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BERNARD F. McCARTHY

DEC 04 2001

BANKRUPTCY COURT
by Bernard F. McCarthy
Deputy Clerk

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

In re	)	
	)	
Filing, Signing, Maintaining	)	
and Verifying Pleadings	)	General Order No. 2001-3-RBK
and Papers in the	)	
Case Management/Electronic	)	
Case Filing ("CM/ECF") System	)	

ORDER ADOPTING CASE MANAGEMENT/ELECTRONIC CASE FILING PROCEDURES

Federal Rule of Civil Procedure (FED. R. CIV. P.) 5 (e) and 83 and Federal Rules of Bankruptcy Procedure(F.R.B.P.) 5005(a)(2), 7005, 9011 and 9029, and Montana Local Bankruptcy Rule (Mont. LBR) 5005-1, authorize this Court to establish practices and procedures for filing, signing, maintaining, and verifying pleadings and papers by electronic means; and

The term "Case Management/Electronic Case Filing System" ("CM/ECF") refers to this Court's system that receives documents filed in electronic form. The term "Filing User" refers to those who have a court-issued log-in and a password authorizing access to file documents electronically; and

The Court will designate which cases will be assigned to CM/ECF. Except as expressly provided and in exceptional circumstances preventing a Filing User from filing electronically, all petitions, motions, memoranda of law, or other pleadings and documents required to be filed with

the court in connection with a case assigned to CM/ECF must be electronically filed. Notwithstanding the foregoing, attorneys and others who are not Filing Users in CM/ECF are not required to electronically file pleadings and other papers in a case assigned to CM/ECF. Once registered, a Filing User may withdraw from participation in CM/ECF by providing the Clerk with written notice of withdrawal; and

The Administrative Procedures for Filing, Signing, Maintaining and Verifying Pleadings and Papers in the Case Management/Electronic Case Filing System ("CM/ECF")(hereafter "Procedures") have been reviewed by the Court; and

The Procedures are consistent with and further the responsibility of the Clerk of the Court for the control of the Court's docket under F.R.B.P. 5005, including safeguarding the integrity of the Court's docket; and

The Procedures 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; and

The Procedures provide a means for the signature on pleadings and papers through the mechanism of a password, in compliance with Mont. LBR 5005-1 and a secure mechanism for the creation and distribution of passwords; and

The Procedures provide adequate procedures for filing pleadings and papers and access to review and retrieve records and dockets of this Court by parties who are not able to access the Case Management/Electronic Case Filing System from a remote location by modem; and

The Procedures do not impair the ability of the Clerk of the Court to perform statistical reporting responsibilities both to the Court and the Administrative Office of the United States Courts; and

The Procedures are consistent with notice requirements of the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules:

NOW, THEREFORE, IT IS ORDERED that:

1. The Administrative Procedures for Filing, Signing, Maintaining and Verifying Pleadings and Papers in the Case Management/Electronic Case Filing System, attached as Exhibit 1, including the procedure for registration of attorneys and for distribution of passwords to permit electronic filing and notice of pleadings and other papers, are hereby approved by the Court.

2. Attorneys admitted to the bar of this Court (including those admitted *pro hac vice)*, U. S. Trustees and their assistants, bankruptcy administrators and their assistants, case trustees, and others, as the court deems appropriate, may register as Filing Users of CM/ECF. The Clerk will prescribe the registration form, that will include a verification that the Filing User will use a credit or debit card acceptable to the Clerk for paying fees associated with any filing event..

3. Registration as a Filing User constitutes: (1) the waiver of the right to receive notice by first class mail and consent to receive notice electronically; and (2) the waiver of the right to service by personal service or first class mail and consent to electronic service, except with regard to service of a summons and complaint under F.R.B.P. 7004. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under F.R.B.P. 9022.

4. The electronic filing of a petition, pleading, motion or other paper by a Filing User who is a registered participant in the CM/ECF System shall constitute the signature

of that Filing User under F.R.B.P. 9011 and Mont. LBR 5005-3(c). The user log-in and password required to submit documents to CM/ECF serve as the Filing User's signature on all electronic documents filed with the Court. *See* Mont. LBR 9011-1(b).

5. No Filing User shall knowingly permit or cause to permit the user's password to be utilized by anyone other than an authorized employee of the user.

6. No person shall knowingly utilize or cause another person to utilize the password of a registered Filing User unless such person is an authorized employee of the user.

7. Documents requiring signatures of more than one party must be electronically filed by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other parties on the document; (3) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than three business days after filing; or (4) in any other manner approved by the Court.

8. The electronic transmission of a document to CM/ECF 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 F.R.B.P. and the Montana Local Bankruptcy Rules, and constitutes an entry of that pleading or other paper on the docket kept by the Clerk of Court under F.R.B.P. 5003.

9. When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. A clearly erroneous document inadvertently filed by a Filing User

may only be corrected after consultation between the Clerk and Filing User and by order of the Court. A document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing issued from the Court. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight in order to be considered timely filed that day. A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.

10. Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless the Court authorizes conventional filing. If the documents are voluminous, excerpts or summaries may be authorized at the discretion of the Court. If excerpts of documents are used, the responding party may timely file additional excerpts or the complete document.

11. Documents to be placed under seal must be filed conventionally, and not electronically, unless specifically authorized by the Court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the Court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order must be attached to the documents under seal and be delivered to the Clerk.

12. The Clerk will enter all orders, decrees, judgments, and proceedings of the Court in accordance with the Procedures, which shall constitute entry on the docket record kept by the Clerk under F.R.B.P. 5003 and for purposes of F.R.B.P. 9021. All signed orders will be filed electronically by the Court or Court personnel. Any order filed

electronically shall contain an electronic signature of the Judge and shall have the same force and effect as if the judge had affixed a personal signature to a paper copy of the order and it had been entered on the docket in a conventional manner. If a paper order is personally signed by a Judge, the order shall be electronically scanned into CM/ECF and such scanned order shall constitute the original order. The personally signed paper order shall be appropriated destroyed by the Clerk only after the paper order is scanned into CM/ECF.

13. Documents that are electronically filed and require original signatures other than that of the Filing User, including the petition, schedules and statement of financial affairs, must either be maintained in paper form by the Filing User until five (5) years after all periods for appeals expire, or be scanned electronically and preserved electronically in pdf. format and transmitted to the Clerk. On request of the court, the Filing User must provide original documents for review. The U. S. Trustee or case trustee may require the Debtors to provide to the U. S. Trustee or case trustee original signature pages for the petition, schedules and statement of financial affairs or may require a declaration by the Debtors verifying their signatures and their consent to electronic filing of the petition, schedules and statement of financial affairs.

14. Notice of Electronic Filing:

    a. Whenever a pleading or other paper is filed electronically, a Notice of Electronic Filing will be automatically generated by the Case Management/Electronic Case Filing System at the time of docketing.

b. The filing party shall serve the pleading or other paper upon all persons entitled to notice or service in accordance with the applicable rules, or, if service by first class mail is permitted under the rules, the filing party may make service in accordance with subparagraph (c) below.

c. If the recipient of notice or service is a registered participant in the Case Management/Electronic Case Filing System, service of the Notice of Electronic Filing shall be the equivalent of service of the pleading or other paper by first class mail, postage prepaid.

d. Immediately upon the entry of an order or judgment in an action assigned to CM/ECF, the Clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing, which will contain a hyperlink to the electronically filed order or judgment. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by F.R.B.P. 9022. The Clerk must give notice to a person who has not consented to electronic service in paper form in accordance with the Federal Rules of Bankruptcy Procedure.

15. Participation in the Electronic Case Filing System by receipt of a password from the Court shall constitute a request for service and notice electronically pursuant to F.R.B.P. 9036. Participants in the CM/ECF System, by receiving a password from the Court, agree to receive notice and service by electronic means.

16. Any person or organization, other than one registered as a Filing User, may access CM/ECF at the Court's internet site of www.mtb.uscourts.gov by obtaining a

PACER log-in and password. Those who have PACER access but who are not Filing Users may retrieve docket sheets and documents, but they may not file documents.

17. In connection with the filing of any material in an action assigned to CM/ECF, any person may apply by motion for an order limiting electronic access to or prohibiting the electronic filing of certain specifically-identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests. Information posted on CM/ECF must not be downloaded for uses inconsistent with the privacy concerns of any person.

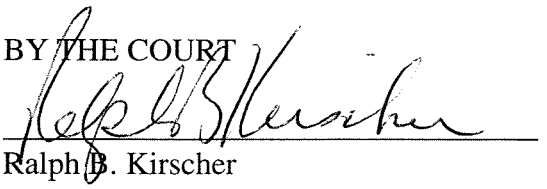
18. The original of this order shall be filed both in accordance with the Procedures with the Clerk and conventionally with the Clerk.

19. The provisions of this order shall apply to all electronically filed cases and proceedings presently pending, and subsequently filed in the United States Bankruptcy Court for the District of Montana. Amendments to this order may be entered from time to time consistent with the needs of the Court.

20. This order shall take effect on December 4, 2001.

Dated: December 4, 2001.

BY THE COURT



Ralph B. Kirscher
U. S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

Administrative Procedures for Filing, Signing, Maintaining And Verifying Pleadings and Papers in the Case Management/Electronic Case Filing (CM/ECF) System

Exhibit to General Order 2001-3

December 2001

ADMINISTRATIVE PROCEDURES

I. REGISTRATION FOR THE ELECTRONIC CASE FILING SYSTEM

A. Designation of Cases.

The Court shall designate which cases shall be assigned to the Case Management/Electronic Case Filing System ("CM/ECF").

B. Passwords.

Each Filing User shall be entitled to a CM/ECF password to permit the Filing User to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the CM/ECF. Registration for a password is governed by paragraph I.C.

C. Registration.

1. A registration form prepared by the Clerk shall be submitted for each Filing User. The form may be duplicated for use.

2. All registration forms shall be mailed or delivered to the Clerk's office with the following notation: Attention: ECF Committee, Office of the Clerk, United States Bankruptcy Court, District of Montana.

3. Prior to completion of training with a Clerk's Office employee, each registering Filing User may select a password for the training system. Upon completion of the training program, the registering attorney may contact the Clerk's Office for selection/activation of their live system password.

4. For good cause shown, including the fact that the security of an existing password may have been compromised, a Filing User may change the assigned password by advising the CM/ECF Help Desk. In the event a Filing User discovers any compromise of the user's password, the Filing User shall forthwith advise the CM/ECF Help Desk by telephone and arrangements will be made for the issuance of a new password.

5. Once registered, a Filing User may withdraw from participation in CM/ECF by providing the CM/ECF Help Desk with written notice of such withdrawal. Upon receipt of written notice, the CM/ECF Help Desk will immediately cancel the Filing User's password and will delete the Filing User from any applicable electronic service list.

II. ELECTRONIC FILING AND SERVICE OF DOCUMENTS

A. Filing.

1. Except as expressly provided for in paragraph III.A. below and in exceptional circumstances which prevent a Filing User from filing electronically, all petitions, motions, memoranda of law, or other pleadings and documents required to be filed with the Court in connection with a case assigned to the System shall be electronically filed on the System. A "Notice of Electronic Filing Procedure" will be generated in all cases that are assigned to the System. A copy of the notice is attached. Parties with legal representation must comply with the guidelines set out in such notice. Parties without legal representation may, but are not required to, electronically file pleadings and other papers in a case, but must adhere to the requirements set forth in the notice dealing with conventional filings.

2. All documents should be separately filed and should be shown to be related to the pleading to which they refer, with the exception that exhibits separately marked may be electronically filed together under one docket number.

3. Exhibits/Attachments to documents – including but not limited to leases, notes and the like, which are not available in electronic form, shall be electronically imaged (i.e., scanned) and filed using Portable Document Format (pdf).

B. Expedited Matters.

Attorneys and any party shall contact the Clerk after such expedited matter is filed on CM/ECF.

C. Service.

1. Whenever a pleading or other paper is filed electronically in accordance with the electronic filing procedures, CM/ECF will automatically generate a "Notice of Electronic Filing" at the time of docketing.

2. The filing party shall serve the pleading or other paper upon all persons entitled to notice or service in accordance with the applicable rules, or, if service by first class mail is permitted under the rules, the filing party may make service in accordance with subparagraph II.C.3. below.

3. If the recipient of notice or service is a registered Filing User, service of the Notice of Electronic Filing shall be the equivalent of service of the pleading or other paper by first class mail, postage prepaid.

D. Signatures; Affidavits of Service.

1. Registered Filing Users and Parties with Legal Representation:

Petitions, lists, schedules, statements, amendments, pleadings, affidavits, and other documents which must contain original signatures, or which require verification under F.R.B.P. 1008, or an unsworn declaration as provided in 28 U.S.C. § 1746, shall be filed electronically or in accordance with the Notice of Electronic Filing Procedure. Originally executed copies must be maintained by the Filing User until five (5) years after the closing of the case unless the signatures can be electronically scanned and preserve electronically in pdf. format and retained in the Filing Users electronic data base and transmitted to the Clerk. Upon request of the Court, the Filing User must provide original documents for review. The pleading or other document electronically filed shall indicate a signature with the party's name typed in full, e.g. /s/ Jane Doe.

2. *Pro Se* Filers:

Petitions, lists, schedules, statements, amendments, pleadings, affidavits, and other documents which must contain original signatures, or which require verification under F.R.B.P. 1008, or an unsworn declaration as provided in 28 U.S.C. § 1746, and must be submitted with full signature.

These documents will be scanned by the Clerk's Office, and shall be returned by mail to the filer, if a stamped self-addressed envelope is provided or in no envelope is provided the original shall be destroyed by the Clerk's Office after scanning.

D. Fees Payable to the Clerk.

1. Registered Users:

For filings that require a fee, application for authorization of credit card payment must have been mailed or delivered to the Clerk's office with the notation: (Attention: ECF Committee, Office of the Clerk, United States Bankruptcy Court, District of Montana). The Clerk's Office will retain the original credit card application form.

2. Non-Registered Users:

For filings that require a fee, current rules for methods of payments must be followed.

E. Orders.

In order to facilitate the entry of an order, the party presenting the proposed order shall provide the presiding judge with the proposed order either by publishing the proposed order

in pdf. format and by submitting it to an e-mail address to be identified by the Court or by submitting a 3.5 inch floppy disk containing the proposed order in WordPerfect, Word or other word processing software acceptable to the Court together with any attachment, exhibit or related document to be electronically entered in connection therewith. All signed orders (including, without limitation, orders to show cause) shall be entered electronically by the Clerk's Office or the presiding judge in the case.

Note: Parties without legal representation will be handled on a case by case basis.

F. Docketing of Pleadings or Other Documents.

The person electronically filing a pleading or other document will be responsible for docketing the pleading or document by selecting the appropriate event from the categories listed in the appropriate CM/ECF menu.

III. CONVENTIONAL FILING OF DOCUMENTS

A. Conventional Filings.

The general rule is that all documents, pleadings and exhibits shall be filed electronically, unless specifically authorized by the Court, except documents to be filed under seal.

B. Service of Conventional or 3.5 Inch Floppy Disk Filings.

Pleadings or other documents which are filed conventionally, or on 3.5 inch floppy disk, shall be served in the manner provided for, and on those parties entitled to notice, in accordance with the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules except as otherwise provided by order of the Court.

IV. PUBLIC ACCESS TO THE SYSTEM DOCKET

A. Internet Access without a Password.

Any person or organization other than those referred to in paragraph I.B.1. may access the CM/ECF at the Court's internet site at:

www.mtb.uscourts.gov

Such access to CM/ECF through the internet site will allow retrieval of the docket sheet and documents provided the person has access to PACER. Access to the System will be on a "read only" basis.

B. Public Access at the Court.

The public will have electronic access in the Clerk's Office for viewing the documents and docket record filed in CM/ECF during regular business hours, Monday through Friday.

C. Conventional Copies and Certified Copies.

Conventional copies of the electronically filed documents may be purchased at the Clerk's Office. Certified copies may be purchased at the Clerk's Office during regular business hours Monday through Friday. The fee for copying and certification will be in accordance with the fee charged by 28 U.S.C. § 1930.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

ELECTRONIC CASE FILING SYSTEM
FILING USER REGISTRATION FORM

LIVE SYSTEM

This form shall be used to register for an account on CM/ECF, to obtain privileges both to electronically submit documents, and to view and retrieve electronic docket sheets and documents for all cases assigned to CM/ECF. The following information is required for registration.

First/Middle/Last Name: _____

Bar ID#, if applicable: _____

Business/Firm Name: _____

Business/Firm Address: _____

_____

Voice Phone Number: _____

Fax Phone Number: _____

Internet E-Mail Address: _____

By submitting this registration form, the undersigned agrees to abide by the following rules:

1. This system is for use only in cases permitted by the U.S. Bankruptcy Court for the District of Montana. It may be used to file and view electronic documents, docket sheets, and notices.

2. Pursuant to Federal Rule of Civil Procedure 11, Federal Rule of Bankruptcy Procedure 9011, and Local Bankruptcy Rule 5005-3(c), every pleading, motion, and other paper (except lists, schedules, statements or amendments thereto) shall be signed by at least one attorney of record, or if not represented by an attorney, then by the entity filing the pleading, motion or other paper. A Filing User's password (combined with the Filing User's identification) serves as and constitutes the Filing User's signature. Therefore, a Filing User must protect and secure the password. If any reason exists to suspect the password has been compromised in any way, it is the duty and responsibility of the

Filing User to immediately notify the CM/ECF Help Desk. The CM/ECF Help Desk will immediately delete that password from CM/ECF and the Filing User may select a new password.

3. A Filing User's registration will constitute a request and an agreement to receive service of pleadings and other papers electronically pursuant to F.R.B.P. 9036 and any other applicable rule, where service of pleadings and other papers is otherwise permitted by first class mail, postage prepaid.

4. I understand that by making application for a password, I agree to abide by all of the rules and regulations in the Administrative Procedures for Filing, Signing, Maintaining and Verifying Pleadings and Papers currently in effect, and any changes or additions that may be made to such Administrative Procedures in the System.

_____
Applicant's Signature

_____
Initial of First & Last Name & Last 4 Digits of SS#

Please return to the Clerk's Office, Attention: ECF Committee, at P. O. Box 689, Butte, Montana 59703.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

NOTICE OF ELECTRONIC FILING PROCEDURE

Case name:

Case number: **Date Filed:**

The above case has been filed in this court electronically and can be accessed via the Court's Internet site at http://www.mtb.uscourts.gov. In compliance with Federal Rule of Civil Procedure 11 and in accordance with the General Order Adopting Electronic Case Filing Procedures #2001-3-RBK, the Filing User's password shall constitute the signature of the Filing User; therefore security of a password issued to a Filing User is the responsibility of that Filing User. **An original signed copy of the filing shall be maintained in the Filing User's files in accordance with the Administrative Procedures, Section II.C.1., or shall be electronically scanned and electronically preserved in pdf. format and submitted to the Clerk(Exhibit 1 to General Order #2001-1-).** All parties with legal representation must file documents in accordance with the following:

1. The minimum requirements for filing, viewing and retrieving case documents, without consideration of the user's own computer system needs, are: A personal computer running a standard platform such as Windows, Windows 95, Windows 98 or Macintosh; an Internet provider using Point to Point Protocol (PPP), Netscape Navigator software version 3.0 or higher and Adobe Acrobat Reader and Writer software to convert documents from a word processor format to a portable document format (pdf.), unless the Filing User's word processing software provides Adobe Acrobat functions. The website address is ***www.mtb.uscourts.gov*** and a password is needed to access this system. Please contact the Court for further assistance. If you are unable to comply with this requirement, then

2. You must submit your documents on a diskette using pdf. format. The Adobe Acrobat or newer versions of the available word processing software will provide this format. Further instruction may be found in Adobe's manual or in the manual for the word processing software. Use a separate diskette for each filing. Submit the diskette in an envelope with the case name, case number, type and title of document, and the file name on the diskette. If you are unable to comply with this requirement or requirement number 1, then

3. You must submit your documents on a diskette using one of the following formats: Word, WordPerfect, or DOS text (ASCII). If you are unable to comply with this requirement, requirement number 2, or requirement number 1, then

4. You must submit an affidavit of your inability to file in any of the above formats. You may then

file conventionally on unstapled, unbound, 8 ½" x 11" single-sided paper. Documents must be submitted with full signature(s), and will be scanned by the Clerk's Office. The scanned file will constitute the original signature(s). **Include your affidavit with your filing**.

Important Note: All parties without legal representation may file documents conventionally in accordance with the Local Bankruptcy Rules. Any item submitted for filing not in compliance with this notice will not be accepted in the Electronic Case Filing system.

Dated:

Bernard F. McCarthy
Clerk of Court