FILED
JAMES J. WALDRON, CLERK
MAR 27 2002
U.S. BANKRUPTCY COURT
NEWARK, N.J.
BY DEPUTY

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In Re:
ELECTRONIC MEANS FOR FILING, SIGNING, AND VERIFICATION OF DOCUMENTS

GENERAL ORDER
(Electronic Filing Procedures)

Federal Rule of Civil Procedure 83 and Federal Rules of Bankruptcy Procedure 5005(a)(2), 9011, 9029, and District of New Jersey Local Bankruptcy Rules 5005-1 and 1001-1, authorize this Court to establish practices and procedures for the filing, signing and verification of documents by electronic means; and

A proposal for *Administrative Procedures for Filing, Signing, and Verifying Documents by Electronic Means* (collectively the "*Administrative Procedures*"), has been reviewed by the Court;

IT IS ORDERED that:

1. The *Administrative Procedures* (attached as *Exhibit A* to this Order), including the procedure for registration of approved participants ("Participants") and for distribution of passwords to permit electronic filing and notice of pleadings and other papers are hereby approved by the Court.

2. As set forth in the *Administrative Procedures*, the electronic filing of any document using a login and password issued by the Court, shall constitute the Participant's signature for purposes of signing the document under Fed. R. Bankr. P. 9011.

3. No Participant 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 Participant unless such a person is an authorized employee of the law firm.

5. Electronic transmission of a document to the Electronic Case Filing System ("ECFS") consistent with the Local Rules and *Administrative Procedures* of this Court, together with the transmission of a Notice of Electronic Filing ("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.

6. 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.

7. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight in order to be considered timely filed that day.

8. All orders, decrees, judgments, and proceedings of the Court will be filed in accordance with the *Administrative Procedures*, which shall constitute entry of the order, decree, judgment, or proceeding on the docket kept by the Clerk under Fed. R. Bank. P. 5003 and 9021.

9. All signed orders will be filed electronically by the Court or Court personnel. Any order filed electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner. A Participant submitting a document electronically that requires a judge's signature, must deliver the document in accordance with the *Administrative Procedures*.

10. Immediately upon the entry of an order or judgment in the ECFS, the Clerk will transmit to Participants in the case, in electronic form, the Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R.Bankr.P. 9022. The Clerk must give notice in paper form, in accordance with the Federal Rules of Bankruptcy Procedure, to a person who has not agreed pursuant to para. I.B.6 of the Court's Administrative Procedures, to receive electronic notice and service.

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

12. In connection with the filing of any material in the ECFS, any person may apply by motion for an order limiting electronic access to or prohibiting the electronic filing of certain specifically identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests.

13. This Order shall become effective April 1, 2002 or as soon thereafter, as the ECFS is activated by the Court for live use by Participants.

14. Amendments to this Order or the *Administrative Procedures* may be entered from time to time in keeping with the needs of the Court.

15. The original of this Order shall be filed with the Clerk of the Court both conventionally and in accordance with the *Administrative Procedures*.

Dated: March 27, 2002

Rosemary Gambardella

Hon. Rosemary Gambardella
Chief United States Bankruptcy Judge
District of New Jersey

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

ADMINISTRATIVE PROCEDURES FOR
FILING, SIGNING, AND VERIFYING DOCUMENTS BY ELECTRONIC MEANS

I. REGISTRATION FOR THE ELECTRONIC CASE FILING SYSTEM

A. Designation of Cases.

1. All pending and newly filed cases and adversary proceedings shall be assigned to the Electronic Case Filing System ("ECFS") as of the effective date of the March 26, 2002 General Order. The Clerk will continue to accept paper filings although all parties are encouraged to use ECFS whenever possible.

B. Registration.

1. Each approved participant ("Participant") will be assigned one or more login and password combinations to permit electronic filing and retrieval of pleadings and other documents in the ECFS. The Court reserves the right to change the assigned ECFS login from time to time as may become necessary.

2. A registration form, will be available electronically, and shall be submitted for each Participant.

3. All registration forms shall be electronically mailed to the Office of the Clerk, at the following e-mail address: **cmecf_helpdesk@njb.uscourts.gov**.

4. Each Participant registering for the ECFS will receive notice by electronic mail from the Office of the Clerk indicating the Participant's assigned ECFS login and password combination. This login and password combination, as initially assigned, will be used for training purposes only, and will not be activated for use on the ECFS until the Participant is approved for use on

the ECFS by the Court in accordance with the training as set forth in the ECFS User's Guide. Only the Participant, or an authorized representative, may receive the electronic notice of the assigned login and password combination.

5. Participants may find it desirable to change their passwords periodically. This can be done as set forth in the ECFS User's Guide. In the event a Participant believes that the security of an existing password has been compromised, the Participant shall give immediate notice to the Clerk of the Court in order to prevent access to the ECFS by use of that password. Such notice may be given to the Clerk of the Court either by telephone to the telephone number(s) set forth in the User's Guide for such purpose; or by electronic mail to cmecf_helpdesk@njb.uscourts.gov.

6. Participants in the ECFS, by accepting a login and password from the Court, waive the right to receive notice by first class mail, including notice pursuant to Fed. R. Bank.P. 2002(a), and agree to receive notice electronically. Participants in the ECFS, by accepting a login and password from the Court, also waive their right to service by personal service or first class mail and agree to electronic service, except with regard to service of process of a summons and complaint in an adversary proceeding under Fed. R. Bank.P. 7004 and the initiating motion in a contested matter under Fed. R. Bank.P. 9014. The waiver of service and notice by first class mail includes notice of the entry of an order or judgment under Fed. R. Bank. P. 9022.

II. ELECTRONIC FILING AND SERVICE OF DOCUMENTS

A. Filing.

1. Except as expressly provided for in paragraph III.A. below, *Conventional Filings*, any Participant who is registered with ECFS may electronically file all petitions, motions, pleadings, memoranda of law, or other documents in the ECFS. Emergency motions, supporting pleadings

and objections may also be filed electronically as provided in these *Administrative Procedures.*

2. All documents that form part of a pleading and which are being filed at the same time and by the same party shall be electronically filed as individual documents, as attachments to the initiating pleading, under one docket entry, e.g. the motion, supporting affidavit, memorandum of law, and proposed form of order.

B. Service.

1. General Rule: Except as otherwise provided in paragraph 2 below, *Consent to Electronic Service*, all documents required to be served shall be served in paper (i.e. "hard copy") form in the manner mandated by the applicable law and rules.

2. Consent to Electronic Service: Whenever service is required to be made on a person who has agreed to electronic service as defined at paragraph I.B.6 above, the Court's automatically generated "Notice of Electronic Filing" constitutes service. If ECFS service is impracticable, service may be made by hand or by any other means authorized by Fed. R. Bank.P. 7005.

3. In addition to electronic service by the ECFS as identified in paragraph 2, service of documents in hard copy, shall be required in the following circumstances:

(a) Service is required to be made in accordance with Fed. R. Bankr.P. 7004, 9014 and 9016.

(b) The Federal Rules of Bankruptcy Procedure, District of New Jersey Local Bankruptcy Rules, or an order of the Court requires delivery or service upon a state or federal governmental entity, including, the United States Attorney.

C. Signatures

1. Filing any document using a login and password issued by the Court, shall constitute the Participant's signature for purposes of signing the document under Fed.R. Bankr.P. 9011. The

name of the Participant under whose log-in and password the document is submitted must be displayed by an "/s/" and typed in the space where the signature would otherwise appear, e.g., "/s/Jane Doe." No person shall knowingly utilize or cause another person to utilize the password of a Participant unless such a person is an authorized employee of the law firm

2. Documents that are electronically filed and require original signatures, other than that of the Participant ("third party signatures"), must be maintained in paper form by the Participant for a period not less than seven years from the date of closure of the case or proceeding in which the document is filed. Upon request, the original document must be provided to other parties or the court for review. The document requiring third party signatures must be electronically filed either by (1) submitting a scanned document containing the third party signature; or (2) by submitting a document displaying the name of the person signing the document, preceded by an "/s/" and typed in the space where the signature would otherwise appear, e.g., "/s/Jane Doe."

D. Fees Payable to the Clerk

For filings that require a fee, application for authorization of credit card payment must be completed through the registration process.

E. Orders

All proposed forms of orders may be submitted electronically as outlined below.

> 1. Electronically submitted orders must comply with all Local Bankruptcy Rules. Subject to the requirements of paragraph 3 below, Orders Shortening Time must be electronically filed with the moving papers in a form substantially the same as Local Forms 1 and 2 as required by *D.N.J. LBR 9013-1(e)*. Orders to Show Cause shall be limited to adversary proceedings in accordance with *D.N.J. LBR 9013 (e) and D.N.J. LBR 9075-1.*
>
> 2. With the exception of Consent Orders, and Orders submitted

under *D.N.J. LBR 9072-2,* electronically filed proposed forms of orders, shall be combined with the application or motion into one docket entry in accordance with Paragraph II A.2 of these *Administrative Procedures*.

3. Electronically submitted orders shall be formatted in accordance with template instructions provided by the Clerk.

4. All orders, including consent orders, must be in PDF text format at the time of submission.

5. The Court will make an electronic copy of the proposed form of order as submitted by the Participant, and sign same electronically by affixing the signature of the presiding judge. Once signed, the Office of the Clerk or the Judge will make the appropriate entry on the ECFS to docket the order.

6. Where a Participant seeks the entry of an emergent order, such as an order shortening time or order to show cause through the ECFS, the Participant shall simultaneously bring such filing, once submitted, to the attention of the Judge's Courtroom Deputy at the e mail addresses set forth in the User's Guide.

7. Notification of defects in an order may be provided by e-mail.

8. Service of signed orders is to be effectuated by the Clerk electronically to Participants.

F. <u>Consent Orders</u>

Consent orders shall be circulated and signed conventionally. The Participant shall submit a copy of the consent order, in the manner set forth in the User's Guide, to the presiding judge's electronic mail box designated for such purpose. The original consent order, bearing original signatures of the consenting parties, shall be maintained by the Participant for a period of time prescribed in subparagraph II.C. 2 of these *Administrative Procedures.* The Participant must also simultaneously file with the Court, a Certificate of Consent, which certifies that the signatories have affixed their consent, and that the Participant will retain the original consent order as

executed by the parties for the period of time required under subparagraph II.C.2 of these *Administrative Procedures*. For the court's ease of reference, in addition to the electronic filing of the Certificate of Consent, a chambers' copy of the Certificate of Consent must be annexed by the Participant to the copy of the consent order sent to the presiding judge's electronic mailbox.

G. Exhibits

Documents, including proofs of claim, should be filed electronically in PDF text format on the ECFS. Exhibits should be submitted electronically as attachments to the document or proof of claim, and if originally produced in hard copy (paper) format exceeding 20 pages in length, shall include only those excerpts of each exhibit that are directly germane to the matter under consideration by the Court. Such exhibits must be clearly and prominently identified as excerpts, and, with the exception of attachments to proofs of claim, the complete exhibit must be made available as a chambers' copy provided to the Court. All exhibits to documents, including proofs of claim, must be made available forthwith to counsel upon request, and at any hearing pertaining to the matter. Persons filing excerpts of exhibits do so without prejudice to their right to file additional excerpts or the complete exhibit with the Court at any time. Opposing parties may file additional excerpts if they believe that they are germane.

If the entire exhibit is deemed germane to the document being submitted and the exhibit is in a format that must be electronically imaged, the attorney shall make every effort to electronically image the document(s), including utilization of the Court's facilities.

H. 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 main categories and specific events provided in the ECFS, as e.g. motion for relief from stay, application for retention of counsel, etc.

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. Document(s) to be filed under seal. However, a motion to file documents under seal may be filed electronically. The order of the Court authorizing the filing of such document(s) under seal may be filed electronically by the presiding judge. A paper copy of the order shall be attached to the document(s) under seal and be delivered to the Clerk of Court.

IV. PUBLIC ACCESS TO THE DOCKET

A. Internet Access Any person or organization, may access the Court's Internet site at: www.njb.uscourts.gov. Access to the docket through the Internet site will require registration with the Pacer Billing Center (1-800-676-6856).

B. Public Access at the Court Access by the public to the documents filed in the ECFS and to the ECFS docket is available in the Office of the Clerk for viewing during regular business hours, Monday through Friday.

C. <u>Conventional Copies and Certified Copies</u> Conventional copies and certified copies of the electronically filed documents may be purchased during business hours, Monday through Friday, at the Office of the Clerk at any one of the following locations: Martin Luther King, Jr. Federal Building, 50 Walnut Street, Newark, New Jersey 07102; 402 East State Street, Trenton, New Jersey 08608; or Federal Building 401 Market Street, Camden, New Jersey, 08101-2067. The fee for copying and certification is in accordance with 28 U.S.C. section 1930.