UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA

In Re:	)
	)
ELECTRONIC CASE FILING	)
	)

FIFTH AMENDED ORDER AUTHORIZING ELECTRONIC CASE FILING

Pursuant to Rules 5(e) and 83 of the Federal Rules of Civil Procedure and Rules 5005(a)(2), 9011, 9029 and 9036 of the Federal Rules of Bankruptcy Procedure that authorize this court to establish practices and procedures for the filing, signing and verification of pleadings and papers, and sending of notices by electronic means, IT IS ORDERED that:

1. Electronic Filing Authorized:

The court will accept the electronic filing of documents effective September 3, 2002, by way of the court's Electronic Case Filing System (ECF System).

2. Official Record:

Except as otherwise ordered, the official record of the court for all documents filed on or after September 3, 2002, is the electronic record maintained by the clerk. All documents submitted in a hard copy format by any person on or after September 3, 2002, including those from *pro se* persons, will be imaged into an electronic form. Once imaged, with the exception of hard copy filings submitted by *pro se* filers or documents ordered sealed by the court, all such documents will be destroyed in accordance with the procedure authorized by the court and the clerk will not maintain hard copies of any documents filed in connection with any case or proceeding. Documents filed before September 3, 2002, will not be converted to an electronic format unless otherwise ordered by the court.

3. Registered Users:

a. Attorneys admitted to the bar of this court (including those admitted *pro hac vice* under the applicable local rules) and others as the court deems appropriate, including creditors in a limited user status, may register as Users of the court's ECF System. Registrants will be issued a login and password upon fulfilling the following requirements:

i. Successful completion of a court-sponsored ECF training program;

ii. Completion of an ECF User application form; and

iii. Providing the court with a credit card authorization for the payment of filing fees.

b. Registration as an ECF User constitutes:

i. The Registered User's consent to receive notice electronically and a waiver of the right to receive notice by first class mail, including notice of the entry of an order or judgment under Fed. R. Bankr. P. 9022;

ii. The Registered User's waiver of the right to personal service or service by first class mail and consent to electronic service, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004 and subpoenas; and

iii. An affirmation that the Registered User will endeavor to file all documents electronically.

c. A creditor may submit an application, available from the clerk's office, for a limited use password for the ECF system. Creditors with a limited use password may electronically file proofs of claim and related documents.

d. All Registered Users shall maintain a current and active e-mail address and shall promptly advise the court of any change.

4. Unauthorized Use of Password Prohibited:

No person may use a login and password without the permission of the Registered User to whom they were issued. Registered Users agree to protect the security of their passwords. A Registered User has an obligation to immediately notify the clerk if they believe that the security of their password has been compromised.

5. Filing of Documents:

a. Unless otherwise directed by the court, Registered Users are expected to file all documents electronically through the court's ECF system regardless of whether they have reached the court's mandatory threshold. The failure to do so may result in the noncomplying document being stricken and/or the imposition of other appropriate sanctions.

b. Except as otherwise provided under this order or the rules of this court, Registered Users are not permitted to electronically submit documents on behalf of another individual.

c. Individuals who are not Registered Users of the court's ECF System may present documents to the clerk in a hard copy format. Any attorney presenting (or having presented on their behalf), other than in person at the clerk's office, an affidavit or any other document signed under oath or penalties of perjury for filing in a hard copy format - including a bankruptcy petition, statement, schedule or list or any amendment thereto - should present only a copy of the originally signed document. The originally signed document must be retained by counsel in accordance with Paragraphs 11 and 19 of this order.

6. Exhibits and Attachments:

Exhibits to an electronically filed document, such as leases, notes, contracts, mortgages, etc., must be filed electronically as attachments to the document. Except in the case of proofs of claim, the relevant portions of large or voluminous exhibits may be summarized or excerpted. Such summaries or excerpts shall be clearly identified as such, and the filer shall promptly produce the full text of the original document(s) upon request at the filer's expense.

7. Amendments to Petitions, Statements and Schedules:

The amended or new information on electronically filed amendments to the bankruptcy petition, schedules, statements or lists shall be accompanied by a separate notice of amendment that conforms with the requirements of N.D. Ind. L.B.R. B-1009-1.

8. Time of Electronic Filing:

Except in the case of documents presented for filing in a hard copy format, a document filed electronically is deemed filed as of the date and time stated on the "Notice of Electronic Filing" generated by the court's ECF System, which is the time the court's ECF server receives the electronic transmission. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight in South Bend, Indiana, where the court's ECF server is located, to be considered filed that day.

9. Effect of Electronic Filing:

The electronic filing of a document in accordance with the court's ECF procedures shall constitute entry of the document on the docket and records kept by the clerk under Fed. R. Bankr. P. 5003. 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.

10. Payment of Filing and Court Fees:

Registered Users must fully pay all required fees at the time a document is electronically filed using the court's internet point of sale procedures.

11. Signatures:

a. Signature of the Registered User:

The use of an attorney's login and password for the electronic filing of a document constitutes that attorney's signature for all purposes, including Rule 9011 of the Federal Rules of Bankruptcy Procedure. Unless the electronically filed document has been scanned and shows the attorney's original signature, the signature of the attorney shall also be indicated by "/s/ Attorney's Name" on the line where the signature would otherwise appear. Electronically filed documents must include a signature block that sets forth the name, complete mailing address, and telephone number of the Registered User.

b. Signatures on Jointly Signed or Filed Documents:

In the case of a stipulation, agreed order, joint motion or other document which needs to be signed by two or more persons, the signatures may be indicated by either:

i. submitting a scanned copy of the originally signed document, or its signature page(s); or

ii. through the use of "/s/ Name" in the signature block where the signatures would otherwise appear. The use of "/s/ Name" constitutes the filer's representation that it has obtained the affirmative consent of all other signatories to the document submitted.

c. Signatures on Petitions, Statements, Schedules and Lists:

i. Debtor's signatures upon the bankruptcy petition, schedules, statements and lists, and any amendment thereto, may be indicated by any of the following methods:

A. submitting a scanned copy of the originally signed document(s);

B. attaching a scanned copy of the originally signed signature page(s) to the electronic document, or:

C. separately submitting a scanned copy of the originally signed signature pages(s) immediately after the electronic filing of the signed document.

ii. At the request of the trustee assigned to the case, debtor's counsel shall provide the case trustee with a paper copy of the petition, schedules, statements, lists and any amendments thereto.

iii. Debtor's counsel shall retain the originally signed bankruptcy petition, schedules, statements and lists and any amendments thereto for no less than three (3) years following the closing of the case. Debtor's counsel shall produce the originally signed document(s) upon request. The failure to do so may result in the imposition of sanctions on the court's own motion, or upon the motion of the case trustee, U.S. Trustee, U.S. Attorney, or other party.

d. Signatures on Other Documents Signed Under Oath:

i. Signatures upon affidavits or other documents signed under penalties, other than the bankruptcy petition, schedules, statements and lists, and any amendment thereto, may be indicated by either:

A. submitting a scanned copy of the originally signed document;

B. attaching a scanned copy of the signature page(s) to the electronic document; or

C. through the use of "/s/ Name" on the line where the signature would otherwise appear. The use of "/s/ Name" constitutes the filing attorney's representation that an originally signed copy of the document exists and is in counsel's possession at the time of filing.

ii. The attorney filing any affidavit or other document signed under penalty of perjury shall retain the originally signed document for no less than three (3) years following the closing of the case and shall produce the originally signed document upon request. The failure to do so may result in the imposition of sanctions on the court's own motion, or upon the motion of the case trustee, U.S. Trustee, U.S. Attorney, or other party.

e. Signatures on Proofs of Claim

The use of a Registered User's login and password for the electronic filing of a claim constitutes that User's signature for all purposes, including Rule 9011 of the Federal Rules of Bankruptcy Procedure. Unless the electronically filed claim has been scanned and shows the User's original signature, the signature of the User shall also be indicated by "/s/ User's Name" on the line where the signature would otherwise appear. Electronically filed claims must include a signature block that sets forth the name, complete mailing address, and telephone number of the User.

12. Service:

The filer of an electronic document is responsible for serving that document on all entities entitled to receive it. Whenever a document is filed electronically, a "Notice of Electronic Filing"

will be automatically transmitted by e-mail to all Registered Users who have appeared in the case or proceeding. Service of this Notice shall constitute the service or notice of the document filed. Any other entity entitled to be served with the document shall be served with a hard copy of the document in accordance with the Federal Rules of Bankruptcy Procedure.

For service on the United States, electronic service is effective only as to the United States Attorney for the Northern District of Indiana. Service on all other governmental departments, agencies and instrumentalities of the United States, including but not limited to the Attorney General of the United States, as may be required, must be effected by means of first class mail, postage fully prepaid, unless the department, agency or instrumentality has expressly consented, in writing, to receive electronic service pursuant to Rule 9036 of the Federal Rules of Bankruptcy Procedure.

13. Submission of Proposed Orders:

Proposed orders shall be submitted electronically through the court's ECF System. Proposed orders submitted at the time an application, motion or other request for relief is filed (*see, e.g.*, N.D. Ind. L.B.R. B-9013-1(c)) should be attached to the request and identified as such. Proposed orders submitted in response to directions from the court should be submitted as a separate document, identified as a proposed order, and linked to the motion, objection, and/or directions to which it relates. Regardless of when they are electronically submitted, proposed orders should always be identified as such on the docket (*i.e.*, as a "Proposed Order" regarding _____) and should never be dated or bear an indication of having been signed by the judge.

14. Entry of Court Orders and Judgments:

All orders will be entered electronically by the court or court personnel in accordance with the court's ECF procedure, and this constitutes the entry of the order, decree, judgment or proceeding on the docket kept by the clerk under Federal Rules of Bankruptcy Procedure 5003 and 9021. Any order entered electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner. The clerk's electronic transmission of the "Notice of Electronic Filing" constitutes the notice required by Rule 9022, Federal Rules of Bankruptcy Procedure.

15. Sealed Documents:

A motion to file documents under seal shall be filed electronically. If the motion is granted, the documents ordered to be placed under seal shall be filed conventionally with the clerk, and not electronically, along with a paper copy of the order granting the motion. The clerk will maintain sealed documents in paper format.

16. Claims:

a. Registered Users shall file claims electronically.

b. The Registered User shall retain the originally signed claim for no less than three (3) years following the closing of the case and shall produce the originally signed document upon request.

c. Any exhibits attached to the claim must be the full text of the document, and not summaries, excerpts or redacted copies.

17. Technical Failures:

a. A Registered User who is unable to file a document electronically because of circumstances beyond their control, such as technical failures, may file the document in a hard copy format. Such a filing shall be accompanied by a statement specifically explaining the reason for the paper filing.

b. If a filing is not timely as a result of a technical system failure, the Registered User may seek appropriate relief from the court, such as through Rule 9006 or Rule 9024 of the Federal Rules of Bankruptcy Procedure.

18. Electronic Document Requirements:

a. File Format of Electronic Documents: All electronic filings, except the matrix of creditors and parties in interest required by local rule N.D. Ind. L.B.R. B-1007-1, must be submitted as portable document format (PDF) documents and formatted in accordance with the requirement of local rule N.D. Ind. L.B.R. B-5005-2(a). PDF document images must be filed in black-and-white or text formats only. Grayscale or color PDF document images shall not be filed electronically.

b. Format of Matrix: The creditor matrix must be in an ASCII text format, a .TXT file.

c. File Size of Documents Filed Electronically: No electronic filing, whether a document or exhibit or attachment thereto, should exceed 2 megabytes (2Mb) in size, which is approximately 25 pages of black and white text. If a document, exhibit or attachment exceeds 2Mb in size, it must be divided into parts no larger than 2 Mb each.

19. Document Retention:

The attorney filing any affidavit, or other document signed under penalty of perjury – including the bankruptcy petition, schedules, statements and lists and any amendments thereto – shall retain the originally signed document for no less than three (3) years following the closing of the case and shall produce the originally signed document upon request. The failure to do so may result in

the imposition of sanctions upon the filing Registered User on the court's own motion, or upon the motion of the case trustee, U.S. Trustee, U.S. Attorney, or other party.

It is SO ORDERED.

Dated: September 22, 2005

Harry C. Dees, Jr., Chief Judge
United States Bankruptcy Court

Robert E. Grant, Judge
United States Bankruptcy Court

J. Philip Klingeberger, Judge
United States Bankruptcy Court

Kent Lindquist, Judge
United States Bankruptcy Court