certified copy of Transfer of Jurisdiction form executed by both transferring and receiving Judges;
2. Certified copy of docket sheet, indictment and judgment.

Please stamp the enclosed copy of this memorandum "received" and return to us in the enclosed, stamped, self-addressed envelope.

Thank you.

By: P. Stokes, Deputy Clerk

Encl.

**Chapter                    TRANSFERS**

**Subject                    CRIMINAL: Rule 5(c)(3) Transfer Documents  
Received from Another District (formerly Rule 40)**

**AUTHORITY**            Rule 5 (c)(3)

**BACKGROUND**        A Rule 5 (c)(3) transfer occurs when we issue a warrant for a defendant in a criminal case and the defendant is picked up and has an initial appearance in another district (in a magistrate case)

**SAMPLE CASE**        2:08cr51, 2:17cr2, 1:13cr62,3:19cr58

**INSTRUCTIONS**

1.                    Docket the transmittal and any certified unsealed/public documents using the event “Rule 5 (c)(3) Documents Received” under the category “Transfer Documents”. Note: If you receive sealed documents, they must be sealed.
2.                    You may access any documents not sent to us from Pacer. The pleadings may vary but typically contain:  
Docket Sheet  
Rule 40 Commitment  
CRD Minutes  
Arrest Warrant  
Financial Affidavit  
Waiver of Rule 5 & 5.1 Hearings  
Bond  
Order Setting Conditions of Release
3.                    Docket “Arrest-Other District” as of the date of arrest in the other district. Event code is under “Detention”
4.                    Move to Location Release (LR) as of date bond posted in other district or Location Other (LO) if no bond posted. (If criminal complaint pending, docket in Mag. Case)

**Chapter**                    **TRANSFERS**

**Subject**                    **CRIMINAL: Rule 20 (In/Out) Transfer from another District for Plea and Sentence**

**AUTHORITY**            **Fed.R.CrimP.20(b)**

**BACKGROUND**    Rule 20 transfers occur when an indictment/information/complaint is filed in one state and the defendant is arrested in another district. Should the defendant want to proceed in the arresting district, he/she will need to plead guilty or nolo contendere and he/she will need to consent to the transfer to the arresting district (as well as the U.S. Attorneys from both districts)

When conditions for transfer have been satisfied, the clerk's office of the transferor district must transmit the file to the clerk's office of the transferee district.

If a defendant, after transfer, enters a plea of not guilty, the prosecution must be returned to the transferor district along with the previously transmitted records.

**SAMPLE CASE**    1:17cr120

## **INSTRUCTIONS**

### **Rule 20 Transfer In**

1. Criminal>CriminalCase>Division>Case Type:cr>Case Number-next number up>Date Filed>County (xxUS.Outside State>Presiding Judge>Referral Judge>Referral Type: Full pretrial, no dispositive motion(ptn).Other Court>Name(court from which defendant was transferred).Number (number assigned to case in transferor district)>Next
2. Add Parties: USA is automatically included as plaintiff. (usually no AUSA specifically assigned)

3. Search for Defendant's name (create new party if necessary)>Add as Defendant>Alias, if applicable>Add Probation as interested party>Create Case>Yes;
4. Do not choose "Docket Lead Event?"
5. Criminal>Transfer Documents>Rule 20 Transfer In>Next>Verify Case Number>Next>Verify case name and Number>Next>Date document filed>Browse and select main document (Rule 20 Transfer In)>Select attachments: certified copies of docket sheet, indictment from transferor court>Next>JS2 Opening Proceeding should default to 8 (Adult Rule 20(a)/21 Transfer>Next>Transfer from>Enter name of transferor Court (Ex:SD/GA)>Next>Final Text Screen; CONSENT TO TRANSFER JURISDICTION (Rule 20) from USDC ND of MS by Miguel Angel Miranda. (Attachments: #(1) Indictment, #(2) Docket Sheet)

## **FLAGS: SET MAGISTRATE JUDGE INITIALS**

### **RULE 20 TRANSFER OUT**

**SAMPLE CASE:** 3:18cr26, Doc. #5

#### **Rule 20 Transfer Out**

1. On the Criminal Events Menu, select "Transfer Documents" located under "Other Filings"
2. Select Rule 20-Transfer Out. Click Next. Enter the Criminal Case Number. Click Next.
3. Enter Date document filed. Browse and select the main documents Rule 20 Transfer out.
4. In the Transfer to field on the next screen, enter the court to which the case is being transferred. Click Next.
5. In the Sentence/Disposition text screen, type "Transferred to" & the court to which the case is being transferred. This will appear on the front of the docket sheet. Click Next.

6. On the Procedural Intervals screen, select P9-Disposed. Click Next. Click Next.
7. On the Statistical Disposition Reporting Screen, for the Disposition code, select "0 (Rule 20(a)/21 Transfers)", click Next.
8. Select Counts for Disposition, click Next.
9. The next screen will be the JS-3 (CLOSING) INFORMATION screen, Click Next.
10. The next screen to be displayed will be the Terminate Pending Documents Screen. If there are pending documents, select all documents, the click Next. If there are no pending documents, the system will display a screen with the message "Note: There are no pending documents", click Next.
11. The next screen to be displayed will be the Terminate Pending Deadlines screen. If there are pending deadlines, select all deadlines to terminate, click Next. If there are no pending deadlines, the system will display a screen with the message "Note: there are no pending deadlines to terminate", click Next.
12. Select the party or parties for termination from the case screen, click Next.
13. The next screen will be the Modify Docket Text screen. Make any changes necessary, click Next.
14. The next screen will be the Final docket text screen. Click Next. **(SET CLOSED FLAG)**
15. Staff Note: Transmitted certified copy of Consent to Transfer, docket sheet, and transmittal to the \_\_\_\_\_ District of \_\_\_\_\_.