

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

STANDING ORDER NO. 04-4

**ADOPTING ELECTRONIC CASE FILING AND CASE MANAGEMENT
PROCEDURES**

(a) Background and Authority. Federal Rule of Civil Procedure 83, Federal Rules of Bankruptcy Procedure 5005(a)(2), District of Kansas Rule 83.8.12, District of Kansas Local Bankruptcy Rule 5005.1, and District of Kansas Local Bankruptcy Rule 9029.2 authorize this court to establish practices and procedures for the filing, signing, and verification of pleadings and papers by electronic means.

(b) Adoption of Procedures. *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means* (a copy of which is attached to this Order) is approved and adopted by this court as a means of registration of attorneys and for distribution of passwords to permit electronic filing and notice of pleadings and other papers.

(c) Designation of Electronic Filing. All cases are assigned to the Electronic Filing System unless otherwise ordered by the court. All petitions, motions, memoranda of law, or other pleadings and documents filed with the court in connection with a case assigned to the Electronic Filing System shall be filed electronically unless otherwise permitted in these rules or the administrative procedures guide or unless otherwise authorized by the court. Electronic filing shall be consistent with this order and *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means*.

(d) Conflicts with Local Rules. If provisions of the *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means* are inconsistent with Local Bankruptcy Rules for the District of Kansas, the *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means* will control for electronically filed documents.

(e) Abrogation. This Standing Order abrogates and supercedes D. Kan. Bk. S.O. 04-3.

Dated this 1st day of September, 2004.

/s/ Robert E. Nugent
ROBERT E. NUGENT, CHIEF JUDGE

/s/ Janice Miller Karlin
JANICE MILLER KARLIN, JUDGE

/s/ Dale L. Somers
DALE L. SOMERS, JUDGE

/s/ Robert D. Berger
ROBERT D. BERGER, JUDGE

***Administrative Procedures for Filing, Signing,
and Verifying Pleadings and Papers by
Electronic Means***

(Rev. 9-1-04)

I. Scope of Electronic Filing

- A. Electronic Filing Required. Effective September 1, 2004, all petitions, motions, memoranda of law, or other pleadings and documents required to be filed with the court by an attorney in any case assigned to the Electronic Filing System pursuant to B below shall be electronically filed, except as expressly provided and in exceptional circumstances preventing a Filing User from filing electronically.
- B. Assignment of Cases. All cases pending or filed on September 1, 2004, will be assigned to the Electronic Filing System.
- C. Exception. Notwithstanding the foregoing, persons (other than attorneys) who are not Filing Users in the electronic filing system are not required to electronically file pleadings and other papers in a case assigned to the System. The Court may, from time to time, and only in exceptional circumstances, relieve attorneys from the electronic filing requirement.
- D. Filing Fees. For filings that require a fee to be paid, the Office of the Clerk will automatically draw payment from the credit card account that was provided with the attorney registration. The court will not maintain electronic billing or debit accounts for lawyers or law firms.

II. Eligibility, Registration, Passwords

- A. Attorney Eligibility. Attorneys admitted to the bar of this court (including those admitted pro hac vice and attorneys authorized to represent the United States), United States trustees and their assistants, bankruptcy administrators and their assistants, private trustees, and others as the court deems appropriate, may register as Filing Users of the court's Electronic Filing System. Registration is in a form prescribed by the clerk and requires the Filing User's name, address, telephone number, Internet e-mail address and, in the case of an attorney, a declaration that the attorney is admitted to the bar of this court.
- B. Eligibility of Other Parties. If the court permits, a party to a pending action who is not represented by an attorney may register as a Filing User in the Electronic Filing System solely for purposes of the action. Registration is in a form prescribed by the clerk and requires identification of the action as well as the name, address, telephone number and Internet e-mail address of the party. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the attorney must advise the clerk to terminate the party's registration as a Filing User upon the attorney's appearance.
- C. Creditor Eligibility. Creditors without counsel may register as Filing Users of the court's electronic filing system for the sole purpose of filing claims, notice of transferred claims, reaffirmation agreements, requests to receive notices and withdrawal of claims.
- D. Registration. Provided that a Filing User has an Internet e-mail address, registration as a Filing User constitutes: (1) waiver of the right to receive notice by first class mail and consent to receive notice electronically; and (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. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under Fed.R.Bankr.P. 9022.
- E. Passwords. Once registration and training, as prescribed by the court, are completed, the Filing User will receive notification of the user log-in and password. Filing Users agree to protect the security of their passwords and

immediately notify the clerk if they learn that their password has been compromised.

- F. Revocation of Registration. The court reserves the right to revoke an Electronic Filer's password and, therefore, his or her authority and ability to electronically file documents for failure to comply with the provisions of these *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means*, failure to pay fees required for documents electronically filed, or other misuse of the electronic case filing system.

III. Consequences of Electronic Filing

- A. Filing. Electronic transmission of a document to the Electronic Filing System consistent with these rules, together with the transmission of a 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.
- B. Legibility. The Filing User is responsible for assuring the legibility of all documents, scanned or otherwise, filed with the court.
- C. Official Record. 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. Except in the case of documents first filed in paper form and subsequently converted to electronic form, a document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.
- D. Deadlines. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight local time where the court is located in order to be considered timely filed that day.

IV. Entry of Court-Issued Documents

- A. Entry of Orders. All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these rules, which will constitute entry on the docket kept by the clerk under Fed.R.Bankr.P. 5003 and 9021. 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.
- B. Orders may also be issued as "text-only" entries on the docket, without an attached document. Such orders are official and binding.
- C. The court may sign, seal and issue a summons electronically, although a summons may not be served electronically.
- D. Submission of Orders. A Filing User submitting a document electronically that requires a judge's signature must promptly deliver the document in such form as the court requires.

V. Attachments and Exhibits

Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless otherwise directed by the court. A Filing User must 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 (please see D. Kan. Rule 5.1(f) and D. Kan. LBR 9072.1(a)). Filing Users who file excerpts of documents as exhibits or attachments under this rule 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 directly germane. The court may require parties to file additional excerpts or the complete document.

VI. Sealed Documents

Documents ordered to be placed under seal must be filed conventionally, and not electronically, unless specifically authorized by the court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order must be attached to the documents under seal and be delivered to the clerk.

VII. Retention Requirements

Documents that are electronically filed and require original signatures other than that of the Filing User must be maintained in paper form by the Filing User until 10 years after all time periods for appeals expire. On request of the court, the Filing User must provide original documents for review.

VIII. Signatures

- A. User Log-In and Password. The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of Fed.R.Bankr. P. 9011, the Federal Rules of Bankruptcy Procedure, the local rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court. Each document filed electronically must, if possible, indicate that it has been electronically filed. Electronically filed documents must include a signature block in compliance with D. Kan. L.B.R. 9011.4, and must set forth the name, address, telephone number and the attorney's Kansas bar registration number, or equivalent. In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.
- B. Password Security. No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.
- C. Documents containing the signature of non-Filing Users are to be filed electronically with the signature represented by a "s/" and the name typed in the space where a signature would otherwise appear, or as a scanned image.
- D. Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) submitting an electronic document upon which the consent of the other parties is represented; or (3) in any other manner approved by the court.

IX. Service of Documents by Electronic Means

- A. Notice of Electronic Filing. The "Notice of Electronic Filing" that is automatically generated by the court's Electronic Filing System constitutes service or notice of

the filed document on Filing Users. Parties who are not Filing Users must be provided notice or service of any pleading or other document electronically filed in accordance with the Federal Rules of Bankruptcy Procedure and the local rules.

- B. Certificate of Service. A certificate of service must be included with all documents filed electronically, indicating that service was accomplished through the Notice of Electronic Filing for parties and counsel who are Filing Users and indicating how service was accomplished on any party or counsel who is not a Filing User. Certificates of Service shall be in substantial compliance with D. Kan. LBR 9013.3.
- C. Nothing contained in this procedure relieves counsel of the burden of obtaining personal service under Fed. R. Bankr. P. 7004 or Fed. R. Civ. P. 4, where appropriate.

X. Notice of Court Orders and Judgments

Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed.R.Bankr.P. 9022. The clerk, or other party as the court may direct, must give notice to a person who has not consented to electronic service in paper form in accordance with the Federal Rules of Bankruptcy Procedure.

XI. Technical Failures

A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

XII. Public Access

- A. PACER Access. Any person or organization, other than one registered as a Filing User under these rules, may access the Electronic Filing System at the court's Internet site www.ksb.uscourts.gov by obtaining a PACER log-in and password. Those who have PACER access but who are not Filing Users may retrieve docket sheets and documents, but they may not file documents.
- B. Clerk's Office Access. Access to all documents is available, without obtaining a password, in the clerk's office during regular business hours, Monday through Friday. Conventional and certified copies of electronically filed documents may be purchased at the clerk's office during regular business hours Monday through Friday. The fee for copying and certifying shall be in accordance with the Schedule of Miscellaneous Fees promulgated by the Judicial Conference of the United States pursuant to 28 USC §1930(b).
- C. Redaction. In connection with the filing of any material in an action assigned to the Electronic Filing System, 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.
- D. Misuse. Information posted on the System must not be downloaded for uses inconsistent with the privacy concerns of any person.