

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS



IN THE MATTER OF
ELECTRONIC CASE FILING

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GENERAL ORDER NO. 2003-01

**ORDER ADOPTING ADMINISTRATIVE
PROCEDURES FOR ELECTRONIC CASE FILING**

By General Order No. 2002-01, effective September 1, 2002, the United States Bankruptcy Court for the Northern District of Texas amended Local Bankruptcy Rule 5005.4 to authorize the clerk of court to accept documents for filing, issue notices and serve orders and judgments electronically, and to specify practices in electronic case management subject to procedures approved by the court and consistent with the technical standards, if any, established by the Judicial Conference of the United States. The court also adopted Local Bankruptcy Rules 7005.1 and 9036.1 to authorize service of pleadings through the court's transmission facilities subject to administrative procedures approved by the court. Pursuant to these local rules and to implement an electronic case filing system, the court adopts the attached Administrative Procedures for Electronic Case Filing.

The procedures shall be effective February 18, 2003. The court will phase in the electronic filing of documents in the Electronic Filing System through the process of registering persons as Filing Users, as defined in the procedures. Effective February 18, 2003, the court will register as Filing Users the persons who have served on the court's advisory committee for the

Electronic Filing System. The court will issue further registrations as Filing Users on March 3, 2003. The court anticipates full access to registration as Filing Users on April 30, 2003. To implement Section 1.1 of the procedures, beginning February 18, 2003, the court will scan documents filed by persons not yet registered as Filing Users so that the documents will be electronically available in the Electronic Filing System.

Accordingly,

IT IS ORDERED that the court adopts the attached Administrative Procedures for Electronic Case Filing, effective February 18, 2003.

IT IS FURTHER ORDERED that the Administrative Procedures for Electronic Case Filing shall be used by all persons who agree to use the court's Electronic Filing System and who have been registered and issued a password by the court as a Filing User as defined in the Administrative Procedures for Electronic Case Filing.

IT IS FURTHER ORDERED that the Administrative Procedures for Electronic Case Filing may be amended from time to time by order of the court.

The court has authorized the Chief Bankruptcy Judge of the district to enter this order on behalf of the court.

Signed this 12th day of February, 2003.

/s/ Steven A. Felsenthal
Steven A. Felsenthal
Chief United States Bankruptcy Judge

United States Bankruptcy Court



**Northern District of Texas
Administrative Procedures for Electronic Case Filing**

1. Designation of Cases and Scope of Electronic Filing

1.1 Designation of Cases.

- a. Beginning February 18, 2003, all cases filed in the Bankruptcy Court for the Northern District of Texas are assigned to the court's "Electronic Filing System."
- b. All motions, memoranda of law, adversary proceedings or other pleadings and documents required to be filed with the court in connection with cases pending prior to February 18, 2003, and in connection with all cases filed on or after February 18, 2003, must be filed electronically.
- c. Unless the court orders otherwise, all matters filed in cases prior to February 18, 2003, shall remain in paper format. The clerk of court will establish an electronic docket for cases commenced prior to February 18, 2003.

1.2 Electronic Filing System.

- a. The Electronic Filing System is the court's case management and filing system that receives documents filed in electronic form from authorized "Filing Users." A "Filing User" is a person who has a court-issued log-in and password to file documents electronically. The court has issued an Electronic Filing System User's Manual which may be obtained from the court's web site at www.txnb.uscourts.gov. The Electronic Filing System includes the court's order processing system described in the User's Manual.
- b. Except as expressly provided in these procedures, by separate court order, or in circumstances preventing a Filing User from filing electronically, all petitions, motions, memoranda of law, adversary proceedings or other pleadings and documents required to be filed with the court in connection with a case must be filed electronically in the format prescribed in the User's Manual.
- c. A person who is not a Filing User may file a case and related pleadings and other documents electronically by using the equipment made available

by the court at any office of the clerk of this court.

- d. The clerk of court shall not refuse to accept for filing any petition or other paper presented for the purpose of filing solely because it is not presented in proper form.

2. Registration for the Electronic Filing System

2.1 **Eligibility.** Attorneys admitted to practice before this court (including those admitted pro hac vice), United States trustees and their staff, private trustees, government attorneys exempted under LR 83.11 and creditors filing proofs of claim may register as Filing Users of the court's Electronic Filing System.

2.2 Registration.

- a. All Filing Users must submit a registration form. A person shall register as a Filing User by submitting a form prescribed by the clerk and shall provide 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 practice before this court, is exempt from the admission requirements or has been granted or has applied for leave to appear pro hac vice. Within a law firm, a separate registration form must be submitted for each attorney. A copy of the registration form may be obtained from the clerk of court, from the User's Manual or from the court's web site at www.txnb.uscourts.gov. The form may be duplicated for use by multiple applicants. All registration forms shall be mailed or delivered to:

Clerk, United States Bankruptcy Court
Attn: Electronic Filing Registration
1100 Commerce Street, Suite 1254
Dallas, TX 75242

- b. Registration as a Filing User constitutes an express written: (i) waiver of the right to receive notice by first class mail and consent to receive notice electronically; and (ii) waiver of the right to service by personal service or first class mail and consent to electronic service, except for service of a summons and complaint under Fed. R. Bankr. P. 7004 and a subpoena under Fed. R. Bankr. P. 9016. The waiver of service applies to service on a Filing User of a motion initiating a contested matter under Fed. R. Bankr. P. 9014. 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.

2.3 Passwords.

- a. Following registration, each individual Filing User must successfully complete a training program provided by the court. The court may accept training provided by another federal district and waive the training program requirement. Upon the Filing User's successful completion of the training program, or waiver of this requirement by the court, the clerk will issue a certification to the Filing User which includes a user log-in and password. Each individual Filing User will receive a log-in and password. The clerk will also provide the Filing User with a User's Manual for the Electronic Filing System.
 - b. Delivery of the Filing User's log-in and password may be requested via e-mail or first-class mail, or the clerk will telephonically notice the Filing User that an envelope containing the Filing User's log-in and password is available for pick-up at the office of the clerk.
 - c. Filing Users shall protect the security of their passwords. The use of the password is the equivalent to the signature on a document submitted to the Electronic Filing System. See ¶ 8.1.a. In the event a Filing User believes that the security of an existing password has been compromised, the user shall immediately notify the clerk, chief deputy clerk or system department manager, confirmed by facsimile, to prevent access to the Electronic Filing System by use of that password. Filing Users may be subject to sanctions for failure to comply with this provision.
 - d. Filing Users should change their passwords periodically. The User's Manual contains the procedure for changing passwords.
 - e. Filing Users should maintain a record of their password, bar code number and user profile information. The clerk will not maintain this information. Filing Users are also responsible for keeping their office address, e-mail address, preferred notification method and other user profile information current in the Electronic Filing System.
- 2.4 **Fees.** Filing Users shall pay filing fees electronically using a credit or debit card authorization on file with the court. Filing Users must provide written authorization for credit or debit card payment with their registration. An authorization form may be obtained from the clerk of court, from the User's Manual or from the court's web site at www.txnb.uscourts.gov. Upon adoption by the Administrative Office of the United States Courts, the court will implement on-line credit card processing of fees.

3. Electronic Filing and Service of Documents

3.1 **Electronic Filing.**

- a. The Filing User must designate a title for the document being filed using one of the categories in the Electronic Filing System, e.g., motion, application, etc. The User's Manual explains this requirement.
- b. Upon electronic transmission of a document to the Electronic Filing System, the Electronic Filing System generates a "Notice of Electronic Filing," which the court electronically transmits to the filing party and all case participants who have consented to receive electronic service by either registering to use the Electronic Filing System or otherwise registering to receive electronic notice. The Notice of Electronic Filing indicates the time of filing, the name of the party and attorney filing the document, the type of document, and the text of the docket entry. The Notice of Electronic Filing also contains an electronic link to the filed document, allowing anyone receiving the notice electronically to retrieve the document. The Notice of Electronic Filing also lists the persons named to receive the transmittal who have consented to receive electronic service.
- c. Electronic transmission of a document to the Electronic Filing System consistent with these procedures, together with the transmission of the 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.
- d. 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. A document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.
- e. The electronic docket may be accessed at www.txnb.uscourts.gov.
- f. 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, unless the court orders otherwise.

- 3.2 **Statute of Limitations.** The court may not relieve a party from the operation of a statute of limitations based on a technical failure of the court's Electronic Filing System or a Filing User's equipment or system.

3.3 **Electronic Service.**

- a. Service by electronic means is complete on transmission of the document to the Electronic Filing System and the transmission of a Notice of Electronic Filing from the court, unless the party required by the rules to make service learns that the attempted service did not reach the person to be served, in which case service shall be made in paper form in accordance with the Federal Rules of Bankruptcy Procedure, with proof of service filed electronically.
- b. Pursuant to Fed. R. Bankr. P. 9006(f), when there is a right or requirement to do some act or undertake some proceeding within a prescribed period after service of a notice or other paper by electronic means, three days shall be added to the prescribed period.
- c. A summons and complaint, a subpoena and a motion initiating a contested matter under Fed. R. Bankr. P. 9014, must be served in accordance with Fed. R. Bankr. P. 7004. Except for service on a Filing User of a motion initiating a contested matter, the documents may not be served electronically. See. ¶ 2.2.b.
- d. Persons who must receive notice but who are not listed on the Notice of Electronic Filing, or who may not be served electronically pursuant to these guidelines or the Federal Rules of Bankruptcy Procedure, must be served in paper form in accordance with the Federal Rules of Bankruptcy Procedure, with proof of service filed electronically.
- e. Upon electronic service of all motions or other pleadings, except proofs of claim, electronically filed in Chapter 11 cases and adversary proceedings, the Filing User must deliver a complete paper copy, including all exhibits and attachments, to the courtroom deputy.
- f. A Filing User with an emergency motion or a request for an expedited hearing shall, in addition to electronically filing the motion, notify the courtroom deputy of the motion. The notification may be by e-mail.
- g. The Electronic Filing System allows a person who is registered with the Bankruptcy Noticing Center (BNC) to request electronic notice of all filings in a matter in which they are a party, even though the person is not a Filing User.

4. Entry of Court Orders and Notice of Entry

4.1 Orders.

- a. Any order, decree or judgment filed electronically with an electronic 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, decree or judgment and it had been entered on the docket in a conventional manner.
- b. If a proposed order is required to be submitted by the categories in the Electronic Filing System, see ¶ 3.1.a., or is otherwise submitted by a Filing User, a Filing User must submit the proposed order in an acceptable word processing format using the court's order processing system and may separately submit the order in portable document format (PDF) using the Electronic Filing System. The User's Manual explains this requirement and provides acceptable word processing formats.
- c. When directed by the court to submit a proposed order or judgment, the proposed order or judgment shall be submitted using the court's order processing system.
- d. Orders may be processed at docket call by prior electronic submission of the order through the court's order processing system. Orders presented at docket call in paper format will be processed in the conventional manner and scanned into the Electronic Filing System.

4.2 Electronic Entry and Notice of Orders.

- a. All orders, decrees, judgments and proceedings of the court will be entered electronically in accordance with these procedures, which shall constitute entry on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9021.
- b. Upon entry, the court will transmit by electronic means a notice of entry of an order or judgment on the contesting parties and on other entities directed by the court.
- c. The clerk must give notice in proper form in accordance with the Federal Rules of Bankruptcy Procedure to a person who has not consented to electronic service.

5. Attachments and Exhibits

5.1 Documents Referenced as Attachments or Exhibits. Except as provided in this Section 5 or unless the court permits conventional filing, a Filing User must submit in electronic form all documents referenced as exhibits or attachments to a proof of claim, motion or other pleading.

5.2 Supporting Documentation.

- a. All documents that form part of a proof of claim, motion or other pleading which are being filed at the same time and by the same party may be electronically filed together under one docket number, e.g., the motion and a supporting affidavit, with the exception of a memorandum of law.
- b. A memorandum of law must be filed separately and shown as a related document to the motion.

5.3 Exhibits and Attachments not in Portable Document Format (PDF).

- a. For exhibits and attachments not prepared originally in the format prescribed in the User's Manual, a Filing User may (1) scan and electronically submit as exhibits or attachments excerpts of the referenced documents that are directly germane to the matter under consideration by the court, or (2) provide a summary of the exhibit in electronic format.
- b. The Filing User shall clearly and prominently identify excerpted material.
- c. The complete exhibit or attachment must be made available to opposing counsel and the court on request and be available in the courtroom at any hearing pertaining to the matter.
- d. The requirement to submit excerpted material or summaries is without prejudice to the right of a Filing User to timely submit additional excerpts or summaries pursuant to the procedures in the User's Manual.
- e. Responding parties may timely electronically submit additional excerpts or summaries that they believe are directly germane to the matter under consideration.
- f. If an exhibit or attachment is no longer than five pages, then the entire exhibit or attachment may be scanned and electronically submitted.

5.4 Disputed and Illegible Documents.

- a. In the event of a dispute over excerpts or summaries of a document, the entire document must be submitted at any hearing pertaining to the matter or as directed by the court.
- b. If a document submitted electronically is not legible, then at the time the document is filed, the document must also be provided in conventional paper form to the courtroom deputy and to opposing counsel.

5.5 Alternate Method of Submitting Attachments and Exhibits. On a case by case basis, the court may direct the manner of submitting attachments and exhibits.

5.6 Transcripts. All transcripts shall be filed in electronic format.

6. Sealed Documents

6.1 Motion to File Documents Under Seal.

- a. A motion to file documents under seal shall be filed electronically unless prohibited by law or otherwise ordered by the court.
- b. If the motion itself contains confidential information, the movant shall serve and file electronically a redacted version marked as redacted, and submit an unredacted version in camera.
- c. This procedure does not preclude an oral motion to authorize the filing or admission into evidence of a document under seal.

6.2 Order Placing Documents Under Seal

- a. An order of the court authorizing the filing of documents under seal will be entered electronically unless prohibited by law or otherwise ordered by the court.
- b. Documents ordered to be placed under seal shall be filed conventionally, and not electronically, unless specifically authorized by law.
- c. A paper copy of the order must be attached to the documents under seal and be delivered to the clerk.

7. **Retention Requirements For Documents Requiring Original Signatures**

- 7.1 Documents that are electronically filed which must (i) contain original signatures, (ii) require verification under Fed. R. Bankr. P. 1008 or (iii) contain an unsworn declaration pursuant to Fed. R. Bankr. P. 1008, shall be maintained by the filer for five years after the closing or dismissal of the case or, for an adversary proceeding, after the entry of a final, non-appealable judgment or order. On request of the court, the filer must deliver the original document.
- 7.2 Electronic filing constitutes a certification by the Filing User that the Filing User has obtained in paper form such an original signed document. Documents requiring the debtor's signature shall include a certification that the debtor did indeed sign the document prior to electronic submission.

8. **Signatures**

8.1 **Registered Attorneys and Parties with Legal Representation.**

- a. Use of the Filing User's log-in and password required to submit documents to the Electronic Filing System constitutes the Filing User's signature for purposes of: (i) Fed. R. Bankr. P. 9011; (ii) other signature requirements of the Federal Rules of Bankruptcy Procedure; and (iii) the local rules of this court, and for any other purpose for which a signature is required in connection with proceedings before the court.
- b. Electronically filed documents must include the Filing User's name, address, telephone number, internet e-mail address and bar registration number, where applicable.
- c. In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "/s/" followed by the typed name in the space where the signature would otherwise appear, and the signature must be dated.
- d. Neither the Filing User nor any other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than the Filing User or an authorized agent of the Filing User.

- 8.2 **Documents Requiring More Than One Signature.** Documents requiring signatures of more than one party must be electronically filed either by: (i) submitting a scanned document containing all necessary signatures; (ii) representing the consent of the other parties on the document in the manner provided in 8.1(c) above; (iii) identifying on the document the parties whose

signatures are required and by the submission of a notice of endorsement by the other parties no later than three business days after filing; or (iv) in any other manner approved by the court.

- 8.3 **Signature of a Notary Public.** A signature of a notary public shall be indicated with the notation “/s/” followed by the typed name of the signer. Commission dates shall be typed on the filed copy. Seals may be noted as “Legal Seals, “L.S.,” “Notary Seal” or similar notation.

9. **Public Access**

9.1 **Internet Access.**

- a. Any person or organization with a log-in and password obtained from PACER may access the court’s Electronic Filing System at the court’s internet site, www.txnb.uscourts.gov. A person with PACER access who is not a registered Filing User may retrieve docket sheets and documents, but may not file documents.
- b. Information posted on the court’s Electronic Filing System shall not be downloaded or otherwise used for purposes inconsistent with the privacy concerns of any person. Any person may move the court for an order limiting electronic access to or prohibiting the electronic filing of specifically identified material on the grounds that the material is subject to privacy interests and that electronic access or electronic filing is likely to prejudice those privacy interests.

- 9.2 **Public Access at the Court.** Electronic access to the documents filed on the Electronic Filing System and to the Electronic Filing System’s docket is available, without obtaining a password, in the office of the clerk for viewing during regular business hours, Monday through Friday.

- 9.3 **Conventional Copies and Certified/Exemplified Copies.** Conventional copies and certified copies of electronically filed documents may be purchased at the office of the clerk during regular business hours Monday through Friday. The clerk shall charge a fee for copying and certification in accordance with 28 U.S.C. § 1930.