

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND

In Re: * ADMINISTRATIVE
ORDER NO. 03-04
Amending Local Bankruptcy *
Rules and Procedures for CM/ECF *
DATED May 5, 2003

* * * * *
ORDER AMENDING LOCAL BANKRUPTCY RULES AND PROCEDURES

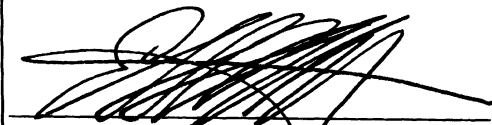
The Court finds that there is cause to amend certain Local Bankruptcy Rules to clarify the requirement for proof of signature and the submission of proposed orders for relief from the automatic stay.

Furthermore, the Court finds there is cause to modify the procedures for filing a Certificate of Service contained in Exhibit A to Administrative Order 03-02, to expedite the flow of work.

WHEREFORE, effective May 5, 2003, the Local Bankruptcy Rules for the District of Maryland are amended as reflected in the attachment and Exhibit A is modified as attached. This order shall stand in effect until the Local Bankruptcy Rules are revised and reissued.

SO ORDERED.


Chief Judge James F. Schneider


Judge E. Stephen Darby


Judge Paul Mannes


Judge Duncan W. Keir

PART I

RULE 1002-1 PETITION - GENERAL

(a) The petition will be dismissed without a hearing if:

(1) the petition is not signed ~~with original~~
~~signature(s)~~ by the debtor;

(2) the party filing the petition neither pays the prescribed filing fee with the petition nor files with the petition an application to pay the required fee in installments, if eligible to do so;

(3) the debtor does not file the master mailing matrix with the petition;

(4) a Chapter 11 debtor does not file the list of twenty (20) largest unsecured creditors with the petition;

(5) the petition is submitted by a debtor who is not an individual and is not represented by an attorney who is a member of the bar of the District Court; or

(6) the petition is submitted by a person who, under either 11 U.S.C. § 109(g) or an order of court, may not be a debtor at the time of the submission of the petition.

(b) Other Deficient Petitions and Papers - Notice of Deficient Filing.

The Clerk can issue a notice:

(1) specifying deficiencies -- except those described in subsection (a) -- in the petition, schedules, and associated papers; and

(2) stating that the petition, schedule or associated papers may be stricken or the case dismissed if the deficiencies are not corrected within five (5)

business days after the date of issuance of the deficiency notice.

PART IV

RULE 4001-1 AUTOMATIC STAY - RELIEF FROM

(a) Form of Motion. A motion for relief from the automatic stay of 11 U.S.C. § 362(a) must be titled "Motion for Relief from Stay" or a similar phrase. The motion's caption must be in the format used in Official Bankruptcy Form 16D for an adversary proceeding. The motion may not be combined with a request for any other relief, except for adequate protection or for relief from the co-debtor stay of 11 U.S.C. §§ 1201(a) or 1301(a).

(b) Contents of Motion for Relief from Stay. The following material, when applicable, must be included in a motion for relief from stay:

(1) A detailed statement of the debt owed to the movant;

(2) If periodic payments are in arrears, the amount of arrears accrued prepetition and the amount of arrears accrued postpetition;

(3) A description of the property encumbered;

(4) A description of the security interest involved, with attached documents that evidence the security interest and its perfection;

(5) A statement of the basis for the relief claimed, such as, a lack of adequate protection or the absence of equity and that the property is not necessary for an effective reorganization. The specific facts constituting cause shall be set forth if a motion is brought for cause;

(6) If movant asserts a valuation of the subject property, the motion should state the amount of the

valuation, the date, and the basis therefor (appraisal, blue book, etc.);

(7) The specific nature of the relief from stay that is requested; and

~~(8) The proposed order accompanying the motion shall grant the specific relief requested in the motion.~~

(c) Service of Motion and Notice of Hearing.

(1) The Clerk will maintain a list of dates available for hearings on motions for relief from stay on the calendar of each judge of the court. The list will be posted in the public area of each division and published by such other means selected by the Clerk.

(2) Movant must select a hearing date from the list for the judge to whom the case is assigned that is more than twenty-one (21) days after the date of service.

(3) Movant must serve the motion for relief from stay with a hearing notice conforming to Local Bankruptcy Form B. The motion and hearing notice must be served upon all entities entitled to notice of the motion for relief from stay.

(d) Filing of Proof of Service. Within five (5) business days after service, the movant must file the motion for relief from stay, the notice of hearing, and a certificate of service covering both. The certificate must comply with Local Bankruptcy Rule 9013-4.

(e) Responses to Motions for Relief from Stay.

(1) Time. If no response to the motion for relief from stay is filed within seventeen (17) days after the date of the notice, the court may rule on the motion as unopposed.

(2) Form. The caption of the response must be the same as the form for the caption of the motion as set out in paragraph (a) above.

(3) Pleading. A response must include detailed answers to each numbered paragraph of the motion, in conformity with the requirements of Fed.R.Civ.P. 8(b) and (d). All defenses to the motion must be stated in the response.

(4) Response by Standing Chapter 12 and 13 Trustees. Standing Chapter 12 and Chapter 13 Trustees are served for informational purposes and are not required to respond to motions for relief from stay.

(f) Unopposed Motions. If a timely response opposing the relief requested is not filed to a motion served in accordance with this Rule, the court may grant or otherwise dispose of the motion before the scheduled hearing date.

(g) Requirements Under 11 U.S.C. § 362(e).

(1) Waiver. If a movant notices a hearing date more than thirty (30) days after the date of the filing of the motion, movant is deemed to have consented to the inapplicability of 11 U.S.C. § 362(e) through the day of the hearing on the motion for relief from stay.

(2) Commencement of Measuring Period. A request for relief under 11 U.S.C. § 362(d) is complete to commence the thirty (30) day measuring period under § 362(e) only when filed and noticed in compliance with this Rule.

(h) Deadline for Pre-filing Exhibits. In cases under Chapter 11, exhibits must be pre-filed as required by Local Bankruptcy Rule 7016-1(c) no later than the third business day before the noticed hearing date.

RULE 9013-3 ORDERS - PROPOSED

(a) All requests for relief, except motions to dismiss or convert and pleadings initiating adversary proceedings under Federal Bankruptcy Rule 7001, must be accompanied by proposed

order. The proposed order must contain a specific title describing the nature and effect of the order. The names and addresses of all counsel or other parties in interest who should receive copies of the order shall be set forth in the lower left-hand corner of the final page of the proposed order or carried over to another page. The chapter of the case shall be stated in the caption.

(b) Proposed orders for motions for relief from the automatic stay and responses thereto should be submitted to the court upon the earlier of:

- (1) A consent being reached by all parties; or,*
- (2) After the conclusion of the hearing on the motion.*

ELECTRONIC CASE FILING PROCEDURES

I. Definitions

- A. *Filing User* - One who has a Court-issued login and password to file documents electronically.
- B. *Creditor's Designee*- A Filing User who is eligible to file only proofs of claim forms, via the Internet component of CM/ECF, with the Clerk.
- C. *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.

II. Logins and Passwords

One login and password will be assigned by the Court to each Filing User. Upon a demonstration of need by application to the Court, a Filing User may obtain additional logins from the Court. Filing Users must protect the security of their logins and passwords and immediately notify the Clerk if security has been compromised.

III. Registration

- A. *How to Register* - To register as a Filing User and apply for a password, an applicant must complete the appropriate registration form, either the CM/ECF Full Participant Registration Form or the Creditor's Designee Registration Form. Forms are available from www.mdb.uscourts.gov.
- B. *Registration Submission* - Forms must be submitted to: CM/ECF Registration, Clerk, United States Bankruptcy Court for the District of Maryland, 101 West Lombard Street, Baltimore, Maryland, 21201, Or 6500 Cherrywood Lane, Greenbelt, Maryland, 20770. Only one registration form is required for participation at both divisions.
- C. *Training Requirements* - In order to receive a login and password for the CM/ECF system, Filing Users must:
1. Complete training required by the Clerk or;
 2. Complete training with the law firm's CM/ECF trainer who attended the Court's training class or;
 3. Be a registered user in another bankruptcy court and be familiar with the Local Bankruptcy Rules for the District of Maryland, all administrative orders, and the attachments thereto, and submit an affidavit to that effect.
- D. *Notice - Waiver and Consent* - 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 Fed. R. Bankr. P. 9022.

- E. *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 Fed. R. Bankr. P. 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 via the Internet component of CM/ECF, 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 User 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 3.5 inch computer floppy diskette (disk) or CD ROM.
 - c. Parties without legal representation may file all pleadings or other documents by paper, or in PDF format through submission of computer diskette, or CD-ROM.
2. *Certificates of Service to be Attached* - 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 an attachment* to the original paper or pleading, and it must specifically identify the document being served.
3. *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. *Large Documents* - The system cannot accommodate documents larger than one and one half (1.5) megabytes in size, 20 scanned pages, or 300 pages prepared in a word processing format and saved or printed to PDF. Large documents can be segmented into attachments to meet the document size parameters.
5. Fees Payable to the Clerk for filings that require a fee –
 - a. Filing Users shall make payment via the interactive credit card program.
 - b. 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 satisfies the requirements of Fed. R. Bankr. P. 5003 and 9021.
- B. *Required Submission and Form* - All requests for relief, except motions to dismiss or convert and pleadings initiating adversary proceedings under Fed. R. Bankr. P. 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-order system.
 1. *Stipulations and Consent Orders* - 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. 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. 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 be centered in the middle of the line and in bold lettering to indicate the end of the order.
 - c. Do not include 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 of each page.
 - e. The fonts used with Adobe Acrobat Writer version 3 or 4 must be Courier, Helvetica, or Times New Roman (regular, bold, italic, and bold italic). The fonts used with Adobe Acrobat Writer version 5 must be Arial, Courier, or Times New Roman (regular, bold, italic, and bold italic). Other fonts will not process correctly through the Court’s noticing center.

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

- A. *Sealed Documents* - A motion to file document(s) under seal may be filed electronically; however, the actual document(s) to be filed under seal shall be filed conventionally and only after the motion is granted. The order of the Court authorizing the filing of such document(s) under seal will be entered electronically by the Clerk and a paper copy of the order shall be attached to the document(s) under seal and delivered to the Clerk at the time of the filing of the documents(s).
- B. *Trial Exhibits* - Trial exhibits shall be filed conventionally in accordance with Local Bankruptcy Rule 7016(c).

VIII. 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.

IX. 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.

X. 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 participants 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.
- 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 Fed. R. Bankr. P. 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.* When there is 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 the notice or other document, other than process, is served by electronic means, pursuant to Fed. R. Bankr. P. 7005, three (3) days shall be added to the prescribed period.

XI. Notice of Court Orders and Judgments

- A. *Entry of Court Orders and Judgments* - The Clerk will transmit a Notice of Electronic Filing to Filing Users in the case upon entry of an order or judgment.
- B. *Transmission Constitutes Notice* - Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Bankr. P. 9022.

XII. 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* - Any person or organization, other than one registered as a Filing User under these procedures, may access the CM/ECF System at the Court's Internet site www.mdb.uscourts.gov by obtaining a PACER login and password. Those who have PACER access but are not Filing Users may retrieve docket sheets and documents, but may not file documents.
- 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.