

**Attorney Local Rules Committee  
Sub Committee – Noticing**

1. Should the signing of a attorney registration form to receive a login and password also constitute the attorney's consent to electronic service?

Yes. One benefit of the system is its ability to give electronic notice to registrants. This will eliminate the need for paper and cost of mailing. We noted the potential problems of huge flows of e-mail, but think that the savings are worth any problems. Solutions range from e-mail filtering to rearrangement of assignments in the office.

2. Does Notice of Electronic Filing stored in the CM/ECF system serve as the certificate of service?

Yes. The system will generate a list of persons who have received e-notice. We explored the possibility of adding to the system a requirement that this notice go to the docket. Instead, it appears that the system adds a link in the docket to show that list. We are recommending an amendment to the Local Rules to insure that the Court can take judicial notice of material in that link.

The system also generates a list of people who do not receive e-notice. This is currently available on a screen in the system. We have asked that this screen be formatted so that it can immediately make a mailing matrix, which will ease the task of notice to non-ecf registrants.

3. How to notice the court of expedited matters?

We propose that the filing of expedited matters proceed normally. The Clerk's office will obtain a cell phone designated solely for expedited matters. That phone will always be with someone who knows how to handle expedited matters.

Our concern was that the system permit the introduction of a human into the system to insure that the process would actually happen. We did not want to add a box to the system that indicated an expedited matter, and rely on a notice automatically generated by the system that an expedited process would be begun. We wanted the security of talking to a real person.

4. Is a document deemed "filed" upon receipt of the Notice of Electronic Filing?

Yes. The system will generate and add to the filed document an electronic time stamp. That stamp serves the same purpose as the blue stamp at the clerk's desk, and should have the same effect.

5. How is noticing handled when all parties do not have an email address? Will faxing be allowed?

The filer will serve all non-ecf parties by mail or by fax, as disclosed in the certificate of service. In the event that an e-mail bounces, the system will notify the filer, who will have to serve the recipient separately and provide a certificate.

6. Should the Local Rules promulgate a provision authorizing the use of the Notice of Electronic Filing to constitute service?

Yes. E-notice is recognized by the FRCP 5(b)(2)(d), so long as the person served agrees to accept such service in writing. To make it useful, registrants have to consent. To simplify, a local rule is appropriate.

7. What if the electronic notice fails? (Internet Service Provider Down)

In the event that an e-mail bounces, the system will notify the filer, who will have to serve the recipient separately and file a certificate so stating.

8. Courtesy Copies? When the original notice that activity has happened in a case is sent a copy of the document filed is attached to the notice. Will attorneys have to also send courtesy copies?

No courtesy copies are permitted. The goal is to be paperless, and courtesy copies defeat this goal. The UST has requested that it be noticed on all filings. Local practice is to do this, and making it formal is not difficult. The sub-committee suggests that this matter be given further consideration by the group.

9. How will parties be noticed when documents are filed in a manual format? (Video tape exhibits)

The filer will file a motion to permit non-ecf filing, stating the nature of the document, describing its contents, and stating the manner in which a party in interest may view it. Any party may object to any part of the motion.

10. Who ultimately is responsible for noticing all parties?

The filing party is responsible for notice. To permit a party to lose rights because the ecf system failed to serve does not seem appropriate, at least now, when we do not know its limitations.