

RULE 134 (Fed. R. Civ. P. 5)

TIME OF FILING

(a) Filing Complete. Emailing a document to the Clerk or to the Court (as opposed to electronic filing in CM/ECF) shall not constitute "filing" of the document. Except as noted in L.R. 121 for the filing of initial documents, a document filed electronically shall not be considered filed for purposes of these Rules or the Federal Rules of Civil or Criminal Procedure until the filing counsel receives a system-generated "Notice of Electronic Filing." See L.R. 135. Paper filings, when permitted or required by these procedures, shall be complete upon presentation to the Clerk.

(b) Time of Filing A document will generally be deemed filed on a particular day if filed before midnight (Pacific Time) on that business day. However, if the time of day at which the document is filed is of the essence, the Court may order that the document be filed by a time certain. Filings via CM/ECF may be made twenty-four hours a day, but portable electronic media may be submitted over the counter at the Clerk's Office only during Clerk's Office business hours. See 77-121(b).

(c) Technical Failures. The Clerk shall deem the CM/ECF site to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than two hours after 2:00 p.m. on a given day. Known systems outages will be posted on the website, if possible. CDs or other electronic media may be filed during a time of technical failure.

(1) Untimely Filings Due to CM/ECF Failure. A party may file on the next business day following the technical failure that is announced on the Court's website. If the technical failure is not so announced on the Court's website, then the party must file the document as promptly as possible and seek appropriate relief from the Court.

(2) Service Required Despite Court's Technical Failure. If filing is impossible due to the CM/ECF failure, counsel shall timely serve the document directly on all counsel in the action by email, overnight delivery, or other expeditious means appropriate to the circumstances.

(3) Failure at the Sender. Problems on the filer's end, such as phone line problems, problems with the filer's Internet Service Provider (ISP), or hardware or software problems, will not constitute a technical failure under these procedures nor excuse an untimely filing. A filer subject to mandatory electronic filing who cannot directly file a document electronically because of a technical problem on the filer's end must file the document electronically from another computer or in portable electronic format at the Clerk's Office. If electronic filing is not possible in any form, the party may file a paper document, shall annotate on the cover page that electronic filing was not possible because of technical reasons, and shall file electronically as soon as possible.

(d) After-Hours Filed Documents. Generally, documents, including motions for temporary restraining orders, filed electronically after normal business hours of the Clerk's Office will not be reviewed by the Court until the next business day, at the earliest.