

APPENDIX 8

ELECTRONIC FILING RULES

RULE 1. SCOPE OF ELECTRONIC FILING

Except as provided below, electronic filing of petitions, motions, applications, memoranda of law or other pleadings, proofs of claim or documents (hereafter "documents") shall be mandatory as set forth in MLBR 9036-1.

The following may be filed in paper form at the Clerk's Office:

- (a) proofs of claim filed by a party in interest or creditor other than the United States Internal Revenue Service or the Commonwealth of Massachusetts Department of Revenue;
- (b) documents filed by parties in interest who are pro se;
- (c) requests for ex parte determination or a request for impoundment, pursuant to MLBR 9018-1;
- (d) documents filed by attorneys who:
 - (1) appear in not more than three (3) cases per year and personally, or by an agent, hand deliver the document(s) to the Clerk's Office and scan the document(s) electronically employing equipment supplied and procedures as directed by Clerk's Office personnel; or
 - (2) are unable to file electronically on account of temporary equipment or system breakdown in the attorney's office or the Clerk's Office; or
- (e) documents in paper form with prior permission of the Clerk, the Deputy Clerk or their designee, leave to be given only on a showing of temporary exigent circumstances other than equipment or system breakdown.

RULE 2. ELIGIBILITY, REGISTRATION, PASSWORDS

- (a) Registered User

The term "Registered User" as employed in these Rules shall be deemed to mean an individual who has registered to use this Court's ECF System, with full or limited access, pursuant to subsection (b) hereof. Limited access allows an attorney or non-attorney to become a Registered User for the sole purpose of filing proofs of claim, notice requests, transfers or assignments of claim, and withdrawals of claims.

(b) Eligibility

Attorneys admitted to the bar of the United States District Court for the District of Massachusetts (including those admitted pro hac vice, pursuant to MLBR 9010 1(b)), attorneys representing the United States of America or any state, the United States trustee and his/her assistants, chapter 7, 11, 12, or 13 trustees, limited access users, and others as the Court may allow in its discretion on prior motion and order, may register as Registered Users of the ECF System after completion of such electronic filing training as the Clerk of this Court may establish and require from time to time.

(c) Registration

Application for registration as a Registered User shall be made on a form prescribed by the Clerk as amended from time to time and posted on the Court's website, www.mab.uscourts.gov. All registration application forms shall be mailed or delivered to the Office of the Clerk, United States Bankruptcy Court, John W. McCormack Post Office and Court House, 5 Post Office Square, Suite 1150, Boston, MA 02109-3945 ATTN: SYSTEMS, PERSONAL AND CONFIDENTIAL. Each approved registrant will receive a notice from the Clerk to retrieve from the Clerk's Office (in Boston, Worcester or Springfield, as designated by the registrant) a sealed envelope containing a log-in name and assigned password. Only the applicant or an authorized representative may retrieve the envelope; except that, at the written request of an approved registrant, the Clerk may email the log-in name and password to the registrant. The Clerk is authorized to employ such further precautions which in the Clerk's judgment will ensure security in the distribution of passwords. Each Registered User shall be entitled to only one password, except that additional passwords may be issued to a single user for good cause shown and at the discretion of the Clerk.

(d) Withdrawal or Amendment of Registration

A Registered User who wishes to withdraw or amend a registration shall email a request for such change to the Clerk on a form prescribed by the Clerk as amended from time to time and posted on the Court's website, www.mab.uscourts.gov.

(e) Security

Registration constitutes a Registered User's agreement to protect the security of his or her assigned password and immediately notify the Clerk if the Registered User learns that the security of the password has been compromised. No Registered User shall knowingly permit the password to be utilized by anyone other than an authorized agent of the Registered User. Upon notice to the Clerk that a password has been compromised, the Clerk shall promptly provide a substitute password to the Registered User.

(f) Waivers

Registration constitutes the Registered User's: (1) agreement to receive documents electronically and waiver of the right to receive notice by any other means; and (2) consent to service of all documents electronically and waiver of the right to service by any other means, excepting only service of process in an adversary proceeding or with respect to an involuntary petition, or as otherwise ordered by the Court. The aforesaid waiver of service and notice by non-electronic means shall include waiver of notice by first class mail of the entry of an order or judgment under Fed. R. Bank. P. 9022.

(g) Involuntary Termination of Registration; Sanctions

On notice from the Clerk that a Registered User and/or his or her agents has/have repeatedly and/or egregiously failed to comply with the procedures established by the Court for use of the ECF System or failed to comply with reasonable password security precautions, the Court may, after notice and hearing, sanction a Registered User for such failure, including, without limitation, suspending the Registered User from use of the ECF System.

RULE 3. CONSEQUENCES OF ELECTRONIC FILING

(a) Filing and Entry

Transmission of a document to the ECF System consistent with these Rules, together with the transmission of a Notice of Electronic Filing from the Court, constitutes the filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, and constitutes entry of the document on the docket kept by the Clerk pursuant to Fed. R. Bank. P. 5003.

(b) Official Record

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 document filed electronically is deemed filed on the date and the time stated on the Notice of Electronic Filing from the Court.

(c) Filing Deadline

A document may be filed at any time, except that:

- (1) where the Court orders that filing must be completed by a specific date and time, filing a document electronically does not alter the filing deadline for that document; and

- (2) where the Court orders that filing must be completed by a specific date but does not specify the time, entry of the document into the ECF System must be completed before 4:30 PM Eastern Standard (or Daylight, if applicable) Time in order to be deemed timely filed.

RULE 4. ENTRY OF COURT ORDERS

The Clerk shall enter all orders, judgments, and proceeding memos on the docket kept by the Clerk under Fed. R. Bankr. P. 5003 and 9021 in electronic format. Any order entered electronically without the original signature of a judge shall have the same force and effect as if the judge had affixed his or her signature to a paper copy of the order.

RULE 5. ATTACHMENTS AND EXHIBITS

- (a) If the exhibit(s) to any document constitute(s) more than 50 pages in the aggregate, the exhibit(s) must be filed separately from the underlying document. In such event, the Registered User must file with the underlying document (a) a list of all of the exhibits, identifying clearly the subject matter of each exhibit, and (b) a summary of the content of each exhibit of 50 or more pages in length. If any recipient is unable to open an exhibit for any reason, it is the responsibility of the recipient to notify the transmitting Registered User of the recipient's inability to open the exhibit and to request paper copies. The Registered User shall respond promptly to any such request.
- (b) Exhibits may, but need not, be attached to Proofs of Claim when filed electronically. The claimant shall promptly provide any party in interest all exhibits upon request.

RULE 6. SEALED OR IMPOUNDED DOCUMENTS

Any motion to seal or impound a document, pursuant to MLBR 9018-1, and the subject document, shall not be filed electronically, unless specifically authorized by the Court. In the event that the motion to seal or impound is granted, the Court shall determine the extent to which the motion and/or the document(s) shall be electronically filed.

RULE 7. STATEMENTS UNDER OATH; RETENTION REQUIREMENTS

- (a) Unless the Court orders otherwise, all electronically filed documents (including, without limitation, affidavits or a debtor's petition, schedules, statement of affairs, or amendments thereof) requiring signatures of a non-Registered User under the penalties of perjury shall also be executed in paper form, together with a Declaration Re:

Electronic Filing in the form of MLBR Official Local Form 7. The Declaration Re: Electronic Filing shall be filed with the Court as an imaged, and not electronically created, document, together with or in addition to the document electronically filed with the Court. Said Declaration shall be valid for the declarant for all subsequently filed documents requiring a signature in the case.

- (b) Notwithstanding subsection (a) above, the paper forms of the electronically filed document(s) and the Declaration Re: Electronic Filing shall be retained by the Registered User until five (5) years after the closing of the case. Said paper documents shall be deemed property of the Court and not property of the declarant or the Registered User. The Registered User must produce all such original documents for review or filing at the request of a party in interest or upon order of the Court.
- (c) Any document electronically filed which is signed by a non-Registered User shall be filed as an imaged, and not electronically created, document.
- (d) No document signed by a non-Registered User may be electronically filed unless (1) it is accompanied by a Declaration Re: Electronic Filing in the form of MLBR Official Local Form 7 or (2) a Declaration Re: Electronic Filing of MLBR Official Local Form 7 has previously been filed in the case which shall be valid for the declarant for all subsequently filed documents requiring a signature in the case.
- (e) A non-Registered User may file a Declaration Re: Electronic Filing in the form of MLBR Official Local Form 7 at any time prior to the electronic filing of a document in the case bearing his or her signature which shall be valid for the declarant for all subsequently filed documents requiring a signature in the case.

RULE 8. SIGNATURES

- (a) The user log in and password required to submit documents to the ECF System serve as the Registered User's signature on all electronic documents filed with the Court including those requiring signatures under the penalties of perjury. They also serve as a signature for purposes of Fed. R. Bankr. P. 9011, the Local Rules of this Court, and any other purpose for which a signature is required. Electronically filed documents must set forth the name, address, telephone number, email address of the Registered User and, if an attorney, his or her BBO or PHV number (see MLBR 9010-3(b)). In addition, the document must include a signature block where the name of the Registered User and/or affiant is typed but preceded by a "/s/" or is set forth as an imaged or electronically created signature.
- (b) Where an electronically filed document sets forth the consent of more than one party, the additional consents may be supplied by: (1) a scanned document containing all of

the necessary signatures; or (2) a representation that the Registered User has authority to consent on behalf of the other parties who are purported signatories to the document; or (3) a notice of endorsement filed by the other signatories no later than three business days after filing of the document; or (4) any other manner approved by the Court.

- (c) All electronic documents filed after the commencement of the case must contain the case caption and number.
- (d) Notwithstanding Fed. R. Bankr. P. 9011(a), an attorney may electronically file an application for compensation for a Professional who is not a Registered User but whose employment in that case has been authorized previously by order of the Court.

RULE 9. SERVICE OF DOCUMENT BY ELECTRONIC MEANS

- (a) Transmission by the Court of the “Notice of Electronic Filing” constitutes service or notice of the filed document, except that persons not deemed to have consented to electronic notice or service are entitled to conventional notice or service of any electronically filed document according to the Federal Rules of Bankruptcy Procedure and the Local Rules.
- (b) Service by electronic transmission shall be deemed equivalent to service by mail for the purposes of Fed. R. Bankr. P. 9006(f).

RULE 10. NOTICE OF COURT ORDERS AND JUDGMENTS

Upon the entry of an order or judgment in a case or an adversary proceeding, the Clerk will transmit notice to Registered Users in the case or adversary proceeding in electronic form. Transmission of a Notice of Electronic Filing constitutes the notice required by Fed. R. Bankr. P. 9022. The Clerk shall give conventional notice to a person who has not consented to electronic service in accordance with the Federal Rules of Bankruptcy Procedure.

RULE 11. TECHNICAL FAILURES

A Registered User whose filing is made untimely as a result of a technical failure may seek appropriate relief from the Court, including, without limitation, leave to file by facsimile and defer payment of any filing fee.

RULE 12. PUBLIC ACCESS

A person may view electronically filed documents that have not been impounded by the Court at the Clerk's Office. A person may also access the ECF System at the Court's Internet site www.mab.uscourts.gov or directly at <https://ecf.mab.uscourts.gov>, by obtaining a PACER login and password. A person who has PACER access may retrieve dockets and documents. Only a Registered User may file documents electronically.