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MAR - 8 2004
UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

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EASTERN DISTRICT OF CALIFORNIA

In re AMENDED AND RESTATED ORDER CONCERNING FILING, SIGNING, AND VERIFYING DOCUMENTS BY ELECTRONIC MEANS	GENERAL ORDER 04-01

This order amends, restates and supercedes General Order 03-04, filed October 24, 2003, regarding the filing, signing, and verifying of documents by electronic means.

WHEREAS Rules 5(e) and 83 of the Federal Rules of Civil Procedure and Rules 5005(a)(2), 7005(e), 9029 and 9036 of the Federal Rules of Bankruptcy Procedure (F. R. Bankr. P.) authorize courts to establish practices and procedures for the filing, signing, and verification of documents by electronic means; and

WHEREAS the Court has developed an electronic filing system for the filing, signing, and verification of documents by electronic means;

IT IS ORDERED that:

1. Electronic Filing Authorized

Effective November 3, 2003, all eligible documents in cases and proceedings where the official record of the Court is the electronic record maintained by the Clerk of Court may be filed, signed, and verified by electronic means using the Court's electronic filing system. A current list of ineligible documents, if any, shall be posted in the electronic filing system "Help" section.

2. Official Record

Except as otherwise ordered, the electronic record maintained by the Clerk is the official record of the Court for all eligible documents filed in chapter 7 cases and related proceedings after January 1, 2003, for all eligible documents filed in chapter 13 cases and related proceedings on or after July 1, 2003, and for all eligible documents filed in chapter 9, 11, and 12 cases and related proceedings on or after November 3, 2003.

3. Eligible Persons

Attorneys admitted to practice in this Court (including those admitted *pro hac vice*) and currently in good standing, attorneys exempt from admission to the bar of this Court (including attorneys authorized to represent the United States and attorneys representing child support creditors as authorized by P.L. 103-394, section 304(g)), U.S. Trustees and their assistants, trustees, claims agents, and others as the Clerk deems appropriate, shall be eligible to receive a username and password to access the electronic filing system and participate in the electronic filing of documents. Support staff who are not attorneys are not eligible for a separate username and password, although such staff may attend the electronic filing system training.

4. Requirements

a. In order to receive an electronic filing system username and password, the following requirements must be satisfied:

i. Registration. Any eligible person wishing to file documents electronically shall complete and submit the appropriate registration form and user agreement prescribed by the Clerk. Completed registration forms and user agreements shall be submitted by mail, hand delivery, electronic mail, or fax to the Clerk's Office as stated in the appropriate registration form and user agreement, or brought to the electronic filing system training. Registration forms and user agreements shall be available on the Court's Internet web site (www.caeb.uscourts.gov).

ii. Training. Prior to receiving an electronic filing system username and password, eligible persons wishing to file documents electronically, or an authorized individual empowered to act on behalf of an eligible person, must attend the electronic filing system training provided by the Court or obtain a waiver of the training requirement. Class schedules, training sign-up instructions, and waiver forms shall be available on the

Court's Internet web site (www.caeb.uscourts.gov).

b. After receiving a username and password from the Court, a registered user shall maintain a current, active, and working e-mail address and shall promptly advise the Clerk of Court of any changes to the information provided on the registration form and user agreement. The Clerk's Office shall not be responsible for Notices of Electronic Filing or other electronic mail messages undelivered due to a registered electronic filer's failure to maintain their electronic mailbox or electronic mail account.

5. Usernames and Passwords

a. A username and password combination to access the electronic filing system will be assigned to a registered user upon the successful completion of training by either the registered user or an authorized individual empowered to act on behalf of the registered user, or upon the granting of a training waiver.

b. The Court reserves the right to change the assigned electronic filing system username periodically.

c. Once registered, a user may withdraw from participation in the electronic filing system by providing the Clerk's Office with written notice of the withdrawal. Furthermore, the Court can suspend a registered user from the electronic filing system for cause, and this suspension shall be effective upon entry of the Court's order. Upon entry of the order, the Clerk's Office will withdraw the registered user from the electronic filing system, eliminate the registered user's password, and delete the registered user's name from any applicable electronic service list.

6. Unauthorized Use of Password Prohibited

a. A registered user shall not use his/her username and password to file pleadings or other documents on behalf of someone not a registered user.

b. No person may use a username and password without the permission of the registered user to whom they were issued. Registered users agree to protect the security and confidentiality of their usernames and passwords and to prevent their disclosure to any person other than the registered user's authorized agent.

c. No person shall knowingly use or cause another person to use a registered user's password unless such person is an authorized member or employee of the registered user's law firm or organization, or other authorized individual empowered to act on behalf of the registered user.

d. If a registered user believes the security of his or her password has been compromised, the registered user shall notify the Clerk's Office Automation Help Desk immediately to cancel that password.

7. Exhibits

a. Exhibits to electronically filed documents shall be submitted in electronic form unless the Court orders conventional filing.

b. A registered user may submit as an exhibit only those excerpts of the referenced document that are directly germane to the matter under consideration by the Court. Excerpted material shall be clearly and prominently identified as such. Responding parties may timely file additional excerpts they believe are directly germane or the complete document. Users filing excerpts of documents as exhibits under this General Order do so without prejudice to their right to timely file additional excerpts or the complete document, and shall promptly file the full text of the document(s) electronically and provide paper copies to responding parties if requested to do so by the Court or a responding party.

8. Amendments to Petitions, Statements, Schedules, and Lists

The amended or new information on electronically filed amendments to the bankruptcy petition, statements, schedules, and lists shall be identified by underlining or, in the case of statements of financial affairs or schedules, by typing an "A" to the right of the amended information. No other method of differentiating or otherwise drawing attention to the amended information is permitted.

9. Time of Electronic Filing

a. Documents will be deemed filed as of the date and time stated on the confirmation of submission sent by the Court unless the date falls on a weekend or federal holiday. In this instance, the document will be deemed filed at the beginning of business the

first business day following the weekend or holiday.

b. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight local (Sacramento, California) time on a business day in order to be considered filed that day.

10. Notice of Electronic Filing

Whenever a pleading or other paper is filed electronically in a case, a notice that it was filed, has been docketed, and is available for public viewing, will be automatically generated by the system and sent by electronic means to the party filing the pleading or other paper as well as to all other parties appearing in the case who are registered electronic filers.

11. Effect of Electronic Filing

a. A document filed using the Court's electronic filing system constitutes a written document or 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, section 107 of the Bankruptcy Code, and the Local Bankruptcy Rules of this Court.

b. Electronic submission of a document to the electronic filing system consistent with this General Order, together with confirmation of submission from the Court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of this Court.

c. Entry of the filing on the electronic case management system by Clerk's Office staff shall constitute entry of that filing on the docket maintained by the Clerk's Office pursuant to Fed. R. Bankr. P. 5003.

d. When a document has been filed electronically, 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.

12. Signatures

a. Electronically filed documents must include the electronic filer's name, complete mailing address, telephone number, e-mail address, and state bar identification number, if

any.

b. Signature of the Electronic Filer: The username and password required to access the electronic filing system shall serve as the electronic filer's signature on all electronic documents filed with the Court. They shall also serve as a signature, with the same force and effect as a written signature, for purposes of the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of this Court, including Fed. R. Bankr. P. 9011 and L.B.R. 9004-1(c), and for any other purpose for which a signature is required in connection with proceedings before the Court. Unless the electronically filed document has been scanned and shows the user's original signature, the signature of the electronic filer under whose username and password the document was submitted shall be preceded by an "/s/" and typed in the space where the signature would otherwise appear.

c. Signatures of Other Persons: Signatures of persons other than the electronic filer may be indicated by either:

i. Submitting a scanned copy of the originally signed document;

ii. Attaching a scanned copy of the signature page(s) to the electronic document; or

iii. Through the use of "/s/ Name" in the signature block where the signatures would otherwise appear. Electronically filed documents on which "/s/ Name" is used to indicate the signatures of persons other than the electronic filer shall be subject to the retention requirements set forth below.

d. The use of "/s/ Name"on documents constitutes the electronic filer's representation that an originally signed copy of the document exists and is in the filer's possession at the time of filing.

13. Retention Requirements

When "/s/ Name" is used in an electronically filed document to indicate the required signatures of persons other than that of the electronic filer, the electronic filer shall retain the originally signed document in paper form for no less than three (3) years following the closing

of the case. On request of the Court, the electronic filer shall produce the originally signed document(s) for review. The failure to do so may result in the imposition of sanctions on the Court's own motion, or upon the motion of the case trustee, U.S. Trustee, U.S. Attorney, or other party.

14. Service

a. Registered users of the electronic filing system consent to receiving electronic service of papers in lieu of mail service, unless otherwise provided by law. The system generated Notice of Electronic Filing will be electronically served automatically by the system on all parties appearing in the case who are registered electronic filing system users. This notification will advise the parties of the filing, docketing, and availability of the document for viewing, and include a hyperlink to the document. To read the actual document, the parties will be required to access the system by using the hyperlink in the notice or by logging into e-CalWebPACER.

b. The filer of an electronic document is responsible for serving that document on all entities entitled to receive it. Service on parties who are not registered electronic filers and service of all documents not eligible for electronic filing must be made in the conventional manner. Proof of service, in the form of a certificate of service, shall be filed for all electronically filed documents.

15. Sealed Documents

Requests to file documents under seal and documents ordered sealed shall be filed conventionally, and not electronically, unless specifically authorized by the Court. A paper copy of the order sealing documents shall be attached to the documents under seal and delivered to the Clerk's Office. The Clerk will maintain sealed documents in paper format.

16. Technical Failure

a. Technical failure shall not alter the filing party's responsibility to comply with all applicable filing deadlines.

b. An electronic filer whose filing is made untimely as the result of a documented, technical failure of the Court's computer system may seek appropriate relief from the Court.

17. Electronic Document Requirements

a. All electronic filings must be submitted as portable document format (PDF) documents. PDF document images shall be scanned at 300 dots per inch (dpi) resolution using black and white or text scanning mode only. Grayscale or color PDF document images shall not be filed electronically.

b. All electronically filed documents shall be prepared in strict compliance with L.B.R. 9004(1) and the current *Revised Guidelines for the Preparation of Documents* (EDC 2-901).

c. The number of pages in a document shall not exceed 999 without prior authorization from the Clerk's Office Electronic Filing System Administrator.

18. Public Access

a. Electronic case files may be accessed by the general public from any Clerk's Office lobby terminal and are available on the Internet from the Court's Internet web site (www.caeb.uscourts.gov) through the Public Access to Court Electronic Records (e-CalWebPACER) information system. Any e-CalWebPACER subscriber may read, download, store, and print the full content of electronic documents.[1]

b. Information available on e-CalWebPACER shall not be downloaded for uses inconsistent with the privacy concerns of any person.

Dated: March 8, 2004

Michael S. McManus
Chief Bankruptcy Judge

Whitney Rimel
Bankruptcy Judge

Christopher M. Klein
Bankruptcy Judge

Thomas C. Holman
Bankruptcy Judge

Jane Dickson McKeag
Bankruptcy Judge

W. Richard Lee
Bankruptcy Judge

[1] A login and password are required to access the e-CalWebPACER system. E-CalWebPACER subscribers are charged a fee for access to case information.