

March 24, 2003

**Notice to Attorneys/Electronic Filers Regarding
Waiver of Conventional Notice and Consent to Notice by Electronic Transmission**

I. General Information

Rule 9036, Federal Rules of Bankruptcy Procedure establishes authority for the Court to permit notice by electronic transmission in lieu of mail. The Court has exercised that authority in Amended General Procedure Order No. 2001-8, and the Amended Administrative Procedures for Electronic Case Files attached thereto, which states that “[w]henver service is required to be made on a person who has filed a specific waiver of the right to personal service or first class mail and consent to electronic service/notice in a particular case, electronic transmission of the “Notice of Electronic Filing” shall constitute service or notice of the filed document.” Paragraph II.C.3.

II. Exclusions

Pursuant to paragraph II.C.4. of the Amended Administrative Procedures for Electronic Case Files, the filing of a waiver of conventional notice and consent to notice by electronic transmission by an electronic filer does not apply to the service or notice of certain documents. More specifically, “conventional service of documents in hard copy shall be required in the following instances:

(a) Service made in accordance with Fed.R.Civ.P. 4 or 45, or Fed.R.Bankr.P. 7004 or 9014, including service of the summons and complaint.

(b) Except for those agencies who file a consent to service by electronic means pursuant to Fed.R.Civ.P. 5(b) in a specific case, service upon an agency of the United States, including the United States Attorney, the United States Trustee, or the court.

(c) Service of notice pursuant to Fed.R.Bankr.P. 2002(a)(1).

(d) Upon the commencement of the case, the attorney for the debtor, or the debtor pro se, shall forthwith transmit a copy of the petition, schedules and statement of financial affairs, and in a chapter 11 case a copy of the list of 20 largest creditors or equity holders to the United States trustee, and to any trustee appointed in the case. If the attorney or debtor pro se does not

know the identity of the trustee, then two copies of the petition, schedules, and statement of affairs shall be transmitted to the U.S. Trustee who shall, in turn, transmit one copy to the trustee upon the trustee's appointment."

III. Filing Requirements:

A Waiver of Conventional Notice and Consent to Notice by Electronic Transmission ("Waiver and Consent") may be filed by the Electronic Filer in any case in which the Electronic Filer has entered his or her appearance. A separate Waiver and Consent must be filed in each case in which the Waiver and Consent is to apply.

IV. Consequence of Filing a Waiver and Consent

As a consequence of filing a Waiver and Consent in a specific case, and except for those exclusions provided above, the Electronic Filer waives his or her right to receive service or notice by conventional mail in that case or proceeding and consents to receive service or notice via electronic transmission. More specifically, the Electronic Filer consents to receive service or notice via the Notice of Electronic Filing that is automatically transmitted to the Electronic Filer upon entry of any paper or document in the court's CM/ECF system pursuant to paragraph II.C.2. of the Amended Administrative Procedures for Electronic Case Files.

V. How Do Attorneys/Parties Identify and Deselect Electronic Filers Who Have Filed a Waiver of Conventional Notice and Consent to Notice by Electronic Transmission?

To determine which attorneys have waived conventional service and consented to notice by electronic transmission, users should access the Attorney screen under the Query option in CM/ECF after entering the appropriate case or adversary proceeding number. The inscription "**Service Waived**" in bold red text will appear directly below the name of the attorney/Electronic Filer for those who have filed a Waiver of Conventional Notice and Consent to Notice by Electronic Transmission. This same inscription will also appear in the attorney's address block elsewhere throughout CM/ECF.

VI. Designating Notice by Electronic Transmission on the Certificate of Service

In completing the Certificate of Service, attorneys and other parties, if any, who have not been served because they waived conventional notice and consented to notice by electronic notice should be designated accordingly. This should be accomplished by adding the simple inscription "*Notice Waived by Electronic Filers*" followed by the names of those attorneys/parties to whom the inscription applies.

Bradford L. Bolton, Clerk