

UNITED STATES BANKRUPTCY COURT

Northern District of California

GLORIA L. FRANKLIN
CLERK OF COURT

May 1, 2008

ELECTRONIC CASE FILING PROCEDURES

1. Establishment of Electronic Case Filing Procedures: As authorized by this Court's Bankruptcy Local Rule 5005-1(a), these "Electronic Case Filing Procedures" (ECF Procedures) have been established by the Clerk of Court for the United States Bankruptcy Court, Northern District of California. Advance notice of all modifications to these ECF Procedures will be given via the Court's website at: www.canb.uscourts.gov.

2. Scope of Electronic Filing - Mandatory Requirement for Attorneys to File Electronically via CM/ECF: All cases and adversary proceedings filed or pending in the Court shall be, and hereby are, assigned to the Electronic Case Filing System (the "ECF System"). Unless the filer is exempted, all documents are required to be filed electronically in accordance with Bankruptcy Local Rule 5005-1(c). More detailed information may be obtained from the Court's web site at: www.canb.uscourts.gov > *ECF* > *Reference Desk* > *Revised ECF Exemption Procedures*. In the event that the Court denies the exemption, the Court may also, at its discretion, order the document stricken, or impose such other conditions on the filing as the Court deems proper to preclude future violations.

Any attorney who files a document in violation of BLR 5005-1 (c), including documents that are not accompanied by an application that alleges an extreme hardship that is colorable and reasonable or a previous order granting an exemption that is still in effect, may be subject to monetary or non-monetary sanctions pursuant to BLR 9011-1.

Documents previously filed in paper form prior to January 1, 2005, are not available on the Court's CM/ECF system, and the official file with respect to those documents shall remain the paper file. After January 1, 2005, all documents not filed electronically will be scanned and entered by Clerk's Office staff to the CM/ECF system. The documents scanned by Clerk's Office staff will be held for a period of five days at the divisional office where the case is pending. Parties and attorneys who wish to retrieve the original paper documents they filed may visit or send a representative to the respective divisional office to locate the documents for retrieval.

3. Electronic Filing of Documents: Registered Participants shall use a court-issued login and password to access the CM/ECF system. Their use of this login and password will allow them to make entries to the official court docket and to file documents electronically with the Court. When a Registered Participant makes an entry to the docket

and files documents electronically, the CM/ECF system will automatically generate and send a return e-mail message of the "Notification of Electronic Filing." This Notification of Electronic Filing is equivalent to the conformed copy traditionally stamped "Filed" or "Original Filed." All Registered Participants are highly encouraged to retain the "Notification of Electronic Filing" as proof of electronic filing.

4. Logins and Passwords: Each attorney in good standing with the Court (and such others as the Court deems appropriate) is eligible to become a Registered Participant which will entitle the Registered Participant to receive an ECF System login and password. To become a Registered Participant, the person must receive training by the Court unless the Clerk is satisfied that the person has already received adequate training in another district. *Pro se* parties and bankruptcy petition preparers may not be Registered Participants unless permitted by the Court.

The Clerk's Office will post on the Court's web site a CM/ECF training class schedule. Attorneys in good standing with the Court and trustees are encouraged to access the schedule and sign up to attend this training as soon as possible. This court sponsored CM/ECF training will be held on specified dates and locations as announced on the Court's web site > *ECF* > *Training*. Attorneys and trustees who practice in multiple locations may attend training at the location of their preference. Attorneys and trustees who practice primarily or exclusively in one location are encouraged, but not required, to attend training at that location.

Attorneys and trustees are encouraged to enroll all employees who will be making entries to the system to attend the court sponsored CM/ECF training. It is recommended that employees attend the training session with the attorney or trustee with whom they work.

To become a Registered Participant, attorneys and trustees shall complete and submit a registration form (available from the Court's web site). A training login and password will be provided to the Registered Participant at the training session. Once the Registered Participant has completed the assigned training homework (successfully filing to this Court's CM/ECF training data base), they will be issued a new password for the "live CM/ECF" database to begin filing with this court electronically.

Attorneys and trustees must attend a court-sponsored training class to become a CM/ECF Registered Participant in this Court. Attorneys who can demonstrate that they have successfully filed electronically in the past six months with another U.S. Bankruptcy Court may apply to become Registered Participants in this district without having to attend the court-sponsored training. All requests must be made by submitting a completed registration form (available from the Court's web site). The request must identify the name and location of the court(s) where the electronic filings were made and must include copies of the system-generated "Notification of Electronic Filings" reflecting the ECF

successful filings. The completed request "package" shall be sent via e-mail to the CM/ECF Help Desk at: helpdesk@canb.uscourts.gov ("Request Training Waiver" in the e-mail subject line). All such requests to obtain a CM/ECF system login and password and to waive court sponsored CM/ECF training are subject to review and approval by the Clerk of Court.

Only the Registered Participant, another attorney in the Registered Participant's office, an employee of the Registered Participant or their law office staff may use the Registered Participant's login and password to file on behalf of the Registered Participant. The Registered Participant shall be responsible for any filings made using his or her login and password. Misuse of the ECF System's login and password may result in the revocation of the Registered Participant's login and password privileges and/or the imposition of sanctions. No Registered Participant shall knowingly permit a password to be used by anyone who is not authorized to use the password and no person shall knowingly use the password of a Registered Participant unless such person is so authorized. If an employee of a Registered Participant is no longer permitted such access or if the Registered Participant has reason to believe that the security of his or her password has been compromised, the Registered Participant shall forthwith contact the CM/ECF Help Desk at the Court's Information Technology Section, (415) 268-2350 to obtain a new password.

A Registered Participant may withdraw for cause or be required to withdraw from participation in the electronic filing component of CM/ECF on order of the Court. The Registered Participant shall provide a written notice of withdrawal for cause to the CM/ECF Help Desk, at the address shown above and provide at least ten days notice to all Registered Participants who are or who represent parties in interest in cases assigned to the ECF System in which the withdrawing Registered Participant has entered an appearance. A court order to withdraw a Registered Participant will be sent by the judicial officer to the CM/ECF Help Desk. Upon receipt of the written request or court order, the Help Desk staff will follow internal procedures to cause the Registered Participant's login and password to be cancelled, and the Registered Participant will be removed from the Notification of Electronic Filing service list(s).

5. Orders: The Court's electronic filing of orders, decrees, memoranda, opinions and judgments shall constitute entry on the Court's docket for purposes of FRBP 5003 and 9021. Any order filed electronically by the Court has the same force and effect as it would 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.

Each judge shall determine how he or she wishes proposed forms of orders to be submitted. Judges may sign orders manually or by any electronic means permitted by FRBP 5005(a)(2) or may use docket text orders. Registered Participants are directed to

the Court's web site > *ECF* > *Reference Desk* > *E-Orders Submission Procedures*, for specific directions regarding the submission of proposed forms of orders (submitted orders) for each Judge.

6. Exhibits and Attachments: An exhibit or attachment longer than 25 pages may be filed if created from a word processing (text) file. Transmission time for filing documents created by scanning that are more than 25 pages and/or three megabytes in size will frequently time out and fail to file due to system security features. Electronic exhibits and attachments created by scanning (imaging) that are more than 25 pages or more than three megabytes in size must be segmented and filed as multiple attachments (the system will allow multiple attachments to any pleading/document to be filed electronically). All pleadings/documents and attachments/exhibits which are created by scanning (imaging) shall be black and white (without color), in PDF format and the resolution ***should not exceed 200 DPI***.

7. Documents Filed Under Seal: A motion to file a document(s) under seal shall be filed electronically (unless prohibited by applicable non-bankruptcy law); however the actual document(s) to be sealed shall be filed conventionally, on paper, in accordance with Civil LR 79-5, incorporated by reference by BLR 1001-2 (63). If the motion itself contains confidential information, the movant shall electronically file and serve a redacted version of the motion to file under seal. The movant shall deliver paper copies of the document(s) to be sealed to the Clerk's Office at the divisional office of the assigned judge for in camera review. The order of the court authorizing the filing of such document(s) under seal shall be entered by the Court or the Clerk's Office staff and shall indicate that the motion to file document(s) under seal has been so granted. A paper copy of the order authorizing the filing under seal must be delivered to the Clerk with the documents that the Registered Participant wishes to be filed under seal. The conventionally filed paper version of the sealed document(s) will be maintained by the Clerk's Office in a manner consistent with the Civil LR 79-5, as cited above.

8. Signature and Verified Pleadings: A Registered Participant who electronically files a document with the Court shall be deemed to have certified under penalty of perjury that he or she has personally reviewed the document, is in good standing with the State Bar of all states in which the attorney is authorized to practice, and is authorized to appear in this Court.

Each electronically filed document shall bear the typed name of the person purporting to have signed the document. Pleadings, including but not limited to petitions, lists, schedules and amendments that are required to be verified under FRBP 1008 or to contain an unsworn declaration as provided in 28 U.S.C. 1746, and all affidavits or other pleadings in which a person verifies, certifies, affirms or swears under oath or penalty of perjury concerning the truth of matters set forth in that pleading or document ("Verified

Pleading”) may be filed electronically. A Registered Participant filing a Verified Pleading electronically shall insure that the electronic version conforms to the original, signed pleading/document. Each signature on the original, signed pleading/document shall be indicated on the electronically filed Verified Pleading with the typed name of the person purported to have signed the pleading/document. The electronic filing of a Verified Pleading constitutes a representation by the Registered Participant who files it that the Registered Participant has in his or her possession at the time of filing the fully executed original, signed pleading/document.

9. Retention Requirements: All originally executed pleadings/documents signed by someone other than the Registered Participant (e.g., Verified Pleadings), which are subsequently electronically filed with the Court, must be retained by the Registered Participant for five years after the case or adversary proceeding has been closed. The CM/ECF system provides notice of all case closings to Registered Participants. Upon request of the Court, the Registered Participant filer must provide to the Court the original, signed pleadings/documents for review.

10. Notice of Electronic Filing and Service: Whenever a pleading, document or court order is filed electronically in accordance with these ECF Procedures, the system will automatically generate the Notification of Electronic Filing, which will be emailed to all Registered Participants who have consented to electronic service and have appeared in the case or adversary proceeding in which the document is filed. This transmission of the Notification of Electronic Filing to a Registered Participant shall constitute effective service in accordance with BLR 9013-3(c) and 9022-1(b).

Beginning May 1, 2008 all new CM/ECF Registered Participants will be given the option to consent in writing to receive service electronically by checking the appropriate box on the Clerk’s Office CM/ECF Registration form. CM/ECF Registered Participants who registered prior to April 30, 2008 will be required to reaffirm their consent to receive electronic service. The Clerk’s Office shall solicit written consents, consistent with FRCP 5(b)(2)(E), from all those Registered Participants via an electronic consent process.

Registered Participants who DO NOT consent to electronic service WILL NOT receive a Notification of Electronic Filing and their name and mailing address will appear at the bottom of the Notification of Electronic Filing (as an alert that this party will only accept service by regular first class mail).

All Registered Participants who consent to electronic service shall maintain a current and active e-mail address with the court to receive Notification of Electronic Filing. To enable proper service via the transmission of the Notice of Electronic Filing, in pending cases, Registered Participants shall not withdraw their e-mail address from any case or ECF

de-activate their e-mail account while involved in any adversary proceeding or contested matter without prior notification to the Clerk's Office of their new e-mail address or the filing of a proper withdrawal from case, consistent with Civil LR 11-5, incorporated by reference by BLR 1001-2(31).

11. Technical Failure: If the Court's CM/ECF site is unable to accept filings continuously or intermittently over the course of any period of time greater than two hours after 9:00 a.m. on any given day, a party whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court. The Court shall determine whether a technical failure has occurred on a case by case basis. Problems occurring on the filer's end, including those related to phone lines, Internet Service Providers (ISP) or hardware and software, will not constitute a technical failure under these procedures nor excuse an untimely filing. A filer who cannot file a pleading/document electronically because of a problem on the filer's end must file the pleading/document conventionally or by facsimile pursuant to Civil LR 5-2, incorporated by reference by BLR 1001-2(20).

12. Fees: For filings that require a fee, the CM/ECF system will prompt the filer (Registered Participant) to enter credit card information (card number, and expiration date and security code) and the payment amount following the transaction. "Credit Card Authorization Forms" are no longer required by the Court for CM/ECF credit card transactions. The credit card receipt shall include a reference to the case and docket number. Funds will be automatically charged to the card holder's account by the United States Treasury Department. All credit card filing fee payments are subject to audit and review by Clerk's Office staff. Any identified discrepancy will be brought to the attention of the filer (Registered Participant). The CM/ECF system will automatically disable access for Registered Participants with filing fees outstanding at midnight of the filing date. The Registered Participant whose access to CM/ECF has been disabled will be able to login to CM/ECF but will not be able to view or file any documents until he or she clicks on the "Utilities" then "Internet Payments Due" and pays the outstanding fees. Once the outstanding fees are paid, the Registered Participant's system's access to file and view electronic documents will be immediately reinstated. Payments must be made within 24-hours or the case/matter is subject to dismissal/being stricken.

13. Summons in an Adversary Proceeding: To file an adversary proceeding, a Registered Participant shall electronically prepare the standard form 250B, "Summons and Notice of Scheduling Conference in an Adversary Proceeding" (Summons) or for the San Jose division, "Summons and Notice of Telephonic Status Conference or Summons and Notice of Status Conference" (Summons) and electronically file it as an attachment to the electronically filed Complaint. The Court shall continue to issue these Summons in the conventional, paper (hard copy) form. The deputy clerks will print a hard copy of the submitted Summons from the CM/ECF system and will issue and sign the Summons. This completed hard copy of the Summons, with a blank Certificate of Service on the ECF

reverse side, will be returned via first class mail to the filer (to be served in the conventional manner). In the event an Alias Summons is required, the original hard copy unexecuted Summons (Summons issued but not served) shall be returned to the Clerk's Office, along with a hard copy proposed form of Alias Summons. The deputy clerk will issue and sign the hard copy Alias Summons and will send it via first class mail to the submitting party.

14. Policy for Chambers Copies of ECF Filed Documents: The judge(s) at each divisional office (with the exception of the Santa Rosa division) have identified policies and procedures for lodging Chambers copies of ECF Filed documents. Registered Participants are directed to the Court's web site at www.canb.uscourts.gov > *ECF* > *Reference Desk* section for specific information regarding the lodging of Chamber's copies.

15. Corrections: Once a Pleading or document is electronically filed and becomes part of the electronic record, corrections to the docket entry may be made only by the Clerk's Office staff. A pleading or document may be incorrectly filed as the result of e.g., posting the incorrect PDF file to a docket entry, selecting the incorrect document type from the menu selection, or entering the incorrect case number, etc. The CM/ECF system will not permit a Registered Participant to remove or reattach an incorrectly filed pdf document or to change the form of an incorrect docket entry once the transaction has been accepted. In the event an electronic filing error is discovered, the Registered Participant should contact the Clerk's Office as soon as possible at the location where the case is pending and ask the Clerk's Office staff to make the correction. The Registered Participant should be prepared with the case number and document number for which the correction is being requested. If appropriate, the Clerk's Office staff will make an entry indicating that the pleading/document was filed in error. The Registered Participant will be advised if the pleading/document will need to be re-filed and instructed on the proper procedure.

16. CM/ECF System Unavailability: During 2:00 a.m. to 3:00 a.m. every day and for 24 hours on the third Saturday of every month, the Court's CM/ECF system will be unavailable to Registered Participants for filing due to regular system maintenance and back-up operations. Any other downtime will be posted on both the CM/ECF home page and the Court's internet site. Registered Participants are instructed not to attempt to access this site during these periods of unavailability.

17. Access to CM/ECF via the Clerk's Office Lobby Terminals and PACER: Electronic access to CM/ECF dockets and documents electronically filed in the system is available to the public for viewing at no charge in each of the divisional offices during regular business hours. A fee for a paper copy of an electronic document is required in accordance with 28 U.S.C. Section 1930. In accordance with the ruling of the Judicial Conference of the United States, a user fee will be charged for access to dockets and

documents electronically filed in the system through the Public Access to Court Electronic Records System (PACER).

18. Pro se Filing: For pro se litigants filing with this Court, all petitions, pleadings and other documents shall be prepared and filed on paper. Pro se litigants shall not have access to electronic filing (except for Limited Access Accounts for filing Proofs of Claim, Transfer of Claims, etc). For more information see the Court's web site at www.canb.uscourts.gov > *ECF*. All pro se paper filings shall be scanned by Clerk's Office staff to enable an electronic record to be created.