

**PROPOSED LOCAL RULES AMENDMENTS
JUNE 2019**

NOTE: The proposed changes to Local Rules 7055-1 below supersede the proposed changes to those same rules previously posted for comment on May 14, 2019 and which comment period runs concurrently with these proposed changes.

Rule 5005-1. Filing Documents - Requirements

(a) ELECTRONIC FILING BY FILING USERS. ~~Except as expressly provided and in exceptional circumstances preventing a Filing User from filing electronically, all documents required to be filed with the court in connection with any case or proceeding must be electronically filed.~~ Attorneys admitted to the bar of this court who wish to file documents with the court, attorneys representing the United States Trustee, and trustees must register as Filing Users. Once so registered, Filing Users shall electronically file all documents required to be filed with the court in connection with any case or proceeding, except in exceptional circumstances preventing electronic filing.

(b) REGISTRATION AND RESPONSIBILITIES OF FILING USERS: Registration as a Filing User of the court's Electronic Case Filing System is in a form prescribed by the clerk and requires the Filing User's name, address, telephone number, bar identification number if applicable, and a primary e-mail address at which the Filing User wishes to receive CM/ECF notification.

(c) PRO SE FILINGS. An unrepresented individual may file documents electronically only with the permission of the clerk of court.

(d) FILING DEFINED. Electronic transmission of a document to the Electronic Case Filing System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the local rules of this court, and constitutes entry of the document on the docket kept by the clerk under Fed.R.Bankr.P. 5003. A document submitted electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court or, in the case of documents submitted to the "Inbox" filing option, at the date and time the submission is received by the court. Filing must be completed before midnight local time where the court is located in order to be considered timely filed that day.

(e) RECEIPT OF DOCUMENTS NOT ELECTRONICALLY FILED. Documents properly submitted to the clerk other than through the Electronic Case Filing System are filed at the date and time received by the clerk.

Rule 7055-1. Default; Default Judgment

A party seeking default judgment shall:

(a) First, file a request by affidavit or letter for the clerk to enter default against any party who has failed to plead or otherwise defend; and

(b) Second, after the clerk has entered the party's default, serve on any party in default and file: 1) an ~~application~~ a request for default judgment; 2) an affidavit of default stating that no defense or other response of any kind has been received or, if one has been received, detailing the defense or other response received; 3) an affidavit of identification of the defaulting party including address and military or infancy or competence status; 4) an affidavit on the merits and the amount due including costs and disbursements by a person with personal knowledge; and 5) proposed findings of fact, conclusions of law and order for judgment. If the summons and complaint were served by mail and then returned by the postal service, the party seeking judgment shall disclose that to the court by affidavit. If the ~~application~~ request for default judgment was served by mail and then returned by the postal service, the party seeking judgment shall disclose that to the court. The court may, in its discretion, hold a hearing before entry of default judgment.

Rule 9010-3. Attorneys

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~~(h) ELECTRONIC REGISTRATION, NAME CHANGES AND DEACTIVATION:~~

~~(1) Registration: Attorneys admitted to the bar of this court (including those admitted pro hac vice and attorneys authorized to represent the United States), United States trustees and their assistants, trustees, and others as the court deems appropriate, may register as Filing Users of the court's Electronic Case Filing System. Registration is in a form prescribed by the clerk and requires the Filing User's name, address, telephone number, bar identification number and primary e-mail address at which the Filing User wishes to receive CM/ECF notification. Once registration is completed, the Filing User will receive notification of the Filing User's user name and password. Filing Users agree to protect the security of their passwords and immediately notify the clerk if they learn that their password has been compromised.~~

~~—(2) Name Changes. A Filing User may change the name associated with the Filing User's user name and password only to reflect a legal name change. A Filing User may not change the name associated with the Filing User's user name and password to that of another person.~~

~~—(3) Deactivation. A Filing User may deactivate his or her user name and password at any time, upon written notice to the clerk.~~

Rule 9011-4. Signatures

(a) GENERALLY. All documents presented for filing shall be signed and include the name, address and telephone number of the signer or the signer's attorney.

(b) ELECTRONIC SIGNATURES - FILING USERS. ~~The user log-in and password required to submit documents to the Electronic Case Filing System serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of Fed.R.Bankr. P. 9011, the Federal Rules of Bankruptcy Procedure, the local rules of this court, and for any other purpose for which a signature is required in connection with proceedings before the court. Electronically filed documents must include a signature block setting forth the name, address, telephone number and attorney bar registration number, if applicable, of the Filing User. In addition, the name of the Filing User under whose login and password the document is submitted must be preceded by an "/e/" and typed in the space where the signature would otherwise appear. No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.~~

(c) ELECTRONIC SIGNATURES - EMPLOYEES OF FILING USERS. A document filed in electronic format by a Filing User may contain the signature of a non-attorney employee of that Filing User, or of an agency or firm of which the Filing User is an employee, member or partner, represented by an "/e/" and the **non-attorney employee's** name typed in the space where a signature would otherwise appear. The electronic filing of a document with such a signature shall constitute a certification by the Filing User that the employee consented to the use and submission of the employee's signature in this form, and that the employee had attested under penalty of perjury to the truth of any facts so subscribed.

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Rule 9013-2. Motion Documents

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(b) RESPONSIVE DOCUMENTS. Any entity opposing a motion and wishing to be heard shall file and serve a response, which shall include a concise memorandum of facts and law and, if facts are at issue, an opposing affidavit, **and a proposed order**. A response may include 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.

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(h) WAIVER OF DISCHARGE. Motions seeking an order approving the waiver of discharge pursuant to Section 727(a)(10) shall comply only with paragraph (a) (1), (4), and (5) of Local Rule 9013-2. The motion shall be served **upon** 1) the debtor; 2) the attorney for the debtor; 3) the trustee; 4) the United States Trustee; and 5) each entity that has filed a request for notice or notice of appearance under Federal Rule of Bankruptcy Procedure 2002(i) or 9010(b).

Rule 9013-3. Entities Served in Bankruptcy Cases Motions: Service, Transmittal and Notice

(a) MOVING DOCUMENTS.

(1) Chapter 7, 12 and 13 Cases. Except as provided in Local Rules 2002-1, 3007-1, and 3019-2, moving documents in a chapter 7, 12 or 13 case shall be served on: 1) the debtor; 2) ~~the attorney for the debtor;~~ 3) the trustee; 3) each entity against whom relief is sought; 4) each entity claiming a lien or other interest in property if any property is involved; and 5) any other entity required to be served by the Federal Rules of Bankruptcy Procedure or the Local Rules. The moving documents shall be transmitted to: 1) the attorney for the debtor; 4) the United States Trustee; 5) each entity that has filed a request for notice or notice of appearance under Federal Rule of Bankruptcy Procedure 2002(i) or 9010(b); 6) ~~each entity claiming a lien or other interest in property if any property is involved;~~ 7) ~~each entity against whom relief is sought;~~ 8) in a chapter 7 case, each member of the committee of creditors, if any; and (9) in a chapter 12 case, the United States Attorney for the District of Minnesota. Notice of the motion shall be given to any other parties required to receive notice of the motion pursuant to the Federal Rules of Bankruptcy Procedure, including, but not limited to, Rule 2002.

(2) Chapter 11 Cases. Unless on application the court for cause orders either expanded or restricted service and except as provided in Local Rules 2002-1(b), 3007-1, and 3019-2, moving documents in a chapter 11 case shall be served on: 1) the debtor; 2) ~~the attorney for the debtor;~~ 3) the trustee or examiner; 3) each entity against whom relief is sought; 4) each entity claiming a lien or other interest in property if any property is involved; and 5) any other entity required to be served by the Federal Rules of Bankruptcy Procedure or the Local Rules. The moving documents shall be transmitted to: 1) the attorney for the debtor; 2) the United States Trustee; 5) all committees; 6) the twenty largest unsecured creditors if no committee of creditors holding unsecured claims has been appointed; 7) each major secured creditor; 8) the Internal Revenue Service; 9) the Collection Division of the Minnesota Department of Revenue; 10) the United States Attorney for the District of Minnesota; 11) each creditor that is a governmental unit; and 12) each entity that has filed a request for notice or notice of appearance under Federal Rule of Bankruptcy Procedure 2002(i) or 9010(b); 13) ~~each entity claiming a lien or other interest in property if any property is involved;~~ and 14) ~~each entity against whom relief is sought.~~ Notice of the motion shall be given to any other parties required to receive notice of the motion pursuant to the Federal Rules of Bankruptcy Procedure, including, but not limited to, Rule 2002

(3) Health Care Business. In addition to the entities required to be served under paragraphs (1) and (2) of this rule, moving documents seeking a determination that the appointment of a patient care ombudsman is not necessary for the protection of patients shall be served on each entity that issues licenses to or regulates the debtor or the debtor's principal.

(b) RESPONSIVE DOCUMENTS. Unless ordered otherwise, responsive documents shall be served on: ~~1) the moving party.;~~ Responsive documents shall be transmitted to: 1) the attorney for the debtor; 2) the trustee or examiner; 3) the attorneys for all committees; and 4) the United States Trustee.