

## **Electronic Case Filing Administrative Procedures**

**Revised: October 29, 2018**

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### **I. Eligibility and Registration**

- A. Pursuant to the Court's General Order Regarding Electronic Filing issued on July 14, 2005, any document filed by an attorney must be filed electronically using the Court's Electronic Case Files ("ECF") system.
- B. Attorneys shall apply to file documents electronically using the Court's ECF system.
  - i. Each applicant must be a member in good standing of the State Bar of South Dakota and the Federal Bar for the District of South Dakota or have been admitted *pro hac vice* in a particular case by the Court.
  - ii. Each applicant must complete training provided by the Court or, with the Court's approval, training provided by another court.
  - iii. Each applicant must submit an Attorney E-File Registration request through the applicant's PACER account.
- C. Upon approval of the attorney's registration request, the attorney is responsible for protecting the security of the attorney's login and password.
  - i. An attorney must not knowingly permit the attorney's login or password to be used by anyone other than an authorized member or employee of the attorney's office or firm.
  - ii. An attorney must immediately notify the Court if the attorney suspects the attorney's password has been compromised.
- D. An attorney may authorize one or more members or employees of the attorney's office or firm to serve as filing agents, who may file documents electronically on behalf of the attorney.
  - i. Each filing agent must submit a Non-Attorney E-File Registration request through the filing agent's PACER account.
  - ii. The attorney is responsible for all documents filed by filing agents.
- E. By registering to use the Court's ECF system, an attorney consents to notice by electronic means in lieu of service by first class mail, by personal service, or by other means required or permitted by the Federal Rules of Bankruptcy Procedure.
- F. A creditor or an attorney not licensed to practice in this Court may register as a limited filing user ("limited user") to file only certain types of documents and pleadings.
  - i. Each attorney filer not licensed to practice in this Court must submit an Attorney E-File Registration request through the attorney's PACER account.

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- ii. Each non-attorney filer must submit a Non-Attorney E-File Registration request through the filer's PACER account.
- G. Electronic filers are responsible for updating their contact information, including their mailing address, telephone number, fax number, and e-mail address, through their PACER accounts.

### II. Filing

- A. Except as provided below, an attorney must use the Court's ECF system to file electronically any petition, list, schedule, statement, plan, motion, response, objection, complaint, answer, brief, certificate of service, or other document (collectively, "document") the attorney wishes to file.
  - i. An application to appear *pro hac vice*<sup>1</sup> (and all supporting documents) shall be filed electronically by the local counsel identified in the application. With the Court's approval, subsequent documents may be filed electronically by the attorney appearing *pro hac vice*, provided such attorney has submitted an Attorney E-File Registration request through such attorney's PACER account.<sup>2</sup>
  - ii. An attorney may file electronically a motion to file a document under seal. However, the attorney must file conventionally the actual document to be filed under seal, with a copy of the order granting the motion to file it under seal attached.
  - iii. An attorney must file electronically exhibits, other than those to be offered at a trial or an evidentiary hearing, and attachments.
    - a. If an exhibit or attachment is not available in electronic form, an attorney must image (scan) and electronically file the exhibit or attachment.
    - b. If an attorney files electronically an exhibit or attachment that is voluminous, the attorney is strongly encouraged to extract and file only those portions of the exhibit or attachment that are directly germane to the matter to which the exhibit or attachment relates.
      - I. An attorney must clearly and prominently identify all excerpted material as such.

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<sup>1</sup> See Rule 83.2(E) of the Local Rules of Practice of the United States District Court for the District of South Dakota (incorporated by reference in Bankr. D.S.D. R. 2090-1).

<sup>2</sup> The Court's approval of an Attorney E-File Registration request does not excuse compliance with Rule 83.2(E) of the Local Rules of Practice of the United States District Court for the District of South Dakota and Bankr. D.S.D. R. 2090-1.

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- II. An attorney who files electronically only a portion of an exhibit or attachment does so without prejudice to the attorney's right to timely file additional portions of the exhibit or attachment or the entire exhibit or attachment.
- III. A responding party may timely file additional portions of the exhibit or attachment or the entire exhibit or attachment.
- iv. An attorney must submit any exhibit to be offered at a trial or an evidentiary hearing conventionally, in the manner prescribed by the local bankruptcy rules.
- B. An attorney must electronically upload the mailing list of creditors.
- C. An attorney must electronically upload a debtor's full social security number in lieu of filing an Official Form 121 (Statement About Your Social Security Numbers); provided, however, that in compliance with ¶ V below, the attorney must obtain the debtor's signature on an original hard copy Official Form 121 prior to doing so and must retain the original hard copy Official Form 121 for not less than five years after the case is closed, unless the Court directs that it be retained for a different period.
- D. All documents filed in the Court's ECF system must be in Portable Document Format (PDF).

### **III. Service**

- A. When a document is filed electronically the Court's ECF system automatically transmits a Notice of Electronic Filing to any attorneys, parties, and limited users registered for electronic notice in the case.
  - i. The attorneys, parties, and limited users who receive the Notice of Electronic Filing are identified on the notice.
  - ii. The electronic transmittal of the Notice of Electronic Filing to the identified attorneys, parties, and limited users constitutes service of the document on them, and no additional service is required.
- B. When an attorney files a document electronically the attorney must serve the document on anyone entitled to service who does not receive electronic notice, including the debtor(s). Such service shall be made in compliance with applicable Federal Rules of Bankruptcy Procedure and local bankruptcy rules.

### **IV. Required Fees**

- A. If an attorney is authorized to use the Court's ECF internet credit card payment module, all fees associated with electronic filing must be paid by credit card via this module. Filing fees must be paid prior to midnight on the day of filing.

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- B. If an attorney is not authorized to use the Court's ECF internet credit card payment module, all filing fees must be paid within three business days of the filing.

### **V. Signature**

- A. Use of the login and password of the attorney or the limited user to file any document that must contain the signature of the attorney or the limited user constitutes the signature of the attorney or the limited user for all purposes with respect to that document.
- B. Use of the login and password of the attorney or the limited user to file any document that must contain one or more signatures other than the attorney's or the limited user's (*e.g.*, stipulations), or that requires verification pursuant to Fed.R.Bankr.P. 1008 or an unsworn declaration pursuant to 28 U.S.C. § 1746 (*e.g.*, petitions, lists, schedules, statements, and amendments thereto), constitutes the attorney's or the limited user's representation that: (1) prior to filing the document electronically the attorney or the limited user obtained all necessary signatures on an original hard copy document; and (2) at the time of the electronic filing the attorney or the limited user has possession of the signed original document.
  - i. An attorney or a limited user may file electronically a copy of the document, in which event the attorney or the limited user shall indicate any original signature(s) on the electronically filed document with "s/Signer's Name" in the appropriate signature space(s).
  - ii. Alternatively, an attorney or a limited user may file electronically an imaged (scanned) copy of the document containing all required signatures.
- C. An attorney or a limited user must retain any original hard copy document described in paragraph B above for not less than five years after the case is closed, unless the Court directs that it be retained for a different period.
  - i. An attorney must make a debtor's original petition, lists, schedules, and statements available for inspection by the trustee, the U.S. Trustee, creditors, and other parties in interest at the debtor's § 341 meeting of creditors and, upon request, at any other mutually convenient time.
  - ii. An attorney must make a debtor's original petition, lists, schedules, and statements available for inspection by the Court at any time upon request.

### **VI. Effect of Electronic Filing**

- A. The electronic transmission of a document to the Court's ECF system in compliance with these guidelines, once confirmed by transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document

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for all purposes under the Federal Rules of Bankruptcy Procedure and the local bankruptcy rules and entry of the document on the docket maintained by the Clerk pursuant to Fed.R.Bankr.P. 5003.

- B. When a document has been filed electronically the electronic image of the document constitutes the official record of the document, and the attorney or the limited user is bound by the document as filed electronically.
- C. When a document has been filed electronically the document is deemed filed on the date and at the time reflected on the Court's Notice of Electronic Filing.
- D. Filing a document electronically does not alter any filing deadline ("last day to file") for that document. Unless the Court sets a different deadline, filing must be completed before midnight (Central Standard Time or Central Daylight Time, whichever is in effect) on the last day to file to be considered timely filed with respect to any such filing deadline.

### **VII. Technical Failure**

An attorney or a limited user whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.

### **VIII. Failure to Comply**

An attorney or a limited user may be subject to sanctions, including, but not limited to, revocation of electronic filing privileges, for failure to comply with these procedures.