Administrative Procedures and Guidelines for Electronic Filing

United States Bankruptcy Court
Southern District of California

Jacob Weinberger United States Courthouse
325 West F Street
San Diego, California 92101-6991
(619) 557-5620
www.casb.uscourts.gov

March 1, 2010

Administrative Procedures and Guidelines for Electronic Filing
Table of Contents

Section 1: The Electronic Filing System

a. Authorization for Electronic Filing 1
b. Scope of Electronic Filing 1
c. The Official Record 1
d. System Availability, Assistance and Technical Specifications 2
e. Registration and Training 2
f. Logins and Passwords 2
g. Fees 3

Section 2: Electronic Filing and Service of Documents

a. Filing 4
b. Signatures 4
c. Retention 5
d. Service and Notice 5
e. Orders 6
f. Sequence of Pleadings 6
g. Exceptions to Electronic Filing 7
h. Privacy 7
i. Document Exhibits 7
j. Hyperlinks 8
k. Correcting Filing or Docket Errors 8
l. Public Access to the System 9
m. Technical Failures 9

Section 3: Definitions 10

Section 1: The Electronic Filing System

a. **Authorization for Electronic Filing**

General Order No. 162-A, as amended on November 30, 2009, of the U.S. Bankruptcy Court for the Southern District of California ("Court") requires all attorneys admitted to the bar of this Court (including those admitted *pro hac vice)*, panel and standing trustees, professionals and examiners to file documents (Defined in Section 3 below) as Registered Users in the Court's Case Management/ Electronic Case Files System ("CM/ECF"). Those who file fewer than ten (10) documents or other papers within a calendar year are exempt from this requirement.

Filers who meet the criteria as set forth above, but who experience exigent circumstances that preclude their effective/efficient use of CM/ECF, may petition the Court for relief from participation as a Registered User. The Court will address these petitions/requests on a case-by-case basis.

All attorneys admitted to the bar of this Court (including those admitted *pro hac vice)*, panel and standing trustees, professionals and examiners, are eligible for full access to CM/ECF. Eligibility of attorneys to participate in CM/ECF is governed by Local Bankruptcy Rule 9010. Creditor representatives are eligible for limited access at the discretion of the Clerk of the Court ("Clerk") and as the Court deems appropriate.

b. **Scope of Electronic Filing**

All documents filed with the Court shall be filed through CM/ECF, except as otherwise provided for in these *Court's Administrative Procedures and Guidelines for Electronic Filing*, Local Form CSD 1800, ("*Administrative Procedures"*) which shall be promulgated and revised hereafter as specified by the Clerk.

c. **The Official Record**

The official court record is the electronic file maintained on the Court's servers. This includes documents filed by electronic means as well as documents filed in paper form and then scanned into the CM/ECF system.

Electronic transmission of a document to CM/ECF consistent with the Administrative Procedures, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, and constitutes entry of the document on the docket kept by the Clerk under Fed. R. Bankr. P. 5003.

d. System Availability, Assistance and Technical Specifications

CM/ECF is designed to provide service 24 hours a day, 7 days a week.

The Clerk's Office has established a Systems Help Desk (619-557-7415) to respond to questions regarding the CM/ECF system. The Systems Help Desk is staffed business days from 9:00 a.m. to 4:00 p.m. If you have case specific questions, call 619-557-5620 or directly to the case administrator. The Clerk's Office phone list can be obtained on the Court's website (www.casb.uscourts.gov) go to Bulletin Board> Court Phone List.

Current technical specifications for CM/ECF can be found at the Court's official website. Specifications may change periodically. Registered Users may refer to the website for the most current requirements.

e. Registration and Training

Registration shall be in a form prescribed by the Clerk. Anyone eligible for a CM/ECF password must complete the online registration form and the training on the Court's website. A Training Help Line (619-557-7535) has been established to answer questions regarding registration and training for CM/ECF.

Eligible users who successfully complete the training shall receive a login and password. This login and password shall be e-mailed directly to the Registered User by the Clerk's Office.

f. Logins and Passwords

A full access password to participate in the electronic retrieval and filing of documents may be issued to the following:

- Each attorney admitted to practice in this Court,
- Panel and standing trustees,
- Professionals and examiners.

A limited access password may be obtained by creditor representatives to participate in the CM/ECF system. This limited access allows the filing of (a) creditor request for notice and/or notice of appearances; (b) proofs of claim; (c) withdrawals or transfers of claim; (d) reaffirmation agreements; and (e) request to restrict public access to proofs of claim.

No Registered User shall knowingly permit, cause to permit, utilize or cause another to utilize the CM/ECF password unless such person is an authorized agent.

Any Registered User may withdraw from participation in CM/ECF 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 Clerk's Office shall immediately cancel the Registered User's password and will delete the Registered User's email address from any applicable electronic service list.

g. **Fees**

For filings that require a fee, payment shall be made online using an authorized credit card. The requisite fee must be paid within 24 hours or the Registered User shall be locked out of CM/ECF until the fee is paid.

Section 2: Electronic Filing and Service of Documents

a. **Filing**

Unless otherwise expressly provided in these Administrative Procedures or where exceptional circumstances preventing a Registered User from filing electronically, all documents required to be filed with the Court by a Registered User in connection with a case, must be electronically filed. All documents must be filed as a Portable Document Format (PDF) file. Electronic filing must be completed before midnight Pacific Standard Time in order to be considered timely filed that day. Detailed procedures may be found in the Attorney/Trustee Manual available on the Court's website.

The person electronically filing a document will be responsible for designating a title for the document. To the extent possible, all documents filed electronically shall be titled using one of the Docket Events from the Document Event Directory in the Attorney/Trustee Manual located on the Court's website.

Emergency motions, supporting documents and objections shall be filed electronically as provided in these *Administrative Procedures*. The party filing the motion shall immediately advise the judge's law clerk of the filing by phone.

b. **Signatures**

The Registered User login and password serve as the user's signature on all electronic documents filed with the Court. The login and password also serve as a signature for purposes of Fed. R. Bankr. P. 9011 of the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court, and any other purpose for which a signature is required in connection with proceedings before the Court.

Each document filed electronically must include a signature block in compliance with LBR 9004-3(b). The name of the attorney or party filing the document must be preceded by an "/s/" and typed in the space where the signature would otherwise appear, or appear as a scanned image. The correct format for an electronic signature is as follows:

/s/ Adam Attorney

The *Declaration RE: Electronic Filing*, Local Form CSD 1801, shall be filed electronically providing the original debtor(s) signature(s) in a scanned format.

Documents requiring signatures of more than one party must be electronically filed either by:

- Scanning and submitting the document containing all necessary signatures,
- Representing the consent of the other parties on the document by use of an "/s/";

i.e., "/s/ Jane Doe",

- Identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than three business days after filing, or
- In any other manner approved by the Court.

c. **Retention**

A document that is electronically filed, and which requires an original signature other than that of the Registered User, must be maintained in paper form by the Registered User until five (5) years after the case is closed or the adversary proceeding was terminated. The Registered User must provide original papers for review upon request.

d. **Service and Notice**

By accepting a System login and password from the Court, a Registered User consents, in lieu of any right to receive notice by first-class mail, including notices issued pursuant to Fed. R. Bankr. P. 2002(a) (except 2002(a)(1)) and 9022, to the receipt of notice by electronic means from the Court.

By accepting a CM/ECF login and password from the Court, a Registered User consents, in lieu of any right to service of any document by personal service or by first-class mail from interested parties, to accept service from such parties by electronic means through the transmission facilities of the Court, excepting the service of process of a summons and complaint in an adversary proceeding under Fed. R. Bankr. P. 7004 and the service of a subpoena under Fed. R. Bankr. P. 9016.

A certificate of service, where required by these rules, must be included with documents filed electronically, indicating that service was accomplished through the Notice of Electronic Filing for parties and counsel who are participants in CM/ECF and indicating how service was accomplished on any party or counsel who is not a participant in the CM/ECF system.

Each Registered User of the System is responsible for assuring that their e-mail address is accurate, that the account is monitored regularly, and that e-mail notices are opened in a timely manner. Detailed procedures for System email account maintenance may be found in the Attorney/Trustee Manual available on the Court's website.

e. **Orders**

Electronically submitted orders may not be combined with the application or motion into one document. The application or motion must be entered on the docket prior to uploading the order electronically and the resulting *Docket Entry No.* must be noted on the order template. Orders uploaded through CM/ECF will be entered on the case docket at the time of signature.

Electronic orders shall be uploaded using the Orders Upload option in CM/ECF and formatted as provided in LBR 9004-5. Stipulated, emergency, ex parte, non-contested, and lodged orders may be uploaded electronically as outlined below.

The first page of any electronically uploaded order must substantially conform with the appropriate order template (CSD 1001A-C, CSD 1159 A-C, or CSD 3000A-C) maintained by the Court for standard orders, orders shortening time and lodged orders. The signature line must be fixed at 4.5 inches from the left edge of the paper and 3 inches from the bottom edge of the paper. Signature approving orders will be affixed electronically on the signature line. Deviations from the required format are not permitted. Notification of defects in an order will be provided by e-mail.

Exhibits required by LBR 4001-5 and 9013-7 may be referenced according to the specific Docket Entry No. assigned to the document at the time of its entry.

When electronically lodging an order after hearing, compliance with LBR 7054-3(b)(a)(D) requiring the Notice of Entry and envelopes is waived.

f. **Sequence of Pleadings**

An initiating document must be docketed separately. Examples of an initiating document include a motion, application, plan, objection to claim, notice of appeal, amendment, balance of schedules, and fee.

Separate PDF files of any supporting document(s) should be browsed and attached to the initiating document. Examples of supporting documents include memorandums of points and authorities and declarations.

Most subsequent documents filed (i.e. oppositions, Request and Notice of Hearing (CSD 1175, 1184 or 1186), and replies, etc.) must be referred/related during the filing process to the initiating documents. Any supporting document(s) for these filings should be browsed and attached to the subsequent document.

g. **Exceptions to Electronic Filing**

Documents which are filed by paper 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.

Documents to be filed under seal shall be filed by paper. A motion and order to file document(s) under seal shall be filed electronically. No document filed under seal shall be submitted until after the order granting the motion has been entered. The document(s) to be filed under seal shall contain the following caption "THIS DOCUMENT IS FILED UNDER SEAL PURSUANT TO COURT ORDER" and be placed in a large sealed envelope. A copy of the order shall be attached to the envelope and delivered to the Clerk's Office.

h. **Privacy**

Unless otherwise ordered by the Court, parties must refrain from including, or must partially redact where inclusion is necessary, the following personal identifiers from all documents filed with the Court, including exhibits thereto:

- Social Security numbers. If an individual's Social Security number must be provided, only the last four (4) digits of that number should be used.

- Names of minor children. If the name of a minor child must be provided, only the initials of that child should be used.

- Dates of birth. If an individual's date of birth must be provided, only the year should be used.

- Financial account numbers. If financial account numbers must be provided, only the last four digits of these numbers should be used.

The responsibility for redacting personal identifiers rests solely with the parties. The Clerk's Office will not review documents for compliance with this rule.

i. **Document Exhibits**

Registered Users must submit in electronic form all documents referenced as exhibits or attachments, unless the Court permits otherwise. Only excerpts of the referenced documents that are directly germane to the matter under consideration by the Court are to be submitted. Excerpted material must be clearly and prominently identified as such. Registered Users who

submit excerpts under these Administrative Procedures do so without prejudice to their right to timely submit additional excerpts or the complete documents that they believe are directly germane. The Court may require parties to submit additional excerpts or the complete document. Evidentiary and trial exhibits must be provided directly to the appropriate courtroom deputy and not submitted to the Clerk's Office.

Exhibits are to be numbered sequentially at the top and bottom of the first page and attached to the document they support. If an exhibit separator page is used, it must identify the succeeding exhibit at the top and bottom of the separator page. Exhibit files should be no larger than 8 megabytes or 100 pages.

Each document containing exhibits shall have, as a cover page to the exhibits, a list indicating the name and page number of each of the succeeding exhibits.

The Registered User is required to verify the legibility of the scanned exhibits prior to electronically submitting them to the Court. Parties should scan documents in black and white, unless color is a critical feature of the information.

j. **Hyperlinks**

In order to preserve the integrity of the Court record, attorneys wishing to insert hyperlinks in filings shall continue to use the traditional citation method for the cited authority, in addition to the hyperlink. The Judiciary's policy on hyperlinks is that a hyperlink contained in a filing is no more than a convenient mechanism for accessing material cited in the document. A hyperlink reference is extraneous to any filed document and is not part of the Court's record.

The Court accepts no responsibility for, and does not endorse, any product, organization, or content at any hyperlinked site, or at any site to which that site may be linked. The Court accepts no responsibility for the availability or functionality of any hyperlink.

k. **Correcting Filing or Docket Errors**

Once a document is submitted and becomes part of the case docket, corrections to the docket may be made only by the Clerk's Office. The System will not permit the filing party to make changes to a filing once the transaction has been accepted.

The filing party must contact the Clerk's Office as soon as an error has been discovered and provide the case number and document number. If appropriate, the Clerk's Office will make a docket entry indicating the document was filed in error. The filing party will be advised if the document needs to be re-filed.

If the Clerk's Office discovers filing or docketing errors, the filer will be advised of what further action, if any, is required to address the error. However, if the error is minor, the Clerk's Office may correct the error, with or without notifying the parties.

In the event that it appears a document has been filed in the wrong case, the Clerk's Office will docket an entry indicating this possible error and notify the filing party. If it is confirmed as an error, the party will be directed to re-file the document in the correct case. The Clerk's Office will not delete any documents filed by a party unless ordered by the Court.

l. **Public Access to the System**

Any person or organization other than Registered Users must register with PACER and receive a login and password in order to access Court records online. Information regarding PACER may be found on the Court's Internet website at *casb.uscourts.gov*.

The public will have electronic access to the docket and documents filed in CM/ECF at the Clerk's Office, for viewing during regular business hours, Monday through Friday.

Copies and certified copies of 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.

m. **Technical Failures**

A Registered User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.

Section 3: Definitions

CASE MANAGEMENT/ELECTRONIC CASE FILES SYSTEM (CM/ECF) is the Internet-based system for filing documents and maintaining Court case files in the United States Bankruptcy Court for the Southern District of California.

DOCUMENTS include pleadings, motions, exhibits, declarations, affidavits, memoranda, papers, orders, notices, and any other filing by or with the Court.

ELECTRONIC FILING is submitting a document directly from the Registered User's computer in "Portable Document Format" (.pdf), using CM/ECF to file that document with the Court.

INITIATING DOCUMENTS include petitions, motions, applications, plans, objections to claim, notices of appeal, reopens, amendments, balance of schedules, and fees.

NOTICE OF ELECTRONIC FILING (NEF) is a notice automatically generated by CM/ECF at the time a document is filed with the Court. The notice sets forth the date and time of filing, the name of the attorney and/or party filing the document, the type of document, the text of the docket entry, the name of the party and/or attorney receiving the notice, and an electronic link (hyperlink) to the filed document which allows recipients to retrieve the document automatically.

PACER (Public Access to Court Electronic Records) is an automated system that allows a subscriber to view, print and download Court case file information over the Internet for a fee.

PORTABLE DOCUMENT FORMAT (PDF or .pdf) is a proprietary file format developed by Adobe Systems, Inc. A document file created with a word processor, or a paper document which has been scanned, must be converted to Portable Document Format to be electronically filed with the Court. Electronic documents can be converted to pdf directly from the original software application (e.g., Microsoft Word® or Corel WordPerfect®, petition software). Documents which exist only in paper form must be scanned into .pdf format for electronic filing.

REGISTERED USER is an individual who has been issued a login and password by the Court to electronically file documents.

SUBSEQUENT DOCUMENTS include oppositions, Requests and Notices of Hearing (CSD 1175, 1184 or 1186), and replies. These documents must refer to the initiating documents with any supporting document(s) as attachments.

TEXT files (.txt) are used for submitting debtors' information for opening a bankruptcy case. Text files are also the format used for creating the creditor's matrix.

UPLOADED DOCUMENTS such as Orders and Trustee Reports, are not be filed on the case docket until reviewed.