



*Dr. Usha Jain, Board certified in Emergency Medicine, Anti-aging, and Pediatrics*

Date June 23, 2020

Rebecca A. Womelsdorf, Secretary  
Committee on Rules of Practice and Procedure  
United States Judicial Conference  
One Columbus Circle, NE  
Washington, D.C. 20544

**Via email: [RulesCommittee\\_Secretary@ao.uscourts.gov](mailto:RulesCommittee_Secretary@ao.uscourts.gov)**

**Re: Comment on Emergency Rulemaking and URGENT Efforts to prevent the spread of deadly COVID-19 and related deaths**

Respected Ms. Womelsdorf:

As a concerned board-certified emergency medicine physician, I respectfully request that you, as a member of the rulemaking committee, facilitate an administrative change allowing self-representing people to file electronically in the Federal Court so that self-representing people have equal access to filing and receive the real-time orders of the court. This is especially relevant during the current tragic times of global pandemic and the spread of COVID-19.

The risk of exposure and spread of the deadly virus is increased when people are required to visit the post office to mail the paper filings as they must stand in line with those who may be infected in order to calculate and purchase postage or they must touch unsanitized self-service machines that are touched by many others each hour. Hand delivery to the court also increases exposure to other members of the public unknown to them as well as employees.

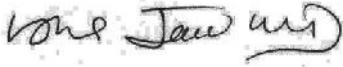
The appellate Federal Court (11th Circuit) and state court both allow filing electronically for self-representing citizens. Because electronic filing has ZERO risks for spreading COVID-19 and thus could help prevent the spread of the deadly disease, I urge you to allow the Federal Court, by an administrative order, to provide the electronic filing option to self-representing citizens.

There are GUIDELINES set forth by the CDC, FL Surgeon General, President Trump and Florida Governor DeSantis, and many other leaders and experts to prevent the spread of coronavirus. These guidelines have included closing government offices when possible and having many employees work remotely and electronically.

Electronic filing for self-representing citizens would also help those with medical conditions, physical limitations, and handicapped status. It would "level the playing field" for those who choose not to hire an attorney.

I humbly request that you evaluate and use logical reasoning for equal opportunity to prose litigants. This would increase judicial efficiency, lessen hardship due to medical disability and now to protect the safety of lives of prose litigants, especially those over 70 with comorbid conditions and high risk of mortality.

Gratefully yours,



Dr. Usha Jain

## **Compelling Reasons for the Changes in our Democracy**

### **Inherent Prejudice to Prose Litigants due to Risk of Safety of Lives, Hardship due to Medical Disability, Real-Time Lag in receiving the Orders, and Unequal Opportunity to Access the Court.**

In Federal Court in Orlando, electronic filing is only for attorneys and the only option for *prose* is via postal mail or hand delivery for filing motions and receiving orders. This inequality has inherent prejudice to citizens who are representing themselves in the court (*pro se*). Following are the compelling concerns:

#### **A. Risk of the safety of lives from exposure from COVID-19**

Not allowing prose litigants to file electronically conflicts with the GUIDELINES set forth by the CDC, FL Surgeon General, President Trump, and Governor DeSantis to prevent the spread of coronavirus as well reckless disregard to lives of the citizens from exposure to COVID-19.

1. Mailing exposes risk for coronavirus as one has to stand in the line with the general public to get an estimate of postage for the weight of papers which varies with every filing;
2. Plaintiffs have to leave in fear from exposure of coronavirus;
3. Delivery to the courthouse has a similar higher risk

The above risks are higher if a prose litigant is in a high-risk group due to their age and medical conditions like diabetes, high blood pressure, kidney, and heart condition.

#### **B. Prejudice due to Medically disable prose litigants and Undue Hardship:**

1. This prejudice toward medically disabled litigants is against the guidelines to accommodate disabled citizens, as the disabled person still has to drive and walk either to the post office or courthouse. In our democracy, citizens should be aided in their path for justice and accommodations should be made for those with physical and/or health issues so that they may obtain the same justice as those without such issues.

2. If the accommodation of electronic filing can be granted at the discretion of the judge, it seems reasonable that this is an appropriate accommodation for those with a medical disability.

### **C. Prejudice and risk of Technical Default due to not Receiving the Orders Timely**

Prose litigants are subject to the risk of lost mail, clerical error, misdeliveries, etc. Prose litigants receive the order in the mail which may take several days and may not come in the mail. Once again, this is not equal access. Prose litigants are penalized for not having access to electronic delivery of the court order. Those represented by counsel are given this electronic access and are NOT subject to that risk.

### **D. Unequal Justice and Violation of First Amendment Rights**

The prose citizens should be allowed equal access to electronic filing. Granting access only to attorneys is unwise since it is attorneys who are least in need of such service; rather, the prose litigants who might have mobility or cost issues would need such access the most. This is a violation of the 1st Amendment rights of the citizens.

Also, for the service of the Order, in electronic filing, the document automatically comes to your email address and would be seen right away vs waiting for the mail for several days risking the physical loss of the mail as it changes hands frequently.

Attorneys get more time to file; they are permitted to file by midnight vs prose citizens who have to reach to the court by 4 pm to avoid default. Mail also has uncertainty and the extra burden of cost (legal carriers or mailing by certified mail).

Because lawyers and courts are so intertwined, there seems to be a bias that legal professionals are needed for access to the court. This is neither democracy nor our law but maybe a bias. The prose citizens should be allowed equal access to the court system by electronic filing.

The prose citizens should be given equal access to the current electronic filing procedures afforded to others, and this is especially critical during a time of national pandemic and threat of exposure to deadly COVID-19 virus. The infrastructure for electronic filing exists, the prose citizens who own technology required to utilize the system in place for electronic filing should be able to use the court system currently being used by counsel for the benefit of other citizens as well as by some other citizens approved by a judge.

Finally, lack of equal access opens the door for manipulation of technical default for prose citizens. If some judges have predetermined opinion regarding prose litigants, they can refuse electronic access to prose and the case can be easily be manipulated for technical default for prose citizens. Other judges grant access to prose litigants, further deteriorating equal access for some. Some have been denied equal access even after showing undue medical hardship and among COVID-19 risks during a stay-at-home order.

### **The following are the statements by other people in favor of electronic filing:**

From: Buck Maker

To: Rules Committee Secretary

Subject: emergency rules  
Date: Monday, May 11, 2020 8:17:35 AM

Rather than use the pandemic to make access to courts more restricted than it is now, you might make it more open by allowing all plaintiffs to file electronically, without favor of lawyers, or fear of the pro se, especially, who are routinely, treated like “trash” in the notorious words of your former Justice Posner.

Sent from Mail for Windows 10

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From: David Michaels  
To: Rules Committee Secretary  
Subject: Proposed Rule Amendment  
Date: Thursday, May 07, 2020, 12:32:55 PM

Dear US Courts:

Please pass a rule that requires all district courts to allow any party to a proceeding to electronically file documents in their proceeding, even if they are self-represented parties acting pro se. The WDNY has a local rule that requires prose litigants to file documents either in person or by mail. This creates a disadvantage for a party when there are time constraints or tight filing deadlines. Thank you,

David Michaels, J.D

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From: Lemuel Bray  
To: Rules Committee Secretary  
Subject: Prose CM/ECF privileges  
Date: Thursday, May 07, 2020, 12:21:15 PM

Recommend Prose litigants be granted CM/ECF privileges if they meet rules and decorum in filing in a trial period. No frivolous filing accepted and frivolous and impropriety filings a reason for withdrawal of the privilege on the order of a clerk.

Lemuel C Bray

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From: Andrew Straw  
Sent: Thursday, May 07, 2020 12:38 PM  
To: Rules Committee Secretary  
Subject: COVID-19 and US Courts Rule Changes

I am interested principally in prose litigants and disabled court participants.  
All court filings should be electronic (email or CM/ECF) for all prose filers.  
All prose litigants should automatically be enrolled in "one free look."