

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
OFFICE OF THE CLERK
P.O. BOX 26100
GREENSBORO, NORTH CAROLINA 27420-6100

February 1, 2019

To: Bankruptcy Attorneys

From: U.S. Bankruptcy Court Clerk's Office - Middle District of North Carolina

Re: Proposed Changes to Local Rules

The Local Rules Committee is seeking public comment on the attached proposed amended Local Rules. The comment period shall run for 30 days from the date of this notice. Further announcement on this proposed change shall be made after the conclusion of the 30 days and only after all comments are taken into consideration. Comments should be addressed to:

**Local Rules Committee
U.S. Bankruptcy Court
P.O. Box 26100
Greensboro, NC 27420-6100**

or

ncmbml_localrules@ncmb.uscourts.gov

LOCAL RULE 5005-1

FILING PAPERS - REQUIREMENTS

Filing of Papers with the Clerk's Office

All ~~pleadings (including but not limited to complaints, answers, motions and applications) papers,~~ and ~~all~~ prepared orders, shall be tendered by the party submitting such document to the clerk's office, and not to the Bankruptcy Judge.

LOCAL RULE 5005-4

ELECTRONIC CASE FILING

Local Rule 5005-4 shall be read in conjunction with the Administrative Guide for Electronic Filing. The guide is available from the clerk's office and is maintained on the court's web site at: www.ncmb.uscourts.gov. In the event of a conflict between the Local Rules and the Administrative Guide, the Local Rules shall control.

LOCAL RULE 5005-4(1)

ASSIGNMENT TO ECF SYSTEM AND ~~FILING REQUIREMENTS~~ OFFICIAL COURT RECORD

(a) Assignment

All opened cases and proceedings are assigned to the Electronic Case Filing System ("ECF System"). A Filing User is defined as a person who has been issued a login and password by the clerk's office pursuant to Local Rule 5005-4(2)(c), in order to file documents ~~papers~~ electronically.

~~(b) Filing~~

~~All petitions, motions, memoranda of law, and other pleadings or documents required to be filed with the court in connection with the case or proceeding must be electronically filed via the internet except as provided in these Local Rules or in exceptional circumstances preventing a Filing User from filing electronically. A Filing User is defined as a person who has been issued a login and password by the clerk's office pursuant to Local Rule 5005-4(2)(c), in order to file documents electronically. Attorneys shall file all documents electronically unless leave of the court is granted.~~

~~(c)~~ Exception to Filing Requirement

~~Parties that may appear pro se before the court pursuant to Local Rule 9011-2 are excepted from the electronic filing requirement.~~

~~(d)~~(b) Official Court Record.

The ECF System shall constitute the official court record in electronic form. The electronic filing of a ~~pleading or other~~ paper in accordance with ECF System procedures shall constitute entry of the same on the docket kept by the clerk pursuant to Rule 5003 of the Federal Rules of Bankruptcy Procedure.

LOCAL RULE 5005-4(2)

ELIGIBILITY, REGISTRATION AND PASSWORDS

(a) Eligibility and Registration

Attorneys admitted to the practice in this Bankruptcy Court (including those admitted *pro hac vice*), bankruptcy administrators and their assistants, trustees, and others as the court deems appropriate, may register as Filing Users in the ECF System. Registration is in the form prescribed by and available from the clerk's office. The registration form also is contained in the Administrative Guide for the ECF System maintained by the clerk's office and published on the court's web site.

(b) Consent to Electronic Service

Registration as a Filing User constitutes consent to electronic service of all pleadings and other ~~documents-papers~~ properly filed in a case or proceeding, except for those pleadings and other ~~documents-papers~~ required to be served in the manner provided under Rules 7004(a)-(d) and 9016 of the Federal Rules of Bankruptcy Procedure.

(c) Passwords

Once registration is completed, the Filing User will receive notification of the Filing User login and password. Filing Users agree to protect the security of their login information and passwords and to ~~immediately~~ notify immediately the clerk's office if they learn that their login information or password has been compromised. Filing Users may be subject to sanctions for failure to comply with this provision.

(d) Use of Login/password

No Filing User may knowingly permit or cause to permit a Filing User's login and password to be used by anyone other than the Filing User and his or her authorized agents.

(d)(e) Termination of Participation

- (1) A Filing User may withdraw from participation in the ECF System by filing a notice of withdrawal from the ECF System with the clerk's office.
- (2) The court, for cause, may suspend a Filing User from participating in the ECF System after notice and a hearing.

LOCAL RULE 5005-4(3)**CONSEQUENCES OF ELECTRONIC FILING; DEADLINES****(a) Filing**

Electronic transmission of a document-paper to the ECF System by a Filing User consistent with these Local Rules, together with the transmission of a Notice of Electronic Filing from the clerk, constitutes filing of the document-paper for all purposes of the Federal Rules of Bankruptcy Procedure and these Local Rules, and constitutes entry of the document-paper on the docket kept by the clerk under Rule 5003 of the Federal Rules of Bankruptcy Procedure.

(b) Official Record

When a document-paper has been filed electronically, the official record is the electronic recording of the document-paper as stored by the clerk, and the Filing User is bound by the document as filed. A document-paper filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing.

(c) Deadlines Unchanged by Electronic Filing

Filing a document-paper electronically does not alter the filing deadline for that document-paper. Filing must be completed before 12:00 midnight, Eastern Time, in order to be considered timely filed that day.

LOCAL RULE 5005-4(4)**ENTRY OF COURT ORDERS****(a) Filing of Court Orders; Effect of Electronic Filing on Court Orders**

All orders, decrees, judgments and proceedings of the court will be filed in accordance with these Local Rules, which will constitute entry on the docket kept by the clerk under Rules 5003 and 9021 of the Federal Rules of Bankruptcy Procedure. Any order or other court-issued document filed electronically without the original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order or other court issued document and it had been entered on the docket in a conventional manner.

(b) Submission of Documents for Judge's Signature

Any document submitted for a judge's signature in a case or proceeding assigned to the ECF System must be submitted electronically to the clerk's office in the format specified by the Administrative Guide.

LOCAL RULE 5005-4(5)

FORMAT; ATTACHMENTS AND EXHIBITS

Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless the court permits conventional filing.

LOCAL RULE 5005-4(6)

SEALED DOCUMENTS

(a) Prior to the filing of any document-paper in an action assigned to the ECF system, any person may apply by motion for an order allowing the filing of such document-paper under seal, or limiting the electronic access to, any specifically-identified document-paper, as provided by 11 U.S.C. §107 or as authorized by law. Such motion shall provide a non-confidential description of the document-paper to be sealed and shall:

~~(3)~~(1) state the reasons why sealing is necessary;

~~(4)~~(2) state the reasons why less drastic alternatives to sealing the document-paper will not afford adequate protection;

~~(5)~~(3) address the factors governing sealing of documents-papers reflected in governing case law; and,

~~(6)~~(4) state whether permanent sealing is sought, and, if not, state how long the document-paper should remain under seal and how the document-paper should be handled upon unsealing.

(b) A motion to file a document-paper under seal or subject to restricted access may be filed electronically. Contemporaneously with the filing of such a motion, a proposed order authorizing the filing of a document-paper under seal or subject to restricted access shall also be uploaded electronically. A copy of the document-paper requested to be filed under seal or subject to restricted access shall be provided to the clerk of court contemporaneously with the

uploading of the proposed order, but shall not be uploaded or filed electronically with the motion and proposed order.

- (c) Following entry of an order authorizing the filing of a restricted document-paper or a document-paper under seal, if the movant is a Filing User the movant shall electronically file the document-paper in question using an event code in the ECF System which automatically limits or blocks access to the documentpaper. If the movant is not a Filing User, the clerk's office shall electronically file the document-paper using the proper event code in the ECF System.

LOCAL RULE 5005-4(7)

ORIGINAL SIGNATURES AND RETENTION REQUIREMENTS

(a) Original Signature Required

- (1) A Filing User must obtain original signatures prior to filing on all electronically filed documents-papers that require original signatures from any person other than the Filing User (e.g. petitions, lists, schedules, statements, amendments, affidavits, verifications, and other documents-papers that require verification under Rule 1008 of the Federal Rules of Bankruptcy Procedure or an unsworn declaration as provided in 28 U.S.C. §1746), which documents-papers must be maintained by the Filing User in paper form, bearing the original signatures, for four years after the closing of the case or proceeding in which the documents-papers were filed. Upon the court's request, the Filing User must provide the original signed documents-papers for review.

(b) Evidence or Authorization of Signature Required

- (1) Except as provided above when original signatures are required on a documentpaper, a Filing User may electronically file documents-papers (including the submission of proposed consent orders) signed by persons other than the Filing User without obtaining the original signature of such persons on the documentpaper, provided that the Filing User first has confirmed that the content of the document-paper is acceptable to all persons required to sign the document-paper and has obtained in writing proof that the document-paper has been signed, or that each signature is authorized, by all persons (e.g., a faxed signature, scanned signature, or e-mail authorized signature). The Filing User shall retain the writing evidencing or authorizing each signature on the document-paper for four years after the closing of the case or proceeding in which the document-paper was filed. Upon the court's request, the Filing User must provide the writing evidencing or authorizing the signature on the document-paper for review.

LOCAL RULE 5005-4(8)

SIGNATURES AND CERTIFICATION

(a) Electronic Filing Constitutes ~~Signature and~~ Certification

~~(1) — The use of the login and password of the Filing User to electronically file any petition, pleading, motion, claim, or other document shall constitute the signature of that Filing User on the electronically filed document for purposes of the Federal Rules of Bankruptcy Procedure, including Rule 9011, these Local Rules, and any other purpose for which a signature is required in connection with proceedings before this court.~~

~~(2)~~(1) Use of the login and password to electronically file any document~~paper~~— ~~also~~ shall constitute certification by the Filing User that:

- (A) all persons required to sign the document~~paper~~ have either signed the document~~paper~~ or authorized their signing of the document~~paper~~ prior to electronic filing pursuant to Local Rule 5005-4(7); and,
- (B) the Filing User has authorized the electronic filing of the executed document~~paper~~.

~~(b) — Use of Login/password~~

~~(3) — No Filing User may knowingly permit or cause to permit a Filing User's login and password to be used by anyone other than the Filing User and his or her authorized agents.~~

~~(c)~~(b) **Form of Electronic Signature**

- (1) Electronically filed documents~~papers~~ requiring a signature shall either:
 - (A) show an image of such signature as it appears on the original document~~paper~~ or appended as an image file, in which case such document~~paper~~ shall indicate that it has been filed electronically; or,
 - (B) bear the name of the signatory ~~preceded by an "s/"~~ typed in the space where the signature would otherwise appear, ~~as follows: s/ Jane D. Doe.~~

LOCAL RULE 5005-4(9)

SERVICE OF ELECTRONICALLY FILED DOCUMENTS

All ~~pleadings and other documents~~papers properly filed electronically in a case or proceeding by a Filing User in accordance with these Local Rules and the Administrative Guide shall be deemed served on all other Filing Users who have made an appearance in the case pursuant to Rules 2002 of the Federal

[Rules of Bankruptcy Procedure](#) or otherwise for purposes of service under Rule 9022 of the Federal Rules of Bankruptcy Procedure, Rule 5(b) of the Federal Rules of Civil Procedure, or otherwise, except for those ~~pleadings and documents~~papers required to be served in the manner provided under Rules 7004(a)-(d) and 9016 of the Federal Rules of Bankruptcy Procedure. As to all ~~pleadings and documents~~papers required to be served pursuant to Rules 7004(a)-(d) or 9016 of the Federal Rules of Bankruptcy Procedure, service must be accomplished as required under the applicable rule.

LOCAL RULE 5005-4(10)

NOTICE AND SERVICE OF COURT ORDERS

(a) Notice and Service to Filing Users

Immediately upon the entry of an order, judgment, decree or other ~~document~~paper generated by the court or the clerk in a case or proceeding assigned to the ECF System, the clerk will electronically transmit a Notice of Electronic Filing to all Filing Users in the case or proceeding. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Rule 9022 of the Federal Rules of Bankruptcy Procedure, and constitutes service of the ~~document~~paper to all Filing Users in the case or proceeding.

(b) Notice and Service to Other Parties

The clerk shall give conventional notice and service of ~~documents~~papers in accordance with the Federal Rules of Bankruptcy Procedure to any person who is not a Filing User in the case or proceeding.

LOCAL RULE 5005-4(11)

TECHNICAL FAILURES

A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

LOCAL RULE 9011-4

SIGNATURES

(a) State Bar ~~Code~~-Number

The state bar number of an attorney shall appear on every ~~petition, pleading, motion or other~~paper filed by such attorney with the clerk's office.

(b) Type or Printed Name of Attorney or Party Filer

Every ~~petition, pleading, motion or other~~ paper signed by an attorney or by a party who is not represented by an attorney shall contain a printed or typed name below all signatures.

LOCAL RULE 5005-1

FILING PAPERS - REQUIREMENTS

Filing of Papers with the Clerk's Office

All papers and prepared orders shall be tendered by the party submitting such document to the clerk's office, and not to the Bankruptcy Judge.

LOCAL RULE 5005-4

ELECTRONIC CASE FILING

Local Rule 5005-4 shall be read in conjunction with the Administrative Guide for Electronic Filing. The guide is available from the clerk's office and is maintained on the court's web site at: www.ncmb.uscourts.gov. In the event of a conflict between the Local Rules and the Administrative Guide, the Local Rules shall control.

LOCAL RULE 5005-4(1)

ASSIGNMENT TO ECF SYSTEM AND OFFICIAL COURT RECORD

(a) Assignment

All opened cases and proceedings are assigned to the Electronic Case Filing System ("ECF System"). A Filing User is defined as a person who has been issued a login and password by the clerk's office pursuant to Local Rule 5005-4(2)(c), in order to file papers electronically.

(b) Official Court Record.

The ECF System shall constitute the official court record in electronic form. The electronic filing of a paper in accordance with ECF System procedures shall constitute entry of the same on the docket kept by the clerk pursuant to Rule 5003 of the Federal Rules of Bankruptcy Procedure.

LOCAL RULE 5005-4(2)

ELIGIBILITY, REGISTRATION AND PASSWORDS

(a) Eligibility and Registration

Attorneys admitted to the practice in this Bankruptcy Court (including those admitted *pro hac vice*), bankruptcy administrators and their assistants, trustees, and others as the court deems appropriate, may register as Filing Users in the ECF System. Registration is in the form prescribed by and available from the clerk's office. The registration form also is contained in the Administrative Guide for the ECF System maintained by the clerk's office and published on the court's web site.

(b) Consent to Electronic Service

Registration as a Filing User constitutes consent to electronic service of all pleadings and other papers properly filed in a case or proceeding, except for those pleadings and other papers required to be served in the manner provided under Rules 7004(a)-(d) and 9016 of the Federal Rules of Bankruptcy Procedure.

(c) Passwords

Once registration is completed, the Filing User will receive notification of the Filing User login and password. Filing Users agree to protect the security of their login information and passwords and to notify immediately the clerk's office if they learn that their login information or password has been compromised. Filing Users may be subject to sanctions for failure to comply with this provision.

(d) Use of Login/password

No Filing User may knowingly permit or cause to permit a Filing User's login and password to be used by anyone other than the Filing User and his or her authorized agents.

(e) Termination of Participation

- (1) A Filing User may withdraw from participation in the ECF System by filing a notice of withdrawal from the ECF System with the clerk's office.
- (2) The court, for cause, may suspend a Filing User from participating in the ECF System after notice and a hearing.

LOCAL RULE 5005-4(3)

CONSEQUENCES OF ELECTRONIC FILING; DEADLINES

(a) Filing

Electronic transmission of a paper to the ECF System by a Filing User consistent with these Local Rules, together with the transmission of a Notice of Electronic Filing from the clerk, constitutes filing of the paper for all purposes of the Federal Rules of Bankruptcy Procedure and these Local Rules, and constitutes entry of the paper on the docket kept by the clerk under Rule 5003 of the Federal Rules of Bankruptcy Procedure.

(b) Official Record

When a paper has been filed electronically, the official record is the electronic recording of the paper as stored by the clerk, and the Filing User is bound by the document as filed. A paper filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing.

(c) Deadlines Unchanged by Electronic Filing

Filing a paper electronically does not alter the filing deadline for that paper. Filing must be completed before 12:00 midnight, Eastern Time, in order to be considered timely filed that day.

LOCAL RULE 5005-4(4)

ENTRY OF COURT ORDERS

(a) Filing of Court Orders; Effect of Electronic Filing on Court Orders

All orders, decrees, judgments and proceedings of the court will be filed in accordance with these Local Rules, which will constitute entry on the docket kept by the clerk under Rules 5003 and 9021 of the Federal Rules of Bankruptcy Procedure. Any order or other court-issued document filed electronically without the original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order or other court issued document and it had been entered on the docket in a conventional manner.

(b) Submission of Documents for Judge's Signature

Any document submitted for a judge's signature in a case or proceeding assigned to the ECF System must be submitted electronically to the clerk's office in the format specified by the Administrative Guide.

LOCAL RULE 5005-4(5)

FORMAT; ATTACHMENTS AND EXHIBITS

Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless the court permits conventional filing.

LOCAL RULE 5005-4(6)

SEALED DOCUMENTS

- (a) **Prior to the filing of any paper in an action assigned to the ECF system, any person may apply by motion for an order allowing the filing of such paper under seal, or limiting the electronic access to, any specifically-identified paper, as provided by 11 U.S.C. §107 or as authorized by law. Such motion shall provide a non-confidential description of the paper to be sealed and shall:**
- (1) state the reasons why sealing is necessary;
 - (2) state the reasons why less drastic alternatives to sealing the paper will not afford adequate protection;
 - (3) address the factors governing sealing of papers reflected in governing case law; and
 - (4) state whether permanent sealing is sought, and, if not, state how long the paper should remain under seal and how the paper should be handled upon unsealing.
- (b) **A motion to file a paper under seal or subject to restricted access may be filed electronically. Contemporaneously with the filing of such a motion, a proposed order authorizing the filing of a paper under seal or subject to restricted access shall also be uploaded electronically. A copy of the paper requested to be filed under seal or subject to restricted access shall be provided to the clerk of court contemporaneously with the uploading of the proposed order, but shall not be uploaded or filed electronically with the motion and proposed order.**
- (c) **Following entry of an order authorizing the filing of a restricted paper or a paper under seal, if the movant is a Filing User the movant shall electronically file the paper in question using an event code in the ECF System which automatically limits or blocks access to the paper. If the movant is not a Filing User, the clerk's office shall electronically file the paper using the proper event code in the ECF System.**

LOCAL RULE 5005-4(7)

ORIGINAL SIGNATURES AND RETENTION REQUIREMENTS

(a) Original Signature Required

- (1) A Filing User must obtain original signatures prior to filing on all electronically filed papers that require original signatures from any person other than the Filing User (e.g. petitions, lists, schedules, statements, amendments, affidavits, verifications, and other papers that require verification under Rule 1008 of the Federal Rules of Bankruptcy Procedure or an unsworn declaration as provided in 28 U.S.C. §1746), which papers must be maintained by the Filing User in paper form, bearing the original signatures, for four years after the closing of the case or proceeding in which the papers were filed. Upon the court's request, the Filing User must provide the original signed papers for review.

(b) Evidence or Authorization of Signature Required

- (1) Except as provided above when original signatures are required on a paper, a Filing User may electronically file papers (including the submission of proposed consent orders) signed by persons other than the Filing User without obtaining the original signature of such persons on the paper, provided that the Filing User first has confirmed that the content of the paper is acceptable to all persons required to sign the paper and has obtained in writing proof that the paper has been signed, or that each signature is authorized, by all persons (e.g., a faxed signature, scanned signature, or e-mail authorized signature). The Filing User shall retain the writing evidencing or authorizing each signature on the paper for four years after the closing of the case or proceeding in which the paper was filed. Upon the court's request, the Filing User must provide the writing evidencing or authorizing the signature on the paper for review.

LOCAL RULE 5005-4(8)

SIGNATURES AND CERTIFICATION

(a) Electronic Filing Constitutes Certification

- (1) Use of the login and password to electronically file any paper shall constitute certification by the Filing User that:
- (A) all persons required to sign the paper have either signed the paper or authorized their signing of the paper prior to electronic filing pursuant to Local Rule 5005-4(7); and

(B) the Filing User has authorized the electronic filing of the executed paper.

(b) Form of Electronic Signature

- (1) Electronically filed papers requiring a signature shall either:
- (A) show an image of such signature as it appears on the original paper or appended as an image file, in which case such paper shall indicate that it has been filed electronically; or
 - (B) bear the name of the signatory typed in the space where the signature would otherwise appear.

LOCAL RULE 5005-4(9)

SERVICE OF ELECTRONICALLY FILED DOCUMENTS

All papers properly filed electronically in a case or proceeding by a Filing User in accordance with these Local Rules and the Administrative Guide shall be deemed served on all other Filing Users who have made an appearance in the case pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure or otherwise for purposes of service under Rule 9022 of the Federal Rules of Bankruptcy Procedure, Rule 5(b) of the Federal Rules of Civil Procedure, or otherwise, except for those papers required to be served in the manner provided under Rules 7004(a)-(d) and 9016 of the Federal Rules of Bankruptcy Procedure. As to all papers required to be served pursuant to Rules 7004(a)-(d) or 9016 of the Federal Rules of Bankruptcy Procedure, service must be accomplished as required under the applicable rule.

LOCAL RULE 5005-4(10)

NOTICE AND SERVICE OF COURT ORDERS

(a) Notice and Service to Filing Users

Immediately upon the entry of an order, judgment, decree or other paper generated by the court or the clerk in a case or proceeding assigned to the ECF System, the clerk will electronically transmit a Notice of Electronic Filing to all Filing Users in the case or proceeding. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Rule 9022 of the Federal Rules of Bankruptcy Procedure, and constitutes service of the paper to all Filing Users in the case or proceeding.

(b) Notice and Service to Other Parties

The clerk shall give conventional notice and service of papers in accordance with the Federal Rules of Bankruptcy Procedure to any person who is not a Filing User in the case or proceeding.

LOCAL RULE 5005-4(11)

TECHNICAL FAILURES

A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

LOCAL RULE 9011-4

SIGNATURES

(a) State Bar Number

The state bar number of an attorney shall appear on every paper filed by such attorney with the clerk's office.

(b) Type or Printed Name of Attorney or Party Filer

Every paper signed by an attorney or by a party who is not represented by an attorney shall contain a printed or typed name below all signatures.