FILED

MAR 10 2009

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

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EASTERN DISTRICT OF CALIFORNIA

In re:

Electronic Filing of Documents - Time of Filing Per Local Bankruptcy Rule 5005-1(f)(2)

GENERAL ORDER 09-01

In order to conform with the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 5001(a), which rule provides that "The courts shall be deemed always open for the purpose of filing any pleading or other proper paper...", and in recognition of the advent of electronic filing that permits filing of documents at any time on any day, whether a court day or a non-court day,

IT IS HEREBY ORDERED THAT Local Bankruptcy Rule 5005-1(f)(2) is amended as reflected on the attachment to this order and that, pursuant to 28 U.S.C. §2071(e), the Court determines there is an immediate need for this rule change and therefore this order shall take effect immediately without prior public notice and opportunity for comment. As provided for in 28 U.S.C. §2071(e), the Clerk of this Court is hereby directed to forthwith provide notice and opportunity for comment on this rule amendment.

Dated: MAR 10 2009

Christopher M. Klein
Chief Bankruptcy Judge

Thomas C. Holman
Bankruptcy Judge

Michael S. McManus
Bankruptcy Judge

W. Richard Lee
Bankruptcy Judge

Whitney Rimel
Bankruptcy Judge

Robert S. Bardwil
Bankruptcy Judge

Revisions Highlighted

LOCAL RULE 5005-1

Electronic Record is the Official Record; Filing of Documents

~~*Effective April 3, 2006*~~

(a) Electronic Record is the Official Record. Except for documents filed prior to March 1, 1999, the electronic record maintained by the Clerk in the Court's Electronic Case File (ECF) System is the official court record for all cases and proceedings.

(b) Electronic Filing Mandatory. Except as provided in (c), below, all documents shall be submitted for filing in electronic form in strict compliance with instructions of the Clerk in a format approved by the Court.

(c) Exceptions to and Waivers of Requirement to File Documents in Electronic Form.

(1) Pro Se Exception. All unrepresented persons, sometimes referenced as *pro se litigants* or as *persons appearing in propria persona*, shall file and serve paper documents.

(2) Attorney and Trustee Waivers. Attorneys who regularly practice and trustees assigned cases in the Eastern District of California shall register as users of the court's electronic filing system and file documents in electronic form, provided, however, that on a case-by-case basis, an attorney or trustee may apply for a waiver of this requirement. A request for waiver shall be submitted as an ex-parte application supported by a declaration demonstrating cause for relief from the requirement to file in electronic form. The decision to permit the filing of paper documents is in the sole discretion of the Court and may be cancelled at any time upon notice to the attorney.

(3) Sealed Document Exception. Unless otherwise ordered by the Court, requests to file documents under seal pursuant to 11 U.S.C. §107 (b) and (c) and FRBP 9018 shall be filed as paper documents. A paper copy of the order sealing documents shall be attached to the documents under seal and be delivered to the Clerk's Office. The Clerk shall maintain sealed documents in paper form.

(d) Scanning and Disposition of Paper Documents. Paper documents filed pursuant to (c)(1) or (c)(2) of this Rule shall promptly be scanned by the Clerk into electronic form. Once scanned and made part of the ECF system, the paper documents may be discarded.

(e) Violations. The Clerk shall not refuse to file any proffered paper document submitted in violation of this Rule, but following scanning into electronic form, shall bring such paper document to the attention of the Court. Any attorney or trustee who files a document in violation of this Rule may be subject to monetary or non-monetary sanctions.

(f) Time of Filing.

(1) Documents Submitted on Paper. A document submitted on paper shall be deemed filed when the Clerk takes physical possession of such document.

(2) Documents Submitted in Electronic Form. ~~Unless otherwise ordered by the Court, d~~ Documents submitted in electronic form shall be deemed filed as of the date and time stated on the Notice of Electronic Filing issued by the Clerk. ~~, unless the date falls on a weekend, federal holiday, or other day when the court is closed. In this instance, the document will be deemed filed at the beginning of business the next business day.~~

(3) Technical Failures Affecting Filing of Documents in Electronic Form. Technical failure shall not alter the registered user's responsibility to comply with all applicable filing deadlines, provided, however, that a registered user whose electronic filing is made untimely as the result of a documented, technical failure of the court's electronic filing system may seek appropriate relief from the Court.

Comment: Part (f)(2) of this rule is amended to provide that documents submitted in electronic form via the Court's Electronic Case Files System shall be deemed filed as of the date and time stated on the Notice of Electronic Filing issued by the Clerk, without regard to whether such documents are filed on a court day or a non-court day. This is a change from the Court's previous practice of deeming documents submitted on non-court days to be filed as of beginning of business on the next court day.

March 10, 2009

Clean Copy

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