

**ADMINISTRATIVE PROCEDURES FOR
ELECTRONIC CASE FILING
IN THE**



**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

EFFECTIVE SEPTEMBER 1, 2007

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I. INTRODUCTION AND SCOPE OF ELECTRONIC FILING

In the United States Bankruptcy Court for the Northern District of Mississippi, the filing of court pleadings and documents is carried out electronically through the Court's Case Management/Electronic Case Filing system ("CM/ECF"). This system permits properly registered users to file documents and to view and search court records from any location over the Internet, twenty-four hours a day. Non-registered parties may review, but not file, documents in the system by utilizing the court's Public Access to Court Electronic Records (PACER) program. The following information explains the court procedure applicable to the use of the CM/ECF System. This document will be made available on the court's web site, www.msnb.uscourts.gov. When modifications or revisions are made to the Administrative Procedures, an announcement will appear on our web site. Registered users of ECF should frequently check the web site for any revisions or changes as well as other important announcements.

The following procedures govern the utilization of the system.

A. Authorization for Electronic Filing

The Uniform Local Rules of the United States Bankruptcy Court for the Northern and Southern District of Mississippi ["Local Rules"] authorize electronic filing. By Standing Order entered in the Northern District, electronic filing over the internet is "mandatory". The following procedures shall govern electronic filing in this district unless, due to extraordinary circumstances in a particular case, a Judge or the Clerk of the Court determines that these policies and procedures should be modified in the interest of justice.

B. Participants in Electronic Filing

The system permits registered users to file documents with the court from any location over the Internet. While all parties, including those proceeding pro se, may register to receive "read only" PACER accounts, only registered users are permitted to file electronically.

C. Training and Technical Assistance

These procedures govern electronic filing in the Bankruptcy Court for the Northern District of Mississippi, and are not intended as a technical guide for the use of the system. Information regarding the equipment needed to participate in ECF, as well as information on training and access to computer-based tutorials, can be obtained from the court's web site at, www.msnb.uscourts.gov/cmecf.

D. Definitions and Instructions

The term “conventional filing” or “paper filing” means presentation to the Clerk’s office of a hard copy (i.e. paper, diskette or CD) of a document which cannot or should not be filed electronically. The document will be scanned or uploaded for inclusion as a PDF image. The “image” is not a searchable document.

The term “document” shall include pleadings, motions, exhibits, declarations, affidavits, memoranda, papers, order, notices, and any other filing by or to the court, whether or not the document is electronic or a hard or paper copy. “Hard copy” and “paper copy” are used interchangeably in these procedures.

The term “ECF” refers to the Court’s Electronic Case Filing system. The term “CM/ECF” is used interchangeably with the terms “ECF” and “system” and refers to the Case Management/Electronic Case Filing system.

A “Participant” or “Registered Participant” is an attorney who is registered to use the ECF site; a “PACER User” is a person only entitled to read the documents filed.

“Electronic filing” means uploading a document in PDF format directly from the registered user’s computer for the purpose of filing that document in the court’s case file using the court’s Electronic Case Filing system which is an Internet-based system. **Sending a document or pleading to the court via e-mail or facsimile is not authorized and does not constitute “electronic filing” except as provided in Part XII of the Administrative Procedures for Electronic Case Filing.**

The “E-Mail Address of Record” is the Internet e-mail address of each party or attorney in the case who is an ECF Filing User.

A “Limited Participant” or “Limited Use Registrant” is an attorney, creditor or creditor representative who has only a limited participation login which gives restricted access to the system. A limited participant may file only certain documents. A limited participant may not file a pleading or document which requires a fee.

A “Notice of Electronic Filing” (NEF) is generated automatically by the ECF system upon completion of an electronic filing. The Notice of

Electronic Filing when e-mailed to the e-mail addresses of record in the case acts as the proof of service.

The term “PACER” refers to the Public Access to Court Electronic Records, an automated public service that allows users to obtain case and docket information via the internet from federal appellate, district and bankruptcy courts.

The term “PDF” refers to Portable Document Format. A PDF document allows anyone to open the converted document across a broad range of hardware and software, with layout, format and images intact.

E. Selection and Designation of Cases for ECF

On authority of Rule 5005(a)(2) of the Federal Rules of Bankruptcy Procedure and the Local Rules, all petitions, lists, schedules, statements, proofs of claim or interest, complaints, motions, applications, objections and other papers, except sealed documents, that are to be filed of record on the docket of the Clerk of Court in any case or proceeding shall, as of September 1, 2007, and thereafter, be filed by electronic means, either at the location of the Clerk’s office designated by Local Rule by using equipment and electronic filing software provided by the Clerk, or from a remote location.

II. FEES

A. Payments of Required Fees

All required fees must be promptly paid and failure to complete prompt payment will result in being locked out of the ECF system. An email will be sent for the payments due and the Internet Payments option will become the only ECF item available. Upon completion of the payments due, the lockout will be automatically terminated and the ECF system will become available.

B. Refund of Fees Paid Electronically

The Judicial Conference of the United States Courts has had a long standing policy of prohibiting the refund of fees due upon filing even if a party filed a case or pleading in error or the court dismissed the case or pleading after filing. A few narrow exceptions have been allowed, such as when fees are collected without authority to do so or when fees are erroneously collected through administrative error. However, the Judicial Conference has recognized that the introduction of the CM/ECF system, which allows parties to pay fees electronically with a credit

card, has created many more opportunities for errors on the part of filers. Through a communication entitled “Guidance for Refund of Fees Paid Electronically” dated July 29, 2005, the Administrative Office of the United States Courts announced that the Judicial Conference had approved the adoption of a policy which allows limited refund authority by the courts when errors in electronic payments are made. In keeping with recommended Administrative Office guidelines, the following procedures shall apply in this court in regard to requesting a refund of electronically paid fees:

1. The authority to approve a refund is a judicial determination. Requests for refunds should be made by either motion or application with a copy to be sent to the United States Trustee and the case trustee. The court, at its discretion, may (a) grant or deny a refund ex parte, (b) schedule the request for an informal telephonic conference, (c) set the matter for hearing in open court.
2. If granted, a refund will be processed through the electronic credit card system. The court will not issue refunds through checks.
3. If the court discovers an erroneous filing for which a fee has not yet been collected, the court may correct the erroneous filing administratively and not collect the fee. However, if a filing fee has been collected, a motion or application must be submitted to secure a refund even if the filing was made in error.
4. In the event that a particular attorney or law firm continues to make repeated mistakes when submitting fees and requesting refunds, the court may consider remedial action, such as issuing an order barring further requests for refunds.

III. ELIGIBILITY, REGISTRATION, PASSWORDS

A. Eligibility and Passwords

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

B. Registration

1. Anyone wishing to view documents and court dockets on the system from a location other than the Clerk's Office must have an account on the Public Access to Court Electronic Records (PACER) system. Attorneys who will be filing documents on the system must have a PACER account and a system login and password assigned by the court as described below. (To establish a PACER account go to www.pacer.psc.uscourts.gov.)
2. In addition to PACER registration, each attorney desiring to file pleadings or other papers electronically must complete and sign an Attorney Registration Form available on the court's website and in the Clerk's Office.
3. All signed Registration Forms shall be returned to the U.S. Bankruptcy Court, Thad Cochran U. S. Courthouse, 703 Hwy 145 North, Aberdeen, MS 39730 or delivered to the intake section of the court at Aberdeen, MS.
4. After completion of training with the Clerk's Office, each registering Participant will be assigned a login and a password for the system. Logins and passwords will be hand-delivered to the Participant at the conclusion of the training. If circumstances prevent hand-delivery, the login and password information will be mailed to the Participant by regular, first-class mail; or, if requested by the Participant, by e-mail.
5. If an attorney allows his/her employees to access the System using the attorney's login and password, the attorney is responsible for all applicable charges and any documents filed will be deemed authorized and signed by the attorney.
6. When a pleading is filed on the System, the login name must match the signature on the attached PDF pleading.
7. If an attorney realizes his/her password has been compromised, the attorney should notify the Clerk's Office. If the Clerk notices that an attorney's password has been compromised, the Clerk's Office will notify the attorney. In all cases, the Clerk will make necessary corrections to the System and establish a new password for the attorney.
8. If any of the information on the Registration changes, i.e., mailing address, e-mail address, etc., it is the attorney's responsibility to log onto the System and make the changes by accessing the "Utility" menu and selecting "Maintain Your ECF Account." Additional information is

available in the ECF User Training Manual or by selecting the Help button “?” from the menu after selecting “Maintain Your ECF Account.” **IT IS NOT THE COURT’S RESPONSIBILITY TO RE-SEND OR INVESTIGATE RETURNED E-MAILS.** Attorneys registered with the Bankruptcy Noticing Center (BNC) for noticing purposes must also notify the Bankruptcy Noticing Center if their delivery information changes.

9. 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 services list.

IV. CONSEQUENCES OF ELECTRONIC FILING

A. Effect of Electronic Filing

Once electronic transmission of a document to the ECF system, consistent with these rules, has been received by the Court, the document has been “filed” for all purposes required by the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court and is “entered” upon the docket by the Clerk under FRBP 5003. Likewise, orders, decrees, judgements 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 pursuant to FRBP 5003 and for purposes of FRBP 9021. When a document has been filed through the ECF system, 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.

B. Filings

1. Electronic Filing Required

All documents submitted in all cases and proceedings must be filed electronically via the Internet, and signed or verified by electronic means. **TO PREVENT TIME-OUTS, AN ELECTRONIC FILE SHOULD NOT EXCEED 2 MEGABYTES. ALL DOCUMENTS CONTAINED IN THE ELECTRONIC FILE MUST CONFORM TO THE 8 1/2 X 11 - INCH STANDARD PAPER SIZE ADOPTED BY THE JUDICIAL CONFERENCE OF THE UNITED STATES.**

- 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 Central Standard or Central Daylight Savings Time, whichever is in place at the time a filing is effected.
 - c. Because the system is a "real-time" system, the receipt of filing will show the actual date and time a document was filed on the system. Documents submitted electronically on the system outside of normal office hours will be deemed filed on the date and time received. For example, if a document is received at 8:30 PM on Sunday, the receipt of filing will show that date and time.
2. Exceptions to the Electronic Filing Requirement
- a. Pro se debtors and other individuals not represented by an attorney may file documents conventionally.
 - b. A corporation, limited liability company, partnership or other legal entity that files fewer than ten (10) proofs of claim per year in this Court may file said proofs of claim conventionally.
 - c. Attorneys newly admitted to practice in the Northern District of Mississippi, either through regular admission or through *pro hac vice* motions, and attorneys authorized to represent the United States without being admitted to the Bar of this District are automatically granted a sixty (60) day one-time exemption from the mandatory electronic filing requirement. The sixty day exemption begins as of the date and time of the first conventionally filed document received from the attorney and filed by the Clerk. Within this exemption period, the attorney is expected to become a CM/ECF Participant by obtaining a login and password from the Clerk's office. If at the expiration of the sixty day exemption period, the attorney has not become a CM/ECF Participant and continues to file documents with the Court in a conventional manner, a Show Cause hearing will be set before the Chief Judge at which the attorney will be required to show cause as to why he or she should not be barred from further practice in this Court.
 - d. Documents to be filed under seal. A motion to file a document under seal shall be filed electronically unless sub-paragraph 2.a above applies. However, the actual document to be filed under seal should be submitted conventionally. If the motion itself contains confidential information, the moveant shall file and serve electronically a redacted version clearly

marked as such and shall submit the un-redacted version in camera. If requested by the Court, the moveant 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.

- e. Court granted waiver. An attorney or party may request a temporary or permanent waiver from the mandatory electronic filing requirement by submitting a written request to the Chief Judge. The requesting attorney or party will be required to justify the waiver request. Although at the discretion of the Chief Judge, waiver will be granted only in extreme or extraordinary circumstances.
- f. Technical failure. See Part XII.

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, exhibits). Memoranda of law, however, should be docketed/filed separately. (For proposed orders, see Part V.)

4. Creditor Lists

Creditor lists must be submitted in ASCII file format with an appropriate text extension (.txt) and shall be submitted over the Internet through the system at the time of case filing. If additional creditors need to be added post-petition, an Amended List of Creditors should be submitted with the appropriate Amended Schedule(s). The creditor list, also called a matrix, should meet the following specifications:

- a. The name and address of each creditor must be five (5) lines or fewer.
- b. Each line may contain no more than 40 characters including blank lines.
- c. Names and addresses should be left justified (no leading spaces).
- d. If attention lines are used, they should appear on the second line of the address.
- e. City, State, and ZIP code must be on the last line.

- f. All states must be two-letter abbreviations.
 - g. If a nine-digit ZIP code is used, a hyphen must separate the first five digits from the last four digits.
 - h. Each creditor must be separated by at least one blank line.
 - i. Do not include case number, page numbers, line number, headers, footers, etc. in the document.
 - j. Neither the debtor(s)' nor the debtor(s)' attorney's name should appear on the matrix.
5. Correcting Documents Filed in Error
- a. Once a document is submitted, and it becomes part of the case docket, corrections to the docket or the Electronic Filing System are made only by the Office of the Clerk or as the Court may direct. A document incorrectly filed in a case may be the result of posting the wrong Portable Document Format ("PDF") file to a docket entry, or selecting the wrong document or "event" type from the menu, or entering the wrong case number. **DO NOT ATTEMPT TO REFILE THE DOCUMENT!**
 - b. **If the filer discovers an error**, the Clerk's Office should be contacted as soon as possible. Be sure to have the case number for which the correction is being requested. If appropriate, the Court will make an entry indicating that the document was filed in error. You will be advised *if* you need to refile the document. The System will not permit you to make changes to the document(s) or docket entry filed in error once the transmission has been accepted.
 - c. **If the Clerk's Office discovers an error**, a virtual entry (i.e. no PDF attachment) entitled *Clerk's Request for Corrective Action* will be placed on the docket. This docket entry will explain the nature of the filing error discovered by the Clerk and will serve as notice that the error should be corrected as soon as possible by the filer. If the error is not corrected within 48 hours, the document in question may be dismissed. This administrative dismissal will be subject to judicial review.

6. Expedited Matters

When filing expedited matters, the filing attorney shall immediately advise the presiding Judge's courtroom deputy or calendar clerk of the filing by telephone or fax.

V. SUBMISSION AND ENTRY OF ORDERS

A. Proposed Orders

Participants in the CM/ECF system are to submit proposed orders electronically as outlined below.

1. A proposed order should be submitted with each application or motion filed with the Court. These proposed orders should be filed as an attachment to the main pleading or other document.
2. All other orders, including consent orders or orders resulting from a hearing or other disposition shall be filed electronically by selecting the "Proposed Order" event in the CM/ECF system.
3. The Clerk's Office will make a copy of the participant's proposed order and forward it to the presiding Judge. Once the Judge signs the order or otherwise approves it for entry, the Clerk's Office will make the appropriate entry on the CM/ECF system to docket the order. An electronic signature of the presiding Judge and the entry of the order on the docket shall have the same force and effect as if manually signed and docketed as a conventional filing.

VI. CLAIMS, ATTACHMENTS AND EXHIBITS

A. EXHIBITS OR ATTACHMENTS TO DOCUMENTS

Except as the presiding judge may otherwise direct, all documents should be filed electronically in Portable Document Format ("PDF") via CM/ECF. Exhibits or attachments to documents should be submitted electronically as a part of the main document if possible. Participants shall include only excerpts of the exhibit or attachment that are *directly germane to the matter under consideration* by the Court. Excerpts must be clearly and prominently identified as such. Upon request by any party in interest or the court, the complete document containing any excerpt shall be made available to both the party making the request and the court, unless otherwise ordered by the court. Persons filing excerpts of exhibits

or attachments do so without prejudice to their right to file additional excerpts or the complete exhibit or attachment with the Court at any time. Opposing parties may file additional excerpts if they believe that they are relevant.

B. EXHIBITS TO BE INTRODUCED INTO EVIDENCE

Exhibits offered into evidence by parties during Court hearings must be submitted on paper. After final judgment has been entered and the appeal period has expired, exhibits may be returned to the filing party(ies) upon request.

C. PROOFS OF CLAIM

Claims must be filed electronically, if the claimant is a registered participant, or conventionally if the claimant is an individual or a corporation, limited liability company, partnership or other legal entity that files fewer than ten (10) proofs of claim per year.

VII. DOCUMENTS TO BE FILED UNDER SEAL

See Part IV.(B)(2)(d).

VIII. RETENTION REQUIREMENTS

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 final orders in 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, either as a image or through the /s/ method (e.g., /s/ Jane Doe).

IX. SIGNATURES

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 as a image of a signature or 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 a 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.

X. SERVICE

A. Service of Filed Documents on Parties

1. The system will generate a “Notice of Electronic Filing” when any document is filed. This notice represents service of the document on parties who are registered participants with the system. The filing party shall not be required to serve any pleading or other documents on any party receiving electronic notice, except as set out in numbered paragraph 3. below. A Certificate of Service must still be attached to the document. The Certificate of Service should set out the parties, name and mailing address or electronic mailing address whichever is applicable.
2. The filing party shall also serve conventionally those parties not designated or able to receive electronic notice but who are nevertheless entitled to notice of said pleading or other document in accordance with the Federal Rules of Bankruptcy Procedure and the Local Rules, except as otherwise provided by order of the court. If such service of a paper copy is to be made, it shall be done in the manner provided in the Federal Rules of Bankruptcy Procedures and the Local Rules.
3. A party may not electronically serve a summons and complaint, but instead must perfect service according to Fed.R.Bankr.P.7004.
4. Service by electronic mail will constitute service pursuant to the Uniform Local Rules for the Bankruptcy Courts for the Northern and Southern Districts of Mississippi, Rule 9076-1
5. Service by electronic means is not effective if the party making service learns that the attempted service did not reach the person to be served.

B. Certificate of Service

A Certificate of Service continues to be a requirement when filing documents electronically.

XI. NOTICE OF COURT ORDERS AND JUDGMENTS

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 Rules 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 (or party) who is not a participant or who has not entered into an Electronic Bankruptcy Noticing Agreement with the Court for electronic notice from the Bankruptcy Noticing Center.

XII. TECHNICAL FAILURES

1. 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 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.
2. 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 technical failure of CM/ECF, the participant may seek appropriate relief from the Court.

XIII. PUBLIC ACCESS

A. Public Access at the Court

Electronic access to the electronic docket and documents filed in the system is available to the public at no charge at the Clerk's Office during regular business hours.

B. Internet Access

Although any person can retrieve and view documents in the system and access information from it without charge at the Clerk's Office, electronic access to the system for viewing purposes is otherwise limited to subscribers to the Public Access to Court Electronic Records (PACER) system and, in accordance with the ruling of the Judicial Conference of the United States, a user fee will be charged for accessing certain detailed case information, such as reviewing filed documents

and docket sheets, but excluding review of calendars and similar general information. Information regarding subscribing to PACER is available at the PACER Website at www.pacer.psc.uscourts.gov and at the Clerk's Office.

C. Paper Copies and Certified Copies

Conventional copies and certified copies of electronically filed documents may be purchased at the Office of the Clerk. The fee for copying and certification will be in accordance with 28 U.S.C. § 1930 and the Bankruptcy Court Miscellaneous Fee Schedule.

XIV. PRIVACY

In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents and pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court or required by statute, the Federal Rules of Bankruptcy Procedure of the Official Bankruptcy Forms.

A. Social Security Numbers

If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.

B. Names of Minor Children

If the involvement of a minor child must be mentioned, only the initials of that child should be used. On Schedule I of Official Bankruptcy Form 6, list relationship and age of the debtor's dependents (i.e., son, age 6).

C. Dates of Birth

If an individual's date of birth must be included in a pleading, only the year should be used. On Schedule I of Official Bankruptcy Form 6, list the age of each of the debtor's dependents.

D. Financial Account Numbers

If financial account numbers are relevant, only the last four digits of these numbers should be used. On Schedules D, E, and F of Official Bankruptcy Form

6, debtors, if they so choose, may include their full account numbers to assist the trustee and creditors.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data indentifiers listed above may file an unredacted document under seal. This document shall be retained by the court as part of the record. The court may, however, still require the party to file a redacted copy for the public file.

The responsibility for redacting these personal indentifiers rest solely with counsel and the parties. The Clerk will not review each document for compliance with this rule.