

UNITED STATES BANKRUPTCY APPELLATE PANEL
FOR THE FIRST CIRCUIT

IN RE GENERAL ORDERS OF THE
UNITED STATES BANKRUPTCY
APPELLATE PANEL FOR THE FIRST
CIRCUIT.

GENERAL ORDER NO. 2
_____, 2010

**ORDER REGARDING
CASE MANAGEMENT/ELECTRONIC CASE FILES SYSTEM (“CM/ECF”)**

Before HAINES, Chief Judge, VOTOLATO, LAMOUTTE, DE JESÚS, HILLMAN,
FEENEY, VAUGHN, BOROFF, DEASY, ROSENTHAL, KORNREICH, AND TESTER

The United States Bankruptcy Appellate Panel for the First Circuit (“BAP”) adopts the following provisions to govern the electronic filing of documents in cases before the BAP. Effective **May 13, 2010**, the BAP will permit filings to be made by means of the BAP’s electronic filing system. Effective **July 13, 2010**, use of the electronic filing system is *mandatory* for all attorneys unless they are granted an exemption. These provisions may be amended from time to time, with or without prior notice, by further order of the BAP. The BAP Clerk may make changes to the procedures for electronic filing to adapt to changes in technology or to facilitate electronic filing. Any changes to procedures will be posted on the BAP’s website. The BAP may deviate from these procedures in specific cases if deemed appropriate in the exercise of its discretion.

**RULE 1
Scope of Electronic Filing**

(a) Scope. Except as otherwise prescribed by local rule or order, all cases will be part of the BAP’s CM/ECF System. All motions, briefs, appendices, or other pleadings and documents must be filed electronically except for:

- (1) documents filed by parties in interest who are pro se;
- (2) motions to seal and the document(s) subject to the motion;
- (3) any document exceeding 6.5 megabytes; and

(4) documents filed by an attorney who has sought and received an exemption from the BAP via a motion demonstrating good cause. A previously received exemption from a bankruptcy court will constitute good cause.

(b) Format of Document. Documents must be formatted for electronic filing by converting the original word-processing document into Portable Document Format (“PDF”). PDF images created by scanning paper documents do not comply with this order. Exhibits which are submitted as attachments to an electronically filed pleading, however, may be scanned and attached if the ECF Filer does not possess a word-processing file version of the document.

(c) Briefs and Appendices. ECF Filers must file briefs and appendices electronically and it is not necessary to supply the BAP with additional paper copies. An electronically filed appendix may contain multiple attachments. The description of each attachment as entered by the ECF Filer should identify the page numbers within the appendix, for example “Appendix, pages 51-100.” 1st Cir. BAP L.R. 8009-2 and 8010-1 apply to electronically filed briefs and appendices with the exception of the cover colors and binding.

RULE 2

Registration and Training

(a) Generally. Attorneys who practice before the BAP must register with the BAP’s electronic case filing system. Registration is required to obtain a login and password for use of the BAP’s electronic case filing system. Attorneys may register at <http://www.bap1.uscourts.gov>. An ECF Filer is an attorney who has obtained a login and password to file documents electronically. Before filing an electronic document using the BAP’s electronic filing system, ECF Filers must have previously completed an electronic case filing training in any federal court. The BAP recommends that ECF Filers also complete the computer-based training modules listed on the BAP’s website. ECF Filers should also familiarize themselves with the CM/ECF User’s Guide, together with other training materials concerning electronic filing at the BAP, including Frequently Asked Questions, all of which are available on the BAP’s website at <http://www.bap1.uscourts.gov>.

(b) Effect of Registration. Registration as an ECF Filer constitutes consent to electronic service of all documents as provided in these rules and in the Federal Rules of Bankruptcy Procedure. All ECF Filers have an affirmative duty to inform the BAP Clerk immediately of any change in their e-mail address. Any changes to an ECF Filer’s contact information, including physical address, telephone, facsimile number, or e-mail address, should be made through the PACER system.

(c) Protecting the Password. ECF Filers agree to protect the security of their logins and passwords and immediately notify the PACER Service Center and the BAP Clerk if they learn, or have reason to suspect, that their login or password has been compromised. ECF Filers may be

sanctioned for failure to comply with this provision. In addition to other sanctions imposed by the BAP, the BAP may terminate with notice the electronic filing privileges of any ECF Filer who uses the electronic filing system inappropriately.

(d) Revocation. The BAP may revoke an ECF Filer's authority to file documents electronically for violating subsection (c) above, this general order, or otherwise misusing the BAP's electronic case filing system.

RULE 3

Consequences of Electronic Filing

(a) Generally. Electronic transmission of a document to the electronic filing system in compliance with these rules, together with the transmission of a Notice of Docket Activity from the BAP, constitutes filing of the document under the Federal Rules of Bankruptcy Procedure and the First Circuit BAP Local Rules, and constitutes entry of the document on the docket kept by the BAP Clerk.

(b) Timing of Filing. Electronic filing is permitted at all times, except when the system is temporarily unavailable due to routine or emergency maintenance. When a document has been filed electronically, the official record is the electronic document stored by the BAP. An electronically filed document is deemed filed at the date and time stated on the Notice of Docket Activity from the BAP. Unless otherwise required by statute, rule, or order of the BAP, electronic filing must be completed by midnight in the time zone of the BAP Clerk's office in Boston to be considered timely filed that day. The ECF Filer, however, should not expect that the filing will be addressed outside of regular business hours.

(c) Failure to Receive Notice of Docketing Activity. ECF Filers are advised that they should contact the BAP Clerk's office if they transmit a document to the electronic filing system but do not receive a Notice of Docket Activity. If the BAP does not transmit a Notice of Docket Activity, the ECF Filer's filing attempt failed and the document was not filed. If a technical failure prevents timely electronic filing of any document, the filing party should promptly seek relief from the BAP.

RULE 4

Signature

(a) Generally. The user login and password required to submit documents to the electronic filing system serve as the ECF Filer's signature on all electronic documents filed with the Panel. They also serve as a signature for purposes of the Federal Rules of Bankruptcy Procedure, the First Circuit BAP Local Rules, and any other purpose for which a signature is required. No ECF Filer or other person may knowingly permit or cause to permit an ECF Filer's login and password to be used by anyone other than an authorized agent of the ECF Filer.

(b) Multiple Signatures. The filer of any electronically filed document requiring multiple signatures (for example, stipulations) must list thereon all the names of other signatories by means of an “/s/ [name]” block for each. By submitting such a document, the ECF Filer certifies that each of the other signatories has expressly agreed to the form and substance of the document, and that the ECF Filer has their authority to submit the document electronically. In the alternative, the ECF Filer may submit a scanned document containing all necessary signatures.

RULE 5

Service

(a) Generally. The CM/ECF system will generate a Notice of Docket Activity when any document is filed electronically. This notice constitutes service of the document on all parties who have registered as BAP electronic filers pursuant to Rule 2. Such registration constitutes consent to service via Notice of Docket Activity.

(b) Non-Registrants. Parties who are not registered as ECF Filers must be served with a copy of any electronically filed document in some other way authorized by Fed. R. Bankr. P. 8008 and 1st Cir. BAP L.R. 8008-1. Similarly, a document filed in paper form pursuant to Rule 1 of this Order must be served using an alternate method of service prescribed by Fed. R. Bankr. P. 8008 and 1st Cir. BAP L.R. 8008-1.

(c) Certificate of Service. The Notice of Docket Activity does not replace the certificate of service required by Fed. R. Bankr. P. 8008(d) and 1st Cir. BAP L.R. 8008-1. ECF Filers must include certificates of service with any electronically filed document which state whether the parties being served are ECF Filers being served electronically by the Notice of Docket Activity or whether they are being served using an alternate method of service and, if so, which method. The certificate must also provide the other information required by Fed. R. Bankr. P. 8008(d) and 1st Cir. BAP L.R. 8008-1.

RULE 6

Technical Requirements

(a) Searchable Text. Except as otherwise specified in this Rule, or as otherwise ordered, the text of all electronic filings must be searchable using Adobe Acrobat’s text search function.

(b) Non-Searchable Text. For some documents, primarily exhibits, a text searchable version might not be available. If so, the electronic filer may upload a version that is not text searchable.

(c) Technical Failures. An ECF Filer whose filing is made untimely as the result of a technical failure may seek appropriate relief from the BAP.

RULE 7
Privacy

(a) **Personal Data Identifiers.** In compliance with Fed. R. App. P. 25(a)(5) and Fed. R. Bankr. P. 9037, parties must refrain from including, or must partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the BAP:

- (1) Minors' names (use initials only);
- (2) Social Security numbers (use last four digits only);
- (3) Dates of birth (use year of birth only);
- (4) Financial account numbers (identify the type of account and institution and provide the last four digits of the account number).

(b) **Redaction Responsibility.** The ECF Filer bears sole responsibility for redaction.

RULE 8
Other Limitations and Restrictions Concerning CM/ECF

(a) **Counsel of Record.** Except as otherwise specified in this Rule, or as otherwise ordered, the ECF Filer duly registered pursuant to Rule 2, above, may only file documents in BAP appeals where he or she is counsel of record.

(b) **Additional Copies.** Except as otherwise specified in this Rule, or as otherwise ordered, an ECF Filer need not and may not submit (by U.S. Mail, other mail services, facsimile, or by e-mail) additional copies of any documents filed electronically through CM/ECF.

(c) **Hyperlinks.** Documents filed electronically may contain hyperlinks except as stated herein. Hyperlinks may not be used to link to sealed or restricted documents. Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of the document. A hyperlink, or any site to which it refers, will not be considered part of the record. Hyperlinks are simply convenient mechanisms for accessing material in a document. The BAP accepts no responsibility for the availability of functionality of any hyperlink, and does not endorse any product, organization, or content at any hyperlinked site, or at any site to which that site might be linked.

**RULE 9
PACER**

(a) **Pacer Docket.** Unless otherwise ordered, all documents that are filed electronically will be attached to the PACER docket.

(b) **Paper Filing.** Unless otherwise ordered, when the BAP receives a document only in paper format, the BAP will scan the document, convert it to a PDF, and attach it to the PACER docket.

For the Panel:

Dated: March 30, 2010

Mary P. Sharon, Clerk of Court