

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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PENDAK ARGOE, CLERK
United States Bankruptcy Court
Columbia, South Carolina (28)

IN RE:)
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CASE MANAGEMENT/) OPERATING ORDER 02-08
ELECTRONIC CASE FILING) (ELECTRONIC FILING PROCEDURES)
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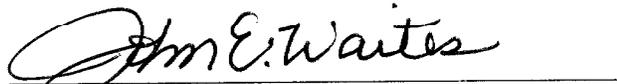
Federal Rule of Civil Procedure 83, Federal Rules of Bankruptcy Procedure 5005(a)(2), 9011, 9029, and South Carolina Local Bankruptcy Rules 5005-1 and 1000-1, authorize this Court to establish electronic filing procedures. Therefore,

IT IS ORDERED THAT:

1. The Administrative Procedures (Exhibit A to this Order) regarding the Case Management/Electronic Case Filing System ("CM/ECF") are hereby approved and adopted by the Court.
2. This Operating Order shall become effective January 21, 2003.
3. Amendments to this Order or the Administrative Procedures may be entered periodically as authorized by the Court.
4. The original of this Order shall be filed with the Clerk's office both conventionally and in accordance with the Administrative Procedures.

Columbia, South Carolina
Dec 13, 2002.


Wm. Thurmond Bishop, Chief Judge


John E. Waites, Judge

ADMINISTRATIVE PROCEDURES

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

I. DESIGNATION OF CASES, PASSWORDS, AND REGISTRATION FOR THE CASE
MANAGEMENT/ELECTRONIC CASE FILING SYSTEM

A. Designation of Cases

All pending and newly filed cases and adversary proceedings in the United States Bankruptcy Court for the District of South Carolina shall be assigned to the Case Management/Electronic Case Filing system (the "CM/ECF") as of the effective date of Operating Order 02-08. The Clerk's Office will continue to accept paper filings, but the Court encourages all parties to use CM/ECF whenever possible.¹

From the effective date forward, pending cases will have their entire case dockets available electronically.² Further, all documents in both pending cases and new cases will be electronically entered into CM/ECF by direct electronic filing from approved Participants ("Participants") or by the Clerk's Office imaging or scanning conventional filings.³

The electronic record, whether documents are filed electronically using CM/ECF or whether documents are rendered electronic by being scanned (imaged) into CM/ECF, shall constitute the official record of cases and

¹For purposes of this document, paper filings will be described as "conventional" filings.

²A pending case is one that was active as of the date and time of conversion to CM/ECF.

³An electronic filing is defined as a filing submitted either via the Internet, a CD rom, or a 3.5 inch computer disk.

proceedings in this Court.

B. Passwords

Attorneys admitted to practice in this Court and currently in good standing, attorneys representing the United States Government, trustees, and limited registrants shall be eligible to receive a login and a password to participate in the CM/ECF system.

C. Registration

1. Each approved Participant will be assigned one or more login and password combinations to use the CM/ECF system. The Court reserves the right to change the assigned CM/ECF login periodically.
2. To obtain a login and password, each Participant must complete a registration form that will be available on the Court's web site.
3. Each Participant must submit the registration form to the Clerk's Office at the following e-mail address: cmecf_helpdesk@scb.uscourts.gov.
4. The Clerk's Office will notify Participants by e-mail of their assigned CM/ECF login and password combination. As initially assigned, this login and password combination will be used for training purposes only and will not be activated for use on CM/ECF until the Court approves the Participant in accordance with the training as set forth in the CM/ECF Participant's Guide. Only the Participant or an authorized representative

may receive the electronic notice of the assigned login and password combination.

5. Participants may wish to change their passwords periodically, and Participants may do so as set forth in the CM/ECF Participant's Guide. If a Participant believes the security of an existing password has been compromised, the Participant shall notify the Clerk's Office immediately to cancel that password. To provide this notice, Participants can contact the Clerk's Office by telephone at the telephone number(s) listed in the Participant's Guide for such purpose or by e-mail at cmecf_helpdesk@scb.uscourts.gov.
6. By accepting a login and password from the Clerk's Office, Participants in CM/ECF waive the right to receive notice by first class mail, including notice pursuant to Federal Rule of Bankruptcy Procedure 2002(a), and agree to receive notice electronically.⁴ In addition, Participants also waive their right to service by personal service or first class mail, and Participants agree to receive electronic service except for service of a summons and complaint in an adversary proceeding under Rule 7004 and the initiating motion of a contested matter under Rule 9014. The waiver of service and notice includes notice of the entry of an order or judgment under Rule 9022.
7. A registered Participant may withdraw from participation in CM/ECF.

⁴Further references to the Federal Rules of Bankruptcy Procedure shall be by Rule number only.

Further, the Court can suspend a Participant from the CM/ECF system for cause, and this suspension shall be effective upon the entry of the Court's order. Upon entry of the order, the Clerk's Office will withdraw the registered Participant from CM/ECF, eliminate the Participant's password, and delete the name of the registered Participant from any applicable electronic service list.

II. FILING AND SERVICE OF DOCUMENTS

A. Filing

1. Except for Conventional Filings, filings provided for in Part III, infra, and exceptional circumstances that prevent a registered Participant from effecting a filing via CM/ECF, all filings required to be filed with the Clerk's Office in connection with a case assigned to CM/ECF shall be filed as follows: (1) registered Participants shall effect all filings electronically via the Internet; (2) parties with legal representation who are not registered in CM/ECF shall effect filings electronically through submission of a CD rom or a 3.5 inch computer disk in the format provided in the Participant's Guide; and (3) parties without legal representation shall effect filings conventionally. A copy of the Participant's Guide is available on the Court's web site.
 - a. Electronic filings via the Internet are considered timely if filed with the Clerk's Office prior to midnight on the date set as a deadline.
 - b. All references to time contained in these Administrative

Procedures are to Eastern Standard or Eastern Daylight Savings Time, whichever is in place at the time a filing is effected.

2. Accessibility for Filing via the Internet

If a Participant cannot access CM/ECF via the Internet to effect a filing during regular business hours of the Clerk's Office, the Participant shall contact the Clerk's Office, speak with a member of the CM/ECF Help Desk to confirm that CM/ECF is not accessible, state why an immediate filing is necessary, and make suitable arrangements with the Clerk's Office for the filing to occur. After the Participant submits the filing to the Clerk's Office and when CM/ECF is accessible, a deputy clerk will electronically enter and docket the filing.

If a Participant cannot access CM/ECF via the Internet to effect a filing after regular business hours of the Clerk's Office, and the filing is made untimely as the result of a technological failure of CM/ECF, the participant may seek appropriate relief from the Court.

3. Filing Documents with Exhibits and Attachments Under One Docket Entry Number

All documents that form part of a pleading and that are filed simultaneously shall be electronically filed as individual documents under one docket entry. In other words, one docket entry number will include

the initiating pleading as well as relevant attachments (e.g., supporting affidavits, memoranda of law, or proposed orders).

4. Exhibits as Attachments to Documents

Except as the presiding judge may otherwise direct, all documents, including proofs of claim, should be filed electronically in Portable Document Format ("PDF") via CM/ECF. Exhibits to documents should be submitted electronically as attachments to the document, but, if the length of an exhibit in conventional paper format exceeds twenty (20) pages, Participants shall include only excerpts of the exhibit that are directly germane to the matter under consideration by the Court. Excerpts must be clearly and prominently identified as such and the complete exhibit must be made available as a chambers copy upon request. All exhibits to documents must be made available to opposing counsel upon request and at any hearing regarding the matter. Persons filing excerpts of exhibits do so without prejudice to their right to file additional excerpts or the complete exhibit with the Court at any time. Opposing parties may file additional excerpts if they believe that they are relevant.

If the entire exhibit is relevant and the exhibit is in a conventional paper format that must be electronically imaged, the attorney shall make every effort to electronically submit the document via CM/ECF on a CD rom or a 3.5 inch computer disk.

5. Expedited Matters

After an expedited matter is filed in accordance with Local Bankruptcy Rule 5005-1 and Clerk's Instruction 5005-1, Participants shall contact a courtroom deputy or the chambers of the presiding judge by telephone and inform the Court of the expedited matter.

6. Effect of Electronic Filing

Effecting an electronic filing via the Internet in accordance with these Administrative Procedures shall constitute entry of that filing on the docket maintained by the Clerk's Office pursuant to Rule 5003. Likewise, orders, decrees, judgments, and proceedings of the Court will be entered in accordance with these Administrative Procedures, which shall also constitute entry on the docket record maintained by the Clerk's Office pursuant to Rule 5003 and for purposes of Rule 9021.

B. Service

1. General Rule: Except as otherwise provided in Part II, Paragraph B.2., infra, all documents required to be served shall be served in conventional paper form in the manner provided by the applicable statutes and rules.
2. Consent to Electronic Service: Whenever service is required to be made on a person who has agreed to accept electronic service as defined in Part I, Paragraph C.6., supra, the Court's automatically generated "Notice of Electronic Filing" constitutes service. If CM/ECF service is impracticable,

service may be made by hand or by any other means authorized by Rule 7005.

3. In addition to electronic service by CM/ECF as identified in Part II, Paragraph B.2., supra, Participants shall be required to serve documents in conventional paper form in the following circumstances:
 - a. When Rules 7004, 9014 and 9016 apply;
 - b. When the Federal Rules of Bankruptcy Procedure or an order of the Court requires delivery or service upon a state or federal government entity, including the United States Attorney; or
 - c. When the Bankruptcy Code, United States Code, the Federal Rules of Bankruptcy Procedure, the Local Rules, or other federal and state statutes and authorities specify other requirements for service than those in Part II, Paragraphs B.3.(a) and (b), supra.
4. Immediately upon the entry of an order or judgment in CM/ECF, the Clerk's office will transmit to Participants in the case, in electronic form, the Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Federal Rule of Bankruptcy Procedure 9022. The Clerk's office shall provide notice in conventional form in accordance with the Federal Rules of Bankruptcy Procedure to a person who has not agreed pursuant to Part I, Paragraph C.6, supra, of the Court's Administrative Procedures to receive electronic notice and service or who has not entered into an Electronic Bankruptcy Noticing Agreement with the Court for electronic notice from the Bankruptcy

Noticing Center.

C. Signatures

1. Filing any document by using a login and password issued by the Clerk's Office shall constitute the Participant's signature for purposes of signing the document under Rule 9011 and any other applicable authority relating to signatures. The Participant's name under whose login and password the document is submitted must be displayed by an "/s/" and typed in the space where the signature would otherwise appear (e.g., /s/Jane Doe). If the attorney is the Participant, the attorney must provide the District Court Bar number, complete mailing address, telephone number, and the name of the party the attorney represents. No person shall knowingly use or cause another person to use the password of a Participant unless such a person is duly authorized to do so by the Participant.
2. Within five business days of electronically filing a petition for relief, a debtor must file conventionally a Declaration Regarding Electronic Filing ("Declaration"). The Declaration must contain the debtor's original signature, and the Declaration must represent that the debtor authorizes the filing of his or her bankruptcy case electronically. Failure to timely file the Declaration may result in dismissal of the case without further notice or hearing.

3. Pleadings, affidavits, and other documents that must contain original signatures or that require verification pursuant to Rule 1008 or an unsworn declaration as provided in 28 U.S.C. § 1746 shall be filed electronically. The original signed document shall be maintained by the attorney of record or the party originating the document until the case or adversary proceeding is closed and all maximum allowable times for appeals in that case or adversary proceeding have expired, and the time within which a discharge of the debtor may be revoked has passed. Upon written request, the original document must be provided to other parties or the Court for review. The pleading or other document electronically filed shall indicate a signature (e.g., /s/Jane Doe).

D. Fees Payable to the Clerk

Prior to the electronic filing of any pleading or paper requiring a filing fee, Participants must submit to the Clerk's Office a Credit Card Blanket Authorization Form, which is available on the Court's web site, and receive the Clerk's Office approval of the authorization form.

E. Proposed Orders

All proposed orders may be submitted electronically as outlined below.

1. With the exception of Consent Orders, electronically filed proposed orders shall be combined with the application or motion into one docket entry in accordance with Part II, Paragraph A.3., supra.

2. Electronically submitted orders shall be formatted in accordance with template instructions provided by the Clerk's Office.
3. All orders must be in PDF at the time of submission.
4. The Clerk's Office will make an electronic copy of the Participant's proposed order and transmit the proposed order to the presiding judge. Once the judge signs the order, the Clerk's Office or the judge will make the appropriate entry on the CM/ECF system to docket the order.
5. When a Participant seeks the entry of an emergency order, such as an order shortening time or order to show cause through the CM/ECF system, the Participant shall notify a courtroom deputy or the chambers of the presiding judge after filing the expedited matter.
6. Notification of defects in an order may be provided by e-mail.
7. The Clerk's Office will serve signed orders electronically to Participants.

F. Orders to Judges by E-Mail

If directed by the Court, attorneys should e-mail their orders to the appropriate judges's e-mail address in the manner set forth in the Participant's Guide. The order should be in Word or WordPerfect format.

G. Consent Orders

Consent orders are to be circulated and signed conventionally. The Participant filing the consent order shall maintain the original consent order bearing original signatures of the consenting parties for the period of time prescribed in Part II, Paragraph C.3., supra. The Participant must also simultaneously file with the Clerk's Office a Certificate of Consent that certifies that the signatories have

affixed their consent and that the Participant will retain the original consent order as executed by the parties for the period of time required pursuant to Part II, Paragraph C.3., supra.

H. Signing of Orders

Orders may be signed by a judge of this Court or on his behalf electronically. Any order filed electronically as authorized by the judge has the same force and effect as if the judge had affixed his signature to a conventional order and filed and entered it accordingly. A Participant submitting a document electronically that requires a judge's signature must do so in accordance with these Administrative Procedures.

I. Exhibits

Exhibits to documents should be submitted electronically as attachments to documents pursuant to Part II, Paragraph A.4., supra.

J. Title of Docket Entries

The Participant electronically filing a pleading or other document will designate a title for the document by using one of the main categories and specific events provided in the CM/ECF system (e.g., motion for relief from stay, application for retention of counsel, etc.).

III. CONVENTIONAL FILING OF DOCUMENTS; EXCEPTIONS TO ELECTRONIC FILINGS

A. Conventional Filings

1. Documents to be Filed Under Seal

A motion to file a document under seal shall be filed electronically; however, the actual document to be filed under seal shall be filed conventionally. If the motion itself contains confidential information, the movant shall file and serve electronically a redacted version clearly marked as such and shall submit the unredacted version in camera. If requested by the Court, the movant shall deliver conventional paper copies of the documents proposed to be filed under seal to the presiding judge for in camera review. The order of the Court authorizing the filing of such documents under seal shall be entered electronically by the Clerk's Office or the presiding judge.

2. Trial Exhibits

Participants shall submit trial exhibits conventionally along with the joint pretrial order or as directed by the court.

3. Transcripts

Participants shall file all transcripts conventionally unless otherwise directed by the Court.

4. Documents designated or directed by a judge.

IV. PUBLIC ACCESS TO THE DOCKET

A. Internet Access

Any person or organization may access this Court's Internet site at the following address: www.scb.uscourts.gov. Access to the docket and documents in CM/ECF

through the Web PACER Internet site will require registration with the PACER Billing Center (telephone number: 1-800-676-6856).

B. Public Access at the Court

Access by the public to the documents filed in CM/ECF and to the CM/ECF docket is available in the Clerk's Office for viewing during regular business hours.

C. Conventional Copies and Certified/Exemplified Copies

Conventional and certified/exemplified copies of electronically filed documents may be obtained at the Clerk's Office. The fee for this service shall be as provided in 28 U.S.C. § 1930(b) and the Appendix thereto.

D. Access Charges

Fees required by the Judicial Conference of the United States as provided in 28 U.S.C. § 1930(b) and the Appendix thereto for electronic access to Court records are assessed in accordance with the procedures established by the Administrative Office of the United States Courts.

E. Antivirus Software

All registered Participants who retrieve and effect filings must have purchased, installed, used, and updated daily antivirus software at all locations from which they access CM/ECF. All disks also must be inspected for viruses and worms before such disks are submitted for filing to the Clerk's Office or submitted to a judge for any purpose.