

# **ADMINISTRATIVE PROCEDURES FOR ELECTRONIC CASE FILING**

**for the**



**United States Bankruptcy Court  
Eastern District of Tennessee**

Effective May 17, 2005  
as Amended March 1, 2007, and October 27, 2008

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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TENNESSEE

ADMINISTRATIVE PROCEDURES  
FOR ELECTRONIC CASE FILING

**I. Scope of Electronic Case Filing**

**A. Assignment**

All pending and future cases are assigned to the Electronic Case Management System, which is a browser-based replacement for the BANCAP case management and docketing system. The Electronic Case Filing (ECF) system, as integrated with the Case Management (CM) component, allows, accepts and routes remote filings via internet access to the court's case management system and electronic court file. Except as otherwise provided in these Administrative Procedures, all documents submitted for filing in this district must be filed electronically by a Registered User, or scanned and uploaded by the clerk into the ECF system. E.D. Tenn. LBR 5005-4(b) requires all attorneys practicing in this court to register as a Registered User of the ECF system and file their documents electronically through the ECF system, or show the presiding judge good cause to file and serve documents in the traditional manner.

**B. Electronic File**

The clerk will no longer maintain a paper court file in any case, except as otherwise provided in these Procedures or directed by the court. If a paper document is scanned into the ECF system by the clerk, the clerk may thereafter dispose of the paper document or return it to the filing party.

**II. Registration for the ECF System**

**A. Eligibility**

*1. General Rule*

Any attorney in good standing who is admitted to practice in this court pursuant to E.D. Tenn. LBR 2090-1, including *pro hac vice* admissions, and any non-attorney trustee are eligible to register and be granted a log-in and a password to participate in the electronic retrieval and filing of documents in the ECF system.

*2. Creditors and Court Reporters*

A creditor or a claim agent may obtain a limited use log-in and password in order to electronically file proofs of claim, notices or evidence of transfers of claims, withdrawals of claims, notices of appearance and requests for notices, and reaffirmation agreements. In addition, limited use log-ins and passwords may be issued to court reporters and transcribers to facilitate the electronic filing of transcripts.

## **B. Registration Process**

### *1. Registration Form*

An individual desiring to register to file documents electronically must complete and submit the appropriate registration form for each account (available on the court's web site). The completed registration form must be delivered or mailed to one of the divisional offices of the clerk. In the event the information regarding email address(es), mailing address(es) or phone number(s) provided in the individual's registration form changes, the individual is responsible for updating that information in CM/ECF.

### *2. Training*

After submission of a completed registration form, the individual must complete a training session provided by the clerk, who will notify the registrant of the available times and places for the training session. The clerk may waive the training requirement if the individual represents on the registration form that the individual: (a) is currently an ECF registered user in another bankruptcy court; (b) has reviewed a copy of this court's local rules and these Administrative Procedures; and (c) understands that all electronic filings are subject to these rules and procedures. Law office staff who are not attorneys or trustees may attend ECF training without registration, but are not eligible for a separate login or password.

### *3. Log-in and Password*

#### *a. Issuance*

Upon completion of the training requirement, the registration process will be completed by the clerk issuing a log-in name and password to the individual, who will then become a Registered User, as this term is used in these Administrative Procedures, enabling the individual to file documents electronically. Upon request, a Registered User may obtain multiple log-ins and passwords.

#### *b. Appropriate Usage*

The password issued for electronic filing should only be used by the Registered User to whom the password is assigned and authorized agents and employees of the Registered User. No Registered User may knowingly permit his/her password to be used by anyone who is not authorized to use the password, and no person may knowingly use the password of a Registered User unless such person is so authorized. In the event a Registered User suspects or knows that the security of the password has been compromised, the Registered User should immediately notify the clerk and obtain a new log-in and password.

## **C. Effect of Registration**

Registration as a Registered User constitutes:

1. waiver of the right to receive notice by first-class mail and consent to receive notice electronically;

2. waiver of the right to service by personal service or first-class mail and consent to electronic service, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004; and
3. consent to electronic notice of the entry of a judgment or order under Fed. R. Bankr. P. 9022(a).

#### **D. Termination Or Withdrawal of Registration.**

##### *1. Termination*

After notice and a hearing, the court may terminate a Registered User's use of ECF for cause, including abuse of ECF or failure to comply with these Administrative Procedures, and impose such sanctions as are appropriate.

##### *2. Withdrawal*

A Registered User may withdraw from participation in ECF by providing the clerk written notice of such withdrawal. Upon receipt of written notice, the clerk will immediately cancel the Registered User's log-in and delete the Registered User's name from any applicable electronic service list.

### **III. Electronic Filing**

#### **A. Signatures**

##### *1. Signature of Registered User*

###### *a. Necessity*

Every electronically-filed document must include the signature of the Registered User under whose log-in and password the document was filed and the information required by E.D. Tenn. LBR 9011-4. The signature of a Registered User on an electronically-filed document is indicated by an image of the signature that can be viewed in ECF or by an "/s/" followed by the typed name of the person signing.

###### *b. Significance*

Entry of the Registered User's log-in and password serves as the Registered User's signature on all documents electronically filed with the court for purposes of Fed. R. Bankr. P. 9011, the local rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court.

##### *2. Signatures on Affidavits, Declarations, Verified Documents, and Reaffirmation Agreements*

Except as provided in paragraph 3 immediately below, each affidavit, unsworn declaration under penalty of perjury, verified document, or reaffirmation agreement filed or submitted for filing must contain actual handwritten signatures. The "/s/" type of signature is not permitted on these types of documents. Registered Users filing such documents should scan and file them electronically after they have been signed (and, in the case of an affidavit, signed by the notary public and affixed with a notarial seal).

*3. Signature of Debtor on Petition, Lists, Schedules, Statements, and Other Documents*

Notwithstanding paragraph 2 immediately above, any petition, list, schedule, statement, and amendment thereto that requires the debtor's signature may be filed electronically by a Registered User with the debtor's signature indicated as "/s/" followed by the typed name of the debtor, provided the debtor has actually signed a copy of the document and the filing attorney retains the signed document as required by paragraph 5 below.

*4. Attorney Representation*

Electronic filing of a verified document by an attorney is a representation for the purposes of Fed. R. Bankr. P. 9011 that the person or persons required to sign and verify the document did in fact sign and verify it before it was filed.

*5. Retention of Documents*

With respect to the documents described in paragraph 3 above, original documents bearing the debtor's actual signature must be maintained in paper form by the filing attorney until two years after the closing of the case. On request of the court, the attorney must provide such documents for review.

*6. Signatures of Providers of Credit Counseling Briefings and Personal Financial Management Courses*

Although approved nonprofit budget and credit counseling agencies providing debtors with services under 11 U.S.C. § 109(h) and providers of instructional courses concerning personal financial management as required by 11 U.S.C. §§ 727(a)(11) and 1328(g) are not Registered Users, the court will accept for filing certificates issued by such entities if such a certificate bears a signature by an "/s/" followed by the typed name of the person signing.

**B. Fees**

Unless otherwise permitted by the clerk, fees for the electronic filing of any paper requiring a filing fee must be paid by the Registered User by credit card or debit card over the internet. Any transaction declined by the credit card issuer for any reason must be paid by the Registered User in cash, by check, or by money order by the close of business on the next business day after notification by the clerk of the deficiency.

**C. Exhibits and attachments**

Unless the court otherwise permits, exhibits or other attachments to a motion, pleading, application, or proof of claim must be submitted in electronic form. A Registered User is encouraged to submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. Registered Users who file excerpts of documents as exhibits or attachments under this section do so without prejudice to their right to timely file additional excerpts or the complete document. Responding

parties may timely file additional excerpts or the complete document that they believe are germane. The court may require parties to file additional excerpts or the complete document.

#### **D. Format**

Documents filed in the ECF system must be in Portable Document Format (PDF), a standard document creation format created by Adobe Systems, Inc. (Adobe). PDF documents can be created using Adobe Acrobat, or word processing programs such as Microsoft Word or Corel WordPerfect, or with stand-alone software from other vendors. Each of these allow a user to “print” a document to a PDF file electronically so page layout and other formatting is preserved. Documents in PDF format can be read using the free Acrobat Reader from Adobe, or by some other third-party tools. PDF documents should comply with Adobe guidelines for accessibility. The PDF standard also permits documents to be created by scanning a document to create an image file. However, when a scanned document is converted to a PDF file, the resulting image is much larger than a PDF of equal length created by converting a text file. When the Registered User is filing a document using the ECF system, it will take longer to transfer that image file from the user’s computer to the court’s servers, and to download and view that document. Image files also take up much more space on the court’s servers and cannot be searched as text-based files can, and scanned documents are generally less legible than documents converted from word processor files. Therefore, if possible, the Registered User should avoid filing imaged documents. If imaged documents must be filed, their size should be minimized by scanning the document at 300 dpi and documents should be in black and white or, if shading is required, in grayscale. Color should be used only when absolutely necessary.

#### **E. Expedited Matters**

An attorney who files any document that needs or requests expedited action by the court must notify the courtroom deputy of the presiding judge by telephone when the document is filed or as soon as possible thereafter.

#### **F. Effect of Filing**

An electronic filing in accordance with these Administrative Procedures constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the local rules of this court. When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed.

#### **G. Time of Filing**

Filing a document electronically does not alter the filing deadline for that document. An electronic filing is timely if it is entered into ECF before midnight of the due date, Eastern Standard Time when it is in effect and Eastern Daylight Savings Time when it is in effect. The court may enter an order setting a

different time of the due date as the filing deadline and, if the court does so, timeliness requires filing not later than the time set by the order. A document electronically filed is deemed filed at the date and time stated on the Notice of Electronic Filing generated by the ECF system.

## **H. Docket Entries**

### *1. By Registered Users*

A Registered User electronically filing a document must designate a docket entry title from the list provided by the clerk. This action constitutes an entry on the official court docket as provided in Fed. R. Bankr. P. 5003.

### *2. Error Corrections*

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. In the event a Registered User realizes an error in filing has been made, such as attaching the wrong PDF file to a docket entry, selecting the wrong document type from the menu, or entering the wrong case number, the Registered User must not attempt to correct the error or refile the document. Rather, the Registered User should immediately contact the clerk's office. If appropriate, the clerk will make an entry indicating that the document was filed or entered on the docket in error. The Registered User will be advised if the document should be refiled. The ECF system will not permit a Registered User to make changes to a document or docket entry filed in error once the transaction has been accepted.

### *3. Virtual Documents*

A virtual document consists entirely of the text contained in the docket entry and is not embodied in any other document. The docket entry for the virtual document will be fully effective despite the absence of a hard document. Examples of a virtual document include a chapter 7 trustee's no asset and abandonment report and a meeting of creditors proceeding memorandum.

## **I. Technical Failures**

### *1. By Registered User*

Problems with the Registered User's system, such as phone line problems, problems with the Registered User's internet service provider, or hardware or software problems, will not excuse an untimely filing.

### *2. By the ECF System*

A Registered User whose filing is made untimely as the result of a technical failure of the ECF system may seek appropriate relief from the court. Known system outages (generally for maintenance and system upgrades) will be posted to the court's web site with as much advance notice as possible.

## **J. Documents Under Seal**

A motion to file document(s) under seal may be filed electronically although the actual document(s) to be filed under seal must be filed conventionally. The

order of the court authorizing the filing of such document(s) under seal will be entered electronically by the clerk and must indicate that the motion to file document(s) under seal has been granted. A paper copy of the order must be attached to the document(s) under seal and delivered to the clerk's office.

### **K. Appeals**

Fed. R. Bankr. P. 8006 requires a party filing a designation of the items to be included in the record on appeal to provide to the clerk a copy of the items so designated so that the clerk can transmit the record to the clerk of the district court as required by Fed. R. Bankr. P. 8007(b). Due to the CM/ECF system, it is no longer necessary that transmittal of the record occur manually. Accordingly, assuming that the items designated as part of the record on appeal have been filed electronically, it is no longer necessary that the parties provide copies of the designated items to the clerk for transmittal to the district court clerk. The clerk of the bankruptcy court will electronically transmit the record, including all items designated by the parties.

## **IV. Electronic Service and Notice**

### **A. Email Address Requirement**

Each Registered User must maintain a current, active email address to receive electronic notices.

### **B. Service on Registered Users**

#### *1. Method of Notice*

Upon the electronic filing of a document, the ECF system will generate a Notice of Electronic Filing that will be automatically transmitted to the filing party and all other parties in the case who are Registered Users. This electronic transmission by the ECF system of the Notice of Electronic Filing constitutes notice or service of the filed document to the Registered Users in the case, equivalent to service by first class mail, postage prepaid, subject to the provisions of Fed. R. Bankr. P. 7004 and 9014(b).

#### *2. Contents of Notice*

The Notice of Electronic Filing indicates the time of filing, the name of the party and the participant filing the document, the type of document, and the text of the docket entry. It also contains an electronic link (hyperlink) to the filed document, allowing anyone receiving the Notice of Electronic Filing by email to access the document automatically. There is no charge for the first look at a document served on a party by electronic means so parties are encouraged to either print or download the document at the time it is first accessed.

### **C. Service on Non-Registered Users**

Non-Registered Users may elect to receive court notices and other papers electronically via the Electronic Bankruptcy Noticing service (EBN). Otherwise, a party who is not a Registered User is entitled to receive a paper copy of any

electronically filed pleading or other document. Accordingly, the Registered User must serve a paper copy of the filed document on each party that is neither a Registered User nor an EBN subscriber as set forth in the Federal Rules of Bankruptcy Procedure and the local rules of this court.

#### **D. Certificate of Service**

A certificate of service on all parties entitled to service or notice is still required when a party files a document electronically. The certificate of service must state the manner in which service was made and otherwise comply with E.D. Tenn. LBR 9013-3.

### **V. Orders**

#### **A. Electronic Transmission**

As required by the local rules of this court, every motion, application, objection to claim, or other request for relief, subject to certain specified exceptions, must be accompanied by a proposed order granting the requested relief. For electronically filed motions, etc., the proposed order must be filed as an attachment to the motion so that it can be electronically served on other interested parties through the ECF system. In addition, the proposed order must be separately uploaded to the court through the use of the court's E-Orders program, which is a separate system designed for uploading proposed orders to the court.

#### **B. Format of Proposed Orders**

All orders submitted electronically, including agreed orders, must conform to the following specifications:

1. The top margin on the first page must be four inches.
2. The last line in the proposed order must be three pound symbols (###), centered in the middle of the line to indicate the end of the order.
3. The signature line for the judge is no longer necessary or appropriate. The judge will electronically sign the document in the blank space provided by the top margin on the first page.
4. All orders prepared by legal counsel must indicate the name of the law firm, name of the attorney responsible for the order, mailing address and telephone number for the firm and, if desired, the fax number and/or email address. This information shall be included on the order, after the line containing the three pound symbols.
5. If the submitting party wishes to indicate to whom copies of the signed order should be sent, those parties' names and addresses must be included on the order, after the line containing the three pound symbols.
6. The fonts used with Adobe Acrobat Writer version 3 or 4 must be Courier, Helvetica, or Times New Roman (Regular, bold, italic, and bold italic). The fonts used with Adobe Acrobat Writer version 5 must

be Arial, Courier, or Times New Roman (Regular, bold, italic, and bold italic). Other fonts will not process correctly through the court's noticing center.

### **C. Agreed Orders and Other Documents with Multiple Signatures.**

#### *1. Method of Submission*

Documents filed electronically that require the signature of more than one party may be filed by: (a) submitting a scanned document containing all necessary signatures; (b) representing the consent of the other parties on the document; or (c) in any other manner approved by the court.

#### *2. Motion Requirement*

Unless the agreed order pertains to a previously filed motion, each agreed order must be accompanied by a motion requesting entry of the agreed order. As set forth in paragraph A of this section, the proposed agreed order must be filed as an attachment to the motion and uploaded into the E-Orders system. If the agreed order resolves a previously filed motion, the agreed order must be uploaded into the E-Orders system and linked to the previously filed motion.

### **D. Judge's Electronic Signature**

An electronic signature or facsimile signature of a judge on an order entered electronically by the court shall have the same effect as the judge's handwritten signature on a paper copy of the order.

### **E. Entry of Orders**

The clerk will enter all signed orders, judgments, and decrees in the ECF system, which will constitute entry on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9021.

## **VI. Public Access to ECF**

### **A. Public Access at the Court**

Electronic access to the electronic docket and documents filed in the ECF system is available to the public at no charge at each divisional office of the clerk during regular business hours.

### **B. PACER System**

Although any person can retrieve and view documents in the ECF system and access information from it without charge at the clerk's offices, electronic access to the ECF system for viewing purposes is otherwise limited to subscribers to the Public Access to Court Electronic Records (PACER) system and, in accordance with the ruling of the Judicial Conference of the United States, a user fee will be charged for accessing certain detailed case information, such as reviewing filed documents and docket sheets, but excluding review of calendars and similar general information. Information regarding subscribing

to PACER is available at the court's web site at [www.tneb.uscourts.gov](http://www.tneb.uscourts.gov) and at each divisional office of the clerk.

### **C. Conventional Copies and Certified Copies**

Conventional and certified copies of electronically filed documents may be obtained at any of the clerk's divisional offices upon payment of the fee required by 28 U.S.C. § 1930.

## **VII. Transcripts of Court Proceedings**

### **A. Availability During 90-Day Restriction Period**

For a period of 90 days after a court reporter or other transcriber files a transcript with the court, the transcript will be available at the office of the clerk for inspection only (not for copying). A copy of the transcript may be obtained from the transcriber at the rate established by the Judicial Conference of the United States. During the 90-day period, remote electronic access to the transcript through the CM/ECF system will be available only to attorneys who have purchased a copy from the transcriber.

### **B. Availability After 90-Day Restriction Period**

After the expiration of such 90-day period, the transcript will be available at the office of the clerk for inspection or copying and will also be available by remote electronic access through PACER to all registered users. If a redacted version of the transcript has been filed (see Part C), only the redacted version will be available by remote electronic access, but the unredacted version will remain available for inspection or copying at the office of the clerk.

### **C. Compliance with Bankruptcy Rule 9037**

#### *1. Obligation to Redact*

The attorneys and *pro se* parties who attended a hearing or trial are responsible for reviewing the transcript of the proceeding and assuring that the transcript is redacted in conformity with Fed. R. Bankr. P. 9037, even if the transcript is prepared and filed at the request of a judge, another party, or a member of the media or the public at large. Redaction is not the responsibility of the court or the court reporter or other transcriber. The obligation of a party and the party's attorney to review and redact the transcript extends to (A) opening and closing statements made on the party's behalf, (B) statements of the party, (C) the testimony of witnesses called by the party, and (D) any other portion of the transcript as ordered by the court. The adoption of this Part C is not intended to create a private right of action.

#### *2. Redaction Procedure*

Any party who wishes to make redactions from a transcript must file a "Notice of Intent to Request Redaction" within seven calendar days after the filing of the transcript. Then, the party filing the notice must file a "Request for Redaction" within 21 days after the filing of the transcript (*not* 21 days after the

filing of the "Notice of Intent to Request Redaction"), and serve a copy of the request on the court reporter or other transcriber. The Request for Redaction must include a list specifying each type of personal data identifier to be redacted (social-security number, taxpayer-identification number, birth date, name of minor, or financial-account number) together with each page and line number where an instance of such personal data identifiers appears in the transcript. A request for the redaction of information other than personal data identifiers requires a motion for a protective order. See Fed. R. Bankr. P. 9037(d). The transcriber has 31 calendar days after the filing of the transcript within which to file a redacted version of the transcript. If a party fails to timely file a Notice of Intent to Redact or files a Notice of Intent to Redact but fails to timely file a Redaction Request, or the party fails to obtain an extension of either deadline by motion filed pursuant to the terms of Fed. R. Bankr. P. 9006(b)(1), no redactions will be made and the original transcript will be available by remote electronic access through PACER to all registered users after 90 days.

#### **D. PACER Charges**

Charges for remote access to a transcript through PACER apply during and after the 90-day restriction period, even if a copy of the transcript has been purchased from the court reporter or other transcriber. There is neither a "one free look" nor a 30-page "cap" with respect to transcripts.