

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

Filed
June 17, 1998
Barry K. Lander, Clerk
U.S. Bankruptcy Court

In re)
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PROVISIONS FOR)
ELECTRONIC CASE FILING)
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_____)

BANKRUPTCY GENERAL ORDER
NO. 162

Federal Rule of Civil Procedure 83 and Federal Rule of Bankruptcy Procedure 5005(a)(2), 9011, 9029, and Local Bankruptcy Rule 9004, authorize this court to establish practices and procedures for the filing, signing, and verification of pleadings and papers by electronic means; and

A proposal for *Administrative Procedures for Filing, Signing and Verifying Pleadings and Papers by Electronic Means* (Local Form CSD 1800) and an *Electronic Filing Participant Guide* (collectively, the "Electronic Filing Procedures") having been reviewed by the court;

IT IS ORDERED that:

1. The *Administrative Procedures for Filing, Signing and Verifying Pleadings and Papers by Electronic Means* and the *Electronic Filing Participant Guide* establishing administrative procedures for signing, filing, and verifying documents by electronic means in this court, including the procedure for registration of attorneys and for distribution of passwords to permit electronic filing and notice of pleadings and other papers (collectively the "Electronic Filing Procedures") are hereby approved by the court.
2. The electronic filing of a petition, pleading, motion or other paper by an attorney who is a registered participant in the Electronic Filing System shall constitute the signature of that attorney under Fed. R. Bankr. P. 9011 and Local Bankruptcy Rule 9004-3(b). The signature of the debtor(s) authorizing the electronic filing of the bankruptcy case shall be accomplished by filing an executed *DECLARATION RE: ELECTRONIC FILING, Local Form CSD 1801*, within 15 days of the electronic filing of the petition.
3. No attorney shall knowingly permit or cause to permit his/her password to be utilized by anyone other than an authorized employee of his/her law firm.
4. No person shall knowingly utilize or cause another person to utilize the password of a registered attorney unless such person is an authorized employee of the law firm.
5. The electronic filing of a pleading or other paper in accordance with the Electronic Filing Procedures shall constitute entry of that pleading or other paper on the docket kept by the clerk under Fed. R. Bankr. P. 5003.

6. The Office of the Clerk shall enter all orders, decrees, judgments, and proceedings of the court in accordance with the Electronic Filing Procedures, which shall constitute entry of the order, decree, judgment, or proceeding on the docket kept by the clerk under Fed. R. Bankr. P. 9021.

- 7.a. Whenever a pleading or other paper is filed electronically in accordance with the Electronic Filing Procedures, the Office of the Clerk shall serve the filing party with a "Notice of Electronic Filing" by electronic means at the time of docketing.
- b. The filing party shall serve the pleading or other paper upon all persons entitled to notice or service in accordance with the applicable rules, or, if service by first class mail is permitted under the rules, the filing party may make service in accordance with sub-paragraph (c) below.
- c. If the recipient of notice or service is a registered participant in the Electronic Filing System, service by electronic means of the Notice of Electronic Filing shall be the equivalent of service of the pleadings or other paper by first class mail, postage prepaid.

8. Participation in the Electronic Filing System by receipt of a password from the Court, shall constitute a request for service and notice electronically pursuant to Fed. R. Bankr. P. 9036. Participants in the Electronic Filing System, by receiving a password from the court, agree to receive notice and service by electronic means.

9. The original of this order shall be filed both in accordance with the Electronic Filing Procedures and conventionally with the Clerk of the Court.

10. Until further order, the provisions of this order shall apply only to chapter 7 cases (including adversary proceedings and contested matters in chapter 7 cases) filed on or after the effective date of this order. Amendments to this order may be entered from time to time in keeping with the needs of the court.

11. This order shall be in effect retroactively to March 25, 1998.

s/ Louise DeCarl Adler

LOUISE DeCARL ADLER
Chief Judge, U.S. Bankruptcy Court

s/ James W. Meyers

JAMES W. MEYERS
Judge, U.S. Bankruptcy Court

s/ John J. Hargrove

JOHN J. HARGROVE
Judge, U.S. Bankruptcy Court

s/ Peter W. Bowie

PETER W. BOWIE
Judge, U.S. Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
Southern District of California

**ADMINISTRATIVE PROCEDURES FOR FILING, SIGNING AND VERIFYING
PLEADINGS AND PAPERS BY ELECTRONIC MEANS**

I. REGISTRATION FOR THE ELECTRONIC FILING SYSTEM

A. DESIGNATION OF CASES. The court shall designate which cases shall be assigned to the Electronic Filing System ("System").

B. PASSWORDS. Each attorney admitted to practice in this court shall be entitled to one System password to permit the attorney to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the System. Registration for a password is governed by Paragraph I.C.

C. REGISTRATION.

1. A registration form, in the form attached, shall be submitted for each attorney. The attached form may be duplicated for use.
2. All registration forms shall be mailed or delivered to the Information Systems Manager.
3. Each attorney registering for the System will receive telephonic notice from the Office of the Clerk indicating that an envelope containing the attorney's assigned System password is available for pick-up at the Office of the Clerk. Only the attorney or an authorized representative may pick up the envelope. Out of state attorneys applying for registration may communicate with the Office of the Clerk to arrange for delivery of the system password.
4. Once registered, an attorney/participant may withdraw from participation in the System by providing the Clerk of Court, Chief Deputy Clerk or Systems Department with notice of such withdrawal. Such notice must be in writing. Upon receipt, the Office of the Clerk will immediately cancel the attorney/participant's password and will delete the attorney/participant from any applicable electronic service list.

II. ELECTRONIC FILING AND SERVICE OF DOCUMENTS

A. FILING.

1. Except as expressly provided in Paragraph III.A below and in exceptional circumstances which prevent an attorney/participant from filing electronically, all petitions, motions, pleadings, memoranda of law, or other documents required to be filed with the court in connection with a case assigned to the System shall be electronically filed on the System. Notwithstanding the foregoing, parties and attorneys who are not participants in the System are not required to electronically file pleadings and other papers in a case assigned to the System.
2. All documents which form part of a pleading and which are being filed at the same time and by the same party may be electronically filed together under one docket number; e.g., the motion and a supporting affidavit, with the exception of a memorandum of law. A memorandum of law shall be filed separately and shown as a related document to the motion.
3. Emergency motions, supporting pleadings and objections shall be filed electronically as provided in these *Administrative Procedures*. The party filing the motion shall advise the judge's law clerk of the filing by phone.

B. SERVICE.

1. Whenever a pleading or other paper is filed electronically in accordance with the Electronic Filing Procedures, the Office of the Clerk shall serve the filing party with a "Notice of Electronic Filing" by electronic means at the time of docketing.
2. The filing party shall serve the pleading or other paper upon all person entitled to notice or service in accordance with the applicable rules, or, if service by first class mail is permitted under the rules, the filing party may make service in accordance with Paragraph II.B.3 below.
3. If the recipient of notice or service is a registered participant in the Electronic Filing System, service of the Notice of Electronic Filing by electronic means shall be the equivalent of service of the pleading or other paper by first class mail, postage prepaid.

C. SIGNATURES; AFFIDAVITS OF SERVICE.

1. Petitions, lists, schedules and statements requiring the signature of the debtor(s) shall be filed electronically with an originally executed *DECLARATION RE: ELECTRONIC FILING, Local Form CSD 1801*, filed with the court within 15 days of the electronic filing of the petition.
2. Amendments, pleadings, affidavits, and other documents which must contain original signatures or which require verification under Fed. R. Bankr. P. 1008 or an unsworn declaration as provided in 28 U.S.C. § 1746, shall be filed electronically. The original signed document shall be maintained by the attorney of record or the party originating the document for a period not less than the maximum allowable time to complete the appellate process. Upon request, the original document must be provided to other parties or the court for review. The pleading or other document electronically filed shall indicate a signature; e.g., "/s/ Jane Doe."

D. FEES PAYABLE TO THE CLERK. For filings that require a fee, application for authorization of credit card payment shall be made with the Financial Administrator of the Office of the Clerk.

E. ORDERS. All orders will be submitted to the court conventionally at this time. It is anticipated that orders will be submitted through the System in the future. At that time, these procedures will be amended to reflect the change.

F. TITLE OF DOCKET ENTRIES. The person electronically filing a pleading or other document will be responsible for designating a title for the document by using one of the categories contained in the *Electronic Filing Participant Guide*.

III. CONVENTIONAL FILING OF DOCUMENTS

A. CONVENTIONAL FILINGS. The following documents shall be filed conventionally and not electronically unless specifically authorized by the court:

1. Documents to be Filed under Seal. A motion to file document(s) under seal shall be filed electronically; however, the actual document(s) to be filed under seal shall be filed conventionally. A paper copy of the order shall be attached to the document(s) under seal and be delivered to the Office of the Clerk.
2. Exhibits. Exhibits, including but not limited to leases, notes, and the like, which are not available in electronic form, shall be filed conventionally with a copy of the Notice of Electronic Filing to indicate the referenced document. Wherever possible, however, such documents, or the relevant portions thereof, should be electronically imaged (i.e., "scanned") and filed using the Portable Document Format (PDF).
3. Proofs of Claim.

B. SERVICE OF CONVENTIONAL OR 3.5 INCH FLOPPY DISK FILINGS. Pleadings or other documents which are filed conventionally or on a 3.5 inch floppy disk rather than electronically shall be served in the manner provided for in, and on those parties entitled to notice in accordance with, the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules except as otherwise provided by order of the court.

IV. PUBLIC ACCESS TO THE SYSTEM DOCKET

A. INTERNET ACCESS WITHOUT A PASSWORD. Any person or organization other than those referred to in Paragraph I.B may access the System at the court's Internet site at *www.casb.uscourts.gov* to review documents. Such access to the System through the Internet site will allow retrieval of the docket sheet and documents on a time delayed basis.

B. PUBLIC ACCESS AT THE COURT. The public will have electronic access to the electronic docket and documents filed in the System at the Office of the Clerk, for viewing during regular business hours, Monday through Friday.

C. CONVENTIONAL COPIES AND CERTIFIED COPIES. Conventional copies and certified copies of the electronically filed documents may be purchased at the Office of the Clerk, 325 West "F" Street., San Diego, California 92101-6991. The fee for copying and certification will be in accordance with 28 U.S.C. § 1930.