



Suggested Rule Change - ECF for Pro Se Litigants

Rob Miller

to:

Rules_Support

10/26/2015 02:26 PM

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From: "Rob Miller" <robmiller44@hotmail.com>

To: <Rules_Support@ao.uscourts.gov>

15-AP-H

15-CV-JJ

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To whom it may concern:

I have been a pro se litigant in one district court and two US Courts of Appeals. In the U.S. District Court for Northern California and the U.S. Court of Appeals for the Ninth Circuit, I was permitted to use Electronic Case Filing for my lawsuit and appeal.

In a recent appeal to the U.S. Court of Appeals for the Federal Circuit, I discovered that pro se litigants are not permitted to e-file. Since I discovered this rule the day before my Notice of Appeal was due in Washington, DC, I forfeited my right to appeal.

I discovered today that I am not entitled to file using ECF in an appeal to the U.S. District Court for the Eastern District of Virginia. The rule was not prominent in the local rules or the pro se handbook, and I only learned about it by calling the Clerk's office. Later, I found one line in the rules regarding this restriction that was difficult to see. Oddly, this court allows pro se litigants to receive service of documents through PACER.

Whether or not the courts have reasons from experience to believe pro se litigants have difficulty with electronic filing, litigants such as myself have been unjustly burdened relative to our legal adversaries based not on our own failures, but with failures by other pro se litigants. The US Courts could look to the Ninth Circuit's experiment in permitting all litigants to e-file to see what the results are. In any case, clerks in the Ninth Circuit have informed me that even experienced attorneys and paralegals make errors in ECF. Pro se litigants should not be held to a higher standard than professional litigants, but have their errors excused or unexcused consistent with the courts' approach to professional litigants.

These rules have an adverse impact on pro se litigants relative to their adversaries. While the defendants, government officials, can use ECF from the convenience of their home or office right up until a midnight deadline, I must submit documents through the mail at great expense or drop the documents at the court house in person, taking time off work and dealing with heavy traffic and scarce parking.

The rules of the courts must ensure that no party is disadvantaged relative to another. Pro se litigants already suffer from a lack of experience and resources. These rules only further compound the disadvantage.

Sincerely,

Robert M. Miller, Ph.D.

4094 Majestic Lane

#278

Fairfax, VA 22033