

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

ADMINISTRATIVE PROCEDURES
FOR ELECTRONIC FILING, SIGNING
AND VERIFYING OF DOCUMENTS

ORDER

MISC 99-101

At Minneapolis and Saint Paul, Minnesota, January 15, 1999.

WHEREAS:

A. Fed. R. Civ. P. 83 and Fed. R. Bankr. P. 5005(a)(2) and 9029 authorize this court to permit documents to be filed, signed or verified by electronic means that are consistent with the technical standards, if any, established by the Judicial Conference of the United States.

B. A document filed electronically in compliance with the order 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 11 U.S.C. § 107.

C. The court has reviewed the attached *Administrative Procedures for Electronic Filing, Signing and Verifying of Documents* dated January 15, 1999 (collectively "electronic filing procedures"). (Exhibit 1).

D. The electronic filing procedures 1) are consistent with and further the responsibility of the clerk of bankruptcy court to keep records under Fed. R. Bankr. P. 5003, including safeguarding the integrity of the court's dockets; 2) do not impose fees inconsistent with the present fee structure adopted by the Judicial Conference of the United States pursuant to 28 U.S.C. §§ 1913, 1914, 1926 and 1930; 3) provide a means for the signature of attorneys on the documents through

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NOTICE OF ENTRY AND FILING OF ORDER
FILED IN CASE NO. _____
DATE OF ENTRY: 1/15/99
FILED BY: Patrick C. Dole

the mechanism of a password and a secure mechanism for the creation and distribution of passwords; 4) provide adequate procedures for filing documents by parties who are not able to access the electronic filing system by modem; 5) provide adequate access to review and retrieve the records and dockets of court including access to parties who are not able to access electronic records from a remote location by modem; 6) do not impair the ability of the clerk to perform statistical reporting responsibilities both to the court and to the Administrative Office of the United States Courts; and 7) are consistent with the notice requirements of Fed. R. Bankr. P. 2002.

IT IS ORDERED:

1. The *Administrative Procedures for Electronic Filing, Signing and Verifying of Documents* dated January 15, 1999 are approved.

2. The electronic files consisting of images of documents filed in cases and proceedings, together with documents filed by electronic means, are designated as and shall constitute the official record of the court together with the other records kept by the court.

3. Where original signatures are required, the form, Declaration Re: Electronic Filing (Attachment 2 to the *Administrative Procedures*) shall be filed with the court.

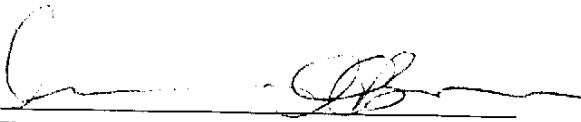
4. The electronic filing of a document by an attorney who is an ERS registered participant in the electronic case filing system shall constitute the signature of that participant under Fed. R. Bankr. P. 9011 and Local Rule 9011-4.

5. No attorney shall knowingly permit or cause the attorney's password to be utilized by anyone other than other attorneys in or persons employed by the attorney's law firm.

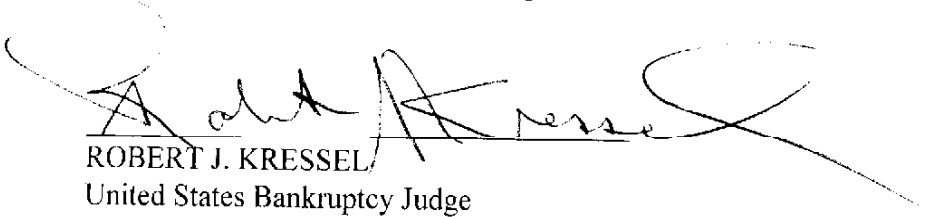
6. Except as provided in paragraph 5, no person shall knowingly utilize or cause another person to utilize the password of another.

7. Delivery of paper copies of other documents to those who are not ERS registered participants is required.
8. The electronic filing of documents in accordance with the electronic filing procedures constitutes entry of those documents on the docket kept by the clerk in accordance with Fed. R. Bankr. P. 5003.
9. The clerk will enter all orders, decrees, judgments, and proceedings of the court in accordance with the electronic filing procedures, which constitutes entry of the order, decree, judgment or proceeding on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9021.
10. Whenever a document is filed electronically in accordance with the electronic filing procedures, the clerk shall electronically transmit a "Notice of Electronic Filing" to the filing party at the time of docketing. The filing party who is an ERS registered participant shall electronically serve the Notice of Electronic Filing and the documents upon all persons who are ERS registered participants and who are entitled to notice or service in accordance with applicable rules. If the recipient of the notice is not an ERS registered participant, service by conventional means is required.
11. Participation in the electronic filing system by receipt of a password from the court, constitutes a request for service and notice electronically pursuant to Fed. R. Bankr. P. 9036. Participants in the electronic filing system, by receiving a password from the court, waive the right to receive notice and service conventionally and agree to receive notice and service by electronic means.
12. The original of this order shall be filed in accordance with the electronic filing procedures and conventionally.

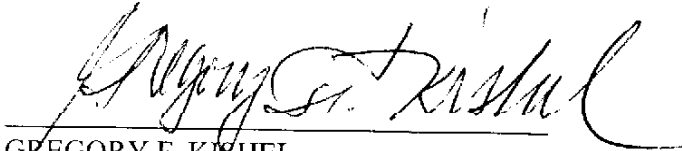
13. This order applies to documents in cases commenced on and after May 1, 1998 and adversary proceedings initiated and pending on and after January 1, 1997. Amendments to this order may be entered from time to time in keeping with the needs of the court.



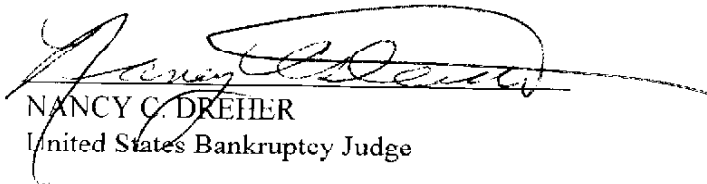
DENNIS D. O'BRIEN
Chief United States Bankruptcy Judge



ROBERT J. KRESSEL
United States Bankruptcy Judge



GREGORY F. KISHEL
United States Bankruptcy Judge



NANCY C. DREIER
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

ADMINISTRATIVE PROCEDURES
FOR ELECTRONIC FILING, SIGNING AND VERIFYING OF DOCUMENTS

January 15, 1999

I. DESIGNATION OF DOCUMENTS AND REGISTRATION FOR THE ELECTRONIC FILING SYSTEM

A. *Designation of Documents.* The court permits documents in cases and adversary proceedings to be filed electronically.

B. *Passwords.* Each attorney admitted to practice in the court shall be entitled to one electronic filing system ("system") password to permit the attorney to participate in the electronic retrieval and filing of documents in accordance with the system.

C. *Registration and Training.*

1. A completed Electronic Filing Training form (Attachment 1) shall be submitted for each person to be trained. The form may be duplicated.

2. All completed registration forms shall be mailed, faxed, electronically mailed ("e-mailed") or delivered to:

Attn: Registration
United States Bankruptcy Court
200 United States Courthouse
316 North Robert Street
St. Paul, Minnesota 55101
Fax Number: 651-848-1098
E-Mail: ersmail@mn.uscourts.gov

Exhibit 1

3. Each attorney who intends to file electronically shall attend and complete a training session conducted by the court staff and shall complete electronic test filings on the ERS training database within 30 days of the training. After the attorney completes the training session and the electronic test filings successfully, and is certified by the court, the attorney may file documents electronically.

4. The court encourages attorneys to change their court-assigned system passwords periodically and strongly encourages changing passwords when changing firms. A password can be changed by following instructions on the court's web site.

5. In the event that an attorney believes the security of an existing password has been compromised or a threat to the system exists, the attorney shall immediately call the clerk, the chief deputy, a deputy-in-charge, or the systems manager and confirm by facsimile in order to prevent unauthorized access to the system.

II. ELECTRONIC FILING AND SERVICE OF DOCUMENTS

A. *Filing.*

1. An attorney or other person may elect to file electronically any document in a case or adversary proceeding.

2. An attorney or other individual filing any document electronically shall follow the procedures contained in the *Electronic Records System Users' Guide*.

3. All moving papers specified in Local Rule 9013-2(a) which are being filed at the same time and by the same party shall be filed electronically under one document number.

The moving papers which may be filed electronically include:

- (1) a notice of hearing and motion;

- (2) if facts are at issue, an affidavit or verification of the motion;
- (3) a separate, concise memorandum of facts and law;
- (4) a proposed order; and
- (5) proof of service.

4. Any entity may file electronically a response under one document number.

The responsive papers specified in Local Rule 9013-2(b) in addition to the response include:

- (1) a concise memorandum of facts and law;
- (2) if facts are at issue, an affidavit; and if appropriate
- (3) a request for an order denying the motion or a request for an order imposing costs, fees and expenses, but shall not include a request for any other relief.

B. *Service.*

1. Whenever a document is filed electronically in accordance with the electronic filing procedures, the clerk shall electronically serve the filing party with a "Notice of Electronic Filing" at the time of docketing.

2. The filing party shall electronically serve the Notice of Electronic Filing and any other documents on all ERS registered participants who are entitled to service.

3. If the recipient of the notice is not an ERS registered participant in the electronic filing system, service shall be accomplished conventionally.

C. *Signatures; Affidavits of Service.* If a document being filed electronically requires the signature of a person who is not an ERS registered participant, such as a petition, or a verification under Fed. R. Bankr. P. 1008, or an unsworn declaration as provided in 28 U.S.C. § 1746, the

attorney must prepare a signature declaration form (Attachment 2) and have the person whose signature is required sign the form. The documents being filed electronically shall indicate a signature, *e.g.*, “/s/ Jane Doe.” The signature declaration form must be saved in a *.PDF format and attached to the documents being filed electronically. The original signature declaration form containing the original signature shall be filed with the court within five days of the date the documents were filed electronically. The court shall file, docket and scan the original signature declaration form and place the form in the court paper file for the case or adversary proceeding.

D. *Fees Payable to the Clerk.* Application for authorization of credit card payment for electronic filings which require a fee shall be made with the financial administrator of the clerk.

E. *Orders.* All orders shall be filed electronically. Deputy clerks will make the appropriate entry on the docket.

F. *Exhibits.* Motions shall be filed in electronically produced text format on the system. If exhibits were originally produced in electronic text format, they shall be attached to the motion in a *.PDF format. If the exhibits were originally produced in hard copy (paper) format, and in a format that can be electronically imaged, the attorney shall make every effort to electronically image the documents. In the ordinary course, if the entire exhibit is deemed by the attorney to be relevant to the motion being submitted, and the exhibit was not originally produced in an electronic text format, and if it is impractical to image electronically the entire document, the entire paper exhibit shall be sent to the court to be separately filed and docketed by the case administrator. In unusual circumstances, the attorney may annex to the motion that will be filed electronically excerpts of the exhibit that are directly germane to the matter under consideration by the court. Such exhibits must be clearly and prominently identified as excerpts, and the complete exhibit must be made available

forthwith to counsel and the court on request and must be available at the hearing. 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. Other parties may file additional germane excerpts.

G. *Docket Entries.* The person electronically filing a petition, pleading or other document will be responsible for the docket entry.

III. CONVENTIONAL FILING OF DOCUMENTS

A. *Conventional Filings.* Persons who are not ERS registered participants may continue to file documents in a conventional manner.

B. *Documents to be Filed Under Seal.* A motion to file documents under seal may be filed electronically, however, the documents themselves shall not be filed electronically. A paper copy of the order granting the motion shall be attached to the document(s) under seal and be delivered to the clerk of court, the chief deputy, the deputy-in-charge or a supervisor. The document to be filed under seal should also be submitted on a disk so that it can be electronically filed if an order is entered unsealing the document.

IV. PUBLIC ACCESS TO THE SYSTEM DOCKET

A. *Internet Access Without a Password.* Any person may access the system at the court's Internet site at www.mnb.uscourts.gov. Access to the system through the Internet site without using a password allows retrieval of the docket sheet and documents in a "read only" format.

B. *Public Access at the Court.* Public access viewing of the docket and documents filed in the system is available in all of the offices of the clerk during regular business hours, Monday through Friday.

C. *Conventional Copies and Certified Copies.* Conventional copies and certified copies

of electronically filed documents may be purchased in any of the offices of the clerk during business hours Monday through Friday. The fees charged for copying and certifying are required by 28 U.S.C. § 1930.

D. *Access Charges.* The Judicial Conference of the United States requires that a fee be charged for usage of electronic access to court data. When the Administrative Office of the United States Courts establishes procedures for fee collection, users will be charged accordingly.

Electronic Filing Training Form

(Please type)

Name _____

First/Middle/Last

State Bar # _____ State _____

Firm Name _____

Firm Address _____

City, State, Zip _____

Email Address _____

Telephone Number _____ Fax Number _____

(Include area code)

(Include area code)

Please indicate the type of training you need:

____ Filing documents ____ Opening Cases or Adversary Proceedings ____ Both

1. Number of staff members (including yourself) you anticipate being trained _____

2. Do you have Netscape 4.0 or higher installed? _____

3. Do you have Adobe Acrobat Exchange installed? _____

4. Do you have a Mac or Windows based bankruptcy forms package installed? _____

5. Name of bankruptcy forms package software _____

6. Name of word processing software _____

7. Are your computers equipped with cdrom? _____

8. Do you have a scanner? _____

Please return form to:

Attn: Registration

United States Bankruptcy Court

200 United States Courthouse

316 N. Robert Street

St. Paul, Minnesota 55101

Fax Number: 651-848-1098

E-mail: ersmail@mn.uscourts.gov

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY: _____

Debtor(s).

ADV: _____

DECLARATION RE: ELECTRONIC FILING

Title of Document to be Electronically Filed:
Filing Date:

I, _____, declare under the penalty of perjury, that I am the person who signed the above named document, that the information provided in the document is true and correct, that I consent to the document being electronically filed with the clerk of the United States Bankruptcy Court on (Filing Date), and that I understand that this Declaration Re: Electronic Filing is to be filed with the clerk **no later than five days after** the above-named document has been electronically filed.

Executed on: _____ Signed: _____

Name and address of subscriber: _____

PETITION, SCHEDULES & STATEMENTS

AMENDMENT TO PETITION, SCHEDULES & STATEMENTS

I [We] _____ and _____, the undersigned debtor(s), *hereby declare under penalty of perjury* that the information I have given my attorney and the information provided in the electronically filed petition, statements, schedules, and amendments as indicated above is true and correct. I consent to my attorney electronically filing my petition, this declaration, statements and schedules, or amendments as indicated above with the United States Bankruptcy Court. I understand that this Declaration Re: Electronic Filing is to be filed with the clerk of the United States Bankruptcy Court once all schedules have been filed electronically **no later than five days** following the date the petition was electronically filed. If filing an amendment, I understand that this declaration is to be filed no later than the next business day following the date of service of the amendment. I understand that failure to file the signed original of this Declaration will provide cause for my case to be dismissed pursuant to 11 U.S.C. § 707(a)(3) without further notice.

[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of 11 United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. I request relief in accordance with the chapter specified in this petition.

[If petitioner is a corporation or partnership] I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor. The debtor requests relief in accordance with the chapter specified in this petition.

Dated: _____

Signed: _____
(Applicant)

(Joint Applicant)