



UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

ECF NEWSLETTER

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Mandatory ECF Effective in January 2004

At their May 5th meeting, the Bankruptcy Court Judges decided that Electronic Case Filing (ECF) will become mandatory in January 2004 for most bankruptcy practitioners. The Court will join about 12 other bankruptcy courts around the country in requiring pleadings to be filed electronically.

One of the exceptions to this decision is that *pro se* petitioners, who account for about 2% of the Court's business, will continue to file their documents on paper. These documents will be

scanned by Clerk's Office staff and entered into the ECF system. Also, creditors who are not registered ECF users will continue to file proofs of claim in the conventional manner. Finally, certain types of documents will continue to be filed on paper, even if submitted by registered users. These include sealed documents, involuntary petitions, appeals, certain kinds of exhibits, reaffirmation agreements, hearing transcripts, and the signature declaration forms. (See sections II B and III A of the Administrative Procedures Manual.)

Ohio Northern's U.S. Bankruptcy Court *ECF Newsletter* is a publication of court policies, procedures and information designed to assist the public and members of the bar.
William T. Bodoh, Chief Judge
Richard L. Speer, Judge
Randolph Baxter, Judge
Marilyn Shea-Stonum, Judge
Pat E. Morgenstern-Clarren, Judge
Russ Kendig, Judge
Mary Ann Whipple, Judge
Arthur I. Harris, Judge
Kenneth J. Hirz, Clerk
Bill Kurtz, Editor

Changes Made in Administrative Procedures Manual

As the Court's experience with ECF continues to grow, some revisions to the Administrative Procedures Manual (APM) were found to be necessary. A new provision has been added to section II A (page 5) governing closed cases. During the past several weeks the Clerk's Office has received a handful of pleadings filed in closed cases. The new provision specifies that a motion to reopen a closed case must be filed

before any other pleadings are submitted. If a motion to reopen is filed, the filer's credit card will be debited for the applicable filing fee, *i.e.*, \$155 for a Chapter 7 and 13 and \$800 for a Chapter 11.

The wording of section II B 2 (page 6) dealing with documents containing multiple attorney signatures was also revised. The former language stated that "an unsigned copy of the document shall be scanned and submitted to the

court....” There were two problems with the quoted language. First, there was confusion as to the meaning of “unsigned copy.” The revised language clarifies that the filer should simply submit a copy containing the designation “/s/name” for all attorneys’ signatures; actual signatures should not be submitted. The second problem was that a scanned document, which would be submitted in PDF format, is not subject to revision by the Judge. The revised language specifies that the document should be submitted in word processing format.

A change was also made in section II B 5 (page 6) adding the words “assigning, transferring, or withdrawing” to the list of functions available for claims agents with respect to proofs of claim.

Section II E 1 (pages 7 and 8), which deals with the payment of fees via credit card, was amended to provide that any changes in a user’s credit card or debit card must be communicated to the Clerk’s Office in writing. The written communication should be sent to the same address to which the original information was sent, *i.e.*, Clerk’s Office, ATTN: ECF Registration, United States Bankruptcy Court, Northern District of Ohio, Key Tower, 127 Public Square, Suite 3001, Cleveland, Ohio 44114-1309.

A change was also made in section II G 3

(page 10) specifying that in the event of an erroneous docket entry, the Clerk’s Office will make the docket entry regarding the needed corrective action. The prior version of this section required the filer to submit the corrective entry.

The final changes in the text of the APM were made in section III A (page 11). The addition of involuntary petitions (III A 3) and appeals (III A 4) to the list of documents that must be filed conventionally was needed because of various problems with the electronic filing of such documents. These problems are being addressed and should be resolved within the next several months. The addition of the phrase “unless otherwise provided” at the end of the sentence in section III A 6 contemplates the provisions of section II B 2, *i.e.*, documents incorporating multiple attorney signatures are not filed conventionally.

Changes were also made in the Claims Agent Registration Form and User Agreement (Attachment D of APM) and the Credit Card Authorization Form (Attachment E) in conformity with these revisions.

Please check the Court’s web page at www.ohnb.uscourts.gov to access the revised APM as well as other helpful documents.

Filing Fees Assessed for Duplicate Filings

There have recently been a handful of cases in which users have inadvertently filed the same petition or other pleading on more than one occasion. For instance, after entering all of the applicable information, a user may mistakenly enter all of the information a second time, thereby resulting in the same document being filed two times. Unfortunately, under these circumstances

any applicable filing fee will be assessed twice, and the user’s credit card will be charged for both transactions. The reason for this is that AO regulations require that filing fees be paid for the filing of every pleading requiring a filing fee, and further prohibit the courts from refunding a filing fee.

Returned Mail to be Imaged by Clerk's Office

One of the ongoing issues affecting the operation of the Clerk's Office, both before and after the implementation of ECF, is what to do with mail returned from the Bankruptcy Noticing Center (BNC) due to an incorrect address. Courts throughout the country have adopted different methods for handling this problem. Some courts instruct the BNC to return the mail directly to the party who submitted the wrong address, while other courts maintain the returned mail either in paper or electronic format. At their May 5th meeting, the Judges decided that in the Northern District of Ohio all returned mail will be imaged by the Clerk's Office. Specifically, each divisional office will image the returned mail envelope and attach it as a PDF document to the case docket under the "Returned Mail" event. Multiple documents can be associated with this one docket

event, and any and all returned mail for a case can be viewed by pulling up this event on the main docket. Note that the document inside the returned mail envelope will not be imaged since it does not include case-specific information. In the upper left hand corner of the returned mail envelope, the addressee's name (usually a creditor) and address as well as the form number (which can be linked to the event that created the notice) are displayed.

Because imaging returned mail is a time-consuming process that produces large files, attorneys are encouraged to verify all addresses, particularly creditors' addresses, before submitting them to the Court. It is also recommended that attorneys periodically check the "Returned Mail" docket entry in their cases, and correct any addresses that are inaccurate.

Bankruptcy Rule Amendments Proposed to Govern Privacy

Proposed amendments to three Federal Rules of Bankruptcy Procedure governing privacy are currently pending. The proposed rule amendments are in response to the enactment of the E-Government Act of 2002 (Pub. L. No. 107-347), which requires the Supreme Court, in accordance with the federal rulemaking process, to develop rules to protect privacy and security concerns relating to electronic filing of documents and the public availability of documents filed electronically.

Recommended amendments to Rule 1005 and 11 Official Forms would implement a Judicial Conference policy concerning a restriction on the publication of social security numbers. The amended rule would also include a requirement that a debtor list other federal taxpayer numbers that may be in use.

The proposed amendment to Rule 1005 restricts the debtor's social security number to the

last 4 digits of the number. It does not include any mechanism for the collection of the of the full social security number. As a result, proposed amendments to Rules 1007 and 2002 would supplement the amendment to Rule 1005. The Rule 1007 amendments require the debtor to submit a verified statement of his or her full social security number. The statement is submitted, but is not filed in the case and does not become a part of the Court record. Therefore, the full social security number does not become a part of the electronic case record that would be available to the public either through Internet access or by a search of the paper records at the Court. Requiring the debtor to submit, but not file, a statement of his or her social security number would permit a search of the court records by persons who already have the debtor's social security number.

Rule 2002 would be amended to require the clerk to include the debtor's full social

security number on the 341 notices. However, the full number would be included only on the notices sent to the creditors and not on the copy of the notice that becomes part of the Court record.

Judges' Opinions Posted on Web Site

Another requirement of the E-Government Act of 2002 governs bankruptcy court websites. Section 205(a)(5) of the Act requires the chief bankruptcy judge of each district to establish and maintain a website that contains "access to the substance of all written opinions issued by the court, regardless of whether such opinions are to

Small PDF Files Recommended

When you file a PDF document via ECF, is there a long delay between clicking on "Submit" and receiving the Notice of Electronic Filing receipt screen? Or maybe the pleading transmission never finishes successfully? A small PDF (Portable Document Format) file will be transmitted and processed more quickly than a large one. A PDF file that is too large may cause the filing to "time out" without ever being completed, especially during the busy workday. Smaller size PDF files will allow faster ECF processing time.

Users should prepare their PDF files without scanning, whenever possible. Scanning makes larger files. Scanned petitions range from 2000 KB (kilobytes) to 3000 KB in size. If scanning is necessary, the scanner settings should be checked and set appropriately. Black and white, rather than color or greyscale, and Text settings, not photo or drawing, should be used. Good PDFs may be produced at a 300 dpi (dots per inch) scanner setting, especially if the

The AO is currently working out a mechanism for complying with these changes in an ECF environment. All of the amendments are scheduled to go into effect on December 1, 2003.

be published in the official court reporter, in a text searchable format."

In response to this mandate, the opinions of the Bankruptcy Court Judges are being posted on the Judges' Information/Judicial Postings link of the Court's web page, at www.ohnb.uscourts.gov.

dark/light setting is moved towards darker. A scan done at 400 dpi will be larger than one done at 300 dpi. Users should check their PDF documents for legibility before filing them whenever different scanner settings are tried.

PDFs created by conversion or printing to the Acrobat PDFWriter are smaller. A typical petition should be from 100 KB to 150 KB when prepared in this way.

Users should also check the page size and number of pages in their PDF files. The page size must be 8½ by 11 inches. A PDF document with 70 pages or so may be difficult to submit as a single document.

One way to check the properties of a PDF document is to open the file in Acrobat software, and then press CTRL+D by holding down the "Ctrl" key and pressing the "D" key at the same time. This displays a document summary, including the file size, the page size, and the number of pages.

ECF Expanding Nationally and Locally

According to the latest figures from the Administrative Office of the U.S. Courts (AO), more than half of all bankruptcy courts have gone live with ECF. 34 courts, including Ohio Northern, are using Version 1, and another 18 courts are on Version 2. An additional 28 bankruptcy courts, including Ohio Southern, are in the process of implementing ECF, and the remaining 14 courts are not yet scheduled for implementation. Ohio Northern Bankruptcy Court

is currently in the planning process for converting to Version 2. It is expected that the conversion will take place late this year. Among other enhancements, Version 2 will allow users to directly pay filing fees with their credit card via the Internet. It will no longer be necessary for users to give their credit card information to the Clerk's Office. More information on Version 2 will be disseminated in future editions of the *ECF Newsletter*.

ECF Statistics

As of mid-May 2003, more than 500 attorneys, trustees, and creditors are registered with the Court to file and receive documents electronically. Figures for the month of April 2003 show that more than 1/3 of all ECF transactions for the month were made by external users, with 23%

by trustees and 11% by attorneys. Moreover, in the month of April 28% of bankruptcy cases and 32% of adversaries were opened by attorneys, and more than 1/3 of all proofs of claim were filed by external users.

ECF Reminders

Electronic Filing. Users are reminded that once they have received their ECF login, all documents must be submitted electronically, with the exceptions noted in the APM. These exceptions include documents with multiple attorney signatures (section II B 2), documents that cannot be electronically submitted due to inoperable equipment (section II C 2), and other documents that are specifically required as conventional filings (section III A).

Passwords. For security purposes, it is important that users regularly change their passwords, preferably every 60 days or sooner. This can be accomplished by clicking on Utilities, then clicking on Maintain Your ECF Account and More User Information.

Proof of Filing. If proof is needed that a certain document has been filed, users should select the Query function, and then select either Notice of Bankruptcy Case Filing or Docket Report. The Notice of Bankruptcy Case Filing is a time-stamped notification that a bankruptcy case has been filed. If proof is needed that a document other than a new case has been filed, select Docket Report. This will take the user to the Docket Sheet screen; the box that says "Include links to Notice of Electronic Filing" should be checked. The next screen will display a silver bullet point to the left of each document. By clicking on the silver bullet, a Notice of Electronic Filing receipt will be displayed.

Proposed Orders. When submitting a proposed order by e-mail, users should indicate the case

number on the subject line of the e-mail message, followed by a brief description of the document. See section II F beginning on page 8 of the APM for additional information on the submission of proposed orders.

Related Cases. If a case is filed electronically in the Cleveland or Toledo office, and the case is a “related case” as that term is defined in Local Rule 1015-2, the filer should contact the Clerk’s Office immediately so that the case can be assigned to the appropriate Judge.

Chapter 13 Cases. When filing a Chapter 13 case, the filer should add the name of the Chapter 13 Trustee for that division.

Adversary Cases. When an adversary case is filed electronically, the filer should ensure that the parties are listed as Plaintiff and Defendant.

Web Page. Any new information affecting ECF users is posted on the Court’s web page at www.ohnb.uscourts.gov. Users are encouraged to periodically check the web page for updates.