

D.N.J. LBR 5005-1 FILING AND TRANSMITTAL OF PAPERS

Electronic filing is required subject to administrative procedures as issued by the Court, set forth in the Appendix to this Rule. Documents shall be filed, signed, or verified by means that are consistent with such administrative procedures. Amendments to the administrative procedures by means of general orders may be entered from time to time in keeping with the needs of the Court.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2001 Comment: This Rule is new and provides the general authority for electronic filing as authorized under Fed. R. Bankr. P. 5005(a)(2).

2011 Comment: This Rule is amended to reflect the fact that electronic filing is mandatory in this District. Effective October 1, 2003, the Board of Judges of the United States Bankruptcy Court for the District of New Jersey, approved a transition in procedure which requires mandatory electronic filing for attorneys who regularly practice before the Court. This transition requires attorneys to become trained and certified "Participants" of CM/ECF. For purposes of this requirement, an attorney is considered to "regularly practice" before the New Jersey Bankruptcy Court, if the attorney files ten (10) or more pleadings in a twelve month period with the Court. In addition, the provisions of the appendix to this Rule were previously contained in the Court's General Order (Electronic Filing Procedures), dated March 27, 2002. In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court's General Order (Electronic Filing Procedures), dated March 27, 2002 should be addressed in an appendix to a local rule. As a result, on August 1, 2011, the Court amended D.N.J. LBR 5005-1 to incorporate the provisions of the General Order into the Court's Administrative Procedures updated August 1, 2011. The Administrative Procedures incorporate the provisions of the Court's original General Order (Electronic Filing Procedures), dated March 27, 2002 and are available at the Appendix to this Rule and on the Court's website, www.njb.uscourts.gov.

Reference: Fed. R. Bankr. P. 5005(a)(2).

APPENDIX

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”).

B. Registration.

1. Each approved participant (“Participant”) will be assigned one or more login 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_help_desk@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_help_desk@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. Bankr. 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 a process of a summons and complaint in an adversary proceeding under Fed. R. Bankr. P. 7004 and the initiating motion in a contested

matter under Fed. R. Bankr. P. 9014. The waiver of service and notice by first class mail includes notice of the entry of an order of judgment under Fed. R. Bankr. 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 shall 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 the 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.
3. 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.
4. When a document has been filed electronically, the official record if the electronic recording of the document as stored by the Court and the filing party is bound by the document as filed.
5. Filing a document electronically does not alter the filing deadline for the document. Filing must be completed before midnight in order to be considered timely filed that day.

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 is impracticable, service may be made by hand or by any other means authorized by Fed. R. Bankr. 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 login 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 Participant shall knowingly permit or cause to permit his/her password to be utilized by anyone other than an authorized employee of his/her 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."
3. Facsimile Signatures: If an Affiant has properly executed an affidavit, certification, declaration or any other pleading required to be signed under oath or penalty of perjury (but expressly excluding petitions to commence a bankruptcy case), and the attorney, as an approved Participant of the Court's ECFS, seeking to electronically file such a document with the Court has not received the original, then the document or pleading may be electronically filed by the Participant upon receipt of a facsimile of the original signature only if attached thereto is a certification of the Participant electronically filing the document or pleading certifying that:
 - a) The Affiant has acknowledged the genuineness of the original signature;
 - b) The original document was executed in completed form prior to facsimile transmission; and
 - c) The document or a copy with an original signature affixed to it will be obtained by the Participant within seven business days after the date the document or pleading with the facsimile signature was electronically filed with the Court.

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 shall 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 *Application for Order Shortening Time* and *Order Shortening Time Period for Notice and Setting Hearing* 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 9013-1(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 order 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.
9. All orders, decrees, judgments, and proceedings of the Court will be filed in accordance with these *Administrative Procedures*, which shall constitute entry of the order, decree, judgment, or proceeding on the docket kept by the Clerk under Fed. R. Bankr. P. 5003 and 9021.
10. 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 these *Administrative Procedures*.
11. Immediately upon the entry of an order of 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 these *Administrative Procedures*, to receive electronic notice and service.

F. Consent Orders.

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 mailbox 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 chamber's 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, with the exception of fee applications, 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. Upon request of chambers, 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 documents 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. Conventional Copies and Certified Copies.

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

Clarkson S. Fisher U. S. Courthouse
402 East State Street
Trenton, New Jersey 08608

U.S. Federal Building
401 Market Street
Camden, New Jersey 08101-2067

The fee for copying and certification is in accordance with 28 U.S.C. § 1930.

V. TECHNICAL FAILURE

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