

FILED  
July 25, 2005  
U. S. Bankruptcy Court  
District of Colorado

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

IN THE MATTER OF THE  
IMPLEMENTATION OF  
MANDATORY ELECTRONIC  
FILING PROCEDURES FOR  
REGULAR FILERS

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SECOND AMENDED GENERAL PROCEDURE ORDER NUMBER 2001-8

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WHEREAS the Federal Rules of Procedure (Civil Rule 5(e), Bankruptcy Rules 5005(a)(2), 7005, 8008, 9011 and 9029) provide that a court may establish practices and procedures for the filing, signing and verification of documents by electronic means; and

WHEREAS, recommendations regarding administrative policies and procedures for filing, signing and verifying documents by electronic means have been tendered to the court by various focus groups consisting of judges, attorneys, practitioners, court personnel, and experts in related subject matter areas; and

WHEREAS, proposed Administrative Procedures for Electronic Case Files (ECF Procedures) based upon those focus group recommendations have been reviewed by the court; and

WHEREAS, the ECF Procedures are consistent with and further the responsibility of the clerk for the control of the court's docket pursuant to Fed.R.Bankr.P 5003 and 5005, including safeguarding the integrity of the court's docket, pursuant to the provisions of the Case Management/Electronic Case Files (CM/ECF) system of the United States Courts; and

WHEREAS, the ECF Procedures provide a means for the signature on documents through a secure mechanism for the creation and issuance of individual passwords; and

WHEREAS, the ECF Procedures provide adequate means for the filing, review and

retrieval of documents by parties who are not able to access CM/ECF from a remote location; it is therefore

ORDERED that:

1. In lieu of filing petitions, pleadings and other papers conventionally in paper format as prescribed in Local Bankruptcy Rule 904 and other rules, attorneys who file, on average, one or more documents per week and other Electronic Filers authorized by the Court shall file documents in an electronic format. Attorneys who file, on average, less than one document per week may, at their discretion, file documents in an electronic format. Except as otherwise provided in Paragraph II.A.7. of the Amended Administrative Procedures for Electronic Case Files, all documents filed with the Court, either electronically or via paper format, shall be converted to and stored as electronic documents. The electronic files, consisting of the images of documents filed in cases or proceedings and documents filed by electronic means, shall constitute the official record of the court together with any other records kept by the clerk. The Court may, in any matter at any time, request that a copy of a document be submitted to the judge in paper format.

2. The ECF Procedures attached hereto as Exhibit A (Amended Administrative Procedures for Electronic Case Files) are approved and shall apply to all attorneys who file, on average, one or more documents per week. To the extent feasible, the ECF Procedures shall also apply to all documents filed in this Court, whether such documents are filed electronically or by way of paper format.

3. The use of an attorney's password to file a document electronically shall constitute the original signature of that attorney for purposes of Fed.R.Bankr.P. 9011.

4. Each attorney, law firm or other person that obtains a password for electronic filing shall be responsible for its security and use. No attorney, law firm or other person shall knowingly permit or cause to permit an Electronic Filer's password to be utilized by anyone other than an authorized member, employee or agent of the Electronic Filer's law firm.

5. The request for and receipt of a CM/ECF password from the court shall constitute a request for electronic service pursuant to Fed.R.Bankr.P. 9036 of all notices, orders, decrees and judgments issued by the court, and except as otherwise provided in the ECF Procedures, a waiver of the right to receive notice and service from the court by mail. Electronic Filers continue to receive copies of notices, orders, decrees and judgments by regular postal mail in addition to electronic notification.

6. The electronic filing of a document in accordance with the ECF Procedures shall constitute entry of that document on the docket kept by the clerk pursuant to Fed.R.Bankr.P. 5003.

7. All orders, decrees, judgments and proceedings of the court shall, in accordance with the ECF Procedures, be entered on the docket kept pursuant to Fed.R.Bankr.P. 5003 and for

the purposes of Fed.R.Bankr.P. 9021.

8. To the extent that this order or the ECF Procedures is inconsistent with the Local Bankruptcy Rules and Forms for the District of Colorado dated December 1, 1999, this order and the ECF Procedures shall have precedence.

9. This order or the ECF Procedures may be amended or superseded by amendments to the Local Bankruptcy Rules and Forms for the District of Colorado as the court deems necessary.

10. This order shall become effective on September 1, 2005, and shall apply to all cases and proceedings pending on or filed after that date.

Dated: July 25, 2005.

BY THE COURT:

Sidney B. Brooks, Chief Judge  
A. Bruce Campbell, Judge  
Elizabeth E. Brown, Judge  
Howard R. Tallman, Judge  
Michael E. Romero, Judge

AMENDED ADMINISTRATIVE PROCEDURES FOR  
ELECTRONIC CASE FILES

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF COLORADO

September , 2005  
Attachment to Second Amended General Procedure Order No. 2001-8

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ADMINISTRATIVE PROCEDURES

I. Eligibility and Registration for the Electronic Filing System

A. Eligibility. Attorneys admitted to practice in the District of Colorado, and others

as the court deems appropriate, who file, on average, one or more documents per week shall register as Electronic Filers in the court's ECF system. Attorneys who file, on average, less than one document per week may register as Electronic Filers in the court's ECF system.

B. Password. Each Electronic Filer shall be entitled to one CM/ECF password for electronic retrieval, filing and noticing of documents in accordance with CM/ECF. Upon request and at the clerk's discretion, an Electronic Filer may receive multiple CM/ECF passwords based on caseload. Registration for a password is governed by paragraph I.C.

C. Registration.

1. Each Electronic Filer registering for CM/ECF shall enroll themselves and/or their designated staff person in and complete a CM/ECF Electronic Filer Training Program conducted by the clerk or, in lieu of attending a training class conducted by the clerk, obtain and complete a self-directed training program available from the clerk. Self-enrollment for the Training Program shall be via on-line at [https://ecf.cob.uscourts.gov/ecf\\_training.htm](https://ecf.cob.uscourts.gov/ecf_training.htm) and shall require the Electronic Filer applicant's name, address, telephone number, Internet e-mail address, and a declaration that the Electronic Filer, if an attorney, is admitted to practice in the District of Colorado. Upon completion of the on-line registration, the clerk shall transmit a registration confirmation form back to the Electronic Filer applicant. The clerk will use his discretion in a fair and nondiscriminatory manner to ensure that all registrants are treated fairly. Attorneys to whom these ECF procedures mandatorily apply shall be given preference in training class scheduling and may enroll two persons for any scheduled class. Attorneys to whom these ECF procedures do not mandatorily apply, i.e., those who file less than one document per week, may enroll only one person for any scheduled class, and classes may be rescheduled to accommodate those attorneys to whom mandatory ECF procedures apply.

2. All registration forms shall be submitted to the Clerk, U. S. Bankruptcy Court, District of Colorado, 721 19<sup>th</sup> Street, Denver, Colorado, 80202-2508, Attention: ECF System Registration, or [COBML\\_Training@cob.uscourts.gov](mailto:COBML_Training@cob.uscourts.gov).

3. The password required to submit documents to the ECF system serves as the Electronic Filer's original signature on all electronic documents filed with the court. Except as otherwise required by these Procedures, use of the ECF system password also serves as a signature for purposes of Fed.R.Bankr.P. 9011, other Federal Rules of Bankruptcy Procedure, the local rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court.

4. Electronic Filers agree to protect the security of their passwords and immediately notify the clerk if they learn that their password has been compromised. Electronic Filers may also find it desirable to change their assigned passwords periodically and may do so by contacting the Systems Department of the Clerk's Office.

5. The individual named in the CM/ECF registration Form L.B.F. ECF-1

remains the official recipient of the Electronic Filer's password. No Electronic Filer or other person may knowingly permit or cause to permit an Electronic Filer's password to be used by anyone other than an authorized agent of the Electronic Filer. All documents submitted via an Electronic Filer's password shall be considered "signed" by the Electronic Filer to whom the password is issued.

6. Application of these ECF Procedures shall be mandatory for all attorneys who file, on average, one or more documents with the court per week. Although not mandatory, application of these ECF Procedures shall be encouraged for all attorneys who file, on average, less than one document with the court per week.

D. Temporary Deactivation or Revocation of Password and Authority to File Electronically. The Court reserves the right to temporarily deactivate an Electronic Filer's password for failure to comply with the provisions of these ECF procedures. In addition, the Court reserves the right to revoke, after notice and hearing before the judge assigned to the specific case in which the attorney has failed to comply, an Electronic Filer's password and, consequently, his or her authority and ability to electronically file documents for failure to comply with any provision of the agreement contained in the Electronic Filer Registration Form, failure to adequately protect his or her password, failure to comply with the provisions of these Administrative Procedures for Electronic Case Files, failure to pay fees required for documents electronically filed, or other misuse of the electronic case filing system. For mandatory users of these ECF Procedures, the court recognizes that temporary deactivation or revocation of a password and authority to file electronically may limit or prohibit an attorney from practicing in the bankruptcy court.

## II. Electronic Filing and Service of Documents

### A. Filing.

1. Electronic Filing. Except as expressly provided in paragraph 11 below, all petitions, statements of affairs, schedules, motions, pleadings, memoranda of law, certificates of contested and non-contested matters, or other documents required to be filed with the court in connection with a case shall be electronically filed in accordance with these ECF procedures.

2. Waiver of Paper Format. Pursuant to Fed.R.Bankr.P. 5005(a)(2), a document filed by electronic means in accordance with General Procedure Order No. 2001-8 and these Administrative Procedures for Electronic Case Files, as amended, constitutes a written paper for the purpose of applying the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure made applicable by the Federal Rules of Bankruptcy Procedure, and § 107 of Title 11, United States Code, except as otherwise provided by these procedures. Electronic Filers who file documents electronically pursuant to these ECF procedures shall be excused from the provisions of L.B.F. 904(a) requiring that said documents be in paper form.

3. Proposed Orders on Motions. All motions electronically filed shall be



accompanied by a proposed order as an attachment in PDF format. All motions filed in paper format shall also be accompanied by a proposed order as an attachment thereto. The Court also may request that a proposed order be submitted in word processing document format to the judge via e-mail.

Proposed orders shall not be e-mailed unless expressly requested by the judge or his/her staff.

4. Application to L.B.R. 202 Matters. In addition to or pursuant to the provisions contained in this section, the following shall apply to L.B.R. 202 matters:

a. Motions, responses or objections thereto, notices, requests for hearings, certificates of service, and certificates of contested/non-contested matter may be filed electronically pursuant to these ECF procedures.

b. Certificates of contested/non-contested matter shall not include as exhibits attached thereto copies of the motion and all documents attached thereto, notice, certificate of service of the motion and notice, written objections and requests for hearings, but shall contain a reference to such documents by title and the document number assigned to each document as it appears on the electronic docket sheet.

c. Except as noted below, certificates of non-contested matter need not be served upon opposing or other interested parties. In those instances where the movant or applicant seeks entry of a proposed order which differs from the proposed order submitted with the original motion, both the certificate of non-contested matter and the revised proposed order shall be served upon opposing and other interested parties.

5. Copies. Except as otherwise stated in these Procedures, all petitions, schedules, statements, lists, and amendments thereto, and all motions, applications, notices, objections, requests for hearing and other documents filed or converted to electronic case files pursuant to these ECF procedures shall be filed in electronic format only. The requirement to file copies in paper format pursuant to L. B. R. 102(d) and (e), 511 and 904(d) shall not apply, except to the following:

- a. Chapter 11 and Chapter 12 plan of reorganization;
- b. Chapter 11 disclosure statement and attachments;
- c. Motions for summary judgment and responses, and all supporting documents; and
- d. Any other document requested by chambers.

As to these documents, one copy clearly marked “*Chambers Copy*” shall be tendered to the court within one court day after filing, or one court day after a copy of any other document is requested.

6. Attachments to Pleadings. All documents that form part of a pleading and which are being filed at the same time and by the same party shall be electronically filed together under one docket number, e.g., the motion and supporting affidavit.

7. Exhibits. Because lengthy and voluminous exhibits create accessibility problems in CM/ECF, Electronic Filers filing documents that reference exhibits not prepared in electronically produced text shall scan and electronically file those exhibits divided as separate attachments in PDF format each of which shall not exceed sixty (60) pages in length.

8. Proofs of Claim. Proofs of claim may be electronically filed by attorneys or other parties who are authorized to file electronically pursuant to these ECF procedures. The clerk shall scan all proofs of claim and exhibits attached thereto filed in paper format into CM/ECF. Exhibits in excess of approximately sixty (60) pages in length shall be divided and scanned as multiple attachments to the claim

9. Title of Docket Entries. Electronic Filers shall be responsible for designating a title for the electronically filed document using one of the options provided in the system, e.g., motion, application, etc.

10. Fees Payable to the Clerk. When a document requiring a fee is electronically filed, the E-Filer shall effect payment of the fee via credit card at the conclusion of the transaction. Failure to pay the fee, if any, at the conclusion of the day on which the transaction occurs may result in an order striking filing of the document. Repeated failure to pay the filing fee for electronically filed documents may result in the temporary suspension or revocation of the electronic filer's ECF password. In the event the credit card charge cannot be processed, the Electronic Filer will be contacted and must satisfy the required payment within 24 hours. This paragraph shall not apply to federal agencies and chapter 7 trustees for whom different filing fee payment arrangements may apply.

11. Exclusions to Electronic Filing of Documents. The following documents are excluded from the requirements and provisions of these ECF procedures and shall continue to be filed in conventional paper format:

- a. Involuntary petitions filed pursuant to 11 U.S.C. 303;
- b. Petitions filed pursuant to chapter 9;
- c. Petitions ancillary to foreign proceedings filed pursuant to 11 U.S.C. 304; and
- d. Miscellaneous cases wherein the court does not already have jurisdiction such as a motion to quash a subpoena issued by a court or judicial officer in another jurisdiction.

B. Consequences of Electronic Filing.

1. Electronic transmission of a document to the ECF system consistent with these rules, together with the transmission of a Notice of Electronic Filing (paragraph II.C.2. below) 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.

2. 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.

3. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight MST or MDT, as applicable, in order to be considered timely filed that day. Notwithstanding the foregoing, an Electronic Filer whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

4. It is the responsibility of the Electronic Filer to file and link electronic documents correctly in accordance with the requirements of CM/ECF and these Amended Administrative Procedures for Electronic Case Files. In the event an Electronic Filer files an electronic document containing errors, omissions, defects or other deficiencies, the Clerk shall, upon discovery, make an entry on the docket noting the error or omission and send the Electronic Filer notice of entry of the error or omission via the Automatic Notice of Electronic Filing pursuant to paragraph II.C.2. of these Procedures. The Electronic Filer shall correct the error or omission described in said Automatic Notice of Electronic Filing by the close of the next court day following transmittal of the Automatic Notice of Electronic Filing, failing which the electronic document containing the error or omission shall, unless the court orders otherwise, be deemed stricken .

C. Service.

1. General Rule. Except as otherwise provided in paragraph II.C.3., all documents required to be served shall be served in paper (i.e., “hard copy”) form in the manner mandated by the applicable law and rules.

2. Automatic Notice of Electronic Filing. The CM/ECF system automatically generates a Notice of Electronic Filing at the time a document is filed with the system. The Notice indicates the time of filing, the name of the party and Electronic Filer filing the document, the type of document, and the text of the docket entry. It also contains an electronic link (hyperlink) to the filed document, allowing anyone receiving the Notice by e-mail to retrieve the document automatically. The CM/ECF system automatically sends this Notice to all Electronic Filers participating in the case.

3. Specific Consent to Electronic Service/Notice Required in Each Case.

Registration as an Electronic Filer serves as consent to receive notice electronically from the court, including notice of the entry of an order or judgment under Fed.R.Bankr.P. 9022, but does not constitute waiver of the right to personal service or service by first class mail, nor does it serve as consent to electronic service or notice from other parties in the case, except in those cases where the Electronic Filer electronically files a specific waiver of the right to personal service or first class mail and consent to electronic service/notice pursuant to Fed.R.Bankr.P. 9036. Whenever 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. Service may also be made by serving the “Notice of Electronic Filing” generated by CM/ECF by hand, facsimile or e-mail, or by overnight mail if service by electronic transmission is impracticable.

4. Conventional Service. Notwithstanding the preceding paragraph, 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).

5. Orders. All signed orders, decrees, judgments, and proceedings of the court shall be electronically filed by the court or court personnel in accordance with these ECF procedures, which shall constitute entry on the docket kept by the clerk under Fed.R.Bankr.P. 5003 and 9021. Any order filed electronically bearing a facsimile signature in lieu of the original 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 and it had been entered on the docket in a conventional manner. Immediately upon the electronic entry of an order or judgment, a Notice of Electronic Filing shall be transmitted to all Electronic Filers who have entered appearances in the case. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed.R.Bankr.P. 9022. The clerk shall provide notice in paper form to any person who is entitled to receive notice, but is not a registered Electronic Filer. In addition to the Notice of Electronic Filing, the clerk, may, at his/her discretion, also provide notice in paper form to Electronic Filers.

6. Service of Judgment and Order. Notwithstanding the foregoing paragraph, a paper copy of the judgment or final order shall be served by mail or other conventional means by the clerk or other party as the court may direct.

7. Service of Certificates of Non-Contested Matters. Certificates of non-contested matter need not be served upon opposing or other interested parties except in those

instances where the proposed order tendered with the certificate differs from the proposed order attached to and filed with the original motion.

D. Signatures.

1. Every petition, pleading, motion and other paper served or filed in accordance with these procedures shall be subscribed by the attorney signing such pleading or document with a facsimile imaged signature or an “electronic signature,” e.g., “s/Jane Doe”. In addition, electronically filed documents must include a signature block that sets forth the name, address, telephone number, e-mail address and the attorney’s Colorado bar registration number, if applicable.

2. Except as otherwise provided for in paragraph 5. below, petitions, lists, schedules, statements, amendments, pleadings, affidavits, stipulations, proofs of claims and other documents which contain original signatures, documents requiring verification under Fed.R.Bankr.P. 1008, or documents in which a person verifies, certifies, affirms, or swears under oath or penalty of perjury, and unsworn declarations under 28 USC §1746, shall be filed electronically and bear “electronic signatures.”

3. Upon commencement of a bankruptcy case, the petition requiring the signature of the debtor(s) filed electronically requires an originally executed *DECLARATION RE: ELECTRONIC FILING OF PETITION, SCHEDULES & STATEMENTS, AND STATEMENT OF SOCIAL SECURITY NUMBER [DECLARATION]* in substantial conformity to L.B.F. ECF-2 attached hereto. The *DECLARATION* shall include a statement that the signatory has read the petition. The *DECLARATION* shall be filed in with the clerk within ten (10) business days of the electronic filing of the petition. Failure to file the *DECLARATION* within the time prescribed by this paragraph may result in the petition being stricken or other appropriate sanction.

4. Documents that are electronically filed and require original signatures other than that of the Electronic Filer, including statements, schedules, lists, and amendments thereto that require the signature of the debtor, must be maintained in paper form by the Electronic Filer for two years following expiration of all time periods for appeals after entry of a final order terminating the case or proceeding.

5. Documents requiring signatures of more than one party may be electronically filed provided that the document contains all necessary electronic signatures.

III. Disclosure of Contents of Filed Documents

A. Full Disclosure. Except as provided in paragraph B below, full public disclosure of all electronic case records shall be made available by electronic access or by personal inspection of files at the office of the clerk.

B. Protective Order. Upon motion and for cause shown, the court may, in accordance with its authority under 11 USC §§105 and 107(b)(2), and Fed.R.Bankr.P 1007(j) and 9018, enter such orders as may be appropriate to protect the interests of the debtor or other entities by restricting disclosure of information contained in the records of the court. Protective orders pursuant to this paragraph may be entered *ex parte*, and any party can move for reconsideration of a protective order.

#### IV. Access to the Docket

A. Internet Access. Any person or organization may obtain access to the “read only” area of CM/ECF at the court’s Internet site at [www.cob.uscourts.gov](http://www.cob.uscourts.gov) by obtaining a PACER password and paying any fees established for such access. Those who have PACER access but who are not Electronic Filers may retrieve docket sheets and documents, but they may not file documents. Information posted on the CM/ECF system shall not be downloaded for uses inconsistent with the privacy concerns of any person.

B. Access at the Court. Electronic access to all documents filed is available, without obtaining a password, in the clerk’s office during regular business hours, Monday through Friday. Conventional and certified copies of electronically filed documents may be purchased at the clerk’s office during regular business hours Monday through Friday. The fee for copying and certifying shall be in accordance with the Schedule of Miscellaneous Fees promulgated by the Judicial Conference of the United States pursuant to 28 USC §1930(b).

C. Access Charges. Electronic access fees shall be payable in accordance with the fees and procedures established by the Judicial Conference of the United States pursuant to 28 USC §1930(b).