

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

In Re:

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**REVISING LOCAL
BANKRUPTCY RULES**

**ADMINISTRATIVE
ORDER NO. 16-02**

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**ORDER AMENDING LOCAL BANKRUPTCY RULES 7012-1, 7056-1, 9033-1
AND ADMINISTRATIVE ORDER 03-02, EXHIBITS A & B**

WHEREAS, the Court has determined that it is necessary to amend Local Bankruptcy Rules 7012-1(a), 7056-1, 9033-1 and Administrative Order 03-02, Exhibits A & B, as reflected in the attached.

NOW, THEREFORE, **IT IS ORDERED** that:

Pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure, the attached revisions are adopted by the Judges of this Court to be effective December 1, 2016. The amendments shall be effective as to all proceedings pending in this Court on that date insofar as is just and practicable, and shall govern all proceedings in bankruptcy cases thereafter commenced in this Court.



Nancy V. Alquist, Chief Judge

Dated: November 30, 2016

RULE 7012-1 ~~CORE OR NON-CORE MATTERS~~ FINAL ORDERS AND JUDGMENTS

(a) Prior to trial, ~~a~~ any party may move for a ruling as to whether the bankruptcy court may enter final orders or judgments in an adversary proceeding. ~~that an adversary proceeding is core or non-core.~~ The court will ordinarily allow adverse parties fourteen (14) days from service of the motion to file responses. Such a motion does not postpone any time periods unless ordered by the court.

(b) In addition to the provisions of Federal Bankruptcy Rules 7008(a) and 7012(b), all parties in an adversary proceeding shall include in their initial filing a statement as to whether the party consents to entry of final orders or judgments by the Bankruptcy Judge.

RULE 7056-1 **WHERE SUMMARY JUDGMENT IS REQUESTED AGAINST PARTY WITHOUT COUNSEL**

The notice of any motion seeking summary judgment in which the non-moving party is without counsel shall conform substantially to Official Form 20A and, in addition, shall set forth the requirement for a response in substantially the following form:

NOTICE

A motion for summary judgment is a request that one or more issues in a case be decided without holding a trial. Motions for summary judgment are governed by Rule 56, Federal Rules of Civil Procedure. Summary judgment may be granted if (a) the material facts are not genuinely disputed and (b) based on those facts, the party asking for summary judgment is entitled to judgment as a matter of law. If you wish to oppose the motion, you must file with the court and serve on the other party, a written response within fourteen (14) days from the service date of the motion if it was served by hand, plus three (3) additional days if the motion was served by mail; ~~electronic means, or other means consented to in writing.~~ **If you fail to file a timely written response to the motion, the court may assume you do not oppose the motion and may grant the motion without holding a hearing.** This will result in the termination of the matter in favor of the moving party. If you disagree with any of the facts stated by the other party, you must include with your response sworn statements from yourself or other knowledgeable witnesses supporting your version of the facts. A sworn statement may take the form either of an affidavit or a declaration signed under penalty of perjury. Any documents you want the court to consider should be identified in, and attached to, the sworn statements. If you are

unable to obtain sworn statements supporting your position, you must file a sworn statement stating why you are unable to obtain such statements at this time.

RULE 9033-1 PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

~~(a)~~ Designation of the Record. When a party has objected to proposed findings or conclusions pursuant to Federal Bankruptcy Rule 9033(b), for the purpose of preparing the record and identifying the issues for the District Court, the parties will follow the procedures set forth in Federal Bankruptcy Rule 8009 by treating any objection as an appeal. The bankruptcy judge may order the designated extract supplemented.

~~(b) Application of Federal Bankruptcy Rule 9033 to Stern Claims. Federal Bankruptcy Rule 9033 shall apply to objections to proposed findings and conclusions entered in core matters in accordance with *Stern v. Marshall*, 131 S.Ct. 2594 (2011).~~

**ELECTRONIC CASE FILING
PROCEDURES FOR ELECTRONIC USER ACCESS**

- I. Definitions. There are three categories of electronic users – filing, web filing, and non-filing users.
- A. *Filing User* – One who has a Court-issued login and password to file documents electronically. There are two types of Filing Users: Creditor Designees and Full Participants.
1. *Creditor Designee* – A Filing User who is eligible to file only proofs of claim, transfers of claim, withdrawals of claim, requests for notice, requests for preferred address, and reaffirmation agreements, or Notices of Mortgage Payment Change, and Notices of Postpetition Mortgage Fee, Expenses, and Charges pursuant to Federal Bankruptcy Rule 3002.1 using CM/ECF via the Internet, with the Clerk. (See Exhibit B).
 2. *Full Participants* – Attorneys in good standing admitted to the Bar of this Court, including those admitted *pro hac vice*; attorneys representing the United States Government; United States trustees and their assistants; bankruptcy administrators and their assistants; and bankruptcy trustees may register as Filing Users of the Court’s CM/ECF System. Full Participants may also choose to designate staff to act as *Filing Agents* with the authority to file electronically on behalf of the Full Participant.
- B. *Web Filing User* – One who is filing a proof of claim electronically via the Court’s web page. No login or password is required to file a proof of claim. (See Exhibit D)
- C. *Non-Filing User* – One who has a Court-issued login and password for the purpose of receiving email notifications of case activity. This designation is for use by self-represented debtors, debtors represented by attorneys, attorneys not admitted to practice in this state, and other Non-Filing Users. (See Exhibit C). As the name implies, a Non-Filing User may not file documents electronically.

II. Logins and Passwords

One login and password will be assigned by the Court to each user (excluding Web Filing Users). Users must protect the security of their logins and passwords and immediately notify the Court’s Help Desk by phone or email to prevent unauthorized access. A Full Participant may obtain additional logins for Filing Agents from the Court.

III. Registration

- A. *How to Register* – To register and apply for a password, an applicant must complete the appropriate form found in the registration process on the Court’s website at www.mdb.uscourts.gov.
- B. *Training Requirements* – Full Participants, who have not filed electronically in another bankruptcy court, must complete an online training course to receive a login and password for the CM/ECF system. Full Participants, who have filed electronically in a bankruptcy court in another district, must complete a Training Waiver certifying the Filing User is a registered user in another bankruptcy court and is familiar with the Local Bankruptcy Rules for the District of Maryland, all administrative orders, and the attachments thereto.
- C. *Notice – Waiver and Consent* – Creditor Designees and Full Participants must maintain a current e-mail address. Registration as a Full Participant 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. Waiver of service and/or notice by first-class mail applies to notice of entry of an order or judgment under Federal Bankruptcy Rule 9022. Non-filing users do not waive their right to receive notice by first class mail.
- D. *Withdrawal* – Once registered, a Filing User may withdraw from participation in the System by written request to the Clerk. Upon receipt, the Filing User’s login will be canceled and the Filing User’s name will be deleted from the electronic service list.

IV. Filing

- A. Effect of Filing Electronically
 - 1. *Transmission Constitutes Filing* – Electronic transmission of a document to the CM/ECF system consistent with these procedures, 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 Bankruptcy Rules and constitutes entry of the document on the docket kept by the Clerk under Federal Bankruptcy Rule 5003.
 - 2. *Binding Effect on Filing Party* – When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Clerk, 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.
 - 3. *Deadlines* – Electronic filing of a document does not alter the deadline for filing that document. Except where the presiding judge specifically requires an earlier filing time, filing must be completed before midnight local time where the Court

is located in order to be considered timely filed that day. All references to time contained in these Electronic Case Filing Procedures are to Eastern Standard Time or Eastern Daylight Time, whichever is applicable at the time of filing.

B. Filing Requirements in CM/ECF

1. Except as expressly provided for in Section IX of these procedures, and in exceptional circumstances which prevent a Filing User from transmitting a pleading or other document using CM/ECF via the Internet, all pleadings or other documents required to be filed with the Clerk in connection with a case assigned to CM/ECF shall be filed as follows:

- a. Filing Users shall transmit all pleadings or other documents electronically via the Internet.
- b. Parties with non-registered legal representation are requested to file all pleadings or other documents electronically in portable document format (“PDF”) through submission of a ~~computer diskette or~~ CD ROM.
- c. Parties without legal representation may file all pleadings and other documents by paper, or in PDF format through submission of ~~computer diskette or~~ a CD-ROM.

~~2. *Certificate of Service* – Where a paper or pleading must be accompanied by a certificate of service, the certificate of service shall be filed as the last page of the original paper or pleading, and it must specifically identify the document being served along with the names and addresses of the parties and the means of service.~~

~~3.~~2. *Technical Problems* – If the CM/ECF system is inaccessible due to Court technical problems, the Court will accept alternate means of filing; notice of which will be on the Court’s web-site. If the Filing User is having technical problems, it is the Filing User’s responsibility to arrange for timely filing by other means.

~~4.~~3. *Large Documents* – The system cannot accommodate documents larger than twenty (20) megabytes in size. Large documents can be segmented into attachments to meet the document size parameters.

~~5.~~4. *Fees Payable to the Clerk for filings that require a fee* –

- a. Filing Users shall make payment via the interactive credit card program or on-line ACH program.
- b. Non-Filing Users and Non-Registered Parties must tender payment as provided by Local Bankruptcy Rule 1006-1.

V. Orders

- A. *Validity and Effect* – All orders, decrees, judgments, and proceedings of the Court will be entered in accordance with these procedures and will satisfy the requirements of Federal Bankruptcy Rules 5003 and 9021.
- B. *Required Submission and Form* – All requests for relief, except motions to dismiss or convert and pleadings initiating adversary proceedings under Federal Bankruptcy Rule 7001, must be accompanied by a proposed order. Such orders shall be filed as an attachment to the pleading. Orders that are submitted other than with the pleading, such as consent orders and orders embodying a ruling, shall be uploaded directly into the Court’s E-Orders system.

1. *Stipulations and Consent Orders* –

- a. Consent orders shall be circulated and signed conventionally. The original consent order bearing original signatures of the consenting parties shall be maintained by the Filing User until three (3) years after the bankruptcy case is closed.
- b. The name (in the form appearing on the original) of each party executing the Stipulation or proposed Consent Order must be printed at the end of the text, preceded by /s/ to indicate an original signature.
- c. Attorneys submitting proposed consent orders must include the following certification of consent:

I HEREBY CERTIFY that the terms of the copy of the consent order submitted to the Court are identical to those set forth in the original consent order; and the signatures represented by the /s/_____ on this copy reference the signatures of consenting parties on the original consent order.

2. *Proposed Orders* –

All orders submitted electronically must conform to the following specifications:

- a. The top margin on the first page must be no less than three (3) inches.
- b. The last line in the proposed order must state “End of Order,” and it must be centered in the middle of the line and in bold lettering to indicate the end of the order.
- c. There must not be a signature line for the judge. The judge will electronically sign the document in the blank space provided by the top margin on the first page.
- d. Multi-page orders must contain page numbers at the bottom center of each page.

VI. Attachments and Exhibits to Pleadings and Proofs of Claim

Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless the Court permits conventional filing. 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. 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.

VII. Conventional Filing; Exceptions to Electronic Case Filing

Trial exhibits shall be filed conventionally in accordance with Local Bankruptcy Rule 7016-1(c).

VIII. Sensitive Documents

- A. *Sealed Documents* – ~~A motion to file document(s) under seal shall be filed electronically; the actual document(s) to be sealed may be attached to the Motion and will be restricted from public viewing. The order of the Court authorizing the filing of such documents(s) under seal will be entered electronically by the Clerk.~~ Any party who seeks to file documents under seal must file a motion to that effect. The proposed sealed documents shall be filed separately from the motion, as restricted documents, in accordance with the CM/ECF Manual.
- B. *Writs* – Requests for the issuance of a writ in aid of collection or recovery of property shall be filed electronically. The request is a private entry which prevents it from being viewed by parties. This status will be changed to a public docket entry when one of the following events occur: (1) 30 days have passed since the issuance of the writ, (2) a certificate of service of the writ has been filed, or (3) an answer to the writ is filed.

IX. Required Retention of Original Documents

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 three (3) years after the bankruptcy case is closed. Upon request of the Court or an interested party, the filer must provide original documents for review.

X. Signatures

- A. All pleadings and other papers and documents filed electronically shall indicate the signature by placing “/s/ *Filing User’s Name*” where the original signature occurs.
- B. Use of the Filing User’s login and password on the CM/ECF System constitutes the Filing User’s signature for all purposes for documents which must contain original signatures.
- C. In addition to the indicated signature, attorneys filing electronically must comply with Local Bankruptcy Rule 9011-1.

XI. Service of Documents

- A. *Automatic Service by the CM/ECF System on Registered Participants* – Upon filing of any pleading, the CM/ECF system will send a “Notice of Electronic Filing” to all registered Filing Users who have entered an appearance or requested notice in that case, and the confirmation received by the filing parties will contain a list of all parties receiving such notice. Debtors who have elected to receive notifications of case activity as a Non-Filing User are still entitled to receive paper copies of all filings they would otherwise have received in paper form.
- B. *Confirmed Transmission Constitutes Service* – Electronic transmission of the Notice of Electronic Filing constitutes service or notice of the filed document. A party filing electronically is not otherwise required to serve the pleading or other document on any party who is a registered CM/ECF participant and has consented to electronic notice.
- C. *Service on Parties Not Consenting to Electronic Notice* – Parties who have not consented to electronic notice or service are entitled to receive a paper copy of any electronically filed pleading or other document.
- D. *Service of a Summons under Federal Bankruptcy Rule 7004 or Subpoena under 9016 must also be served in paper form.* Return of service may be filed electronically.
- E. *Chambers Copies* – Printed paper copies of the following documents are required to be delivered to the Chambers of the presiding Judge at the time that the original documents are electronically filed:
 - 1. Motions, attachments, exhibits, and proposed orders filed at the outset of Chapter 11 cases for which expedited decisions are requested (commonly referred to as “first day motions”).
 - 2. All motions, attachments, exhibits, and proposed orders for use of cash collateral and/or approval of post-petition financing.
 - 3. Complaints, motions, exhibits, and proposed orders in adversary proceedings in which a temporary restraining order is requested.

4. Motions, attachments, exhibits, and proposed orders that seek “emergency relief” on less than 2 business days notice.
5. Plans of reorganization or liquidation and disclosure statements filed in Chapter 11 cases.

~~F. *Additional Time after Service by Electronic Means.* Three (3) days shall be added to the prescribed period when there is (1) a right or requirement to do some act or undertake some proceedings within a prescribed period after service of a notice or other document and (2) the notice or other document, other than process, is served by electronic means pursuant to Federal Bankruptcy Rules 7005 and 9006~~

XII. Notice of Court Orders and Judgments

- A. *Entry of Court Orders and Judgments* – Upon entry of an order or judgment, the Clerk will transmit a Notice of Electronic Filing to Filing Users who have entered an appearance or requested notice in the case upon entry of an order or judgment. Debtors who have elected to receive notifications of case activity as a Non-Filing User are still entitled to receive paper copies of all filings they would otherwise have received in paper form.
- B. *Transmission Constitutes Notice* – Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Federal Bankruptcy Rule 9022.

XIII. Public Access

- A. *Public Access at the Court* – Access to the electronic docket and documents filed in the CM/ECF system is available to the public at no charge at each Divisional Office of the Clerk during regular business hours.
- B. *Internet Access* – There are two forms of Internet Access, a CM/ECF login and PACER login. Full Participants and Creditor Designees are given Court specific CM/ECF logins in order to file documents electronically. Non-Filing Users are provided logins to monitor case activity by receiving email notification. All users must obtain a PACER login to view documents. A PACER login may be obtained at <http://pacer.psc.uscourts.gov>. PACER logins apply to all Federal Courts.
- C. *Limited Access; Privacy* – Any person may apply by motion for an order limiting electronic access to, excusing, 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 is likely to prejudice those privacy interests.
- D. *Paper Copies and Certified Copies* – Paper copies and certified copies of electronically filed documents may be purchased at the Office of the Clerk. The fee for copying and certification will be in accordance with 28 U.S.C. § 1930.

**PROCEDURES FOR ELECTRONIC FILING OF
DOCUMENTS BY CREDITOR'S DESIGNEE**

I. Registration

- A. *Forms* – An entity, including a governmental entity, (“Creditor”) desiring to electronically file proofs of claim, transfers of claim, reaffirmation agreements, or Notices of Mortgage Payment Change, and Notices of Postpetition Mortgage Fee, Expenses, and Charges pursuant to Federal Bankruptcy Rule 3002.1 should complete and submit the **Creditor/Creditor Designee Registration** Form found in the registration process on the Court’s website under Electronic Filing, Training and Registration.
- B. *Transmittal of Password* – Each Creditor Designee will receive a login and password via email notification after the court has reviewed the requestor’s registration.
- C. *Password Security* – Creditor Designees should change their passwords periodically. Any Creditor Designee having reason to believe that the security of an existing password has been compromised or that a threat to the Court’s computer system may exist shall immediately notify the Court’s Help Desk by phone or email to prevent unauthorized access.

II. Electronic Filing of Documents

Creditors and their designees who electronically file proofs of claim, transfers of claim, reaffirmation agreements, or Notices of Mortgage Payment Change, and Notices of Postpetition Mortgage Fees, Expenses, and Charges pursuant to Federal Bankruptcy Rule 3002.1 shall comply with the following procedures:

- A. *Form of Proof of Claim* – Each proof of claim must conform to Official Form 410 with respect to the information requested by that form, subject to the instructions concerning attachments below. Proofs of claim that are filed electronically must be text documents in PDF format (as opposed to scanned or imaged documents). By electronically filing the proof of claim or transfer of claim with a “/s/” representation of his/her signature, the Creditor Designee or creditor certifies the accuracy of the claim and that it is filed in good faith. The proof of claim form must include the following statement from Official Form 410: “~~Penalty for presenting fraudulent claim: *fine of*~~ A person who files a fraudulent claim could be fined up to \$500,000, imprisoned ~~or imprisonment~~ up to 5 years, or both.² 18 U.S.C. §§ 152, 157 and 3571.”
- B. *Form of Transfer of Claim* – A transfer of claim shall state the claim number(s) of the proofs of claim for each transferred claim.
- C. *Attachments* – Any document filed as an exhibit to a proof of claim shall be excerpted so as to include only the portion minimally necessary to support the claim. Only those

portions of documents should be attached that evidence the amount of the claim and demonstrate the claimant's interest, i.e., a note and critical portions of deeds, mortgages and security agreements. Examples include pages containing recording information, parties to the instrument, signatures, grants of liens or security interests, collateral descriptions, and summaries of accounts rather than copies of invoices. Exhibits must be prominently identified as an excerpt and the Creditor must make the original exhibit available in its entirety upon request by a party or the Court. Creditors filing excerpts of exhibits pursuant to this procedure do so without prejudice to their right to file additional exhibits or unedited exhibits.

- C. *Signatures; Authorization; Representations* – No person or entity shall cause a proof of claim, transfer of claim, or reaffirmation agreement to be filed electronically without the express authorization of the individual whose signature appears on the document for the entity on whose behalf the document is being filed. The name of the signatory on the pleading should be typed beneath the signature line.
- D. *Creditor Designee* – The Creditor Designee is the individual who authorizes the filing of a proof of claim, transfer of claim, or reaffirmation agreement. The “/s/” representation of the Creditor Designee shall constitute that person's signature for purposes of Federal Bankruptcy Rule 9011 and 18 U.S.C. §§ 152 and 3751. The signature of the Creditor Designee must appear on every document filed electronically on behalf of the Creditor, by placing “/s/ [Name of Creditor Designee]” on the signature line.
- E. *Electronic Filing of Pleadings – Representations to the Court* – In filing a document, the Creditor Designee certifies that:
 - 1. He/she is authorized to file the document by the entity on whose behalf the document is being filed;
 - 2. The Creditor is the same entity stated on that individual's application to use the CM/ECF system; and
 - 3. The Creditor Designee who electronically files a document certifies, on behalf of the Creditor, that the information in the pleading is true and correct within the meaning of Federal Bankruptcy Rule 9011.

PROCEDURES FOR NON-FILING USER ACCESS

I. Registration

- A. *Forms* – An individual desiring to monitor case activity by receiving email notifications through CM/ECF should complete and submit the online Non-Filing User Registration Form found in the registration process on the Court’s website under Electronic Filing, Training and Registration.
- B. *Transmittal of Password and Login* – Each Non-Filing User will receive a login and password upon registration.
- C. *Password Security* – Non-Filing Users should change their passwords periodically. Any Non-Filing User having reason to believe that the security of an existing password has been compromised or that a threat to the Court’s computer system may exist shall immediately notify the Court’s Help Desk by phone or email to prevent unauthorized access.

II. Non-Filing User Access

- A. *Notification Requests* – After logging in to CM/ECF, the Non-Filing User must update the Additional Cases List in the user account screen with the case number(s) to receive email notification. Without this information correctly entered, email notification will not be provided. Directions will be sent when the user account is created.
- B. *Email Notification and Viewing Documents* – When there is activity in a listed case, the Non-Filing user will receive an email notification. To view documents, Non-Filing Users will need a PACER account and standard fees will apply. For more information see the PACER center web page at <http://pacer.psc.uscourts.gov>. Non-Filing Users will continue to receive paper notices from the Court at no cost. **Email notifications are for convenience only.**

**PROCEDURES FOR ELECTRONICALLY FILING PROOFS OF CLAIM
(ePOC)**

Proofs of Claim forms for all chapters may be filed electronically via the ePOC system on the Court's website. No login or password is required. Further information about ePOC and instructions for using it are located on the Court's web site at <http://www.mdb.uscourts.gov/content/electronic-filing-claims>.

Notices of Mortgage Payment Change – Supplement 1 and Notices of Postpetition Mortgage Fees, Expenses, and Charges – Supplement 2 filed pursuant to Federal Bankruptcy Rule 3002.1, must be filed through CM/ECF and not through ePOC.