



MEMORANDUM

To: Attorneys

From: Kyle George, Clerk of Court

Subject: Rules and Administrative Order Change; Filing Procedures Changes October 14, 2014

1. The following memorandum addresses a change to our Local Rule 1014-2 (Cases Filed in Proper Division), Local Rule 5005-4 (Electronic Filing), changes to the Administrative Order governing Attorney's Fees in Chapter 13 Cases, and updates to the Clerk's office administrative procedures for filing, signing, and verifying pleadings filed by electronic means.

2. Local Rule 1014-2 addresses the divisional office venue of a case. We propose to change the rule to allow greater discretion when a motion to change venue is filed. The changed wording is highlighted in red.

LBR 1014-2. VENUE - CHANGE OF DIVISION

(a) Cases Filed in Improper Division. Any petition filed in an improper division may be transferred by the Clerk of Court to the proper division without notice or hearing.

(b) Cases Filed in Proper Division. Any debtor proposing to have a case administered in a division other than the proper venue as defined in LBR 1071-1 may file a motion requesting a change of divisional venue. The motion shall be served pursuant to LBR 9007-1 or LBR 2002-1(e). The motion for change of divisional venue shall be filed contemporaneously **substantially contemporaneously** with the commencement of the case.

3. Local Rule 5005-4 addresses the requirements related to filing documents electronically. All attorneys are required to file documents using CM/ECF. However, on rare occasions, it is permissible for any individual to file a document with the Court via facsimile transmission. The rule is updated to provide instructions for the submission of documents to the court via email. Due to the length of the document, the changes to Rule 5005-4 can be found on our website at http://www.gamb.uscourts.gov/USCourts/sites/default/files/local_rules/LBR_5005-4_Revisions.pdf. In summary, the process mirrors the process for submitting a facsimile. An individual may send an

email containing the document for filing by receiving permission from court staff to do so. The email will be sent to a central account and the sender will be required to telephonically contact court staff during regular business hours to ensure the document was received completely and accurately. This rule change is not intended for the filing of petitions but rather as an emergency alternative in the event of necessity. The court will determine whether the document can be filed electronically or via facsimile on a case by case basis.

4. The Administrative Order on Attorney's Fees in Chapter 13 Cases (dated January 20, 2011) provides guidance for the Single Set Fee for Chapter 13 cases in the Middle District of Georgia. Under the current Administrative Order, no Supplemental Fee Applications are permitted. We have added language that allows attorneys to file a Supplemental Fee Application when a significant matter arises that cannot be anticipated at the commencement of the case (when the attorney chooses the fee reimbursement method). The added wording is highlighted in red.

Fees Based on a Single Set Fee:

The Single Set Fee provided in this Order represents a fee that is agreed upon between the debtor and debtor's attorney and shall be a specific amount up to but not to exceed three thousand dollars (\$3,000.00). The fee is expected to provide for payment of costs and expenses (other than the filing fee) and for all services rendered to the debtor from the filing of the petition to the closing of the case.

An attorney for a Chapter 13 debtor receiving a Single Set Fee is excused from filing an initial fee application or reporting hours or listing of any expenses.

No supplemental fee application may be filed in cases receiving a Single Set Fee, **unless a significant matter arises that cannot be anticipated at the commencement of the case. The supplemental fee application will be reviewed under the totality of the circumstances. Attorneys submitting a supplemental fee application are required to report hours and list expenses of the significant matter for which they are requesting a supplement, not for the case as a whole.**

5. When an attorney or limited filer registers for the court's Case Management/Electronic Case Filing (CM/ECF) system, registrants are required to comply with procedures outlined in the document "*Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means.*" The document can be found on our public website at <http://www.gamb.uscourts.gov/USCourts/sites/default/files/CMECF/adminproc.pdf>. The document has been updated to conform to Local Rules and Procedures. Please review the updated procedures.

6. The opinions expressed by attorneys practicing in the Middle District of Georgia are greatly appreciated and are given serious consideration by the Court prior to the final adoption of any local rules. Therefore, your assistance in providing feedback to the Court regarding these

changes is extremely valuable and we appreciate your taking the time to review these changes and forwarding any comments to me. Comments regarding the Local Rule change need to be in writing and can be mailed or preferably e-mailed to me. Please provide comments no later than November 7, 2014. My e-mail address is kyle_george@gamb.uscourts.gov.

LBR 5005-4. ELECTRONIC FILING

(a) Filing and Transmittal of Pleadings, Complaints, Petitions, and Other Documents by Electronic Means Using the Court's Electronic Case Filing System.

The Court shall accept for filing documents submitted, signed, or verified by electronic means that comply with the procedures established by the Court and published by the Clerk of Court. Electronic filing of a document in the electronic case filing system consistent with these Rules, constitutes 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 of Court under FRBP 5003. Filing is complete upon the creation of a notice of electronic filing and said notice of electronic filing shall be the filer's receipt that the document has been officially filed.

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. In the case of documents first filed in paper form, they shall be converted to electronic form and the electronic document shall be the official document. Documents filed electronically are deemed filed at the date and time stated on the notice of electronic filing from the Court and the filing date of any paper filings is the date that the paper is received.

Filing a document electronically does not alter the filing deadline for that document. Electronic filings shall be completed in the Court's system before midnight in order to be considered timely filed that day.

All orders, decrees, judgments, and proceedings of the Court shall be filed in accordance with these Rules, which shall constitute entry on the docket kept by the Clerk of Court under FRBP 5003 and FRBP 9021. All signed orders shall be filed electronically by the Court or Court personnel. Any order signed and filed 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 user login and password required to submit documents to the electronic case filing system serve as the Filing User's signature on all electronic documents filed with the Court. They also serve as a signature for purposes of FRBP 9011, the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court, and any other purpose for which a signature is required in connection with the proceedings before the Court.

Attorneys admitted to the Bar of this Court (including those admitted *pro hac vice*), United States Trustees and their assistants, private Trustees, and others as the Court deems appropriate, **shall** register as Filing Users of the Court's electronic case filing system and shall file all documents by use of the Court's electronic filing system. Registration is in a form prescribed by the Clerk of Court. A Judicial Waiver may be requested by any attorney. The procedure for Judicial Waiver can be found in the Clerks Instructions.

A party to a pending action or an individual or entity that files documents with the Court frequently as determined by the Clerk of Court and who is not represented by an attorney may register as a Filing User in the electronic case filing system. Registration shall be in the form prescribed by the Clerk of Court.

Registration of the Filing User constitutes:

(1) Waiver of the right to receive notice by first class mail and consent to receive notice electronically; and

(2) 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 FRBP 7004 and to service of a motion or a contested matter pursuant to FRBP 9014. The named respondent in a contested matter under FRBP 9014 must receive service by first class mail. If a debtor is the respondent to a motion or contested matter under FRBP 9014, the attorney for debtor can still receive service by electronic means. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under FRBP 9022.

(b) Signatures.

(1) The electronic filing of a petition, pleading, motion, claim, or other paper that would bear a signature of an attorney or unrepresented party who is a registered participant of the electronic case filing system shall constitute the signature of that attorney or unrepresented party for purposes of the application of FRBP 9011 and other applicable rules. The signature indicated on the document submitted for filing must match the identity of the individual registered as the CM/ECF electronic filer.

(2) All pleadings and documents electronically filed shall contain either a scanned image of a signature as a part of that document, or for registered users, an indication of the name of the filer with their signature represented by "/s/ Jane Doe" in a location where the

original signature would have occurred.

(3) Filing of pleadings, documents, and other papers that require original or verified signatures.

A. Electronic filing by registered users.

Petitions, lists, schedules, statements, amendments, pleadings, affidavits and other documents that must contain original signatures or that require verification under FRBP 1008 or an unsworn declaration as provided in 28 U.S.C. Section 1746 may be filed electronically by attorneys registered in this electronic case filing system. An original copy containing an original signature must be retained by the attorney who files such a petition, pleading, document, or other paper for one-year after the closing of the case. If the case is later reopened, the one year retention period for documents already on file is not extended. However, any new filings as defined herein filed after the case is reopened shall be retained by the attorney who files such a petition, pleading, document, or other paper for one year after the re-closing of the case.

B. Filings initially received in paper format.

The court will retain the original documents bearing original signatures of any paper filings where such signatures are a required verification under FRBP 1008 or an unsworn declaration as provided under 28 U.S.C. Section 1746 for 6 months after the filing has been converted to an electronic image.

(c) Receipt of Facsimile Filings or Emailed Pleading or Document.

Subject to the requirements of this Rule, a pleading, complaint, petition or other document to be filed with the Court may be accepted as timely filed by transmission to the Court through a facsimile machine or sent by email to the appropriate court email inbox which can be found in our Clerk's Instructions on the court's website. No facsimile or emailed pleading or document shall be accepted or deemed filed without prior approval.

(d) Approval of Facsimile or Emailed Pleading or Document. The pleading, complaint, petition or other document to be filed shall be authorized to be received for filing by a judge of this Court, the Clerk of Court, or by the Clerk's designee. Such authorization shall be obtained prior to the sending of the document and shall be based on a showing of time critical need and that the filer is unable to gain access to the Court's Electronic Case Filing System. In the event the filer is a non-attorney filer, discretion shall be used to determine whether to approve the receipt of the document by facsimile or email.

(e) Procedure for Filing Facsimile Documents. The facsimile copy sent to the Court shall include (1) a cover sheet that includes a brief statement of the time critical status of the pleading, complaint, petition or other document, (2) the reason the original cannot be filed timely and, (3) the identification of the Court individual authorizing its receipt. This cover sheet shall be filed with the pleading in the electronic case file. The party sending the facsimile document is solely responsible for ensuring that it is fully and accurately received. The docketing of the document shall reflect that it is a facsimile or emailed document, the name of the Court employee who authorized the receipt of the document, and the name of the attorney or other individual who sent the document.

(f) Procedure for Emailing Documents. The email containing the document sent to the Court shall include (1) a brief statement of the reason the filer has requested permission to send the pleading or document by email and, (2) the identification of the Court individual authorizing and/or accepting its receipt. A copy of this email shall be filed with the pleading in the electronic case file. All documents attached to emails and submitted to the court shall be in PDF format. The party sending the emailed document is solely responsible for ensuring that it is fully and accurately received. The email address to which these emails should be sent can be found in the Clerk's Instructions on the court's website. The docketing of the document shall reflect that it is an emailed document, the name of the Court employee who authorized the receipt of the document, and the name of the attorney or other individual who sent the document.

(g) Conversion of the Faxed Documents. The pleading, complaint, petition or other document submitted by facsimile shall be converted to an electronic image by the Court and the electronic image shall be the official record of the document.

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF GEORGIA**

In the Matter of:

Local Rules of the
United States Bankruptcy Court
Middle District of Georgia

ORDER

It is hereby ordered that the following rules of the United States Bankruptcy Court for the Middle District of Georgia are hereby changed in the Local Rules for this court effective November 18, 2014:

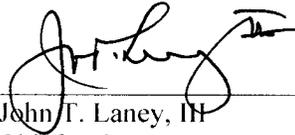
LBR 1014-2 and LBR 5005-4

On or after the effective date as noted above, the rules as amended by the change of these rules shall govern all proceedings then pending or thereafter brought to the court.

It is further ordered that this rule be entered in the record upon the minutes of the court for each of the statutory divisions and that copies be made available by the Clerk of Court to officers and members of the Bar of this court and furnished to the Eleventh Circuit Court of Appeals.

SO ORDERED this 20th day of November 2014.

FOR THE COURT



John T. Laney, III
Chief Judge
United States Bankruptcy Court