

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF CALIFORNIA

3
4 In re

5 AMENDMENT OF LOCAL BANKRUPTCY)
6 RULES 1007-1, 2002-1 AND 9004-1 AND)
7 ADOPTION OF NEW LOCAL BANKRUPTCY)
8 RULES 5005-1, 5005.5-1 AND 7005-1)

9 TECHNICAL AMENDMENT OF LOCAL)
10 BANKRUPTCY RULES 1002-1 AND 1007-1)

FILED

MAR 2 2006

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

GENERAL ORDER 06-02

11 Notice and opportunity for public comment concerning the proposed revision of Local
12 Bankruptcy Rules 1007-1, 2002-1, and 9004-1, and the proposed addition of new Local
13 Bankruptcy Rules 5005-1, 5005.5-1, and 7005-1 having been given in accordance with
14 Federal Rule of Bankruptcy Procedure 9029, and those comments received having been
15 duly reviewed and considered by the Court,

16 **IT IS ORDERED** that Local Bankruptcy Rules 1007-1, *List of Creditors and Master*
17 *Address List*, 2002-1, *Notice Requirements*, and 9004-1, *General Requirements of Form*,
18 are amended as set forth in the attachment hereto, effective immediately.

19 **IT IS FURTHER ORDERED** that new Local Bankruptcy Rules 5005-1, *Electronic*
20 *Record is the Official Record; Filing of Documents*, 5005.5-1, *Eligibility and Registration for*
21 *Electronic Filing; Use of Passwords*, and 7005-1, *Service by Electronic Means*, are adopted
22 as set forth on the attachment hereto, effective April 3, 2006.

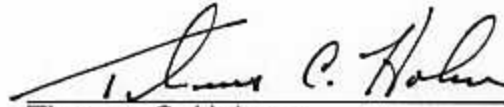
23 **IT IS FURTHER ORDERED** that Local Bankruptcy Rules 1002-1, *Scope of Rules;*
24 *Short Title*, and 1007-1, *Filing Requirements*, are amended as set for in the attachment
25 hereto, effective immediately. The address information changed by amendment of these
26 Local Bankruptcy Rules is determined to be non-substantive and technical in nature and
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1 therefore not subject to the notice and opportunity for comment requirements made
2 applicable by Federal Rule of Bankruptcy Procedure 9029.

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4 DATED: March 2, 2006

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7 Michael S. McManus
8 Chief Bankruptcy Judge

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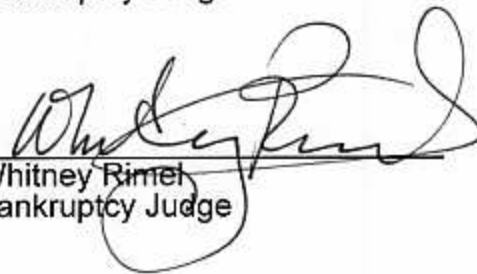
11 Thomas C. Holman
12 Bankruptcy Judge

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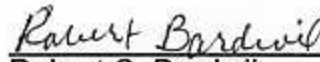
15 Christopher M. Klein
16 Bankruptcy Judge

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19 W. Richard Lee
20 Bankruptcy Judge

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23 Whitney Rimmel
24 Bankruptcy Judge

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27 Robert S. Bardwil
28 Bankruptcy Judge

AMENDED LOCAL RULE 1002-1

Intra-district Venue

Petitions for relief under Title 11, United States Code, shall be filed in one of the three divisions of the Eastern District as determined by the following:

(a) Fresno Division. Petitions from the Counties of Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, and Tulare shall be filed with the Office of the Clerk, United States Bankruptcy Court, 2500 Tulare Street, Suite 2501, Fresno, CA 93721-1318.

(b) Modesto Division. Petitions from the Counties of Calaveras, Stanislaus, and Tuolumne shall be filed with the Office of the Clerk, United States Bankruptcy Court, 1130 12th Street, Suite C, Modesto, CA 95354.

(c) Sacramento Division. Petitions from the Counties of Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Yolo, and Yuba shall be filed with the Office of the Clerk, United States Bankruptcy Court, 501 I Street, Suite 3-200, Sacramento, CA 95814-2322.

(d) Transfer of Incorrectly Filed Petitions. If the debtor's address on a petition indicates that it should be filed in a division other than the division to which it is presented for filing, the Clerk shall nevertheless accept it, and any other pleadings presented with the petition, for filing on behalf of the proper division. The Clerk shall obtain and place the proper division's case number on the petition and accompanying pleadings and transmit them to the proper division.

(e) Request for Different Venue. If the debtor believes that venue should be in a division other than the division designated for the debtor's address, the debtor may file a motion to transfer the case to another division. The Clerk shall promptly present the motion to any available judge.

Comment: Technical change to Sections (a) and (b) of this Rule; bankruptcy court address update.

AMENDED LOCAL RULE 1007-1

List of Creditors and Master Address List

(a) List of Creditors. Creditors shall be listed on the appropriate schedule in alphabetical order by name and complete address (if an address is unknown, it should be so indicated). Addresses of governmental agencies shall be listed in conformance with the requirements specified in LBR 2002-1.

(b) Master Address List. With every petition for relief under the Bankruptcy Code presented for filing, there shall be submitted concurrently a Master Address List which includes the name, address, and zip code of all of the debtor's known creditors. To accommodate modern technology, the Master Address List shall be prepared in strict compliance with instructions of the Clerk in a format approved by the Court.

Comment: Revised rule; renamed to better reflect content of rule. Judicial Conference policy requires local rules to conform as closely as possible to the numbering and subject matter organizational scheme of the FRBP.

AMENDED LOCAL RULE 2002-1
Notice Requirements

(a) Listing the United States as a Creditor; Notice to the United States. When listing an indebtedness to the United States for other than taxes and when giving notice, as required by FRBP 2002(j)(4), the debtor shall list both the U.S. Attorney and the federal agency through which the debtor became indebted. The address of the notice to the U.S. Attorney shall include, in parenthesis, the name of the federal agency as follows:

(1) For Cases filed in the
Sacramento Division:

United States Attorney
(For [insert name of agency])
501 I Street, Suite 10-100
Sacramento, CA 95814

(2) For Cases filed in the
Modesto and Fresno
Divisions:

United States Attorney
(For [insert name of agency])
2500 Tulare Street, Suite 4401
Fresno, CA 93721-1318

For example, a notice to the Department of Education for a case filed in the Modesto division would be addressed as follows:

United States Attorney
(For Department of Education)
2500 Tulare Street, Suite 4401
Fresno, CA 93721-1318

(b) Notice to Other Governmental Agencies. Certain federal and state agencies specify particular addresses to which notice of bankruptcy proceedings shall be directed. The Clerk shall maintain a roster of such agencies and their addresses and shall make such roster available to the Bar and the public to enable compliance with this Rule and the provisions of FRBP 2002(j). When listing an indebtedness to an agency included on this roster, the debtor and the debtor's attorney shall complete the Master Address List (if required) and the schedule of creditors using the address as shown on the agency roster. When listing an indebtedness to an agency not on the roster, the debtor and the debtor's attorney shall use such address as will effect proper notice to the agency.

(c) Notice to the Internal Revenue Service. In addition to addresses specified on the roster of governmental agencies maintained by the Clerk, notices in adversary proceedings and contested matters relating to the Internal Revenue Service shall be sent to all of the following addresses:

(1) United States Department of Justice
Civil Trial Section, Western Region
Box 683, Ben Franklin Station
Washington, D.C. 20044

- (2) United States Attorney as specified in LBR 2002-1(a) above; and,
- (3) Internal Revenue Service at the addresses specified on the roster of governmental agencies maintained by the Clerk.

Comment: Technical change to Section (a) of this Rule; bankruptcy court and U.S. Attorney's Office address update. Section (d) of this Rule is abrogated. The Court may provide for notice limitations, if appropriate, on a case-by-case basis pursuant to FRBP 2002(h).

NEW LOCAL RULE 5005-1

Electronic Record is the Official Record; Filing of Documents

(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, 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: New rule; implements mandatory electronic filing. Attorneys regularly practicing and trustees assigned cases in the Eastern District are expected to electronically file all documents, but rule includes exceptions and provides for waivers; defines time of filing of paper and electronic documents.

NEW LOCAL RULE 5005.5-1

Eligibility and Registration for Electronic Filing; Use of Passwords

(a) Eligible Persons. Attorneys admitted to practice in this court (including those admitted *pro hac vice*), attorneys exempt from admission to the bar of this court (including attorneys authorized to represent the United States and attorneys representing child support creditors as authorized by P.L. 103-394, Section 304(g)), U.S. Trustees and their assistants, trustees, claims agents, and others as the Clerk deems appropriate, shall be eligible to apply for registered user status and be issued a username and password authorizing them to access the court's electronic filing system and submit documents in electronic form. Support staff of registered users are not eligible for a separate username and password, although such staff may attend any electronic filing system training provided by the court and may, with the permission and in the name of a registered user, use the username and password of that registered user to submit documents in electronic form.

(b) Application to be a Registered User. All eligible persons shall complete and submit an Electronic Filing System Registration Form and User Agreement (EDC Form 2-300) to the Clerk. Registration forms and user agreements shall be available on the Court's Internet web site (www.caeb.uscourts.gov). All registered users shall also maintain an account in good standing with the PACER Service Center (<http://pacer.psc.uscourts.gov>).

(c) Training. Prior to receiving an electronic filing system username and password, registered users, or a person authorized to act on behalf of a registered user, must complete minimum required electronic filing system training provided by the court or obtain a waiver of the training requirement from the Clerk.

(d) Unauthorized Use of Password Prohibited.

- (1) A registered user shall not use his/her username and password to file pleadings or other documents on behalf of someone who is not a registered user.
- (2) No person may use a username and password without the permission of the registered user to whom they were issued. Registered users shall protect the security and confidentiality of their username and password and prevent their disclosure to any person other than the registered user's authorized agent.

(e) Duty to Maintain an e-Mail Account; Notify Court of e-Mail Address Changes. Each registered user shall maintain an e-mail account and shall notify the court whenever his/her e-mail address changes.

Comment: New rule. Defines those eligible to be registered users of electronic filing system; provides procedures for obtaining a username and password; defines and limits use of passwords.

NEW LOCAL RULE 7005 -1

Service by Electronic Means

(a) Consent to Service by Electronic Means. Unless a registered user of the court's electronic filing system has opted out as provided for in (b), below, he/she consents to receive service by electronic means pursuant to FRCivP 5(b)(2)(D), as made applicable to bankruptcy cases and proceedings by FRBP 7005.

(b) Opting Out of Service by Electronic Means. A registered user of the court's electronic filing system may opt out of receiving service by electronic means by so indicating on his/her initial application (Electronic Filing System Registration Form and User Agreement, EDC Form 2-300), or at any time thereafter by written notice to the Clerk.

(c) Roster of Those Consenting to Service by Electronic Means. The Clerk shall maintain a roster containing the names and e-mail addresses of registered users who have consented to service by electronic means. The roster shall only be accessible by registered users of the court's electronic filing system and shall be password protected to prevent access by unauthorized persons or entities.

(d) Method of Service.

- (1) Upon Those Parties Consenting to Service by Electronic Means. Service by electronic means pursuant to FRCivP 5(b)(2)(D) shall be accomplished by transmitting an e-mail which includes as a PDF attachment the document(s) served. The subject line of the e-mail shall include the words "Service Pursuant to FRCivP 5", along with the case or proceeding number and the title(s) of the document(s) served.

- (2) Upon All Other Parties. Service on parties who are not registered users of the court's electronic filing system or who are registered users, but have opted out as provided for in (b) above, must be made in the conventional manner as provided for in FRCivP 5 (b)(2).
- (3) Certificate of Service. The certificate of service shall include all parties served, whether by electronic or conventional means. Where service was accomplished by electronic means, the certificate of service shall include the e-mail addresses to which the document(s) were transmitted, and the party, if any, whom the recipient represents.

Comment: New rule; establishes procedures for service by electronic means as permitted by FRCivP 5, made applicable to bankruptcy cases and proceedings by FRBP 7005; provides opt out; requires Clerk to maintain a roster of persons consenting to service by electronic means. The roster will permit persons listed to specify one or more e-mail addresses to which service is made and will be accessible only by registered users of the court's electronic filing system or their authorized agents using their assigned username and password.

AMENDED LOCAL RULE 9004-1

General Requirements of Form

(a) General Format of Documents.

- (1) Paper Documents. All documents in paper form presented for filing with the court, other than those on Official Bankruptcy Forms and other forms approved by the court, shall be on white paper, with numbered lines in the left margin, 8½" x 11" in size, and shall otherwise comply with all other applicable provisions of these Rules. Matter contained thereon shall be typewritten or presented by some other clearly legible process, without erasures or interlining which materially defaces the document, and shall appear on one side of each sheet only. Documents shall be double-spaced except for the identification of counsel, titles, headings, footnotes, quotations, exhibits, and descriptions of real property. Each page shall be numbered consecutively at the bottom.
- (2) Electronic Documents. All documents in electronic form presented for filing with the court shall be submitted as a PDF file using the court's electronic filing system and when opened for viewing on the electronic case file system shall conform in all respects to the general appearance of traditional paper documents, prepared in the manner and form described in (1), above.

(b) Counsel Identification. The name, address (including e-mail address, if the document is to be submitted in electronic form), telephone number, and the California State Bar membership number (not applicable to counsel for the United States) of all counsel (or, if in propria persona, of the party) and the specific identification of each party represented by name and interest in the proceeding (e.g., Debtor Smith, Creditor Bank, Plaintiff Roe, Defendant Doe) shall appear in the upper left-hand corner of the first page of each document presented for filing, except that in the instance of multiparty representation reference may be made to the signature page for the complete list of parties represented.

(c) Signatures Generally. All pleadings and non-evidentiary documents shall be signed by the individual attorney for the party presenting them, or by the party involved if that party is appearing in propria persona. Affidavits and certifications shall be signed by the person offering the evidentiary material contained in the document. The name of the person signing the document shall be typed underneath the signature.

(1) Signatures on Documents Submitted Electronically.

- (a) Signature of the Registered User. The username and password required to access the electronic filing system shall serve as the registered user's signature on all electronic documents filed with the court. They shall also serve as a signature, with the same force and effect as a written signature, for purposes of the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of this court, including FRBP 9011-1 and LBR 9004-1(c), and for any other purpose for which a signature is required in connection with proceedings before the Court. Unless the electronically filed document has been scanned and shows the registered user's original signature or bears a software-generated electronic signature thereof, an "/s/" and the registered user's name shall be typed in the space where the signature would otherwise appear.
- (b) Signatures of Other Persons. Signatures of persons other than the registered user may be indicated by either:
 - (i) Submitting a scanned copy of the originally signed document;
 - (ii) Attaching a scanned copy of the signature page(s) to the electronic document, or;
 - (iii) Through the use of "/s/ Name" or a software-generated electronic signature in the signature block where signatures would otherwise appear. Electronically filed documents on which "/s/Name" or a software-generated electronic signature is used to indicate the signatures of persons other than the registered user shall be subject to the requirements set forth in (c) and (d), below.
- (c) The use of "/s/ Name" or a Software Generated-Electronic Signature. The use of "/s/Name" or a software-generated electronic signature on documents constitutes the registered user's representation that an originally signed copy of the document exists and is in the registered user's possession at the time of filing.
- (d) Retention Requirements When "/s/Name" or a Software-Generated Electronic Signature is Used. When "/s/Name" or a software-generated electronic signature is used in an electronically filed document to indicate the required signature(s) of persons other than that of the registered user, the registered user shall retain the originally signed document in paper form for no less than three (3) years following the closing of the case. On request of the Court, the registered user shall produce the originally signed document(s) for review. The

failure to do so may result in the imposition of sanctions on the Court's own motion, or upon motion of the case trustee, U.S. Trustee, U.S. Attorney, or other party.

- (2) Signatures on Facsimile Documents. For the purposes of this Rule, the image of the original manual signature appearing on a facsimile (fax) copy filed pursuant to this Rule shall constitute an original signature for all court purposes. The document, which itself may be in whole or in part a fax copy, must be marked "original" prior to submission to the Clerk's Office for filing. The originator of the document, or in the case of an affidavit or certification, the presenting attorney or party, is required to maintain the document containing the original manual signature until the conclusion of the case or proceeding, including any appeal and remand after appeal. In the event there are multiple signatories to a document, the filing party or attorney shall retain the originally signed document(s). The Court may require that the document containing the original manual signature be filed. This Rule does not provide for documents to be transmitted via fax directly to the Clerk's Office. Documents directly faxed to the Clerk or to a chambers of the court will not be filed, lodged, received, returned, or acknowledged.

Comment: Revised rule; recognizes advent of electronic documents; provides procedures for signatures on electronic documents.