

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

IN RE:

Procedural Rules for
Electronic Case Filing (ECF)

Administrative Order
No. 11 - 02

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

The *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means*, hereafter *Administrative Procedures*, have been reviewed by this Court; and

The *Administrative Procedures* are consistent with and further the responsibility of the Clerk of Court for the control of the Court's docket under FRBP 5003, including safeguarding the integrity of the Court's docket; and

The *Administrative Procedures* do not impose fees inconsistent with the present fee structure adopted by the Judicial Conference of the United States pursuant to 28 U.S.C. § 1930; and

The *Administrative Procedures* provide adequate procedures for filing pleadings and papers and provide access to review and retrieve records and dockets of this Court by parties who are not able to access the Electronic Case Filing System over the internet, thereby complying with the requirements contained in 11 U.S.C. § 107(a); and

The *Administrative Procedures* do not impair the ability of the Clerk of the Court to perform statistical reporting responsibilities for both the Court and the Administrative Office of the United States Courts; and

The *Administrative Procedures* are consistent with notice requirements of the FRBP and the Local Bankruptcy Rules for the Northern District of New York, hereafter LBR.

IT IS ORDERED that:

1. Introduction and Definitions

- a. The Clerk of the Bankruptcy Court for the Northern District of New York is authorized to implement, publish, and update the *Administrative Procedures* for the district, including but not limited to the procedures for registration for attorneys and other participants, and for the distribution of logins and passwords to permit electronic filing and notice of pleadings and other papers.
- b. In the event of a conflict between the *Northern District of New York Local Bankruptcy Rules* and the *Administrative Procedures*, the *Administrative Procedures*, as relating to the electronic filing of petitions, pleadings, orders and other papers shall govern.
- c. Electronic Case Files", as referred to in the *Administrative Procedures*, are petitions, pleadings, and other papers that are stored in a fixed electronic format instead of on paper. This Court accepts documents only in the Portable Document Format (PDF or PDF/A) and creditor matrices in Text format (TXT).

NOTE: The newer PDF/A standard addresses concerns raised about the security and long term archival storage of documents. Standard word

processing software is now capable of producing PDF/A documents. Although no target date has been set, in the future the court will require users to file documents in PDF/A format. Users of the NDNY System will be notified when the PDF/A format becomes mandatory.

- d. The Clerk's Office will not maintain a paper court file in any case except as otherwise provided by the Local Bankruptcy Rules and the Administrative Procedures. The official court record shall be an electronic file maintained on the court's file server. Any documents received in paper format in Chambers or the Clerk's Office may be shredded when it is determined that they are no longer needed.
- e. "Filer", as referred to in the *Administrative Procedures*, is defined as the attorney of record or the actual party in interest, if not represented by counsel, who transmits any pleading or document to the Court.

2. Electronic Filing of Documents

- a. The electronic filing of a pleading or other paper in accordance with electronic filing procedures shall constitute entry of that pleading or other paper on the docket kept by the Clerk under FRBP 5003.
- b. The Office of the Clerk shall enter all orders, decrees, judgments and proceedings of the court in accordance with electronic filing procedures, which shall constitute entry of the order, decree, judgment or proceeding on the docket kept by the Clerk under FRBP 5003 and 9021.
- c. For filings that require a fee to be paid, the fees are to be paid through the on-line payment program (Pay.gov) in CM/ECF.

- d. A "Chambers Copy" in paper format for Chambers is required for the following matters. The copy must be clearly marked as "ECF CASE - CHAMBERS COPY" and must be submitted in compliance with the requirements of LBR 9013 - 1. The Chambers Copy need not contain a copy of the original signature. Unless directed by the Court, copies should not be faxed to Chambers or Courtroom Services. Copies should be sent via the mail or hand delivered.

Albany Chambers

- Notice of motion, motion, application, and certificate of service, except for chapter 13 trustee's motion to dismiss and to determine/expunge claim and chapter 7 trustee's final meeting notice;
- Opposition, response, or any pleading relating to a hearing;
- Opposition to disclosure statement in a chapter 11 case;
- Objection to confirmation of a chapter 11 plan;
- Pretrial statement; and
- Memoranda of law and any pleading and other document filed in regard to a submitted matter.

Syracuse Chambers

- Notice of motion, motion, application and certificate of service;
- Chapter 7 final meeting notice;
- Any pleading filed in an adversary proceeding;
- Pretrial statement;
- Memoranda of law and any pleading or other document filed in regard to a submitted matter;
- Any document regarding an appeal;
- Withdrawal of reference; and
- Any objection pursuant to *Fed. R. Bankr. P. 9033*.

Utica Chambers

- Notice of motion, motion, application and certificate of service;
- Chapter 7 final meeting notice;
- Any pleading filed in an adversary proceeding;
- Pretrial statement;
- Memoranda of law and any pleading or other document filed in regard to a submitted matter;
- Any document regarding an appeal;
- Withdrawal of reference; and
- Any objection pursuant to *Fed. R. Bankr. P. 9033*.

3. Logins and Passwords

- a. Each attorney admitted to practice in the Northern District of New York and currently in good standing, and creditor participants filers shall be entitled to a single Electronic Case Filing System login and password to permit him/her to electronically file and electronically receive pleadings and other documents. The Bankruptcy Court reserves the right to deny a request for a login and password. *Pro se* debtors are not eligible for a login and password.
- b. An attorney or trustee may request multiple logins and passwords for legal staff who file as agents on their behalf. When an agent files on behalf of the attorney, the docket text displays the name of the attorney as the filer. A filing agent may obtain a login and password by submitting a completed Case Management/Electronic Case Files (CM/ECF) System Electronic Filing Agent Registration Form.
- c. Login and password registration forms are available in the Office of the Clerk and on the Court's Internet site which is www.nynb.uscourts.gov.

- d. A trustee or standing trustee who also serves as private counsel should submit two separate Case Management/Electronic Case Files (CM/ECF) System Attorney Registration Forms and will receive two separate logins and passwords; one in his/her role as trustee and one in his/her role as private counsel.
 - e. No attorney shall knowingly permit or cause his/her password to be utilized by anyone other than an authorized employee of his/her law firm.
 - e. 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.
 - f. Misuse of the Electronic Case Filing System login and password may result in revocation of the login and password of the attorney or party and/or the imposition of sanctions.
4. Signatures
- a. The electronic filing of a petition, motion , or other paper by an attorney or participant who is a registered user in the electronic case filing system shall constitute the signature of that filer under FRBP 9011.
 - b. Any pleading, affidavit or other document filed electronically shall contain an electronic signature of the filer, e.g., *"/s/name."*
5. Notice of Electronic Filing and Service
- a. Whenever a pleading or other paper is filed electronically, a *Notice of Electronic Filing* will be automatically generated by the Electronic Case Filing System at the time of the filing and sent electronically to the party

filing the pleading or other paper, as well as to all parties in the case who are registered participants in the Electronic Case Filing System or have otherwise consented to electronic service.

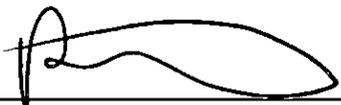
- b. If the recipient of notice or service is a registered participant in the Electronic case Filing System and has consented to electronic service, service of the *Notice of Electronic Filing* shall be the equivalent of service of the pleading or other paper by first class mail, postage prepaid.
- c. Pleadings or other documents which are not filed electronically shall be served in accordance with the FRBP and LBR except as otherwise provided by order of the Court.
- d. **Participation in the Electronic Case Filing System by receipt of a login and password from the Court shall constitute a request for service and notice electronically pursuant to FRBP 9036. Participants in the Electronic Case Filing System, by receiving a login and password from the Court, agree that notice and service by electronic means constitutes proper service.**
- e. It is not necessary to submit a paper summons to the Clerk's Office to have it signed, sealed and issued for service on the defendant(s). The *System* will electronically generate the initial summons in an adversary proceeding. The electronic summons will contain the Clerk's signature and court seal. Multiple copies can be printed for service upon the defendant(s). Proof of service will still be required. Service of a summons in an involuntary bankruptcy petition shall continue to be made pursuant to FRBP 1010 and 7004.

- f. Service by electronic means is not effective if the party making service learns that the attempted service did not reach the person to be served.
6. The provisions of this Order shall apply to all cases and proceedings filed in the U.S. Bankruptcy Court for the Northern District of New York. Amendments to this Order may be entered from time to time in keeping with the needs of the Court.
7. The effective date of this Administrative Order is January 1, 2012.

IT IS SO ORDERED,

DATED: ~~DEC 28 2011~~

By the Court



Robert E. Littlefield, Jr.

Chief Judge, U.S. Bankruptcy Court

RECEIVED & FILED
DEC 28 2011
OFFICE OF THE BANKRUPTCY CLERK
ALBANY, NY