IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF TENNESSEE

IN RE	)	
	)	
ADMINISTRATIVE PROCEDURES	)	**No. 05-02**
FOR ELECTRONIC CASE FILING	)	

GENERAL ORDER

It appearing that Federal Rules of Bankruptcy Procedure 5005(a)(2) and 9036 and Local Bankruptcy Rule 5005-4(a) (effective May 17, 2005) authorize the court to establish practices and procedures for signing, filing, maintaining, noticing, and verifying pleadings and other papers by electronic means, and it further appearing that such practices and procedures are set forth in the attached document styled *Administrative Procedures for Electronic Case Filing*;

It is ORDERED that:

(1) The *Administrative Procedures for Electronic Case Filing* are hereby approved, and the provisions thereof (available on the court's Web site, www.tneb.uscourts.gov, are incorporated into this General Order by reference;

(2) The provisions of this General Order shall apply to all petitions, schedules, statements, pleadings, motions, and other papers filed electronically in the United States Bankruptcy Court for the Eastern District of Tennessee on and after May 17, 2005;

(3) Amendments to the *Administrative Procedures for Electronic Case Filing* may be made from time to time in keeping with the needs of the court, and any such amendments, after approval by the court, shall be incorporated by reference herein;

(4) For the purposes of Rule 5003 of the Federal Rules of Bankruptcy Procedure, the electronic case file shall constitute the docket and index of cases of this court.

ENTERED
APR 29 2005
CLERK
U.S. BANKRUPTCY COURT
CHATTANOOGA, TN

JOHN C. COOK
Chief United States Bankruptcy Judge

RICHARD STAIR JR.
United States Bankruptcy Judge

MARCIA PHILLIPS PARSONS
United States Bankruptcy Judge

R. THOMAS STINNETT
United States Bankruptcy Judge

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 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 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.

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. 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 pleadings and other 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, 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, attached to these Administrative Procedures as Attachment 1. The completed registration form must be delivered or mailed to one of the divisional offices of the clerk. In the event the information provided in the individual's registration form changes, the individual should

immediately notify the clerk of the court, and if requested, submit an amended registration form.

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 the ECF 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 to the individual a log-in name and password, 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) a 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 login 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. 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. *Signature of Debtor.* Any document requiring the debtor's signature must first be signed by the debtor, followed by the electronic submission of a copy of the document with any image of the signature that can be viewed in ECF or by the debtor's signature indicated as /s/ followed by the typed name of the debtor signing. The debtor's handwritten signature is required on a reaffirmation agreement or a proposed reaffirmation agreement. After the debtor's handwritten signature has been affixed to a reaffirmation agreement or a proposed reaffirmation agreement, the agreement must be scanned and filed electronically.

3. *Signatures on affidavits and declarations***.**

(a) Scanning Requirement. All affidavits must be scanned and filed electronically after they have been signed by the affiant and notary and affixed with a notarial seal. All declarations, with the exception of verified documents filed by a debtor, must be scanned and filed electronically after they have been signed by the declarant.

(b) 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.

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 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. 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 notification 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 documents 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.

IV. Electronic Service and Notice

A. E-Mail 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.

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 a non-Registered User as set forth in the Federal Rules of Bankruptcy Procedure and the Local Rules.

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.

V. Retention of Original Documents

A. Filings by Attorneys.

Documents that are electronically filed and require original signatures other than that of the filing attorney (such as agreed orders, petitions, lists, schedules, statements, amendments, pleadings, affidavits and other documents that must contain original signatures or that require verification under Fed. R. Bankr. P. 1008 or an unsworn declaration as provided in 28 U.S.C. § 1746) must be maintained in paper form by the filing attorney until 2 years after the closing of the case. On request of the court, the attorney must provide such documents for review.

B. Filings by *Pro Se* Debtors.

After docketing of *pro se* cases, the clerk will transmit to the trustee appointed in the case or to the United States trustee, if the case is a Chapter 9 or 11 case without a case trustee, the originals of documents that 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. The trustee or United States trustee must retain such original documents for 2 years after the closing of the case. On request of the court, the trustee or United States trustee must provide such documents for review.

VI. Orders

A. Electronic Transmission.

As required by the local rules of this court, every motion, application, objection to claim, and 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 use of 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. 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 shall 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 e-mail 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, agreed orders 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 as a replacement for the previously uploaded order.

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.

VII. 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 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.